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PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

SENATE—*Monday, October 17, 1988*

(Legislative day of Wednesday, October 12, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence we are grateful to God for the successful surgery and safe return of Senator BOREN.

Father in heaven, we are so easily victims of the visible, trusting only what we can see or touch. Your word declares, "That which is seen is temporal and that which is not seen is eternal." Forgive us for the limitations we impose upon ourselves when we function as though all there is is the material—when we disregard the eternal * * *. Give us the wisdom that sees the invisible—walks by faith—in the light of transcendent reality. Grant us to live this day in the light of Your sure word:

"Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge him, and he shall direct thy paths."—Proverbs 3:5, 6.

Thy will be done on Earth as it is in heaven, to the glory of God and the healing of the Nation. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 17, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

RESERVATION OF LEADERS' TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Chaplain for his good prayer.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I thank the leader for reserving the leaders' time on both sides. I would like to go into morning business.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed the hour of 10:30 with Senators permitted to speak for 5 minutes therein.

The Senator from Alaska.

(The remarks of Mr. STEVENS pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR WILLIAM PROXMIRE: A GREAT SENATOR

Mr. DIXON. Mr. President, Senator WILLIAM PROXMIRE will retire when his current term expires in January after over 31 years of distinguished service. He has served his constituents well; he has served his Nation well.

Wisconsin will elect a new Senator in November; I am confident Wisconsin will do the right thing and elect another Democrat. However, no one—no Democrat and no Republican, no matter how able—can replace BILL PROXMIRE. He is unique; he is virtually a public institution. He cannot be replaced.

BILL has been in the Senate since August 1957, but he has more drive and more energy than many first term Senators and Congressmen that are considerably younger. He runs to work every day. He doesn't jog; he runs, and I doubt that anyone here can keep up with him.

I have had the privilege of serving with the senior Senator from Wisconsin for the past 8 years, and I am pleased to be a member of the Senate Committee on Banking, Housing, and Urban Affairs, which he chairs. I have seen his leadership, both in committee and on the Senator floor. I do not know of any Senator that is more dedicated or more committed than BILL PROXMIRE.

BILL PROXMIRE is not the kind of Senator who goes around blowing his own horn. He wrote his own biography, for example, which is included in the Congressional Directory. It is three words long. BILL is a modest man, and that short entry is characteristic of him. The truth, however, is even that short entry is unnecessary,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

because his record of leadership and accomplishment speaks for itself.

In the banking area, he has authored numerous major bills. A small sample includes: the Bank Holding Company Act Amendments of 1970, the Community Reinvestment Act, the Depository Institutions Deregulation and Monetary Control Act of 1980, the Home Mortgage Disclosure Act, the Truth in Lending Act, the Fair Credit Reporting Act, the Equal Credit Opportunity Act, the Electronic Fund Transfer Act, the Foreign Corrupt Practices Act, and the Humphrey-Hawkins amendments.

He was also the Senator who uncovered the cost overruns in the C5A cargo plane procurement, and he almost singlehandedly stopped the SST. His Golden Fleece Award needs no explanation.

For 12 years, he gave a daily floor speech advocating ratification of the Genocide Treaty, and his unique persistence finally paid off with ratification of the treaty by an overwhelming 83-to-11 vote.

His discipline, attention to detail, and his reelection campaigns are legendary. He hasn't missed a rollcall vote on the Senate floor since April 1966. There have been well over 10,000 votes since then; Bill Proxmire answered the rollcall on each and every one of them. His record, I am sure, will never be topped.

His reelection campaigns are remarkable, not simply because he does not take contributions from political action committees, but because he has managed to buck the trend of increasingly expensive campaigns. His campaign expenditures, in fact, put the rest of the Senate to shame. He spent less than $200 in each of his last two campaigns.

When the banking reform legislation was before the Senate in March, I offered an amendment on behalf of the entire membership of the Banking Committee to name the bill after Bill. That amendment was a small symbol of the high regard in which we all hold the distinguished Senator from Wisconsin—I only wish we could have done more. I want to tell him that, if the bill does not become law before we adjourn this year, that amendment will not be disregarded. The bill will be enacted in the next Congress with his amendment intact. It will be known as Proxmire Financial Modernization Act.

Bill Proxmire has been an independent, active voice for his State since he came to the Senate. I am proud to be able to say that I know him, and I feel lucky to be working with him here in the Senate.

I simply want to say in conclusion, Mr. President, that I will miss Bill Proxmire. Indeed, I think the Senate itself will lose something very special when he retires at the end of his term.

THE BANKING REFORM PROCESS

Mr. DIXON. Mr. President, S. 1886, the Proxmire Financial Modernization Act of 1988, will not become law this year.

I could talk a long time on the subject of why it will not. I could stand here and assess blame—and there is plenty of blame to be assessed. However, on reflection, I do not want to do that. Instead, I would like to talk a little bit about the future.

Before I do that, though, I want to express my regret to the distinguished chairman of the Senate Banking Committee, that we are unable to enact the bill that bears his name this year. I want to tell him that it was his forceful, dynamic, and forward-looking leadership that was the engine that moved the bill through the Senate. It was his hard work that ultimately produced the breakthrough that led to the overwhelming 18-to-2 vote in the committee, and the equally overwhelming 94-to-2 vote on the floor. He has been the spark that has moved the reform process forward, and I want my good friend from Wisconsin to know he truly deserves to have this measure named after him.

I also want Senator Proxmire to know that his efforts will ultimately succeed. While we have been unable to move a good bill through the House this year, those opposed to reform have had the greater failure. They have failed to block action by the Federal Reserve and the courts that continues to move the process forward.

The key court decision in the securities area, the so-called section 20 case, has been decided by the Federal Reserve, and affirmed by the court of appeals and the U.S. Supreme Court. It is the law of the land. It already permits bank holding companies to have affiliates that exercise three securities powers, and the decision stands for the full range of securities activities.

I fully expect that, once Congress adjourns, a number of holding companies will apply to the Fed for corporate debt underwriting authority. There are those who would like to see the Fed refuse to act on such applications. However, in my view, even if the Fed wanted not to act, that option is no longer available. The Fed is now required to act on these applications in a routine and expeditious way. I therefore expect that 1989 will see qualified bank holding companies adding corporate debt authority to the other securities authorities they now enjoy.

I also expect to see action raising the current 5-percent cap on the new activities to 10 percent, or even higher. The court decision in the section 20 case made it crystal clear that the securities affiliates can have at least 10 percent of their total activities in the new activities without running afoul of the Glass-Steagall "principally engaged" language. Going to 10 percent will make the new activities more usable for more banks. Currently only the New York money center banks are able to make good use of the section 20 authority.

I think Congress, and not the regulators and the courts, should control the reform process, but I do not think that the law should try to preserve a time that no longer exists. If Congress cannot act in a timely way to bring the law into conformance with economic reality, then the regulators and the courts must do what they can.

We must not lose sight of the fact, Mr. President, that the Senate did not act on banking reform legislation because it is desirable, but because it is essential. The structure governing financial services is no longer relevant to the situation we face today—updating it is the only choice we have.

I wish it were easier for Congress to address these kinds of difficult economic issues. It would be much better if we could act in a timely way, instead of being "behind the curve," as we are now. However, I want to make it clear to everyone that, even though the Federal Reserve and the courts will be acting after Congress adourns—as they should—the need for sound legislation will not diminish.

The senior Senator from Wisconsin will not be here when the 101st Congress convenes in January. However, I want to make it clear that the Senate's interest in prompt action on a sound reform bill is not leaving with Senator Proxmire. The Senate will continue to push for a good bill; this Senator intends to work very hard next year to see that the momentum for change we established this year is not lost.

There is a strong majority in the Senate Banking Committee and in the full Senate committed to achieving final action on a solid, reform bill. We are not going away; We are not giving up. We intend to keep at it until the Proxmire Financial Modernization Act is enacted into law.

Mr. President, I thank the Chair for his attention. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. DIXON assumed the chair.)

Mr. WIRTH. Mr. President, I ask unanimous consent that further proceedings under the quorum call be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PROXMIRE BANKING BILL

Mr. WIRTH. Mr. President, I want to associate myself with the remarks of the Senator from Illinois not only about the distinguished Senator from

Wisconsin, but also about the banking legislation. I also add that if we are going to talk about the banking legislation—and I hope we can get back to that next year—I think not only should it be called the Proxmire bill but the Proxmire-Dixon bill. I have never seen a negotiation so carefully put together as that led by the occupant of the chair at this point, the distinguished Presiding Officer, the Senator from Illinois [Mr. DIXON] who tirelessly pulled together these disparate, conflicting, warring, and sometimes absolutely impossible constituencies into this piece of legislation.

I hope all my colleagues are aware of that.

CONVENTIONAL ARMS CONTROL AND CONFIDENCE BUILDING MEASURES

Mr. WIRTH. Mr. President, the United States and its NATO allies are soon to enter into a complex set of negotiations with the Warsaw Pact on conventional forces in Europe. While the 15-year history of the moribund mutual and balanced force reduction, MBFR, talks does not leave much room for optimism in this endeavor, several new factors—not least Gorbachev's rule—make the upcoming talks a potentially historic opportunity to begin dismantling military confrontation in Europe.

The precedents of asymmetrical reductions and intrusive verification established in the INF Treaty are preconditions for any plausible conventional arms regime in Europe. And both East and West now have tangible economic and political motives to take conventional force reductions seriously. The challenge is to channel our deliberations into a coherent framework for a new cooperative security system in Europe.

Representatives of East and West have been meeting in Vienna for over a year to hammer out guidelines for the forthcoming negotiations. It seems clear now that MBFR will be superceded by a NATO-Warsaw Pact negotiation on conventional reductions, commonly referred to as the conventional stability talks [CST]. These talks will be complemented by a broader set of negotiations among the 35 nations of the Conference on Security and Cooperation in Europe—NATO and Warsaw Pact plus the "neutral and nonaligned"—on nonreduction measures.

The impetus for conventional talks has largely come from Soviet General Secretary Gorbachev—beginning with the 1986 "Budapest Appeal". Since that time we have seen a stream of public proposals for conventional talks emanating from the Soviet Union and Eastern Europe. Finding consensus within NATO on how to proceed with "bold new steps" on the Western side, however, has not been easy. When the new talks begin, there may well develop a gap between the rhetoric from the East and the pace of decisionmaking in the West. NATO is entering into these talks without a coherent view of its objectives, and with the added burden of trying to build consensus among 16 sovereign, democratic nations.

For these reasons, negotiated reductions in the conventional forces of the two sides will be complex and time-consuming. There is broad agreement that the talks should address offensive weapons reductions from "the Atlantic to the Urals", but enormous problems remain to be worked out on the precise scope of the talks, the definition of systems to be included, geographic areas and subareas to be included, and a host of other issues.

In order to establish early progress in those talks, we should seek agreement on interim steps which will help build confidence and establish a framework for verifying eventual cuts. In my view, confidence building measures [CBM's], provide a most suitable vehicle for timely and meaningful agreement in Vienna. During a visit to Europe last January, I was struck by the degree of interest in both Western and Eastern Europe in pursuing stabilizing measures as a followon to the confidence building measures adopted at the 1985 conference on Disarmament in Europe held in Stockholm. CBM's do not require nations to give up military forces, and should therefore pose less demanding sacrifices to participants and fewer obstacles to negotiations.

Traditional arms control focuses on limiting or reducing forces, while confidence building measures are less ambitious in simply requiring greater "transparency" of information on forces or constraints on how forces may operate. In this way, confidence building measures may help reduce the risk of conflict by diminishing the fear of surprise attack in a crisis, as well as by serving as stepping stones to broader structural reductions in force levels.

The CSCE participants at the 1985 Stockholm Conference on Disarmament in Europe agreed to binding CBM's on notification of military exercises in excess of 13,000 troops, as well as obligatory onsite inspections of military activities. These CBM's contained a far greater degree of openness than the Soviet Union had previously been prepared to accept—and there has been full satisfactory implementation of the Stockholm CBM's to date.

Last March the Congressional Research Service conducted at my request a workshop on confidence and security building measures, [CSBM's]. Following that effort, I asked CRS to prepare a report based on the workshop's deliberations. That report, written by CRS analyst, Stanley Sloan, with the assistance of Mikaela Sawtelle, is entitled "Confidence Building Measures and Force Constraints for Stabilizing East-West Military Relations in Europe" and in now available from the Library of Congress. I commend this timely report to my colleagues.

The report notes that West is in the early stages of assessing the military impact of various arms control proposals. But while NATO deliberates, the "Soviet have developed their approach sufficiently at the political level to challenge Western nations to produce more coherent and innovative approaches and concepts than they have to date." The CRS report goes on to suggest that, given the inherent difficulty involved in reaching agreement on force reductions, progress in the short to medium term may only be achieved through unilateral action or stabilizing measures short of actual arms cuts. In essence, confidence building measures offer a means of demonstrating Western interest in the arms control process, while testing Soviet readiness to match its rhetoric about restructuring military relations in European with constructive Soviet actions in that regard.

The CRS report outlines 27 different sets of proposals for stabilizing measures, and suggests a "building block" approach to the forthcoming talks in which stabilizing measures—such as exchange of information on military forces and onsite observation of military deployments—would serve to establish a data base and verification procedures for negotiated reductions in the conventional forces of both sides. For example, onsite monitoring facilities at rail yards, ammunition and fuel depots, and international transshipment points would be useful confidence building measures in themselves, but could also be designed as components of a future verification regime.

Regrettably, Mr. President, NATO has been unable to come up with a list of acceptable CBM proposals to table when the negotiations get started. A list of nearly 150 confidence building measures is under consideration, but apparently fault is found with all but a few. The same mind-set will no doubt apply to generating meaningful reductions proposals. Even the simple task of taking up Gorbachev's Moscow summit suggestion that we begin the conventional arms control process with an exchange of data on deployed forces has raised concern at NATO headquarters and within our own Government on the grounds that such an exchange might be used by the Soviets to draw aircraft into the scope of the talks.

The challenge NATO faces in approaching the upcoming talks is to contemplate fundamental change in

the European security system. As the CRS report points out: "Ultimately, the United States and the NATO allies might have to face the question of the extent to which they are willing to adjust NATO's strategy, doctrine and deployments in order to achieve desired changes in Warsaw Pact force posture."

In the interim, we will need to match the apparent readiness of the Soviet Union to consider bold new steps in conventional arms control. Confidence building measures can contribute to stability, demonstrate progress in the talks, and pave the way for verifiable reductions in the force structures of NATO and the Warsaw Pact. We should press for alliance-wide agreement on a set of proposals on confidence building measures and get on with the talk of unwinding military confrontation in Europe. The CRS report by Stanley Sloan points the way, and I commend it to my Senate colleagues.

Mr. President, I ask unanimous consent that excerpts of the Congressional Research Service Report to Congress (88-591 F) entitled "Confidence Building Measures and Force Constraints for Stabilizing East-West Military Relations in Europe" be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

CONFIDENCE BUILDING MEASURES AND FORCE CONSTRAINTS FOR STABILIZING EAST-WEST MILITARY RELATIONS IN EUROPE

(By Stanley R. Sloan)

PROPOSALS AND APPROACHES

There is a growing range of proposals for nonreduction stabilizing measures that might be considered in the forthcoming negotiations. It might be useful to summarize these proposals in three categories mentioned earlier in this analysis:

1. measures to expand the Stockholm measures to increase predictability and transparency of military activities in Europe;
2. measures to accompany a reduction accord produced by the Conventional Stability Talks; and,
3. measures to serve as building blocks toward a reduction accord.

EXPANDING THE STOCKHOLM MEASURES

A wide range of possibilities exist for building on the Stockholm measures. The primary goal of such measures would be to make force operations, deployments and exercises even more apparent to the other side to remove sources of potential misunderstanding concerning the nonaggressive nature of military forces and their activities.

ENHANCING PREDICTABILITY

Measures intended to enhance the ability of each side to anticipate the planned training and deployment activities of the other could be expanded substantially. The Stockholm measures could be improved by including a wider range of activities among those that must be notified, requiring the inclusion of more detailed information in the notice, increasing the lead time required for notification of an activity, and expanding substantially the exchange of information on troop deployments and activities.

INCREASING TRANSPARENCY

A detailed exchange of data on military manpower, units and equipment is a fundamental requirement for increasing transparency of military deployments and activities. The Soviet Union has indicated its willingness to go further in this area than it has to date, and the West will have to determine what sort of data exchange would be most useful.

The Stockholm provisions for observation and inspection could also be strengthened. Observers at exercises could be given greater flexibility and mobility to observe broader aspects of exercises. Permanent observation facilities could be established at major exit and entry points for military forces moving toward the NATO-Warsaw Pact dividing line, such as airfields, rail centers, and major highway intersections. Automatic sensors could be placed along key transportation lines to detect unusual or unexpected increases in military traffic. A system allowing both sides to make low-level inspection flights along the East-West dividing line could provide another means of increasing transparency.

IMPROVING CONSULTATION AND CRISIS AVOIDANCE CAPABILITIES

Another category of measures that could be captured by the CDE framework focuses on improving the dialogue between NATO and Warsaw Pact representatives in a variety of manners. Meetings between NATO and Warsaw Pact military officials could be regularized, for example to discuss military doctrine and other issues of concern. Officers from NATO and Pact nations could be exchanged and assigned to military academies, key military installations, and other locations.

A "crisis avoidance" or "risk reduction" center could be established bringing together NATO and Warsaw Pact (and possibly neutral and non-aligned) military officers, experts and diplomats. The purpose of such a center could be to exchange on a continuing basis information on military activities, to raise issues about those activities of concern to either side, and to discuss and seek to resolve low-level incidents involving military personnel. Such a center could serve as a clearinghouse for information exchanges worked out under the auspices of the CDE and as the source of inspection teams to participate in the implementation of current and future confidence building measures.

A related idea would be to establish a NATO-Warsaw Pact "hotline" similar to the U.S.-Soviet hotline. It has also been suggested that an agreement could make use of observers and onsite inspection as crisis management tools to help confirm that, after increased tensions have raised alert levels, forces are returning to normal alert status.

MEASURES TO ACCOMPANY A REDUCTION ACCORD

CBM's

All of the confidence building measures discussed in the preceding paragraphs could be seen as complementing an agreement reducing conventional military forces. In particular, all arrangements that enhance knowledge about the levels, locations and activities of the other side's military forces provide information that would be helpful to the implementation of a reduction regime. In particular, an agreed approach to the numbers of manpower, units and equipment would be crucial to any reduction accord.

Constraints

Going beyond the predictability and transparency contributions of CBM's in support of a reduction accord, a wide variety of constraining measures might usefully accompany reductions.

Measures that prohibit or control certain activities could accompany reductions. For example, maneuvers or out-of-garrison military activities exceeding certain size or duration thresholds could be banned. Limits could be placed on the size, location and/or duration of mobilization exercises. The number of divisions permitted to leave their garrisons at any one time could be limited. Troops and equipment entering the area could be required to pass through designated entry points. Limits could be placed on the quantities of military equipment being brought forward in specified time periods, with compliance monitored by remote sensors and permanently-stationed inspectors.

Exclusion zones could be established in which specific types of forces, equipment or military activities are not permitted. For example, ammunition and fuel depots could be banned from areas on either side of the East-West dividing line. Bridging equipment, which would be required for sustaining offensive operations on the ground particularly after bridges have been destroyed, could be excluded in a zone near the fronts of the two sides. The concept of exclusion zones has been widely proposed for nuclear and chemical weapons, and could be applied to a wide range of types of equipment including tanks, armored personnel carriers, and other equipment. Certain types of exercises (for example, combat forces exercising with bridging equipment) could be banned in zones on either side of the dividing line.

Secure storage of equipment could be arranged to ensure that attempts to mobilize certain types of forces would be detected by the other side.

Building Blocks Toward a Reduction Accord

All of the measures discussed above could also be used as part of a strategy designed to develop the foundation for a reduction accord. Reductions are the most demanding of stabilizing measures. They require nations to give up military capabilities either through destruction, demobilization or redeployment. It is therefore understandable that reductions are difficult to negotiate. In theory, constraints demand somewhat of a lesser sacrifice, and confidence building measures less still. If the West should want to make progress toward a more stable military relationship in Europe in the near future, taking advantage of the apparently more flexible Soviet approach, then confidence building measures and constraints might prove more negotiable than would reductions.

In a building block approach, exchange and discussion of data could be combined with a variety of inspection measures to establish a data base for eventual reductions. The implementation of notification and observation measures, useful for confidence building and data confirmation, could also be designed as potential components of a verification regime for a reduction accord. For example, permanent observation posts at exit and entry points around the potential area for reductions could initially serve as a step to increase the transparency of military operations and eventually as part of a system to ensure that withdrawn forces and equipment are not being returned to the area. Given the political importance of compliance issues, prior development of a system for ensuring compliance with an accord might be crucial to implementation of reductions.

Consultation and crisis avoidance measures, initially implemented to increase mutual confidence and understanding, could become part of the framework for post-reduction East-West cooperation. Constraints on military movements, initially implemented to confirm the defensive purposes of military forces, could be designed to support compliance with and non-circumvention of a reduction accord. Storage of equipment in supervised sites could be used as an interim step toward removal and/or destruction of that equipment.

If such measures were negotiated and implemented with an eye to the manner in which their functions could grow and be adjusted to account for increasingly more cooperative arrangements, including reductions, a positive synergism might develop among the various measures leading to the elaboration of a truly cooperative system for managing European security.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is concluded.

Mr. WIRTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 15 minutes and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I thank the distinguished majority leader for extending morning business, to make this time available.

HONORING GOV. GEORGE L. SHOUP

Mr. SYMMS. Mr. President, as the 100th Congress is coming to a close, we are starting our celebration of the 100th centennial of the State of Idaho.

Mr. President, I rise today to honor George L. Shoup, a former legislator, Governor, and U.S. Senator from Idaho who served the people of our State with distinction and loyalty for more than 20 years. Born at Kittanning, PA, on June 15, 1836, George Shoup attended public school in Pennsylvania until he was 16, at which time his family moved to a farm near Galesburg, IL. The next 7 years were spent farming and raising stock with his father.

In 1859, George left Illinois for the rugged Colorado Territory. In the neighborhood of Pike's Peak, he worked as a miner, helping to carve out of the rugged Rocky Mountains, the future State of Colorado. When the Civil War began he enlisted with Captain Backus' independent company of scouts working in New Mexico, Colorado, and Texas. He scouted for Indians as well as Confederates and took part in many blood skirmishes, including Apache Canon and Sand Creek. He was soon commissioned as a second lieutenant and was promoted to colonel of the 3d Colorado Cavalry by the end of the war. Obtaining a temporary leave of absence, he became a member of the Colorado Constitutional Convention when Colorado made an attempt to enter the Union in 1864.

After the war he initially set up a mercantile business in Virginia City, MT. However, he soon relocated to the mountains along the Salmon River, founding the city of Salmon, ID, which he would thereafter claim as his home. In January 1868 he married Lena Darnutzer and began a family that would eventually include six children. It was also in Salmon that his political career began. He was appointed as commissioner to organize Lemhi County, and he served as territorial delegate to the State legislature in 1874 and again in 1878. He served as a member of the Republican National Committee from 1880–94 and from 1896–1900. He represented Idaho at the World's Cotton Centennial exposition at New Orleans, LA, in 1884, where he spent $35,000 of his own money to advertise and demonstrate the value of Idaho products.

President Harrison appointed Mr. Shoup Governor of the Idaho Territory on April 1, 1889. He at once repeated the call of his predecessor for a State constitutional convention. When this document was finished, the Governor accompanied it to Washington to work for its ratification by Congress. In the State elections that followed ratification, he became Governor of Idaho. He called for the State legislature to meet in December 1890 and was elected to be the first U.S. Senator from Idaho.

His policy in the Senate was to give a general support to all Republican measures and special support to those dealing with the welfare of his State. He was an opponent of "free silver" in spite of the fact that Idaho was a great producer of that mineral. His great interest in the territories brought him to the position of chairman of the Committee on Territories and member of committees on Military Affairs, Indian Affairs, Indian Depredations, pensions, and Education. He advocated a liberal and just treatment of the Indians and was a firm promoter for a liberal pension law. He believed in the popular election of U.S. Senators. He was a Member of the Senate continuously for 10 years, retiring after his defeat in the 1900 election.

As the first Governor of Idaho and one of the State's first Senators, George L. Shoup may properly be considered the First Citizen of Idaho. The people of Idaho are proud to honor him with one of the State's two statues in the capitol's statuary hall, and I appreciate my colleagues allowing me this time to honor Governor Shoup at the end of this centennial Congress.

Mr. President, when I first came to the House in January of 1973 and was sworn in, at that time the Congressman from western Montana had been raised in Salmon, ID, Dick Shoup. He was a direct descendant of George Shoup, and we had many visits talking about his Idaho ties with western Montana and Salmon, ID.

I know that he would share my appreciation of the contribution not only to Montana and Colorado that George Shoup made but as the first citizen of Idaho.

We have oftentimes forgot to remember those who did make it possible 98 years later that we could be in a position to prepare for this centennial of our State.

THE FAILURE IN CENTRAL AMERICA

Mr. SYMMS. Mr. President, as the 100th Congress comes to a close this week, I hope, one issue that we have failed to take care of in this Congress is the situation of supporting freedom fighters in Nicaragua.

I was interested, yesterday, to note that in the Washington Post even the Washington Post newspaper criticized the Congress for its failure to support the freedom fighters because of the fact that any reforms that are taking place in Nicaragua that would benefit human rights have been slipping, slipping, and slipping because of the failure of the 100th Congress to act on this issue.

I know that the 100th Congress has done many things, but one thing that it has not done and one thing that will forever be a blight on its history is its failure to support those Americans who are fighting to preserve peace and freedom in Central America; that is, the Contras, and we have not given them the kind of support that they needed.

The policies of this Congress will forever be engraved in the memories of those people who fought and risked their lives for freedom that this Congress, the 100th Congress, as I have referred to it on this issue many times is a gutless, no-good 100th Congress because of its failure to recognize the importance of supporting the freedom fighters in Central America.

We have turned our back on the Monroe Doctrine which states:

> The American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers.

What we have is an extension of the Soviet hegemony through Cuba into Nicaragua. We have East Germans and other people in Nicaragua training revolutionaries to spread that revolution into the neighboring States. And we have said it repeatedly. Senator McCAIN and others have said repeatedly on this floor that if we do not support the freedom fighters, the Contras, then we are asking at some time to put some President in a position where American troops, U.S. troops, may be used in order to preserve peace and freedom in that region.

Roosevelt's corollary to the Monroe Doctrine was:

> The adherence of the United States to the Monroe Doctrine may force the U.S., however reluctantly, in flagrant cases wrongdoing or impotence, to the exercise of an international police power.

The Truman doctrine:

> It must be the policy of the United States to support free people who are resisting attempted subjugation by armed minorities or by outside pressures.

The Kennedy doctrine:

> Let every nation know, whether it wish us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty.

The Reagan Doctrine:

> We must not break faith with those who are risking their lives—on every continent from Afghanistan to Nicaragua—to defy Soviet-supported aggression and secure rights which have been ours from birth.

These doctrines are meant to be the cornerstones of American foreign policy. In many cases, they have proven to be effective. Yet, this Congress—the gutless, no good, 100th Congress on this issue has decided to create its own doctrine and that is to write it off.

In other words, we will write off freedom in Nicaragua, throw them to the alligators and hope the alligators will eat someone else and eat us last and they can peel off a slice of that salami and they will not bother us for now. Do not rock the boat.

The liberal, Democrat controlled Congress has decided to simply write-off freedom and democracy in Nicaragua.

And I think it is high time that we recognized that the failure ultimately will have to be blamed on the failure of Congress to respond to the Reagan doctrine. Some say I think when President Reagan returns to California and looks back at this, he probably will wonder why he did not use the War Powers Act; in other words, come into the gutless, no good, 100th Congress and say, "Either you give me the support or I am going to do it with my Presidential powers as Commander in Chief and force the issue before the American people," because the 100th Congress has written off the lives of thousands and thousands of freedom-loving Nicaraguans, the same Nicaraguans that President Reagan had likened to our Founding Fathers.

Mr. President, I think we should recognize that we are absolutely witnessing no freedom of expression in Nicaragua, no freedom of religion, and an economy that is more and more being controlled and contrived and consumed by the Government, an economy that is dead and dying, an intellectually bankrupt economy as well as society. Human rights are being taken away from people. There is an independent nonaligned foreign policy, a minimum permanent military establishment. Those are all the things that are happening. With respect to disagreement with fundamental liberties, none of those things are happening.

The problem is that the promises of the original revolution simply are being denied in Nicaragua. They are being denied and it sends a signal to the whole region that it is very, very risky for what may happen in the future.

I have just had the opportunity to vist with former U.S. Army Gen. John Singlaub on Friday. He has just returned from that region. He says that he is amazed that the Contras have as much morale as they have, considering how little support they have been getting from this Congress. I just hope that all Members of the House and Senate, when they leave when this session is finally over, will sit back and think about the fact that if we in the United States of America will not help those in our hemisphere who are seeking freedom and trying to restore the democratic process to the people in this region, then who, Mr. President, will support them?

I think if we cannot do that much, then we must be prepared, at some point in time, to face the consequences of having Soviet military installations in Central America, which will be a great risk to not only the security and opportunity for people in that region but a great risk for the security and opportunity for people in this region in the United States of America.

Mr. President, I ask unanimous consent that a letter from General Singlaub to the Vice President, a statement by General Singlaub and an article from the Washington Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABERNASH, CO,
September 14, 1988.

Vice President GEORGE BUSH,
Washington, DC.

DEAR MR. VICE PRESIDENT: Having recently returned from the Honduran-Nicaraguan border area I feel the obligation to inform you of just how desperate the situation has become for the young, loyal soldiers of the Nicaraguan Resistance.

I realize that your attention has been focused on the election, and rightfully so; however it concerns me how little notice has been paid to the issue of Nicaragua and the fate of the Resistance forces.

The situation for the Resistance troops has now reached the point where their mere existence as a viable opposition to the Communists in Managua is threatened.

The impending disaster in Nicaragua is a result of the restrictions placed upon the Democratic Resistance by the Congress of the United States, the total disregard of the spirit of the Central American Peace Accords by the Soviet Union, and the delaying tactics and violations of the Sapoa Agreement by the Sandinistas.

The Sandinistas have used the cease-fire to enable them to move troops and supplies into areas previously denied them by the Resistance. Resistance units have been forced to leave their support areas because they have been ordered to avoid combat and have no chance of receiving replacement ammunition if they do resist. Since they cannot be supplied with food inside Nicaragua, they have been forced into long, pathetic treks, lasting many weeks, to sanctuary in Honduras. Again, in violation of the peace accords, the Sandinistas have pursued a policy of destruction of the civilian support mechanism of the Resistance forces. They have killed, jailed, relocated or harassed all civilians they suspect of being helpful to, or supportive of, the Resistance fighters, in total disregard of promised amnesty.

As a result of the above actions, this dedicated group of patriotic freedom fighters is rapidly being decimated.

Mr. Vice President, it is very difficult for me to understand why this national security issue has been ignored by your campaign thus far. Despite what the polls may say on how the American people feel about this particular issue, the fact is the United States cannot afford another Cuba south of its borders.

Freedom versus Communism. It seems likes such a simple concept for Americans to understand. Far be it from me to offer you advice on how to run your compaign, but now may be the time to take the initiative in framing the issue for the American people.

The Republican Party Platform clearly states how essential a democractic Nicaragua is to the security of both Central and North America. There is no doubt in my mind that your victory in November over Governor Dukakis is paramount to the national security of this great country. However, the apparent lack of interest among your campaign advisers in regard to the Nicaraguan issue is something that I would respectfully ask you to reverse as soon as possible. The situation is urgent.

Sincerely,

JOHN K. SINGLAUB,
Major General, USA (Ret.)

P.S. I have enclosed my recent letter to Jim Wright on how the Agency for International Development has failed in its efforts to adequately supply the Resistance with the humanitarian assistance appropriated to it by Congress.

TABERNUSH, CO,
September 5, 1988.

House Speaker JIM WRIGHT,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Having just returned from the Honduran-Nicaraguan border area, I thought you might be interested to know that the humanitarian assistance to Nicaraguan Resistance forces and their families is being obstructed by the Sandinista government and not reaching its destination inside Nicaragua, thus obliging the forces and their civilian supporters to come out of Honduras.

Since their very inception as a force fighting to free their country from the grip of one of the most repressive communist regimes existing in the world today, the men and women of the Nicaraguan Resistance have been placed at a disadvantage. The blame for this lies with the U.S. Congress. It has now reached the point, however, where their mere existence as human beings is threatened. The blame for this lies in the U.S. law which is subjected to Sandinista whims and, the manner in which the humanitarian aid is being administered.

The Agency for International Development is an organization disignated to send supplies to Third World countries that are at peace and, in need of short-term disaster relief. It is *not* organized for a logistical support situation where expedition is equivalent to life.

AID cannot deliver supplies inside Nicaragua because the Sandinistas have not permitted the resupply system called for in the Sapoa Accord. AID has to make all its activities public, thus embarrassing the Honduran government and forcing the Costa Ricans to deny the use of their territory for the delivery of the assistance.

The following are examples of how AID, the organization you directed to administer this program, has failed in its mission to supply Resistance troops, their families in Nicaragua, and those thousands now located on the Honduran border with the basic human needs allotted them by your very own 100th Congress.

The Resistance doctors continuously complained to me about the six-week waiting period for all medical supplies requisitioned from AID. Requests for everything from antibiotics to bandages must first be typed on a requisition form, then sent to Tegucigalpa, then to Washington for approval, and then back to Tegucigalpa for procurement before finally reaching those (if they still are alive) in need. Needless to say, in a situation involving life-threatening injuries, this bureaucratic nightmare is completely unacceptable, and the problem must be addressed immediately.

Three weeks ago, over 1,200 Resistance members and their families were forced to leave their villages in southern Nicaragua because of Sandinista indifference to the cease-fire agreement. Sandinista military encroachment forced these men to take their families on a one month hike through Nicaragua ending with a treacherous crossing of the Coco river into Honduras. To make this crossing less hazardous rope was needed to span the river. AID was asked to supply the rope but was unable to do so because of the bureaucratic problem mentioned above; rope was not considered humanitarian assistance. These refugees had just completed a month-long journey, and were totally exhausted by the time they reached the banks of the Coca river. There is absolutely no excuse as to why these men, women and children had to spend days under the threat of Sandinista reprisals building makeshift rafts in order to cross over the river into the sanctuary of Honduras. Twelve of those fleeing lost their lives in the crossing.

One would think that tents would be one item not very hard to come by in a camp "housing" a recognized, viable military force. Yet, the best AID can do is to provide these men with only black plastic to shelter themselves from the rain. Even this called for a major decision, and the black plastic is still in short supply.

Repair parts are non-existent in the refugee areas along the southern border of Honduras. There are no spare parts for generators that supply field hospitals with electric power, and as a result, lights, communications equipment and other essential electrical machinery lay idle.

Gasoline is another necessity that is denied in and around the camps. Resistance troops are not given the cash they need to buy gasoline to run the vehicles they have. Bulldozers to repair the roads decimated by the rain, helicopters to carry the wounded to hospitals, and troop transports all lay idle because AID cannot provide the fuel nor the money needed to buy it. Spare parts for these vehicles are also something that Resistance members are not able to buy, even though they are readily available in towns near the camps.

The food situation is also desperate because AID will not supply the troops in a manner that is standard to all military operations. Instead of having the food brought to them, Resistance troops are forced to walk up to six miles from their camps to pick-up rations. This, Mr. Speaker, is not how it is done. Proper resupply procedure requires rations to be brought directly to the soldiers, it does not call for soldiers to go in search of food. What makes the situation even worse is the fact that because there is no gasoline to run the troop transports, Resistance members have to walk to get their food. This is inexcusable.

These proud men are not even afforded the opportunity to improve their living conditions because AID has failed to supply them with the basic hand tools to do so. These men are willing to build their own living quarters, but without shovels, without hammers, and without nails the task is impossible.

Mr. Speaker, these men of the Nicaraguan Resistance are prepared to make sacrifices, but these hardships mentioned above are entirely unnecessary. The men, women and children of the Nicaraguan Resistance have already been abandoned once by the United States House of Representatives in their fight for freedom. At the very least, let these people live as human beings while they await their destiny, and the destiny of their country.

The Agency for International Development is simply not designed to carry out this task even if it desired to do so. I am certain that when you convinced Congress to vote for humanitarian aid you were under the assumption that the assistance would reach its destination. Unfortunately this has not been the case.

As I said Resistance morale remains high. The Resistance will endure, and they will make the necessary sacrifices in their quest for freedom. However, the situation in Honduras as I have witnessed is completely unacceptable. The United States encouraged this Resistance force, and when allowed they have performed admirably. Congress has already pulled the carpet from under them militarily, let us not make the same mistake in the area of humanitarian assistance. Please move to address the problem. Thank you.

Sincerely,

JOHN K. SINGLAUB,
Major General, USA (Ret.).

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, September 15, 1988.

Maj. Gen. JOHN K. SINGLAUB,
U.S. Army, Retired,
Tabernash, CO.

DEAR GENERAL: Thank you for your letter of September 5 and your first-hand appraisal of the deficiencies in the delivery system of our humanitarian aid for the Nicaraguan Resistance.

It has been apparent to me and others in Congress for some time that the AID delivery system has left much to be desired. Perhaps the fault may be, as you suggest, with the Congress. I do believe, however, that the legislation itself which we passed last April called for means of delivery which could have been provided if AID had been willing to contract with the OAS and its affiliate agency.

The selection of a responsible entity to perform the actual deliveries has been the difficult thing from the beginning. AID first wanted to contract with an agency in Honduras, one which would not have been in compliance with the SAPOA accord since it had been actively engaged in military deliveries for the CIA.

The Sandinistas would not accede to that arrangement. Their government suggested instead the delivery by the International Red Cross. The Contra representatives objected to this.

Then the OAS offered the services of the Pan American Development Foundation. I presently asked representatives of both sides to settle on this suggestion. Ramirez agreed and committed his government to concurrence, in the presence of other Members of Congress. It was my understanding from spokesmen for the Resistance that they too would find this acceptable, but it never occurred. Instead AID delivered the money for food in cordobas to Resistance military leaders who were expected to use the money to buy food for their troops on the open market in Nicaragua.

That was not the mode of delivery that Congress intended, and you are right: Congress did intend that the humanitarian assistance should reach its destination.

Sincerely,

JIM WRIGHT,
The Speaker.

[From the Washington Times, July 15, 1987]

CALL IT THE WRITE-OFF DOCTRINE

(By Jim Guirard, Jr.)

As we thumb through the lexicon of geopolitics, a major new label seems desperately needed with respect to what is going on in Congress relative to Nicaragua.

At present there is the well-known "Reagan Doctrine," which proposes that we must somehow liberate Nicaragua from Soviet and Cuban colonialism and repression. But, to date, there is no proper label for the opposing doctrine—the antiliberation doctine—of those who disagree with the president and with those in Congress who support him.

For lack of any name at all, these isolationist/pacifist policies of the majority of congressional Democrats (and a handful of Republicans) have been able to travel the country and the world under such sweet-smelling labels as "peace" and "negotiations" and "dialogue" and "Contradora."

Now, however, a highly appropriate name is finally being affixed to such policies by the pro-liberation forces in Congress. The chosen name is "the Write-off Doctrine." An alternative spelling of "Wright-off" (a back-handed reference to House Speaker Jim Wright, Texas Democrat) was not selected because of a feeling of some that Mr. Wright will finally reject the doctrine and should not, at least now, be burdened with its nasty image of isolationism and appeasement.

The "Write-off" label achieves its appropriateness and semantic accuracy in the fact that the doctrine's clear result would, indeed, be to write *off* Nicaragua (and, by implication, the rest of Central America) to Cuba and to the Soviet Union. It would do so by effectively terminating all further funding to the revolutionary "Contras" (the Nicaraguan counter-communists).

First legislated in several versions of the infamous "Boland amendment," the doctrine's most recent incarnation took the form of House Joint Resolution 175, which some weeks ago passed the House of Representatives 230-196. (The similar provisions of S.J. Res. 81 were narrowly defeated in the Senate, 52-48.)

Only upon fulfillment of the *absolutely unachievable* accounting requirements of H.J. Res. 175 might the Write-off Doctrine's proposed funding moratorium be lifted. Under its provisions, all 1985 and subsequent monies (public, private and foreign) appropriated, sought after or even "encouraged" by any government official must be "fully and adequately" accounted for—short of which the Write-off moratorium would remain forever in effect.

Another cynical element of H.J. Res. 175 was that it would not matter whether the funds in question were "actually received by the democratic resistance." In effect, a series of impossible conditions-precedent were sought, in order that the proposed moratorium might continue indefinitely. Clever?!

"Maybe not so clever," say those congressmen and senators who are now drawing invidious comparisons between the Write-off Doctrine and various earlier doctrines by which a long succession of American presidents have attempted to keep European colonialism—and, in recent decades, Soviet colonialism—out of the Western Hemisphere.

Notice how the earlier presidential statements (based on concepts of individual liberty and of national independence) contrast like night and day with the Write-off Doctrine's total reliance on pundilious accounting procedures as its standard for deciding the fate of Central America:

Monroe Doctrine: ". . . the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers."

Roosevelt Corollary to the Monroe Doctrine: ". . . the adherence of the United States to the Monroe Doctrine may force the United States, however reluctantly, in flagrant cases of wrongdoing or impotence, to the exercise of an international police power."

Truman Doctrine: ". . . I believe that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures."

Kennedy Doctrine: ". . . Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty."

Reagan Doctrine: ". . . We must not break faith with those who are risking their lives—on every continent from Afghanistan to Nicaragua—to defy Soviet-supported aggression and secure rights which have been ours from birth."

Write-off Doctrine: H.J. Res. 175 would impose a never-ending ". . . moratorium on additional assistance from the Nicaraguan democratic resistance until . . . the Congress has determined, by enacting of a joint resolution . . . that the president has fully and adequately accounted for

(1) any proceeds from the sales to Iran of military equipment provided by the United States . . . regardless of whether the assistance was received by the resistance;

(2) the $27 million that was appropriated (in 1985) for 'humanitarian assistance' . . . and

(3) any assistance . . . regardless of whether the assistance was received by the resistance . . . that was encouraged by . . . the government or any officer or employee of the government."

At this juncture, no one is certain what the next incarnation of the Write-off Doctrine will look like. One can only be certain that its newest mutation will once again be clucking pseudo-liberal sounds of withdrawal, abandonment, appeasement and surrender.

Completely absent from its vocabulary will be the principled sounds of such classical-liberals as Monroe, Roosevelt, Truman and Kennedy—men who understood well the threat of "colonization by European powers," who recognized the periodic need of "an international police power," who believed that America must "support free peoples who are resisting subjugation," and who were prepared to "pay any price, bear any burden . . . to assure the survival and success of liberty."

The question now is whether centrist and classical-liberal Democrats in Congress will continue collaborating with their "left" and pseudo-liberal colleagues who propose to write off Nicaragua to the Stalinistas. Or will they begin coming to their democratic good senses and vote to write off the Write-off Doctrine, instead?

THE MONROE DOCTRINE, THE SYMMS AMENDMENT, AND A TRAGEDY IN THE MAKING

On a visit to the Honduran-Nicaraguan border in late September, I witnessed a situation that is as inexcusable as it is tragic.

As a result of Congress once again usurping Presidential power in the realm of our foreign policy, the Freedom Fighters ("Contras") in Nicaragua are on the verge of extinction.

When House Speaker Jim Wright took it upon himself to run U.S. foreign policy in Central America, he either once again demonstrated his full support to the Marxist-Leninist Sandinistas in Nicaragua, or a high level of naivete, which should bring into question his position as House Speaker. His recent comments linking the internal Nicaraguan opposition to the Central Intelligence Agency were not only untrue, but are totally irresponsible.

Those of us who hold the opinion that another Cuba south of our border would be a disaster are now presented with a situation that, to say the least, is entirely unacceptable.

Since their inception as a volunteer force fighting to free their country from the most repressive regime in the Hemisphere, the men and women of the Democratic Resistance have been placed at a continuous disadvantage. It has now reached the point, however, where their very existence has been compromised. Their demise will be to our detriment.

Nicaraguan Resistance troops, already stripped of their ability to defend themselves, have now been forced into refugee status because the Agency for International Development (AID) has been unable to properly perform the duty of supplying the Resistance with the humanitarian assistance appropriated for them by the 100th Congress.

AID is an organization designed to send supplies to Third World countries who are at peace and in need of short-term disaster relief. It is not designed to operate within a logistical support operation where speed of response is equivalent to survival.

Resistance physicians continuously complained to me about the 6-week waiting period for requested medical supplies, ranging from antibiotics to something as basic as bandages.

One would think that tents would be one item not very hard to come by in a camp "housing" a recognized, viable military force. Yet, the best AID can do is to provide these men with rolls of black plastic to shelter themselves from the elements.

These proud men and women are not even afforded the opportunity to improve their living conditions because AID has refused to supply them with the basic hand tools to do so. These people are more than willing to build their own living quarters, but without picks and shovels, without hammers and saws, and without nails, the task is obviously impossible.

Considering the fact that the Soviets continue to send over $40 million a month in military aid to the Sandinistas, it is incomprehensible to me that the Nicaraguan Democratic Resistance members are being treated as sub-human by the liberal element in the Congress. The hardships mentioned above are totally unnecessary, demeaning, and an affront to those men and women of the Resistance risking their lives in order to rid their country of Communist tyranny.

While the liberals on Capitol Hill continue to embrace the Arias Peace Plan, the Sandinistas continue to consolidate their Communist rule in Nicaragua. By using the cease-fire to disguise their true intentions of crushing all opposition, the Sandinistas have been able to move aggressively into former Resistance strongholds, eliminating the broad-based civilian support network which took years to establish. This was not the intention of the Central American Peace Process.

Because Congress lacks the foresight, courage and common sense in the area of national security, the United States now faces the possibility of relocating 15,000 Resistance refugees and their families here in the United States. If and when this happens, we will have lost the only viable force standing between the devout Marxist-Leninists in Managua and the rest of Central America. Needless to say, this paints a very ominous picture for those in the U.S. Armed Forces who ultimately must repel Sandinista expansionist policies. At this point there should be no doubt whatsoever about their intentions with regard to expansionism.

It is not too late to save the Nicaraguan Democratic Resistance from total ruin. Our recommitment to the Resistance will send the message to the Sandinistas that the United States will not tolerate Soviet-sponsored oppression and aggression on this continent. The Monroe Doctrine spells it out. The Cuba Resolution (Senator Symms) which has passed both Houses of the Congress twice, makes it clear. We have a clear-out commitment to save Central America.

The time has come for Jim Wright and his fellow liberals to bow out and let the President of the United States run foreign policy, as specified in the United States Constitution. In the final analysis, it will be the President—and not Speaker Wright and his band of liberals—who must face the American people and explain to them why the first American serviceman just lost his life on Central American soil.

John K. Singlaub,
Major General, USA (Ret.)

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR WILLIAM PROXMIRE

Mr. BOND. Mr. President, I rise today to join my colleagues in paying our respects in tribute to Senator William Proxmire, who is retiring at the end of this session.

Mr. President, Senator Proxmire has had a long and distinguished Senate career. He has achieved many triumphs. He has been noted for his remarkable record of making more than 10,000 rollcall votes.

But, Mr. President, beyond that, as a new Member of the Senate, I have found Senator Proxmire to be a tremendous role model in all that he has done. His intelligence, wit, and dedication to public service are, indeed, an inspiration to all of us in this Senate.

It has been my privilege to serve with Senator Proxmire on the Banking Committee. There I found him to be a formidable chairman who has tackled a wide range of extremely difficult issues during the 100th Congress. We have had many challenges tossed at us. With the leadership of Senator Proxmire, I believe that the Banking Committee has done a remarkable job in responding to those challenges.

Senator Proxmire diligently pushed a responsible banking legislation reform through the committee and through the Senate on a 94-to-2 vote.

His bill, which would repeal and change the Glass-Steagall provisions of earlier years, is proof of the esteem for his judgment that this Senate holds. I join my colleagues from Illinois and Colorado in expressing our hope that when this measure is ultimately passed, as I believe it will be in the 101st Congress, that it be known as the Proxmire Financial Modernization Act.

Senator Proxmire has shown, I believe, a great example for all of us in his diligent questioning, his understanding in the committee hearings, and his courtesy to the witnesses who come before us.

Perhaps more than anything else, Senator Proxmire has shown the discipline for the committee to begin all committee hearings on time. Those of us who are frustrated by the schedule of the Senate can pay a special tribute to him. When he says a Banking Committee hearing is going to begin at 10 a.m., it begins at 10 a.m. This makes it much easier on the witnesses, and certainly those of us on the committee who participate with him.

We are going to miss him in the 101st Congress. His good sense and his integrity will be gone from the Senate, but we will have the memory of his record of service and his dedication.

I join with the rest of my colleagues in wishing him well and extending our sincere thanks for the true leadership that he has shown to all of us and his contributions to public service.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR ROBERT T. STAFFORD

Mr. STEVENS. Mr. President, we are all saddened by the departure of some of our friends. I would like to make some comments today concerning my great friend, the senior Senator from Vermont.

Mr. President, few men in the history of this Nation—only 83, as a matter of fact—have shared the distinction of serving as Governor, Representative, and Senator of their State. This fact is a fitting reminder of the esteem of the people of Vermont for the latest addition to that list, and that is my good friend, Robert Stafford, who brings his Senate and public career to a close this year.

While doing an excellent job of representing his State, Senator Stafford has also been at the forefront of efforts to improve education and clean up our environment. He has had a hand in shaping every major piece of environmental legislation that has been enacted while he has been here. As recently as the last Congress, he played a critical role in working out amendments to Superfund, the Clean Water Act, and the Safe Drinking Water Act. During just the last few weeks he has made a series of 17 thoughtful and educational statements on atmospheric contamination. We have been fortunate to have had among us as staunch an advocate for the environment as our good friend, Senator Bob Stafford.

The education of future generations, while not as controversial as some of the environmental issues, has been just as important to Senator Stafford.

Last December we recognized this contribution to education when we passed the Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987, a significant tribute to a member of the minority at that time.

I was pleased to have Bob and Helen go with me to Alaska this past summer. We were able to visit Prudhoe Bay and the production facilities there, and the Arctic National Refuge Area. We visited several military installations in my State. And while we were at it we did a little bit of marine research and chased a few fish.

I want the Senate to know that it would be a great pleasure if, in the next few years, Bob and Helen Stafford would join us again on one of these Senate trips to Alaska. Alaskans, and particularly this Alaskan, have great respect for the Staffords of Vermont.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BICENTENNIAL MINUTE

MARCH 12, 1959: PAINTINGS OF THE FIVE GREATEST SENATORS

Mr. DOLE. Mr. President, 29 years ago, on March 12, 1959, the Senate honored its five "most outstanding" former Members by unveiling paintings of those Senators in the reception room outside this Chamber.

At the end of its 1955 session, the Senate had created a special committee to select five outstanding former Senators. Their likenesses were to be painted in the vacant porthole spaces on the walls of the reception room. Majority Leader Lyndon Johnson appointed freshman Senator John F. Kennedy to chair the committee in recognition of his recently published book that profiled courageous Senators.

Kennedy's committee assembled an advisory panel of 150 scholarly and journalistic specialists on the Senate and its history. They were given three guidelines. They were to choose Senators without regard to their service in any other office. They were to pick individuals "distinguished for acts of statesmanship transcending party and State lines." And their definition of "statesmanship" was to encompass "leadership in national thought and constitutional interpretation, as well as in legislation."

Careful deliberation produced 65 names, from which the Senate committee, in 1957, made its final selection. The committee and its advisers easily chose the 19th century "Great Triumverate" of Henry Clay, Daniel Webster, and John C. Calhoun. They had far greater trouble agreeing on two additional members. The advisory panel gave its largest number of votes to George Norris, a Nebraska Republican. But Norris was still too controversial a figure to satisfy everyone on the Senate committee. After extended deliberation the committee decided on Robert M. LaFollette, Sr., and Robert A. Taft, Sr., both Republicans. The committee listed 15 other strong contenders and suggested that some future committee of the Senate, meeting at some future date, will find occasion to honor the additional names.

COMMEMORATING RUSSIAN BISHOPS HOUSE, SITKA, AK, ALASKA DAY

Mr. BYRD. Mr. President, the distinguished Senator from Alaska has a resolution that has been cleared on both sides.

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 501) to commemorate the dedication of the Russian Bishops House in Sitka, Alaska on Alaska Day, October 18, 1988.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, tomorrow is a historic day for Alaska because it is the anniversary of the treaty of purchase of Alaska from Russia. And we are scheduled to dedicate this restoration of the Russian Bishops house at the annual celebration of that anniversary.

This Senator was supposed to be there and help with that dedication. Since I cannot be there because of the continuation of proceedings of the Senate, I have asked that this resolution be presented to the Senate and adopted so that I might send it to those gathered at this celebration in Sitka.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 501) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 501

Whereas, Peter the Great ordered Vitus Bering, a Russian naval officer, to explore the North American coast; and Bering, for whom the Bering Sea is named, discovered Alaska in 1741;

Whereas, Russian settlers established centers of trade, commerce, and government throughout the nation which now are among the country's most prosperous communities;

Whereas, the Russians developed America's natural resources and established industries which remain the backbone of Alaska's economy including timber, coal, and trapping;

Whereas, the first Russian-Orthodox monks arrived in the United States in 1794, and the Russian Orthodox Church has played an important role in enriching American culture and providing education to her people;

Whereas, Governor Wrangell erected St. Michael's Cathedral, which served as the center of Russian Orthodoxy in the new world;

Whereas, there are 4 million members of the Russian Orthodox faith in the United States today and the Russian Orthodox Church is celebrating its thousand-year jubilee in commemoration of the Christianization of Kievan Rus';

Whereas, a house was constructed for the first Russian Bishop in the new world in Sitka, Alaska which the National Park Service has restored with funds appropriated by the Congress of the United States;

Whereas, the United States and the Soviet Union are seeking closer ties as evidenced by the travel of Alaska's Performers for Peace to the Soviet Union, by the efforts to bring Siberians to the St. Lawrence Island Whaling Festival and the Eskimo-Indian Olympics, by the 1986 agreement to encourage people-to-people exchanges between the two nations, by the 1987 agreement to establish bilateral groups to work on Arctic issues, by the bilateral medical research agreement entered into recently between the University of Alaska and the Siberian branch of the Academy of Medical Sciences;

Whereas, the United States and the Soviet Union are beginning to remove the barrier to international travel between the two countries as evidenced by the Friendship flight between Nome, Alaska and Provideniya, Siberia, and by the agreement of the Soviet Union to consider proposals for airline traffic between Nome and Provideniya;

Whereas, there is a vibrant ethnic community of Russian-Americans throughout the nation who have made important contributions to American society in science, arts and letters, religion, and government;

Whereas, representatives of the Soviet Union have traveled to Sitka, Alaska to dedicate the restored Russian Bishops House and reconsecrate the church and have provided technical expertise to ensure that the restoration is authentic;

And whereas, the dedication and reconsecration will occur on October 18, 1988 which is the 121st anniversary of the transfer of Alaska from Russia to the United States for the price of $7.2 million. Now therefore be it,

Resolved, That the Senate sends its congratulations to the National Park Service and the people of Sitka, Alaska on the occasion of the dedication of the Russian Bishops House on Alaska Day and reconfirms its continued support for the project; and be it further,

Resolved, That October 18, 1988 be recognized and celebrated as Russian-American Heritage Day in recognition of the contributions Russians have made to the American landscape and the desire of the American and the Russian people for mutual understanding and peace.

Mr. STEVENS. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank the Chair, and thank my good friend from West Virginia.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE COLORADO UTES INDIAN WATER RIGHTS SETTLEMENT ACT

Mr. INOUYE. Mr. President, in followup to my colloquy with Chairman JOHNSTON, I would like to ask Senator WIRTH about the relevance of this settlement to broader issues of Indian water rights in the West. Senator WIRTH, it is my understanding that the intent of this bill is not, in fact, to set a model for future settlements or to influence existing legal doctrines about Indian water rights. Is that the case?

Mr. WIRTH. Yes. In fact, I think that it is vitally important as we debate this legislation to reaffirm the principle set out by the Western Governors' Association in their 1987 resolution on this very subject. The key concept of that resolution is captured in the following quote:

> Each negotiated Indian water rights settlement will be unique, carefully tailored to the parties who are directly affected, and may be totally inappropriate to any and all other situations. Because of overarching historic, moral, and economic imperatives, we urge all concerned parties * * * to treat settlements as case-by-case, exceptional ar-

rangements which * * * are not binding legal precedents. Without such general flexible approaches, no state will be able to have the disputes within its borders fully resolved.

Mr. INOUYE. I believe we have to be particularly careful to outline the nonprecedential nature of several specific aspects of this settlement. The settlement essentially asks the Colorado Ute Tribes to "trade in" their reserved rights in exchange for State water rights, if the water is to be used outside the tribes' reservations. Some have raised concern over the susceptibility of State water rights to "abandonment"—that is, that these rights, unlike the reserved rights, can be lost by the Indians.

Mr. WIRTH. There is certainly no intent in this bill to assert any particular claims about Indian reserved rights, and nothing in this legislation should be construed to affect the existing precedents and law regarding Indian water rights.

There is certainly no intent in this legislation to suggest that such a "trading-in" of reserved rights would be appropriate for any other situation, or that there is any legal basis, justification, or origin of it other than the specific negotiations which took place between the Utes, their neighbors, the United States, and the State of Colorado, and the subsequent agreements made to put that agreement into legislative form.

Among the many unique circumstances which surround this agreement are the particulars of Colorado State water law. Under Colorado State water law, a State water right is a very valuable property right administered not by a State agency, but by the courts. Colorado law also offers substantial protections against abandonment which go far beyond those in many other Western States.

Mr. INOUYE. Another aspect of the settlement which would benefit from clarification is the question of whether the tribes' rights, once traded in for State water rights for use off-reservation, reclaim their status as reserved rights if they are brought back on the reservation afterward.

Mr. WIRTH. This is clearly addressed in the settlement agreement itself, and we attempted to make this clear in the legislation with the addition of language suggested by the staff of the Select Committee on Indian Affairs in preparing the amendments later adopted by the House. Water rights used by the tribes off their reservation lands can be brought back onto the reservation—and once they do so, these rights will be treated exactly as if they had never left. Once returned to the reservation, they will not be subject to abandonment under any circumstances. Inside the reservation boundaries, the tribes' rights will be treated as reserved rights.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Without objection, morning business is closed.

BUDGETARY TREATMENT OF THE POSTAL SERVICE

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A motion to proceed to the consideration of S. 2449, a bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes.

Mr. PRYOR. Mr. President, may I inquire of the Chair what is the pending business before the Senate?

The ACTING PRESIDENT pro tempore. The pending business is the motion to proceed to the consideration of S. 2449.

Mr. PRYOR. Mr. President, last week on the floor of the U.S. Senate we had, I think, a very good discussion of the issue of taking the Postal Service off budget. If I might recap for my colleagues, Mr. President, for just a moment?

This issue is very simple. This issue of whether or not the Postal Service is beyond the budget is one that we have talked about at great length for the last several years. Up until the early 1980's the Postal Service was in fact off budget. The Postal Service was in fact and is in fact very, very different from airport trust fund, the highway trust fund, and the other trust funds that we look at in our annual or biennial budget cycle, depending upon what the case may be.

Mr. President, the motion to proceed which has been filed to the Postal Service off budget issue is a motion that I very much hope that we will consider and that we will support and that we will go to and, ultimately, that we will pass the enabling legislation to take the Postal Service off budget.

We have seen a long history of the Postal Service, Mr. President. It is mentioned in our Constitution. It is one of the few agencies and areas of Government that is specifically called out and identified in the Constitution of the United States.

For us today to have the Postal Service in the so-called budget cycle I think is very, very wrong indeed.

I also would say, Mr. President, this morning, that the motion to proceed is not going to be based on or voted on under the yeas and nays rules, as to whether or not we support taking the Postal Service off budget. It will then merely, if passed, it will merely at that time enable us to once again debate on the record the merits, or in some cases the demerits, of putting the Postal Service off budget.

It is my understanding, Mr. President, that there are several Members on the other side of the aisle that oppose taking the Postal Service off budget. They made their statements last week. I would like to commend my colleague and friend from Alaska, Senator TED STEVENS, who spoke eloquently on the point of taking the Postal Service off budget.

However, it is my understanding—and I do not see them on the floor at this time—that Senator GRAMM of Texas, our distinguished colleague and also our distinguished colleague from New Mexico, Senator DOMENICI, both oppose taking the Postal Service off budget.

I think that we should have a vote, Mr. President on the issue: One, of proceedings to the issue, the postal Service off budget; and then I think before we adjourn the 100th Congress, close and go home, that we should once and for all make a decision on the merits of this proposal.

This is not an outlandish proposal. The Senate bill varies and differs with the House bill because, under the Senate version, Mr. President, we do not have the amount of borrowing power that the House version has.

It is not a radical departure; it merely takes us back to the position we were in before the early 1980's.

Mr. President, the issue of the Postal Service being off budget was discussed at great length in the Governmental Affairs Committee.

Let me advise the President and also the distinguished colleagues on the floor at this time of the Senate that this issue was voted out of the full Governmental Affairs Committee some weeks and weeks ago and that there was only one dissenting vote—only one dissenting vote—in taking the Postal Service off budget.

We think the time has come to do it. We are sorry for the objections on the other side of the aisle. We think that we should be allowed to debate this issue on its merits, and we think that it is the responsibility of this Congress, the 100th Congress, to decide this issue and to no longer leave it in limbo.

Mr. President, let me also say that if we are not successful, and I hope we are successful, but if we are not successful, one of the priority items, I think, of the Governmental Affairs Committee will be to, once again, refer to the U.S. Senate the issue of whether we take the Postal Service off budget.

We saw what happened only 1 year ago in December when the budget summiteers took from the Postal Service those operating funds and those construction funds and plowed them back into the rest of the Federal system and into the budget cycle.

What resulted was very simple. What resulted was the only alternative for the postal officials to decide upon, and that was to close and discontinue some of the very meaningful and constructive services that the Postal Service performs for our constituency across this land.

So I am very hopeful that we will not have an objection from the other side to proceed to the question of going to the Postal Service off-budget issue.

Mr. President, I do not see other colleagues, other than my friend from Montana, on the floor at this time. In just a moment, I am going to yield the floor. He has graciously allowed me another couple of minutes to make a statement on a matter which I hope will also receive the support of our colleagues.

Mr. STEVENS. Will the Senator yield?

Mr. PRYOR. I will be glad to yield.

Mr. STEVENS. As the Senator knows, I join with him in his effort. We do have some problems apparently from the budget side of the body. It would be my hope that we would be able to proceed with consideration of the legislation that the motion pertains to. It does not look too hopeful at this time, however. But I am happy to join with the Senator in trying to see if we cannot get the Senate to consider this substantive proposal. The Senate went on record overwhelmingly earlier this year on a resolution stating that this is our goal. I think we ought to try to achieve it in this session if at all possible. I thank the Senator.

Mr. PRYOR. Mr. President, if I might, I would like to ask a question of my distinguished friend from Alaska as to the merits of the legislation. He has been a strong proponent of taking the Postal Service off budget, and I applaud him for that position. I am wondering if my good friend and colleague from Alaska might answer for me a very satisfying question. What is the opposition? Where is the opposition to taking the Postal Service off budget? Why do some of our colleagues oppose this?

Mr. STEVENS. Mr. President, to answer my good friend's inquiry, it appears to me it is the same philosophy that we dealt with a year ago when we were dealing with the consideration of the continuing resolution. That mandated that those of us who are involved in the oversight of the Postal Service agreed to specific reductions in the Postal Service spending, notwithstanding the fact the Postal Service is not part of the deficit problem, and it is the people who are working on the budget and closely associated with the objectives of a balanced budget that object to the concepts that we are suggesting of a return of the Postal Service to the situation that it was in prior to the Gramm-Rudman-Hollings amendment; namely, that it not be considered in the tabulation of accounts that are considered in the annual determination of what is the relative position between the income and outgo of the Federal Government.

I think that the Senator from Arkansas realizes that this is a very difficult group. They believe as much in their position as we believe in ours. I am firmly convinced the Postal Service accomplished a great deal during the period when it was not on budget, and since it has come on budget, it has been twice severely restricted in terms of its annual operations. It was forced this year to close windows; it was forced this year to postpone needed improvements and to not enter into construction contracts which had already been negotiated.

I think the delays in Postal Service modernization have increased costs, not decreased them, and that we are right in terms of our approach that we should go back to the position that was established by the Congress at the time of the Postal Reform Act and was continued forward until 1985. I believe that was the time, 1985, when we finally made the determination that the Postal Service would go back on budget.

The trauma of last year's Reconciliation Act and the impact of the budget summit agreement on the Postal Service is still very vivid in my mind. That long argument that the Senator from Arkansas and I had with those who were managing that concept at the time has stayed with me. I still believe that we should restore the Postal Service to the independence that was intended by the Postal Reform Act.

Mr. PRYOR. Mr. President, I want to thank my distinguished friend from Alaska for his statement, once again, to applaud him for his position and his steadfastness in trying to get this issue to the floor of the Senate. He knows, as I know, that the Postal Service, per se, is never very much either in the red or in the black. We know also in this body that the present law today requires a break-even over the time of the Postal Service funding, and that has been the experience of the Postal Service.

I am just, once again, very, very disappointed that there is opposition to bringing this issue to the floor at this time. But I do want to say it has been a pleasure working with my friend from Alaska on this issue in the committee and on the floor over the years about taking the Postal Service off budget.

Mr. President, I ask unanimous consent that I may be able to speak in morning business not more than 3 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The Senator is recognized.

NATIONAL DOWN'S SYNDROME AWARENESS MONTH

Mr. PRYOR. Mr. President, October is National Down's Syndrome Awareness Month. I would like to tell a story that began in the wee hours of one day in May when a tiny child was born. A little girl. 6 pounds, 12½ ounces. Her name is Lindsay.

It was a bright and jubilant day, as I recall in the spring. Her mother and dad, a member of my personal staff and his young wife, and my entire staff shared in the joyful celebration of welcoming into our world and family a precious new life.

It was with sorrow that I too recall the day soon thereafter that Lindsay's doctor would say to her parents the words that would change their lives, and lives of everyone who has the pleasure of meeting little Lindsay, "Your baby has Down's syndrome."

About one out of every eight hundred babies is born with Down's syndrome. One mother and father out of every eight hundred parents will hear those words that are certain to cause tears, and untold hurt, and disappointment that a child of their expectations did not arrive. But these words should not shatter the hope of these parents for a promising future for this special child.

October is Down's Syndrome Awareness Month. October is the month during which we take time out to recognize Lindsay and to celebrate her life and the lives of the four thousand babies born each year like Lindsay, and their mothers and fathers, who like all parents, want merely to give their child a chance to live with dignity and purpose.

Lindsay has touched our minds and she has touched our hearts. She has made me ask, "Are we a decent people?", and wonder what the future will be like for this little girl.

I have hope for Lindsay. Mr. President, she was born in a land that I believe is willing to accept with compassion, and embrace with open arms, people who may be different. She was born in a decade when special children can be expected to grow and learn. And she will have the benefit of the Education for All Handicapped Children Act—legislation to ensure that Lindsay and all children like her will have the opportunity to learn in an appropriate and least restrictive environment.

But attitudes, too, must change. And that, I believe, is our greatest endeavor—to reform old, and inaccurate, images of mental retardation that were designed to frighten and alienate.

Children and adults with Down's syndrome are capable human beings. With early identification and proper infant stimulation programs, our expectations for those born with Down's syndrome can soar.

I look forward to the day when Lindsay, this small child, will giggle and crawl, and take her first step toward independence;

I look forward to the day when this child will board her first school bus to learn to read and write;

I look forward to the day when Lindsay, the woman, will say, "I have a job," and will know the satisfaction of what working hard brings;

And I also look forward to that day when Lindsay will have the freedom to live as an independent and productive member of our community, and know what friendship is. Then we will know that we are a decent and compassionate people.

To Lindsay and all the special people whose struggles and small triumphs too often are unnoticed, we say we care.

Mr. President, I yield the floor.

Mr. MELCHER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MELCHER. Mr. President, I ask unanimous consent to proceed as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

U.S. AGRICULTURE

Mr. MELCHER. Mr. President, a fundamental strength of the United States is its agricultural production, and food processing and distribution.

That is a strength which serves to provide more than enough food for every person in the United States. Every day of their lives, Americans have available the most wholesome, healthful, and nutritious foods at the lowest price of anywhere in the world.

No place in the world can match the processing, distribution, variety, and freshness of America's food availability.

For the needy, the United States has food assistance programs, including the Food Stamp Program available everywhere in the country, commodity distribution programs in every State, the women, infants, and children [WIC] Program for those in need, the School Lunch Program, Senior Citizen Center Meals, and Meals on Wheels Programs for the homebound elderly or disabled.

In total, American food production, distribution and sharing are among the world's greatest marvels.

The abundance of U.S. food production is also the source of strength for world trade that is unparalleled in the history of the world. This great American strength is more respected outside the United States than at home. It is not recognized by Americans as the great strength it provides the Nation.

But I recognize American agriculture as our greatest strength to build world trade for us and improve the U.S. economy as well as the economies of developing countries as they grow in their own productive capacities and increase trade with us.

The Soviets are on a par with us in space exploration; Japanese manufacturing in some areas surpasses ours; Europeans can produce some products more efficiently than we do; some Asian countries assemble products cheaper than the United States.

But none have the huge agricultural capacity of the United States to produce, at competitive prices, the huge amounts of grain, dairy, beef, pork, poultry, and fiber that American agriculture produces. Overproduction frequently haunts U.S. producers, depressing world prices, robbing farmers of income, and creating gluts of surplus commodities.

That is one of the reasons the 1985 farm bill stressed agricultural exports. It was no accident that the most important parts of this Farm Act dealt with incentives to increase agricultural exports to other countries. With the loss of exports from 1981 to 1985, farm commodities in Government storage had become huge surpluses which depressed prices both here and abroad. Farm operations turned into economic disasters, and deficiency payments, which are the difference between actual market prices and the target prices set by law, had climbed to staggering heights. To address that, the 1985 farm bill maintained close to the current target prices to protect farm income and, to reduce the surpluses, the bill emphasized increased U.S. exports.

The Export Enhancement Program, which subsidizes U.S. commodity sales to meet the competition of price reductions by other exporting counties, and the targeted export program, were emphasized. Practically all of 1986 lapsed before the administration got around to using the major export subsidy program. This has become crucial in reducing U.S. commodity surpluses. This year's drought reduced the U.S. wheat crop 300 million bushels, about a 14-percent drop from the normal yield. The U.S. corn and soybean crops are projected to be down 37 and 23 percent, respectively. Combined with U.S. efforts to increase actual exports, this has brought significant increases in market prices.

But there is also a second reason that the 1985 farm bill's most important sections emphasized increasing agricultural exports. That second reason was the need to rebuild and regain U.S. shares of the world markets that had shrunk since 1981. Public Law 480, food for peace, and its counterpart, section 416, were modernized and expanded, particularly in allowing food assistance programs to be monetized in friendly developing countries suffering economic hardship. These sections of the 1985 Farm Act were expressly designed to rebuild trade in Third World countries. The late 1960's and all of the 1970's had demonstrated that food assistance to developing countries was essential to developing trade with countries with sluggish or dormant economies. But the early 1980's brought on the State Department's insistence that these countries must privatize and rely more on their own agriculture.

The U.S. Department of Agriculture Agricultural Research Service had traced the results of U.S. food assistance in developing countries over a span of 1½ decades. These statistics demonstrated that U.S. food assistance had invigorated the economies of the recipient countries, had helped their own agriculture to improve, and that the benefits were mutually advantageous to the United States with significant increases of imports of agricultural commodities from the United States. In short, we have demonstrated that food assistance to Third World countries has led to a demand in those countries for increasing supplies of U.S. exports. They have become cash traders, and a significant part of U.S. agricultural export increases will come from developing countries. That is a great strength for U.S. agricultural policy that must be emphasized.

For American agricultural commodities today to be sold to either developed or developing countries, it is essential that we meet the competition from other agricultural exporting nations. Therefore, the Export Enhancement Program cannot be abandoned until there is no need in the world market to subsidize any U.S. sales. When it is no longer necessary for the United States to sell agricultural commodities abroad because there is no longer a burdensome surplus, or when other agricultural exporting countries reach that position, then U.S., subsidized sales will no longer be necessary. When world supply versus world demand comes into that type of balance, the Export Enhancement Program's subsidized sales from the United States will be either insignificant or nonexistent. But we are not at that point yet.

The recent agricultural appropriation bill, for budgetary purposes, placed a cap on the Export Enhancement Program. That may be good for budgetary purposes, but it's not good business for U.S. agricultural producers dependent upon exports to clear out the surplus commodities. The utilization of the funds for export enhancement cannot be measured by competing countries, who can then grab off the sales if and when those funds are depleted.

To correct that, I am introducing a resolution that clearly states that it is the intention of Congress to provide additional funds for the Export Enhancement Program if they are needed during the coming year. This tells other agricultural exporting countries as well as importing countries that it is the firm intention of the United States to remain competitive in world sales of agricultural commodities.

Mr. President, the most recent balance of trade figures that were published last week demonstrated that we have a long way to go for the United States to balance our exports versus the imports from abroad. For the last month that has been reported, August, there is about $12 billion more in imports than exports. That multiplied by 12 is $144 billion per year. While it may be somewhat lower than that when it is all totaled up for the 12 months of this year, it is obvious that we are not making enough strides in reducing the imbalance of payments. There is no better place to emphasize than to use more agricultural exports from the United States.

As I have outlined in the remarks I have just made, it becomes very clear that agricultural exports build trade for the United States, lasting trade, and it is on that basis that I hope to see that the Senate will accept the resolution which I will offer, to make sure that the Export Enhancement Program funds are available when and if needed during the coming year, to do just that, to build up agricultural exports and to help correct our imbalance of payments.

THE MONTANA WILDERNESS BILL

Mr. MELCHER. Mr. President, I want to proceed now on a topic that we discussed briefly last week. It has to do with the Montana wilderness bill. That bill is being held hostage by objections from Senators on the other side of the aisle, not on substance, but on the basis of politics.

This is a bill that has taken us 5 years to develop. It involves a settlement of the so-called RARE II lawsuit which started back in the 1970's. When there was a compromise that was worked out between environmental groups that had challenged in court the adequacy of the wilderness review on roadless lands in the national forests, it was agreed to between the Secretary of Agriculture and the environmental groups that a complete review by the Forest Service of all these millions upon millions of acres of national forest lands that were roadless in the United States would be reviewed thoroughly and conscientiously for the potential of putting part of them into the national wilderness system.

Since then, each State with national forest lands has attempted to pass a bill designating, on the basis of that review and congressional review, just what wilderness acres should be placed into wilderness. It has taken the Montana delegation 5 years to get to the point where we are now.

In three different Congresses, we have worked with people in Montana, with the Forest Service, with the various users of national forest lands, such as the forest products industry—mining companies, energy companies—the recreational users, the environmental groups, and we have arrived at a bill that Senator BAUCUS and I very much recommend for passage this year.

Ordinarily, when a State's wilderness bill has been presented over the past several years, once there was agreement between the two Senators, the bill was moved by unanimous consent. That has not been true so far in this case with the Montana wilderness bill. It is important that the bill be passed in the Senate as quickly as possible, so that it can go to the House, where some action will be needed on it to finalize it and get it out of Congress and on the President's desk.

What is the politics that could conceivably interfere with that? Well, this is not a bill with which everybody agrees. Most of the forest products industry in Montana want the bill. Why do they want the bill? They want the bill because, while we place 1.4 million acres in wilderness and have an additional 700,000 designated for further study or for recreational uses in a special category, there will be about 4 million acres of national forest lands in Montana released. That means for those 4 million acres, the Forest Service will manage that land, in the broad range of multiple use.

The case is this: Once a State's wilderness bill has been enacted, that clears up and releases for multiple use pruposes the remaining acres of the roadless lands in Montana. In our case, as I have stated, it is about 4 million acres.

The forest products industry in Montana largely—not completely, not unanimously, but largely—the vast segment of the industry in Montana, wants the bill passed, so that those 4 million acres can be released and there would be a greater certainty that the timber sales in those areas could be moved forward.

Over the past 5 years of trying to work out a balanced bill that satisfies environmental interests, that satisfies recreational interests that compete with wilderness designation—for example, cyclists and snowmobiles are not allowed in wilderness areas—in the process over these 5 years of trying to balance out which lands shall be released for multiple use purposes that the forest products industry in Montana are interested in versus what is the best use of the land that environmentalists pointed out should be wilderness, we have had to have a great deal of compromise. Mining companies with some interests in mining and some proposal for exploration claims on land that might be designated wilderness, versus being released for potential mining, have had to do some compromising. The same is true of energy companies.

So, when we finally arrive at the point where we have a number of the forest land users in Montana saying, "Go forward with the bill," it is very difficult for us to have to withstand this type of opposition from those outside Montana who have nothing to do with what happens in Montana.

So the politics of it happens to be that I am running for reelection; and my opponent, for some reason, seems to believe that if the Montana wilderness bill does not pass, it will be to his advantage and to my disadvantage. But that places us in a very difficult position, because when most of the people in the State of Montana want the bill to pass, it hardly seems logical to me that there is anything to be gained by stopping that passage by the unknown—call them secret or whatever—holds by Senators on the other side.

Friday afternoon, as we strove to get the holds released by our Republican colleagues, in talking to the Republican leader, Senator DOLE, about this, he said, "Well, Monday would be all right, wouldn't it?" We would rather have had the bill cleared on Friday, but Monday would be all right. Here we are on Monday, and we do not have the bill moving. We cannot get the holds released.

Senator DOLE said late Friday afternoon that it could be cleared Monday; that, at any rate, it would not be held up for political reasons. There are some Senators who might want to look at the water language in the bill, and indeed that was looked at. Those Senators are Western Senators in Rocky Mountain States.

And they have looked at it.

Senator WIRTH wanted to look at that language. He has cleared the language we have in the bill dealing with water.

Senator McCLURE has a great interest in the water language. He has cleared it.

Senator McCLURE also has a great interest in what the release language is, and that is the language that is in the bill that said that these lands have been adequately studied for wilderness and hereby released. Some of the land will go into wilderness. Some will go into special uses. But the remainder, and that is the 4 million acres that I earlier spoke of, will be released for broader multiple use purposes, and Senator McClure has assisted in looking at the release language and making some adjustments that are compatible with him and compatible with environmental groups.

We felt we had cleared the two areas of substance in the bill that are of concern to other Senators.

Now, we find that those actions still have not cleared the bill.

Mr. President, I find this very difficult to understand. I believe it is reprehensible that a bill might be held up in the Senate, not passed by the Senate on this matter which all other States in the West have been given the courtesy of allowing when their Senators agree that the bill move forward, that it be held up in the case of the Montana wilderness bill on the basis of political considerations.

There is nothing in the bill of substance that myself and my colleague, Senator Baucus, are not willing to discuss with any Senator, but, of course, the political question, that is just a matter of judgment that Senators decide whether they think it is good politics to somehow kill the bill here and gain political advantage.

If I were advising my opponent in Montana I would advise him as a friend that for the sake of good politics he should not be involved with any such shenanigans. It is a type of politics that does not ring true. It defeats the purposes of the forest products industry in Montana the bulk of whom are extremely apprehensive that if the bill is not finalized this year they will find themselves short of timber sales next year and then still at the mercy of what anybody in the Senate decides is good or bad politics and hold up the bill on the basis of supposedly political gains.

I do not believe that will play very well in Montana. I do not think it will play very well for my opponent in Montana. Perhaps somebody might ask me "Why don't you play it politically and let it happen?" I will not let it happen if I can help it, first of all, because I think it is bad politics and, second, because I think we are sent here by the voters in our States to represent their best interests, and in this case there is no doubt of what the best interest of Montana is, the passage of this Montana wilderness bill.

Some might say, well, let us let it go until tomorrow or the next day; we are not adjourning today.

Let me point out that this bill must go to the House in time for the House to act upon it, and political games over here mean there will be political games also in the House.

So for the House to act upon it, the bill must get to them in time for them to clear it through their processes, and we are advised that if it does not clear here today or the first thing in the morning, it will probably be a dead bill anyway.

Mr. President, there is a second point that ought to be mentioned to the Senate on this matter, and that is the comity of Senators in not opposing legislation just by whim or for political reasons. All too often we find the Senate bogged down unless we can get unanimous consent agreements agreed to, and this is a situation where ordinarily a wilderness bill of this nature would be agreed to by unanimous consent, and when it becomes apparent that this particular bill is being held hostage for political reasons, then it starts that long misguided but sometimes necessary chain of events where other things are not agreed to and the Senate gets tied up unnecessarily.

I very much regret that this has happened, but for myself and for the best interest of Montana, I will pursue in every way possible to get the bill unchained, unfettered, released so that it can be passed and passed in time for the House to act on it and be enacted by Congress and placed on the President's desk.

(Mr. HEFLIN assumed the Chair.)

Mr. BAUCUS. Mr. President, will the Senator yield for a question?

Mr. MELCHER. I am delighted to yield to my colleague, Senator Baucus.

Mr. BAUCUS. Mr. President, I thank the Senator for yielding and ask the Senator, my senior colleague from Montana, if he could explain to me how much time and effort the people of Montana, the various groups in Montana, and the entire Montana congressional delegation have put into molding and shaping this bill? Can he give us a flavor of just how much time and effort has gone into the preparing of this bill?

Mr. MELCHER. Mr. President, my colleague asks a question that is extremely important to Montana. If you just count the number of hours that he and I have spent on this bill, you will find that a high percentage of our attention and our time has been devoted to the bill over the past 4 or 5 months, that prior to that a lesser percentage but nevertheless a significant percentage of time has been spent on the bill for the past 5 years. My colleague's and my time is just a very small part. The forest products industry in Montana has spent countless thousands of hours over the past 5 years reviewing the land, foot by foot, acre by acre, and making their recommendations.

The Forest Service in Montana has spent a like amount of time, probably even greater, countless thousands of hours of continuous review over these past 5 years, attempting to supply all the information for the public, for Congress, and particularly for myself and Senator Baucus and Congressman Williams in the House. But also, by all of the users of Montana. Thousands of hours have been spent over the past 5 years by thousands of recreational users in Montana on what they would recommend in the bill for wilderness or nonwilderness purposes.

Mr. BAUCUS. Will the Senator yield?

Mr. MELCHER. Yes.

Mr. BAUCUS. Mr. President, how many hearings have there been in the State of Montana in the last 6 to 8 years on this issue alone?

Mr. MELCHER. I suspect there have been up to 20 hearings in Montana on this issue alone.

Mr. BAUCUS. The Senator is correct. There have been at least 20 hearings in the State of Montana on this one issue alone; that is, the composition of the points that would be in a reasonable Montana wilderness bill.

If the Senator would also yield to me for another question, could the Senator tell me whether or not the Montana delegation is in agreement on this bill; and if, perhaps, there is one Member of the Montana delegation that is not, if the Senator could tell me whether or not he was invited to participate and work with the remaining Members of the delegation to fashion the bill?

Mr. MELCHER. There are four of us in the Montana congressional delegation: Senator Baucus and myself here in the Senate, and Congressman Williams and Congressman Marlenee in the House of Representatives, representing Montana in two congressional districts. Up until the end of the last Congress, Congressman Marlenee participated with us in the development of this legislation, but in this Congress he has withdrawn himself from developing this legislation. Nevertheless, I have kept him and his staff advised on what is in this particular bill and what changes were made from the bill that was almost agreed to in the last Congress. But he continues to be opposed to any passage of a bill, and I very much regret that. But, nevertheless, the facts are that the bulk of Montanans want us to pass the bill.

Mr. BAUCUS. Is it not true, if I might ask the Senator, that the one Member of the entire Montana delegation who is now opposed to the bill, has he not always been invited to participate in our negotiations, always invited to sit with us where he could offer his objections, if he had any, to work out a bill? Is it not true that the remaining three Members of the delegation informed Congressman Marlenee that if he wanted to he was always invited to participate?

Mr. MELCHER. Yes, Mr. President, that is true. I have very much regretted that Congressman Marlenee has not been with us in the process, because we need all the input we can get and his assistance would have been extremely helpful. We have continuously left the door open for him to become a part of the process.

Mr. BAUCUS. I thank the Senator.

Will the Senator yield for another question?

Mr. MELCHER. Yes, I am delighted to yield to my colleague.

Mr. BAUCUS. Is it not true that even now that both Senators of the Montana delegation have agreed on a bill and one of the two House Members also agrees on that bill, and that other potential objections which have been raised by other Senators, whether on the reserved water rights or release language, are objections or questions upon which all of us have worked out a consensus or an agreement that is, with regard to all of the substantive objections, or any identifiable objection that we have been able to ascertain, we have met with those Senators and we have worked out an accommodation on all those identifiable points. Would that be true?

Mr. MELCHER. Yes, my colleague is entirely correct. Not only was it worked out among the three of us, but also the water language was also worked out with people in Montana who use Montana's water. The release language was worked out not just between the three of us, Senator BAUCUS, Congressman WILLIAMS and myself, but it was also worked out with environmental organizations who were not completely satisfied with it, and with the forest products industry, who were not completely satisfied with it. They believe—and I stress this—the forest products industry believes that it is helpful language that clarifies one single point, and that is whether or not the areas in Montana were adequately considered for wilderness and for this planning cycle in which the Forest Service is now engaged.

Mr. BAUCUS. If the Senator will yield further for a question, is it not true that the present situation is this: Not only do both Montana's Senators agree on the bill, not only were all identifiable objections met and worked out, and not only do most Montanans want this bill passed—that is, want the RARE II issue resolved so it is behind them—but that we are in a situation where there are no Senators on this side of the aisle who object to the bill being brought up, but apparently there are some unidentifiable Senators, under the Senate procedure, on the other side of the aisle who, for no apparent reason other than politics, are at this point preventing the bill from being brought up?

Mr. MELCHER. That is absolutely correct.

As my colleague well knows, he and I stand ready at any time to discuss any portion of the bill as to its substance or any of the language in the bill as to any possible effect it might have on any other State.

I might say that Senator MARK HATFIELD, the ranking member of the Appropriations Committee, one of the most respected Senators in this body, has volunteered to help us get the bill unsnarled and get it passed because he full-well realizes the difficulty in arriving at a wilderness bill for a State that generally meets the acceptance of the competing interests and the competing users in a particular State. That is where we are with our Montana bill.

I am grateful to Senator HATFIELD for volunteering to help us unsnarl this bill so we can pass it.

Mr. BAUCUS. If I might ask the Senator another question, and that is whether, in his judgment, the tactics of Senators from the other side of the aisle might backfire; that is, would it be, in the opinion of the Senator from Montana, that the degree to which the Senators on the other side of the aisle prevent this bill from being brought up and eventually passed would actually work to the disadvantage of the Montana Republican candidate for office and it probably, therefore, would work to the advantage, in some small political way, to the Senator from Montana; that is, would the present tactics probably backfire because Montanans want this issue resolved and behind them?

Mr. MELCHER. I think that holding up the bill is a political disservice to my opponent. Because, when you find some two or three Senators who are unknown establishing a political hold on the bill, I do not think Montanans will approve of it. I believe they will feel that their best interests have been thwarted for political reasons by Senators who really have no interest in the bill whatsoever.

Mr. BAUCUS. Mr. President, I thank the Senator very much for yielding for those questions.

Mr. President, if the Senator will continue to yield, I just have one final point to make, and that is, very simply, to say to all Montanans and to all Americans who have an interest in this issue, the present context that we find ourselves in is basically unfair. It just smacks of unfairness.

That is, those who had questions came forth and worked out those questions and disagreements toward a resolution. But those others who may or may not have objection have not come forward. They have not come forward in the light of day to voice their objections, but rather for political reasons remain nameless, faceless, unidentifiable and prevent, perhaps, at this point, the passage of this bill.

I think that smacks of unfairness and I very much hope that those nameless, faceless, unidentifiable Senators on the other side of the aisle will step forth and either voice their objections so that we can deal with them or, in the exercise of their discretion, release their objections so that this body can work its will and pass the Montana wilderness bill. I very much thank the Senator for his efforts because all of us in the State of Montana worked diligently. We need to have this issue resolved this year.

I thank the Senator.

Mr. MELCHER. Mr. President, I thank my colleague for his very pertinent questions and very pertinent comments, which I certainly endorse.

Mr. President, I yield the floor but before doing so I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:15 p.m. today.

Thereupon, at 12:09 p.m., the Senate recessed until 1:15 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. PRYOR).

MESSAGES FROM THE HOUSE

At 12:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 3097) to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5462. An act to provide assistance for housing and community development in the United States-Mexico border region of the United States.

ENROLLED BILL SIGNED

At 1:24 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2749. An act to provide certain additional fiscal year 1989 defense authorization policies, to provide procedures to facilitate the closure and realignment of obsolete or unnecessary military installations, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5462. An act to provide assistance for housing and community development in the United States-Mexico border region of the United States; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4003. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the final OMB sequester report for fiscal year 1989; pursuant to the order of October 7, received in the Senate on October 15, 1988, pursuant to law; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Intelligejce, the Select Committee on Indian Affairs, and the Special Comiittee on Aging.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STEVENS:

S. Res. 500. A resolution to provide a point of order against unconstitutional provisions of a conference report; to the Committee on Rules and Administration.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. Res. 501. A resolution to commemorate the dedication of the Russian Bishops House in Sitka, AK on Alaska Day, October 18, 1988; considered and agreed to.

ADDITIONAL COSPONSORS

S. 2698

At the request of Mr. BUMPERS, his name was added as a cosponsor of S. 2698, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

SENATE RESOLUTION 500—PROVIDING POINTS OF ORDER AGAINST UNCONSTITUTIONAL PROVISIONS OF CONFERENCE REPORT

Mr. STEVENS submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 500

Resolved, That rule XXVIII of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"7. (a) When the Senate is considering any conference report, upon a point of order being made by any Senator that a specified provision of the conference report is unconstitutional, the Presiding Officer shall submit the question to the Senate for decision. Any such point of order shall be debated for not more than ten hours. If any such point of order is sustained, the specified provision contained in such conference report, against which such point of order was made, shall be deemed stricken.

"(b) If any such provision has been stricken pursuant to subparagraph (a), after final deposition of all points of order under subparagraph (a), the question then pending before the Senate shall be whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report, not stricken pursuant to subparagraph (a). Any such motion in the Senate shall be debatable for not more than two hours. In any case in which a point of order under subparagraph (a) is sustained against a conference report, no amendment or motion to recommit shall be in order with respect to the Senate amendment derived from such conference report by operation of this paragraph.".

Mr. STEVENS. Mr. President, several weeks ago the Rules Committee reported to the Senate a study on Senate operations. At that time I urged Senators to review the report during the upcoming adjournment period because changes to our rules and procedures are most likely to occur during the opening weeks of the new Congress.

Anticipating the possibility of rules changes during the opening weeks of the 101st Congress, I am today introducing an amendment to the standing rules so that Senators will have ample opportunity to consider my proposal.

My resolution would amend rule 28 of the standing rules, by enabling the Senate to delete unconstitutional provisions from conference reports. My interest in this type of rules change stems from our recent consideration of the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988.

As Senators will recall, section 2424 of the conference report on H.R. 3 considered two provisions which I argued were unconstitutional.

One provision provided that a new refinery constructed in Alaska which refines Alaskan crude oil would be prohibited from exporting more than 50 percent of annual output—or 70,000 barrels per day—of refined petroleum products. I stated on the Senate floor my belief that the provision violated the port preference clause of the Constitution—article I, section 9, clause 6—which provides that "no preference shall be given by any regulation of commerce * * * to the ports of one State over those of another. * * *"

A second provision in section 2424 would have required that any Alaskan crude oil shipped to Canada under the United States-Canada Free-Trade Agreement be "transported * * * from a suitable location within the lower 48 States." I argued that this provision clearly violated the second part of the port preference clause which provides: "* * * nor shall vessels bound * * * from one State, be obliged to enter, clear, or pay duties in another."

The President agreed with my objections to section 2424 of the trade bill conference report and stated in his veto message that the provisions "amount(ed) to an unconstitutional discrimination against a single State."

Subsequently, as Senators know, the omnibus trade bill was reintroduced and enacted into law without the unconstitutional anti-Alaska provisions—and the implementing bill for the United States-Canada Trade Agreement also omitted the unconstitutional provisions.

Mr. President, despite this favorable outcome, the Senate should not have to resort to reintroducing a measure in order to strike unconstitutional provisions from a conference report. This could be difficult at the end of a Congress when time is short, and it's not always politically possible to reintroduce a measure and protect it from further amendments.

Under our current rules, when a Senator raises a constitutional point of order against a conference report, if the Senate sustains the point of order, the entire conference report falls. When voting on such points of order, Senators would be therefore faced with the dilemma of weighing the merits of the constitutional issue against the possibility that if the conference report falls, the legislation would be dead for the remainder of that Congress.

In the case of the trade bill, I chose not to raise a point of order, because I knew the political realities of trying to win on a point of order that would have brought down the entire conference report.

Mr. President, our standing rules should allow the opportunity to strike those unconstitutional provisions from the conference report. As Senators we take a solemn oath to "support and defend the Constitution of the United States." There should be an opportunity at every stage of our legislative process to raise objections to provisions which we believe violate the Constitution. This is especially important because conference reports often contain provisions which have not been considered by the Senate at any earlier stage of the legislative process.

This is exactly the situation I faced with the unconstitutional provisions in the trade bill. Those provisions were not part of S. 1420, the Senate's version of the trade bill. Consequently, the only opportunity I had to raise an objection to those provisions was during consideration of the conference report.

The resolution I am introducing today would afford Senators with an opportunity to challenge the constitutionality of specific provisions contained in a conference report. It provides that when the Senate is considering any conference report, upon a point of order being made by any Senator that a specified provision of the conference is unconstitutional, the Presiding Officer shall submit the question to the Senate.

If the point of order is sustained by the Senate, the specified provision contained in the conference report is automatically stricken. The remaining provisions of the conference report would then be considered to be a Senate amendment, and upon the Senate's approval, would be returned to the House for their approval.

Mr. President, I have given this proposal considerable thought.

I am now the ranking Republican on the Rules Committee, and I have introduced several suggestions for changes to the rules. But this one I think is extremely important and I intend to raise it next year. I believe our colleagues should consider this very deeply. I say to my colleagues, even the integrity of the conference reports must be placed in proper perspective when speaking about the constitutionality of our proposed laws.

I believe the Senate has no higher responsibility in this Senate than maintaining the integrity of the Constitution of the United States.

The resolution I introduce today, has precedents both in the Senate and the House. In the Senate, we have Senate Resolution 509 of the 99th Congress, known by many as the Byrd rule, which provides that during consideration of a budget reconciliation conference report, a point of order may be raised against matter which is extraneous to the conference report. Under that procedure, if the Presiding Officer sustains the point of order, the extraneous matter is automatically stricken.

In the House, rule 28 permits Representatives to raise a point of order that matter in a conference report is nongermane. If the Chair sustains the point of order, the House may then vote to reject the nongermane matter, and send the remaining provisions back to the Senate, as a House amendment.

Mr. President, to me this resolution makes sense from a constitutional perspective, and as a matter of congressional precedent, it is sound.

I believe it is a sensible solution to the problems we face in deciding constitutional issues regarding conference reports in the process of our legislative procedures. I urge the Senate to consider the merits of this proposal over the election recess.

SENATE RESOLUTION 501—COMMEMORATING THE DEDICATION OF THE RUSSIAN BISHOPS HOUSE IN SITKA, AK, ON ALASKA DAY

Mr. STEVENS (for himself and Mr. Murkowski) submitted the following resolution; which was considered and agreed to:

S. Res. 501

Whereas Peter the Great ordered Vitus Bering, a Russian naval officer, to explore the North American coast; and Bering, for whom the Bering Sea is named, discovered Alaska in 1741;

Whereas Russian settlers established centers of trade, commerce, and government throughout the nation which now are among the country's most prosperous communities;

Whereas the Russians developed America's natural resources and established industries which remain the backbone of Alaska's economy including timber, coal, and trapping;

Whereas the first Russian-Orthodox monks arrived in the United States in 1794, and the Russian Orthodox Church has played an important role in enriching American cultures and providing education to her people;

Whereas Governor Wrangell erected St. Michael's Cathedral, which served as the center of Russian Orthodoxy in the new world;

Whereas there are 4 million members of the Russian Orthodox faith in the United States today and the Russian Orthodox Church is celebrating its thousand-year jubilee in commemoration of the Christianization of Kievan Rus';

Whereas a house was constructed for the first Russian Bishop in the new world in Sitka, Alaska which the National Park Service has restored with funds appropriated by the Congress of the United States;

Whereas the United States and the Soviet Union are seeking closer ties as evidenced by the travel of Alaska's Performers for Peace to the Soviet Union, by the efforts to bring Siberians to the St. Lawrence Island Whaling Festival and the Eskimo-Indian Olympics, by the 1986 agreement to encourage people-to-people exchanges between the two nations, by the 1987 agreement to establish bilateral groups to work on Arctic issues, by the bilateral medical research agreement entered into recently between the University of Alaska and the Siberian branch of the Academy of Medical Sciences;

Whereas the United States and the Soviet Union are beginning to remove the barrier to international travel between the two countries as evidenced by the Friendship flight between Nome, Alaska and Provideniya, Siberia, and by the agreement of the Soviet Union to consider proposals for airline traffic between Nome and Provideniya;

Whereas there is a vibrant ethnic community of Russian-Americans throughout the nation who have made important contributions to American society in science, arts and letters, religion, and government;

Whereas representatives of the Soviet Union have traveled to Sitka, Alaska to dedicate the restored Russian Bishops House and reconsecrate the church and have provided technical expertise to ensure that the restoration is authentic; and

Whereas the dedication and reconsecration will occur on October 18, 1988 which is the 121st anniversary of the transfer of Alaska from Russia to the United States for the price of $7.2 million: Now, therefore, be it

Resolved, That the Senate sends its congratulations to the National Park Service and the people of Sitka, Alaska on the occasion of the dedication of the Russian Bishops House on Alaska Day and reconfirms its continued support for the project; and be it further

Resolved, That October 18, 1988 be recognized and celebrated as Russian-American Heritage Day in recognition of the contributions Russians have made to the American landscape and the desire of the American and the Russian people for mutual understanding and peace.

ADDITIONAL STATEMENTS

RETIREMENT OF SENATOR WILLIAM PROXMIRE

● Mr. SASSER. Mr. President, at the close of the 100th Congress one of the most distinguished, energetic, hard working and unique Members of this body will retire. As a member of the Banking and Appropriations Committees, I have worked with Senator William Proxmire for several years. From this experience, I can tell you that his departure will be a serious loss to the U.S. Senate.

Mr. President; Bill Proxmire is a man that calls it like it is. He's not afraid to take on seemingly insurmountable tasks. He's not afraid to push unpopular issues. And his focus is on people, on making the Government run efficiently, and saving the taxpayers' money.

Senator Proxmire approaches his job here in the Senate with never ending vigor. He jogs to work everyday. He speaks each day during morning business on some issue of moment. He holds hearings during blizzards. And he hasn't missed a vote since 1966.

He is a man of great integrity and leadership, particularly on very controversial issues that it might be easier for him to duck.

As the chairman of the Banking Committee, the Senator from Wisconsin has many notable accomplishments. Indeed, his Truth in Lending Act is a hallmark of consumer legislation.

It helps people wade through what is often overwhelming material and data, so that they can have a decent shot at getting credit on a fair and reasonable basis. Because of truth in lending, consumers know better what they're getting into when they borrow money.

Likewise, the Community Reinvestment Act is another Proxmire initiative that has been of critical importance. In the 10 years since it was enacted, CRA is credited with funnelling some $5 billion in committed loans to low-income neighborhoods. Even more importantly, it is credited with alleviating the destructive practice of redlining.

Considering the current housing crisis and burgeoning shelter needs of low-income people, we must be ever diligent in seeing that CRA, as part of the legacy of Senator PROXMIRE, is taken seriously in the futre.

Even in the past 1½ years, since resuming the chairmanship of the Banking Committee, Senator PROXMIRE has not let up and has instead shown great leadership. Within 2 months of his becoming chairman for the second time, the Senate passed the most significant banking bill in 5 years.

The Competitive Equality Banking Act, among other things, closed the vexatious nonbank bank loophole, began the much needed recapitalization of the FSLCI, and set the stage for the landmark Glass-Steagall reform bill the Senate passed last March. Indeed, the Senate wisely chose to name that bill the Proxmire Financial Modernization Act.

In other areas, the committee has made strides under Chairman PROXMIRE's guidance. Last September, we reported corporate takeover legislation that was designed to help quell the destructive wave of hostile takeovers that has afflicted our economy over the past few years. Senator PROXMIRE shared my concern that hostile takeovers are resulting in an enormous and dangerous build up of debt in the economy, mounting job losses, dislocation of communities and a very short term focus on the part of American management.

Mr. President, Senator PROXMIRE led the fight valiantly on the floor for this legislation. However, we were ambushed by those that argue under the guise of the specious term: "shareholder democracy." In tribute to Senator PROXMIRE, I pledge that I will continue the fight for strong antitakeover legislation in the next Congress.

I would not be entirely fair if I did not say that the Senator from Wisconsin and I do disagree on some issues. For instance, the Senator is more tolerant of high interest rates as a means to curb inflation than am I. And we have disagreed on some spending priorities.

But Mr. President, the Senator from Wisconsin and I have always had intellectual arguments and respected each others' opinions. We do agree on much more than we disagree.

Mr. President, the Senator from Wisconsin has made an indelible mark on this body. Certainly, he will be a hard act for the next chairman of the Banking Committee to follow. Senator PROXMIRE will be missed, but his legacy will live on.●

AIR FORCE ASSOCIATION VERIFIES INDUSTRIAL BASE IS IN TROUBLE

● Mr. HEINZ. Mr. President, on September 14 I once again attacked the economic myopia of those who are so quick to criticize Buy American policies and are eager to welcome dumped and subsidized imports into our country in the name of free trade. It is precisely this kind of shortsighted thinking which has led to our $170 billion trade deficit and staggering foreign debt—a debt our children will have to repay with a lower standard of living and longer work weeks.

At that time, I expressed particular concern about the impact of unfair trade practices on our manufacturing sector, and, in turn, the significance of an eroding manufacturing sector in our defense industrial base. To address that problem, I introduced legislation which will encourage increased utilization of domestic firms in the performance of Defense Department contracts by requiring prime contractors to take the origin of their subcontracted goods into account.

The bill requires prime contractors to specify in their bids the percentage of domestic content which they will include in subcontracts and then requires the Department of Defense to consider this domestic subcontract percentage as a significant factor in its bid selection. Once a prime contractor is chosen, the promised domestic procurement becomes an enforceable commitment.

Mr. President, because of the serious threat the erosion of our Nation's vital defense industries poses to our national security, I was particularly pleased to see a recent report by four defense experts from the Air Force Association and USNI Military Database, "Lifeline in Danger: An Assessment of the United States Defense Industrial Base." This study make a compelling case, detailing just how far our Nation, once a first-ranking manufacturing and technological power, has slipped. According to the study—

> American industry today is unable to expand its production to meet wartime mobilization needs in less than eighteen months. It is not possible to surge the output of even the most important weapons and war material much faster than that. The nation has been dependent for years on foreign sources of raw material. Now it is becoming dependent for critical manufactured goods as well, including some high-technology products that are essential to defense production. Although the United States is still ahead in the international balance of military trade its relative advantage is declining.

It is clear that the defense industrial base, as it presently exists, is dangerously inadequate, particularly at the parts and components level. "For decades, the number of firms doing defense work, especially at the critical supplier and subcontractor level has declined." The extent to which our defense capabilities and superiority are dependent on foreign high-technology and manufactured goods is revealed by the following statistics data taken from the study.

Between 1970 and 1986 the number of U.S. firms producing dynamic random access memory chips [DRAM's] fell from 14 to 3 while Japan's number remained even. Comparing productivity in manufacturing in the United States, West Germany, and Japan is more revealing. In 1960 the United States had 62.2 units of output per worker hour. West Germany had 40.3 and Japan had 23.2. By 1986 America had 126 units per worker per hour, but the Federal Republic and Japan both had 168.2 units. Declines such as this are evidenced by our $22 billion high technology trade imbalance with Japan. The United States has even managed to reach a $7 billion deficit with newly industrialized countries from East Asia. The European theater is not much better. Between 1982 and 1986, we have had an average defense trade ratio of 4.4 purchases of European technology to 1 NATO purchase of American technology.

With so many of our components coming from abroad, America must wait for months to receive typical subcontracted aerospace items. Engine parts have an average lead time of 19 months; weapons 18 months, and aircraft parts 21 months. It is worth considering what the ramifications of such lag times would be if the United States had to face a military crisis.

Chapter three of the report is particularly enlightening. It explains in detail that we have no effective means of keeping track of the extent to which we have become dependent on imports.

> The exact impact of foreign sources on a future U.S. industrial surge/mobilization is difficult to assess. One reason is simply the lack of detailed information on the sources of subcomponents used in many of the parts in our most advanced weapons. The July 1988 DOD report on industry competitiveness equivocated on this issue: The potential for divergent political or economic interests to disrupt the free flow on the most advanced technologies and products has never been addressed adequately in the few limited American assessments of foreign dependencies.
>
> In fact * * * the Defense Department does not know the extent to which foreign-sourced components are incorporated into the system it acquires. It has no reliable means to identify such dependencies.

Under Secretary of Defense (Acquisition) Robert Costello concluded in his assessment of 215 industries the trends are "disturbing, particularly with respect to indicators of future productivity and competitiveness." The Costello report says that between 1980 and 1985 the 215 defense-critical firms were below the U.S. average in productivity growth, capital investment, and additions to their productive capacity. The report highlights a few selected areas of the defense industrial base which have suffered substantial declines in market share and technological leadership.

The Senate has already recognized that the defense industrial base is losing its ability to respond to challenges from foreign industry and its ability to respond to defense needs. The result has been a number of federally funded defense research programs, modernization programs such as SemaTech and ManTech, and several reforms of the acquisition process, all of which the report outlines in detail. However, the report concludes that more has to be done to bolster our faltering supplier and subcontractor base. It emphasizes that the defense industrial base includes not only the prime contractors, but also small cutting-edge and capital intensive businesses. We all must begin to think of them as well as such diverse elements as commercial vendors, academicians and those who mine critical minerals as a part of this base.

One particular recommendation in the report touches the heart of the legislation I have introduced. Recommendation No. 6 states, "Prime contractors should nurture the supplier-contractor base. There has been various attempts, with various degrees of success, to rally prime contractors to the cause of restoring the supplier-subcontractor base. For reasons that this report makes obvious, the prime contractors should adopt this as a major initiative." My legislation is the first step toward realizing that recommendation.

Mr. President, this study is too long to place in the RECORD in its entirety, but I do ask that the Executvie Summary appear in the RECORD, and I urge Senators to obtain a copy of the entire report and study it thoroughly.

The summary follows:

EXECUTIVE SUMMARY

American industry today is unable to expand its production to meet wartime mobilization needs in less than eighteen months. It is not possible to surge the output of even the most important weapons and war material much faster than that. The nation has been dependent for years on foreign sources of raw materials. Now it is becoming dependent for critical manufactured goods as well, including some high-technology products that are essential to defense production. Although the United States is still ahead in the international balance of military trade, its relative advantage is declining.

The United States in 1988 is faced with one of the most fundamental challenges to its leadership of the free world since it assumed that position in the aftermath of World War II. Continuing on its present course, this nation faces the real possibility of becoming a second-rank manufacturing and technology power.

The decline in manufacturing and technology leadership has had a most harmful effect on the nation's defense posture. Along with fears of a future loss of technological leadership, the United States must also be concerned about its current ability to respond to a national emergency requiring the mobilization of the defense industrial base—those industries that would support the armed forces in time of war or crisis.

Factory closings, the loss of American jobs to foreign competition, and the human toll from unemployment in the nation's "rust belt" have been well publicized. Most Americans, however, remain unaware of the full scope of the problem and its implications. Until recently, even the Department of Defense had not given the problem the attention it demands.

The United States required two years to mobilize its industry for the First and Second World Wars. That was in an era of relative technological simplicity. The World War II mobilization culminated in the legendary "Arsenal of Democracy," which achieved production levels that, in any realistic condideration, would be impossible today. There is serious question whether the United States in 1988 has the capability to support a limited mobilization of significant size or surge production to support its allies. Because of foreign dependencies and other reasons, domestic industry has difficulty in meeting peacetime, let alone wartime, defense needs.

This alarming state of affairs has been building for decades. There were danger signals along the way, but few people paid sufficient attention or recognized what the combination of trends portended. The number of firms doing defense work, especially at the supplier and subcontractor levels, has been declining for decades. Many moved to commercial product lines, where they found better profits and less red tape. The demand for high-technology products, along with shrinking defense budgets, made the military a less important customer. Increasingly, markets became driven by commercial demands, not by military considerations, and the international dimension of trade grew more significant.

While Americans worried about a mythical "military-industrial complex," relations between government and the defense industry were deteriorating. Instability in funding and in the defense acquisition process undercut capital investment and productivity. A tangle of laws and regulations, often conflicting with each other, created confusion in the incentives and disincentives to the industrial base.

Critically important research declined. The nation's educational system failed to provide an ample supply of technical manpower. Foreign industries, with significant support and subsidization from their government, began to penetrate U.S. markets. By the 1980s, the United States faced the prospect that it might become dependent—within the next decade—for the high-technology components the armed forces need to maintain their technical advantage in the balance of military power.

A snapshot of the U.S. defense industrial base in 1988 shows a mixed picture. Some industries are still doing well and look ahead to a bright future. Another group, while not threatened at present, is concerned about the future. A third group, which is quite large, is just getting by and scrambling to stay in business. This final group consists largely of the small subcontractors and suppliers who furnish specialty products to the prime defense contractors. Federal programs to assist these industries exist, but they are frequently insufficient and underfunded.

The matter is further complicated by the need for interoperability and cooperation with allied nations in arms development. In addition, there are compelling reasons to maintain a "two-way street" with those allies in defense procurements. In the past, the United States routinely sold military products abroad, but seldom bought anything of consequence in return. The day of that relationship is past.

This assessment by the Air Force Association and the USNI Military Database concludes that, for a variety of reasons, the United States cannot have complete independence for its defense industrial base and should not try to achieve it. It should, however, move promptly to reduce its dependency on foreign suppliers for such critical military components as advanced semiconductors.

Further, the U.S. should do more to support domestic defense industry and promote improvements in its international competitiveness.

This report also recommends the appointment of a Presidential Commission to undertake a wide-ranging, comprehensive analysis of the nation's defense industrial base and to chart a national plan.

It suggests that large defense contractors take a major initiative to nourish and strengthen the supplier-subcontractor base.

Legislative proposals addressing specific parts of the problem abound, but this assessment concludes that hasty action by Congress would be unwise. The proper objective would be to untangle and rationalize the mass of laws and regulations that presently exacerbate the problem.

In 1988, the state of the defense industrial base is a heated issue. The problem will not be solved quickly, however. Thus, it is of vital importance that the nation sustain its interest in the problem over time as it searches for a solution that is national in scope, comprehensive, and integrated.●

REMARKS OF DR. H. MAHLER

● Mr. INOUYE. Mr. President, last month, Dr. H. Mahler, director-general emeritus of the World Health Organization, presented the 1988 Ira Hiscock Public Lecture at the University of Hawaii School of Public Health.

I ask that Dr. Mahler's moving remarks be printed in the RECORD.

The remarks follow:

SOCIAL JUSTICE—THE UNDERPINNING FOR HEALTH LEADERSHIP DEVELOPMENT

(By Dr. H. Mahler)

INTRODUCTION

Mr. Chairman, distinguished gathering, colleagues and friends;

I was delighted to be able to accept the gracious invitation of the Honourable Governor, John Waihee, to this prestigious international forum in which we are honouring Professor Ira Hiscock. I am also greatly pleased to be presenting this lecture as the first in my new role with the World Health Organization.

It has been said that the islands of Hawaii are the most remote pieces of land in the world—more than 3,500 kilometers from anywhere else. Now, that may be true geographically—but it certainly isn't true humanistically.

I can see now that Professor Hiscock's migration from the chill of New England must have been prompted in part by the physical and emotional warmth of this magnificent state and its congenial people, and, certainly, his concern for the Hawaiian people is reflected in his prognostic book "Public Health in Hawaii".

The theme of this lecture: "Social Justice—the underpinning of Health Leadership Development" is immensely important. Because it is, and because of my deep personal interest in this subject, I propose to deal with it as candidly as I can. The Second Interregional Dialogue of Resource Network for HFA Leadership Development, in which I have had the privilege to participate during this week, has been distinguished by the vision and breadth of knowledge as well as the candidness, guilt and concern about the issues which often characterize any discussion on the subject of leadership. I trust that I can continue in that vein.

Professor Hiscock was an energetic activist in emphasizing that political action for health requires an emotional launching mechanism. I can identify with that. I am still convinced, for example, that primary health care provides a significant starting force and added impetus for development all over the world. This development is based on the principle that those who have little in health and wealth will generate more for themselves; and those who have much will have no less, but will have it with better quality.

Public complacency in American society was shaken by Professor Hiscock when his initiative of conducting community health surveys revealed huge gaps in health status. I have seen such patterns of inequity throughout the world. I'm not talking about a first, or second or third world—I'm talking about ONE—the only one we've got. And I continue to support the resolve to provide levels of health that will allow all the people of this *one world* to lead socially and economically satisfying and productive lives.

DEVELOPMENT AND SOCIAL INJUSTICE

The so-called "development process" can be traced back at least to 10 January 1949 when Harry Truman, then President of the United States, used the term "underdevelopment". Development theories and programmes can generally be divided into three consecutive periods. The first was characterized by the "trickle down" approach which focussed on immense infrastructure projects such as large dams. The second development period was largely dedicated to analyzing what went wrong with the first period. The third development era emphasized the "bottom-up" approach, acknowledging the failure of "top-down" and recognizing that much of the work at the macro-level had imposed policies that were not necessarily shared by the people for whom they were intended.

I have always maintained that people's creativity and ingenuity are the key to their and the world's progress. People's apathy can turn development dreams into stagnating nightmares. The transportation of social apathy into social and economic productivity is the point of embarkation of human development. And an adequate level of health is a basic ingredient in generating the energy that fuels this transformation.

To quote Robert McNamara, former President of the World Bank: "Development is, in the final analysis, about human aspiration, and the individual's realization of his or her own potential. What the billions of people throughout the developing world need and want is what everyone everywhere needs and wants: the well-being of those they love; a better future for their children; an end to injustice; and a beginning of hope.".

So, development is about the creation and expansion of opportunities for human beings to realize what they consider to be their positive destiny. It is a complex process involving the interplay of physical, social and political variables. And, we're not talking about dealing with physical sciences and controlled environments where quantifiable elements can be introduced and results predicted. We're talking about human institutions and cultures, the ways in which people organize themselves to effect change in their social environments. We're talking about human expectations, perceived rights, and people's emotions about those rights.

Equity, especially in ensuring essential health and socio-economic needs, and particularly as it relates to vulnerable groups such as children, women, the elderly and the disabled, remains for me a primary objective of development. I believe that a greater degree of equity, to assure a more just and reasonable equality of health opportunity, an absolute necessity for the preservation of humanity.

At this point, permit me to share with you some glimpses of the scale of inequities in the world which led W.H.O. and the world community to begin their fight for social justice in health.

First slide please.

[Slides are not printed in Record]

As you can see, the number of infants who died in their first year of life in the least developed countries was more than eight times greater than it was in the industrialized countries. People in the industrialized countries lived more than one and a half times as long as those in the least developed countries. And these figures only reveal averages; they do not reveal the extremes. Similar inequality is shown by the adult literacy rate, which was three and a half times higher in the industrialized countries than it was in the least-developed ones.

Similar inequities existed with respect to safe water supply.

Next slide please.

As you can see, only about 30 percent of the people in the least developed countries had access to safe water as compared with 100 percent in the industrialized countries.

There are one billion humans caught in the "absolute poverty" trap. Robert McNamara defined absolute poverty as a "condition of life so characterized by malnutrition, illiteracy and low life expectancy as to be beneath any reasonable definition of human decency." While the poor in the industrialized countries like the U.S. can survive because of social services of one kind or another, those in absolute poverty in the least-developed countries are trapped by lack of education, employment, safe water and sanitation, transport, communication or access to health services.

On the other hand, wealth tends to flow towards wealth and not in the direction where it is needed most. Less than one-fifth of the world's population enjoys two-thirds of the world's income. The 75% living in poor countries have only 20%.

These are some economic indicators related to health:

As you can see, the GNP per capita was nearly 40 times greater in the industrialized countries than it was in the least-developed countries, and public expenditure on health was more than 140 times greater in the industrialized countries than it was in the least-developed ones. And I should add that these figures relate to public expenditure on health alone. If you take into account that private expenditure on health is much greater in the affluent countries than it is in the least-developed ones, then the gap becomes enormous. So those most in need had least to spend on their health.

But even these chilling statistics do not paint the true picture of relative affluence and poverty—the chasm that exists between what Cervantes called the "only two families in the world—the Haves and the Havenots".

LEADERSHIP AND SOCIAL CONSCIENCE

How, then, in this environment of gloom and doom is "social conscience" on the part of leaders generated? Rarely in history has this kind of leadership been so essential—so vital; leadership to propagate new values in society, particularly values that are concerned with social progression; leadership of involvement, of responsibility, of objectivity and of compassion.

It has been said that "leaders have a significant role in creating the state of mind that is the society". They can express the values that hold the society together. They can bring to consciousness the society's sense of its own needs, values and purposes.

It is my firm personal conviction that leadership is nothing if it is not linked to the collective purpose of the society. The effectiveness of the leaders must be gauged not by their charisma, or their visibility, or the so-called power they hold, but by the actual social change they create, measured by the satisfaction of human needs and expectations. I speak of moral leadership, where values have an important place, where leaders assume consummate responsibility for their commitments, and thereby produce social change that is relevant to the needs, aspirations and values of the society.

And the vision of a commitment to remove social inequities cannot be introduced as a one-shot piece of magic. It must be introduced time after time. It must be incorporated in the political system and supported through the strategy and decision-making process; it must be reinforced through diligent pursuit of facts and fearless exposure of the facts which carry out for social justice. And I believe that this is the path that WHO has taken in its "Health for All" movement.

THE HEALTH FOR ALL MOVEMENT—A LEADING EDGE FOR SOCIAL JUSTICE

A question often raised is, "Can health truly form a leading edge for social justice, especially when we are dealing with situations where the basic issue is survival; where people are trapped in the vicious circle of extreme poverty, ignorance, and apathy?".

I can best answer this question by reviewing the progression of events that led to the creation of the Health for All movement and to, in my opinion, indeed becoming a leading edge in the promotion of equity and social justice.

The world's health conscience was shaken by inequities such as the ones to which I alluded earlier. This led WHO's supreme organ, the World Health Assembly, to decide in 1977 that the main social target of governments and WHO in the coming decades should be the attainment of what is popularly known as "health for all by the year 2000". And the Health Assembly described that as a level of health that will permit all the people of the world to lead a socially and economically productive life. Please note that the Health Assembly did not consider health as an end in itself, but rather as a means to an end. That end is human development as characterized by social and economic productivity. You will also note that the social aspect of development preceded the economic aspect. That is as it should be. When people are mere pawns in an economic growth game, that game is lost. But when people themselves can contribute actively and voluntarily to the social development of the society in which they live, whether in such fields as shaping public policies, providing social support to others, undertaking voluntary action for the health of society, or through cultural activities and sport, in other words when people are socially productive, there is hope for economic productivity too.

By adopting the Global Strategy for Health for All in 1981, the World Health Assembly heralded a new era for health, which called for a morally binding social contract among the various partners, the governments, the people and WHO.

This social contract, commonly known as the Primary Health Care Strategy, implied a commitment not only to a reorientation of the health care industry, but to a shift in people's control over their health and well-being to the extent that they would be able and willing to handle, in fact, a social reform in health.

The terms of this social contract were enshrined in the fundamental policies for health for all.

Next slide please.

SLIDE NO. 4

Fundamental policies for health for all

Health is a fundamental human right

Health is a worldwide social goal

People have the right and duty to ensure their health care

Governments have responsibility for the health of their people

People's health is an integral part of development

Countries must eventually become self-reliant in health matters

The existing gross inequality in health must be drastically reduced

Optimal use must be made of the world's resources to promote health and development.

The next question was how to make these policies more tangible. This led to identifying a number of pillars on which policies like these could rest.

Next slide please.

SLIDE NO. 5

Health-for-all pillars

Political commitment

Community involvement

Intersectoral action

Appropriate technology for health

Development of health manpower

A sound managerial process.

I believe that Health for All is a popular social concept, and promoting it is a practical political investment. So it becomes useful as a platform for political leaders to promote equity and social justice. Community involvement is not just a case of people doing what governments tell them. It means people taking an enlightened interest in their own health—doing what they can to promote and sustain it—and making intelligent demands on their elected representatives based on a proper understanding of what is technically and economically feasible.

Some of this understanding lies in grasping how, in addition to the health sector, a number of social and economic sectors contribute to health and in mobilizing these sectors to play their part. An obvious example is how education of women plays a crucial role in reducing infant mortality, or how agriculture and animal husbandry influence nutrition. And we know that in the case of AIDS, the mass media sector and educational sector have crucial roles.

At this point I would also like to reflect on the role of health in the initiative of meeting basic minimum needs—the bottom line of the rationale behind the Health for All policies and pillars. Of course the pursuit of basic needs is not a distinct development strategy in itself. Rather, it is a principal objective of development that can be achieved through a variety of development strategies. Basic needs can include, but are not necessarily limited to: health, water and sanitation, nutrition, education and shelter. To illustrate one linkage: a large body of evidence supports the conclusion that a better-educated, healthier labour force is generally found to be more productive. While there are other, similar linkages, the dominant influence of health in meeting basic needs is readily apparent.

Meeting basic needs also implies the improvement in quality of life. There is, of course, no yardstick for the actual measurement of quality of life. And it is difficult to make accurate comparisons between quality of life in the "have" and "have-not" countries. In fact, it is at the individual, family and the community levels that the basic ingredients of what constitutes an acceptable quality of life can be decided upon and the true progression can be measured. And we have examples where this has been done by the people themselves with genuine support from the formal and the informal leaders.

Therefore, I believe that the fundamental values of social justice and equity are firmly embedded in the vision of the Goal of Health for All. And this vision can, indeed, be a strong social force and a leading edge for achieving social justice. For even though health may not be everything, without health there is nothing.

LEADERSHIP DEVELOPMENT FOR HEALTH FOR ALL

It can readily be seen from my earlier comments that the Strategy for Health for All encompasses fundamental change in the way health is perceived, promoted, protected and provided. It implies a commitment, not only to a reorientation of the health care industry, but to a shift in people's control over their health and well-being to the extent that they would be willing to handle; a social reform which truly empowers people in matters of their health and well-being. Such a strategy for change can only be propagated by leaders, because I believe that the most important function of leadership is achieving change, and, in the context of moral leadership, achieving change for a collective purpose of the society.

And in promoting health for all, there are many levels of action:

At the community level, mobilizing and coordinating community action for health, focussing people's energy on their health and well-being and building self-reliance;

At the intermediate level, translating policies into actions and acting as facilitators rather than providers, and truly empowering people to enable them to share responsibilities for health as equal partners;

At the national political level to direct and guide policies and orientate change, mobilizing support for change from critical influential groups,

. . . and even at the international level—communicating on health needs and inequities, evoking a social response in a spirit of genuine partnership between the haves and the have-nots.

I believe that the leaders are there who are willing to take up this challenge. They are those in the leading political positions, who can emphasize the social values and are sensitive to them, who feel strongly about equity issues and who can find ways to motivate and mobilize others. They are in the communities—able to take up the cause of social justice more strongly, prepared to adjust their own traditional values and approaches and willing to take risks. They are in the educational and scientific institutions—able to fully visualize the scope of improving human conditions and thus willing to concentrate their intellectual energy and also to motivate others, especially the future generations, towards the new social values. They are Us . . .

To these leaders, equity remains a primary concern, particularly in meeting essential health and socio-economic needs, and especially as it relates to vulnerable groups such as children, women, the elderly and the disabled.

I define the key qualities for leadership for Health for All as:

A clear understanding of the Health for All strategy and its broad principles;

A concern with the inequality in the health status between countries and within countries;

A commitment to guide national policy decisions toward social equity, thereby reducing health inequality and related socio-economic inequity among people;

A comprehension of the health aspects of policies of other sectors and an aptitude to argue for health in an intersectoral setting;

A capability to identify critical issues affecting the implementation of HFA strategy and to focus energy on resolving them, converting obstacles into opportunities;

A confidence borne of the knowledge of having relevant skills and experience;

A capacity to motivate others, especially other prominent colleagues and influential groups, to mobilize their commitment to the HFA values and to the resolution of issues;

But the most important attribute of a health leader, to my mind, is vision. Because by focusing attention on a vision, the leader operates on the emotional and spiritual resources of the group—whatever it may be—and on its values, commitment, hopes and expectations. So, by communicating the vision to others the leader is actually appealing to some of the most fundamental human needs: to be important; to make a difference; to be useful; to be part of a worthwhile successful undertaking—not only doing things right, but doing the right things.

Leadership, therefore, is, and will remain, a vital ingredient in achieving the goal of Health for All and today it is urgently needed at all levels of society.

And recognizing the gap (some have even referred to it as a crisis)in such leadership, WHO, in 1985, launched the bold initiative of leadership development for health for all.

We were immediately confronted with the specifics. Can you teach leadership? Leaders are born. Who are these leaders? Are you going to select and create new leaders?

I can almost say that perhaps there were more skeptics than enthusiasts about this initiative. But it takes a special kind of leadership to continue such an initiative in the face of skepticism, and that is what WHO took upon itself.

There is very little documented experience in "teaching/developing" leadership. While there is universal agreement that "leadership skills" or "attributes" are crucial to the success of any enterprise, or to achieving meaningful social change in the society, the methods for enhancing or developing such skills are not well understood. And leadership, which enables and empowers others and focuses on tapping existing and potential human energy for the purpose of achieving change, cannot be easily taught.

It has to be an interacting process, learning from one's own experience, successes and failures and from others. But this process must also lead to sharpening values, raising motivation to pursue those values and improving technical and managerial capacities to be able to demonstrate effective leadership.

WHO initiated the process of leadership development: by identifying those who, with a clear vision, were pursuing the values of health for all; by tapping their driving forces, their knowledge and their skills; by infusing in others who had similar responsibilities a renewed sense of purpose and revitalized energies; by expanding knowledge and skills involved in promoting the value system of health for all and by re-establishing and increasing confidence. Many of the individuals engaged in this process already have the opportunity to realize their vision into reality. They are people like us. Many more can be given such opportunities, by people like us.

I think I can say with confidence that our experience over the past three years has been shown that the enthusiasts were right and the skeptics wrong. This is evident in the growing number of countries and the non-governmental organizations which have taken up the challenge to develop leadership for health for all. It was evident in the level of enthusiasm with which the subject was received during the Technical Discussion held in May 1988, during the World Health Assembly. A unanimous endorsement of a declaration of personal commitment for action by more than four hundred top-level, distinguished leaders from WHO Member States and other agencies in attendance was a clear testament to the timeliness and validity of this initiative.

But we all know that it is a long road from making a declaration of commitment and translating it into reality.

THE CRUCIAL YEARS AHEAD AND THE CHALLENGE FOR LEADERSHIP

Changing the existing establishment health systems, institutions and bureaucracies without threatening the existing power structures is perhaps the most critical issue facing political leaders pursuing the goal of Health for All. Few positive changes are evident, even though there are dedicated leaders who are trying to do so. There are both methodological gaps as well as attitudinal constraints with which to contend. There is also the leadership gap in the health sector which limits the understanding of the nature of change required, the value of such change and the process of change.

Another area in which there seems to be little change is in the attitude and commitment of health professionals, and particularly the medical profession. In most countries there seems to have been insufficient and/or unsatisfactory dialogue between the agents of change—the leaders—and the profession, on the need for or the process of change.

Similarly, the educational institutions which prepare and guide the leaders of tomorrow have yet to respond fully to the challenges posed by Health for All.

Leadership development is a complex issue. We have only just begun on this long journey of achieving changes—some of which challenge the roots of our long-established traditional systems, service systems, educational systems and even the political systems; many of which appear to have outlived the usefulness for the purpose for which they were created.

It is a challenge to the broader leadership issue in the society.

The question has been asked: "Can we afford the cost of social justice?". The costs generated through the creation of a just and equitable health care system may cause some economic turbulence. But equitable cost containment measures can be introduced and resources reallocated. Justice and financial responsibility do not have to be incompatible. They will be, only if there is a breakdown of political nerve. While there has been absolute progress in achieving the HFA goal in some countries, progress towards social justice remains limited. Therefore, even more leadership for HFA must be generated as a collective force from all levels of society and directed towards accelerating the abatement of inequity.

It has been noted that, if present trends continue undiminished, the world in the year 2000 will be more crowded, more polluted, less stable ecologically, and more vulnerable to devastation. I believe the most turbulent transition will be that associated with the establishment of equity between ourselves. But, I also believe that Health for All is one of the major genuine social revolutions of our times. Health for All leadership has the powerful potential for improving the quality of life for millions of people who are subjected to social injustice. Such leadership is moved by a vision which cannot tolerate the unacceptable inequities of life, and which has faith in the potential of people, in their inherent ability to develop and to be responsible for their own destiny.

CONCLUSION

It would be most interesting to be able to present this lecture in the year 2000. I'm certain I would look back at the present time as one in which the HFA movement and the HFA leadership initiative were on their way towards turning things around.

We will soon enter the last decade of this century, and in fact, of this millenium. Our children and their children, when they start their journey into the next century and the next millenium should at least be able to say that their forefathers did try their best to leave behind a legacy of a more just society than exists today.

Those of us who are fighting for social justice must be even more than ready to look, to listen, to probe and to learn; must be brave enough to fearlessly evaluate progress or lack of progress in abating inequity. Only by highlighting social injustices is it possible to redress them and create social justice.

It can often be frustrating, since development knows no limits; and the more you move along its road the more you want to move. You cannot blame people if they strive to join up with those who are further along the road than they are. That is only human nature. Injustices have to be seen through the eyes of those who are farthest behind on that road. The dying words of the great Swedish development humanist, Gunnar Myrdal, were: "We must not let the injustices of the world take over.". Indeed we must not.

This is the challenge for us all, the people who are in leadership positions and are concerned with social justice.

And, we must not become like the grandmother of the World War I flying ace, Eddie Rickenbacker. Before he entered pilot training she begged him to promise her that he would always "fly slowly and close to the ground". We, however, must instead affirm that we will be both daring and down to earth, and open to innovation in the face of new challenges.

In closing, permit me to suggest that we all can take heart from the exceptional institutional leadership role played by the School of Public Health, University of Hawaii, under the inspiration of its outstanding, national and international HFA leader, Dean Jerrold Michael.

I am convinced that by relentlessly pursuing the actions needed to attain Health for All and by fearlessly evaluating and adjusting our actions in the light of the findings—I am convinced that by doing all that we shall reduce these injustices and replace them with decency in development, leading to social justice in health throughout the world.●

SENATOR ROBERT T. STAFFORD

● Mr. INOUYE. Mr. President, I wish to bid farewell to a man who has served the U.S. Senate and the State of Vermont with honor and distinction for 17 years.

Senator ROBERT STAFFORD, who has held public office since 1954, was appointed to the Senate in 1971 upon the death of Senator Winston Prouty. Subsequently, he served as chairman of the Committee on Environment and Public Works, where he championed environmental reforms, including an expansion of the Superfund, a strong acid rain bill, the removal of asbestos in public schools, and toxic waste clean up.

The State of Hawaii owes him a special thanks because, as a member of the Committee on Labor, Health and Human Resources, Senator STAFFORD has been of invaluable assistance and support with respect to meeting the health and educational needs of Native Hawaiians. The Vocational Education Act of 1984, of which he was an essential proponent, included a special set-aside to enhance the quality of access to vocational education for Native Hawaiians. His skilled leadership also enabled Hawaii's educational system, which is the sole statewide system in the Nation, to strengthen its qualifications for impact aid, and, consequently, allow Hawaii's students an equal opportunity for quality education.

Mr. President, it is with respect and admiration that I bid farewell to my distinguished colleague. I wish him well as he pursues new and exciting endeavors. To Bob and his wife Helen—a fond aloha.●

SENATOR DANIEL J. EVANS

I have worked closely with Senator Evans, the vice-chairman of the Senate Select Committee on Indian Affairs. Many know of my deep conviction to correcting the broken treaties and agreements this Government made to native American Indians. He has shared my commitment to serving the native American population. We have worked closely on many key issues of vital concern to native Americans. I will certainly miss his friendship. I shall hate to see the breaking up of the "Team."

I am proud to have served with him these past 5 years. He has done a good job in filling the shoes of the late Senator Scoop Jackson. This was not an easy task, yet Dan Evans rose to the occasion. He has built a strong record for himself as a member of the Senate Foreign Relations Committee and the Senate Committee on Energy and Natural Resources.

It was a privilege and an honor to have served with Senator Dan Evans in the U.S. Senate.

I would like to take this opportunity to wish Dan, his wife Nancy, and his children a fond aloha and best wishes.●

SENATOR WILLIAM PROXMIRE

● Mr. INOUYE. Mr. President, I would like to take this opportunity to bid a fond farewell to a colleague who has distinguished this body for 31 years, Senator William Proxmire of Wisconsin.

Over the years, I have had the opportunity to serve with the distinguished senior Senator from Wisconsin as a member of the Senate Appropriations Committee. In that capacity I served with him on the Defense, Military Construction and the Labor, Health and Human Services, Education and Related Agencies Subcommittees. He has also served as chairman of the HUD-Independent Agencies Subcommittee, and as a member of the Treasury, Postal Service and General Government Subcommittee of the Senate Appropriations Committee. Bill Proxmire has brought the qualities of integrity and straightforwardness that I have respected and appreciated very much. He has chaired the HUD-Independent Agencies Subcommittee with such efficiency that despite the controversy surrounding the space station funding, it was the second subcommittee to have its fiscal year 1989 appropriations bill passed and signed by the President. This was not an easy task.

In his capacity as chairman of both the Committee on Banking, Housing, and Urban Affairs and the HUD Appropriations Subcommittee, Bill Proxmire has been extremely helpful and supportive with important housing initiatives for the underprivileged, such as American Indians and Native Hawaiians. He is known for protecting the smalltown banker and his adamant opposition to hostile business takeovers.

Senator Proxmire has brought his experience and perspective as a small businessman to the Senate. He holds the all-time record for consecutive roll calls answered.

A few may call him independent, even aloof. I know him as a hard-working, disciplined statesman. Finally, Mr. President, I admire anyone who runs from his home to the Capitol every morning.

To Bill, his wife Ellen, and his children, aloha and best wishes.●

SENATOR JOHN C. STENNIS

● Mr. INOUYE. Mr. President, I wish to join my colleagues to bid my fond farewell to the Senate pro tempore and chairman of the Senate Appropriations Committee, Senator John C. Stennis of Mississippi.

The distinguished senior Senator from Mississippi has taught me much about the history of this body and has been my mentor since I became a Member of the Senate in 1963. I have had the privilege of serving with him on the Senate Appropriations Committee. Under his able leadership, the Senate has passed all 13 appropriations bills for fiscal year 1989.

The members of the Senate Appropriations Committee and the Senate Armed Services Committee had the benefit of his experience. Indeed, all of us are the better for the wisdom that he has bestowed upon us.

John Stennis has served the Senate, our Nation, and the State of Mississippi well over these years. He has the distinction of serving longer than any other citizen in the Senate, years filled with outstanding achievements and noble statesmanship. His departure will create a void in the Senate that cannot be adequately filled.

It has been my pleasure and an honor to have served with this great American.

Senator, best wishes and aloha.●

SENATOR PAUL S. TRIBLE, JR.

● Mr. INOUYE. Mr. President, I wish to bid farewell to my distinguished colleague, Senator Paul Trible of Virginia.

During his brief tenure of service in the U.S. Senate, I had the opportunity to serve with Paul on two very important committees, the Senate Commerce, Science, and Transportation Committee, and the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition. He is also a member of the Senate Foreign Relations and Governmental Affairs Committees.

leaves the U.S. Senate, I would like to wish him well on his future endeavors. To Paul, his wife Rosemary, and his family—a fond aloha.●

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, on tomorrow the House will be back in session. Meanwhile, over the last days of last week and continuing into tomorrow the staffs in both Houses have been working on the drug bill. I hope that when the House returns on tomorrow progress can be made. I think it is conceivable—it would certainly be hoped for—that final action could be taken on the drug legislation Wednesday. However, it might be Thursday, depending on what the House elects to do. If there are messages between Houses on that bill, it might not take as long as if there were a conference.

I would expect rollcall votes tomorrow and Wednesday. I do not know of anything else that can be done today. Floor staffs of both parties have been working hard today to get unanimous-consent agreements and clear bills for action. They have done a lot of good work, and hopefully by tomorrow we can move forward on some of that unanimous-consent type work.

Mr. President, does the distinguished acting Republican leader, Mr. Stevens, have anything further that he would like to say or any business he would like to transact that can be transacted?

Mr. STEVENS. Mr. President, the leader is kind as always. I am hopeful that he can assure me I will be breathing some of that clear Alaskan air by Thursday. Otherwise, I have nothing to come before the Senate right now.

Mr. BYRD. Mr. President, I thank my friend.

ORDERS FOR TOMORROW

ADJOURNMENT UNTIL 11 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, there be a period for morning business not to extend beyond 11:30 a.m. and that Senators may speak during that period for morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RESOLUTIONS AND MOTIONS: CALL OF CALENDAR WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over, under the rule, come over tomorrow and that the call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order entered, the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to, and the Senate, at 1:25 p.m., adjourned until Tuesday, October 18, 1988, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, October 18, 1988*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 17, 1988.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore on Tuesday, October 18, 1988.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Reverend Charles Mallon, permanent deacon, Holy Family Church, Mitchellville, MD, offered the following prayer:

I lift up my eyes to the hills, from whence does my help come. My help comes from the Lord who made heaven and earth.—Psalm 121:1-2.

Father anoint us with Your holy spirit. Let Him take hold of our spiritual formation. Grant us a portion of Your life in the spirit by channeling our efforts toward peace through justice.

Father look not upon our sins but rather upon our faith. Help us to recognize that which is good and allow us to attain it. Give us a generous awareness of global needs. Give us a realistic appreciation of worldly treasures. Give us both health in mind and body. Give us wisdom in our collective decisions. And give us peace in our spiritual lives.

We ask this through Christ Our Lord. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Hawaii [Mrs. SAIKI] come forward and lead us in the Pledge of Allegiance.

Mrs. SAIKI. Mr. Speaker, will you all please join me in the Pledge of Allegiance.

Mrs. SAIKI led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and concurrent resolutions of the House of the following titles:

H.R. 1826. An act for the relief of Natasha Susan Middelmann, Samantha Abigail Middelmann, Naomi Katrina Orloff Middelmann, and Hannah Emily Middelmann;

H.R. 2642. An act to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes;

H.R. 3414. An act for the relief of Meenakshiben P. Patel;

H.R. 3685. An act to amend title 31, United States Code, to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim against the United States made by a member of the uniformed services or by an officer or employee of the Government;

H.R. 4209. An act to authorize appropriations to carry out title I of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, and 1991;

H.R. 4642. An act to provide for the reinstatement of the canceled entry of William A. Wright to certain lands in Lamar County, AL;

H.R. 4777. An act to modify the boundary of the Guadalupe Mountains National Park, and for other purposes;

H.R. 4939. An act to amend the Safe Drinking Water Act to control lead in drinking water;

H.R. 4992. An act to expand our national telecommunications system for the benefit of the hearing-impaired and speech-impaired populations, and for other purposes;

H.R. 5001. An act to establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission;

H.R. 5066. An act to add additional land to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes;

H.R. 5389. An act concerning disaster assistance for Bangladesh; and

H. Con. Res. 388. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 3757.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and concurrent resolutions of the House of the following titles:

H.R. 1801. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1989 through 1992;

H.R. 2020. An act to authorize appropriations for the Office of Environmental Quality for fiscal years 1987, 1988, and 1989;

H.R. 3146. An act to clarify certain restrictions on distribution of advertisements and other information concerning lotteries and similar activities;

H.R. 3957. An act to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania;

H.R. 4030. An act to reauthorize and amend certain wildlife laws, and for other purposes;

H.R. 4064. An act to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges;

H.R. 4068. An act to amend the Archaeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that Act, and for other purposes;

H.R. 4124. An act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes;

H.R. 4189. An act to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1989 through 1993;

H.R. 4399. An act to facilitate commercial access to space, and for other purposes;

H.R. 4517. An act to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements;

H.R. 4807. An act to amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes;

H.R. 4972. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes;

H.R. 5102. An act to amend the provisions of title 5, United States Code, relating to the health benefits program for Federal employees and certain other individuals;

H.R. 5210. An act to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes;

H.R. 5347. An act to amend title 11 of the United States Code with respect to claims payable from special revenues by municipalities that are debtors; and for other purposes;

H.R. 5420. An act to authorize the lease of a specified naval repair ship to the Government of Pakistan and the transfer of a specified floating drydock and a medium yard tug to the Republic of Philippines;

H. Con. Res. 115. Concurrent resolution providing for participation by delegations of Members of both Houses of Congress in ceremonies to be held in April 1989 in New York City marking the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the inauguration of President George Washington, and the proposal of the Bill of Rights as the first 10 amendments to the Constitution; and

H. Con. Res. 381. Concurrent resolution expressing the sense of the Congress regarding the state of affairs in Lebanon, the necessity of resolving the constitutional crisis

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in Lebanon, and United States goals with respect to Lebanon.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3621) "An act to declare that certain lands located in California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and to declare such lands to be part of the reservation with which they are contiguous."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5261) "An act to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2266) "An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 4418) "An act to authorize appropriations for the National Science Foundation for fiscal years 1989 and 1990, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 4833) "An act to amend the Public Health Service Act to revise and extend the programs of nurse education established in title XVIII of such act, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 136) "An act to improve the health status of Native Hawaiians, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 437) "An act to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1236) "An act to reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1986) "An act to study, control, and reduce the pollution of aquatic environments from plastic materials, and for other purposes."

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 1482. An act to amend title 18 and title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes;

S. 1851. An act to implement the International Convention on the Prevention and Punishment of Genocide;

S. 1961. An act to amend title 28, United Stats Code, to provide Federal debt collection procedures;

s. 2033. An act to amend title 18, United States Code, with respect to chld protection and obscenity enforcement, and for other purposes;

S. 2279. An act to amend title 11 of the United States Code, the bankruptcy code, regarding swap agreements;

S. 2793. An act to amend title 18 of the United States Code to punish corruption;

S. 2886. An act to provide a method under which the State of New Mexico can continue highway road work;

S. Con. res. 162. Concurrent resolution to correct the enrollment of H.R. 2642;

S. Con. Res. 163. Concurrent resolution to make a change in the enrollment of the bill H.R. 4174; and

S. Con. Res. 164. Concurrent resolution to correct errors in the enrollment of the bill H.R. 4612.

The message also announced that pursuant to Public Law 100-360, the Chair on behalf of the President pro tempore appoints Mr. KENNEDY, Mr. MELCHER, Mr. BAUCUS, Mr. MITCHELL, Mr. DURENBERGER, and Mr. HEINZ, to the U.S. Bipartisan Commission on Comprehensive Health Care.

The message also announced that pursuant to Public Law 100-458, the majority leader appoints William E. Cresswell of Mississippi, from the private sector, for a 2-year term, and William F. Winter of Mississippi, from the private sector, for a 6-year term, to the Board of Trustees of the John C. Stennis Center for Public Service, Training, and Development.

The message also announced that pursuant to Public Law 100-458, the minority leader appoints MARK HATFIELD of Oregon, for a 4-year term to the Board of Trustees of the John C. Stennis Center for Public Service, Training, and Development.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Monday, October 17, 1988:

S. 2749, to provide certain additional fiscal year 1989 Defense authorization policies, to provide procedures to facilitate the closure and realignment of obsolete or unnecessary military installations, and for other purposes.

CONFERENCE REPORT ON S. 2030, OCEAN DUMPING REFORM ACT OF 1988

Mr. OBERSTAR submitted the following conference report and statement on the Senate bill (S. 2030) to amend the Marine Protection, Research, and Sanctuaries Act:

CONFERENCE REPORT (H. REPT. 100-1090)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2030) to amend the Marine Protection, Research, and Sanctuaries Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE

SEC. 1001. SHORT TITLE.

This title may be cited as the "Ocean Dumping Ban Act of 1988".

SEC. 1002. ESTABLISHMENT OF FEES AND PENALTIES FOR OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is amended by striking the second section 104A and inserting in lieu thereof the following:

"SEC. 104B. OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

"(a) TERMINATION OF DUMPING.—

"(1) PROHIBITIONS ON DUMPING.—Notwithstanding any other provision of law—

"(A) on and after the 270th day after the date of the enactment of this section, no person (including a person described in section 104A(a)(1)(C)) shall dump into ocean waters, or transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste, unless such person—

"(i) has entered into a compliance agreement or enforcement agreement which meets the requirements of subsection (c)(2) or (3), as applicable; and

"(ii) has obtained a permit issued under section 102 which authorizes such transportation and dumping; and

"(B) after December 31, 1991, it shall be unlawful for any person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste.

"(2) PROHIBITION ON NEW ENTRANTS.—The Administrator shall not issue any permit under this Act which authorizes a person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste, unless that person was authorized by a permit issued under section 102 or by a court order to dump into ocean waters, or to transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste on September 1, 1988.

"(b) SPECIAL DUMPING FEES.—

"(1) IN GENERAL.—Subject to paragraph (4), any person who dumps into ocean waters, or transports for the purpose of dumping into ocean waters, sewage sludge or industrial waste shall be liable for a fee equal to—

"(A) $100 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after the 270th day after the date of the enactment of this section and before January 1, 1990;

"(B) $150 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1990, and before January 1, 1991; and

"(C) $200 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1991, and before January 1, 1992.

"(2) PAYMENT OF FEES.—Of the amount of fees under paragraph (1) for which a person is liable, such person—

"(A) shall pay into a trust account established by the person in accordance with subsection (e) a sum equal to 85 percent of such amount;

"(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person, for use for agency activities as provided in subsection (f)(1);

"(C) subject to paragraph (5), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount after application of subparagraphs (A) and (B); and

"(D) subject to paragraph (5), shall pay to the State in which the person is located a sum equal to the balance of such amount after application of subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2).

"(3) SCHEDULE FOR PAYMENT.—Fees under this subsection shall be paid on a quarterly basis.

"(4) WAIVER OF FEES.—(A) The Administrator shall waive all fees under this subsection, other than the portion of fees required to be paid to the Administrator under paragraph (2)(B) for agency activities, for any person who has entered into a compliance agreement which meets the requirements of subsection (c)(2).

"(B) The Administrator shall reimpose fees under this subsection for a person for whom such fees are waived under subparagraph (A) if the Administrator determines that—

"(i) the person has failed to comply with the terms of a compliance agreement which the person entered into under subsection (c)(2); and

"(ii) such failure is likely to result in the person not being able to terminate by December 31, 1991, dumping of sewage sludge or industrial waste into ocean waters.

"(C) The Administrator may waive fees reimposed for a person under subparagraph (B) if the Administrator determines that the person has returned to compliance with a compliance agreement which the person entered into under subsection (c)(2).

"(5) PAYMENTS PRIOR TO ESTABLISHMENT OF ACCOUNT.—(A) In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act, fees required to be paid by a person in that State under paragraph (2)(C) or (D), as applicable, shall be paid to the Administrator.

"(B) Amounts paid to the Administrator pursuant to this paragraph shall be held by the Administrator in escrow until the establishment of the fund into which such amounts are required to be paid under paragraph (2), or until the last day of the 1-year period beginning on the date of such payment, whichever is earlier, and thereafter—

"(i) if such fund has been established, shall be paid by the Administrator into the fund; or

"(ii) if such fund has not been established, shall revert to the general fund of the Treasury.

"(c) COMPLIANCE AGREEMENTS AND ENFORCEMENT AGREEMENTS.—

"(1) IN GENERAL.—As a condition of issuing a permit under section 102 which authorizes a person to transport or dump sewage sludge or industrial waste, the Administrator shall require that, before the issuance of such permit, the person and the State in which the person is located enter into with the Administrator—

"(A) a compliance agreement which meets the requirements of paragraph (2); or

"(B) an enforcement agreement which meets the requirements of paragraph (3).

"(2) COMPLIANCE AGREEMENTS.—An agreement shall be a compliance agreement for purposes of this section only if—

"(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person by not later than December 31, 1991, through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

"(B) it includes a schedule which—

"(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

"(ii) meets the requirements of paragraph (4);

"(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

"(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

"(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

"(F) it authorizes the person to use interim measures before completion of the alternative system referred to in subparagraph (A).

"(3) ENFORCEMENT AGREEMENTS.—An agreement shall be an enforcement agreement for purposes of this section only if—

"(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

"(B) it includes a schedule which—

"(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

"(ii) meets the requirements of paragraph (4);

"(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

"(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

"(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

"(F) it authorizes the person to use interim measures before completion of the alternative system referred to in subparagraph (A).

"(4) SCHEDULES.—A schedule included in a compliance agreement pursuant to paragraph (2)(B) or an enforcement agreement pursuant to paragraph (3)(B) shall establish deadlines for—

"(A) preparation of engineering designs and related specifications for the alternative system referred to in paragraph (2)(A) or paragraph (3)(A), as applicable;

"(B) compliance with appropriate Federal, State, and local statutes, regulations, and ordinances;

"(C) site and equipment acquisitions for such alternative system;

"(D) construction and testing of such alternative system;

"(E) operation of such alternative system at full capacity; and

"(F) any other activities, including interim measures, that the Administrator considers necessary or appropriate.

"(5) CLEAN OCEANS FUNDS.—(A) Each State that is a party to a compliance agreement or an enforcement agreement under this subsection shall establish an interest bearing account, to be known as a Clean Oceans Fund, into which a person shall pay fees and penalties in accordance with subsections (b)(2)(C) and (d)(2)(C)(i), respectively.

"(B) A State which establishes a Clean Oceans Fund pursuant to this paragraph shall allocate and pay from the fund each year, to each person in the State which has entered into a compliance agreement or enforcement agreement under this subsection, a portion of amounts in the fund on the last day of that year which is equal to the sum of—

"(i) amounts paid by the person into the fund in that year as fees pursuant to subsection (b)(2)(C) and as penalties pursuant to subsection (d)(2)(C)(i);

"(ii) amounts paid by the Administrator into the fund in that year as fees held in escrow for the person pursuant to subsection (b)(5)(B); and

"(iii) interest on such amounts.

"(C) Amounts allocated and paid to a person pursuant to subparagraph (B)—

"(i) shall be used for the purposes described in subsection (e)(2)(B); and

"(ii) may be used for matching Federal grants.

"(D) A Clean Oceans Fund established by a State pursuant to this paragraph shall be subject to such accounting, reporting, and other requirements as may be established by

the Administrator to assure accountability of payments into and out of the fund.

"(6) PUBLIC PARTICIPATION.—The Administrator shall provide an opportunity for public comment regarding the establishment and implementation of compliance agreements and enforcement agreements entered into pursuant to this section.

"(d) PENALTIES.—

"(1) IN GENERAL.—In lieu of any other civil penalty under this Act, any person who has entered into a compliance agreement or enforcement agreement under subsection (c) and who dumps or transports sewage sludge or industrial waste in violation of subsection (a)(1)(B) shall be liable for a civil penalty, to be assessed by the Administrator, as follows:

"(A) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992, $600.

"(B) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in any year after calendar year 1992, a sum equal to—

"(i) the amount of penalty per dry ton (or equivalent) for a violation occurring in the preceding calendar year, plus

"(ii) a percentage of such amount equal to 10 percent of such amount, plus an additional 1 percent of such amount for each full calendar year since December 31, 1991.

"(2) PAYMENT OF PENALTY.—Of the amount of penalties under paragraph (1) for which a person is liable, such person—

"(A) shall pay into a trust account established by the person in accordance with subsection (e) a sum which is a percentage of such amount equal to—

"(i) 90 percent of such amount, reduced by

"(ii) 5 percent of such amount for each full calendar year since December 31, 1991;

"(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person in that year, for use for agency activities as provided in subsection (f)(1);

"(C) for violations in any year before calendar year 1995—

"(i) subject to paragraph (4), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount; and

"(ii) subject to paragraph (4), shall pay to the State in which the person is located a sum equal to the portion of such amount which is not paid as provided in subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2); and

"(D) for violations in any year after calendar year 1994, shall pay to the State in which the person is located a sum equal to the balance of such amount, for use by the State for providing assistance under subsection (f)(3).

"(3) SCHEDULE FOR PAYMENT.—Penalties under this subsection shall be paid on a quarterly basis.

"(4) PAYMENTS PRIOR TO ESTABLISHMENT OF ACCOUNT.—In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act, penalties required to be paid by a person in that State under paragraph (2)(C)(i) or (ii), as applicable, shall be paid to the Administrator for holding and payment or reversion, as applicable, in the same manner as fees are held and paid or revert under subsection (b)(5).

"(e) TRUST ACCOUNT.—

"(1) IN GENERAL.—A person who enters into a compliance agreement or an enforcement agreement under subsection (c) shall establish a trust account for the payment and use of fees and penalties under this section.

"(2) TRUST ACCOUNT REQUIREMENTS.—An account shall be a trust account for purposes of this subsection only if it meets, to the satisfaction of the Administrator, the following requirements:

"(A) Amounts in the account may be used only with the concurrence of the person who establishes the account and the Administrator; except that the person may use amounts in the account for a purpose authorized by subparagraph (B) after 60 days after notification of the Administrator if the Administrator does not disapprove such use before the end of such 60-day period.

"(B) Amounts in the account may be used only for projects which will identify, develop, and implement—

"(i) an alternative system, and any interim measures, for the management of sewage sludge and industrial waste, including but not limited to any such system or measures utilizing resource recovery, recycling, thermal reduction, or composting techniques; or

"(ii) improvements in pretreatment, treatment, and storage techniques for sewage sludge and industrial waste to facilitate the implementation of such alternative system or interim measures.

"(C) Upon a finding by the Administrator that a person did not pay fees or penalties into an account as required by this section, or did not use amounts in the account in accordance with this subsection, the balance of the amounts in the account shall be paid to the State in which the person is located, for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2).

"(3) USE OF UNEXPENDED AMOUNTS.—Upon a determination by the Administrator that a person has terminated ocean dumping of sewage sludge or industrial waste, the balance of amounts in an account established by the person under this subsection shall be paid to the person for use—

"(A) for debts incurred by the person in complying with this Act or the Federal Water Pollution Control Act;

"(B) in meeting the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) which apply to the person, including operations and maintenance; and

"(C) for matching Federal grants.

"(4) USE FOR MATCHING FEDERAL GRANTS.—Amounts in a trust account under this subsection may be used for matching Federal grants.

"(f) USE OF FEES AND PENALTIES.—

"(1) AGENCY ACTIVITIES.—Of the total amount of fees and penalties paid to the Administrator in a fiscal year pursuant to subsections (b)(2)(B) and (d)(2)(B), respectively—

"(A) not to exceed one-third of such total amount shall be used by the Administrator for—

"(i) costs incurred or expected to be incurred in undertaking activities directly associated with the issuance under this Act of permits for the transportation or dumping of sewage sludge and industrial waste, including the costs of any environmental assessment of the direct effects of dumping under the permits;

"(ii) preparation of reports under subsection (i); and

"(iii) such other research, studies, and projects the Administrator considers necessary for, and consistent with, the development and implementation of alternative systems for the management of sewage sludge and industrial waste;

"(B) not to exceed one-third of such total amount shall be transferred to the Secretary of the department in which the Coast Guard is operating for use for—

"(i) Coast Guard surveillance of transportation and dumping of sewage sludge and industrial waste subject to this Act; and

"(ii) such enforcement activities conducted by the Coast Guard with respect to such transportation and dumping as may be necessary to ensure to the maximum extent practicable complete compliance with the requirements of this Act; and

"(C) not to exceed one-third of such total amount shall be transferred to the Under Secretary of Commerce for Oceans and Atmosphere for use for—

"(i) monitoring, research, and related activities consistent with the program developed pursuant to subsection (j)(1); and

"(ii) preparing annual reports to the Congress pursuant to subsection (j)(4) which describe the results of such monitoring, research, and activities.

"(2) DEPOSITS INTO STATE WATER POLLUTION CONTROL REVOLVING FUND.—(A) Amounts paid to a State pursuant to subsection (b)(2)(D), (d)(2)(C)(ii), or (e)(2)(C) shall be deposited into the water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act.

"(B) Amounts deposited into a State water pollution control revolving fund pursuant to this paragraph—

"(i) shall not be used by the State to provide assistance to the person who paid such amounts for development or implementation of any alternative system;

"(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

"(iii) shall not be subject to State matching requirements under such title.

"(3) PENALTY PAYMENTS TO STATES AFTER 1994.—(A) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) may be used by the State—

"(i) for providing assistance to any person in the State—

"(I) for implementing a management program under section 319 of the Federal Water Pollution Control Act;

"(II) for developing and implementing a conservation and management plan under section 320 of such Act; or

"(III) for implementing technologies and management practices necessary for controlling pollutant inputs adversely affecting the New York Bight, as such inputs are identified in the New York Bight Restoration Plan prepared under section 2301 of the Marine Plastic Pollution Research and Control Act of 1987; and

"(ii) for providing assistance to any person in the State who was not required to pay such penalties for construction of treatment works (as defined in section 212 of the Federal Water Pollution Control Act) which are publicly owned.

"(B) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) which are not used in accordance with subparagraph (A) shall be deposited into the water pollution control revolving fund established by the State under title VI of the Federal Water

Pollution Control Act. Amounts deposited into such a fund pursuant to this subparagraph—

"(i) shall not be used by the State to provide assistance to the person who paid such amounts;

"(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

"(iii) shall not be subject to State matching requirements under such title.

"(4) Deposits into treasury as offsetting collections.—Amounts of fees and penalties paid to the Administrator pursuant to subsection (b)(2)(B) or (d)(2)(B) which are used by an agency in accordance with paragraph (1) shall be deposited into the Treasury as offsetting collections of the agency.

"(g) Enforcement.—

"(1) In general.—Whenever, on the basis of any information available, the Administrator finds that a person is dumping or transporting sewage sludge or industrial waste in violation of subsection (a)(1), the Administrator shall issue an order requiring such person to terminate such dumping or transporting (as applicable) until such person—

"(A) enters into a compliance agreement or an enforcement agreement under subsection (c); and

"(B) obtains a permit under section 102 which authorizes such dumping or transporting.

"(2) Requirements of order.—Any order issued by the Administrator under this subsection—

"(A) shall be delivered by personal service to the person named in the order;

"(B) shall state with reasonable specificity the nature of the violation for which the order is issued; and

"(C) shall require that the person named in the order, as a condition of dumping into ocean waters, or transporting for the purpose of dumping into ocean waters, sewage sludge or industrial waste—

"(i) shall enter into a compliance agreement or an enforcement agreement under subsection (c); and

"(ii) shall obtain a permit under section 102 which authorizes such dumping or transporting.

"(3) Actions.—The Administrator may request the Attorney General to commence a civil action for appropriate relief, including a temporary or permanent injunction and the imposition of civil penalties authorized by subsection (d)(1), for any violation of subsection (a)(1) or of an order issued by the Administrator under this section. Such an action may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation and require compliance with subsection (a)(1) and any such order.

"(h) State Progress Reports.—

(1) In general.—The Governor of each State that is a party to a compliance agreement or an enforcement agreement under subsection (c) shall submit to the Administrator on September 30 of 1989 and of every year thereafter until the Administrator determines that ocean dumping of sewage sludge and industrial waste by persons located in that State has terminated, a report which describes—

"(A) the efforts of each person located in the State to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c), including the extent to which such person has complied with deadlines established by the schedule included in such agreement;

"(B) activity of the State regarding permits for the construction and operation of each alternative system; and

"(C) an accounting of amounts paid into and withdrawn from a Clean Oceans Fund established by the State.

"(2) Failure to submit report.—If a State fails to submit a report in accordance with this subsection, the Administrator shall withhold funds reserved for such State under section 205(g) of the Federal Water Pollution Control Act (33 U.S.C. 1285(g)). Funds withheld pursuant to this paragraph may, at the discretion of the Administrator, be restored to a State upon compliance with this subsection.

"(i) EPA Progress Reports.—

"(1) In general.—Not later than December 31 of 1989 and of each year thereafter until the Administrator determines that ocean dumping of sewage sludge and industrial waste has terminated, the Administrator shall prepare and submit to the Congress a report on—

"(A) progress being made by persons issued permits under section 102 for transportation or dumping of sewage sludge or industrial waste in developing alternative systems for managing sewage sludge and industrial waste;

"(B) the efforts of each such person to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c), including the extent to which such person has complied with deadlines established by the schedule included in such agreement;

"(C) progress being made by the Administrator and others in identifying and implementing alternative systems for the management of sewage sludge and industrial waste; and

"(D) progress being made toward the termination of ocean dumping of sewage sludge and industrial waste.

"(2) Referral to congressional committees.—Each report submitted to the Congress under this subsection shall be referred to each standing committee of the House of Representatives and of the Senate having jurisdiction over any part of the subject matter of the report.

"(j) Environmental Monitoring.—

"(1) In general.—The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall design a program for monitoring environmental conditions—

"(A) at the Apex site (as that term is defined in section 104A);

"(B) at the site designated by the Administrator under section 102(c) and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005);

"(C) at the site at which industrial waste is dumped; and

"(D) within the potential area of influence of the sewage sludge and industrial waste dumped at those sites.

"(2) Program requirements.—The program designed under paragraph (1) shall include, but is not limited to—

"(A) sampling of an appropriate number of fish and shellfish species and other organisms to assess the effects of environmental conditions on living marine organisms in these areas; and

"(B) use of satellite and other advanced technologies in conducting the program.

"(3) Monitoring activities.—The Administrator and the Under Secretary of Commerce for Oceans and Atmosphere shall each conduct monitoring activities consistent with the program designed under paragraph (1).

"(4) Reports.—(A) Not later than 1 year after the date of the enactment of this section, the Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall submit to the Congress a report describing the program designed pursuant to paragraph (1).

"(B) Not later than December 31 of each year after the submission of a report under subparagraph (A), the Administrator and the Under Secretary of Commerce for Oceans and Atmosphere shall report to the Congress the results of monitoring activities conducted during the previous year under the program designed pursuant to paragraph (1).

"(k) Definitions.—For purposes of this section—

"(1) the term 'alternative system' means any method for the management of sewage sludge or industrial waste which does not require a permit under this Act;

"(2) the term 'Clean Oceans Fund' means such a fund established by a State in accordance with subsection (c)(5);

"(3) the term 'excluded material' means—

"(A) any dredged material discharged by the United States Army Corps of Engineers or discharged pursuant to a permit issued by the Secretary in accordance with section 103; and

"(B) any waste from a tuna cannery operation located in American Samoa or Puerto Rico discharged pursuant to a permit issued by the Administrator under section 102;

"(4) the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant, other than an excluded material;

"(5) the term 'interim measure' means any short-term method for the management of sewage sludge or industrial waste, which—

"(A) is used before implementation of an alternative system; and

"(B) does not require a permit under this Act; and

"(6) the term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a wastewater treatment plant, other than an excluded material.

SEC. 1003. CONFORMING AMENDMENTS.

(a) Public Law 95-153.—Section 4 of Public Law 95-153 (33 U.S.C. 1412a) is amended—

(1) by striking subsection (a);

(2) by striking subsection (b);

(3) by redesignating subsection (c), and any reference thereto, as subsection (a);

(4) in subsection (a) (as so redesignated) by striking "After" and inserting "Notwithstanding section 104B of the Marine Protection, Research, and Sanctuaries Act of 1972, after";

(5) in subsection (a) (as so redesignated) by striking "such title I" and inserting "title I of such Act";

(6) by striking subsection (d); and

(7) by adding at the end the following:

"(b) For purposes of this section, the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant.".

(b) Alternatives Assessment.—Section 2301(b)(8) of the Marine Plastic Pollution Research and Control Act of 1987 is amended by striking "dumping of municipal sludge and".

(c) Preliminary Report on Alternatives.—Section 2303 of the Marine Plastic Pollution

Research and Control Act of 1987 is amended—

(1) by striking subsection (b), and

(2) redesignating subsections (c), (d), and (e), and any reference thereto, as subsections (b), (c), and (d), respectively.

SEC. 1004. ENFORCEMENT MONITORING REPORT.

Not later than 6 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency (hereinafter in this title referred to as the "Administrator"), in consultation with the Secretary of Transportation, shall submit a report to the Congress which outlines progress made in using electronic monitoring equipment, and other means to monitor and prevent dumping of sewage sludge outside the site designated by the Administrator under section 102(c) and known as the "106-Mile Ocean Waste Dump Site" (as described in 49 F.R. 19005), and by vessels in transit to that site.

SEC. 1005. PROHIBITION ON DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.), as amended by this Act, is amended by inserting after section 104B the following:

"SEC. 104C. PROHIBITION ON DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

"(a) In General.—No person shall dispose of sewage sludge at any landfill located on Staten Island, New York.

"(b) Exclusion From Penalties.—

"(1) In general.—Subject to paragraph (2), a person who violates this section shall not be subject to any penalty under this Act.

"(2) Injunction.—Paragraph (1) shall not prohibit the bringing of an action for, or the granting of, an injunction under section 105 with respect to a violation of this section.

"(c) Definition.—For purposes of this section, the term 'sewage sludge' has the meaning such term has in section 104B.".

SEC. 1006. USE OF STATE WATER POLLUTION CONTROL REVOLVING FUND GRANTS FOR DEVELOPING ALTERNATIVE SYSTEMS.

(a) General Requirement.—Notwithstanding the provisions of title VI of the Federal Water Pollution Control Act, each of the States of New York and New Jersey shall use 10 percent of the amount of a grant payment made to such State under such title for each of the fiscal years 1990 and 1991 and 10 percent of the State's contribution associated with such grant payment in the 6-month period beginning on the date of receipt of such grant payment for making loans and providing other assistance as described in section 603(d) of the Federal Water Pollution Control Act to any governmental entity in such State which has entered into a compliance agreement or enforcement agreement under section 104B of the Marine Protection, Research, and Sanctuaries Act of 1972 for identifying, developing, and implementing pursuant to such section alternative systems for management of sewage sludge.

(b) Limitation.—If, after the last day of the 6-month period beginning on the date of receipt of a grant payment by the State of New York or New Jersey under title VI of the Federal Water Pollution Control Act for each of fiscal years 1990 and 1991, 10 percent of the amount of such grant payment and the State's contribution associated with such grant payment has not been used for providing assistance described in subsection (a) as a result of insufficient applications for such assistance from persons eligible for such assistance, the 10 percent limitations set forth in subsection (a) shall not be applicable with respect to such grant payment and associated State contribution.

SEC. 1007. OCEAN DISCHARGES.

(a) In General.—Within 6 months after the date of the enactment of this Act, the Administrator shall transmit to the Congress a report on the implementation of section 403(c) of the Federal Water Pollution Control Act (33 U.S.C. 1343(c)).

(b) Report Contents.—The report under this section shall contain—

(1) an accounting of discharges into the waters of the territorial sea, the contiguous zone, and the ocean, including—

(A) the total number of discharges;

(B) the location, source, volume, and potential environmental effects of each discharge;

(C) the date of original issuance, review, and reissuance of each discharge permit; and

(D) the number of discharges that have been determined by the Administrator to be in compliance with the ocean discharge criteria regulations promulgated pursuant to section 403(c) of the Federal Water Pollution Control Act;

(2) a schedule for implementing section 403(c) of such Act and achieving compliance with guidelines promulgated under such section as expeditiously as practicable, and an estimate of the resources required to meet such schedule; and

(3) recommendations for any additional legislative authorities needed to achieve compliance with such guidelines.

SEC. 1008. CLERICAL AMENDMENT RELATING TO GREAT LAKES WATER QUALITY AGREEMENT OF 1978.

Section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended by inserting ", as amended by the Water Quality Agreement of 1987 and any other agreements and amendments," immediately after "the Great Lakes Water Quality Agreement of 1978" each place that term appears.

TITLE II—DESIGNATION OF AREAS FOR PRIORITY CONSIDERATION UNDER NATIONAL ESTUARY PROGRAM

SEC. 2001. DESIGNATION OF AREAS.

Section 320(a)(2)(B) of the Federal Water Pollution Control Act is amended—

(1) by inserting "Massachussetts Bay, Massachussetts (including Cape Cod Bay and Boston Harbor);" after "Buzzards Bay, Massachussetts;";

(2) by striking "and" before "Galveston Bay, Texas"; and

(3) by inserting after "Galveston Bay, Texas;" the following: "; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; and Peconic Bay, New York".

TITLE III—DUMPING OF MEDICAL WASTE

Subtitle A—Dumping by Public Vessels

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "United States Public Vessel Medical Waste Anti-Dumping Act of 1988".

SEC. 3102. FINDINGS.

The Congress finds the following:

(1) The washing ashore of potentially infectious medical wastes from public vessels of the United States may pose serious and widespread risks to public health and to the welfare of coastal communities.

(2) Current Federal law provides inadequate protections against the disposal of such wastes from such vessels into ocean waters.

(3) Operators of such vessels must take immediate action to stop disposing of such wastes into ocean waters.

SEC. 3103. DEFINITIONS.

For the purposes of this subtitle:

(1) Potentially infectious medical waste.—The term "potentially infectious medical waste" includes isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes; and other disposable medical equipment and material that may pose a risk to the public health, welfare or the marine environment.

(2) Public vessel.—The term "public vessel" means a vessel of any type whatsoever (including hydrofoils, air-cushion vehicles, submersibles, floating craft whether propelled or not, and fixed or floating platforms) that is owned, or demise chartered, and operated by the United States Government, and is not engaged in commercial service.

SEC. 3104. PROHIBITION.

After 6 months after the date of the enactment of this Act, no public vessel shall dispose of potentially infectious medical waste into ocean waters unless—

(1)(A) the health or safety of individuals on board the vessel is threatened; or

(B) during time of war or a declared national emergency;

(2) the waste is disposed of beyond 50 nautical miles from the nearest land; and

(3)(A) in the case of a public vessel which is not a submersible, the waste is sterilized, properly packaged, and sufficiently weighted to prevent the waste from coming ashore after disposal; and

(B) in the case of a public vessel which is a submersible, the waste is properly packaged and sufficiently weighted to prevent the waste from coming ashore after disposal.

SEC. 3105. GUIDANCE.

Not later than 3 months after the date of the enactment of this Act, the Secretary of Defense and the head of each affected agency, in consultation with the Administrator of the Environmental Protection Agency, shall each issue guidance for public vessels under the jurisdiction of their agency regarding implementation of section 3104.

Subtitle B—Dumping by Vessels

SEC. 3201. AMENDMENTS TO MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972.

(a) Definition.—Section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402) is amended—

(1) by redesignating subsections (k) and (l), and any reference thereto, as subsections (l) and (m), respectively; and

(2) by inserting after subsection (j) the following:

"(k) 'Medical waste' means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.".

(b) Prohibition.—Subsection (a) of section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412(a)) is amended in the first sentence—

(1) by striking "biological warfare agents and" and inserting "biological warfare agents,"; and

(2) by inserting "and medical waste," after "radioactive waste,".

(c) CIVIL PENALTIES.—Section 105(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(a)) is amended by inserting after the first sentence the following: "In addition, any person who violates this title or any regulation issued under this title by engaging in activity involving the dumping of medical waste shall be liable for a civil penalty of not more than $125,000 for each violation, to be assessed by the Administrator after written notice and an opportunity for a hearing.".

(d) CRIMINAL PENALTIES AND FORFEITURES.—Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)) is amended—

(1) by inserting "(1)" before "In addition"; and

(2) by adding at the end the following:

"(2) In addition to any action which may be brought under subsection (a), any person—

"(A) who knowingly violates any provision of this title by engaging in activity involving the dumping into ocean waters of medical waste shall upon conviction be fined not more than $250,000, or imprisoned for not more than 5 years, or both; and

"(B) convicted of a violation involving such activity shall forfeit to the United States any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation, and any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.".

SEC. 3202. AMENDMENTS TO FEDERAL WATER POLLUTION CONTROL ACT.

(a) DEFINITION—Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

"(20) The term 'medical waste' means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.".

(b) PROHIBITION.—Section 301(f) of the Federal Water Pollution Control Act (33 U.S.C. 1311(f)) is amended by striking "or high-level radioactive waste" and inserting ", any high-level radioactive waste, or any medical waste,".

TITLE IV—SHORE PROTECTION ACT OF 1988

SEC. 4001. SHORT TITLE.

This title may be cited as the "Shore Protection Act of 1988".

Subtitle A—Shore Protection

SEC. 4101. DEFINITIONS.

In this title—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "coastal waters" means—

(A) the territorial sea of the United States;

(B) the Great Lakes and their connecting waters;

(C) the marine and estuarine waters of the United States up to the head of tidal influence; and

(D) the Exclusive Economic Zone as established by Presidential Proclamation Number 5030, dated March 10, 1983.

(3) "municipal or commercial waste" means solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) except—

(A) solid waste identified and listed under section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921);

(B) waste generated by the vessel during normal operations;

(C) debris solely from construction activities;

(D) sewage sludge subject to regulation under title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

(E) dredged or fill material subject to regulation under title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), or the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401 et seq.).

(4) "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

(5) "receiving facility" means a facility or operation where municipal or commercial waste is unloaded from a vessel.

(6) "United States", when used in a geographic sense, means the States of the United States, Puerto Rico, the District of Columbia, the Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, and any other territory or possession of the United States.

(7) "waste source" means a facility or vessel from which municipal or commercial waste is loaded onto a vessel, including any rolling stock or motor vehicles from which that waste is directly loaded.

SEC. 4102. VESSEL PERMITS AND NUMBERS.

(a) IN GENERAL.—A vessel (except a public vessel as defined in section 2101 of title 46, United States Code) may not transport municipal or commercial waste in coastal waters without—

(1) a permit for that vessel from the Secretary of Transportation; and

(2) displaying a number or other marking on the vessel as prescribed by the Secretary under chapter 123 or section 12502(b) of title 46, United States Code.

(b) PERMIT APPLICATIONS.—Application for a permit required by subsection (a) of this section shall be made by the vessel owner or operator and include—

—(1) the name, address, and telephone number of the vessel's owner and operator;

(2) the vessel's name and identification number;

(3) the vessel's area of operation;

(4) the vessel's transport capacity;

(5) a history of the types of cargo transported by the vessel during the previous year, including identifying the type of municipal or commercial waste transported as—

(A) municipal waste;

(B) commercial waste;

(C) medical waste; or

(D) waste of another character.

(6) any other information the Secretary may require; and

(7) an acknowledgment.

(c) EFFECTIVE DATE OF PERMITS.—A permit issued under this section—

(1) is effective 30 days after the date on which it was issued;

(2) may be issued only for a period of not more than 5 years after the effective date of the permit;

(3) may be renewed for periods of not more than 5 years only by the vessel owner or operator that applied for the original permit; and

(4) is terminated when the vessel is sold.

(d) DENIAL OF PERMITS.—The Secretary may, or at the request of the Administrator shall, deny the issuance of a permit for any vessel if the owner or operator of the vessel has a record of a pattern of serious violations of—

(1) this subtitle;

(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(3) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.);

(4) the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401 et seq.); or

(5) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(e) PERMIT DECISION.—The Secretary, after consultation with the Administrator, shall issue or deny a vessel permit under this section within 30 days after receiving a complete application. On denying the issuance of the permit for a vessel the Secretary shall—

(1) notify the applicant of the denial and the reasons for the denial; and

(2) provide an opportunity for a hearing on the denial.

(f) MAINTAINING PERMIT.—

(1) IN GENERAL.—The permit issued for a vessel under this title shall be maintained in a manner prescribed by the Secretary.

(2) ENDORSEMENTS.—If a vessel is a documented vessel, the Secretary may endorse a permit on the vessel's certification of documentation.

(g) VESSEL INFORMATION SYSTEM.—The Secretary may include information in a permit in the vessel information system maintained under chapter 125 of title 46, United States Code.

SEC. 4103. WASTE HANDLING PRACTICES.

(a) IN GENERAL.—

(1) LOADING.—The owner or operator of the waste source shall take all reasonable steps to assure that all municipal or commercial waste is loaded onto a vessel in a manner that assures that waste deposited in coastal waters is minimized.

(2) SECURING.—The owner or operator of a vessel shall assure that all municipal or commercial waste loaded onto the vessel is secured by netting or other means to assure that waste will not be deposited into coastal waters during transport.

(3) OFFLOADING.—The owner or operator of the receiving facility shall take all reasonable steps to assure that any municipal or commercial waste is offloaded from a vessel in a manner that assures that waste deposited into coastal waters is minimized.

(4) CLEANING UP.—The owner or operator of any waste source or receiving facility shall provide adequate control measures to clean up any municipal or commercial waste which is deposited into coastal waters.

(b) REGULATIONS.—The Administrator, in consultation with the Secretary of Transportation, shall prescribe regulations—

(1) requiring that waste sources, receiving facilities, and vessels provide the means and facilities to assure that the waste will not be deposited into coastal waters during loading, offloading, and transport;

(2) requiring, as appropriate, the submission and adoption by each responsible party of an operation and maintenance manual identifying procedures to be used to prevent, report, and clean up any deposit of municipal or commercial waste into coastal waters, including record keeping requirements; and

(3) if the Administrator determines that tracking systems are required to assure adequate enforcement of laws preventing the deposit of municipal or commercial waste into coastal waters, requiring installation of the appropriate systems within 18 months after the Administrator makes that determination.

SEC. 4104. SUSPENSION, REVOCATION, AND INJUNCTIONS.

(a) Suspension and Revocation.—After notice and opportunity for a hearing, the Secretary of Transportation may, and at the request of the Administrator shall, suspend or revoke a permit issued to a vessel under this title for a violation of this title or a regulation prescribed under this title.

(b) Injunctions.—The Secretary or the Administrator may bring a civil action to enjoin any operation in violation of this title or a regulation prescribed under this title in the district court of the United States for the district in which the violation occurred.

SEC. 4105. ENFORCEMENT.

(a) General Authority.—The Secretary of Transportation shall enforce this title under section 89 of title 14, United States Code. The Secretary may authorize other officers or employees of the United States Government to enforce this title under that section.

(b) Periodic Examinations.—The Secretary shall conduct periodic examinations of vessels operating under this title transporting municipal or commercial waste to determine that each of these vessels has a permit issued under section 4102 of this Act.

(c) Refusal of Clearance.—The Secretary of the Treasury may refuse the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91), to any vessel subject to this title which does not have a permit required under section 4102 of this Act.

(d) Denial of Entry and Detention.—If a vessel does not comply with this title, the Secretary of Transportation may—

(1) deny entry to any place in the United States; and

(2) detain at the place in the United States from which it is about to depart.

(e) Persistent Violators.—The Administrator shall conduct an investigation of the owner or operator of a vessel or facility if the owner has 5 or more separate violations during a 6-month period.

SEC. 4106. SUBPENA AUTHORITY

(a) General Authority.—In an investigation under this title, the attendance and testimony of witnesses, including parties in interest, and the production of any evidence may be compelled by subpena. The subpena authority granted by this section is coextensive with that of a district court of the United States, in civil matters, for the district in which the investigation is conducted.

(b) Subpena Authority.—An official designated by the Secretary of Transportation or Administrator to conduct an investigation under this part may issue subpenas as provided in this section and administrator oaths to witnesses.

(c) Failure to Comply.—When a person fails to obey a subpena issued under this section, the district court of the United States for the district in which the investigation is conducted or in which the person failing to obey is found, shall on proper application issue an order directing that person to comply with the subpena. The court may punish as contempt any disobedience of its order.

(d) Witness Fees.—A witness complying with a subpena issued under this section may be paid for actual travel and attendance at the rate provided for witnesses in the district courts of the United States.

SEC. 4107. FEES.

The Secretary of Transportation may collect a fee under section 9701 of title 31, United States Code, of not more than $1,000, from each person to whom a permit is issued under this subtitle for a permitting system and to maintain information.

SEC. 4108. CIVIL PENALTY PROCEDURES.

(a) General Procedures.—After notice and an opportunity for a hearing, a person found by the Secretary of Transportation to have violated this title or a regulation prescribed under this title for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) Compromising Penalties.—The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty under this title until the assessment is referred to the Attorney General.

(c) Referral to the Attorney General.—If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) Refund of Penalty.—The Secretary may refund or remit a civil penalty collected under this title if—

(1) application has been made for refund or remission of the penalty within one year from the date of payment; and

(2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

SEC. 4109. PENALTIES.

(a) General Penalty.—Except as provided in subsection (b) of this section, a person violating this title is liable to the United States Government for a civil penalty of not more than $25,000. Each day of a continuing violation is a separate violation. A vessel involved in a violation also is liable in rem for the penalty.

(b) Operating Without a Permit.—A person violating section 4102 of this Act is liable to the United States Government for a civil penalty of not more than $10,000. Each day of a continuing violation is a separate violation. A vessel involved in the violation also is liable in rem for the penalty.

(c) Criminal Penalty.—Any person that knowingly violates, or that knowingly aids, abets, authorizes, or instigates a violation of this title, shall be fined under title 18, United States Code, imprisoned for not more than 3 years, or both.

(d) Payments for Information.—The court, the Secretary of Transportation, or the Administrator, as the case may be, may pay up to one-half of a fine or penalty to any person giving information leading to the assessment of the fine or penalty.

Subtitle B—Related Provisions

SEC. 4201. STUDY AND RECOMMENDATIONS.

(a) Study.—The Administrator, in consultation with the Secretary of Transportation, shall conduct a study to determine the need for, and effectiveness of additional tracking systems for vessels to assure that municipal or commercial waste is not deposited in coastal waters. In conducting this study, the Administrator shall use the data collected from its permitting and enforcement activities under this title. In determining the effectiveness of tracking systems, the Administrator shall rely on the information provided by the Secretary under subsection (b) of this section. The report shall include a recommendation whether additional tracking systems are needed. This study shall be submitted to Congress within 24 months after the date of enactment of this title.

(b) Recommendations.—The Secretary shall provide recommendations to the Administrator concerning the various tracking systems that might be applicable to vessels transporting municipal or commercial waste which the Secretary currently is studying. The Secretary shall consider the relative effectiveness of various systems and the relative costs of the systems both to the United States Government and to the vessel owner.

SEC. 4202. RELATION TO OTHER LAWS.

(a) Effect on Federal and State Laws.—This title does not affect the application of any other Federal or State law, statutory or common, including the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(b) Effect on Foreign Vessels.—This title shall be carried out with respect to foreign vessels consistent with the obligations of the United States under international law.

SEC. 4203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,500,000 for each of the fiscal years 1989 and 1990, to carry out this title.

SEC. 4204. APPLICATIONS AND EFFECTIVE DATES.

(a) Applications.—The Secretary shall make vessel applications for permits to be issued under section 402 of this Act publicly available within 60 days after the date of enactment of this Act.

(b) Effective Date for Permits.—Section 4102(a) of this Act is effective 240 days after the date of enactment of this Act.

(c) Effective Date for Handling Practices.—Section 4103 of this Act takes effect 60 days after the date of enactment of this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House of the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following. "An Act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to provide for termination of ocean dumping of sewage sludge and industrial waste, and for other purposes.".

And the House agree to the same.

Walter B. Jones,
Claudine Schneider,
Gerry E. Studds,
Mike Lowry,
William J. Hughes,
Thomas R. Carper,
Thomas J. Manton,
Bob Davis,
Norman F. Lent,
H. James Saxton,
Glenn M. Anderson,
Robert A. Roe,
Norman Y. Mineta,
James L. Oberstar,
Henry J. Nowak,
Edolphus Towns,

John Paul
Hammerschmidt,
Arlan Stangeland,
Guy V. Molinari,
Dean A. Gallo,
Managers on the Part of the House.
Daniel Patrick
Moynihan,
Frank R. Lautenberg,
John H. Chafee,
Quentin N. Burdick,
George J. Mitchell,
Robert T. Stafford,
Larry Pressler,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

GENERAL STATEMENT

In part, this legislation amends Title I of the Marine Protection, Research and Sanctuaries Act which regulates the dumping, and the transportion for the purpose of dumping, of material into ocean waters. The conference agreement establishes a framework for ending the ocean dumping of sewage sludge and industrial waste. It prohibits any person who was not ocean dumping sewage sludge and industrial waste as of September 1, 1988 from beginning to dump. For existing dumpers, the agreement prohibits the dumping of sewage sludge and industrial waste within nine months of the bill's enactment unless the dumper has received a permit that includes an agreement to end the dumping. The conference agreement makes it unlawful to ocean dump sewage sludge and industrial waste after December 31, 1991. It requires the Governors of New York and New Jersey to report to EPA annually on the progress being made in implementing the schedules to end ocean dumping and requires EPA to report to Congress on the progress.

The conference agreement establishes fees for ocean dumping prior to the 1991 deadline and civil penalties for dumpers who continue dumping after the 1991 deadline. The penalties increased by an increasing amount every year. Eighty-five percent of the fees and a portion of the penalties, beginning with 90% in 1992 and declining by 5% every year thereafter, must be deposited in the dumper's trust account. Portions of the remaining funds go to EPA, the Coast Guard, and the National Oceanic and Atmospheric Administration to cover the costs of administering the Act or to the states for specified activities.

The trust accounts can be used by dumpers, with EPA's approval, to implement alternatives to dumping. Funds remaining in the trust account after the dumper has ended its dumping are returned to the dumper to be used for compliance with the Clean Water Act and for reducing debt incurred for compliance, including operations and maintenance costs, with this Act and the Clean Water Act.

New York and New Jersey would be required to make ten percent of capitalization grant payments made to them for revolving loan fund under the Federal Water Pollution Control Act, and ten percent of the state matching funds associated with that ten percent for making loans and providing other assistance for two years to assist the dumpers in finding alternatives to dumping.

The conference agreement includes provisions from the Senate version of the bill to regulate garbage barge operations and to make it illegal to dispose of medical waste in the navigable waters of the U.S. and in coastal water. The agreement also includes additional provisions to toughen the penalties for dumping medical wastes in the ocean, and prohibits public vessels from disposing of potentially infectious medical wastes at sea.

The conference agreement requires EPA and NOAA to conduct a monitoring program. EPA is required to report on progress in using electronic surveillance to monitor sewage sludge dumping and on implementing of section 403 of the Clean Water Act (pertaining to ocean dischargers.) Finally, the legislation adds four estuaries to the list of estuaries considered for inclusion in the National Estuary Program established in the Water Quality Act of 1987.

BACKGROUND

Title I of the Marine Protection, Research and Sanctuaries Act, otherwise known as the Ocean Dumping Act, (33 U.S.C. 1401 *et seq.*), authorizes EPA to regulate the dumping, and the transportation for the purpose of dumping of material, including sewage, sludge, into the ocean. Pursuant to Title I, EPA issues permits for ocean dumping pursuant to criteria it is required to publish and designates ocean dumping sites. EPA shares responsibility for administration of the Act with the Army Corps of Engineers, which regulates dumping of dredged material, the National Oceanic and Atmospheric Administration, which is responsible for monitoring the environment at and around dump sites, and with the Coast Guard which has the responsibility for surveillance of dumpers.

Sewage sludge dumping in the ocean has taken place since the 1920s. Most sludge was dumped at the 12 mile dump sites in the New York Bight Apex. Congress, in 1977, enacted a statutory deadline of December 31, 1981 to end the ocean dumping of sewage sludge which "unreasonably degraded the marine environment" (Public Law 95-153, codified at 33 U.S.C. 1412a).

Over 150 municipalities shifted to land disposal of sludge as a result of the 1977 amendments. But nine local governmental entities (New York City and Nassau and Westchester Counties in New York and from New Jersey, the Bergen County Utilities Authority, the Joint Meeting of Essex and Union Counties, the Linden Roselle Sewerage Authority, the Middlesex County Utilities Authority, the Passaic Valley Sewerage Commission and the Rahway Valley Sewerage Authority) argued that they could not develop alternatives by the 1981 deadline because of the toxicity of their sludge and the limited availability of land disposal sites.

When EPA tried to force New York City to end ocean dumping of sewage sludge in 1981, the City brought suit against EPA arguing that its sludge did not "unreasonably" degrade the environment because ocean dumping was environmentally preferable to land-based alternatives. A Federal District Court ruled in favor of the City (*City of New York* v. *EPA*, 543 F. Supp. 1084 (S.D.N.Y. 1981)). The Court ordered EPA to revise its regulations to comport with this decision and allowed New York City to continue dumping until EPA determined whether the dumping unreasonably degraded the environment. EPA did not appeal the decision and the other eight dumpers also were allowed to continue dumping at the 12 mile site.

EPA on April 1, 1985, announced its decision to close the existing 12 mile dump site and move the dumping to an interim site off the continental shelf known as the 106 mile site (50 *Federal Register* 14336). The 106 mile site is the edge of the continental shelf, 115 nautical miles from Atlantic City, New Jersey, and in much deeper waters than the 12 mile site. In making its decision, EPA determined that the New York Bight Apex was heavily degraded and that sludge dumping at the 12 mile site had contributed to this degradation. In section 1172(b) of the Water Resources Development Act of 1986 (Public Law 99-662, codified at 33 U.S.C. 1414a), Congress confirmed EPA's decision by closing the 12 mile site to sewage sludge dumping after December 15, 1987.

The 106 mile site was designated for dumping for a five year period beginning in March, 1986. EPA negotiated phaseout schedules with the municipalities to end dumping at the 12 mile site by the end of 1987. The dumpers did not challenge EPA's decision in court. Sludge dumping commenced at the 106 mile site on March 17, 1986. Dumping ended at the 12 mile site on December 31, 1987. All nine sludge dumpers at the 106 mile site have submitted new permit applications for dumping at the site which EPA currently is reviewing. The 106 mile site is the only area off the U.S. where ocean dumping of sewage sludge is authorized.

Dumping of industrial waste has declined over the years and, currently, the only dumper of industrial waste is Allied-Signal Incorporated, which dumps hydrochloric acid off the New Jersey coast.

Section-by-Section Analysis

TITLE I—OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE

Section 1001. Short title

The title of the first 12 sections of the Senate bill was the "Ocean Dumping Reform Act of 1988." The House amendment contained no title. The conference managers agreed to call Title I of the conference agreement "The Ocean Dumping Ban Act of 1988."

Section 1002. Establishment of fees and penalties for ocean dumping of sewage sludge and industrial waste

Section 1002 of the conference agreement adds to Title I of the Marine Protection, Research and Sanctuaries Act of 1972 a new section 104B—Ocean Dumping of Sewage Sludge and Industrial Waste.

Termination of dumping

The Senate bill contained a provision making it unlawful for any person to dump, or transport for the purpose of dumping, sewage sludge from the United States into ocean waters after December 31, 1991. The House amendment contained a provision making such activities unlawful after December 31, 1992 and expanded the scope of the provision to include industrial waste. The House receded to the Senate with respect to the date for the cessation of dumping and the conference managers agreed to include industrial waste as one of the prohibited materials.

The conference agreement provides that it is unlawful for any person to dump, or transport for the purpose of dumping, any sewage sludge or industrial waste into ocean waste after December 31, 1991. The conference managers believe that dumping poses a significant threat to the environment and the sooner dumping of such materials ends the better.

The Senate bill prohibited any person from dumping sewage sludge into the ocean six months after the enactment of the Senate bill unless the person had obtained a permit from EPA and entered into a compliance agreement with the Administrator containing a plan and schedule for ending ocean dumping. The House amendment similarly prohibitied ocean dumping after six months from enactment unless the dumper obtained a permit from EPA and entered into a compliance or enforcement agreement with EPA. The conference agreement prohibits any persons from continuing to dump sewage sludge or industrial waste into the ocean unless, within nine months from enactment, the person has been issued a permit to dump under section 102 of the MPRSA and has entered into either a compliance or enforcement agreement with EPA.

The conference managers have extended the deadline for entering into an agreement with EPA to give more time to issue new permits and to allow dumpers the opportunity to develop well-considered plans and schedules for phasing out and ceasing ocean dumping. The managers believe that nine months is quite sufficient, however, and urge EPA to expedite its usual permitting procedures consistent with other statutory requirements to meet the nine-month permitting and agreement deadline.

The Senate bill contained a provision prohibiting any person, other than an eligible authority as defined in section 104A of the MPRSA, from obtaining a permit for ocean dumping. The House amendment contained no similar provision. The House receded to the Senate provisions and amended it, as follows.

The Senate bill had the effect of prohibiting the Administrator of EPA from issuing a permit for ocean dumping to anyone other than an eligible authority. The eligible authoritites are the following municipalities of New York and New Jersey: New York City and Nassau and Westchester Counties in New York State and, in New Jersey, the Bergen County Utilities Authority, the Joint Meeting of Essex and Union Counties, the Linden Roselle Sewerage Authority, the Middlesex County Utilities Authority, the Passaic Valley Sewerage Commission, and the Rahway Valley Sewerage Authority. The conference agreement extends the prohibition on new entrants to industrial dumpers as well as eligible authorities and uses the term "person" to cover both categories of dumpers. Therefore, no one other than an eligible authority or a company dumping industrial waste pursuant to an ocean dumping permit as of September 1, 1988 may henceforth apply for a permit to dump sewage sludge or industrial waste (as those terms are defined in this Act) under title I of the MPRSA.

Special dumping fees

The Senate bill contained a provision requiring the Administrator to prescribe by regulation and collect fees to recover federal agency costs in administering the ocean dumping program. The House amendment provided for special disposal fees of $200 per dry ton in 1989, $300 in 1990, and $400 in 1991 and 1992. It also stipulated that 15 percent of disposal fees and an increasing level of penalties (starting at 10 percent and increasing 5 percent each year) would be paid to the Administrator for certain ocean dumping related costs of EPA, the Coast Guard, and the National Oceanic and Atmospheric Administration (NOAA). The amount of fees and penalties not paid to the Administrator would be deposited into trust accounts for use by the permittee to find and implement alternatives to ocean dumping.

The conference managers agreed to establish dumping fees in the amount of $100 per dry ton of sewage sludge or industrial waste dumped in calendar year 1989, $150 in 1990, and $200 in 1991. Of these amounts, $15 per dry ton is directed to pay for agency activities related to ocean dumping. The $15 level was set by the conference managers because it conformed to anticipated agency costs as determined by the Congressional Budget Office and other information available to the conference. If subsequent information reveals that this fee does not reflect a reasonable approximation of agency costs, Congress will revisit the issue and consider adjustments in the level of the fee.

Of the total amount of special dumping fees for which a person is liable, 85 percent is to be paid into a trust account [provided in subsection (e)] and $15 per dry ton is to be paid to the Administrator for agency costs. One-half of the remaining money is to be paid into a state Clean Oceans Fund and the other half to be deposited into the New Jersey and New York state water pollution control revolving funds under title VI of the Clean Water Act. The conference agreement also provides that the payment of fees shall be made quarterly.

The House amendment contained a provision that directed the Administrator to waive the special disposal fees for those persons entering into a compliance agreement, as long as the person conformed to the requirements of such agreement. The Senate bill had no similar provision. The Senate receded to the House and the conference managers agreed to exclude the $15 agency fee from the waiver provision. The Administrator shall reimpose the fees if the person has failed to comply with the terms of the agreement and such failure is likely to result in the person continuing to ocean dump after December 31, 1991. Reimposed fees can be waived if the Administrator determines that the person is back in compliance with the agreement.

If a state in which an ocean dumper is located does not establish a Clean Oceans Fund under subsection (c)(5) of this Act or a water pollution control revolving fund under title VI of the Clean Water Act, the fee moneys intended to be paid to the Fund and those to be paid to the state revolving grants fund under title VI are to be paid to the Administrator and placed in an escrow account, with respect to such fund not established, for a period of one year. If, within that year, the state has not set up the Clean Oceans Fund, the money held in escrow shall revert to the federal Treasury. If the Fund has been established within that year, the Administrator shall pay such fees into the Fund.

Compliance agreements and enforcement agreements

The Senate bill required all persons continuing to dump sewage sludge after 6 months from enactment to enter into a compliance agreement with EPA. Parties to the agreement would include the Administrator, the dumper, and the Governor of the state in which the dumper was located.

The House amendment required all dumpers, within 6 months of enactment, to enter into one of two types of agreements—a compliance agreement for those who could end ocean dumping by the deadline and an enforcement agreement for those who could not meet the deadline.

The conference agreement provides for both types of agreements under the conditions contained in the House amendment and stipulates that the Governor be a party to either agreement. The conference managers intend that the state actively participate in negotiation of the agreement and find that the Governor's involvement is critical because the dumpers will need state assistance in developing, implementing, and permitting the alternative system.

The agreements shall include a plan that will result in the cessation of ocean dumping through the implementation of an alternative system for the management of sewage sludge and industrial waste. They shall include a schedule that, as determined by the Administrator, specifies reasonable dates by which the dumpers shall complete the various activities necessary for the timely implementation of the alternative system. The agreements shall also require the dumper to advise the Administrator and the Governor of any problems the dumper may have in complying with the schedule and the Administrator and the Governor shall evaluate, on an ongoing basis, the dumper's compliance with such schedule. Interim or short-term measures that do not require a permit under the MPRSA but which are utilized prior to completion of the alternative system are to be authorized by compliance and enforcement agreements. The conference managers intend that if a dumper cannot end dumping by the deadline, EPA will require the dumper to explore fully the use of any reasonable interim measures to end ocean disposal.

It is the intention of the conferees that alternative systems designed, constructed and implemented in accordance with sections (c)(2)(A) and (c)(3)(A) shall be undertaken using expedited procedures to reduce the time and cost necessary for completion. State Progress Reports submitted under section (h)(1) and EPA Progress Reports submitted under section (i)(1) should explain the time savings, give a description of the procedures used to accelerate design and construction, and provide an analysis of the costs and benefits of the accelerated completion.

The conferees intend the alternative systems to be completed within a construction schedule which will result in cost and time savings. Procedures and regulations not founded on statutory requirements should be assessed to insure the immediate construction of these projects. It is expected that local, state, and federal officials will take all possible steps to expeditiously review any permits, applications or approvals needed for completion of the alternative systems. Procedures which have been established administratively should not be used to delay completion of the projects. At the same time, the conference managers do not intend to supersede or alter any federal, state, or local law but to encourage all public officials to expedite the process of terminating ocean dumping.

The Senate bill contained a provision establishing a federal Clean Oceans Fund for the receipt of civil penalties and permit fees. The moneys in the Fund were to be available to federal agencies for their ocean dumping-related activities. The House amendment had no similar provision.

The conference agreement provides for the establishment of a state Clean Oceans Fund into which a dumper pays a portion of the applicable fees and penalties. The state shall set up the interest-bearing Fund, administer it, and allocate to each dumper every fiscal year a sum equal to the portion of the total on the last day of that year which is attributable to payments into the Fund in that year by such dumper, any amounts paid into the Fund that year that had been held in escrow for the dumper, and interest on such amounts. Amounts paid the dumpers from the Fund shall be used to identify, develop, and implement alternative systems. Fees paid into the Fund shall not be considered federal moneys and, thus, can be used for state matching funds.

The Senate bill contained a provision on public participation. The House amendment contained no similar provision. The House receded to the Senate and the managers agreed to add "enforcement agreements" to the Senate language. Additionally, the conference agreement was modified to direct EPA to provide a reasonable opportunity for public comment concerning the establishment of compliance and enforcements agreements. Adequate notice in the Federal Register of an opportunity to provide comment is one method of complying with this requirement.

Penalties

The Senate bill contained a civil penalities provision consisting of penalities between $20 and $40 per wet ton. The House amendment provided for penalties beginning at $800 per dry ton in 1993 and increasing by 11 percent of such amount plus an additional 1 percent of such amount for each calendar year since 1993. The House amendment also stipulated that of the penalties paid by the dumper, 90 percent would be paid into the trust account and the remainder would be paid to the Administrator. Each year thereafter, the amount paid to the trust account would be reduced by 5 percent.

The conference agreement provides that, in lieu of any other civil penalty under the MPRSA, any person who dumps sewage sludge or industrial waste in violation of the December 31, 1991 deadline is liable for a civil penalty. The conference managers recognize that the imposition of criminal penalties under section 105(B) of the MPRSA is not affected by this provision. However, the managers believe that the discretion given the Attorney General to bring criminal actions under the Ocean Dumping Act will be tempered by a recognition that dumpers have entered into a good faith enforcement agreement to end dumping consistent with the process developed under this Act.

The penalties in the first year of violation (1992) will be $600 per dry ton. For any year after 1992, a dumper is liable for the penalty per dry ton in the preceding year plus a percentage of such amount equal to 10 percent and an additional 1 percent of such amount for each year since 1991. For example, for dumping that occurs in 1993, a dumper will be liable for a penalty of $600 per dry ton (the amount paid in 1992) plus 11 percent of that amount. In 1994, the penalty will increase by 12 percent of the amount paid in 1993. These penalties are established for violation of the deadline whereas the civil penalties provision in the MPRSA (section 105) for other violations of section 102 permits and compliance and enforcement agreements remain in effect. The conference managers expect that criminal penalties will be sought against those persons who dump if such persons are not parties to a compliance or enforcement agreement.

Of the amount of the penalties paid, in the first year of violation, 90 percent is to be paid by the dumper into the trust account established under subsection (e). Each year thereafter, the amount going into the trust account is reduced by 5 percent. The penalty includes the $15 per dry ton agency fee which is paid directly to the Administrator. Penalties are to be paid quarterly.

After the trust fund and agency fee payments are made by the dumper, amounts remaining from the penalty shall be divided equally between the state Clean Oceans Fund and the title VI water pollution control revolving fund. For violations occurring after calendar year 1994, however, all penalty funds remaining after payments into the trust fund and payments of the agency fee are to be available for use by the state pursuant to subsection (f)(3).

If a state in which an ocean dumper is located has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Clean Water Act, excess penalties shall be paid to the Administrator to be held in escrow with respect to that fund. Payment to the applicable fund or reversion to the Treasury will be carried out in the same manner as fees under subsection (b)(5).

Trust account

The House amendment required dumpers to establish trust accounts into which a certain percentage of fees and penalties would be deposited and used by the dumper for the development and implementation of an alternative system. The Senate bill had no similar provision. The Senate receded to the House with some minor amendments.

The conference managers agreed on using a portion of fees and penalties as incentives to move dumpers out of the ocean. The trust accounts are to be set up by each person who enters into a compliance or enforcement agreement and are designed to permit such persons to maintain a percentage of the fees and penalty money to be used only in identifying, developing, and implementing an alternative system and any interim measures to terminate ocean dumping.

Amounts in each trust account may be withdrawn only with the concurrence of the person establishing the account and the Administrator. If the Administrator does not disapprove the withdrawal of funds within 60 days after being notified by the person, such person may use the moneys for the purposes specified in this subsection. Amounts in the trust account may be used for matching federal grants.

If the Administrator determines that a person did not pay fees and penalties into the trust account or did not use the moneys in accordance with this subsection, the balance in the account shall be paid to the state and deposited in its water pollution control revolving fund pursuant to title VI of the Clean Water Act.

When the Administrator has determined that a person has terminated ocean dumping, any balance remaining in that person's trust account shall be paid to such person for use in reducing or eliminating debt incurred under the MPRSA or the Clean Water Act, in meeting the requirements of the Clean Water Act, and for matching federal grants. Operation and maintenance costs are valid uses of the account's balance.

Use of fees and penalties

The Senate bill contained a subsection providing that the agency fees were to be deposited into a federal Clean Oceans Fund. Moneys in the Fund were to be available to EPA for carrying out monitoring and enforcement functions with respect to ocean dumping and for making grants to implement technologies and management practices for controlling pollutant inputs adversely affecting the New York Bight. Funds were also to be available to the Coast Guard for carrying out surveillance and enforcement activities.

The House amendment contained a provision that stipulated that one-third of the moneys were to be used by EPA for undertaking activities directly associated with the ocean dumping permit issued under this Title, including environmental assessments, and the preparation of reports and such other studies considered by the Administrator necessary to develop and implement alternatives to ocean dumping. One-third of the moneys were to be used by the Coast Guard for surveillance and compliance activities. One-third was to be used by the Under Secretary of Commerce for Oceans and Atmosphere for NOAA's ocean dumping monitoring, research, and report preparation activities. Because the House amendment provided for a percentage of the fees and penalties to be paid to the agencies, it was anticipated that more money than necessary could be given to the Administrator. Consequently, the House amendment also contained a provision that would have established a ceiling on the funds available to each agency. The Senate bill contained no similar provision.

The Senate receded to the House on the provision stipulating the agency activities that can be funded by the agency fee. Because the conference mangers agreed on a dollar amount fee ($15 per dry ton), rather than a percentage of disposal fees and penalties, the House receded to the Senate on the ceiling on the use of the funds, deleting that provision from the conference agreement.

The conference agreement provides that one-third of the $15 per dry ton agency fee shall be used by EPA to pay for the costs that it incurs in carrying out its responsibilities under title I of the MPRSA. The Administrator shall transfer one-third of the fee collected to the Coast Guard and one-third to the Under Secretary of Commerce for Oceans and Atmosphere to assist those agencies in fulfilling their responsibilites. The conference managers intend that the Administrator's transfer of funds to the Coast Guard and the Under Secretary is not discretionary and shall be carried out automatically and expeditiously when the agency fees are received. Agency fees paid to the Administrator or transferred to the Coast Guard and the Under Secretary shall be deposited into the Treasury as offsetting collections of each such agency.

The conference agreement provides for the payment, after 1994, of excess penalties to the state. The amount of such payments are not to be used to provide assistance to any persons who have paid these penalties for developing or implementing alternative systems and are not considered to be state matching amounts nor subject to state matching requirements under title VI of the Clean Water Act. At the state's discretion, the funds may be used for construction of publicly owned treatment works (as defined in section 212 of the Clean Water Act) but only by persons not required to pay penalties, for implementing a nonpoint source management program under section 319 of such Act, for developing and implementing a national estuary conservation and management plan under section 320 of such Act, and for controlling pollutant inputs adversely affecting the New York Bight pursuant to the New York Bight Restoration Plan. Amounts not used for any of these purposes shall be deposited into the state's water pollution control revolving fund under title VI of the Clean Water Act. Amounts deposited into the title VI revolving fund shall not be used to provide assistance to persons who paid the penalties nor be considered state matching amounts or be subject to state matching requirements under title VI of the Clean Water Act.

Enforcement

The House amendment contained a subsection on the Administrator's enforcement authority. The Senate bill contained no similar provision. The Senate receded to the House.

The conference agreement provides the Administrator with enforcement authority to enforce the terms of this Act. If the Administrator finds that a person is violating the prohibitions on ocean dumping under subsection (a)(1), the Administrator may issue an administrative order requiring the person to comply with the prohibitions and to enter into a compliance or enforcement agreement as a condition of continued dumping. The Administrator may request the Attorney General to bring a civil action to enforce the terms of the order or any prohibitions in the MPRSA or to recover civil penalties assessed in accordance with subsection (d)(1).

State progress reports

The Senate bill required the Governors of New York and New Jersey to submit to the Administrator on June 30, 1989, and annually thereafter until ocean dumping ceased, a status report on the state's efforts at compliance with the schedules negotiated under the compliance agreements. If a state failed to submit such report, funds reserved for such state under section 205(g) of the Clean Water Act were to be withheld. The House amendment had no similar provision. The House receded to the Senate, with certain modifications.

The conference agreement provides for the submission of state progress reports on September 30, 1989 and every year thereafter as long as ocean dumping by persons in that state continues. The report is to describe the dumpers' efforts to comply with the schedules of the compliance or enforcement agreements and the state's activity regarding any permit for the construction and operation of the dumpers' alternative systems. It shall also provide an accounting of the state's Clean Ocean Fund.

If a state fails to submit the required report, the Administrator shall withhold from such state funds under section 205(g) of the Clean Water Act. Under this section, the Administrator makes grants to states to manage the construction grants program and permit programs under sections 402 and 404 of the Clean Water Act. Funds withheld under this subsection may, at the discretion of the Administrator, be restored to a state upon compliance with the requirements for progress reports.

EPA progress reports

The Senate bill required EPA to submit a report to Congress, within 3 months of receipt of the Governors' reports, on progress being made toward meeting the 1991 deadline. The House amendment contained a requirement for annual reports from EPA and directed Congress to hold hearings and issue reports and recommendations if, in the final report, EPA found that ocean dumping had not ceased. The House receded to the Senate, with certain modifications.

The conference agreement requires the Administrator to submit the first report to Congress on December 31, 1989 and every year thereafter that ocean dumping continues. The report is to include a description of the progress being made by dumpers to terminate ocean disposal by developing alternative systems, the efforts of each dumper to comply with compliance or enforcement agreements and associated schedules, EPA's (and others) progress in implementing alternative systems, and progress being made toward the termination of ocean dumping. The reports are to be referred to the appropriate committees of jurisdiction in Congress.

Environmental monitoring

The Senate bill authorized the Administrator of EPA, in cooperation with the Administrator of NOAA, to design and conduct an environmental monitoring program in the general area of the New York Bight Apex and 106-mile ocean dumping sites. The House amendment gave this responsibility exclusively to NOAA. The House receded to the Senate provision, but granted direct monitoring authority to both NOAA and EPA.

The monitoring activities are to be carried out consistently with an environmental monitoring plan developed by EPA in cooperation with NOAA. The plan must include biological sampling to determine the effects of environmental conditions at the Apex, the 106-mile site, and the existing acid waste site on living marine organisms and must also make use of satellite and other advanced technologies. The actual monitoring plan, as well as the results of the monitoring conducted under the plan, are to be reported to the Congress as specified in the section. The conference managers do not intend by this provision to limit existing monitoring and research efforts by either agency conducted under other statutory authorities, such as Title II of the Marine Protection, Research, and Sanctuaries Act of 1972.

In addition, the conference managers strongly intend that monies allocated for agency activities under section (f)(1) of this Title are to be transferred expeditiously from EPA, which is to function only as a collection agency for ease of administration, to NOAA and the Coast Guard. The funds distributed under section (f)(1) are vital for the Coast Guard and NOAA to fulfill their obligations under this subsection.

Definitions

Both the Senate bill and the House amendment contained a number of definitions. The conference agreement contains six defintions, generally taken from both versions but with some modifications.

The Senate bill defined "sewage sludge" as any solid, semisolid, or liquid waste generated by a wastewater treatment plant. The House amendment defined "industrial waste" as any solid, semisolid, or liquid waste generated by a manufacturing or processing plant. Both definitions are retained in the conference agreement but are qualified with the provision from the House amendment that excludes dredge material disposed by the Army Corps of Engineers or discharged under a section 103 (MPRSA) permit issued by the Secretary of the Army and any waste from a tuna cannery operation located in American Samoa or Puerto Rico.

The conference managers intend to preclude EPA from considering whether sewage sludge or industrial waste to be dumped in the ocean would "unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems and economic potentialities." The new definitions are clearly designed to address the 1981 District Court decision in which the Court found that sludge dumping by New York City had not "unreasonably degraded or endangered human health. * * *"

The House amendment referred to permissible alternatives to ocean dumping as those which were "environmentally sound." A section of the House amendment provided a limitation of these alternatives so that the dumping of material into ocean waters was not included. The Senate bill used the term "alternative system" for the management of sludge other than by dumping into ocean waters. The House receded to the Senate on the use of the term "alternative system" and the conference managers agreed to define the term.

The conference agreement defines the term "alternative system" as a method for the management of sewage sludge and industrial waste that does not require a permit under Title I of the Marine Protection, Research and Sanctuaries Act of 1972 (as amended by the Ocean Dumping Ban Act of 1988).

The conference managers deleted the term "environmentally sound" only to avoid possible confusion in its interpretation and no inference that environmental standards are to be relaxed in determining alternatives to ocean dumping should be made.

The conference agreement also contains definitions of the terms "Clean Oceans Fund" and "interim measure".

Section 1003. Conforming amendments

Both the Senate bill and the House amendment contained different conforming amendments to Public Law 95-153. The Senate receded to the House.

The conference agreement repeals all of Public Law 95-153, enacted in 1977, except for the authorization for emergency permits for industrial waste dumping. According to EPA, the last emergency permit was issued in 1984 for the dumping of 7,000 canisters of aluminum phosphide pellets. During unloading operations, a shipping container exploded, killing one person and damaging other parts of the shipment. EPA determined that the material in its existing state posed a threat to public health and that ocean dumping was the only feasible alternative. The conference managers note that this authority is not to be misused but, in accordance with the law, is to be exercised only in "situations requiring action with a marked degree of urgency."

This section also deletes the requirements in the Marine Plastic Pollution Research and Control Act of 1987 that the New York Bight Restoration plan include a comprehensive assessment of alternatives to dumping of sludge and a preliminary report on such assessment by January 1, 1990. The timeframe for this analysis will not assist the sludge dumpers in determining which alternatives to select. This change essentially incorporates conforming changes contained in the Senate bill, with technical corrections.

Section 1004. Enforcement monitoring report

The Senate bill contained a subsection on enforcement monitoring. The House amendment contained no similar provision. The House receded to the Senate.

The conference agreement requires the Administrator, in consultation with the Secretary of Transportation, to submit a report to Congress within 6 months after the enactment of this Title, outlining progress in using electronic monitoring equipment and other means to monitor and prevent the dumping of sewage sludge by vessels in transit to the 106 mile site. Funds for the Ocean Dumping Surveillance System (ODSS) were appropriated to the Coast Guard in its fiscal year 1988 appropriation. The ODSS devices consist of a computer onboard sludge vessels that communicates with a Coast Guard computer, revealing vessel location. Sensors in the hull detect when the dumping operation takes place. The report must include a status of installation and use of the ODSS and any problems encountered in using the system.

Section 1005. Prohibition on disposal of sewage sludge at landfills on Staten Island

The House amendment contained a provision prohibiting the disposal of sewage sludge in Staten Island, New York. The Senate bill contained no similar provision. The Senate receded to the House.

The conference agreement prohibits any person from disposing of sewage sludge, as defined in this Title, at any landfill located on Staten Island. Persons who violate this prohibition are not subject to any civil or criminal penalty under this Title but may be enjoined from continuing the dumping.

Section 1006. Use of State water pollution control revolving fund grants for developing alternative systems

The House amendment provided for an amendment to Title VI of the Clean Water Act concerning the use, by New York and New Jersey, of 20 percent of their revolving fund grants to provide loans to persons to identify, develop, and implement alternatives to ocean dumping. The Senate bill contained no similar provision.

Section 608 of the House bill provided that each of the States of New York and New Jersey shall use at least 20 percent of each grant payment made to the state under Title VI of the Federal Water Pollution Control Act, and 20 percent of the associated state contribution of assisting persons who had entered into compliance agreement and enforcement agreements in identifying, developing and implementing alternatives to ocean dumping of sewage sludge and industrial waste. Title VI provides for capitalization grants to states for the establishment of State Revolving Loan Funds to make loans and provide other assistance to communities for the construction of publicly owned treatment works. The requirement relating to the use of the twenty percent of the funds would apply for a six month period. If, after the six month period, any of the twenty percent had not been used for providing assistance relating to alternatives to dumping because of insufficient applications for assistance being received, the remainder would be available for assistance without regard to the twenty percent limitation. The Senate bill had no comparable provision.

The conference agreement adopts the House provision with modifications. Its provisions are limited to grant payments received during fiscal years 1990 and 1991. The amount required to be made available for a six month period to those who have entered into compliance or enforcement agreements is reduced to ten percent. Also, the language is clarified to affirm that the assistance provided is that described in section 603(d) of the Federal Water Pollution Control Act, which limits the use of the revolving funds to make loans, buying and refinancing debt obligations, guaranteeing local obligations, providing security for bonds, and providing loan guarantees.

The conference substitute, in requiring that ten percent of grant payments made under section 601 of the Federal Water Pollution Control Act shall be used to provide assistance for alternatives to ocean dumping notwithstanding the provisions of Title VI, does not make inapplicable the provisions of Title VI, relating to the general management of the funds and fiscal matters including state contributions, use of accounting, audit and fiscal procedures, maintenance by the recipient of assistance of project accounts, annual reports by the state, requirements for compliance by a state with its agreement with the Administrator, federal audits and reports to Congress. The provision is designed to ensure, however, that any alternative to dumping which meets the requirements of the Ocean Dumping Ban Act of 1988 is eligible for assistance from the ten percent of the revolving loan funds made available for that purpose.

Section 1007. Ocean discharges

The House amendment contained a provision requiring the Administrator to report to Congress within 6 months on implementation of section 403(c) of the Clean Water Act. It also required the President to submit an implementation and compliance schedule with respect to section 403(c), including needed resources, with his fiscal year 1990 budget. The Senate bill contained no similar provision. The Senate receded to the House and the conference managers agreed to delete the requirement on the President in his budget proposal but include the information in the Administrator's report.

The conference agreement requires the Administrator's report on section 403 of the Clean Water Act within 6 months after the date of enactment of this Act. The report applies only to those dischargers that, under current law, are subject to section 403 of that Act.

Section 1008. Clerical amendment relating to Great Lakes Water Quality Agreement of 1978

The Senate bill contained a technical amendment to section 118 of the Clean Water Act with respect to the Great Lakes Water Quality Agreement of 1978. The House amendment contained no similar provision. The House receded to the Senate, with additional language offered by the Senate.

TITLE II—ADDITIONAL CONSIDERATIONS FOR NATIONAL ESTUARY PROGRAM

Section 7 of the Senate bill contained a provision adding an additional estuarine area, the Barataria-Terrebonne Bay, to the list of areas for priority consideration in the National Estuary Program (NEP) under section 320(a)(2)(B) of the Federal Water Pollution Control Act. The House amendment contained no similar provision, and the House receded to the Senate with an amendment.

Title II of the conference agreement adds four new areas to the list of sites the Environmental Protection Agency (EPA) must give priority consideration when designating new estuaries for inclusion in the NEP.

The first of these, Massachusetts Bay, includes Massachusetts Bay, Cape Cod Bay, and Boston Harbor, and extends from Cape Ann to Cape Cod. The Bay provides over four million people with recreational opportunities, as well as supporting a vigorous industrial economy, and commercial fisheries for lobster, finfish, and shellfish. The Bay is threatened by pollution from a variety of sources, the largest of which are discharges from municipal treatment plants. The area has been nominated by the Governor of Massachusetts for priority consideration under the NEP, and was the subject of a House bill, H.R. 4883.

The second site, the Barataria-Terrebonne Estuary Complex in Louisiana, is among the most significant in Louisiana and the Nation. The Bay is experiencing very high rates of coastal wetland loss, estimated at between 40 and 60 square miles each year. These changes are a threat to fisheries in the Bay, which are a significant portion of the total fisheries in the State, valued at over $300 million per year. The State of Louisiana has submitted the Bay for study under the NEP.

The third site is Indian River Lagoon, Florida. This roughly 211 square-mile estuarine zone consists of three lagoonal systems extending from near Daytona Beach on the north to Hobe Sound on the south: the Mosquito Lagoon, the Banana River, and the Indian River. The system extends along 160 miles of the Florida Atlantic coast and is isolated from the Atlantic by a narrow barrier island. Declines in fisheries, wetlands, species diversity, and water quality have generated concern, especially in view of the importance of this area for several endangered species. For example, the site provides habitat for 25-30 percent of the United States manatee population.

The last estuary added to the priority consideration list is Peconic Bay. The Peconic Bay estuarine system, located on the eastern edge of Long Island, New York, consists of Flanders Bay, Great Peconic Bay, Little Peconic Bay, Noyack Bay, Shelter Island Sound, Sag Harbor, Orient Harbor, Three Mile Harbor, and Gardiners Bay. Since 1985 brown algae (Aureococcus anophagefferens) has bloomed continually in the Bay, wiping out the area's $1.5 million annual bay scallop harvest by blocking sunlight essential to the growth of eel grass that shelters juvenile finfish and shellfish larvae. Before the appearance of the "brown tide", Peconic Bay produced approximately 325,000 pounds of scallop meat annually, nearly 20 percent of the national bay scallop catch. In 1987, the harvest amounted to a mere 373 pounds. Pollution from sewage treatment plants has contributed to the problem, but scientists have been unable to pinpoint the primary cause of the brown tide.

The conference managers agree section 320(a)(2)(B) of the Federal Water Pollution Control Act requires the Administrator of EPA to give priority consideration to listed estuaries but does not require the Administrator to select these estuaries for the NEP and to convene management conferences. By adding more estuaries to section 320(a)(2)(B), the conference managers do not intend to decrease funding for estuaries which have already been designated, nor preclude the designation of other estuaries not listed. In addition, the conference managers do not intend in any way to alter the nomination process already established in section 320.

TITLE III—MEDICAL WASTES

Subtitle A: Public Vessels

The Senate bill contained prohibitions on the dumping or disposal of medical waste into the ocean and navigable waters of the United States, but was silent on the effect of these provisions on public vessels. The House amendment contained no provisions on medical waste.

The conference agreement adds a new Subtitle A concerning the disposal of medical waste at sea from public vessels. The new Subtitle, called the "United States Public Vessel Medical Waste Anti-Dumping

Act of 1988", prohibits any public vessel owned or operated by the United States Government in non-commercial service from disposing of potentially infectious medical waste at sea except if the health or safety of the crew necessitates such disposal or in the event of wartime or a declared national emergency.

The new Subtitle is necessitated by recent incidents of medical waste from certain public vessels washing ashore along the Atlantic Coast. The Subtitle generally follows the policy on disposal of medical waste adopted recently by the Navy's Atlantic Fleet Headquarters, except that it does not recognize an exception in that policy for disposal in the event of an "unacceptable nuisance". The conference managers found this exception to be too broad.

To the extent that medical waste, as defined in this Subtitle, contains plastic materials or otherwise falls within the definition of garbage in Annex V to the 1978 MARPOL Protocol to the International Convention for the Prevention of Pollution from Ships, the conference agreement will supersede the provision in section 3(b) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902 (b)(2)(A)) granting public vessels five years to comply with Annex V restrictions on disposal of plastics and other gargage generated at sea. The managers believe that more immediate compliance is necessary to curb improper disposal of potentially infectious medical waste from public vessels. After five years, the disposal at sea of all plastic materials by public vessels will be prohibited, subject to the wartime or emergency exceptions in current law or unless Congress in the interim modifies the requirement.

Sec. 3101. Short Title

Section 3101 proposes as the short title of the Subtitle "The United States Public Vessel Medical Waste Anti-Dumping Act of 1988.".

Sec. 3102. Findings

This section contains Congress' findings that medical waste from U.S. public vessels has been disposed of improperly at sea, and that continued disposal of such material at sea could cause risk to the public health and the welfare of coastal communities.

Sec. 3103. Definitions.

This section defines the terms "potentially infectious medical waste" and "public vessel".

Sec. 3104. Prohibition

Section 3104 prohibits any public vessel subject to this Subtitle from disposing of potentially infectious medical waste after six months after enactment except under two limited circumstances. The two exceptions, which are to be narrowly applied, are when the health or safety of those aboard the vessel would be threatened, or during a time of war or declared national emergency. Where either condition is met, the waste must be disposed of beyond fifty nautical miles from land after being autoclaved, properly packaged, and weighed for negative bouyancy. In the case of submarines that do not have autoclaves, the waste must be properly packaged and weighed for negative bouyancy.

Sec. 3105. Guidelines

Section 3105 requires the Secretary of Defense and the heads of other affected agencies, in consultation with the Administrator of EPA, to issue guidance to their respective departments within three months of enactment on implementing section 3104. The guidance should contain instructions on precisely what types of medical waste are included within the scope of the prohibition, on how the medical waste is to be handled on board the vessel, and how, under the limited exceptions, the medical waste may be disposed of at sea provided it is properly handled and disposed of outside the restricted areas.

Subtitle B. Dumping of Medical Wastes by Vessels

Sec. 3201. Amendments to the Ocean Dumping Act

Subsection (a). Subsection (a) of the conference agreement defines the term "medical waste" for the purposes of the Ocean Dumping Act. Section 8 of the Senate bill amended section 3 of the Ocean Dumping Act to define the term "conference agreement" as, inter alia, syringes, hypodermic needles, vials or bags containing blood specimens and surgical gloves. The House amendment contained no provision.

The House proposed, however, that the conference managers adopt a definition that had been contained in H.R. 5231, as ordered reported by the House Committee on Merchant Marine and Fisheries. That definition was derived largely from the 1986 EPA Guide for Infectious Waste Management (EPA/530-SW-86-014, May 1986), but was broader than the one used in the EPA Guidance because it included the four categories of infectious wastes that EPA currently considers as optional in its Guidance.

The conference agreement accepts the House recommendation with technical modifications.

Subsection (b). Subsection (b) of the conference agreement adds medical wastes to the list of materials the dumping of which is prohibited under the Ocean Dumping Act.

The Senate bill prohibited the dumping of medical wastes by adding a new section 104(B)(i) to the Act. The House amendment contained no corresponding provision. The conference agreement contains the Senate approval, but restructures it as an amendment to section 102(a) of the Act.

Subseciton (c). Subsection (c) of the conference agreement increases the civil penalties for illegal dumping of medical wastes under the Ocean Dumping Act.

The Senate bill contained no amendment to the civil penalties of the Ocean Dumping Act, nor did the House amendment. The House recommended, however, that the conference managers adopt increased civil penalties for illegal ocean dumping of medical wastes. The conference managers accepted the House recommendation and the conference agreement provides up to $125,000 in civil penalties for illegal ocean dumping of medical wastes.

Subsection (d). Subsection (d) provides for increased criminal sanctions under the Ocean Dumping Act for illegal dumping of medical wastes.

The Senate bill proposed to amend section 105(b) of the Ocean Dumping Act (relating to criminal penalties) to specify that any person who knowingly dumped medical wastes would upon conviction be fined not more than $250,000 or imprisoned for not more than 5 years. The House amendment contained no corresponding provision.

The House managers proposed to accept the Senate provision with certain modifications. The House recommended that the conference agreement authorize the forfeiture of conveyances involved in unlawful disposal of medical wastes through an amendment to title 18 of the U.S. Code, as earlier proposed by the House in H.R. 5225, a separate bill relating to medical wastes.

The conference agreement accepts in part the House recommendation by authorizing the use of forfeiture of those vessels involved with a violation of the prohibition on the dumping of medical wastes as provided by section 3201(b). The conference managers decided not to incorporate into the conference agreement an amendment to title 18, but recognize in so doing that the provisions of section 3571 of title 18, relating to criminal fines, applies to any criminal offense under the Ocean Dumping Act or the Clean Water Act.

The conference agreement employs the phrase "engaging in activity relating to" in the amendments to the civil and criminal penalty provisions relating to medical waste dumping. The conference managers recognize that the Ocean Dumping Act prohibits several types of dumping activities under section 101(a), including the transporting of materials from the U.S.; the dumping by U.S. vessels or aircraft, or the dumping into the territorial sea or contiguous zone. The conference managers intend that the term "engaging in activities relating to" refers to all the activities referenced in section 101(a), as they apply to medical waste.

Sec. 3202. Amendments to the Federal Water Pollution Control Act

Subsection (a). Subsection (a) of section 3202 amends section 502 of the Clean Water Act to define the term "medical waste", using the same definition as that proposed in section 3201 for the Ocean Dumping Act.

The Senate bill used the same definition as it had proposed for the Ocean Dumping Act, as described above. The House amendment had no corresponding provision, but the House managers recommended the broader definition that had been ordered reported earlier by the House Merchant Marine and Fisheries Committee in H.R. 5231, as also described above.

The conference agreement accepts the House recommendation with technical modifications.

The conference managers recognize that the term "medical waste" as proposed in subtitle B is intended to define the types of medical debris that may not be discharged or dumped. The conferees also recognize that the House and Senate are developing legislation relating to the tracking of medical wastes, and that additional rules and legislation may provide standards governing the handling and disposal of the same. The definitions currently being developed at the legislative and regulatory levels differ among themselves. Recognizing that the terms are or may be employed for different purposes, but that consistency may be desirable, the conferees have authorized the Administrator to augment the list of items that are defined as "medical waste" in this conference agreement if the Administrator determines that adding to the list is appropriate because of the definitions used in other regulatory and statutory settings.

Subsection (b). Subsection (b) amends section 301(f) of the Federal Water Pollution Control Act to incorporate the term "medical waste" into the list of pollutants for which the discharge is prohibited. The Senate bill had proposed the provision, and the House amendment had no corresponding provision.

The conference agreement accepts the Senate position.

TITLE IV—THE SHORE PROTECTION ACT

The Senate bill provides for controls on operation relating to the vessel transport of certain solid waste so that these wastes are not deposited in coastal waters. The provision is based on another Senate bill, S. 1751, introduced by Senators Lautenberg and Bradley. The House amendment contained no similar provision. The House receded to the Senate with minor changes.

The conference managers intend that Title IV will help prevent the deposition of trash, medical debris, and other unsightly and potentially harmful materials into the ocean and Great Lakes as a result of sloppy waste handling procedures. This problem has been especially acute in the New York area, where barges ferry tons of municipal and commercial refuse to the 3000-acre Fresh Kills landfill on Staten Island. In a March 1988 report, the Environmental Protection Agency concluded that the landfill and its attendant barging operations are a major source of floatable waste in the New York Harbor area. This type of waste has fouled New York and New Jersey beaches over the last two summers, reducing the quality of coastal waters, endangering the health of humans, marine mammals, waterfowl, and fish, and causing severe decline in coastal economies driven by tourism and recreational uses.

Section 4001 contains a short title for Title IV.

Subtitle A—Shore Protection

Section 4101 provides definitions of "Administrator", "Coastal waters", "municipal or comercial waste", "person", "receiving facility", "United States", and "Waste source".

The geographic scope of this Title is limited by the term "coastal waters," which covers marine and estuarine waters to the head of tidal influence, and seaward to the limits of the U.S. Exclusive Economic Zone, 200 miles from shore. The term also includes the Great Lakes and their connecting waters (St. Mary's River, St. Clair River, Detroit River, Niagara River), and the St. Lawrence River to the Canadian border. The Title also affects the handling of "municipal or commercial waste" which covers all solid wastes regulated under Subtitle D of the Solid Waste Disposal Act transported for disposal on land, including municipal garbage, commercial refuse, medical wastes, and wood debris. However, the term specifically excludes hazardous wastes regulated under Subtitle C of the Solid Waste Disposal Act, construction debris, sewage sludge, and dredge spoil or fill materials. It also excludes waste generated by a vessel during normal operations since this Title is only to apply to vessels whose purpose is the transportation of municipal or commercial waste, not all vessels. The conference managers intend that municipal or commercial waste transported for recycling or refuse as identified under United States tariff codes as secondary recovery materials are not covered.

Section 4102(a) prohibits the transportation of municipal or commercial waste within coastal waters by a vessel without a permit and number or other marking. This requirement applies to vessels transporting municipal or commercial waste, not vessels that may generate those wastes during their normal operations. Public vessels are excluded from the permit requirement. The Secretary of Transportation is authorized to issue permits and appropriate numbers or other markings under Title 46, United States Code. If the vessel is a documented vessel, it is intended that the vessel's official number or other marking be displayed on the vessel in a manner that will aid enforcement of this Title. If the vessel is numbered under the laws of a State, the number must also be displayed in a manner prescribed by the Secretary, which may be larger than the size required by the State.

Section 4102(b) detailed the permit application procedure. Affected vessel owners or operators must provide the enumerated information to the Secretary of Transportation.

Section 4102(c) makes a permit effective 30 days after the permit is issued. This subsection also limits permits to a five-year period, although they may be renewed by the applicant for additional five-year periods. However, a permit is terminated on the sale of the vessel. The conference managers intend that the new vessel owner or operator may apply for a new permit in the same manner as the original owner or operator.

Section 4102(d) provides the grounds for which a permit may be denied. The Secretary of Transportation has the discretion to deny permits, but must deny a permit if so requested by the Administrator of the Environmental Protection Agency (EPA). Grounds for denial are a record of serious violations of subtitle A of this Title, the Solid Waste Disposal Act, the Ocean Dumping Act, the Rivers and Harbors Appropriations Act of 1899, or the Clean Water Act. The conference managers recognize that these statutes constitute the primary authorities for ensuring that coastal waters remain uncontaminated, and repeated major infractions of these laws, especially willful violations, indicate a disregard for environmental integrity and protection. However, it is not intended that this subsection be the only basis for denying a permit.

Section 4102(e) requires the Secretary of Transportation, after consultation with EPA, to issue or deny a permit within 30 days after receiving a complete application. If the permit application is denied, the Secretary must notify the vessel owner or operator of the reasons for the denial, and allow the owner or operator an opportunity to appeal the denial.

Section 4102(f)(1) requires permits to be maintained as provided by the Secretary. This is similar to the requirement for keeping a certificate of inspection on board a vessel under 46 U.S.C. 3311, which allows for the permit on a barge to be maintained in a storage pipe.

Section 4102(f)(2) allows the Secretary to endorse the vessel's certificate of documentation with the permit required under this Title.

Section 4102(g) allows the permit information to be included in the vessel information system established under 46 U.S.C. 125. This is a national system of vessel information for vessels documented with the Coast Guard and vessels numbered with the States. It allows both Federal agencies and State agencies to access each other's law enforcement information on vessels and vessel ownership.

Section 4103(a) describes the waste handling practices to be undertaken to minimize the amount of municipal or commercial waste which is deposited into coastal waters during loading onto vessels from waste sources, during vessel transportation from waste sources to receiving facilities, and during unloading from vessels to receiving facilities. Appropriate responsibilities are placed upon owners or operators of a waste source, on vessel owners or operators, and on receiving facilities owners or operators. This section specifically requires that waste be secured by netting or other means to prevent waste from falling into coastal waters during transport. If, despite, these measures, municipal or commercial waste is deposited in coastal waters, the owner or operator of the waste source or the receiving facility must clean up the waste.

Section 4103(b) requires the Administrator of EPA, in consultation with the Secretary of Transportation, to prescribe regulations to carry out subsection (a), and to require (as appropriate) the adoption by affected parties of maintenance manuals to prevent, report, and clean up any municipal or commercial waste deposited in coastal waters. In addition, if the Administrator determines that additional tracking systems are warranted to ensure adequate enforcement of laws preventing the deposition of municipal or commercial waste into coastal waters, the Administrator must require the adoption of these systems within 18 months of the determination. These regulations are in addition to regulations prescribed by the Secretary of Transportation under 49 U.S.C. 322 to carry out this subtitle.

Section 4104(a) authorizes the Secretary of Transportation to revoke or suspend a permit under this Title. The Secretary is required to revoke the permit if the Administrator of EPA so requests.

Section 4104(b) allows the Secretary or Administrator to obtain an injunction in the appropriate U.S. district court to stop any operation in violation of this Title involving a waste source receiving facility, or vessel.

Section 4105(a) provides the enforcement authority for this Title under 14 U.S.C. 89, the source of general enforcement powers of the U.S. Coast Guard. Section 4105(b) requires the Secretary to conduct periodic inspections of permitted vessels to ensure compliance with this Title.

Section 4105(c) authorizes the denial of clearance by the Secretary of the Treasury under 46 App. U.S.C. 91 for vessels in violation of section 4102 of this Title. Furthermore, under subsection (d), vessels in violation of section 4102 may also be denied entry to or detained in any U.S. port. Finally, subsection (e) directs EPA to conduct investigations of persistent violators, defined as having five or more violations in a six-month period.

Section 4106 grants subpena power in connection with an investigation under this Title. If subpenas issued under this section are not obeyed, the appropriate U.S. district court is granted enforcement powers. Witnesses compelled to appear under a subpena issued under section 4106 may be paid travel and other exepenses authorized for witnesses in the district courts of the United States. Officials authorized to conduct investigations may issued subpenas and administer oaths to witnesses.

Section 4107 allows the Secretary of Transportation to collect fees of up to $1000 from each vessel owner under 31 U.S.C. 9701 to offset the administrative costs associated with permit issuance and to maintain information on the vessel in the vessel information system established under Chapter 125 of title 46, U.S. Code. It is expected that the fees will be a less than the maximum permitted if the criteria of 31 U.S.C. 9701 is used to set the fees.

Section 4108 provides standard procedures for the handling of civil penalties for infractions of this Title. The assessment of civil penalties under this section should not require an "on the record" hearing within the meaning of the Administrative Procedures

Act (APA). It is intended that these civil penalties be assessed in a fair manner, and the conference managers understand that the Coast Guard's procedural civil penalty regulations ensure that essential elements of due process, notice, and opportunity to be heard are provided to alleged violators (*See* 33 Code of Federal Regulations 1.07). The more rigid and time-consuming procedures applicable to APA adjudications are unwarranted in the case of civil penalty assessments under this Title, and would seriously hamper the orderly enforcement of these administrative penalties.

Section 4109 provides for civil penalties for violations of this Title. Persons who violate section 4102 (vessel permits) are subject to a maximum $10,000 penalty. Other violations of this Title will subject persons to a maximum $25,000 civil penalty. Each day of a continuing violation is to be considered a separate offense, and vessels used to violate this Title are subject to *in rem* liability. Knowing violations, including the provision of aid, are subject to fines under Title 18 of the United States Code, three years imprisonment, or both. Subsection (d) also permits the use of up to one-half the penalty or find to reward individuals who provide information leading to the assessment of the penalty or fine.

Subtitle B—Miscellaneous Provisions

Section 4201 directs EPA, in consultation with the Secretary of Transportation, to determine the need for, and the effectiveness of, additional vessel tracking systems to ensure that municipal or commercial waste is not deposited into coastal waters. A report on EPA's conclusions must be submitted to the Congress within 24 months of the date of enactment of this Title. In addition, this section authorizes the Secretary of Transportation to recommend to EPA various vessel tracking systems which might prove effective to minimize waste deposition into coastal waters. In making these recommendations, the Secretary is to consider the relative effectiveness of the different tracking systems, and their costs.

Section 4202 specifies that this Title does not affect the application of other relevant Federal or State laws, including the Ocean Dumping Act and the Solid Waste Disposal Act. The application of this Title to foreign vessels must also be conducted consistently with international law.

Section 4203 authorizes appropriations of $1.5 million for each of fiscal years 1989 and 1990 to support activities under this Title.

Section 4204 provides for a phase-in period for the requirements of this Title. First, the Secretary of Transportation is directed to make permit application forms available to vessel owners within 60 days of the date of enactment of this Title. No vessel may transport municipal or commercial waste without a permit under section 4102 beginning 240 days after the date of enactment of this Title. Finally, section 4103 (waste handling practices) will take effect 60 days after the date of enactment of this Title.

Walter B. Jones,
Claudine Schneider,
Gerry E. Studds,
Mike Lowry,
William J. Hughes,
Thomas R. Carper,
Thomas J. Manton,
Bob Davis,
Norman F. Lent,
H. James Saxton,
Glenn M. Anderson,
Robert A. Roe,
Norman Y. Mineta,
James L. Oberstar,
Henry J. Nowak,
Edolphus Towns,
John Paul Hammerschmidt,
Arlan Stangeland,
Guy V. Molinari,
Dean A. Gallo,
Managers on the Part of the House.

Daniel Patrick Moynihan,
Frank R. Lautenberg,
John H. Chafee,
Quentin N. Burdick,
George J. Mitchell,
Robert T. Stafford,
Larry Pressler,
Managers on the Part of the Senate.

Mr. DYSON. Mr. Speaker, I rise in strong support of the conference report on the Ocean Dumping Ban Act. I commend Mr. Hughes for his leadership, as well as the chairman of the Merchant Marine Committee, Mr. Jones; the chairman of the Subcommittee on Fisheries and Wildlife, Mr. Studds. I would also like to commend the chairman of the Public Works Committee, Mr. Anderson; and the chairman of the Subcommittee on Water Resources, Mr. Nowak, for their fine work and dedication.

Mr. Speaker, the prohibition of ocean dumping is necessary for the economic safety of our coasts. Too many times we have heard of beaches being closed due to washup of sludge. We have heard of the detrimental effects of sewage sludge in our waters. The rich nutrients in sludge promote the growth of organisms that deplete the oxygen available for marine life. The wastes also contain heavy metals which result in diseased fish and poor water quality. I support this legislation so that we can finally be rid of the scourge of sewage sludge.

Mr. Speaker, I am also very happy to see that medical waste provisions are contained in the conference report. The conference report makes the dumping of medical waste illegal in all our waterways. This is vitally important to my district, and to all our coastline communities. The Chesapeake Bay is our Nation's most productive body of water outside of our two oceans, and provides a source of income for much of Maryland. The resort of Ocean City is also in my district. The economic loss that would be sustained by my constituents if medical waste were to be dumped in the bay or were to wash up on the shores of Ocean City would be enormous. Resorts up and down the east coast have been closed due to medical waste on their beaches. Shellfish beds across the United States have been shut down due to pollution. We cannot continue to play economic Russian roulette with our seaside communities.

Medical waste cannot be allowed to threaten our families. Last year a young boy in New Jersey had his hand punctured by a used syringe floating in the surf. Parents should not have to worry that hypodermic needles are riding the same waves as their children. They should not have to fear that AIDS-infected blood may lie in the sand. Beaches are for fun, not for fear. We must make our beaches fun again.

Mr. Speaker, this conference report is a good piece of legislation, and one whose time has come. I urge my colleagues to support it, and to end the dumping of medical waste and sewage sludge.

PERMISSION TO POSTPONE VOTE ON H.R. 515, FAIR CREDIT AND CHARGE CARD DISCLOSURE ACT OF 1987 FROM TODAY TO TOMORROW

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the vote postponed on Thursday, October 13, 1988 on the motion to suspend the rules and agree to the conference report on the bill H.R. 515 be postponed until Wednesday, October 19, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. COELHO. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO POSTPONE CALLING OF PRIVATE CALENDAR UNTIL TOMORROW

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the Private Calendar, in order today, be postponed until tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, is it the gentleman from California's intention that the regular call of the Private Calendar will be held tomorrow?

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. COELHO. I thank the gentleman for yielding.

Mr. Speaker, yes; it is.

Mr. SENSENBRENNER. And is it the intention of the gentleman from California that this will be the last call of the Private Calendar and we will not be in session on the first Tuesday of November?

Mr. COELHO. It is my sincerest hope.

Mr. SENSENBRENNER. With that hope, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. The Chair announces that pursuant to House Resolution 563 the House will consider an additional 35 measures under suspension of the rules tomorrow. Members may review the list of suspensions in their respective cloakrooms.

UNITED STATES-PHILIPPINES AGREEMENT IS DISGRACE TO THIS COUNTRY

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, yesterday, the Secretary of State signed an agreement with the Philippines that is a disgrace to this country and an insult to the American taxpayer.

This agreement has Americans shelling out billions of dollars and benefits to the Philippine Government for the privilege of defending that country and allied interests in the Pacific.

Let's look at the fine print. We will be spending outright $962 million directly in 1990 and 1991. That's in addition to the $352 million we've already approved for 1989. Now, that doesn't count the over $500 million annually we spend on the local economy and salaries for over 26,000 Filipinos. Look a little closer at the agreement and you'll find we'll be spending an additional $500 million in Eximbank and OPIC loans and guarantees. We'll be asked to write off $28 million in Philippine debt to the U.S. Government. We'll even pay $5 million to fund a resettlement program for squatters at Clark Air Base and Subic Bay. Look again, and you'll find $4 million for policing purposes.

As Jeane Kirkpatrick asks: "How much should the United States be willing to pay for the privilege of helping to preserve stability in the Pacific region?" My answer and the answer of the American taxpayer is "Not this Much!" This is a bad agreement made worse by the terrible precedents it sets. We do not inspire responsibility for those we wish to accept greater defense burden-sharing or better debt repayment behavior with this agreement. This is a ripoff of the American taxpayer.

CLEAN AIR BILL REAUTHORIZATION

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I rise today, appalled and frustrated that apparently the 100th Congress will adjourn without first passing a clean air reauthorization or even a short extension. Today, my constituents in California's 19th Congressional District, as well as many other areas of the country, are breathing subtandard air, while the clean air bill sits deadlocked in the Energy and Commerce Committee. In addition, Ventura County now has a construction ban imposed on it.

Two hundred twenty-seven bipartisan Members of the House of Representatives, including myself, have signed the Vento-Green letter, demanding action on a tough clean air bill.

I have also signed, with the Republican leadership, a letter to Speaker of the House WRIGHT stating, "Prior to adjournment, we must renew our commitment to the environmental safeguards contained in the Clean Air Act." Reauthorization of the Clean Air Act should be the highest priority in these final days of the 100th Congress. I urge my colleagues in the Democratic majority of the House to give America a reauthorized Clean Air Act and to do it now.

OMNIBUS DRUG INITIATIVE ACT: LET US NOT CHANGE A PROGRAM THAT ALREADY WORKS

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, the House recently passed a broad and, for the most part, well designed antidrug bill. Our counterparts in the Senate have also approved similar legislation, and I look forward to the swift passage of this measure.

Unfortunately, H.R. 5210, the Omnibus Drug Initiative Act, contains language that drastically changes the current successful allocation formula for grant funds to State and local governments. Instead of allowing the States to direct funds to where they can do the most good, the new formulation in the House bill shifts the bulk of the money to a few, very large metropolitan areas. According to Justice Department figures, in my State of Texas virtually every city, county, and regional drug enforcement unit will have its funding slashed. The same is true for the rest of the Nation.

For example, in just 6 months of operation in west Texas, the Permian Basin Drug Task Force seized over $2.7 million of illegal drugs and in one undercover operation acquired 175 indictments on drug-related charges. These successes were made possible by the 1986 Omnibus Anti-Drug Act. The new proposed legislation will unravel this impressive record of progress.

Changing the current funding formula corrupts the original intent of the 1986 law and will destroy the existing and highly effective statewide antidrug strategies. Mr. Speaker, I strongly urge my colleagues not to attempt to change a program that already works.

ON THE ANNIVERSARY OF THE MARKET CRASH

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Speaker, 1 year ago this country's stock market crashed in the worst 1-day drop in the Dow's history. Our financial markets are still feeling the aftershocks a year later. But this administration instead of fixing the problems, has adopted as their theme song—"Don't worry. Be happy." Such complacency may prove to be the market's ultimate undoing.

Last year our stock market experienced a massive heart attack. Our markets were within an inch of their lives when a last-minute infusion of liquidity by the Fed and announced corporate stock buyback programs returned our markets miraculously to life. Immediately following the crash, this administration reacted appropriately. The White House created a task force of Wall Street experts, the Brady Commission, to diagnose the calamity and prescribe restorative measures. In addition, shortly after the crash, the Congress and the administration met in an unprecedented budget summit to attack the Federal budget deficit.

But in the weeks following the crash, when it was clear that the economy was not immediately endangered by the market's crash, this administration started looking for a second opinion. Finding the prescriptions of the Brady Commission a bitter pill to swallow, the administration's political spin doctors decided that supporting the market reform measures called for by the Brady Commission would put Reaganomics on the couch. The administration listened silently to the Brady Commission and then dismissed the Wall Street experts and put in their place a new group—the Working Group on Financial Markets—headed by the great spin doctor—James Baker. The working group decided that the markets had never really suffered a heart attack at all—they explained that the markets were merely suffering from growing pains. The working group pronounced that a new era had arrived—our stock market was now ruled by large institutions, trading billions of dollars of stock in minutes and if the small investor doesn't like the tidal waves of volatility created by such players they should either join a mutual fund or leave the market.

Well, I do not believe that this country should stand aside as large institutional traders drive small investors out of the stock market. The small investor is the lifeblood of the stock market, and the stock market is the heart of our capitalist system. This administration ignores the lessons of the market crash of October 19, 1987, at great peril to the American economic system.

The Brady Commission identified the underlying pathology of our financial markets. They put their finger on the pulse of the market and prescribed a series of commonsense measures which would put our financial markets on the road to robust health. On July 7, 1988, I introduced a market reform bill which would implement the major reforms advocated by the Brady Commission.

The fundamental finding of the Brady report was that our stock and futures markets are unified and should be regulated accordingly. We must pull our regulatory system out of the horse-and-buggy age and put it on an equal footing with the supersonic traders of today. I believe that we can have a financial market system where large institutions and small individual investors can safely coexist.

This administration has made every effort to give the impression that financial reforms have been made, but today, 1 year later, the unseen structural damage remains. This administration gave the markets a paint job, when what the markets really needed was a new regulatory foundation. Fundamentally, nothing has changed in the last year to prevent another market crash, and like a second heart attack, the next disaster may indeed be "the big one."

□ 1215

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minues.

Mr. GONZALEZ. Mr. Speaker, it was quite sometime ago, to be precise, 1979, and I believe it was on May 3, which was 2 days following the May 1 Economic Summit meeting at Bonn, West Germany, at which time President Carter was our chief of state attending the summit, that they issued a very brief, apparently inconclusive communique. In the May 2 edition of the New York Times, the text of that communique was published. It took up just a few columns, not even two full columns, and the last sentence was this: "We agree in principle to the formation and development of the European Monetary System [EMS] and the European Currency Unit [ECU]."

It seemed quite innocuous. I saw no comments in the American press, in either the daily press or in the generally accepted financial publications of the day as to exactly what was meant by the "European Currency Unit [ECU]" or the "European Monetary System [EMS]." I had been speaking, as a matter of fact, since I came to Congress 27 years ago about the fact that we were quite missing the reality of the external world, even Europe.

I think my colleagues will agree with me that that was true up until 1965, in February, and the speech at Baltimore by President Johnson, which was very little noted also but which I think history will show as a watermark speech, was the one in which he announced simultaneously the incremental increase in the contingent of American soldiers that he was ordering to Vietnam, and he then announced what I call the "Johnson principle," although as far as I know, no historian has called it that, and that was that from here on out, the President said, although not in these exact words, that we will be dealing with the Pacific Basin, that emerging world will dominate and will preoccupy our attention, our economic forces, and our thrust as a nation rather than Europe, where we have been almost wholly concerned or European-centered.

I had been making some remarks for the RECORD, as I have stated before, at a time when there was no such thing as electronic coverage or TV coverage, although it was for the RECORD, and I mentioned that historians, notably Arnold Toynbee, in his vast, dimensional, historical perspective had long been saying that the day of Western civilization and Western man was on the wane, and that there was no question about it, this long perspective of history revealed clearly the emergence of another fulcrum or center of gravity in the East. It reminded me of a saying attributed to Mao Tse-tung, the Chinese leader, when a visiting French historian and civic and public leader in conversation with him said, "But, Mr. Chairman, you realize the impact of the French Revolution?"

Mao Tse-tung said, "Well, tell me, when did that take place?"

"Well, in 1790."

He said, "Oh, well, that's too soon to really try to understand its impact."

I think that reveals the very different outlook and perspective of these cultures that have more than a thousand years of historic being, with that cultural inheritance transmitted through the centuries. Even in Europe, in the older nations, in England or Great Britain, which probably as a European nation has the longest cohesive history of government, going back to more than a thousand years, you have, of course, different perspectives. And when we have tried to transmit them through the prism of the young American experience, we are seeing a distortion, we are seeing a world through a perspective that is not realistic, that is not in accordance with what things are.

So in pointing that out, I was constantly reminding my colleagues on the Banking Committee that there was no such thing as control of a vital force, which again, as I have said ad nauseam, throughout history has been the one factor in the rise and fall of vast and mighty empires, going back even to the time before written history as such. And I was pointing out such things as interest rates or usury, and I was pointing out that we in the United States have seen great changes since 1865 and the passage of the National Currency Act, as it was then known. This was done at just about the time that President Lincoln was assassinated, and this serious problem that was emerging was really in the forefront of the preoccupations of the President who was soon to die, just as it had been on the minds of those that we call the Founding Fathers, Thomas Jefferson, even Alexander Hamilton, and others, who participated in the beginning and in the formation of our nationhood, that is, when we first really organized as a Nation growing out of the 13 Colonies.

So we again have to look at it from a historic perspective. We forget that the developmental history up to the time of the formation of our nationhood, with the binding force of the Revolutionary War and the 13 Colonies, segregated us and truncated us from the historical perspective of our association with these other 24 colonies or States, in fact, if we want to call them that, and we never have been vinculated with the cultural and historical evolvement of the peoples south of us, in Cuba, Central America, Mexico, and South America, whose antecedents preceded ours by almost 200 years. At the time the Pilgrims were landing at Plymouth and the colonizers were coming to the James River and settling in Jamestown, we had in Mexico City, for example, colleges, universities, and printing presses. It was the same way in Cuba for a hundred years or more.

So, having lost that perspective, having truncated ourselves from this body or stream of history and cultural antecedents, we have been, putting it bluntly, ill-fitted to assume this tremendous mantle of world power and leadership that became ours as a result of two World War conflagrations, two terrible wars in which millions of human beings lost their lives, and in which there was terrible destruction of properties, and also in which there were new lines of national States and nationalities and multiethnic entities and conglomerations. As a result, we have meandered in such a way that such developments were forming no sooner than the hot-shooting phase of World War II ended.

Now, some people ask me, "Why do you say, 'the hot-shooting phase of the war'? The war is over."

And I say, "No, it's not. There is no peace treaty."

From time to time, if we go back and read history, we find that even recent history, the history of modern days, has a habit of telescoping in such a way that the events of a year ago are now history.

But in the much slower paced world of 1947, the European nations met in Rome and signed the pact or the Treaty of Rome, and they were visualizing and dreaming and looking forward to a United States of Europe. This was a significance of the summit in Bonn, the first economic summit in Bonn on May 1, 1979.

□ 1230

It is interesting to note that the second one, President Reagan, being the President, also took place on May 1 in Bonn, Germany, with President Reagan being our Chief of State, and what never is written is the identity of the cadre of the financial assistants other than perhaps maybe the Secretary of the Treasury. But never do we get any reports as to the antecedents on the part of our European neighbors and former allies in their preparation for these summit meetings.

Mr. Speaker, had we done so, we would have known that President Reagan did not go to the summit meeting in Bonn in order to go to the Bitburg Cemetery to lay a wreath of flowers at a controversial cemetary. He was there because, as a matter of fact, the Europeans had finally placed in being, fleshed out in a meeting in Palermo, Italy, 1 month before; that is, in April 1985, was the second summit meeting, economic summit meeting in Bonn. They had fleshed out the EMS, the European Monetary System, and the ECU.

Now what I have been saying is that in all times, and certainly we should have seen that after World War I; World War I would never have been waged more than 6 months, not successfully or even holding still, had it not been for America's credit. The United States was the only creditor nation in World War I, and it had become a creditor nation just a couple of years before its entry in 1914.

Before 1914 we were not the capital centers in Europe with the source of or credit. In the construction, for example, of the Panama Canal, no matter how much Theodore Roosevelt wanted it, he first had to get a $40 million line of credit from the French bankers, which we did. But by 1914, with the emergence of the West, the emergence of the American production ability, its ability to export very much and import very little, it became a creditor nation, and in World War I was the only one, and in World War II it was the only creditor nation, and again these tremendous infusions.

However, what was that credit based on? And in the immediate postwar period, after 1918, what does the history show us? Well, it shows us that there was a tremendous retrenchment and recession along about 1920 and 1921. It shows us that, given the tremendous need for food and fiber and the emergence of Herbert Hoover as an American engineer with American know how saved the day in that starving Europe immediately following World War I.

However two things were happening economically, fiscally and monetarily. One, the United States had with great generosity distributed its credit. It did not in a way that it was reasonable to expect little or no payback. The debtor nations, England and France, for example, who had borrowed heavily, and I recognize what they call war debts, in reality they did not really think they were IOU's, as they later reminded us. But, whatever they made in the early 1920's, was what they exacted from the prostrate and defeated Germany where an onerous, so-called, peace treaty had been exacted. The Germans then conquered, became absolutely economically impoverished. There was little or no German production per se for the demands and the consumption needs of Germany itself.

The exactions on the part of the allies of reparations; that was the key word, and in growing up in my youth that is all I read in the newspapers; were very, very severe. Soon Germany was in the throes of social dislocations. I must have been 13 or 14 years of age, but I remember the pictures in the newspapers of blond, emaciated German mothers in line and the caption saying, with children holding on to their skirts of their dresses, equally looking emaciated, saying, "German mothers in line to receive milk."

Then, Mr. Speaker, there are other pictures that I remember. One I remember to this day because of the homeless problem that we have and continuing to see growing and which, by way of parentheses, I will tell my colleagues as chairman of the Subcommittee on Housing and Community Development was a first to call the Nation's attention to this. On December 4, 1982, and maybe the reason was that I am a Depression kid, and maybe the reason was that I was very sensitive to detect a new kind of American homelessness, but there are children and their parents sleeping in their automobiles under underpasses, or in parks or on the streets. There are men wandering, parking their families with the relatives and wondering around the country seeking employment, men freezing on the streets, dying on the very streets here in the Capital, freezing to death. And in New York, for instance, we did not have to go to Calcutta to see people down on the streets is what I said in December.

Mr. Speaker, I received no help, but criticism. The administration's spokesmen were outraged and accused me of being partisan, and those who are together with me on the subcommittee have seen and heard the witnesses that we requested come before us, and did.

But I remember those pictures back in 1931, 1932, of these German men with their heads on an iron rail and the caption saying, "German unemployed sleeping in a railroad station." What happened, of course, is history.

No people, particularly a virile and strong people, are going to long take complete subjugation, and of course the end result, the history will show us, was a formative force of what turned out to be Hitlerian Germany.

Mr. Speaker, we should ask ourselves, "Are we exempt?" If we read just recent history of the 1950's and the hysteria with such things as the Communist fear, the unrestrained, almost hysterical fear, the McCarthyism, if my colleagues want to call it that, and let us ask that question because we know and should know that God is no respecter of persons or nations.

How could such a brilliant culture, the outstanding cultured nation of the world, probably the highest literacy rate of any, the scientific center of the world; the mathematicians of note were concentrated in the University of Berlin, and in Leipzig and others, the greatest chemists developed in the 20th century, the greatest minds later to develop and emerge in today's explosion of technical and scientific knowledge; all were nurtured and in one way or another came out of Germany. How could that society end up with a Hitlerian regime? We should ponder that.

In reading in retrospect the publications that have been slowly emerging from the intelligentsia in Germany, it is not too far-fetched to say that we in our time in the United States have the German seeds and have already had the prior manifestations of such social phenomena, and mass hysteria and delusions that could lead to that within our country. Our society is brittle. Anybody who was here during the so-called rioting period must surely remember, and I recall vividly again walking from the office to my apartment here on the Hill at about midnight, and having a jeep with soldiers come up and challenge, "Who goes there?" There was a curfew. In America?

Mr. Speaker, we had it. We have had it. What would happen, as vulnerable as we are in our urban structured life, and this is what I have constantly asked as chairman, and I have been on this subcommittee since I came here

27 years ago, since it was the Subcommittee on Banking, now known as the Banking, Finance and Urban Affairs Committee. When I came here, it was known as it was in its inception almost at the beginning period of the Congresses, as the Banking and Currency Committee.

Mr. Speaker, what do we do in these teeming, dense areas if the water supply is cut off, if our food sources, the superstores, are closed as they were during the curfew here? There were times here and days when the grocery stores were closed or, if one went there, there was not much on those shelves for a couple of days, so you had people beginning to hoard. These are things we better ponder because wittingly or unwittingly we have now reached the point where even in our own yard, so to speak, we have homeless Americans as refugees in their own country.

Why? Are we not the land of plenty? Are we not still considered the richest nation in the world?

Yes, when you consider that there are 40,000 children dying of hunger today in the world, of course we are well off. But it is all relative, and it is not self-perpetuating. We have got to work at it.

Mr. Speaker, my contention and warnings have been all along that unless the leadership and the representatives of people who under our structured institutional system ought to be the leaders, but who in turn have delegated awesome powers to unelected men and women, who in turn are wielding the greatest power and force in any society; that is what I call the allocation of credit, money, employment, interest rates.

Interest rates: the short and simple way to remember them are defined as that mechanism by virtue of which wealth is transferred within a nation or society. Who profits from high interest rates? Usury? Why I am sure that my predecessor in this Congress of just 15 years ago, those who have passed on, like the illustrious chairman of the Committee on Banking, Mr. Patman, my fellow Texan, must have turned over in his grave 50 times to think that the prime rate of interest would be 21 percent. That is not only usury; that is usury with a vengeance.

Many citizens ask me, "HENRY, I thought we had laws against usury," and, as I started to say a while ago, I was reminded of speeches made here when I first came that there is no law since 1865 that so much as sets any kind of ceiling on interest nationwide. We did have one until 1865.

☐ 1245

There has been none and there is none. There is an old law that the economists refer to as Gresham's law. Essentially it says, "Bad money chases out good money."

Well, we have sort of a Gresham's law in legislation. Bad legislation chases out good.

So it is applicable to finances identified as the Gresham's law, but it is just a plain old simple axiom that all too often in the absence of a positive assertive force for creativeness or good, the destructive or the evil will take over. It is just as simple as that.

We in our country have been very negligent and have abdicated the most basic of responsibilities, both as Representatives of the people in the executive branch, Presidents and Vice Presidents as well as Members of the Congress in this respect.

So today there is no accident between the existence and the cause of that existence of these at least 3 million Americans, homeless, rootless, and not attached to their own nation of birth because they have been detached and have been abrogated in that basic right.

In the meanwhile, we have the development of those countries that are unifying. While we are disintegrating, they are integrating. As of 1992 now for sure, there will be not a common market, but a single market, and it will be the United States of Europe. Even now they have a common currency. England perhaps may still be holding out, but nevertheless, I placed in the RECORD last week on Friday an announcment in the European Community publication of the issuance of about some several hundred million dollars of bonds in ECU's, not dollars.

Now, it may be a strain to some or it may be very far-reaching to others to think that there is a connection between these external developments and our internal and domestic conditions. Not at all. There is a direct and an immediate connection of effect and impact.

Today those to whom great power has been given, with no corresponding accountability, such entities as the Federal Reserve Board, not exclusively the only one in that condition, has even lost control to external forces over which we no longer have control.

The most charitable interpretation we can place at this point as far as our currency is concerned and the dollar, which up to now has been the international reserve unit, but with the emergence of ECU's, and the Japanese making use of this system, that day is gone.

At this point I will offer in the RECORD for the benefit of my colleagues an article in the business finance page of the publication Europe, which is also a magazine of the European Community.

The title of the article is "ECU's growing role in private transactions. European currency unit is gaining acceptance."

Then it quotes our existing French President, Francois Mitterrand: "A monetary system built around three poles, the dollar, the yen and the European currency unit."

This article starts out by saying:

"This version of an international monetary system based on the dollar, the yen and the European currency unit, acknowledges an unprecendented development in the monetary community; the evolution of the ECU from an abstract unit of account into a private currency for financial transactions and investments."

Mr. Speaker, I will place this article at this point in the RECORD.

THE ECU'S GROWING ROLE IN PRIVATE TRANSACTIONS—EUROPEAN CURRENCY UNIT IS GAINING ACCEPTANCE

(Ralph J. Mehnert)

(*"A monetary system built around three poles: the dollar, the yen and the European Currency Unit."*—French President Francois Mitterrand)

The vision of an international monetary system based on the dollar, the yen and the European Currency Unit (ECU) acknowledges an unprecedented development in the monetary community: the evolution of the ECU from an abstract unit of account into a private currency for financial transactions and investment.

The ECU was created as the common denominator and official unit of account for the institutions of the European Community in 1979. It is a basket of the individual currencies of 10 E.C. member states (Spain and Portugal are not included). Each currency makes up a fixed percentage of the basket, ranging from 0.33 percent for the Luxembourg franc to 34.93 precent for the German mark. The ECU is the monetary unit for the European Monetary System (EMS), which combines an assortment of intervention and other mechanisms to ensure exchange rate stability among its members.

While initially limited to its accounting function for E.C. institutions, the ECU has since found much wider use in the private market. Two factors essentially made the private ECU feasible. First, the E.C. institutions, which use the ECU in their private transactions, made deposits with their respective banks. Second, following these initial deposits, some banks granted loans and accepted deposits in ECU from a limited and geographically concentrated number of private customers.

This initial limitation was quickly, and unexpectedly, overcome by an explosion in the use of the private ECU for deposits and on the Eurobond and international loan markets. The demand for ECU is presently so strong that banks lend more than they receive in deposits. To meet that demand, the banks deposit fixed amounts of the component national currencies to create additional ECU. This development from a one-way deposit to a two-way, short-term deposit and loan market took place entirely within the banking system. There is, contrary to European tradition, no central supervising authority, governmental or institutional.

The ECU has certain advantages over other currencies, namely its inherent stability, resulting from EMS interventions and the performances of the currencies involved. Decreasing hedging costs and facilitated business transactions in multiple European currencies further contribute to the ECU's popularity.

However, there are also disadvantages. For instance, the ECU is not legal tender. There is no obligation to accept payments in ECU, and there is no central bank to issue coins or notes and serve as lender of last resort. Although both the United States and the World Bank have recognized the ECU as a unit of account, neither accepts it as a full currency (nor, for that matter, does Germany's Bundesbank).

Admittedly, the ECU sometimes is still mistaken for a rare Australian bird or a famous Belgian soccer player. But despite its unusual character as a "quasi-currency" or "non-currency currency," a great array of financial and non-financial instruments is available in ECU all over the world. The lack of physical notes and coins in no way hindered the ECU's growing international status.

Bonds denominated in ECU are one example. A total amount of over 40.78 billion ECU had been issued as of April 1988. These bonds are distinguished from other bonds by the special clauses in the offering prospectus. First, the last official quotation of the ECU would determine the value of the bonds if the EMS were to be dissolved. Second, individual bondholders must select a specific currency for payments of interest and capital. The bond markets profit in particular from swap transactions in which two parties gain from each others' relative advantages in different markets.

Investors with high national interest rates benefit from the relatively low borrowing costs of ECU bonds, whereas investors with low national rates obtain higher interest revenue. The attractiveness of ECU bonds is enhanced by their increasing liquidity on secondary markets. All bonds are listed and traded on some stock exchange somewhere. Most business in ECU bonds, however, takes place via telecommunication between the leading international market makers.

Several types of ECU bonds currently are available:

Fixed rate bonds with average maturities between three and 15 years and comparable interest rates. They account for about 88 percent of the total market.

Adjustable rate bonds with interest adjustments every three to six years at the investor's or issuer's option or according to bilateral agreement.

Zero coupon bonds with fixed interest payments at maturity.

Floating rate notes issued mainly by state-guaranteed banks and sovereign states, with interest-rate adjustments every three to six months to act market movements.

Partly paid bonds and "Saint Gobain Titres Participatifs." A part of the latter's yield is linked to the issuer's profits.

Convertible bonds that permit convesion into bonds or shares. These are well suited to counterbalance exchange-rate risks.

Cum warrant issues that entitle the holder to purchase additional bonds ("debt warrants") or the issuer's shares ("equity warrants").

ECU-Treasury bonds issued by the Italian Government are the latest novelty, with interest rates between 7.63 percent and 9.20 percent and maturities of slightly over a year. The United Kingdom also will begin offering these bonds this fall.

In October 1987, the E.C. Commission introduced ECU-Schuldscheine, a German form of investment. Schuldscheine are privately placed, negotiable bank credits with a circulation similar to that of bonds. The first 500-million-ECU issue bore an 8.6-percent interest rate and a maturity of five years.

The amount of private loans denominated in ECU, meanwhile, also has been increasing—reaching 5.1 billion ECU in 1987 and 1.1 billion ECU in the first quarter of 1988. A grand total of 14.15 billion ECU has been issued so far. A similar acceptance of the public debt market, on the other hand, has been delayed by the lack of liquidity in maturities between one and five years—representing the end of the interbank and the beginning of the bond markets.

Naturally, the United States led the trade in ECU futures and options. Following the introduction of the first ECU-dollar option on the European Options Exchange in Amsterdam in 1985, similar contracts were admitted at the FINEX in New York, the Chicago Mercantile Exchange (CME) and the Philadelphia Stock Exchange. Significant trade developed only at the FINEX where a daily average on 147 contacts of 100,000 ECU each were traded for a 1987 total of 37,263 contracts. In 1988, 18,884 contracts had changed hands by June. Futures contracts in ECU-dollar and ECU-yen will be available at the Marché à Terme des Instruments Financiers (MATIF) in Paris later in 1988. Negotiations are being held between MATIF, CME and SIMEX in Singapore to ensure 24-hour trading possibilities. The London International Financial Futures Exchange is pursuing similar plans. Approximately 10 billion ECU are traded daily on the European foreign exchange markets. The ECU is officially quoted in most member states and on foreign exchanges. It currently trades at around $1.15.

Many ECU funds were established during the past four years. These funds, predominantly created by large commercial banks in Europe and the United States, are composed of bonds, money market and other financial instruments denominated in ECU. The investment in ECU funds now exceeds 1.3 billion ECU.

In addition, ECU are used on a much more practical basis. The services offered by a growing number of financial institutions include travelers' checks, credit cards and giro, time and savings accounts as well as certificates of deposit. Even Germany's powerful Bundesbank has to surrender to internal and external pressures and now permits German citizens to hold accounts and loans denominated in ECU. The international use of the ECU is of particular advantage to the private customer. The alternative, known in its full extent to every Europe travelers is a diverse and sobering assortment of travelers' checks and bank notes in at least a dozen denominations.

In a successful demonstration of the ECU's importance, Belgium minted the first ECU coins last year. This step represents a significant advancement of the ECU's prospects as legal tender in the European Community and underscores the fact that a growing number of countries, as well as individuals, are willing and ready to accept the ECU as day-to-day currency.

The European Currency Unit represents more than an abstract compilation of different currencies. It is backed by the wealth and prosperity of over 320 million Europeans and, from 1992 onward, by the largest unified economic bloc in the world. The private ECU developed on a free market, supported by strong forces visualizing that its intrinsic stability would predetermine success in the financial world. Although neither planned nor anticipated initially, the ECU has proven its potential as a major international currency, equal to the dollar, mark and yen, and as the worthy national transfer for the future United States of Europe.

"The international stature of a currency cannot be decreed, it must be merited." E.C. Commission President Jacques Delors.

It goes on and says, "Oh, yes, fine to think, but look, we are now on a par." Just a few years ago this was a visionary thing, but it was not.

I have been saying since 1979 that it was a reality. I certainly said in 1985 that it was in place and then from time to time I have reported how such things as scholarships internationally, Italian students through the European Community can get, say, 5,000 ECU's of scholarships on a French university, and vice versa; but the ECU is rated at $1.25 to the dollar, that is 125 to the dollar, meaning that it has more value, meaning that it has more stability. But why?

Well, as I pointed out in 1975-76, because the so-called gold holding clause of the 1932 Roosevelt era was repealed in 1975. I was chairman then of the Subcommittee on International Finance, and I warned. I said it is fine to repeal, provided you bring back the safeguards that you are repealing, because if not, you are going to go into a speculative world in which America cannot win, because we are not gaining. We are losing gold. And the then Secretary of the Treasury, Bill Simon scoffed. He kind of laughed and said, "Congressman, gold no longer is the thing."

I said, "Mr. Secretary, I agree with you if the other countries that have central banks agree. If they have demonetized gold, I will go along with you."

He said, "Well go along with you."

He said, "Well, as soon as the law becomes effective on January 1, 1976"—and this was in December when he was talking of 1975—he said, "We are going to have gold sales of our reserves."

I said, "But how are you going to structure the sales?"

He said, "Oh, don't worry about it. No central bank will be eligible to purchase it."

I said, "How in the name of sanity can you tell me once you put up for auction or bid whatever amount of gold you want to sell that you can keep the central banks from ultimately coming to possession of it in France, where certainly they have not demonetized. In fact, they have made a big issue of it."

As far as they are concerned, they are still on gold. It goes back to the sixties when we were having the first international trade deficit. At that time President Kennedy was aghast because we were beginning to see a $10 billion deficit, but he did something about it. By golly, we did, but not now where we have ended up with the most monstrous debt.

Let me say something. As I have been warning now, that for every $10 billion of the $167 billion deficit in our international trade account, America has lost 250,000 producing jobs forever.

Now they are beginning to write about it in the economic journals and all, but I never saw anything about that 10, 15 years ago, or much less, 8 years ago, when under this administration we went into the era of monstrous internal domestic deficits.

Absolutely no nation can bear this cross that we are bearing now on this kind of international trade deficit. We are on the verge of seeing why we cannot, and we should be aware of it now. We see the external incidents. We say we have conquered unemployment, only because we now accept what used to be unacceptable just 15 years ago, 10 years ago, and only because it is very comforting to those who are still not unemployed, who still live in their nice suburban homes, to overlook the plight of the other Americans.

I say to them that you may think you live in the now and that you can continue, but you cannot. Not even in this world can our Nation do it, as we are learning bitterly.

Let me point out another segment of potential serious social problems. Should we wait? Does not a common sense of moral obligation predicated on any kind of faith that one has been taught or developed lead us to be concerned? Should we not address that?

The consequences are most dramatically revealed in our so-called underclasses. In America the issue right now, and I think President Reagan exemplifies it, he has catered to the base instincts of the rich and the favored and the privileged.

I have never since before 1981 seen the hatred towards the poor and the helpless and the impoverished and the weak developed to such a pitch as under Ronald Reagan. It has been an era of mean-spiritedness, his jokingly on national TV, saying, "Well, I know about this woman that with her food stamps got some vodka." All of which was a lie. When pressed for facts and figures, he had none. He had heard, "somebody told me."

Well, we get these back home. We get those stories a dime a dozen.

If anybody prides himself on being close to his constituency, I certainly have, and if any Member of this Congress has any closer attachment to the Food Stamp Program, I do not know of it, because I am the coauthor of the original experimental food stamp testing program of 1964. I was the coauthor with a very distinguished lady, one of the outstanding Members of the Congress from St. Louis, Mrs. Sullivan. We had the first startup of an experimental program. We used to go to the impoverished in my district. I would go to their little shacks and I would see the sack of flour they had with weevils in the flour, potatoes rotten and stinking, and for that we substituted the Food Stamp Program. We have been criticized for that. It has been fought just like Social Security.

So if anybody is sensitive as to whether or not it is operating as it was intended, certainly this Member is one.

Then let us look. We should be concerned that if there is any endangered species of fellow Americans, it is the black male.

□ 1300

Let me give you some statistics, and in this, I want to give credit to a publication known as the Utne Reader, which is a very very seminal type of publication. It has quite a selection of articles from diverse publications that ordinarily escape the average American's eye.

In the November-December issue this year, it has a topic entitled "Endangered Species, Young Black Males." Then it predicates this article that it has extracted on statistics that have been developed by established sociologists and economists, particularly Robert Staples, a black scholar who publishes a publication entitled that, "Black Scholar." Item 1, black men are 6 percent of the United States population, but they are one-half of the male prisoners in our prisons. More than 35 percent in the U.S. cities, black males, are drug or alcohol abusers. More than 18 percent of black males drop out, dropouts from high school. More than 50 percent under 21 are unemployed. Forty-six percent black men between 16 and 62 are not even in the labor force, 46 percent. Thirty-two percent of the black men are below poverty level wage earners. The homicide rate among black males is six times greater than whites. Staples says, and I quote, "Forced idleness and impotence have encouraged self-destruction. What is one of the factors?" He says, "The encriminalization of the work force."

I have been telling my colleagues since the middle 1960's, when a very, very great fellow Congressman from Pennsylvania, John Dent, would get up like I am today, and from him I learned, and he would speak an hour at a time about how his area was going to be the capital of unemployment, how the steel producers would soon be closing those plants, how we were becoming a nation of importers, and it sounded so extravagant nobody would listen to him here in the Hall of the House, and those who did would laugh and say, "Well, there is old John Dent again." That was the middle 1960's, the early 1960's. It was not even the late 1960's. Every word he said he knew what he was speaking of. But who cared and who listened? Today that is known as the Rust Belt, and the same thing in the production of our automobiles.

Two hundred twenty five thousand former full-time automobile workers are still unemployed or subemployed. They have lost out. They are not on the unemployed lists any longer because the way the books were doctored about 1983 they will not show up. Anybody who has been off the unemployment list for 3 months is out of the picture. He is a lost cipher, not an American.

Rev. Floyd Rose, who among other things has been the president of the Toledo NAACP, says, and I going to quote, and this is coming from the people, "We have lost our children," Rose says, "and when they get to high school age, they are not in school and they are not in jobs. They are on the streets. By the year 2000, it is estimated that 70 percent of all black men will be in jail, dead, or on drugs or in the throes of alcoholism."

It so happens that, yes, this is a tremendous problem here, and we had better focus on it. The black community, or segments of the black community, have prospered since the 1950's and the civil rights and all. Some of them have become executives in some businesses. Some have become affluent in other ways, but they are part of the mainstream, and the complaint I hear among the real minority in my community, which is blacks, because the blacks in my community have never been more than 7½ percent of the whole county, but they are constituents, and when I took the oath of office I became, first, a city councilman. At that time we ran at large, the whole city, not in individual districts like now; then in the State senate for 5 years, and my senatorial district was the whole county. It was not a single-member district. In my first 7 years here in the Congress, my district was the whole county. I had the second-largest district in the United States, but unfortunately I had the same budget as my next-door neighbor who had less than 300,000 to represent.

I for one hail the Supreme Court decision, one-man, one vote, and the redistricting that followed, but I got up and I spoke out first on the city council. Never have I been two-forked in my tongue. As I speak here today, I speak back home, and, sure, that antagonizes the mighty and the powerful, and so to this day I am not very much liked by the powerful people who run the presses and news dissemination sources, and all, but that is fine. This is a free America, and everybody is entitled to his opinion and all, and after a few years, they got tired of putting a lot of money to try to beat me, so who am I to complain. I will settle for that.

Mr. Speaker, still the truth is the truth, and the people know what it is. I cannot help but say that my observation, after 35½ years in public elective trust, I have come to the conclusion that those in power, whether it is political or money power, always downgrade the people. They seem to consider them somehow or other subordinate or inferior either in knowledge or in perspicacity or what have you.

My experience is the very opposite. Maybe it is because I came from the people and I remember those days of strict segregation, and I remember how lonely it was on June 9, 1954, on the city council, being the lone man to fight the belated segregatory ordinances that the city council of San Antonio say fit to pass then. Why did they see fit to pass it? Because the city manager warned the council that if swimming pools opened, in light of the recently approved Supreme Court decision on school desegregation, and he had information because he was a former FBI agent and had sources of information that there would be violence because some blacks were going to force themselves into that all-white neighborhood swimming pool, at that time at Woodlawn Park.

When I said, "Wait awhile, what do you want us to do?" he said, "The city attorney tells us that San Antonio has never passed segregatory ordinances. It has depended on the Jim Crow laws of the State statutes and on custom," and again my fellow Americans of black descent were really a minority within a minority at that time in the city of San Antonio. Today the minority, the second size, and largest size minority, considerable size, majority, is today really a majority, but still a majority, and that is when the test comes. Shucks, I was almost killed in Boulder, CO, because I refused to succumb to the reverse on the part of a group from the very people from which I emerged that had been a minority but were now exercising some considerable power, and I said, "How can your moral right be there if once you have the power you want to do the same things that those you inveighed against and fought against the injustices, and now that you have power, you want to do the same thing? No, I am not going to join you in saying that I am anything but an American."

Mr. Speaker, I want to tie this up by saying that there is cause and effect, and at this point, the most visible victims of the abdication of leadership among our powerful elements in our country, both private as well as public, are these underclass; we are approaching an era in which we will become like Europe, where they talk about the lumpenproletariat, the underclass, and if anything has distinguished us even from the mother country, it is that up to now we do not like to consider ourselves as a classed-in society. We say we are classless, but really not.

We are developing now an underclass that will be in perpetual poverty and underclass unless we, those who have been fortunate enough to escape the results of poverty and illness and ignorance, can turn around and say for us to be worthy of the heritage that we acquired from our ancestors, and this is why I would not denounce what I called the old-stock American that some people called WASP's, and I never used those categories, because I will say this for them: Were it not for them and also let me say the Jewish element in San Antonio, that underclass that was really downtrodden years ago, the Mexican, would never have gotten anyplace.

I remember as of today going up that dusty street of Cameron Street at night with my Aunt Guadalupe and my mother so they could go to the only citizenship class sponsored by the San Antonio Jewish Federation of Women. Who else cared? The same thing with my old teachers like Miss Mason and like this Methodist minister, E.C. Granberry, a liberal they called him, and I will tell Members to this day that is why I got up on this floor the other day and told the two gentlemen who had been berating liberals that I am proud to be called a liberal, if it is a liberal in the American sense, and that is the only way we can talk about it.

Mr. Speaker, with that, I shall conclude for today.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The **SPEAKER** pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 17, 1988.

Hon. JIM WRIGHT,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:40 p.m. on Friday, October 14, 1988 and said to contain a message transmitting the 6-month report on Panama Economic Sanctions along with Federal Register copies of the Panamanian Transactions Regulation.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, U.S. House of Representatives.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO PANAMA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-240)

The **SPEAKER** pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

(For message, see proceedings of the Senate of Friday, October 14, 1988, at page 30866.)

□ 1315

TRUSTEES AMENDMENT OF FREDERICK DOUGLASS MEMORIAL AND HISTORICAL ASSOCIATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Washington, DC [Mr. FAUNTROY] is recognized for 5 minutes.

Mr. FAUNTROY. Mr. Speaker, tomorrow, Wednesday, October 19, 1988, the Committee on the District of Columbia will seek unanimous consent to have the House consider H.R. 4236, a bill to amend the Act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historial Association.

A report of this bill was filed today, and I want to be certain that members have the opportunity to understand what the bill is about.

The report and a copy of the bill follows:

REPORT TO ACCOMPANY H.R. 4236

The Committee on the District of Columbia, to whom was referred the bill (H.R. 4236) to amend the Act of June 6, 1900, to increase the number of trustees of the Fredrick Douglass Memorial and Historical Association, having considered the same report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY OF THE LEGISLATION

The purpose of H.R. 4236 is to increase the number of trustees of the Frederick Douglass Memorial and Historical Association by striking out in Section 4 o the Act of June 6, 1900 (ch. 806; 31 Stat. 622) "not less that five members nor more than nine" and inserting in lieu thereof "not less than 9 members nor more than 19 members".

BACKGROUND AND NEED FOR LEGISLATION

This bill is straight-forward and is really in the nature of a techncial amendment. It merely seeks to amend a federal statute to allow for additional members to serve on the board of trustees of the Frederick Douglass Historical Association. The Association, a non-profit corporation in the District of Columbia, has maintained a partnership with the National Park Service over the years to provide support and resources for the Frederick Douglass home which is situated in the Anacostia section of Washington, D.C.

The current board of trustees of the Association is composed of nine members who have rendered a tremendous service to the National Park Service, local residents and visitors to the nation's capital. Among its many activities is the formation of a housing corporation which provides one hundred and fifty-two units of housing on a portion of the Douglass estate. The ever-increasing activities of the board causes the need for additional trustees.

The language of H.R. 4236 strikes certain language of the federal statute which created the board, and substitutes new language. Specifically, the phase, "no less than five members nor more than nine" is deleted and in its place the language, "not less than 9 members nor more than 19 members" is substituted. The bill does nothing more.

The committee is pleased to report that the chairperson of the Subcommittee on Libraries and Memorials, Congresswoman Mary Rose Oakar, has agreed to co-sponsor this bill, and a letter from her indicating support accompanies that report. Also accompanying this report are letters of support from the Mayor's office, Chairman Clarke's office and the President of the Board of Trustees of the Frederick Douglass Memorial and Historical Association. The Committee is also pleased to report that Mr. William Penn Mott, Jr., Director of the National Park Service has personally given committee staff varbal assurances that the National Park Service does not oppose this legislation, and a letter to that effect is forthcoming.

COMMITTEE CONSIDERATION

This bill was taken up by the full Committee on Wednesday, September 28, 1988. The letters of support were made a part of the record and the measure was considered, without opposition.

SECTION-BY-SECTION EXPLANATION OF H.R. 4236

This bill contains one section with two subsections. Subsection (a) allows for the increase in the number of members of the board of trustees from "5 to 9" to 19." Subsection (b) provides for the effective date of the bill to be at a regular or special meeting of the board.

CHANGES IN EXISTING LAW

The full Committee voted on H.R. 4236 on Wednesday, September 28, 1988, and ordered the bill reported favorably, without amendment.

INFLATIONARY IMPACT

The Bill, if enacted into law, will have no forseeable inflationary impact on prices and costs in the operation of the national economy.

CONGESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of Rule XI of the rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4236, the following estimate and comparison prepared by the director of the Congressional Budget Office under Section 403 of the Congressional Budget Act of 1974.

Congressional Budget Office,
U.S. Congress,
Washington, DC, October 14, 1988.

Hon. Ronald V. Dellums,
Chairman, Committee on the District of Columbia, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 4236, a bill to amend the Act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association, as ordered reported by the House Committee on the District of Columbia, September 28, 1988. The bill would not result in costs or savings to the federal government, and would not affect the budgets of state or local governments.

The bill would increase the number of trustees of the Frederick Douglass Memorial and Historical Association. The association receives no federal funds, and thus does not affect the budget.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is James Hearn, who can be reached at 226-2860.

Sincerely,

James L. Blum,
Acting Director.

Congress of the United States, House of Representatives, Committee on House Administration, Subcommittee on Libraries and Memorials,
Washington, DC, September 21, 1988.

Hon. Walter Fauntroy,
Chairman, Subcommittee on Fiscal Affairs and Health, Washington, DC.

Dear Chairman Fauntroy: I am pleased to be a co-sponsor of the bill, H.R. 4236, to amend the Act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association.

Throughout the years, the Frederick Douglass Memorial and Historical Association, along with the National Park Service, has provided support and additional resources in order to meet and enhance visitor enjoyment.

As Chair of the Subcommittee on Libraries and Memorials, I feel it would be beneficial to expedite this legislation and move it through mark-up at the full Committee level. Increasing the number of trustees would definitely aid the Association in meeting the needs of its expanding programs.

Please do not hesitate to contact me if I can be of further assistance regarding this or any other matter. With best wishes, I remain,

Sincerely,

Mary Rose Oakar,
Chair, Subcommittee on Libraries and Memorials.

The Frederick Douglass Memorial and Historical Association, Inc.,
September 20, 1988.

Hon. Walter E. Fauntroy,
Chairman, Subcommittee on Fiscal Affairs and Health, Committee on the District of Columbia, Washington, DC.

Dear Chairman Fauntroy: The Board of Trustees and I—as President of the Board of the Frederick Douglass Memorial and Historical Association—are pleased to support H.R. 4236, a bill to amend the Act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association.

H.R. 4236 when enacted would increase the maximum number of Trustees from nine (9) to nineteen (19).

On behalf of the Board of Trustees, I urge enactment of H.R. 4236 as quickly as possible.

Sincerely,

Mary Maxine Boyd,
President.

Government of the District of Columbia,
Washington, DC, September 19, 1988.

Hon. Walter E. Fauntroy,
Chairman, Subcommittee on Fiscal Affairs and Health, Committee on the District of Columbia, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: This is in response to your letter to Mayor Marion Barry, Jr., concerning H.R. 4236, a bill to amend the Act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association.

H.R. 4236 would provide for an increase in the Association's maximum number of members of the Board of Trustees from nine (9) to nineteen (19).

On behalf of Mayor Barry, the District of Columbia Government sees no problems with H.R. 4236, and welcomes its enactment. If you have any questions, please contact me at 727-5829.

Sincerely,

Julius W. Hobson, Jr.,
Associate Director for Federal and Congressional Affairs.

Council of the District of Columbia,
Washington, DC, September 21, 1988.

Hon. Walter E. Fauntroy,
Washington, DC.

Dear Congressman Fauntroy: Per your request, I have reviewed H.R. 4236, a bill to amend the Frederick Douglass Memorial Act of 1900. The legislation would provide for a change in the authorized number of trustees of the Memorial and Historical Association Board from the present level of five to nine members to "not less than 9 members nor more than 19 members".

My office has been informed by your office that the key agencies and community organizations involved with the Memorial support the change and that there is no known opposition to the bill. In view of this assurance and my concurrence in the stated purpose of H.R. 4236, I have no objection to the legislation.

Sincerely,

David A. Clarke,
Chairman.

H.R. 4236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. BOARD OF TRUSTEES OF THE FREDERICK DOUGLASS MEMORIAL AND HISTORICAL ASSOCIATION.

(a) Number.—Section 4 of the Act of June 6, 1900 (ch. 806; 31 Stat 662), is amended by striking out "not less than five members nor more than nine" and inserting in lieu thereof "not less than 9 members nor more than 19 members".

(b) Effective Date.—The amendment made by subsection (a) shall take effect upon the election of additional members of the board of trustees of the Frederick Douglass Memorial and Historical Association (pursuant to the amendment made by subsection (a)) at a regular or special meeting of the board called for the purpose of such an election.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Fauntroy, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Edwards of California, for 60 minutes, today.

Mr. Edwards of California, for 60 minutes, on October 19, and 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. Saiki) and to include extraneous matter:]

Mr. Courter in two instances.

Mr. Lowery of California.

Mr. Hopkins.

Mr. Crane in six instances.

Mr. Kemp.

(The following Members (at the request of Mr. Gonzalez) to include extraneous matter:)

Mr. Anderson, in 10 instances.

Mr. Gonzalez, in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Montgomery.

Mr. Roe in two instances.

Mr. Lantos in two instances.

Mr. Swift.

Mr. Morrison of Connecticut.

Mr. Traficant in four instances.

Mr. Hayes of Illinois.

Mr. Gephardt.

Mr. Kildee.

Mr. Atkins.

Mr. Hubbard.

Mr. Borski in three instances.

Mr. Erdreich.

Mr. Gray of Illinois in two instances.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On October 14:

H.R. 900. An act to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes;

H.R. 1864. An act for the relief of Helen Lannier;

H.R. 2399. An act to provide for study and research on the decline in U.S. forest productivity and to determine the effects of atmospheric pollutants on forest environments, and for other purposes;

H.R. 2772. An act to authorize construction of the Mni Wiconi Rural Water Project, and for other purposes;

H.R. 2985. An act to designate the facility of the U.S. Postal Service located at 850 Newark Turnpike in Kearny, NJ, as the "Dominick V. Daniels Postal Facility";

H.R. 3029. An act to designate the new Post Office Building in Gretna, LA, as the "William W. Pares, Jr., Post Office Building";

H.R. 4345. An act to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes;

H.R. 5059. An act to quiet title and possession with respect to a certain private land claim in Sumter County, AL;

H.R. 5423. An act to authorize continued storage of water at Abiquiu Dam in New Mexico;

H.J. Res. 488. Joint resolution designating November 6-12, 1988, as "National Women Veterans Recognition Week"; and

H.J. Res. 648. Joint resolution to encourage increased international cooperation to protect biological diversity.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2749. An act to provide certain additional fiscal year 1989 Defense authorization policies, to provide procedures to facilitate the closure and realignment of obsolete or unnecessary military installations, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 16 minutes p.m.) under its previous order, the House adjourned until tomorrow, Wednesday, October 19, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4462. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to Thailand for Defense Articles estimated to cost $50 million or more (Transmittal No. 89-01), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

4463. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting the supplemental contract award report for the period November 1, 1988 to December 31, 1988, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

4464. A letter from the Director for Administration and Management, Office of the Secretary of Defense, transmitting notification of the Department of the Navy's decision to exercise the provision for exclusion of the clause concerning examination of records by the Comptroller General from a proposed contract with the United Kingdom Government (Determination and Findings No. 88-13), pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

4465. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Thailand for defense articles and services estimated to cost $63 million (Transmittal No. 89-01), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4466. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Colombia for defense articles and services (Transmittal No. 89-03), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4467. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4468. A letter from the Secretary of the Interior, transmitting a copy of the financial exhibits of the Colorado River storage project and participating projects for the fiscal year ended September 30, 1987, pursuant to 43 U.S.C. 620e; to the Committee on Interior and Insular Affairs.

4469. A letter from the General Counsel, Immigration and Naturalization Service, Department of Justice, transmitting a report of the grants of suspension of deportation of certain aliens, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

4470. A letter from the Commissioner, Immigration and Naturalization Service, transmitting a report on the adjustment of the status of nonimmigrants to that of aliens lawfully admitted for permanent residence, pursuant to 8 U.S.C. 1255b(c); to the Committee on the Judiciary.

4471. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to enhance the raising of revenue through the collection of fees; to establish a fund for the deposit of such fees and other fines and penalties; to appropriate portions of the fund revenue; to assure that the fund revenue is available for the conservation of marine resources of the exclusive economic zone; and for other purposes; to the Committee on Merchant Marine and Fisheries.

4472. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to improve the compensation for members of the Senior Executive Service, and for other purposes; to the Committee on Post Office and Civil Service.

4473. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on lower Mission Creek, Santa Barbara, CA, together with other pertinent reports and comments, pursuant to Public Law 89-789, section 209 (80 Stat. 1423) (H. Doc. No. 100-242); to the Committee on Public Works and Transportation and ordered be printed.

4474. A letter from the Director, the Office of Management and Budget, transmitting the final OMB sequester report to the President and Congress for fiscal year 1989, pursuant to 2 U.S.C. 901 (H. Doc. No. 100-241); to the Committee on the State of the Union of the Whole House and ordered to be printed.

4475. A letter from the Comptroller General, General Accounting Office, transmitting the results of the audit of the Tennessee Valley Authority's financial statements for the fiscal year ended September 30, 1987 (GAO/AFMD-88-80), pursuant to 31 U.S.C. 9106(a); jointly, to the Committee on Government Operations and Public Works and Transportation.

4476. A letter from the Attorney General, transmitting notification of the detemination, on constitutional grounds, not to appeal the decision in Verba versus Ohio Casualty Ins. Co., pursuant to Public Law 96-132, section 21 (93 Stat. 1049); Public Law 98-411, section 203(a) (98 Stat. 1558); jointly, to the Committees on the Judiciary and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee of conference. Conference report on S. 2030 (Rept. 100-1090). Ordered to be printed.

Mr. DELLUMS: Committee on District of Columbia. H.R. 4236. A bill to amend the Act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association. (Rept. 100-1091). Referred to the House Calendar.

DISCHARGE OF COMMITTEES

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 5132. The Committees on Armed Services and the Judiciary discharged from further consideration of H.R. 5132. H.R. 5132 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PEPPER:

H.R. 5531. A bill to require States to increase high school completion rates, to establish a program of grants to States for purposes of increasing such rates, and for other purposes to the Committee on Education and Labor.

By Mr. BERMAN (for himself, Mr. BEILENSON, Mr. LEVINE of California, and Mr. WAXMAN):

H.R. 5532. A bill to authorize the exchange of certain public lands in California and Nevada; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. LUJAN:

H.R. 5533. A bill to authorize the Secretary of Transportation, under the Strategic Highway Research Program, to expend $5,000,000 for an asphalt research program; to the Committee on Public Works and Transportation.

H. Con. Res. 391. Concurrent resolution expressing the sense of the Congress that the House of Representatives and the Senate shall support the Provincial Government of Alberta, Canada, in a feasibility study for extracting oil and other minerals from oil sands, which would answer critical questions about the potential of tar sands resources in both the United States and Canada, while at the same time supporting a United States company which has developed an exciting new solvent extraction technology; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

478. By the SPEAKER: Memorial of the Legislature of the State of California, relative to recovery of natural resources damage by 1987 wildfires; to the Committee on Agriculture.

479. Also, memorial of the Legislature of the State of California, relative to the Emergency Broadcast System; to the Committee on Energy and Commerce.

480. Also, memorial of the Legislature of the State of California, relative to Federal aid to the Azores; to the Committee on Foreign Affairs.

481. Also, memorial of the Legislature of the State of California, relative to the Central Valley project; to the Committee on Interior and Insular Affairs.

482. Also, memorial of the Legislature of the State of California, relative to the appointment of Federal Aid in Sport Fish Restoration Act funds to States; to the Committee on Merchant Marine and Fisheries.

483. Also, memorial of the Legislature of the State of California, relative to National Sir Winston Churchill Week; to the Committee on Post Office and Civil Service.

484. Also, memorial of the Legislature of the State of California, relative to Federal income taxation; to the Committee on Ways and Means.

485. Also, memorial of the Legislature of the State of California, relative to the gnome project; jointly to the Committees on Science, Space, and Technology and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2717: Mr. GORDON.

H.R. 2828: Mr. ROSE, Mr. FRANK, Mr. HOYER, and Mr. LEVIN of Michigan.

H.R. 3410: Mr. DYSON.

H.R. 4048: Miss SCHNEIDER.

H.R. 4277: Mr. EVANS and Mr. NIELSON of Utah.

H.R. 4498: Mr. GONZALEZ, Mr. RICHARDSON, Mr. DOWDY of Mississippi, Mr. MANTON, Mr. YOUNG of Alaska, and Mrs. COLLINS.

H.R. 4575: Mr. MFUME and Mr. LAGOMARSINO.

H.R. 5033: Mr. EVANS.

H.R. 5075: Mr. KOSTMAYER, Mrs. MEYERS of Kansas, and Mr. CHANDLER.

H.R. 5120: Miss SCHNEIDER.

H.R. 5351: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5352: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5353: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5354: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5355: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5356: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5357: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5358: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5359: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5360: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5361: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5362: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5363: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5364: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5365: Mr. BURTON of Indiana and Mr. HUNTER.

H.R. 5374: Mr. BUNNING, Mrs. BENTLEY, Mr. BUECHNER, Mr. SWINDALL, Mr. BURTON of Indiana, and Mr. HUNTER.

H.R. 5400: Mr. NEAL.

H.R. 5422: Mr. MCMILLEN of Maryland, Mr. PERKINS, Mr. STOKES, Mr. OWENS of Utah, and Mr. MCEWEN.

H.R. 5426: Mr. LEWIS of Florida.

H.J. Res. 501: Mr. YATES, Mr. LANCASTER, Mr. MARTINEZ, and Mr. BRENNAN.

H.J. Res. 526: Mr. JENKINS, Mr. WILSON, Mr. MCEWEN, and Mr. BRENNAN.

H.J. Res. 651: Mr. PORTER, Mr. SCHUMER, and Mrs. ROUKEMA.

H.J. Res. 660: Mr. WAXMAN, Mr. FOLEY, Mr. SYNAR, Mr. STUMP, Mr. RITTER, Mr. HERGER, Mr. BORSKI, Mr. CHANDLER, Mr. DAUB, Mr. BOULTER, Mr. EVANS, Mr. GRANT, Mr. DWYER of New Jersey, Mr. GUARINI, Mr. HEFNER, Mr. HYDE, Mr. KEMP, Mr. DICKS, Mr. KOLBE, Mr. JONES of Tennessee, Mr. LATTA, Mr. DONNELLY, Mr. SCHUMER, Mr. ROWLAND of Georgia, Mr. ROWLAND of Connecticut, Mr. HAYES of Louisiana, Mr. FUSTER, Mr. TRAXLER, Mr. BRENNAN, Mr. CALLAHAN, Mr. ST GERMAIN, Mr. DONALD E. LUKENS, Mr. HAMMERSCHMIDT, Mr. BENNETT, Miss SCHNEIDER, Mr. CARPER, Mr. ROBERTS, and Mr. KOLTER.

H. Con. Res. 362: Mrs. COLLINS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

240. The SPEAKER presented a petition of The Student Body Government, Gallaudet University, Washington, DC, relative to the enactment of H.R. 4992; which was referred to the Committee on Energy and Commerce.

SENATE—*Tuesday, October 18, 1988*

The Senate met at 11 a.m., and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us pray for Senator DON NICKLES, who undergoes surgery today at Mayo Clinic.

(The Senate observed a moment of silence.)

And we know that all things work together for good to them that love God, to them who are called according to his purpose.—Romans 8:28.

Sovereign Lord, when things do not work out as planned, when important schedules are changed or canceled, when leaders feel the stress and pressure of unfinished business and peers are impatient, when disappointment and frustration prevail, it is encouraging to know that a sovereign God is able and will work benefit and blessing out of the situation for those who take Him seriously and trust Him. Lord, we believe; help our unbelief. Lord, give us Your peace for Your name's sake. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 18, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADERS' TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond 11:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

YOU'RE WRONG, MR. VICE PRESIDENT, LIBERALS STAND TALL

Mr. PROXMIRE. Mr. President, the strangest twist in the Presidential campaign is the all-out attack on liberals—not on commie symps, not on socialists, not on Nazis, not on pilfering princes of privilege, but on liberals. A few years ago, liberal was an honored word. Many Americans proudly aspired to be called liberals. After all, what is the most treasured value of our Democratic Republic? Is it material gain? No. Is it an easier life? No. So what is it? I'll tell you what it is. It's one simple word: Freedom. No State has won a stronger reputation for conservatism than New Hampshire. So what is the New Hampshire motto carried on the State's license plates? Here it is: "Live free or die." And what does liberalism mean? It means one thing. It means freedom. Freedom, freedom, freedom, freedom!

Think of those great heroes of this Republic who have contributed most to the fundamental principle on which this country's purpose has been based.

More than any other American, the liberal Thomas Jefferson provided the first great cry of liberty with our Declaration of Independence. The liberal John Madison riveted liberty into our Republic with a liberal Constitution that brilliantly balances and limits the Government's authority over all free Americans. It was the liberal Madison who added the Bill of Rights. And what does it do? It guarantees those liberal rights: freedom of worship, freedom of speech, and freedom of the press, among others.

Those freedoms represented liberal doctrine in the period from 1789 through 1791 when they were adopted. And they still are liberal doctrine. Without that powerful liberal principle riveted into the Constitution, this would be quite a different country. That liberalism has pushed the Supreme Court squarely to the side of liberalism, of freedom and against encroachments on freedom by government. It made possible the kind of free and unremitting criticism without which there can be no progress for the human spirit. As John Stuart Mill argued almost 130 years ago in his great "Essay On Liberty," two of the most terrible crimes in human history were committed by two remarkable and advanced countries long before our Constitution was adopted because they didn't have a liberal John Madison with the force to persuade their nation to provide for the liberality of our first amendment. Listen to Mill on the death of Socrates:

> Socrates was the acknowledged master of all the eminent thinkers who have since lived—whose fame, still growing after more than two thousand years, all but outweighs the whole remainder of the names which make his native city illustrious—was put to death by his countrymen for impiety and immorality. Impiety in denying the gods recognized by the state; immorality in being by his doctrines and instructions a "corruptor of youth." Of these charges the tribunal, there is every ground for believing, honestly found him guilty, and condemned the man who probably of all then born had deserved best of mankind, to be put to death as a criminal.

Mill went on to write:

> To pass from this to the only other instance of judicial iniquity, the mention of which, after the condemnation of Socrates, would not be an anticlimax: the event which took place on Calvary, rather more than eighteen hundred years ago. The man who left on the memory of those who witnessed his life and conversation such an impression of his moral grandeur that eighteen subsequent centuries have done homage to him as the Almighty in person was ignominiously put to death, as what? As a blasphemer. Men did not merely mistake their benefactor; they mistook him for the exact contrary of what he was.

Jefferson and Madison were truly great liberals. So was Abraham Lincoln. When Abraham Lincoln became President of the United States, the cancer that was eating the heart out

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

of our Constitution was the enslavement of black women and men. In his Gettysburg Address, Lincoln called for "a new birth of freedom." Lincoln's Emancipation Proclamation provided that new birth of freedom for an America "conceived in liberty." This was the liberal force that demolished slavery and made this a truly free country.

There were other great liberals. Theodore Roosevelt used the bully pulpit of the Presidency to lead the battle against the trusts that had monopolized much of American business and throttled the freedom of competition on which our economy depended. It was the same liberal President Theodore Roosevelt who established the tradition of preserving the marvelous physical beauty of our country, the purity of the water we drink and the air we breathe. Since then, other liberals have carried on the struggle to preserve the environmental freedom for all Americans to enjoy.

There was the liberal Woodrow Wilson with his "New Freedom," advancing the freedoms that Theodore Roosevelt had struggled to begin. It was Wilson's aborted League of Nations conception that began the internationalization of liberalism and the doctine of freedom.

And there was the liberal Franklin Roosevelt. As FDR said:

> We are born to freedom, and believing in freedom are willing to fight to maintain freedom. We and all others who believe as deeply as we do, would rather die on our feet than live on our knees.

FDR spoke for an America to lead the free world in liberalism or, as he put it, freedom. Here's the way he put it in a message to the Congress in January 1941:

> We look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression—everywhere in the world. The second is freedom of every person to worship God in his own way—everywhere in the world. The third is freedom from want—everywhere in the world. The fourth is freedom from fear—anywhere in the world.

There was the proudly liberal Harry Truman, who presided over a generous and liberal reconstruction after World War II. It was the liberal Truman who won international support for the United Nations, the great peace-keeping organization that has succeeded where the League of Nations failed. Sure, the United Nations has its serious faults. It also has had some remarkable peace-keeping achievements. It was Truman's liberal Marshall plan that was an act of liberal generosity and sensational success in rebuilding a devastated Europe and Japan. It was Truman who integrated the Armed Forces. It was the liberal Truman administration that conceived this Genocide Convention that made the terrible crime of mass ethnic or racial destruction an international crime. It was the same liberal Truman who maintained civilian control of the Nation's Armed Forces by firing Gen. Douglas MacArthur, the super war hero of World War II, when MacArthur refused to accept the President's supremacy.

And then came the liberal John F. Kennedy. President Kennedy gave concrete dimensions to FDR's four freedoms both at home and abroad. He and the liberal Lyndon Johnson, who succeeded him, fought for and achieved an immense advance in civil rights with the real freedom of opportunity for blacks and other minorities to patronize equally with the white majority—places of public accommodation, to have equal opportunity for employment, to have equal access to educational institutions and to enjoy the same opportunity whites enjoy to buy a home in a clean, crime-free environment with good public schools. Kennedy's Peace Corps has begun to make the FDR dream of everyone in the world free from want a tangible, if still distant, goal.

And just to bring who the liberals really are up-to-date, who are the people who are protesting communism in the streets of Poland, Yugoslavia, Latvia and Algeria at this very moment? Not conservatives. Horror of horrors. These anti-Communists right on the firing line between freedom and tyranny are liberals. It is OK for them to be liberals when protesting communism's failures according to the right wing, but perish the thought that we entertain any liberals here at home.

Finally, what is the best arbiter of a word when the meaning is in dispute? How about the dictionary? I have consulted two dictionaries. One was the Random House edition revised in 1980. This gave 14 definitions of liberal. Here is a sampling of that dictionary's meaning of liberal: "favorable to progress or reform"; "favorable to concepts of maximum individual freedom possible, especially as guaranteed by law and secured by governmental protection of civil liberties"; "favoring or permitting freedom of action, especially with respect to matters of personal belief or expression"; "free from prejudice or bigotry tolerant".

I consulted the second edition of Webster. The definitions are almost identical to those in the Random House volume. But Webster provides nine definitions. Only one of the nine definitions differs from those in the Random House dictionary. There is only one that might provide some comfort to the Bush-Quayle ticket. It reads as follows: "excessively free or indecorous behaviour; licentious." Now get this—Webster defines this definition as "obsolete."

Mr. President, any fair-minded person seeking to define "liberal" would come to the conclusion that the Webster dictionary does when it compares liberal with other terms such as progressive, advanced, radical or left. Here is the way Webster puts it: "liberal implies tolerance of others' views as well as open-mindedness to ideas that challenge tradition or established institutions."

The Republican candidates for President and Vice President have taken this fine word, "liberal." They have mangled it. They have distorted it. They have followed the prescription that Lewis Carroll put in the mouth of Humpty Dumpty in "Alice in Wonderland." With supreme arrogance, Humpty declared: "When I use a word, it means exactly what I say it means, neither more nor less."

The great strength of America is that this country has been blessed with both liberals and conservatives. Both have played an honorable and constructive role in building our country to its present remarkable status. Certainly, any objective appraisal of liberal and conservative Presidents of the United States would find an honored place for those liberal Presidents: Jefferson, Madison, Lincoln, Theodore Roosevelt, Woodrow Wilson, Franklin Roosevelt, Harry Truman, John Kennedy and Lyndon Johnson. In American Presidential history, "liberal" has been a proud and a good word. It still is.

THE IR&D PROGRAM

Mr. PROXMIRE. Mr. President, I would like to make a few closing remarks about a little known defense program called the Independent Research and Development, or IR&D Program. Although the Pentagon spent $3.6 billion on this program in 1987, few people outside the defense community know about it because it is not a line item in the budget.

Proponents of the IR&D Program argue that the IR&D Program allows contractors to take initiative in exploring new concepts. In practice, the majority of these projects are suggested if not directed by the services, and so do not allow for contractor initiative. Furthermore, the funds are spent almost entirely on development rather than research. A study recently performed by the Rand Corp. found that only 10 percent of all IR&D money was spent on basic research. This finding is consistent with other studies.

The merits of the IR&D Program have been questioned for years both inside and outside the Pentagon. One criticism is that because of the way the program is structured, most of the funds go to the larger contractors. Thus, IR&D acts as a barrier to new entrants into the defense industry.

Last year, a report issued by the Pentagon's own Inspector General was highly critical of the management of the IR&D Program because of inadequate procedures concerning the military relevancy of IR&D projects.

In 1986 Army Under Secretary James Ambrose undertook a major effort to convince the Defense Department to abandon its policy of funding major portions of defense contractor's independent research and development programs. The Army's plan to eliminate IR&D payments gained the tacit support of Navy Assistant Secretary Everett Pyatt.

In spite of sharp criticism funding for the IR&D Program has risen rapidly. In real terms, IR&D has increased by an average of 6.8 percent per year for the past 10 years.

However, the growth in funding for the IR&D Program may finally be coming to an end. Limited defense funds are forcing the Pentagon to make choices between defense programs. The Defense News reported on July 4, 1988, that the Defense Resources Board decided to reduce the IR&D Program by $1.2 billion. I understand that it is intended that this be done over the next few years.

In addition to this, at my initiative, the Defense appropriations bill for fiscal year 1989 calls for the Defense Department to report back to Congress on the state of the IR&D Program. To be credible and meaningful, this study should be done by the Pentagon inhouse and not farmed out to a private group.

It is my hope that they will take a close look at the program. I hope they look at how the program actually operates, not just at how the program is supposed operate. Serious scrutiny of IR&D by Congress and the Pentagon is long overdue. Despite the claims by giant defense firms who benefit from what has amounted to a free, largely unreviewed ride, IR&D deserves a much lower priority than it has received. It is a luxury that we can not afford.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

BICENTENNIAL MINUTE

DECEMBER 7, 1829: THE FIRST SENATE PAGE

Mr. DOLE. Mr. President, when the Senate of the 21st Congress convened 159 years ago, on December 7, 1829, there was a new, very young face in the Chamber. The youngster was the first Senate page, 9-year-old Grafton Hanson, grandson of Senate Sergeant-at-Arms Mountjoy Bayly.

The Senate had had older messengers ever since 1789, but it was not until Senator Daniel Webster of Massachusetts appointed Hanson that the tradition of employing young pages began. Hanson grew up in the Senate, serving it in a variety of jobs and leaving only in the 1840's to fight in the Mexican War, in which he was decorated for bravery. Hanson's affection for this institution has been shared by many pages. The second page, appointed by Webster in 1831, was 12-year-old Isaac Bassett, who served the Senate for the rest of his life. For 64 years, from 1831 to 1895, from Presidents Jackson to Cleveland, from page to Assistant Doorkeeper, Bassett seldom missed a day.

The pages who served the Senate in the 19th century were expected to keep the ink wells and sand shakers filled, to light the gas lamps, and to keep the Chamber's wood stoves burning. When messages needed to be delivered downtown, a page was dispatched on horseback. Once a week all pages were given tickets entitling—and expecting—them to bathe in the big marble bath tubs down in the Capitol basement.

While their duties have changed since the days when they wore blue knickers and jackets with shiny brass buttons, pages' attachment to this institution has remained constant. It is not surprising that several pages have returned as Senators, Representatives, or Senate officers. Our colleagues Senators David Pryor of Arkansas and Christopher Dodd of Connecticut began their careers on the Hill as pages, as did Joe Stewart, our current Secretary of the Senate.

I commend all current pages for the good work they are doing, even though we do not have horses.

RETIREMENT OF SENATOR LAWTON CHILES

Mr. DOLE. Mr. President, every Member of this body is aware of the formidable task facing the man who is chairman of the Budget Committee. And as someone who has had a little experience trying to put together a budget that can garner the support of a majority of the Senate, I have special respect for anyone in that job.

So, I take my hat off to Lawton Chiles, the current Budget Committee chairman, who will retire at the end of the session. Along with my good friend Pete Domenici, he is in large measure responsible for the smooth functioning of the budget process this year. In fact, it operated so smoothly that for the first time in recent memory, the fiscal year began without having to approve a stopage, emergency funding bill.

Of course, Lawton played a pivotal role in budget deliberations prior to his chairmanship. He has shown, time and again, his willingness to work with Members on this side of the aisle, to forge a consensus not only on the budget, but on other issues as well. As a matter of fact, Lawton has described himself as "a fellow who sort of comes out in the middle."

When Senator Chiles first came to the Senate, he was best known as the proponent of the Federal "sunshine" law, which required all Government agencies to hold their meetings in public. Lawton fought just as hard to see to it that Senate committee meetings were open to everyone.

But then, Senator Chiles has broadened his horizons. In addition to the principle role he has played on the budget front, he has been a key player on national security and foreign policy issues—including the MX missile, and the strategic defense initiative. And Senator Chiles has been a welcome and ardent supporter of freedom fighters around the world—in Nicaragua, Afghanistan, and Angola.

Mr. President, Lawton Chiles, in his own down-home, unpretentious way, has left his mark, not only on the Senate, but on the fiscal policies of this country for years to come.

I certainly wish him an Rhea the best of luck in the future because he had done an outstanding job and they have both made contributions to the Members of the Senate and the Senate family.

RETIREMENT OF SENATOR DAN EVANS

Mr. DOLE. Mr. President, another Member retiring is a Member from this side of the aisle this year, Senator Dan Evans.

He has only been a Member of the Senate for 5 years, but I think everyone will agree that during that time, he has been a forceful and often effective voice on a wide array of issues, both national and international.

Clearly, the 12 successful years he served as Governor of the State of Washington prepared him well for his Senate duty. And while he may have found the pace and rules of the Senate frustrating at times, and he did, he clearly has found ways to make his imprint.

Both energy and the environment have been key concerns for Senator Evans, and his concern has had results. For instance, because of his involvement, the Federal Energy Regulatory Commission now gives far more weight to the protection of fish and wildlife when it considers renewal of licenses for Federal hydroelectric dams; and because of Dan Evans, States and regions that do not establish waste sites for low-level nuclear wastes by the established deadline, will have to pay stiff financial penalties.

On the international front, Senator Evans has frequently taken positions that ran counter to that of the Republican majority. But he has always been a true voice of conscience, and shown courage and tenacity in the face of opposition. One cannot help but respect Senator Evans' independence and commitment to his beliefs.

One area where Senator Evans has wholeheartedly backed the administration, and carried the ball for many of his Republican colleagues, is on protectionism. Dan Evans has been a strong, tireless, and effective advocate here on the Senate floor for free and open markets in world trade.

Senator Evans has accumulated an exceptional record as a public servant—in Washington State and in Washington, DC. And I know that whatever he chooses to do when he leaves the Senate, he will do well.

LUNCHEON IN HONOR OF SENATOR ROBERT C. BYRD

Mr. DOLE. Mr. President, on Wednesday, October 5, I had the pleasure of hosting a luncheon for all Senators as a tribute to Majority Leader Robert C. Byrd for his many dedicated years of service as Democratic leader of the U.S. Senate.

The purpose of that luncheon was to pay honor—from both sides of the aisle—to a man who has left his mark on all of us and on the Senate itself. Senator Byrd's remarks on that occasion gave us further insight into him as a person and his deep convictions regarding this institution.

As Senator Byrd steps down this year as majority leader, I believe it is a fitting tribute to honor him further by printing the transcript of that luncheon into the Record.

Accordingly, Mr. President, I ask unanimous consent that the transcript be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Luncheon in Honor of Senator Robert C. Byrd for His Many Years as Democratic Leader, 1977–88

Senator Byrd entered the Caucus Room, escorted by Senator Dole. (Applause.)

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us bow our heads together in prayer.

Eternal God, Lord of Creation, Ruler of the Nation, let this quiet moment be something other than a formality to be gotten out of the way.

On this special occasion, make us aware of Your Presence in our midst.

We praise and thank You for the man being honored today, who represents everything that is great and good about America. We thank you for his leadership, for his faith and his love for the Bible, for his memory, for his integrity, and for his courage. We thank You, Lord, for the respect in which he holds the U.S. Senate. We thank You for his very lovely lady, Erma, and we ask Your blessing upon this time.

As we enjoy this good food, so carefully prepared and lovingly served, may we remember with compassion that just blocks away from us, there are people who had no breakfast or lunch today, will have no dinner this evening, who had none yesterday, will have none tomorrow.

So help us, Lord, to receive with gratitude these gifts. We ask it in the name of Him Whose love is unconditional, universal, and eternal. Amen.

Mr. Dole. We will now proceed to have lunch, to be followed by the program.

(Lunch served.)

Mr. Dole. Thank you all for coming here today to honor Bob Byrd.

I like Bob Byrd a great deal. I liked him better when he was minority leader and I was majority leader. But that can change too.

We have our differences—in fact, we had a little discussion this morning on the floor—but that does not mean anything. We are friends.

Three weeks ago, Bob Byrd hosted a magnificant dinner on the Capitol's West Terrace in celebration of the 100th Congress. Those of us who attended that event will remember his after-dinner remarks. He talked about the Senate as a great institution. A highlight of that talk was his nomination of past and present Senators to a hypothetical Senate Hall of Fame. Among outstanding Senators from the distant past, Robert cited giants such as Henry Clay, Daniel Webster, and John Calhoun. From our own era, he included such worthy candidates as Mike Mansfield, John Stennis, Strom Thurmond, and Bill Proxmire.

Bob Byrd's "Hall of Fame" concept reminded us again just how rich the history is here—how we are surrounded daily by the places and faces of great moments, past and present, in American history.

No doubt about it—we take it for granted sometimes. I found myself this morning saying "this place." Senator Byrd reminded me that it is a great institution, not just a place. So we do take it for granted, or we're too busy to notice most of the time.

We don't agree on everything. Some of you may have noticed that. But we do agree on one thing, and that is that we love the Senate, we love the institution (and we have great respect for everyone in this room, even though we may be of different parties and different philosophies.)

This is where Bob Byrd is probably unique in Senate history: Thanks to his limitless capacity for hard work, his unequaled mastery of the Senate rules and precedents, and above all, his intense appreciation of the Senate as an institution, vital to our constitutional system of checks and balances. That is what has made Bob Byrd a legendary figure—and I say that in all sincerity—a legendary figure in the Senate's glorious history.

There is one man among the 1,782 persons who have served as Senators during the first 100 Congresses who has made it a personal mission to keep the history of this institution alive and accessible to this generation and the next, and that is Robert Byrd.

Ironically, a century ago—March 1889—the Senate somehow let its 100th anniversary pass without much as a single speech, ceremony or commemorative publication. In fact, the Senate adjourned on the eve of the anniversary date and did not reconvene for another—9 months. Nine months off! Right now I would settle for 9 days! (Laughter)

In any event, the 100th Congress will not pass quietly off the stage of history, and we can thank Senator Byrd for that. Next year America will enjoy a rich program of conferences, publications, exhibitions, and ceremonial events honoring 2 centuries of history.

In addition, we look forward, later this year, to the publication of 39 of the majority leader's Senate history talks in the first of a multivolume series in honor of the Bicentennial.

The final chapters of Robert Byrd's Senate career are not likely to be ready for some time. But one fact is already clear: he has set a high standard for his ultimate successors—as a Senator, as a legislative leader, and as a statesman.

It has been not only an honor but also a pleasure for me to work closely with him in the past 4 years, and I trust that we will continue to do the same for many years to come.

As I look back and reflect about the dinner on the terrace 3 weeks ago and about all the Senators who Senator Byrd referred to in his hypothetical Hall of Fame, I believe I can say, in the presence of my colleagues from both parties and the members of my staff and Senator Byrd's staff and other Senate employees—in the presence of former members, Senator Long, Senator Muskie, and Senator Huddleston, who are special guests today—that we should add one Senator to that hypothetical Hall of Fame, and that is Senator Robert C. Byrd.

Thank you very much. (Applause)

We will have remarks by Senator Jay Rockefeller, to be followed by Senator Ted Stevens and Senator Ted Kennedy, and then I will make a presentation to Senator Byrd.

Mr. Rockefeller. Thank you, Bob.

The West Virginia people came from various places, but most people do not recognize that many of them came over because there was a shortage of slaves on the Virginia plantations. They came from the debtor prisons of Ireland, England, Wales. They were protestants; they were tough; they were principled. They were brought to Virginia, and some of them were put to work on the plantations. The people did not like that, did not want that, so they fled. They fled westward, and they fled into the mountains of West Virginia. At that time, of course, that was Virginia. But that bred a very hardy, independent, fierce kind of person, from which the whole tradition of the mountain person has come: the Hatfields, the McCoys—people who do not easily submit to authority, who have strong views and extremely strong family values.

Nothing has come easily for West Virginia at any time in its history, that I can remember, and nothing has come easily for Robert C. Byrd. He came from that tradition: Out of the coal fields, working in the butcher shop, working at the gas station, always dedicated, tough, single-minded. He entered politics, and is the only man ever elected from West Virginia to both Houses of the State legislature and both Houses of Congress. His election records in West Virginia can never be equalled. He is the personification of that tough, independent, mountain, West Virginia man who has had to do it the hard way, on his own. I respect him for that. I respect him for his strong character commitment toward public service.

One of the greatest universities in this country polled its students last year, and only 1 percent of them indicated any interest about getting into public service, be that elective office or otherwise. I think public service is one of the most honorable professions that any man or woman can seek in this country. I believe that when we have the honor to be elected or appointed, we have to do our best, and that means hard work.

Nobody works harder than Senator Byrd. Nobody has worked harder than Senator

Byrd has over these years, and he will continue to do so. He is up for reelection this year; he will win; and he will be back at it next year.

I respect him for the strength of his marriage. I commented on that at the dinner that Senator Dole and his wife and my wife and I gave for Senator Byrd and Erma a number of months ago—50 years of marriage, a close, dependent relationship.

I am proud to be his junior colleague. This morning when I was presiding, at 10 o'clock, when the Senate opened, Senator Dole and Senator Byrd exchanged, in some fashion, some words. When that was over, Senator Byrd started the business going, and then he kind of pulled back and started to reflect on something. I respect that everytime I see it—that he pulls back from the business of the Senate and starts to philosophize a bit. There is so much of that in him. He has seen so much, done so much, knows so much, and gives such a great name to public service and to West Virginia. (Applause)

Mr. STEVENS. Bob Dole, thank you for permitting me to participate in this program.

Robert, I am glad to have a chance to speak to the Senate about the years we have served together. For eight years, on the floor, I seemed to be the one to open and to close and to talk to you in between those long hours, and I want to tell the Members of the Senate that I learned a great deal about Robert Byrd.

He was valedictorian of Mark Twain High School in West Virginia, in 1934; had various jobs, as Jay has mentioned—from the gas station to the butcher shop to the shipyard, and then into the legislative career that Jay also spoke about.

The first time I heard about it, I was really amazed to know that Senator Byrd began law school after he came to Congress, night law school, and finished after he came to the Senate. I think of the times when we all have problems about keeping our schedules, but that, in particular, amazed me.

What amazed me more is that, as a Member of the Senate, he received his degree cum laude. It takes a lot of time to go through law school. It takes more time and extra hard work to receive your degree with honors.

Then I thought about some of the things that Senator Dole mentioned: Senator Byrd's incredible knowledge of the Senate rules and what the system means to the country. I think the fact that Senator Kennedy and I and others have been on the Commission on the Bicentennial of the Constitution has driven home to us the real meaning of the institution and the role that the Senate plays in preserving the Government, which has done so much for us and for our people and for the world.

You have to go through what I went through once, in losing a wife, to understand what it means to have a family, and I remember, Bob, what you did at that time. I will never forget it. It was the essence of family when Senator Byrd sent a military plane with the colleagues who had served with us, whose wives knew Ann very well, to Alaska, in December, to attend that funeral and to be with me. It was a gesture of great compassion and understanding, one my family and I will cherish forever.

But then my life came back again. I was remarried, and Catherine became very close to Senator and Mrs. Byrd. We realized even more what it had meant to serve with Bob Byrd in the Senate; because those of you who have wives, as well as those of you who do not, must be aware that things have changed around here.

There is now a room in the Senate where wives can have meetings and lunches, and there is a different attitude toward the role that our spouses play in our endeavors for the country.

Incidentally, if you have not heard about it, you had better talk to Joe Stewart about the little pin you are supposed to buy for your wife to commemorate the 100th Congress. Senator Byrd arranged for that, and I just learned that I am indebted to him for the purchase I must make. (Laughter)

It is true that Senator Byrd, in his history lessons, has provided a new understanding of the traditions of the Senate. I think that until 1984, I sat through every one of those lessons. His thoughtfulness has carried through in his approach to the Senate as a family.

I second what Senator Dole said about Senator Byrd being in the Hall of Fame of the Senate. Notwithstanding what many of you think about the hours and everything else that goes on here, the role of the Senate as a family has changed in the 20 years I have been here. Today it is a family. It is not a group of people from individual States who go their own way. We have had more family functions in the last 8 to 10 years than we had, I think, since World War II, or when I served downtown as a young lawyer.

This was supposed to be a short comment, but I feel very close to Robert Byrd. He has never once broken his word to me, and he has always responded when I made an inquiry. There is nothing else we can request here except that a Senator keep his word and respond to another Senator.

Thank you very much for allowing me to participate. (Applause).

Mr. KENNEDY. I, too, join in expressing our appreciation to Bob Dole for hosting this wonderful occasion.

I see we have a quorum here now, Bob, so maybe we could pass the minimum wage. (Laughter).

It is good to see Bob Dole holding up so well. When George Bush chose Dan Quayle in New Orleans, it was quite a surprise to all of us. Bob doesn't know what to do with his acceptance speech.

The suspense is killing all of us. After all the hype we have had, today is the day we'll see how our men perform. Of course, I'm referring to the game this afternoon between the Oakland A's and the Boston Red Sox.

All of us know what Roger Clemens is to the Boston Red Sox and Larry Bird is to the Celtics, Bob Byrd is to the United States Senate.

When I first arrived in the United States Senate, Bob used to introduced me as President Kennedy's little brother. Time went on, and he introduced me as Joe Kennedy's uncle. Now, it's Patrick Kennedy's father. I think I'm making progress. (Laughter.)

In the early days, Bob and I didn't always see eye to eye. But our friendship finally blossomed the day he took me aside and gave me one of his most cherished secrets. I've been using Bob's hairdresser ever since. (Laughter.)

Seriously, I've learned two very important lessons in politics. First, it is difficult to run against an incumbent President; second, it is impossible to run against Bob Byrd.

He has been the minority leader and the majority leader, and I know he agrees that majority is better.

I doubt that any Senator has ever served this institution more faithfully, effectively, or fairly than has Bob Byrd.

Bob is famous for his mastery of the Senate rules, but he deserves even greater credit for his mastery of the issues. He has served the country well, not only as a great Senator who represents West Virginia, but also as a great Senator who has served this institution so well and so proudly. This is a fairer country and a more just Nation because of the work of Bob Byrd. This is a stronger Nation and a more peaceful world because of Bob Byrd. His contributions are very, very special, and we know they will continue.

I think that all of us, no matter what our party, are proud to have him as a Senate leader, and we are proud to have him as a friend.

We love you, Bob, and we know that we'll be just as proud of you in the years ahead as chairman of the Appropriations Committee. (Applause.)

Mr. DOLE. Thank you very much, Ted, Ted, and Jay.

First, I would like to present Senator Byrd a letter received today from the President of the United States:

THE WHITE HOUSE,
Washington, October 4, 1988.

Hon. ROBERT C. BYRD,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR ROBERT: As your many friends gather to honor you, I want to join in commending you for your decades of outstanding service to the United States Senate.

I have long admired your dedication to the United States Senate as an institution to which the Constitution assigns vital roles in the goverance of the Nation. Due to your leadership, the Senate remains the great deliberative body that the Framers of the Constitution contemplated.

I know that your colleagues will continue to benefit from your counsel in the Senate in your new responsibilities, and I trust that my successor in office will benefit from it, too.

Nancy and I particularly appreciate the many courtesies that you have extended to us in our eight years in Washington. We wish you and Erma every happiness in the years ahead.

Sincerely,

RONALD REAGAN.

(Applause.)

With the help of Senator Fowler the other day, we passed a Senate resolution, Bob. I don't know whether you know about it. You were absent from the floor. I know that you don't want to give up any leadership prerogative, but we did want to surprise you.

It is a resolution sponsored by 99 Senators commending you for your leadership. I will not read it all, but it expresses the feelings of all of us. We express our deep appreciation to you for your dedication. I must say that I had thought of offering an amendment on acid rain, but we were able to overcome that with the help of Al Simpson. (Laughter)

It does express our feelings, and I congratulate all my colleagues for voting "aye." We did it rather rapidly.

You may have seen on television the fellow who mumbles all the time. Dave Boren knows who it is.

Mr. BOREN. Jim Boren.

Mr. DOLE. That is how I got this resolution through without Bob Byrd knowing about it. (Applause)

Bob, if you will come up, we have a gift we would like to present from all of us. Senator Thurmond is the strongest man in the Senate. (Laughter)

Mr. DOLE. You will notice on close examination that there are depicted the four sites where Congress has been located; and on the little flag, it says: "Keep on ticking, Bob." It has engraved the years you have served as the Democratic leader—the majority leader and the minority leader. It comes from all of us, with our best wishes.

Bob, again we thank you for permitting us to honor you.

I didn't ask him, because I knew he would say no, so I asked Joe, and Joe said, "Maybe." But we did it anyway.

We're very proud that you let us do this, because we do admire your leadership, how much you have meant to all of us in the Senate, and what you have meant to the Senate as an institution. (Applause, guests rising).

Mr. BYRD. Bob, I thank you for the many, many manifestations of your friendship. This is another one in a long series.

I thank our former colleagues—Ed Muskie, Russell Long, Dee Huddleston—for paying me the honor—and I make that very personal—paying me the honor of being here today.

I thank the Chaplain for his prayer, and I thank the musicians for their music.

I thank all of you not only for your friendship but also for your understanding and forgiveness over the years. I have never felt it to be my purpose here to make myself liked. That does not mean that I have not liked you. I don't show it very much, but I do.

One day, I will leave the Senate, and I will leave not harboring an ill wish or an ill feeling against anyone with whom I have ever served.

I am deeply grateful to Jay Rockefeller, as my colleague. He is a splendid colleague, and I count it to be my good fortune to be his.

I thank Ted Stevens for the years of friendship about which he spoke. My feeling toward Ted is deep and it is warm.

I thank Ted Kennedy.

Ted, perhaps when I am no longer majority leader, I can get a haircut at least once every three weeks. (Laughter) As it is now, it is a month to six weeks.

I cherish our genuinely deep and lasting friendship.

Perhaps I should just take a moment to say to you two or three things which will perhaps help you to understand this enigma which really does not understand itself.

I have been to one movie in over 40 years, and I walked out of that one. (Laughter.)

Yul Brynner was playing in that movie, and I became bored and walked out.

In the 36 years I have been in Washington, I attended three baseball games when the old Washington Senators were here—two of them in a doubleheader, one afternoon. (Laughter.)

Through all these years in the Washington area, I have been to one football game. I went at halftime to crown the West Virginia queen.

So you can understand why a lot of people scratch their heads when they look at Robert Byrd.

I like my own West Virginia football team It ranks about number 7 out of the top 10 now. I am a big rooter for West Virginia; a big rooter for the Washington Redskins, too. My grandchildren pull for the Redskins.

I don't watch many games on TV, because I feel that when you've seen one game, you've seen them all. (Laughter, applause.)

I could run out every play right here in front of you, if we had the time. I can kick, I can punt, I can catch the football, I can run with it, I can tackle, and I can be tackled.

I watched a few games a few years ago—once I start watching, I don't like to leave the television set—and I said to myself, "What have I to show for the 3 hours that I've spent?"

I spend a lot of time in the Senate, on the floor and in the office. For 22 years now, I've been doing just what I'm doing today on the floor. You wonder, what is that fellow's relaxation? He is perfectly wooden, if you watch him on television. He has no charisma. His hair is purple. (Laughter)

And, gosh, we've heard all our lives these stories about Bob Byrd and what a hard time he had. Playing the fiddle. What does he ever do for fun? That fellow will go through life and never know he's been around, except to stand on the Senate floor and make a motion.

I want to tell you a little about what I do for recreation and my pastime. I have read all of Shakespeare's 37 plays in the last couple of years—again; Plutarch's Lives, the Iliad, the Odyssey.

All my life, I've been wanting to read the Bible through. Last year, during the August break, I read it through, from beginning to end. I have read portions of it from time to time. I have read the dictionary, Webster's Abridged Dictionary, from beginning to end. The History of The World—just read that this year, almost 700 pages; a shortcut for learning history.

I have read the history of England a number of times, reviewed it, condensed it, put it on paper in my own handwriting. Memorizing poerty, riding to West Virginia, when it took 8 hours, Jay, on those two-lane roads. Eight hours to go, sometimes longer. Quoted poetry to myself, if I were riding by myself, all the way there and all the way back. Never quoted the same poem twice.

That may seem like dry stuff. I have read the almost 1,300 pages on Senate procedure time and time again, and have forgotten more than I will every again know about it.

But, to me, it is not really the most important thing in our lives, that we have a State or national champion ball team or whatever. Athletics has its rightful place. But I also say to myself, how well can they spell?

So, perhaps we have different views as to what our values ought bo be. I respect every other man's, and I choose my own.

When I came to the Senate, I know that I came feeling like everybody else: perhaps I could make my mark on the Senate. The longer I have been here, Al, the more I have come to the realization that the Senate leaves its mark upon us. We may become wrapped up in our press releases and our appearances on TV and all these other things which we all do. From time to time you all do it more than I do. In the final analysis, we may fuss and we may fume about the Senate. But just remember that Senators have always done that—criticize the Senate.

Editorialists and cartoonists have always lampooned the Senate and the House, but they remain the same.

Senator Maclay of Pennsylvania complained in the first session of the first Congress about his colleagues and about the Senate. Senators have complained ever since, and still complain about the Senate. They always will.

But I think, ladies and gentlemen, we should remember that the Senate is still what our forefathers intended it to be. It will continue to leave its mark on those who have been here since 1782 and those who are yet to come. But its greatest mark will be left on the people of this country and the country itself.

We come as Republicans; we come as Democrats. We have our little emotional, verbal fisticuffs on the floor. There have been some real fisticuffs on the Senate floor. But when we go out of the Senate chamber we each day, leave those emotional moments behind.

I respect everyone in the Senate. I have a tremendous respect for Bob Dole. I have worked with him as leaders. I worked with Al Simpson as leader. I have worked with practically all of the Republicans as acting leader from time to time. My respect for you is there, even though I am "the great stone face."

We do not have much time. Let me hurry on by saying that we all love the Senate. I hope we will all spend a little time, if we haven't already done so, studying the history of England. We will come to appreciate our own legislative branch more than ever. We will know the reasons why some of those phrases and clauses were written into the Constitution by our forefathers; because the memory of the blood that was shed by our English forebears in order that the ancient rights of Englishmen would be observed by English kings, will teach us why we are what we are today and why Congress is what it is today and why this Senate is what it is today.

Having said that, I say somebody ought to be at the Senate soon, presiding. We have only 10 minutes.

Let me close by telling a story that Lister Hill used to tell. Lister Hill said his father was a physician, and his father named him Lister after a great English physician named Lister, a great English physician and surgeon.

There was a man named William Ernest Henley, who had lost one of his legs and was in danger of losing the other leg.

Dr. Lister, that famed physician and surgeon, said to this young man: "Young man, you're in danger of losing your life. If you can stand the ordeal of an operation I probably will save your life, and I may be able to save the other limb."

The young man knew, was bound to have known, about the excruciating ordeal that he was about to enter upon. But he said to the doctor: "I know I can do it."

In those days, they did not have the anesthetics that we have today. Dr. Lister performed that operation, and the young man lived, and the limb was saved.

Out of that awful time of suffering, the poem invictus was written by Henley:

Out of the night that covers me,
  Black as the Pit from pole to pole,
I thank whatever gods may be
  For my unconquerable soul.
In the fell clutch of circumstance,
  I have not winced nor cried aloud:
Under the bludgeonings of chance
  My head is bloody, but unbowed.

* * * * *

It matters not how strait the gate,
  How charged with punishments the scroll,
I am the master of my fate;
  I am the captain of my soul.

Senator Hill said that his father named him Lister after that great physician, Dr. Lister; and many of us had the honor of serving with Lister Hill.

Let me thank you for the gift. I shall treasure that gift, Bob.

I shall always treasure the recollection of my friendships that have been formed here.

I find it difficult to express my thanks because I know that I do it so inadequately. I must tell you that I have felt uncomfortable today, but you have all been kind and good to me in many, many ways—ways that I will remember and perhaps you have never thought of. Those recollections will be honor enough for me.

Thank you. (Applause, guests rising.)

Mr. Dole. Thank you all for coming.

100TH CONGRESS GALA DINNER

Mr. DOLE. Mr. President, we in the Senate also had the privilege to be Senator Byrd's guests at the 100th Congress gala dinner on the west terrace of the Capitol September 14. It was a spectacular and memorable evening for all of us, but it also provided an opportunity to hear another in his inspiring series on the history of the U.S. Senate. It is appropriate for that a transcript also to be made a part of the official Record, and I therefore ask unanimous consent that if be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

100th Congress Gala Dinner, September 14, 1988, West Terrace, U.S. Capitol

Mr. Byrd. Ladies and gentleman, may I have your attention, please? Erma and I are happy to welcome each of you to the Senate celebration of the 100th Congress. (Applause.)

We thank each of you for being with us this evening. I know of no more fitting way to celebrate the 100th Congress than to get together with our colleagues to rekindle the spirit of patriotism and bipartisan fellowship that make this institution work.

Now, if our guests will please rise, the Reverend Richard Halverson, Chaplain of the Senate, will deliver the invocation, after which we will proceed with our dinner.

Mr. Halverson. Let us pray.

God of Abraham, Isaac, and Israel, we thank You for our beloved leaders and their lovely ladies. We thank You for each other and the pleasure of breaking bread at these tables this evening. We thank You for this beautiful vista and the reminder of God's love, and we thank You for good food. Consecrate it all, we pray, to our health and strength and to the glory of Thy Holy Name. Amen.

Mr. Byrd. We are very fortunate to have with us this evening the U.S. Marine Band, under the direction of Col. John R. Bourgeois, and the band's premier soloist Master Gunnery Sergeant Michael Ryan, who will be entertaining us while we complete our dessert.

Ladies and gentleman, let's give a warm welcome to Col. Bourgeois, the members of the Marine Band, and Sergeant Michael Ryan.

(Applause.)

Mr. Bourgeois. Thank you, Senator Byrd, for the very generous introduction. All the men and women of the Marine Band are thrilled to be part of this very historic event, and we are going to celebrate it, in part, by turning to one of our most cherished American institutions, the Broadway musical. Now, if you were back in your home State, how would you describe a Broadway musical to somebody? You would say, "Well, it has got a lot of singing in it, but it's not like opera. It also has a lot of dancing involved in it, but no one would ever confuse it with the ballet. I guess we would just have to call it a historical musical. Many Americans have credited Rodgers and Hammerstein with having written their favorite song, and we hope that among our selections of Rodgers and Hammerstein songs tonight, one of them, at least one, will be a favorite of yours.

The first Rodgers and Hammerstein song is entitled after the great State of Oklahoma.

(Music.)

(Applause.)

Mr. Bourgeois. Thank you very, very much

We are going to turn now from the bold, stirring music of Rodgers and Hammerstein to look at the witty, sophisticated, and, oh, perhaps, ever so slightly naughty musical by Cole Porter. This song is taken from his show *Kiss Me, Kate*, based, of course, upon Shakespeare's *The Taming of the Shrew*. In that scene, we find Petruchio, who has now married Kate, and he discovers even more what she is really like. And he starts to reminisce about the good old days before he put that gold band on the fourth finger of the left hand. And he complains mightily about those good old days in a song called "Where Is The Life That Late I Led?"

(Music.)

(Applause.)

Mr. Bourgeois. Thank you very much.

Now, you can be sure that the Marine Band is not going to entertain you on an occasion like this and fail to play a goodly bit of patriotic music. So we have a medley of patriotic songs, and I think you will be surprised to find that we have different kinds of American patriotic songs. Some of them bring a lump to your throat and a tear to your eye, and some of them are just plain fun. And any time you think you know the words to any of these songs, please feel free to sing along.

(Music.)

(Applause.)

Mr. Byrd.My friends, my colleagues, tonight we are privileged to have with us some of our friends from the House. First let me just thank them for their presence. I would like to present Lindy Boggs. (Applause) Jamie Whitten, who is the chairman of the Appropriations Committee in the House, and Mrs. Whitten. (Applause.)

Tony Coelho—where is Tony? (Applause.)

Tom Foley was here earlier, but he had to leave. Let's give him a hand of applause. (Applause.)

Bob Michel and Mrs. Michel—Minority leader in the House. (Applause.)

The work of the two leaders, the Republican leader and the Democratic leader, is such that we have to be very close friends. I suppose few on the inside, if any, and certainly none on the outside really understand the close, cordial, and cooperative relationship that has to exist between the two leaders in the Senate if we are to get our work done. If such a relationship doesn't exist, the Senate suffers and the people suffer.

Over the years, I have come to know the minority leader, Bob Dole very well. He was majority leader; I was minority leader. He is now the minority leader. But whether he was in the majority or whether his party was in the minority, Bob Dole and I have had the finest relationship that I could desire. He knows when to be partisan. He can be partisan. But more importantly, he knows when not to be partisan. President Reagan is fortunate, very fortunate indeed, to have Bob Dole as the Republican leader in the United States Senate.

(Applause.)

I am very fond of Bob Dole. I think he is a great leader for his party. He is a great leader in the Senate. He is a great leader for the Nation. And if I were to serve in the Senate 100 years as leader, whether in the majority or in the minority, I would want to be able to look across to the other side of the aisle and see Bob Dole there.

I will always remember him as a man in whom I could confide. We level with one another. And I will always remember him as my friend. Ladies and gentlemen, let's raise our glasses to Bob Dole, the Republican leader of the United States Senate.

(Raising glasses.)

Thank you, Bob.

(Applause.)

Mr. Dole. I ask unanimous consent that my entire statement be made a part of the Record.

(Laughter.)

I want to speak very briefly, but I want to concur in what Senator Byrd, Bob Byrd, has said. I certainly want to welcome our House colleagues and their wives, and all of our friends and all the staff and all the people who make this place run. And I think Senator Byrd has indicated very accurately that the leadership is something that sometimes many don't understand, including some on my side and some on his side. And I have said to Senator Byrd from time to time that, you know, I think I may be getting in trouble here. And he said the same to me. But in the final analysis, the Senate has to work, and it has worked, and it has worked the last couple of years because of the diligence and the expertise and all the other things that Bob Byrd brings to the United States Senate. And I have learned a lot from Bob Byrd. I used to watch him a lot. I never thought I would be a leader, but just in case, I took note. I watched Russell Long a lot, too. He is now making real money.

(Laughter.)

This is certainly a wonderful evening, and it is a historic evening, and it's an evening to share with our colleagues and with our families. As I indicated to Bob Byrd earlier, something is going right. The weather is perfect. I don't know how many of our colleagues are here, but all but a few, and the few that are not here had other commitments.

But I would just indicate for all of us here the Senate is many, many things. And to those who have had the privilege to serve in this institution—I have had it for about 20 years—it's much more than a work place. I think the Senate is a family, and we go out and try to beat each other every time we run, but we try to do it in a positive way. It is a very competitive place, and I like Bob Byrd a great deal, but I liked him probably just as well when he was minority leader and I was the majority leader.

(Laughter.)

The best part is the spirit of this place that makes us a family. We don't go out and crush each other. We go out and talk about our candidate. And it is in that spirit that we are here tonight, and I certainly want to thank Bob Byrd, Joe Stewart, and all the others who have made this possible. I don't know if such an event has ever been held in this location before in history, but I know that Jim Wright is already planning a House party, and I think it is a splendid idea. (Applause.) I like to look on the Senate as an opportunity, an opportunity to make a difference in the history of this Nation, and as we all know, in the lives of millions of Americans. Some of us do that in different ways and have different ideas, and there are experts here in both parties in nearly everything that touches the American people. So I guess I could say that nothing makes me prouder than being a Member of the Senate. And I can look around, I see some of my colleagues, including myself, who had ideas for other office earlier this year or four years ago, or whenever it was. But we are back, and we are happy to be back, and we are very proud to be Senators, because it is an institution that I think has really made a difference.

And that's what tonight is all about. Those of us who now have the privilege of serving in the Senate are paying tribute to those who served before us, paying tribute to the world's greatest deliberative body, this place we call home. And no one alive today is more eloquent on the subject than the legendary majority leader, my good friend, Bob Byrd. No doubt about it.

(Applause.)

On a joint Friday afternoon in March 1980, Bob Byrd gave his first in what has become a remarkable series of Senate history lessons. I just checked, and at last count he had delivered about 100 chapter-length speeches colorfully describing the 200-year course of the Senate's life. Senator Byrd pursued his project with the same diligence and vision that he has applied during 30 years as a Senator from West Virginia. The first of several handsome volumes of what future generations will come to know as "Byrd's History" will be published soon, a major project of the Senate's bicentennial. When our successors plan the Senate's tricentennial in the year 2089, undoubtedly they will rely on Bob's "History" for special insight into Senate's first two centuries.

And history and tradition play such a real vital role in the way the Senate works, even today. Even if we wanted to forget, we are surrounded by our senatorial ancestors Portraits of Henry Clay, of Kentucky; Daniel Webster, of Massachusetts; and John C. Calhoun, of South Carolina; Wisconsin's Robert La Follette; Ohio's Robert Taft, among others, adorn the walls of the Reception Room and remind us daily of the Senate's proud history. They remind us that in this institution, unique in all the world, has been, and God willing always will be, the world's greatest deliberative body. The Senate, as we all know, sometimes works in strange ways and strange hours (I'm looking at David Pryor), but it works. And because it does, America remains free and proud. And so I am very pleased to be standing here as one of the leaders with Bob Byrd and Jim Wright, Bob Michel, Tony, Lindy, and others who are here tonight, particularly with Bob Byrd to help salute this great institution, and to salute the men and women who have made it what it is, quite simply, the cornerstone of history's greatest democracy.

So I would say thank you to all of my colleagues and all of my friends here tonight, and I, too, at this point would propose a toast to one of the great majority leaders in the history of the United States Senate, my friend, your friend, Bob Byrd.

(Raising glasses.)

(Applause.)

Mr. BYRD. Thank you, Bob.

That was very typical of Bob Dole.

Let me present now a beautiful lady whom we all know and love, Bob's lovely lady, Elizabeth Dole. Let's give her a nice hand.

(Applause.)

The hours are like a string of pearls,
The days like diamonds rare,
The moments are the threads of gold
That bind them for our wear.

So may the years that come to you
Such health and good contain,
That every moment, hour, and day
Will be like a jeweled chain.

Bob and Elizabeth, thank you. Thank you for what you have done for us. Thank you for what you have done for your country.

(Applause.)

Thirty-six years ago I became a member of the House of Representatives. There was a young man from Texas who went there about the same time I did, and we worked together, and I enjoyed his friendship then, as I enjoy it today. When I ran for the Senate, after being in the House 6 years, Jim Wright went to West Virginia to speak on my behalf, and over the years that friendship has never wavered, and my appreciation to Jim Wright has never flagged. He is a Southern gentleman in every sense of the word; he is courtly. He knows the aspirations and the dreams of the common people, the men and the women in the fields of Texas and the mountains and hills, coal-mining areas of West Virginia and Kentucky, the Northeast, Southeast, the Northwest and the Southwest. He and I, when we began our work in the 100th Congress, said that we had a goal, and we outlined that goal, it was a simple one, it wasn't a comprehensive agenda, but we think that we are well on the way to accomplishing that goal. And I want to thank Bob Dole for his assistance, and Alan Simpson, and all the members of the party on the other side of the aisle for the support that they have given, the cooperation that they have given as we have worked together in the good interests of our country to achieve that goal.

Tonight we are honored by the presence of the Members of the House and their lovely ladies as our guests. And tonight I am very honored to present to this audience the man we all know as the Speaker of the House. The first Speaker of the House of Commons was Sir Thomas Hungerford—the first so-styled Speaker—and he was selected in the year 1377, the last year of King Edward III's reign. Jim Wright has traveled along that path in the style of our English forebears. He has been a fine Speaker. It has been a joy to work with him. And I have never had a moment in which we weren't working together and pulling together, and I think, for the most part, seeing eye to eye together.

Ladies and gentleman, let's raise our glasses to the Speaker of the House, the Honorable Jim Wright.

(Raising glasses.)

(Applause.)

Mr. BYRD. A little while ago I referred to the debt that I owed to our Republican leaders and friends across the aisle. Let me also express my gratitude to Alan Cranston, the Majority Whip, and to Danny Inouye, the Secretary of the Democratic Conference—(applause)—and to John Stennis, President pro tempore of the Senate—(applause), and to all my Democratic colleagues who meet with me weekly in our Tuesday conference. And though there have been times when you perhaps were puzzled at the direction in which I sought to go, I have to say that I have had a wonderful group of colleagues with which to work.

We Democrats only have 54, Mr. Speaker, 54 percent out of the 100 members. One of those Members has been seriously ill for quite some time. We are happy and thankful to the Good Lord that he is back with us now, and hale and hearty. Two of our Members were aspiring to the Presidency, and we admire their efforts. They were out across the country speaking to the American people and telling those people the things that are good about America. And so you can see that our majority was pretty thin. But even though it was thin my colleagues worked with me and we pulled together. And, in many instances, as I have already indicated, we had the support of our good leader on the other side of the aisle.

Tonight, if you will indulge me, Mr. Speaker, I shall talk a little bit about the United States Senate. That is where I have lived for 30 years. And that is where I hope to live for at least another 6 years. Gladstone, a great British statesman, served during the time that Queen Victoria reigned. She reigned for 64 years, from 1837 to 1901. Gladstone was elected Prime Miniter four times. He referred to the Senate of the United States as "that remarkable body, the most remarkable of all the inventions of modern politics." And I believe every word of that.

Senators of the United States, Mr. Speaker, Congresswoman Boggs and honored guests, let me welcome you now to this great bicentennial celebration of the United States Senate. It is the only time that we will ever have a bicentennial of the United States Senate.

And we are serving in the 200th year, which will end on March the 4th of next year. What a great day to be alive. What a great day to be a Member of Congress in its 200th year. What a great day to be a United States Senator.

Two hundred years ago this month, on September the 30th, 1788, Pennsylvania became the first State to elect Senators. Its State assembly, following the then recently ratified Constitution's requirement that Senators be elected by State legislatures, chose William Maclay—and I would urge you to read his journal, if you haven't—and Robert Morris, the richest man in the Senate of that day, to represent Pennsylvania in the Senate.

Other State legislatures selected Senators throughout the fall of 1788, while popular elections for House Members tended to be held later, allowing disappointed senatorial candidates the opportunity to run for House seats.

Virginia Senator William Grayson in 1790 became the first Senator to die in office.

William Paterson resigned to become Governor of New Jersey.

As is true today, most of the membership of the Senate in that day were lawyers. There were also some farmers, merchants, ministers, and there was a tanner and a peddler.

Slightly more than half the Senators had graduated from college.

Seven had been officers in the Continental Army, four had signed the Declaration of Independence, and nine had signed the Constitution.

All but one had served in a State legislature, and 19 had been delegates to the Continental Congress.

The average age of the first Senate's Members was 47. By 1800, it would fall to 40, and today it is 55. Their average tenure in office would be only 5 years, David, compared with 15 today.

Consider the situation that confronted our earliest predecessors as they gathered in New York City on March 4, 1789, for the initial meeting of the first Senate. At sunrise on March 4, churchbells rang to welcome the birth of the new constitutional Government. One newspaper reported that "A general joy pervaded the whole city on this great, important and memorable event."

That jubilation soon died for want of fuel. When Members of the House and Senate assembled, it was embarrassingly clear, Mr. Speaker, that only 13 of 59 Representatives and only eight, Brock, of 22 Senators were present from the 11 States that had ratified the Constitution.

The first entry in the Senate's Journal reads, Danny, "The number not being sufficient to constitute a quorum, they adjourned."

From Mount Vernon, a frustrated George Washington regretted the "stupor, or the listlessness" that prevented the newly elected Members from doing their duty.

And finally, on April 1, the House achieved its quorum. Five days later, on April 6, ending a 5-week delay, the Senate secured a quorum of 12 Members, upon the appearance of Richard Henry Lee of Virginia.

The Senate's first official act was to elect a President pro tempore, its first Presiding Officer. And so, Fritz, the Senate elected John Langdon from New Hampshire. Langdon became the first of 85 Presidents pro tempore. Senator Strom Thurmond served as the 84th person to hold that office. And today John Stennis carries on the 200-year tradition of that post.

The Senate's April 1789 selection of a President pro tempore, in the absence of a duly sworn Vice President, reminds us of Congress's stature as "the first branch" of Government.

At that time, Lawton, the executive and judicial branches existed only on the parchment of the Constitution. Although the Electoral College had elected George Washington as President and John Adams as Vice President, the ballots had yet to be counted by the Senate's Presiding Officer in the presence of the House and Senate.

The Constitution referred only in a general way to the existence of executive departments. It would be up to Congress to summon them into being and to give them specific shape.

The same was true with the judiciary. The Constitution provided only for a Supreme Court and "such inferior courts as the Congress may from time to time ordain and establish."

Having elected a President pro tempore, the Senate chose Connecticut's Oliver Ellsworth to go downstairs and inform the House that the Senate was prepared to count the electoral votes that would confirm the election of George Washington and John Adams. Up came the Representatives for their first joint meeting with the Senate, led by Speaker Frederick Muhlenberg.

An imposing man, Muhlenberg was the first of a notable line of 48 Speakers of the House. And of those 48, 12 also served, at some point in their careers, as Senators.

I have already spoken to you about the first Speaker of the House of Commons. There have been 42 Speakers in the 3¼ centuries since the restoration of 1660 that followed the Commonwealth and the Protectorate of Oliver Cromwell.

While the Senate waited for Washington and Adams to arrive from their respective homes in Virginia and Massachusetts, it continued to address its own organizational matters.

On April the 7th, Wendell, the second day, Senators elected a doorkeeper—an important post for a body that intended to conduct all its proceedings behind closed doors. They also appointed a committee to devise rules or procedures. That committee subsequently reported a set of 19 rules, and the next day a 20th one, derived largely from the rules of the defunct Continental Congress and based on precedents of the British Parliament and of various State legislatures. Most of those rules, in one form or another, still exist today.

On April the 8th, the third day after they had gotten a quorum, the Senate chose Samuel Otis as its Secretary. A former Speaker of the Massachusetts House of Representatives, Otis would go on to serve the Senate with great loyalty and efficiency for 25 years.

Today, Joe Stewart, the 25th Secretary of the Senate, admirably continues those traditions. (Applause) In fact, Joe's overall length of service to the Senate exceeds that of Otis. Joe has been an indispensable aide to the Senate for so long that many people believe that he was actually trained by Otis. (Laughter)

The Senate selected as its Chaplain the Reverend Samuel Provoost, the Episcopal Bishop of New York. In an early gesture of cooperation between the Senate and the House, each body agreed to elect a Chaplain of a different denomination and to exchange their services on a weekly basis. The House elected a Presbyterian. Today Chaplain Richard Halverson serves as the Senate's 60th Chaplain. (Applause.)

On April 21, 1789, John Adams arrived and took his Vice-Presidential oath in the Senate Chamber. After only 4 days on the job, Adams began to feel a frustration over what he perceived to be the powerlessness of his Vice-Presidential position.

During the next 8 years, Adams' unhappiness deepened. He took his duties seriously, however. Exercising his only constitutionally mandated function, he cast 29 tie-breaking votes, more than any of his Vice-Presidential successors.

The Senate lost no time in trying to assert its superiority over the House. Senators decided that all communications from the upper to the lower Chamber should be merely sent down by their Secretary, but that in the reverse case, two Members of the House must bring communications to the bar of the Senate. Predictably, the House greeted this suggestion with a mixture of amusement and resentment. It replied, via its Clerk, that it would send its messages any way it pleased. (Laughter)

Senators also believed they deserved higher pay than House Members. Some argued that their longer 6-year terms would keep them away from local business pursuits. Accordingly, they should be compensated for the diminished opportunity to advance their respective livelihoods.

The framers of the Constitution, in their great wisdom, had decided to avoid the perilous task of setting congressional salaries, leaving it to the first Members. So Representatives agreed that $6 for each day Congress was in session would be fair. The Senate, however, held out for $8. In one of the most heated battles of the session, the House eventually prevailed. Since 1789, congressional salaries have been increased on 19 occasions—and decreased four times.

The Senate's early relations with the Presidency began on April 30, 1789, when George Washington entered the Senate Chamber to great applause and proceeded to the balcony overlooking the thronged street below. With Secretary Otis holding the Bible, Washington took his oath. After a brief inaugural address to Senators and Representatives crowded in the Senate's Chamber, the President and the Members of both Houses went to church.

At the time the Constitution was signed in 1787, many assumed that the Senate would serve principally as a revisory body, cooling and refining legislation sent up from the House. To a degree, the Senate did play a somewhat reactive role during its first 3 decades. But it also asserted its own will and creativity.

When the House sent up tariff legislation, essential to provide badly needed operating revenues for the new Government, Senators changed the duties on most items. Finally, a conference committee fashioned a compromise version that most could live with.

On May the 5th, 1789, the Senate passed its first bill—a measure establishing an oath for office holders in support of the Constitution. And when the President signed the Act on June 1, it became the first statute of the first Congress.

The Senate's greatest legislative contribution in that first Congress was the Judiciary Act of 1789. This measure created a delicately balanced judicial mechanism that included a six-member Supreme Court, a District Court for each of the 13 States, and three traveling Circuit Courts.

During its earliest years, the Senate tended to make distinctive contributions in matters related to courts and judicial procedures, organization of state and territorial governments, foreign affairs, and banking.

The accomplishments of the first Congress were extraordinary. Extraordinary.

It created the first executive Departments—State, Treasury, and War;

It recommended to the States 12 amendments to the Constitution, 10 of which became our Bill of Rights;

It established the first Bank of the United States;

It placed the temporary seat of Government in Philadelphia from 1790 to 1800, and planned for a permanent capital on the banks of the Potomac.

It also set vital precedents in dealing with major issues such as military preparedness, inflation, depression, the national debt, sectionalism, slavery, veterans' pensions, Government patronage of the arts, and the administration of public lands.

In the decades that followed, the Senate tested and refined its institutional powers.

In 1794, it decided at last to open its doors to the public. This occurred as Americans were coming to equate the Congress with the House of Representatives, while the Senate was becoming the forgotten body.

That same year, the Senate first exercised its constitutional prerogative to deny admission to a newly elected Member, the brilliant Albert Gallatin. This took a bit of courage as Gallatin had been elected by the Pennsylvania Assembly, sitting right next door to the Senate's quarters.

In 1797, acting on a tip from then President John Adams, the Senate expelled William Blount of Tennessee. He was charged with conspiring to aid Great Britain in a plot to take the vital port of New Orleans from Spanish control.

And when the House impeached Blount, the Senate created the post of Sergeant at Arms, vesting its doorkeeper with the police powers necessary to compel attendance of Members.

I want to rush on through this particular portion, as you will understand! (Laughter, Applause.)

And today, Henry Giugni serves as the Senate's 30th Sergeant at Arms. (Applause.)

And, Al Gore and Jim Sasser, at his home in Tennessee, William Blount courteously received the Sergeant at Arms who sought to return him for an impeachment trial. When State authorities and Blount supporters warned the Senate official not to try to remove him—you remember Lowell Weicker (Laughter.)—that is, not to remove him from Tennessee, he returned empty handed and the Senate subsequently concluded that Blount was not subject to a valid impeachment action.

By 1819, the Senate had settled into the Chamber that today is located across from the Republican leader's office, down the corridor from our current Chamber. It was about to embark on that era that, through the distorting mists of time, has come to be called its "golden age."

We are reminded of that age by the many paintings and statues of the great Senators of the 19th Century, placed throughout the Capitol. In the Senate Chamber, for instance, are busts of the earliest Vice Presidents, many of whom served as Senators.

There is Aaron Burr who, as he prepared to leave the Chamber where he had once served as a Senator and he had served as Vice President after killing Alexander Hamilton in a duel, memorialized the Senate as a "citadel of law, of order, and of liberty."

There is Daniel Webster, who delivered grand speeches in support of national unity during the so-called "golden age." Well, as it turned out, many of his orations bore little resemblance to the actual words he spoke on the Senate floor.

Today, it is easy for us to believe that Senators of that long-ago era customarily spoke with such eloquence. As one of his biographers reminds us, and I quote, "Webster's success as an orator depended only in part on his extraordinary presence and voice." He relied in equal measure on his skill as a writer.

He was not one to rush into print with a major address, David. In common with other Senators of his era—now get this—who had vastly more leisure time than today's Senators, Webster's published speeches in the pages of the CONGRESSIONAL RECORD's predecessor volumes were usually heavily revised versions of the original spoken text.

There is Andrew Jackson, who served briefly as a Senator, but who, as President in the 1830's, served as the Senate's nemesis. In 1834, for the only time in its history, the Senate censured a President.

Its Whig majority charged Jackson, a Democrat, with usurping Senate authority to override vetoes, to confirm appointments, and to be involved in the Nation's financial management. The battle between the President and the Senate resumed several months later, when, for the first time in its history, the Senate refused to confirm a Cabinet Member.

Then, early in 1835, as Jackson walked through the Capitol's Rotunda, two pistols snapped in quick succession. Neither gun discharged and bystanders grabbed the gunman. In the subsequent investigation, the President charged that an opposition Senator from Mississippi had masterminded the plot, Jamie, to assassinate him. These charges proved groundless.

In the years to follow, Presidents Lincoln, Garfield, McKinley, and Kennedy would fall to assassins. Four others would die in office, including William Henry Harrison, who caught a fatal cold while doing his own shopping at a Washington market, Zachary Taylor, Warren Harding, and Franklin Roosevelt.

Sad to say, Senators have also been targets of mindless violence, beginning—Alan Cranston, where are you?—with California's David Broderick who was killed in an 1859 duel with the Chief Justice of the State's Supreme Court.

John Tyler, a former Senator, was the first Vice President to succeed to the Presidency following the death of a President. In 1845, he also became the first President to have a veto overridden—on a bill that blocked the Government from funding armed ships that the President had ordered without House and Senate approval. How about that, Bob?

There was the bear-like Missouri Senator, Thomas Hart Benton, who in 1850 so intimidated the diminutive Senator Henry Foote of Mississippi that Foote pulled a pistol on him. Better watch out for us little guys. (Laughter.) Other Senators intervened and the crisis passed.

And there was Charles Sumner of Massachusetts. Following a 2-day-long speech in 1854, during which he heaped verbal abuse on the absent Senator Andrew Bulter of South Carolina, a kinsman of Bulter decided to seek revenge. House Member, Preston Brooks waited until the day's proceedings were over. Then he confronted Sumner and administered a severe beating with a cane that nearly killed the Massachusetts Senator and kept him away from the Senate for 3 years. This event did much to harden attitudes throughout the Nation against sectional reconciliation, and civil war became ever more likely.

I should add, Strom Thurmond and Fritz Hollings, that fights in the Senate Chamber were not exclusively between Members of different regions. In 1902, two South Carolina Senators traded blows and received the Senate's censure for their trouble.

And, finally, there was Andrew Johnson, who had served as Senator, and Vice President, and who was saved from removal from office as President by a single vote, after a trial in the Senate chamber. We have heard a lot about Edmund Ross of Kansas, whose vote in favor of Johnson allegedly provided the margin for acquittal.

Actually, seven Republicans bolted their party of vote for acquittal. One of them, Bob Dole, one of them—whose subsequent political career was shattered as a result—was, guess who?—was Senator Peter Van Winkle of West Virginia.

As President, Andrew Johnson held the record of the most vetoes overridden—15 out of 29. Parenthetically, Franklin Roosvelt vetoed the largest number of bills, 635 in his 12 years in the White House, of which only nine were overridden.

The Senate's past abounds in similarly notable Senators who deserve our remembrance and respect. As we conclude the work of the 100th Congress and prepare to mark the start of Congress's third century on March 4, 1989, I would like to direct our attention to some Senators whose outstanding achievements have earned them a place in the Senate's "Hall of Fame"—if the Senate had a Hall of Fame.

If I were to constitute such a Hall of Fame from among the 1,782 persons who have served as United States Senators, these would be:

For the longest service to the Senate: Carl Hayden of Arizona, who served 41 years and 10 months between 1927 and 1969.

And for the second longest service, John Stennis who, by the end of the 100th Congress, will have served 41 years and 2 months. (Applause.)

For the greatest number of roll call votes cast: William Proxmire of Wisconsin, who in his 31 years has cast nearly 12,000 votes. (Applause.)

For the greatest number of consecutive roll call votes cast I would put in that Hall of Fame: William Proxmire of Wisconsin, who has not missed a single rollcall vote since April the 20th, 1966. (Applause.) Since that day he has answerd to his name more than 10,250 times.

For the longest speech, I would put in that Hall of Fame Strom Thurmond, for his record-setting address of 24 hours and 18 minutes on August the 28th and 29th, 1957. (Applause.)

And the only Senator ever elected by a write-in vote: Strom Thurmond, on November the 3rd, 1954.

The longest-serving majority leader: Mike Mansfield, who served 16 years, from 1961 to 1977.

The longest-serving chairman of Senate committees: William Allison of Iowa, who Chaired Appropriations for 25 years, from 1881 to 1893, and then again from 1896 to 1908.

The youngest person ever to take the oath of office as a United States Senator: John Henry Eaton of Tennessee, who was 28 years, 4 months, and 29 days old on November the 16th, 1818. The fact that he and two others of that area were younger than required by the Constitution seemed to bother neither his constituents nor his Senate colleagues.

The first woman appointed to the Senate: Rebecca Felton of Georgia, who took her Senate seat on November 21st, 1922.

And the shortest period of service by any Senator was Rebecca Felton of Georgia, whose 1-day of service came to an end on November 22, 1922, when her duly elected successor arrived to take his oath. (Laughter.)

Now Rebecca is going to get the last laugh. The oldest person ever to take a Senate oath for the first time: Rebecca Felton of Georgia, at the age of 87. (Laughter) She lived to be 94. (Applause.)

The oldest person to serve in the United States Senate: Theodore Francis Green, who retired in January 1961 at the age of 93 years and 3 months.

The first woman elected to the Senate: Hattie Caraway, who was elected in January 1932. She was also the first woman to Chair a Senate committee and the first woman to preside over the Senate.

The first black Member: Hiram Revels of Mississippi, who served from 1870 to 1871.

The only President to subsequently become a U.S. Senator: Andrew Johnson of Tennessee, who returned to the Senate Chamber in 1875, 7 years after his impeachment trial there.

The only Senator to represent three States—three States—during his career, Wyche: James Shields, who served from Missouri, Illinois, and Minnesota between 1849 and 1879. (Laughter.)

The Senator with the largest known appetite, Howell, Howell Heflin—the Senator with the largest known appetite was Boies Penrose of Pennsylvania, whose breakfast customarily consisted of a dozen of eggs, with 12 rolls, a quart of coffee, a half-inch-thick slab of ham. And for lunch he would frequently consume an entire stuffed turkey. I shall leave his dinner to your imagination. He served from 1897 until his death from cancer in 1921.

To the names of the above-mentioned Senators—and of course there are many, many more—one could add the 15 Senators who later became President, and the 19 who became Vice President.

We could also add notable dates, such as that of the around-the-clock Senate session—Bill Proxmire, and Strom Thurmond, who were here at the time, and John Stennis, if he were here tonight, would remember with me that around-the-clock Senate session held between March the 2nd and March the 5th, 1960, which lasted 82 hours and 2 minutes.

I particularly remember that session, because I presided over the Senate—I presided over the Senate, Barbara Mikulski, for 22 continuous hours—all night and all day—and I would have sat there longer had not Vice President Nixon showed up to claim the Chair.

Such was the "quality of life" in the Senate nearly 30 years ago. (Applause.)

In closing, let me share with you the words written by a 38-year-old freshman Senator nearly a half-century ago. He composed his observation in 1939, at the time of the Senate's 150th anniversary. Fifty years ago. And on that occasion, Senator Claude Pepper described the Senate with the insight that has illuminiated his career down to this very day.

Senator Claude Pepper said this about the Senate: "The varied and extraordinary functions and powers of the Senate make it, according to one's view, a hydra-headed monster, or the citadel of constitutional and democratic liberties. Like democracy itself, the Senate is inefficient"—let me repeat that word—"inefficient, unwieldy, inconsistent; it has its foibles, its vanities, its Members who are great, the near great, and those who think they are great. But, like democracy also, it is strong, it is sound at the core, it has survived many changes, it has saved the country from many catastrophes, it is a safeguard against any form of tryanny, good or bad, which consciously or unconsciously might tend to remove the course of Government from persistent public scrutiny. In the last analysis it is probably the price we in America have to pay for liberty." (Applause.)

And I am pleased to say that Claude Pepper's description is equally true 50 years later, on the Senate's 200th anniversary. And I have full faith that it will be true a century hence, for I believe in the strength and the stability and the endurance of the United States Senate, that remarkable body, "the most remarkable of all the inventions of modern politics."

Let me thank you on behalf of Erma and myself again for this wonderful evening with you our colleagues and your lovely ladies. And let me also thank again our House guests. Let me thank Colonel Bourgeois and the great notable singer, Sergeant Ryan, and the United States Marine Band, for this evening's special treat.

I would like to announce to the Senate Members and our House guests that as you leave here you will receive a memento of the 100th Congress, which Erma and I hope that you will treasure and enjoy through the years.

Now, we will be favored with the U.S. Marine Corps Band's musical tribute to the 100th Congress, which will be concluded with a very special treat.

Let me also thank Champ Mitchell for his presence here, and for what he has done to contribute to this beautiful evening, and the American Pyrotechnics Institute for their making possible the magnificent fireworks which we shall shortly witness. (Applause.)

Now, to the band. (Applause.)

Mr. BOURGEOIS. Thank you, once again, Senator Byrd. Ladies and gentlemen, as we get closer to this fireworks display, let's turn once again to the music of John Philip Sousa, this time for one of his most stirring patriotic marches, a work called "Hail To The Spirit Of Liberty."

PHILIPPINE BASES AGREEMENT

Mr. DOLE. Mr. President, yesterday, after months of often contentious negotiations, the United States and the Philippines signed an agreement assuring continued American access to base facilities in the Philippines through the last 2 years of the existing overall bases accord—that is, through 1991. This agreement became possible only when the Philippine side finally was made to understand that its negotiating tactics of "bluff and brinksmanship" were getting nowhere, and both sides moved the talks out of the headlines and back to the negotiating table, where they always belonged.

Although this agreement is not subject to Senate approval, many of us will be looking at it with great interest. One important task the Congress will share with the next administration is finding the money to pay for the vastly increased aid pledged to the Philippines—according to media accounts, more than triple what is now being provided. Just how that money is going to be found in a foreign operations budget already carved to the bone to meet other base rights and peace-keeping commitments is not readily apparent to this Senate.

This accord will be interesting, too, because it will undoubtedly serve as the taking-off point for the much tougher negotiations facing the next President and the next Congress, on base arrangements after 1991; and could also impact on base rights talks with other governments.

So, while we welcome this step forward in regard to basing in the Philippines, we ought to use this respite wisely. The next President and the next Congress must begin to talk together, cooperatively and constructively, early in the new year—with three goals:

To forge a new, bipartisan, global basing strategy;

To find the money in Gramm-Rudman-Hollings budgets to support that strategy;

And to ensure that our allies and friends—who have been getting a free ride—bear their fair share of this enormous burden of projecting American power around the world, to protect freedom around the world.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

ELECTION REFORM

Mr. REID. Mr. President, in the next 3 weeks, hundreds of millions of dollars will be spent by political candidates running for the U.S. Senate and the House of Representatives on TV spots, radio spots, and direct mail pieces. Some of the TV spots will be a minute long. Most of them are 30 seconds long.

This year there is a new form of media, a 15-second spot.

Of course, Mr. President, all of these cost lots and lots of money, and that is the point.

There were 13 new Senators elected 2 years ago. As soon as those elections were completed there was a hue and cry from both sides of the aisle that something had to be done to cut down the cost of being elected to the U.S. Senate.

In the 2 years that have transpired, nothing has happened.

This election will be conducted exactly the same as the last election, but for the fact that it will cost more money.

Is it not about time we did something?

It is not that this body did not try: S. 2, the campaign reform bill, holds the record for having had attempts to invoke cloture more than any other bill in the history of this Republic. In the 200 years that we have been a country, never in the history of this country has there been an attempt to invoke cloture more on any bill than S. 2.

There has been no progress made in campaign reform. I think it is time that we understand that there are elections that are going to the highest bidder who can raise money. That person is being elected—not always but in any number of cases that is the fact, and that is wrong—who can raise the most money. It is now becoming one of the prerequisites of the person running for office that he must have a qualification to be able to raise money. If he is not a moneyraiser, then he cannot run for office. That is wrong.

I think we must recognize that these moneys that come to people running for the U.S. Senate usually come from special-interest groups or individuals who are interested for some reason in helping a candidate. Most of the time, these purposes from individuals are worthy. They want to involve themselves in Government. But it does not stop there. Because of the voids in the election laws there have been new programs developed. They are called bundling. They are called conduiting where money that is to come to a committee, Democratic National Committee, Republican National Committee, is placed there and then funneled out to candidates when in fact it should have gone to the committee.

There are ways to avoid the Federal election laws. We have not done anything to make the Federal Election Commission strong.

Mr. President, complaints were filed by people supportive of me 3 years ago in the U.S. Senate race in Nevada and to this day there has not been a resolution of those complaints, some of them 2½ years later. And that is wrong.

This 100th Congress has been a producer. We have just produced and the President will sign certainly I am sure a drug bill. We have had plant closing, a trade bill, we have had a highway bill; we completed for the first time in more than 10 years our appropriations bills; clean water. We have done some interesting things. We have done some good things for this country. But the one thing that we have not done is improve our campaign election laws. We must address the fact that media is very expensive. Somehow we have to make media more available. It is not only making it more available to political candidates, it is making it more available to people who must make a decision as to whom they are going to vote for. That not only helps the candidates, but it helps the person who must vote.

One of the reasons that voter participation is not more is because people are suspect of making decisions based on a 30-second paid television spot. Something has to be done to improve this.

Now, even though we can look at the 100th Congress as accomplishing good and worthy things, I feel personally as a Senator that we have really missed an important part of improving this Government and improving this country by not addressing campaign reform. I submit to my colleagues that this is something that we should all recognize is imperative during the 101st Congress. We must improve the campaign laws in this country making media more available, making elections less expensive, and allowing people to run for office who are not good fundraisers.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, Senator STENNIS has a resolution which he would like to call up. It has been cleared on the other side. Mr. DOLE has given his approval. There will be no objection to it.

I ask unanimous consent that Mr. STENNIS may proceed for not to exceed 3 minutes and that no amendments to the resolution be in order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMENDING A. BLAIR CROWNOVER FOR HIS SERVICE TO THE SENATE

Mr. STENNIS. Mr. President, senior counsel, A. Blair Crownover is retiring from the Office of Legislative Counsel at the end of this Congress after having completed over 26 years of service to the Senate.

Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 502) commending A. Blair Crownover for his service to the Senate.

The ACTING PRESIDENT pro tempore. Without objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STENNIS. Senior Counsel A. Blair Crownover is retiring at the end of the 100th Congress after completing more than 26 years of service as an attorney in the Office of the Legislative Counsel of the Senate.

Mr. Crownover joined the staff of the Legislative Counsel of the Senate as a Law Assistant in 1962. After completing the usual on-the-job training program in that Office he was promoted to Assistant Counsel, and in 1978 he was designated as a Senior Counsel in that Office.

Over his long career in the Senate Mr. Crownover provided drafting and related services to Senators and committees in a number of fields of Federal law, but is perhaps best known for his contributions, in the fields of education and labor law.

Mr. Crownover is a native of Pennsylvania, and received an undergraduate degree from Princeton University, where he was an honor graduate of the Woodrow Wilson School of Public and International Affairs. He was awarded a law degree from the University of Michigan School of Law.

Prior to commencing his service in the Senate, Mr. Crownover was a member of the Judge Adjutant General's Corps of the Army, completing his active duty in 1962 with the rank of captain.

For several years, Mr. Crownover has been an adjunct professor of law at Georgetown University, where he has taught an evening seminar in legislative drafting; and it is understood that he plans to continue that activity after retirement.

Mr. President, I remember very pleasantly the very day that this fine young man came here to Capitol Hill in connection with employment of some kind and he made a favorable impression here and rendered a very fine service for many years thereafter. I commend him now and thank him, too.

I yield the floor, Mr. President.

RETIREMENT OF BLAIR CROWNOVER

Mr. DOLE. Mr. President, I am pleased to cosponsor this resolution submitted by the distinguished Senator from Mississippi, Senator STENNIS, honoring Blair Crownover on his retirement from the Senate Office of Legislative Counsel.

Blair has served more than 26 years as an attorney in this Office, having joined the staff in 1962. He was designated a senior counsel in 1978. I have known Blair for a long period of time and admire his attention to detail and the legislative history contained in his head. He was a walking resource for Members and their staffs.

He has been extremely helpful to my staff whenever they needed anything drafted in the education area. His drafting skill and expertise will be hard to replace. But most of all, it will be difficult to find another colorful character to match his.

Blair graduated from Princeton University, where he was an honor graduate of the Woodrow Wilson School of Public and International Affairs. He received his law degree from the University of Michigan School of Law. Blair has been an adjunct professor of law at Georgetown University, where he teaches an evening seminar in legislative drafting; he will continue in this position after his retirement from the Senate.

There are some people in this body who do a lot of yeoman's work behind the scenes and never receive recognition. It is time Blair came out from behind those doors on the sixth floor of the Dirksen Building and received thanks from all of us for a job well done. Blair Crownover's standard of performance was always excellence, and we shall remember him best for that.

RETIREMENT OF BLAIR CROWNOVER, LEGISLATIVE COUNSEL

Mr. PELL. Mr. President, in every workplace in the United States there is an unsung hero. Someone who is not a well known public figure or even the most prominent member of his or her business, but someone who works behind the scenes doing his or her job with an excellence that is at the true heart of our Nation's greatness.

For the past 28 years, the Senate had one such hero in its Office of Legislative Counsel, Blair Crownover. Mr. Crownover is a lawyer's lawyer. Since the 1960's, he has drafted every major piece of legislation for the Subcommittee on Education, Arts and Humanities. He has done so with a love of the law that is a tribute to one of the most basic premises of our form of government—namely, that through fair and well crafted laws, people can create a just society that protects the rights of every individual. And, he has done so with a patience, dedication and meticulousness that reminds me of the words of Edmund Burke, "I am not determining a point of law, I am restoring tranquility."

It is with deep personal regret that my colleagues and I on the Subcommittee on Education, Arts and Humanities bid a fond retirement to such a man. However, we take consolation in knowing that Mr. Crownover plans to conduct his service to this Nation in an equally important profession—that of a teacher.

Countless individuals have already been the beneficiaries of his fine tuteledge, including the staff of our subcommittee and his students at Georgetown Law School where he has frequently taught courses. I am confident that his legacy will be carried on by those he has touched.

A. BLAIR CROWNOVER, SENIOR LEGISLATIVE COUNSEL, TO RETIRE

Mr. SIMON. Mr. President, I am pleased to cosponsor a resolution honoring the service of A. Blair Crownover, a senior legislative counsel to the U.S. Senate. Blair has worked diligently with the Senate for over 25 years on education, labor, civil rights, and employment and training legislation. He joined the staff of the legislative counsel in 1962 and was designated a senior counsel in 1978. He has had a long and distinguished career working with both Senators and staff on a huge body of legislation.

Mr. President, I worked with Blair directly on the drafting of my jobs bill, the Guaranteed Job Opportunity Act, and I found him to be extremely knowledgeable, thorough, and trustworthy—all essential qualities for a person in his position. As a Member of the other body, I knew of Blair through the impeccable reputation that proceded him, as I worked with him while chair of the Postsecondary Education Subcommittee. His clients have the utmost trust in his judgment and confidence in the advice rendered by him. His expertise, knowledge, and experience are unmatched in the areas of education, labor, civil rights, and employment and training. Mr. President, while I certainly wish Blair well in his retirement, I want him to know that he will be sorely missed.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor the resolution submitted by the Senator from Mississippi, Mr. STENNIS.

It is not often that we are fortunate enough to be the beneficiaries of the kind of dedication and superb service which has been provided by Mr. Blair Crownover. Mr. Crownover has served the Congress for 26 years. During that time, he has developed invaluable knowledge and expertise in a wide range of legislative areas. Most recent, as chairman of the Committee on Labor and Human Resources, I have had the opportunity to work with him in many of the areas which fall under the jurisdiction of this committee. Mr. Crownover has been tireless in providing counsel to me and to my staff. His assistance in crafting legislation has been immeasurable. He will be greatly missed. We wish him many years of happy and healthy retirement.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution with its preamble.

The resolution (S. Res. 502) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 502

Whereas, A. Blair Crownover, Senior Counsel in the Office of the Legislative Counsel of the Senate, is retiring at the end of the 100th Congress, after having served for more than twenty-six years as an attorney on the staff of the Legislative Counsel of the Senate; and

Whereas, during this long period of service A. Blair Crownover has performed his duties for the Senate with skill and distinction: Now, therefore, be it

Resolved, That the Senate of the United States extends its appreciation and gratitude to A. Blair Crownover for his long and faithful service in the Office of the Legislative Counsel of the Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to A. Blair Crownover.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BOB RAULERSON DEDICATED CITIZEN VOLUNTEER IN THE WAR ON DRUGS

Mr. CHILES. Mr. President, I believe that it is appropriate as we move toward final passage of the Omnibus Drug Inititative Act of 1988 to take a moment to remember and pay tribute to one who lost his life trying to help Florida students in our ongoing fight against the incursion of drugs in our schools.

On May 9 of this year, Bob Raulerson died in a tragic helicopter crash in Ozark, AL. Bob was piloting the helicopter which was to have video taped the public display of support for the antidrug campaign, Red Ribbon Week, in Washington County, FL.

Washington County is not in south Florida with all the trappings of "Miami Vice," it is one of our more rural counties in the Florida panhandle with limited law enforcement resources. But the school authorities had gone all out to get the participation of all segments of the local comunity to demonstrate their support by wearing red ribbons, displaying red banners, and releasing red balloons with the antidrug campaign logo. These activities were to be recorded for use in other parts of our State.

Sheriff Bryant Mixion, of Dale County, AL, volunteered his county's helicopter, which Mr. Raulerson volunteered to pilot, to videotape the antidrug activities in the Washington County schools. Tragically, the helicopter crashed shortly after takeoff and Mr. Raulerson, an experienced pilot with combat duty in both Korea and Vietnam lost his life.

While it is sometimes easy to fall into the trap of depersonalizing this drug war, I strongly feel that we must keep firmly in the forefront the efforts that are taking place at the local level. In this instance, two counties in two different States had worked cooperatively to emphasize the importance of saying no to drugs, and saying yes to life.

I know that my colleagues join with me in extending our condolences to Mrs. Jane Raulerson in her loss, and in recommitting ourselves to the effort of eradicating drugs in our schools in memory of this dedicated citizen volunteer.

GOODBYE TO JOHN STENNIS

Mr. CRANSTON. Mr. President, in a very short time the historic 100th Congress will adjourn. I know I speak for more than just myself when I say I will be glad to have finished our work and glad to be heading home.

I also know that I speak for many—in fact, I feel safe in saying that I speak for each and every one of us—when I say that I will also be sad to see the 100th Congress adjourn. This sadness comes because the end of these sessions also means we must say goodbye to some of our friends.

In particular, Mr. President, I am sad to say goodbye to my friend JOHN STENNIS.

No one in this Chamber needs to be told that JOHN STENNIS is a giant. It's not just the fact that he has served longer here than any other among us, longer—at 47 years—than almost any other Senator in the history of our country. It's not just the fact that during this time he's served as chairman of two of the most important committees that help us do our work: Appropriations and Armed Services. It's not just that this Chamber turned to him time and time again for fairness and impartiality. And it's not even that each time we did so he performed above and beyond even our highest expectations.

No, it's not just these things. Although it is all these things. But even more, it's what makes these facts true. And that is that JOHN STENNIS is a patriot. He is a gentleman, a man of integrity, a man with a strong sense of duty. Most of all, it's that JOHN STENNIS is a wise man.

No doubt his wisdom comes in part from his experience. As the longest serving Senator, he is our dean. He came to the Senate when Harry Truman was President, when the Marshall plan was barely more than an idea, when the cold war was new. When JOHN STENNIS came to this Chamber, some here today hadn't even been born.

Even when JOHN STENNIS was much younger, he showed wisdom. Serving on the committee investigating the conduct of Senator Joseph McCarthy in 1954, JOHN STENNIS was the first Democrat to stand here before his colleagues to denounce McCarthy. He told them that the Senator from Wisconsin had "poured slush and slime" on this body and that condoning that behavior would mean "something big and fine has gone out of this Chamber, and something of a wrong character, something representing a wrong course, a wrong approach, will have entered."

Thanks to Americans like JOHN STENNIS, that did not happen.

Mr. President, it takes more than wisdom alone to serve more than four decades in this body. It takes great strength as well. And each of us knows that JOHN STENNIS also has that quality in abundance.

If any of us—or anyone else, for that matter—ever doubted the depth of that strength, they had their doubts put to rest when, in 1984, the Senator from Mississippi returned to his work in this Chamber barely after a month after losing his leg to cancer. In the time since that triumphant return, I've never seen JOHN STENNIS' dedication, commitment or devotion to duty lag once.

So, Mr. President, I say goodbye to my good friend from Mississippi, who has also been my State's good friend here. I say goodbye with sadness, with respect, with affection, and with gratitude for having had the honor and the privilege to work with a man so rare that he remains a giant even sitting down.

SENATOR ROBERT C. BYRD

Mr. MITCHELL. Mr. President, as the 100th Congress draws to a close it also brings to an end 12 years of the leadership of Senator ROBERT BYRD.

Senator BYRD has seen the Senate through a period of transition unprecedented in recent decades. The shift from closed to open committee meetings and markups, the enormous pressures generated by the expansion of news coverage, the maturing of new Senate procedures such as the budget process, the coming of televised sessions, have all placed unique and new pressures on this institution.

Senator BYRD has accommodated those changes and his colleagues with fairness, with unshakeable courtesy, and with a firm command of the Senate rules which constitute the foundation of the Senate as an institution.

Senator BYRD has spent long and weary hours on the floor preserving the rights of every Senator, whatever the issue. He has done his duty when it was a popular one and he has done his duty when it was less popular. But that is the essence of leadership.

As majority leader, Senator BYRD has been guided by two loyalties: First to his colleagues on both sides of the aisle, seeking to accommodate their needs, their priorities and their rights. Second, his loyalty has been to the Senate, to protect its tradition of full deliberations, to strengthen its tradition of comity, and to preserve the rules which protect both those essential traditions.

I know that as chairman of the Appropriations Committee, Senator BYRD will bring a wealth of experience and knowledge to that post. I hope, however, that his knowledge of the Senate and its past will not be lost to his colleagues during the day to day work in this Chamber.

FAREWELL TO WILLIAM PROXMIRE

Mr. CRANSTON. Mr. President, the conclusion of the 100th Congress will bring the end of an exceptional Senate career with the retirement of WILLIAM PROXMIRE. I have come to know and respect BILL PROXMIRE as a friend and a remarkable colleague. I will miss him.

BILL PROXMIRE's reputation has grown almost to legendary proportions over the years. He has won the respect and admiration of millions of his fellow citizens. People throughout the country think of BILL PROXMIRE as the personification of a Senator who stands up against waste in government, who perseveres in a cause he believes in, and who is his own man.

Within his own State, BILL PROXMIRE has become an institution. It has been said that virtually everyone in the State of Wisconsin seems to have met BILL PROXMIRE personally. That is a testimony to his untiring attention to his State and the people he represents. Few others would dare try to run for statewide office with the tiny campaign budgets for which BILL PROXMIRE has become known. Fewer still could hope to win.

Those of us who have been BILL PROXMIRE'S colleagues in the Senate know well his intelligence, his diligence and his fair-mindedness.

As chairman of the Senate Committee on Banking Housing and Urban Affairs, BILL PROXMIRE has fought hard and effectively for his positions, but he has always enabled the committee to work its will. It's been a pleasure and an opportunity for me to serve with him on that committee through the 20 years I've been in the Senate. Much has been accomplished because of him.

BILL PROXMIRE has been an effective champion of the small town banks during an era in which the power of big banks and corporations has expanded. His leadership was shown by taking strong stands on controversial issues such as the deregulation of financial institutions and the financial assistance to New York City and Chrysler. His leadership was also shown in the fairness and evenhandedness with which he dealt with competing interests.

BILL PROXMIRE was first elected to the Senate in 1957 following a distinguished career in his home State that included membership in the Wisconsin State Assembly. His tenure has been one of unfailing dedication to the public interest. He has exemplified hard work and personal tenacity. He will long be remembered for his daily argument over 19 long years for ratification of the Genocide Treaty. I am confident that his record of over 10,200 consecutive rollcall votes will never be equaled.

BILL PROXMIRE is a man of unusual energy. As a fellow believer in physical fitness and specifically in running, I personally admire his long-time tradition of jogging the 4 miles to work every morning. That's the only area, though, where we are incompatible. He's a long distance runner. I'm a sprinter. So we've never run together. BILL's running is only one of many marks of his personal discipline and strength of character.

For 31 years, BILL PROXMIRE has served his State and his Nation well. He has brought honor to the U.S. Senate. Those who love this institution owe him profound thanks.

We will miss his presence in the Senate. But I am confident we will continue to hear of BILL PROXMIRE and to learn from him in the years ahead. I wish BILL and Ellen all the best.

HONORING SENATOR CHILES

Mr. RIEGLE. Mr. President, I would like to join a number of my colleagues in honoring our good friend and colleague from Florida. Senator CHILES has had a distinguished career in the Senate and has served the people of his State ably and with great integrity. He will be greatly missed.

I had the good fortune to serve with Senator CHILES on the Budget Committee. As both the chairman and ranking member of that committee, Senator CHILES had a remarkable ability to work patiently but persistently for a consensus. Even under extremely difficult circumstances, he did his best to accommodate the interests of the members of his committee, while maintaining his own high standards.

Senator CHILES has been a strong advocate for children and the elderly, especially those living in poverty. He has also been a leader in the battle to fight drug abuse and drug-related crime. And, of course, he has worked very hard to find ways to reduce the deficit while protecting high priority programs such as education, science and technology.

We will all miss Senator CHILES, and, more importantly, the Senate and the Nation will miss his quiet but tireless efforts to address some of the knottier problems we face. He has truly earned our profound gratitude and respect.

TRIBUTE TO SENATOR DAN EVANS

Mr. CRANSTON. Mr. President, when the 100th Congress adjourns, the Senate will lose one of its most thoughtful, conscientious, and valuable Members, the Senator from Washington, DAN EVANS. Although he has served in this body for only a few years, he has added much to our deliberations and development of policy.

DAN EVANS was first appointed to fill the Senate seat which became vacant following the death of our long-time, esteemed colleague, Senator Henry Jackson. Following in the footsteps of "Scoop" Jackson would have been an awesome task for any individual. Yet Senator EVANS quickly established his own reputation as a strong advocate and tenacious legislator. As a freshman member of the Senate, DAN EVANS brought with him years of experience as a Governor, State legislator, and most recently college president. After winning his seat in a special election in 1983, Senator EVANS continued to serve his State and this body with honor and distinction.

As a member of the Energy and Water Resources committee, the Foreign Relations Committee, and as ranking member of the Select Committee on Indian Affairs, DAN EVANS has left a record of commitment and sound judgment on important issues facing our Nation. He brought to the Foreign Relations Committee a firm commitment to the need for arms control, and he will be remembered for his non-partisan, thoughtful work on the INF treaty and arms control efforts. As the ranking member of the Indian Affairs Committee, Senator EVANS worked for protection of the rights of native Americans, not just in his own state but throughout the nation. He is widely respected and honored for his work on numerous important measures reported by the Indian Affairs Committee during his service on that body.

DON EVANS was also not afraid to take on tough issues which brought him into sharp conflicts with members of his own party and the Reagan administration. In particular, his steadfast efforts to bring about a pay equity study of the Federal work force—an effort that Senator EVANS and I shared for almost 5 years—demonstrates his commitment to fight for his convictions and ability to utilize his considerable mastery of detail to debate, defend and advance this cause. Our legislation may not have been enacted in the 100th Congress, but as a result of DAN EVAN'S persistence and dedication, both Houses of Congress have now demonstrated by overwhelming majorities support for the legislation which we have crafted over the past several years to bring about a study of the Federal Government's own wage-setting practices with regard to women and minorities.

Similarly, his careful work on dissecting and exposing the flaws in the arguments advanced for a balanced budget amendment elevated the quality of the debate in this body over that contentious issue. As a former Governor, Senator EVANS understood the problems faced by State governments and pushed forward innovative proposals in the area of welfare and domestic assistance. He fought against administration efforts to impose unjustifiable penalties upon State for errors in their State-administered welfare programs. As fellow representatives of Pacific Rim States, Senator EVANS and I shared a perspective on trade issues that is perhaps unique to those of us from the west coast who look beyond our shores for the markets and trade opportunities that will ultimately strengthen our Nation's economic base. We worked together closely on export control legislation which was enacted as part of the 1988 trade bill. His strong voice for fair, equitable, and free trade policies will be sorely missed.

Mr. President, Senator EVANS is by training and education an engineer, and there is little doubt that this background gave him a unique perspective and insight into many of the issues and controversies that often consume this body. His ability to analyze and dissect complex issues contributed enormously to the power of his arguments and his command of the debate in numerous areas.

I have deeply treasured our bipartisan work together on so many issues. His voice of reason and conviction will be remembered and missed.

SENATOR WILLIAM PROXMIRE

Mr. MITCHELL. Mr. President, the departure of Senator PROXMIRE at the end of this Congress marks the end of a Senate career that can only be called legendary.

Senator PROXMIRE'S 20-year, unremitting daily focus on the importance of ratifying the Genocide Convention, to outlaw our century's most horrifying barbarity, was instrumental in the 1986 passage of the treaty.

Senator PROXMIRE was the Senate's conscience on this subject for years, when others had long abandoned hope of ratification. It is due to his untiring efforts that we are now on the verge of passing the enacting legislation.

His famous Golden Fleece Awards seared into the consciousness of every Government servant the fact that it is taxpayers' dollars that the Government spends, not some kind of painlessly acquired Government money.

The Golden Fleece Award was not only the best-known unofficial recognition in Washington, it was one whose honorees never quite got over the honor.

Senator PROXMIRE'S legislative accomplishments have been distinguished by his focus on serving the needs of ordinary Americans, and his insistence on basic principles. He was the driving force behind legislation to outlaw the practice of American corporations paying bribes overseas, because to Senator PROXMIRE, official sanction for bribery was something our Nation could not tolerate.

His work on the truth in lending bill gave every consumer the information about the cost of credit that is essential to using credit wisely and carefully.

Senator PROXMIRE'S legendary campaign costs are too well known to need emphasis. But his record of service recognized by his constituency is an inspiration to all of us who want to see the campaign laws reformed. Senator PROXMIRE'S service spanned the decades in which election campaigns in all too many instances became made-for-television spectacles without substance or reality, yet his own style and his own success never changed.

It has been a privilege to serve with a Senator of his rectitude and his abilities. The Senate will not be the same place without Senator PROXMIRE's familiar voice admonishing us each morning and it will be a poorer place for the absence of it.

SENATOR PAUL TRIBLE

Mr. CRANSTON. Mr. President, It has been a privilege to serve in the Senate and on the Foreign Relations Committee with PAUL TRIBLE of Virginia. PAUL has brought to the Senate a keen sense of Virginia's cornerstone role in the foundation of our democracy and a determination to work energetically for today's Virginians' needs here in the U.S. Senate.

It will come as no surprise to anyone in this Chamber that PAUL TRIBLE and I have different views on many issues. But I was delighted to see PAUL's support from his side of the aisle for designating Martin Luther King's birthday as a national holiday, and I commend him heartily for his support for strong sanctions against the terribly unjust and oppressive Government of South Africa.

I'm very glad to join my colleagues in paying tribute to PAUL for his good and hard work in the Senate, and to wish him all the best.

SENATOR PAUL TRIBLE

Mr. COCHRAN. Mr. President, One of our outstanding members of the Senate, PAUL TRIBLE, is not seeking reelection. He has announced his interest in serving his fellow citizens of Virginia as their Governor.

I served with PAUL TRIBLE in the House of Representatives, and I came to know him as a person of integrity and intelligence. He brought with him to Congress the good work habits of a successful lawyer and prosecutor. He also showed that he understood people and liked them, and he thought that he had an obligation to represent everyone in his district whether they had voted for him or not, whether they were Republican or Democrat, black or white.

I admired the way he worked at his job as U.S. Representative. He was very successful and soon became the first choice of most Virginians to replace Senator Harry Byrd, Jr., when he retired.

Since his election to the Senate 6 years ago, Senator TRIBLE has been one of our hardest working and most conscientious Members. He is respected and well liked by all.

We will certainly miss him when this session comes to an end. I wish him and his wife, Rosemary, much success and happiness in the years ahead.

SENATOR LAWTON CHILES

Mr. MITCHELL. Mr. President, the people of Florida and the people of the United States are losing one of their finest spokesmen with the retirement of Senator LAWTON CHILES this year.

In 18 years of public service in Washington, LAWTON CHILES has accumulated a record of service and effectiveness that have few equals.

It was his experience with the opening up of Florida State government that led him to a tenacious and successful championship of the Government in the Sunshine Act—the enactment which puts into practice what all of us know: That actions taken in behalf of the public must be publicly taken. LAWTON CHILES has understood what so many seem to forget when they come to Washington, that public debate, publicly pursued is the only ultimate legitimating factor of public policy.

At a time when fiscal irresponsibility had given us budget deficits of unprecedented proportions, as far as the eye could see, LAWTON CHILES inherited the thankless task of chairing the Senate Budget Committee.

He showed the dedication, the directness and the knowledge that are needed to bring the runaway deficit under control. This year the budget resolution was adopted in a timely manner and has finally begun to set us on a path toward lower deficits.

LAWTON CHILES walked his way to the U.S. Senate in 1970, because he realized even then that the best way to serve his State was to know what the people thought. He never relied on slick prepackaged campaigning and he never had to. The people of Florida recognized his worth and reconfirmed their confidence in him again and again. It was not misplaced.

In 18 years of service, LAWTON CHILES has opened up Government, he has been a tireless defender of the elderly and the disadvantaged, and he has never ceased to seek for ways to serve, most recently in chairing the joint committee which has done so much to reinvigorate the national commitment to reducing the tragic rate of infant mortality in our Nation.

LAWTON CHILES' departure from the Senate deprives this body of a body of experience and wealth of understanding that we will sorely miss.

PUBLIC LANDS CLEANUP DAY

Mr. BUMPERS. Mr. President, I would like to take this opportunity to bring my colleagues up to date on the success of the Public Lands Cleanup Act. I sponsored this measure in the 99th Congress and it became Public Law 99-402 on August 27, 1986.

The law establishes a National Public Lands Cleanup Day to be held on the first Saturday of September after Labor Day each year. Each Federal land management agency is responsible for organizing and coordinating with citizen volunteers and State and local agencies to clean and maintain Federal public lands, recreation areas, and waterways within the jurisdiction of each agency. Besides the obvious benefits of removal and reduction of litter and increased recycling efforts, this program serves to involve the public in the lands they use, improve community relations, and educate the public about the waste problem that exists on many of our federal lands.

I was inspired to introduce this legislation by the success of an annual cleanup day at Greers Ferry Lake, a Corps of Engineers project in Arkansas. Carl Garner, resident engineer at Greers Ferry, launched the program in 1970 and has been responsible for increasingly successful events every year. The Greers Ferry Lake/Little Red River Cleanup combines a festive picnic and musical entertainment with enthusiastic volunteer cleanup efforts. I am proud that this Arkansas idea has taken hold across the Nation.

In 1987, approximately 68,000 volunteers nationwide cleaned our public lands at an estimated savings to the Government of over $1.5 million. The Army Corps of Engineers alone sponsored 168 projects with a net savings of $823,842 to the Federal Government. A total of 479 projects took place throughout the participating agencies. Congress received reports on the achievements of each project and there was considerable mention of noticeable visual improvement.

On September 10 of this year, more than 500 litter prevention and beautification projects were carried out. I fully expect the total savings to exceed the previous year and I believe this effort will continue to grow each year. Designation of Public Lands Cleanup Day has been so well received that the Interior Department has encouraged the Governors of the 50 States to proclaim September as Public Lands Month.

Observation of Public Lands Cleanup Day helps to promote a sense of pride and ownership among citizens toward these lands. The use of citizen volunteers in a national cleanup effort promotes and encourages the thoughtful use of these Federal lands and facilities. We have shown that with a strong, organized cooperative effort between the Federal Government and the citizens of this country, we can do a great deal to ensure that these lands will be available to future generations to enjoy and treasure, and we can save the Federal tax payers a chunk of money to boot.

FEDERAL AVIATION ADMINISTRATION INDEPENDENT ESTABLISHMENT ACT

Mr. BURDICK. Mr. President, we thought 1988 was the year we were going to roll up our sleeves and do something about problems affecting the Federal Aviation Administration and aviation. That is one of the primary reasons I became a cosponsor of S. 1600. Even though this bill has been ready for floor action for sometime, it seems that there will not be time for final action prior to our adjournment.

It seems to me that we all want to revitalize and strengthen the FAA. Whether we are talking about the management structure of the agency, the problems it has with outdated personnel and procurement regulations, or figuring out how to provide access to an adequate level of guaranteed funding, it is time we get the job done.

S. 1600 makes a good start toward solving many of the problems by calling for a less politicized agency under strong, consistent leadership. The bill contains a number of carefully reasoned and balanced ideas which can facilitate our efforts. Certainly the American people have paid for more than they are getting and it is obvious that there are many problems in the current FAA organization that warrant change.

If we cannot finish the task this year, we should all commit ourselves to work energetically on FAA reform legislation as soon as we return in 1989.

SENATOR JOHN C. STENNIS

Mr. MITCHELL. Mr. President, one of the great privileges of service in the U.S. Senate for me has been the honor of serving alongside a man like Senator JOHN STENNIS.

For more than four decades, Senator STENNIS has served his State in Washington, in times of national difficulty and times of unparalleled prosperity. He has seen enormous changes come to our nation and to his home State of Mississippi, but he has never lost the core of personal honor and integrity that are the characteristic mark of Senator STENNIS.

When Senator STENNIS first took his seat, our Nation was poised to take the enormous leap to world leadership that came at the end of the Second World War. His work and his energies in the Senate have been devoted to making certain that our Nation lived up to its responsibilities, both as a world leader and as the world's greatest democracy.

Senator STENNIS has been a force for reason, for personal integrity and for institutional integrity throughout his Senate career. The pride we take in service here is due in no small part to his influence and his personal example.

Senator STENNIS' State of Mississippi has been fortunate in having one of nature's great gentlemen represent her people here in Washington for more than four decades. Senator STENNIS has earned the respect and affection of his colleagues for the qualities that his people in Mississippi recognized for so many years and the Senator will be a very different place upon his departure.

ILSE ZEGLA SHEIMAN, OUTSTANDING CITIZEN OF CONNECTICUT

Mr. WEICKER. Mr. President, I rise today to honor an outstanding citizen of Newington, CT—Ilse Zegla Sheiman. Throughout her life, Ilse has actively fought to preserve Jewish heritage and ensure that the world never forgets the atrocities of the Holocaust.

Ilse experienced firsthand the Holocaust's horrors. At the age of 14, Ilse and her family were forced to flee Nazi Germany. Ilse's family, which included her father, mother and younger sister, left home with none of their valuables, without assurance they could actually leave the country. After a 19-day voyage aboard the S.S. *Orinoco*, Ilse and her family arrived in Cuba where they lived for 16 months before being permitted to depart for the United States. While Ilse was fortunate to escape, many of her friends and other family members fell victim to the Nazi regime's "final solution."

Ilse's tireless efforts to prevent a future Holocaust include writing letters to public officials about issues concerning Jewish Americans and the well-being of Israel, collecting mementos, speaking to groups about her experiences in Nazi Germany, and writing poems. Earlier this year, for the first time since she fled nearly 50 years ago, Ilse visited East Berlin. She described her cathartic trip as "the closing of a circle."

I ask unanimous consent that a poem written by Ilse in response to President Reagan's ill-advised visit to Bitburg Cemetery in 1985 be printed in the RECORD. The poem revisits her past and illustrates her vision for the future.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

IN MEMORY OF MY BELOVED HUSBAND, DR. JOHN SHEIMAN

(By Ilse Sheiman)

*"Ich hat einen Kameraden". German march, played at Bitburg cemetery ceremony, during President Reagan's visit, as well as during Nazi regime . . . translated and summarized below:

. . . I had a good friend. We marched off to war together. A bullet flew through the air. Is the bullet aimed at me, or at my friend? The bullet was aimed at him. It threw him to the ground. He's lying at my feet, dying. He wanted to shake my hand to say good-bye. . . . But, I could not shake his hand—I was too busy reloading my gun.

"Ich hat einen Kameraden" . . .*

I have been betrayed again!
I am locking my door again
I am looking behind me in fear again
I am not safe again
Is it time to pack again?
Nobody has bothered to send me a bullet proof vest.
I need a bullet-proof vest.
"Ich hat einen Kameraden"—you don't remember—full of bullets
"Oh say can you see"—full of bullets
I need a bullet-proof vest again!

*"Eine Kugel kam geflogen"

You don't remember, and because you don't remember—I am afraid again.
I don't need advance-men who shop for a "suitable" concentration camp;
I don't need speech-writers;
I don't need photo-opportunities;
I do need protection—I need that vest again!
Is it time to pack again?

* Gilt sie mir oder gilt sie Dir?"

Surely the bullet is aimed at me, because I am a Jew—a proud, non-forgetting Jew
I am a Berliner—without roots or live relatives
I am a widow—sad, lonely widow of a Buchenwald survivor, who survived only to commit suicide in this very house
I am a mother—a concerned mother of two American children who have been forever scarred by the past, you say, it's time to forget
I am a survivor—only to become afraid again, because my President forgot what "S.S." stands for
I am a voter—dismayed by the brief paragraph in history textbooks, covering "the 'short' 12 years of Nazism"
I am an American citizen—who is asked to believe that 10 silent minutes in a place containing evil men, who volunteered to slaughter, equals a speech in a place containing a part of those they slaughtered—ONE THIRD of European Jewry—all of them civilians—More Jews Than Live in America 40 Years Later
I am the conscience of those "without a conscience"
I am the voice of those whose voice has been silenced
I am a refugee, because once again I am afraid to open my door; to answer my phone
Is it time to pack again?

*"Kann Dir die hand nicht geben"

What has changed?
Why are they still playing songs, glorifying war?
Why are they still claiming they were too young to object?
Why are they still insisting they didn't realize?
Why are they still following orders?
Why are they still permitting the Nazis to have a reunion?
Why are they still hauling away mourners?
Why are they telling us it is time to forget?
Why? Why? Why?
Is it time to pack again?

*"Daweil ich eben lad"

I shall become a protester
I shall become a citizen of the world
I shall cry out that anti-semitism is on the rise
I shall scream that Holocaust means nuclear holocaust

I shall become a reminder—it CAN happen
here
I shall point out that 40 years is a mere
second in the course of history
I shall explain to those yet unborn that we
must remember, that we must be ever
vigilant, that we want peace
I shall hope that the "theys" will unite with
the "we's" to form once peaceful
world, or where will I go once
I've packed again?

TRIBUTE FOR SENATOR JOHN C. STENNIS

Mr. PACKWOOD. Mr. President, I would like to pay tribute to my friend and Senate colleague from Mississippi whom I respect, admire, and truly believe deserves our highest recognition as one of the Senate's finest examples of a statesman.

These past several days I have heard and read many eloquent and emotional tributes to JOHN STENNIS and can only echo those heartfelt sentiments. He has earned and deserves them all.

With JOHN's departure from the U.S. Senate, there is what I consider to be a true passing of the torch. So much of what JOHN has brought to the Senate cannot be measured in words of phrases. As a senior statesman, JOHN is someone that all Senators—Republican and Democrat alike—who came to the Senate after him could look up to and learn from with great admiration. For JOHN STENNIS embodies those qualities and, specifically, the reverence for and knowledge of tradition we hold sacred in this Chamber. These values are not easily learned nor easily replaced.

Although I never had the honor of serving on the same committees as JOHN, you learned almost immediately by obervance that he could be a formidable opponent if you happened to be on the other side of an issue. When he was chairman of the Senate Armed Services Committee, I remember a particular debate on the Senate floor in the early 1970's having to do with the Vietnam war. Now JOHN was one of the first to warn against U.S. involvement in that war, however, once U.S. troops were committed he defended and supported the policy. And although antiwar sentiment was prevalent in the Senate during that time, JOHN easily fought back legislative attempts to weaken U.S. efforts there. I do not recall him ever losing a major floor fight on defense nor did he ever lose his courteous and dignified manner toward those who opposed him on various issues over time.

Mississippi did itself and the Nation a monumental favor by sending this courtly, distinguished, and intelligent lawmaker back to the Senate time after time after time. He makes his State proud; the Nation prouder. As part of the STENNIS legacy, I hope the Senate will take to heart JOHN's outlook for America summed up in his words as "earning and doing for yourself rather than having government do everything for you."

JOHN, I will greatly miss your wisdom and statesmanship on and off the Senate floor. I wish you all the happiness and success in your new endeavors.

SENATOR DAN EVANS

Mr. MITCHELL. Mr. President, it is rare that a Senator in one single term of service can so elevate the level of debate as has Senator DAN EVANS of Washington.

Senator EVANS' decision to retire after a single term of service deprives us of his reasoned and carefully considered perspective. His commitment to the preservation of public lands and the natural environment will be sadly missed. The thoughtful insight that Senator EVANS brought to our deliberations was the product of years of public service and a broad experience in the needs and priorities of a growing State in an era of dramatic change.

The State of Washington has been represented by Senator EVANS in the tradition of thoughtful, principled legislative work that was the hallmark of Scoop Jackson. Senator EVANS' retirement is a loss to the State of one of its most effective and conscientious public servants. It is also a loss to the Senate of a voice of reason and moderation at a time when all too many impulses fuel hysteria and overreaction.

Senator EVANS was chosen to govern his State for an unprecedented three terms, a tribute to his personal integrity and his dedication to public service by the people of Washington that has been borne out in his Senate service as well. He will be missed by his colleagues.

SENATOR ROBERT T. STAFFORD

Mr. MITCHELL. Mr. President, the retirement of Senator ROBERT STAFFORD deprives the Senate of the experience and knowledge of one of our most committed environmentalists.

At a time when the physical results of our global society's growth and energy demands are becoming increasingly apparent, Senator STAFFORD has devoted his last few weeks of Senate service to setting before us the scope of the environmental challenge our world faces.

It has been a privilege to serve on the Senate Committee on Environment and Public Works under Senator STAFFORD's leadership. With his help, the committee completed work on landmark legislation such as the Superfund toxic cleanup bill, the identification and removal of asbestos from our public schools, protecting the public drinking water and a myriad other environmental and public works issues.

Senator STAFFORD's work has won him the confidence of his Vermont constituents as Governor, U.S. Congressman, and three times as U.S. Senator in a career of public service that spans more than three decades.

Those who have worked most closely with BOB STAFFORD know that this confidence was not misplaced. He has represented not only the interests of Vermont and New England, but the interests of all Americans who care about the quality of the natural environment in which they live and which their children will inherit.

Senator STAFFORD will be sorely missed in the Public Works Committee in the 101st Congress, even as we take up the challenges that he so clearly outlined during these past weeks. I wish him well in the future.

SENATOR HELMS' STRATEGIC VISION IS 20/10

Mr. SYMMS. Mr. President, I would like to call to the attention of the Senate a column in the Wall Street Journal that appeared on October 12 of this year titled: "It's High Time To Withdraw From the ABM Treaty." Its author is former Secretary of Defense, Caspar W. Weinberger.

Mr. President, a key sentence in Secretary Weinberger's article is "The real ABM debate should be on whether it is in the national interest of the United States to exercise the withdrawal clause and pull out of the treaty."

Mr. President, I find this idea so interesting because over 1½ years ago, a U.S. Senator said: "The real debate should be over whether to abrogate the ABM Treaty as a proportionate response to Soviet ABM breakout"—treaty violations.

Mr. President, my good friend from North Carolina, Senator HELMS, said what former Defense Secretary Weinberger is saying now, over 1½ years ago.

Mr. President, everyone in the Senate realizes that the way the ABM Treaty is now interpreted it will prevent the strategic defense initiative from being properly tested, and therefore ultimately built. As a result America will be deprived of any defense against nuclear weapons.

Mr. President, the Soviets have admitted that they have their own strategic defense operational around Moscow, which according to Dr. Edward Teller, is 95 percent effective.

Mr. President, despite the fact we know that the Soviets have a 95-percent effective system around Moscow and that the Soviets have built a nationwide infrastructure of ABM radars, interceptor rockets, communication system, and have trained ABM personnel; the United States is still abiding by this violated, worthless document.

Mr. President, Senator HELMS' vision in strategic thinking is 20/10. It is high time this Government acts on an issue and idea that Senator HELMS has been advocating for over 1½ years: That the United States legally withdraw from the ABM Treaty in response to continued Soviet violations of the treaty.

Mr. President, I ask unanimous consent that the Wall Street Journal article titled: "It's High Time To Withdraw From ABM Treaty" that appeared on page A18 on October 12, 1988, authored by former Secretary of Defense Caspar Weinberger, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 12, 1988]

IT'S HIGH TIME TO WITHDRAW FROM ABM TREATY

(By Caspar W. Weinberger)

In spite of all the progress, the Strategic Defense Initiative is in danger of slow strangulation by a combination of inadequate congressional funding and blind submission to a treaty, the ABM Treaty, that has never served the national interest of the U.S. but has become a kind of totem to which all are supposed to offer continued support.

Now is the time to continue full speed ahead to develop, test and deploy strategic defenses. The presidential election should be a national referendum on the necessity to deploy strategic defenses. The critical question is whether the U.S. will be able to defend itself and its allies against Soviet offensive missiles, or whether it will give up and let the Soviets win the race for defenses against missiles while maintaining their lead in building modern and accurate offensive weapons.

The 1972 ABM Treaty is a prime example of a flawed strategic concept that its supporters hoped would enhance nuclear stability between the U.S. and the Soviet Union. But the treaty was based on two assumptions that were not borne out: that there would soon be deep reductions in offensive weapons, and that both parties would give up defenses (except for one not very effective system).

The Soviets upset both assumptions. They never stopped their buildup and modernization of offensive arms, and they never abandoned defensive strategies. In fact, immediately after signing the ABM Treaty they began to develop the same strategic defenses they so violently objected to when pursued by the U.S. They also deployed, and then modernized, all of the defensive systems permitted under the ABM Treaty, and they violated that treaty by constructing the huge radar at Krasnoyarsk. These developments undermine and make obsolete the ABM Treaty, and it is time that the U.S. acknowledges this by withdrawing from the treaty.

There has been continuing debate—arcane and largely irrelevant—about what the ABM Treaty allows and does not allow with respect to testing and development of defensive systems. We know it does not permit deployment. The primary purpose of most Americans who urge "strict construction" of the treaty is to kill SDI. The real ABM debate should be on whether it is in the national interest of the U.S. to exercise the withdrawal clause and pull out of the treaty.

The U.S. does not have to violate the treaty to deploy SDI; under the provisions of Article XV, it has a right to withdraw by giving six months' notice. The U.S. would not violate the treaty by exercising its rights under that treaty; that is why withdrawal clauses exist.

The critics of SDI say that a perfect defense cannot exist and therefore SDI is a waste of technical and financial resources. But the value of SDI must be viewed in phases. Deterrence, strategic stability, and arms reductions all would benefit from a first phase that is an integral part of the full system. SDI would offer an important element of protection for all the West, and would reduce the possibility that the Soviets would launch an attack in the first place. By deploying SDI, the U.S. would greatly complicate the calculations of Soviet planners.

Above all, SDI opens the way to deep reductions in offensive nuclear weapons with a margin of safety. If the U.S. and the Soviet Union agreed to destroy a portion of their ballistic missiles as they deployed defensive systems, they would be sending each other signals that neither side was seeking a strategic advantage. That opportunity could be lost if the U.S. continues to adhere to a treaty that bans deployment of SDI while the Soviet Union continues to violate it by pursuing its own strategic defense program.

If the U.S. withdraws from the ABM Treaty and if Congress funds SDI adequately, the U.S. could begin deployment in the mid-1990s. The U.S. already has made enormous progress on strategic defense:

In an industry, university and Strategic Defense Initiative Office experiment, a rocket payload was launched last December into the upper atmosphere, proving that electrical conductors can operate in space without insulation. This breakthrough means that it is possible to reduce the design weight of SDI space platforms by one-quarter or more. Such a weight-saving measure means in turn that SDI platforms can be placed into orbit more cheaply and efficienlty than previously imagined.

The U.S. also has had substantial success in developing a capability to find, track and precisely point a high-energy laser beam at a target hundreds of miles away. Work on the control and stabilization of the laser beam continues, while the prototype target sensor and computer have successfully tracked a thrusting missile.

Perhaps most exciting of all are the results of a study, sponsored by the SDI Office, of ways to improve the space-based interceptor missile. The foremost goal of any space-based defensive system is, of course, military effectiveness, and in the past, cost models of space-based interceptors have shown that system to be expensive. Thus the SDI Office needed to slash costs, while retaining real military capability.

Efforts to cut costs have succeeded. Lt. Gen. James Abrahamson, director of the SDI Office, believes the cost of space-based interceptors can be reduced dramatically, to $20 billion from a previous estimate of $75 billion. This could be accomplished by redesigning the craft that houses the interceptor missiles, applying new, lightweight technologies, and adopting innovative production and manufacturing techniques.

In the end, the only question is whether the U.S. has the will and clarity of vision necessary to provide the security that SDI brings. If it does, the next steps are for Congress to fund the program adequately and for the U.S. to withdraw from the ABM Treaty.

FAREWELL TO A SHINING STAR—BILL PROXMIRE

Mr. PRYOR. Mr. President, when BILL PROXMIRE retires at the end of the 100th Congress the Senate will bid farewell to one of its brightest shining stars. Even though Senator PROXMIRE sits on the back row of the Senate, he is front-row center when it comes to being the guardian of the U.S. Treasury and how the Federal tax dollar is spent.

We could all heed BILL PROXMIRE's example on the subject of campaign spending. In 1976, he spent a total of $177.73 on his overwhelming reelection campaign. In 1982, he spent only $145.10 in being returned for his fourth 6-year term.

A Senator who speaks daily on issues ranging from banking and housing to the genocide treaty, BILL PROXMIRE is admired for both his toughness and his independence, as well as for the fact that he types his own speeches.

Since 1966, BILL PROXMIRE has not missed a single rollcall vote. And there have been more than 10,000 of them in that period.

His Golden Fleece Award is recognized nationwide and indicates his integrity as well as his determination to go it alone when he feels things are going awry.

Mr. President, this Senator will miss the wit and wisdom of BILL PROXMIRE, a dedicated public servant. The people of Wisconsin are rightfully proud to have had BILL PROXMIRE speak for them in the Senate these past 30 years. I wish him well in retirement. I have been honored to serve with him.

LECTURE BY NANCY HARVEY STEORTS AT SYRACUSE UNIVERSITY

Mr. THURMOND. Mr. President, last spring Nancy Harvey Steorts delivered a lecture at Syracuse University regarding the need for a renewed call for improved quality in American goods and services.

Ms. Steorts is a very able woman, and, as former Chairwoman of the U.S. Consumer Product Safety Commission, is well qualified to speak in this area.

Mr. President, I ask unanimous consent that this article be printed in the RECORD, and commend it to the attention of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Condensed excerpts from lecture at Syracuse University]

Quality: The New National Priority

(By Nancy Harvey Steorts)

Over the last fifteen years, my work in the private sector and in the federal government, including the Chairmanship of the United States Consumer Product Safety Commission, has given me the opportunity to be at the cutting edge of many changes in the consumer issues arena. Some changes I have initiated, some I have helped bring to satisfactory conclusion. As in the past, I continue to hold a basic philosophy—the best changes occur when everyone involved can be brought to the table of decisionmaking together. Today we have a quality crisis; it has become the new national priority.

OUR LOST LEAD IN QUALITY

"Made in the USA" used to be mean quality. Today, I'm not sure it always does! We are in a new era—an era where consumer concerns must be business concerns—where all major concerns relate to the quality of the product or service—where these concerns are of paramount importance to our country domestically and in the international marketplace.

Quality is today's buzzword at home and abroad, and in my opinion tomorrow's national buzzword as well. Recently in Japan, when I attended an international trade meeting with both Japanese and American industrialists, it was made very clear to me how many products exported by the United States have to be reconstituted before they are accepted for sale by the Japanese. In the cosmetic field alone, some products have be be reconstituted by as much as 50%! This is a staggering percentage. Why is this? Does this mean the Japanese consumer demands higher standards and quality than the American consumer? Does this mean that some American corporations have not had superior quality as their number one goal? Does this mean that because of a deemphasis on regulation that corporations have had an increase in efficiency at the expense of quality?

A NEED FOR CHANGE

We are faced with a dramatic need for change. Superior quality must be the Number One Priority for each American corporation. We must stop confusing efficiency with effectiveness. Real change means improved attention to product design as an integral component of improving quality. It demands long-term, in-depth commitment.

QUALITY, AN AMERICAN TRADITION

The desire for quality is essential to Americans. It is inherent in the American dream and part of our heritage. America is a land of individuals who have strived for the best. What the individual consumer wants has been a paramount directive from the frontier days and has affected the way we have incorporated technological change and scientific improvements.

MATERIALISM VERSUS QUALITY

When prosperity returned after World War II, however, what was "in" for the majority of individuals in our country were: quick fixes, fast foods, fast cars, instant entertainment and indulgences, the newest in TV's, stereos, fake furs, jewelry, look-a-like rolexes and clothes that resembled the movie stars and the powerful world of the rich and famous. Quantity was what the consumers wanted in an era of throwaways, trendiness, and baby boomers. Materialism was the name of the game and convenience its mainstay.

80'S—BEGINNING OF A NEW ERA FOR QUALITY

Now a materialistic plateau has been reached and a growing number of saturated individuals realize that quantity and look-a-likes are not enough. A new breed of American consumer has developed, one vitally interested in the quality of life. The important issue is no longer how many cars can one own, but how will they perform, can they be properly serviced, who will do the servicing, how effective are the designs, how durable are the purchases. Robert Aders, President, of FMI, at the recent 81st Annual Convention of National Food Processors Association discussed the dramatic change in consumer concerns since 1974 when FMI started. The bottom line is the American consumer is now demanding quality in everything they buy.

In 1988, the American consumer cares about the quality of the environment—the surroundings at home, at school, and at work—noise pollution and air pollution, in the streets, in the shopping malls, in the sports stadiums, and in airplanes. Today's consumer cares about high standards—truth in advertising, safety in flying, quality in food, in medical treatment, in appliances (necessities and luxuries), quality in the state of our education and our government, and, yes, morality, on Wall Street, in the pulpit, and in politics.

TRANSLATING QUALITY INTO NEW HIGH STANDARDS

Today, the individual consumer wants more stringent quality control in self-regulation by industry and in government regulations. The consumer and business in this sense are allies. A corporation with the best quality control initiative and highest quality standards is the corporation that will have the more profitable business, because this corporation is in tune with the needs of the end user—what the purchaser wants. I believe industry response will be there.

CORPORATIVE EXAMPLE

Recently, the president of Clairol, C. Benjamin Brook, told me "quality starts at the top." The cover of the 1987 Xerox Corporation Annual report has the simple phrase "We achieve customer satisfaction through a dedication to quality in everything we do." In the Sunday Business Section of The Washington Post a lead article was "GM Steps on the Gas—Despite Poor Image, Company is Reducing Costs, Boosting Earnings and Improving Product Quality." In Dallas, a recent full-page advertisement for Tom Thumb Page had the headline, "Quality Is Our Rule of Thumb." The Better Business Bureau too has become a standard bearer in helping to pave the way for improved self-regulation. In other words, the responsible business view is better corporate self-regulation makes good corporate sense—satisfied consumers and more corporate profit.

GOVERNMENT EXAMPLE

The government is echoing a similar refrain. The Department of Agriculture, under Secretary Richard Lyng, is sponsoring a Quality Conference. The Department of Commerce with the excellent leadership of Secretary C. William Verity, has inaugurated the Malcolm Baldrige National Quality Award. The Congressional Findings note that "American business and industry are beginning to understand that poor quality costs companies as much as 20 percent of sales revenues nationally, and that improved quality of goods and services goes hand in hand with improved productivity, lower costs, and increased profitability.

QUALITY: THE NEW NATIONAL INITIATIVE

This spring, in a White House ceremony President Reagan inaugurated the Malcolm Baldrige National Quality Award, noting that now is a moment of opportunity in the United States to innovate, to improve productivity and to improve the quality of our products so that our quality is second-to-none. During this "new quality revolution," he said, "we need to examine our quality procedures so that we can produce truly quality products and service." Vice President Bush expressed his confidence in our ability to compete in the international marketing and his optimism about what the private sector has done.

Others at this ceremony, such as Sanford McDonnell, President of the Foundation of the Malcolm Baldrige National Quality Award, added that "to be successful, it is essential that CEO's be involved; that we, in fact, have a "national obsession with quality." Secretary Verity stresses, from an economic viewpoint, the United States must get its quality act together, because it is not just a one-time thing—it must be a long-term goal. "Quality" he said "is a key weapon in America's arsenal in the international battle for markets." This Award will be further incentive, an American Nobel Prize for Quality, recognizing the firms that are making a difference when it comes to quality and stimulating others to follow their lead, so that "made in America" will mean "made of the highest quality."

CORPORATE QUALITY MAKES GOOD BUSINESS SENSE

Today industry realizes the necessity of increased self-regulation. Without better designs and standards for products, for employees and for environmental conditions, profits will go to others. Companies are beginning to recognize how much they will save from not having to make repairs, to pay off warranties or to settle liability suits. Any way you say it, the message is the same, quality pays. Otis Port in Business Week points out that "A few U.S. companies have a tradition of quality-consciousness, and they are sparking the current revival by applying new techniques just as vigorously as the Japanese. AT&T, Corning Glass, DuPont, Ford, Hewlett-Packard, IBM, Kodak, and Westinghouse are as cited as leaders. I would, also, like to include Coors, Johnson & Johnson, Texas Instruments and L.L. Bean to that list. Each has an impressive record of the power of management by quality.

CHALLENGE FOR TODAY AND THE FUTURE

It is true that we will have to work hard, in depth, and that it will take time, but America can regain its leadership role in product quality. As I have traveled from nation to nation, government leaders remind me that they are still looking to the United States for guidance and example in product safety and quality. And now in 1988, when there is a call for renewed commitment to quality in American products and for a restoration of American competitiveness in the world marketplace, we must be prepared to send a clear message to the rest of the world. By our words, our deeds, our legislation and our products, we must once again make it clear that the United States is committed to the design and production of safe quality consumer goods. Quality is the new quest for consumer and industry alike. Quality is indeed the now and future national challenge.

CLARIFICATION OF EARLIER STATEMENT IN RELATION TO ATLANTIC STRIPED BASS CONSERVATION ACT

Mr. HELMS. Mr. President on October 14, the Senate considered and passed H.R. 4124, the Atlantic Striped Bass Conservation Act reauthorization. On page S16361 of the CONGRESSIONAL RECORD, I stated my strong support for H.R. 4124 and commented on the importance of the provision authorizing a study of the striped bass in the Albemarle Sound and Roanoke River of North Carolina.

In order to avoid any possible confusion, let me clarify that in my statement, I was referring to H.R. 4124 as amended by the text of the Senate bill, S. 2384. In other words, my support was in fact directed solely to H.R. 4124 as amended by the text of the Senate bill.

THE RISE OF BALTIC NATIONALISM

Mr. HELMS. Mr. President, these past 2 weeks have marked a turning point in the relations of the Soviet Union and the Baltic States, three sovereign nations which were occupied by the Soviet Union in 1940. To this day, the U.S. Government has not recognized the illegal incorporation of Estonia, Latvia, and Lithuania into the Soviet Union.

Indeed, the United States continues to accord full diplomatic privileges to the legations which were representing the free governments of the Baltic States here in 1940, and which continue to represent the aspirations of the Baltic peoples today.

Mr. President, three recent events illustrate that the more things change, the more they stay the same. The first event took place on September 28 when the Soviet authorities in Lithuania brutally repressed a popular demonstration against the Molotov-Ribbentrop Pact of 1939—which, by the way I discussed on the Senate floor on August 10. The secret protocols to this pact laid the foundations for the illegal occupation and annexation of the Baltic States. The Soviet Union continues to deny the existence of the secret protocols, since to admit their existence would expose the illegitimacy of its rule in the Baltic States.

Four days later, a 2-day congress opened in Tallinn, the capital of Estonia, at which time the People's Front of Estonia [PFE] was founded, with the purpose of seeking limited economic and political autonomy within the Soviet system. On October 8 and 9, the People's Front of Latvia met for a similar founding congress, and the Lithuanian Movement to Support Perestroika is expected to follow with a similar meeting set for October 22 and 23.

In contrast to the September 28 handling of the demonstrations, the Soviet authorities apparently gave tacit permission for these meetings to take place. Moreover, on October 7, according to a Reuters wire service report, the Soviet news agency TASS announced that the parliaments of Latvia and Lithuania had approved resolutions legalizing the flags of the free Baltic republics and granting official state status to the local languages.

Mr. President, the permitted meetings are important milestones, and their importance to the survival of the Latvian, Lithuanian, and Estonian nationalities cannot be overstated. Nevertheless, the difference in Soviet attitude toward the September 28 demonstrations and the founding of the popular front groups is a warning to those who think the Soviets are prepared to yield to the desire of the Baltic peoples for freedom.

The Soviet Union continues to avoid facing the truth on one basic matter—the illegality of the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union. It appears to this Senator that the Soviets are simply trying to contain within controllable limits the proper aspirations of the Baltic peoples to independent nationalism. But in the long run, mere containment may not be possible.

THE DEMONSTRATION IN LITHUANIA: A DOSE OF REALITY

On September 28, the demonstrators assembled peacefully in Vilnius, the capital of Lithuania, to mark the fact that on this day, 49 years earlier, Nazi Germany agreed it would take no action if the Soviet Union invaded Lithuania, Latvia, and Estonia. The demonstrators did their best to avoid provoking the policemen who surrounded them, going so far as to obey a request by the organizers of the rally, the Lithuanian Freedom League, to sit down. However, the riot squads had already decided to disrupt the demonstration, no matter what the attitude of the demonstrators.

"They beat everyone and anyone, even children and old women," reported Vytautas Bogusis, a spokesman for the league. People scattered in all directions, but then regrouped and came back shouting "fascist occupiers out of Lithuania!" Vincent J. Schodolski, a reporter for the Chicago Tribune, who was present at the demonstration, wrote that:

> The militia troopers, who serve a police function in the Soviet Union, wore helmets and carried Plexiglas shields and riot sticks. They beat dozens of people, most of them young men. Several older women who tried to protect the younger men were pushed and slapped by the troops, who made several sweeps through the square.

When the police left the area, between 15,000 and 20,000 people took to the streets to protest the repression, but peacefully dispersed as soon as the demonstration was over.

The United States was quick to protest the actions of the Soviet militia. On October 6, 1988, during a press briefing, Department of State spokesperson Phyllis Oakley made the following statement in response to a question concerning Soviet militia violence against Lithuanian demonstrators:

> The U.S. Government deplores the recent pattern of systematic violence by the Soviet authorities directed against peaceful demonstrators in Lithuania. The unjustified and unprovoked attacks have injured more than a dozen individuals. In the September 28 demonstration in Vilnius, more than ten persons were injured by police in an attempt to prevent the non-violent expression of political views. During the past weeks, organizers of peaceful demonstrations have been injured by unknown persons in attacks believed to be officially sanctioned. We call upon the Soviet authorities to refrain from the use of force against peaceful marchers and to discipline those officials responsible.

Mr. President, it is clear that the behavior of the riot squads in Vilnius, which reflect the determination of the Soviet Union to use police state methods to suppress protests of the legality of Soviet control in the Baltic States, contrasts sharply with what has taken place in occupied Estonia and Latvia the past two weekends.

THE PEOPLE'S FRONT CONGRESSES: A GLIMMER OF HOPE

Mr. President, as I noted earlier, the People's Front of Estonia held its founding congress in Tallinn on October 1 and 2. The PFE declared in its draft program, that "The most important programmatic feature is achieving the true political, economic, and cultural sovereignty of the Estonian SSR within the U.S.S.R., as a union republic." This is a desire expressed by all three of the People's Fronts—to work within the limits of the doctrines of glasnost and restructuring, to take advantage of the Soviet Government's proclaimed desire to be more open and honest in its policies and to force Moscow to loosen its grip on the illegally occupied Baltic States. As Ulo Kaevats, a member of the front's organizing committee stated in the New York Times:

> Naturally, independent Estonia is the aim of every Estonian. As politicians, we see the realization of this idea in the transformation of the Soviet Union from a federation into a union of independent republics.

The People's Front of Estonia, according to Bill Keller, a correspondent for the New York Times, "claims nearly 60,000 active participants and many more sympathizers." According to a Soviet news agency TASS report by the Associated Press, the People's Front of Latvia claims 130,000 members from all walks of life, from the various informal groups that have developed over the past year to the intelligentsia, such as the Latvian SSR Writer's Union. The Writer's Union issued a bold resolution June 1 and 2 which now serves as a basis for the program of the People's Front of Latvia. The Lithuanian Movement to Support Perestroika claims the support of 100,000 people, according to Ina Navazelskis of the Chicago Tribune.

Mr. President, the draft programs of the People's Fronts in all three Baltic States have been published in the official Soviet press. When finalized and approved, as the Estonian and Latvian programs were at their founding congresses, these programs have the potential of going, as Michael Dobbs of the Washington Post states, "Further than the platform adopted by the independent Solidarity movement in Poland in 1980–81 or Czechoslovak reformers in 1968."

Nearly two dozen resolutions were passed by the congress of the People's Front of Estonia. According to reports in the Washington Post and the Washington Times, these included resolutions demanding the renunciation of the Molotov-Ribbentrop Pact, encouraging the Estonian government and the Communist Party to halt the flow of non-Estonian nationalities into Estonia, insisting that the people guilty of Stalinist excesses be brought to justice, and requesting that Estonian military conscripts be allowed to serve out their enlistments in Estonia.

The People's Front called for the "unimpeded development of cooperative, personal and private property," in the form of a "constitutional guarantee" for private property and for the state to transfer ownership of certain state enterprises to collectives and individuals. Similar resolutions have been approved by the People's Front of Latvia, and will surely be approved in Lithuania later this month.

Leaders of the People's Front of Estonia also announced their intention to field independent candidates in the elections next March for the new national and Estonian legislatures. According to the Washington Post, they have a good chance of winning if, as General Secretary Gorbachev has promised, free elections are permitted.

There is little doubt, however, that the Soviet occupiers hope to coopt these organizations as a new method of controlling the populations of Estonia, Latvia, and Lithuania. In all three occupied countries, Communist Party members are actively involved in the leadership of these mass movements, and no doubt will be working actively to give the local nationalities a sense that their existence is no longer in jeopardy, while neutralizing the question of self-determination for the Baltic States.

WHAT DO THESE EVENTS MEAN?

Mr. President, Bill Keller, of the New York Times, wrote a short analysis of the program that was submitted for approval by the People's Front of Estonia's founding congress:

> The program that the congress is expected to adopt calls for giving elected Estonian officials almost complete autonomy in running the republic, except for national defense and diplomacy.
>
> Even in those areas, the front demands new prerogatives * * *
>
> * * * The movement has become a model for similar groups in other republics, such as Latvia and Lithuania, and in major cities, such as Moscow and Leningrad.

Mr. President, I applaud the courage of the people demanding that the Soviet occupiers of Estonia and Latvia return to their representatives the rights and privileges of being a sovereign nation, and express the hope that the Lithuanians will follow their lead. It is indeed encouraging that the people of Estonia, Latvia, and Lithuania are finally, after nearly half a century, being granted the right to fly the flags of the free Baltic republics and will no longer have to suffer the indignity of having their native languages denied the status of state languages.

However, hope for the success of these efforts by the peoples of the Baltic to assert aspects of their sovereignty and independence must be tempered by the displays of police state tactics by the Soviet Government in Lithuania, Armenia, Moscow and elsewhere to quash demonstrations and other expressions of dissatisfaction that do not fit into the framework of glasnost and perestroika.

It is difficult to imagine that a true change of policy has taken place or will take place within the Government of the Soviet Union. But whether the policy has changed or not, the fact is that Baltic nationalism has been unleashed and it may be difficult for Soviet authorities to put it back in chains.

Mr. Antanas Terleckas, a leader of the Lithuanian Freedom League, was quoted in the Chicago Tribune as saying, in reference to the brutal repression of the demonstration in Vilnius on September 28, "See with your own eyes what the local authorities think of perestroika and glasnost."

Mr. President, Mr. Terleckas is correct. Until the Soviet Union is willing to listen to such protests, there can be no talk of true reform.

By the same token, the development of mass movements, such as the People's Fronts, offer hope to the people of the occupied states of Estonia, Latvia, and Lithuania.

However, let us be clear, Mr. President. These changes are not the result of any real changes of heart by the Soviet leaderships; they are a result of the fact that, after 48 years of Soviet occupation, the people of Estonia, Latvia, and Lithuania have simply had enough. Until such time as a true change takes place in the relationship of the Soviet Union with the Baltic States, the United States cannot, and must not, abandon its support for the freedom of these oppressed people.

SENATOR WILLIAM PROXMIRE'S ENVIRONMENTAL RECORD

Mr. HUMPHREY. Mr. President, when the senior Senator from Wisconsin retires from the Senate, he will leave a unique legacy of legislative successes which have protected both the National Treasury and the natural environment.

Time and again, Senator PROXMIRE's famous penny-pinching philosophy has complemented his work on behalf of the environment. Snuffing out taxpayer financed, environmentally destructive boondoggles has been a Proxmire specialty for years. His work has demonstrated that saving a buck can mean saving a tree. Indeed, he has consistently received highest ratings from both the League of Conservation Voters and the National Taxpayers Union.

Since coming to the Senate, I have enjoyed working with Senator PROXMIRE to defeat outrageous Federal projects which would have sapped the Treasury and zapped the environment. Some examples of Senator PROXMIRE's efforts follow:

He has helped lead the fight to prune the Forest Service's excessive roadbuilding program. His efforts have resulted in smaller budgets for the construction of unnecessary logging roads through our national forests. He has also led efforts in the Senate to protect the environmental integrity of the Tongass National Forest by eliminating the permanent appropriation of $40 million per year for timbering in the forest.

He has helped lead the fight to cut funding for the Clinch River breeder reactor, the Synthetic Fuels Corporation, the wasteful westway highway project in New York City, and the Garrison Diversion project.

He has worked to protect the Federal taxpayer from soaking up billions in unrecovered costs owed by the nuclear industry to the Government's uranium enrichment program.

His parliamentary maneuvering resulted in the defeat of the 1978 water projects bill. His efforts led to adoption of several important reforms, including cost-sharing requirements, contained in the Omnibus Water Resources Development Act of 1986.

In 1985, I was pleased to join Senator PROXMIRE in the introduction of acid rain control legislation designed to achieve significant reductions in acid rain precursors in the most cost-effective manner. We have worked to promote the important aspects of this legislation: flexibility, trading, conservation and phased reductions. Although the Congress has yet to break the deadlock on this issue, I believe it is safe to say that any successful acid rain legislation will incorporate many of these principles.

The Senator from Wisconsin has also worked hard for legislation to ensure a stringent safety regime for the transportation of high level nuclear waste materials.

Senator PROXMIRE has taken the lead on a wide variety of environmental and energy issues during his tenure in the Senate. The following themes recur throughout his career: opposition to pork barrel spending; fair value for Federal resources; cost-effective solutions to environmental problems; and, adherence to the principle that the polluter should pay for damage to the environment.

Mr. President, the Treasury and the environment will lose an important friend when Senator PROXMIRE leaves the Congress.

HOUSING

Mr. BUMPERS. Mr. President, I'd like to talk about home and the special meaning it holds for Americans. Home, Mr. President, is the one place where we can truly be comfortable—be with our families and those whom we love, free from the impositions of a demanding world. Having a home—being able to say "this is my own"—is a fundamental part of the American dream. As one prospective homeowner remarked in the Wall Street Journal, "It's a cultural imperative."

But what surprises me, Mr. President, is how many Americans don't have homes, and find the opportunity for ownership well beyond their reach. I refer not only to the homeless, but the working poor, low-income people, and the American middle class. The rate of homeownership in the United States has dropped steadily since 1980, after having risen every year since World War II—even though mortgage interest rates have declined. Many experts cite different reasons for this phenomenon—skyrocketing costs of real estate with only modest gains in income, tough competition for jobs, and the tightening of eligibility rules on low-interest mortgages. And for rural America, Mr. President, and that means Arkansas, there is an additional reason—the rate of poverty in rural America has surged by 18 percent since 1980, which is 50 percent greater than the increase of poverty in urban areas.

I am particularly concerned by the impact of these trends on young American families, who only want a chance to attain the same kind of life their parents did. Between 1980 and 1987, the rate of homeownership among families headed by 25 to 29 year olds fell by more than 17 percent. And for families headed by 30 to 34 year olds, it fell by more than 10 percent. That sounds like a lot of young folks making rent payments instead of mortgage payments.

But that's not half of it because housing prices are zooming up and up. In Arkansas, for example, the average purchase price on a home with a conventional mortgage was $40,000 in 1980. In 1988, the average purchase price is $82,700—more than double. And this in a State where the median income for 1986 was $27,157 for a family of four, one of the lowest in the country.

I am concerned by this tightening vise like grip on our middle class and what looks to be a growing nation of tenants—where Americans have to shell out more and more to meet their monthly rent obligations. I recently read in the Post that more than one-third of single-parent families pay 75 percent or more of their income in rent. Seventy-five percent. That's obscene. One catastrophe—or even mild unforeseen expenses—can wipe these people out. Moreover, Jim Rouse, chairman of the National Housing Task Force, recently testified before the Senate Banking Committee that nearly one-half of the 13 million American families earning less than $10,000 per year pay more than 50 percent of their income in rent. That's also obscene. Add to this a slashing of Federal housing programs by more than 70 percent in the last 8 years, and we're talking about a housing policy that is, in the words of Justice Sandra Day O'Connor, on a "collision course with itself."

Obviously, dramatic action needs to be taken. The rising numbers of American homeless are a severe and compelling reminder of a U.S. housing policy that's not doing much to help. As Jim Rouse concluded, "The solutions to the housing needs of first-time home buyers, the working poor, and the homeless are inextricably linked"—as more people can't afford to buy homes and scramble for available rentals, the very poor are pushed into homelessness.

For example, in one of the poorest regions in my State, not to mention the United States, the Arkansas Delta, there are lines a mile long for HUD rent subsidies. In order to be eligible for the program, an applicant must be among the poorest 30 percent nationwide. Over 40 percent of the population in Lee, Phillips, and Chicot Counties falls below this poverty line.

In Lee County, there's a waiting list of 205 applicants.

In Chicot County, 214 applicants are waiting.

And in Phillips County, 1,005 families continue to wait day after day.

But what I want to know is—where do these people go when HUD turns them away?

But I guess we really don't need to worry about that, because, according to everything we hear, America's doing better than ever, we're up and moving again—it's "morning" in the USA.

I wish somebody would tell that to the people on the grates, and to poor and middle-income families that can't afford a home. They don't think it's morning.

Now I've thought about this, and, beside the policy decisions, there's a point that really concerns me. We are the wealthiest nation on Earth, with a tradition of overwhelming generosity throughout the world, and are blessed with the resources to match our philanthropic ways. But for 8 years, we've heard about liberal handouts, welfare queens, and bureaucrats who impede true progress. We've heard about no-gooders who milk the system, onerous and preposterous regs, and free-wheeling liberals who have a great time spending other people's money. But putting aside what we hear, isn't there something wrong about the abject human misery that stalks us even to the shadow of the U.S. Capitol? Has the "shock value" of human suffering lost its play that much? Are the images of American homelessness no longer disturbing, as we head for I-395 South or turn up Connecticut Avenue? Aren't these homeless people Americans, just like those of us who are blessed by comparative wealth?

There was a thought-provoking editorial in the Washington Post several Sundays ago, entitled "Hard Times, Harder Hearts." In it the author ventures that there is an "increasing public conviction that beggars are responsible for their own plight and that they are an imposition on middle-class people who are, themselves, struggling to stay out of poverty." Is it just social Darwinsim that makes us walk away? Tight fistedness? Or, are we simply recognizing that throwing money at a problem doesn't always solve it? Regardless, something needs to be done.

But the good news is, help is on the way, both for the homeless and the middle class.

I have been very proud to see the energy and extraordinary efforts of my colleagues on the Senate Banking Committee, who are committed to restoring housing to its rightful place on the national agenda. The renewal of the debate through the proposed National Affordable Housing Act—built upon the top-notch recommendations of the National Housing Task Force—gives us a solid place to start in the 101st Congress. Moreover, the well-drafted and prepared staff concept papers of the Housing Subcommittee guarantee us a necessary balance and expertise that are all our own.

Mr. President, Senators CRANSTON and D'AMATO deserve a lot of credit for their hard work, and next year is going to be an exciting time for action in this area. I look forward to being a part of this very necessary effort, and working with all my colleagues on the Banking Committee—Senators RIEGLE, SARBANES, and HEINZ, to name a few—and in the Chamber. I also want to help in every way I can from the Senate Appropriations Committee.

I agree with the Housing Subcommittee's approach—we need to put everything on the table, and look at, for starters, mechanisms to encourage private investment in housing, tax incentives, preservation of public and low-income housing, the formation of public-private partnerships, and the future of rural housing.

A renewed sense of dignity and pride—the resuscitation of the American dream—are the critical ends we need to achieve through the drafting of these pragmatic and effective proposals. The more than 32 million Americans living in poverty, and the millions more behind them, can't afford to wait.

The Housing Act of 1949 set forth a broad and noble goal: the achievement of a decent home and suitable living environment for every American family. Viewed one way, it seems a nearly impossible task. But another way, it is simply one component of the basics we all value and need—a chance to work, a clean bed, and a roof overhead.

Mr. President, I again commend my colleagues, particularly Senator CRANSTON and D'AMATO, for their outstanding efforts, and ask unanimous consent that the Post editorial, "Hard Times, Harder Hearts," be printed in the RECORD.

There being no objections, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 2, 1988]

HARD TIMES, HARDER HEARTS

(By Juan Williams)

It's 6:30 a.m. at McPherson Square, two blocks from the White House. In the gray, cool September dawn that forewarns of winter, the park is littered with shoeless people wrapped in filthy blankets, some on park benches, some beneath bushes, some beneath bushes strewn with mulch, candy wrappers and old newspapers. At the subway entrance across the street stands a man, his hand out. He takes halting steps toward every other person coming off the escalator, grumbling something, but clearly begging. On the sidewalk beyond the subway more beggars and homeless people form a maze of desperation. Signs and voices call out to those walking by: "Help Me!"—"I'm Hungry"—"Vietnam Veteran." One woman raises the emotional stakes. She huddles with her daughter and slowly mouths the words, "Mother and child."

The federal workers exiting the station hustle by the scene. Most look away. Some are clearly irritated by the harangues of the more aggressive beggars. A few come up the escalator with coins in hand and choose one sad case for a donation. But fear predominates among the commuters, fear that one of these people may touch, might spit, might breathe, might hit, might curse them.

The scene's horror is in its ordinariness. Call it Calcutta comes to Washington.

Third World images of poverty and desperation are on daily display across from the White House in Lafayette Park, in downtown business areas, around bars in Georgetown, at stop lights on Dupont Circle, at bus shelters on H Street NE, at the food truck that stops at Connecticut and M in the late afternoon.

And the scene is repeated around the nation. Beggars are a permanment fixture outside the flossy stores on New York's Fifth Ave. They loiter amid the limousines on Rodeo Drive in Beverly Hills. In El Paso, a group got together to put up a billboard asking people not to give to panhandlers because the charity encourages begging. In New York City, Mayor Koch added to his legend by urging people not to give to beggars lest it encourage their begging. And both presidential candidates talk about the poor and homeless as if they were debating points, rather than human beings. Yet there they are every morning as we emerge from the subway.

We can see with our eyes what the beggars' plight is doing to them. But what is it doing to us?

To get a sense of where we may be heading, you need only travel to a city where misery and callousness have become a way of life, a city like Cairo, Mexico City or even Kingston, Jamaica. Outside hotels, casinos, on any street are the dying, the diseased, in a swirl of dirty-faced children, all shrieking for a coin. Their presence becomes a background noise—to be ignored as easily as the sound of passing cars.

David Waldman, a psychotherapist, observes that a person walking reacts to beggars in two ways. First, there is a sense that this person is a victim. But as the number of beggars grows, a passerby begins to cement the feeling that "I'm not like these people." And then a new reaction sets in, notes Waldman: The person says, "I'm taking care of myself and I'm not giving them a dime because I'm not going to end up like them."

"People say to themselves there is only so much of the pie and I'm going to make sure I get my share," says Waldman. "They lose the feeling that the beggar is a victim and become callous to his pain. In there mind the beggar is not fully human any longer because they can no longer identify with the beggar."

Pressures on working people can add to this indifference. "With the intensification of the rat-race among those who are not poor, there begins a stronger aversion to poverty, said C. Margaret Hall, chairman of the department of sociology at Georgetown University. "As the sight of poverty becomes more common and more stark in contrast to wealth, there grows an anger at signs of poverty because it becomes so threatening. Our darkest fear is there before us as we walk down the street. It is an unknown, and all people fear the unknown."

One can even find moral support for refusing beggars. According to social workers and others who have devoted their own lives to helping the needy, begging encourages more begging and keeps needy people from going to programs that could give them better and more permanent help.

So is not surprising, maybe not even wrong to refuse a beggar. . . . Just make sure you still feel guilty about it.

Guilt can be a healthy thing, according to Prof. James Fishkin, chairman of the government department of the University of Texas at Austin. He has argued in various studies that guilt makes us think about moral choices. If we pass a beggar by, the uneasy feeling we carry away may prompt us to other acts of personal or collective charity. The danger is that we may grow immune to the guilt impulse as well. Some experts see signs that has already happened. They worry that the American instinct toward generosity and caring is beginning to diminish in the face of the overwhelming assault of voices crying for help.

If that's so, it would not be the first failure of charitable instinct on the American scene. White America has built a well-deserved reputation for generous behavior around the globe during much of this century, it was not always thus.

"American attitudes toward the poor go through periods of greater and lesser hostility," says Michael Katz, a University of Pennsylvania professor and author of "In the Shadow of the Poorhouse: A Social History of Welfare in America." "In the late 1800s, between 1878 and 1890, there was tremendous public outrage towards beggars, just as there is now. Beggars were outlawed in 10 of the 40 major cities. The pendulum has swung back to that point."

Katz notes that until the Great Society programs of the late 1960s, the national, state and local governments provided little assistance to anyone in poverty. And since 1980, at least, a backlash has curbed spending on social programs. Interest in the issue has picked up somewhat in this election year, as in the debate over the welfare-workfare reform passed by Congress and argument on increasing the minimum wage. But public-opinion polls, Katz says, show Americans still want more cuts in welfare spending. Only if they are asked if people should be allowed to starve and be homeless do a majority of Americans finally say no.

Explanations vary as to why there are so many people living on the street. Some say homelessness results from laws passed in the '70s to deinstitutionalize disturbed people. Others blame the loss of cheap housing in many cities, due to urban renewal and the high cost of new housing. Administration opponents point to cuts in social spending during the Reagan years.

But Katz and others are suggesting that hidden behind all the protestations of charitable concern for the homeless and the prescriptions of politicians and policy makers may be the bald truth that the nation really doesn't give a damn about the poor—except to the extent that they occasion fear or inconvenience.

"There is no will to support the poor—in fact there is hostility," contends Katz. "The hostility is generated by the perception that the poor are getting a free ride. As real wages are falling in the nation, as prospects for home ownership are declining for young people, there is less comfort in facing the needs of others. There has never been a good time to be poor in America and this is definitely one of the worst."

Is the traditional well-spring of American generosity, the recollection that "If not for the grace of God there go I," drying up? Some experts see evidence of an increasing public conviction that beggars are responsible for their own plight and, further, that they are an imposition on middle-class people who are, themselves, struggling to stay out of poverty.

In Washington-as-Calcutta, the city we may be becoming, people view the beggars as a social problem, a crime problem, even a civic disgrace—but less and less as fellow humans. That tendency to dehumanize the poor can already be seen in the pronouncements of our political leaders.

"The cost of poverty and homelessness is poorly understood in this society," says Judith Porter, who teaches a course in the sociology of poverty at Bryn Mawr College. "Bush and Dukakis don't talk to them [the needy]—they talk about them. Bush portrays the homless as deinstitutionalized, Dukakis sees them as evidence of a housing shortage. Both camps stigmatize these people as failures—they make them objects."

"If you think about the big demographic divide in this country, it has traditionally been between capital and labor," says Douglas Rae, chairman of the political science department at Yale University. "Now the division has become between labor and nonlabor. Our answer to people in poverty is not charity but workfare. We'll help you if you join the workforce.

"A human not in the workforce," he continues, "has no status. There's evidence in the behavior of both presidential candidates that they think the part of the electorate near or below the poverty line is to be ignored, even disparaged, to appeal to those with money and their anger at the poor. That's why Dukakis sounds so bloodless. He's a liberal who doesn't talk about the poor."

Reinforcing political and social indifference to poverty is the renewed strength of the belief—no newcomer to either American thought or its British antecedents—that the poor have only themselves to blame for their plight. The leading edge of this argument was recently advanced by journalist Myron Magnet in an essay in Fortune. Magnet argues that the high rate of illegitimate births, the family disorganization, the drug taking and live-for-the-moment behavior that characterize much of ghetto life are the direct legacy of '60s-style sexual liberation. Welfare programs are also to blame for offering "incentives for the least competent women to become the mothers of the next generation."

Magnet further alleges that these loose mores have moved out of the black ghetto to infect the white teen-age population, thereby adding to the disorder on our city streets. His conclusion is that poverty is not something that happens to people so much as something people choose by adopting the wrong values. The best hope is not charity or renewed social commitment by the government but to change the poor's values so they understand that "everyone is responsible for his fate. . . ."

Magnet is right that for too many people, the concept of hard work and sacrifice leading to prosperity has been lost. But that is not the whole story.

Totally absent from this calculus is recognition that the object facts of this nation's history and its current structure have fostered and reinforced these individual failings and that collective action—through organized charity or government programs—can aid in remedying them.

"It is easier to talk about the failures of individuals than it is to talk about the structural problems facing the society," says poverty sociologist Porter of Byrn Mawr. "The American myth is that opportunity is out there for anyone, but no one feels they can confront limits on opportunity even when limits are evident."

The cost of purposefully closing our eyes to the human misery we see each morning on our way to work is not simply the guilt feelings that we may suffer as we step over or around the unemployed. The real cost is that, in time, even those guilt feelings will be suppressed. As we build more defenses against poverty and homelessness, we may eventually lose our national sense of moral rightness and obligation.

SENATOR WILLIAM PROXMIRE

Mr. BIDEN. Mr. President, when I first came to the Senate, one of my first committee assignments was as a member of the Banking Committee. I was No. 100 in seniority, and had a lot to learn about the legislative process. But I was fortunate, because BILL PROXMIRE, a colleague on the committee, was the Senate's leading expert on consumer legislation in the fields of banking and finance. As these were matters which interested me as well, I had the opportunity to work with Senator PROXMIRE on a number of legislative initiatives, and learned a great deal under his guidance. He was among the earliest of my mentors here in the Senate, and I will always remember him for the much-needed help he gave me in those days.

But more important than my personal recollections is the fact that for many years, Senator PROXMIRE has been the Senate's intellectual and moral conscience. Every morning that the Senate is in session, he has urged us to be bold in dealing with the most important, and therefore often the most difficult, issues that face this Nation. His proposals on a wide range of subjects are always stimulating, thought-provoking, and fundamentally sound. They are a call to conscience that reminds us of the important responsibilities we accepted as we took our oaths of office.

At a time when there are many who see doom and gloom in everything, Senator PROXMIRE has sought to remind us that problems need not be seen with a sense of despair, but in terms of a solution. We may not always agree on those solutions, but I daresay that if we tackled the tough issues in the same vigorous and forthright manner in which Senator PROXMIRE addresses them, there would be fewer problems still in need of solutions.

Senator PROXMIRE has established a very special tradition here in the Senate. His attendance at more than 10,000 consecutive rollcall votes over a 22-year period has become the stuff of legend. His Golden Fleece Awards have, in a lively, entertaining way, made the serious point that we must guard against Government waste which not only costs money, but undermines the effectiveness and public confidence in Government. And his more than 3,000 speeches urging the ratification of the Genocide Convention kept alive an important moral issue for years until its ratification in 1986.

Indeed, it is that persevering, prodding spirit that has perhaps been the most notable aspect of Senator PROXMIRE's legacy. He has been willing to stand up and say that something needs to be fixed—as he did recently with the savings and loan crisis—and that tough decisions will be required to effect a solution. But at the same time, he has always been there with a constructive proposal to effect that solution, and it is that constructive prodding that the Senate will miss now that he has decided to retire.

It is difficult to know the influence that Senator PROXMIRE has had upon this body, because conscience is hard to measure. But he has brought something very special to the Senate, something that we need very much.

SENATOR ROBERT T. STAFFORD

Mr. BIDEN. Mr. President, the people of Vermont have a long history of electing Senators known for their integrity, their decency, their forthrightness, and for their commitment to their ideals. They sent us Senator George Aiken, who for more than 30 years was an institution within the institution, and Senator Ralph Flanders, known throughout the land for his courage in standing up to the excesses of a powerful colleague from his own party. Three times they have elected my good friend, Senator LEAHY, widely respected for his work both on the Judiciary Committee and as chairman of the Agriculture Committee.

For 34 years, one of the finest examples of Vermont's long tradition of outstanding public officials has been their senior Senator, ROBERT T. STAFFORD. For he is a man who epitomizes the concept of decency that we as public officials ought to strive for, and the we as Americans have a right to expect from our public officials.

As the former chairman of the Committee on Environment and Public Works, and now as the committee's ranking member, Senator STAFFORD has been at the forefront of efforts to raise public consciousness of what may well be the most pressing environmental concern of the 21st century, the "Greenhouse Effect" and the whole question of global warming. He has also been a leader in the debate over acid rain, and the efforts to reduce that danger to our environment, and to ourselves. We still have a long way to go on that, but Senator STAFFORD's efforts have given us a vital boost in the right direction. We will not forget his leadership in showing us that man can change the environment, and that along with that ability comes the responsibility to preserve the blessings that nature has bestowed upon us.

Senator STAFFORD has also been a leader in efforts to improve education for all Americans. Earlier this year, the Congress passed the Stafford-Hawkins Elementary and Secondary School Improvement Amendments of 1988, which reauthorized many vital federally funded educational programs, including vocational and handicapped education, as well as drug education and dropout prevention. This important legislation also created the new Star Schools Program, in which the Federal Government assists the States in setting up telecommunications networks to help teach the math, science, and foreign language skills which we will need to remain competitive in the world market as we enter the 21st century. With this legislation, as with his environmental efforts, Senator STAFFORD has demonstrated a farsighted commitment to our future.

Most of all, we will miss the example of simple decency that Senator STAFFORD set for each one of us. The Senate, like the people of Vermont, will miss him but will be the better for his having served.

MORNING HOUR DEEMED TO HAVE EXPIRED

Mr. BYRD. Mr. President, I ask unanimous consent the morning hour be deemed to have expired.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask morning business be closed.

The ACTING PRESIDENT pro tempore. Without objection, morning business is closed.

MONTANA NATURAL RESOURCES PROTECTION AND UTILIZATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2751, Calendar Order 1124, a bill designating certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

Mr. DOLE. Mr. President, I would like the RECORD to reflect that I have no personal objection but I do have an objection on this side so I would be constrained to object.

The ACTING PRESIDENT pro tempore. Objection is heard.

MOTION TO PROCEED TO S. 2751

Mr. BYRD. Mr. President, the distinguished Republican leader and I have discussed this matter. Being in a position to move to make a nondebatable motion to proceed, I shall do that. The Republican leader knows that that is going to occur, but under the rules the motion would be nondebatable.

Mr. President, I make that motion.

The ACTING PRESIDENT pro tempore. The question is on the motion to proceed.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2751) to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be referred to as the "Montana Natural Resources Protection and Utilization Act of 1988".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's Land and Resource Management Plans and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's Land and Resource Management Plans and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have identified certain National Forest System lands in the State of Montana which should not now be designated as components of the National Wilderness Preservation System but which possess exceptional scenic, fish and wildlife, and recreational values and should be specially managed to protect those exceptional values; and

(4) the Department of Agriculture's Land and Resource Management Plans and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for non-wilderness multiple uses under the land management planning process and other applicable law.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude and physical and mental challenge;

(2) designate certain National Forest System lands in the State of Montana for special management and special study in order to promote, and conserve their exceptional scenic, wildlife and fish, and recreational values; and

(3) ensure that certain other National Forest System lands in the State of Montana be available for nonwilderness uses.

WILDERNESS DESIGNATION

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act of 1964 the following lands in the State of Montana are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, Montana, which comprise approximately twenty-nine thousand one hundred acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated August 1988, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(2) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated September 1987, and which shall be known as the Italian Peaks Wilderness.

(3) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately seventy-nine thousand five hundred acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed", dated September 1987, and which shall be known as the East Pioneer Wilderness.

(4) Certain lands in the Beaverhead National Forest, Montana, comprising approximately seventy-six thousand six hundred acres, as generally depicted on a map entitled "West Big Hole Wilderness—Proposed", dated August 1988, and which shall be known as the West Big Hole Wilderness.

(5) Certain lands in the Beaverhead National Forest, Montana, comprising approximately thirty-three thousand seven hundred acres, as generally depicted on a map entitled "West Pioneer Wilderness—Proposed", dated August 1988, and which shall be known as the West Pioneer Wilderness.

(6) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, Montana, which comprise approximately sixty-four thousand eight hundred acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated August 1988, and which shall be known as the Stony Mountain Wilderness.

(7) Certain lands in the Bitterroot and Lolo National Forests, Montana, which comprise approximately fifty-five thousand six hundred acres, as generally depicted on maps entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness.

(8) Certain lands in the Bitterroot National Forest, Montana, which comprise approximately twenty-eight thousand five hundred acres, as generally depicted on a map entitled "Frank Church-River of No Return Wilderness Additions—Proposed" (Bluejoint), dated September 1987, and which are

hereby incorporated in and shall be deemed to be part of the Frank Church-River of No Return Wilderness.

(9) Certain lands in the Custer National Forest, Montana, which comprise approximately five thousand eight hundred acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed," dated August 1988, and which shall be known as the Lost Water Canyon Wilderness.

(10) Certain lands in the Custer National Forest, Montana, which comprise approximately five thousand seven hundred acres, as generally depicted on a map entitled "Absaroka Beartooth Wilderness Additions—Proposed" (Timberline Creek, Stateline, Mystic Lake and Dexter Point), dated October 1988, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(11) Certain lands in the Deerlodge and Helena National Forests, Montana, which comprise approximately nineteen thousand acres, as generally depicted on a map entitled "Blackfoot Meadow-Electric Peak Wilderness—Proposed", dated September 1987, and which shall be known as the Blackfoot Meadow Wilderness.

(12) Certain lands in the Deerlodge National Forest, Montana, which comprise approximately forty thousand three hundred acres, as generally depicted on a map entitled "Flint Creek Range Wilderness—Proposed", dated August 1988, and which shall be known as the Flint Creek Range Wilderness.

(13) Certain lands in the Deerlodge and Bitterroot National Forests, Montana, which comprise approximately fifty-two thousand six hundred acres, as generally depicted on a map entitled "Sapphires Wilderness—Proposed", dated August 1988, and which shall be known as the Sapphires Wilderness.

(14) Certain lands in the Flathead National Forest, Montana, which comprise approximately sixty-eight thousand acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck, Mount Hefty, Thompson-Seton)", dated August 1988, and which shall be known as the North Fork Wilderness.

(15) Certain lands in the Flathead, Lolo, and Lewis and Clark National Forests, Montana, which comprise approximately two hundred twenty-four thousand nine hundred acres, as generally depicted on maps entitled "Bob Marshall Wilderness Additions—Proposed" (Limestone Cave, Slippery Bill, Rocky Mountain Front, Clearwater-Monture, Silver King-Falls Creek and Crown Mountain), dated October 1988, and which shall be deemed to be part of the Bob Marshall Wilderness.

(16) Certain lands in the Flathead National Forest, Montana, which comprise approximately nine hundred and sixty acres, as generally depicted on a map entitled "North Mission Mountain Wilderness Additions—Proposed", dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the North Mission Mountain Wilderness.

(17) Certain lands in the Flathead and Lolo National Forests, Montana, comprising approximately one hundred forty eight thousand one hundred acres, as generally depicted on maps entitled "Jewel Basin/Swan Wilderness—Proposed", dated October 1988, and those lands comprising the west slope of the Bob Marshall Wilderness shall be deemed to be a part of the Bob Marshall Wilderness and the remaining lands shall be known as the Swan Crest Wilderness.

(18) Certain lands in the Gallatin National Forest, Montana, which comprise approximately sixty-four thousand-one hundred acres, generally depicted on a map entitled "Gallatin Wilderness—Proposed", dated August 1988, and which shall be known as the Gallatin Wilderness.

(19) Certain lands in the Gallatin National Forest, Montana, which comprise approximately five hundred acres, as generally depicted on a map entitled "North Absaroka Wilderness Additions—Proposed" (Republic Mountain), dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the North Absaroka Wilderness.

(20) Certain lands in the Gallatin National Forest, Montana, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated October 1988, and which are hereby incorporated in and shall be considered part of the Lee Metcalf Wilderness.

(21) Certain lands in the Gallatin National Forest, Montana, which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1987, and which shall be known as the Earthquake Wilderness.

(22) Certain lands in the Helena National Forest, Montana, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1987, and which shall be known as the Camas Creek Wilderness.

(23) Certain lands in the Helena National Forest, Montana, which comprise approximately fifteen thousand acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1987, and which shall be known as the Mount Baldy Wilderness.

(24) Certain lands in the Helena National Forest, Montana, which comprise approximately ten thousand five hundred acres, as generally depicted on a map entitled "Gates of the Mountain Wilderness Additions—Proposed" (Big Log), dated September 1987, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(25) Certain lands in the Helena National Forest, Montana, which comprise approximately eight thousand five hundred acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated September 1987, and which shall be known as the Black Mountain Wilderness. It is the intent of Congress that the Secretary, utilizing existing statutory authority, give special attention to the acquisition of non-federally owned lands within the Black Mountain Wilderness.

(26) Certain lands in the Helena National Forest, Montana, which comprise approximately twenty-one thousand nine hundred acres, as generally depicted on a map entitled "Nevada Mountain Wilderness—Proposed", dated October 1988, and which shall be known as the Nevada Mountain Wilderness.

(27) Certain lands in the Kootenai and Kaniksu National Forests, Montana, which comprise approximately forty-seven thousand acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated September 1987, and which shall be known as the Scotchman Peaks Wilderness.

(28) Certain lands in the Kootenai National Forest, Montana, which comprise approximately thirty-three thousand acres, as generally depicted on a map entitled "Ten Lakes Wilderness—Proposed", dated September 1987, and which shall be known as the Ten Lakes Wilderness.

(29) Certain lands in the Kootenai National Forest, Montana, which comprise approximately thirty-one thousand six hundred acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated August 1988, and which are hereby incorporated in and shall be a part of the Cabinet Mountains Wilderness.

(30) Certain lands in the Kootenai and Lolo National Forests, Montana, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cube Iron-Silcox Wilderness—Proposed", dated October 1988, and which shall be known as the Cube Iron-Silcox Wilderness.

(31) Certain lands in the Lewis and Clark National Forest, Montana, which comprise approximately twenty-nine thousand six hundred acres, as generally depicted on a map entitled "Big Snowies Wilderness Area—Proposed", dated October 1988, and which shall be known as the Big Snowies Wilderness.

(32) Certain lands in the Lola National Forest, Montana, which comprise approximately eighty-five thousand one hundred acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated October 1988, and which shall be known as the Great Burn-Hoodoo Wilderness.

(33) Certain lands in the Lolo National Forest, Montana, which comprise approximately forty-nine thousand acres, as generally depicted on a map entitled "Quigg Wilderness—Proposed", dated September 1987, and which shall be known as the Quigg Wilderness.

(b) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the House of Representatives. Each map and legal description shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in section 3 of this Act, any reference to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SCAPEGOAT AND GREAT BEAR WILDERNESS DESIGNATIONS

SEC. 4. In order to consolidate existing contiguous wilderness areas, those lands comprising the Great Bear Wilderness Area designated by Public Law 95-946 and any amendments thereto and the Scapegoat Wilderness Area designated by Public Law 92-395 and any amendments thereto are hereby *incorporated in and deemed to be a part of the Bob Marshall Wilderness. The designation of the Great Bear Wilderness and Scapegoat Wilderness shall refer to units within the Bob Marshall Wilderness.*

RELEASE TO NONWILDERNESS USES

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 94-557 and Public Law 95-150;

(2) the Land and Resource Management Plans and associated Environmental Impact Statements (hereinafter referred to as "Land and Resource Management Plans") for all the National Forests in the State of Montana have been completed as required by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976;

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the Land and Resource Management Plans completed prior to the enactment of this Act, the wilderness evaluation and associated environmental disclosure regarding wilderness evaluation for roadless lands in such places shall not be subject to judicial review.

(2) with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture in wilderness studies conducted pursuant to Public Law 94-557 and Public Law 95-150, the 1978 Forest plan for the Beaverhead National Forest, and the Land and Resource Management Plans, that such reviews shall be deemed for the purposes of the initial Land and Resource Management Plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) except as may be specifically provided in sections 8, 9, 10, 11 and 12 of this Act, those areas in the State of Montana referred in subparagraph (2) of this subsection which were not designated wilderness shall be managed for multiple use in accordance with land management plans pursuant to the Multiple Use Sustained Yield Act of 1960 and section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial Land and Resource Management Plans;

(4) in the event that revised Land and Resource Management Plans in the State of Montana are approved pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation unless otherwise designated by this Act need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) The provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less than five thousand acres in size.

ADJACENT MANAGEMENT

SEC. 6. Congress does not intend that designation of wilderness areas in the State of Montana lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

WATER RIGHTS

SEC. 7. Congress finds that the waters within the Wilderness Areas designated by this Act are headwaters. Therefore—

(a) there is no effect on downstream appropriation of waters;

(b) nothing in this Act shall be construed to affect valid existing water rights as provided under Montana State law; and

(c) nothing in this Act is intended to affect the determination of expressed or implied reserved water rights as determined under other laws.

SPECIAL MANAGEMENT AREAS

SEC. 8. (a) For the purposes of conserving and protecting the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made:

(1) The West Pioneers National Recreation Area located in the Beaverhead National Forest, Montana, and comprising approximately ninety thousand six hundred acres, as generally depicted on a map entitled "West Pioneers National Recreation Area—Proposed", dated August 1988.

(2) The Mount Helena National Education and Recreation Area located in the Helena National Forest, Montana, and comprising approximately three thousand nine hundred acres as generally depicted on a map entitled "Mount Helena Education and Recreation Area—Proposed", dated October 1988.

(3) The Hyalite National Education and Recreation Area located in the Gallatin National Forest, Montana, and comprising approximately eighteen thousand nine hundred acres, as generally depicted on a map entitled "Hyalite National Recreation Area—Proposed", dated August, 1988.

(4) The Ross Creek Cedars National Recreation Area located in the Kootenai National Forest, Montana, and comprising approximately seven hundred acres, as generally depicted on a map entitled "Ross Creek Cedars Biological Area—Proposed", dated September 1987.

(5) The Gibson Reservoir National Recreation Area located in the Lewis and Clark National Forest, Montana, and comprising approximately twenty-four thousand one hundred acres, as generally depicted on a map entitled "Gibson Reservoir National Recreation Area—Proposed", dated October 1988.

(6) The Cottonwood Lake National Recreation Area located in the Deerlodge National Forest, and comprising approximately eight thousand three hundred acres, as generally depicted on a map entitled "Cottonwood Lake National Recreation Area—Proposed", dated September 1987.

(b) The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c)(1) Except as otherwise may be provided in this subsection, the Secretary shall administer the areas designated in subsection (a) so as to achieve the purposes of their designation as National Recreation Areas in accordance with the laws and regulations applicable to the National Forest System.

(2) Subject to valid existing rights, all federally owned lands within the areas are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(3) Management activities may be permitted by the Secretary if compatible with the purposes for which the areas were designated: Provided, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(4) The use of motorized equipment may be allowed if compatible with the purposes for which the areas are designated.

(5) The grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to applicable law and regulations of the Secretary.

(d) The Secretary shall manage the Mount Helena and the Hyalite National Education and Recreation Areas with a focus on education. All management activities shall be conducted in a way that provides the public with an education on natural resources protection and management.

(e) Those areas established pursuant to this section shall be administered as components of the National Forests wherein they are located. Land and resource management plans for the affected National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National

Forest Management Act of 1976, shall emphasize achieving the purposes for which the areas are designated.

ELKHORNS NATIONAL RECREATION AND WILDLIFE AREA

SEC. *9. (a)(1) The area of the Helena and Deerlodge National forests comprising approximately one hundred seventy-five thousand seven hundred acres, as generally depicted on a map entitled "Elkhorns National Recreation and Wildlife Area—Proposed", dated September 1987, is hereby designated as a national recreation and wildlife area and shall hereafter be managed generally as a national recreation area that emphasizes enhancement of big game habitat. Except as otherwise provided in this subsection, the Secretary shall administer the area so as to achieve the purposes of its designation as a national recreation and wildlife area. Where compatible with such emphasis, management also shall provide for recreational opportunities and the maintenance and enhancement of habitat for non-game species.*

(2) Those lands within the Elkhorns National Recreation and Wildlife Area designated as "Elkhorns-2" on the map referenced in paragraph (1) shall, notwithstanding any other provision of this section, remain roadless, except that motorized equipment may be used by the Secretary after public notice and opportunity for comment and a finding by the Secretary that such use is required for habitat improvement for fish and wildlife. Any area disturbed by such motorized equipment shall be restored to contour and revegetated with appropriate native plant species as expeditiously as possible.

(b) The Secretary shall file the map referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and the map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in the map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, all federally owned lands within the area designated as "Elkhorns-2" are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(d) Management activities may be permitted by the Secretary if compatible with the purposes for which the Elkhorns National Recreational Wildlife Area was designated: Provided, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(e) The Elkhorns National Recreation and Wildlife Area established pursuant to this section shall be administered as a component of the Helena and Deerlodge National Forests. Land and resource management plans for these National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, shall emphasize achieving the purposes for which the area is designated.

SPECIAL STUDY AREAS

SEC. *10. (a) (1) The Crazy Mountains Land Consolidation Study Area in the Gallatin and Lewis and Clark National Forests, Montana, comprising approximately one hundred nine thousand five hundred acres, as generally depicted on a map entitled "Gallatin and Lewis and Clark Land Consolidation Study", dated October 1988, shall, notwithstanding any other provision of this Act, be managed in accordance with the provisions of Public Law 95-150. The Forest Service shall complete a study of public and private land consolidation alternatives for this area and shall transmit such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than January 1, 1991.*

(2) The Porcupine-Buffalo Horn Study Area in the Gallatin National Forest, Montana, comprising approximately fifty-two thousand acres as generally depicted on a map entitled "Gallatin Wilderness and Wilderness Study Areas—Proposed", dated October 1988, shall be reviewed by the Secretary to evaluate the wilderness potential of the area; to analyze the motorized and non-motorized dispersed recreation use in the area; to evaluate the amount and distribution of recreation use including trail use; and to evaluate potential conflicts between various uses. This study shall be completed and submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than January 1, 1991. The area shall, notwithstanding any other provision of this Act, be managed in accordance with the provisions of Public Law 95-150.

(3) The Sawtooth Mountain Study Area in the Gallatin National Forest, Montana, comprising approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "Gallatin Wilderness and Wilderness Study Areas—Proposed", dated October 1988, shall be reviewed by the Secretary to evaluate and report on the wilderness potential of the area and alternatives for providing public access to Federal lands in the area. The study shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives no later than January 1, 1991. Until December 31, 1992, the Secretary shall administer the area in order to protect its potential for inclusion in the Wilderness System: Provided, That established uses within the area shall be allowed to continue. Unless Congress determines otherwise, after December 31, 1992, the lands within the Sawtooth Mountain Study Area shall be managed by the Secretary in accordance with the study prepared pursuant to this subsection: Provided, That nothing in this paragraph shall be construed as expanding or diminishing the existing authority of the Secretary regarding the management of the national forests.

(4) The Tenderfoot-Deep Creek Land Consolidation and Wilderness Study Area located in the Lewis and Clark National Forest, Montana, and comprising approximately thirty-eight thousand two hundred acres, as generally depicted on a map entitled "Tenderfoot-Deep Creek Wilderness Study Area", dated October 1988, shall be reviewed by the Secretary to evaluate and report on the wilderness potential of the area and the potential for public and private land consolidation. The study shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives no later than January 1, 1991. Until December 31, 1992, the Secretary shall administer the area in order to protect its potential for inclusion in the Wilderness System: Provided, That established uses shall be allowed to continue. Unless Congress determines otherwise, after December 31, 1992, the area shall be managed by the Secretary in accordance with the study prepared pursuant to this subsection: Provided, That nothing in this paragraph shall be construed as expanding or diminishing the existing authority of the Secretary regarding the management of the national forests.

(b) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, House of Representatives, and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

WILDERNESS STUDY AREAS

SEC. *11. (a)(1) Certain lands located in the Custer National Forest, Montana, comprising approximately four thousand one hundred acres as generally depicted on a map entitled "Burnt Mountain Wilderness Study Area—Proposed", dated August 1988, shall be reviewed by the Secretary to determine their suitability for inclusion in the National Wilderness Preservation System.*

(2) Certain lands in the Custer National Forest, Montana, comprising approximately seventeen thousand acres as generally depicted on a map entitled "Line Creek Plateau Wilderness Study Area—Proposed," dated October 1988 shall be reviewed by the Secretary to determine their suitability for inclusion in the National Wilderness Preservation System.

(b) The Secretary shall submit a report to the Congress containing his recommendations regarding wilderness designation for these areas not later than five years after the date of enactment of this Act.

(c) Subject to valid existing rights, the wilderness study areas designated by this section shall be managed to protect their suitability for inclusion in the National Wilderness Preservation System for a period of seven years from the date of enactment of this Act. At the end of such seven-year period, the areas shall be managed, subject to valid existing rights, in accordance with the applicable land and resource management plan for the Custer National Forest.

(d) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, House of Representatives and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

BLACKFEET UNIT

SEC. *12. (a)(1) Subject to valid existing rights, all federally owned lands as depicted on a map entitled "The Blackfeet Unit", dated October 1988 (hereinafter in this section referred to as "the Unit"), comprising approximately one hundred sixteen thousand six hundred acres, are hereby with-*

drawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws for a three-year period commencing on the date of enactment of this Act.

(2) For the three-year period commencing on the date of enactment of this Act, no commercial timber sales shall be permitted within the Unit: Provided, That nothing in this paragraph shall preclude the gathering of timber by the Blackfeet Tribe in the exercise of valid treaty rights within the Unit.

(3)(A) With respect to oil and gas leases on Federal lands within the Unit in effect on the date of enactment of this Act, no surface disturbance shall be permitted pursuant to such leases for the three-year period commencing on the date of enactment of this Act.

(B) Notwithstanding any other provision of law, the term of any oil and gas lease which is subject to the limitation imposed by subparagraph (A), shall be extended for an additional three years beyond its existing date of expiration.

(b) The Forest Service shall cooperate with the Blackfeet Tribe in the preparation of a joint land management plan for the area depicted on the map referenced in subsection (a). Such plan shall consider a range of management options including, but not limited to, the protection and utilization of the range, recreation, minerals, timber, wildlife and fish resources and the protection and preservation of areas used by members of the Blackfeet Tribe for cultural or religious purposes. The Forest Service shall provide technical assistance to the Tribe in preparation of the plan.

(c) During the preparation of the plan, the Bureau of Indian Affairs is directed to review and prepare an update of the report entitled "Preliminary Report on Proposed Badger Canyon Dam and Reservoir" prepared in 1968. Such report and update shall be submitted to the Blackfeet Tribe and the Congress within eighteen months after enactment of this Act and shall include, but not be limited to, additional study of the costs, benefits, and feasibility of constructing such a dam and reservoir, including the potential for the generation of hydropower.

(d)(1) Development and review of any joint land management plan prepared pursuant to this section shall be subject to applicable existing law, including but not limited to the National Forest Management Act, Public Law 94-588, and shall, after the opportunity for public comment and review, be incorporated into the Land and Resource Management Plan for the Lewis and Clark National Forest.

(2) Actions taken pursuant to this subsection shall not be considered a significant amendment or revision of such Land and Resource Management Plan.

(e) The Forest Service and the Tribe are encouraged to complete such plan no later than three years after the date of enactment of this Act. After opportunity for public review and comment, the plan shall be transmitted to Congress. After the plan is transmitted to Congress, the Forest Service shall manage the lands in accordance with the plan under applicable law. Congress shall consider the plan within two years after receipt and, if it deems necessary, enact legislation to implement the plan.

(f) Nothing in this section shall be construed to diminish, prejudice, add to, or otherwise affect the treaty rights of the Blackfeet Tribe in the Unit nor to diminish the rights of the United States.

PLUM CREEK LAND EXCHANGE—PORCUPINE AREA.

SEC. 13. The Secretary shall, notwithstanding any other provision of law, exchange lands and interests in lands with Plum Creek Timber Company, Inc. (hereinafter "PCTC") in accordance with the following provisions:

(a) Subject to the provisions of this section, If PCTC offers to the United States the fee title to approximately 8,130.67 acres of land of PCTC which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber Company and Forest Service Proposed Porcupine Land Exchange", dated May 20, 1988, the Secretary of the Interior is authorized and directed to accept a warranty deed to such lands and, in exchange therefore, and subject to valid existing rights, convey by Patent the fee title to approximately 9,181.74 acres of National Forest System lands available for exchange to PCTC as depicted on such map. The National Forest System lands depicted on such map shall be conveyed subject to the following specific reservations and exceptions:

(1) Existing ditches and canals as authorized by the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

(2) Federal oil and gas leases Numbers 49432, 32843 and 55325 are reserved in the United States. Upon termination or relinquishment of the said leases under applicable law, all the rights and interests therein in the National Forest System lands described in subsection (a) and included in said leases shall immediately vest in PCTC, its successors and assigns. Upon such termination or relinquishment, the United States will give notice of said event by a document suitable for recording in the county wherein the above described leased lands are situated.

(3) Such other terms and conditions, reservations or exceptions as may be agreed upon by the Secretary and PCTC.

(b) At closing on the conveyances authorized by this section:

(1) For and in consideration of the easements conveyed by PCTC as provided in paragraph (b)(2), the Secretary shall cause to be executed and delivered to PCTC easements over federally owned lands for such existing or future roads as needed to provide PCTC, its successors and assigns, access to PCTC owned lands.

(2) For and in consideration of the easements conveyed by the United States as provided in paragraph (b)(1), PCTC shall execute and deliver to the United States easements over PCTC lands for such existing or future roads as needed to provide the United States and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this section shall be in the same form as that customarily used by the Forest Service and cooperators for cost shared roads in Road Right-of-Way Construction And Use Agreements.

(c) The following order of withdrawal, as it applies to the lands conveyed by the United States and involved in the transactions authorized by this section, is hereby revoked: Executive Order Numbered 30-Montana 7-Phosphate Reserve October 9, 1917 (nine hundred sixty acres, more or less).

(d) The maps referred to in subsection (a) are subject to such minor corrections as the Secretary and PCTC may agree to. The Secretary shall notify of appropriate Committees of Congress of any correction made pursuant to this subsection.

(e) It is the sense of Congress that the conveyances authorized and directed pursuant to this section should be completed within ninety days after the date of the enactment of the Act.

(f) All lands conveyed to the United States pursuant to this section shall be national forest lands administered by the Secretary.

PLUM CREEK LAND EXCHANGE—GALLATIN AREA

SEC. 14. The Secretary shall, notwithstanding any other provision of law, acquire certain lands and interests of Plum Creek Timber Company, Inc. (hereinafter "PCTC") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area and additional lands in the Gallatin National Forest in accordance with the following provisions:

(a) The acquisition shall be by exchange and cash equalization as hereinafter provided, and it is the sense of Congress that the acquisition authorized pursuant to this section should be completed within ninty days after the date of enactment of this Act.

(b) Subject to the provisions of this section, if PCTC offers to the United States the fee title to approximately 37,752.15 acres of land of PCTC which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber Company and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary of the Interior is authorized and directed to accept a warranty deed to such lands and, in exchange therefore, and subject to valid existing rights, convey by Patent the fee title to approximately 12,414.06 acres of National Forest System lands available for exchange to PCTC as depicted on such map. The National Forest System lands depicted on such map shall be conveyed subject to the following specific reservations and exceptions:

(1) Existing ditches and canals as authorized by the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

(2) Federal Oil and Gas Leases Numbered 49739, 55610, 23290, 29230, 40389, 53670, 40215, 38678, 33385, 53736, and 38684 are reserved in the United States. Upon termination or relinquishment of the said leases under applicable law, all the rights and interests in said leases shall immediately vest in PCTC, its successors and assigns. Upon such termination or relinquishment, the United States will give notice of said event by a document suitable for recording in the county wherein the above described leased lands are situated.

(3) Such other terms and conditions, reservations or exceptions as may be agreed upon by the Secretary and PCTC.

(c) At closing on the conveyances authorized by this section:

(1) For and in consideration of the easements conveyed by PCTC as provided in paragraph (c)(2) the Secretary shall cause to be executed and delivered to PCTC easements over federally owned lands and any federally assignable rights to easements for such existing or future roads as needed to provide PCTC, its successors and assigns, access to PCTC owned lands.

(2) For and in consideration of the easements conveyed by the United States as provided in paragraph (c)(1), PCTC shall execute and deliver to the United States easements over PCTC lands for such existing or future rights-of-way as needed to provide the United States and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this section shall be in the same form as that customarily used by the Forest Service and cooperators for cost shared roads in Road

Right-of-Way Construction and Use Agreements.

(d) The maps referred to in this section are subject to such minor corrections as the Secretary and PCTC may agree to. The Secretary shall notify the appropriate Committees of Congress of any corrections made pursuant to the subsection.

(e) All lands conveyed to the United States pursuant to this section shall be national forest lands administered by the Secretary.

(f) There is hereby authorized to be appropriated to carry out the provisions of this section of this Act, the sum of three million four hundred thousand dollars ($3,400,000), which amount the Secretary shall, when appropriated, pay to PCTC to equalize the value of the exchange.

SEVERED MINERALS EXCHANGE

SEC. 15. (a) Congress finds that:

(1) Underlying certain areas in Montana designated by this Act are mineral rights owned by the subsidiaries of Burlington Resources, Inc. (hereafter "Company");

(2) there are federally owned minerals underlying lands of the Company lying outside such areas;

(3) the Company has agreed in principle with the Department of Agriculture as to the potential exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable to authorize and facilitate such an exchange or exchanges, and that it is desirable that any such exchanges be completed within two years of the date of enactment of this Act.

(b) Pursuant to an exchange agreement which may be made by the Secretary and the Company, the Secretary may acquire by exchange any mineral interest owned by the Company or any affiliate thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in any fractional sections adjacent to such areas. In exchange for such mineral interests owned by the Company, the Secretary of the Interior shall convey, subject to valid existing rights, federally owned mineral interests which are specifically identified in an exchange agreement.

(c) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information. To assure that the wilderness or other natural values of the areas are not affected, a formal appraisal shall not be required for any mineral interest proposed for exchange: Provided, That the Secretary and the Company will fully share all available information on the quality and quantity of mineral interests. In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the Company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) Any mineral interests conveyed by the United States pursuant to this Act shall underlie lands the surface of which are owned by the Company. In the event that there are not sufficient federally owned mineral interests of approximately equal value underlying Company lands, then the Secretary and the Bureau of Land Management may identify for exchange any other federally owned mineral interest in Montana for which the surface estate is in private ownership.

(e) Any exchange agreement and the inclusion in such agreement of any federally owned mineral interests lying outside the boundaries of any National Forest shall be made in consultation with the Bureau of Land Management. Notwithstanding any provision of law, the Secretary of the Interior shall convey the federally owned mineral interests identified in any final exchange agreement.

(f) For purposes of this section, "mineral interests" shall include all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) Any exchange agreement and implementing actions made pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act.

MISCELLANEOUS PROVISIONS

SEC. 16. (a) It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

(b) The Secretary is directed to conduct a study for a potential horse trail in the Swan Range west of the Jewel Basin on the Flathead National Forest, Montana. The study shall be completed within two years and submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. No action to construct any such horse trail shall be initiated until at least ninety days after the study has been received by such Committees.

(c) Those lands comprising the Rattlesnake National Recreation Area and Wilderness as designated in Public Law 96-476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(d) The acreages cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

(e) The Congress has sufficiently reviewed the suitability of the Bitter Creek Wilderness Study Area (MT-064-356, BLM Wilderness Study Area Number) and approximately 2,500 acres of the Axolotl Lakes Wilderness Study Area (MT-076-069, BLM Wilderness Study Area Number) as generally depicted on a map entitled "Axolotl Lakes WSA", dated October 1988 for wilderness designation and finds that these lands have been sufficiently studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act, as amended, and are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act pertaining to management in a manner that does not impair suitability for preservation as wilderness.

(f) The Secretary is directed to conduct a study for a potential Alpine Running and Bicycle Trail on the Gallatin National Forest, Montana. The Secretary shall complete such study within two years after the date of enactment of this Act and shall transmit the study to the Committee on Interior and Insular Affairs, United States House of Representatives and the Committee on Energy and Natural Resources, United States Senate.

(g) The Secretary shall make provisions for reasonable access to private property located within the Absaroka-Beartooth Wilderness, near Goose Lake in Township 8 South, Range 15 East, Principal Montana Meridian.

(h) It is the intent of Congress that the Forest Service proceed with an orderly timber sale program on the Three Rivers Ranger District of the Kootenai National Forest in Fiscal Year 1989. Sales awarded prior to March 1, 1988, shall not be subject to further administrative or judicial review.

AUTHORIZATION OF APPROPRIATION

SEC. 17. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) No funds shall be made available pursuant to this Act except to the extent that such funds are provided in advance in appropriation Acts.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MELCHER. Mr. President, first of all, I appreciate the majority leader making the motion and getting us on the bill. I appreciate the opportunity that permits us to discuss the bill and hopefully to pass it. Hopefully any objections that are brought to final passage of the bill can be resolved quickly.

My colleague and I, Senator BOSCHWITZ, will attempt to resolve any difficulties that anybody might have with the bill.

Previously, on the days preceding, Friday of last week and yesterday, we have discussed that the urgency of the bill is. Now we would like to proceed right along. I see Senator McCLURE is present. There are a couple of amendments that need to be offered to the bill.

AMENDMENT NO. 3714

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 3714.

On page 39, lines 18, and 19, strike "Land and Resource Management Plans" and insert "second roadless area review and evaluation (RARE II)".

On page 40, lines 1, and 2, strike "Land and Resource Management Plans" and insert "RARE II".

On page 40, lines 11, and 12, strike "Land and Resource Management Plans" and insert "RARE II".

Mr. MELCHER. Mr. President, I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MELCHER. Mr. President, I have a second amendment at the desk. I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. McCLURE. Mr. President, there is an amendment pending, is there not?

The ACTING PRESIDENT pro tempore. There is an amendment pending.

Mr. McCLURE. Is the amendment the Senator has at the desk intended to be an amendment to the pending amendment?

Mr. MELCHER. It is.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, Montana is a vision far removed from Washington, DC. It is entirely of a different place and time.

But a significant piece of Montana's history, and future, rests before you today in S. 2751, the Montana Natural Resources Protection and Utilization Act of 1988.

Montanans know it as the wilderness bill.

The text of S. 2751 appears faceless, nameless, voiceless, but it is not. Montanans' wise advice, honest opinions, and good common sense were collected to produce this agreement.

Montanans have worked diligently, waited patiently, and waded through the political quagmire with the delegation as we struggled to get to this moment.

BACKGROUND

For over a decade, farmers, business people, government officials, loggers, campers, miners, snowmobilers, Native Americans, ranchers, rangers, and river runners each have lodged strong opinions on the future of our vast, roadless lands.

During the course of the debate, four separate bills were introduced in Congress, seven public hearings were held in Washington and Montana, hundreds of hours were invested in studies, thousands of pages of testimony were recorded and read, and millions of words were spoken.

The intensity and length of the debate is a reflection of us—of our concern for Montana and our commitment to our beliefs. It goes to the heart of what it means to be a Montanan.

It has been a healthy, productive debate, too. For we are at a time in our State's history when we are putting our conflicts behind us and looking forward to cooperation in the future. This truly is the dawn of a new era for our State.

THE LEGISLATION

Finally, after years of indecision, Senator MELCHER and I, along with Congressman WILLIAMS in the House, offer a fair and balanced Montana wilderness bill.

The proposal we are presenting here today will unlock Montana's economic future.

S. 2751 designates just over 1.4 million acres as wilderness. This means protection for critical fisheries and wildlife habitat that are becoming increasingly more important to our tourism industry.

At the same time, the bill releases almost 4 million acres for development. It releases all patented mining claims. It releases known oil and gas reserves for exploration and development. And perhaps most important, it releases 99.9 percent of the timber the U.S. Forest Service needs to keep our State's mills running.

SIGNIFICANT ACCOMPLISHMENTS

After hours spent negotiating and compromising, Senator MELCHER, Congressman WILLIAMS, and I are shaking hands. History will note many accomplishments in our passing this bill today.

I wish to share a few significant achievements reflected in S. 2751.

The Gallatin Range, extending northward from the northwest corner of Yellowstone National Park to just south of Bozeman, has been the focal point of conservation efforts for over 100 years.

S. 2751 authorizes a land exchange between Burlington Northern and the U.S. Forest Service, bringing a 30-year struggle to an end. Resolving this ownership problem is a crucial step to permanently protecting the Gallatin Range of the greater Yellowstone ecosystem.

In addition, S. 2751 designates approximately 64,100 wilderness acres and 73,000 wilderness study acres in the Gallatin, underscoring Montana's commitment to Yellowstone's natural heritage.

Few vistas spark inspiration, reflection, and imagination like Montana's Rocky Mountain Front.

We have made additions of more than 220,000 acres to the Bob Marshall Wilderness including: Silver King-Falls Creek; Deep Creek; Crown Mountain; Choteau and Teton Peaks; and Renshaw.

The Smith River has become one of the most popular angling areas in Montana. We agree to designate almost 40,000 acres along Tenderfoot Creek as a land consolidation and wilderness study area.

Tenderfoot Creek is the main spawning artery that feeds into the Smith. The Forest Service indicates it will request a study of the Tenderfoot for a wild and scenic designation. Wilderness study complements that effort.

In northwest Montana, just above Thompson Falls, 300-year-old hemlock, white pine and spruce line Big Spruce Creek in Cube Iron-Silocx, a 20,000-acre wilderness designation established by this bill.

And in eastern Montana, the Big Snowies tower above a prairie sea. We have added Swimmingwoman and Half Moon Canyons to create a 30,000-acre wilderness area here.

ADDITIONAL CLARIFYING REMARKS

Ceded to the United States in the later 1800's by a Blackfeet Tribal Treaty, the area described as the Blackfeet unit, known as the Badger-Two Medicine, is located west of the Blackfeet Reservation, and directly south of Glacier National Park.

The Blackfeet traditionalists use this sacred area frequently for religious purposes.

Our intention in designating the Blackfeet unit as a special study area is to allow the tribe, the Forest Service and the public to develop future management options for the area.

We agree that wilderness is one management option that may be considered for the Blackfeet unit and I have a letter from the Forest Service documenting that understanding.

Wilderness is the best way to protect the Blackfeet unit's religious and cultural characteristics. The tribe wants wilderness, among other things, considered for part or all of this area.

Maintaining the Badger-Two Medicine's wild character is critical to Glacier Park's role as 1 of only 12 national biosphere preserves. Glacier's supervisor fully supports a wilderness study here.

Local conservationists want to protect the Badger, a vital wildlife corridor that connects Glacier National Park and the Bob Marshall Wilderness. The Badger is a major link to the biosphere's integrity.

I intend to work with the Forest Service, the Blackfeet Tribe, and the public in considering a wilderness designation for this area.

South of the Badger-Two Medicine area along the Rocky Mountain Front, we did not agree to designate some areas as wilderness. But we recognize that habitat vital to bighorn sheep, grizzly bear, elk, mule deer, mountain goat, and other wildlife is provided in areas like Clary Coulee, and Volcano and Castle Reefs.

I understand that the Forest Service will continue to manage these lands in a way that fully maintains the existing Rocky Mountain Front wildlife habitat.

In Yellowstone country, the wilderness study designations for the Gallatin contain motorized access study provisions. We intend this language to be neutral.

It is not our intent to send any message to the Forest Service which passes on the adequacy or inadequacy of the need for access to the Sawtooth study area, nor to encourage off-road vehicle use in the Porcupine study area.

During the Porcupine study period, I intend to work with the Forest Service in identifying alternative motorized recreation routes in areas that are not being studied for wilderness under this bill.

Finally, regarding the water rights language, it is not my intent that this language be used to establish a precedent for future land bills.

The wilderness designations in this bill are headwaters areas. Therefore, water rights conflicts in these areas are unlikely.

Furthermore, the Organic Act reserves water for timber and watershed purposes on National Forest System land.

CONCLUSION

If Montana is going to grow and prosper, the wilderness issue must be settled. That responsibility now lies with my colleagues in the Senate.

The Montana delegation has done its job. In this bill we've protected the best of our wildland heritage. And we have released the resources that will guarantee jobs and a sound economic future for our children.

I ask my Senate colleagues to join with Senator MELCHER and me in approving this vital piece of legislation.

The Senator from Idaho.

Mr. SYMMS. Mr. President, I know my colleagues from Montana are very enthusiastically and strongly in favor of this bill. I want to speak on the bill. I do not take the floor to speak against this bill with any avarice because I know the two Senators from the State of Montana are for the bill. But I think it should be pointed out to the Senate that there are numerous people in Montana who have contacted me who oppose the bill.

To name a few:

Stoltze Timber Co., Darby Lumber, Louisiana Pacific Timber, Judith Gap Timber, Montana Snowmobile Association, Flathead Snowmobile Association, Montana Trail Bike Riders, Montana WoolGrowers, Montana Stockgrowers, Montana 4 X 4, Montana Farm Bureau, Montana Mining Association, Western Environmental Trade Association, Montana Loggers Association, Teton County Commissioners, Sweetgrass County Commissioners, Granite County Commissioners, Fergus County Commissioners, Blue Ribbon Coalition, which also is an Idaho organization as well as having members in Montana;

Friends of the Kootenai National Forest, Communities for a Great Northwest, North Lincoln County Coalition, Troy Resources and Environmental Economy, Balanced Solutions for Tomorrow, Five Valley Economic Coalition, Southwest Montana Economic Coalition, People for Economically Sound Montana, Over the Snow Association, Lumber Enterprises, Idaho Post and Pole, L P Enterprises, and Bitterroot Chapter of Montana Women in Timber.

This is not to mention the fact that I have been contacted by one of their sister organizations, the Idaho Women in Timber, who are very much opposed to this bill as it affects some of the Idaho mills in the northern part of the State and along the border between the two States.

I think our colleagues need to realize there is strong opposition to this bill.

There are two Congressmen from Montana. One supports the bill; the other one opposes this bill with all his might. That is Congressman MARLENEE, who represents one-half of the State, the eastern half of Montana.

I just think that we need to talk a little bit about what some of these areas are.

A Montana Wilderness bill, as introduced by Senators MAX BAUCUS, JOHN MELCHER, and Congressman PAT WILLIAMS designates nearly double the Forest Service recommendations made through the land management planning process which included substantial public involvement and comment. As such, the Secretary of Agriculture in an official letter of October 9, 1987 stating the Departments position on the House passed version of Montana Wilderness said the Department "will be forced to recommend that the President not approve this legislation unless it is substantially amended to reflect the recommendations of the forest planning process." The present, version continues to ignore the forest plan recommendations.

It designates 680,000 acres of special management and further study areas. The Forest Service testified before the House Interior Committee that it "strongly opposed legislative designation of special management areas that can be handled satisfactorily as part of the forest plan."

It contains a major change in the release language which was agreed to by the Wilderness Society and Sierra Club; the change will allow the environmental groups to continue to litigate forest plans and activities under the plans like recreational access, new campgrounds, timber sales, mining permits, and oil and gas leases; the commodity and recreation groups were not consulted on this change nor have the committees with jurisdiction held hearings on the proposed changes.

Contrary to claims by proponents of the bill, the legislation will not "release 4 million acres for multiple use. The truth is that of the 4 million acres not designated as wilderness, special management, or further study by this bill, 2 million will be managed as defacto wilderness under the forest plans. The remaining 2 million acres released to multiple use will still be subject to administrative and judicial appeals by environmental groups such as the Sierra Club and Wilderness Society.

It contains a $3.4 million backdoor appropriations to equalize the land exchange between Burlington Northern—Plum Creek Timber—and Forest Service. Burlington Northern receives prime commercial timber and the Forest Service receives land which is placed in wilderness study by the legislation. Although the legislation states the $3.4 million is "subject to appropriation" it is a clear commitment in advance of Government funds. The exchange will occur following enactment of the legislation thereby leaving the Appropriations Committees of Congress no choice but to appropriate the funds. As such, the legislation violates the rules of the House because it is an appropriation on an authorization bill.

As reported by the Senate Energy and National Resources Committee on October 7, 1988, the legislation contains a new section which states "it is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana." Although this may be a laudable policy, it is new policy included without the benefit of public hearings or comment. The effect such a policy might have on wildlife, private lands and other values is unknown.

As reported by the Senate Energy Committee, the legislation contains an ambiguous reserved water rights section that may not protect State water users from the Federal Government using wilderness designations to imply a reservation of water.

I realize that that is of no concern to the current Governor of Massachusetts, but it is a concern to most people west of the Mississippi who come from arid lands and are concerned about who is going to have control of the water rights of those Western arid States.

According to timber industry analysis, the legislation will lock up 50 million board feet of timber which would support 500 jobs.

The bill also does not contain any provision to stop the administrative or judicial appeals which are paralyzing Forest Service decisions on activities like timber sales. As an example, Darby Lumber Co. in western Montana is already shut down because environmentalists have appealed two critical timber sales on which the mill was dependent for timber supplies. The effect of this closure is that 150 families are now unemployed; a $2 million dollar payroll is no longer paid; $5 million in contract services is lost; $1.5 million in local purchases is foregone; and Montana loses a mill that generated $90 million in revenues each year.

This bill—and I visited the Stoltze Lumber Co. in Dillon earlier this year—will close Stoltze Lumber mill at Dillon, MT with a payroll of $1.8 million and 105 employees; 50 contracts with truckers and other mill related services along with local purchases worth $4.5 million will be eliminated. According to the United States Geological Survey, many of the areas proposed for wilderness designation contain strategic or critical minerals, which are defined as those necessary to supply military, industrial, and essential civilian needs during a national defense emergency, and are not found or produced in the United States in sufficient quantities to meet emergency needs.

Three separate independent public opinion polls by the Montana School of Business—each survey was a random survey of 400 Montanans aged 18 and older—show that Montanans believe the State already has enough wilderness. In 1987, 62 percent of those surveyed believe Montana either has enough or too much wilderness; in 1982, 1984, and 1987 no more than 32 percent favored additional wilderness designation.

Within a 3-day period in May of this year, 14,000 people signed a petition in northwest Montana opposing any additional wilderness;

Contrary to statements by the proponents of this bill, the basic industries in Montana do not support the wilderness bill because it designates far beyond any recommendations made by basic industry. In fact, on October 17, 1988 the following organizations and local governments held a press conference to oppose passage of the present wilderness bill.

I want to repeat those so all of my colleagues are aware of them. There is very divided opinion. Congressman MARLENEE, who respresents the eastern part of the State, has been a long an able member of the House Interior Committee. He makes it very clear in my conversations with him that this bill goes against the wishes of most Montanans.

These are the people who work in these companys not just corporate headquarters. The people are opposing this.

Stoltze Timber Co., Darby Lumber, Louisiana Pacific Timber, Judith Gap Timber, Mont. Snowmobile Association, Flathead Snowmobile Association, Montana Trail Bike Riders, Montana WoolGrowers, Montana Stock-Growers, Montana 4 X 4, Montana Farm Bureau, Montana Mining Association, Western Environmental Trade Association, Montana Loggers Association, Teton County Commissioners, Sweetgrass County Commissioners, Granite County Commissioners, Fergus County Commissioners, Blue Ribbon Coalition, Friends of the Kootenai National Forest, Communities for a Great Northwest, North Lincoln County Coalition, Troy Resources and Environmental Economy, Balanced Solutions for Tomorrow, Five Valley Economic Coalition, Southwest Montana Economic Coalition, People for Economically Sound Montana, Over the Snow Association, Lumber Enterprises, Idaho Post and Pole, L P Enterprises, and the Bitterroot Chapter of Montana Women in Timber.

This bill adds 1.4 million acres of wilderness—twice that recommended by U.S. Forest Service—to the 3.4 million acres which already exist in the State.

The legislation creates great economic duress by locking up timber resources either directly as wilderness, or by allowing continued, lengthy appeals of forest plans and timber sales. For example, the Stoltze Mill at Dillon, MT will be forced to close due to lack of available timber. It has a payroll of $1.8 million, 105 employees, 50 contracts with truckers and other mill-related services, and local purchases worth $4.5 million will be eliminated in order to pass this bill on the eve of the adjournment of the 100th Congress instead of putting it over to next year, talking about it, and allowing more time and less political pressure, when it can be dealt with in a much better environment than it can be on the eve of an election.

Judith Gap Mill will be eliminated, with 85 employees, 150 indirect jobs, and about $3.5 million annual benefit to local economy.

The Darby Mill, already partially shut down due to lack of timber, has 150 employees, a $2 million payroll, $5 million in contract services, and generates nearly $90 million in revenues annually.

This "Backdoor appropriation" mandates that Forest Service proceed with a land exchange with Burlington Northern R.R. and approves a payment to equalize land values of $3.5 million to Burlington Northern. Even though bill language says this payment is subject to appropriations, once the exchange has been completed it amounts to an obligation in advance of Government funds leaving appropriations no real choice but to make funds available in the future.

Within a 3-day period in May, 14,000 persons in northwest Montana signed petition opposing additional wilderness. On October 17, the following groups held a press conference to further oppose S. 2751:

Montana Farm Bureau, Montana Stockgrowers, Montana Wool Growers, Western Environmental Trade Association, Montana Loggers Association, Teton County Commissioners, Louisiana Pacific Timber, Montana Snowmobile Association, Granite County Commissioners, Montana Chamber of Commerce, Sweetgrass County Commissioners, Montana Trail Bike Riders Association, Stoltze Timber Co., Judith Gap Timber Co., and Darby Lumber Co.

The bill also locks away several areas identified by U.S. Geological Survey and private industry as likely to contain oil and gas reserves, and strategic and critical minerals deposits.

The bill contains new congressional policy declaration regarding access to Forest Service properties in Montana, which have had no hearings whatsoever in Congress.

Mr. President, I reget to take the floor to oppose this bill when the two Senators from the State are in favor of it, but I do think we should at least air this out and discuss it. I have some amendments which I would like to offer to the bill.

Mr. President, what is the parliamentary situation at the current time?

The ACTING PRESIDENT pro tempore. There is a pending amendment in the first degree.

Mr. SYMMS. Further parliamentary inquiry. Is the pending amendment in order or is the pending amendment out of order and not germane due to the fact it amends the bill in more than one place?

The ACTING PRESIDENT pro tempore. The amendment as drafted amends the bill in more than one place.

Mr. SYMMS. Therefore the amendment is out of order?

The ACTING PRESIDENT pro tempore. A point of order would lie against the amendment as long as it is in that form.

Mr. SYMMS. I yield the floor.

Mr. MELCHER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MELCHER. Mr. President, my colleague, the junior Senator from Idaho, has given the detail of those who find fault with the bill. There has never been a wilderness bill passed that covers the RARE II issue without there being a great deal of concern about details in the bill and unacceptable for certain interests in any of the States in the West that have settled the RARE II issue.

Mr. President, first of all, I ask unanimous consent that my amendment be considered in order.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McCLURE. Reserving the right to object, and I shall not object, the request is with relation to the first amendment that amends the bill in three places?

Mr. MELCHER. That is correct.

Mr. McCLURE. I have no objection.

The ACTING PRESIDENT pro tempore. If there is no objection, it is so ordered.

Mr. MELCHER. Mr. President, the difficulty of getting everybody in agreement on a wilderness bill in the

West, to resolve a RARE II question, starts with the lawsuits back in the 1970's and is finalized only when a State considers all the roadless areas in the State and then passes a bill enacting a portion of the land in wilderness, some of them into perhaps study or recreation purposes for special management and, third, releasing the rest of the areas. It is on that point that, naturally, forest products companies have some diverging views, and I would like to address that specifically.

Forest products companies in Montana do indeed have differing views on the merits of this bill and would like to see some changes made in this area or that area to release some timber that might be suitable for harvest. Nevertheless, we reach a point of compromise on what is acceptable to the broadest group of people within the State.

In our case, efforts to resolve the issues has been pending during three different Congresses. In the previous two Congresses, we failed to reach an agreement among the delegation. That is unfortunate. In this Congress, we really do not have complete agreement among the delegation on this particular bill. Nevertheless, the House of Representatives acted last year on a bill that was introduced by Representative WILLIAMS, approved it, and sent it here for our consideration. We worked diligently in attempting to resolve as many of the conflicts as we could—Representative WILLIAMS, Senator BAUCUS, and I—and we arrived at this package that is now before us.

Along the route, we even had more difficulties after the three of us had arrived at a conclusion, and we have addressed those problems, reaching the broadest possible agreement within the State of Montana on a wilderness bill.

It is now the feeling of the bulk of the forest products industry in Montana that this bill should be passed this year, and I will briefly cite what those reasons are.

First of all, there will be 4 million out of the more than 6 million roadless acres of national forest lands in Montana that will be released for the broader uses in multiple use concept. That is why the bulk of the forest products industry in Montana is asking us to pass this bill. The bulk of the forest product industry in Montana have asked that a bill be passed and they have reviewed the amendments that we will offer.

Those amendments go to two points. First they go to the question of release language, which is found to be the first step in modification of release language for any wilderness bill that has been passed since the RARE II case was brought. This modification is a constructive step, and the step is simply to make sure that there will not be litigation over the question of whether or not the lands have been reviewed adequately for wilderness consideration.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MELCHER. Mr. President, I yield to my colleague from Idaho, the senior Senator, without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLURE. I thank the Senator for yielding.

I want to focus for a moment on the subject matter the Senator has now raised—that is, the question of the release language, which is also the subject of the amendment now pending. It would conform the language of sections 2 and 3 of section 2(a) in the committee substitute—would conform it to the existing language of what has become known as standard release language.

I commend the Senator for offering this amendment. There is later in the bill a subsection 5 that deals with release language, which will be added by the Senator's next amendment, as I understand it, that updates that standard release language to take into consideration the fact that, for most areas, the RARE II process has been completed, which has been referred to in sections 2 and 3, and makes reference to the effects of the land planning process. They are not pending at this time because the parliamentary restrictions, sections 2 and 3, amended as that would be by the pending amendment—section 4 and section 5 to be added by the next amendment—complete the circle with respect to the RARE II process and the adoption of forestland management plans.

I commend the Senator for the addition to this language that will appear in the next amendment.

This amendment affects the subject matter, and I thought it might be well to foreshadow the fact that there is another amendment that will deal with the condition that exists after the adoption of the forestland management plan.

I thank the Senator for yielding.

Mr. MELCHER. I thank my colleague for his comments. He is entirely correct in how he relates the interrelationship of the amendment now pending and the amendment that will be offered to complete the arrangement.

Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I do not think there is objection to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3714) was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3715

Mr. MELCHER. Mr. President, I have a second amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MELCHER. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I have an amendment at the desk dealing with section 5, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an amendment numbered 3715.

Mr. MELCHER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 52, line 7, strike Section 5 in its entirety and insert the following new language:

RELEASE TO NONWILDERNESS USES

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 94-557 and Public Law 95-150;

(2) the Department of Agriculture has completed the Second Roadless Area Review and Evaluation Program (RARE II);

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas through its Land and Resource Management Planning for National Forests; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the

environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to National Forest System lands in States other than Montana, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Montana;

(2) with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture in wilderness studies conducted pursuant to Public Law 94-557 and Public Law 95-150, in RARE II, and in the unit plans and the Forest plan for the Beaverhead National forest which were in effect prior to completion of RARE II, that such reviews shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plan, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) except as may be specifically provided in sections 8-12 of this Act, those areas in the State of Montana referred to in subparagraph (2) of this subsection which were not designated wilderness shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans.

(4) in the event that revised land management plans in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) The provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less than five thousand acres in size.

(e) The wilderness suitability review and evaluation of national forest system lands in the state of Montana completed as a part of Land and Resources Management Plans that were completed prior to the enactment of this Act, satisfy the provisions of Sec. 5(b)(2) as an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed.

Mr. MELCHER. Mr. President, this amendment deals with the release of land to nonwilderness uses and contains a standard release sufficiency provision.

This release sufficiency language has been incorporated by the Congress in State wilderness bills enacted over the past several years.

The background and intent of this language has been carefully documented in previous committee reports, for example, for the Oregon Wilderness Act of 1984 and Senate Report 96-465.

The language contained in the Montana Natural Resources Protection and Utilization Act in 1988 has been updated by adding a new subsection (e) to reflect that land and resource management plans and associated environmental impact statements for all the national forests in the State of Montana have been completed.

That updated language carries forward the intent of the previous language. The requirement to reconsider the wilderness option for remaining wilderness lands when initial plans are revised some 10 to 15 years from now is not changed.

The act does not prevent legal challenges for land and resource management plans on grounds other than the wilderness/nonwilderness evaluation.

The act precludes legal challenges to the wilderness/nonwilderness evaluations made as a part of the national land and resource management plan approved prior to enactment of this act.

Our clear intent in this legislation is to bring to an end the long controversy in Montana as to what roadless areas should be wilderness and what roadless areas should be managed for important nonwilderness purposes.

Of course, Congress can make that decision in the future in legislation, and the Forest Service must consider all uses for roadless areas in future land management plan revision.

Mr. McCLURE. Mr. President, I wish to ask the senior Senator from Montana for some clarification with respect to the modifications he has made to the so-called release language in the bill as reported by the Committee on Energy and Natural Resources. The provisions of the bill as reported were intended to have the same effect with respect to lands considered for wilderness in the land and resource management plans as that which was provided in the "standard" release language for lands considered for wilderness in the RARE II process. Is that correct?

Mr. MELCHER. Yes.

Mr. McCLURE. Is it also correct that the intent of the amendment is to accomplish the same objective?

Mr. MELCHER. The Senator is correct.

Mr. McCLURE. Is it also correct that the wilderness review under the land and resource management plans dealt with the same lands reviewed under the RARE II process?

Mr. MELCHER. Yes.

Mr. McCLURE. Given those responses, is it the intent of your amendment that the lands reviewed in the land and resource management plans be subject to the provisions of subsection 5(b)(3) and 5(b)(4)?

Mr. MELCHER. Absolutely and those provisions state and I quote:

> (3) except as may be specifically provided in sections 8-12 of this Act, those areas in the State of Montana referred to in subparagraph (2) of this subsection which were not designated wilderness shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;
>
> (4) in the event that revised land management plans in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law;

Mr. McCLURE. I thank the Senator for his responses and wish to state that this is my intent also in agreeing to these amendments.

Mr. President, I have one additional question for the Senator from Montana regarding the new release language. Section 5(e) states in part that the wilderness review of lands in Montana done as part of land and resource management plans is "an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans,". Is it the intent of this language to declare the wilderness review done in preparing the land and resource management plans as sufficient in all respects?

Mr. MELCHER. Yes.

Mr. McCLURE. Sufficient with respect to the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976?

Mr. MELCHER. Yes.

Mr. McCLURE. Sufficient with respect to the National Environmental Policy Act?

Mr. MELCHER. Absolutely, otherwise the provision would be meaningless. It is my intent that the section be read as a legal conclusion by Congress that the wilderness review done in preparing the land and resource management plans was an adequate consideration in compliance with the substantive and procedural requirements of all applicable law. The declaration that "the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans" is as clear a statutory statement as Congress can make. What has been done is declared legally sufficient and no one can require further wilderness review prior to plan revision.

Mr. McCLURE. So the Senator is saying that the language prohibits any person or any court from requiring any further wilderness review by the Department of Agriculture, prior to revision of the plans?

Mr. MELCHER. The Senator is correct.

Mr. McCLURE. Is it also true that activities on lands considered during the wilderness review, but not designated as wilderness by this act, cannot be challenged on the basis that the wilderness review in developing the plans was somehow inadequate?

Mr. MELCHER. The Senator is again correct.

Mr. McCLURE. I thank the Senator and concur fully with his remarks.

Mr. WIRTH. Mr. President, this act includes language regarding the effect these wilderness designations have on future downstream appropriation of water and on existing water rights. I ask the Senator from Montana, am I correct that it is his intent in including this section not to exempt these wilderness areas in any way from any provisions of the Wilderness Act, nor to change that act with respect to water rights, but rather to clarify the fact that designation of these lands as wilderness will not diminish existing water rights nor affect future downstream appropriations of water?

Mr. MELCHER. Yes; that is correct. Because all the waters within these wilderness areas originate within the wilderness boundaries, that is, are headwaters, these wilderness designations will have no effect on the appropriation of waters downstream of the exterior boundaries of these wilderness areas. This is nothing more than a simple observation of the facts: Because of the geography of the areas, the management of the lands and waters within these wilderness area boundaries under the provisions of the Wilderness Act will have no impact on water appropriation downstream of the wilderness areas. Simply stated, streams that arise in these wilderness areas flow out of wilderness. Wilderness does not consume water.

Subsection (b) recognizes and protects water rights that are valid at the time of this designation. This section is not intended to alter in any way the applicability of the Wilderness Act and the clear limitations that the Wilderness Act places on water developments or diversions or on any other types of development activities, within wilderness areas.

Mr. WIRTH. Mr. President, I thank the Senator from Montana for his clarification.

Mr. MELCHER. Mr. President, I do not think there is any further debate on this amendment.

The PRESIDING OFFICER. Hearing no further debate, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 3715) was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3716

Mr. MELCHER. Mr. President, I have a third amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 3716.

Mr. MELCHER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, beginning on line 10, strike Section 7 in its entirety and insert the following:

SEC. 7. Congress finds that the waters within the Wilderness Areas designated by this Act are headwaters. The designation of such areas as wilderness shall have no effect on downstream appropriation of waters, and nothing in this Act shall be construed to affect valid existing water rights as provided under Montana State law.

Mr. MELCHER. Mr. President, this amendment is to clarify the provisions dealing with water in the bill. These are headwaters that are involved in the wilderness areas, and we want to make sure that there is clear language in the bill that they do not affect the existing water rights of anybody and that we are not creating a situation where passage of the wilderness bill creates an increase in reserve water rights for the Federal Government.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I wonder if the Senator from Montana would be kind enough to answer a few questions with respect to this language, and I take a little time to do this rather carefully because if there is one issue that is both fundamental and difficult, it is that of water rights in the arid West and the relationship between the Federal Government and the State government with respect to the allocation of waters within the boundaries of the State.

Would the Senator from Montana agree that the Wilderness Act when applied to national forest land is basically a land management plan limiting otherwise permissible uses of the national forest?

Mr. MELCHER. Yes; I would agree.

Mr. McCLURE. And as such is it not correct to say that any additional Federal reserve water right would not be created as a result of the passage of a land management statute limiting otherwise permissible uses, that the water that is reserved for those wilderness areas would be that which is reserved as a result of their creation as a national forest rather than as a designation of the planning for wilderness uses?

Mr. MELCHER. That is clearly correct, as my colleague from Idaho has stated it.

Mr. McCLURE. If I understand the intent of the Senator from Montana, it is that given that we are dealing with headwaters in this measure, it is rather foolish to even talk about reserving additional water. Would the Senator agree that any attempt to assert an additional reserve right would result in any such right being subordinated to both valid existing rights and any future downstream appropriated rights granted by the State of Montana?

Mr. MELCHER. That is absolutely correct. That is the clear intent of this language as we have drafted it, and I am delighted and pleased that my colleague, Senator McClure, has noted it. He states it absolutely correct.

Mr. McCLURE. I know from our conversations in the past that that is the intention of the Senator from Montana. I think it is important that it be stated on the record before passing this legislation.

There is one area of possible conflict that has not been resolved either by the statements or by our conversation. The language in the amendment states that nothing will affect either valid existing rights or future downstream appropriation. Let me pose what might be a hypothetical. As the Senator from Montana knows I have not attempted to inject myself into the internal decisions of land management processes within the State of Montana. I think the Senators from the State of Montana are much more familiar with those conflicts and tradeoffs than would I be.

But I will ask a question and it may simply be hypothetical since I do not know what the conditions may be there.

Let us assume for a moment that there is, within these lands designated for wilderness management, an inholding. Would there be any effect on any valid State water rights which that inholder has?

Mr. MELCHER. Not to my knowledge. I might respond to my colleague that we know of one inholding that is granted access by this bill, but it is in a wilderness area that was so designated by an act of Congress several years ago and has no bearing on the lands that are now being designated wilderness.

Mr. McCLURE. If there are inholdings in the boundaries of these areas designated for management as wilderness, they will be protected by the valid existing rights language in the bill as offered, am I correct?

Mr. MELCHER. The Senator is correct, because their rights would not be interfered with. Their existing rights would not be interfered with by the passage of this bill.

Mr. McCLURE. Again, I confess I do not know Montana water law as well as I do Idaho water law. Would there be any effect on any change in place or purpose of use for that water right under Montana law so long as the place and use are on the inholding?

Mr. MELCHER. As long as the user is on the inholding there would be no effect whatsoever by the passage of this act.

Mr. McCLURE. Would there be any effect on the ability of that inholder to obtain an additional water right under Montana law for that inholding?

Mr. MELCHER. To my knowledge, under Montana law, there would be no difficulty or obstruction for the inholder to obtain additional water under State law.

Mr. McCLURE. It would not remove the Federal Government's claim for a reserve right in connection with the national forest withdrawal, but this bill would not create any additional conflict with the inholder's right to obtain additional water.

Mr. MELCHER. The Senator has stated it correctly.

Mr. McCLURE. Section 4(d)4 of the Wilderness Act provides, in part, that the President may authorize prospecting for water resources, establishment and maintenance of reservoirs, water conservation works, et cetera. That is provided in the basic Wilderness Act. Would the Senator agree that any such activity would require an appropriate permit from the State of Montana and would be protected by the water language in this bill?

Mr. MELCHER. That is my understanding and my purpose in the amendment.

Mr. McCLURE. Mr. President, I think the Senator from Montana for yielding. I apologize for taking some time, but this is a matter of intense interest and great importance to the people that do live and try to make a living in the western arid States. I thank the Senator for his responses.

I yield the floor.

Mr. MELCHER. I thank my colleague from Idaho for his pertinent questions.

Mr. President, I do not think there is any further debate on this amendment. I think we are already for the vote.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment offered by the Senator from Montana.

The amendment (No. 3716) was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Montana withhold his suggestion of the absence of a quorum?

Mr. MELCHER. No; I do not.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3717

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. Symms) proposes an amendment numbered 3717.
>
> At the end of the committee substitute add the following: "that it is the sense of the Senate that the President of the United States should instruct the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, and the Secretary of Commerce to consult immediately with allied governments on the impact on Western security of various types of private and public sector credit flows and debt reschedulings to the Soviet Union, Warsaw Pact countries, Cuba, Vietnam, Libya, and Nicaragua, and to call for a multilateral voluntary initiative, supervised by the Organization for Economic Cooperation and Development, to end untied, general purpose lending to these countries for reasons both of national security and prudent commercial banking."

Mr. SYMMS. Mr. President, the Financial Times of London yesterday carried two news stories about further efforts on the part of the Soviet Union and its client states to secure hard currency among the allies of this Nation.

According to the world trade editor of that newspaper, the Soviets are seeking $1.7 billion in London—an amount roughly equal to the funds they raised in West Germany last week. The reporter in Moscow reported that the Italians have extended a $762 million line of credit to the Soviets.

Mr. President, these developments are very alarming. The reason I offer this amendment on this bill is I have been making every attempt, through Senator Dole and Senator Byrd, and they have been cooperative, to try to get this amendment up and to get a vote. There have been some objections from the Foreign Relations Committee. But this sudden rush of our allies to lend money to the Soviets is an alarming situation which requires that the Senate speak on this before we go out and recess.

I am using this Montana wilderness bill as the appropriate vehicle for us to speak to that. It is only a sense-of-the-Senate resolution. It will be my intention to get a record vote on this. I hope we could have an up-or-down vote and not a tabling motion so that we can have a clear signal from the U.S. Senate opposing these united loans to the Soviet bloc and Warsaw Pact. I will go into the reasons why this situation that exists today is very dangerous.

As I said, Mr. President, these developments are alarming—particularly the rapid pace of Soviet negotiations and that utter eagerness of Western governments and their capitalists to grant these lines of credit.

It is absolutely essential that the U.S. Senate establish now a clear and achievable timetable and agenda for results concerning an alliance consensus on phasing out united, general-purpose lending to Warsaw Pact countries and Soviet client states, and for the redressing of other major financial security problems.

As anyone experienced in alliance consultations and economic summit preparations knows, a 6-month lead time is the minimum necessary to gather data, analyze and negotiate an allied consensus on a major new family of issues before it is adopted by Ministers at the Ministerial of the Organization for Economic Cooperation and Development [OECD] to be held in April 1989.

It is also well established that an issue has to be formally discussed on the agenda of the OECD Ministerial meeting if it is to be on the formal agenda of the upcoming Economic Summit in Paris in May/June 1989. Although there are exceptions to this rule, the allies would be tempted to use the argument of "insufficient preparation time" to foreclose an OECD and summit discussion and agreement.

Concerning precedents, it took a full year to produce an alliance agreement on discouraging taxpayer subsidized interest rates on Government-backed credits to the U.S.S.R., July 1981 to July 1982. It took almost 2 years to achieve an alliance agreement in the International Energy Agency, under the auspices of the OECD, to, in effect, limit Soviet natural gas deliveries to Western Europe to 30 percent of total West European gas supplies and to accelerate successfully the development of the huge Norwegian gas project—Troll—to substitute for Soviet supplies into the 1990's and 21st century. That is why it is important that we in the Senate speak today to get the U.S. Treasury Department to take the leadership on this issue. Finally, it took well over 6 months to reach an alliance agreement in the OECD on discouraging foreign assistance "tied credits" or the excessive use of grant money in development loans.

Congress and the administration have been aware of the untied loan issue and other financial security issues, for example, the entry of the Soviets into the international securities markets, et ceteria, for over 2 years and, to date, no alliance consultations have taken place.

There have reportedly been only two midlevel interagency meetings on this subject within the administration, the last of which took place in July 1988, and they have been fainthearted to say the least.

The issue has not been brought to the Cabinet's attention since 1985 and then it was in the context of responding to legislation (S. 812), not a multilateral, voluntary initiative with our allies on more disciplined and transparent lending of hard currency to adversaries. I think it is imperative that we speak to this issue before we adjourn this week.

On June 2, 1987, 18 leading Congressmen and Senators, on a bipartisan basis, wrote the President urging him to raise the untied loan issue and impending Soviet entry into the Western bond market prior to the Venice Economic Summit. There was no result and the issue was not raised.

On September 24, 1987, 24 Congressmen and Senators, again on a bipartisan basis, wrote the heads of the IMF and the World Bank asking them, for solid commercial banking reasons, to call for a phasing out of undisciplined cash lending to sovereign borrowers in the East bloc because this practice has been proven to be one of the principal causes of the current trillion dollar international debt crisis.

They were totally ignored, as though the Members of the House and Senate who were speaking out and raising this issue on behalf of the American people, on behalf of those who are concerned about issues of peace and freedom and the preservation of peace and freedom, on behalf of those who are discouraged with the billions of dollars that it cost to provide for the defense of the United States and the Western alliance. Yet we continue to feed the bear. We continue to feed the bear that is aggressively our largest adversary and the cause of the billions of dollars that we spend on defense.

The administration was sent copies of this correspondence at the Cabinet level. Again, this issue was ignored during the IMF/World Bank sessions that immediately followed the letter.

On June 15, 1988, the Senate agreed to a unanimous resolution (96-0), sponsored by Senators Bradley and Sasser, calling on the President to raise the untied loan issue and related problems at the Toronto Economic Summit. Simultaneous to this effort, Congressmen Schumer and Roth sent a letter to the President with over 50 signatures—evenly divided between Democrats and Republicans—arguing strongly that this issue required urgent Presidential attention in Toronto. Again, the issue was never raised, even at lower levels.

In the earlier Defense appropriations bill and in a letter to Defense Secretary Carlucci, Senator Sasser requested a comprehensive interagency study of all available data on credit flows to the Soviet bloc and certain client States which was to be completed by September 30, 1988, and presented to the Congress. No such study was produced and no self-generated initiative within the administration was undertaken.

During his confirmation hearings, Treasury Secretary Nicholas Brady was strongly requested by Senator Wallop to raise the untied loan issue at the G-7 meetings in Berlin last month. Some in Berlin familiar with the G-7 sessions claim the issue was never seriously discussed and we are waiting to hear if it was even raised, despite Secretary Brady's commitment to do so. Last week this Senator sent a letter to the Secretary on behalf of myself and Senator Wallop inquiring about the results of his promise before the Finance Committee.

Having gone through a brief chronology of these crucial financial security issues, an otuside observer can better appreciate why I, and many of my Senate colleagues, are perplexed and concerned over having my proposed resolution (S.R. 492) referred by the honorable senior Senator from Rhode Island to the Foreign Relations Committee, where it is presently held.

Senator Pell, in private conversations, told me that he had some problems with the resolution. I would hope that before this comes to a vote, we could have a unanimous vote. I hope we will be able to persuade Senator Pell of the importance of having the Senate speak to this issue because this issue requires the immediate attention of the Senate and I think it would be more effective if we have a unanimous vote in favor of this amendment rather than to have any substantial opposition to the amendment.

My concern is, Mr. President, that the data collection through our allies and a thorough analysis prior to the April OECD meeting requires this alliance exercise to begin immediately. I think our colleagues must recognize that this administration has been totally unresponsive to those needs over the past 2 years.

Why, then, would Senate Resolution 492 be subject to yet another delaying tactic? That is why I bring it up here today, so that it will not be further delayed and the Senate may vote on this.

I would hope that the administration would not oppose this resolution and that they would, in fact, step forward and support our efforts in the Senate to speak to this important issue of untied Soviet bloc loans.

I see that the distinguished chairman of the Foreign Relations Committee is on the floor and I am sure that he will want to make some comments on this.

I was just saying, Mr. President, I hope I will be able to pursuade the distinguished Senator from Rhode Island to support this resolution.

Senator SASSER and Senator BRADLEY had a similar resolution that received a 96-to-nothing vote earlier this year. I think it is important that we get a strong vote like that today.

The broader question is, though: What does it take to get this administration off the dime on the undisciplined, gratuitous underwriting of Soviet global operations including the failed economies of the Soviet client states, by our allies, particularly by West Germany and Japan?

We have to find the leadership in order to make this point to West Germany and Japan, that they are cutting their own throats to continue to lend billions of dollars to the Soviet bloc in an untied fashion, which allows them, in turn, to use the money to strengthen Soviet expansionism in all regions of the world, therefore costing the taxpayers of the United States, West Germany, and other places, more money to provide more defense to protect against a hungry bear we continue to throw red meat in the form of untied loans to.

The diversion of the proceeds of Western borrowings to finance purposes inimical to vital United States and Western security interests is almost certainly costing the American people billions of dollars annually in additional defense and foreign assistance spending to counter the consequences of these unwise banking practices. It is not just bad for our national security, it is bad banking.

Why has there not been one high level alliance consultation on this obviously strategic subject since World War II? Why has there not been one National Security Council meeting devoted exclusively to the subject to how the Soviet Union funds itself and its global empire?

Why have Bonn and Tokyo totally ignored the strategic and security implications of multibillion dollar credit flows annually to Warsaw Pact nations from their countries?

Why has this subject eluded every major discussion of defense burdensharing with our allies?

I hope we are not deliberately looking the other way on untied loans and other public and private sector financial transfers to adversary nations because it keeps the Soviets and our allies in a better humor.

Sometimes we wonder if people think they can throw a bone to the alligator, hoping the alligator will eat them last, keeping the alligator in good humor and it will be of no further problem to them.

Could it be that we are more interested in avoiding a potentially contentious discussion with our allies than advancing the national security of the United States and the preservation of freedom around the world?

I hope not, Mr. President. I hope that is not the case. But I think that is a question we in the Senate have to ask and we have to direct our statements in the form of this sense-of-the-Senate resolution to this administration and to the next administration. We must be on record that we are sick and tired of commercial banks in Western nations giving untied loans to our adversaries when we have to raise taxes to fund a military establishment to defend us all against the common threat.

Could it be that our free market principles are overriding the need of this Government and those of our allies to intervene to correct these financial abuses, data gaps, and lending practices that have serious strategic implications for the free world?

This Senator would like to pose the question: Why must the committee further study this issue at this critical time? Is the reason just to avoid a vote before we adjourn?

I hope that is not the case. I think we should vote on it now.

This Senator has sent a letter to Secretary of State Shultz and Treasury Secretary Brady and former Secretary Jim Baker asking them for their answers to some or all of the questions posed here today.

We need to focus on this issue. Once we recognize it is a problem, the solution will find its way to the surface. But we first have to recognize it is a problem.

To further illustrate why we must immediately commence formal alliance consultations at the Assistant Secretary or higher level now, as opposed to further obfuscation and delay, consider the amount of data that has either never been collected at all or not pulled together in a systematic way for analysis. Among the numbers urgently needed are the following:

First, what have been the total Western private and public sector credit flows to Warsaw Pact countries and Nicaragua, Vietnam, Libya, and Cuba over the past 10 years—1978-88—breaking out tied and untied loans, with projects 5 years forward? These numbers should also be broken out both by lending countries and borrowing countries as well as in aggregate form.

Second, what have been all loan and deposit exposure to the Comecon banks—the International Investment Bank and International Bank for Economic Cooperation—over the past 10 years, with particular focus on credit flows from West Germany over the past 3 years?

Third, what have been all "private placements" of debt between Western and middle East banks and nonbanks and Soviet bloc-owned banks? These private placements could either take the form of bank-to-bank deals or so-called club deals involving 3 to 10 banks.

Fourth, what has been total credit exposure—Western banks and nonbanks—to Warsaw Pact borrowers in the forfait market, broken down by country lenders—for example, the total amount of the banks of a particular lending nation—and country borrowers?

Fifth, what is total Western nonbank credit exposure to Soviet bloc countries and the client states referenced?

Mr. President, I wonder if the majority leader would like me to yield for a question. I believe the leader is prepared to recess for lunch. I would not want to delay accommodation on the floor, but I would need about another 10 minutes or so. When we come back, may I commence where I am now?

Mr. BYRD. I am prepared, Mr. President, to accommodate the Senator in any way he wishes. I prefer not to recess for lunch. We on our side will not be having a conference today. I can assure the Senator nothing will happen on this matter. I will be prepared to speak for perhaps an hour. If the Senator wishes to proceed for another 10 minutes, fine.

Mr. SYMMS. I thank the leader. If I could complete my remarks and make my insertions into the RECORD, my part would be finished.

I might, while the leader is on the floor, Mr. President, ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. I thank the majority leader.

Sixth, what would a breakout of total Middle East exposure to Soviet bloc borrowers and the client states referenced look like? Both public and private sector flows should be cited and whether the funds were tied or untied.

These are questions for which we need answers by the Western Alliance members.

Seventh, we need an analysis of the volume and quality of the Soviet hard currency loan portfolio (estimated by PlanEcon at over $40 billion) to Third World countries. What is the true market value of these loans—25-30 cents to the dollar?

Eighth, we need a listing of all public and private sector contingent liabilities to Soviet bloc borrowers and the client states referenced, including government guarantees, and lines of credit that are committed and could be drawn down by the borrower at any time.

Ninth, we need a listing of all Western bank, government, and multilateral development bank loans and deposit exposure to Nicaragua, Cuba, Vietnam, and Libya over the past 10 years, (broken down by lending and borrowing countries) as well as every debt rescheduling to these countries, including the respective terms and conditions.

Tenth, we need a summary of the Soviet position in or overtures to all international economic and financial organizations for observer status or membership, including the Asian Development Bank.

Eleventh, we should have a breakout of all West German and Japanese loan and deposit exposure to each Soviet bloc country (including the U.S.S.R. itself), Comecon banks, and the client states referenced, for the past 10 years (1978-88).

Twelfth, finally, we should have a breakout of aggregate United States bank deposit exposure to Soviet bloc-owned banks located in the West.

The above data requirements listed for proper evaluation of the security implications of Western credit flows to Soviet bloc countries and client states is by no means complete. Other data are also needed but time and space do not permit a more exhaustive list here. This is a very important start, however.

If we are unable to obtain from our allies all of the data listed above and/or of additional data that will be required, the administration should clearly reference the data gaps that could not be closed, so that the Congress can better evaluate the commercial and security implications.

There is a great deal of work to do between now and April 1989. I suggest we stop searching for ways to avoid or delay this essential alliance exercise and get on with it in as constructive a manner as possible.

Mr. President, I do not like to take the floor to be critical of a Republican administration or of any administration, for that matter, but the excuses by the administration to date have been weak, particularly given their own unilateral capital controls against Panama. This exercise is not about controls, it is about data collection and disclosure and a multilateral, voluntary initiative to implement more discipline and transparency in lending to adversary nations for solid national security, commercial, and human rights reasons.

Mr. President, this Senator has offered a sense of the Senate resolution, Senate Resolution 492, that would address this issue. It urgently needs to be considered by the Senate before we go out at the end of this week—that is why I offer it on this Montana Wilderness bill—because as the enumeration of the data that needs to be gathered indicates, it will take at least 6 months to prepare for the OECD ministerial meetings in April.

The Senate's failure to act on this critical and urgent issue at this time, Mr. President, is tantamount to a declaration by the United States that we really do not care if our allies pour out billions of dollars to make the Soviet Union stronger. If that is the case, then I must ask my colleagues, in all sincerity, why did this Nation expend billions of dollars in the past 8 years to build up our own defenses? Why do we spend billions of dollars each year for foreign aid and other international security initiatives, if we are willing—in the last analysis—to let the enemies of the United States borrow from our supposed friends all the capital they need to match us dollar for dollar?

My sense of the Senate resolution is certainly a weak enough gesture. It is a weak gesture, Mr. President. It is not a strong gesture, such as prohibiting offending banks access to the U.S. market, like I would like to have. But I do not understand how anyone could not want to adopt this resolution. We need the Senate on record speaking to this issue. We need the administration to bring our trading partners in the Western Alliance to the table, and I think in doing so we can shed a lot of light with a lot of new data exactly how serious this is and I believe it would be good for peace and freedom throughout the world.

Mr. President, I ask unanimous consent to have the two news articles from the Financial Times of London referred to above printed in the RECORD.

In addition, I ask unanimous consent to have an article that appeared this morning in the New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Financial Times, Oct. 17, 1988]

ITALY SEEKS "MARSHALL PLAN" FOR EAST BLOC

(By Quentin Peel in Moscow)

Western Europe should consider the possibility of a "Marshall Plan" to aid the reconstruction of the East European socialist economies, including the Soviet Union, Mr. Ciriaco De Mita, the Italian Prime Minister, has proposed in Moscow.

However, the initiative must come from the Soviet Union and its Comecon partners and go hand in hand with political detente and conventional disarmament, he said.

Mr. De Mita was speaking after talks with Mr. Mikhail Gorbachev, the Soviet leader. The summit saw the renewal for Mr. Gorbachev's proposal for a summit meeting of all European leaders—without excluding the U.S. and Canada—to promote the process of conventional disarmament, and his separate plan for a Mediterranean disarmament conference.

At the same time a team of Italian ministers and industrialists sought to reinforce their bilateral trade ties with the Soviet Union, including the signing of a Ecu680m (762m) line of credit to purchase Italian exports, and an agreement for co-operation in space.

Both of Mr. Gorbachev's conference proposals received a thoroughly cautious response from Mr. De Mita. He said there was no need to accelerate the conventional disarmament process with a Euorpean summit, because the current negotiations in Vienna were in sight of agreement on a mandate.

As for the Mediterranean, it was too complex a region for its disarmament to be tackled "arithmetically," and should instead be considered on a problem-by-problem approach.

Mr. De Mita none the less appeared to support the Soviet position on two key issues on disarmament. He told Mr. Gorbachev that Italy, like France, was prepared to support the idea of a human rights conference in Moscow if the current Vienna talks reached a successful conclusion.

He also indicated support for the Soviet agenda on conventional disarmament: to start with the identification of conventional weapons strengths on both sides of the Nato-Warsaw Pact divide, followed by the removal of imbalances and finally to negotiate global cuts on both sides.

Mr. De Mita said he had emphasised throughout the talks the need for improved economic relations to be underpinned by political improvements. It was in that context that a "second Marshall Plan" should be considered.

[From the Financial Times, Oct. 17, 1988]

MOSCOW TAKES SOUNDINGS ON £1BN TRADE CREDIT

(By Peter Montagnon, World Trade Editor, in London)

The Soviet Union has begun soundings with banks in the City of London for a trade credit that could amount to £1bn ($1.7bn).

The deal, which would be along the lines of the DM3.5bn ($1.9bn) trade credit announced in May by West Germany's Deutsche Bank, could provide a substantial boost to UK exports.

Bankers stressed at the weekend that no formal proposals for the deal had been made by either side, but the possibility of a credit arrangement was likely to feature in bilateral talks this week between Mr. Alan Clark, UK Trade Minister, and Mr. Konstantin Katusov, Soviet Minister for Foreign Economic Relations.

The two are to meet in the framework of the Anglo-Soviet Joint Commission on trade for three days of talks in London, beginning tomorrow.

If it emerges, the deal will mark the second attempt by Britain in two years to promote exports to the Soviet Union through the provision of credit. A credit protocol for an unspecified amount was signed early last year by the Export Credits Guarantee Department.

Some bankers remain skeptical about the desirability of striking a new deal when credit facilities available to Moscow under that arrangement are still not fully used up. A drawback has been interest rate provisions introduced by the Soviets which require exporters to subsidise the finance by raising their contract price.

However, others believe a new deal would provide an opportunity to negotiate more flexible terms with the Soviet Union so it would be more likely to take up credit offered by the UK.

Bankers believe that the Soviet Union is making similar bilateral soundings for credit with other countries, including Italy and Japan, as it seeks to build up a framework of financial resources for increasing its imports from the West.

This could add to pressure on Britain to respond favourably to a formal request from Moscow because it would otherwise risk being left out.

Precedent suggests that the mere provision of credit does not automatically lead to bigger purchases of UK goods by the Soviet Union.

Bankers specialising in East-West trade believe, however, that the Soviet Union could start to increase its purchases in the West.

The Deutsche Bank credit, which is to be formally signed today, drew criticism from Washington on the grounds that it was indirectly enabling Mr. Gorbachev's Government to divert more resources to defence spending.

[From the New York Times Oct. 18, 1988]

NEW SOVIET CREDIT LINE IS EXPECTED—BANK DEAL IN LONDON LIKELY TO BE LARGEST EVER WITH THE WEST

(By Michael Farr)

BONN, October 17.—The Soviet Union is expected this week to wrap up what is likely to be the largest credit line ever with the West. The deal with London banks would come just days after the Soviets signed two major credit agreements with West German and Italian banks.

The London credit is expected to be for up to $2.62 billion. It comes on top of a West German credit pact worth $1.6 billion signed in Frankfurt today and one with Italian banks worth $775 million signed in Moscow on Friday.

Bankers in Frankfurt and economists specializing in East-West business also spoke today of rumors of another large credit being arranged with Japanese banks, traditionally Moscow's main lenders.

TOP GORBACHEV PRIORITY

The bankers calculated that the Soviet Union's current credit spree would bring it more than $5.5 billion to help the urgent restructuring of light industry and improvements in consumer goods production that Mikhail S. Gorbachev, the Soviet leader, has deemed a top priority.

Of these funds up to $5 billion could come from Western Europe and the balance from Japan. Unit the latest round of credit-raising, Japanese banks since 1984 accounted for $6.4 billion, or 40 percent, of new loans granted to the Soviet Union, and West German banks 30 percent.

Faced with a notable lack of Government encouragement American banks has accounted for only 2 percent of total lending to the Soviets. But West German bankers and economists say they detect, a new interest on the part of American commercial bankers and predict a possible change in approach toward the East bloc after next month's Presidential election.

Explaining American reticence so far, Heinrich Machovski, an expert on the Soviet Union at the West Berlin-based German Institute for Economic Research, quoted one American banker as saying recently: "We would like to increase our involvement with the East bloc, but we have to watch very carefully our domestic political costs. Too much involvement would create difficulties at home."

U.S. FEARS ON MILITARY

Washington has expressed concern about all the financing. When the West German credit was first discussed in May, Frank C. Carlucci, the Defense Secretary, said it would give military activities, which otherwise would have to be spent on food production and imports of consumer goods.

Bankers and most European politicans do not share this view. For one thing, the Soviet Union enjoys first-class debtor status. The Bank for International Settlements, in Basel, Switzerland, said the Soviets owed Western banks a total of $34.1 billion at the end of last year. As one Frankfurt banker put it, "From an economic point of view, the Soviet Union is a good debtor, and where does one find good debtors these days?"

Furthermore, bankers noted that Moscow's parallel efforts to raise credits in several countries also introduced an element of competition among banks that helped the Soviets gain the best terms. The credits also reflected the interest of Western banks and governments in winning improved access to Soviet markets and a share of the business that Mr. Gorbachev's economic restructuring, or "perestroika," will generate.

FALL IN OIL REVENUE

For the Soviet Union the credits have been made all the more necessary by the fall in both oil revenue and the value of gold, Moscow's traditional sources of currency, bankers said. The West German credit line—with a life of eight and a half years and with interest rates to be fixed as financing for individual projects is arranged—will be used to finance German deliveries to expand and modernize the Soviet consumer goods industry, and especially the food processing leather, textile and clothing sectors, according to Deutsche Bank A.G., which is leading the consortium.

The credit organized by a group of Italian banks and led by the state-owned Mediocredito Centrale is for 680 million European Currency Units, or $775 million, and will be used mainly for the purchase of Italian machinery for the production of consumer goods.

The British credit accord, which is now being worked out and which could be announced on Thursday is expected to be for between £1 billion and £1.5 billion) ($1.75 billion and $2.62 billion), with a maturity of up to eight and a half years. It would be used for Moscow's plans to improve airports, hotels, tourism and food processing, handling and packaging.

Banking sources said the credit, which would be covered by the Government's Exports Credits Guarantee Department, would be divided into slices with amounts allocated for each sector.

The credit is certain to be discussed during three days of bilateral talks beginning tomorrow in London between Alan Clark, Britain's Trade Minister, and Konstantin Katusov, the Soviet Minister for Economic Relations, at a meeting of the British-Soviet Joint Commission on Trade, the sources added.

Mr. SYMMS. Mr. President, the Soviets are using the eagerness of the Western allies to play one nation off against another, to get them to compete with each other for the opportunity to donate hard currency to finance Socialist economic failures and Soviet foreign policy.

The New York Times article points out that the British Government is guaranteeing the credits from London. By offering guarantees for this financing, the British Government is actually putting the British taxpayers at risk.

The Italian Prime Minister, quoted in the Financial Times yesterday, called for a new Marshall Plan for the Soviet bloc. When we start to add up the credits that have been granted in the past few weeks—$5.3 billion committed by Britain and Germany, $2 billion in the wings—we are getting close to the actual amount of funding for the Marshall Plan in the late 1940's.

Finally, Mr. President, I want to congratulate the Secretary of Defense, Mr. Carlucci, for framing this issue as a national security issue for the United States—a financial security issue.

I think Secretary Carlucci is to be commended for his recognition of what this issue means to him as Secretary of Defense, and to the bastion of freedom, the United States of America, the country which has the ultimate responsibility to preserve peace and freedom in this world as we know it. To have continued lending of hard currency to the Soviet bloc with untied loans that can come right back to Nicaragua, right back to Afghanistan, right back to develop seaports in Cam Ranh Bay and in other places in North Vietnam and South Vietnam, I think is foolish.

Mr. President, I further ask unanimous consent that my letter to Secretary of the Treasury Brady, a good friend of all of us in the Senate, a former colleague, which I sent on October 17 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
WASHINGTON, DC, OCTOBER 17, 1988.

Hon. NICHOLAS F. BRADY,
Secretary of the Treasury,
Washington, DC.

DEAR MR. SECRETARY: On October 13, I wrote you to inquire of your success in Berlin raising the issues you promised Senator Wallop that you would raise with the G-7 finance ministers. Today the Financial Times of London carried two news stories about further efforts on the part of the Soviet Union and its client states to secure hard currency among the allies of this Nation. According to the World Trade Editor of that newspaper, the Soviets are seeking $1.7 billion in London—an amount roughly equal to the funds they raised in West Germany last week. The reporter in Moscow reported that the Italians have extended a $762 million line of credit to the Soviets.

These developments are alarming—particularly the rapid pace of Soviet negotiations and the utter eagerness of the Western governments and their capitalists to grant these lines of credit.

It is absolutely essential that the United States establish a clear and achievable timetable and agenda for results now concerning an Alliance consensus on phasing out untied, general purpose lending to Warsaw Pact countries and Soviet client states and the redressing of other major financial security problems.

As anyone experienced in Alliance consultations and economic summit preparations knows, a six month lead time is the minimum necessary to gather data, analyze and negotiate an allied consensus on a major new family of issues before it is adopted by Ministers at the Ministerial of the Organization for Economic Cooperation and Development (OECD) to be held in April 1989.

It is also well established that an issue has to be formally discussed on the agenda of the OECD Ministerial meeting if it is to be on the formal agenda of the upcoming Economic Summit in Paris in May/June 1989. Although there are exceptions to this rule, the allies would be tempted to use the argument of "insufficient preparation time" to foreclose an OECD and Summit discussion and agreement.

Concerning precedents, it took a full year to produce an Alliance government on discouraging taxpayer subsidized interest rates on government-backed credits to the USSR (July 1981-July 1982).

It took almost two years to achieve an Alliance agreement in the International Energy Agency (under the auspices of the OECD) to, in effect, limit Soviet natural gas deliveries to Western Europe to 30 percent of total West European gas supplies and to accelerate successfully the development of the huge Norwegian gas project (Troll) to substitute for Soviet supplies into the 1990s and twenty-first century.

Finally, it took well over six months to reach an Alliance agreement in the OECD on discouraging foreign assistance "tied credits" or the excessive use of grant money in development loans.

Congress and the Administration have been aware of the untied loan issue and other financial security issues (e.g. the entry of the Soviets into the international securities markets, etc.) for over two years and, to date, no Alliance consultations have taken place.

There have reportedly been only two mid-level interagency meetings on this subject within the Administration (the last of which took place in July 1988) and they have been faint-hearted to say the least.

The issue has not been brought to the Cabinet's attention since 1985 and then it was in the context of responding to legislation (S. 812), not a multilateral, voluntary initiative with our allies on more disciplined and transparent lending of hard currency to adversaries.

On June 2, 1987, eighteen leading Congressmen and Senators, on a bipartisan basis, wrote the President urging him to raise the untied loan issue and impending Soviet entry into the Western bond market prior to the Venice Economic Summit. There was no result and the issue was not raised.

On September 24, 1987, twenty-four Congressmen and Senators, again on a bipartisan basis, wrote the heads of the IMF and the World Bank asking them, for solid commercial banking reasons, to call for a phasing out of undisciplined cash lending to sovereign borrowers in the East Bloc because this practice has been proven to be one of the principal causes of the current trillion-dollar international debt crisis.

The Administration was sent copies of that correspondence at the Cabinet level. Again, this issue was ignored during the IMF/World Bank sessions that immediately followed the letter.

On June 15, 1988, the Senate passed a unanimous resolution (96-0), sponsored by Senators Bradley and Sasser, calling on the President to raise the untied loan issue and related problems at the Toronto Economic Summit. Simultaneous to this effort, Congressman Schumer and Roth sent a letter to the President with over fifty signatures (evenly divided between Democrats and Republicans) arguing strongly that this issue required urgent Presidential attention in Toronto. Again, the issue was never raised, even at lower levels.

In the earlier Defense Appropriations bill and in a letter to Defense Secretary Carlucci, Senator Sasser requested a comprehensive interagency study of all available data on credit flows to the Soviet bloc and certain client states which was to be completed by September 30, 1988, and presented to the Congress. No such study was produced and no self-generated initiative within the Administration was undertaken.

During your confirmation hearings, Senator Wallop requested that you raise the untied loan issue at the G-7 meetings in Berlin last month. I am sorry to report to you that some of my sources familiar with the G-7 sessions in Berlin are telling me the issue was never seriously discussed. I am looking forward to your response to my letter of October 13, in order to rebut and put to rest these disturbing allegations.

I am certain you understand that the data collection from our allies and thorough analyses prior to the OECD Ministerial meeting requires this Alliance exercises to begin immediately.

The diversion of the proceeds of Western borrowings to finance purposes inimical to vital U.S. and Western security interests is almost certainly coating the American people billions of dollars annually in additional defense and foreign assistance spending to counter the consequences of these unwise banking practices. It is not just bad for our national security, it is bad banking.

Why has there not been one high level alliance consultation on this obviously strategic subject since World War II? Why has there not been one National Security Council meeting devoted exclusively to the subject of how the Soviet Union funds itself and its global empire?

Why have Bonn and Tokyo totally ignored the strategic and security implications of multibillion dollar credit flows annually to Warsaw Pact nations from their countries?

Why has this subject eluded every major discussion of defense burden-sharing with our allies?

Could it be that we are deliberately looking the other way on untied loans and other public and private sector financial transfers to adversary nations because it keeps the Soviets and our allies in a better humor?

Could it be that we are more interested in avoiding a potentially contentions discussion with our allies than advancing the national security of the United States and the preservation of freedom around the world?

Could it be that our free market principles are overriding the need of this government and those of our allies to intervene to correct these financial abuses, data gaps, and lending practices that have such serious strategic implications for the Free World?

To further illustrate why we must immediately commence formal Alliance consultations at the Assistant Secretary or higher level now, as opposed to further obfuscation and delay, consider the amount of data that has either never been collected at all or not pulled together in a systematic way for analysis. Among the numbers urgently needed are the following:

(1) What have been total Western private and public sector credit flows to Warsaw Pact countries and Nicaragua, Vietnam, Libya and Cuba over the past ten years (1978-1988), breaking out tied and untied loans, with projections five years forward? These numbers should also be broken out both by lending countries and borrowing countries as well as in aggregate form.

(2) What have been all loan and deposit exposure to the Comecon banks (the International Investment Bank and International Bank for Economic Cooperation) over the past ten years, with particular focus on credit flows from West Germany over the past three years?

(3) What have been all "private placements" of debt between Western and Middle East banks and non-banks and Soviet Bloc-owned banks? These private placements could either take the form of bank-to-bank deals or so-called "club deals" involving 3 to 10 banks.

(4) What has been total credit exposure (Western banks and non-banks) to Warsaw Pact Borrowers in the forfait market, broken down by country lenders (e.g., the total amount of the banks of a particular lending nation) and country borrowers?

(5) What is total Western non-bank credit expsoure to Soviet Bloc countries and the client states referenced?

(6) What would a break-out of total Middle East exposure to Soviet Bloc borrowers and the client states referenced look like? Both public and private sector flows should be cited and whether the funds were tied or untied.

(7) We need an analysis of the volume and quality of the Soviet hard currency loan portfolio (estimated by PlanEcon at over $40 billion) to Third World countries. What is the true market value of these loans—25-30 cents to the dollar?

(8) We need a listing of all public and private sector contingent liabilities to Soviet Bloc borrowers and the client states referenced, including government guarantees, and lines of credit that are committed and could be drawn down by the borrower at any time.

(9) We need a listing of all Western bank, government, and multilateral development bank loans and deposit exposure to Nicaragua, Cuba, Vietnam, and Libya over the past ten years, (broken down by lending and borrowing countries) as well as every debt rescheduling to these countries, including the respective terms and conditions.

(10) We need a summary of the Soviet position in or overtures to all international economic and financial organizations for observer status or membership, including the Asian Development Bank.

(11) We should have a break-out of all West German and Japanese loan and deposit exposure to each Soviet bloc country (including the USSR itself), Comecon banks, and the client states referenced, for the past ten years (1978-1988).

(12) Finally, we should have a break-out of aggregate U.S. bank deposit exposure to Soviet Bloc-owned banks located in the West.

The above data requirements listed for proper evaluation of the security implications of Western credit flows to Soviet Bloc countries and client states is by no means complete. Other data are also needed but time and space do not permit a more exhaustive list here.

If we are unable to obtain from our allies all of the data listed above and/or additional data that will be required, the Administration should clearly reference the data gaps that could not be closed, so that the Congress can better evaluate the commercial and security implications.

The explanations offered in the past by the Administration to explain reluctance in pursuing an Alliance solution to this problem have been weak, particularly given the unilateral imposition of capital controls against Panama earlier this year. Surely the threat to America from the Soviet Union is at least as serious as the threat from a drug-pushing head of state in Central America.

This exercise that I believe should begin immediately, however, is not about controls, it is about data collection and disclosure and a multilateral, voluntary initiative to implement more discipline and transparency in lending to adversary nations for solid national security, commercial, and human rights reasons.

As the enumeration above of the data that needs to be gathered indicates, it will take at least six months to prepare for the OECD Ministerial meetings in April.

If we fail to act on this critical and urgent issue at this time, I think it would be tantamount to a declaration by the United States that we really do not care if our allies pour out billions of dollars to make the Soviet Union stronger. If that is the case, then I must simply ask, in all sincerity, why did this Nation expend billions of dollars in the past eight years to build up our own defenses? Why do we spend billions of dollars each year for foreign aid and other international security initiatives, if we are willing—in the last analysis—to let the enemies of the United States borrow all the capital they need to match us dollar for dollar from our supposed friends?

I am very eagerly awaiting your reply to my letter of October 13, 1988, and I would further appreciate your discussion of the particular items of data enumerated above that I believe should be gathered prior to the OECD Ministerial meetings in April.

Sincerely,

STEVE SYMMS,
U.S. Senator.

Mr. SYMMS. Mr. President, I ask unanimous consent to add Senators BOND and HECHT as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The majority leader.

Mr. BYRD. Mr. President, there will be no action taken while the Republicans are having a conference. I will talk for a while, and should I complete my remarks prior to the hour of 2 o'clock, I will then put the Senate into recess until 2.

THE 100TH CONGRESS—A CONGRESS OF ACHIEVEMENT

Mr. BYRD. Mr. President, 2 years ago, the American people put Democrats back in control of the Senate. We told the American people that we had the experience and the record and the agenda. So they gave us our chance to prove it—that we had the experience, the record, and the agenda.

The agenda was a brief one: lower the budget deficits, create a new trade policy for America, check and balance a White House that seems to have lost its way, and make progress on arms control. I believe we have delivered on our promises and that we have done more. The record of the 100th Congress has been one of decisive action. We have produced results across the board.

We created a new national trade policy, brought about the first reform of our welfare system in 50 years, and gave our advice and consent to the historic INF Treaty. We rejected the administration's persistent efforts to move to the right of the American mainstream—to undermine the constitutional principle that the Congress is a coequal partner.

Again and again, from the arms-for-hostages investigation to the rejection of Robert Bork's nomination, the Congress was called on to check and balance the Executive. Democrats, joined by some of our colleagues on the other side of the aisle, refused to yield to Presidential vetoes of important and needed legislation. The clean water bill, the highway bill, the trade bill, the plant closing legislation, and the civil rights restoration bill are all proof that the Congress has been more in tune with the American people than has the White House.

DOMESTIC POLICY

The 100th Congress has been a "family" Congress. We tackled the problems that people talk about when they sit around the kitchen table. We expanded the Medicare Program for the first time since 1965 to include landmark catastrophic health insurance. We have placed great value on the education of our children. We have increased funding for elementary and secondary education, and we have rejected every attempt by the White House to cut student aid and funding for drug free schools.

Congress has reached out to help the small family farmer through tough times. We reformed the loan requirements of the Farmers Home Administration. We moved quickly to provide drought assistance to farmers in the wake of this summer's devastating heat wave. Further, we put teeth in the fair housing legislation for the first time in 20 years and gave better protection to families with children and the handicapped. And additional aid to the homeless became the law of the land.

We have not met with success on all family issues, unfortunately. Filibusters from the other side of the aisle stopped legislation to raise the minimum wage, require employers to provide unpaid parental leave, and provide greater availability of child care facilities. I regret this because it is America's families that are the ones that lose.

But that does not diminish the other significant accomplishments of this Congress.

Mr. President, the 100th Congress can be proud of its achievements. This Congress has made notable progress in a number of areas that are crucial to America's future, especially to renewing the strength of America's families. Our successes this year are testament to the vision, hard work, and perseverance with which the committees, the leadership, and all Senators approached their responsibilities. Let me review some of the more important achievements of the 100th Congress.

American workers and jobs were at the heart of many of the measures enacted by this Congress. One of the most important was the bill that required employers to provide workers with 60 days' notice of a plant closing or mass layoff. That was simply fair play for employees. The administration opposed that measure, even vetoing the trade bill, ostensibly because it included the plant closing notification provision. But Congress stuck to its guns, and the President ultimately let the plant closing bill become law, although without his signature. That law was a triumph not only for this Congress, but also for the American worker's family.

The polygraph protection bill that was signed into law last June added important protections for employees from the indiscriminate use of lie detector tests.

The American family has also benefited greatly from a catastrophic health insurance program to protect elderly persons and their families from the nightmare of financial ruin because of catastrophic medical expenses. That program will put many families at ease that they and their children will not be bankrupted by the illness of an elderly parent or relative.

Similarly, the welfare reform bill that became law some few weeks ago will significantly aid those families, especially one-parent families, that are currently on welfare and need the support this bill will provide to make the transition from the welfare rolls to the payrolls. This reform bill marks the most significant change in the welfare system since its inception, and the Congress can be justifiably proud of its accomplishment. In particular, I thank Senator MOYNIHAN for the outstanding work he did in bringing this bill to enactment.

Those families that are living at or near the poverty line will also benefit from the child nutrition legislation that became law in August. The bill would expand several current nutrition programs as well as emergency feeding programs and better target the assistance to the homeless and those most in need. These are the families that are often most in need of help to make it through each day.

Mr. President, more and more families are being struck with a member who has become infected with the AIDS virus. As we know, it is fatal to those with the disease. But it is also devastating for the family and all involved in the tragedy. Last spring, the Senate passed an AIDS research and information bill that provides significant additional resources to combat this disease in the form of research, training, and treatment. It also provides new resources to increase education and prevention activities so that the scourge of this illness can be minimized while the search for a cure goes on. The bill was sent to the President just a few days ago.

Farm families will also get some relief from the squeeze that has been making their life harder for the past 7 years. Just as many farmers were beginning to climb out of the depths of the worst recession in the farm belt since the 1930's, they were hit by the devastating drought. Even before the extent of the devastation was known, Senators on both sides of the aisle were working on a drought relief package. That bill, which kept within the budget, was enacted into law in August, and farmers are already receiving drought relief assistance.

Despite its considerable success, however, the American family did not bat a thousand with this Congress. During the last several weeks, we have seen determined opposition to legislation that would dramatically improve the quality of life of our families. For instance, the effort to raise the minimum wage to restore the purchasing power lost over the past 7 years met with a filibuster by Members on the other side of the aisle. That filibuster prevented the Senate from completing action on that measure this year. Because of this, millions of workers, and their families, will continue to toil at a wage that does not even lift them out of poverty, even if they work full time.

In education, Congress reaffirmed its support for elementary and secondary education programs by reauthorizing the basic programs for 5 years and by starting a new program to focus resources on the needs of students who require additional attention to keep them from dropping out of school.

Additionally, the trade bill contained added resources and programs to upgrade the math and science skills of our students, the future workers who will carry on the fight to keep America competitive in the world marketplace.

Families with children have often had trouble finding decent, affordable housing. So it was a victory for families that Congress passed a fair housing bill extending coverage of our fair housing laws to the handicapped and to families with children under the age of 18. That bill was also notable because, for the first time in 20 years, it put teeth into the enforcement of existing fair housing laws.

Another achievement of this Congress was the reaffirmation that enforcement of civil rights statutes should be on the basis of an entire institution. The Civil Rights Restoration Act, also known as Grove City, overturned the Supreme Court decision that severely narrowed the application of many civil rights laws. The administration opposed this legislation from the beginning. The President vetoed it. But Congress stood its ground, and the bill was finally enacted into law over the President's veto.

The Congress also removed a blotch from our Nation's history when it passed legislation, long overdue, apologizing on behalf of the entire Nation for the internment of Japanese-Americans during World War II. The bill also provides for reparations for each surviving internee.

ENVIRONMENT

Mr. President, I am pleased that the record of the 100th Congress shows not only considerable achievements for America's families but for America's environment as well. Early in this Congress, we passed, by an overwhelming margin, the Clean Water Act, which reauthorized grants for the construction of municipal wastewater treatment plants. It also established a new revolving fund to provide loans to States to continue construction of such plants and provided new resources to control the growing problem of nonpoint pollution.

However, the administration opposed the Congress every step of the way. Despite the large congressional support for the measure, the President vetoed it. The Congress overrode his veto. Today, Americans are enjoying the benefits of the legislation.

As the tides of this past summer brought unprecedented quantities of medical waste floating onto our beaches, the Senate moved quickly to ban the dumping of medical waste into the ocean. The bill also established a framework to end the ocean dumping of sewage sludge. I hope that the Congress will agree on a final version of that bill so that we can send it to the President before we adjourn. It will mean cleaner and safer beaches for every American to enjoy.

America's natural heritage is also safer today with the strengthening of the law protecting endangered species. The legislation adds resources for the programs that protect such species from extinction, increases the penalties for those who violate the law, and requires speedier action by the Government to protect these species.

Unfortunately, this Congress was not able to complete action on clean air legislation. Our distinguished colleague, Senator MITCHELL, has labored long and hard to achieve a consensus between competing interests. It is unfortunate that such a compromise could not be reached.

But the Senate did respond to concern about the greenhouse effect by ratifying the Montreal Protocol and Substances that Deplete the Ozone Layer. This international agreement will result in a 50-percent reduction in the consumption of products such as fluorocarbons by 1999 and a framework for accelerating the restrictions should that become necessary.

ENERGY

Last year, Congress repealed the prohibition that prevented utilities from burning natural gas or oil in new powerplants and boilers, But at the same time, Congress required all new baseload powerplants to be able to switch from oil or gas to coal in order to prevent our Nation's new electricity supplies from being held hostage to the whims of foreign oil producers.

The Senate also passed legislation reorganizing the regulation of nuclear energy. The bill establishes a new Nuclear Safety Agency, headed by a single administrator, to replace the current five-member Nuclear Regulatory Commission. And to improve the future viability of nuclear power, the bill requires the adoption of rules providing for standardized reactor designs. Congress also revised the Nation's nuclear waste policy to provide for the safe long-term storage of such waste and we passed legislation increasing and extending the liability limits for commercial nuclear powerplants.

BUDGET

On the budget, after 7 years of stalemate and frustration on budget and appropriations issues, the 100th Congress broke the logjam. We succeeded in getting the President, finally, to sit down with the Congress and negotiate a bipartisan budget that would provide for the necessities—including defense, transportation, and health care—while also reducing the deficit. True, it took the threat of a $23 billion sequester under the newly reinvigorated Gramm-Rudman law and a stock market crash that threatened the stability of our financial markets to help convince the President, but he finally negotiated on the budget.

It took too long. But the agreement came and it was a landmark accomplishment. It provides for deficit reduction of some $76 billion over 2 years. More importantly, it paved the way for Congress to pass all 13 separate appropriations bills before the beginning of the new fiscal year for the first time in 12 years.

That achievement is something to celebrate in itself, and all of my colleagues on both sides of the aisle deserve a pat on the back for their efforts in seeing that we met the midnight deadline.

We have all read of the midnight ride of Paul Revere. We saw the midnight ride of the House messenger who reached the Senate Chamber just in time, although he was out of breath, for action just 1 minute before the clock struck 12.

That achievement shows that Government can work. Meeting that deadline should restore the confidence of the public that Congress can get its work done—on time and within the budget if it has the cooperation of the President. For that we can all be proud.

I hope that one of the enduring legacies of this Congress will be the illustration by example to the next President, whoever that might be, that successful resolution of the difficult budget issues that confront this Nation requires cooperation, not confrontation, between the executive and legislative branches.

Cooperation between the legislative and executive branches succeeds, Mr. President. Confrontation does not. And that is true not just in budget matters. It also applies to foreign policy issues, defense issues, indeed the entire range of areas in which sound public policy requires the involvement of both branches of Government.

NOMINATIONS

Among the numerous nominations received by the Senate during the 100th Congress, the Senate has confirmed seven Cabinet members and one associate justice of the Supreme Court. The Senate also rejected the nomination of another Associate Justice, Mr. Robert Bork.

GENERAL GOVERNMENT

Mr. President, the Congress has seen the benefits that accrue from having independent inspectors general within agencies to ferret out waste and fraud. We have enacted legislation adding five new IG's to ensure that expenditures in a time of limited resources are not wasted. The legislation also standardizes and streamlines the powers and reporting requirements of all inspectors general.

Lobbying by former Government officials has received considerable attention during the past 2 years. We have seen abuse after abuse as officials turn the revolving door of public service into a trap door for the public interest. In April, the Senate passed a bill that strictly limits lobbying by former top officials of the executive branch, Members of Congress, and senior congressional staff of their former colleagues and institutions. I hope that this legislation will be finally enacted between the two Houses and sent to the President for his signature.

One major disappointment for me in this Congress was the near solid opposition by our friends on the other side of the aisle to legislation to reform congressional election financing. The bill that Senator **Boren** and I offered along with 49 cosponsors, would have placed an absolute limit on campaign spending in Senate elections and contributions by political action committees.

That is the start of reforming the money chase that has contributed to the deterioration of the quality of life in the Senate and in our ability to perform our responsibilities. The Members on the other side of the aisle who opposed this reform effort were so adamant in their opposition that they were able to withstand a record eight cloture votes. The legislation failed in this Congress, Mr. President, but the issue will not go away.

Families across America are confronted on all sides by the scourge of illegal drugs. It is an epidemic that is sweeping up our children and destroying lives. Since May, Senators on both sides of the aisle have been working to develop a comprehensive anti-drug abuse bill to reinforce our faltering war on drugs.

This legislation has been passed by both Houses and we now await the further action by the House, either by way of a conference or by way of perhaps messages between the two Houses. Hopefully, before the end of the week, we will be able to finalize that legislation and send it to the President.

The drug crisis is too important not to begin devoting more resources to our fight this year.

ECONOMY-FINANCE

The 100th Congress saw passage of legislation to put additional resources into the savings and loan insurance agency to prop up failing thrifts and to establish limits on consumer check holds. The Senate also passed by an overwhelming margin a measure to expand the powers of banks, improve their ability to compete internationally, and strengthen the American financial system. The Congress is also working on a bill to correct technical and other errors in the 1986 Tax Reform Act.

This is another matter awaiting final action by the two Houses and work is going forward on it. I hope that action can be completed on that measure during the week.

THE OMNIBUS TRADE AND COMPETITIVENESS BILL

One of the jewels of legislative actions in this highly productive Congress was the enactment of the most comprehensive trade and competitiveness bill in decades. It was the product of the work of nine Senate committees and, of course, a great deal of work in the other body went into the bill. It was fashioned, at first over the opposition of the President, and finally with his grudging cooperation. It survived one veto and finally established important new tools to reverse the dangerous triple-digit trade deficits we have faced over the last 8 years. The range of domestic and international matters addressed in that trade bill redefined our perceptions and approaches in the fields of competition and the exchange of goods and services, linking for the first time such diverse fields as education, job retraining, unfair trade practices, intellectual property questions, and Third-World Debt.

The goals of this measure are to open world markets more fairly to U.S. products, while strengthening the underpinnings of our manufacturing and technological base by directing resources to the basics, including math and science education. It intends to reinvigorate our competitive edge and expand jobs for American workers.

This administration's recordbreaking, job-destroying trade deficits have turned the world's largest creditor into the world's largest debtor. These deficits have wiped out more than 1 million American manufacturing jobs, forced too many industries to close their doors, and are causing an erosion of our defense industrial base, thus putting our national security in jeopardy.

This country, our workers, and our industries and businesses have suffered from one recordbreaking trade deficit after another. Last year's deficit was about $171 billion, yet another recordbreaking trade deficit.

From its very first day in office, this administration has neglected our trade problems and attempted to block every effort by congressional Democrats to resolve this crisis. But throughout the 100th Congress, and long before, congressional Democrats have struggled to get a hold on our trade problems, to make our industries competitive again, and to insure that they are competing on a level playing field by developing a national trade strategy.

The trade bill also addresses the need to develop a more coherent framework for identifying the problems which need corrective action in our trade situation, and for a new system to deal with those problems in a vigorous and credible way.

It lays out a realistic, predictable timetable for action by the administration to attack trade imbalances caused by unfair foreign barriers, and to require retaliatory action if those negotiations fail through a process that has been called the super 301 process, and is based on the amendment which I developed and offered together with the distinguished minority leader, Mr. **Dole**, and Senators **Danforth** and **Riegle**.

The super 301 amendment was called the expanded American opportunities amendment because it provides a market-opening initiative while focusing on unfair trade barriers by our trading partners. Under this amendment, the President, through the U.S. Trade Representative [USTR], would require negotiations with all countries that "maintain a consistent pattern of import barriers and market distorting practices." The focus is on negotiations to seek elimination of barriers, including structural conditions that effectively bar imports, or some kind of compensation with economic sanctions serving as the stick to try to prod countries along. This will help remove protectionism from the world trading system by setting out a process which puts pressure on those unfair barriers which are the essence of mercantilist practices, or protectionism, today.

The omnibus trade bill contained another important provision which recognizes the link between trade and national security—the Exon-Florio provision which gives the Federal Government the specific authority to prevent the acquisition of U.S. firms by foreign companies if the President determines that the foreign interest might take action to impair the national security. This is the first concrete legislative response to rising concern about foreign takeovers.

Thanks to the effective work of the manager of the bill, Senator **BENTSEN**, who guided the measure through the hearings, the markup process, and throughout the debate and the floor action on the bill, this much needed measure easily passed the Senate by a vote of 63 to 36 on April 27, 1988. It had passed the House by a vote of 312 to 107 on April 21, 1988. On May 24, the President vetoed the bill for a variety of reasons. The House voted, 308 to 113, to override the veto on May 24, but the Senate sustained the veto by a vote of 61 to 37 on June 8, 1988. The measure was reintroduced in both Houses of Congress and, with some modifications, passed, and was again sent to the President without the plant closing legislation, which had already been sent to the President and had become law. This time, the President signed the measure into law.

The Omnibus Trade and Competitiveness Act is a long step beyond traditional trade legislation. The Congress is looking at the whole economy, not just at its parts. This legislation looks at our problems in the whole, full circle—encompassing everything from exchange rates to education; from training assistance to trade negotiations. Trade has become too important to be treated in isolation. For the first time, our actions on trade are part of an integrated approach to making American products competitive at home and abroad. This legislation will bring America up to speed in today's world marketplace and prepare it for the international economy of the year 2000, and beyond. Congress made a clear statement that America is going to compete, not retreat.

I am proud of the enormous and successful role that Senate Democrats had in the passage of this measure which is not only the beginning of a turnaround for America's trading woes, but also the beginning of a turnaround in a trade strategy.

The 100th Congress also passed two other bills that attempted to resolve serious trade problems. First, the textile bill, which passed both bodies only to be vetoed by the President, tried to restore soundness to America's battered textile and footwear industry. That was a good bill. It would have made good law. It deserved to be signed, but it was not.

Second, the Senate passed the Berne Convention, as well, which strengthens the copyright protection for our intellectual property, such as books, recordings, computer software, and the like. With this action, America's artists and designers will be better able to guard the fruits of their labor from foreign policy.

FOREIGN POLICY AND DEFENSE

The historic 100th Congress has been dominated by foreign policy and defense issues. For 6 years under the Reagan administration, American foreign policy was in shambles. There was drift, vacillation, and chaos. There was disaster and retreat in Lebanon and a one-track militarization policy in Central America. Six years of negotiations with the Soviet Union had yielded no results whatsoever in the broad field of arms control or reductions. Mounting U.S. deficits with our trading partners had not ignited the administration sufficiently to move toward new trade laws or policy appropriate to the problems. And, as we found out on that November day in 1986, for too many years a clandestine foreign policy of this open and democratic society was being conducted in the dark corners and shadows of the basement of the White House. The revelations that the administration was conducting a secret policy of attempting to bribe the Iranian regime with weapons and spare parts in exchange for the release of American hostages taken by forces controlled by that regime, shocked the American people and the world.

Mr. President, the 100th Congress tackled these issues across the board, and there was a large measure of success which Senators can legitimately be proud of on both sides of the aisle. Those successes that were achieved—in arms control, in trade, and in dealing with the Third World—came as a result of a consensus-building process in the Senate which, when it was achieved, had the salutary effect of bringing the Congress and the executive branch sufficiently together to speak coherently as one nation. In those areas where consensus was not achieved, despite sometimes exhaustive efforts in this body, the results were unsatisfactory, and in those same areas, the challenges for the next administration and the next Congress are formidable—the situation in Central America being the most obvious case in point—or one of the most obvious cases in point. The Middle East may well be another.

The Senate led the drive for a coherent and consistent foreign policy worthy of a nation that leads and protects the free world. We recognized that the United States cannot be naive in a world where some nations resort to the use of chemical weapons even against their own people, where the other superpower intentionally manufactures toy bombs to cripple the innocent children of its neighboring country, and where certain regimes concoct policies to hold hostages for political gain. Strength to deal with these kinds of regimes and these kinds of behavior is needed. The growing strength of our allies is the great success story of the policies which were fostered by the United States after World War II. We can take pride as a nation that former adversaries are now our allies and have growing and robust economic systems. Indeed, our challenge has been, and will continue to be, to act as a leader of the West, while at the same time developing new cooperative roles which recognize the growing strengths of our alliance partners.

In the historic 100th Congress, the U.S. Senate fulfilled its historic and constitutional role of being a responsible and equal partner in foreign policy with the executive as contemplated and planned 200 years ago by our Founding Fathers.

Forty years after President Truman submitted to the Genocide Convention Treaty to the Senate, implementing legislation was finally adopted on October 14, 1988. The Proxmire Act, which makes U.S. membership in the Genocide Convention effective, is a tribute to Senator **WILLIAM PROXMIRE** who made over 3,000 speeches, every day on the floor for almost 20 years, until the Senate ratified the convention in 1986.

From the Middle East to South Africa, in Central America and in East Asia, the Senate fashioned programs and policies based on the effective use of the full range of America's economic, political, and diplomatic tools and resources.

For the most part, we Democrats cooperated with the White House and with the minority party in the Senate. The first arms control treaty with the Soviet Union in 18 years was approved by this body in a way that improved the substance of that treaty. It resulted in a creative new partnership with the administration, partly the result of new institutional links between the two branches in this field, created by the joint leadership of this Senate. This was undoubtedly the most exhaustive, thorough, and productive action of the modern Senate in the treaty-making field.

Exhaustive interactions between the Senate and the executive on matters affecting the Persian Gulf, our relations with Japan, the challenges to democracy in Central America, our economic relations with our great northern neighbor, Canada—all of these have reflected the proper constitutional role of the Senate in dealing with the staggering range of major foreign policy issues that have confronted the Nation during the 100th Congress.

We supported the President when we could, but we opposed him when we believed America's best interests necessitated a different path. And when we took a different path, we did so with meaningful, constructive purpose, and in meaningful, constructive ways.

Undoubtedly, the darkest hours were related to the arms-for-hostages scandal, but the lessons that were learned make it less likely—we all hope—that such wrong-headed policymaking—deliberately concealed in order to avoid the kind of open congressional and national debate so conducive to a sound national policy—will ever occur again. The executive learned some cardinal lessons about the virtues of the proper way to formulate bipartisan and sound foreign policy in a representative democracy.

IRAN-CONTRA (ARMS-FOR-HOSTAGES) AFFAIR

Maybe it was coincidence, or perhaps it was fortuitous that the 100th Congress, which did so much to restore the Senate's proper role as a responsible partner in foreign policy, was forced to deal with the greatest constitutional crisis since the Watergate era of the early 1970's. In November 1986, it was discovered that United States officials and private citizens had been involved in selling United States weapons to Iran in exchange for Iranian intercession with groups in Lebanon holding United States citizens hostage. Proceeds from the arms sales were used to support the anti-Sandinista forces in Nicaragua, despite congressional prohibitions, for example, the Boland amendments against such assistance.

This unconstitutional and bizarre stunt was shrouded in secrecy and duplicity. It had no place in an open, democratic society governed by laws, not men. It damaged the reputation of the Presidency and the credibility of the United States with our friends and allies, and it undermined the trust between the executive and legislative branches of the U.S. Government. It called into question just how our foreign policy is formulated and implemented, and it prompted the American people to ask: What is going on in Washington?

Therefore, one of the first acts of the 100th Congress was a move to restore integrity to our foreign policy. On the first day of the 100th Congress, January 6, 1987, the Senate approved Senate Resolution 23 by a vote of 88 to 4, which established the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition to investigate the Iran-Contra scandal.

With Senator DANIEL INOUYE serving as chairman and Senator WARREN RUDMAN as vice chairman, the Select Committee conducted public hearings in conjunction with the House Select Committee between May and August 1987.

The Committee—acting with the House Committee—performed in an extraordinary way, working hard and long under the pressure of deadlines. It plowed through 500,000 documents and heard from hundreds of witnesses. It proceeded in the face of hostile witnesses—witnesses who played to the galleries, witnesses who wrapped themselves in the American flag or hid behind military uniforms.

Methodically and impartially, the committee sought to ascertain just what did happen: What did the President know, and when did he forget it? The story that unfolded was a sad and sorry tale of White House arrogance and disdain for Congress and the American people, of contempt for the law, and of the intentional and studied circumvention of our constitutional system of separation of powers and checks and balances.

The members of this Select Committee performed with patience and aplomb in dealing with the often contemptible behavior from insolent, intractable, belligerent witnesses and attorneys. The members are to be commended. They are owed a deep debt of gratitude for their bipartisan commitment to demonstrating that this Nation must be a nation of laws and not of men if it is to endure as a free people. The joint Senate-House Committee demonstrated a determined resolve to air the facts fully, dispassionately, and carefully—and to let the chips fall where they may.

The Select Committee issued its report on November 13, 1987. It contained a number of important recommendations. For example, a number of improvements in the process for informing Congress of executive branch findings concerning covert operations were suggested, many of which were incorporated into the Intelligence Oversight bill, S. 1721, adopted by the Senate on March 15, 1988. In addition, the committee recommended that the NSC staff be banned from involvement in operational activities, that documents be preserved more carefully, that the dangerous trend toward privatizing American foreign policy be halted, that the Inspector General of the CIA be given additional powers, that the oversight and participation of the members of the National Security Council and the Intelligence Oversight Board and the Chairman of the Joint Chiefs of Staff be strengthened. These and other recommendations of the Select Committees are valuable contributions to the strengthening of our system of government and toward insuring that episodes like the arms-for-hostages fiasco will not happen again.

It is a tribute to the work of that investigative group that the Senate passed legislation produced by the Intelligence Committee, which would revise the procedures by which we deal with covert operations initiated by the executive branch, by an overwhelming majority of 71 to 12. This legislation, the oversight bill, modifies current law to make clear that the intelligence committees are to be notified prior to initiation of a covert operation, or at the latest, within 48 hours of Presidential approval. The legislation also closes current loopholes to require information in the written findings submitted to Congress on who is participating in the operation, including private parties, contractors, and third countries.

While this legislation has not been acted on by the other body, I hope that it will be one of the early pieces of business to be completed by the 101st Congress. In addition, I would add that the oversight role that is being conducted on a daily basis by the Senate Intelligence Committee has been vigilant, responsible, and laudable, and the bipartisan leadership of that committee is to be commended for its excellent and workmanlike record.

I take this opportunity to thank and congratulate Chairman BOREN and the ranking member Senator COHEN, and all members of the committee for their tremendous efforts in this investigation. The Senate and the Nation are indebted to them and the staff of the committee for their efforts.

THE PERSIAN GULF AND WAR POWERS

During the 100th Congress, the Persian Gulf became a sea of horrors. From the murderous mistaken attack on the U.S.S. *Stark* by an Iraqi jet fighter on May 17, 1987, to the destruction of a civilian air liner by the U.S.S. *Vincennes* on July 3, 1988, from Iranian attacks on oil tankers and American naval ships to the sinking of Iranian naval boats and the destruction of Iranian oil platforms, the Persian Gulf was dominated by tension and death.

American involvement in the Persian Gulf expanded dramatically in 1987, when the Reagan administration accepted a Kuwaiti request to reflag and escort 11 Kuwaiti oil tankers. The administration had thus placed the United States in the strange and awkward position of putting our flag on someone else's ships and then spending our money and risking American lives to protect them because our credibility and our commitments to our friends in the region had been called into question by the disastrous initiatives which led to the Iran-Contra fiasco and our tragic failure in Beirut.

The decision by the Reagan administration to increase the United States naval presence in the Persian Gulf at the height of the Iran-Iraq war raised the issue of whether the War Powers Resolution should be invoked. The administration steadfastly refused to acknowledge that American forces had been placed into a situation where involvement in hostilities was imminent and, therefore, refused to be bound by the limitations of the statute. The Senate spent considerable time debating this point throughout 1988.

On May 21, 1987, the Senate adopted by a vote of 91 to 5 an amendment on Persian Gulf policy which I offered with the distinguished Republican leader to the supplemental appropriations bill. It required a comprehensive report and assessment by the Secretary of Defense on the security situation in the Gulf prior to the initiation of United States military protection for reflagged Kuwaiti shipping. In the report, the Secretary was to address the security arrangements in the Persian Gulf, the risks we faced, and the forces necessary to meet those risks. This extensive reporting requirement was just the first in a long series of oversight actions, reports, and interchanges, including two special Senate investigative trips to the region. The two missions I appointed, led by Senators SASSER, GLENN, and WARNER, provided assiduous oversight by the Senate of this evolving matter. The reports of these missions were valuable to the Senate's understanding of America's stakes in the Gulf.

The intent of my initial amendment was to flesh out the threats to United States interests in the gulf, and for the Secretary of Defense to inform the Congress as to how he proposed that we prepare to respond to the range of threats, primarily Iranian, to our interests and to the interests of Kuwait and other states in the gulf region. This first report was delivered on June 15, 1987.

While some questioned the extensive oversight conducted by the Senate in regard to U.S. naval operations in the gulf, I would point out that the configuration of the U.S. naval forces there was dramatically upgraded as a result of Senate prodding, making a repetition of the *Stark* incident less likely. This included larger, more capable ships and the continous presence in the region of carrier and battleship groups. Furthermore, constant prodding by the Senate of our allies and friends in Europe and the Persian Gulf region was, I believe, instrumental in stimulating a greater level of support and participation by those nations in U.S. operations in that region.

The level of confidence in the way in which the administration conducted those operations and assessed the threats was eroded in the initial stages by what was perceived as a quick decision to take the Kuwaitis up on their offer, prompted by fear that the Soviets would displace the United States in that region. As a result, for instance, the report that was delivered as a consequence of my amendment failed to even mention mines as a threat to the shipping in the gulf. As is well known, of course, mines did take their toll on American ships, and ironically, on the first Kuwaiti supertanker to be escorted by an American warship on July 24, 1987. There was a feeling that, to compensate for the administration's embarrassment in the Iran hostages-for-arms affair, the President was too willing to tilt in the direction of Iraq in the war while we were professing neutrality. The escorting of Kuwaiti tankers was perceived in the same light, but there was a feeling on the part of many that, with American prestige so badly damaged by the hostages issue, on top of our failures in Lebanon, we had to prove our credibility and staying power by accommodating the Kuwaitis—despite the obvious risks of the mission, and the fact that our allies were generally unwilling to cooperate with us in such a highly visible way.

Fortunately, the war is now apparently drawing to a close, and the naval missions which this body was so skeptical of are hopefully to be terminated shortly. America's commitment to the gulf remains intact and is the subject of widespread consensus in the Senate. Now missions which put us on one side or another in any resurgence of the war would, as in the last couple of years, be resisted.

The Senate attempted on several occasions to express its will on policy in the Persian Gulf. In each case, it was impossible to get the 60 votes necessary to limit debate on the proposed amendments or resolutions. Many senators were reluctant to pass legislation invoking the War Powers Resolution, in part because that resolution would require the automatic withdrawal of forces within 60 days unless their continued deployment was subsequently authorized.

This impasse lasted until October, 1987, when the Senate voted narrowly to pass Senate Joint Resolution 194, coauthored by Senator WARNER and myself. I believe that this embodied a responsible approach to our Persian Gulf policy, supporting the long-term U.S. naval presence in the gulf, but requiring a comprehensive Presidential report on the objectives of specific military missions being embarked upon by the President.

In addition, this resolution created a set of procedures which would have permitted a joint resolution addressing the policy questions of our gulf involvement to be dealt with expeditiously by the Congress. Although the Senate passed this resolution, it was not acted upon by the House. This measure, which in many ways duplicates the requirements of the War Powers Resolution without triggering the automatic timetable, represented the Senate's final effort to address the matter legislatively, in view of the demonstrated reluctance of the body to vote for resolutions which would have triggered the War Powers Resolution itself.

The events that transpired in the Persian Gulf during the 100th Congress demonstrated once again that the War Powers Resolution, as presently written, is unworkable and needs to be changed or repealed. In response to this need, I introduced Senate Joint Resolution 323, along with Senators NUNN, MITCHELL, and WARNER, to amend the War Powers Resolution. The legislation includes three central provisions intended to make the relationship with the President in this area viable.

The first key revision changes the presumption of the current War Powers Resolution, which is that U.S. Armed Forces must be withdrawn from situations of hostilities or imminent involvement in hostilities within 60 days unless Congress specifically authorizes their continued presence. Instead of mandating withdrawal as a result of congressional inaction through failure to provide specific authorization—the situation under current law—this legislation requires passage of a specific joint resolution requiring disengagement.

Second, a new consultative process is created, through the establishment of a permanent consultative group, consisting of the majority and minority leadership of both Houses as well as the chairmen and ranking members of the three key committees in the House and the Senate involved with national security matters.

The existence of this consultative group would enhance the prospects for timely, full dialog with the President before commitments to engage U.S. forces were decided upon.

Finally, this legislation recognizes the ultimate enforcement mechanism that will ensure that the President cannot defy the Congress. This is the power of the purse.

These changes to the War Powers Resolution would improve the ability of Congress to participate equally and effectively in decisions to employ U.S. military forces in the broad variety of situations which the modern world presents. At the same time, constitutional powers of the Congress to declare war, and to determine through the appropriations process how funds will be expended for military forces are preserved. This avoids the situation currently pertaining in which the Congress has only two often untenable choices: support the President's policy or force the complete withdrawal of U.S. forces within 60 days.

INF TREATY

After 7 years, the Reagan administration finally managed to reach an arms control agreement with the Soviet Union. On December 8, 1987, President Reagan and General Secretary Gorbachev signed the Intermediate Range Nuclear Forces [INF] Treaty to eliminate all INF missiles within 3 years. It was the first major arms reduction agreement in over a decade, and it set the stage for Senate consideration of the treaty in early 1988.

The INF agreement was the culmination of a long, bipartisan process initiated in 1979, under the Carter administration, when the dual-track NATO policy of weapons deployment and negotiations was put into place. The tenacity of NATO in pursuing this policy, at considerable political cost in some of the European deployment countries, strengthened the alliance and provided the needed leverage to bring the Soviets to the negotiations talks in Genera.

I am pleased and proud of the role of the Congress, not only in confirming the treaty but also in developing it.

On the very first day of the 100th Congress, January 6, 1987, the distinguished minority leader and I offered, and the Senate approved, Senate Resolution 30, which reauthorized the Arms Control Observer Group. This unique group was originally created by the Senate on February 28 1985, to supplement the activities of the Foreign Relations Committee by providing a more regular and systematic involvement of the full Senate in any arms control negotiations which the United States is officially undertaking with the Soviet Union. This bipartisan group was highly complimented by Secretary Shultz and other high-ranking officials in the administration as it followed the arms control process in Geneva closely, provided valuable insights to the Senate on the negotiations process, and played an important role in the Senate's duty to advise and consent on treaty ratification.

I also began meeting with the chairmen of three Senate committees which would be heavily involved in the Senate's work on the treaty: Foreign Relations, the committee of jurisdiction; Armed Services; and Intelligence. I asked the committees to work together under the Senate leadership and to coordinate their efforts. The Armed Services Committee was asked to focus special attention on the military implications of the INF Treaty for the NATO Alliance. The Intelligence Committee was asked to examine carefully the verification and inspection provisions of the treaty.

On February 17, 1987, the Senate approved Senate Resolution 94, which I submitted on behalf of myself and others. This resolution expressed the Senate's full support for the commitment by the President to achieve mutual, equitable, balanced, verifiable, and stabilizing nuclear arms reduction agreements with the Soviet Union. It further encouraged the United States and the Soviet Union to use determined and creative diplomacy at the Geneva negotiations to resolve their remaining differences.

The implications of an INF Treaty for NATO strategy were recognized as important issues by the Congress. On September 26, 1987, I was joined by Senator NUNN in offering an amendment to the fiscal year 1988 DOD authorization bill requiring the Secretary of Defense to submit to Congress a report regarding the ability of the North Atlantic Treaty Organization [NATO] to maintain its strategy of deterrence through the 1990's. The amendment required an analysis of the key military implications of an arms control agreement between the United States and the Soviet Union and required an examination by the Secretary of Defense, of NATO modernization requirements and NATO's strategy of deterrence and flexible response under an INF Treaty.

I am pleased to point out that the Defense Department produced a solid report, "Support of NATO Strategy in the 1990's" that responded to the congressional request. It discussed how INF missile reductions fit with NATO objectives and how they relate to the Alliance's flexible response strategy. This excellent report helped to focus the attention of the Senate on the ramifications of treaty enactment for the Western alliance. The information in the report was valuable to the Senate in its consideration of the treaty elimination INF weapons from Europe. Above all, the report helped to assure the Senate, the American people, and our allies that under the INF Treaty, NATO would be able to preserve deterrence in Europe and the unity and effectiveness of the Alliance. I commend the Secretary of Defense for this study.

On December 19, 1987, the Senate approved Senate Resolution 348 which Senator DOLE and I had offered. This legislation established the Arms Control Treaty Review Support Office to provide the administrative and logistical capability to organize and make usable the negotiating record of the treaty. The data base compiled by the Treaty Review Support Office was used not only by the Senate but also by the State Department as well.

Because of the critical importance of the INF Treaty to the NATO Alliance, I led a bipartisan delegation of Senators to Europe in early February 1988 for consultations with key leaders of the alliance. The delegation visited London, Bonn, Paris, Ankara, and Rome, and met with the leaders of each Government as well as with opposition politicians and key opinion leaders in the private sector in each country. Discussions were wide ranging and productive. The leaders of the alliance were united in their view—for different reasons—that the INF Treaty should be approved by the Senate.

The three committees in the Senate began their examination of the treaty text and documents in January. Each committee compiled voluminous expert testimony, conducted extensive hearings in public and executive sessions, and submitted its recommendations to the Senate in formal reports.

Each committee identified issues requiring further clarification. The Intelligence Committee raised concerns about the ability to monitor future treaties limiting strategic arms and about the implementation of the onsite inspection regime of the treaty. The Armed Services Committee raised the question of whether missiles using futuristic technologies were also banned by the treaty. The Foreign Relations Committee concluded that a condition on treaty interpretation should be attached to the Resolution of Ratification. On March 30, the Foreign Relations Committee voted 17 to 2 to report the treaty to the full Senate, but recommended attaching a proposed condition on treaty interpretation.

In early May, I pointed out that until it was clear that the United States and the Soviet Union had resolved the issues and concerns raised by the Armed Services and Intelligence Committees, floor debate would not begin. Subsequently, Secretary of State Shultz and Soviet Foreign Minister Shevardnadze met in Geneva and resolved the issues to the satisfaction of all sides. During debate on the Resolution of Ratification, the documents reflecting these understandings were incorporated as binding conditions to the Senate's advice and consent. Administration officials expressed agreement with my observation that the actions of the Senate, in insisting on clarification of these issues and on Soviet assent, had strengthened the treaty.

During floor debate, a condition on treaty interpretation was adopted, as a result of an amendment that I offered on behalf of myself and Messrs. PELL, BOREN, NUNN, COHEN, WARNER, and others, to reflect a bipartisan understanding of the role of the Senate in treaty-making and to reflect the common understanding, shared by the Senate and the President, as to the meaning of the treaty. This makes it clear that unilateral executive branch reinterpretation of treaties, as asserted by the Sofaer doctrine with regard to the ABM Treaty, will not be allowed to undermine the Senate's constitutional role.

The Senate rejected all amendments which would have fundamentally altered the meaning of the treaty. Most importantly, the Senate insisted on clarifying that missiles using future technologies were also banned, that the subsequent agreements on inspection were of equal force as the treaty, and that the two sides shared an understanding of treaty restrictions on missile stages.

After 2 weeks of intense debate, the Senate voted on May 27 to approve the Resolution of Ratification. The vote was 93 to 5. In recognition of the key role played by the Senate leadership in successfully concluding the debate on the INF Treaty, the Republican leader, Mr. DOLE, and I were invited to attend the summit in Moscow where the INF Treaty was formally ratified on June 1, 1988.

The INF Treaty is a better treaty as a consequence of the Senate's scrutiny, because in fulfilling its advice and consent role, critical questions were raised and in turn clarified, and those clarifications are a formal part of the ratification record.

The three committee chairmen, Senators PELL, NUNN, and BOREN are to be commended for their work. Also playing important roles were Senators LEVIN and SARBANES and, on the Republican side, Senators DOLE, HELMS, WARNER, LUGAR, COHEN, and STEVENS. I also commend the painstaking work by our negotiating experts in Geneva. When the Senate raised important questions on the INF Treaty, our experts returned to the negotiating table to do the work that had been left undone. With arms control agreements, the devil is always in the details.

CONTRA AID

The administration has chosen to make aid to the Contras the centerpiece of its Central American policy. Such a narrowly focused one-track military policy has proved to be fatally flawed and has produced a regional diplomatic failure for the United States.

There have been charges that the Congress has not provided sufficient assistance to the Contras and, thus, is somehow responsible for the administration's failed Central American policy. The Contras have not failed for want of assistance. According to the Congressional Research Service, since 1982, the United States has provided them with $244.9 million in assistance—$102 million in nonlethal; $142 million in military. And we do not know how much additional financial assistance they have received through the various conduits—legal and illegal, public and private, developed and maintained by Lt. Col. North, various and sundry private citizens, arms dealers, and the like.

On March 12, 1987, the Senate approved S. 3075, a resolution by Senator SANFORD, that supported the initiatives by the Central American heads of state who were meeting in San Jose, Costa Rica, to formulate a regional proposal for bringing about an end to armed conflict in Central America.

After almost 7 years of regional warfare, the Presidents of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua met in Guatemala on August 7, 1987, and, under the leadership of President Arias, signed an accord designed to end the fighting and seek a diplomatic and political settlement of the regional conflict. The Senate gave its full support to this diplomatic initiative by passing Senate Concurrent Resolution 71 which, in addition to congratulating the Presidents, urged them to implement the provisions of the peace accord through good faith efforts and pledged the Senate's full cooperation in such implementation.

On August 7, 1987, the Senate established a bipartisan group of Senators known as the Senate Central American Negotiations Observer Group by adopting Senate Resolution 273. Eight Senators were appointed to serve as official observers to any and all negotiations with the governments of the Central American countries of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to which the United States is a party and to any new multilateral positions or discussions dealing with the question of peace in Central America to which such countries are invited to participate.

On March 23, 1988, representatives of the Nicaraguan Government and the Contras met at Sapoa, Nicaragua, and in accord with the provisions of the Arias Peace Plan, signed an agreement to negotiate a ceasefire and the terms beginning a process of national reconciliation. Following both sides having agreed to a 60-day ceasefire period, the House overwhelmingly approved a $47.9 million nonlethal assistance package (H.J. Res. 523, Public Law 100-276) by a vote of 345 to 70. On March 31, 1988, the Senate voted 87 to 8 to approve this nonlethal aid package which was designed to keep the Contras as a viable force while the negotiations went forward. The legislation, which was signed into law on April 1, 1988, provided $17.7 million for food, clothing, shelter, and medical supplies for the Contras, including $1.5 million for communications equipment and $2.19 million for a Nicaraguan Indian group called YATAMA, while an additional $17.7 million was allocated to children injured in the Nicaraguan fighting.

On August 10, 1988, the Senate approved Amendment Number 2813 which I offered to the Defense appropriations bill on behalf of Senators DODD, BOREN, STENNIS, JOHNSTON, CHILES, and myself. I had offered this amendment as an attempt to form a bipartisan consensus to protect the United States' regional security interests, while promoting peace and stability. Senate Democrats adopted my amendment by a vote of 49 to 47 over the opposition of the White House and all of our Republican colleagues. The amendment provides $27 million in humanitarian assistance to the Contras through March 31, 1989, and $5 million for assistance to civilian victims of the war, to be administered by the Catholic Church in Nicaragua. It also authorizes the President to receive expedited action for the release of $16.5 million of previously authorized military aid for the Contras, if he requests and certifies to the Congress that such an expedited vote is necessary to protect the Contras from an attack or a Sandinista action which threatens the peace and security of the region. Additionally, it outlines economic incentives to encourage the Sandinistas to reach a general peace settlement with the Contras. This amendment puts the Sandinistas on notice that this Congress supports diplomatic solutions as the way to resolve the conflict in Central America, but it also sends them a message that we are prepared to return to military pressure if they fail to keep their word to democratize their government. Mr. Ortega cannot be allowed to continue to restrict the democratic hopes of the people of Nicaragua, and by his actions create an emergency situation having a critical impact on peace and stability in Central America.

This aid, it is believed, will keep the pressure on the Sandinistas to finalize a peace agreement with the Contras. It places compliance with the peace process where it belongs, in the hands of the Central Americans and acknowledges support for the civilian victims of this long period of fighting.

This gives clear notice to the Sandinistas that they have reached a crucial point in their future course of action. Mr. Ortega should understand that he has reached a crucial fork in the road. It is time to comply with the provisions of the Arias peace accord and move to a genuine pluralistic democratic process in Nicaragua.

It is also important to recognize that, by pursuing a diplomatic and political settlement, the region will be spared the adverse destabilization that has affected the region and caused the administration to be distracted from the pressing social and economic problems facing our neighbors in Mexico and in South America. It is incumbent on the next administration to take a more realistic appraisal of the dynamics of the critical situation in Central

America and begin to work with the new Congress to establish a bipartisan policy which is in harmony with the desires of the Central American people, while protecting vital U.S. security interests in that neighboring region of our hemisphere.

AFGHANISTAN

The Soviet invasion of Afghanistan in December 1979, and its subsequent occupation by over 100,000 heavily mechanized Soviet troops, has been characterized by extreme brutality and a campaign of indiscriminate violence that has taken the lives of an estimated 1 million Afghans, and displaced more than 4 million others. It has had the effect of putting constant pressure on Pakistan, an important ally of the United States. The response of the United States was to provide constant, bipartisan support for a Soviet withdrawal from Afghanistan, and substantial material support to the Mujahadeen, or Afghan freedom fighters, battling both the Soviet forces and their Kabul puppet regime's troops at the same time.

The continued strong bipartisan support for an assistance program in coordination with other nations, particularly Pakistan, was directly instrumental in the resulting announced withdrawal of Soviet forces from Afghanista. The withdrawal, which began on May 15, 1988, is now roughly one-half complete. Senate policy on this matter was embodied in a series of important resolutions.

On January 6, 1987, I introduced, and the Senate approved Senate Resolution 31 by a vote of 92 to 0, offered on behalf of myself, Senator DOLE and others. This resolution committed the Senate to continue its policy of providing all appropriate material assistance to the people of Afghanistan against the "outside invader." It renewed the Senate's condemnation of the continued Soviet invasion and occupation of the sovereign State of Afghanistan and urged the Secretary of State to continue and accelerate vigorous diplomatic efforts and to develop multilateral diplomatic efforts whenever possible so as to put pressure on the Soviet leadership to withdraw. It also urged the Secretary to put pressure on the Soviets and their Kabul puppets to allow foreign journalists full access to Afghanistan in order to report on events there.

The following year, on February 29, 1988, the Senate passed Senate Resolution 386 by a vote of 77 to 0. This important legislation expressed the sense of the Senate on United States policy toward Afghanistan, and especially toward the possibility of a Soviet troop withdrawal. It declared that any settlement in Afghanistan must provide for Afghan self-determination, outline a definite timetable for the complete withdrawal of Soviet troops, and provide for the safe return of refugees. It further urged the President to support a solution acceptable to the Afghan resistance, insist on the withdrawal of Soviet advisers with the troops, require the Soviets to terminate all forms of military assistance to the Kabul regime, and ensure continued international assistance to the Afghan refugees until all Soviet bloc forces have been withdrawn.

This resolution emphasized support for the Government of Pakistan and the need to address a multitude of issues surrounding the Soviet withdrawal most importantly, this resolution clearly delineated the essential focal point of United States policy, that the United States should not terminate military assistance to the Afghan resistance until the Soviets have indeed terminated their military occupation of Afghanistan and their very substantial military assistance program to their puppet regime in Kabul. The relevant clause of that resolution, which affected a change in policy in the administration of signal importance, was as follows: the Senate

> Expresses its strong belief that the Government of the United States should not cease, suspend, diminish, or otherwise restrict assistance to the Afghan resistance or take actions which might limit the ability of the resistance to receive assistance until it is absolutely clear that the Soviets have terminated their military occupation, that they are not redeploying their forces to be inserted again, and that the Mujahadeen is well enough equipped to maintain its integrity during the delicate period of a transition government leading up to new elections.

The Soviets had apparently been led to believe by some that United States involvement, particularly material assistance, would terminate when the Soviets signed "guarantees" in Geneva that there would be no outside interference in Afghanistan's internal affairs. Such a quarantee, however, seemed to be taken by the Soviets to be one-sided, meaning that United States military assistance would cease, but that the bulk of Soviet assistance would continue. Such a proposition was anathema to the Senate and was decisively rejected as a result of Senate action. The President agreed with the Senate, and a major unresolved question of United States policy was put to rest decisively. This was perhaps the most instructive lesson of the impact that a bipartisan policy involving a consensus developed between the White House and the Senate may have—it is a success story, to date, that we can all justifiably take great pride in.

RELATIONS WITH BASE RIGHTS COUNTRIES

During the course of the 100th Congress, it became clear United States relations with the so-called "base rights countries," particularly Turkey, Greece, Spain, Portugal, and the Philippines, have become increasingly troubled. Just in the last 2 years, Spain ejected our F-16 squadron, Turkey held up ratification of the newly negotiated 5-year Defense and Economic Cooperation Agreement [DECA] for nearly a year, Greece has demanded the termination of our use of Helenikon airbase, Portugal has signaled its deep unhappiness with United States failure to provide "adequate" financial assistance, and the Philippines demanded—and will receive—greatly increased aid in return for continued use of the vital Clark and Subic bases. Although the administration is responsible for negotiating the terms of U.S. base rights in these countries, the Congress is becoming increasingly concerned and involved in this matter as countries demand greatly increased foreign aid.

Congressional action in one instance demonstrated the increasing importance of congressional attention to the state of relations with the base rights countries. In April 1987, Prime Minister Ozal decided not to ratify the DECA side letters which had been negotiated in December 1986 in response to negative congressional actions—introduction of the Armenian resolution in the House, Cyprus restrictions placed in the House and Senate foreign aid authorizing bills, and proposed reductions in Turkey's security assistance from the level proposed by the administration. As a further signal of Turkey's dissatisfaction, Turkey then canceled the visit of President Evren in May 1987.

This deterioration in relations between the United States and Turkey was serious. In light of the increasingly difficult situation with our other base allies, I undertook to help bring our relations back onto an even keel. To do this—to get Turkey to agree to ratify the DECA side letters—I worked hard to ensure that the legislative process did not adversely affect Turkey.

Through intensive efforts by a number of Senators concerned about United States/Turkey relations, several narrowly focused attacks on U.S. assistance programs to Turkey were rebuffed or modified in connection with the fiscal year 1988 continuing resolution. In addition, the continuing resolution included a provision for refinancing certain FMS debts, including arrearages—a provision of potentially great benefit to Turkey. Turkey's security assistance was maintained at the fiscal year 1987 level, although many countries were reduced. For fiscal year 1989, security assistance was increased slightly and economic support funds were earmarked to prevent reduction by the administration as had happened for fiscal year 1988.

In February 1988, a Senate delegation, which I led to the NATO countries to gauge sentiment toward the INF Treaty, visited Ankara to discuss the status of the relationship. We were extremely gratified that Prime Minister Ozal responded to my request for a normalization of the situation with assurances that Turkey would ratify the DECA and that the visit by President Evren would be rescheduled. The DECA side letters were signed shortly thereafter and President Evren visited the United States in June 1988.

This experience was a reminder of how important it is for both branches of our Government to pay close attention to the healthy management of our alliance relationship and to understand the impact that various legislative proposals can have on those relationships.

DEFENSE

The 100th Congress devoted considerable attention to the programs and the budget essential for our national defense. In each session of Congress, vigorous debates surrounded the consideration of the bills on the floor of the Senate. Action occurred on many issues which are largely extraneous to the Department of Defense and its budget. Prime among these, of course, is the issue of arms control.

The Senate acted in a responsible fashion during the 100th Congress to encourage a reluctant administration to pursue policies which would not make the achievement of strategic arms control agreements impossible. The Congress, after considerable debate in the Senate and a difficult conference with the House, arrived at an approach to the strategic defense initiative which kept the research program compliant with the so-called narrow interpretation of the ABM Treaty. At the same time, the funding for the SDI program was increased in both fiscal year 1988 and fiscal year 1989, one of the few programs to experience such growth. Similarly, the Congress insisted that the administration take actions which kept the United States from dramatically exceeding the SALT II limits on offensive nuclear weapons. This policy of restraint has permitted the modernization of our strategic weapons—such as the MX and the Trident II missiles—without providing the Soviet Union with an excuse to break out of the levels of nuclear warheads currently maintained.

The Congress also addressed the issues of management, waste, and organizational efficiency in the Department of Defense. The authorization bills contained numerous provisions designed to improve management efficiency and streamline DOD procedures. The current investigation into procurement fraud strongly suggests that still further measures will be necessary in the 101st Congress when the results of the ongoing investigation are known.

The Armed Services and Appropriations Committees faced difficult challenges in dealing with the defense budget. In each year, the amount of money available for national defense was insufficient to cover the cost of inflation. The budget which we have recently passed for fiscal year 1989 represents the fourth consecutive year of declines in the amount of money spent on defense, once the effects of inflation are taken into account. This forced the committees, and the Senate as a whole, to make difficult choices regarding priorities and programs to support—choices which will become even more severe in the next Congress.

An example of the responsible manner in which the Congress has addressed crucial choices provides ample contrast to the administration's false starts and false promises. For over 8 years, the Reagan administration has struggled with the problem of the vulnerability of our land-based missiles, but has been unable to come up with a workable solution. Initially, the administration embraced the Scowcroft Commission Report, which called for the development of a small, single-warhead missile to be based in a mobile and survivable mode. The administration also requested funding for the MX in a rail garrison mode—also mobile, but less survivable. The Congress has supported development of both the rail garrison system and the mobile small ICBM, but the Reagan administration's commitments have been less constant. Earlier this year, Secretary of Defense Carlucci recommended canceling the small missile, citing the costs, primarily. The logic of the Scowcroft Commission concerning strategic stability and the virtues of the single warhead missile was ignored.

The current situation is that Congress has recommended that both programs be kept alive with sufficient funding to enable the next administration to make the final determination. Whatever is decided, it will be clear that the Reagan administration has wasted time and countless billions while unable to solve the problems of vulnerability which they said were urgent more than 8 years ago. The Congress has addressed this issue in a responsible fashion, providing support and continuity in the face of administration vacillation and indecision.

The Congress stepped up to this task and, as a result of the hard bargaining of December 1988 which produced the so-called budget summit agreement, the administration finally joined in the recognition of the difficult choices being forced upon us by the huge Federal deficits run up in the Reagan years. Truth-in-budgeting resulting in a more realistic discussion of defense priorities in the fiscal year 1989 budget. Again, the Senate acted in a responsible way to maintain the pay and benefits of our personnel in uniform, to bolster our conventional defense capabilities, and to permit the needed modernization of our strategic forces. While difficult choices lie ahead, the groundwork laid by the 100th Congress will serve as a solid foundation for the next Congress in its consideration of defense issues.

TRADE WITH OUR MAJOR ALLIES

As work proceeded on the omnibus trade bill, I became more and more concerned about our increasingly volatile relationship with Japan as our trade deficit with Japan has zoomed and the administration's ineffective and wrongheaded approach to trade has caused increasingly bitter feelings on both sides of the Pacific. For instance, because of Japanese noncompliance with an agreement with the United States on fair competition in the world semiconductor market, the Senate passed, in March 1987, a resolution calling on the President to take steps against Japan's dumping of semiconductors on international markets. This finally prompted the President to take action and, 1 month later, he imposed tariffs of 300 million dollars' worth of Japanese imports in response to Japan's violation of the agreement. Most of those sanctions are still in place today, but without congressional action, nothing would have been done.

I have long felt there has to be a better way to handle our economic relationship with Japan. When I met with Japanese Prime Minister Takeshita on January 14, 1988, I suggested that it would be a good idea if each country could undertake a separate study of the advantages and disadvantages of initiating negotiations toward a free trade area agreement between our two countries. Although our administration made it clear it had no intention of undertaking such a study, I requested, through the Finance Committee, that the International Trade Commission, an independent, bipartisan agency, study the matter. Their excellent report, "Pros and Cons of Initiating Negotiations with Japan to Explore the Possibility of a United States-Japan Free Trade Area Agreement," was released on September 21, 1988.

Many of the 122 officials and outside experts interviewed for the ITC study made it clear that the time has come for a comprehensive reassessment of the United States-Japan trade and economic relationship. There is a growing recognition in Japan as well that there are more productive ways to handle the American-Japanese relationship. To further the process, I wrote to Prime Minister Takeshita on September 30, 1988, to propose that the United States and Japan explore over the next 6 months possible frameworks for enhanced cooperation between our two countries. Through my amendment to the tax technical corrections bill H.R. 4333, the administration is now required to set such an exploration in motion—to study the issue afresh, and come up with some recommendations about how we can arrange our relations with the Japanese in a more positive, less acrimonious manner.

On another important trade matter, the Congress passed legislation to implement the free trade agreement signed by the United States and Canada on Janury 2, 1988. The agreement provides that almost all tariffs between the United States and Canada will be eliminated within 10 years and establishes a binding binational dispute settlement panel for antidumping and countervailing duty cases. Other important provisions include liberalization of investment and services trade; and market opening measures for wine, some agricultural products, energy, and government procurement.

The House passed implementing legislation in August by a wide margin and the Senate did the same on September 19. The pact cannot go into effect—now scheduled for January 1, 1989—however, until the Canadian Parliament also passes implementing legislation. Canada's House of Commons approved the pact on August 31, but the Canadian Senate has refused to approve the agreement and has forced Prime Minister Mulroney to call a general election, which will take place November 21. The election is likely to represent a referendum on the free trade area agreement, which faces strong opposition in Canada.

The European Economic Community decided in February of this year to move toward an integrated internal market in Europe by 1992. The Senate delegation which I led to NATO capitals was in Europe at the time, and it was clear to those of us observing this process first hand that this will be an event of great significance, not only for the European Community but for the United States as well. The integrated market will present the United States with tremendous challenges as well as tremendous opportunities. In order to understand and prepare for these developments, I feel it is extremely important for the next administration, working closely with the Congress and with the private sector, to initiate a dialog with members of the European Community to discuss the implications of the integration of the European Communities for U.S. trade and investment. Toward that end, I sponsored, along with the Senator from Delaware, Mr. ROTH, Senate Resolution 491, which calls for such a dialog. The resolution was passed by the Senate on October 7, 1988.

UNFORTUNATE LAPSES OF INTEGRITY

The successful creation of a bipartisan foreign policy based on a shared consensus between the two branches suffered during the 100th Congress from events which called into question the good faith of this White House in working with the Congress.

The first of these instances had its origins in the closing days of the 99th Congress. Prior to the Reykjavik summit meeting between President Reagan and Soviet General Secretary Gorbachev, the Congress was in the midst of negotiating final details on the conference report for the Defense Authorization Act. Several controversial arms control issues were still in dispute, and the President argued that those provisions be dropped so that he might have the maximum flexibility and bipartisan support for his negotiations at Reykjavik. In return, he pledged, in a letter to the Congress, his support for the approval for ratification of the two nuclear testing treaties previously signed by the United States and the Soviet Union—the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty—as an item of high priority in the 100th Congress.

The Congress acceded to the President's request prior to Reykjavik, dropping the arms control items. The President, however, reneged on his pledge and did not support the ratification of the two treaties in the 100th Congress. They remain on the Senate Calendar. This unfulfilled promise not only resulted in no action on the treaties but did much to undermine my willingness to take the President at his word.

The second example was the context of Senate consideration of the INF Treaty. Considerable time was spent in working with the administration, with contributions from both sides of the aisle in the Senate, as well as the White House, to fashion an agreed approach or method of future interpretation of the provisions of the treaty. This process produced a bipartisan consensus, and a treaty condition, in the form of an amendment I offered on behalf of myself and other Senators to the resolution of ratification, was approved by a vote of 72-27, on May 27, 1988. Thus, the Senate consented to the ratification of the INF Treaty with the explicit understanding that its consent was "subject" to the "condition" that the treaty would not be interpreted in a manner different from that presented to the Senate. This condition, flowing as it did from a long dispute over the proper method of interpreting provisions of the ABM Treaty of 1972, was of key importance in the Senate's approval of the INF Treaty and, without it, there is very great doubt that the treaty would have been given Senate approval at all. I would have strongly opposed it. The President traveled to Moscow, and exchanged the instruments of ratification subject to this condition.

Incredibly, however, upon his return from Moscow, the President stated in a formal message to the Senate on June 10, that he did not consider himself bound by this condition. The President's views on this matter notwithstanding, the condition attached to the resolution of ratification by the Senate remains binding. The proposition by the President that he is not bound by the condition I regard as a matter of the utmost breach of trust between the two branches.

A third example of bad faith bargaining by the White House—although not one of constitutional gravity, as in the treaty interpretation matter—was in connection with the fashioning of a compromise regarding United States policy toward Nicaragua and aid to the Contras. The amendment which was fashioned this past August, following 2 weeks of laborious negotiations by participants from both sides of the aisle and with the White House, would have gone far to reach the consensus which has eluded us on this issue for many years. We in the Senate were led to believe that the compromise would be supported by the White House. However, our expectations were dashed and disappointed by the last minute withdrawal of the White House from the compromise—indeed, while the amendment was in fact pending on the Senate floor. The result was the necessity to pass the amendment by a strict party-line vote in the Senate, reducing substantially the long-term impact of the policy embodied in the amendment.

In these three important cases, the White House chose to shred what were serious commitments and compromises that it had entered into and to walk away from the consensus which had been formed after great labor. The results disappointed the development of true consensus on those matters in our Government. More important, they eroded the trust between the two branches which is so essential to constructing such consensus. I continue to believe that only through the development of consensus, based on good faith and the honoring of pledges and agreements arrived at through compromise by both branches, can we as a nation formulate sustainable foreign policies. It is my hope that the next administration will honor the commitments it enters into and that it will heal the distrust and disappointments engendered by these acts on the part of the current White House.

THE FUTURE

Mr. President, the Senators who have served in the 100th Congress can be proud of the responsible approach that has been taken to its foreign policy and national security agenda. Even so, much remains to be tackled and our time is about to expire. The 101st Congress has some formidable challenges to address.

First, the question of the proper relationship between the executive and legislative branches on how decisions are to be made regarding the committal of our military forces to conflicts or potential conflicts, to send our forces into combat or into situations where combat can reasonably be foreseen as a contingency, urgently needs to be addressed. The War Powers Resolution has not been adequate to this task and has not worked. As a result, a wide variety of resolutions and amendments have been offered, and sometimes adopted, attempting to address this question in lieu of a workable statutory mechanism. Of central importance, a satisfactory system of consultation and prior dialog prior to the commitment of U.S. forces to hostilities has not been developed.

I have offered one proposal to this problem, Senate Joint Resolution 323, cosponsored by Senators NUNN, WARNER, and MITCHELL. The Foreign Relations Committee has completed extensive hearings on this resolution and related proposals, and I believe action should be taken on this matter, in a deliberate and thoughtful way, and in close consultation with the next President, to formulate a more satisfactory consultative mechanism which adequately addresses the problems our country will face in the coming years.

Second, the two nuclear testing treaties between the United States and the Soviet Union, currently pending on the Executive Calendar, are unfinished business which was not addressed on the Senate floor, but which should be ripe for action early next year. These treaties, which President Reagan promised to support during the 100th Congress, but then withdrew his commitment, are a contribution to building an effective arms control regime between the superpowers. They are awaiting completion of additional verification procedures between the two countries. Such a relatively simple matter, in comparison to the verification questions which are involved in a satisfactory strategic arms or START Treaty, should have been completed long ago. One would think that the administration could close this problem, and lack of closure leads me to question how much progress this administration has made on verification of arms reductions. It will help to give the Senate confidence on the quality of the provisions of any verification regime associated with a START Treaty if the testing treaties can be disposed of in the next Congress.

Third, Mr. President, the Senate needs to take a fresh look at our basing arrangements with our friends and allies around the world. We have weathered difficult negotiations with Spain. The agreement which was concluded, while satisfactory in many respects and while removing Spain from the list of security assistance recipients, nevertheless forced the relocation of an important NATO aircraft squadron, the U.S. F-16's. Fortunately, Italy agreed to base these aircraft, but the relocation entails additional costs for NATO.

The negotiations with the Philippines have been particularly complex. The agreement signed on October 17, 1988, for continued use of the Clark and Subic bases until 1991 makes it clear that the costs will increase substantially. We face similar, perhaps even more problematic, difficulties in the ongoing negotiations with Greece. In addition to these three cases, in general, we are not providing the kind of support that we should be providing to countries like Portugal, Oman, Turkey, and others, while a selected few cases receive very generous and costly support. We need to revisit in detail the state of our alliance facilities and the facilities we share in various ways with friendly countries which are not necesarily part of our formal alliances. As a nation with far-flung responsibilities, it is important that we care for and nurture these relationships, and that appropriate levels of assistance be provided to maintain the health of our relationships across the globe.

Fourth, the Senate followed up the Iran-Contra investigation with appropriate legislation, amending the statutes that deal with covert activities and the special relationship between the executive branch and Congress in this area, but the House did not pass that legislation. Given the importance of this matter, I encourage the Intelligence Committee to report such legislation again for action by the full Senate as soon as possible in the next Congress so that there is time for a conference committee to act and send that measure to the President.

Fifth, while we passed major trade legislation, the implementation of that legislation will be a major task, and very close oversight of the critical provisions designed to reduce America's deficits will be required. The Congress expects and intends that the new authority that we have given the United State Trade Representative to identify countries which engage in unfair trade practices (or so-called priority countries) and major barriers, whether they are at the border or internal to a nation's economy (so-called priority barriers), will be implemented in practice and that firm actions will be taken.

Sixth, the ad hoc mechanism which has proved valuable to regularizing the interchange between the executive and legislative branches on arms control, the Senate Arms Control Observer Group, has already been reauthorized. Its mandate has been expanded to include active oversight of conventional and chemical arms reduction negotiations between the superpowers, in addition to strategic arms reductions. A similar mechanism has been provided in the trade bill, the appointment of an advisory group on trade negotiations, the members of which will be accredited to the various international talks conducted on trade, from the GATT negotiations to other bilateral and other multilateral talks. While these mechanisms are not intended to substitute for the oversight and legislative authority of the Senate committees of jurisdiction, they can serve as a useful supplement to those committees, and hone in on enduring problems in a way that those major problems deserve.

Seventh, we must redouble our efforts regarding the southern part of our hemisphere. The Senate should continue with this year's efforts to fashion a more realistic and effective foreign policy toward our neighbors in Mexico, Central and South America. Too much time and legislative endeavor have gone into a narrowly focused, one-track administration military-oriented policy as a way of confronting the Sandinista regime. This overemphasis on one element of our hemispheric foreign policy at the expense of diplomatic negotiations has resulted in a lack of adequate attention to the many serious social and economic problems faced by neighboring Mexico and nascent democratic governments in South America. The next Congress needs to place increased emphasis and attention on working with a new administration to develop a more comprehensive, cooperative, and understanding bipartisan foreign policy toward the democratic countries of Latin America.

Eighth, Mr. President, renewed attention must be paid to the health and progress of our alliance relationships with NATO and Japan. These relationships are of vital importance to our national security and our economic well being. They are in the process of growth, of evolution, and they need the constant care and attention of the Congress. Instead of assigning blame for the real or perceived deficiencies of our allies in the area we term "burden-sharing," positive and dynamic leadership is needed by the United States to bring those relationships into an equitable balance, a fair sharing of both burdens and powers. In order to do this, renewed dialog and understanding among our partners are needed. Significant steps were taken in this direction in the recently passed defense appropriations bill. Many Senators have been playing active and responsible roles in the development of these new relationships, and I believe that the 101st Congress will continue to place priority attention and take actions where necessary to achieve new understandings with our allies on these matters.

In all these tasks, and others that I have not even touched upon, the Senate will be faced with an array of challenges. I am convinced that the Senate will continue to work diligently and with an eye toward the building of a strong consensus with the next President around policies of enduring value in the national security and foreign policy arenas.

Mr. President, I ask unanimous consent to have printed in the RECORD a table of Senate accomplishments to date in the 100th Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE ACCOMPLISHMENTS TO DATE IN THE 100TH CONGRESS

SECOND SESSION

Significant Public Laws Enacted:

H.R. 1, Clean Water (veto overridden), PL 100-4, without approval.

H.J. Res. 102, Emergency Food and Shelter Supplemental/Federal Pay Disapproval, PL 100-6.

H.J. Res. 153, Asbestos School Hazard Abatement, PL 100-11.

S. 83, Energy Standards for Appliances, PL 100-12.

H.R. 2, Federal Aid Highway Authorization, FY 1987-91 (veto overridden), PL 100-17, without approval.

H.R. 1963, Surface Mining Control and Reclamation, PL 100-34.

H.R. 1941 (S. 85), Power Plant and Industrial Fuel Use, PL 100-42.

S. 1177, Federal Employee's Thrift Savings Fund Investment Procedures, PL 100-43.

H.R. 1157, Wheat Acreage Diversion and Disaster Assistance, PL 100-45.

H.R. 1085, New GI Bill Continuation, PL 100-48.

H.R. 1827, Supplemental Appropriations, FY 1987, PL 100-71.

H.R. 558, Homeless Relief, PL 100-77.

H.R. 27 (S. 790), Federal Savings and Loan Insurance Corporation Recapitalization, PL 100-86.

H.R. 1444, Medicare and Medicaid Patient and Program Protection, PL 100-93.

S. 769, Minority Health Education and Care, PL 100-97.

S. 1596, Child Abuse and Neglect Assistance Extension, PL 100-117.

H.J. Res. 324, Public Debt Limit Increase, PL 100-119.

H.R. 1744, Historic Preservation Fund Three-year Extension, PL 100-127.

S. 1417, Developmental Disabilities Assistance, PL 100-146.

H.R. 2782, NASA Authorization, PL 100-147.

S. 1628, Aviation Insurance Program, PL 100-148.

H.R. 317, Wild and Scenic Rivers, PL 100-149.

H.R. 1451, Older Americans Act Amendments, PL 100-175.

H.R. 2112, Intelligence Authorization, FY 1988-89, PL 100-178.

H.R. 1748, DOD Authorization, 1988-89, PL 100-180.

H.R. 2939, Independent Counsel Reauthorization, PL 100-191.

H.J. Res. 425, Further Continuing Appropriations, PL 100-193.

H.R. 1777, State Department Authorization, FY 1988-89, PL 100-204.

H.R. 2689, Arms Control and Disarmament Agency Authorization, FY 1988-89, PL 100-213.

H.R. 2310, Airport and Airway Capacity Expansion, PL 100-223.

H.R. 2974, Military Retirement Reform Amendments, PL 100-224.

H.R. 2945, Veterans' Compensation COLA Adjustment, PL 100-227.

S. 825, Housing and Community Development Programs Authorization, FY 1989, PL 100-242.

H.R. 1340, Commodity Distribution Reform, PL 100-237.

S. 557, Civil Rights Restoration (Grove City), PL 100-259 (without approval).

H.J. Res. 253, Contra Humanitarian Aid, PL 100-276.

H.R. 1207, Prescription Drug Marketing, PL 100-293.

H.R. 5, Elementary and Secondary Education, PL 100-297.

H.R. 3971, Convention on the Civil Aspects of International Child Abduction Implementing Legislation, PL 100-300.

H.J. Res. 552, Emergency Veterans Supplemental Appropriations, PL 100-304.

H.R. 1811, Atomic Veterans Compensation, PL 100-321.

H.R. 2616, Veterans' Benefits and Services, PL 100-322.

S. 999, Veterans Employment and Training, PL 100-323.

S. 1989, South Pacific Tuna Act, PL 100-330.

H.R. 2210, Organotin-Based Antifouling Paint Control, PL 100-333.

S. 1539, Federal Railroad Safety, PL 100-342.

S. 794, Criminal Penalties for Damage to Religious Property, PL 100-346.

H.R. 1212, Polygraph Protection, PL 100-347.

S. 2167, National Appliance Energy Conservation Amendments, PL 100-357.

H.R. 2470, Medicare Catastrophic Loss Prevention, PL 100-360.

H.R. 4731, Work Incentive Demonstration Program, PL 100-364.

H.R. 4567, Energy and Water Development Appropriations, FY 1989, PL 100-371.

S. 623, Independent Safety Board Authorization, FY 1988-90, PL 100-372.

H.R. 3251, Bicentennial Coin/FSLIC Moratorium, PL 100-378.

S. 2527, Plant Closing Notification, PL 100-379.

H.J. Res. 90, White House Conference on Library and Information Services, PL 100-382.

H.R. 442, Wartime Reparations for Japanese-Americans, PL 100-383.

S. 2385, Community Health Centers, PL 100-386.

H.R. 5015, Drought Assistance, PL 100-387.

H.R. 5026, Dire Emergency Supplemental Appropriations, 1988, PL 100-393.

H.R. 2213, Hearing Aid Compatibility Act, PL 100-394.

H.R. 3932 (S. 2037), Presidential Transition, PL 100-398.

H.R. 4800, HUD and Independent Agencies Appropriations, FY 1989, PL 100-404.

H.R. 1414, Price Anderson Act Amendments, PL 100-408.

H.R. 4848, Omnibus Trade bill, PL 100-418.

H.R. 1158, Fair Housing Amendments, PL 100-430.

S. 2560, Hunger Prevention Act, PL 100-435.

H.R. 4783, Labor, HHS, and Education Appropriation, PL 100-436.

H.R. 4775, Treasury-Postal Service Appropriations, FY 1989, PL 100-440.

H.R. 4867, Interior Appropriations, FY 1989, PL 100-446.

H.R. 4586, Military Construction Appropriations, PL 100-447.

H.R. 2342, Coast Guard Authorization, PL 100-448.

H.R. 5090, United States-Canada Free-Trade Agreement, PL 100-449.

H.R. 4387, Intelligence Authorizations, FY 1989, PL 100-453.

H.R. 4481, Defense Authorization, FY 1989, PL 100-456.

H.R. 4794, Department of Transportation Appropriations, FY 1989, PL 100-457.

H.R. 4587, Legislative Branch Appropriations, FY 1989, PL 100-458.

H.R. 4782, Commerce, Justice, State, Judiciary Appropriations, FY 1989, PL 100-459.

H.R. 4784, Agriculture Appropriations, FY 1989, PL 100-460.

H.R. 4637, Foreign Operations Appropriations, FY 1989, PL 100-461.

H.R. 4776, D.C. Appropriations, FY 1989, PL 100-462.

H.R. 4781, Defense Appropriations, FY 1989, PL 100-463.

S. 1544, National Trails Systems Improvements, PL 100-470.

H.R. 1467, Endangered Species Act Authorization, PL 100-478.

H.R. 1720, Family Security Act (Welfare Reform), PL 100-485.

S. 1518, Alternative Motor Fuels Policy, PL 100-494.

S. 328, Prompt Payment Act Amendments, PL 100-.

S. 908, Inspector General Act, PL 100-.

S. 945, Abandoned Infants Assistance, PL 100-.

H.R. 4417, National Bureau of Standards Authorization, FY 1989, PL 100-.

S. 2749, Defense Authorization, FY 1989, (base closings), PL 100-.

H.R. 4262 (S. 1301), Berne Convention Implementation Act, PL 100-.

H.R. 3235, Health Maintenance Organization Amendments, PL 100-.

H.R. 5261, Indian Health Care Amendments, PL 100-.

S. 744, Exposure to Radon Health Threat, PL 100-.

S. 836, Strategic Petroleum Reserve Protection, PL 100-.

S. 659, Agricultural Aid and Trade Missions, PL 100-.

S. 508, Whistleblower Protection, PL 100-.

H.R. 4833, Nursing Shortage and Education, PL 100-.

H.R. 3621, Southern California Indian Land Transfer, PL 100-.

H. Con. Res. 93, Congressional Budget Resolution, FY 1988. Action completed, does not require President's signature.

H. Con. Res. 268, Congressional Budget Resolution, FY 1989. Action completed, does not require President's signature.

INF Treaty, Resolution of Ratification adopted (Treaty Doc. No. 100-11).

Mr. BYRD. I also ask unanimous consent that this report and additional related material, which will be subsequently submitted by the staff of the Democratic Policy Committee, be printed as a Senate Document.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIGEST OF SENATE LEGISLATIVE ACTIONS

100th Congress-2nd Session (January 25, 1988-October 14, 1988)

(Includes all bills except for land conveyances, interstate compacts, medals, memorials, and proclamations. Record vote numbers for Senate action on final passage, a conference report, or a veto override are indicated in parentheses immediately following the status of a bill. Where there are no vote numbers, action was completed by voice vote. An asterisk (*) before a vote number indicates the vote was taken during the second session.)

AGRICULTURE

Agricultural Credit Technical Amendments: H.R. 3980—Public Law 100-399, approved August 17, 1988.

Makes technical corrections and clarifies the provisions of the Agricultural Credit Act of 1987 (P.L. 100-233).

Agricultural Quarantine Enforcement: H.R. 5199—Public Law 100-x, approved x, 1988.

Prohibits the mailing of any plant, fruit, vegetable, root, bulb, seed, or other plant product subject to interstate quarantine under the Plant Quarantine Act; exempts packages which have been certified by the Postal Service, in consultation with the Agriculture Department, as disease and pest free; sets forth criminal penalties for knowingly mailing or causing to be mailed a nonmailable plant and for forging or counterfeiting agricultural certifications; and expresses the sense of the Congress that the Postal Service and Agriculture Department should engage in a joint effort to educate the public about the harm which can result from the transmission of plants, fruits, vegetables, and other matter which may carry dangerous plant diseases or pests.

Aid and Trade Mission: S. 2151—Public Law 100-277, approved April 4, 1988.

Establishes agricultural aid and trade missions to eligible countries to encourage their participation in U.S. agriculture export promotion programs; strengthens P.L. 480 and the Surplus Commodity Disposal Program (section 416 of the 1949 Agricultural Act) to make them better market development tools; improves the utilization of donated food to enhance community, health, credit, agricultural and other development efforts in poor countries; reauthorizes the Farmer-to-Farmer Programs which expired in FY 1987; and exempts aid and trade mission activities from the Federal Advisory Committee Act.

Commission for the Improvement of Federal Crop Insurance Programs: H.R. 5325—Public Law 100-x, approved x, 1988.

Establishes a Commission to study and make recommendations concerning the authorization and administration of Federal Crop Insurance Programs; requires the Commission to submit an interim report by April 1, 1989, and its final report by July 1, 1989; and directs the Commission to monitor the program on a monthly basis from the period July 1, 1989, until December 31, 1990, the date the Commission will expire, unless extended by the Secretary of Agriculture.

Drought Assistance: S. 2631—Passed Senate July 28, 1988; H.R. 5015—Public Law 100-387, approved August 11, 1988. (*273, *297).

Provides emergency drought assistance to livestock producers and commodities and tree farmers affected by the drought and other natural disasters in 1988; establishes application procedures, eligibility criteria, and payment levels for the assistance; limits benefits payable to any one person to $50,000 for livestock feed and $100,000 for disaster payments or a combined total of $100,000 and to $25,000 for tree farmers; limits combined crop insurance benefits and disaster payments to an amount not to exceed income that would result from normal yields; forgives advance deficiency payments on production losses up to 35 percent for certain commodity crops; defers until July 31, 1989, any repayment of advance deficiency payments which the Secretary may require because disaster payments were also received; rescinds the Secretary's authority to reduce the milk price support level by 50 cents per hundredweight on January 1, 1989, and increases the support level by 50 cents from April 1, 1989, to June 30, 1989; establishes loan programs to assist producers, rural businesses, and organizations in alleviating distress and to refinance or restructure debt resulting from losses incurred because of natural disasters in 1988; waives the requirement that crop insurance have been carried by producers affected by the 1988 drought to be eligible for an FmHA disaster emergency loan; requires that, in order to be eligible for disaster payments, certain emergency loans, or forgiveness of advance deficiency payments, producers with losses over 65 percent must purchase multiperil crop insurance for the 1989 crops of the commodity for which these benefits are sought and allows waiver of this requirement under specified circumstances; gives the Secretary discretionary authority to establish de minimis yields for each crop eligible for disaster payments and to take certain steps to help correct supply and demand imbalances for soybeans, oats, upland cotton, wheat, and feed grains; authorizes various conservation enhancement, wildlife management, and water supply and management programs to help repair environmental damage from the drought and help rural areas cope with future water deficiencies; and provides $5 million, by transfer, to assist low-income agricultural workers affected by the drought through Job Training Partnership Act programs.

Egg Research and Consumer Information: H.R. 5318—Public Law 100-x, approved x, 1988.

Amends the Egg Research and Consumer Information Act to authorize the Secretary of Agriculture to limit to a reasonable amount the total costs incurred by the Egg Board in collecting producer assessments and for administrative costs; eliminates egg producer refunds, subject to a referendum to be conducted no earlier than 18 months after the Secretary issues the amendment to eliminate the refunds; requires 10 percent of producer assessments to be placed in escrow and, if the amendment is not approved in the referendum, be used to pay refunds to eligible producers who choose not to support egg research and promotion activities; and provides for reversion of the escrow monies to the Egg Board if the amendment is approved.

Extra Long Staple Cotton Program: H.R. 4556—Public Law 100-331, approved June 14, 1988.

Extends current law for the 1989 and 1990 crops of extra long staple (ELS) cotton, which provides that compliance with the terms and conditions of the ELS cotton program may not be required as a condition for eligibility for loans, purchases, or payments under any other commodity program; and prohibits an increase in a farm's total crop acreage base as a result of a producer's decision to produce ELS cotton outside the program.

Federal Insecticide, Fungicide, and Rodenticide (FIFRA): S. 659—Public Law 100-x, approved x, 1988.

Extends FIFRA for three years, through FY 1991; accelerates EPA's current reregistration effort by prescribing a systematic procedure that EPA must follow over the next nine years to assess the adequacy of the health and safety data that supports the continued registration of approximately 600 pesticides; imposes a onetime reregistration fee and an annual maintenance fee on pesticide products to cover the cost of the additional resources necessary to meet the nine-year reregistration deadline; specifies that EPA would no longer be responsible for ensuring the proper disposal of suspended and cancelled pesticides and instead directs EPA to share in the cost of storing the pesticide with EPA's share contingent on how quickly it approves the industry's disposal plan for the chemical and the registrant's success in securing proper disposal; and changes the period of time that any proposed EPA rule or regulation must lie before Congress before it may become effective from a period of 90 days of continuous session of Congress to a period of 60 calendar days.

Perishable Agricultural Commodities: H.R. 4694—Public Law 100-414, approved August 22, 1988.

Amends the Perishable Agricultural Commodities Act (PACA) to increase the statutory license fee ceiling from $300 to $400, the fee ceiling for each branch operation in excess of nine from $150 to $200, and the total aggregate fee ceiling from $3,000 to $4,000; and establishes the Perishable Agricultural Commodities Act Industry Advisory Committee to review the PACA program to ensure program efficiency and equitable treatment among the various segments of the fruit and vegetable industry and report to Congress and the Secretary of Agriculture, by May 1, 1990, its findings and recommendations on the future of the program.

Pet Theft/Laboratory Research: S. 2353—Passed Senate August 10, 1988.

Prohibits class B dealers (licensed and regulated by the USDA Animal and Plant Health Inspection Service) from obtaining animals at auction sales for research purposes; requires that pounds, shelters, and private organizations hold dogs and cats for seven days before the animals may be sold to dealers; and establishes penalties for dealer violations.

U.S. Grain Standards: H.R. 4345—Public Law 100-x, approved x, 1988.

Authorizes such sums as necessary in each FY 1989-93 for the Federal Grain Inspection Service; extends through FY 1993, the authority of the Service to collect fees to cover the cost of inspecting and weighing U.S. grain; limits the total annual administration and supervisory costs that the Service may incur for inspecting and weighing in each FY 1989-93 to 40 percent of its total costs for these activities; extends the requirement that the Secretary of Agriculture establish an advisory committee to provide advice on implementing the U.S. Grain Standards Act, expands the committee's membership from 12 to 15 members; requires the Secretary to conduct a study to determine how the schedules of premiums and discounts applied to price support loans can be used to improve grain quality and, based on the results, to conduct a pilot project for the 1989 crops of wheat, feed grains, and soybeans; permits the Secretary to invest the cotton classing fees and the proceeds collected under the Act from the sale of samples and copies of standards; and requires the Secretary to conduct a study of the effects of including dockage with foreign material as a grading factor for wheat.

APPROPRIATIONS-FY 1988

Dire Emergency Supplemental: H.R. 5026—Public Law 100-393, approved August 14, 1988.

Provides $601,209,000 in net new budget authority and $161,257,000 by transfer for dire emergency supplemental funding necessary for the continuation of essential programs for FY 1988; urges the Department of Agriculture to use all existing and additional authority, to assist farmers affected by the drought, financial, and other problems, and directs the Corps of Engineers to (1) use available funds to conduct emergency drought relief activities in the lower Mississippi River and tributaries region, including the Atchafalaya Basin, (2) reallocate water at any of its reservoir projects during the current drought conditions for any emergency water supply purpose, (3) provide technical asssistance to State and local governments and agencies engaged in water conservation and drought management, and (4) prepare regional drought management plans; and states that no additional authority is provided to the Corps in relation to the Great Lakes or reservoirs at the headwaters of the Mississippi.

Emergency Veterans Supplemental: H.J. Res. 552—Public Law 100-304, approved April 29, 1988.

Provides $709.1 million in emergency supplemental appropriations for FY 1988 for Veterans' Administration entitlement programs of which $526.6 million is for the housing loan guaranty revolving fund and $182.5 million is for the readjustment benefits account.

APPROPRIATIONS-FY 1989

Agriculture: H.R. 4784—Public Law 100-460, approved October 1, 1988. (*278, *345).

Appropriates $42,512,839,000 for the Department of Agriculture and related agencies, plus $4,101,083,000, by transfer from section 32 (customs receipts), making a total of $46,613,922,000 available in obligational authority; provides a current indefinite appropriation of $8.8 billion for reimbursement of CCC net realized losses; prohibits the Soil Conservation Service from consolidating its four national technical centers; specifies that adult day care centers are eligible to participate in the child care food program and directs USDA to issue regulations to assure maximum participation; limits to 10 percent the transfer authority between P.L. 480 Title II (commodities for distribution abroad) and P.L. 489 Titles I and III (credit sales); and provides for a demonstration project in biotechnology.

Commerce-State-Justice: H.R. 4782—Public Law 100-459, approved October 1, 1988. (*261, *238).

Appropriates $14,849,392,000 in new budget authority for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies; postpones the finalization of the new H-1 visa regulations until October 1, 1989; removes constraints which bar the uniting of orphaned illegitimate children with their adoptive American families; creates the position of Special Envoy to the Afghan Resistance within the State Department (who shall hold the rank of Ambassador) to coordinate U.S. policies and programs involving the resistance; prohibits changes in the administration and enforcement of FCC rules on newspaper broadcast cross-ownership and directs the FCC to take administrative action to keep all obscene and indecent programming off of radio and TV regardless of the time of day; suspends for FY 1989, an EEOC regulation that would validate the waiver of employee rights under the Age Discrimination in Employment Act; provides $7.5 million for USIA to initiate a surrogate home television broadcasting service to Cuba to be known as Television Marti which meets the same requirements as Radio Marti; and prohibits the use of funds by the Civil Rights Commission to enforce the Indian Civil Rights Act until 60 days after the Comptroller General submits an opinion as to the scope of the Commission's jurisdiction over tribal implementation of the Act

Defense: H.R. 4781—Public Law 100-463, approved October 1, 1988 (*308).

Appropriates $282,412,350,000 for the Department of Defense and related agencies, including $79.3 billion for procurement, $37.7 billion for RDT&E, $85.3 billion for operation and maintenance, and $78.5 billion for military personnel; contains a 4.1 percent military pay raise; provides $600 million for the MX Peacekeeper/rail garrison ICBM and $250 million for the small ICBM program (Midgetman) and fences $350 million of the MX funds until February 15 in order to permit the next Administration to determine whether or not the program should be terminated; contains $4.1 billion for SDI; contains $60 million to support ongoing naval operations in the Persian Gulf; earmarks $18.2 million for the procurement of 20 Mobile Armored Reconnaissance Vehicles; provides $300 million for DOD's drug interdiction activities and prohibits obligation of funds in excess of $30 million until 30 days after the Secretary submits a report to Congress on how the funds will be used; provides $27 million in humanitarian aid for the Nicaraguan Contras from October 1, 1988, to March 31, 1989, and $5 million in medical assistance, to be administered by the Catholic Church, for civilian victims of the war in Nicaragua; requires that humanitarian aid be dispersed only by the Agency or International Development; permits the President to request Congress, prior to the adjournment of the 100th Congress, to authorize the release of $16.5 million of previously appropriated lethal aid if he has consulted with the four democratic presidents in the region, and certifies that two of the following conditions exist: (1) the Sandinistas have launched an unprovoked military attack on the Contras, (2) the Sandinistas are blatantly violating the Central American Peace Accords, and (3) the Soviets continue to provide an "unacceptable" level of military aid to the Nicaraguan government; and makes any joint resolution passed by the House authorizing the release of lethal aid a privileged matter in the Senate to be considered under expedited procedures; provides for the lifting of the trade embargo against Nicaragua if the Nicaraguan government and Contras sign a comprehensive peace agreement and permits the President to designate Nicaragua as eligible for other trade and economic benefits; contains numerous provisions designed to achieve a more balanced sharing of both defense and foreign aid burdens among the U.S., NATO member nations, Japan, and the Republic of South Korea; requires the President to appoint an Ambassador at Large responsible for ensuring more balanced burdensharing with our allies; requires that DOD budget submissions include estimates of the costs of maintaining DOD overseas military units and supporting the dependents who accompany DOD personnel overseas; and requires the Administrator of the Office of Federal Procurement Policy to issue government wide regulations setting forth conflict of interest standards for consultants to the Federal government and Federal contractors.

District of Columbia: H.R. 4776—Public Law 100-462, approved October 1, 1988. (*237).

Appropriates $536,910,000 in Federal funds and approves $3,206,095,000 in District of Columbia funds making a total of $3,743,005,000 available for the operations and activities of the District; prohibits the use of Federal funds to pay the salary of any individual who is implementing, administering, or enforcing a residency requirement with respect to D.C. government employees, if the District has not adopted by May 1, 1989, and implemented by September 30, 1989, a preference system that does not preclude the hiring of noncity residents; prohibits the use of Federal funds after December 31, 1988, unles the D.C. City Council has repealed D.C. Law 6-170 regarding AIDS testing by insurance companies or amended the law to allow insurance companies to require and use AIDS test in determining an applicant's eligibility for coverage and premium costs; prohibits expenditure of Federal or District funds for abortions except in cases when the life of the mother would be endangered if the fetus were carried to term; and prohibits expenditure of funds appropriated after December 31, 1988, if the D.C. government has not enacted a law that allows educational institutions in the District affiliated with a religious organization to deny restrict, abridge, or condition (1) the use of any fund, service, facility, or benefit, or (2) the endorsement, approval, or recognition of any organization for, or engaged in promoting, encouraging, or condoning homosexuality.

Energy Water: H.R. 4567—Public Law 100-371, approved July 19, 1988. (*226).

Appropriates $17,831,995,000 in new budget authority for energy and water development; requires that any pay raise be absorbed from available funds; provides that funds received as restitution for certain petroleum pricing violations, when appropriated or expended by a State, be deemed consistent with the restitutionary purposes for which they were received; and prohibits the use of funds for Power Marketing Administrations or the TVA to pay procurement costs of extra high voltage power equipment produced outside the United States.

Foreign Operations: H.R. 4637—Public Law 100-461, approved October 1, 1988. (*231).

Appropriates $14,290,032,000 in new budget authority for foreign assistance and related agencies; specifically prohibits the use of any Southern African Development Coordination Conference funds for activities in Angola and Mozambique and provides for waiver of this prohibition for Mozambique if the President certifies that it is in the U.S. national security interest; limits funds available to finance Tied Aids Credits to $5 million unless the President determines it is in the U.S. national interest; requires approval of the AID Administrator before expending funds for tied aid programs; provides that International Narcotics Control programs should emphasize intensifying U.S. efforts to eradicate and interdict illicit narcotics and seeking international cooperation on narcotics enforcement; prohibits use of funds to directly assist in the migration of any Western Hemisphere nation which does not have a security clearance to insure against communist infiltration; appropriates $4.7 billion in military aid and establishes a Foreign Military Financing Program (FMFP) in lieu of the existing foreign military credit sales and military assistance programs; limits Ex-Im Bank guarantees to $10.2 billion and direct loans to $695 million; limits total commitments to guarantee or insure loans for the Central American Trade Credit Insurance Program to $200 million; adds Iran to the list of countries for which indirect assistance is prohibited absent Presidential determination; permits the President, after consulting with Congress, to reprogram earmarked funds for a recipient with a base rights or base access agreement with the U.S. upon determining that the recipient country has significantly reduced its military or economic cooperation with the U.S.; suspends all assistance to Haiti and any assistance to Panama which would assist or lend support to the Noriega regime; eliminates Panama's sugar export quota to the U.S.; extends through FY 1989 the prohibition against providing Stinger anti-aircraft missiles to any country other than Bahrain under the buy-back provisions in the Persian Gulf region, and requires Quatar, as a condition of receiving any U.S. defense articles or services, to return all Stinger missiles it has illegally acquired or purchased; permits Congress to prevent third-party arms transfers by passing a joint resolution of disapproval; permits commercial leasing of non-major defense articles by Israel, Egypt, NATO, and major non-NATO allies if the President determines that there are compelling foreign policy or national security reasons for the defense articles to be provided by commercial lease rather than government-to-government sale; amends the Arms Export Control Act to require that Congress be notified of any letter of offer to sell any air-to-ground or ground-to-air missiles or associated launcher, prohibits funds for assistance to Afghanistan that is provided through the Soviet-backed government of Afghanistan; extends the authority of the Overseas Private Investment Corporation to issue political risk insurance and guarantees until September 30, 1992; makes permanent the exclusion from entry into the U.S. or the deportation of any individual solely because of his or her expressed beliefs; imposes specified sanctions against Iraq for its use of chemical weapons against the Kurds and requires the President to impose additional sanction within 60 days unless he obtains verifiable assurances that Iraq will not use chemical weapons; prohibits the U.S. government from assisting the People's Republic of China (PRC) missile program in any manner until the President certifies to Congress that the PRC is not supplying missiles to Iran, Iraq, Syria, Libya, or Saudi Arabia and plans no future missile sales of missiles to these countries; and modifies current law to assure that foreign diplomats accused of violent crimes in the U.S. are prosecuted under applicable U.S. law or required to leave the U.S. permanently.

HUD: H.R. 4800—Public Law 100-404, approved August 19, 1988. (*247, *301).

Appropriates $59,386,045,000 in new budget authority for the Department of Housing and Urban Development, Veterans' Administration, National Aeronautics and Space Administration, Environmental Protection Agency, National Science Foundation, and other agencies, commissions, boards, corporations, institutes, and offices in FY 1989; rescinds $2.0 million in contract authority and $50.0 million in budget authority for the Rental Housing Assistance Program; limits loans for housing for the elderly or handicapped to $480.1 million and requires that 25 percent of the loan authority provided be used only for handicapped projects, with priority given to the mentally ill handicapped; maintains a 1989 FHA mortgage and loan insurance commitment limitation of $96 billion and limits temporary mortgage assistance payments to $103.4 million; places a $144 billion limitation on GNMA loan guarantee commitments; and eliminates additional funding for UDAG.

Interior: H.R. 4867—Public Law 100-446, approved September 27, 1988. (*250).

Appropriates $9,891,961,000 in new budget authority for the Department of Interior and related agencies in FY 1989; establishes a National Film Registry at the Library of Congress to register culturally, historically, or aesthetically significant films; provides $575 million in FY 1990 of a third competitive clean coal technology solicitation; specifies that funds borrowed by REA Electric Cooperatives are eligible as cost-sharing in the Clean Coal Technology Program; prohibits challenges to Forest Service and BLM land and resource management plans solely on the basis that the plan is outdated or does not incorporate new information; and requires a thorough accounting and reconciliation, by State, of the abandoned mine reclamation grant program for FY 1977-88.

Labor-HHS: H.R. 4783—Public Law 100-436, approved September 20, 1988. (*270).

Appropriates $140,374,121,000 in budget authority for the Departments of Labor, Health and Human Services, and Education and Related Agencies, of which $14,847,000,000 is for subsequent year advances; contains $1.2 billion for HHS research, prevention, information, and education activities for Acquired Immune Deficiency Syndrome (AIDS)-related programs; contains $36 million for six new Job Corp Centers in States which currently do not have a center; extends the prohibition on closing a Job Corps Center until July 1, 1989; establishes a one-year moratorium on the assessment of penalties under Federal foster care programs; eliminates the ability for financial aid administrators to alter a student's Pell grant award; establishes until October 1, 1989, a moratorium on asset reversions to employers from termination of an overfunded defined benefit pension plan covered by the Pension Benefit Guaranty Corporation, but allows termination of sufficiently funded pension plans during this period if the excess assets are held in escrow during the moratorium; prohibits the use of funds for projects entailing the capture or procurement of chimpanzees from the wild; and retains current law which prohibits the use of Federal funds for abortions or administrative expenses in connection with any health plan under the Federal Health Benefit Program except where the life of the mother would be endangered if the fetus were carried to term.

Legislative: H.R. 4587—Public Law 100-458, approved October 1, 1988. (*178).

Appropriates $1.804 billion for the legislative branch; authorizes $7.5 million for the establishment of the John C. Stennis Center for Public Service Training and Development at Mississippi State University, and requires the Capitol Police Force to submit a unified budget for both House and Senate Police Forces beginning in FY 1990.

Military Construction: H.R. 4586—Public Law 100-447, approved September 27, 1988. (*184).

Appropriates $9,011,000,000 in new budget authority for DOD military construction programs; defers funding for the MX Rail-Garrison basing mode at Warren Air Force Base, Wyoming, until its deployment is approved by the new Administration and Congress; prohibits funds for the National Test Facility from being used to provide capabilities for an early deployment of a ballistic missile defense system; requires DOD to report on the planned future uses of cruise missiles and Pershing II bases which will be vacated under the INF Treaty; directs the European members of NATO to accelerate their payments for the NATO infrastructure program and to absorb and share relocation costs for moving a tactical fighter wing from Spain to Italy; defers most funding for projects in the Philippines and Korea; and prohibits funds to initiate design on the proposed Pentagon II complex.

Transportation: H.R. 4794—Public Law 100-457, approved September 30, 1988. (*243).

Appropriates $10,794,266,569 in new budget authority for the Department of Transportation and related agencies; requires the Coast Guard to use a minimun of $492 million for drug enforcement activities and to reopen nine closed search and rescue stations; directs the FAA Administrator to institute a rulemaking procedure to consider the need for changes to the existing regulation concerning the allocation and transfer of "slots" held by air carriers and commuter operators at each of the four airports covered by the final rule regarding Slot Allocation and Transfer Methods at High Density Traffic Airports; gives tax-exempt status to commuter rail agencies similar to the provisions which would be extended to commuter rail operations under contract to Amtrak; prohibits DOT from imposing penalties on States not complying with the 55-mile-per-hour speed limit in FY 1986-88; and directs that all amounts derived from sales of rail preference shares by DOT beginning in FY 1989 be considered as current year domestic discretionary outlay offsets and not as asset sales or loan prepayments as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

Treasury-Postal Service: H.R. 4775—Public Law 100-440, approved September 22, 1988. (*207).

Appropriates $16,0019,910,000 in new budget authority for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies; prohibits the use of funds for any Federal department or agency or for payment in connection with any grant, contract, or agreement, unless the recipient has a written policy designed to ensure a drug-free workplace; maintains the Postal Service revenue forgone program; prohibits the use of funds to consolidate or close small rural and other small post offices in FY 1989; prohibits the Bureau of Alcohol, Tobacco, and Firearms (BATF) from implementing regulations with regard to ingredient labeling; provides a 4.1 percent pay raise for all Federal civilian employees, effective January 1, 1989 (except Members of Congress and Federal employees who make more than $82,500 annually); prohibits OMB from acting with regard to USDA marketing orders, interfering with the administration of the Federal Alcohol Administration as it relates to regulation of alcoholic beverage labeling, and altering certain transcripts; and restates the current prohibition on the use of Federal funds for abortions or administrative expenses in connection with any health plan under the Federal Health Benefit Program except where the life of the mother would be endangered if the fetus were carried to term.

BUDGET

Budget Rescission—Educational Facilities for North African Jewish Refugees: H.R. 3884—Public Law 100-251, approved February 16, 1988.

Rescinds the $8 million contained in the FY 1988 Continuing Appropriations (H.J. Res. 395, P.L. 100-202) for the construction of educational facilities in France for north African Jewish refugees.

First Concurrent Budget Resolution, 1989: Action completed June 6, 1988. (*95, *167).

Sets forth the recommended levels of total new budget authority, outlays, and revenues for the U.S. government for FY 1989-91, respectively, as follows: Budget Authority—$1,231.0 billion, $1,305.4 billion, $1,398.5 billion; Outlays—$1,099.7 billion, $1,160.1 billion, $1,218.3 billion; and Revenues—$964.4 billion, $1,042.9 billion, $1,123.0 billion; projects deficits of $135.3 billion in FY 1989, $117.2 billion in 1990, and $95.3 billion in 1991; and establishes the public debt limit at $2,824.7 billion in FY 1989, $3,066.9 billion in 1990, $3,283.9 billion in 1991; assumes a four percent pay raise for Federal military and civilian workers in 1989; provides for a reserve fund for an antidrug initiative, not to exceed $2.6 billion in budget authority and $1.4 billion in outlays, which shall not become effective until deficit-neutral legislation has been reported by the appropriate Congressional committees and the President and Congress agree that the drug threat is a dire emergency; provides for deficit-neutral welfare reform and Medicare catastrophic health insurance initiatives; states the sense of the Congress that the National Economic Commission should study the budgetary treatment of the Social Security, Aviation, and other Trust Funds and self-supporting public enterprises, including the U.S. Postal Service and the financial institution regulatory agencies, to determine if these funds should be taken off-budget and report on the means of achieving a balance in the remaining budget and on the economic effects of a unified budget surplus.

CONGRESS (SEE ALSO SENATE)

Capitol Art/Old Executive Office Building Renovation: H.R. 60—Passed House July 21, 1987; Passed Senate amended December 19, 1987; House agreed to Senate amendments, with an amendment, October 5, 1988.

Permits the Architect of the Capitol to accept gifts of money for the purchase of works of fine art for the Capitol, and authorizes the Office of Administration to receive gifts from the public to help renovate and refurbish the Old Executive Office Building.

Congresssional Committee on Inaugural Activities: S. Con. Res. 105—Action completed June 28, 1988.

Establishes a Joint Congressional Committee on Inaugural Ceremonies to make the necessary arrangements for the inauguration of the President and Vice President-elect on January 20, 1989.

Silver Haired Congress: S. Con. Res 88—Adopted by Senate April 25, 1988.

Authorizes the convening of the National Silver Haired Congress in Washington, D.C. in 1989, composed of senior citizen representatives from each State, to recommend solutions for the problems experienced by older Americans.

DEFENSE-NATIONAL SECURITY

Coast Guard Authorization: H.R. 2342—Public Law 100-448, approved September 28, 1988.

Authorizes $2.6 billion in FY 1988 and $2.9 billion in 1989 for Coast Guard O&M, acquisition, construction, improvement of equipment and facilities, R&D, retirement pay, and the alteration of bridges obstructing navigable waters; prohibits foreign construction of Coast Guard vessels; requires the President to submit a two-year budget for the Coast Guard beginning in FY 1990; establishes manning requirements for mobile off-shore drilling units; authorizes civilian special agents of the Coast Guard to carry firearms while assigned to official investigative or law enforcement duties; reauthorizes the Wallop-Breaux Aquatic Resources Trust Fund to improve State programs for boating safety and sport fisheries management; requires a report on the Coast Guard's plans to procure and install antisubmarine warfare equipment; and calls for a study on the merits of acquiring a mobile semisubmersible facility for drug interdiction.

Defense-Related Statutes Codification: H.R. 4229—Public Law 100-370, approved July 19, 1988.

Amends title 10, U.S.C., to codify certain defense-related permanent freestanding provisions of law.

DOD Authorization: H.R. 4264—Vetoed August 3, 1988; H.R. 4481, which became Public Law 100-456, approved September 29, 1988. Modified provisions of this bill are contained by reference in H.R. 4781, the FY 1989 DOD Appropriation bill. (*252).

Authorizes a total of $211,063.1 million for the military functions of the Department of Defense in FY 1989, of which $79.72 billion is for procurement of aircraft, missiles, naval vessels, and weapons, including tracked combat vehicles, torpedoes, and related support equipment, $37.97 billion is for RDT&E, $85.50 billion is for O&M for the active and reserve forces, $8.69 billion for military construction and family housing, and $8.14 billion for Department of Energy expenses related to national defense programs; sets the end strengths for the active and reserve forces; contains $4.0 billion for SDI research and $750 million for both the Rail-Garrison MX and the small ICBM programs with part of the funds fenced until March 31, 1989, pending the next President's determination on whether to continue the programs; provides a 4.1 percent increse in basic pay and substance allowances and a 7 percent increase in quarters allowance; calls for submission of several reports on various aspects of arms control; institutionalizes the industrial base focus in DOD; gives DOD increased authority to transfer funds between accounts in FY 1988; provides an FY 1988 supplemental authorization to fund certain programs whose amounts exceeded their FY 1988 authorization; and makes DOD the lead agency for coordinating Federal efforts with respect to drug interdiction.

H.R. 4481—Public Law 100-456, approved September 29, 1988. (*340).

Contains provisions identical to H.R. 4264, the vetoed FY 1989 DOD Authorization bill, except for minor technical amendments and the following six substantive changes: (1) all earmarkings on SDI funding are deleted and the restriction on the Space Based Interceptor (SBI) Program is removed with a directive that the Secretary instead submit a detailed report prior to the adjournment of Congress on the restructured SBI program; (2) the amount available for the Rail-Garrison MX Program after February 15, 1989, if the new President decides to go forward with the program, is increased from $250 million to $350 million (by transfer); (3) the moratorium on flight testing of any U.S. depressed trajectory ballistic missiles in FY 1989 is deleted; (4) technical changes to the provision which directed the deactivation of two Poseidon submarines are incorporated in order to facilitate the Navy's handling of the submarines while they await dismantling; (5) the effective date of the provision requiring that all DOD awards of grants and contracts to colleges and universities for the performance of research and development be made using competitive procedures is delayed for one year; and (6) the number of defense auditors who monitor industry contracts for possible fraud is substantially increased.

DOD Fund Transfer Authority Increase: H.R. 4524—Passed House May 11, 1988; Passed Senate amended May 27, 1988; In conference.

Increases the ceiling on DOD's transfer authority from $2 billion to $4 billion for FY 1988, and allows transfers of prior year authorizations to FY 1988; directs the Secretary of Defense to ensure that an appropriate portion of this authority is used to transfer funds to O&M accounts to maintain readiness and avoid furloughs and other actions adverse to DOD's civilian workforce.

Foreign Agents Registration Improvement: S. 1268—Passed Senate July 25, 1988.

Amends the Foreign Agents Registration Act of 1938 to remove references to "political propaganda" and substitute the term "advocacy materials."

Increased Government Claim Limit: H.R. 3685—Public Law 100-x, approved x, 1988.

Increases from $25,000 to $40,000 the maximum amount that the U.S. may pay in settlement of a claim against the U.S. made by a member of the uniformed services or an officer or employee of the government.

Intelligence Authorization, 1989: H.R. 4387—Public Law 100-453, approved September 29, 1988.

Authorizes a classified amount of funds for U.S. intelligence activities in FY 1989, $23.7 million for the Intelligence Community Staff, and $144.5 million for the CIA Retirement and Disability System; limits military or paramilitary assistance to the Nicaraguan Contras to that specifically authorized by law; and directs the Secretary of Defense after February 1, 1989, and before March 1, 1989, to review the management of DOD intelligence and counterintelligence activities and report his views regarding the adequacy of current management arrangements and establishment of the position of Assistant Secretary of Defense for Intelligence.

Intelligence Oversight: S. 1721—Passed Senate March 15, 1988. (*52).

Clarifies the legal requirements for congressional oversight of intelligence activities, including special activities, and specifies procedures for the authorization of special activities within the executive branch which is based on those pertaining to covert operations contained in the presidential directive (NSDD 286) and certain recommendations of the Iran-Contra Committees as contained in the conclusion in the "Covert Action in a Democratic Society" chapter of their final report.

Military Base Closings: S. 2749—Public Law 100-x, approved x, 1988. (*367).

Streamlines procedures, on a one-time basis, to expedite the realignment and closure of unneeded military installations; authorizes the Commission on Base Realignment and Closure appointed by the Secretary of Defense on May 3, 1988, to recommend a list of military installations to be closed or realigned and submit the list to the Secretary by December 31, 1988; expands the Commission from 10 to 12 members; requires the Secretary to report to Congress his decision on whether to accept Commission's recommendations, with a list of the bases to be closed or realigned, by January 16, 1989; requires the Secretary to close or realign all military installations, both domestic and overseas, as recommended by the Commission, unless Congress, under expedited procedures, enacts a joint resolution disapproving all of the Commission's recommendations within the 45-day period beginning on March 1, 1989; requires that all closures or realignments be initiated by September 30, 1991, but not sooner than January 1, 1990, and completed no later than September 30, 1995; modifies the Federal Property and Administrative Services Act of 1949 and the National Environmental Policy Act of 1969 (NEPA), on a one-time basis, to expedite the closures and realignments including exempting from NEPA both the Commission's recommendations and the Secretary's decision of whether to accept or reject the recommendations and delegating to the Secretary the authority of the Administrator of General Services to dispose of Federal property; establishes a defense base closure account to be funded by direct appropriations, transfers, and proceeds from the sale of property at closed bases and used to pay associated expenses such as personnel and equipment movement and the construction of replacement facilities when necessary; provides economic adjustment and community planning assistance to mitigate any adverse impact on communities located near affected installations, if the Secretary determines assistance is not available from other sources; defines the issues to be considered before a base can be closed or realigned including the environmental impact and whether the projected cost savings realized from the base closure or realignment would, within six years of its completion, offset the initial costs; requires the Secretary to submit a plan, including the estimated associated costs, for accomplishing environmental restoration at the closed base; requires the Secretary to provide periodic reports to Congress on base closure and realignment activities; and contains several authorization provisions for FY 1989 DOD programs including provisions which provide additional authorizations of funds for DOD military construction projects, delete the additional approval and reporting requirements specified for DOD fixed-price development contracts, require DOD to conduct certain studies regarding close air support, and extend the deadline for the report on a potential Start Treaty from September 15, 1988, to March 15, 1989, with an interim report to be submitted by December 5, 1988.

Military Medical Benefits for Certain Former Spouses: H.R. 3967—Public Law 100-271, approved March 29, 1988.

Extends from April 1, 1988, through December 31, 1988, the transitional military medical benefits provided to long-term former spouses of military retirees in order to give DOD additional time to develop a conversion plan with a private insurer.

DISTRICT OF COLUMBIA

D.C Revenue Bonds: H.R. 5143—Public Law 100-438, approved September 20, 1988.

Waives the 30-day congressional review period for the issuance of certain pending or recently approved D.C. revenue bonds which will not clear the review period prior to the scheduled adjournment of Congress.

ECONOMY-FINANCE

Bicentennial of Congress Commemorative Coin/FSLIC: H.R. 3251—Public Law 100-378, approved August 1, 1988. (*186)

Authorizes the minting of up to $8 million in U.S. coins to commemorate the bicentennial of Congress; and extends for one year, from August 10, 1988, to August 10, 1989, the moratorium on thrift institutions leaving the Federal Savings and Loan Insurance Corporation.

H.R. 5280—Passed House October 4, 1988; Passed Senate amended October 7, 1987.

Authorizes the minting of up to $8 million in U.S. coins to commemorate the bicentennial of Congress and requires that all surcharges from the sale of the coins be deposited in the Capital Preservation Fund and made available to the U.S. Capitol Preservation Commission for improving and restoring the U.S. Capitol.

Bureau of the Mint Authorization: H.R. 2631—Public Law 100-274, approved March 31, 1988.

Authorizes $46.5 million in FY 1988 for the Bureau of the Mint; designates the San Francisco and West Point assay offices as mints; and requires the use of U.S.-produced goods and services in coin production, unless it would not be in the public interest or too costly.

Credit Card Cost Disclosure: H.R. 515—Passed House October 28, 1987; Passed Senate amended December 21, 1987; Senate agreed to conference report October 11, 1988.

Requires credit and charge card issuers to provide, at the time of application, solicitation, or renewal, more detailed and uniform information relating to interest rates and other costs which may be incurred by the card users; establishes separate disclosure requirements for mailed applications and solicitations, telephone solicitations, and application and solicitations made available to the public or contained in magazines, catalogs, or other publications; authorizes the Federal Reserve Board (Fed) to modify or establish additional disclosure requirements; preempts all relevant State laws; requires the Fed to report semiannually to Congress on credit card prices and availability and make the information available to the public and to report annually on the profitability of the credit card operations of depository institutions and the impact of this Act; and requires that cardholders who subscribe to credit-life insurance be notified of any changes in the insurance carrier, rate increases, or substantial decreases in coverage.

Eisenhower Commemorative Coin: S. 2789—Public Law 100-467, approved October 3, 1988.

Authorizes the minting of $1 coins to commemorate the 100th birthday of President Dwight D. Eisenhower.

Financial Modernization (Glass-Steagall): S. 1886—Passed Senate March 30, 1988. (*82)

Provides for the phased repeal of provisions of the Glass-Steagall Act that prohibit affiliations between commercial banks and investment banking companies; establishes a framework to permit banking and securities activities to be combined in one organization using the holding company structure; establishes a 30-day procedure in place of the present application procedure for the formation of bank holding companies; subjects certain bank broker dealer activities to the same type of SEC regulations as nonbank broker dealer activities; applies functional regulation to bank investment company activities in much the same way as it is applied to broker dealer activities; contains provisions designed to enable consumers to compare different savings and investment products; sets forth disclosure provisions with respect to home equity loans; and establishes ground rules for bank insurance activities under the Bank Holding Company Act of 1956 and the National Bank Act.

Minority Business Development Program Reform: H.R. 1807—Passed House December 1, 1987; Passed Senate amended July 7, 1988; House agreed to conference report October 12, 1988. (*227).

Establishes a separate Division of Minority Small Business Certification with SBA's Office of Minority Small Business and Capital Ownership Development to review certification applications for the section 8(a) program and to periodically review current program participants to assure their continuing eligibility; limits participation in the 8(a) program to eight years; establishes program participation and graduation standards and procedures and conditions for terminating participation; authorizes $5 million each in FY 1989-91 for the Competitive Bid and Proposal Cost Program to defray costs incurred by participants competing for government and commercial contracts; authorizes $10 million in each FY 1989-91 for a direct loan program to help participants finance fixed assets and working capital needs; establishes guidelines governing the award of noncompetitive 8(a) contracts; requires the competitive award of any contract exceeding $5 million; establishes civil and criminal penalties for fraud by any firm seeking any small disadvantaged business award; establishes Federal procurement goals for prime contracting with small businesses and for prime and subcontracting with small disadvantaged businesses; creates a three-year pilot Preferred Surety and guarantee Program to authorize surety companies meeting certain SBA-prescribed criteria to issue and service SBA-guaranteed bonds to eligible small businesses using its own underwriting, bond administration, and claims procedures without receiving prior SBA approval of each transaction and authorizes a 70 percent guarantee against losses for program participants; modifies the existing Surety Bond guarantee Program to authorize 90 percent guarantees for contracts valued at $150,000 or less and for transactions involving small businesses owned and controlled by socially and economically disadvantaged individuals; and establishes a pilot Small Business Competitiveness Demonstration Program to test innovative procurement methods and procedures and a Task Force on Small Business Development to recommend solutions to the problems faced by minority small businesses.

National Commission on the Thrift Industry: S. 2653—Passed Senate September 23, 1988; Passed House amended October 6, 1988.

Establishes a 14-member, National Commission on the Thrift Industry to review and evaluate the condition of the thrift industry and the Federal Savings and Loan Insurance Corporation (FSLIC), and the banking industry and the Federal Deposit Insurance Corporation (FDIC), and to recommend appropriate Congressional action to return these industries and institutions to permanent solvency; and requires the Commission to report by February 1, 1989, on issues principally relating to the thrift industry and FSLIC as well as issues relating to both the FSLIC and FDIC, and by April 1, 1989, on issues relating principally to the banking industry and the FDIC.

SBA Authorization: H.R. 4174—Passed House July 6, 1988; Passed Senate amended July 14, 1988; House agreed to conference report October 5, 1988.

Authorizes funds for all SBA loan and loan guarantee programs in FY 1989 at their FY 1988 levels, except for the Surety Bond Guarantee Program which is increased from $1.25 billion to $1.4 billion and the salaries and expenses account which is increased to cover the COLA for Federal workers in 1989 and increased administrative expenses; requires SBA's Inspector General (IG) to audit each Small Business Investment Company (SBIC) every two years and permits waiver of this requirement for one additional year; requires quarterly issuance of SBA-guaranteed SBIC debentures; transfers SBA's Pollution Control Program, and its $75 million in guarantee authority, to the regular business loan program; allows economic development company program loans to be made to closely related family members of small business owners; permits section 502 State and local development company loans to be pooled and sold in the secondary markets; permanently extends the pilot program under which certified development company loans are pooled and sold in the capital markets; authorizes the SBA Administrator to establish a maximum legal interest rate on the bank or commercial lender portion of the development company loan package which will override State law; incorporates the Small Business title of the Omnibus Trade and Competitiveness Act; allows DOD Breakout Procurement Center Representatives (BPCR's) access to classified documents up to his/her security clearance level, suspends the procurement activity during a BPCR's appeal of an unfavorable procurement decision, and allows the SBA Administrator more flexibility in assigning BPCR's to major procurement centers; requires SBA to reexamine its need for criminal history background checks on certain loan applicants and other program participants; increases the unsecured loan amount that SBA can offer under the Disaster Loan Program from $5,000 to $10,000 and authorizes SBA to increase the disaster loan amount an additional 20 percent if necessary for making property improvements to mitigate against future disaster damage; establishes a Preferred Surety Bond Guarantee Program to encourage large, standard surety companies to issue SBA-guaranteed surety bonds to small contractors; requires SBA to employ two additional procurement center representatives to be stationed in States that have no representative; simplifies forms to encourage certified and preferred lenders to provide loans of $50,000 or less; permanently authorizes the White House Conference on Small Business; and requires an SBA study on the demand and availability of debt financing for service sector businesses.

S. Con. Res. 163—Senate agreed to October 14, 1988.

Makes enrollment corrections in the bill including deleting section 124 which makes ineligible for SBA loan programs and activities any small business engaged in business with South Africa.

Small Business Investment Act Loan Prepayment: S. 437—Passed Senate December 19, 1987; Passed House amended October 3, 1988.

Permits prepayment of State and local development company loans financed through the sale of debentures purchased by the Federal Financing Bank (FFB); permits the FFB to impose a prepayment penalty on issuers of debentures who elect to pay them before maturity which the issuer may then require the borrower to repay as well as the amount of any related fees assessed.

Statehood Centennial Commemorative Coin: S. 2283—Passed Senate September 14, 1988.

Authorizes the minting of $5 coins to commemorate the 100th anniversary of the Statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming.

U.S. Circulating Coin Design: S. 1776—Passed Senate September 14, 1988.

Authorizes the redesign of the reverses of U.S. circulating coins and requires that the first redesigned reverse commemorate the 200th Bicentennial of the U.S. Constitution.

Women's Business Ownership: H.R. 5050—Public Law 100-x, approved x, 1988.

Authorizes $10 million for the Small Business Administration to provide financial assistance to private organizations to conduct demonstration projects which provide financial, management, and marketing assistance to women-owned businesses; encourages certified and preferred lenders to provide loans of $50,000 or less by simplifying the required forms and allowing the lenders to retain a portion of the loan fees; makes the Equal Credit Opportunity Act applicable to business and commercial loans and authorizes the Federal Reserve to exempt certain loans and determine the size and nature of loans to be covered; requires lenders to keep records relating to business and commercial loans and provide written notice to applicants of their right to receive notice of reasons for a loan denial; establishes a National Women's Business Council to (1) study and review the status of women-owned businesses nationwide, government initiatives to assist such businesses, and data collection procedures and availability and (2) report annually to the President and Congress new private sector initiatives for providing management and technical assistance to women-owned small businesses, ways to promote greater access to public and private financing and procurement opportunities, and detailed multiyear plans of action for overcoming discriminatory barriers to women-owned businesses; sunsets the Council five years after enactment; and provides for improved collection and reporting of statistical information and data related to women-owned business.

EDUCATION

Arizona Kids Voting Program: S. Con. Res. 134—Action completed August 9, 1988.

Urges States and the Federal Election Commission to evaluate the success of the Arizona Kids Voting program in increasing interest in the political process and encourages States to adopt similar programs if the program shows promise of increasing voter turnout by present and future voting age citizens.

Education of the Handicapped Technical Amendments: H.R. 5334—Public Law 100-x, approved x, 1988.

Makes technical and conforming amendments to the Education of the Handicapped Act, the Rehabilitation Act, the President's Committee on Employment of People with Disabilities, the American Printing House for the Blind, and the Helen Keller National Center Act.

Elementary and Secondary Education Amendments: H.R. 4638—Public Law 100-351, approved June 27, 1988.

Postpones the effective date for certain programs in the Elementary and Secondary Education Authorization (Public Law 100-297) from July 1, 1988, to October 1, 1988, to facilitate administration of the programs and makes other technical corrections.

Elementary and Secondary Education Authorization: H.R. 5—Public Law 100-297, approved April 28, 1988. (390)

Reauthorizes through FY 1993 the following Federal elementary and secondary education programs: Chapter 1 of the Education Consolidation and Improvement Act (ECIA), compensatory education for disadvantaged children (formerly Title I of the Elementary and Secondary Education Act), Chapter 2 of the ECIA, elementary and secondary education block grants to States, the Magnet Schools Assistance Program, the Impact Aid Program, the Adult Education Act, Title II of the Education for Economic Security Act (renamed the Critical Skills Act), the Bilingual Education Act, the Women's Educational Equity Act, the Allen J. Ellender Fellowship Program, and the territorial assistance programs for teacher training and general assistance to the Virgin Islands; targets additional Chapter 1 funds to preschool and secondary school levels; creates new programs to address the needs of at-risk students, national priorities, and program quality and innovation; authorizes multiyear funding for comprehensive child development projects which provide support services to benefit low-income infants and young children; and bans "dial-a-porn" operations.

Health and Human Resources Center, Voorhees College: S. 2764—Passed Senate September 8, 1988.

Authorizes $4.5 million for the construction of a Health and Human Resources Center at Voorhees College, Denmark, S.C., to enable the school to maintain its accreditation.

Library Services and Construction: H.R. 4416—Public Law 100-x, approved x, 1988.

Reauthorizes the following two titles of the Library Services and Construction Act through FY 1989—Title V which provides discretionary grants of up to $15,000 for the acquisition of foreign language materials by State and local public libraries, and Title VI which authorizes discretionary grants of up to $25,000 for planning and conducting literacy programs in public libraries; authorizes $5 million for regional geography studies centers program which uses the expertise of the National Geographic Society to strengthen geography instruction in elementary and secondary schools; and reauthorizes the U.S. Peace Institute for five years, through FY 1993.

Student Loan Default: S. 2647—Passed Senate September 15, 1988.

Establishes default management plans for guaranty agencies, lenders and holders, and institutions of higher education having default rates in excess of 25 percent; provides for a review of the practices of each guaranty agency and higher education institution in the top five percent of defaulted loans, measured by dollar volume, to determine the need for a default management plan; improves loan collection procedures; establishes a five percent administrative fee on SLS and PLUS loans; prohibits the sale of student loan lists; limits loan consolidation for students in programs of less than 12 months duration; restricts the use of contractors in the loan program; calls for a study of the discharge of Stafford loans in bankruptcy; prohibits (re)certification for program eligibility of any institution which has had its accreditation withdrawn, revoked, terminated or has voluntarily withdrawn during the preceding 24 months; establishes a toll-free consumer hotline and refund policy for students reporting fraud and abuse by institutions; requires annual publication of default rates and implementation of the National Student Loan Data System by October 1, 1989; makes several modifications to the needs analysis method for student loans including eliminating consideration of home and farm equity and small business assets for families with adjusted gross incomes below $30,000; modifies the composition of the Student Loan Marketing Association's Board of Directors and converts all of its current shares of stock to a single class of voting common stock; eliminates the Notice of Federal Student Aid Receipt; enacts new Federal audit procedures for higher education institutions; authorizes such sums as necessary in FY 1989-91 for a separate authorization for grants to consortia of institutions to provide financial aid to students and faculty from historically black colleges who are pursuing doctoral studies; gives preference to institutions located in natural disaster areas in reallocating returned SEOG funds; allows students to defer repayment for service under the Peace Corps or Domestic Volunteer Service Acts or for comparable full-time volunteer service for a tax-exempt organization; and allows partial cancellation of loans for Peace Corps or VISTA service.

Supplemental Student Loan Program Abuse Prevention: H.R. 4639—Public Law 100-369, approved July 18, 1988.

Requires that students apply for both a Pell Grant and a Guaranteed Student Loan (GSL) before applying for Supplemental Loans for Students (SLS); reduces the SLS eligibility by the amount of GSL eligibility; requires multiple disbursement of SLS funds; makes undergraduate dependent students eligible to borrow funds under the SLS program only in exceptional circumstances; provides GSL eligibility for students with bachelor degrees studying to meet State teaching certification requirements; treats income taxes paid to the governments of U.S. territories as Federal income tax for purposes of need analysis for the Pell Grant and GSL Programs; and prohibits Historically Black Colleges and Universities eligible for Title II, Part B funds from receiving Title II, Part A funds and permits funding under Part B of activities currently permitted under Part A.

Taft Institute Authorization: H.R. 4585—Passed House June 8, 1988; Passed Senate amended July 27, 1988, 1988; Senate agreed to conference report October 7, 1988; House failed to agree to waive all points of order against the conference report on October 13, 1988.

Authorizes $750,000 in each FY 1989-91 for matching grants to the Robert A. Taft Institute of Government, an additional $3 million for the Constitutional Bicentennial Education Program to train elementary and secondary teachers in history, geography, and subjects related to the U.S. Constitution, and $60.3 million for special projects at various institutions of higher education; authorizes such sums as necessary in FY 1990-91 for grants of up to $10 million each fiscal year to consortia to operate critical language and area studies programs; and amends the college work study program to give priority for the first 25 percent of reallocated monies to institutions with community service-learning programs and the next one percent to institutions that require students to work as part of their general course requirements, with remaining funds to be distributed according to current law.

White House Conference on Libraries and Information Services/Education Program Amendments: H.J. Res. 90—Public Law 100-382, approved August 8, 1988.

Authorizes $6 million, from title III of the Library Services and Construction Act, for a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, to provide recommendations for improving the Nation's library and information sciences.

EMPLOYMENT-LABOR

Age Discrimination Claims Assistance: S. 2117—Public Law 100-283, approved April 7, 1988.

Waives for 18 months the Age Discrimination in Employment Act's statute of limitations for claims which were filed with the EEOC after December 31, 1983, and not acted upon by the Commission within the applicable period.

Chicago & Northwestern Transportation Company Labor Dispute: S.J. Res. 356—Public Law 100-380, approved August 4, 1988.

Extends for 36 days, from August 4, 1988, to September 9, 1988, the temporary prohibition of strikes or lockouts in the Chicago and Northwestern Transportation Company labor-management dispute.

S.J. Res. 374—Public Law 100-429, approved September 9, 1988.

Makes the report and recommendations of the President's Emergency Board regarding the Chicago and Northwestern Transportation Company labor-management dispute binding on all parties and provides for binding arbitration, to be completed within 30 days of enactment, for any unresolved issues as to the initial implementation of the Board's recommendation.

Plant Closings and Mass Layoffs: S. 2527—Became Public Law 100-379, on August 4, 1988, without approval. (*225).

Requires 60 days advance notice of: (1) a plant closing that results in an employment loss for at least 50 employees at the employment site, and (2) a layoff of more than six months that results in the employment loss for 50 or more employees, if 33 percent of the workforce at an employment site are affected, or that result in an employment loss for 500 employees; exempts employers with fewer than 100 fulltime employees; sets forth certain exceptions to the notice requirement; makes the employer liable to employees and the local community for failure to abide by these notice requirements and imposes monetary penalties for each day the employer was in violation; and directs the Comptroller General, two years after enactment, to report on the effect of the Act on employers, the economy, and employees.

Polygraph Testing Protection: H.R. 1212—Public Law 100-347, approved June 27, 1988. (*43, *173).

Prohibits, except as provided in this Act, private sector employers from requiring or requesting any employee or applicant to submit to a lie detector test, using or referring to the results of lie detector tests, or threatening or taking adverse employment action against any individual who refuses or fails such a test; contains specified exemptions from the prohibition including applicants, employees, and private contracts to the security and intelligence agencies who are subject to intelligence or counterintelligence investigations and private employers whose primary business is providing armored car personnel, security systems, or certain security personnel; and permits an employer to request an employee to submit to a polygraph test as part of an ongoing investigation involving an economic loss or injury under narrowly defined circumstances.

Retirement Benefits Bankruptcy Protections: H.R. 2969—Public Law 100-334, approved June 16, 1988.

Extends from November 15, 1987, until enactment of this Act or December 31, 1987, whichever is earlier, certain provisions under title 11 of the Bankruptcy Code, relating to the protection of retiree health benefits when companies file for bankruptcy; amends the Bankruptcy Code to require companies which file for bankruptcy to continue the insurance benefits payments of retirees with gross incomes of less than $250,000 during the 12-month period preceding the filing; establishes procedures for petition or modification of the benefits payments; provides for the conversion from chapters 11 or 13 to chapter proceedings of eligible family farm bankruptcy cases commenced before November 26, 1986, which are pending or reviewable; prohibits the discharge in bankruptcy of an individual debtor's Guaranteed Student Loan obligations and any debt arising from a judgment or consent decree requiring restitution for violating a State law; and provides for an additional bankruptcy judge in each of the judicial districts of Colorado and Arizona.

ENERGY

Appliance Energy Conservation Standards: S. 2167—Public Law 100-357, approved June 28, 1988.

Establishes Federal energy conservation standards for fluorescent lamp ballasts manufactured after January 1, 1990, and requires the Secretary of Energy to review the standards by January 1, 1992, and again by January 1, 1997.

Continental Scientific Drilling and Exploration: S. 52—Public Law 100-441, approved September 22, 1988.

Directs the Secretaries of Energy and Interior and the Director of the National Science Foundation to cooperate in implementing a Continental Scientific Drilling Program (CSDP) to enhance the fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust and its effect on natural phenomena and, acting through the Intergency Coordinating Group, to report to Congress, within 180 days of enactment, on the CSDP including long- and short-term policy objectives; and calls for the annual submission of a report describing the levels of resources and funding required by each participating Federal agency for the next fiscal year to achieve its CSDP objectives and goals.

Energy Policy and Conservation: S. 2203—Public Law 100-373, approved July 19, 1988.

Extends, from June 30, 1988, to June 30, 1990, the expiration date of Title II of the Energy Policy and Conservation Act which provides authority for U.S. participation in the International Energy Program under which the International Energy Agency was established and requires the Secretary of Energy, in consultation with the Secretaries of State and Commerce, to report to the appropriate congressional committees, on how to enhance cooperation between the U.S. and other Western hemisphere countries in developing a comprehensive international energy policy.

Federal Energy Management Program: S. 1382—Public Law 100-x, 1988.

Strengthens efforts to promote Federal conservation and efficient use of energy by requiring Federal agencies to establish incentive programs under which they would be permitted to retain all savings resulting from energy efficiency improvement efforts; establishing energy conservation targets for Federal buildings; establishing a Federal Energy Management "Task Force" to coordinate Federal activities for promoting energy conservation and the efficient use of energy and to collect and disseminate relevant energy efficiency and conservation information; requiring the Secretary of Energy, in consultation with other designated Federal officials, to establish methods and procedures for estimating and comparing life cycle costs for Federal buildings which are to be used in designing new Federal buildings and applying energy conservation measures to existing Federal buildings; and prohibits the manufacture, import, shipping, transport, or receipt of any toy, look-alike, or imitation firearm unless a blaze orange plug has been inserted in the barrel, with the exception of certain nonfiring, collector replica antique firearms and traditional B-B, paint ball, and pellet-firing air guns.

Fuel Cell Energy Sources: S. 1294—Passed Senate August 9, 1988.

Directs the Secretary of Energy to implement a research program to develop technologies that will enable fuel cells to use alternative fuel sources and to explore possibilities for using fuel cells in conjunction with renewable power systems in rural and isolated areas; authorizes the Secretary to make grants to, or contract with, private research laboratories for that purpose, subject to appropriations requires the Secretary to submit to Congress by September 30, 1991, a comprehensive report on the research program and authorizes $5 million in FY 1990 for the research program.

Fuel Cells Technology: S. 1295—Passed Senate August 9. 1988.

Amends the Energy Policy and Conservation Act to include fuel cells as a "domestic renewable energy industry" for which the Secretaries of Energy and Commerce are required to coordinate activities by creating new international markets for domestic technologies; directs the Secretary of Commerce to assess and report to Congress on the export market potential for integrated systems of fuel cells with renewable power technologies; and directs the EPA Administrator to prepare environmental and safety guidelines for fuel cell use.

Geothermal Energy: S. 1889—Public Law 100-443, approved September 22, 1988.

Permits the primary term of geothermal leases for commercial development and production to be extended for two five-year periods if geothermal steam has not been produced or utilized in commercial quantities by the end of the primary term and the lessee meets certain conditions; requires the Secretary to review, every five years, approved cooperative or unit development plans and eliminate any geothermal lease not deemed reasonably necessary to operations; designates certain significant thermal features within units of the National Park System for protection under the Geothermal Steam Act of 1970; calls for a report on the presence of absence of significant thermal features within Crater Lake National Park and a study of the impact of geothermal development in the Corwin Springs Known Geothermal Resource Area on the Yellowstone National Park's thermal features; and prohibits geothermal development in the Springs until 180 days after the study is completed.

Mining and Mineral Resources Research Institute Authorization: H.R. 3977—Public Law 100-483, approved October 11, 1988.

Authorizes $400,000 in each FY 1990-94 for allotment grants to each participating State with a mining and mineral resources research institute and $15 million in each FY 1990-94 for research grants for mineral research projects; increases from six to seven persons the non-Federal membership of the Committee on Mining and Mineral Resources Research and requires the Committee to submit an annual updated national plan for mining and mineral resources research by January 15; allows institutes with eligible research programs in place upon enactment, to retain their eligiblity subject to a review to be completed by January 15, 1992; and requires the Committee on Mining and Mineral Resources Research to submit to Congress (1) a proposal to establish a Generic Mineral Technology Center on Strategic and Critical Minerals, and (2) a review of the programs established under the Act and recommendations on ways to establish new general mineral technology centers and how best to phase out or consolidate existing centers upon completion of their mission.

Natural Gas Policy: H.R. 2701—Public Law 100-439, approved September 22, 1988.

Repeals provisions of section 315 of the Natural Gas Policy Act of 1978 which (1) require contracts for the purchase of "new" natural gas produced from certain Outer Continental Shelf leases to be for at least 15 years, or, if less, the commercially producible life of the reservoir; and (2) establish a right to an offer of sale, and a right of first refusal, for existing purchasers of certain natural gas committed or dedicated to interstate commerce upon the expiration or termination of an existing contract.

New Mexico Highway Construction for WIPP: S. 2886—Passed Senate October 13, 1988.

Authorizes and directs the Secretary of Energy to enter into an agreement to reimburse New Mexico for any funds it chooses to expend on road construction or upgrading for the Waste Isolation Pilot Project (WIPP) planned for outide Carlsbad, New Mexico from any future Federal appropriations earmarked for the roads.

NRC Authorization and Reorganization: H.R. 1315—Passed House August 5, 1988; Passed Senate amended August 8, 1988; In conference. (*299)

Replaces the Nuclear Regulatory Commission (NRC), which is abolished under this Act, with the Nuclear Safety Agency (NSA) and transfers it to all of NRC's current functions; authorizes $427.8 million in FY 1988 and $450 million in 1989 for NSA; sets forth procedures for NSA consideration of Department of Energy applications for construction authorizations for nuclear waste repositories; requires the NSA Administrator, within one year of enactment, to issue a proposed rule providing for standardized nuclear power plant designs; establishes a three-member Nuclear Reactor Safety Investigations Board to investigate significant safety events as the Board deems necessary and other safety matters at the Administration's request; and includes provisions to establish programs to provide for uranium revitalization, tailings reclamation, and the government purchase of domestic uranium.

Outer Continental Shelf Lands: H.R. 4517—Passed House June 20, 1988; Passed Senate amended October 14, 1988.

Authorizes the owners and operators of offshore facilities on the Outer Continental Shelf to obtain an indemnity, hold harmless, or similar agreement regarding their oil pollution liability; and authorizes such sums as necessary for the Secretary of Interior to establish the Pettaquamscutt Cove National Wildlife Refuge in Rhode Island.

Pipeline Safety: H.R. 2266—Public Law 100.x, approved x, 1988.

Authorizes in FY 1989-91, respectively, $3.7 million, $4.0 million, $4.1 million, and $4.3 million for the Department of Transportation (DOT) to administer the Natural Gas Pipeline Safety Act (NGPSA) and $921,000, $995,000, $1.0 million, and $1.1 million for the administration of the Hazardous Liquid Pipeline Safety Act (HLPSA); authorizes $5 million in 1988 and $5.5 million in each 1989-91 for grants to States under both programs; allows the Secretary of DOT to reallocate unexpended grant FY 1986-87 funds to States assuming new responsiblities or implementing a one-call program; requires the DOT to inspect pipeline facilities at least biannually, subject to sufficient appropriations; authorizes $500,000 in FY 1989 and $1 million in each 1990-91 for the hiring of additional inspectors and support staff; directs to DOT to issue minimum Federal requirements for one-call notification systems and requires the States to adopt the system in order to receive the maximum available grant reimbursement; authorizes the Secretary to require that the qualifications of individuals responsible for operating and maintaining pipeline facilities be tested and certified and that inspections be conducted by State employees meeting qualifications established by the Secretary; requires the Secretary to establish minimum Federal standards to (1) improve the level of information available related to pipeline facility operations, and (2) for completing and maintaining an inventory of information of pipes used by pipelines facility operators; requires the Secretary to develop procedures to promote coordination between Federal and State agencies with respect to pipeline accidents; increases civil penalties for pipelines safety violations, removes the previous cap for related violations, and establishes criminal penalties for defacing, damaging, removing, or destroying any Federally-required pipeline sign or right-of-way marker; authorizes the DOT to undertake a number of regulatory studies; clarifies that the Codification Act of 1978 (P.L. 95-473) made not substantive changes in preexisting laws governing interstate oil pipelines; and modifies the Truth in Mileage Act to allow use of a written power of attorney for purposes of the mileage disclosure requirements applicable to motor vehicle title transfers.

Price-Anderson Nuclear Indemnification: H.R. 1414—Public Law 100-408, approved August 20, 1988.

Extends for 15 years, until August 1, 2002, the Price-Anderson provisions of the Atomic Energy Act of 1954 which govern the liability and indemnification of Federal contractors and operators of commercial nuclear power plants in the event of a nuclear accident; increases the limit on the liability of nuclear utilities to approximately $7 billion; establishes the liability of DOE contractors at a similar level and requires DOE to indemnify its contractors for the entire liability; establishes procedures for expedited congressional review of catastrophic accidents and compensation of accident victims for claims that exceed liability limits; adjusts the liability limits for inflation; removes the requirement that damage claims be filed within 20 years of an accident; requires the Nuclear Regulatory Commission to conduct a negotiated rulemaking to determine whether to extend Price-Anderson coverage to radiophamaceutical licensees, excluding incidents involving patient diagnosis or thereapy; imposes civil and criminal penalties for violations of DOE regulations; requires the Secretary of Energy to report to Congress by August 1, 1998, on the need for modifying the Price-Anderson provisions.

Regulatory Fairness: H.R. 2858—Public Law 100-473, approved October 6, 1988.

Gives the Federal Energy Regulatory Commission (FERC) discretionary authority to require public utilities to refund amounts paid in excess of just and reasonable rates for certain periods prior to FERC's decisions in any proceedings under section 206 of the Federal Power Act which authorizes FERC to grant reductions sought by wholesale power customers or through its own initiation; exempts utilities that are part of a holding company from paying refunds that would otherwise be required if it would result in a reallocation of cost responsiblities among subsidiary companies rather than a decrease in overall system revenues; and requires FERC to submit to Congress a study of the impact of this bill.

Steel and Aluminum Industry Energy Conservation and Competitiveness: S. 2470—Passed Senate August 9, 1988; Passed House amended October 12, 1988.

Authorizes $15 million in FY 1989, $20 million in 1990, and $25 million in 1991-93 for a new Department of Energy (DOE) R&D program to promote energy conservation in the steel and aluminum industries; and authorizes $3 million in each FY 1989-93 for the National Bureau of Standards to conduct an expanded program of steel and aluminum research in support of DOE activities.

Authorizes the Department of Energy to arm its protective force personnel at SPR sites and to empower them in certain instances to make arrests without warrants for violations of Federal law; establishes a Federal offense of trespass on Federally-owned SPR sites; and accords SPR guards personal protection from civil and criminal liability should they make reasonable mistakes in discharging a firearm or detaining persons.

Superconductivity Research and Development: H.R. 3048—Passed House September 20, 1988; Passed Senate amended October 5, 1988.

Provides multiyear authorizations for Department of Energy (DOE) research, development, and demonstration programs in renewable energy and energy efficiency and sets forth the research responsibilities of the participating agencies; directs the Director of the Office of Science and Technology Policy to establish a five-year "National Action Plan" for research into high-temperature superconducting materials; directs the Office to establish the goals and priorities for Federally-funded R&D by the various Federal agencies supporting this work; establishes research centers at the DOE national laboratories to conduct cooperative research with private industry and universities and creates a council to bring industry, university, and lab representatives together to guide the activities of the centers; calls for the technology management process at DOE to be decentralized and allows the national laboratories to manage the proprietary rights to innovations created at the labs and oversee their transfer to American industry; and contains provisions to enhance the commercialization of renewable energy and energy conservation technologies.

Uniform, Regulatory Jurisdiction: H.R. 2884—Public Law 100-474, approved October 6, 1988.

Specifies that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by the State commission in the State in which the gas is consumed.

Uranium Mill Tailings Remedial Action: S. 1991—Passed Senate October 12, 1988.

Authorizes the Secretary of the Interior to transfer lands under the jurisdiction of the Bureau of Land Management to the Department of Energy for permanent surveillance and maintenance of remediated mill tailings as required by the Uranium Mill Tailings Radiation Control Act of 1978 (Public Law 95-604); extends the authority of the Secretary of Energy to perform remedial action at designated uranium mill tailings sites and vicinity properties until September 30, 1994; and extends the authority to perform groundwater restoration without limitation.

Uranium Revitalization, Tailings Reclamation and Enrichment: S. 2097—Passed Senate March 30, 1988: (*81).

Directs the U.S. government to purchase domestic uranium exclusively, but exempts uranium acquired under contracts entered into before enactment of this Act; makes these provisions inapplicable to the Tennessee Valley Authority; restricts the use and reduction of the amount of natural and enriched uranium contained in U.S. government stockpiles or inventories; establishes a Uranium Mill Tailings Fund to partially reimburse owners or licensees of active uranium mills for the cost of reclamation, decommissioning, and remedial action associated with existing mill tailings; and establishes the U.S. Enrichment Corporation and transfers to it most of the existing enrichment assets and liabilities of DOE, including production facilities and stocks of feed material and enriched uranium.

ENVIRONMENT

Biodegradable Plastic: S. Res. 412—Senate agreed to October 4, 1988.

Expresses the sense of the Senate that the Environmental Protection Agency should encourage the use of biodegradable plastic bags and other degradable plastic applications through its pertinent regulatory and informational programs, and that the General Services Administration should implement the use of biodegradable bags and other degradable plastic products in its operations.

Earthquake Hazards Reduction: H.R. 1612—Public Law 100-x, approved x, 1988.

Extends the Earthquake Hazards Reduction Act of 1977 for two years, through FY 1989, at an authorization level of $5.8 million annually for the Federal Emergency Management Agency, $40.5 million in 1988 and $41.8 million in 1989 for the U.S. Geological Survey, $28.7 million in 1988, and $32.1 million in 1989 for the National Science Foundation, and $525,000 annually for the National Bureau of Standards.

Endangered Species: H.R. 1467—Public Law 100-478, approved October 7, 1988. (*271).

Authorizes funds to carry out the Endangered Species Act including $35 million in FY 1988, $36.5 million in 1989, $38 million in 1990, $39.5 million in 1991, and $41.5 million in 1992 for the Department of the Interior; $5.7 million in FY 1988, $6.2 million in each 1989-90, and $6.7 million in each 1991-92 for the Department of Commerce; and $2.2 million in FY 1988, $2.4 million in each 1989-90, and $2.6 million in each 1991-92 for the Department of Agriculture; gives the U.S. Fish and Wildlife Service enforcement authority, concurrent with that of the Animal and Plant Health Inspection Service, over imports and exports of protected plants; improves the recovery and protection of species listed under the Act, candidate species, and species that have recently recovered and been removed from the endangered lists; establishes a fund to provide Federal matching grants annually, subject to appropriations, to States for endangered species conservation projects; requires the EPA, in cooperation with the Departments of Agriculture and Interior, to inform and educate agricultural producers of any proposed pesticide labeling program or requirement; postpones implementation of Commerce Department regulations which require shrimp fishermen to use turtle excluder devices and requires an independent review of the regulations to determine if they are more or less stringent than necessary; provides financial support to African countries for managing and preserving their elephant populations; and establishes a moratorium on imports of ivory from any nation that does not have an effective elephant management and conservation program and from any intermediary country that imports ivory from such an African nation.

Forest Ecosystems and Atmospheric Pollution Research: H.R. 2399—Public Law 100-x, approved x, 1988. (*300).

Amends the Forest and Rangeland Renewable Resources Research Act of 1978 to direct the Secretary of Agriculture to establish a 10-year program to evaluate and research the effects of atmospheric pollutants on forest ecosystems including recommendations for solving problems affecting health and productivity; requires the Secretary to appoint an advisory committee to assist in developing and implementing the program which shall be coordinated with other governmental and private efforts; directs the Secretary to report to the President and Congress 30 days before establishing the program on the current status of the forest ecosystems and, beginning in 1990, annually on the status of the forest ecosystems and the program, with a final report to be submitted within ten years.

Fish and Wildlife Program Reauthorization: H.R. 4030—Passed House July 26, 1988; Passed Senate amended October 14, 1988.

Reauthorizes and amends certain wildlife laws to enhance the ability of the Federal government and the States to conserve fish and wildlife resources.

Ground Water Research: H.R. 791—Passed House December 2, 1987; Passed Senate amended October 7, 1988.

Coordinates Federal ground water research efforts by establishing an Interagency Ground Water Research Task Force, composed of Federal agencies with major ground water programs, to identify research data needs, recommend research priorities, facilitate interagency coordination, and consult with State and local governments on ground water research needs; establishes an Advisory Committee on Ground Water Research to advise the President and the Task

Force and provides for the establishment of a Clearinghouse Committee to coordinate ground water data and information systems; authorizes a competitive 50-50 grant program focusing on regional or interstate water problems and issues; establishes a general ground water research program at the Environmental Protection Agency (EPA), sets forth six priorities for the program, and lists 22 specific areas of investigation; requires EPA to (1) establish a program to develop control technologies for sources of ground water contaminants in various categories and to assist at least 10 proposals annually, (2) prepare and update a list of ground water contaminants, (3) prepare risk assessment documents on specified contaminants, and (4) conduct various surveys of major sources of ground water contamination to determine whether additional source controls are necessary; authorizes studies on the health effects of nitrates and nitrosamines and on abandoned production and injection wells and their impact on ground water quality; authorizes EPA to provide grant assistance to eight regional water research institutes at universities; authorizes a groundwater research program within the U.S. Geological Survey and directs the Survey to prepare an inventory of the ground water resources based on existing data and evaluate the adequacy of ground water data collection and monitoring programs; directs the Department of Interior to research the effects of existing and proposed water projects on the quantity and quality of ground and surface water; authorizes the Bureau of Mines to study the impact of mining on ground water quality; authorizes the Secretary of Agriculture to develop a research program and provide technical assistance to State and local governments on problems and issues affecting ground water quality; establishes a Nitrogen Best Practices Committee to develop a study and education program on the best management practices to minimize the impact of agricultural nitrogen on public health and ground water quality; directs the Secretary to conduct research on practices, methods, and techniques for improving the efficiency of fertilizer uses in agriculture; authorizes studies on the impact of agricultural draining wells on ground water quality and the relationship between the quality and quantity of surface and ground waters and the control of aquatic plants; establishes a Western Center for Nuclear and Ground Water Research in Nevada to evaluate the potential for leaching of radionuclides and the migration of these contaminants in ground water in arid climates; authorizes up to 50 percent Federal matching to States for planning and implementing strategies for ground water management; directs the EPA Administrator to assist local governments in demonstrating mitigation technologies for radium contamination in ground water; extends for two years the deadline for States to designate wellhead and sole source aquifer protection areas under the Safe Drinking Water Act; and establishes a patent policy for EPA groundwater research.

Marine Mammal Protection: H.R. 4189—Passed House September 26, 1988; Passed Senate amended October 14, 1988.

Provides for an assessment and reduction of adverse effects of commercial fishing operations on marine mammal populations; amends the Marine Mammal Protection Act of 1972 and establishes a five-year program to allow incidental taking of marine mammals by commercial fishermen and to collect information regarding fishery-marine mammal interactions; includes specific measures to reduce the number of porpoises killed or injured by tuna fishermen in the eastern tropical Pacific Ocean; authorizes appropriations of $2.7 million for FY 1989 and $8 million for FY 1990-92 for a fishing vessel observer program; establishes procedures for determining the status of marine mammal populations; modifies permit requirements for scientific research, public display, and population enhancement activities; and requires a study on the epidemic affecting Atlantic bottlenose dolphins; amends the Fishermen's Protective Act of 1967 and the Fur Seal Act of 1966.

Marine Protection, Research, and Sanctuaries: H.R. 4210—Public Law 100-x, approved x, 1988.

Authorizes $12 million in FY 1989 and $14.5 in 1990 for the Comprehensive Research Program for Ocean Dumping under the Marine Protection, Research, and Sanctuaries Act (MPRSA); requires that the comprehensive research plan authorized under the program be consistent with the plan prepared under the National Ocean Pollution and Planning Act of 1978 and requires the Under Secretary of Commerce responsible for implementing the program to report annually to Congress on the progress made and funds spent for the program; and $4.2 million in FY 1989, $4.9 in 1990, $5.5 million in 1991, and $5.9 million in 1992 for the National Marine Sanctuaries Program under the MPRSA; establishes a system of special use permits for marine sanctuaries; permits funds recovered for resource damage to be used by the National Oceanic and Atmospheric Association for various sanctuary uses; modifies the enforcement provisions of Sanctuaries Program to make them more consistent with the other statutes protecting living marine resources; and provides a specific schedule for the designation of four new sanctuaries, the completion of prospectuses on two additional sanctuaries, and the completion of studies on four other sites.

Marine Protection, Research, and Sanctuaries: H.R. 4209—Public Law 100-x, approved x, 1988.

Authorizes $12 million in FY 1989-91 to carry out title I of the Marine Protection, Research, and Sanctuaries Act which provides for the regulation of ocean dumping.

Medical Waste Tracking: S. 2680—Passed Senate August 3, 1988.

Authorizes $300,000 in each FY 1989-91 for the Environmental Protection Agency (EPA), within nine months of enactment, to establish a manifest system for tracking medical wastes from the point of generation to the point of disposal in New Jersey, New York, and Connecticut; establishes civil and criminal penalties for violations; requires the EPA Administrator to report to Congress, within three years of enactment, on the success of the program; and authorizes the EPA Administrator to use the authority provided in section 7003 of the Solid Waste Disposal Act to immediately address and correct situations involving the improper disposal of medical waste which present imminent and substantial danger to human health and the environment and to seek the imposition of criminal penalties where appropriate.

H.R. 3515—Public Law 100-x, approved x, 1988.

Authorizes such sums as necessary in each FY 1989-91 for the Environmental Protection Agency (EPA) to establish a two-year demonstration program for tracking medical wastes in New York, New Jersey, Connecticut, and the Great Lakes States; allows the Great Lakes States to opt out of the program unconditionally; permits the Atlantic Coast States to opt out only if they have implemented a comparable program; allows other States to petition the EPA to participate in the program; requires the EPA to issue regulations listing the types of medical waste to be tracked requiring medical waste to be separated from conventional garbage and be properly packaged and labeled; establishes civil and criminal penalties for violations; directs the EPA to submit to Congress two interim reports and, within three months after the demonstration expires program, a final report on medical waste generation and management in the U.S.; and requires the Administrator of the Agency for Toxic Substances and Disease Registry, within nine months of enactment, to report to Congress on the health effects of medical waste.

Nuclear Waste Policy: S. 2800—Public Law 100-x, approved, 1988.

Amends the Nuclear Waste Policy Act to establish the Office of the Nuclear Waste Negotiations as an independent office of the executive branch instead of within the Executive Office of the President and to extend from June 1, 1989, to November 1, 1989, the deadline for the Monitored Retrievable Storage Commission to submit its report to Congress.

Ocean Dumping Reform: S. 2030—Passed Senate August 9, 1988; Passed House amended October 4, 1988; In conference. (*300).

Amends the Marine Protection, Research, and Sanctuaries Act and other related statutes to end ocean and water disposal of certain types of waste; establishes a framework to end the ocean disposal of sewage sludge by December 31, 1991; bans the dumping of all medical wastes in oceans and navigable waters; sets forth a number of requirements to aid the Coast Guard in controlling the dumping of municipal and commercial waste into oceans and coastal waters; and establishes civil and criminal penalties for violations.

Office of Environmental Quality Authorization: H.R. 2020—Passed House June 22, 1987; Passed Senate amended October 14, 1988.

Extends through FY 1989 authority for appropriations for the Office of Environmental Quality; amends the National Environmental Policy Act of 1969 (NEPA) to require the Council on Environmental Quality to promulgate regulations binding on all Federal agencies including independent regulatory commissions; sets forth procedures for monitoring and evaluating the accuracy and effectiveness of environmental impact statements; gives State and interstate water quality agencies an additional year to act on certain hydropower project certifications; and requires that Federal Aviation Administration special use airspace designations conform to NEPA requirements.

Organotin-Based Antifoulant Paint Control: H.R. 2210—Public Law 100-333, approved June 16, 1988.

Prohibits the use of organotin-based paints on vessels under 82 feet in length, except for aluminum boats and outboard motors which must meet certain standards established under this bill; prohibits the use of organotin paints on larger vessels with a release rate of more than four micrograms per centimeter per day and sunsets the established release rate if the EPA takes final action to establish an environmentally-safe release rate under alternative legislative authority; bans the sale of the organotin tributyltin (TBT) as an antifouling paint additive; requires the EPA Administrator to: monitor coastal waters and assist the States in monitoring waters for the presence of organotins, publish a water quality criteria document by March 30, 1989, identifying levels of concentrations of TBT in fresh and marine waters which are a threat to the environment, and conduct a research program to identify additional alternatives to TBT and develop nonchemical antifouling systems; requires the Secretary of the Navy to monitor home port waters of Navy ships for organotin contamination; and establishes civil and criminal penalties for knowing violations.

Ozone Layer Protection: S. Res. 443—Senate agreed to June 16, 1988.

Urges the President to call upon the leaders of the major industrial nations at the June Summit to act to protect the earth's stratospheric ozone layer by implementing the Montreal Protocol to Control Ozone Depleting Substances.

Plant Stress and Water Conservation Research Laboratory: S. 1652—Public Law 100-339, approved June 17, 1988.

Authorizes such sums as necessary for the establishment of a Plant Stress and Water Conservation Laboratory at Lubbock, Texas, and requires USDA to distribute $50,000 annually for agricultural education funding (under the Morrill Act) to those universities and colleges in the Trust Territories of the Pacific that have received such funds in the past.

Plastic Pollution Control: S. 1986—Public Law 100-x, approved x, 1988.

Directs the EPA Administrator to issue regulations, within 24 months of enactment, which require all plastic ring carrier devices (six-pack holders) to be made from naturally degradable material and allow a reasonable period of time for affected parties to come into compliance; waives the requirement if the EPA Administrator determines that it is not feasible or that the byproducts of degradable regulated items present a greater threat to the environment that nondegradable regulated items; and authorizes such sums as necessary for the acquisition of up to 20,000 additional acres of lands, marshes, tidal flats, salt ponds, submerged lands, and open waters in the south San Francisco Bay for inclusion in the San Francisco Wildlife Refuge.

Rio Grande Pollution Correction: H.R. 2046—Public Law 100-465, approved October 3, 1988.

Authorizes the Secretary of State, in conjunction with the EPA and the International Boundary and Water Commission, to negotiate and implement agreements with the Mexican government to correct the pollution problem of the Rio Grande River.

Sea Turtle Conservation: H.R. 5141—Public Law 100-416, approved August 22, 1988.

Postpones until September 17, 1988, implementation of Department of Commerce regulations which require shrimp fishermen to use turtle excluder devices (except for the Canaveral area of Florida where regulations are already in effect).

FISHERIES

Atlantic Striped Bass Conservation: H.R. 4124—Passed House July 26, 1988; Passed Senate amended October 14, 1988.

Authorizes through FY 1991, such sums as necessary to carry out the Atlantic Striped Bass Conservation Act, $1 million annually to continue the Emergency Striped Bass Research Study, and $1 million for the U.S. Fish and Wildlife Service and National Marine Fisheries Service to conduct a biological study of the striped bass resources and habitats in the Albemarle Sound and Roanoke River Basin; extends through FY 1991, the authority of the Secretaries of Interior and Commerce to impose a moratorium on striped bass fishing in the coastal waters of any State that the Atlantic States Marine Fisheries Commission determines is not complying with or enforcing the Commission's interstate striped bass management plan.

Commercial Fishing Vessel Safety: H.R. 1841—Public Law 100-424, approved September 9, 1988.

Establishes a comprehensive set of safety standards for all uninspected fishing, fish processing, and fish tender vessels; requires all vessels to carry appropriate safety equipment based on their size; establishes penalties for violations; requires fish processing vessels to meet all survey and classification standards prescribed by the American Bureau of Shipping or a similar qualified organization; establishes a Commercial Fishing Industry Advisory Committee to assist the Coast Guard in preparing regulations implementing the safety standards and in preparing a plan for licensing operators of documented fishing industry vessels; requires a study by the National Academy of Engineering of the safety problems of the fishing industry and a report to Congress on the potential and need for a vessel inspection program.

South Pacific Tuna Implementing Legislation: S. 1989—Public Law 100-330, approved June 7, 1988.

Implements the licensing and regulatory requirements of the Fisheries Treaty between the U.S. and 14 Pacific Island nations as ratified by the Senate on October 22, 1988.

Uncontrolled Fishing in the Bering Sea: S. Res. 386—Senate agreed to March 21, 1988. (*64).

Urges the Secretary of State to initiate negotiations with the Soviet Union to achieve a bilateral agreement establishing a moratorium on fishing in the international waters of the Bering Sea and setting forth measures that the two nations will take against nonabiding countries, and, following establishment of the moratorium, initiate negotiations to achieve a multilateral agreement establishing a fishery management regime for these waters.

U.S.-German Democratic Republic (GDR) Fishery Agreement: H.R. 4621—Public Law 100-350, approved June 27, 1988.

Extends the governing international fisheries agreement with the GDR from July 1, 1988, to July 1, 1990; reauthorizes the Fishermen's Guaranty Program for the reimbursement of certain losses resulting from the seizure or detention of U.S. fishing vessels by foreign countries; and modifies the residency requirements for nominees to the National Fish and Seafood Promotional Council to allow residents of coastal States to be nominated to the two freshwater fisheries seats.

U.S.-USSR Fishery Agreement: H.R. 4919—Passed House September 26, 1988; Passed Senate amended September 30, 1988; House disagreed to the Senate amendments and returned the measure to the Senate October 4, 1988.

Approves the governing international fisheries agreement (GIFA) with the USSR entered into on May 31, 1988, which provides for reciprocal access by fishing vessels to each country's 200-mile exclusive economic zone (EEZ) and provides for cooperation between the two superpowers on other fisheries matters of mutual concern; establishes an advisory body on the fisheries of the North Pacific and the Bering Sea to advise the U.S. representative to the International Consultative Committee for the U.S.-USSR Fishery Agreement; authorizes such sums as necessary for the development of a Marine Biomedical Institute for Advanced Studies at the Marine Biological Laboratory in Woods Hole, Massachusetts; reauthorizes the Great Lakes Shoreline Mapping Act through FY 1989; requires all foreign fishing vessels in the U.S.' EEZ to store fishing gear where it is not readily available for fishing; and directs that future GIFA's contain provisions that require foreign vessels to carry position-fishing and vessel identification equipment if requested to do so.

GENERAL GOVERNMENT

Abandoned Shipwrecks: S 858—Public Law 100-298, approved April 28, 1988.

Asserts Federal title to certain abandoned shipwrecks and transfers title to the State on whose submerged lands the shipwreck is located unless the shipwreck lies within the boundaries of National Park Service-administered lands.

Cash Management Improvement: S. 1381—Passed Senate June 7, 1988.

Establishes a set of government-wide cash management policies and practices to govern the exchange of funds between Federal and State governments; provides for the calculation and exchange (or offset) of interest between the Federal government and each State government during the periods when Federal funds are drawn down pending expenditure or when State funds are advanced pending reimbursement; directs the Secretary to issue regulations providing for the timely disbursement of Federal funds, collect fines from noncomplying agencies, and report to Congress, within 180 days of enactment, on the feasibility of establishing a national lockbox system for Federal agencies.

Computer Matching and Privacy Protection: S. 496—Public Law 100-x, approved x, 1988.

Requires Federal agencies to enter into written computer matching agreements before disclosing records for use in matching programs; establishes an internal Data Integrity Board (DIB) in each agency to review, approve, and maintain matching agreements; requires agencies to submit a cost-benefit analysis for the proposed matching program to the DIB before an agreement may be approved and prohibits an agency from terminating Federal financial assistance on the basis of information produced by a matching program without first verifying the information for accuracy, providing notice to the individual involved, and providing individuals an opportunity to refute the information.

Federal Debt Collection: S. 1961—Passed Senate October 14, 1988.

Amends title 28, U.S.C., to provide Federal debt collection procedures to correct the inequities that exist under the current system where debts owed the Federal government must be collected under a variety of State laws where the debtor is found; creates a comprehensive statutory scheme for the collection of Federal debts; and leaves State remedies unaffected in cases where the Federal government is not a party.

FDA Commissioner Appointment: H.R. 1226—Passed House May 4, 1987; Passed Senate amended February 4, 1988; House agreed to Senate amendment with an amendment July 26, 1988.

Makes the appointment of the FDA Commissioner by the President subject to Senate confirmation.

Federal Fire Prevention and Control: H.R. 4419—Public Law 100-476, approved October 6, 1988.

Authorizes $17.0 million in FY 1989, $17.7 million in 1990, and $18.5 million in 1991 for the activities of the U.S. Fire Administration and the National Fire Academy under the Federal Fire Prevention and Control Act of 1974 and limits to $4.1 million the amount that may be expended for site administration at the National Emergency Training Center in Emmitsburg, MD.

Federal Land Exchange Facilitation: H.R. 1860—Public Law 100-409, approved August 20, 1988.

Authorizes $4 million in each FY 1989-98 for the Secretaries of Agriculture and Interior to support Federal land exchange programs; requires the promulgation of new rules and regulations governing land exchange policies, procedures, and appraisal standards; establishes a conflict resolution mechanism for appraisal disputes lasting more than six months; and allows the Secretaries to exchange small tracts of land for lands of approximate, rather than equal, value in certain circumstances.

GAO Headquarters Building: H.R. 5052—Public Law 100-x, approved x, 1988.

Provides for the transfer and control of General Accounting Office's (GAO's) headquarters building in Washington, D.C. from the General Services Administration to GAO.

Inspector General Act Amendments: S. 908—Public Law 100-x, approved x, 1988. (*15).

Establishes Offices of Inspector General (OIG) in the Departments of Justice and Treasury, the Federal Emergency Management Agency, the Nuclear Regulatory Commission, and the Office of Personnel Management each headed by a Presidentially-appointed IG who is subject to Senate confirmation; contains special provisions with respect to possible conflicts and sensitive areas within the NRC and Treasury and Justice Departments; requires the Treasury IG to abide by procedures governing access to and disclosure of taxpayer returns and return information; requires the establishment of OIG's in 33 Federal entities (including the Corporation for Public Broadcasting and the Federal Election Commission) not currently covered by the Act; establishes an IG in the Government Printing Office to be appointed by the Public Printer; requires the heads of each Federal entity to report annually to the Director of the Office of Management and Budget on their efforts to ensure audit and internal investigative coverage of their programs, operations, and personnel; standardizes IG authorizing legislation and provides uniform salaries and powers for all of the statutory IG's; modifies IG reporting requirements; requires separate appropriation accounts for OIG's; and authorizes OIG personnel to administer oaths, affirmations, and affidavits.

Japanese-Americans Internment: H.R. 442—Public Law 100-383, approved August 10, 1988. (*105).

Authorizes up to $500 million in each FY 1989-98 to establish the Civil Liberties Education Fund for civil rights educational purposes and to provide individual payments of $20,000 to U.S. citizens and resident aliens of Japanese ancestry evacuated, relocated, and interned during World War II and still surviving on the date of enactment; prohibits its former internees from accepting both court-awarded damages and the $20,000 compensation; limits the vested rights to these payments for eligible individuals who die after the date of enactment to three categories to heirs; and authorizes such sums as necessary to make individual payments of $12,000 to compensate surviving Aleuts for their losses during evacuation, $5 million to benefit the general welfare of the affected Aleut villages, $15 million for the Attu Island Restitution Program to compensate the Aleuts for the loss of Attu Island, and $1.4 million for the destroyed church property on the Island.

Judicial Branch Offices: S. 1934—Public Law 100-480, approved October 7, 1988.

Directs the Architect of the Capitol to contract, on a lease-purchase basis, for the design and construction of a building adjacent to Union Station in the District of Columbia to house the Administrative Office of the Courts and establishes a Commission for the Judiciary Office Building to direct and oversee the Architect in carrying out this project.

Lottery Advertising: H.R. 3146—Passed House May 25, 1988: Passed Senate amended October 14, 1988.

Clarifies certain Federal restrictions on the distribution of advertisements and other information concerning legal lotteries and similar activities.

National Bureau of Standards Authorization: H.R. 4417—Passed House September 26, 1988; Passed Senate amended October 5, 1988.

Authorizes $158,039,000 in FY 1989 for the National Bureau of Standards; authorizes the following for Commerce Department programs: $2 million for the Office of Productivity, Technology, and Innovation, $1 million for the office of the new Under Secretary for Technology, and $1 million for activities under the Japanese Technical Literature Program; consolidates existing Department of Commerce technology agencies into a new Technology Administration, headed by a new Under Secretary of Commerce for Technology; converts Commerce's National Technical Information Service into a Government corporation with the same mission and name; and makes several miscellaneous amendments to the Stevenson-Wydler Technology Innovation Act of 1980 with respect to cooperation between Federal laboratories and businesses.

NASA and NOAA Authorizations: S. 2209—Passed Senate August 9, 1988.

Authorizes $11.1 billion for NASA in FY 1989 which includes $867.4 million for the space station and $1.3 billion for the space shuttle; authorizes $948.5 million for atmospheric, satellite, and environmental data programs of the National Oceanic and Atmospheric Administration (NOAA) in FY 1989; authorizes the establishment of a NOAA program in climate and global change; requires the Secretary of Commerce to develop a 10-year modernization plan for the National Weather Service (NWS) and to certify that the closure, automation, or relocation of NWS field offices will not diminish the services provided to an area; and calls for a plan to construct and operate a ground-based stratospheric monitoring system.

National Historical Publications and Records Commission: S. 1856-Public Law 100-365, approved July 13, 1988.

Authorizes $6 million in FY 1989, $8 million in 1990, and $10 million in each FY 1991-93, for programs under the National Historical Publications and Records Commission; reduces the Commission's membership from 17 to 15 and limits each constituent organization to one representative; and extends Commission membership to the National Association of Government Archives and Record Administrators and the Association for Documentary Editing.

National Science Foundation Authorization: H.R. 4418—Passed House June 9, 1988; Passed Senate amended June 17, 1988; House agreed to Senate amendments, with an amendment, September 27, 1988. (*191).

Reauthorizes the National Science Foundation for five years, through FY 1993 at a level of $2.050 billion in FY 1989, $2.388 billion in 1990, $2.782 billion in 1991, $3.245 billion in 1992, and $3.505 billion in 1993; authorizes $80 million in FY 1989, $125 million in 1990, $187.5 million $187.5 million in 1991, and $250 million in each 1992-93 for a Academic Research Facilities Modernization Program to help improve the scientic and research facilities at U.S. academic institutions which historically have received little Federal funding, limits to $7 million the amount of aid any single institution may receive in any five-year period, and earmarks 12 percent of funds for institutions with substantial percentages of blacks, hispanics, and native Americans; requires the NSF to study the feasibility fo establishing a new College and University Innovation Research Program; increases funding for basic research to help preserve the U.S. lead in science, engineering, and technology including minority research programs and research in superconductivity, biotechnology, and ocean engineering; expands the Experimental Program to Stimulate Competitive Research which helps improve research in States which historically have received little Federal funding; makes National Science Board members subject to Federal conflict of interest standards and requires the NSF to ensure that research center evaluation panels are free of conflict-of-interest and that they thoroughly review the centers; and requires that NSF funding recipients have a policy designed to ensure that its workplaces are free from illegal drugs.

Negotiated Rulemaking: S. 1504—Passed Senate September 30, 1988.

Establishes a statutory framework for negotiated rulemaking (the process for developing regulations through negotiations with affected parties) within Federal agencies and guidelines for agencies to use in deciding whether to use negotiated rulemaking in a particular case; clarifies the authority of agencies to use negotiated rulemaking; bars judicial review of actions taken by agencies to convene, participate in, and terminate a negotiated rulemaking committee; authorizes $400,000 in each FY 1989-91 for the Administrative Conference of the U.S. to establish training programs and prepare materials on negotiated rulemaking; and sunsets the Act six years after enactment.

Office of Federal Procurement Policy Authorization: S. 2215—Passed Senate August 11, 1988; Passed House amended September 13, 1988; Senate disagreed to the House amendments and requested a conference October 7, 1988.

Provides permanent authority for the Office of Federal Procurement Policy (OFPP); clarifies the role of the OFPP Administrator to initiate policy and prescribe regulations, procedures, and forms relating to procurement; establishes a Federal Acquisition Regulatory Council to help manage a government-wide procurement regulation; re-establishes a Cost Accounting

Standards Board within OFPP to be chaired by the Administrator; requires OFPP to conduct a study to develop a consistent methodology which executive agencies may use for measuring the profits earned by certain contractors; requires OFPP to conduct a study and report on the extent to which the Federal Procurement Data System is adequate for the management, oversight, and evaluation of Federal procurement; elevates the positions of Presidential appointees within the OMB; and provides criteria for determining reasonable and allowable travel expenses under certain government contracts.

Office of Government Ethics Authorization: S. 2344—Passed Senate June 28, 1988; Passed House amended October 4, 1988.

Authorizes $2.5 million in FY 1989 and $3.5 million in each FY 1990-94 for the Office of Government Ethics (OGE); makes OGE, currently within the Office of Personnel Management, an independent agency beginning in 1990; clarifies and strengthens the authority of OGE to investigate possible violations of the ethics standards, direct any employee found in violation to take specific corrective actions, notify the appropriate agency head (or the President, when appropriate), and recommend appropriate administrative action if the employee fails to take corrective action, and notify the President if the agency head fails to take action pursuant to the OGE Director's recommendation; requires OGE to provide ethics training for high-level political appointees before they assume office; specifies that the Director of OGE may be removed from office by the President at his/her discretion; and permits designated agency ethics officials to appeal adverse personnel actions to the Merit Systems Protection Board.

Panama Canal Commission Employees: S. Con. Res. 111—Adopted by Senate March 31, 1988.

Urges the waiver of any restrictions in the Panama Canal Treaty of 1977 which prohibit the U.S. from permitting U.S. citizens employed by the Panama Canal Commission from shopping in DOD commissary and exchange stores in Panama.

Patent and Trademark Office: H.R. 4972—Passed House October 5, 1988; Passed Senate October 14, 1988.

Authorizes programs of the Patent and Trademark Office in the Commerce Department for FY 1989-91, and continues the reporting requirements and most of the user fee restrictions imposed by Congress.

Pennsylvania Avenue Development Plan: H.R. 4754—Public Law 100-415, approved August 22, 1988.

Authorizes $2.4 million in FY 1989, $2.6 million in 1990, $2.4 million in 1991, and $2.2 million in 1992 for operating and administrative expenses of the Pennsylvania Avenue Development Corporation.

President's Commission on White House Fellowships: H.R. 4529—Public Law 100-x, approved x, 1988.

Extends the authority for the President's Commission on White House Fellowships to accept donations of money, property, and services upon ensuring that no conflict of interest would arise from the donation and keeping, and making available for public inspection, records of all donations.

Presidential Transition/Recess Appointments: H.R. 3932—Public Law 100-398, approved August 17, 1988.

Increases, from $2 million to $3.5 million, the authorization for certain services and facilities to the President-elect and indexes future transition funding to inflation; provides for use of government aircraft or the chartering of aircraft on a reimbursable basis by the President- and Vice President-elect; increases, from $1 million to $1.5 million, the amount available to the outgoing President, with the proviso that $250,000 be returned to the Treasury in the event that the outgoing Vice President is elected President, and provides for future adjustments based on inflation; allows GSA to provide services such as office space for the outgoing President 30 days in advance of end of the term; limits to $5,000 the amount of private cash contributions which the President-elect may accept pre- and/or post-election from any source; requires that the President- and Vice President-elect disclose information concerning transition personnel, private transition funding, and for the 1988-89 transition period only, an estimate of the aggregate value of in-kind contributions made to the transition; extends from 30 days to 120 days the period that an executive agency vacancy caused by a death or resignation may be filled temporarily, unless a nomination has been submitted to the Senate, in which case the person may serve until confirmation or no more than 120 days after the Senate rejects the nomination; and allows a person nominated when Congress has adjourned sine die or at the end of the session to serve up to 120 days after Congress next reconvenes.

Prompt Federal Payments: S. 328—Public Law 100-x, approved x, 1988. (318)

Amends the Prompt Payment Act of 1982 to require the Federal government to automatically pay interest on overdue payments; extend coverage of the Act to subcontractors under Federal construction contracts, Commodity Credit Corporation operations, and contract payments for dairy products, and edible fats and oils and their food products; and make explicit the Act's application to construction contract progress payments.

Public Buildings Amendments: S. 2186—Passed Senate May 18, 1988.

Increases, from $500,000 to $2 million, the threshold at which GSA must submit to Congress a prospectus for a major acquisition or alteration of space; establishes special rules applicable to GSA agreements involving the construction of a leased building for predominantly Federal use; prohibits GSA from leasing space to accommodate major computer operations, sensitive national defense or security activities, or a permanent U.S. court facility or which requires major structural or mechanical alterations, except under specified circumstances; expands the statutory authority for GSA's security and law enforcement functions to all buildings and areas under its control; grants GSA statutory authority to allow local law enforcement protection of Federal properties, where appropriate; and eliminates the cap on the alteration costs for leased space.

GOVERNMENT EMPLOYEES

Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA) Senior Executive Service: H.R. 4083—Public Law 100-325, approved May 30, 1988.

Authorizes the establishment of a separate and independent Senior Executive Service for the FBI and DEA not subject to the control of the Office of Personnel Management.

Federal Employees Health Benefits: H.R. 5102—Passed House September 16, 1988; Passed Senate amended October 14, 1988.

Provides for the debarment of certain health care providers from participation in the Federal Employees' Health Benefits Program (FEHBP) and identifies the activities for which health care providers may be excluded from participation; provides for the temporary continuation of FEHBP coverage to separated enrollees, certain unmarried dependent children, and certain former spouses; requires the Office of Personnel Management to prescribe regulations which permit certain temporary Federal employees to elect health insurance coverage; and permits article III Federal justices and judges to participate in the Federal Employees Retirement System Thrift Savings Fund.

Federal Employees Leave Transfer: H.R. 3981—Public Law 100-284, approved April 7, 1988.

Makes a technical correction to the Federal Leave Share Program to allow Federal employees to donate annual leave to a superior faced with a major medical or family emergency, notwithstanding the OPM regulation which prohibits Federal employees from giving gifts to their superiors.

H.R. 3757—Public Law 100-x, approved x, 1988.

Modifies the Federal Leave Share Program to allow Federal employees to donate annual leave to co-workers who have exhausted their own sick and annual leave and are faced with a major medical or family emergency; exempts certain agencies from the government-wide leave transfer program if they establish their own programs consistent with the government-wide program; authorizes the establishment of voluntary leave bank programs at Federal agencies to receive contributions of and applications for annual leave from its eligible employees; requires the Office of Personnel Management to select three executive agencies to establish demonstration projects to test a voluntary leave bank program; establishes government-wide criteria for determining who may receive leave from an individual or a leave bank, who may donate or contribute leave, and the circumstances that constitute a personal emergency; and sunsets the leave transfer and leave bank programs five years after their commencement date.

Federal Employees Retirement System (FERS): S. 2188—Public Law 100-366, approved July 13, 1988.

Requires that the costs of the FERS thrift savings plan and social security be included in comparisons between the costs of performing commercial activities with contract personnel and with Federal personnel.

Federal Employees Tort Liability: H.R. 4612—Passed House June 28, 1988; Passed Senate amended October 12, 1988.

Establishes the Federal Tort Claims Act as the exclusive remedy for those injured by the negligence of a Federal employee acting within the scope of his/her employment.

Federal Pay System: S. 2530—Passed Senate July 27, 1988.

Authorizes the Office of Personnel Management (OPM) to implement between six and ten demonstration projects using alternative compensation systems to the current systems and involving up to 25,000 employees in each program; modifies the current special pay rate program to permit OPM to grant higher minimum rates of pay for any reason and raise the minimum rates that may be paid; creates a recruitment and retention bonus program with individual bonuses limited to $10,000; limits total bonus payments by each Federal agency in any fiscal year to one percent of the agency's payroll, unless OPM authorizes a higher limit due to unusually difficult recruitment or retention problems; sunsets the bonus system seven years after enactment; allows the agency head to advance up to 30 days salary to an employee appointed to a position receiving a higher minimum pay rate; allows an agency, with OPM approval, to pay a new appointee at higher minimum pay rate regardless of the position grade; removes the limits on the uniform and remote workplace allowances; and provides incentive pay for commissioned nurse officers in the Public Health Service.

Forest Wildfire Emergency Pay Equity: S. 1911—Public Law 100-x, approved x, 1988.

Removes the cap on overtime pay for certain firefighters involved in firefighting activities in Yellowstone National Park and other western areas and instead caps the annual salary payable to a firefighter as a result of receiving overtime pay at the maximum GS-15 pay rate.

GAO Personnel: H.R. 4318—Public Law 100-426, approved September 9, 1988.

Extends the terms of members of the GAO Personnel Appeals Board from three to five years and broadens the categories of individuals eligible for Board membership; provides that appeals from Board decisions be made to the U.S. Court of Appeals for the Federal Circuit; eliminates the age 70 retirement cap for the Comptroller General and the Deputy Comptroller General; revises the survivor benefits for the Comptroller General to conform them with those of Federal judges; and authorizes ten additional positions within GAO payable at up to a GS-18 rate.

Lobbying By Former Federal Officials: S. 237—Passed Senate April 19, 1988.

Prohibits for one year lobbying by former Members of Congress and top-level officials in the executive and legislative branches, top-level Congressional staff of anyone from the chamber in which they were employed, top-level White House officials, Cabinet secretaries, and deputy secretaries of the executive and legislative branches, and GS-16 or higher level executive branch personnel of their former agencies; bans lobbying by former Member of Congress and high-level executive branch employees on behalf of foreign entities for 18-months; prohibits former government employees from working for international organizations for 18 months after leaving employment; establishes criminal penalties for violations of up to $250,000 and/or five years imprisonment; imposes a fine of up to $10,000 and/or two years imprisonment upon any Member of Congress who, for compensation, affiliates himself/herself with any firm, partnership, association, or corporation for the purpose of providing professional services, permits his/her name to be used by such firm, or practices a profession; imposes a similar prohibition on business partner of Members of Congress and congressional staff from lobbying Congress; imposes a two-year ban on any representation, advising, or consulting, by an executive branch officer or employee on any matter for which the he/she was officially responsible within one year of ceasing employment and retains the lifetime ban on their participation in matters in which they were directly and substantially involved; prohibits Members of Congress from converting excess campaign funds to personal use upon leaving Congress; makes these provisions effective nine months after enactment; and prohibits successful candidates in Federal elections from using post-election contributions to recover personal funds or loans expended on campaigning.

Whistleblower Protection: S. 508—Public Law 100-x, approved x, 1988.

Makes the Office of Special Counsel (OSC), currently within the Merit Systems Protection Board (MSPB), a separate Federal agency with litigating authority; clarifies that the OSC's primary role is to protect employees, especially whistleblowers (Federal employees who disclose government mismanagement or fraud); guarantees the confidentiality of certain communications between the OSC and employees seeking its assistance; allow employees alleging reprisal for whistleblowing to seek a MSPB hearing on their own, if the OSC does not agree to proceed with their case within 120 days; authorizes the MSPB to grant protective orders to protect witnesses or other individuals from harassment during MSPB proceedings or Special Counsel investigations; simplifies the burden on the employee to show reprisal for whistleblowing and requires that any personnel action against an alleged whistleblower be justified by reasons other than disclosure of waste and fraud; provides for the payment of attorney fees to employees who succeed in showing that a prohibited personnel practice was taken against them; expands the definition of prohibited personnel practices to prohibit employers from taking action against employees who cooperate with the OSC or an Inspector General and to include a prohibition against threats by employers; gives whistleblowers preference in seeking transfers to other Federal jobs; and authorizes $20 million in each FY 1989-93 for the MSPB and $5 million in each 1989-91 for the OSC.

HEALTH

AIDS Drug Treatment Grants: S. 2846—Public Law 100-471, approved October 4, 1988.

Authorizes $15 million to be expended until March 31, 1989, for grantees to provide drugs (AZT) for the treatment of victims of the acquired immunodeficiency syndrome (AIDS).

AIDS Information and Research: S. 1220—Passed Senate April 28, 1988; Passed House amended September 23, 1988; House requested conference September 26, 1988. (*120).

Provides additional funding for research into the acquired immunodeficiency syndrome (AIDS) by increasing the authorization for the Public Health Emergency Fund from $30 million to $60 million and requires the Secretary to submit annual reports to Congress on AIDS activities and expenditures by HHS; authorizes $50 million in FY 1988 and such sums in 1989-90 to aid international efforts to prevent and cure AIDS of which 50 percent is earmarked for AIDS programs of the World Health Organization and the Pan American Health Organization; requires the Director of the Centers for Disease Control to prepare annually a comprehensive plan and budget and authorizes $115 million in FY 1988 and such sums as necessary in 1989-90 for a National AIDS Information Program; authorizes $150 million FY 1988 and such sums in 1989-90 for State AIDS prevention programs and requires States to report annually to HHS on their activities; authorizes $100 million in FY 1988 and such sums in 1989-90 to States to pay for home health care and requires each State to establish an AIDS Council to monitor and evaluate services for AIDS patients; authorizes several fellowship and training programs on AIDS for health care workers and professionals; establishes the National Research Program on AIDS within the National Institute of Allergy and Infectious Diseases to expand and accelerate efforts to find a vaccine and cure for AIDS; earmarks $25 million annually for a National Institute on Drug Abuse research and demonstration program to reduce the transmission of AIDS among intravenous drug users; requires the Congressional Biomedical Ethics Board to report to Congress on the ethical issues connected with the administration of nutrition and hydration to dying patients; prohibits funds to any State or local government which forbids spousal notification in AIDS cases, or holds any health care provider criminally or civilly liable for notification; prohibits the use of funds to provide hypodermic needles or syringes to individuals to administer illegal drugs, unless the Surgeon General determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with AIDS; prohibits the use of funds to provide educational, informational, or risk reduction materials or activities which promote or encourage homosexual activity; requires education programs funded by this Act to stress the public health benefits of sexual abstinence and a single monogamous relationship and the avoidance of illegal intravenous drug use; provides that nothing in this Act shall restrict the ability of an education program to provide accurate information on reducing the risk of becoming infected with AIDS; and repeals D.C. Law 6-170 which prohibits insurers from testing applicants for the AIDS virus and requires insurance companies to insure HIV-positive applicants at a standard rate for five years.

Animal Drug Applications and Patents: S. 2843—Public Law 100-x, approved x, 1988.

Revises the requirements for the premarket approval of new animal drugs by authorizing an abbreviated application procedure for generic versions of brand name animal drugs; authorizes the restoration of patents covering animal drugs and veterinary biologicals; provides for experimental testing of generic copies of patented animal drugs for the purpose of gaining government approval; and excludes biotechnology-derived animal drugs from all provisions of the bill.

Asbestos Hazard Management Plans: H.R. 3893—Public Law 100-368, approved July 18, 1988.

Allows local educational agencies to obtain a deferral, from October 12, 1988, to May 9, 1989, of the statutory deadline for submission of asbestos management plans to State governors; and maintains the July 9, 1989, deadline for implementation of inspection and management plans.

Asbestos Information: H.R. 5442—Public Law 100-x, approved x, 1988.

Requires manufacturers and processors of asbestos and asbestos containing materials to report to EPA, within 90 days of enactment, with information about the types and classes of products, years of manufacture and, other identifying characteristics of the products they produce, and requires EPA to catalogue and publish this information within 180 days of enactment.

Biotechnology Competitiveness: S. 1966—Passed Senate June 17, 1988. (*190).

Amends the Public Health Service Act to establish a National Center for Biotechnology Information, a National Biotechnology Policy Board with an Advisory Panel on the Human Genome and an Advisory Panel on Agricultural Biotechnology; authorizes a 20-year agricultural research program focusing on the development and production of new marketable industrial and commercial products; and reauthorizes the Congressional

Biomedical Ethics Board for three years, through FY 1991.

Clinical Laboratory Standards: H.R. 5471—Public Law 100-x, approved x, 1988.

Amends the Public Health Service Act to require all clinical medical laboratories, including physician office laboratories, to be licensed by the Secretary of Health and Human Services, effective January 1, 1990, with a few specific exemptions; provides for issuance of two-year licenses to qualifying laboratories; prohibits a physician from referring laboratory work to a facility in which he/she has a direct financial interest except in certain specific circumstances; requires that all tests performed at the physician's request be billed directly to the patient; allows the Secretary of HHS to approve the use of private nonprofit accrediting bodies to conduct inspections and certify that a laboratory complies with Federal standards; requires the Secretary to (1) promulgate standards to assure consistent performance by licensed laboratories, (2) establish a proficiency testing program with mandatory quarterly testing, where appropriate, for compliance with proficiency standards, and (3) establish national standards for quality assurance in cytology services designed to assure valid and reliable results; authorizes the Secretary to make both announced and unannounced inspections to insure compliance; authorizes the Secretary to enforce the Act and impose various sanctions on laboratories in noncompliance which include requiring a laboratory to take corrective action, imposing civil fines, seeking injunctive relief, and suspending or revoking the license of noncompliant laboratories; provides for payment of fees for licenses and inspections; requires publication annually of lists of laboratories that have been subject to various sanctions or penalties; and directs the Secretary to conduct five studies on the clinical laboratory testing process.

Drunk Driving National Crisis: H. Con. Res. 276—Action completed October 7, 1988.

Urges the Surgeon General to declare that drunk driving is a national crisis.

Employee Health Promotion and Disease Prevention: S. 1726—Passed Senate February 3, 1988.

Authorizes $10.5 million in FY 1988, $11 million in 1989, and $11.5 million in 1990 for the Public Health Service health information and promotion program carried out by the Office of Disease Prevention and Health Promotion; authorizes the Secretary of HHS to undertake a minimum of six three-year R&D programs to (1) establish work-site based programs for public sector employees to promote health behavior, and (2) develop a better understanding of special circumstances and problems encountered in providing health promotion and disease prevention programs to small business employees; and authorizes $8 million in 1988, $10 million in 1989, and $12 million in 1990 for grants and contracts to establish five new R&D centers for health promotion and disease prevention in FY 1988, and three new centers in each FY 1989-90, and to maintain all existing centers in those years.

Health Block Grant Program Extension: S. 1579—Passed Senate February 3, 1988; Passed House amended July 26, 1988; House agreed to the conference report October 5, 1988.

Authorizes $128.5 million in FY 1988, $133.6 million in 1989, and $138.9 million in 1990 for the Preventive Health and Health Services Block Grant program; allows States to use their grants for programs designed to reduce the incidence of chronic diseases; requires each State to include in its annual block grant application a description of: the objectives of the programs, activities, and services to be supported, the numbers and populations to whom they will be directed, and how it will elevate the programs conducted and the progress made in reaching stated objectives; authorizes one-year grants of a minimum of $500,000, renewable for two additional fiscal years, for the development, establishment, and operation of regional centers for pediatric emergency medical services; and authorizes $1 million in FY 1988 for a feasibility study on establishing a National Center for Pediatric Emergency Medical Services and authorizes $5 million in FY 1988, plus such sums as necessary in 1989-90, to establish the center if the Secretary so determines.

Health Insurance Coverage of Adopted Children: S. Con. Res. 95—Action completed July 26, 1988.

Opposes discrimination in health insurance against adopted children; urges insurers to treat all adopted children identically to newborn biological children; and urges State legislatures to encourage health insurers to cover adopted children on the same basis as other dependents.

Health Service Programs: S. 2889—Public Law 100-x, 1988.

Extends for two years the expiring authorities for the National Institutes of Health (NIH); extends for two years the moratorium on fetal research at NIH and provides for a study of fetal research by the Congressional Ethics Board; authorizes the hiring of an additional 780 full-time employees by the Public Health Service (PHS) for AIDS research in FY 1989; authorizes approximately $600 million in funding for AIDS research, $100 million for anonymous testing, and $105 million for education; establishes new AIDS research and training programs; establishes a National Commission on AIDS; authorizes a two-year grant program to the States for AIDS testing and counseling at $100 million a year; includes a variety of public information provisions on AIDS; authorizes a State block grant program to provide home health services for AIDS patients; provides for AIDS education programs especially those targeted to underserved populations such as minority groups and intravenous drug abusers; authorizes expiring prevention programs including the Preventive Health Services Block Grant, health promotion and disease prevention programs, and programs to control and prevent sexually transmitted diseases; authorizes, extends, and improves the National Organ Transplant Act by providing for establishment of a National Bone Marrow Registry and a State program of assistance for immunosuppressive drugs; provides for Presidential appointment and Senate confirmation of the Food and Drug Administration Commissioner; extends the health manpower programs authorized by the Public Health Service Act; provides initiatives to reduce the nursing shortage and extends for three fiscal years nurse education programs authorized by the PHS Act; extends for three fiscal years the authorization of appropriations for primary care, substance abuse, and mental health programs for the homeless; and establishes a program for prison testing for AIDS.

HMO Amendments: H.R. 3235—Public Law 100-x, approved x, 1988.

Allows HMO's to operate as part of a larger business and to permit enrollees to use some fee-for-service doctors for which copayments and deductibles may be applied; permits HMO's to establish separate premiums for specific beneficiary groups, with certain protections provided for small groups; replaces the requirement that an employer offering health benefits make contributions for employees enrolling in an HMO equal to the contributions for enrollees in other health benefits options with a requirement that an employer make nondiscriminatory contributions to HMO's and sunsets this requirement seven years after enactment; requires the Secretary of HHS to consider the financial condition of affiliated organizations which own an HMO in determining whether the HMO meets the fiscal soundness test; and allows HMO's to establish premiums for individuals and families of a group on the basis of the organization's revenue requirements for providing services to the group.

Lead Contamination Control: H.R. 4939—Public Law 100-x, 1988.

Authorizes, in FY 1989-91, $90 million for grants to States to assist schools in testing for and remedying lead contamination in drinking water and $66 million for grants to initiate and expand State programs for lead poisoning screening, treatment, and education; directs the Environmental Protection Agency to identify and publish a list of the brands and models of drinking water coolers that are not lead free and to prohibit the sale of such coolers; and directs the Consumer Product Safety Commission to order, within one year of enactment, manufacturers or importers to repair, replace, or recall and provide a refund for coolers with lead-lined tanks.

Migrant and Community Health Centers: S. 2385—Public Law 100-386, approved August 10, 1988.

Authorizes $48.5 million for Migrant Health Centers and $440 million for Community Health Centers in FY 1989, and such sums as necessary for each program in 1990-91; authorizes in FY 1989-91, respectively, an additional $1.5 million, $2 million, and $2.5 million for Migrant Health Centers and $25 million, $30 million, and $35 million for Community Health Centers for services targeted at reducing infant mortality and to develop and coordinate referral arrangements between Migrant and Community Health centers and entities for the health management of infants and pregnant women; modifies the method for calculating the grant amounts to a center and allows centers to retain fees, premiums, and third party reimbursements that exceed the amounts projected at the beginning of the year; requires that grant and contract decisions be made by the central office of the Health Resources and Services Administration; permits the use of grant funds to expand existing buildings and construct new buildings under specified circumstances and includes patient case management services in the list of services provided; authorizes procedures for denying applications for and termination grants under both programs; and requires the Secretary to give priority special considerations to the needs of frontier areas in making Community Health Centers grants.

National Institute on Deafness and Other Communication Disorders: S. 1727—Public Law 100-x, approved x, 1988.

Establishes the National Institute on Deafness and Other Communication Disorders (the Institute), within the National Institutes of Health (NIH), and transfers to the new institute all of the responsibilities and resources of the communicative disorders program of the National Institute of Neurological and Communicative Disorders and Stroke; requires the Director of the Institute, with the advice of its newly-established Advisory Council, to establish a National Deafness and Other Communication Disorders Program and submit to the Director of NIH a plan to initiate, expand, and coordinate the Institute's activities respecting disorders of hearing and other communication processes; requires the Director to establish (1) establish a data system to collect, analyze, and disseminate data derived from patients with related disorders, (2) establish an information clearinghouse to disseminate information and knowledge of the disorders, and (3) provide for the development, modernization, and operation of new and existing centers for studies of disorders of hearing and other communication processes; and authorized the Secretary of HHS to establish a Deafness and Other Communication Disorders Interagency Coordinating Committee to coordinate the activities of the national research institutes and all related Federal health programs and activities.

National Research Institutes Reauthorization: H.R. 3361—Passed House July 12, 1988; Passed Senate amended August 3, 1988; In conference.

Authorizes $150 million in FY 1989 and such sums as necessary in FY 1990-91 to establish an extramural grants program, within the Division of Research Resources, for public and nonprofit research institutions to expand, remodel, renovate, or alter existing research facilities or to construct new facilities; authorizes the National Institutes of Health (NIH) to enter into cooperative agreements or to award grants for the development or expansion of extramural centers of excellence in biomedical and behavioral research; continues the ban on secretarial waivers for fetal research for two years and mandates that the Secretary of HHS appoint an ethics advisory board to advise him/her regarding research on fetal therapies and research involving human fetuses; authorizes $2 million in FY 1989, $2.5 million in 1990, and $3.0 million in 1991 for the Biomedical Ethics Board and Committee; establishes the National Institute on Deafness and Other Communication Disorders, within NIH, to replace the communicative disorders program of the National Institute of Neurological and Communicative Disorders and Stroke; authorizes the National Institute on Aging to enter into cooperative agreements or make grants to develop or expand centers of excellence in geriatric research and training; creates a National Center for Medical Rehabilitation Research at HIH to award grants, contracts, and cooperative agreements for research and training in medical rehabilitation; expands the authorities for the National Center for Nursing Research to include construction authority and grant authority to establish demonstration projects for the development and evaluation of innovative models for hospital nursing care; authorizes $1.587 billion for the National Cancer Institute and $1.001 billion for the National Heart, Lung, and Blood Institutes, in FY 1989, and such sums as necessary in FY 1990-91 for both institutes; renames the National Institute of Diabetes and Digestive and Kidney Diseases as the National Institute of Diabetes, Digestive and Kidney Diseases, and Endocrinology; directs the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases to develop a plan for a national program to expand, intensify and coordinate the Institute's activities respecting arthritis, muscoskeletal, and skin diseases; authorizes $14 million in FY 1989, and such sums as necessary in FY 1990-91, for the National Library of Medicine; creates a new National Library of Medicine grant program for the development of new educational technologies and gives construction authority in two grant programs; deletes the award size restriction for National Library of Medicine grants; increases the membership of the Board of Regents for the library from 10 to 13 and provides for their appointment by the President rather than the Secretary; authorizes $350 million in FY 1989, and such sums as necessary in 1990-91, for National Research Service Awards with emphasis on multidisciplinary training; and authorizes the Secretary to establish a National Commission on Sleep Disorders Research to study and develop a long-range plan for the use and organization of national resources to effectively deal with sleep disorders research and medicine.

Nurse Education Programs: H.R. 4833—Passed House July 11, 1988; Passed Senate amended September 8, 1988; House agreed to the Senate's amendments, with an amendment, October 5, 1988.

Authorizes $13 million in FY 1989, $16 million in 1990, and $20 million in 1991 for Special Grants and Contracts programs for nursing education including geriatric health education, innovative hospital nursing practice models, long-term care nursing practice demonstrations and authorizes $3 million in FY 1989, $4 million in 1990, and $5 million in 1991 for grants and contracts for special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds; amends the program to give priority in nursing skills upgrade programs which provide for the rapid achievement of professional nursing degrees, and authorize curricula development for the achievement of baccalaureate or master's degrees in nursing by registered nurses or individuals with undergraduate degrees in other fields; authorizes $13 million in 1989, $13 million in 1990, and $220 million in 1991 for Advanced Nurse Education programs; authorizes $12 million in 1989, $17 million in 1990, and $21 million in 1991 for Nurse Practitioner and Midwife Programs and amends the service obligations requirement to include service in an Indian Health Service or Native Hawaiian health center or a migrant, community, rural or public health center; earmarks funds appropriated in each FY 1989-91 for titles VII and VIII of the Public Health Service Act to be used to improve health care services offered by qualified hospitals and to enhance their ability to provide high-quality inpatient services; authorizes $13 million in 1989, $15 million in 1990, and $16 million in 1991 for advanced education traineeships for professional nurses and $5 million in each FY 1989-91 for loan repayments for service in certain health facilities with nurse shortages; authorizes $1.8 million in each 1989-91 for nurse anesthetist traineeships and authorizes grants to institutions to develop, operate, and improve education programs for nurse anesthetists; authorizes $15 million in 1989 and $30 million in each 1990-91 for grants to nursing schools for scholarships to full-time undergraduate nursing students in financial need with priority given to disadvantaged individuals in return for which the scholarship recipient must agree to serve for two years in certain health facilities with nurse shortages and authorizes $5 million in FY 1989-91 for a demonstration program to provide student loans to undergraduate nursing students under similar circumstances; includes minor modifications to provisions relating to nursing education loans and removes the requirement that nursing student loans be made to students in exceptional financial need.

Nutrition Monitoring and Related Research: S. 1081—Passed Senate August 9, 1988; Passed House amended October 12, 1988.

Establishes a 10-year coordinated nutrition monitoring and research program to be implemented of the Secretaries of Agriculture and HHS; establishes an interagency board to aid in implementing the program and authorizes the Secretaries to appoint an Administrator to coordinate the program; outlines the various aspects to be included in the program; requires the President to establish an Advisory Council to provide scientific and technical advice on the development and implementation of the national program and to evaluate its effectiveness; directs the Secretaries to publish, by January 1, 1990, a report containing "Dietary Guidelines for Americans" which must be updated at least every five years; requires a public comment period before a Federal agency, other than the FDA, may issue dietary guidance and requires the Secretaries to approve or disapprove the proposed guidance to assure consistency with the "Dietary Guidelines for Americans" report.

Omnibus Drug Initiative: H.R. 5210—Passed House September 22, 1988; Passed Senate amended October 14, 1988; In conference. (*376).

Provides a two-year authorization totaling $2.6 billion in budget authority ($1.4 billion in outlays) of which 60 percent will be devoted for demand reduction programs such as treatment and education and 40 percent to supply reduction programs including law enforcement and drug interdiction and eradication (separate programs within the bill carry multi-year authorization), creates a Cabinet-level Director of National Drug Control Policy to guide and coordinate the Federal drug control effort; imposes stringent new penalties against drug offenders and traffickers which include authorizing the imposition of the death penalty against individuals convicted of drug-related killings and establishing a $10,000 civil penalty for the possession of illegal drugs; emphasizes drug treatment and education programs and provides additional treatment funds; authorizes funds for expanded drug education and prevention programs; provides for enhanced international cooperation in drug eradication, interdiction, and law enforcement efforts; denies certain Federal benefits to convicted drug traffickers and users; restricts international laundering of U.S. currency; and prohibits the manufacture, importation, sale or possession of firearms not detectable by metal detection and x-ray systems.

Organ Transplants: H.R. 3097—Passed House October 27, 1987; Passed Senate amended June 17, 1988: House agreed to Senate amendments, with an amendment, October 12, 1988.

Authorizes $5 million in each FY 1988-90 for the local organ procurement organization grant program; specifies that grants may be used to consolidate and improve existing agencies; directs the National Organ Procurement and Transplantation Network (OPTN) to establish membership and medical criteria for allocating organs and provides for public comment on these criteria and the operation of the OPTN; authorizes

$5 million each FY 1988-90 for a new Immunosuppressive Drug Therapy Block Grant program, and terminates the program on January 1, 1991; authorizes $1.5 million FY 1989, and $1.6 million in 1990, for a bone marrow donor registry to be established October 1, 1988; extends the prohibition on the commercialization and commercial use of human organs to include fetal organs and tissue; extends the authorization of the HHS' Office of Organ Transplantation; and sets due dates for annual reports required under the National Organ Transplant Act of 1984 (P.L. 98-507).

Orphan Drugs: H.R. 3459—Public Law 100-290, approved April 18, 1988.

Authorizes $10 million in FY 1988, $12 million in 1989, and $14 million in 1990 for grants under the Orphan Drug Act; makes eligible testing programs for orphan medical devices and foods; directs the Secretary of HHS to report to Congress, within one year of enactment, on the need to extend benefits relating to developing orphan drugs to orphan medical devices and foods; extends from September 30, 1987, to February 1, 1989, the reporting date for the evaluation by the National Commission on Orphan Diseases on NIH activities regarding rare diseases and conditions; allows the FDA to approve additional New Drug Applications for a designated orphan drug already approved for treating the same disease, with the approved manufacturers to share the remaining time in the seven-year market exclusivity period; and requires manufacturers to request an orphan drug designation prior to applying for FDA approval and to notify FDA one year before discontinuing production of an approved orphan drug.

Pediatric Emergency Medical Centers: S. 1968—Passed Senate February 4, 1988.

Authorizes one-year minimum grants of $500,000, renewable for two additional fiscal years, for the development, establishment, and operation of regional centers for pediatric emergency medical services; authorizes $1 million in FY 1988 for a study, to be reported to the Secretary within 12 months of enactment, on the feasibility of establishing and operating a National Center for Pediatric Emergency Medical Services and authorizes $5 million in FY 1988, and such sums as necessary in 1989-9190, to establish the center if the Secretary so determines.

Prescription Drug Marketing: H.R. 1207—Public Law 100-293, approved April 22, 1988.

Prohibits the reimportation of prescription drugs, except by the manufacturer or for emergency use; bans the sale, trade or purchase of drug samples; prohibits, with certain exceptions, the resale of prescription drugs purchased by health care facilities for their own use; mandates storage, handling, and accounting requirements of drug samples; prohibits the wholesale distribution of drugs in interstate commerce from States which do not license wholesalers or whose licensing requirements do not meet minimum standards; and establishes criminal and civil penalties for violations.

Radon Program Development: S. 744—Public Law 100-x, approved, x, 1988.

Directs the Environmental Protection Agency (EPA) to assist States to develop and implement radon programs and authorizes $10 million annually in FY 1988-90 for State grant assistance; authorizes $1.5 million to expand and improve EPA's radon training and proficiency testing programs and $1.5 million for an EPA survey of radon contamination in public schools; requires EPA to establish a national clearinghouse and database for radon information; authorizes EPA to establish three regional radon training centers to provide information and training to State and local officials, employees of radon firms, and the public; requires Federal agency heads to conduct studies on radon contamination in Federal buildings; directs EPA to develop model construction standards and techniques for use by builders to control radon levels in new buildings; and sets a long-term goal of reducing indoor radon levels to match the ambient air outside.

HOUSING

Fair Housing: H.R. 1158—Public Law 100-430, approved September 13, 1988. (*283)

Amends the Fair Housing Act to create an enforcement system for the Federal fair housing laws and extend coverage to handicapped persons and families with children under age 18 (or any person who is pregnant or in the process of securing legal custody of a child under age 18); authorizes HUD to prosecute cases of discriminatory housing practices before Administrative Law Judges (ALJ's), or in Federal district court; establishes deadlines for the initiation and conclusion of an administrative hearing and the issuance of the ALJ's findings in the case; authorizes the ALJ to award appropriate relief including compensatory damages; establishes maximum civil penalties for discriminatory housing practices; continues the private right of action for discriminatory housing practices under existing law; consolidates in the Department of Justice (DOJ) the authority to represent the Federal government in all enforcement actions under the Act; continues DOJ's "pattern or practice" jurisdiction, and, specifies the types of relief that may be awarded in such cases; exempts certain housing for the elderly from the provisions prohibiting descrimination against families with children; excludes illegal users of or addicts to controlled substances from coverage under the handicapped provisions; and establishes minimum design standards for reasonable access and adaptability to handicapped persons which must be incorporated in new multifamily housing with four or more units.

IMPEACHMENT OF ALCEE L. HASTINGS

S. Res. 456—Senate agree to August 9, 1988.

Provides for the issuance of a summons which commands Alcee L. Hastings, U.S. District Court Judge for the Southern District of Florida, to file with the Secretary of the Senate an answer to the articles of impeachment no later than September 8, 1988.

S. Res. 480—Senate agreed to September 30, 1988.

Continues the impeachment proceedings for Alcee L. Hastings into the 101st Congress; instructs the Rules Committee to conduct a hearing during the week of January 23, 1989, on the appropriate use in this case of an evidentiary committee to receive and report to the Senate; and directs the parties to be prepared by March 1, 1989, or as soon after as the Senate determines testimony should be heard, to present their evidence in the forum to be designated by the Senate after receipt of the Committee's recommendations.

INDIANS

Alaska National Interest Lands Conservation: H.R. 2629—Public Law 100-395, approved August 16, 1988.

Approves and clarifies an agreement between the Department of the Interior, the State of Alaska, and Alaska Native groups regarding the conveyance and ownership of submerged lands in Alaska; requires the Secretary of the Interior to report to Congress, within one year of enactment, the impact of this agreement on conservation system units within the State, priorities for Federal acquisition of the lands, and his/her recommendations as to the most appropriate means of reducing any adverse effects of the agreement; prohibits the Secretary from conveying lands or interest in lands within the coastal plain of the Arctic National Wildlife Refuge (ANWR), Alaska without prior congressional approval; and approves the addition of approximately 325,000 acres of land to the ANWR.

Colorado Ute Indian Water Rights: H.R. 2642—Public Law 100-x, approved x, 1988.

Facilitates and implements the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.

Confederated Tribes of the Grand Ronde Community: H.R. 4143—Public Law 100-425, approved September 9, 1988.

Establishes a 9,800-acre reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and requires that 12,035 acres of other land be treated as revested Oregon and California Railroad grant lands for purposes of timber management and distribution of timber receipts.

Coushatta Tribe Land Claims Settlement: H.R. 3617—Public Law 100-411, approved August 22, 1988.

Compensates the Coushatta Tribe of Louisiana in the amount of $1.3 million for the loss of its lands authorizes the use and distribution of the funds.

Crow Tribe Funds Transfer: S. 2273—Public Law 100-318, approved May 13, 1988.

Directs the Secretary of HHS to transfer $180,000 to the Secretary of the Interior for a grant to the Crow Tribe for low-income home energy assistance to those Indian households who meet the eligibility criteria established by the Crow Tribe in its FY 1988 grant application.

Hoopa-Yurok Settlement: S. 2723—Public Law 100-x, approved x, 1988.

Partitions certain reservation lands in California between the Hoopa Valley Indian Tribe and the Yurok Indian Tribe; establishes the Hoopa-Yurok Settlement Fund into which the Secretary of the Interior is to deposit escrow funds and interest earnings from designated trust accounts; requires the Secretary to distribute Settlement Funds into trust accounts for the Hoopa Valley and Yurok tribes; authorizes $10 million to be deposited in the Settlement Fund for making lump-sum payments to eligible individuals electing certain tribal membership options; requires the Secretary to administer the partitioning of the lands and the two tribes; and authorizes $5 million from Bureau of Indian Affairs funds to be used to acquire lands or interest in lands or the Yurok Tribe.

S. Con. Res. 156—Action completed October 12, 1988.

Deletes the provision requiring the Secretary of the Interior to report to Congress on the advisability of conveying to the Yurok Tribe certain National Park System lands within the Yurok Reservation and, if he/she determines that the land should not be conveyed to include in the report a proposed agreement with the Tribe to assure tribal members reasonable access to ceremonial and religious sites and reasonable hunting, fishing, and gathering rights on the land.

Indian Claims Commission Expert Witness Fund: S. 2691—Passed Senate October 5, 1988.

Extends eligibility for funds from the Indian Claims Commission Expert Witness Fund to cases brought before the U.S. Claims Court.

Indian Development Finance Corporation: S. 721—Passed Senate April 20, 1988. NOTE: Similar provisions are included in H.R. 3621.

Establishes a Federally-chartered Indian Development Finance Corporation, owned by the Federal Government and Indian tribes, to provide member tribes with financial development assistance for Indian business enterprises through a combination of equity investments, direct loans, and loan guarantees; authorizes $2 million in FY 1990-91, for general operational expenses, $2.5 million in each 1989-93 for project development activities, $10 million in each 1989-90 for Federal purchase of capital stock shares in the Corporation, and $80 million in 1991 for the establishment of a loss reserve upon the request of the Corporation's Board of Directors; and makes the authorizations relating to the Federal capitalization of the corporation subject to the availability of advance appropriations.

Indian Education Technical amendments: H.R. 5174—Public Law 100-427, approved September 9, 1988.

Makes clarifying, correcting, and conforming amendments to laws relating to Indian education.

Indian Financing: S. 1360—Public Law 100-442, approved September 22, 1988.

Amends the Indian Financing Act of 1974 to increase the loan guarantee authority ceiling from $200 million to $500 million; raise the ceiling on loans to individual Indians or economic enterprises from $350,000 to $500,000; eliminate the restriction on the sale or assignment of loans only to State or Federally-regulated banks; require the Secretary of Interior to report to Congress if insufficient funds are available to pay losses on loans or surety bonds guaranteed or insured under this Act; authorize supplemental surety bond guarantees of up to 20 percent of losses if necessary for the eligible Indian or economic enterprise to secure the bond; and guarantee taxable bonds issued by Indian tribes for up to 90 percent of the unpaid principal and interest.

Indian Fishing Rights: S. 727—Passed Senate May 13, 1987; H. Res. 479—House agreed to June 21, 1988, returning S. 727 to Senate.

Specifies that income derived by Indians from the exercise of fishing rights secured by treaty, Executive Order, or act of congress is tax-exempt.

Indian Gaming Regulation: S. 555—Public Law 100-x, approved x, 1988.

Establishes a system of joint regulation by tribes and the Federal government of class II gaming (bingo, lotto, punch boards, certain card games, etc.) on Indian lands and a system for compacts between tribes and States for regulating class III gaming (including banking card games such as baccarat and blackjack, slot machines, and horse and dog racing); establishes the National Indian Gaming Commission, as an independent agency within the Interior Department, to regulate class II gaming with oversight over class III gaming; maintains class I ceremonial gaming within the exclusive jurisdiction of Indian tribes; and establishes civil penalties for violating provisions and criminal penalties for theft from Indian gaming activities.

Indian Health Care: H.R. 5261—Public Law 10-x approved x, 1988.

Extends the authorization for programs under the Indian Health Care Improvement Act through FY 1992; makes the Indian Health Service (IHS) an agency of the Public Health Service (PHS); authorizes $12 million in FY 1989 for a newly established Indian Catastrophic Health Emergency Fund and such sums as necessary in 1990-92 to maintain the fund at $12 million; authorizes such sums as necessary for a diabetes care program and establishes several new model diabetes clinics in specified areas; authorizes $750,000 in each FY 1990-93, a Native Hawaiian Health Promotion and Disease Prevention demonstration program to explore ways to meet the unique health care needs of Native Hawaiians; requires the Secretary to consult with affected Indian tribes to determine tribal preferences regarding constructing or renovating IHS health care facilities and to notify Congress one year in advance of any proposal to close any IHS health care facility; authorizes $3.8 million in FY 1990-92 for financial and technical assistance to Indian communities in operating and maintaining safe water and sanitary waste disposal facilities; makes permanent the health services for urban Indians' programs; authorizes the Secretary to provide management information systems to tribes, tribal organizations, and urban Indian organizations that provide IHS health services and provide reimbursement for that portion of the system's operation attributable to IHS patients; provides for a two-year study on IHS and Veterans' Administration facilities and services sharing as well as a four-year demonstration project that allows direct billing of third party payers; authorizes such sums as necessary through FY 1993 for demonstration projects for Indian tribes to develop and test a phased assumption by the Indian tribe of the IHS health care delivery system; requires the Secretary to develop a plan to reduce the infant mortality and fetal alcohol syndrome rates among Indian infants; requires the IHS, during the one-year moratorium period imposed by P.L. 100-446 on implementation of a proposed regulation changing the eligibility criteria for IHS medical care, to provide services pursuant to the eligibility criteria in effect on September 15, 1987; establishes a clinical staffing recruitment and retention program for rural health care services; and makes any HHS limitation on the use of funds to perform abortions applicable to IHS funds contained in this Act.

Indian Health Service: S. 2382—Passed Senate September 9, 1988.

Prohibits, for three years following enactment, the implementation of a proposed HHS regulation which would change the eligibility criteria for medical care provided by the Indian Health Service; and directs the Office of Technology Assessment to report on the impacts of the proposed change to Congress two years after enactment.

Indian Housing: H.R. 3927—Public Law 100-358, approved June 29, 1988.

Establishes a separate title under the Housing Act of 1937 of govern Federal housing assistance for Indians and Alaskan Natives and provides statutory authority for the Mutual Help Homeownership Opportunity Program.

Indian Self-Determination: H.R. 1223—Public Law 100-472, approved October 5, 1988.

Amends the Indian Self-Determination and Education Assistance Act to revise and streamline the contracting process and specifically providing that procurement contracts, except for construction contracts, should be viewed as intergovernmental agreements and therefore not subject to Federal procurement and acquisitions laws and regulations; requires the Secretaries of Interior and HHS to obtain liability insurance for tribes and tribal contractors carrying out self-determination contracts or agreements, and to provide broader technical assistance, subject to the availability of appropriations, to aid tribes in developing, implementing, or modifying self-determination contracts; makes the Contract Disputes Act applicable to appeals of self-determination contracts; and establishes a five-year Tribal Self-Governance Demonstration Project to increase participants' access to Federal funds which are otherwise spent to support Federal personnel and offices serving those tribes and give them greater flexibility to plan their programs and budgets according to local needs.

Iroquois Nations Contribution to Development to U.S. Constitution: S. Con. Res. 76—Senate agreed to October 7, 1988.

Acknowledges the contribution of the Six Nations of Iroquois Confederacy to the development of the U.S. Constitution and reaffirms the continuing government-to-government relationship between Indian tribes and the United States that was established in the Constitution.

Isleta Indian Tribe Land Leases: S. 1945—Public Law 100-477, approved October 6, 1988.

Authorizes the U.S. to pay the Isleta Indian Tribe fair market value for land leased from the tribe for a U.S. Geological Survey seismological laboratory; provides for reappraisal and adjustment of the rental amount every five years and makes the bill retroactive to September 26, 1985.

La Jola, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians Water Rights Claims Settlement: S. 795—Passed Senate December 19, 1987; Passed House amended October 4, 1988.

Provides for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for a sufficient amount of water to be made available in the San Luis Rey River basin to satisfy the needs of all water users.

Lac Vieux Desert Band of Lake Superior Chippewa Indians: H.R. 3679—Public Law 100-420, approved September 8, 1988.

Grants Federal recognition to the Lac Vieux Desert Band of Lake Superior Chippewa Indians, currently part of the Keweenaw Bay Indian Community; provides for the transfer of lands in Gogebic County, Michigan from the Keweenaw Bay Indian Community to the Lac Vieux Desert Band for their reservation; and directs the Secretary of the Interior, at the request of the Keweenaw Bay tribal council, to call an election to amend the tribe's constitution.

Landless Indian Tribes Rights to Organize: H.R. 2677—Public Law 100-x, approved x, 1988.

Establishes procedures for review of Tribal constitutions, and bylaws or amendments thereto, pursuant to the Indian Reorganization Act; provides for increased access to usual and accustomed fishing sites for Columbia River treaty fishing tribes; includes several technical and clarifying amendments to other laws affecting Indians including provisions to implement a judgment distribution plan for the Choctaw and Chickasaw tribes and make the Buy Indian Act applicable to printing services procurement by the Bureau of Indian Affairs and the Indian Health Services; authorizes the distribution of funds awarded to the Wisconsin Bank of Patawatomi and declares certain lands to be held in trust for the Potawatomi Indian communities in Wisconsin and Michigan; and clarifies that escrow claims based on wildlife proceeds are to be treated the same as those claims, already paid, based on proceeds from oil and gas, timber, etc. on Alaska Native lands.

Native American Languages Promotion: S.J. Res. 379—Passed Senate September 30, 1988.

Establishes as U.S. policy the preservation, protection, and promotion of the rights of indigenous Americans to use, practice, and develop Native American languages, including the right to use Native American languages as the media of instruction in State and Federal institutions of compulsory education and as the official language in their traditional territories; and recommends that indigenous languages be included in the educational curriculum and that competency in indigenous languages be granted the same academic credit as proficiency in a foreign language.

Native Hawaiians Health Status: S. 136—Public Law 100-x, approved x, 1988.

Authorizes $700,000 in FY 1990 for grants to Papa Ola Lokahi to (an organization comprised of the Hawaiian State Offices of Hawaiian Affairs and of Hawaiian Health, the University of Hawaii, and certain Native Hawaiian organizations) develop a Native Hawaiian comprehensive health care master plan based on an assessment of Native Hawaiians' health care status and needs; authorizes $5 million in FY 1991 and $10 million in 1992, for the Secretary of HHS, in consultation with Papa Ola Lokahi, to enter into contracts or agreements with any qualified entity to provide comprehensive health promotion and disease prevention, as well as primary health care, to Native Hawaiians; authorizes $900,000 in 1990 for Papa Ola Lokahi to plan Native Hawaiian Health Centers on each of the Hawaiian islands and $1 million in each FY 1990-92 for the coordination, implementation, and updating of the comprehensive health care master plan, training programs under the plan, and the identification of and research into the prevalent diseases among Native Hawaiians; and authorizes the Secretary to assign HHS personnel for the purpose of providing comprehensive health promotion and disease prevention to Native Hawaiians.

Navajo-Hopi Relocation Program: S. 1236—Public Law 100-x, approved x, 1988.

Increases, from $7.7 million to $13 million, the authorization for the Navajo and Hopi Indian Relocation Commission for incentive relocation bonus payments and from $15 million to $30 million annually for FY 1989-91, the authorization for housing assistance to relocated households; eliminates the restrictions on the types of activities for which the Commissioner may use discretionary funds; establishes an independent Office of Navajo and Hopi Indian Relocation, under the direction of a fulltime Commissioner and transfers to it the functions and resources of the current Commission and related Bureau of Indian Affairs activities; gives the Commissioner the sole authority for final planning decisions regarding the development of lands acquired pursuant to this Act; authorizes $100,000 annually to the Commission for legal services contracts; establishes a Navajo Rehabilitation Trust Fund within the U.S. Treasury and authorizes $10 million in each FY 1990-95 for the Trust Fund which would be repaid from income earned on certain Navajo lands; and allows existing structures to be improved or repaired if necessary for the health or safety of a Navajo or Hopi Tribe member.

Northwestern Band of the Shoshoni Indians Economic Development Plan: H.R. 2370—Public Law 100-419, approved September 8, 1988.

Authorizes the Secretary of the Interior to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Indians.

Pine Ridge Indian Reservation Settlement (Wounded Knee): S. 1305—Passed Senate October 4, 1988.

Provides for a full settlement of all legal and equitable claims (as certified to the Senate by the U.S. Court of Claims) against the United States arising from the occupation of Wounded Knee at the Pine Ridge Indian Reservation in 1973; limits attorney's fees for services rendered in connection with the claim to ten percent of the payment; and specifies that payments under this act are not subject to Federal, State, or local tax nor would payments be considered as income when determining eligibility for assistance under the Social Security Act or any other Federal assistance program.

Pechanga Band Trust Lands: H.R. 2615—Public Law 100-381, approved August 8, 1988.

Provides that the U.S. interest in 235 acres of land located adjacent to the reservation of the Pechanga Band of Luiseno Mission Indians in California be held in trust for the benefit of the Band to be used as part of their Reservation.

Quinault Indians, Washington, Trust Lands: S. 2752—Passed Senate October 7, 1988.

Transfers approximately 12,000 acres of land (within the Olympic National Forest) from the Forest Service to the Secretary of Interior for inclusion within the boundaries of the present 196,000-acre Quinault Indian Reservation in Washington to be held in the trust for the tribe; and makes timber receipts from certain other Forest Service lands available to the tribe and certain other countries to offset the loss of receipts resulting from the transfer of the lands to trust status.

Salt River Pima-Maricopa Indian Community Water Rights Settlement: H.R. 4102—Public Law 100-x, approved x, 1988.

Provides for the settlement of water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona; quantifies the amount of water to which the Community is entitled through exchanges, transfers, modifications of Federal projects, and Federal water contracts and authorizes $9 million to facilitate exchanges and transfers; and authorizes $43 million to be deposited in a Salt River Community Trust Fund to be used to rehabilitate existing irrigation systems on the Salt River Pima-Maricopa Reservation and assist in constructing additional facilities.

Salt River Pima-Maricopa Indian Reservation, Arizona: H.R. 5066—Public Law 100-x, approved x, 1988.

Provides for a land exchange between the Bureau of Land Management and the State of Arizona for addition to the Salt River Pima-Maricopa Indian Reservation if an agreement is reached between the State and Indian Community for locating a regional freeway on Reservation lands.

Southern California Land Transfer/Indian Development Finance Corporation: H.R. 3621—Passed House August 8, 1988; Passed Senate October 1, 1988; Senate agreed to conference report October 14, 1988.

Declares approximately 5,069 acres of land currently administered by the Bureau of Land Management and adjacent to or contiguous with the existing reservations of 11 Indian tribes located in San Diego and Riverside Counties in Southern California to be held in trust for the benefit of those tribes; establishes a Federally-chartered Indian Development Finance Corporation, owned by the Federal government and Indian tribes, to provide member tribes with financial development assistance for Indian tribes, to provide member tribes with financial development assistance for Indian business enterprises through a combination of equity investments, direct loans, and loan guarantees; establishes eligibility requirements for Indian businesss enterprises; limits to 90 percent the amount of Corporation loan guarantees and caps at 30 percent the amount of equity or ownership interest in any Indian business enterprise which the Corporation may purchase; establishes a 15-member Board of Directors to govern the corporation and contains numerous provisions for Federal oversight of the Corporaton including requiring it to report annually to Congress; and authorizes $2 million in FY 1989, and such as necessary in FY 1990-91, for general operational expenses, $2.5 million in each 1989-93 for project development activities, $10 million in each FY 1989-90 for Federal purchase of capital stock shares in the Corporation, and $80 million in 1991 for the establishment of a loss reserve upon the request of the Corporation's Board of Directors; and automatically pushes back the authorization if no funds are appropriated in FY 1989.

INTERNATIONAL (SEE ALSO TREATIES)

Afghanistan Resolution: S. Res. 386—Senate agreed to February 29, 1988. (*32)

Expresses the Senate's beliefs that there should be no diminishment in U.S. aid to the Afghan resistance until it is certain that the Soviets have terminated their military occupation and are not positioned for a new invasion, and that the Afghan resistance is equipped to maintain their integrity during the transition government leading up to new elections; expresses support for a U.N.-sponsored peacekeeping force while an interim government organizes the nation's future and for increased U.S. humanitarian aid to the Afghan people; and urges the President to address certain issues relating to Afghanistan during talks with the Soviets.

Bangladesh Disaster Assistance: H.R. 5389—Public Law 100-x, approved x, 1988.

Amends section 301 of the Agricultural Trade and Development and Assistance Act of 1954 to allow local currencies generated by the sale of P.L. 480 titles I and III commodities to be used for Bangladesh disaster relief and rehabilitation; mandates that $100 million of P.L. 180 counterpart funds be expended for this aid to Bangladesh and extends the deadline by which the funds must be obligated from September 1989 to September 1990; clarifies that these funds should be in addition to regular development assistance to Bangladesh; and requires the President to report to Congress, within six months of enactment, on international and regional efforts to develop programs for the Banges River Basin and the Brahmaputra River Basin to ensure an equitable and predictable supply of water in the dry season and promote better flood control mechanisms.

Berlin Wall: S. Con. Res. 82—Senate agreed to March 4, 1988.

Urges Erich Honecker, chief of state of the German Democratic Republic, to repeal permanently the order directing East German border guards to shoot to kill anyone who attempts to cross the Berlin Wall without authorization, and to issue an order to tear down the Wall.

Burmese Human Rights: S. Res. 464—Senate agreed to August 11, 1988.

Calls upon the President and other U.S. officials to publicly comdemn the killings and mass arrests by the Burmese army, encourage the restoration of democracy in Burma and an end to one-party rule, and raise the issue of human rights and national reconciliation in their meetings with Burmese officials.

Burundi Atrocities: H. Con. Res. 371—Action Completed October 7, 1988.

Urges the Burundi government to maintain and increase its efforts toward national reconciliation; condemns the recent violence in Burundi; urges the President and Secretary of State to: (1) press for a negotiated nonviolent reform of Burundi's historical inequities; (2) conduct a comprehensive reassessment of the U.S. bilateral relationship with the Burundi government and suspend U.S. assistance (other than humanitarian aid) unless, within six months of enactment, an impartial inquiry has been initiated to determine the causes of the outbreaks of violence in August and recommend future action to achieve an effective national reconciliation, and the Burundi government has begun to investigate and prosecute those responsible for the recent atrocities committed against innocent Burundi citizens, made substantial progress in safe returning Burundi's internally displaced and refugee populations to their homes, and continues to assure foreign journalists and international humanitarian felief organizations free access to the areas recently affected by violence; and (3) suspend U.S. assistance and oppose future World Bank loans to Burundi unless, within one year of enactment, the Burundi government has made substantial progress in advancing internal reform of its military and civil administration and in reversing patterns of ethnic discrimination against the majority Hutu.

Cambodian Conflict: H.J. Res. 602—Public Law 100-x, approved x, 1988.

Declares that all parties seeking a settlement of the Cambodian conflict should place among their highest priorities the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge; calls on the Socialist Republic of Vietnam to withdraw its armed forces from Cambodia and upon all parties, in the context of a negotiated settlement, to deny safe haven to Khmer Rouge forces; seeks the support of the members of the Association of Southeast Asian Nations (ASEAN) and other nations in U.N. declarations and resolutions pertaining to the Cambodian conflict; declares that the U.S. and the ASEAN members should continue to support the non-Communist Cambodian forces and consider whether a negotiated settlement could be facilitated by convening an international peacekeeping force to supervise the withdrawal of Vietnamese forces and the holding of free and fair elections in Cambodia; and declares that the U.S. should attempt to halt immediately the flow of arms and military equipment to the Khmer Rouge.

Central American Economic Development and Recovery: S. Con. Res. 63—Senate agreed to August 5, 1988. (*294)

Urges the President to encourage and assist, as requested, Costa Rica, El Salvador, Guatemala, Honduras, Belize, and Nicaragua in planning, formulating, and implementing a regional economic development and recovery program for Central America, and to encourage other countries to join in extending assistance to those Central American countries that have made substantial progress toward peaceful relations.

Commission on the Ukraine Famine: S. 2304—Public Law 100-340, approved June 17, 1988.

Extends from April 22, 1988, to June 22, 1990, the life of the Commission on the Ukraine Famine and provides that Commission vacancies be filled in the same manner as the original appointments.

Contra Aid: S.J. Res. 243—Passed Senate February 4, 1988. (*18)

Approves approximately $60 million in additional assistance for the Nicaraguan Democratic Resistance (Contras) as requested by the President on January 27, 1988, pursuant to H.J. Res. 395 (P.L. 100-202), which includes $32.65 million for nonlethal assistance and $2.6 million for lethal assistance which would be placed in escrow until March 31, 1988, and releasd afterward upon the President's certification to Congress that no mutually agreed upon ceasefire is in place, the failure to achieve the ceasefire results from the lack of good faith efforts by the Sandinistas to comply with the Central American peace agreement, and the Contras engaged in good faith efforts to achieve a ceasefire.

H.J. Res. 523—Public Law 100-276, approved April 1, 1988. (*83)

Makes available through FY 1988, by transfer from DOD accounts, $47.9 million in aid to reinforce the peace process in Nicaragua consistent with the Sapoa Ceasefire Agreement concluded March 23, 1988, between the Nicaraguan government and the Nicaraguan Resistance (Contras); includes $17.7 million in humanitarian aid (food, clothing, medicine, and shelter) to the Contras, of which $1.5 million may be used to provide communications equipment if found consistent with the ceasefire agreement; $2.2 million to aid the Yatama Miskito Indians; $17.7 million for the medical treatment of children injured in the Nicaraguan war; $10 million to assist the activities of the ceasefire verification commission; and $2.5 million to the Agency for International Development for delivery of the humanitarian aid.

Dalai Lama Peace Proposal: S. Con. Res. 129—Senate agreed to September 16, 1988.

Expresses support for the Dalai Lama and his proposal to promote peace, gain democracy, and ensure and enhance the human rights of the Tibetan people; calls on the People's Republic of China (PRC) to enter into discussions with the Dalai Lama to resolve the question of Tibet along the lines of the proposal; and calls on the President and Secretary of State to express the U.S. government's support for the thrust of the proposal and to persuade the PRC to enter into discussions with the Dalai Lama regarding his proposal.

European Communities Economies: S. Res. 491—Senate agreed to October 7, 1988.

Urges the next Administration to establish a bicontinental dialogue, including representatives of the Administration, Congress, the private sector, and their European counterparts, to discuss the implications of the integration of the European Communities (EC) for U.S. trade investment and obtain assurances that: the EC will keep their commitments to market access for U.S. products, the EC's integration is consistent with U.S. efforts to strengthen multilateral trade in the Uruguay Round of trade negotiations, U.S. companies with subsidiaries in Europe will have the same status as EC firms under any new EC directives, and new investment by U.S. firms in European Communities can take place on a nondiscriminatory basis.

Friendship Flight Between Alaska and Siberia: S. Res. 439—Senate agreed to June 8, 1988.

Congratulates the participants in the first Friendshp Flight between Nome, Alaska, and Provideniya, Siberia, and encourages further cultural ties between America and the Soviet Union.

Haiti—Designation as Major Drug Transit Country: S. J. Res. 285—Passed Senate April 14, 1988.

Disapproves the State Department's determination that Haiti is not a major drug-transit country nation as defined in the Foreign Assistance Act of 1961, and states that the President should mandate that Haiti be classified as a major drug transshipment nation and be subject to section 481(h) of the Act which requires the President to certify to Congress by March 1 of each year that specified countries, which are recipients of U.S. aid, have in the past year cooperated fully with the U.S. in its effort to eradicate the drug problem or be subject to stiff sanctions, including a 50 percent reduction in U.S. foreign aid.

Haitian Democracy: S. Con. Res. 140—Action completed October 6, 1988.

States that: (1) the resumption of economic or other assistance to Haiti should be clearly linked to tangible actions by the Haitian government to embark upon a credible transition to democracy, strictly observe human and civil rights, reform a corrupt bureaucracy, promote economic development, improve cooperation with the U.S. in dealing with narcotics trafficking through Haiti, and demonstrate the willingness of the Haitian armed forces to submit to legally constituted civilian authority and abide by the Haitian constitution; (2) regular and sustained U.S. government assistance to Haiti will not resume until the election of a civilian government pursuant to free and open elections and executive branch officials should consult with Congress before making assistance available to the Haitian government; (3) Congress supports the Haitian people's desire for democratic government and economic development by directing the appropriate Congressional committee to conduct hearings to determine what legislative actions may be appropriate and necessary to promote free, open elections of a civilian government in Haiti; and (4) executive branch officials should examine ways for the U.S. to work with its allies and international organizations to develop a consistent and sustainable multilateral policy toward Haiti.

Inter-American Convention on International Commercial Arbitration: S. 2204—Passed Senate September 30, 1988.

Modifies current law to provide for the implementation and enforcement of the Inter-American Convention on International Commercial Arbitration by U.S. courts; authorizes U.S. courts to issue orders to compel arbitration and to appoint arbitrators; specifies that any arbitral decisions or awards made in the territory of a foreign State shall, on the basis of reciprocity, be recognized and enforces only if that State has ratified or acceded to the Convention;

and makes the Inter-American Convention applicable in cases where the requirements of both the Inter-American Convention and the Convention on the Recognition and Enfocement of Foreign Arbitral Awards of June 10, 1958 are met, only if a majority of the arbitrating parties are citizens of States that have ratified and acceded to the Convention and members of the Organization of American States.

International Cooperation to Protect Biological Diversity: H.J. Res. 648—Public Law 100-x, approved x, 1988.

States Congress' support for U.S. efforts to initiate discussions to develop an international agreement to preserve biological diversity and calls upon the President to continue exerting U.S. leadership in order to achieve the earliest possible negotiation of an international convention to conserve the Earth's biological diversity; and requires the President, within one year of enactment, to report to Congress on progress toward negotiating such in international convention.

International Organizations Immunities: H.R. 4162—Public Law 100-362, approved July 6, 1988.

Makes the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States.

Iranian Human Rights: S. Con. Res. 120—Action completed August 8, 1988.

Urges the Iranian government to restore the human rights of members of the Baha'i faith and calls on the President to continue to monitor relevant developments in Iran and other countries which may not respect the rights of Baha'is; cooperate with other governments in continuing to appeal to the Iranian government on this issue; initiate and support U.N. efforts to promote protection of the religious rights of Baha'is; and provide refugee and humanitarian assistance for Baha'is who flee their homeland because of religious repression.

Iranian Imports Ban: S. 1748—Passed Senate October 6, 1987; H. Res. 474—House agreed to June 16, 1988, returning S. 1748 to Senate. (301)

Prohibits the importation of all products into the U.S. from Iran; permits the President to delay implementation to the prohibition for up to 180 days if he submits a report to Congress explaining his reasons for doing so and specifying how the national interest would be jeopardized by the prohibition's implementation; and makes the prohibition effective following any 180-day delay unless further extended by enactment of a joint resolution.

Iraqi Chemical Weapons Use: S. Res. 408—Senate agreed to June 24, 1988. (*201)

Condemns the use of chemical weapons by Iraq and expresses concern about reported Iranian use of these weapons; calls upon Iraq to stop using chemical weapons and urges the President to make appropriate diplomatic efforts to prevent Iran from developing or using these weapons; and urges the President to seek allied cooperation to tighten export controls on chemical compounds to countries seeking to develop a chemical weapons capability and to pursue American efforts at the Geneva Conference on Disarmament to reach an arms control agreement banning them.

Iraqi Sanctions: S. 2763—Passed Senate September 9, 1988; On September 28, 1988, House agreed to H. Res. 552, returning the measure to the Senate on the gounds that the bill contravenes the Constitutional requirement that revenue measures originate in the House.

Imposes sanctions against Iraq for its use of chemical weapons against the Kurds including cutting off all assistance, military equipment sales, credit, and credit guarantees; prohibiting items subject to U.S. controls from being exported to Iraq; requiring the U.S. to vote against loans to Iraq in international financial institutions; prohibiting the importation of Iraqi oil and petroleum products; and requesting the Secretary of State to bring the matter before the U.N. Security Council and demand that appropriate and effective measures be taken against Iraq for its repeated use of chemical weapons; and permits the sanctions to be lifted upon certification by the President that Iraq has ceased its campaign of genocide against the Kurds and has stopped using chemical weapons.

Lebanon-U.S. Relations: H. Con. Res. 381—Passed House October 6, 1988; Passed Senate amended October 14, 1988.

States the sense of the Congress that the U.S. should encourge all parties in Lebanon to support the constitutional mandate to elect a new president in a democratic atmosphere free from external influence; reinforce its commitment to Lebanon's national sovereignty; and support actions which promote Lebanon's unity.

Mexico Anti-Drug Effort Certification: S.J. Res. 268—Passed Senate April 14, 1988. NOTE: (A similar resolution dealing with the Bahamas was rejected on April 14.) (*97)

Disapproves the President's certification, as required by section 481(h) of the Foreign Assistance Act of 1961, that Mexico has cooperated fully in matters relating to drug interdiction and eradication efforts and in preventing and punishing the laundering of drug-related profits or monies.

North Korean Support of Terrorism: S. Con. Res. 99—Senate agreed to March 4, 1988.

Condemns North Korea for bombing Korean Air Lines Flight 858 on November 29, 1987, and its pattern of engagement in, and support for, international terrorism; rejects the December 1987 proposal to enter into a dialogue with the North Korean Parliament; expresses congressional support for the executive branch's sanctions against North Korea and calls upon other countries to implement sanctions; calls upon the International Civilian Aviation Organization to take steps against North Korea; calls upon governments to show their rejection of North Korea's efforts to undermine the 1988 summer Olympic Games in Seoul; pays tribute to the South Korean government for acting with great restraint and responsibility in the face of this provocation by North Korea; and commends the governments of Bahrain and Japan for their cooperation in investigating the bombing of Flight 858.

Panama—Economic Sanctions: S. Res. 403—Senate agreed to March 31, 1988. (*84)

Expresses the sense of the Senate that the President should invoke his available emergency economic powers to prevent future transfers of cash and credit subject to U.S. jurisdiction to the Noriega regime in Panama, and instead place any amounts which would otherwise be transferred to Panama into an escrow account.

Panamanian Democracy: S. Con. Res. 108—Senate agreed to March 25, 1988. (*74)

States that the situation in Panama constitutes an unusual and extraordinary threat to U.S. national security, foreign policy, and economic interests; the U.S. should act to impose additional diplomatic, political, and economic pressure on General Noriega and obtain his extradition from Panama; based on the statement of support for President Delvalle issued by the political leaders of Panama on March 6, 1988, the U.S. should take immediate steps to provide additional diplomatic, political, and economic support to President Delvalle's government, and should consider a comprehensive package of assistance for the transitional government.

S. Con. Res. 149—Action completed October 6, 1988.

States that the U.S. should work with President Delvalle, the democratic forces inside Panama, and other governments in the region to achieve the early departure of General Noriega from office and from Panama, promote the creation of a transitional government and the restoration of civilian constitutional government, restore press and political freedom, guarantee free and fair elections in 1989, and promote free enterprise and democracy in Panama; and, if democracy is restored to Panama, the U.S. should work to revive the Panamanian economy and consider providing various forms of Federal assistance to Panama.

President Zia of Pakistan: S. Res. 468—Senate agreed to September 9, 1988. (*325)

Expresses regret at the death of President Mohammad Zia ul-Haq of Pakistan; reaffirms the longstanding commitment to the security and independence of Pakistan; and welcomes the commitment of the government of Pakistan under the leadership of President Ghulam Ishaq Khan to follow the constitutional process, proceed with fair parliamentary elections scheduled for November 16, and continue Pakistan's support for the Afghan refugees and Resistance in their struggle for freedom in Afghanistan.

Romanian Human Rights: S. Res. 461—Senate agreed to August 11, 1988. (*309)

Condemns Romania for its human rights abuses, particularly its plan to raze agricultural villages in traditionally Hungarian areas; urges the Romanian government to institute meaningful human rights reforms and comply with international agreements binding on Romania; and urges the President to make clear to the Romanian government that Most-Favored-Nation status will not be restored or other favorable trading privileges extended to Romania until it reforms its human rights practices.

Seoul Olympics: H. Con. Res. 348—Action completed September 16, 1988.

Supports the choice of Seoul as host city for the 1988 Summer Olympic Games; expresses appreciation for the measures taken by the Seoul Olympic Organizing Committee to offer maximum security for the athletes, officials, and the visitors; and urges all member nations of the Olympic movement to participate in the 1988 Olympic Games at Seoul.

Ship Lease and Transfer to Pakistan and the Philippines: H.R. 5420—Passed House October 6, 1988; Passed Senate amended October 14, 1988.

Authorizes the lease of a specified naval repair ship to the government of Pakistan and the transfer of a specified floating drydock and a medium yard tug to the Philippines; and allows AID to use excess U.S.-owned foreign currencies for development aid to overseas educational institutions serving Americans.

Solidarity Trade Union Recognition: S. Res. 475—Senate agreed to October 7, 1988.

Urges the Polish government to immediately confer legal and independent status upon the Solidarity trade union as evidence of its recognition of the important contribution to the economic and social reconstruction of the country to be made by the Polish people acting through independent, voluntary organizations.

Southeast Asian Refugees: H. Con. Res. 303—Action completed October 12, 1988.

Commends the humanitarian treatment of Southeast Asian refugees and urges further measures to ensure that this treatment continues.

Soviet ABM Treaty Violations: S. Res. 474—Senate agreed to September 16, 1988. (*331)

Supports the continuation of settled national policy, reiterated in the August 31 unilateral statement, that unequivocal Soviet violations of the ABM Treaty, as exemplified by the radar at Krasnoyarsk, must be corrected before the conclusions of any future agreements on strategic arms; urges the President to work with Congress to develop appropriate, proportionate response options to the Krasnoyarsk radar and any other unequivocal ABM Treaty violations that would, if not corrected, deny the U.S. the essential benefits of the Treaty and be detrimental to U.S. security; and expresses the Senate's willingness to consider as soon as possible any such responses that might require legislative action.

Soviet Control of Vilnius Cathedral: S. Res. 385—Senate agreed to September 16, 1988.

Opposes continued Soviet control of the cathedral in Vilnius, Lithuania; supports the efforts of the Lithuanian people to secure the return of the Cathedral and the right to exercise their fundamental religious rights; calls upon the President and the Secretary of State to raise this issue in meetings with Soviet officials and directs U.S. government representatives at international human rights forums to speak out forcefully for the return of the Cathedral; and urges the Soviet government to reverse its policy of denying the right to worship in the Cathedral and it to the Roman Catholic Church's control.

Soviet Religious Persecution of Ukrainians: S.J. Res. 235—Public Law 100-305, approved May 2, 1988.

Deplores the Soviet's active persecution of religious believers in the Ukraine and the forcible liquidation of the Ukrainian Orthodox and Catholic Churches; discourages official U.S. participation in ceremonies of the Millennium in the USSR as long as individuals remain harassed and imprisoned for their religious beliefs and the churches remain outlawed; urges the President and others to continue to speak out against these violations; calls upon the Soviets to abide by the various human rights agreements; and urges the Soviets, in observance of the Millennium, to legalize these Churches.

USIA Film Release: S. 2365—Passed Senate June 23, 1988; Passed House amended September 20, 1988.

Authorizes the release in the U.S. of 86 USIA films on the Marshall Plan.

Western Hemisphere Anti-Drug Summit: S. Res. 442—Senate agreed to June 23, 1988. (*199)

States that the President should convene as soon as possible an International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere.

JUDICIARY AND ADMINISTRATION OF JUSTICE

Anti-Corruption: S. 2793—Passed Senate October 14, 1988.

Imposes mandatory fines and/or prison terms upon an individual for bribing or attempting to bribe a public official, and for tampering with the election process in any primary, run-off, special, or general election.

Bankruptcy Judges: H.R. 4064—Passed House September 13, 1988; Passed Senate amended October 14, 1988.

Authorizes the appointment of seven new bankruptcy judges in Alaska, Colorado, Kansas, Arizona, the eastern districts of Kentucky, and the eastern and western districts of Texas.

Bankruptcy Judges Retirement: S. 1630—Passed Senate March 3, 1988; Passed House amended July 11, 1988; Senate agreed to conference report October 7, 1988.

Creates a new retirement system for bankruptcy judges and magistrates which would provide them with a retirement benefits equal to their final salary at age 65 with 14 years of service.

Berne Convention Implementing Legislation: S. 1301—Passed Senate October 5, 1988; H.R. 4262—Public Law 100-x, approved x, 1988. (*350)

Amends Title 17, U.S.C. to make changes to the U.S. copyright law as necessary for the U.S. to adhere to the Berne Convention for the Protection of Literary and Artistic Works which was signed at Berne, Switzerland, on September 9, 1986; gives guidance to the courts on how to construe U.S. adherence to the Convention; and defines the subject matter, scope of copyrights, and type of notice, filing, or registration required for a work to be protected against unauthorized use.

Child Abuse Prevention and Treatment: H.R. 1900—Public Law 100-294, approved April 25, 1988.

Authorizes in FY 1988, the Child Abuse Prevention and Treatment program at $48 million, the Adoption Opportunities program at $12 million, and the Family Violence Prevention and Services program at $26 million, and provides such sums as necessary for these programs in 1989-91; establishes a National Center for Child Abuse and Neglect as a separate entity administered by a full-time Director; separates the Advisory Panel on Child Abuse and Neglect into two entities—an Advisory Board controlled by public sector individuals appointed by the president and an Inter-Agency Federal Task Force; creates a National Clearinghouse on Information on Child Abuse and Neglect; requires that the majority of Federal funds for Child Abuse program activities be targeted to identification and prevention activities rather than treatment; mandates several studies including studies on the incidence of, and correlation between, child abuse and alcohol, handicapped children, and underserved or unserved groups; authorizes new Adoption Opportunities programs to increase the placement of minority children in adoptive families, with a special emphasis on recruiting minority families, and to provide support services to adoptive families of special needs children; and establishes a Presidential Commission on Child and Youth Deaths.

Civil Rights Restoration (Grove City): S. 557—Vetoed March 16, 1988; Senate and House overrode veto March 22, 1988; Became Public Law 100-259, without approval, March 22, 1988. (*12, *67)

Reaffirms pre-Grove City College judicial and executive branch interpretations and enforcement practices of the four major civil right statutes—Title IX of the Education Amendments of 1972, Title VI of the Civil rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975—by restoring all four statutes to the broad institution-wide application which characterized coverage and enforcement until the Supreme Court's 1984 decision in Grove City College v. Bell which severely narrowed the application of coverage of these statutes.

Court Reform: S. 1482—Passed Senate October 14, 1988; H.R. 4807—Passed House September 13, 1988; Passed Senate amended October 14, 1988.

Provides a procedure for the promulgation of rules issued by the courts; establishes a Committee of the Judicial Conference to study the problems and needs of the Federal judiciary; makes modest adjustments to the scope of diversity jurisdiction; provides for the early resolution of District Court jurisdictional issues under the Tucker Act; reauthorizes the State Justice Institute; amends both the Court Interpreter and Jury Selection and Service Acts; and makes other improvements proposed by the Judicial Conference.

Criminal and Juvenile Justice Partnership: H.R. 1801—Passed House June 1, 1988; Passed Senate amended October 14, 1988.

Authorizes such sums as necessary through FY 1992, for programs under the Juvenile Justice and Delinquency Prevention Act, Runaway and Homeless Youth Act, and the Missing Children's Assistance Act; establishes the Bureau of Justice Assistance (BJA) within the Department of Justice to be headed by a Director subject to Presidential appointment and Senate confirmation who will be responsible for administering drug law enforcement and related criminal justice improvement programs and making recommendations for the national drug control strategy; defines the State and local programs eligible for BJA grant funding and requires participating States to submit a need-based Statewide strategy for drug control and criminal justice programs; authorizes a program to provide grants, training, and technical assistance to advance state-of-the-art drug control and system improvements through national scope programs that demonstrate new and innovative approaches to assist State and local governments; creates a new $15 million antidrug and antigang program in the Office of Juvenile Justice with funds to be used for innovative programs that deal with increasing juvenile involvement in drug trafficking and gang activities, provide drug education and treatment, and improve the juvenile court system; authorizes a new grant program to establish and operate transitional living projects for homeless youths; authorizes a five-year discretionary grant program to improve the accuracy and quality of criminal justice data; directs the Attorney General to include incidents, of domestic and family violence in the Department of Justice's (DOJ) uniform crime reports; authorizes the Attorney General to allow certified college and railroad police agencies access to Federal criminal justice data banks; authorizes $15 million in FY 1989, and such sums as necessary in 1990-92, for the State Justice Institute; reauthorizes the Crime Victims Fund and extends the deadline for deposits until September 30, 1992; amends the Victims of Crime Act to require States to fund programs that serve previously underserved populations and to give priority in distributing grant funds to rape crisis centers, domestic violence shelters, and child abuse programs; establishes an Office for Victims of Crime as a bureau within the DOJ with the Director to be appointed by the Attorney General and responsible for making grants under the Act; transfers responsibility for Children's Justice Act programs from the Department of HHS to the Office for Victims of Crime; and makes explicit that State compensation programs cannot deny compensation to a domestic violence victim on the basis of a familial relationship with the offender or because the victim lived with the offender at the time of the crime; and increases from $50,000 to $100,000 the benefits for families of public safety officers killed in the line of duty and provides for an annual inflation adjustment and authorizes the establishment of national programs to assist the families in coping with the associated psychological trauma.

Criminal Law Amendments: S. 2485—Passed Senate June 17, 1988.

Makes minor, substantive, and technical amendments to title 18, U.S.C., including provisions which: authorize the Postal Service to investigate offenses within its jurisdiction involving money laundering; authorize the FBI to investigate, upon request, felonious killings of State or local law enforcement officials; increase maximum penalties for abusive sexual contact, murder for hire, involuntary manslaughter, attempted murder, accessory after the fact, and offenses involving racketeering-influenced and corrupt organizations; and establish provisions regarding the sentencing and parole of offenders on parole transferred to the U.S. from a foreign county.

Criminal Penalties for Damaging Religious Property: S. 794—Public Law 100-346, approved June 24, 1988.

Makes it a Federal crime to damage or destroy religious property or to forcibly interfere with an individual's exercise of religious belief; imposes fines and up to 10 years imprisonment in cases of serious bodily injury, and fines and up to one year imprisonment for other offenses; and provides that a life sentence may be imposed if a death results from the commission of the crime.

Death Penalty in Drug-Related Killings: S. 2455—Passed Senate June 10, 1988. (*175)

Authorize the imposition of the death penalty for drug-related killings of innocent persons and law enforcement officers; sets forth procedures to be followed before the death penalty may be imposed; and requires that executions be carried out in public.

Federal Courts Study: S. 951—Passed Senate October 5, 1988.

Establishes a Federal Courts Study Commission to study a number of issues relating to the Federal judiciary, including the jurisdiction of the Federal and State courts, and develop a long range plan for the judicial system; requires the Commission in report within two years of enactment, a study on U.S. courts jurisdiction, report annually thereafter on the condition of the judiciary, and submit its final report containing the findings and conclusions of the study and recommendations for revisions to the Constitution and the U.S. laws; and authorizes $800,000 in each FY 1989-92 for salaries and expenses of the Commission which is set to expire 90 days after submission of its final report.

Firearms Detection: H.R. 4445.—Passed House May 10, 1988; Passed Senate amendment May 25, 1988.

Prohibits the manufacture, import, sale, or possession of firearms not detectable by metal detection and x-ray systems; establishes minimum detection standards by firearms; requires that improved security equipment be installed at all Federally-regulated airports, courthouses, and other federal security checkpoints; prohibits possession of a firearm in a Federal courtroom; increases the penalties for illegal possession of explosives in airports and for the use or possession of explosives in committing a felony; clarifies certain provisions relating to the interstate commerce and trafficking of firearms; and establishes civil penalties for the manufacture, sale, transport, or possession of toy or imitation firearms which are not marked and readily identifiable as imitation weapons.

Genocide Convention Implementation: S. 1851—Passed October 14, 1988.

Implements the International Convention on the Prevention and Punishment of the Crime of Genocide; creates a new Federal offense that prohibits the commission of acts with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial or religious group; creates a separate offense for incitement and establishes jurisdiction over an offense if it is committed within the U.S. or if the alleged offender is a U.S. national; establishes penalties for genocide-related crimes; and clarifies that the statute of limitations does not apply to offenses that involve the killing of members of a protected group.

Hague Convention on Child Abduction Implementing Legislation: H.R. 3971—Public Law 100-300, approved April 29, 1988.

Implements the provision of the Hague Convention on the Civil Aspects of International Child Abduction (Treaty Doc. 99-11) which sets forth uniform rules to address the problems created when children are wrongfully removed or retain abroad in connection with parental custody disputes.

Immigration Act: S. 2104—Passed Senate March 15, 1988 (*50).

Amends the Immigration and Nationality Act to create two separate immigrant-visa "perference systems": one for close family members, another for "independent" immigrants; establishes a three-year national level of immigration for all categories of 590,000; reserve 470,000 visas in the first three years (44,000 thereafter) for family immigration and 120,000 visas (150,000 after three years) for the new independent category; creates a point system for 55,000 new visas, under which individuals with no family connections in the United States who received a rating above a certain level based on a system which assigns points to specific characteristic (such as age, education, and job skills) would be eligible for visas awarded in a random drawing conducted by the State Department, establishes an employment generating investor via requiring at least $1 million in new capital that will generate employment for at least ten Americans or legal residents and makes up to 4,800 conditional entry visas available annually; permits administrative naturalizations and appropriate judicial review of administrative denials.

Immigration Act—Technical Corrections: S. 2479—Public Law 100-x, approved x, 1988.

Makes technical corrections in the Immigration Reform and Control Act of 1986 (P.L. 99-603), the Department of Justice Appropriation Act, 1987 (in P.L. 99-500), the Immigration Marriage Fraud Amendments of 1986 (P.L. 99-639), and the Immigration and Nationality Amendments of 1986 (P.L. 99-653).

Intellectual Property and Bankruptcy Protection: S. 1626—Public Law 100-x, approved x, 1988.

Amends title 11, U.S.C., to permit an intellectual property licensee to retain use of the licensed property, after a trustee in bankruptcy rejects the license agreement under which the debtor is the licensee, to the extent that the use existed before the bankruptcy case commenced.

Intellectual Property Antitrust Protection: S. 438—Passed Senate October 4, 1988. NOTE: Provisions are contained in H.R. 5347.

Clarifies the treatment of intellectual property rights under the antitrust laws by prohibiting courts from presuming the market power necessary for liability merely from the existence of an intellectual patent or copyright, and reforms the doctrine of patent misuse so it will not be used to restrict the rights of these patent owners to relief from infringement when the patent holder's licensing practices do not violate the antitrust laws.

Maryland Judicial Districts: H.R. 1596—Public Law 100-x, approved, 1988.

Creates two divisions in the U.S. District Court for Maryland—the new southern division consisting of Montgomery, Prince Georges, Calvert, Charles, and St. Marys counties, and the northern divisions consisting of Baltimore, Cumberland, and Denton counties.

Municipal Bankruptcy: S. 1863—Passed Senate September 20, 1988. NOTE: Provisions are contained in H.R. 5347.

Clarifies the applicability of Bankruptcy Code provisions to municipalities and corrects conflicts between municipal law and bankruptcy law by making a general failure to pay debts the criterion for municipal insolvency and eligibility for filing instead of the current assets versus liabilities test; defining insolvency as debts exceeding fair asset value; clarifying that payment of a bond or note is not a preferential transfer under Section 547 of the Bankruptcy Code, if made within 90 days of filing the petition; making the automatic stay that becomes effective against creditors of a municipality inapplicable to the payment of principal and interest on municipal bonds paid from pledged revenues; prohibiting the holder of a claim payable solely from municipal special revenues under applicable nonbankruptcy law from having recourse against the debtor in order to avoid the potential conversion of revenue bonds into General Obligation bonds under Section 1111(b); making the preference provisions inapplicable to municipal bond payments and defeasances; preserving the lien on special revenues to secure bonds or notes, subject to payment of necessary operating expenses; and making plans of adjustment subject to electoral or regulatory approval where required by nonbankruptcy law.

Municipal Bankruptcy/Intellectual Property Rights Antitrust/Patent Misuse Doctrine/Patent and Trademark Office Authorization: H.R. 5347—Passed House October 4, 1988; Passed Senate amended October 14, 1988.

Contains provisions (1) clarifying the application of Bankruptcy Code provisions to municipal bankruptcies which are identical to those in S. 1883 as passed by the Senate, except for the effective date which under the bill is made applicable to cases filed on or after enactment; (2) clarifying the treatment of intellectual property rights under the antitrust laws and modifying statutory provisions relating to the patent misuse doctrine which are identical to those in S. 438 as passed by the Senate; and (3) authorizing $117.5 million in FY 1989, $125.2 million in 1990, and $112.0 million in 1991 for the Patent and Trademark Office.

Parimutuel Licensing Simplification: H.R. 4458—Public Law 100-413, approved August 22, 1988.

Simplifies the process of licensing States for participation in parimutuel wagering by allowing consolidated requests to be made to the Federal government for identification and criminal history records relating to the license applicant.

Record Rentals: S. 2201—Passed Senate June 7, 1988; Passed House amended September 26, 1988.

Makes permanent the record rental provisions of the Copyright Act which prohibit commercial record rentals unless authorized by the copyright owners of the sound recordings.

Supreme Court Apellate Jurisdiction Restriction: S. 952—Public Law 100-352, approved June 27, 1988.

Eliminates the mandatory or obligatory jurisdiction of the Supreme Court to review by certiorari, except for certain cases involving decisions by three-judge district courts.

Swap Agreements: S. 2279—Passed Senate October 14, 1988.

Amends the Bankruptcy Code (Title 11) as it relates to swap agreements; exempts various transactions in connection with interest rate and currency swap agreements from the automatic stay triggered when a bankruptcy petition is filed; prohibits the trustee in bankruptcy from avoiding a transfer made under a swap agreement before commencement of the bankruptcy case or any offset in connection with a swap agreement that is made within the 90 day period before the bankruptcy petition was filed; and provides that the contractual right of a non-bankrupt party to a swap agreement to terminate the agreement shall not be stayed or otherwise limited under Federal bankruptcy law or by related judicial or administrative proceeding.

Television Violence: S. 844—Passed Senate June 8, 1988.

Grants a limited three-year exemption from antitrust laws to allow certain parties in the television industry to develop and disseminate voluntary guidelines designed to alleviate the negative impact of televised violence on children and adults.

Trademark Law Revision: S. 1883—Passed Senate May 13, 1988.

Revises Federal trademark law to allow companies and individuals to apply to register trademarks on the basis of a bona fide intent to use the mark in commerce; reduces the term of a trademark registration from 20 to 10 years and imposes stricter requirements for maintaining a registration; creates a federal cause of action for the unauthorized use of a famous and distinctive register trademark which materially reduces the distinctiveness of the mark, whether or not the likelihood of confusion in the marketplace can be proven; makes false advertising claims about another company's products or services actionable; and extends the remedies available in cases involving registered marks to cases where no registration is involved.

Video Privacy Protection: S. 2361—Passed Senate October 14, 1988.

Prohibits the disclosure of an individual's video rental and sales records, except in narrowly defined circumstances; provides for a Federal cause of action for violations if the action is brought within two years of the filing of a complaint; and requires the destruction of personally identifiable information within one year from the date it is no longer necessary or needed.

NATURAL RESOURCES—HISTORIC SITES (SEE ALSO ENVIRONMENT)

Abiquiu Dam, New Mexico: H.R. 5423—Public Law 100-x, approved x, 1988.

Authorizes storage of 200,000 acre-feet of Rio Grande system water at Abiquiu Dam on the Rio Chama in New Mexico in lieu of water previously authorized to be stored at Abiquiu from a Bureau of Reclamation project in a nearby basin and authorizes the Secretary of the Army to acquire any real property that may be needed to allow recreational access to Abiquiu.

Admiralty Island National Park Land Management: H.R. 2596—Public Law 100-x, approved x, 1988.

Authorizes the Secretary of Agriculture to engage in discussions with Kootznoowoo, Inc. for the purpose of entering into cooperative management and land acquisition agreements to consolidate Kootznoowoo's land holdings and improve the management of Federal lands on Admiralty Island; directs the Secretary to consider consolidating, through exchange, Federal and native land and timber interests on Prince of Wales Island as an alternative to land selections on Admiralty Island itself; and addresses miscellaneous administrative issues including changing the name of the Admiralty Island Wilderness Area to Kootznoowoo Wilderness to better reflect its native heritage.

Antietam National Battlefield, Maryland: H.R. 4554—Public Law 100-x, approved x, 1988.

Removes land acquisition restrictions on the Antietam National Battlefield, Maryland.

Archaeological Resources Protection: S. 1985—Public Law 100-x, approved x, 1988.

Requires the Secretaries of Interior, Agriculture, and Defense and the Chairman of the Board of the Tennessee Valley Authority to develop plans and schedules for surveying lands under their control to determine the extent of archaelogical resources on those lands and to develop documents and procedures for reporting suspected violations of the Archaeological Resources Protection Act of 1979.

H.R. 4068—Passed House July 26, 1988; Passed Senate amended October 14, 1988.

Amends the Archaeological Resources Protection Act of 1979 to strengthen its enforcement provisions by prohibiting attempts (as well as actual acts) to excavate, remove, damage or otherwise alter or deface any archaeological resource on public or Indian lands; lowering from $5,000 to $500 the felony threshold value of illegally removed artifacts, including the restoration or repair costs; and directing each Federal land manager to establish a program to increase public awareness of the significance of the archaeological resources on public or Indian lands and the need to protect these resources and to report annually to Congress on these activities.

Artic National Wildlife Refuge: S. 1493—Passed Senate July 14, 1988.

Prohibits the Secretary of Interior from conveying lands or interest in lands within the coastal plain of the Artic National Wildlife Refuge, Alaska, without prior congressional approval.

Arizona-Idaho Conservation: S. 2840—Passed Senate October 13, 1988.

Provides for the designation and conservation of certain lands in Arizona and Idaho including, in Arizona, establishing the San Pedro Riparian National Conservation Area encompassing approximately 56,431 acres, adding 5,500 acres within the Catalina State Park to the National Forest System, and establishing the Mount Graham Astrophysical Observatory site in the Coronado National Forest, and, in Idaho, establishing the City of Rocks National Reserve encompassing approximately 14,320 acres and the Hagerman Fossil Beds National Monument consisting of approximately 4,394 acres, requires that Navajo-Hopi Inidan relocation benfits be distributed in the chronological order in which individuals are certified as eligible but allows priority status to be granted on a case-by-case basis to individuals requiring more immediate assistance due to medical safety, or humanitarian reasons; designates the Mississippi River through Minneapolis and St. Paul as a National River and Recreation Area; establishes a U.S. Capitol Preservation Commission to improve, preserve, and make acquisitions for the U.S. Capitol; establishes a Capitol Preservation Fund in which certain funds are to be deposited for use by the U.S. Capitol Preservation Commission; and establishes a Fine Arts Board in the House of Representatives with authority over all art works, historical objects, and similar property under the control of the House.

Bessemer Ditch, Colorado: S. 2748—Passed October 12, 1988.

Authorizes $1.2 million for the Secretary of Interior to design and construct approximately 11,000 feet of gunite lining of the Bessemer Ditch irrigation canal near Pueblo, Colorado; and requires that non-Federal interests contribute 22 percent of the total design and construction costs.

Big Cypress National Preserve Addition: S. 90—Public Law 100-301, approved April 29, 1988.

Authorizes such sums as necessary for the Secretary of the Interior to acquire 146,000 additional acres for the Big Cypress National Preserve in Florida; ensures that recreational uses of the addition, including hunting and fishing, will be administered the same as the existing preserve; and requires the Secretary to promulgate regulations, within nine months of enactment, relating to the exploration, development, and production of oil and gas resources within the Preserve or on private property requiring access rights through the Preserve.

Canaveral National Seashore, Florida: H.R. 3559—Public Law 100-X, approved x, 1988.

Authorizes such sums as necessary for the Secretary of the Interior to acquire, for addition to the Canaveral National Seashore, approximately 24 acres known as Seminole Rest to protect and intepret an Indian midden and to acquire approximately 10 acres known as the Stuckey's site to be used as the location for the Seashore's administrative headquarters and visitors center; and increases by an additional $2.6 million the development ceiling for needed facilities at the Seashore.

Charles Pinckney National Historic Monument, South Carolina: H.R. 3960—Public Law 100-421, approved September 8, 1988.

Authorizes such sums as necessary for the establishment of the Charles Pinckney National Historic Monument near Charleston, South Carolina.

Closed Basin Diversion, San Luis Valley Project, Colorado: S. 1549—Passed Senate October 12, 1988.

Increases from $57.1 million to $100 million the authorization ceiling for the Closed Basin Diversion, San Luis Valley Project, Colorado.

Coastal Heritage Trail, New Jersey: S. 2057—Public Law 100-x, approved x, 1988.

Authorizes $250,000 for the establishment of the Coastal Heritage Trail in New Jersey along existing public roads linking natural and cultural coastal sites in the State; and permits the State of New Jersey to construct a marine sciences laboratory at the Officers Row area within the Sandy Hook Unit of the Gateway National Recreation Area.

Columbia River Conservation Study: H.R. 3614—Passed House September 26, 1988; Passed Senate amended October 12, 1988.

Authorizes $150,000 for the Secretary of the Interior, in consultation with the Secretary of Energy, to prepare and submit to Congress within three years of enactment, a comprehensive river conservation study of the Hanford Reach segment of the Columbia River to determine appropriate protection and preservation measures including possible inclusion in the National Wild and Scenic Rivers System; and establishes an interim protection period of eight years.

Congaree Swamp National Monument, South Carolina: S. 2018—Passed Senate August 9, 1988; Passed House amended September 26, 1988.

Designates approximately 15,000 acres of the Congaree Swamp National Monument, South Carolina, as wilderness and expands the boundaries of the Monument by approximately 6,855 acres with most of the newly acquired land designated as potential wilderness; and authorizes $3 million for construction and development within the Monument and such sums as necessary from the Land and Water Conservation Fund for land acquisition; and requires Federal government to share with the States any interest collected on the late payment of royalties for all Federal minerals.

Constitution Heritage: H.R. 1939—Public Law 100-433, approved September 16, 1988.

Establishes a National Center for the U.S. Constitution within or near the Independence National Historical Park in Philadelphia, Pennsylvania; authorizes the Secretary to enter into cooperative agreements with the owners or administrators of historic sites closely associated with the Constitution; and provides for continuing interpretation of the Constitution at a minimum of 12 units of the National Park System.

Delaware and Lehigh Canal Corridor: H.R. 3957—Passed House September 13, 1988; Passed Senate amended October 14, 1988.

Establishes the Delaware and Lehigh Navigation Canal National Heritage Corridor in Pennsylvania to provide a management framework to assist the State in developing and implementing policies and programs that will preserve and interpret the significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within and surrounding the Delaware and Lehigh Navigation Canal; requires the minting and issuance of $5 coins to commemorate the 100th anniversary of the Statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming; and provides for the redesign of U.S. coins commemorate the 200th anniversary of the Constitution.

Delta Region Preservation Commission: H.R. 2566—Public Law 100-250, approved February 16, 1988.

Extends the term of the Delta Region Preservation Commission from 10 to 20 years, and provides specific authority to the Department of Interior to obligate funds for the construction of Acadian Folklife Centers in the Jean Lafitte National Historical Park.

Dinosaur National Monument, Utah: S. 1927—Passed Senate June 6, 1988; Passed House amended September 20, 1988.

Authorizes the Secretary of the Interior to consider an application for desert land entry covering approximately 280 acres in the vicinity of the Dinosaur National Monument in Utah.

Fort Lincoln State Park, North Dakota: S. 1690—Passed June 6, 1988.

Authorizes the Secretary of Interior to provide financial assistance for the restoration and reconstruction of Fort Abraham Lincoln and related structures located in the Fort Lincoln State Park, Manden, North Dakota.

Grays Harbor National Wildlife Refuge: S. 1979—Public Law 100-406, approved August 19, 1988.

Authorizes the establishment of an 1,800 acre National Wildlife Refuge in the Bowerman Basin area of Grays Harbor, a 94 square mile estuary on the Washington coast.

Guadalupe Mountains National Park, Texas: H.R. 4777—Public Law 100-x, approved x, 1988.

Authorizes the modification of the boundaries of the Guadalupe Mountains National Park, Texas to include additional acreage of approximately 10,123 acres and authorizes such sums as necessary for the construction of a fence to protect the natural and cultural resources of such lands.

Kilauea Point Wildlife Refuge: S. 1193—Passed Senate January 26, 1988.

Authorizes $4 million for the Secretary of Interior to acquire certain additional lands (Crater Hill comprising approximately 101.1 acres, and Mokolea Point, comprising 37.6 acres) for inclusion in the Kilauea Point Wildlife refuge on Kauai, Hawaii.

Lewis and Clark National Historic Site, Montana: S. 1704—Public Law 100-x, approved x, 1988.

Authorizes such sums as necessary for the establishment of the Lewis and Clark National Historic Trail Interpretive Center in the vicinity of Great Falls, Montana, upon the transfer of the lands from the State of Montana to the U.S.; directs the Secretary of Agriculture to submit to Congress, within two years after establishment of the Center, a development and interpretation plan for the Center; and authorizes $3.5 million for site construction and improvements.

Natchez National Historic Park, Mississippi: H.R. 4457—Public Law 100-479, approved October 7, 1988.

Authorizes $12 million to establish the Natchez National Historical Park in Mississippi; requires the Secretary to study historic properties in Natchez and establish appropriate historic districts; and directs the Secretary to submit to Congress a general management plan for the park, within three fiscal years of enactment, and a study on the feasibility of extending the Natchez Trace into the City of Natchez, within one year of enactment.

National Historic Trails Designations and Studies:

Coronado Trail: S. 1693—Passed Senate June 6, 1988; Passed House amended September 26, 1988.

Requires a study of the Coronado Trail, the route taken by the Spanish explorer Francisco Vasquez de Coronado between 1540 and 1542, for possible inclusion in the National Trails System. The route extends through portions of Arizona, New Mexico, Texas, Oklahoma, and Kansas.

National Mimbres Museum, New Mexico: S. 1912—Passed Senate August 2, 1988.

Authorizes such sums as necessary for the Secretary of Interior to conduct and submit to Congress, within one year of the funds being appropriated, a study of the Mimbres culture to determine its significance in illustrating and commemorating the prehistory of the Southwest and make recommendations on the feasibility of establishing a National Mimbres Museum in Silver City, New Mexico.

National Trails Systems Improvements: S. 1544—Public Law 100-470, approved October 4, 1988.

Requires the retention of Federal interest in and management of abandoned railroad rights-of-way for recreational trail and conservation purposes and authorizes the Secretary of the Interior to relinquish Federal interest, where appropriate, to State and local governments or other nonprofit entities for public recreational purposes and to sell those rights-of-way which are inappropriate for trail use with the proceeds credited to the Land and Water Conservation Fund.

Nevada National Forest Lands: S. 59—Public Law 100-x, approved x, 1988.

Transfers jurisdiction of approximately 23,000 acres of Federal land in Nevada from the Forest Service to the Bureau of Land Management and approximately 662,000 acres from the Bureau of Land Management to the Forest Service which will enlarge the Mount Charleston Unit of the Toiyabe National Forest and includes some of the Hot Creek Range in central Nevada as part of the Forest; specifies that part of the acreage being transferred may only be sold if it is released from wilderness consideration by Congress; and removes the statutory requirement that water rights associated with the national forest be perfected pursuant to State law.

Pinelands National Preserve, New Jersey: S. 1165—Public Law 100-486, approved October 13, 1988.

Directs the Secretary of the Interior, within nine months of enactment, to study and recommend appropriate initiatives for (1) providing an educational and interpretive program for the Pinelands National Preserve, New Jersey, (2) improving the operation of the State Pinelands Development Credit Bank and overall State Pinelands Development Credit Program, and (3) improving the operation of the Pinelands Municipal Council; authorizes $14.5 million for land acquisition in the Pinelands, the Federal share of which may not exceed 50 percent of the total cost; and provides that up to $5 million in additional contributions by the State to the Pinelands Development Bank after enactment may be counted as part of the State share of land acquisition funds.

Poverty Point National Monument, Louisiana: H.R. 775—Public Law 100-x, approved x, 1988.

Establishes the Poverty Point National Monument in Louisiana; authorizes the Secretary of the Interior to acquire land within the Monument's boundaries by donation, purchase, or exchange and requires the Secretary to prepare a general management plan for the Monument within two years of enactment; establishes an Advisory Commission to assist in the Monument's management and development.

Rio Chama River, New Mexico: S. 850—Passed Senate amended October 7, 1988.

Designates a 27.6 mile segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System.

Samoa National Park: H.R. 4818—Public Law 100-x, approved x, 1988.

Authorizes such sums as necessary to establish the National Park of American Samoa; requires the Secretary of the Interior, in consultation with the Governor of American Samoa, to prepare a general management plan for the Park; establishes an Advisory Board to assist in managing the Park; and requires a review of the operation and management of the park every ten years.

St. Johns River Valley Historic and Prehistoric Sites, Florida: HR. 1983—Public Law 100-249, approved February 16, 1988.

Directs the Secretary of the Interior to construct and maintain a museum at the Fort Caroline National Memorial in Florida and to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley through the establishment of the Timucuan Ecological and Historic Preserve.

Salem Maritime National Historical Site, Massachusetts: H.R. 2652—Public Law 10-349, approved June 27, 1988.

Revises the boundaries of the Salem Maritime National Historical Site, Massachusetts, to take in an approximate 0.07 acre of land in the Derby Street Historic District, including the former St. Joseph's Hall.

San Francisco Maritime National Historical Park, California: H.R 1044—Public Law 100-348, approved June 27, 1988.

Authorizes such sums as necessary to establish the San Francisco Maritime National Historical Park to preserve and interpret American maritime heritage and limits the planning authorization to $200,000.

Sewall-Belmont House Historic Site/Delta Regional Preservation Commission: H.R. 2203—Public Law 100-355, approved June 28, 1988.

Increases, from $500,000 to $2 million, the authorization for the Sewall-Belmont House Historic Site; allows the expansion of the Delta Region Preservation Commission to include a member who is an experienced folklorist familiar with the region; and authorizes such sums as necessary for two harbor development projects in the Northern Mariana Islands.

Sleeping Bear Dunes National Lakeshore Advisory Commission: S. 2436—Public Law 100-x approved x, 1988.

Reauthorizes the Sleeping Bear Dunes National Lakeshore Advisory Commission, in Michigan, for an additional 10 years.

Snake and Salmon Rivers, Idaho, Hydroelectric Plants: S. 2103—Passed Senate August 11, 1988.

Prohibits the Federal Energy Regulatory Commission from issuing any preliminary permit, license, or exemption from licensing for the construction of any dam, diversion, or bypass on specified portions of the Snake and Salmon Rivers in Idaho, and prohibits the construction of dams by any other entity on these portions of the rivers.

Spanish Colonization Commemoration: S. 2157—Passed Senate August 2, 1988.

Authorizes such sums as necessary for the Secretary of Interior to conduct and submit to Congress, within two years of the funds being appropriated, three feasibility studies in New Mexico dealing with the San Gabriel Historic Landmark, the significance of the Los Luceros Hacienda, and the establishment of an interpretive center to highlight the first colonization of the U.S. Interior in New Mexico.

Upper Delaware Citizens Advisory Council: H.R. 3880—Public Law 100-412, approved August 22, 1988.

Extends for 10 years, from February 1989, to February 1999, the authorization of the Upper Delaware Citizens Advisory Council which advises the National Park Service and State and local communities or plans and programs relating to the administration of the Upper Delaware Wild and Scenic River.

Water Projects Amendments:

Colorado River Storage Projects, Utah: H.R. 3408—Public Law 100-x, approved x, 1988.

Authorizes an additional $45.5 million for the Colorado River Storage Project, Utah, for construction of the municipal and industrial water features of the Bonneville Unit of the Central Utah Product; requires the Secretary of the Interior to submit to Congress, by December 31, 1989, an environmental impact statement for the irrigation and Drainage System of the Bonneville Unit; earmarks certain FY 1990 appropriations only for fish and wildlife mitigation and recreation in the Upper Colorado River; modifies the boundary of the Uinta National Forest to include 56,775 acres of Strawberry Valley Project lands currently administered by the Bureau of Reclamation and $15 million to compensate the Strawberry Users Association for contractual surface rights to the land which must be used for Strawberry Valley Reclamation Projects purposes; authorizes the expansion of the John Muir Historic Site, California; and prohibits the expansion of any reservoir within the Yosemite National Park unless specifically authorized by Congress.

Lyman-Jones, West River, and Oglala Sioux Projects, South Dakota: H.R. 2772—Public Law 100-x, approved x, 1988.

Authorizes $87.5 million for planning, design, and construction of the Oglala Sioux, West River, and Lyman-Jones Rural Water Supply Systems, South Dakota, and such sums as necessary for operation and maintenance to the Oglala Sioux system; authorizes the use of power from the Pick-Sloan Missouri Basin Electric Power to operate these systems; directs the Secretary of the Interior to develop and submit recommendations to Congress to finance and implement mitigation plans for fish and wildlife losses incurred in connection with the construction and operation of these systems as well as the Oahe and Big Bend Dams and Reservoirs located on the mainstream of the Missouri River in South Dakota; repeals the authorization for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program; directs the Secretary to renegotiate loan payments with the Redwood Valley County Water District, California; directs the Secretary to offer to the Lakeview Irrigation District, Wyoming the option to purchase up to 15,000 acre/feet of storage in the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin program; prohibits the use of funds for the analysis and study of the Shaws Bend site of the Colorado Coastal Plains project authorized as part of the Texas Basins project study; authorizes $500,000 for the road study in irrigated portions of Franklin County, Washington, within the Federal Columbia Basin reclamation project; waives the 60-day congressional review period with respect to distribution system contracts to expedite completion of construction of the irrigation distribution systems of the Maricopa-Stanfield and Central Arizona Irrigation and Drainage Districts, Central Arizona Project; authorizes $94 million for the construction of the Closed Basin Division of the San Luis Valley project, Colorado and prohibits expenditure of funds in excess of $75 million unless Colorado agrees to contribute one-third of the construction costs in excess of $75 million, or $6 million, whichever is less; and authorizes $1.2 million as the Federal share for constructing 11,000 feet of gunite lining at Bessemer Ditch, Colorado.

Umatilla Basin Project, Oregon: S. 1613—Passed Senate September 8, 1988.

Authorizes $42.2 million for the restoration of anadromous fish runs in the Umatilla River Basin, Oregon, and the continuation of water service to entities currently served by the existing Umatilla project; and provides for the supply of pumping power for the fish restoration program by the Bonneville Power Administration.

WEB Project, South Dakota: H.R. 4267—Public Law 100-x, approved x, 1988.

Authorizes an additional $18.5 million for the WEB Rural Water Development Project, South Dakota; authorizes the use of the Pick-Sloan Missouri Basin Electric Power by the Lower Brule Sioux Indian Tribe; and renames certain facilities of the Central Valley Project, California.

Water Resources Development: S. 2100—Passed Senate April 26, 1988; Passed House amended September 30, 1988; In conference.

Authorizes the U.S. Army Corps of Engineers to construct various improvement projects for U.S. rivers and harbors, limits the amount of money to be spent on each authorized project to 20 percent of the cost estimated in the bill, and establishes an automatic deauthorization procedure for the projects; authorizes a two-year demonstration program to provide supporting services on a non-exclusive basis to American firms competing for the planning, design, or construction of projects in foreign countries; contains general and technical correction provisions to the existing authorities and management of the Corps' civil works program; and directs the Comptroller General to report to Congress, within one year of enactment, on the management and administration of the civil works program.

West Virginia River Conservation: H.R. 900—Public Law 100-x, approved x, 1988.

Adds 639 acres to the boundaries of the New River Gorge National River and directs the National Park Service to improve access to the river near Cunard; requires the Army Corps of Engineers to undertake flow studies at the Bluestone Lake projects; establishes the Gauley River National Recreation Area; authorizes the National Park Service to acquire land and improve existing roads, access, parking, and other facilities at the Recreation Area; and designates 25 miles of the lower Bluestone Rivers as a component of the National Wild and Scenic Rivers System.

Wild and Scenic Rivers Designations and Studies:

Columbia River: S. 1850—Passed Senate June 6, 1988.

Authorizes the study of the Hanford Reach section of the Columbia River in Washington for possible inclusion in the National Wild and Scenic Rivers System.

Oregon: S. 2148—Public Law 100-x, approved x, 1988.

Adds segments of 41 rivers in Oregon, totaling approximately 1,435 miles, as components of the National Wild and Scenic Rivers System and calls for the study of seven additional Oregon rivers for possible inclusion in the system.

Wildcat River: S. 1914—Pulbic Law 100-x, approved x, 1988.

Designates 14.51 miles of the Wildcat River and its tributaries in New Hampshire as components of the National Wild and

Scenic Rivers System; and requires the Secretary of Agriculture to enter into a cooperative agreement with the town of Jackson and the State of New Hampshire for the long-term protection, preservation, and enhancement of the river.

Wilderness Area Designations:

Alabama: S. 2838—Passed Senate October 5, 1988; H.R. 5395—Public Law 100-x, approved x, 1988.

Adds approximately 13,260 acres in the Bankhead National Forest to the existing Sipsey Wilderness and approximately 710 acres in the Talladega National Forest to the existing Cheaha Wilderness both of which are part of the National Wilderness Preservation System in Alabama; and designates 5,085 acres of the Sipsey River canyons as a component of the Wild and Scenic River system.

Oklahoma: H.R. 4354—Public Law 100-x, approved x, 1988.

Adds two areas in the Ouachita National Forest in Oklahoma to the National Wilderness Preservation System and makes several special designations of other lands within the National Forest as follows: adds the Black Fork Mountain Wilderness (approximately 4,583 acres) and the Upper Kiamichi Wilderness (approximately 9,371 acres) to the National Wilderness Preservation System; establishes the Winding Stair Mountain National Recreation Area and specifies goals for any timber management that may occur within the Recreation Area; designates two botanical areas; and designates the Indian Nations National Scenic and Wildlife Area; and directs the Secretary of the Interior to establish a local advisory committee to provide information and recommendations regarding the Ouachita National Forest's operation and land management planning for the new designations; and authorizes $15 million for tourism and recreation improvements related to the Winding Stair Mountain National Recreation and Wilderness Area.

Virginia and West Virginia: H.R. 2878—Public Law 100-326, approved June 7, 1988.

Adds six areas of National Forest land in Virginia and West Virginia, totaling approximately 27,687 acres, to the National Wilderness Preservation System, including the Rough Mountain and Rich Hole Wilderness Areas in the George Washington National Forest, Lewis Fork and Mountain Lake Wilderness Areas in the Jefferson National Forest, and Barbours Creek and Shawvers Run in the George Washington and Jefferson National Forests.

Wildfire Protection: S. 2641—Public Law 100-428, approved September 9, 1988.

Authorizes the Secretaries of Agriculture and Interior, in consultation with the Secretary of State, to enter into an agreement with Canada to reimburse Canada for certain firefighting equipment necessary to control and extinguish fires ravaging Yellowstone National Park and other parts of the West.

Wildlife Prairie Park, Illinois: H.R. 1100—Public Law 100-336, approved June 17, 1988.

Authorizes the Secretary of the Interior to prepare and make available to the Forest Park Foundation an interpretive handbook describing the purposes, history, and value of Wildlife Prairie Park in Illinois and directs the Secretary to report to Congress, within two years of enactment, his recommendations on the criteria for and responsibilities of "affiliated areas" of the National Park System and the appropriateness of including Wildlife Prairie Park within this designation.

Women's Rights National Historical Park, New York: H.R. 2952—Public Law 100-475, approved October 6, 1988.

Increases, from $490,000 to $700,000 the amount authorized for land acquisition and development at the Women's Rights National Historical Park in Seneca Falls, New York.

Zuni-Cibola National Historical Park, New Mexico: S. 2162—Passed Senate September 20, 1988; H.R. 4182—Public Law 100-x, approved x, 1988.

Authorizes such sums as necessary for the National Park Service (NPS) to acquire a leasehold interest in certain lands within the Zuni Indian Reservation in New Mexico for the establishment of the Zuni-Cibola National Historical Park; establishes an advisory committee to advise NPS on the planning, management, and administration of the park; and requires the Director of NPS to develop a management for the park within three years of enactment.

NOMINATIONS (ACTION BY ROLL CALL VOTE)

Nicholas F. Brady, of New Jersey, to be Secretary of the Treasury—Nomination confirmed September 14, 1988. (*328)

William F. Burns, of Pennsylvania, to be Director of the United States Arms Control and Disarmament Agency—Nomination confirmed March 4, 1988. (*45)

Lauro F. Cavazos, of Texas, to be Secretary of Education—Nomination confirmed September 20, 1988. (*333)

Henry F. Cooper, of Virginia, to the rank of Ambassador during his tenure as U.S. Negotiator for Defense and Space Arms—Nomination confirmed June 27, 1988. (*205)

Anthony M. Kennedy, of California, to be an Associate Justice of the U.S. Supreme Court—Nomination confirmed February 3, 1988. (*16)

John P. LaWare, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System—Nomination confirmed August 4, 1988. (*290)

Karen B. Phillips, of Virginia, to be a member of the Interstate Commerce Commission—Nomination confirmed August 10, 1988. (*302)

Richard L. Thornburgh, of Pennsylvania, to be U.S. Attorney General—Nomination confirmed August 11, 1988. (*310)

Timothy L. Towell, of Ohio, to be the Ambassador to Paraguay—Nomination confirmed July 29, 1988. (*274)

SENATE (SEE ALSO CONGRESS)

Archiving of Video Recordings of Senate Proceedings: S. Res. 459—Senate agreed to September 14, 1988.

Authorizes the transfer of archival quality video recordings of Senate proceedings to the Library of Congress and the National Archives.

Arms Control Observers Group: S. Res. 466—Senate agreed to August 11, 1988.

Reauthorizes, through 101st Congress, the Senate Arms Control Observer Group, established in the 99th Congress to monitor all official arms control negotiations to which the United States is a party.

Commission on Art and Antiquities: S. Res. 400—Senate agreed to March 23, 1988. (*31)

Authorizes the Senate Commission on Art and Antiquities, with the prior approval of the Rules Committee, to procure the temporary or intermittent services of individual consultants or organizations, under the same conditions as a Standing Senate Committee.

Committee Funding: S. Res. 381—Senate agreed to February 26, 1988. (*31)

Authorizes $47.6 million for expenditures by all Standing Committees of the Senate, the Special Committee on Aging, and the Select Committees on Intelligence and Indian Affairs for the fiscal year ending February 28, 1989.

Jacob K. Javits Senate Fellowship: S. Res. 425—Senate agreed to June 23, 1988.

Establishes a Jacob K. Javits Senate Fellowship Program to encourage increased participation by outstanding graduate students in a public service career; authorizes $250,000 from the Senate contingent fund for each of five fiscal years to support the one-year Senate fellowship program and limits the number of participants to 10 per fiscal year; and terminates the program five years from the effective date of this resolution and, three months prior to the expiration, requires the Secretary of the Senate to submit an evaluation and recommendations concerning the program's extension and continued funding.

Senate Investigatory Powers: S. 2350—Passed Senate August 9, 1988; House defeated October 6, 1988.

Provides that the exemption from expeditious civil enforcement of Senate subpoenas for Federal officers or employees acting within their official capacity may be invoked only if the head of the employing department or agency, with the Attorney General's approval, has directed the employee or officer not to comply and has provided to the issuer of the subpoena or order a written explanation of the reasons for noncompliance; and clarifies that the congressional immunity statute applies to testimony at a congressional deposition conducted by Members of their staff.

Senate Mailings: S. Res. 458—Senate agreed to September 9, 1988.

Provides for the allocation of funds for Senate official mail during fiscal year 1989 by the Senate Rules Committee.

Senate Rules: S. Res. 479—Senate agreed to September 9, 1988.

Amends the Senate rules to authorize the Rules Committee to direct Senate committees to report two-year authorizing resolutions and to permit the Rules Committee to report one authorization resolution containing more than one committee authorization resolution.

Television and Radio Coverage: S. Res. 431—Senate agreed to June 7, 1988.

Modifies S. Res. 28 to strictly prohibit the use of tape duplications of radio or television coverage of Senate proceedings for political campaign purposes.

SOCIAL SERVICES

Abandoned Infants Assistance: S. 945—Public Law 100-x, approved x, 1988.

Authorize $10 million annually in FY 1989, $12 million in 1990, and $15 million in 1991 for the Secretary of HHS to make demonstration grants to local governments for projects that provide respite homes and other assistance for infants abandoned in hospitals, especially those with acquired immune deficiency syndrome (AIDS), and requires the Secretary to report to Congress, within 12 months of enactment, on the estimated annual costs to Federal, State, and local governments to provide housing and care for these infants.

Food Stamp Act Technical Corrections: H.R. 4998—Public Law 100-481, approved October 11, 1988.

Amends the Food Stamp Act of 1977 to ensure that family members participating in the Family Independence Demonstration Project in Washington will receive separate benefits in food coupons under the food stamp plan at least equal to those they would have received if they had not participated.

Homeless Assistance (Stewart B. McKinney Act): H.R. 4352—Passed House August 3, 1988; Passed Senate amended September 28, 1988; In conference.

Authorizes $645.9 million in FY 1989 and $659.8 million in 1990 for homeless assistance programs under the Stewart B. McKinney Homeless Assistance Act; requires GAO to report annually to Congress on McKinney Act programs; authorizes $1.2 million annually for the Interagency Council on the Homeless and outlines the Council's duties in detail; encourages States to establish a State Interagency Council on the Homeless and provides incentives for State governors to appoint a State Coordinator for McKinney Act programs; authorizes $129 million in FY 1989 and $134 million in 1990 for the FEMA Emergency Food and Shelter programs; requires annual submission of Comprehensive Homeless Assistance Plans; requires a good faith assurance that recipients will administer a policy to ensure that their homeless facility is free of illegal drugs or alcohol; authorizes $120 million annually for the Emergency Shelter Grants (ESGs) program and allows States to directly distribute ESGs to private nonprofit organizations with local governmental certification; authorizes $100 million annually for the Supportive Housing Demonstration program and $10 million annually for the Supplemental Assistance program; authorizes $50 million annually for Sec. 8 Moderate Rehabilitation for single room occupancy (SRO) dwellings; modifies provisions relating to the homeless housing programs to streamline and increase the effectiveness of the housing programs; requires HUD to identify underutilized properties within two months after collecting information from other Federal agencies; authorizes and revises health care programs for the homeless in FY 1989-91, respectively, as follows: $61.2 million, $63.6 million, and $66.2 million for the Health Care Grants for the Homeless program, $20 million, $25 million, and such sums as necessary in 1991 for alcohol and substance abuse programs for the homeless, and $11 million, $11.5 million, and such sums as necessary in 1991, for Community Mental Health Demonstration Projects; authorizes, in each FY 1989-90, $10 million for adult education programs for the homeless, $5 million for grants to States to educate homeless children, $2.5 million to support grants for and disseminate information about exemplary education programs for homeless children, $12 million for job training for the homeless (of which $2 million is earmarked for homeless veterans' reintegration programs), $40 million for the Emergency Community Services Homeless Grant program (25 percent of which may be used to assist the near homeless), and $30 million for homeless veterans programs (40 percent of which may be used to provide domiciliary care for homeless veterans and 60 percent for services to chronically mentally ill homeless veterans); authorizes the Jobs for Employable Dependent Individuals program and establishes and incentive program to pay bonuses to States that succeed in training and employing long-term AFDC and SSI recipients; authorizes transitional living grants to provide shelter and teach independent living skills to homeless youths; calls for a study of eligibility processes under the Child Support Supplement, Medicaid, and Food Stamp programs; and makes technical amendments to the Housing and Community Development Act of 1987.

Hunger Prevention: S. 2560—Public Law 100-435, approved September 19, 1988. (*257)

Extends for two years, through FY 1990, the authorization for the Temporary Emergency Food Assistance Act Program (TEFAP); requires USDA to purchase $120 million worth of high protein commodities for TEFAP in each of these years; establishes an entitlement to a certain portion of these commodities for each State based on the current formula for allocating the surplus commodities—60 percent based on the number of persons living in poverty in each State and 40 percent based on the numbers of unemployed in the State; requires USDA to purchase $40 million worth of commodities in each FY 1989-90 and $32 million in 1991 to distribute, through the States, to soup kitchens, food pantries and other emergency feeding centers; requires that these commodity purchases be in addition to the amounts and types of commodities normally distributed through USDA's commodity donations; requires USDA to provide 7 million pounds of "surplus" cheese owned by the CCC to the CSFP for distribution to the needy in each FY 1989-90; increases the basic level of food stamp assistance by increasing, over the next three years, the value of the food plan used to calculate food stamps from 100.65 percent to 103 percent of the "Low Cost Food Plan;" allows States to conduct food stamp outreach programs and provides Federal matching funds for the programs; improves and simplifies food stamp application forms; reduces barriers to participation in the food stamp program for farmers, migrants and seasonal farm workers, the elderly, and the disabled; excludes from "income" for food stamp purposes earned income tax credits received under the Internal Revenue Code as part of the regular paycheck; provides for a child care/dependent deduction of up to $160 per month, per child/dependent (instead of the current $160 per month per household), if the child care enables the parents or guardians to work, or receive job training or education preparatory to working; reforms the Food Stamp Program Qualify Control System to expedite judicial and administrative appeal, increase the error rate tolerance level for States, and include underpayments, as well as overpayments, in the definition of a claims error; clarifies that education programs or activities to improve basic skills or employability are allowable Food Stamp Employment and Training Program (ETP) activities; directs the USDA to develop outcome-based performance standards for the ETP; establishes a conciliation procedure to resolve participation disputes in the ETP; increases USDA's breakfast reimbursement rate to participating schools by three cents, per student, per meal; provides a Federal reimbursement for an additional meal for children who stay eight hours or more at day care centers; specifies that lactating mothers, infants, children and pregnant women cannot be denied WIC program benefits solely because they are homeless; requires the Secretary to solicit applications from eligible agencies for donation of excess commodities held in USDA inventories; requires that any final sequester order be applied to the Food Stamp Program as well as for commodity purchases for TEFAP and soup kitchens, effective in FY 1989, and postpones implementation of other FY 1989 cost provisions relating to TEFAP, commodities, and food stamps until October 1, 1989, if a sequestration order is issued.

Job Training Partnership Act Technical Amendments (JTPA): H.R. 4857—Public Law 100-x, approved x, 1988.

Clarifies that the time limitation requiring that appropriations for the provision of JTPA services be expended during the year for which the funds are appropriated or during the two succeeding years, does not apply to appropriations for JTPA program research.

Medicare Catastrophic Loss Prevention: H.R. 2470—Public Law 100-360, approved July 1, 1988. (353, *170)

Protects Medicare beneficiaries from catastrophic expenses associated with covered Medicare services by automatically enrolling all Medicare part B participants in the catastrophic insurance program; establishes an annual limit on out-of-pocket expenses incurred under part A or B individually or combined for Medicare-covered services ($2,146 in 1990); phases in Medicare prescription drug coverage; indexes the out-of-pocket expenses cap and the prescription drug coverage to maintain a constant level of beneficiaries; finances the catastrophic benefits through a combination of an increase in the basic monthly part B premium and an income-related supplemental premium based on tax liability; requires State Medicaid programs to (1) pay Medicare premiums, deductibles, and coinsurance for elderly and disabled individuals with incomes below the Federal poverty line who do not qualify for Medicaid, and (2) extend Medicaid coverage to pregnant women and infants up to one year of age with incomes below the Federal poverty line; and establishes a Bipartisan Commission on Comprehensive Health Care to develop legislative recommendations for long-term health care.

Mentally Ill Individuals Protection and Advocacy: S. 2393—Public Law 100-x, approved x, 1988.

Authorizes $14.3 million in FY 1989 and such sums as necessary in 1990 and 1991 to carry out the Protection and Advocacy for Mentally Ill Individuals Act of 1986 which assists States in establishing and operating a protection and advocacy system for mentally ill individuals (PAMI systems) who are inpatients or residents in facilities rendering care or treatment or are who involuntarily confined in a municipal detention facility for reasons other than serving a sentence for a criminal offense, increases the minimum allotment for States from $125,000 to $140,000 if Congress appropriates at least $13 million; specifically lists "death" as a form of abuse and neglect to be investigated by the PAMI systems and specifies that PAMI systems may investigate situations where a mentally ill individual's whereabouts are unknown and cases of abuse and neglect of a mentally ill person being transported to a facility; modifies provisions relating to the governance of the PAMI systems by directing that each PAMI have a governing authority responsible for the planning, design, implementation, and functioning of the system, and jointly with the advisory council, develop the system's annual priorities; and includes several miscellaneous provisions governing the administration of the PAMI systems including establishing a grievance procedure for system clients and increasing from five to ten percent the amount that a system may use for training and technical assistance.

School Lunch Program: S. 2156—Public Law 100-356, approved June 28, 1988.

Requires eligibility for free school lunches to be based on the OMB-prescribed nonfarm income poverty guidelines; allows State agencies to convert additional food funds initially allocated for program food purchases to nutrition services and administration with a limit on the amount that may be converted that ensures that there is no more than a two percent annual decrease in a State agency's administrative grant per person; and gives the Secretary of Agriculture discretionary authority to allow States that establish cost containment systems to carry over up to five percent of the WIC allocation for the fiscal year in which the new system is implemented.

Technology-Related Assistance to Disabled Persons: S. 2561—Public Law 100-407, approved August 19, 1988.

Authorizes $9 million in FY 1989, and such sums as necessary in 1990-93, for a competitive grant program to assist participating States to develop and implement a consumer-responsive Statewide program of technology-related assistance for individuals with disabilities; provides for initial three-year grants to recipient States and allows States to reapply for two additional years of funding; authorizes grants of between $500,000 and $1 million to recipient States in the first and second year and between $500,000 and $1.5 million in years three through five; authorizes $5 million in FY 1989, and such sums as necessary in 1990-93, for a variety of studies and discretionary activities related to the provision of assistive technology devices and services; and authorizes $1.5 million in FY 1989, and such sums as necessary in 1990-93, for model projects for the delivery of these devices and services.

Temporary Child Care for Handicapped Children and Crisis Nurseries: H.R. 4676—Public Law 100-403, approved August 19, 1988.

Extends through FY 1989, the authority for the Temporary Child Care for Handicapped Children and Crisis Nurseries under the Children's Justice and Assistance Act (Public Law 99-401).

Welfare Overhaul—Workfare: H.R. 1720—Public Law 100-485, approved October 13, 1988. (*189, *341)

Amends Title IV of the Social Security Act to replace the AFDC program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefits improvement, and mandatory extension of coverage to two-parent families; requires judges and other officials to use State guidelines in setting child support awards, unless deemed unjust or inappropriate in the case; requires States to automatically withhold child support payments from wages, unless there is good cause not to, or both parents have agreed to an alternative arrangement; replaces the Work Incentive program with a new Job Opportunities and Basic Skills Training Program (JOBS) and requires each State to establish an approved JOBS program; provides Federal funding for the JOBS program as a capped entitlement limited to $600 million for FY 1989, $800 million in 1990, $1 billion in each 1991-3, $1.1 billion in 1994, and $1.3 billion in 1995; establishes JOBS participation rates for States; establishes wage standards for JOBS participants; requires States to guarantee child care to a JOBS participant if necessary for the individual to participate; increases the amount that a welfare recipient may earn before his/her benefits are reduced; requires States to provide transitional child care and Medicaid benefits for families that lose eligibility because of increased employment hours or income or the loss of earnings disregards and sunsets the benefits in 1998; requires that States provide Aid to Families with Dependent Children program (AFDC) benefits to two-parent intact families in which the principal earner is unemployed, effective October 1, 1990, and provide full Medicaid coverage to all family members for as long as the family is otherwise eligible for assistance; requires that one parent in a two-parent AFDC-Unemployed Parent household participate for a minimum 16 hours a week in either a work supplementation or a community work experience program and establishes participation requirements for States; extends through December 31, 1993, the Refund Offset Program; lowers from 14 to 12 the maximum age of children for whom child care tax credits may be claimed or employer-provided child care excluded from income; requires taxpayers to list child care providers' names, addresses, and taxpayer identification numbers to claim the child care credit or exclusion; and requires the reduction of child care expenses eligible for the child care tax credit by the amount of any employer-provided child care services excluded from the taxpayer's income.

Work Incentive Program Extension: H.R. 4731—Public Law 100-364, approved July 11, 1988. (*211)

Extends the authority for the Work Incentive Demonstrative Program from June 30, 1987, through September 30, 1989.

TAXATION

Tax Reform Technical Corrections: H.R. 4333—Passed House August 4, 1988; Passed Senate amended October 11, 1988; in conference. (*366)

Makes technical corrections to the Tax Reform Act of 1986 and other recently enacted revenue legislation including the Superfund Revenue Act of 1986 (P.L. 99-499), the Harbor Maintenance Revenue Act of 1986 (P.L. 99-662), the Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509), and the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203), which includes the Revenue Act of 1987, the Pension Protection Act, the Vaccine Tax Provisions, and Social Security Act Technical Amendments; makes corrections to collection and exemption procedures for excise taxes on diesel and nongasoline aviation fuels; contains other revenue corrections and modifications including repeal of the statutory limitation on the amount of long-term bonds the Treasury may issue and modifying provisions relating to transferred property for estate and gift tax purposes; modifies provisions relating to railroad unemployment and retirement benefits; makes minor and technical changes to the Social Security amendments; contains provisions designed to close loopholes with respect to corporate estimated taxes, single premium and other investment-oriented life insurance contracts, loss transfers by Alaska Native Corporations, distilled spirits flavors credits, residential telephone service deductions, and the IRS valuation tables; contains a number of noncontroversial, low-cost provisions, including provisions correcting laws affecting agriculture, dealing with pensions and employee benefits, exempt organizations, and tax-exempt bonds, and modifying certain administrative provisions; extends certain expiring tax provisions and contains other substantive provisions including the taxpayer bill of rights; modifies certain Medicaid provisions; and immediately imposes certain sanctions against Iraq for the use of chemical weapons in violation of international law and requires the President to impose additional sanctions, by December 31, 1988, unless Iraq has halted its use of chemical weapons and provided verifiable assurances that it will not again use chemical weapons.

TRADE

Omnibus Trade and Competitiveness Act: H.R. 3—Vetoed May 24, 1988; House overrode veto May 24, 1988; Senate sustained veto June 8, 1988. (208, *110, *169)

Extends nontariff agreement negotiating authority, presidential authority to enter into multilateral tariff agreements, and authority to enter into bilateral tariff and nontariff barrier agreements for five years, until May 31, 1993; extends the fast track congressional approval procedure of implementing legislation for agreements entered into on or before May 31, 1991, until May 31, 1993, unless either House passes a disapproval resolution before May 31, 1991; terminates the fast track approval procedure if both Houses of Congress separately pass disapproval resolutions under the fast track within a 60-legislative day period; implements the International Convention, effective upon enactment, and the Harmonized Tariff Schedules on January 1, 1989; transfers from the President to the USTR the authority to make determinations of whether foreign practices meet section 301 criteria; mandates responses to unfair distortions of international trade; improves the enforcement of U.S. antidumping and countervailing duty laws; establishes a special procedure to open foreign markets with a "consistent pattern of trade barriers"; reforms section 201 of the Trade Act of 1974 to encourage efforts by domestic industries to undertake actions to make the domestic industry compete successfully with imports; expands eligibility for Trade Adjustment Assistance; improves the effectiveness of property protection under section 337 of the Tariff Act of 1930; provides specific negotiating authority and remedies to address the lack of foreign market openness in telecommunications trade; modifies export licensing procedures under the Export Administration Act; modifies Federal Reserve regulations relating to bank-affiliated export trading companies; states U.S. policy regarding international economic policy coordination and currency markets; requires the President, using strict criteria, to identify annually countries that engage in discriminatory government procurement practices against U.S. firms; authorizes withdrawal of privileges for primary dealers in U.S. government securities from foreign countries which do not accord U.S. firms national treatment in dealing in that country's government securities; modifies the criminal prosecution provisions of the Foreign Corrupt Practices Act; authorizes the President, after making certain findings, to take appropriate actions to restrict foreign investment in U.S. businesses which threaten the national security; requires the President to impose sanctions on product imports from companies found to have violated international export control agreements; imposes a three-year ban on imports of products of the Toshiba Machine Co. and Kongsberg Vaapenfabrik and a ban on U.S. government purchases from the parent corporations; directs the Treasury Secretary to address the international debt problem of developing countries, including the proposal of an international debt facility; establishes a Trade and Development Program with authority over the mixed credit program; increases appropriations and staff levels for the Foreign Agricultural Service to expand its agricultural export marketing programs and activities; modifies the provisions of several existing agricultural trade programs including: increasing funding for the Targeted Export Assistance Program and establishing a triggered marketing loan program for the 1990 crop year for certain commodities if a GATT agreement on agricultural trade has not been reached; requires advance notification of plant closings and mass layoffs; creates employment and training assistance programs for dislocated workers; authorizes funds for education programs to improve American competitiveness; authorizes various grant programs including the Star Schools and foreign language study programs; makes amendments to the patent laws with respect to patented processes; reorganizes the National Bureau of Standards into the National Institute of Technology with responsibility for expanding its role as the government's lead laboratory in support of U.S. industrial quality and competitiveness while encouraging growth and modernization of the core metrology mission; includes several provisions to enhance U.S. technological competitiveness; creates a new Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation; establishes a National Trade Data Bank within the Department of Commerce consisting of both an export promotion data system and an international economic data system; amends the International Air Transportation Fair Competitive Practices Act to facilitate DOT review of complaints by U.S. carriers; gives the Federal Maritime Commission discretion to initiate investigations or upon petition to determine whether the shipping rules, regulations, or practices of foreign governments, or other persons providing maritime or maritime-related services in a foreign country, unfairly adversely affect the operations of U.S. carriers in U.S. oceanborne trades; strengthens export assistance programs for small businesses; establishes a 12-member Competitiveness Policy Council as an independent body subject to the strictures of the Federal Advisory Commission Act, to serve as a forum for the discussion and evaluation of U.S. competitiveness policy; requires OMB and the two congressional budget committees to assess annually the impact of the Federal budget on the U.S. trade balance and other important economic indicator; requires the President or the head of the appropriate department or agency to include in every recommendation or report made to Congress on legislation which may affect U.S. competitiveness in domestic and foreign markets and repeals the windfall profit tax.

H.R. 4848—Public Law 100-418, approved August 23, 1988. (*288)

Contains provisions identical to H.R. 3 (the vetoed bill) except for the deletion of provisions requiring advanced notice of plant closings and mass layoffs (which were enacted separately in S. 2527—P.L. 100-379), and the provisions dealing with the export of Alaskan crude oil to Canada and the export of Alaska refined petroleum products. (The conference report language on H.R. 3 dealing with the Alaskan oil and petroleum products exports is retained by reference in this bill).

S. Con. Res. 135—Senate agreed to August 3, 1988. (*289)

Makes enrollment corrections in the Trade and Competitiveness Act (H.R. 4848) and makes the importation of ethanol contingent on the Secretaries of Agriculture, Energy, and Treasury submitting to Congress a statement certifying that domestic ethyl alcohol production is not fully meeting the demand and that the quantity to be imported duty-free is necessary to maintain adequate U.S. supplies.

Soviet-U.S. Agricultural Trade: S. Res. 377—Senate agreed to March 31, 1988.

Urges the President to initiate negotiations on a new long-term agricultural trade agreement with the Soviet Union, which includes provisions for higher minimum and maximum supply guarantees and the export of value-added products, and to report to Congress by May 30, 1988, on the potential impact of such an agreement on the U.S.' agricultural economy and related industries.

Soybean Industry Relief: S. Con. Res. 94—Senate agreed to March 4, 1988.

Commends the U.S. Trade Representative (USTR) for initiating an investigation under the Trade Act in response to the petition filed by the American Soybean Association with respect to the European Communities' (EC) internal oilseed and protein crop subsidies; calls upon the USTR to expeditiously pursue its investigation; and calls upon the President to use his section 301 authority to restore the benefits due the U.S. soybean industry under the EC's agreement to provide duty-free treatment for U.S. soybeans and soybean meal.

Textile, Apparel, and Footwear Trade: S. 2662—Passed Senate September 9, 1988; H.R. 1154—Vetoed September 28, 1988; House sustained the President's veto October 4, 1988. (*324, *329)

Establishes annual import quotas on each category of textiles, textile products, and nonrubber footwear from all sources based on the import level for each category in 1987; requires the Administration to give preference in allocating textile, apparel, and footwear quotas to countries which increase their commercial purchases of U.S. agricultural products; permits tariff cuts on these items of up to 10 percent and requires that the cuts be staged equally over five years; prohibit the President, except as provided under this Act, from (1) entering into trade negotiations regarding duties on textiles, textile products, and nonrubber footwear, and (2) from reducing or proposing a reduction on such duties by any means, including proclamation or an implementing bill under section 151 of the Trade Act of 1974; requires the Secretary of the Treasury to establish a one-year pilot program during 1989 to publicly auction to U.S. companies import licenses applicable to certain categories of textiles and textile products; and makes the provisions of the Act applicable to textiles, textile products, and nonrubber footwear entered or withdrawn from warehouse for consumption on or after the date of enactment.

U.S.-Canada Free Trade Agreement Implementing Legislation: H.R. 5090—Public Law 100-449, approved September 28, 1988. (*332)

Amends current law as necessary to implement the Free Trade Agreement (FTA) and approves the FTA entered into on January 2, 1988, and the Statement of Administrative Action proposed by the President to implement the FTA, which establishes a free trade area consistent with the General Agreement on Tariffs and Trade (GATT) in order to (1) reduce barriers to trade in goods and services between the U.S. and Canada, (2) facilitate conditions of fair completition, (3) significantly liberalize conditions for investment, (4) establish effective procedures to administer the FTA and resolve disputes, and (5) lay the foundation for further bilateral and multilateral cooperation between the two countries.

U.S. International Trade Commission (ITC), Customs Service, and Office of the U.S. Trade Representative (USTR) Authorizations: S. 2595—Passed Senate July 6, 1988.

Authorizes $37.1 million for the ITC, $1.2 billion for the Customs Service, and $15.4 million for the Office of the USTR in FY 1989, and sets forth procedures to ensure uniformity of Customs decisions on the initial appraisement, classification, valuation, and duty assessment of merchandise entering the U.S. customs territory.

TRANSPORTATION AND COMMUNICATIONS

Air Passenger Protection/Airline Mergers: H.R. 3051—Passed House October 5, 1987; Passed Senate amended October 30, 1987; In conference; House instructed House conferees June 15, 1988, to establish minimum standards relating to air carrier passenger services, and to agree to Senate language establishing an alcohol controlled substances testing program. (361)

Provides for the early sunset (from June 1, 1989, to the date of enactment of this act) of the existing authority of the Secretary of Transportation over airline mergers, acquisitions, consolidations, and interlocking directorates, including the authority to exempt these transactions from the antitrust laws: requires the Secretary of Labor to determine whether a merger or similar transaction would reduce employment or adversely affect wages and working conditions and, upon making a positive determination, impose labor protection provisions designed to mitigate adverse consequences; requires the Secretary to compile fares and frequency of service offered to or from any of the 50 busiest airports; requires air carriers to submit airline performance information relating to domestic air service to the Department of Transportation for public dissemination; requires the Administrator of the Federal Aviation Administration to establish minimum elapsed flight times; modifies regulations regarding computerized airline reservations systems; establishes a toll-free consumer hotline for air travelers; directs the Secretary of Transportation to establish an Advisory Committee to determine the appropriate level of capacity in the air traffic control system; and requires drug and alcohol dependency testing for certain air and railroad industry personnel and commercial motor vehicle operators.

Automobile (Gray) Market Imports: H.R. 2628—Public Law 100-x, approved x, 1988.

Strengthens the statutory and regulatory framework under which vehicles not originally manufactured for sale in the United States are brought into compliance with U.S. standards by directing the Secretary of Transportation to make a determination as to whether a model of a vehicle complies with or is capable of being modified to comply with applicable U.S. safety standards based on one of two specified findings; directs the Secretary to establish procedures to ensure that all interested parties may submit supplementary information to be considered prior to making a determination; requires that vehicles imported pursuant to this authority be modified by an importer who is registered with the Secretary; permits imposition of a user fee upon a registrant to cover the administrative costs; and requires a properly registered importer to submit a certification to the Secretary for each vehicle modified.

Commercial Space Launches: H.R. 4399—Passed House May 24, 1988; Passed Senate amended October 14, 1988.

Encourages for certain satellites that were removed by Presidential directive from the space shuttle manifest to launch on domestic expendable launch vehicles (ELV's) by waiving certain charges for government-provided services and the property insurance requirements; establishes a risk-sharing agreement between launch providers and the Federal government for third party claims resulting from commercial launchers from government facilities whereby launch providers would be required to purchase private liability insurance covering up to $500 million in damages for third party claims and the President would be required to prepare a compensation plan for claims in excess of that amount up to $1.5 billion to be considered by Congress under special procedures; requires the launch provider to also purchase insurance of up to $100 million for damages to government property; establishes the conditions under which the Federal government may preempt commercial launches; and requires the DOT and NASA to each conduct a study on commercial launch issues.

Ethanol and Alternative Fuels Promotion: S. 1518—Public Law 100-x, approved x, 1988.

Provides incentives for vehicle manufacturers to develop automobiles and light trucks powered by alternative fuels by increasing the vehicle's corporate average fuel economy (CAFE) ratings beginning in model year 1993, thereby increasing the manufacturer's ability to meet the overall CAFE standards; caps the permissible CAFE increase allowed a manufacturer for each category of alternative or dual-fuel vehicles, and sunsets the program in 2005 unless extended by the Secretary of Transportation for up to four additional years; authorizes funds for alternative fuel use demonstration programs as follows: $5 million in FY 1990, $3 million in 1991, and $2 million in each 1992-93 for a program to procure alternative fuel automobiles and light trucks for use by the Federal government, $4 million in FY 1990-92 for a program to study the use of alcohol and natural gas fuels in commercial heavy duty trucks, and $2 million in 1990-92 to assist State and local governments in testing alternative fuels in urban transit buses; establishes an Interagency Commission on Alternative Fuels to coordinate Federal efforts to develop a national alternative motor fuels policy, and a U.S. Alternative Fuels Council to assist the Commission; and requires the EPA Administrator to report to Congress on any environmental impacts that occur as a result of this Act.

Federal Communications Commission (FCC) Authorization: S. 1048—Passed Senate October 7, 1988.

Authorizes $107.3 million in FY 1988 and $109.3 million in 1989 for the FCC; extends FCC's travel reimbursement authority through FY 1989; eliminates the annual management report; postpones the date for indexing the fee schedule for inflation from April 7, 1988, until April 1, 1989; permits the FCC to initiate a two-year test program to negotiate the hiring of older Americans to assist in technical and administrative work on FCC projects implementing, promoting, or enforcing regulations; precludes the FCC from prescribing or enforcing any regulation or policy that prevents or deters the receipt or consideration of any information, communication, or expression of views from the Congress; requires the FCC to issue a decision on the lawfulness of a tariff within a specified number of months after it has taken effect and makes the FCC's decision concluding such an investigation reviewable by the courts; and expresses Congressional support for the Amateur Radio Service and its emergency communications efforts and encourages government agencies to take into account the contributions by amateur radio operators when considering actions affecting the Service.

Hearing Aid Compatibility: H.R. 2213—Public Law 100-394, approved August 16, 1988.

Requires that most telephones manufactured in or imported into the U.S. one year after enactment be compatible with hearing aids.

Independent Safety Board Authorization: S. 623—Public Law 100-372, approved July 19, 1988.

Authorizes $25.4 million, $27 million, and $28.6 million in FY 1988-90, respectively, for the National Transportation Safety Board (NTSB); establishes a $1 million emergency fund for use in years when there are an unusually large number of accidents, with funds to remain available until expended and replenished when necessary; and requires payment, to be applied to the NTSB's appropriations, from Federal agencies, and State, local and foreign governments who request assistance with accident investigations for the reasonable cost of goods and services provided.

Merchant Marine Act Amendments: S. 1988—Public Law 100-329, approved June 7, 1988.

Amends section 27 (the Jones Act) of the Merchant Marine Act to require that vessels used to transport or tow barges transporting valueless and dredged materials, regardless of commercial value, be constructed and documented in the U.S. to engage in coastwise trade; allow certain foreign-built, U.S.-documented sewage sludge barges in use by or under contract with a municipality, as of the date of enactment, to be used in the transportation of municipal sewage sludge; and permit the existing fleet of 12 foreign-built launch barges with a launching capacity of 12,000 long tons, under certain circumstances, to transport platform jackets between specified coastwise points.

Merchant Marine Decorations and Medals: H.R. 1430—Public Law 100-324, approved May 30, 1988.

Expands the authority of the Secretary of Transportation to issue medals, awards, and decorations to merchant seamen and extends through October 22, 1992, a 1982 act that sets aside three vessels currently held in the National Defense Reserve Fleet for use by LIFE International for various humanitarian purposes.

National Telecommunications and Information Administration: H.R. 2472—Passed House October 13, 1987; Passed Senate amended August 4, 1988.

Authorizes $14.7 million in FY 1988 and $15 million in FY 1989, plus such sums as necessary for nondiscretionary costs in each fiscal year for the National Telecommunications and Information Administration; and requires the Secretary of Commerce to assist in restoring the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT) for which $1.7 million is authorized in each FY 1988-89.

O'Hare International Airport Air Traffic Problems: S. Res. 497—Senate agreed to October 13, 1988.

Calls on the FAA to submit to Congress, by October 25, 1988, a plan outlining immediate and long-term actions that the FAA will take to solve the air traffic problems at O'Hare International Airport in Chicago, Illinois.

Public Telecommunications: S. 2114—Passed Senate October 7, 1988.

Authorizes $245 million in FY 1991, $265 million in 1992, and $285 million in 1993 for the Corporation for Public Broadcasting (CPB); authorizes $36 million in FY 1989, $39 million in 1990, and $42 million in 1991 for planning and constructing public telecommunications facilities; increases the matching funds ratio of non-Federal to Federal funds from 2-1 to 2.5-1; authorizes $200 million in FY 1991-93 for a Public Broadcasting Satellite Interconnection Fund to be used by public television and radio stations to replace, refurbish, or upgrade their national satellite interconnection systems and requires the CPB to attempt to raise private funds to assist with the financing of the new statellite systems; states as CPB policy that it is in the public interest to encourage creative risk in programming and to develop programming that addresses the needs of unserved and underserved audiences, especially children and minorities, and targets funding for such programs; reduces CPB discretion in connection with contracts to assist in the production or acquisition of programming; revises provisions governing the allocation of the Public Broadcasting Fund; requires the CPB to conduct a study and submit a plan to Congress on how funds available can be best allocated to meet the objectives with regard to national public television programming; requires the CPB to provide adequate funds, beginning in FY 1990, for an independent production service to contract with the CPB to produce public television programs by independent producers and production entities; requires the CPB to assess, every three years, the needs of minority and diverse audiences, plans to address such needs, the ways radio and television can be used to help these underrepresented groups, and projections concerning minority employment in public broadcasting and telecommunications; requires the CPB to report annually on services to minority and diverse audiences including programming, training, and efforts to increase the number of minority public radio and television stations eligible for financial support from the CPB; directs the CPB to assist radio stations to maintain and improve service where public radio is the only available broadcast service; removes the prohibition against editorializing by noncommercial educational broadcast stations receiving CPB grants (retains the prohibition against supporting or opposing political candidates); requires the Public Broadcasting Service to maintain an unscrambled signal for satellite-delivered programs in the National Program Service.

Railroad Safety: S. 1539—Public Law 100-342, approved June 22, 1988. (370)

Reauthorizes the Federal rail safety program at $40.6 million in FY 1988, $41.9 million in 1989, and $44.4 million in 1990; expands the list of projects eligible for Northeast Corridor improvement project funding; requires issuance of Federal rules for the licensing or certification of locomotive operators; directs the Federal Railroad Administration to evaluate whether to implement training requirements for train dispatchers; requires written certifications by inspectors of train safety apparatus that the equipment was tested and is working properly; establishes penalties for tampering with safety devices on trains; increases from

$2,500 to $10,000, the maximum fine per violation of Federal safety laws and regulations and establishes a new super penalty of $20,000 for a grossly negligent violation or repeated violations which have caused death or injury or an imminent hazard of death or injury; contains whistleblower protections for rail workers who report safety violations; requires the use of event recorders on freight trains and automatic train controls on trains operating in the Northeast Corridor; and calls for a feasibility study on the need for automatic train controls on each passenger rail corridor.

Telecommunications Services for the Hearing Impaired: S. 2221—Passed Senate August 10, 1988; H.R. 4992-Public Law 100-x, approved x, 1988.

Requires the installation of telecommunications devices for the deaf in Federal agencies and Congress and the expansion of the present Federal relay system; and requires the FCC to complete, within 12 months, its existing inquiry into the development of a non-Federal interstate relay system.

Truck and Bus Safety: S. 861—Passed Senate March 3, 1988.

Requires the Secretary of Transportation to eliminate, within 12 months of enactment, the exemption for commercial drivers and equipment operating solely within metropolitan areas (known as commercial zones) from the Federal Motor Carrier Safety Regulations; requires the Secretary to complete a rulemaking, within 12 months of enactment, on the need to adopt methods for monitoring truck drivers' compliance with hours of service rules; and requires the Secretary to examine the need to adopt methods for improving truck braking performance.

Uninspected Vessels Equipment Requirements: H.R. 4557—Public Law 100-x, approved x, 1988.

Requires each manned uninspected vessel operating on the high seas or beyond three nautical miles of the coastline of the Great Lakes to be equipped with the number and type of alerting and locating equipment, including emergency position indicating radio beacons, prescribed by the Secretary of Transportation; permits the Secretary to exempt a vessel from any or all requirements if he/she finds that good cause exists and that the safety of the vessel and individuals on board will not be adversely affected; and imposes a monetary penalty of up to $5,000 for violations.

TREATIES

INF Treaty: Treaty Doc. No. 100-11—Resolution of ratification agreed to May 27, 1988. (*166).

Calls for the elimination, over a three-year period, of all existing intermediate-range and shorter-range missiles in the U.S. and Soviet arsenals, as well as the launchers and certain support facilities for the missiles; prohibits intermediate-range and shorter-range missiles and equipment thereafter; sets forth the procedures governing elimination of missile systems and the conduct of on-site inspection under the Treaty, with an Annex on the privileges and immunities to be accorded inspectors and aircrew members; contains conditions to ratification which (1) insure that future administrations cannot reinterpret the Treaty without Senate approval, and (2) direct the President to certify the common understanding of both parties with respect to production of a ground-launched ballistic missile not limited by the Treaty; and adds a declaration stating that the U.S. intends to continue to negotiate with the USSR for a treaty effecting reductions in strategic nuclear forces and to negotiate a treaty with NATO establishing conventional stability in Europe.

International Atomic Energy Agency Statute Amendments: Treaty Doc. No. 99-7—Resolution of ratification agreed to September 7, 1988. (*312).

Amends Article VI of the Statute of the International Atomic Energy Agency relating to the composition of the Agency's Board of Governors to increase from nine to ten the number of IAEA members designated for a seat on its Board of Governors by virtue of their status as most advanced in the technology of atomic energy without regard to geographical distribution, thereby ensuring that the People's Republic of China will be able to occupy a seat on the Board of Governors without displacing the other designated members—Australia, Belgium, Brazil, Canada, Egypt, France, the Federal Republic of Germany, India, Japan, the USSR, the United Kingdom, and the United States.

International Labor Organization Convention on International Labor Standards: Treaty Doc. No. 99-20—Resolution of ratification agreed to February 1, 1988. (*13).

Requires International Labor Organization (ILO) members that ratify the convention to establish and maintain machinery to ensure effective tripartite consultations between governments, employers, and workers on ILO matters, and makes the ratification subject to the declaration that there is agreement by the U.S. government, the AFL-CIO, and the U.S. Council for International Business that each ILO convention will be examined on its merits on a tripartite basis, any differences between the convention and Federal law and practice will be dealt with through the normal legislative process, there is no intention to change State law and practice by Federal action through ratification of ILO conventions, and that possible Federal/State conflicts caused by ratification will be examined.

International Labor Organization Convention on Minimum Standards in Merchant Ships: Treaty Doc. No. 99-21—Resolution of ratification agreed to February 1, 1988. (*14).

Improves employment conditions in merchant ships and expands the ability of port states that are party to the convention to protect the health and safety of seamen manning merchant vessels calling in those states; and contains five understandings designed to clarify portions of the convention as they relate to domestic U.S. law.

International Natural Rubber Agreement, 1987: Treaty Doc. No. 100-9—Resolution of ratification agreed to September 7, 1988. (*313)

Ratifies the International Natural Rubber Agreement, 1987 which is a multilateral commodity agreement designed to stabilize natural rubber prices without interfering with long-term market trends and to foster expanded natural rubber supplies at reasonable prices; and provides for the continuation of the buffer stock of not more than 550,000 metric tons established by the 1979 agreement to be used to defend a price range that is adjusted regularly in accordance with market conditions.

Montreal Protocol on Ozone Depleting Substances: Treaty Doc. No. 100-10—Resolution of ratification agreed to March 14, 1988. (*47)

Provides for internationally-coordinated control of ozone-depleting substances in order to protect public health and the environment from the potential adverse effects of depletion of stratospheric ozone.

Nuclear Accident Conventions: Treaty Doc. No. 100-4—Resolution of ratification agreed to September 7, 1988. (*311)

Ratifies (1) the Convention on Early Notification of a Nuclear Accident which requires state parties to promptly notify potentially affected states and the International Atomic Energy Agency of certain nuclear accidents and to provide and update specified basic information relevant to minimizing an accident's radiological consequences; and (2) the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency which establishes a stand-by framework under which assistance may be provided, but does not require any state party to provide or accept assistance.

U.S. TERRITORIES

Compact of Free Association—Palau: S.J. Res. 231—Passed Senate March 28, 1988.

Authorizes the entry into force of the Compact of Free Association between the U.S. and Palau provided that there is a satisfactory resolution of any action brought in the Supreme Court of Palau before enactment which challenges the procedure under which Palau approved the Compact.

H.J. Res. 597—Passed House October 6, 1988; Passed Senate amended October 7, 1988.

Authorizes the entry into force of the Compact of Free Association between the U.S. and Palau (1) provided that it is approved by the requisite percentage of the votes cast in a referendum pursuant to the Palau Constitution, (2) upon expiration of 30 days after the President notifies certain Congressional Committees of the Compact's effective date, and (3) the President has negotiated agreements with the government of Palau regarding fiscal procedures to be established and revision of Palau's National Development Plan; provides for negotiation of other agreements to provide U.S. assistance to Palau; and makes other minor modifications to current law relating to U.S. territories.

U.S. Citizenship Eligibility in the Northern Mariana Islands: S. 1047—Passed Senate July 10, 1987.

Modifies the Covenant establishing a Commonwealth of the Northern Mariana Islands (P.L. 94-241) by specifying that the Section 301 definition of persons who would automatically be granted U.S. citizenship under the Covenant extends to persons who were born in the Northern Marianas and had at least one parent born in the islands when they were a Territory, and persons who have foreign citizenship and took an oath of disallegiance to that foreign nation as of November 23, 1986; and provides that a parent, guardian, or person in loco parentis may complete the oath of disallegiance on behalf of children under age 13.

VETERANS

Atomic Veterans Compensation: H.R. 1811—Public Law 100-321, approved May 20, 1988. (*109)

Provides a presumption of service connection to veterans, or their survivors, who participated in atmospheric nuclear tests as part of the U.S. nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, and who suffer from certain diseases that may be attributable to exposure to ionizing radiation; specifies the diseases covered by this bill which include 13 types of cancer (except Hodgkin's disease and liver cancer where cirrhosis or hepatitis B is indicated); and establishes the presumption period as the 40-year period, beginning on the last date on which the veteran participated in a radiation-risk activity, for all covered diseases except leukemia (other than chronic lymphocytic leukemia), which has a 30-year presumptive period.

Department of Veterans' Affairs: H.R. 3471—Passed House November 17, 1987; Passed Senate amended July 12, 1988; House agreed to conference report October 6, 1988. (*242)

Established the Veterans' Administration (VA) as a Cabinet-level department; requires appointment of a Chief Medical Director and Chief Benefits Director and two Deputy Chief Benefits Directors, one of whom will be responsible for directing the National Cemetary System; and a creates a 16-member National Commission on Executive Organization and Management to make recommendations to the President and Congress regarding the structure and management of the Federal government and the President Cabinet.

VA Adjudication Procedure and Judicial Review: S. 11—Passed Senate July 11, 1988; Passed House amended October 3, 1988. (*239)

Establishes procedures for the adjudication of claims for VA benefits; removes the provisions making the Chairman of the Board of Veterans' Appeals (BVA) directly responsibile to the Administrator and provides for his/her appointment by the President subject to Senate confirmation; codifies the burden of proof and reasonable doubt standards in VA claims adjudication and the claimant's right to an opportunity for a hearing before the BVA; requires the Chairman to report annually to the Veterans' Affairs Committees on the Board's current and future workload and its ability to dispose of appeals in a timely manner; authorizes judicial review of (1) a VA rule or regulation both in connection with a final decision adverse to a VA benefits claimant or in a case brought specifically to challenge a rule or regulation, and (2) a final decision of the BVA adverse to a VA benefits claimant in the U.S. Court of Appeals (other than the U.S. Court of Appeals for the Federal Circuit) instituted by a civil action brought within 180 days of the date of the VA mailed written notice of the decision; makes the Courts of Appeals' decisions subject to Supreme Court review; provides for the payment of reasonable attorneys fees for rendering legal representation to individuals claiming VA benefits; and imposes criminal penaties for willfully and intentionally defrauding a VA claimant.

Veterans' Benefits and Services: H.R. 2616—Public Law 100-322, approved May 20, 1988. (400)

Creates an entitlement to VA outpatient care for specified categories of veterans; expands eligibility for VA domiciliary care to veterans receiving medical services and who meet certain income requirements; increases the rates of disability compensation and dependency and indemnity compensation; improves housing, automobile, and burial benefits for service-disabled veterans; provides for presumptions of service connection for certain disabilities for former prisoners of war; provides authorities for VA to recruit and retain health care personnel; repeals the mandatory transition of the Vietnam-era readjustment counseling program from one conducted primarily through Vet Centers in community locations to one conducted primarily through VA medical facilities and provides for a case-by-case review of such decisions; establishes AIDS education, training, counseling, and testing programs for veterans; and establishes a pilot program of community-based care and treatment and rehabilitative services for homeless veterans suffering from chronic mental illness.

Veterans' Employment, Training, and Counseling: H.R. 1504—Passed House June 30, 1987; Passed Senate amended August 4, 1987; S. 999—Public Law 100-323, approved May 20, 1988.

Provides a comprehensive framework to improve the administration and provision of employment referral, counseling, job-training, and related services to eligible veterans through the Veterans' Outreach Program/Local Veterans' Employment Representatives; creates a program of job-readiness skills development and counseling services to assist veterans in finding, applying for, and successfully participating in a job training program; authorizes $60 million annually in FY 1988-89 for the Veterans Job Training Act (VJTA); extends the dead liens governing application and entry into a VJTA training program; and provides for enhanced VJTA guidance counseling services.

Veterans' Home Loan Program: S. 2022—Public Law 100-x approved x, 1988.

Authorizes the VA Administrator to reduce or waive the five percent down payment requirement on vendee loans made to purchase VA foreclosed properties as necessary to competitively market the property; and clarifies the calculation method for determining the amount of a veteran's quaranty entitlement for conventional and manufactured home loans and improving the downpayment provision.

Veterans' Home Loan Program Improvements: S. 2049—Passed Senate April 28, 1988; Passed House amended October 12, 1988.

Creates an independent Commission on the Veterans' Administration Home Loan Program to assess the program's status, evaluate its programs, and recommend solutions and changes to improve the financial solvency and stability of the program and its benefits and services; requires the VA to offer below-market interest rates on vendee loans when it is necessary to market the property competitively and is in the interest of the Loan Guarantly Revolving Fund's long-term stability and solvency; and extends the creditworthiness requirements and 0.5 percent fee applicable to assumptions of VA-guaranteed vendee loans, pursuant to Public Law 100-198, except for nonrecourse loans.

Vietnam Women's Veterans Memorial: S. 2042—Passed Senate June 14, 1988; Passed House amended September 23, 1988; Senate agreed to the House amendments, with an amendment, October 12, 1988. (*176)

Authorizes the Vietnam Women's Memorial Project to construct a special commemoration at the Vietnam Veterans Memorial in honor and recognition of U.S. women who served in the Vietnam conflict; requires that the commemorative meet the standards of the Commemorative Works Acts; and states the sense of the Congress that no further additional or alterations to the site will be authorized or undertaken.

Mr. BYRD. Mr. President, I ask unanimous consent that this report and additional related material which will be submitted subsequently by the staff of the Democratic Policy Committee be printed as a Senate document.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield to my colleague, Mr. ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank my distinguished senior colleague.

UMWA LEADERSHIP ON ACID RAIN LEGISLATION

Mr. ROCKEFELLER. Mr. President, most people are aware now that there has been an effort in the past several weeks to try to achieve a compromise, one that may work, one that holds some promise, with respect to acid rain. I am not sure that many people outside or inside this Chamber recognize how far we have come in the last few weeks toward a compromise on this extremely delicate economic and environmental issue. In my judgment we come closer than ever before.

As one of the Senators who participated in a very long, arduous, and complex series of discussions, I watched the dynamics of this issue change very dramatically, in fact overnight in some ways. I saw many of my colleagues reach toward a compromise and involve representatives of the many sides that are involved in this whole matter of acid rain.

Senator BYRD, the majority leader, and Senator MITCHELL were heavily involved, and they must be praised for their coverage and persistence on this volatile issue.

I rise today because I feel compelled to set the record straight, not only with respect to these discussions, but specifically to respond to some comments that my very good friends, the distinguished Senator from Wyoming, made some days ago.

I admire Senator SIMPSON very much as a straight talker and respected leader. But, on October 4, he rose and spoke about his frustration over the breakdown of negotiations on acid rain, and I share that frustration, But the distinguished Senator went to criticize the United Mine Workers, and, by very clear implication, that organization's President, Richard Trumka, for somehow blocking final agreement on this vital issue.

Senator SIMPSON, in his frustration, referred to the United Mine Workers as "gorillas" and to its leaders as extremist and egotistical. He said that "arrogant union members representing mine workers don't wish their miners to mine low-sulfur coal."

Mr. President, nothing could be further from the truth. This criticism is unfair and the Senator's frustrations are truly misdirected. The truth is that President Trumka's efforts were courageous and constructive and he deserves our enduring gratitude.

He was, at least from this Senator's perspective, the real catalyst that propelled these short-lived but very, very intense negotiations.

In the midst of a legislative deadlock, of classic proportions on vital, controversial issues, Rich Trumka, Senator BYRD and the West Virginia delegation, and Senator FORD representing the coal caucus, sat down in good faith to try to break the logjam. President Trumka proceeded in good faith. He was persistent. He was diligent. He was always prepared. He came to the meetings by himself with full knowlege of all of the intracacies involved in terms of air chemistry and other technical knowledge.

On at least two occasions he went to Maine to talk with Senator GEORGE MITCHELL to try to reach a compromise.

When this effort began, the majority leader of the Senate called together the West Virginia delegation and we decided as a delegation, that we should explore the possibility of compromise regarding the problem of acid rain.

We understand, Mr. President, that acid rain is a troublesome issue. We understand that some people look at States like Kentucky, Ohio, and West Virginia and say, you are the cause of all the problems and your congressional delegations are trying to block progress.

That was not the case. The West Virginia delegation agreed to go ahead and try to break the deadlock and come up with a compromise that could work. So, we turned to President Trumka—a young, dynamic, and aggressive leader.

We had many, many meetings. We called in representatives of the coal industry and representatives of the utility industry. We met endlessly, and President Trumka sat at that table with us in all of those meetings with all of those representatives, searching with them and with us for a compromise that would work.

Those were not the actions of a gorilla, Mr. President, but the action, it seems to me, of a statesman. He led the way.

This effort to reach a compromise with Senator GEORGE MITCHELL was a superb effort in the eyes of this Senator. President Trumka was reaching out for an equitable, fair, and moral solution for the acid rain problem.

President Trumka has received a lot of criticism. A utility wrote letters critical of his efforts to his membership across this country. A coal company did exactly the same thing.

People are entitled to their views. But it is very easy to criticize. It's easy to tear down. It is harder to build. It is tough to be constructive when you are being shot at from all sides. Most people don't have the courage to stand up and propose bold solutions to difficult problems. But, that is what Rich Trumka did.

I think that Rich Trumka is a diamond cutter. Rich Trumka took a situation that everyone else had been chipping away at for years in a half-hearted manner, a terrifically controversial issue, and he broke it open for new possibilities. He proved to me that he is one of America's great labor leaders. He represents, in my judgment, a new generation of labor leaders that is trying to resolve problems based upon cooperation, not confrontation.

Rich Trumka had the vision to see a unique opportunity to reach an agreement on acid rain, a treacherous and difficult subject, and he wanted to project jobs and to clean up the air, and he was working on a compromise which may never again be as readily within our reach.

But there are some who criticize him for protecting his miners. I want to know, since when has it become wrong to try to protect the miners or the workers you represent, to fight for their jobs, to fight for their families?

There may be people, Mr. President, who take comfort in the continued lack of progress or who think that the result this year was good because there was no result. Some people may think that they are going to come back next year and trample on the rights and on the jobs and the livelihoods of the coal miners of West Virginia, Kentucky, Ohio, and other States.

They are wrong and they should think again.

The extreme elements on both sides of this issue—those environmentalists, who have no concern for the jobs of coal miners and those utilities that have stonewalled efforts to resolve the acid rain problem—should think again.

I saw from our discussion this year that reasonable people exist on both sides who can come together to reconcile environmental and economic concerns. There can be reconciliation next year if this body wants it.

I, frankly, get a little bit tired of people bashing coal miners. Let me tell you something about coal miners. For over 100 years and more, their effort and their work have built this country from a small agricultural Nation into a great industrial power. Our country, Mr. President, was built on the backs of these miners, with their very lives—thousands of which have been sacrificed in order for the rest of us to enjoy the fruits of 20th century prosperity.

It was the coal miner who sacrificed to move this Nation West by rail. It would be my guess that the Union Pacific and other railroads, as they were built westward to expand this Nation, were using coal from West Virginia and other States from the East.

It has been the sacrifice of the coal miner that has provided the electricity that created and sustained computer and other high technology industries in New England, mills and factories of the South, and automakers in Detroit. Coal from Logan County, WV, for example, fires the furnaces of the Ford Motor Co. at Rouge River steel plant in Michigan.

Even industrial development in the West was fueled by the coal and the work of the miners of West Virginia and other Eastern States.

Some people say the coal States should pay the entire cost for acid rain. Let me tell you something. We have been paying for 100 years—with miners lives and bodies, maimed, broken, and lost in accidents. We paid with people who worked until they could not breathe. We paid with an economy that became dependent upon providing cheap power to a growing Nation, which the Nation gladly used.

Recently, we have paid with punishing levels of unemployment in West Virginia. I have said many times on this floor that in 1982 and 1983 our unemployment was up to 21 percent in West Virginia. We have sacrifice. We have paid our price, Mr. President, and now some say we should pay again.

I doubt that many of our colleagues have been underground in coal mines. Maybe some have. I know I have. I know that people do not understand what it is to mine coal, what it means to go underground in low coal or high coal, to live underground for 8 hours, to take those risks, the risks of the roof falling or a piece of machinery running over you. This is the most dangerous work in this Nation, where an explosion can bury people alive underground. All of this work is in the blackest of dark midnight.

Coal mining has never been an easy job. A miner who has spent 15 or 20 years on the job often finds himself dying of silicosis—"black lung," they call it. Silicosis. It is painful to watch a miner who has black lung try to talk, to listen to him rasp. To move from one side of the room to a chair on the other side of the room, is a full day's exercise for miners who have black lung.

We have paid, Mr. President, our coal miners have paid. They have paid with their lives. They have lived in pain. They have worked hard so that this Nation could move ahead, providing electricity for generations of industrial growth across this country.

We do not have a choice in West Virginia. Only 4 percent of our land is flat land. The rest of it is beautiful and mountainous. God has provided us with coal and land which is not flat so we cannot diversify the way some other States do. We do not have that luxury, Mr. President.

We have the coal. We have the miners and even though mining is such a difficult life, it provides most of the jobs you can get in vast sections of West Virginia.

So all of this should be remembered, Mr. President, I say to the Members of this body; all of this should be remembered by those who talk about who should pay for acid rain. I say if there is any paying to be done, sacrifices that have to be made have to be fairly shared. Fairly shared. We have given, and we have suffered. Yes, there can be a compromise on the acid rain question; and, yes, there can be a solution, but it has to be a fair one, with shared responsibilities across this Nation.

You can count on this Senator, Mr. President, to fight for the miners, because the miners have been fighting for America, sacrificing for America. Miners are fighting to overcome 100 years of injustice.

So next year we will again confront this issue of acid rain. It is not going to go away. It is a problem that must be resolved. Senator GEORGE MITCHELL, the West Virginia delegation, and Rich Trumka came close to being able to resolve this issue with a good-faith effort on the part of the United Mine Workers and Rich Trumka. So we will be back, all of us—environmentalists, and those of us who see ourselves in the middle of the environmental concern and also the concern for jobs, and others who could care less about West Virginia and coal mining. But I say congratulations to Rich Trumka for what he did. And, believe me, next year, the United Mine Workers and Rich Trumka, its president, are again going to be players in these discussions, as will this Senator, as will the current majority leader and all who are concerned with the environment and agree that something has to be done. but, Mr. President, the solution to this problem isn't to divide this Nation or rip apart whole regions and throw thousands of peoople out of work. The solution, instead, will be found through understanding, and inclusion—not polarization and exclusion.

Mr. President, I yield the floor.

MONTANA NATURAL RESOURCES PROTECTION AND UTILIZATION ACT

The Senate continued with the consideration of the bill.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment by the Senator from Idaho to the committee substitute to S. 2751.

Mr. PELL. I thank the Chair. I am familiar with this amendment. I must say I think it would be unwise to pass it at this time in the form currently offered. The notion that the OECD, the Organization for Economic Cooperation and Development, dominated by European members would be party to the efforts to limit public or private lending to Eastern bloc countries is, I think, manifestly absurd. As most of us who follow this matter know, European countries are philosophically and historically opposed to limiting lending to the Eastern bloc. For the Senate to call for a European organization to undertake this activity, is therefore not realistic and is perhaps ill-advised. There are many useful functions that the OECD is willing to undertake which are in the U.S. interest. These are areas we should concentrate on.

Nor does the substance of this resolution make sense from an American economic or foreign policy perspective, in my view. We are certainly not doing any official lending to countries like the Soviet Union, Cuba, Libya, or Nicaragua.

However, given the fast-moving pace of reforms in the Soviet Union and the Eastern bloc in general, it would seem to me not wise for the Senate to go on record as pushing efforts to economically isolate Eastern Europe from its Western neighbors. There is no doubt in my mind that our European colleagues will not take kindly to this amendment.

Mr. President, I am prepared to yield the floor. I know the Senator was considering a modification.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. PELL. Yes.

Mr. SYMMS. I would say to my distinguished colleague that I appreciate his consideration, but the modification that he offers simply, I believe, makes my resolution or amendment lose its purpose. So I cannot accept the request to delete the call for a multilateral voluntary initiative, supervised by the Organization for Economic Cooperation and Development. I believe the Senator is incorrect that it does not make much difference. The ministerial meetings next April are critical. I think I would prefer going on ahead and letting the Senate vote on the issue, knowing that the Senate did vote for a strong message to our allies.

I respect my colleague's opposition to it, but I would appeal to him that a similar resolution was agreed to in the Senate in June by a vote of 96 to nothing. I discussed this with Treasury Secretary Nick Brady during the noon hour, since we met here prior to the conference lunch. He said that he did bring this up at the Berlin summit, which was just recently held and that he did not get much cooperation from the Europeans and Japanese on this; that they pretty much ignored it. He said it does not get anywhere.

So it would seem to me it would critically weaken what we are doing if we take out the language referring to the OECD Ministerial meeting in April, and we really should have it in there so the Senate goes on record to object to a treacherous policy that is really financing our adversaries with Western capital.

I prefer just to have a vote on the amendment as it stands. The distinguished chairman has the floor. He can move to table it. I prefer just to have an up-down vote on the Symms amendment as it now stands and then go on to complete the work on this pending legislation.

Mr. PELL. I think one point of accuracy, it was the Berlin Summit which was mentioned in the Symms amendment offered previously, not the OECD.

I also would note for my colleagues that the Senator from Idaho's amendment is opposed by the administration. I don't know whether Senators are aware of that.

Mr. SYMMS. I did not get the impression from Secretary Brady that he was opposed to it.

Mr. PELL. Quoting from a letter from Colin Powell, July 11, to Senator SASSER,

> You suggest that it may be necessary to control general purpose lending by Western banks to bloc countries. We continue to believe that, absent a national emergency, such controls would be counterproductive and less likely than direct controls on goods to achieve intended results.

I checked with the administration's representative and they did say they are in opposition to it. I am quite prepared to vote.

Mr. SYMMS. If I can just seek the floor for 1 more minute.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, this is precisely the reason we need this vote—to give this administration and the next administration, whichever party it happens to be, the sense of conviction and direction from the Senate. We think it is high time that the United States exert its influence to stop untied loans going to the Soviet and Warsaw Pact bloc; that our allies should stop financing the hungry bear that makes us in turn finance a huge defense establishment to keep them back from the gate. That is really what the essence of this amendment is all about and I am prepared to go ahead and vote if there is no further debate.

The yeas and nays, I think, were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment to the Senator from Idaho.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from Florida [Mr. CHILES], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Georgia [Mr. NUNN], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona, [Mr. DECONCINI] would vote "yea."

Mr. DOLE. I announce that the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Missouri [Mr. DANFORTH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from Nevada [Mr. HECHT], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nebraska [Mr. KARNES], the Senator from Oklahoma [Mr. NICKLES], the Senator from Indiana [Mr. QUAYLE], the Senator from Delaware [Mr. ROTH], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Vermont [Mr. STAFFORD], the Senator from Virginia [Mr. TRIBLE], the Senator from Wyoming [Mr. WALLOP], the Senator from Connecticut [Mr. WEICKER], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. BOND], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nebraska [Mr. KARNES], and the Senator from Wyoming [Mr. WALLOP] would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 2, as follows:

[Rollcall Vote No. 377 Leg.]

YEAS—64

Adams
Armstrong
Baucus
Biden
Boren
Boschwitz
Burdick
Byrd
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
Dole
Domenici
Evans
Exon
Ford
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Humphrey
Inouye
Johnston
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Packwood
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Symms
Thurmond
Warner
Wirth

NAYS—2

Matsunaga
Pell

NOT VOTING—34

Bentsen
Bingaman
Bond
Bradley
Breaux
Bumpers
Chafee
Chiles
Danforth
DeConcini
Dixon
Dodd
Durenberger
Fowler
Garn
Gore
Gramm
Hecht
Heinz
Karnes
Kennedy
Mikulski
Nickles
Nunn
Quayle
Roth
Rudman
Simpson
Stafford
Stennis
Trible
Wallop
Weicker
Wilson

So the amendment (No. 3717) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MELCHER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, I ask unanimous consent that Senators GRASSLEY, BOND, HECHT, HELMS, and WALLOP be added as cosponsors to the amendment just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3718

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 3718.

Mr. McCAIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senator made a unanimous-consent request, and he did not lose the floor by virtue of his making that unanimous-consent request. He requested that further reading of the amendment be dispensed with. There was no objection, but another Senator put in a quorum call. The other Senator did not have the floor. So I would suggest that the Senator ask unanimous consent concerning the reading of his amendment. If Senators wish to object to that, then the continuation of the reading would have to be conducted, following which there could be a quorum call.

The PRESIDING OFFICER. Does the Senator from Arizona reinstitute his request for unanimous consent to waive the reading of the amendment?

Mr. McCAIN. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the committee substitute, insert the following:

SEC. (a) FINDINGS.—The Senate finds that:

(1) The Sandinista regime is a signatory to the Esquipulas II agreement, and has thereby committed itself to the promotion of peace in Central America and democratization in Nicaragua;

(2) The Sandinista regime nevertheless continues to blatantly violate the provisions of the Esquipulas accord, which it is committed to observe;

(3) In the past month, the Sandinista regime has taken additional steps that violate the Esquipulas II accord, including:

(i) Blocking verification of the Sandinista regime's obligations under the Esquipulas II agreement by engaging in political harassment against two members of the National Reconciliation Commission, and by boycotting and hindering the work of that Commission;

(ii) Continuing to hold over 8,000 political prisoners, including more than forty prominent members of the internal political opposition arrested after the July 10 Nandaime demonstration.

(iii) Blocking verification of the Sandinista regime's obligations under the Sapoa agreement by negating the Sapoa Verification Commission's authority to investigate violations of the commitments to "guarantee unrestricted freedom of expression", by arbitrarily denying visas to Verification Committee personnel, and by preventing release of a report by the Inter-American Commission on Human Rights on [illegible] political prisoners being held in Sandinista jails.

(iv) Continuing to refuse internal democratic opposition requests to hold political demonstrations;

(v) Outlawing external assistance to the internal democratic opposition, the independent media and the Catholic Church, and under PL 100-276 for the children of Nicaragua;

(vi) Promulgating a new emergency law granting President Daniel Ortega sweeping powers, including the right to suspend media operations "when necessary to maintain public order", the right to arrest Nicaraguans deemed "dangerous persons", and increasing the government's ability to confiscate private property;

(4) By continuing blatant violations of the Esquipulas II accords, by continuing to receive unacceptably large Soviet-bloc military assistance, and by taking advantage of the Sapoa accord to strengthen their military position, the Sandinistas have committed two of the actions necessary for Presidential submission of a request, pursuant to the provisions of PL 100-463, for authority to transport to the Nicaraguan Resistance previously appropriated assistance held in title by the Nicaraguan Resistance.

(5) The Sandinistas continue to prevent the United States from maintaining a fully functioning Embassy in Nicaragua.

(b) It is the sense of the Senate that:

(1) The Senate condemns the continued suppression of human rights and blatant violations of the Esquipulas II accord by the Sandinistas and calls upon all who seek both peace and freedom in Central America to join in that condemnation;

(2) The United States should respond to the continued blatant violations of the Esquipulas II accord by:

(i) Continuing efforts to strengthen the internal democratic opposition and the independent media of Nicaragua;

(ii) Maintaining the Democratic Resistance—the Nicaraguan freedom fighters—as one of the few "pressure points" on the Sandinistas by providing the Resistance urgently needed humanitarian assistance.

(3) The Sandinistas regime and the people of Nicaragua should understand that if the Sandinistas comply with their commitments to democratize, the United States should consider responding by lifting the economic embargo against Nicaragua.

(5) The Sandinista regime should understand that continued failure to comply with the Esquipulas II accord will inevitably cause the Congress to approve additional military assistance for the Nicaraguan Resistance.

Mr. **McCAIN**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **McCAIN**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. CONRAD). Without objection, it is so ordered.

Mr. **McCAIN**. Mr. President, I ask unanimous consent that a modification to my amendment at the desk be accepted.

The **PRESIDING OFFICER**. The Senator has a right to modify his amendment.

The amendment, as modified, is as follows:

At the appropriate place in the bill, insert the following:

SEC. (a) FINDINGS.—The Senate finds that:

(1) The Sandinista regime is a signatory to the Esquipulas II agreement, and has thereby committed itself to the promotion of peace in Central America and democratization in Nicaragua;

(2) The Sandinista regime nevertheless continues to violate the provisions of the Esquipulas accord, which it is committed to observe;

(3) The Sandinistas continue blatant violations of the Esquipulas II accords, by continuing to receive unacceptably large Soviet-bloc military assistance, and by taking advantage of the Sapoa accord to strengthen their military position.

(4) The Sandinistas continue to prevent the United States from maintaining a fully functioning Embassy in Nicaragua.

(b) It is the sense of the Senate that:

(1) The Senate condemns the continued suppression of human rights and blatant violations of the Esquipulas II accord by the Sandinistas and calls upon all who seek both peace and freedom in Central America to join in that condemnation;

(2) The United States should respond to the continued blatant violations of the Esquipulas II accord by:

(i) Continuing efforts to strengthen the internal democratic opposition and the independent media of Nicaragua;

(ii) Reaffirming its support of humanitarian assistance to the Democratic resistance.

(3) The Sandinista regime and the people of Nicaragua should understand that if the Sandinistas comply with their commitments to democratize, the United States should consider responding by lifting the economic bargo against Nicaragua.

(4) The Sandinista regime should understand that continued failure to comply with the Esquipulas II accord will very likely cause the Congress to approve additional military assistance for the Nicaraguan Resistance.

Mr. **McCAIN**. For some days, reports have circulated in the media on the "death of the Contras." The truth is that the Nicaraguan resistance won't die. The brave men and women fighting for the freedom of their nation won't disappear, because the desire for liberty can't be quenched by Sandinista tyranny, or by votes here in Washington.

Congress will also come to recognize that the United States cannot allow the resistance to disappear. Without the resistance, we will be left with a dilemma. We will either have to spend billions of dollars in a futile attempt to contain Nicaragua, or we may one day face the possibility of again having to send young Americans to fight and die in a jungle war. Neither of these two options are acceptable.

The truth is, Mr. President, that this is an issue that won't go away. It was supposed to have been solved on August 7, 1987, when the Sandinistas signed the Esquipulas II peace agreement. Under that agreement, aid to the resistance was to be ended in return for the democratization of Nicaragua.

We all know the rest of the story. Meaningful aid—lethal aid—for the Contras was ended, by the Congress. In return, what have we received? We receive news of opposition leaders being jailed, starved, and beaten. Other opposition leaders are killed under mysterious circumstances. Radio stations are shut down. Independent newspapers are told that if they don't print government edicts, they will be closed. These flagrant violations of the accord began soon after it was signed, and they continue today.

NICARAGUA, MID-AUGUST—MID-OCTOBER 1988

August 17—Stone throwing Sandinista turbas attack Violeta Chamorro's house. Chamorro is the editor of La Prensa, and the widow of Pedro Chamorro, assassinated by the Somoza regime for his opposition activities.

August 18—Radio Catolica is permitted to reopen after being closed for forty days, but the station's newscast is banned for another three months, allowing the station to broadcast religious programming only.

September 1—Barricada discloses the text of a message sent by Daniel Ortega to Muammar Quadhafi. The message calls Quadhafi's revolution "an example worthy of being imitated by all the peoples of the world", and expresses the Sandinistas' "firm determination to strengthen the ties of friendship and solidarity that unite both peoples and governments in the common struggle".

September 2—Responding to the Sandinista's gassing and clubbing of demonstrators in Nandaime over a month earlier, President Arias calls the Sandinistas' actions "a mockery of the Nicaraguan people's desire for peace".

September 8—Martila Cruz Toruno, Secretary General of the Committee of Mothers of Political Prisoners, is arrested by Sandinista security forces and taken to an unknown location.

September 9—Sandinista army units attack several Honduran border posts with mortar and machine gun fire.

A Washington Post story states that "several dozen reports of political murders by government forces have surfaced in recent months" in north-central Matagalpa province. Americas Watch warns "The cases are numerous enough to suggest tolerance or complicity by higher authorities".

September 11—The Sandinistas begin harassment of two members of the Internal Reconciliation Commission after they meet in Miami with leaders of the Resistance. Eric Ramirez and Mauricio Diaz had held the meeting at the request of Cardinal Obando Y Bravo to discuss the release of 60 Sandinista prisoners held by the Resistance.

September 13—Reports surface on the health of opposition leaders arrested after the July 25th Nandaime demonstation. 63 years old Conservative Party Secretary General Myriam Arguello is reported to be losing motor control in her arms and hands. Coordinadora Secretary General Roger Guevara Mena has contracted conjunctivitis, and Luis Alberto Carballo, brother of Radio Catolica Director Father Bismark Carballo, is unable to walk because of skin infections. Other "Nandaime prisoners" are suffering nutritional deficiencies and fungal infections.

September 14—Calling it "bloodstained money", President Ortega refuses $16 million in humanitarian aid appropriated by the U.S. Congress for war injured Nicaraguan children

September 17—Citing a 1924 law, the Sandinistas deny an opposition request to hold a demonstration in Managua on September 25th.

September 18—With the Sandinistas insisting on Managua as the venue for further negotiations, peace talks with the Resistance break down. The Resistance had proposed Guatemala, Costa Rica, and the Dominican Republic as locations for the talks.

October 1—Sandinistas Vice President Sergio Ramirez notifies Nicaragua's National Reconciliation Commission that it should suspend its work until after the November meeting of Cental America's Presidents. According to Ramirez, the Commission "lacks a precise direction. This lack of guidance—a task that belongs to Presidents—has led to ill advised actions".

October 2—Daniel Ortega announces a ban on U.S. Congressionally approved aid to Nicaragua's civic opposition and Catholic Church. Ortega explains that the funds for the Catholic Church would be used for "destabilization", and that the internal political opposition parties "stir unrest and are puppets of the CIA".

October 6—The National Assembly approves a new law granting Ortega sweeping emergency powers. The law, which can be imposed in times of war, economic dislocation or natural disaster, permits Ortega to suspend broadcast and print media "when necessary to maintain public order". Those deemed "dangerous persons" would be subject to arrest and detention. the law also increases the government's ability to confiscate private property, including businesses.

The Interior Ministry Media Directorate summons Jose Castillo, Radio Corporacion's Director, to their officers. (Interior Minister Thomas Borge had punched Castillo in a previous meeting).

October 7—Threatened with closure if it does not comply, La Prensa publishes a Sandinista resolution condemning the newspaper. The Interior Ministry Media Directorate resolution states that La Prensa broke Nicaragua's media laws by publishing a series of articles on the murders of opposition leaders.

October 8—In a speech commemorating the anniversary of Che Guevara's death, Daniel Ortega says that "if there is a totalitarian regime disguised by the term democratic, that totalitatian regime is in the United States of America . . . That is U.S. reality, and, in the face of it, Nicaragua has maintained a dignified, consistent and firm position". Ortega also says that La Prensa "is a CIA newspaper . . . a CIA tool", and that the Catholic Church "has been used and continues to be used as a tool to destabilize the Nicaraguan revolutionary process."

October 11—Nicaragua's "press is more free than in England" says Francisco D'Escoto, the Sandinista Ambassador to London, in a BBC radio interview.

Salvadoran Army spokesman report capturing FMLN rifles "sent from Nicaragua" to the guerrillas.

October 12—Charging continued Sandinista harassment of Catholic Church verification activities under the Sapoa truce agreement, the Managua Archbishopric says "we feel it is indispensable that the Nicaraguan Government clearly state if it wants or does not want the church to continue working in the Verification Commission composed by Cardinal Miguel Obando Y Bravo, representing the church, and OAS Secretary General Joao Clemente Baena Soares".

October 13—The Sandinistas indefinitely suspend the newscast of Radio Mundial, the COSEP station. Sandinista authorities say the newscast "has continued with its defamation campaign against the government despite warnings and fines." The station, in a news magazine program, had compared the Ortega brothers to General Pinochet of Chile.

October 15—By accepting U.S. AID money to assist in verifying the Sapoa truce accord, Cardinal Obando Y Bravo and other Nicaraguan bishops have become "instruments of Ronald Reagan's politics of death" states Danile Ortega.

Mr. President, last August President Arias told me that he was seeking to unmask the Sandinistas, to show a disbelieving world that Nicaragua's rulers were brutal dictators.

Mr. President, the Sandinistas have been unmasked for all to see. They are not misunderstood Social Democrats. They are Maxist-Leninist dictators. They are kept in power by intimidation, repression, and force of arms. They will not—I repeat, they will not—engage in poltical competition. They will not be persuaded to do so because President Arias send letters to Managua, or because international pressure is brought to bear. The regime in power is composed mainly of former guerrillas who spent decades in the jungle opposing the Somoza dictatorship. They don't care about nasty letters from President Arias. They are dedicated only to maintaining themselves in power.

The truth is that the theories of active containment—propounded, I might add, by those responsible for allowing the Sandinistas to come to power—won't affect Sandinista rule. Active containment, no matter how many billions of dollars we spend, won't end Sandinista assistance to the FMLN, which continues even as we speak. It won't free jailed opposition leaders. It won't end the mysterious deaths of the few opposition figures not in jail. It won't keep radio stations operating freely. It won't end harassment of the Catholic Church.

Without the resistance, the only other option is invasion. I don't think the American people will stand by while another generation of young Americans is sent to fight and die in far off jungles. I know that I don't favor such an action.

The resistance is the only option for the United States. The resistance, and the governments of nations in the region, need assurances that Washington will maintain the fighters, and, if necessary, provide them with renewed lethal assistance.

When will renewed lethal aid be necessary? Personally, I don't believe it should ever have been cut off. It was, however, ended so that we could watch as the Sandinistas were unmasked. Fourteen months after democratization was to begun, repression in Nicaragua continues. The tattered figleaf of the Arias plan can no longer be used to cover the Sandinistas' brutality. The time has come for the Congress to recognize reality, to recognize that the Sandinistas aren't going to leave power willingly, to recognize that, without the resistance, peace and democracy will never come to Nicaragua.

Mr. President, this resolution says that continued Sandinista violations of the treaty they signed will very likely cause Congress to renew lethal aid to the resistance. It is important to reestablish the link between lethal aid and Sandinista compliance. It is important to reassure the resistance that they will not be deserted. It is important that our friends in the region be reassured that we won't walk away from the resistance. Finally, it is important for the Sandinistas to realize that they cannot continue to jail 63-year-old women, that they cannot shut down radio stations and newspapers, that they cannot stifle dissent, and that they cannot violate international treaties without paying the price. I ask my colleagues' support in passing this amendment.

AMENDMENT NO. 3719

(Purpose: To recognize the people of Chile for the clear expression of their desire for the restoration of democratic processes and procedures in Chile)

Mr. HARKIN. Mr. President, I send an amendment to the desk to the modified amendment of the Senator from Arizona and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN) proposes an amendment numbered 3719 to amendment No. 3718, as modified.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

SEC. . POLICY TOWARD THE RESTORATION OF DEMOCRACY IN CHILE.

(a) FINDINGS.—The Congress finds that—

(1) the Armed Forces of Chile under the leadership of General Augusto Pinochet Ugarte seized power on September 11, 1973;

(2) General Pinochet has ruled Chile without interruption for the past fifteen years;

(3) Throughout this fifteen-year period the people of Chile have expressed their growing desire for a restoration of democratic processes and procedures;

(4) The results of the Chilean national plebiscite held October 5, 1988 have clearly demonstrated the desire of the people of Chile to end General Pinochet's rule and to replace him with a chief executive freely chosen by the people;

(5) On the day of the plebiscite, Chileans turned out in exceptionally high numbers and took part in an exemplary process, which they helped administer, demonstrating the Chilean people's unwavering commitment to the restoration of democracy to their country;

(6) The United States and its chief representative in Chile, Ambassador Harry Barnes, have supported the Chilean people in their quest for democratic rule and respect for human rights.

(b) STATEMENT OF POLICY.—It is the sense of the Senate that—

(1) the United States fully recognizes, appreciates and welcomes the expressed desire of the Chilean people for the restoration of a civilian government based upon democratic processes and procedures;

(2) the United States commends the Government of Chile and the Armed Forces of Chile for conducting a free and fair plebiscite;

(3) the United States calls upon the Government of Chile to respect the results of the plebiscite and to hold free, fair and competitive presidential elections in 1989; and

(4) the United States encourages all efforts at dialogue toward reaching a consensus on a restoration of full democracy.

Mr. HARKIN. Mr. President, first of all, I want to compliment my friend from Arizona for his diligence and his good will in working out the amendment dealing with conditions in Nicaragua. I hope there was not any misunderstanding with him on that issue. I was simply trying to protect the chairman until he got back to the floor so that he could offer a motion to table the underlying amendment.

Certainly the Senator from Arizona and I have differed on our approach in Central America, more specifically on the issue of the Contras and the Sandinistas.

But I also believe that reasonable people can agree on certain things. Now the initial amendment that the Senator offered was one I could not have supported. But the Senator from Arizona, again in the spirit of compromise and I believe in the spirit of trying to reach some semblance of a consensus in sending a message to the Sandinistas, was willing to modify his amendment.

As it has been modified, I believe it is something I can support.

I will support the modified amendment of the Senator from Arizona as amended by my resolution commending the people of Chile for voting on October 5 for a return to democracy.

Again, my amendment is a sense-of-the-Senate resolution, a statement of policy that reads as follows:

> (b) STATEMENT OF POLICY.—It is the sense of the Senate that—
>
> (1) the United States fully recognizes, appreciates and welcomes the expresed desire of the Chilean people for the restoration of a civilian government based upon democratic processes and procedures;
>
> (2) the United States commends the Government of Chile and the Armed Forces of Chile for conducting a free and fair plebiscite;
>
> (3) the United States calls upon the Government of Chile to respect the results of the plebiscite and to hold free, fair and competitive presidential elections in 1989; and
>
> (4) the United States encourages all efforts at dialogue toward reaching a consensus on a restoration of full democracy.

Mr. President, we have had a long night of despair in Chile. From the coup in 1973 until this year, the Chilean people worked hard to restore democracy to the oldest of all democracies in Latin America.

The Chilean people have finally overcome. They voted in the plebiscite last week, and overwhelmingly supported a return to civilian and democratic government and they wanted it now.

I believe it is incumbent upon us to support the Chilean people, to support the outcome of the plebiscite, to let them know that we are going to work with them toward a restoration of full democracy in that country, which has been so torn apart by Pinochet since 1973.

It is time for the military of Chile to return to the barracks and return to their historical role in support of Chile's democratic institutions. It is time for Pinochet to step aside and step down and let the real democratic aspirations of the Chilean people come forward.

So I have offered this amendment because I believe that a message needs to be sent to Chile and to Pinochet, that we are not going to put up with anything short of full restoration of democracy in accordance with the plebiscite held on October 5.

Again, I think it is time that we state very loudly and very clearly that the United States supports a return to democracy and urges that the Government of Chile insure the full exercise of the democratic rights of the Chilean people so that free, fair and competitive presidential elections will be held next year. It is also important that the United States encourages peaceful efforts at dialog to reach a consensus on a full restoration of democracy in Chile. That is what this resolution is all about.

I hope this resolution will be adopted regarding Chile. If it is, I will state to my friend from Arizona, if this amendment is adopted, in good faith I will put my name on the underlying amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I am very aware that the time grows late. I do not want to take too much of the time of this body. I would like to thank my friend from Montana, who has shown great patience, Senator BAUCUS, as well as Senator MELCHER.

First of all, Mr. President, I would like to congratulate my friend from Iowa, the Senator from Iowa, on this very important resolution concerning democracy in Chile. The resolution itself is self explanatory. I am pleased that he is willing to adopt the underlying amendment.

Mr. HARKIN. Mr. President, will the Senator yield on that point?

Mr. McCAIN. I yield.

Mr. HARKIN. I want to commend the Senator from Arizona for his supporting the restoration of democracy in Chile. I want to commend him and tell him how much I have enjoyed working with him and how much my staff has enjoyed working with him on this issue.

Mr. McCAIN. I thank the Senator.

Mr. President, I see my friend from Oklahoma is interested in obtaining the floor. I yield to the Senator from Oklahoma.

Mr. BOREN. Mr. President, I would like to be made a cosponsor of the Senator's amendment.

Mr. President, I commend the Senator for taking this lead and also for his very important statement. The situation in Chile has been expressed in language in which I strongly concur. It is very important that we send a signal to the people of Chile that we support their efforts in democracy which have been undertaken.

We would be remiss in this Congress if we did not send a strong signal to the Communist and Sandinista Government in Nicaragua before this session of Congress ends that they cannot expect to continue as they have done without ceasing to violate rules of agreement, to violate the promise they made to move toward democracy, to violate the promise they made to release political prisoners, to violate the promise they have made to allow greater freedom of the press and the news media. Again and again they have proven what we are dealing with. We are not dealing with people who are dealing in good faith in following these processes.

Mr. President, I believe we should send a strong signal that they cannot continue to get away with this kind of behavior without a reaction from here. This legislation does exactly that.

I commend the Senator from Arizona for his leadership in this matter and I am proud to join him.

Mr. McCAIN. Mr. President, I ask unanimous consent that Senator STEVENS, Senator BOREN, and Senator KERRY be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I will be brief.

It is time to send a message to the Communist Sandinistas in Nicaragua and all those in the world that we will not abandon people struggling for freedom. All of us understand that with an election coming up and the end of a session that it is an opportunity for us to express our continued support for freedom and democracy in Central America.

Mr. President, if the hour were not late, I would go into long and serious detail concerning the abuses of human rights that continue as we speak. I would go into some detail as to the amount of Soviet military equipment, some 300 million dollars' worth, that has poured into Managua since February 1988, when the Congress cut off aid to the Contras.

I will not do that, Mr. President. This resolution speaks for itself.

Again, I would like to express my deep appreciation to my friend from Iowa and my friend from Massachusetts, Senator KERRY, and their staffs, who have made it possible for us to reach what I think is an agreement which shows the world that we are still a nation which supports people in their struggle for freedom and independence.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I cannot understand this preoccupation with sending messages. If you want to send a message, get in touch with the Post Office, with AT&T, with C&P, or some of those. Anyone can send a message. I am not against sending messages. I think we ought to send messages of support for people who are fighting and some of them dying who are in Central America.

I congratulate my friend from Arizona for offering this resolution, but I do not think we ought to kid ourselves. This resolution is not much. It is something. It is better than nothing. I am certainly going to vote for it. But the fact is that we have cut off the military support and have virtually cut off the humanitarian support the freedom fighters need if they are going to survive, let alone if they are going to prevail, in their struggle for freedom.

Mr. President, I notice we have attached a resolution about Chile to this underlying proposal. I think that is fine. I have glanced at the proposed resolution about what is going on in Chile, and I find myself in agreement with it. In fact, it prompts me to note that all over the world freedom is on the march. It looks like we are going to get Cubans out of Angola at some point of time. The Soviet Union is withdrawing its troops from Afghanistan. It is a few years too late, and a lot of casualties too late, and maybe 1 million people who are refugees too late, but at last it is going to happen.

In fact, if you look around the world, freedom is an idea that is gaining popularity and support and momentum. I have read recently that one of the agencies which annually ranks every nation of the world according to the practices of its government, that is, is it being free, partially free, authoritarian, repressive, dictatorial, the various gradations of human freedoms that are permitted in various countries of the world, for the first time since they have been keeping this annual scorecard a plurality, not a majority but a plurality, of the people on this planet live in freedom

I ask my colleagues to reflect that the reason why free institutions are growing stronger is because they have been strongly defended. I do not want to resort to oversimplification or buzzwords but freedom through strength is a real concept and it is working. Now, the only place that I know of that is not working is Central America. We have made great progress in Central America. We have some fledgling democracies.

The one place where the cause of freedom is going backward is in Nicaragua, or at least one of the places, one of the few places that comes to mind. As we pass this resolution, which does contain, my colleagues, a fair degree of self-congratulation, which probably is not really justified, we ought to ask ourselves, Why is it that the cause of freedom is being undermined in Nicaragua? When freedom is progressing in places like Chile and the Philippines and South Korea, in Afghanistan, in Angola and a lot of other places around the world, why is it that in Nicaragua the abuses of human rights are growing worse; that civil liberties are being restrained more and more every day, and that the prospects for the future are not bright but in fact are pessimistic by any realistic appraisal. The reason is simple. We cut off the aid for people who were fighting for freedom.

Just as the process of peace through strength, of freedom through strength was beginning to show real results and just as the Communist Government of Nicaragua was being dragged, kicking and screaming and protesting every step of the way and lying every step of the way, just as they were being brought to the bargaining table, the Congress says, "Well, that is enough of that. By gosh, we have had all of that we want. Cut off the aid." And they immediately changed course, began to reimpose restraints on travel, on free commerce, on various and sundry other kinds of activities that we associate with free people: free labor movements, free elections, freedom of worship, the right to operate free radio stations, and so on.

The result has been, first, that the cause of freedom has been set back in Nicaragua, and at a far more human and personal level people who had a right to count on and depend upon and who, in fact, had staked their lives on the support of this country and had reason to do so found themselves suddenly on their own; we cut off the aid, with already tragic results.

Now, If some Senators think that by passing this resolution they are going to be able to sleep better at night, I just do not think that is justified. In fact, I hope there is not one Senator who is going to sleep any better after agreeing to this amendment. It is a statement. It is a statement with which I agree. The question is whether or not it is a hollow statement. Are we prepared to back our words with action?

On another occasion, Mr. President, I have read into the RECORD the past statements of this body and of individual Senators—I am not going to go any further, but to listen to the statements that were made 2 years ago and 18 months ago and 12 months ago and 6 months ago and 60 days ago right in this Chamber, one would think that further infractions by the Communist Government in Nicaragua would inevitably result in a resumption of active support of the freedom fighters by the Congress of the United States, and yet it has not happened.

So the question thoughtful men and women are going to start asking pretty soon, and some of us are starting to ask them even now is do we mean it? Do we really mean what we say in this resolution? I hope we do.

I not only hope we mean it, but I hope that it will be taken at full faith and credit. But I must say to my colleagues, I am not so sure it will be. I guess if I were one of the members of the democratic resistance, I would say, "Look, don't send us any more paper. Send us some blankets, send us some boots, send us some batteries for our radios, send us some replacements for our shelter halfs, send us some of the supplies that will enable us to survive and fight another day if necessary in the jungles and highlands of Nicaragua. Send us the kind of tangible evidence of support that will impress the Communist government and bring them back to the bargaining table. Show the kind of resolve and will power and guts that will make a difference when Brother Ortega decides it is time to throw somebody else in jail or when they decide it is time to close down the commercial activities of Nicaragua. In short, put your money where your mouth is."

Now, I remember about 60 days ago, we had an extended debate in this Chamber about the provisions of a measure to send a form of aid to the freedom fighters of Nicaragua. I would like to have somebody give me a report on this. I would be glad to hear from the Senator from Arizona or any other Senator who knows more about this than I do. But the last word I had is that there is not any of this going to go to any freedom fighter in Nicaragua. The only way they can get it is to give up the fight and become refugees and filter out to Honduras. That is exactly the fear we expressed at the time, and we were given some level of reassurance. But as far as I know, it is not happening. What we really did with that aid is provided an incentive for those who have been fighting for freedom inside Nicaragua to leave Nicaragua and become refugees.

Second, we heard a lot of discussion about how we were going to get a vote at some point of time on military aid for the freedom fighters. That has proven to be a totally frustrated idea.

I think the reality of it is, my colleagues, that once we get this election behind us, perhaps some of us ought to sit down and take another look at this situation. Maybe we do not care. Maybe it does not make any difference what happens to people who are fighting for freedom in Nicaragua. Maybe that is such a long ways away and the concerns we have for it are just not important enough to justify doing anything.

I will be frank to tell you, Mr. President, I have talked to my people at home in Colorado, and I have not yet been able to persuade a majority of them that they ought to care as much about this issue as I care about it. I do not deny it. This is not an issue that enjoys great popularity out around the country, at least in the places that I have been. But among thoughtful people in this Chamber and elsewhere, I think there is a recognition, first, that we have a tradition of conscience that requires us to care about and be interested in and support with our prayers and our diplomacy and, if necessary, with our military support people who fight for freedom. That is the tradition of this country. That is why the nations of Europe live in freedom today. That is why some of the nations of the Pacific live in freedom today. That is why in places I have mentioned earlier, the dictatorial ambitions of the Soviet Union and others are being rolled back and there is more freedom in the world than there was.

Second, I hope that at a proper moment there will be a growing realization that aside from our commitment to human freedom for its own sake, Central America is a place of great strategic significance to our country; that aside from any interest we have or concern we might have for freedom fighters in Central America, perpetuating an increasingly militant Communist regime in Nicaragua undermines the security of this country.

For all the reasons that have been discussed often before—and I am not going to rehash them in length—because of what it says about the freedom of the Panama Canal Zone, about freedom of the seas in the Caribbean, about the prospects for our military bases that threaten our own homeland, bases in Nicaragua—for all the reasons that have to do with the export of terror and revolution, which happens to be every day, because they are training terrorists in Nicaragua and exporting their product in the region, for what it says to our other allies in the area, including Mexico, we have a real stake in preventing the tragedy that is unfolding in Central America.

I am going to vote for this resolution and do so with a sense that it is the best we can do on a day when we should not be in session, when this Congress should have adjourned, and recognizing that it is the best we can do today, but wish it were more. I wish it were the kind of principled, honorable, strong, decisive statement that would really make a difference. I am not sure it goes that far, but I wish it did. Since it is the best we can do, I will not only vote for it but also congratulate those who brought it to our attention, and thank them for doing so.

Mr. GRAHAM. Mr. President, I believe this resolution will receive justifiable support from this body. I do wish to extend some of the ideas of the Senator from Colorado.

Yes; we are primarily sending a message with this resolution. It is not the strong show of determination which some of us would like to see in terms of action. But as a message, I think it does have some value.

One, it is going to have some value within the United States of America. It is absolutely imperative that the new President, whoever that individual might be, and the new Members of Congress who will arrive in January 1989 commit themselves to a new era of restored bipartisan support for American foreign policy.

This Nation is at its best when it speaks to the world with a single, clear voice. That does not say that our democratic processes will not include a certain amount of dissent and debate; but when that debate has concluded, we as a nation must have a single voice to the world.

That is what we did during the period of President Truman, of Senator Vandenberg, of President Eisenhower, and of President Johnson. That is when this Nation was at its best. I hope that 1989 will usher in a new era of similar bipartisanship, and I believe that this resolution and what I anticipate will be the strong support it will receive will make a contribution toward that.

Second, we will be sending a message to our adversaries that the United States has neither been blinded nor rendered impotent by our own domestic politics, that we still understand the importance of the issues which are raised in Nicaragua and Central America, in this hemisphere and around the world, and we are prepared to defend those interests.

I hope this message will particularly be heard in two places. One is the Soviet Union. As this resolution points out, while we have debated droplets of aid to the freedom fighers, the Soviet Union has unleased a tidal wave of support to the Sandinistas. They have done so with almost frivolous disregard to our concerns. When asked why they are doing this, they virtually laugh in our faces.

I believe that there is a degree of tweaking the claws of the eagle from Moscow that has caused them to take this arrogant position toward the level of military support provided to the Sandinistas. Hopefully, we are at least sending them a verbal message that we know what they are doing, that we are repulsed by it, and that we are prepared to take action because of it.

The second place I hope this message will be heard is in Cuba. The Senator from Iowa talks about the 15 years of dark shadow that have fallen across Chile, a dark shadow which may now be lifted. There has been a 30-year dark shadow across Cuba, and there is no evidence that it is about to be lifted. To the contrary, while we begin to see in some areas such as central Europe the first aborning of a new spirit that could some day lead to a legitimate change in the lives of people who have been enchained since the end of World War II, in Cuba a few efforts in that direction, such as the opening up of agriculture to include a small market-based segment, have now been slammed shut.

Cuba is going in the oppositie direction, not only from the free world but also the opposite direction from the socialist world. I believe that the reason for that has more to do with Leninism than Marxism.

What the people in Havana, what the people in Managua, what the people in the other countries that are trying to keep their citizens restrained really fear is not so much the opening up of an economy but the opening up of a political process that might some day lead to a real challenge to their authority.

If you are in control, if you have all the benefits and prerogatives that come with political domination, you are not going to easily release them. It is that commitment to a Leninist belief, in an authoritarian government, which justifies its existence, based on the need to maintain control in order to achieve some philosophical concept of the relationship of state and citizen. That control is not easily going to be lifted.

I hope that we are sending a message of our commitment to true democracy and to true liberty with this resolution and that that commitment will be heard in Moscow and Havana, as well as in Managua, and that it will be heard by the people of the United States of America and their elected representatives, in our commitment to a very sustained bipartisan foreign policy which supports those values and principles which are fundamental to the United States of America.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. Leahy). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, often on this floor, I think of the poem "The Three Blind Men of Indostan," who were trying to examine an elephant. Each described it differently, because none of them had ever seen an elephant.

I refer specifically to the amendment of the able Senator from Iowa [Mr. Harkin]. I do not know whether Senator Harkin has ever been to Chile or not. I know that very few U.S. Senators have ever bothered to go there, but I have. I went down to speak to the Chilean National Agricultural Society, the Chilean equivalent of the American Farm Bureau Federation, and I had a good opportunity to see firsthand what is going on.

While there, I spoke to scores of American citizens living in Chile who came to the hotel or otherwise met with me, and they deplored the fact that the propaganda against the Government of Chile is just outrageous.

As I read the amendment by the Senator from Iowa, I am wondering if the distinguished Senator from Arizona accepted this amendment? It is pending in its own right. The Senator's amendment has not been modified?

Mr. McCAIN. My understanding is this is a second-degree amendment.

Mr. HELMS. Beg pardon?

Mr. McCAIN. This is an additional amendment to my amendment, which I understand is the second-degree amendment.

Mr. HELMS. Very well.

Mr. McCAIN. I understand the Senator from Iowa will be seeking a vote on it.

Mr. HELMS. Very well.

Let me say this, Mr. President, this is one of these feel-good amendments based on a fiction. I wish there would be some way we could have a show of hands among the 100 U.S. Senators as to whether they really know anything about the situation in Chile. I think the results would be astounding because I have found a vast array of misinformation about the real situation down there.

Let me take the Senator's amendment precept by precept.

Mr. HARKIN says:

> (a) FINDINGS.—The Congress finds that—
> (1) the Armed Force of Chile under the leadership of Augusto Pinochet Ugarte seized power on September 11, 1973.

Do you want to know why they stepped in? It was because, as the news media of the United States and most of the rest of the world never point out, the Government of Chile was a Communist government and the overthrow, the ouster of Salvador Allende, the Communist President, was demanded by the housewives of Chile. They got out in the streets every afternoon at a designated time and took their spoons and beat on what we call pots and pans—but they called their casseroles. Every afternoon, they were demanding the overthrow of this Communist President Salvador Allende because he was ruining the country, he was ruining the economy, he was ruining the instituions such as the church and the schools, and the housewives were sick of him. They called upon the military forces to restore constitutional order.

The armed services did not want to do it. But the housewives continued the pressure until the armed services reacted.

And, yes, that Communist President, Salvador Allende, was ousted.

But the great free media of the United States never points that out. They never point out the fact that Chile is the only country in history that has gone Communist and come back—that threw off the shackles of communism. No, that is not what the media wants to have the people know. And that is not what the liberal politicians in this country want to know. And, therefore, the American people, in the main, do not know it.

Finding (2) in this amendment by the distinguished Senator from Iowa: reads as follows:

> (2) General Pinochet has ruled Chile without interruption for the past fifteen years;

The selection of the word "ruled" is very interesting. I will come back to that. I will come back to the fact that Chile has more stability, more freedom, and more prosperity than any other Latin American country, and less terrorism, less pornography, less drug trafficking and less social misery.

> (3) Throughout this fifteen-year period the people of Chile have expressed their growing desire for a restoration of democratic processes and procedures;

Well, of course, it is precisely this desire to which President Pinochet has been responding. Democratic processes cannot take place in the midst of terrorisim and economic chaos.

Let us see about that.

Much has been said, and accurately, about how much material and money has been poured into Nicaragua. The same thing has been going on by the Soviet Union with respect to Chile. Do not believe for one moment that all of these uprisings, the destruction, the burning, the Molotov cocktails, all the rest of it, have been spontaneous. They have been orchestrated by the Soviet Union.

The fourth finding by the distinguished Senator from Iowa in his amendment:

> (4) The results of the Chilean national plebiscite held October 5, 1988 have claarly demonstrated the desire of the people of Chile to end General Pinochet's rule and to replace him with a chief executive freely chosen by the people;

Let us see about that: the fact is, Mr. President, that Mr. Pinochet is the most popular politician right now in the history of Chile. He got 44 percent under an unusual electoral arrangement, a yes or no vote as to whether he would stay in office. I do not know how many U.S. Senators would survive under that kind of election. I do not know whether the Senator from Iowa would survive or the Senator from North Carolina. And I told President Pinochet that I thought it was a dumb way to proceed; but do you know who decided that? Not Mr. Pinochet. It was the people of Chile. I read in one of our erudite newspapers the other day that its decision was made last year. Well, that is not so either.

In 1980 the people by a two-thirds vote, 67 percent of the people of Chile, voted for a constitution setting forth the precise procedure for the change of government. It was not last year; it was 1980. And the people of Chile did it by a 67-percent vote.

> (5) On the day of the plebiscite, Chileans turned out in exceptionally high numbers and took part in an exemplary process, which they helped administer, demonstrating the Chilean people's unwavering commitment to the restoration of democracy to their country;

Bear in mind that this was a yes or no vote on Mr. Pinochet. And he got 44 percent of the vote saying he should stay in.

The fact is that when I was in Chile I met briefly with the President, and I talked with him about various things in Chile, and he said, "I never wanted to be President."

He is a military man. But he was put there to replace a Communist President, Salvador Allende, and restore order.

He did not want to be President. I think he will be delighted when the constitutional process has run its course and they can have an election.

But you know something, Mr. President? They are going to have a problem because they have five or six or seven—indeed, more than a dozen—political parties down there, and it is awfully difficult for any candidate to get a majority.

As I have said, Allende, the Communist, was elected with 36 percent of the vote. And he is the man that the housewives of Chile said: "Get that man out of there. He is ruining our country, he is ruining our economy, he is ruining our schools, he is ruining our churches." And that is the reason the armed forces got into it.

Paragraph (6) reads:

> (6) The United States and its chief representative in Chile, Ambassador Harry Barnes, have supported the Chilean people in their quest for democratic rule and respect for human rights.

The truth of the matter is the members of the chamber of commerce, even one official of the United Nations, came to the hotel where I was staying and said: "Ambassador Barnes will not meet with the private sector people in this country. All he has over at the Embassy are these troublemakers, the antidemocratic revolutionaries who are being orchestrated by the Soviet Union.

And the distinguished occupant of the chair may recall the burning death of a young man whose name was Rojas. It was played all across this country and around the world that the military had thrown him to the ground, doused him with gasoline, and set him afire. But that was proved to be wrong, and the only item I have seen in the major media of the United States of America since the truth came out was about a 2-inch item saying that in effect "Oh, well, he had incendiary bombs strapped inside of his parka and they were detonated accidentally when he laid down on the ground at the instruction of the police. Only the inside of his parka was burned, not the outside."

But the news media of this country have refused to tell the truth about that episode. They have not pointed out that this young man—and I regret his death as much as anybody—but this young man had joined the Marxist demonstrations, burning and pillaging. But nobody knows that. I doubt if Senators even care. They will go ahead and vote for this amendment.

The distinguished Senator from Colorado was exactly right. He said it is claimed that we will send a message. Well, what kind of a message are we sending? It is like shooting an arrow into the air and letting it fall to Earth I know not where.

Mr. Barnes went to the funeral of this young man, which actually was a Communist demonstration. I have a videotape in my safe given to me by an independent television station news department in Santiago, and all these Soviet Marxist Communist flags are flying before, during and after the funeral service. Ambassador Barnes was photographed in front of the hammer and sickle banners and the red flags. He joined the Communist and antidemocratic forces and afterward gravesites were desecrated; much damage was done to the resting places of the deceased.

And there was one other ambassador at that funeral, the French Ambassador. Not one ambassador from any of the Latin American countries, because they knew what was going on. But I know Ambassador Barnes and the Ambassador from France were the only two ambassadors who went to that Communist rally.

So much for Mr. Barnes.

So let me review a little bit of history. The Republic of Chile has one of the most distinguished traditions of democracy and freedom of the press and individual rights in the Western Hemisphere.

However, on September 4, 1970, the Marxist Salvador Allende received 36.3 percent of the popular vote for the President. But because they had so many parties and he was the top man, he was installed as President and proceeded without a majority mandate to convert the Chilean economy, the Chilean way of life, into a Communist state—a fact which, I repeat, the people of Chile resented. And that is why the housewives of Chile got out every afternoon and beat on their casseroles, their pots and pans, demanding the ouster of this Communist President who was ruining their country.

On October 24, 1970, the Chilean Chamber of Deputies, acting according to Chile's democratic tradition, confirmed Mr. Allende, nonetheless, as President, after receiving assurances that he, Allende, would respect the Chilean Constitution.

Well, you know how good a Communist's word is, because, within 2 years, President Allende had nationalized 80 percent of the nation's industries and 75 percent of the agricultural land. He had suspended property rights and individual liberties. He had placed hundreds of totalitarian activists in key government roles. He had reoriented Chile's foreign policy axis from democratic countries to Cuba and to the Soviet Union. He had illegally imported tons of arms intended for armed insurrection and trained and deployed paramilitary groups for the purpose of initiating civil war. Now that is what this nice Communist President Salvador Allende did for openers.

Now opposition political parties, the trade unions, the Chilean Supreme Court and the Chilean Congress has all declared that President Allende's actions were extralegal and unconstitutional and the Chamber of Deputies by resolution stated that "The government is not merely responsible for isolated violations of the law and the constitution, but has made them into a permanent system of conduct."

But you will not read that in the news media. And no Senators go down to Chile. They pick up this propaganda. They do not look at the history of Chile. They know nothing about the history of Chile and they propose absurd amendments like this.

It is like Sam Ervin said one time about a fellow down in North Carolina. Somebody came to him and said, "Sam, that fellow is mixed up." He said, "That is right. He don't know nothing, and he's got that tangled up."

President Allende's illegal and unconstitutional policies depressed industrial production, doubled the requirements for imported food, bankrupted the treasury, emptied the workers pension fund, induced hyperinflation, constrained the free press, installed Marxist textbooks and courses of instruction in the schools, stimulated violence, terrorism, and social chaos, and led to a general call for the Chilean military forces to restore the basis for a democratic government.

That is how it happened that the armed forces stepped in, unwillingly, unhappily, to oust Communist President Salvador Allende. Those are the facts. But you will never read about them in the New York Times or the Washington Post. You will never hear about them on ABC, NBC, or CBS. You will seldom hear about them in this Chamber. But those are the facts and they are incontrovertible facts. And if anybody wants to argue with me about it, I can document everything I say.

So on September 11, 1973, after weeks upon weeks upon weeks of the housewives of Chile getting out in the streets every afternoon at 4, 5 o'clock beating on their casseroles, their pots and pans, demanding the ouster of Salvador Allende, the armed forces, under the leadership of General Pinochet, did come to power. And immediately order was restored. Immediately totalitarian and antidemocratic movements were outlawed and an interim military-civilian government was set up.

If you go anywhere south of the border, if you look at Central America or South America, the one government that stands out, the one country which is most prominent in terms of a sound economy today, is that of Chile. They believe in the free enterprise system and they have practiced it, and their exports have increased steadily.

Chile has the lowest rate of inflation and the highest economic growth in all of Latin America. Chile has developed thousands of new jobs in the private sector. It has diversified its exports, expanded rural, social, and agricultural development, reduced external debt, reestablished secure workers' pension funds, expanded social welfare assistance, decreased infant mortality, restored and reformed school curricula, and achieved an equitable distribution of income opportunity.

But you do not read about that in the big, liberal news media of this country. You do not hear it on this floor.

I suppose that one of the reasons you do not hear it and read it is because Chile is an anti-Communist country. The people of Chile are anti-Communists. I guess one of the worst situations you can find yourself in, if you are a foreign country, is to be anticommunists and pro-United States of America. And Chile is both.

Let us proceed. On September 11, 1980, the people of Chile adopted a new constitution by, as I said earlier, a vote of 67 percent. The news media never tell you that and it is never spoken on this floor, but two-thirds of the people of Chile voted for that constitution providing, one, for a transition to democracy, the permanent rejection of totalitarian political movements; and a plebescite offering either a continuation of the presidential leadership of Augusto Pinochet with restoration of a parliamentary republic or a return to a multiparty political system.

The people of Chile voted for that Constitution 2 to 1. All of the condemnations to the contrary, nobody can deny that President Pinochet adhered scrupulously to the constitutional transition program approved by his people by 67 percent. He promulgated the electoral law for the reorganization of parties; he set up electoral districts throughout the nation; he encouraged and supervised the voluntary registration of 93 percent of the electorate; he ended the state of siege to prepare a proper climate for the plebescite; he invited the return of exiles, regardless of their political persuasion; he set up fraud-proof polling procedures; he provided free television time for supporters and opponents of the government to express their views; and he allowed all democratic political opponents to organize freely and to call mass meetings of their supporters. Yet this man has been lambasted and lampooned and criticized and misrepresented by liberal politicians and liberal news media without any exception.

So on October 5, this year, all segments of the Chilean society went peacefully to the polls and they freely and fairly expressed the popular will under the Constitution. But there was this yes-or-no proposition in which, as I said earlier, I told President Pinochet, I doubted he was going to win. I frankly expressed doubt that many Senators could win if the people went to the polls and said, "We will keep Tom Harkin," or "Jesse Helms," or "We will send him home." I do not think it is a good system. But that is what the people voted for and President Pinochet followed that constitution to the letter.

The decision of the Chilean people was the constitutional alternative that President Pinochet organize multiparty elections within 18 months. It does not say tomorrow. The Constitution does not say next week or next month. It says 18 months. And there is no reason whatsoever to believe that President Pinochet, who has followed the Constitution assiduously up to this moment will not continue to do so. Any suggestion to the contrary is unwarranted.

Now then, President Pinochet, for all of the criticism, all of the misrepresentation, all of the slanders aimed at him, nonetheless received a higher percentage of the votes than any other Presidential candidate since the founding of the Republic of Chile in 1817. President Pinochet has acknowledged—and I think rather gracefully—the desire of the people of Chile that he follow the constitutional mandate for multiparty elections by January 1990.

This resolution speaks of "dialog." But "dialog" is a Marxist code-word in left-wing circles in Chile for negotiations to overthrow the constitutional process. It is a call to destabilize the political process.

Senators may not understand what the supposedly innocent word "dialog" means. But it is a Marxist code-word which means to negotiate away the constitutional order.

Mr. President, the United States has rather consistently supported the people of Chile in their quest for democratic rule and respect of human rights. Now the United States should support the constitutional process which the Chilean people approved by a 67-percent vote. They don't want dialog; they want orderly process. There is no reason to believe that President Pinochet will do anything other than continue to follow his constitutional mandate. Instead of having before us a feel-good amendment kicking President Pinochet in the seat of the pants again, I think we ought to commend him for having followed the constitution approved by his people. We ought to commend him for promising to stick to the Constitution to prepare the elections.

The United States should fully recognize, appreciate, and welcome the significant accomplishments of the Chilean people in achieving a major step toward the restoration of stability and order and a government based on democratic and constitutional processes and procedures.

Mr. President, this is none of my business nor is it the business of any other Senator to tell the Chilean people how to conduct their affairs. I reiterate the opinion that I conveyed to Mr. Pinochet and some of his aides in 1986 when I saw him for the first and only time, that it would be better to have a multiparty election. But the Constitution said otherwise. It gave the option.

But the point is that for all of the attacks on President Pinochet he remains to this moment the most popular politician in the history of the Republic of Chile. Even in that crazy convoluted system of yes or no, he got 44 percent of the vote. And I just wonder how many U.S. Senators could survive a vote like that. Particularly with all of the world press, all of the media, and all of the intervention by the Soviet Union into Chilean affairs, he still remains the most popular politician in the history of the Republic of Chile.

Here we come with this amendment. Oh, it will pass. I will not vote for it. And what I said here this afternnon will never find its way into the homes of the American people. It will be the best-kept secret in Washington on October 18, 1988, but I have spoken the truth and the history of the Republic of Chile will bear me out.

So, do what you will, Senators? This amendment is improper. It is uncalled for, and it ought not to be approved by the U.S. Senate. It ought not to have the support of any Senator who knows the history of the Republic of Chile, recent history or history dating back to the establishment of the Republic.

Mr. President, let us look at the way this plebiscite was conducted in detail.

Chile is a country which, for the first time in contemporary history, had shaken off a Marxist government, took a significant step toward its return to democracy October 5.

The world has never been able to understand the exceptional circumstances of the Chilean case. Instead of analysis, the general choice has been to simplify those circumstances and attack the government they produced.

On October 5 the plebiscite was held in accordance with the provisions of the 1980 Constitution. 7.2 million voters, 97 percent of those registered, participated. Fifty-four percent, a coalition of 16 political parties including the extreme left, Communists and some moderates, rejected the extension of the mandate of President Augusto Pinochet for 8 years. The next step will be competitive elections to be held late next year to elect a civilian president and the two houses of Congress. Pinochet, supported by centrist and conservative groups, obtained 44 percent of the votes.

The key questions involved are to whom credit for this development should be attributed and whether Chile's economic progress and her transition to participative democracy will continue or not.

A MAJORITY WITHOUT AN AGENDA

The Chileans who voted "yes" in the plebiscite—a substantial 44 percent of the electorate—have a well-defined position and agenda.

In contrast, the majority has no agreed-upon position or agenda. The sum of its negative consensus is the rejection of another presidential term for the incumbent. But what else, if anything, does this negative consensus stand for?

THE PRIMACY OF THE CONSTITUTION

Chile's future depends crucially on faithful adherence to the Constitution by all parties. The Constitution not only provides a script and a timetable for the transition to full democracy; it is, above all, the source of the legitimacy for the outcome, for the entire fateful transfer of power from the military government to duly elected civilian authorities.

Those who used the constitutional process to reject President Pinochet are obliged to carry out the next stage as the nation's basic law prescribes. Any attempt to abandon or shortcircuit the process would violate the Constitution and perhaps tempt those on the losing side in the plebiscite to believe they are relieved of their obligations, which have been honorably discharged up to this time.

Chile cannot take a leap into the dark, entrusting its future to men who have not disclosed their intentions. Fortunately, the Constitution provides a needed interval for such clarification and realignment to occur throughout the reawakened political system.

New coalitions and groupings may come into existence in response to the popular will, revealing—as I believe—that the foundation of Chile's future is not the incoherent majority, but the substantial, clearly defined near-majority.

FOUNDATIONS FOR A STABLE DEMOCRACY

The whole purpose of the past decade and a half of political recuperation has been to create a strong solidly based democratic government which can defend itself against Marxist pressures and attacks.

It is a well-known fact that the Chilean military entered politics reluctantly. Having done so, however, they can be expected to retire deliberately, only as they see concrete evidence that the nation's return to democracy is secure.

THE DANGER OF FOREIGN INTERVENTION

Over the past 15 years, the political and economic institutions of Chile have been rebuilt and enormously strengthened. A new vital center has been created in Chilean politics, one which will resist the traditional forces of fragmentation and division which made Chilean democracy vulnerable to violent extremism. Chile has laid the groundwork for new traditions, as reflected in the rigorously fair conduct of the plebiscite and the government's calm acceptance of the result.

But the system is still fragile and vulnerable to outside intervention. Therefore, those who respect Chile's intense desire to establish a secure democratic system will equally respect her right to self-determination.

It was the threat of outside intervention, the attempt of the Soviets and the Cubans to turn Chile into a Communist state, that provoked the military into action in 1973. To avoid another 1973 outsiders must keep their hands off Chile.

Mr. President, I ask unanimous consent that the following documents be printed in the Record: a statement of Interior Minister Fernandez, dated October 6, 1988; the region-by-region results of the plebiscite; a statement by President Pinochet, dated October 6, 1988; the reactions of foreign observers; a statement of Interior Minister Fernandez, dated October 13, 1988; and an editorial comment by El Mercurio, dated October 6, 1988.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement by Minister of the Interior Sergio Fernandez

The government of Chile reiterates its unwavering commitment to comply with and enforce the Constitution and the law. That is the only manner of guaranteeing the nation's stability during this exemplary process impeccably guaranteed by the armed forces and police.

Chile is the big winner. The government expresses its appreciation for the huge voter turnout it received and commits its will and its efforts to strengthening the ideals which inspired that vote. The development of our country cannot stop for any reason. The democracy we are constructing has a place for all who truly believe in it.

This is the hour for showing that Chile and Chile's values are above all contingencies. We therefore accept the results the country already knows and soon to be definitively determined by appropriate authorities.

DEFINITIVE RESULTS OF THE PRESIDENTIAL PLEBISCITE [1]

Region	Yes	No	Blank	Null	Total
I	76,968	93,968	2,219	3,174	175,429
II	83,033	120,811	2,534	4,079	217,657
III	49,401	63,294	1,832	1,705	116,232
IV	114,244	134,141	3,881	4,162	256,428
V	324,502	434,124	7,607	11,278	777,511
VI	164,512	208,666	3,902	4,674	381,756
VII	219,664	230,410	4,340	5,281	459,695
VIII	408,988	505,250	10,265	11,871	926,274
IX	219,817	186,961	4,603	5,673	417,054
X	238,753	239,874	4,742	6,330	489,699
XI	18,402	18,338	385	431	37,556
XII	35,545	48,359	812	934	85,650
Santiago	1,153,170	1,654,469	24,212	33,499	2,865,350
Totals	3,106,099	3,945,865	71,334	93,093	7,216,391
Percent	43.04	54.68	0.99	1.29	100.00

[1] Note that, in accordance with Law 18,700, official announcement of election results may be released only by the Elections Qualifying Court.

National total of polling places—22,247.
Total polling places counted—22,165.
Percent of polling places counted—99.63.

Statement by President Augusto Pinochet

(The following is the text of the October 6 speech to the nation by H.E. the President of the Republic in response to the results of the presidential plebiscite of October 5, 1988.)

Chileans: I address all my fellow citizens at this hour of such significance to our national life.

The nation is now aware of the final computations issued by the Ministry of the Interior with reference to yesterday's plebiscite.

First of all, I should like you to know of the deep pride I feel for the civic maturity displayed by each of you during this act of singular significance to the future of our country.

I should also like to bear witness to the role of the armed forces and the police as the guarantors of our electoral process.

We have all witnessed the full transparency of this electoral act which took place within the framework of the free society we have raised from the ruins.

I recognize and accept yesterday's majority verdict as expressed by the citizenry.

In consonance with my unwavering standard of conduct as chief of state, I shall respect and enforce that result.

I should like all my countrymen to know that the armed forces and the police remain true to their commitment to the principles which inspired the glorious feat of September 11, 1973. Those principles have lent brilliance to their service to the republic over those years and they shall continue to guide the construction of the Chile of the future.

By establishing a committee to govern Chile in 1973 the institutions of national defense assumed a historic commitment to reestablish Chile's national identify and to restore the institutions which had been so blatantly destroyed.

Since that date the nation has created a new, modern, renovated political, jurisdical, economic and social order. This process has made it possible to gradually overcome the vices of the past and to reaffirm the Chilean people's most profound democratic traditions.

That is the democratic will expressed yesterday at the ballot box!

Let no one deceive himself! Chile's unstoppable march toward full democracy continues!

My fellow citizens: Neither the philosophy nor the constitutional path was at question in this plebiscite. The choice was of the person to conduct the country toward full application of the Constitution during the next presidential term.

The constitutional order of the republic is not to be changed. No one can feel they have a mandate from the people to twist what these same people have decided.

The results of the plebiscite must cause us to acquire a new moral commitment. Full compliance with such a commitment has particular importance for the new generations of Chileans.

That commitment is based on the adoption of all measures and actions necessary to assure that the order stability and progress we have achieved with the efforts of all, will continue to rule our national lives.

The President of the Republic before you and his government will continue working tenaciously in the great cause of serving Chile.

We shall push forward with the programs we have outlined.

This is an imperative for all Chileans whose love for their country is above their individual interests and aspirations!

The framework of the Constitution democratically approved by the citizenry in 1980 serves that purpose. The complete application of that Constitution is now very near indeed.

My fellow citizens: In my life as a soldier and in the exercise of the Presidency of this nation I have above all shown that I know how to respect the will of the citizens and the fundamental institutions of the republic.

Today, at this supreme moment, I renew my commitment to comply with the mandate received from the people. With neither vacilation nor selfishness, filled with patriotism I shall overcome the sacrifice implied by that mandate.

Sovereignty resides essentially in the nation. We shall therefore respect, once again, its free and responsible expression, as we did in 1980!

My honor as a soldier—now as then—is committed to serving that purpose!

Every man and woman of this country may therefore rest in the complete certainty of full and unrestricted compliance with the itinerary spelled out in the Constitution so that the full functioning of all democratic institutions may soon become reality.

I should like to address a heartfelt message to all the thousands of Chileans who supported my candidacy to the presidency of the republic for the next term to lead the whole process which must continue for the good of Chile.

To those who stand by me, to those who serve their country loyally in the highest posts of government, to all those who have collaborated with their efforts in obtaining in such a significantly high electoral adhesion to the work we have accomplished—as reflected in the plebiscite—I thank you and I call on you to continue to work together, with growing mystique and effectiveness.

As I have said more than once, the institutions we have constructed with so much effort must be preserved regardless of subordinate interests.

The task of our government is immense. That task shall not be halted. It is founded on the most sacred values and requirements of the nation. Those values are immutable. They make their home in the heart of every Chilean.

At this solemn hour I call on all Chileans to look to the future united and attend only to requirements of the common good. Our nation merits even greater efforts than those already made.

Our children look to our examples at this historic moment!

We shall not disappoint them!

God is my witness!

Long live Chile!

REACTIONS OF FOREIGN OBSERVERS TO THE PLEBISCITE

Adolfo Suarez, former chief of government in Spain during Spain's transition to democracy, impressed by the manner in which Chile's plebiscite was carried out, said, "After seeing how the Chilean people behaved themselves yesterday no one will be able to tell this nation how to run its affairs again."

Suarez said his delegation "feels a frank admiration for the manner in which the people behaved" and that it is "happy to have been able to contribute to the development of an absolutely relaxed, free and peaceful environment."

The AFL-CIO's William Doherty, who has witnessed elections in Guatemala, Honduras, El Salvador, Haiti, Surinam and Costa Rica, said, "This has been a clean plebiscite and of great civic significance, in all its senses. The voting has been impressive and we expect a consolidation of democratic procedures. We have witnessed the armed forces and the police assisting the citizens in correct voting procedures."

Fernando Volio, United Nations Special Rapporteur on Human Rights of Chile, said, "The Chilean people have given the world a demonstration of civic culture and democratic vocation." He called the government's acceptance of the propular will "admirable, vastly mature and respectful of juridicial order. An exemplary attitude."

Osvaldo Hurtado, former president of Ecuador, commenting on the full normality of the Chilean election, called the day's work "Impeccable."

COMMITTEE FOR FREE ELECTIONS LAUDS ARMED FORCES

S. Molina, chairman of the Committee for Free Elections (CEL) commented in El Mercurio (10-6-88), "The citizenry's comportment was exemplary, but so was that of the Armed Forces. They guaranteed an impartial vote by maintaining an impartial attitude toward the process."

"THE CONSTITUTION SHALL BE RESPECTED"

(Text of a Statement by the Minister of the Interior—October 13, 1988)

"In view of the political situation, the Minister of the Interior wished to note:

"1. In the same manner as the Constitutional route was respected during and before the plebiscite, it shall be respected afterwards, as the President of the Republic declared as soon as the results were known. The armed forces and police have a commitment of honor to comply with the Constitution without vacillation or weakness.

"2. Consequently, the Government is not considering, and has not considered, any amendment to the Constitution, neither in its timing nor in its applicability, nor in its provisions as to the non-reelection of the President of the Republic, nor in any other aspect. Any comment to the contrary is without foundation.

"3. Conversations with democratic opposition sectors shall necessarily be conducted through regular channels already established by the Government. As previously announced, such contracts would be in accordance with flexible and pragmatic criteria. In any case, we must reiterate that such contracts are not foreseen at this time.

"4. We also reiterate our call to all who gave their support to the Government in the plebiscite to remain united and calm, as that is the source of our strength, which shall determine the future of our country.

"5. Anyone who wished to give that call a different meaning is wrong. Nothing in the call was meant for any purpose other than to calm the millions who view with alarm a return to the past. That has been understood clearly, and responsibly, not only by the Government supporters but by the democratic opposition, as the country is witness to the tranquility which has reigned in the post-plebiscite period. We have no recent violence to regret.

"6. That attitude is in definite contrast with the Communist' refusal to recognize the honesty of the plebiscite and to impugn the 43 percent of the votes for the Government, accusing us of fraud. That is merely evidence of the enormous importance which Marxism rightly attaches to that figure.

"7. Indeed the Government's call to its supporters for order and unity has had its effect. Fully conscious of the fact that division among them would assure the success of the opposition, the Government's supporters have already begun to reorganize for next year's presidential and congressional elections.

"8. The Government is naturally disposed to discuss with its supporters the results and the effects of the plebiscite with a view to correcting whatever is necessary for the future electoral campaign. It is throught, nevertheless, that such discussions should obviously be a process internal to party leadership, and not public, to benefit the opposition as they would have it.

"9. I assume, and I shall assume, responsbility for all my acts, public and private, as I have always done, as anyone who knows me can testify. I have never eluded responsibility and my post is always held subject to the disposition of the person who constitutionally resolves such questions. But that does not imply the abandonment of persons or of principles I have served at their moments of testing and of decision.

"10. I reiterate, then, the call to all democrats, and particularly to the millions of Government supporters, to preserve tranquility and moderation, and to continue working with the same energy that has advanced the country. Difficulties shall be overcome with determination and firm confidence in the capacity all democratic sectors have again demonstrated."

[Editorial Comment from El Mercurio, Oct. 6, 1988]

"DEMOCRATIC EXAMPLE"

The honesty of the plebiscite, impeccably guaranteed by the armed forces and police, has amply demonstrated the military government's good faith. In 1973 the military assumed the enormous responsibility of rescuing the nation's essential values from the general institutional collapse which led to Marxism. They clearly achieved that goal. Democracy, which was exhausted in 1973, has emerged renewed and stronger than ever. The principle goal of the military regime has been indisputably reached. To quote the Minister of the Interior, "The big winner is Chile."

The Government's good faith has also been demonstrated by an impeccable political evolution. No power-hungry dictatorship would have established an itinerary of reinstitutionalization and redemocratization like the one instituted early on by the Government of Chile. Nor would such a dictatorship have followed that itinerary inalterably, in spite of pressures and difficulties, adjusting its actions to the consequences.

Again, the massive "Yes" vote demonstrates that the Government's work has been understood and supported by the broad national sectors it has benefited. Future political decisions must necessarily take that vote into consideration. The country feels the imminence of leaving underdevelopment behind and will not allow that possibility to be snatched away. The forces supporting the Government are doubtless more homogenous than the disparate currents of opposition opinion, which range from the extreme right to a diverse gamut of leftist groupings. The Government, in consequence, represents a cohesive bloc of political will that no democratic planning can ignore.

At the same time, the fact that Marxism was not able to provoke disturbances of the magnitude its spokesman had so audaciously announced speaks eloquently of the order that has been solidly established in the country. Any observer with good will could see for himself that the electoral act was carried out in an entirely proper manner. Violence could not be imposed, and that should be seen as a governmental triumph.

Virtually the entire citizenry was thus enabled to express its political will. The high number of registrations, the low percentage of abstentions, the tranquility and the generally prevailing mutual respect also indicate the civic maturity of the Chilean population, which requires neither foreign counseling or direction.

Profound changes are yet to come. The public must accustom itself to democratic debate. Its advantages are evident. Inconveniences may arise, however, if public debate is not conducted at the level of the civic maturity already proved possible in Chile. The democratic process is irreversible at this point. For some that requires a change in attitudes. Suspension of public debate during the political recess became comfortable. Democratic responsibilities and requirements were forgotten, their weight on the shoulders of the armed forces and the civil service. This must change now. Every democrat will have to take up positions in defense of democratic institutions or leave an undisputed field to those not so democratically inclined.

During this campaign the authorities, and the armed forces, proved themselves capable of adjusting to changes in methods and in language. That augers well for the period now beginning, as political currents retake the high ground granted them by the Constitution.

The 1980 Constitution emerges from this entire process with new vigor. Scepticism as to its viability and vitality has once again proved false. In the face of terrorist and totalitarian threats, widespread opposition and international hostility, an exceedingly complex political evolution has taken place in accordance with its precepts. Our Constitution has passed a test which would have broken not a few.

The armed forces and police also emerge unscathed from this process. Thei institutional cohesion is intact. Their preparation and national signification for Chile has grown during the 15 years in the Government. Those years have brought the country tremendous advances on all levels, advances which will be appreciated more and more as the years pass and dispassionate analysis of their administration becomes possible.

Today, strengthened by trial, the Constitution is, more than ever, the institutional barrier to any totalitarian threat.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Iowa.

Mr. SYMMS. Mr. President, I want to thank the distinguished senior Senator from North Carolina for his very accurate and eloquent remarks. I might just say to my colleague from North Carolina that he spoke the truth on the Senate floor this afternoon with respect to Chile and thousands and thousands of Americans saw him on C-SPAN speaking the truth.

Sooner or later, the truth will win out.

Mr. HELMS. I thank the Senator.

Mr. SYMMS. Mr. President, I think Senator HELMS made a very, very telling statement about what we are up to here by revising history of what really happened in Chile and then having a vote showing what we might or might not do with respect to the Communist regime in Nicaragua, so that everyone can leave and go back to their home States feeling good.

Mr. President, I listened to our distinguished colleague from Colorado make eloquent remarks. In essence, what the Senator from Colorado was saying, Mr. President, is that if we really want to do something to help preserve peace and freedom in Central America, do not pass resolutions that merely send a message, let us do something that would really make an impact.

For example, why not amend the McCain amendment itself to say something like: Should the Sandinista regime continue to fail to comply with the Esquipulas II accords, the President shall call an emergency session of Congress to consider approving additional and adequate military assistance to the Nicaragua resistance. And then do it. That would make a lot more difference.

Mr. President, the Senator from Colorado asked a question about what is happening to the humanitarian aid we approved approximately 60 days ago. Is it really getting delivered?

I would call to the attention of my colleagues the letters I inserted into the October 17 RECORD, on page 16390, that answers that specific question.

One letter was to the Vice President, GEORGE BUSH, from John K. Singlaub, major general, U.S. Army (retired), in which he points out what is happening in Nicaragua, as a result of the freedom fighters being unable to receive the aid.

He wrote another letter to House Speaker JIM WRIGHT, dated September 5, 1988, where he points out that AID cannot deliver supplies inside Nicaragua because the Sandinistas have not permitted the resupply system which is called for in the Sapoa accord; that AID has to make all its activities public, thus embarrassing the Honduran Government and forcing the Costa Ricans to deny the use of their territory for the delivery of the assistance.

Then he points out that the food situation is also desperate because they will not supply the troops in a manner standard to all military operations. Instead of having food brought to them, resistance forces are forced to walk up to 6 miles to pick up supplies.

I will refer my colleagues to RECORD pages 16390 and 16391 in answer to the question the Senator from Colorado asked. Those pages are in yesterday's RECORD covering a recent trip to that region by a very knowledgeable and capable retired U.S. Army general. General Singlaub is truly a hero from his record in World War II, Korea, and Vietnam, fighting and defending to preserve peace and freedom. His efforts made on behalf of this country and in behalf of all mankind is to be commended.

It saddens me, Mr. President, this afternoon to think about how far this country has come when we think about what we had.

We have the Monroe Doctrine, which states:

> The American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European powers.

Then there is the Roosevelt corollary to the Monroe Doctrine which states:

> The adherence of the United States to the Monroe Doctrine may force the United States however reluctantly, in flagrant cases wrongdoing or impotence, to the exercise of an international police power.

Then in the Truman doctrine it was said:

> It must be the policy of the United States to support free people who are resisting attempted subjugation by armed minorities or by outside pressures.

Then the Kennedy doctrine states:

> Let every nation know, whether it wish us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty.

Then there is the current doctrine of President Reagan which says:

> We must not break faith with those who are risking their lives—on every continent from Afghanistan to Nicaragua—to defy Soviet-supported aggression and secure rights which have been ours from birth.

Mr. President, we come from the Monroe Doctrine, to the Roosevelt corollary, to the Truman doctrine, to the Reagan doctrine. Now we have the writeoff doctrine. I do not know whether we should call it the Speaker WRIGHT doctrine or the writeoff doctrine because that is exactly what has happened.

Is this the best we can do? I commend my colleague from Arizona for not forgetting those people who are fighting for their liberty in Nicaragua. Senator MCCAIN has done his best to bring a semblance of opportunity for us to do the right thing, the r-i-g-h-t thing, in this issue. But Congress has failed to do it.

As I said yesterday, and I will repeat, it will forever be a blight on the history of the 100th Congress that it failed to help fellow Americans trying to secure their own peace and freedom in this hemisphere. We have turned our backs on them. We have written off these people.

Mr. President, I would invite my colleagues to ask their staffs to look through those pages in the RECORD of yesterday with the remarks that I made and inserted into the RECORD. I encourage Senators and staffers to read the comments of a recent fact-finding mission to that region by General Singlaub. It is self-explanatory. It makes the case. It refers to places where there are no tents for the troops. The best they can get is black plastic rolls to protect themselves from the elements.

Mr. President, it is amazing that the morale is as good as it is, the morale of the Contras, considering that the Soviets are continuing to send over $40 million a month in military aid to the Sandinistas, and the best the United States can do is to turn their backs on them, despite the pleas of the President of the United States. Just write them off with the writeoff policy.

Mr. President, I am distressed that the best we can do is a resolution that really has no teeth in it to really help those people—brave Americans, fellow Americans in this hemisphere—who are fighting to survive and preserve peace and freedom in their country which ultimately will end up meaning peace and freedom in our country.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. It requires unanimous consent to order the yeas and nays on the underlying amendment.

Mr. MCCAIN. Mr. President, I ask unanimous consent to order the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, I thank my friend for his fine words and his contribution. I also thank my friend, the distinguished chairman of the committee, Senator PELL, who has been agreeable to allowing this amendment to be debated.

With that, Mr. President, I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this amendment is totally unnecessary because the Senate addressed this very issue when it passed the Byrd amendment on Contra aid in August. That measure contained procedures for the President to request the release of military assistance if he believes the situation warrants it.

The policy of military assistance to the Contras has failed. It makes no sense to be talking of military assistance at this point in time when the Contras themselves are recognizing this fact and are certainly not in a military mode sitting in Honduras.

Mr. President, we should bear in mind that the President is not requesting military assistance at this time.

Recently, there have been stirrings among the Contra leadership and the Sandinista government toward the resumption of talks. That is what we should be supporting. Let us help get negotiations going; let us help President Arias get the peace process back on track.

Mr. President, if no one else wishes to speak, I move at this time to table the underlying amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Louisiana [Mr. BREAUX], the Senator from Florida [Mr. CHILES], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Ms. MIKULSKI], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

Mr. DOLE. I announce that the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Missouri [Mr. DANFORTH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from Nevada [Mr. HECHT], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nebraska [Mr. KARNES], the Senator from Oklahoma [Mr. NICKLES], the Senator from Oregon [Mr. PACKWOOD], the Senator from Indiana [Mr. QUAYLE], the Senator from Delaware [Mr. ROTH], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Vermont [Mr. STAFFORD], the Senator from Virginia [Mr. TRIBLE], the Senator from Wyoming [Mr. WALLOP], the Senator from Connecticut [Mr. WEICKER], and the Senator from California [Mr. WILSON] are necessarily absent.

I also announce on this vote, the Senator from Connecticut [Mr. WEICKER] is paired with the Senator from Pennsylvania [Mr. HEINZ].

If present and voting, the Senator from Connecticut would vote "yea" and the Senator from Pennsylvania would vote "nay."

The PRESIDING OFFICER (Mr. FORD). Are there any other Senators in the Chamber who desire to vote?

The results were announced—yeas 12, nays 54, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—12

Adams
Baucus
Cranston
Hatfield
Inouye
Leahy
Melcher
Pell
Proxmire
Sanford
Simon
Wirth

NAYS—54

Armstrong
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd
Cochran
Cohen
Conrad
D'Amato
Daschle
Dole
Domenici
Evans
Exon
Ford
Glenn
Graham
Grassley
Harkin
Hatch
Heflin
Helms
Hollings
Humphrey
Kassebaum
Kasten
Kerry
Lautenberg
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Metzenbaum
Mitchell
Moynihan
Murkowski
Pressler
Pryor
Reid
Riegle
Rockefeller
Sarbanes
Sasser
Shelby
Specter
Stennis
Stevens
Symms
Thurmond
Warner

NOT VOTING—34

Bentsen
Bingaman
Bond
Bradley
Breaux
Chafee
Chiles
Danforth
DeConcini
Dixon
Dodd
Durenberger
Fowler
Garn
Gore
Gramm
Hecht
Heinz
Johnston
Karnes
Kennedy
Mikulski
Nickles
Nunn
Packwood
Quayle
Roth
Rudman
Simpson
Stafford
Trible
Wallop
Weicker
Wilson

So the motion to lay on the table the amendment No. 3718 was rejected.

Mr. BYRD. Mr. President, I hope we can complete action on the pending bill without further amendments or certainly without taking much more time. Then we would like to take up the veterans legislation. I would like to finish it tonight.

There is a House message that Senator PROXMIRE has been wanting to call up.

If we could dispose of those items yet this evening, as far as I am concerned we ought not to take up anything else other than unanimous-consent matters and wait on the further action, I hope final action, on the drug bill and the tax technical amendments bill. That action certainly will not occur tomorrow, I do not think, but hopefully by Thursday or Friday.

So I would say there will be no rollcall votes tomorrow providing we can finish these items tonight that I have outlined.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I do not understand the details of the House message that Senator Proxmire wishes to call up.

Then I think he has an amendment which I understand is quite controversial. There are opponents to that amendment on each side of the aisle.

I am not certain how the Senator from California feels about that amendment, but I know we have opposition on this side from the Senator from New York, Senator D'AMATO, and the Senator from Colorado, Senator ARMSTRONG.

Mr. ARMSTRONG. Not necessarily opposition but interest in the content of the amendment.

Mr. DOLE. Interest.

Mr. D'AMATO. Mr. President, if the Senator will yield, I will go further to say, not only is there interest on this Senator's part but there would be strong opposition, and I would feel compelled to raise whatever objection given the fact that there has been no hearing. We are talking about a massive restructuring of the banking bill. We are talking about the kinds of thing the SEC has come out in opposition to. So I would avail myself to all of the parliamentary options that are provided.

Mr. DOLE. I think that indicates there is rather strong opposition on that particular item.

I do not know whether the majority leader meant to complete action or meant to just dispose of it or make a determination it was probably not going to be disposed of.

We are down to 66 Senators. I must say that I almost got an Excedrin headache from answering the phone from Senators on this side and the other side on: "When can we get out of here, out of this institution, this hallowed place, the U.S. Senate?"

It seems to me that if we can do what the majority leader suggests we would be much better off, and those of us who had commitments could at least fulfill a couple days' and then come back for the vote. Those who are conferees will have to stay here for the tax bill and the drug bill, and I think they are willing to do that, obviously. And then we would not have votes like this and there will probably be eight or nine others that people are dreaming up for the next 2 or 3 days.

So I hope we can agree to that.

I would guess as soon as this amendment is disposed of, it would be my hope that we could dispose of the Montana wilderness bill and the Washington wilderness bill either by unanimous consent or together. There is no disagreement there, I do not believe. And then do the veterans' bill without a rollcall vote on the bill or any amendment thereto.

We are punishing 34 Senators about equally divided here who are not in town. We are hammering them with every vote. Maybe it is their fault they are not here. But if we could avoid rollcall votes on the veterans' bill, that might be possible.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. BYRD. I yield.

Mr. GLENN. When we talk about the veterans' bill, there are two different bills here now.

Mr. DOLE. It is the COLA.

Mr. GLENN. It is the COLA thing.

Then are we going to talk up the establishment of department right after that? I am getting calls from all over, that are very concerned that we are going to leave town before we get to that.

Mr. BYRD. We will not leave town before that is done. There is nothing that can be done on that other than talk. That is the matter of calling up the conference report. That is not debatable. We will be right on it. And as far as I am concerned we could do that on voice vote. That will be done. No question about it.

Mr. CRANSTON. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. CRANSTON. Just to speak on the veterans' bill, there are several veterans' bills we have to dispose of. One is compensation COLA increase which must be done if we want veterans to get the compensation COLA increases they were entitled to.

There are several amendments on it but only one might require a rollcall. That is beyond my control. But it is an amendment by one Senator relating to flight training that a Senator on the other side of the aisle, on the Republican side of the aisle, objects to and that Senator has indicated up to now that he would want a rollcall vote. I do not know about that.

Once we get through with that measure we have judicial review to cope with, and I believe we can pass that now without difficulty, and then we have Cabinet-level status for the Administrator and we can pass that.

I do not think rollcalls are needed on final passage of any of those veterans' bills.

There is one other, just a pro forma measure, but not controversial or anything. It will take just 1 minute.

Unless someone wants a rollcall on final passage the only question is one vote on the flight training amendment.

Mr. KERRY. Mr. President, will the distinguished Senator yield?

Mr. BYRD. I yield.

Mr. KERRY. Can we inquire—I see Senator MURKOWSKI is here. Whether or not that is still true that there is that requirement for a vote?

Mr. MURKOWSKI. I am happy to respond. The general consensus is there would be at least one vote on flight training. That is the certainty at this time.

I would have to go back and contact some other Members with regard to that.

The issue of a vote on the Cabinet position is a question that has been discussed, but it is not currently my intention to request a vote on it.

I might suggest that the matter of flight training might be taken up within the next half hour and perhaps we could resolve that and get a vote on that and then continue with the noncontroversial items that would not require a vote and pass the veterans' bill by voice vote with the noncontroversial amendments.

I think the Senator from California, the chairman, Senator CRANSTON, and I have resolved most of the differences that we know about.

Mr. WARNER. Mr. President, if the Senator will yield, will the leadership allow me just to comment?

Mr. BYRD. I yield.

Mr. WARNER. It seems to me that if we are about to create a new Cabinet position, that would merit a rollcall vote. I am not going to ask for it, but I ask the leadership to consider. It is a very important step.

Mr. DOLE. We had one.

Mr. WARNER. I realize that. I just mention that and I will not ask for it. I happen to be in favor of the creation of this post. It seems to me it is an important step for this body to take.

Mr. BYRD. Mr. President, let me just sum up again by saying if we could pass the Montana wilderness bill quickly and then I believe the Republican leader mentioned another bill of a similar nature.

Mr. DOLE. The Washington wilderness bill of Senator EVANS.

Mr. BYRD. If we could do that and do the veterans' legislation, Senator PROXMIRE is not on the floor. I would hope that he would comment on the thrift commission House message. Perhaps he can comment on that when he comes to the floor.

If we dispose of those and most of that can be done without rollcall votes, as I understand Senators, there may be only one or two.

The House created the Department of Veterans' Affairs. May I say to my friend from Virginia, as the Republican leader has said, the Senate has already voted on that. So perhaps we would not have to have another vote on the conference report.

And then there would be no rollcall votes tomorrow. We could take care of some of the unanimous-consent business, and I understand there is a good bit of it. We could do that tomorrow without any rollcall votes, and I have no intention of calling up any other measures that are controversial. So if Senators would restrain from calling up amendments that are controversial to the verterans' legislation and to these two wilderness matters now, all we have remaining is the drug conference report or probably House messages, the drug bill and the tax technical corrections bill, and those await the return of the House Members. They will be back by tomorrow, I am sure.

The staffs of both Houses have done a great deal of preliminary work in connection with the amendments on the Senate drug bill. I would hope that we would be able to take final action on the drug bill and the tax bill by Thursday or Friday. We cannot walk away and leave that drug bill. I do not want to come back after the election, but I certainly see no need for calling up other measures that are controversial. We have done our work. If the drug bill and tax technical corrections bill were finished, we would be home now.

Mr. BOSCHWITZ. Will the Senator yield?

Mr. BYRD. Yes; I yield.

Mr. BOSCHWITZ. Does the leader anticipate a vote on the Montana wilderness bill?

Mr. BYRD. I do not know.

Mr. MELCHER. If the majority leader will yield to me, we have had no request for a rollcall vote, and we will not ask for one.

Mr. KERRY. Mr. President, will the leader yield?

Mr. BYRD. Does Senator METZENBAUM have a question?

Mr. METZENBAUM. I did not hear the leader's question.

Mr. BYRD. Someone raised the question about the defense procurement fraud bill. There is a time agreement on that.

Mr. KERRY. Will the distinguished leader yield?

Mr. BYRD. Yes.

Mr. KERRY. Mr. President, I would ask the leader, if there is no request for a rollcall vote on the wilderness bill, is there any possibility of now entering into a unanimous-consent agreement as to the time on the flight training amendment, so that that could perhaps be temporarily set aside, have the rollcall vote on the flight training amendment, and then come back to finish the wilderness bill, since the only pending vote appears to be the flight training vote?

Mr. McCLURE. Will the Senator yield?

Mr. BYRD. Let me respond to the Senator first.

The Senator is addressing his question to the flight training amendment.

Mr. KERRY. The flight training amendment to the veterans' compensation bill. I understand—it is not my amendment—I understand it is Senator DASCHLE's amendment. It is my understanding Senator MURKOWSKI does want a rollcall vote, but I also understand that is the only rollcall vote pending. Would it at least be possible to get a unanimous-consent agreement to a time certain on that of one-half hour?

Mr. BYRD. Mr. President, if we could have the attention of the Senators who are involved in the veterans legislation, we might be able to get a response to the question of the Senator from Massachusetts. He is asking about the flight training amendment, as to whether or not there could be an agreement on that amendment as to time.

Mr. KERRY. I believe the Senator from Alaska is willing to enter into an agreement.

Mr. MURKOWSKI. Mr. President, I have not had an opportunity to confer with my colleague from California, but I believe something in the area of 40 minutes, equally divided, might be adequate from our side.

Mr. CRANSTON. Will the Senator yield?

Mr. BYRD. Yes.

Mr. CRANSTON. Senator DASCHLE wanted it to be an hour, equally divided. It is his amendment.

Mr. McCLURE. Mr. President, I heard the request of the Senator from Massachusetts with respect to the veterans bill, but we have a pending measure upon which there are two amendments pending. It seems to me, unless there is a strong and compelling reason to do otherwise, we ought to dispose of the Harkin amendment, the McCain amendment, dispose of the Montana wilderness bill, and then move on to whatever else it is that we are going to do.

Mr. BYRD. I agree. Senators were addressing questions to me and I was attempting to respond.

Mr. HARKIN. Will the leader yield for another brief comment?

Mr. BYRD. Yes.

Mr. HARKIN. As I mentioned to the leader earlier, there is a bill at the desk from the House dealing with local rail service assistance which has passed the Commerce Committee here and it has passed the House. It is at the desk. It is very important to a lot of rural areas in this country. It has strong bipartisan support. It has already been appropriated, subject to an authorization. The chairman of the Commerce Committee on the House side passed that thing through. It is over here at the desk. I was wondering if we might bring that up.

Mr. PRESSLER. If my friend would yield, I want to join in the desire to have the local rail service bill move forward. I have talked with OMB and DOT on this issue. As the Senator from Iowa has pointed out, it is an authorization subject to the appropriations that have already been done. That is one bill I hope we can move on. It is very important in the small States.

Few Federal programs have been as successful as the Local Rail Service Assistance [LRSA] Program.

In South Dakota, for example, railroad rehabilitation projects have been funded by $15.4 million from the LRSA Program. These funds were used to complete 14 projects on more than 1,000 miles of track.

My State's department of transportation calls LRSA "indispensable to our efforts to place South Dakota's most essential trackage in the physical condition needed for efficient operation."

The LRSA Program is of particular help to short-line and regional railroads that are in a financially precarious position during the early stages of development. In these cases, LRSA money can be used to acquire abandoned lines, rehabilitate rail freight lines, and construct rail facilities, such as terminals.

I urge my colleagues to consider this vital legislation as soon as possible.

Mr. HARKIN. I know the Senator from South Dakota has been very involved. It is very important to a number of rural States out there.

As I said, I do not think there is any objection to it. I was hoping we might move that bill shortly.

Mr. BYRD. Mr. President, if I may suggest this: Let us proceed and complete action on the Montana wilderness bill and then on the Washington wilderness bill, go to the veterans legislation, let us transact that—and perhaps all of that can be done with not too much time being spent—and then see what else there is for the rest of the day and not have any rollcall votes tomorrow. The Senate will be in. The House will be in. We will continue to transact business tomorrow. But the main job that I think that we have to do before we adjourn sine die is to complete action on the drug bill and on the tax technical corrections bill if that bill can be completed.

I just want to be sure that Senators who are involved—I say to the distinguished Republican leader—I want to be as sure as we can be that Senators who are involved in the conferences on these two major bills, on which we have already spent so much time and labor, will be around to work with the House conferees or the House, at least, on both bills. If we all leave town and the House has left here, we cannot complete action on those two bills, and then we will have to be back in next week or after the election. So I say, let us move ahead for now and take another look at the situation later.

Mr. METZENBAUM. Will the leader yield for a question?

Mr. BYRD. Yes.

Mr. METZENBAUM. We have been trying to get up the defense procurement fraud bill, which is supported by, I believe, just about all of the Members of the body. I believe Senator GRASSLEY is an enthusiastic supporter and leader on that side.

The leader has not mentioned that. I think there are time agreements available with respect to some of the amendments that are being offered.

Mr. BYRD. All right. I say to Senators, if they were listening, and if they were not let me repeat that the Senator from Ohio, Mr. METZENBAUM, has called attention to H.R. 3911, which is on page 2 of the Calendar of Business. There is a time agreement on that measure. The Senator from Ohio is asking the question as to whether or not we can dispose of that bill.

Mr. METZENBAUM. Tonight, if possible.

Mr. ARMSTRONG. Which item, Mr. Leader?

Mr. BYRD. It is on page 2 of the Calendar of Business. It is a unanimous-consent agreement that was entered into on October 14. It is a time agreement. How many votes would that require, may I ask the distinguished Senator?

Mr. METZENBAUM. There would be one on the Leahy amendment. The Bumpers amendment was inadvertently not included in the unanimous-consent agreement. Senator BUMPERS has a right to that, and I, certainly, as the author of the legislation, am not opposed to his being included in that. It was an oversight. Senator CRANSTON has a vote. All of these have time limits. Senator CRANSTON has an amendment, I believe, that has to do with a private relief bill and I think there is a limitation of time on that.

Mr. BYRD. I understand the bill would take about 2 hours.

Why do we not go ahead with the Montana wilderness and the Washington wilderness bills, get into the veterans legislation, and, in the meantime, we will see what the situation is pertaining to H.R. 3911.

Mr. METZENBAUM. I thank the leader.

Mr. CRANSTON. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. CRANSTON. We are now down to where we can accept a half an hour, equally divided, on the flight training amendment.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator will suspend. The Senate is not in order. Senators will please cease their conversations or take them to their respective cloakrooms.

Mr. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the flight training amendment of 30 minutes, to be equally divided in accordance with the usual form, and that no amendment be in order to the flight training amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

Mr. MURKOWSKI. Mr. President, I inquire of the majority leader with regard to the items that are still pending, the tax legislation and the drug legislation, did I understand the leader to say that nothing that was controversial would be taken up? Was that resolved, or what was the intention of the leader, if I might ask for a clarification on that?

Mr. BYRD. What I am trying to do is get ourselves into the position of saying there will be no more, just no more. We are not going to call up any other bills. There are all kinds of pressures to bring this bill, that bill, and the other bill up. There will not be any bills other than measures that can be agreed to by unanimous consent. We can do those tomorrow.

There will be House messages. The staffs have been working. They have already accumulated quite a bit of matter that can be disposed of on tomorrow by unanimous consent. And we will just wait on the two major bills that are going to be discussed between the two Houses.

I can assure the Senator there will not be any rollcall votes tomorrow if we can reach that position tonight.

Mr. MURKOWSKI. The leader has clarified the answer to my question. There is potential legislation pending that might be taken up in the absence of a Senator who is, say, not here tomorrow? I gather from the leader that is not his intention, to bring anything up other than a unanimous consent with the exception of the drug and the tax bill?

Mr. BYRD. That is correct. We hope to do these other matters tonight.

Mr. MURKOWSKI. So what you have on the calendar for the balance of the day after that is pretty much limited to two items?

Mr. BYRD. Yes. I would urge Senators that we would hope to have something on one or both, certainly one or the other of those two major bills by Thursday or Friday. If not, Saturday.

The PRESIDING OFFICER. The Republican leader.

Mr. PELL addressed the Chair.

Mr. DOLE. I will be happy to yield.

Mr. PELL. Will there be any votes then tomorrow or will we not know until later?

Mr. BYRD. We do not know yet. If the scenario that we have been trying to outline here plays out well, there will not be any rollcall votes tomorrow. I do not want to say just yet. Let us see how we get along with these remaining matters today.

Mr. DOLE. Mr. President, I understand that the yeas and nays have been ordered on the McCain amendment. I wonder if anybody would object if I ask unanimous consent that that order be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Now we can move along here.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment in the second degree of the Senator from Iowa [Mr. HARKIN].

The amendment (No. 3719) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Arizona [Mr. MCCAIN], as amended.

The amendment (No. 3718), as amended, was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank all Members for allowing this bill to come up for final passage. This bill, the Montana forest wilderness bill, has been one the Montana delegation has worked on assiduously for years. It has been held up, unfortunately, to the last few days of this Congress. But I want to thank Members on both sides of the aisle for seeing their way clear to release their holds and no longer object to this bill coming up at this time.

I would say, Mr. President, I think Montanans will be very grateful that this bill has finally been passed and I thank those Senators who have been so cooperative and helpful.

Mr. MELCHER. Mr. President, I want to echo what my colleague has said. I want to express my personal gratitude to all Members of the Senate, particularly to the majority leader and minority leader, and to the senior Senator from Idaho, for their stalwart help in getting this bill up and before the body.

Mr. President, subsection 16(a) of this bill provides direction to the Forest Service to gain reasonable public access to national forest lands in Montana. "Reasonable public access" means that negotiations with landowners be undertaken to obtain access rights on the basis of acceptable payments, land trades, or other consideration and that access rights avoid or minimize any interference with the property owners' use of his or her property. It is not the intent of this subsection that the Forest Service use the right of eminent domain to gain access.

The intent of this section of the bill is to gain access to national forest lands in Montana in those areas where the public is denied access and where the public will be benefited by recreational or other uses compatible with the forest plans.

Mr. McCLURE. Mr. President, I thank the Senator for his comments. As I have said before, I am very much concerned about legislation that does affect the use of the public lands in the West and I have, in this case as I will in almost every case, deferred to the judgment of the Senators in whose State the lands are located. That is because they know more about the resources, the conflicts and the tradeoffs that are involved in those lands than anyone else will know. They live with that, both politically and in reality, as they impact within their States.

I would have preferred that this bill had different language with respect to water rights, which I think is important for us in Idaho. When it comes to the Idaho wilderness bill I would have preferred, and will insist, so far as the legislation for Idaho is concerned, that we include within it not just a statement with respect to reasonable access, but some definition of what we mean by existing roads that is somewhat different than the application we have had in the past.

I say that because I realize that is controversial, but I also realize that we are now completing action, nearly complete in the action on the wilderness legislation within the boundaries of national forests and our next task will be to address the question of wilderness designation for lands administered by the Bureau of Land Management.

Many of those lands administered by the Bureau of Land Management are relatively open lands. Most of them are not forest. Most of them are not nearly as steep as the lands within the boundaries of much of the national forestland. Much of them have been traversed by wheeled vehicles for 100 years or more, by motor vehicles since they came into being. And many of those roads are very low standard roads but nevertheless passable and have been traversed by people for many decades.

That issue will become even more important when it comes to the review and designation of those public interest lands that will be dealt with in the next round of wilderness designation.

It is equally important for some roads within national forests which have been defined out of existence. And because they were defined out of existence, even though they do exist, there is a legal mythology that they do not and therefore lands have been subject for wilderness review, for wilderness study, and for wilderness designation even though roads exist within the boundaries of those areas.

I would have preferred we had a more clear statement of that conflict and that dilemma in this legislation as I have insisted that it be contained in the Idaho wilderness. But again that is up to the Senators from Montana. As far as this Senator is concerned, they have to live with the decisions and they understand those conflicts with respect to those lands in Montana far better than would I. Therefore I have not sought to get them to change the language. I have not insisted on these changes.

I respect the judgments that they have made and the assistance they have given to me as we tried to negotiate something in the language with respect to release and the language with respect to water rights, all of which are very important parts of this legislation.

I congratulate them on having brought this bill to this point. I realize it is not easy, and I recognize it is certainly not without controversy.

I shall vote for the Montana wilderness.

Mr. WIRTH. Will the Senator yield for a question? I thank the Senator. I just wanted to make sure that by your comments about roads and wilderness areas and so on, you are not in any way suggesting that a wilderness area cannot become a wilderness because of the fact that it has at some point in the past had a road in it? You are not suggesting that in any way, shape, or form, are you?

Mr. McCLURE. I would say that the Wilderness Act by its definition will exclude any area that has a road within it, for wilderness study, or wilderness review. But certainly Congress can take any action that it wishes. It can designate the Capitol as a wilderness if Congress wished to do so. And I would suggest that some of the wildlife here is more wondrous to behold than some of that in my State of Idaho, or that which may exist in Colorado.

But certainly Congress has the authority to designate a wilderness regardless of what may be within its boundaries. I was talking about wilderness review and wilderness study, which is an administrative activity prior to the action taken by the Congress of the United States.

Mr. WIRTH. If the Senator would further yield, it precludes the Forest Service from reviewing or setting a potential area, an area that at one time may have had a road in it. Nor is there anything, to my understanding, to preclude you, if you were to say there should be no study of any area that had a road in it, then having the Forest Service or whatever putting a road in it and making it, therefore, ineligible for wilderness?

Mr. McCLURE. The question of eligibility is for the Congress to determine. That is why I said a moment ago the Congress can designate any area it wishes a wilderness, regardless of what may be within the boundaries.

With respect to the ability of the Forest Service to study an area with a road in it, in my judgment it has no legal authority under existing law because it is not an area suitable for designation under the ruling act as enacted by the Congress of the United States in 1964.

As a matter of fact, what is or is not a road is the subject of the question the Senator may be asking, in which the Senate of the United States took one position and the House of Representatives took another position with respect to what is a road.

I do not understand the Senator from Colorado's entering that debate as much as asking, can we designate something which has a road in it? Yes, we can. As a matter of fact, in the State of California, we designated a wilderness area that had an active storage dam within it.

The question asked is slightly different, what authority do administrative agencies have to review such areas that have not conforming uses within the boundaries of uses? That is a slightly different question of whether or not a road exists.

Mr. WIRTH. If the Senator will yield, I believe the Senator is saying that in his opinion it is not appropriate for the Forest Service to study an area that might have a road in it. That opinion is not shared by the Senator from Colorado. I wanted to make sure that was not a statement of fact or a statement with which no one could disagree. I believe it is a statement or an interpretation given to it by the distinguished Senator from Idaho. I wanted to make certain that the record was clear on all of these areas.

I appreciate the Senator's yielding. I want to make certain that we are not in any way or shape forming some kind of a record that would not be appropriate for future study by the Forest Service.

Mr. McCLURE. Mr. President, I do not think the Senator from Colorado has a difference of opinion. I disagree with the Senator with respect to what the status of the existing law is. That is certainly what I say the existing law is as a matter of my own opinion. Yes, there is a question, not a question of whether a road exists or not under the definitions. If there is a road there which is not suitable, it is not suitable for wilderness determination under the terms of the 1964 Act.

There are people who do not like that. As I mentioned a moment ago, we have had a conflict about what is a road, as a matter of fact, and many have defined a road out of existence even though it has been used for decades and has been, as a matter of fact, studied for designation and included within wilderness, although clearly, under the terms of the 1964 Wilderness Act, such an area with that kind of a road within it would not be suitable for study or designation.

Again, Congress can, indeed, enact laws in suitable cases where Congress deems it suitable to include them within wilderness. I would say to the Senator, when it comes to the Tsongas National Recreation Area, the wilderness within the Tsongas National Wilderness Area within the State of Idaho, that Congress did review an area that had very small incursions of roads that had been in use and were still suitable for use but, nevertheless, decided to designate it as wilderness in spite of the provisions of the 1964 wilderness law.

The Congress has the authority to do so, authority which I do not believe the administrative agencies have.

Mr. WIRTH. I would like to go back to the earlier discussion regarding the water rights provisions of the Montana Wilderness Act.

It is my view that the bill that we are considering is really silent on the question of whether the wilderness designated by this act has a Federal reserved water right. This bill is intended to be neutral on this matter. The issue is currently in litigation and a Federal district court in the State of Colorado has rendered a final judgment that the reservation of lands by the Congress under the Wilderness Act does by implication reserve whatever water is needed to fulfill wilderness purposes when the statute is otherwise silent on this issue. Of course, the Congress can reserve water for Federal lands in a number of ways. For example, Congress could expressly declare that a certain Federal land reservation carries with it a certain amount of water. On the other hand, the Congress can and has most frequently remained silent on the question of the amount of water to be reserved. It is my understanding that this is the approach we took on this legislation.

I also believe that silence in no way suggests that Congress supports or endorses the view that the Wilderness

Act is merely a land management statute and thus does not reserve additional water for wilderness purposes beyond what is needed for the protection of the underlying national forest reservation. In fact, the District Court in Colorado expressly disagreed with this land management viewpoint as offered by the Department of Justice in the litigation and in a recent opinion of the Solicitor's Office.

Finally, I would like to take this opportunity to make one other point. In fact, the Wilderness Act creates new primary purposes and those preservation purposes in section 4(b) of the Wilderness Act clearly set aside wilderness lands for new and more protective purposes than the prior national forest reservation. That is the reason for the additional wilderness reservation.

Mr. President, I'd like to ask the Senator from Arkansas [Mr. BUMPERS], the chairman of the Energy Subcommittee on Public Lands, National Parks and Forests, if he has any comment on my observations.

Mr. BUMPERS. Mr. President, I concur with many of the views expressed by Senator WIRTH on this matter. I know my colleague from Colorado has worked for many years on this issue of Federal reserved water rights in wilderness areas, and I understand his interest in expressing his views for the record as part of today's debate.

Mr. WIRTH. Mr. President, I wish to congratulate the distinguished Senator from Montana [Mr. MELCHER], for his efforts in this area.

● Mr. LEAHY. Mr. President, I rise in support of the passage of the Montana wilderness bill, S. 2751. It has been a pleasure to work with my colleague, Senator MELCHER on this legislation. The passage of this wilderness bill will now stand as a tribute to his fine leadership and efforts.

During the creation of this bill, the Senator and I worked to resolve a disagreement concerning the drafting of language governing the release of nonwilderness areas for multiple-use management by the Forest Service. New release language had been proposed for this wilderness bill, language that was both unnecessary and which would have represented a departure from the longstanding compromise on release language. This standard release language has been incorporated into all wilderness legislation passed since 1984. As chairman of the Senate Agriculture Commitee, with responsibility for wilderness and forest planning, I could not support the departure from this standard language. I did not want to see the Senate set a new precedent regarding wilderness evaluation and release. I am pleased that Senator MELCHER has agreed to delete the release provision of S. 2751 and agreed to the release provisions as passed by the House, with one minor clarification.

I have agreed to move ahead with this legislation at this time because I am convinced that it maintains the standard release language which has served us well during the last 4 years, and because the bill will establish no new precedents for the forest planning process or wilderness evaluation and release.●

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 2751), as amended, was passed, as follows:

S. 2751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be referred to as the "Montana Natural Resources Protection and Utilization Act of 1988".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's RARE II and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have identified certain National Forest System lands in the State of Montana which should not now be designated as components of the National Wilderness Preservation System but which possess exceptional scenic, fish and wildlife, and recreational values and should be specially managed to protect those exceptional values; and

(4) the Department of Agriculture's RARE II and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable law.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude and physical and mental challenge;

(2) designate certain National Forest System lands in the State of Montana for special management and special study in order to promote, and conserve their exceptional scenic, wildlife and fish, and recreational values; and

(3) ensure that certain other National Forest System lands in the State of Montana be available for nonwilderness uses.

WILDERNESS DESIGNATION

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act of 1964 the following lands in the State of Montana are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, Montana, which comprise approximately twenty-nine thousand one hundred acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated August 1988, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(2) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated September 1987, and which shall be known as the Italian Peaks Wilderness.

(3) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately seventy-nine thousand five hundred acres, as generally depicted on a map entitled "East Pioneer Wildeness—Proposed", dated September 1987, and which shall be known as the East Pioneer Wilderness.

(4) Certain lands in the Beaverhead National Forest, Montana, comprising approximately seventy-six thousand six hundred acres, as generally depicted on a map entitled "West Big Hole Wilderness—Proposed", dated August 1988, and which shall be known as the West Big Hole Wilderness.

(5) Certain lands in the Beaverhead National Forest, Montana, comprising approximately thirty-three thousand seven hundred acres, as generally depicted on a map entitled "West Pioneer Wilderness—Proposed", dated August 1988, and which shall be known as the West Pioneer Wilderness.

(6) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, Montana, which comprise approximately sixty-four thousand eight hundred acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated August 1988, and which shall be known as the Stony Mountain Wilderness.

(7) Certain lands in the Bitterroot and Lolo National Forests, Montana, which comprise approximately fifty-five thousand six hundred acres, as generally depicted on maps entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness.

(8) Certain lands in the Bitterroot National Forest, Montana, which comprise approximately twenty-eight thousand five hundred acres, as generally depicted on a map entitled "Frank Church-River of No Return Wilderness Additions—Proposed" (Bluejoint), dated September 1987, and which are hereby incorporated in and shall be deemed to be part of the Frank Church-River of No Return Wilderness.

(9) Certain lands in the Custer National Forest, Montana, which comprise approximately five thousand eight hundred acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed," dated August 1988, and which shall be known as the Lost Water Canyon Wilderness.

(10) Certain lands in the Custer National Forest, Montana, which comprise approximately five thousand seven hundred acres, as generally depicted on a map entitled "Absaroka Beartooth Wilderness Additions—Proposed" (Timberline Creek, Stateline, Mystic Lake and Dexter Point), dated October 1988, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(11) Certain lands in the Deerlodge and Helena National Forests, Montana, which comprise approximately nineteen thousand acres, as generally depicted on a map entitled "Blackfoot Meadow-Electric Peak Wilderness—Proposed", dated September 1987, and which shall be known as the Blackfoot Meadow Wilderness.

(12) Certain lands in the Deerlodge National Forest, Montana, which comprise approximately forty thousand three hundred acres, as generally depicted on a map entitled "Flint Creek Range Wilderness—Proposed", dated August 1988, and which shall be known as the Flint Creek Range Wilderness.

(13) Certain lands in the Deerlodge and Bitterroot National Forests, Montana, which comprise approximately fifty-two thousand six hundred acres, as generally depicted on a map entitled "Sapphires Wilderness—Proposed", dated August 1988, and which shall be known as the Sapphires Wilderness.

(14) Certain lands in the Flathead National Forest, Montana, which comprise approximately sixty-eight thousand acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck, Mount Hefty, Thompson-Seton)", dated August 1988, and which shall be known as the North Fork Wilderness.

(15) Certain lands in the Flathead, Lolo, and Lewis and Clark National Forests, Montana, which comprise approximately two hundred twenty-four thousand nine hundred acres, as generally depicted on maps entitled "Bob Marshall Wilderness Additions—Proposed" (Limestone Cave, Slippery Bill, Rocky Mountain Front, Clearwater-Monture, Silver King-Falls Creek and Crown Mountain), dated October 1988, and which shall be deemed to be part of the Bob Marshall Wilderness.

(16) Certain lands in the Flathead National Forest, Montana, which comprise approximately nine hundred and sixty acres, as generally depicted on a map entitled "North Mission Mountain Wilderness Additions—Proposed", dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the North Mission Mountain Wilderness.

(17) Certain lands in the Flathead and Lolo National Forests, Montana, comprising approximately one hundred forty eight thousand one hundred acres, as generally depicted on maps entitled "Jewel Basin/Swan Wilderness—Proposed", dated October 1988, and those lands comprising the west slope of the Bob Marshall Wilderness shall be deemed to be a part of the Bob Marshall Wilderness and the remaining lands shall be known as the Swan Crest Wilderness.

(18) Certain lands in the Gallatin National Forest, Montana, which comprise approximately sixty-four thousand-one hundred acres, generally depicted on a map entitled "Gallatin Wilderness—Proposed", dated August 1988, and which shall be known as the Gallatin Wilderness.

(19) Certain lands in the Gallatin National Forest, Montana, which comprise approximately five hundred acres, as generally depicted on a map entitled "North Absaroka Wilderness Additions—Proposed" (Republic Mountain), dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the North Absaroka Wilderness.

(20) Certain lands in the Gallatin National Forest, Montana, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated October 1988, and which are hereby incorporated in and shall be considered part of the Lee Metcalf Wilderness.

(21) Certain lands in the Gallatin National Forest, Montana, which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1987, and which shall be known as the Earthquake Wilderness.

(22) Certain lands in the Helena National Forest, Montana, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1987, and which shall be known as the Camas Creek Wilderness.

(23) Certain lands in the Helena National Forest, Montana, which comprise approximately fifteen thousand acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1987, and which shall be known as the Mount Baldy Wilderness.

(24) Certain lands in the Helena National Forest, Montana, which comprise approximately ten thousand five hundred acres, as generally depicted on a map entitled "Gates of the Mountain Wilderness Additions—Proposed" (Big Log), dated September 1987, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(25) Certain lands in the Helena National Forest, Montana, which comprise approximately eight thousand five hundred acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated September 1987, and which shall be known as the Black Mountain Wilderness. It is the intent of Congress that the Secretary, utilizing existing statutory authority, give special attention to the acquisition of non-federally owned lands within the Black Mountain Wilderness.

(26) Certain lands in the Helena National Forest, Montana, which comprise approximately twenty-one thousand nine hundred acres, as generally depicted on a map entitled "Nevada Mountain Wilderness—Proposed", dated October 1988, and which shall be known as the Nevada Mountain Wilderness.

(27) Certain lands in the Kootenai and Kaniksu National Forests, Montana, which comprise approximately forty-seven thousand acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated September 1987, and which shall be known as the Scotchman Peaks Wilderness.

(28) Certain lands in the Kootenai National Forest, Montana, which comprise approximately thirty-three thousand acres, as generally depicted on a map entitled "Ten Lakes Wilderness—Proposed", dated September 1987, and which shall be known as the Ten Lakes Wilderness.

(29) Certain lands in the Kootenai National Forest, Montana, which comprise approximately thirty-one thousand six hundred acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated August 1988, and which are hereby incorporated in and shall be a part of the Cabinet Mountains Wilderness.

(30) Certain lands in the Kootenai and Lolo National Forests, Montana, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cube Iron-Silcox Wilderness—Proposed", dated October 1988, and which shall be known as the Cube Iron-Silcox Wilderness.

(31) Certain lands in the Lewis and Clark National Forest, Montana, which comprise approximately twenty-nine thousand six hundred acres, as generally depicted on a map entitled "Big Snowies Wilderness Area—Proposed", dated October 1988, and which shall be known as the Big Snowies Wilderness.

(32) Certain lands in the Lola National Forest, Montana, which comprise approximately eighty-five thousand one hundred acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated October 1988, and which shall be known as the Great Burn-Hoodoo Wilderness.

(33) Certain lands in the Lolo National Forest, Montana, which comprise approximately forty-nine thousand acres, as generally depicted on a map entitled "Quigg Wilderness—Proposed", dated September 1987, and which shall be known as the Quigg Wilderness.

(b) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the House of Representatives. Each map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in section 3 of this Act, any reference to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SCAPEGOAT AND GREAT BEAR WILDERNESS DESIGNATIONS

SEC. 4. In order to consolidate existing contiguous wilderness areas, those lands comprising the Great Bear Wilderness Area designated by Public Law 95-946 and any amendments thereto and the Scapegoat Wilderness Area designated by Public Law 92-395 and any amendments thereto are hereby incorporated in and deemed to be a part of the Bob Marshall Wilderness. The designation of the Great Bear Wilderness and Scapegoat Wilderness shall refer to units within the Bob Marshall Wilderness.

RELEASE TO NONWILDERNESS USES

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 94-557 and Public Law 95-150;

(2) the Department of Agriculture has completed the Second Roadless Area Review and Evaluation Program (RARE II);

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas through its Land and Resource Management Planning for National Forests; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to National Forest System lands in States other than Montana, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Montana;

(2) with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture in wilderness studies conducted pursuant to Public Law 94-557 and Public Law 95-150, in RARE II, and in the unit plans and the Forest plan for the Beaverhead National Forest which were in effect prior to completion of RARE II, that such reviews shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) except as may be specifically provided in sections 8-12 of this Act, those areas in the State of Montana referred to in subparagraph (2) of this subsection which were not designated wilderness shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) The provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less than five thousand acreas in size.

(e) The wilderness suitability review and evaluation of national forest system lands in the state of Montana completed as a part of Land and Resource Management Plans that were completed prior to the enactment of this Act, satisfy the provisions of Sec. 5(b)(2) as an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed.

ADJACENT MANAGEMENT

SEC. 6. Congress does not intend that designation of wilderness areas in the State of Montana lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

WATER RIGHTS

SEC. 7. Congress finds that the waters within the Wilderness Areas designated by this Act are headwaters. The designation of such areas as wilderness shall have no effect on downstream appropriation of waters, and nothing in this Act shall be construed to affect valid existing water rights as provided under Montana State law.

SPECIAL MANAGEMENT AREAS

SEC. 8. (a) For the purposes of conserving and protecting the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made:

(1) The West Pioneers National Recreation Area located in the Beaverhead National Forest, Montana, and comprising approximately ninety thousand six hundred acres, as generally depicted on a map entitled "West Pioneers National Recreation Area—Proposed", dated August 1988.

(2) The Mount Helena National Education and Recreation Area located in the Helena National Forest, Montana, and comprising approximately three thousand nine hundred acres as generally depicted on a map entitled "Mount Helena Education and Recreation Area—Proposed", dated October 1988.

(3) The Hyalite National Education and Recreation Area located in the Gallatin National Forest, Montana, and comprising approximately eighteen thousand nine hundred acres, as generally depicted on a map entitled "Hyalite National Recreation Area—Proposed", dated August, 1988.

(4) The Ross Creek Cedars National Recreation Area located in the Kootenai National Forest, Montana, and comprising approximately seven hundred acres, as generally depicted on a map entitled "Ross Creek Cedars Biological Area—Proposed", dated September 1987.

(5) The Gibson Reservoir National Recreation Area located in the Lewis and Clark National Forest, Montana, and comprising approximately twenty-four thousand one hundred acres, as generally depicted on a map entitled "Gibson Reservoir National Recreation Area—Proposed", dated October 1988.

(6) The Cottonwood Lake National Recreation Area located in the Deerlodge National Forest, and comprising approximately eight thousand three hundred acres, as generally depicted on a map entitled "Cottonwood Lake National Recreation Area—Proposed", dated September 1987.

(b) The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c)(1) Except as otherwise may be provided in this subsection, the Secretary shall administer the areas designated in subsection (a) so as to achieve the purposes of their designation as National Recreation Areas in accordance with the laws and regulations applicable to the National Forest System.

(2) Subject to valid existing rights, all federally owned lands within the areas are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(3) Management activities may be permitted by the Secretary if compatible with the purposes for which the areas were designated: Provided, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(4) The use of motorized equipment may be allowed if compatible with the purposes for which the areas are designated.

(5) The grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to applicable law and regulations of the Secretary.

(d) The Secretary shall manage the Mount Helena and the Hyalite National Education and Recreation Areas with a focus on education. All management activities shall be conducted in a way that provides the public with an education on natural resources protection and management.

(e) Those areas established pursuant to this section shall be administered as components of the National Forests wherein they are located. Land and resource management plans for the affected National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, shall emphasize achieving the purposes for which the areas are designated.

ELKHORNS NATIONAL RECREATION AND WILDLIFE AREA

SEC. 9. (a)(1) The area of the Helena and Deerlodge National forests comprising approximately one hundred seventy-five thousand seven hundred acres, as generally depicted on a map entitled "Elkhorns National Recreation and Wildlife Area—Proposed", dated September 1987, is hereby designated as a national recreation and wildlife area and shall hereafter be managed generally as a national recreation area that emphasizes enhancement of big game habitat. Except as otherwise provided in this subsection, the Secretary shall administer the area so as to achieve the purposes of its designation as a national recreation and wildlife area. Where compatible with such emphasis, management also shall provide for recreational opportunities and the maintenance and enhancement of habitat for non-game species.

(2) Those lands within the Elkhorns National Recreation and Wildlife Area designated as "Elkhorns-2" on the map referenced in paragraph (1) shall, notwithstanding any other provision of this section, remain roadless, except that motorized equipment may be used by the Secretary after public notice and opportunity for comment and a finding by the Secretary that such use is required for habitat improvement for fish and wildlife. Any area disturbed by such motorized equipment shall be restored to contour and revegetated with appropriate native plant species as expeditiously as possible.

(b) The Secretary shall file the map referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House or Representatives, and the map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, all federally owned lands within the area designated as "Elkhorns-2" are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(d) Management activities may be permitted by the Secretary if compatible with the purposes for which the Elkhorns National Recreational Wildlife Area was designated: *Provided*, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(e) The Elkhorns National Recreation and Wildlife Area established pursuant to this section shall be administered a component of the Helena and Deerlodge National Forests. Land and resource management plans for these National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, shall emphasize achieving the purposes for which the area is designated.

SPECIAL STUDY AREAS

SEC. 10. (a) (1) The Crazy Mountains Land Consolidation Study Area in the Gallatin and Lewis and Clark National Forests, Montana, comprising approximately one hundred nine thousand five hundred acres, as generally depicted on a map entitled "Gallatin and Lewis and Clark Land Consolidation Study", dated October 1988, shall, notwithstanding any other provision of this Act, be managed in accordance with the provisions of Public Law 95-150. The Forest Service shall complete a study of public and private land consolidation alternatives for this area and shall transmit such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than January 1, 1991.

(2) The Porcupine-Buffalo Horn Study Area in the Gallatin National Forest, Montana, comprising approximately fifty-two thousand acres as generally depicted on a map entitled "Gallatin Wilderness and Wilderness Study Areas—Proposed", dated October 1988, shall be reviewed by the Secretary to evaluate the wilderness potential of the area; to analyze the motorized and nonmotorized dispersed recreation use in the area; to evaluate the amount and distribution of recreation use including trail use; and to evaluate potential conflicts between various uses. This study shall be completed and submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than January 1, 1991. The area shall, notwithstanding any other provision of this Act, be managed in accordance with the provisions of Public Law 95-150.

(3) The Sawtooth Mountain Study Area in the Gallatin National Forest, Montana, comprising approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "Gallatin Wilderness and Wilderness Study Areas—Proposed", dated October 1988, shall be reviewed by the Secretary to evaluate and report on the wilderness potential of the area and alternatives for providing public access to Federal lands in the area. The study shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives no later than January 1, 1991. Until December 31, 1992, the Secretary shall administer the area in order to protect its potential for inclusion in the Wilderness System: *Provided*, That established uses within the area shall be allowed to continue. Unless Congress determines otherwise, after December 31, 1992, the lands within the Sawtooth Mountain Study Area shall be managed by the Secretary in accordance with the study prepared pursuant to this subsection: *Provided*, That nothing in this paragraph shall be construed as expanding or diminishing the existing authority of the Secretary regarding the management of the national forests.

(4) The Tenderfoot-Deep Creek Land Consolidation and Wilderness Study Area located in the Lewis and Clark National Forest, Montana, and comprising approximately thirty-eight thousand two hundred acres, as generally depicted on a map entitled "Tenderfoot-Deep Creek Wilderness Study Area", dated October 1988, shall be reviewed by the Secretary to evaluate and report on the wilderness potential of the area and the potential for public and private land consolidation. The study shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives no later than January 1, 1991. Until December 31, 1992, the Secretary shall administer the area in order to protect its potential for inclusion in the Wilderness System: *Provided*, That established uses shall be allowed to continue. Unless Congress determines otherwise, after December 31, 1992, the area shall be managed by the Secretary in accordance with the study prepared pursuant to this subsection: *Provided*, That nothing in this paragraph shall be construed as expanding or diminishing the existing authority of the Secretary regarding the management of the national forests.

(b) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, House of Representatives, and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

WILDERNESS STUDY AREAS

SEC. 11. (a)(1) Certain lands located in the Custer National Forest, Montana, comprising approximately four thousand one hundred acres as generally depicted on a map entitled "Burnt Mountain Wilderness Study Area—Proposed", dated August 1988, shall be reviewed by the Secretary to determine their suitability for inclusion in the National Wilderness Preservation System.

(2) Certain lands in the Custer National Forest, Montana, comprising approximately seventeen thousand acres as generally depicted on a map entitled "Line Creek Plateau Wilderness Study Area—Proposed," dated October 1988 shall be reviewed by the Secretary to determine their suitability for inclusion in the National Wilderness Preservation System.

(b) The Secretary shall submit a report to the Congress containing his recommendations regarding wilderness designation for these areas not later than five years after the date of enactment of this Act.

(c) Subject to valid existing rights, the wilderness study areas designated by this section shall be managed to protect their suitability for inclusion in the National Wilderness Preservation System for a period of seven years from the date of enactment of this Act. At the end of such seven-year period, the areas shall be managed, subject to valid existing rights, in accordance with the applicable land and resource management plan for the Custer National Forest.

(d) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, House of Representatives and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

BLACKFEET UNIT

SEC. 12. (a)(1) Subject to valid existing rights, all federally owned lands as depicted on a map entitled "The Blackfeet Unit", dated October 1988 (hereinafter in this section referred to as "the Unit"), comprising approximately one hundred sixteen thousand six hundred acres, are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws for a three-year period commencing on the date of enactment of this Act.

(2) For the three-year period commencing on the date of enactment of this Act, no commercial timber sales shall be permitted within the Unit: *Provided,* That nothing in this paragraph shall preclude the gathering of timber by the Blackfeet Tribe in the exercise of valid treaty rights within the Unit.

(3)(A) With respect to oil and gas leases on Federal lands within the Unit in effect on the date of enactment of this Act, no surface disturbance shall be permitted pursuant to such leases for the three-year period commencing on the date of enactment of this Act.

(B) Notwithstanding any other provision of law, the term of any oil and gas lease which is subject to the limitation imposed by subparagraph (A), shall be extended for an additional three years beyond its existing date of expiration.

(b) The Forest Service shall cooperate with the Blackfeet Tribe in the preparation of a joint land management plan for the area depicted on the map referenced in subsection (a). Such plan shall consider a range of management options including, but not limited to, the protection and utilization of the range, recreation, minerals, timber, wildlife and fish resources and the protection and preservation of areas used by members of the Blackfeet Tribe for cultural or religious purposes. The Forest Service shall provide technical assistance to the Tribe in preparation of the plan.

(c) During the preparation of the plan, the Bureau of Indian Affairs is directed to review and prepare an update of the report entitled "Preliminary Report on Proposed Badger Canyon Dam and Reservoir" prepared in 1968. Such report and update shall be submitted to the Blackfeet Tribe and the Congress within eighteen months after enactment of this Act and shall include, but not be limited to, additional study of the costs, benefits, and feasibility of constructing such a dam and reservoir, including the potential for the generation of hydropower.

(d)(1) Development and review of any joint land management plan prepared pursuant to this section shall be subject to applicable existing law, including but not limited to the National Forest Management Act, Public Law 94-588, and shall, after the opportunity for public comment and review, be incorporated into the Land and Resource Management Plan for the Lewis and Clark National Forest.

(2) Actions taken pursuant to this subsection shall not be considered a significant amendment or revision of such Land and Resource Management Plan.

(e) The Forest Service and the Tribe are encouraged to complete such plan no later than three years after the date of enactment of this Act. After opportunity for public review and comment, the plan shall be transmitted to Congress. After the plan is transmitted to Congress, the Forest Service shall manage the lands in accordance with the plan under applicable law. Congress shall consider the plan within two years after receipt and, if it deems necessary, enact legislation to implement the plan.

(f) Nothing in this section shall be construed to diminish, prejudice, add to, or otherwise affect the treaty rights of the Blackfeet Tribe in the Unit nor to diminish the rights of the United States.

PLUM CREEK LAND EXCHANGE—PORCUPINE AREA.

SEC. 13. The Secretary shall, notwithstanding any other provision of law, exchange lands and interests in lands with Plum Creek Timber Company, Inc. (hereinafter "PCTC") in accordance with the following provisions:

(a) Subject to the provisions of this section, if PCTC offers to the United States the fee title to approximately 8,130.67 acres of land of PCTC which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber Company and Forest Service Proposed Porcupine Land Exchange", dated May 20, 1988, the Secretary of the Interior is authorized and directed to accept a warranty deed to such lands and, in exchange therefore, and subject to valid existing rights, convey by Patent the fee title to approximately 9,181.74 acres of National Forest System lands available for exchange to PCTC as depicted on such map. The National Forest System lands depicted on such map shall be conveyed subject to the following specific reservations and exceptions:

(1) Existing ditches and canals as authorized by the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

(2) Federal oil and gas leases Numbers 49432, 32843 and 55325 are reserved in the United States. Upon termination or relinquishment of the said leases under applicable law, all the rights and interests therein in the National Forest System lands described in subsection (a) and included in said leases shall immediately vest in PCTC, its successors and assigns. Upon such termination or relinquishment, the United States will give notice of said event by a document suitable for recording in the county wherein the above described leased lands are situated.

(3) Such other terms and conditions, reservations or exceptions as may be agreed upon by the Secretary and PCTC.

(b) At closing on the conveyances authorized by this section:

(1) For and in consideration of the easements conveyed by PCTC as provided in paragraph (b)(2), the Secretary shall cause to be executed and delivered to PCTC easements over federally owned lands for such existing or future roads as needed to provide PCTC, its successors and assigns, access to PCTC owned lands.

(2) For and in consideration of the easements conveyed by the United States as provided in paragraph (b)(1), PCTC shall execute and deliver to the United States easements over PCTC lands for such existing or future roads as needed to provide the United States and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this section shall be in the same form as that customarily used by the Forest Service and cooperators for cost shared roads in Road Right-of-Way Construction And Use Agreements.

(c) The following order of withdrawal, as it applies to the lands conveyed by the United States and involved in the transactions authorized by this section, is hereby revoked: Executive Order Numbered 30-Montana 7-Phosphate Reserve October 9, 1917 (nine hundred sixty acres, more or less).

(d) The maps referred to in subsection (a) are subject to such minor corrections as the Secretary and PCTC may agree to. The Secretary shall notify the appropriate Committees of Congress of any correction made pursuant to this subsection.

(e) It is the sense of Congress that the conveyances authorized and directed pursuant to this section should be completed within ninety days after the date of the enactment of the Act.

(f) All lands conveyed to the United States pursuant to this section shall be national forest lands administered by the Secretary.

PLUM CREEK LAND EXCHANGE—GALLATIN AREA

SEC. 14. The Secretary shall, notwithstanding any other provision of law, acquire certain lands and interests of Plum Creek Timber Company, Inc. (hereinafter "PCTC") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area and additional lands in the Gallatin National Forest in accordance with the following provisions:

(a) The acquisition shall be by exchange and cash equalization as hereinafter provided, and it is the sense of Congress that the acquisition authorized pursuant to this section should be completed within ninety days after the date of enactment of this Act.

(b) Subject to the provisions of this section, if PCTC offers to the United States the fee title to approximately 37,752.15 acres of land of PCTC which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber Company and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary of the Interior is authorized and directed to accept a warranty deed to such lands and, in exchange therefore, and subject to valid existing rights, convey by Patent the fee title to approximately 12,414.06 acres of National Forest System lands available for exchange to PCTC as depicted on such map. The National Forest System lands depicted on such map shall be conveyed subject to the following specific reservations and exceptions:

(1) Existing ditches and canals as authorized by the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

(2) Federal Oil and Gas Leases Numbered 49739, 55610, 23290, 29230, 40389, 53670, 40215, 38678, 33385, 53736, and 38684 are reserved in the United States. Upon termination or relinquishment of the said leases under applicable law, all the rights and interests in said leases shall immediately vest in PCTC, its successors and assigns. Upon such termination or relinquishment, the United States will give notice of said event by a document suitable for recording in the

county wherein the above described leased lands are situated.

(3) Such other terms and conditions, reservations or exceptions as may be agreed upon by the Secretary and PCTC.

(c) At closing on the conveyances authorized by this section:

(1) For and in consideration of the easements conveyed by PCTC as provided in paragraph (c)(2) the Secretary shall cause to be executed and delivered to PCTC easements over federally owned lands and any federally assignable rights to easements for such existing or future roads as needed to provide PCTC, its successors and assigns, access to PCTC owned lands.

(2) For and in consideration of the easements conveyed by the United States as provided in paragraph (c)(1), PCTC shall execute and deliver to the United States easements over PCTC lands for such existing or future rights-of-way as needed to provide the United States and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this section shall be in the same form as that customarily used by the Forest Service and cooperators for cost shared roads in Road Right-of-Way Construction and Use Agreements.

(d) The maps referred to in this section are subject to such minor corrections as the Secretary and PCTC may agree to. The Secretary shall notify the appropriate Committees of Congress of any corrections made pursuant to this subsection.

(e) All lands conveyed to the United States pursuant to this section shall be national forest lands administered by the Secretary.

(f) There is hereby authorized to be appropriated to carry out the provisions of this section of this Act, the sum of three million four hundred thousand dollars ($3,400,000), which amount the Secretary shall, when appropriated, pay to PCTC to equalize the value of the exchange.

SEVERED MINERALS EXCHANGE

SEC. 15. (a) Congress finds that:

(1) Underlying certain areas in Montana designated by this Act are mineral rights owned by the subsidiaries of Burlington Resources, Inc. (hereafter "Company");

(2) there are federally owned minerals underlying lands of the Company lying outside such areas;

(3) the Company has agreed in principle with the Department of Agriculture as to the potential exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable to authorize and facilitate such an exchange or exchanges, and that it is desirable that any such exchanges be completed within two years of the date of enactment of this Act.

(b) Pursuant to an exchange agreement which may be made by the Secretary and the Company, the Secretary may acquire by exchange any mineral interest owned by the Company or any affiliate thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in any fractional sections adjacent to such areas. In exchange for such mineral interests owned by the Company, the Secretary of the Interior shall convey, subject to valid existing rights, federally owned mineral interests which are specifically identified in an exchange agreement.

(c) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information. To assure that the wilderness or other natural values of the areas are not affected, a formal appraisal shall not be required for any mineral interest proposed for exchange: *Provided*, That the Secretary and the Company will fully share all available information on the quality and quantity of mineral interests. In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the Company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) Any mineral interests conveyed by the United States pursuant to this Act shall underlie lands the surface of which are owned by the Company. In the event that there are not sufficient federally owned mineral interests of approximately equal value underlying Company lands, then the Secretary and the Bureau of Land Management may identify for exchange any other federally owned mineral interest in Montana for which the surface estate is in private ownership.

(e) Any exchange agreement and the inclusion in such agreement of any federally owned mineral interests lying outside the boundaries of any National Forest shall be made in consultation with the Bureau of Land Management. Notwithstanding any provision of law, the Secretary of the Interior shall convey the federally owned mineral interests identified in any final exchange agreement.

(f) For purposes of this section, "mineral interests" shall include all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) Any exchange agreement and implementing actions made pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act.

MISCELLANEOUS PROVISIONS

SEC. 16. (a) It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

(b) The Secretary is directed to conduct a study for a potential horse trail in the Swan Range west of the Jewel Basin on the Flathead National Forest, Montana. The study shall be completed within two years and submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. No action to construct any such horse trail shall be initiated until at least ninety days after the study has been received by such Committees.

(c) Those lands comprising the Rattlesnake National Recreation Area and Wilderness as designated in Public Law 96-476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(d) The acreages cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

(e) The Congress has sufficiently reviewed the suitability of the Bitter Creek Wilderness Study Area (MT-064-356, BLM Wilderness Study Area Number) and approximately 2,500 acres of the Axolotl Lakes Wilderness Study Area (MT-076-069, BLM Wilderness Study Area Number) as generally depicted on a map entitled "Axolotl Lakes WSA", dated October 1988 for wilderness designation and finds that these lands have been sufficiently studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act, as amended, and are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act pertaining to management in a manner that does not impair suitability for preservation as wilderness.

(f) The Secretary is directed to conduct a study for a potential Alpine Running and Bicycle Trail on the Gallatin National Forest, Montana. The Secretary shall complete such study within two years after the date of enactment of this Act and shall transmit the study to the Committee on Interior and Insular Affairs, United States House of Representatives and the Committee on Energy and Natural Resources, United States Senate.

(g) The Secretary shall make provisions for reasonable access to private property located within the Absaroka-Beartooth Wilderness, near Goose Lake in Township 8 South, Range 15 East, Principal Montana Meridian.

(h) It is the intent of Congress that the Forest Service proceed with an orderly timber sale program on the Three Rivers Ranger District of the Kootenai National Forest in Fiscal Year 1989. Sales awarded prior to March 1, 1988, shall not be subject to further administrative or judicial review.

AUTHORIZATION OF APPROPRIATION

SEC. 17. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) No funds shall be made available pursuant to this Act except to the extent that such funds are provided in advance in appropriation Acts.

CREDIT FLOWS AND DEBT RESCHEDULING TO SOVIET UNION

SEC. 18. It is the sense of the Senate that the President of the United States should instruct the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, and the Secretary of Commerce to consult immediately with allied governments on the impact on Western security of various types of private and public sector credit flows and debt reschedulings to the Soviet Union, Warsaw Pact countries, Cuba, Vietnam, Libya, and Nicaragua, and to call for a multi-lateral voluntary initiative, supervised by the Organization for Economic Cooperation and Development, to end united, general purpose lending to these countries for reasons both of national security and prudent commercial banking.

NICARAGUA

SEC. 19. (a) FINDINGS.—The Senate finds that:

(1) The Sandinista regime is a signatory to the Esquipulas II agreement, and has thereby committed itself to the promotion of peace in Central America and democratization in Nicaragua;

(2) The Sandinista regime nevertheless continues to violate the provisions of the Esquipulas accord, which it is committed to observe;

(3) the Sandinista's continue blatant violations of the Esquipulas II accords, by continuing to receive unacceptably large Soviet-bloc military assistance, and by taking advantage of the Sapoa accord to strengthen their military position;

(4) The Sandinistas continue to prevent the United States from maintaining a fully functioning Embassy in Nicaragua.

(b) It is the sense of the Senate that:

(1) The Senate condemns the continued suppression of human rights and blatant violations of the Esquipulas II accord by the Sandinistas and calls upon all who seek both peace and freedom in Central America to join in that condemnation;

(2) The United States should respond to the continued blatant violations of the Esquipulas II accord by:

(i) continuing efforts to strengthen the internal democratic opposition and the independent media of Nicaragua;

(ii) reaffirming its support of humanitarian assistance to the democratic resistance.

(3) The Sandinista regime and the people of Nicaragua should understand that if the Sandinistas comply with their commitments to democratize, the United States should consider responding by lifting the economic embargo against Nicaragua.

(5) The Sandinista regime should understand that continued failure to comply with the Esquipulas II accord will very likely cause the Congress to approve additional military assistance for the Nicaraguan Resistance.

POLICY TOWARD THE RESTORATION OF DEMOCRACY IN CHILE

SEC. 20. (a) FINDINGS.—The Congress finds that—

(1) The Armed Forces of Chile under the leadership of General Augusto Pinochet Ugarte seized power on September 11, 1973;

(2) General Pinochet has ruled Chile without interruption for the past fifteen years;

(3) Throughout this fifteen-year period the people of Chile have expressed their growing desire for a restoration of democratic processes and procedures;

(4) The results of the Chilean national plebiscite held October 5, 1988 have clearly demonstrated the desire of the people of Chile to end General Pinochet's rule and to replace him with a chief executive freely chosen by the people;

(5) On the day of the plebiscite, Chileans turned out in exceptionally high numbers and took part in an exemplary process, which they helped administer, demonstrating the Chilean people's unwavering commitment to the restoration of democracy to their country;

(6) The United States and its chief representative in Chile, Ambassador Harry Barnes, have supported the Chilean people in their quest for democratic rule and respect for human rights.

(b) STATEMENT OF POLICY.—It is the sense of the Senate that—

(1) the United States fully recognizes, appreciates and welcomes the expressed desire of the Chilean people for the restoration of a civilian government based upon democratic processes and procedures;

(2) the United States commends the Government of Chile and the Armed Forces of Chile for conducting a free and fair plebiscite;

(3) the United States calls upon the Government of Chile to respect the results of the plebiscite and to hold free, fair and competitive presidential elections in 1989; and

(4) the United States encourages all efforts at dialogue toward reaching a consensus on a restoration of full democracy.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BAUCUS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I wanted to be certain that we take up the next wilderness bill under the consent agreement. That was my understanding. I am referring to the wilderness bill pertaining to the State of Washington.

Mr. MELCHER. That is my understanding.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WASHINGTON PARK WILDERNESS BILL

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 942, S. 2165, the Olympic National Park wilderness bill in the State of Washington.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2165) to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this bill may be cited as the "Washington Park Wilderness Bill of 1988".

TITLE I—OLYMPIC NATIONAL PARK WILDERNESS

SEC. 101. DESIGNATION.

(a) WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the Olympic National Park, Washington, which—

(1) comprise approximately eight hundred and seventy-six thousand six hundred and sixty-nine acres of wilderness, and approximately three hundred and seventy-eight acres of potential wilderness additions, and

(2) are depicted on a map entitled "Wilderness Boundary, Olympic National Park, Washington", numbered 149/60,051A and dated August 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Olympic Wilderness.

SEC. 102. WOLF CREEK POWERLINE.

The Secretary is authorized to upgrade, maintain and replace, as necessary, the Wolf Creek underground powerline to Hurricane Ridge: Provided, That to the extent practicable, such maintenance and operation shall be conducted in such a manner as to remain consistent with wilderness management.

SEC. 103. PAYMENT TO CLALLAM COUNTY.

There is hereby authorized to be appropriated not to exceed $155,000 to the Secretary of the Interior to make a payment to the Clallam County Historical Society and Museum of Port Angeles, Washington, to compensate the Society for its possessory interest in the National Park Service visitor center, Pioneer Memorial Museum, Olympic National Park, Washington. Upon relinquishment by the Clallam County Historical Society of all interests and use in the facility, the Secretary of the Interior shall make payment to the Clallam County Historical Society and acceptance of payment shall be considered full and just compensation for the Society's participation in the construction of the Pioneer Memorial Museum.

SEC. 104. GENERAL PROVISIONS.

(a) MISDEMEANOR PENALTIES.—Section 3 of the Act of March 6, 1942 (56 Stat. 136; 16 U.S.C. 256b) is hereby revised as follows: after "shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than", strike "$500" and insert in lieu thereof "$25,000".

(b) FORFEITURE OF PROPERTY.—Section 4 of the Act of March 6, 1942 (56 Stat. 135; 16 U.S.C. 256c) is hereby revised to read as follows:

"Sec. 4. All guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or means of transportation of every nature or description used by any person or persons or organizations within the limits of the park when engaged in or attempting to engage in killing, trapping, ensnaring, taking or capturing such wild birds, fish or animals, or taking, destroying or damaging such trees, plants, or mineral deposits contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior shall be forfeited to the United States and may be seized by the officers in the park and held pending prosecution of any person or persons or organization arrested under or charged with violating the provisions of this Act, and upon conviction under this Act of such persons or organizations using said guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation of every nature and description used by any person or persons or organization, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior: Provided, That the forfeiture of teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation shall be in the discretion of the Court.".

(c) FUGITIVES FROM JUSTICE.—(1) The Act of March 6, 1942, (56 Stat. 135 et seq.; 16 U.S.C. 256) is hereby revised as follows: Section 5 is renumbered as section 6 and succeeding sections are renumbered accordingly and a new section 5 is inserted as follows:

"Sec. 5. All fugitives from justice taking refuge in Olympic National Park shall be subject to the same laws as refugees from justice found in the State of Washington.".

(2) The Act of March 6, 1942 (56 State. 137, 16 U.S.C. 256i) is hereby revised as follows: after "the provisions of sections 3" strike "and" and insert in lieu thereof ","; after "4" insert "and 5".

(d) TECHNICAL CORRECTIONS TO BOUNDARIES.—The Act of November 7, 1986 (Public Law 99-635; 100 Stat. 3527) revising the boundaries of Olympic National Park is hereby amended as follows:

(1) In section 1(a)(2) after "48 degrees 23 minutes north and 47 degrees" strike "38" and insert in lieu thereof "34".

(2) In section 1(a)(2) after "all surveyed and unsurveyed islands", insert ", above the point of lowest low tide,"; and at the end of the paragraph, strike "north;" and insert "north: Provided, That such lands as are identified in this paragraph shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington;".

(3) In section 1(b) after "numbered 149/60,030A, sheets 1 through" strike "10" and insert in lieu thereof "9";

(4) In section 2(a) after "within section 15, township", strike "15" and insert in lieu thereof "24";

(5) In section 2(a) after "Provided, however, That the Secretary of Agriculture shall" strike "not"; and

(6) Section 4 is renumbered as section 5 and a new section 4 is inserted as follows:

"Sec. 4. Effective upon acceptance thereof by the State of Washington, the jurisdiction which the United States acquired over those lands excluded from the boundaries of Olympic National Park by this Act is hereby retroceded to the State.".

SEC. 105. KALALOCH VISITOR CENTER.

The Secretary is directed to complete a study for the location of a year round visitor center in the Kalaloch area of Olympic National Park. Such study shall include the location, size and cost estimates for the design, planning and construction of the visitor center and support facilities. The study shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate by March 1, 1989. The Secretary is authorized to construct such visitor center subject to the appropriation of funds.

TITLE II.—NORTH CASCADES NATIONAL PARK SERVICE COMPLEX WILDERNESS

SEC. 201. DESIGNATION.

(a) WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area, Washington, which—

(1) comprise approximately six hundred and thirty-four thousand six hundred and fourteen acres of wilderness, and approximately five thousand two hundred and twenty-six acres of potential wilderness additions, and

(2) are depicted on a map entitled "Wilderness Boundary, North Cascades National Park Service Complex, Washington", numbered 168-60-186 and dated August 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Stephen Mather Wilderness.

SEC. 202. HYDROELECTRIC PROJECTS.

Section 505 of the Act of October 2, 1968 (82 Stat. 930; 16 U.S.C. 90d-4) is amended as follows: strike "in the recreation areas", and insert in lieu thereof "in the lands and waters within the Skagit River Hydroelectric Project, Federal Energy and Regulatory Commission Project 553, including the proposed Copper Creek, High Ross, and Thunder Creek elements of the Project; and the Newhalem Project, Federal Energy and Regulatory Commission Project 2705, within the Ross Lake National Recreation Area; the lands and waters within the Lake Chelan Project, Federal Energy and Regulatory Commission Project 637; the Company Creek small hydroelectric project at Stehekin within the Lake Chelan National Recreation Area; and existing hydrologic monitoring stations necessary for the proper operation of the hydroelectric projects listed herein".

SEC. 203. LAND ACQUISITION FOR ADMINISTRATIVE FACILITIES.

Section 301(a) of the Act of October 2, 1968 (82 Stat. 927; 16 U.S.C. 90b) is hereby amended to add a new subsection as follows:

"(b) The Secretary is hereby authorized to acquire, with the consent of the owner, lands outside of the authorized boundaries of North Cascades National Park Service Complex for the purpose of construction and operation of a backcountry information center not to exceed five acres. The Secretary of the Interior is further authorized to acquire with the consent of the owner, lands for the construction of a headquarters and administrative site or sites, for the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area not to exceed ten acres. The lands so acquired shall be managed as part of the park.".

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to complete the land acquisitions authorized pursuant to section 203 of this Act.

SEC. 205. RENEWABLE NATURAL RESOURCE USE IN RECREATION AREAS.

Section 402(a) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1) is hereby amended to read as follows:

"The Secretary shall administer the recreation areas in a manner which in his judgment will best provide for (1) public outdoor recreation benefits and (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment. Within that portion of the Lake Chelan National Recreation Area which is not designated as wilderness, such management, utilization, and disposal of renewable natural resources and the continuation of existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, or other values contributing to public enjoyment, are authorized. In administering the recreation areas, the Secretary may utilize such statutory authorities pertaining to the administration of the national park system, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith. Within the Ross Lake National Recreation Area the removal and disposal of trees within power line rights-of-way are authorized as necessary to protect transmission lines, towers, and equipment;" : Provided, That to the extent practicable, such removal and disposal of trees shall be conducted in such a manner as to protect scenic viewsheds.".

SEC. 206. MINERAL RESOURCE USE IN RECREATION AREAS.

Section 402(b) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1b) is hereby amended to read as follows:

"The lands within the recreation areas, subject to valid existing rights, are hereby withdrawn from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, and disposition under the United States mineral leasing laws; Provided, however, that within that portion of the Lake Chelan National Recreation Area which is not designated as wilderness, sand, rock and gravel may be made available for sale to the residents of Stehekin for local use so long as such sale and disposal does not have significant adverse effects on the administration of the Lake Chelan National Recreation Area.".

TITLE III.—MOUNT RAINIER NATIONAL PARK WILDERNESS

SEC. 301. DESIGNATION.

(a) WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the Mount Rainier National Park, Washington, which—

(1) compromise approximately two hundred and sixteen thousand eight hundred and fifty-five acres of wilderness, and

(2) are depicted on a map entitled "Wilderness Boundary, Mount Rainier National Park, Washington", numbered 105-20,014A and dated July 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Mount Rainier Wilderness.

SEC. 302. BOUNDARY ADJUSTMENTS.

(a) PARK BOUNDARY ADJUSTMENTS.—The boundaries of the Mount Rainier National Park as established in the Act of March 2, 1899 (30 Stat. 993), as amended; (16 U.S.C. 91-110b), are further revised to add to the Park approximately two hundred and forty acres, and to exclude from the park approximately thirty-one and one-half acres, as generally depicted on the map entitled "Mount Rainier National Park Proposed 1987 Boundary Adjustments", numbered 105-80,010B and dated January 1987, which shall be on file and available for public inspection in the Washington office of the National Park Service, United States Department of the Interior and at Mount Rainier National Park.

(b) FOREST BOUNDARY ADJUSTMENT.—The boundaries of the Snoqualmie National Forest and of the Gifford Pinchot National Forest, are hereby revised to include in the Snoqualmie National Forest approximately thirty-one and one-half acres, to exclude from the Snoqualmie National Forest approximately thirty acres, and to exclude from the Gifford Pinchot National Forest approximately two hundred and ten acres, as generally depicted on a map entitled

"Mount Rainier National Park Proposed 1987 Boundary Adjustments", numbered 105-80,010B, and dated January 1987, which shall be on file and available for public inspection in the Washington District of Columbia office of the Forest Service, United States Department of Agriculture and at the Snoqualmie and Gifford Pinchot National Forests.

(c) Administration of Park Land.—(1) Federal lands, and interests therein formerly within the boundary of the Snoqualmie National Forest and the Gifford Pinchot National Forest, which are included within the boundary of the Mount Rainier National Park pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the Park, and shall be subject to all the laws and regulations of the Park.

(2) The Secretary of the Interior is authorized to accept either concurrent or exclusive jurisdiction over lands and waters included within Mount Rainier National Park by this Act. The Secretary shall notify in writing the Governor of the State of Washington of the acceptance of any such jurisdiction ceded to the United States by the State. The existing exclusive Federal jurisdiction, where it exists in the Park, shall remain in effect until such time as the Secretary and the Governor shall agree upon the terms and conditions of concurrent legislative jurisdiction for said Park pursuant to section 320(i) of the Act of October 21, 1976 (90 Stat. 2741).

(3) Authorization of Land Acquisition.—The Secretary of the Interior is authorized to acquire from willing sellers by donation, purchase with donated or appropriated funds, exchange, bequest, or otherwise all non-Federal lands, waters, and interests therein included within the boundary of the Mount Rainier National Park pursuant to this Act.

(d) Administration of Forest Land.—(1) Federal lands, and interests therein formerly within the boundary of the Mount Rainier National Park, which are excluded therefrom and are included within the boundaries of the Snoqualmie National Forest pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of the Forest, and shall be subject to all the laws and regulations applicable to the National Forest System.

(2) For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9), the boundaries of the Snoqualmie National Forest and the Gifford Pinchot National Forest, as modified pursuant to this Act, shall be treated as if they were the boundaries of those national forests on January 1, 1965.

(3) Effective upon acceptance thereof by the State of Washington, the jurisdiction which the United States acquired over those lands excluded from the boundaries of the Mount Rainier National Park by this Act is hereby retroceded to the State.

SEC. 303. PARADISE POWERLINE.

The Secretary is authorized to upgrade, maintain and replace as necessary, the Paradise powerline from Longmire to Paradise: Provided, That to the extent practicable, such maintenance and operation shall be conducted in such a manner as to protect scenic viewsheds.

TITLE IV—GENERAL ADMINISTRATIVE PROVISIONS

(a) Administration.—Subject to valid existing rights, the wilderness areas designated under titles I, II, and III of this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated as wilderness, except that reference to the Secretary of Agriculture shall be deemed, where appropriate, to be a reference to the Secretary of the Interior, and any reference to the effective date of the Wilderness Act shall be deemed, where appropriate, to be a reference to the effective date of this Act.

(2) Lands designated as potential wilderness additions shall be administered by the Secretary of the Interior insofar as practicable as wilderness until such time as said lands are designated as wilderness. Any lands designated as potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon that are inconsistent with the Wilderness Act have ceased or that non-Federal interests in land have been acquired, shall thereby be designated as wilderness and managed accordingly.

(3) Congress does not intend that wilderness areas designated under this Act lead to the creation of protective perimeters or buffer zones around such wilderness areas. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(b) Map and Description.—(1) As soon as practicable after the effective date of this Act, the Secretary of the Interior shall file maps of the wilderness areas and legal descriptions of its boundaries with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such maps and legal descriptions shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in the maps and legal descriptions may be made. Such maps and legal descriptions of the boundaries shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the appropriate Superintendent.

(2) Boundaries adjacent to paved and unpaved roads shall be drawn as narrowly as is practicable to allow for necessary maintenance and repairs to existing roads. Such boundaries should not, in general, exceed two hundred feet from the centerline of paved roads and one hundred feet from the centerline of unpaved roads: Provided, however, That larger boundaries may be drawn only as the Secretary deems necessary to exclude from the wilderness existing developments, improvements, and structures adjacent to existing roads, as well as areas needed to maintain and repair existing roads: Provided further, That to the extent practicable, undeveloped areas adjacent to all roads shall be managed as if designated as wilderness.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. WILD AND SCENIC RIVERS.

Section 3(a), paragraph (60), of the Wild and Scenic Rivers Act, which designates the Klickitat River in the State of Washington as a component of the national wild and scenic rivers system, is amended to add the following sentence at the end of the paragraph:

"The boundaries of the designated portions of the Klickitat River shall be as generally depicted on a map dated November, 1987, and entitled 'Klickitat National Recreation River, River Management Area: Final Boundary', which is on file in the office of the Chief, Forest Service, Washington, District of Columbia.

SEC. 502. RESERVATION OF WATER RIGHTS.

Within each of the areas designated as wilderness pursuant to this Act, the Congress expressly reserves a right to all the waters that arise upon or under or flow through such areas: Provided, That this reserved right shall be exercised only to protect wilderness values within the wilderness boundaries. The priority date of such reserved rights shall be the date of enactment of this Act. The Federal water rights reserved by this Act shall be subject to valid existing water rights and shall be in addition to any water rights previously appropriated or reserved by the United States for other than wilderness purposes. The United States shall promptly claim the water rights reserved by this Act in a proceeding consistent with the McCarran Amendment (43 U.S.C. 666).

AMENDMENT NO. 3720

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. Evans), for himself and Mr. Adams, proposes an amendment numbered 3720.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, beginning on line 4, strike subsection (a) in its entirety and insert the following:

(a) Misdemeanor Penalties.—Section 3 of the Act of March 6, 1942 (56 Stat. 136; 16 U.S.C. 256(b)) is revised by deleting all after the phrase "or situated therein," and inserting the following: "shall be deemed guilty of a class B misdemeanor in accordance with provisions of Title 18 of the United States Code.".

On page 21 beginning on line 14, strike subsection (c) in its entirety and renumber Section 104(d) as Section 104(c).

On page 34, beginning on line 18, delete section 502 in its entirety and insert the following in lieu thereof:

"Subject to valid existing rights, within the areas designated as wilderness by this Act, Congress hereby expressly reserves such water rights as necessary, for the purposes for which such areas are so designated. The priority date of such rights shall be the date of enactment of this Act.".

Mr. EVANS. Mr. President, there are actually several amendments that I ask to be adopted en bloc, two technical in nature and one of them setting forth the wording agreed to today in further discussion on water rights as relates to wilderness areas.

The PRESIDING OFFICER. Is there objection to the en bloc consideration of the amendments?

If not, the amendments are agreed to en bloc.

The amendment (No. 3720) was agreed to, en bloc.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EVANS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, a little earlier the Senate passed the House bill on the Washington wilderness, and the Senate bill was brought to third reading. I ask unanimous consent that the Senate proceed to the consideration again of S. 215, the Olympic National Park wilderness, State of Washington bill, that it be passed, and that a title amendment be agreed to and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that an amendment to the title of the House bill, H.R. 4146, be agreed to and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Now, Mr. President, I ask that S. 2011 be placed back on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EVANS. Mr. President, I am pleased to support the passage of S. 2165, the Washington parks wilderness bill. This legislation will designate wilderness areas in the three national parks in my State—Olympic National Park, Mount Rainier National Park, and the North Cascades National Park Complex. I sponsored this important legislation for Washington State along with my colleague, Senator BROCK ADAMS. Companion legislation, sponsored by Congressman ROD CHANDLER, and cosponsored by Congressmen JOHN MILLER and AL SWIFT, has passed the House of Representatives. I would like to thank my colleagues from the delegation as well as their able staffs for their work and support of the passage of this bill. I would also like to thank the staff of the Senate Energy and Natural Resources Committee for their hard work on this bill, and my appreciation goes to the three Park Superintendents and their staffs for their assistance in this endeavor—Bob Chandler, Olympic National Park, John Reynolds, North Cascades National Park Service Complex, and Neal Guse, Mount Rainier National Park.

In total, this legislation will add over 1.7 million acres of wilderness to the wilderness preservation system in Washington State. For Washington State, it will virtually complete the mandate required under the 1964 Wilderness Act for designating wilderness areas on Federal land. In 1984, the Washington delegation successfully passed legislation that established wilderness on our national forest land. This bill will accomplish the same thing for those lands administered by the National Park Service. With increasing pressures on our recreational areas, I believe we must do all that we can to ensure the permanent protection of one of our Nation's most treasured assets—its national parks.

Specifically, the bill will designate 876,669 acres of wilderness and 378 acres of potential wilderness in Olympic National Park 634,614 acres of wilderness and 5,226 acres of potential wilderness in the North Cascades National Park Complex, and 216,855 acres of wilderness in Mount Rainier National Park.

Potential wilderness designation is used for lands that are either not owned by the Federal Government but are targeted for acquisition, or on which there is a nonwilderness use that the National Park Service anticipates terminating. The potential wilderness designation allows the Park Service to administratively declare the area as wilderness once it has been acquired or the nonconforming use is terminated.

All of Washington's parks were established and are managed as wilderness parks. In the short-run, this bill may not have much immediate impact. However, the long-term impact is significant. The national parks in Washington should remain wilderness parks—and this bill will accomplish that. Under the boundaries established by this bill, the development necessary to accommodate park visitor will be confined to the areas already developed, preventing further encroachment into the wilderness areas of the parks. This will ensure that the original purposes for which these parks were set aside in the first place will be protected.

What this bill will not do is to shut the park visitor out of the park—it will ensure that all future generations of park enthusiasts will be able to enjoy the same wilderness parks that we enjoy now. The parks are there to provide for recreation as well as the preservation of a natural ecosystem. Even in the wilderness area, the Park Service will be able to construct needed trails and backcountry campsites. Additionally, all the existing transportation and development corridors are excluded from wilderness designation. Those corridors include areas that the parks have deemed necessary for additional campgrounds and developed facilities to accommodate park visitors. This bill will ensure that the parks are not overrun and ruined by those who wish to visit the parks precisely because of their wildness.

I would like to address a few issues about the bill in greater detail. As I mentioned earlier, the wilderness boundaries do not encompass any presently developed areas or transportation corridors. Wilderness boundaries adjacent to roads should be drawn no further than 200 feet from the centerline of paved roads and no further than 100 feet from the centerline of unpaved roads. Larger nonwilderness boundaries may be allowed where needed to accommodate existing development, structures, and maintenance to existing roads. It is also our intent that undeveloped areas adjacent to roads that are not included within the wilderness areas, be managed as wilderness to the extent it is practicable.

Also in the legislation is a provision which includes the intertidal zone of the offshore islands located inside the Olympic National Park within the official park boundary. The intertidal zone of the islands includes a delicate and fragile ecosystem that is rich in its biological diversity. The intertidal zone is State owned, and to date, State management has worked well. However, due to recent legislation which included the offshore islands within the boundary of the Olympic National Park, the Park Service now has an active presence on the offshore islands. This presence I believe will enhance and aid the State management efforts to protect this valued resource.

Title II of the legislation deals directly with the provisions regarding the North Cascades National Park Service Complex. This section of the legislation has a provision authorizing that the lands designated as wilderness in the North Cascades National Park Service be known as the "Stephen Mather Wilderness" area. Stephen T. Mather was the founder and first Director of the National Park Service. During the hearings on S. 2165, a concern was raised that naming wilderness for Mather was perhaps an inappropriate memorial. However, while Mather, in his day may have adhered to different park management policies than those which we find popular today, I hardly feel we can come to a conclusion that he did not see the importance of wilderness. It must have been a difficult task to be the first Director of the National Park Service. Not all parks were established for the same purposes, and one would have been faced with many decisions assessing the immediate needs of these parks, and the needs of the park visitor. I am pleased that this legislation will recognize Mather's dedication to our Nation's national parks.

The Washington park wilderness bill does not include any of the privately owned lands in Stehekin as wilderness. The wilderness boundaries exclude most of the valley floor itself as well as the road up to the Cottonwood campground. I treasure the unique Western experience that Stehekin offers and intend to protect that experience. The Stehekin Valley is a remarkable area, particularly because visitors experience a taste of the old west homesteading lifestyle while at the same time maintaining accessibility to visitors of all kinds. I would not support legislation that would prevent visitors to the park from enjoying Stehekin the way they can enjoy it now.

Additionally, during the hearings held in the House of Representatives on S. 2165's companion measure, H.R. 4146, a concern was raised with the effect of wilderness designation on the Olympic National Park's backcountry shelters. It would be my presumption that designation of the park as wilderness by this act should not, in and of itself, be utilized as justification for removal of any of these structures from the park. Some of the structures may need to be removed for the purposes of environmental protection of the park. For others, repairs and stabilization may be warranted to ensure the preservation of their historic integrity. Others may serve a substantial public purpose and should be retained for its benefits to public use. It is my understanding that the National Park Service has plans to evaluate each structure on its own merits as part of the regular park backcountry management planning process. I would hope that through this plan decisions will be made with regard to future use, maintenance, relocation, stabilization, or removal as appropriate for each shelter.

The bill contains a number of general provisions that amend unclear provisions in existing law to clarify the parks' authorities. There are also some boundary adjustments involving the Mount Rainier National Park. Although small in the number of acres, the exchanges are important. Approximately 31½ acres are excluded from the park and added to the Mount Baker-Snoqualmie National Forest. On this acreage sits a portion of the Crystal Mountain ski lift. The exchange is needed so that the Crystal Mountain Resort can make necessary repairs and modifications to the lift. Rather than the Mount Rainier National Park granting a special use permit, it is preferable to both administrative agencies that the nonconforming use be deleted from the park's justification. The intention for this section is solely to solve an administrative complication associated with the ski area facilities now located on land administered by the National Park Service. While this acreage is being removed from the jurisdiction of the National Park Service, I would expect that the full interests of Mt. Rainier National Park would be recognized by the U.S. Forest Service through the existing processes including NEPA in reaching land management decisions affecting park values.

The related boundary adjustment includes a total of 240 acres of forest land to be added to the Mount Rainier National Park in the areas of Backbone Ridge and Klapatchee Point. This exchange will place two roads wholly inside the park that briefly cross over into Forest Service land. Including all of the roads inside the national park will ease management conflicts.

Subsequent to the passage of the bill from the Senate Energy and Natural Resources Committee, concerns were raised about ambiguities presented by section 502 of the bill concerning the reservation of a wilderness water right. Section 502 expressly reserves a water right for the wilderness designation of the national park lands. The original language was amended to clarify that the reservation of water extends only to that quantity necessary for the purposes of the wilderness designation.

Further, there is no preemption of State water rights. The new water rights provision will keep intact the present policy of the Department of the Interior to adhere to the State water policies in seeking to claim a water right. The amended language also ensures that all valid existing water rights, including water rights arising under the laws of the State of Washington, have a prior right to the appropriation of water. This amended language clarifies the ambiguities presented by the earlier language.

Mr. President, this legislation has been a particularly important project for me. I have been very active over the years in environmental protection. Unfortunately, I have found that environmental protection is often motivated by a rush to protect or save a resource either when it is too late or on the verge of being too late. This legislation I believe represents a responsible and rational approach to resource management. We are protecting and ensuring that the status quo for Washington State's three valued national parks will be something saved and enjoyed for generations to come. I am pleased that this bill is strongly supported in my State and I urge my colleagues to support its passage.

Mr. McCLURE. Mr. President, before the amendment had been adopted, I wanted to say that, again, this language is not what I would have proposed for a wilderness area in the State of Idaho. The Senator from Washington and I have had a number of discussions about how the water rights question would be stated with respect to these specific wildernesses within the State of Washington. I am not even certain the Senator from Washington could urge the same language in every wilderness bill for the State of Washington, but he does urge this language for these particular wildernesses within the boundaries and parks and also the headwaters and rivers that flow out of parks.

Mr. President, I do not mean to misstate what the Senator's intention is with respect to his language. I want to again state what I have stated repeatedly, that the water rights question and the intersection between Federal jurisdiction and State jurisdiction is a very sensitive one, and we ought not to invest in the Federal Government more reserve rights because of the designation of areas in a management mode as wilderness as compared to the reservation that they would have had under the designation of such areas as national forests or national parks.

In this instance, the Senator from Washington has urged that we adopt the language which has been sent to the desk as an amendment which states very clearly that there is a Federal preemption of the water rights versus the State law with respect to these headwaters of the streams that arise within and flow through the proposed wilderness areas within the boundaries of national parks in the State of Washington.

Again, that is not the kind of language I would have used, but the Senators from Washington certainly know their State and its issues and its resources and those tradeoffs and compromises far better than does the Senator from Idaho. Because it is their desire that it be stated in this way, I will not object. We have worked very carefully to try to make certain that it is a clear statement, and I believe it is a clear statement, of the intention of the Senators from Washington. I suggest that in other instances, in other wilderness areas, with a different set of tradeoffs, even the Senator from Washington might have urged a different kind of language.

Indeed, with respect to these he has made his choice and I think it is a clear statement by the Congress of what is intended and I have no objection to the adoption of the amendment or the bill.

Mr. EVANS. Mr. President, I thank the Senator from Idaho. There is no question that each area, each State, each region, deserves individual treatment. It is very difficult to make a broad and sweeping statement that would delineate appropriately the water rights for every case of national park designation, a national wilderness designation, or in this case, the designation of wilderness within a national park. My other preference was to have no language at all relating to water rights because I felt they were probably unnecessary, but certainly for these particular cases where we are talking about headwaters national parks, the rivers flow out of each of these national parks, and none flow into the national parks.

There is some question as to whether wilderness designation to what are already established as essentially wilderness parks makes any significant difference in water rights. Perhaps it does not. But to the degree it does, it was the feeling of this Senator, and I believe my colleague from Washington, that we ought to speak clearly on behalf of preserving those water rights, whatever they might be, for those particular headwater national parks and the designation of wilderness to them. I agree with the Senator from Idaho that in other circumstances in other areas there might well be different approaches.

I learned some things and failed to learn some things as the Governor of Washington. One that I learned very well was to be exceedingly careful when you are dealing with western water rights. There is no faster and better way to get into deep trouble than to tinker with what has been longstanding concerns of the first settlers and the later farmers and now all of the people who are attempting to use what, in most of the Western States, is a valuable and increasingly rare resource.

I believe we have done the right thing. I hope we have done the right thing in the language which we have adopted through this amendment.

With the passage of this bill, we will have added 1.7 million acres of wilderness within the three national parks of Washington to the 1.1 million acres of wilderness which came through the Washington Wilderness Act of 1985. It preserves for the people of this country as well as for the Northwest almost 3 million acres, I might say with some pride, of some of the finest wilderness I believe we have in this Nation.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I rise today to ask the support of my Senate colleagues in passing the Washington park wilderness bill. I would also like to take this opportunity to compliment and congratulate Senator EVANS for his consistent leadership on this issue.

The Washington park wilderness bill culminates a process begun with the Wilderness Act of 1964. This original act directed that our national parks and forests be considered for wilderness designation. Through this act, Congress voiced its concern about preserving our wilderness regions in their natural condition, undamaged by the human presence. The act was a significant step toward protecting the beauty of these areas for future generations. The bill considered today ensures the fulfillment of this worthy goal.

Fifty years ago the Olympic National Park was established to protect its pristine environment. Currently, this park is one of the most popular national parks in the country. Its ancient forests and spectacular scenery attract thousands of visitors each year. This popularity has been both a tribute and a threat to the park's beauty. As the number of park visitors grows, the natural state of the park is increasingly endangered by human intrusion. The other two areas affected by today's bill, the North Cascades and Mount Rainier National Parks, are similarly threatened by their tremendous popularity.

The Washington park wilderness bill accomplishes two objectives. First, it preserves several of the relatively few remaining pristine areas in our country. Second, it secures the benefit of an enduring wilderness resources for the enjoyment of current and future generations.

These goals will be accomplished without limiting the current activities of residents in the Stehekin Valley, located near the North Cascades National Park. Although the protection provided by this bill excludes future development in areas bordering the Stehekin Valley, I believe that the wilderness designation will help maintain the overall beauty of the recreation area, add to the quality of life for Stehekin residents and contribute to continued economic development in the region.

Mr. President, the Washington park wilderness bill is a significant step toward curbing the threat to the existence of Washington's natural wilderness areas. Visitors from all over the world, as well as those from Washington State will benefit from the foresight shown through this legislation. In addition, passage of this bill will bring Senator EVANS' efforts to fruition and allow him to leave a lasting legacy to the State he served so well. I encourage my colleagues to join Senator EVANS and myself in supporting this important measure.

I compliment him, as he is finishing his term in the Senate, on the long and consistent hard work he has put into the wilderness bill. It is a pleasure to join with him in sponsoring this bill so that EVANS and ADAMS are part of the Wilderness Act team that has completed now a wilderness area in the parks of Washington. This is a benefit not only for the people of Washington but the entire United States.

To my distinguished friend from Idaho, we are well aware of western water rights and agree that each State must settle its own differences, and we have tried to very carefully do this.

I hope we will pass this bill not only for the benefit of Washington but, more certainly and more directly, for the benefit of all of the people of the United States.

I thank the Chair.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read a third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the House companion measure, Calendar Order No. 1066, H.R. 4146; that all after the enacting clause be stricken; that the text of S. 2165, as amended, be substituted in lieu thereof; that the bill be read for the third time, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the bill (H.R. 4146), as amended, was passed.

The title was amended so as to read: "A bill to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Service complex in the State of Washington, and for other purposes."

VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2011.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2011) to increase the rates of Veterans' Administration compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits and Programs Improvement Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.
TITLE I—COMPENSATION AND RELATED BENEFITS
Sec. 101. Disability compensation and dependency and indemnity compensation cost-of-living adjustments.
Sec. 102. Expansion of clothing allowance.
TITLE II—AGENT ORANGE AND RELATED PROVISIONS
Sec. 201. Short title.
Sec. 202. Interim period for award of benefits for Vietnam veterans with non-Hodgkin's lymphoma.
Sec. 203. Presumptive service connection of chloracne for Vietnam veterans.
Sec. 204. Extension of health-care eligibility based on agent orange or radiation exposure.
Sec. 205. Income exclusion of certain payments for purposes of eligibility for certain needs-based veterans' benefits.
Sec. 206. Agent orange scientific evidence review.
Sec. 207. Modification of procedures for consideration of certain studies.
TITLE III—EDUCATION AND REHABILITATION
Part A—Rehabilitation for Veterans with Service-Connected Disabilities
Sec. 301. Training and work experience without pay in State and local government agencies.
Sec. 302. Removal of bar to use of for-profit organizations for employment assistance and independent living programs.
Sec. 303. Extension of temporary programs of trial work periods and vocational-rehabilitation evaluations.
Part B—Education Programs
Subpart 1—Montgomery GI Bill Provisions
Sec. 311. Eligibility for individuals discharged for pre-service medical conditions or due to reductions in force.
Sec. 312. Opportunity for enrollment for certain active-duty nonparticipants.
Sec. 313. Secondary school diploma requirements.
Sec. 314. Choice of benefits for certain reservists.
Subpart 2—Provisions Relating to Montgomery GI Bill and Certain Other Programs
Sec. 321. Refresher, remedial, and deficiency courses.
Sec. 322. Tutorial assistance.
Sec. 323. Cooperative training.
Sec. 324. Tolling of delimiting periods by reason of drug or alcohol conditions.
Subpart 3—Administrative and Miscellaneous Provisions
Sec. 331. Course withdrawals.
Sec. 332. Funding of educational and vocational counseling services.
Sec. 333. Measurement of full-time study.
Sec. 334. Educational assistance for certain incarcerated veterans under the Post-Vietnam Era Veterans' Educational Assistance Program.
Sec. 335. Veterans' Advisory Committee on Education.
Sec. 336. Vietnam-era GI Bill eligibility for certain service academy graduates.
Sec. 337. Repeal of expired program of accelerated-payment loans.
Part C—Non-Service-Connected Disability Pension Recipient's Vocational Training Program
Sec. 341. Extension of program period.
TITLE IV—MISCELLANEOUS BENEFITS PROVISIONS
Part A—Insurance Programs
Sec. 401. Payment of interest on settlements.
Sec. 402. Adjustment of discount rates for advance payment of premiums.
Part B—State Cemetery Construction Grant Program
Sec. 411. Extension of authorization of appropriations.
Part C—Home Loan Guaranty Program
Sec. 421. Waiver of indebtedness.
TITLE V—BOARD OF VETERANS' APPEALS
Sec. 501. Independence of the Chairman.
Sec. 502. Timeliness of dispositions.
Sec. 503. Appointment and removal of the Chairman and members.
Sec. 504. Salary of Chairman.
Sec. 505. Reports on Board activities and resources.
Sec. 506. Prohibition of bonuses for members.
Sec. 507. Voting by the Board.
Sec. 508. Decisions of the Board.
Sec. 509. Reopening of disallowed claims.
Sec. 510. Notice and content of decisions.
Sec. 511. Prohibition against presumption of agreement.
Sec. 512. Medical opinions.
Sec. 513. Adjudication procedures.
Sec. 514. Notices of procedures.
Sec. 515. Effective date of awards in reopened cases.
Sec. 516. Attorneys' fees.
TITLE VI—HEALTH CARE
Part A—Programs Relating to Post-Traumatic Stress Disorder and Mental Health
Sec. 601. Care for Vietnam veterans with service-related post-traumatic stress disorder.
Sec. 602. Special Committee on Post-Traumatic Stress Disorder.
Sec. 603. Study of psychological problems among Asian-American, American-Indian, Native-Hawaiian, other Native-American Pacific Islander (including American Samoan Native), and Alaska Native Vietnam veterans.
Sec. 604. Mental illness research, education, and clinical centers.
Sec. 605. Readjustment counseling eligibility extension.
Sec. 606. Community-based alcohol and drug treatment services.
Part B—Other Health-Care Programs
Sec. 611. Respite care.
Sec. 612. Contracts and grants for care in the Philippines.
Sec. 613. Sharing of specialized medical resources.
Sec. 614. State Home construction grants.
Sec. 615. Pilot programs for providing assistive animals.
Part C—Health-Care Personnel
Sec. 621. Appointment of Veterans' Administration-trained personnel.
Sec. 622. Approval of special rates of pay.
Sec. 623. Health professional scholarship awards.
Sec. 624. Assistance to health-personnel educational institutions.
Sec. 625. Pilot program of pay and personnel management practices.
Sec. 626. Conversion of non-physician medical center directors to the Senior Executive Service.
Sec. 627. Disciplinary actions and grievances.
TITLE VII—MISCELLANEOUS
Sec. 701. Definition of Vietnam era.
Sec. 702. Extension of authority for regional office in the Philippines.
Sec. 703. Use of Internal Revenue Service and Social Security Administration data for income verification.
Sec. 704. Procurement through local contracts.
Sec. 705. Technical corrections.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND RELATED BENEFITS

SEC. 101. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION COST-OF-LIVING ADJUSTMENTS.

(a) In General.—(1) The Administrator of Veterans' Affairs shall, as provided in paragraph (2), increase, effective December 1, 1988, the rates of and limitations on Veterans' Administration disability compensation and dependency and indemnity compensation.

(2)(A) In the case of each of the rates and limitations in sections 314, 315(1), 362, 411, 413, and 414 of title 38, United States Code, that were increased by amendments made by title I of the Veterans' Compensation Cost-of-Living Adjustment Act of 1987 (Public Law 100-227), the Administrator shall further increase such rates and limitations, as in effect on November 30, 1988, by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1987, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts not in even dollar amounts shall be rounded to the next lower dollar amount.

(b) Special Rule.—The Administrator may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) Publication Requirement.—At the same time as the matters specified in section 215(i)(2)(D), of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1989, the Administrator shall publish in the Federal Register the rates and limitations being increased under this section and the rates and limitations as so increased.

SEC. 102. EXPANSION OF CLOTHING ALLOWANCE.

The text of section 362 is amended to read as follows:

"The Administrator, under regulations which the Administrator shall prescribe, shall pay a clothing allowance of $380 per year to each veteran who because of disability which is compensable under this chapter—

"(A) wears or uses prosthetic or orthopedic appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such veteran, or

"(B) uses medication which (i) has been prescribed for a service-connected skin condition, and (ii) the Administrator determines stains or otherwise damages such veteran's clothing.".

TITLE II—AGENT ORANGE AND RELATED PROVISIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Agent Orange Exposure Benefits Act of 1988".

SEC. 202. INTERIM PERIOD FOR AWARD OF BENEFITS FOR VIETNAM VETERANS WITH NON-HODGKIN'S LYMPHOMA.

(a) PRESUMPTIVE DISABILITY AND DEATH BENEFITS.—(1) In the case of a veteran—

(A) who served in the active military, naval, or air service in the Republic of Vietnam during the Vietnam era; and

(B) who has non-Hodgkin's lymphoma,

the Administrator shall, except as provided in subsection (b), pay a monthly disability benefit to the veteran in accordance with this section for any disability resulting from that disease.

(2) If a veteran described in paragraph (1) dies from non-Hodgkin's lymphoma, the Administrator shall pay a monthly death benefit to the survivors of the veteran in accordance with this section.

(b) EXCEPTIONS.—Benefits may not be paid under this section with respect to non-Hodgkin's lymphoma occurring in a veteran—

(1) where there is affirmative evidence that such disease was not incurred by the veteran during service in the Republic of Vietnam during the Vietnam era; or

(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of such disease was suffered by the veteran between the date of the veteran's most recent departure from the Republic of Vietnam during active military, naval, or air service and the onset of non-Hodgkin's lymphoma.

(c) BENEFIT AMOUNTS.—(1) A disability benefit payable to a veteran under this section for a disability resulting from non-Hodgkin's lymphoma shall be paid at the rate at which compensation would be payable under chapter 11 of title 38, United States Code, to that veteran for the disability resulting from that disease if the disability were determined to be service connected.

(2) A death benefit payable under this section to the survivors of a veteran shall be paid to such survivors based upon the eligibility requirements (other than the requirement that the death be the result of a service-connected or compensable disability) for, and at the rates that are applicable to, dependency and indemnity compensation under chapter 13 of that title.

(d) NON-DUPLICATION OF BENEFITS.—A benefit may not be paid under this section with respect to a disability resulting from non-Hodgkin's lymphoma or the death of a veteran for any month for which compensation is payable to the veteran for that disability under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of that title.

(e) TREATMENT OF DISABILITY OR DEATH AS SERVICE-CONNECTED EXCEPT FOR COMPENSATION AND PENSION PURPOSES.—A disability or death from non-Hodgkin's lymphoma establishing eligibility for a disability or death benefit under this section shall be treated for purposes of all laws of the United States (other than the provisions of chapters 11 (other than sections 357, 358, and 361) of title 38, United States Code, and chapter 13 of such title) as if such disease were service-connected. The receipt of a disability benefit under this section shall be treated for purposes of all laws of the United States as if such benefit were disability compensation under chapter 11 of such title, and the receipt of a death benefit under this section shall be treated for purposes of all other laws of the United States as if such benefit were dependency and indemnity compensation under chapter 13 of title 38, United States Code.

(f) DEFINITIONS.—For the purposes of this section, the terms, "Administrator", "veteran", "service-connected", and "active military, naval, or air service" have the meanings given those terms in paragraphs (1), (2), (16), and (24), respectively, of section 101 of title 38, United States Code.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 15, 1989. No benefit may be paid for any period before such date by reason of the enactment of this Act.

(h) EXPIRATION OF INTERIM PERIOD.—The provisions of this section shall not apply with respect to any claim for benefits filed more than six months after the Centers for Disease Control submits to the Administrator its report on the results of the Selected Cancers Study conducted pursuant to section 307 of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note).

(i) ADMINISTRATIVE SUSPENSION OF PROVISIONS.—The Administrator may suspend the provisions of this section with respect to claims submitted after the date on which the Administrator publishes in the Federal Register a notice of the suspension if the Administrator finds, based on the results of such Selected Cancers Study and the reports submitted, pursuant to section 307 of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. section 219 note), as amended by section 207 of this Act, by the panel of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to dioxin and by the Director of the Office of Technology Assessment on the Selected Cancers Study that the results of such study, together with any other scientific evidence then available, do not support an association between non-Hodgkin's lymphoma and service in the Republic of Vietnam during the Vietnam era.

SEC. 203. PRESUMPTIVE SERVICE CONNECTION OF CHLORACNE.

Section 312 is amended by adding at the end the following new subsection:

"(d) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who served in the active military, naval, or air service in the Republic of Vietnam during the Vietnam era, the disease of chloracne, where it or another acneform skin disease consistent with chloracne became manifest to a degree of 10 percent or more within one year after the last date on which the veteran served in the Republic of Vietnam during such era, shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.".

SEC. 204. EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR IONIZING RADIATION EXPOSURE.

Section 610(e)(3) is amended by striking out "September 30, 1989" and inserting in lieu thereof "December 31, 1990".

SEC. 205. INCOME EXCLUSION OF CERTAIN PAYMENTS FOR PURPOSES OF ELIGIBILITY FOR CERTAIN NEEDS-BASED VETERANS' BENEFITS.

(a) PARENTS' DEPENDENCY AND INDEMNITY COMPENSATION.—Section 415(f)(1) is amended—

(1) in clause (M), by striking out the period at the end and inserting in lieu thereof a semicolon; and

(2) by adding at the end the following new clause:

"(N) payments which (i) are received in any twelve-month period beginning on December 1 in settlement of, or as the result of a judgment in, litigation based on a death alleged to have been incurred as a result of events that occurred during the active-duty service of the veteran concerned, and (ii) do not exceed the maximum annual rate payable under section 521 (b), (c), or (f) of this title for a veteran with the same marital and parental status as the individual concerned.".

(b) PENSION AND HEALTH CARE.—Section 503(a) is amended—

(1) in paragraph (9), by striking out "and" at the end;

(2) in paragraph (10), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(11) payments which (i) are received in any twelve-month period beginning on December 1 in settlement of, or as the result of a judgment in, litigation based on a disability or death alleged to have been incurred as a result of events that occurred during the active-duty service of the veteran concerned, and (ii) do not exceed the maximum annual rate payable under section 521 (b), (c), or (f) of this title for a veteran with the same marital and parental status as the individual concerned.".

SEC. 206. AGENT ORANGE SCIENTIFIC EVIDENCE REVIEW.

(a) CONTRACT FOR REVIEW.—(1) Within 60 days after the date of the enactment of this section, the Administrator of Veterans' Affairs is directed to conclude negotiations for and enter into an agreement with the National Academy of Sciences under which the Academy will conduct a review of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds and prepare the comprehensive report described in subsection (b). The Academy will conduct the review and prepare such report under an arrangement under which the actual expenses incurred by the Academy in conducting the review will be paid by the Administrator.

(2)(A) If the National Academy of Sciences is not willing to conduct the review and prepare the report described in paragraph (1) under the type of arrangement described in such paragraph, the Administrator shall enter into a similar arrangement with an *appropriate nonprofit private scientific entity for such purposes.*

(B) The Administrator may not obligate any funds under such an arrangement with a nonprofit private scientific entity as described in subparagraph (A) until specifically authorized to do so by a law enacted after the date on which this section is enacted.

(b) REPORT.—Not later than October 1, 1989, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives and make available to the public a comprehensive report prepared pursuant to an arrangement described in subsection (a)—

(1) describing the review conducted under subsection (a); and

(2) containing a statement of the conclusions of the Academy or such other entity as conducts the review, based on such review, as to the weight of the evidence on the human health effects of exposure to agent orange and its component compounds.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for carrying out a study conducted pursuant to subsection (a) of this section $1,000,000 for fiscal year 1989 to remain available until expended.

(d) AVAILABILITY OF CONTRACT AUTHORITY.—The authority provided in this section to enter into a contract shall be effective for a fiscal year to the extent or in such amount as is provided for in an appropriation Act.

SEC. 207. MODIFICATION OF PROCEDURES FOR CONSIDERATION OF CERTAIN STUDIES.

(a) EVALUATION AND CONSIDERATION OF PUBLIC LAW 96-151 VIETNAM VETERANS EPIDEMIOLOGICAL STUDIES.—Section 307 of the Veterans' Health Programs Extension and Improvement Act of 1979 (38 U.S.C. 219 note) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Not later than 60 days after the publication of any report by, or at the request of, the entity responsible for carrying out the study under section (a)(1)(A) setting forth results and findings from such study—

"(A) the panel of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to dioxin, established pursuant to section 6(d)(2) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542; 38 U.S.C. 354 note), shall review and evaluate such results and findings, and provide a written report to the Administrator and the Committees on Veterans' Affairs of the Senate and House of Representatives, setting forth such panel's evaluation of such results; and

"(B) the Director shall review and evaluate such results and findings and provide a written report to the Administrator and the Committees on Veterans' Affairs of the Senate and House of Representatives, setting forth the Director's evaluation of such results.

"(2)(A) Not later than 60 days after receiving both of the reports under paragraph (1), the Administrator, after consideration of the evaluations set forth in such reports, the comments and recommendations, if any, included therein, and any other available pertinent scientific information, shall evaluate the need for any amendments to regulations prescribed pursuant to section 5 of such Act and shall advise the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's decision, and the reasons therefor, regarding the need for any such amendments.

"(B) To the extent that the Administrator determines under subparagraph (A) that any amendments to such regulations are needed, the Administrator, not later than 120 days after receiving the reports under paragraph (1), shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

(b) EVALUATION AND CONSIDERATION OF OTHER VIETNAM-VETERAN RELATED STUDIES.—Section 6 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542; 38 U.S.C. 354 note) is amended—

(1) by redesignating subsections (e), (f), and (g) as (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) Not later than 60 days after receiving a report from the Council under subsection (d)(3) recommending any amendments to the regulations prescribed pursuant to section 5, the Administrator, after consideration of the findings and evaluations set forth in such report, the comments and recommendations, if any, included therein, and any other available pertinent scientific information, shall evaluate the need for any such amendments and shall advise the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's decision, and the reasons therefor, regarding the need for any such amendments.

"(2) To the extent that the Administrator determines under paragraph (1) that any amendments to such regulations are needed, the Administrator, not later than 120 days after receiving such report, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

(c) EVALUATION AND CONSIDERATION OF PUBLIC LAW 98-160 IONIZING RADIATION-EXPOSED VETERANS EPIDEMIOLOGICAL STUDY.—Section 601(a) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 38 U.S.C. 219 note) is amended—

(1) by redesignating paragraphs (6) and (7) as (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6)(A) Not later than 60 days after the publication of any report by, or at the request of, the entity responsible for carrying out the study under section (a)(1)(A) setting forth results and findings from such study—

"(i) the panel of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to ionizing radiation, established pursuant to section 6(d)(2) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542; 38 U.S.C. 354 note), shall review and evaluate such results and findings, and provide a written report to the Administrator and the Committees on Veterans' Affairs of the Senate and House of Representatives, setting forth such panel's evaluation of such results; and

"(ii) the Director shall review and evaluate such results and findings and provide a written report to the Administrator and the Committees on Veterans' Affairs of the Senate and House of Representatives, setting forth the Director's evaluation of such results.

"(B)(i) Not later than 60 days after receiving both of the reports under subparagraph (A), the Administrator, after consideration of the evaluations set forth in such reports, the comments and recommendations, if any, included therein, and any other available pertinent scientific information, shall evaluate the need for any amendments to regulations prescribed pursuant to section 5 of such Act and shall advise the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's decision, and the reasons therefor, regarding the need for any such amendments.

"(ii) To the extent that the Administrator determines under division (i) that any amendments to such regulations are needed, the Administrator, not later than one hundred twenty days after receiving the reports under subparagraph (A), shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

TITLE III—EDUCATION AND REHABILITATION

PART A—REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

SEC. 301. TRAINING AND WORK EXPERIENCE WITHOUT PAY IN STATE AND LOCAL GOVERNMENT AGENCIES.

Section 1515 is amended—

(1) in subsection (a)(1), by inserting ", or of any State or local government agency receiving Federal financial assistance," after "Administration)".

(2) in subsection (b)—

(A) in paragraph (1), by inserting "at a Federal agency" after "section"; and

(B) by striking out paragraph (3) and inserting in lieu thereof:

"(3) Use of the facilities of a State or local government agency under subsection (a)(1) of this section or use of facilities and services under subsection (a)(4) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

"(4) The Administrator shall prescribe regulations providing for the monitoring of training and work experiences provided under such subsection (a)(1) at State or local government agencies and otherwise ensuring that such training or work experience is in the best interest of the veteran and the Federal Government.".

SEC. 302. REMOVAL OF BAR TO USE OF FOR-PROFIT ORGANIZATIONS FOR EMPLOYMENT ASSISTANCE AND INDEPENDENT LIVING PROGRAMS.

(a) EMPLOYMENT ASSISTANCE.—Section 1517(a)(2)(C) is amended—

(1) by striking out "and" at the end of subclause (iii); and

(2) by inserting before the period at the end ", and (v) any for-profit entity in a case in which the Administrator has determined that services necessary to provide such assistance are available from such entity and that comparably effective services are not available, or cannot be obtained cost-effectively, from the entities described in subclauses (i) through (iv) of this clause.".

(b) INDEPENDENT LIVING PROGRAMS.—Section 1520(a) is amended—

(1) in paragraph (1), by striking out "public" and all that follows through "organizations" and inserting in lieu thereof "entities described in paragraph (7) of this subsection"; and

(2) by adding at the end the following new paragraph:

"(7) Entities described in this paragraph are (A) public or nonprofit agencies or organizations, and (B) for-profit entities in cases in which the Administrator determines that services comparable in effectiveness to

services available from such an entity are not available, or cannot be obtained cost-effectively from, public or nonprofit agencies or through facilities of the Department of Medicine and Surgery.".

SEC. 303. EXTENSION OF TEMPORARY PROGRAMS OF TRIAL WORK PERIODS AND VOCATIONAL-REHABILITATION EVALUATIONS.

Section 363(a)(2)(B) is amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1990".

PART B—EDUCATION PROGRAMS

Subpart 1—Montgomery GI Bill Provisions

SEC. 311. ELIGIBILITY FOR INDIVIDUALS DISCHARGED FOR PRE-SERVICE MEDICAL CONDITIONS OR DUE TO REDUCTIONS IN FORCE.

(a) PROVISION OF ELIGIBILITY.—Subchapter II of chapter 30 is amended by adding at the end the following new section:

"§ 1417. Limited entitlement for certain veterans

"(a) A veteran described in subsection (b) of this section is entitled to one month of basic educational assistance under this chapter (or the equivalent thereof in part-time educational assistance) for each full month of active duty served by such individual after the date of the beginning of the period for which the individual's basic pay is reduced under section 1411(b), 1412(c), or 1418(c) of this title.

"(b) A veteran described in this subsection is a veteran—

"(1) who is not otherwise entitled to basic educational assistance under this chapter;

"(2) whose basic pay was reduced in accordance with section 1411(b), 1412(c), or 1418(c) of this title;

"(3) who, before completion of the service described in section 1411(a)(1)(A), 1412(a)(1)(A), or 1418(b)(3) of this title, as applicable—

"(A) was discharged or released from service on active duty or in the Selected Reserve for a medical condition which preexisted such service and which the Administrator determines is not service connected, or

"(B) was involuntarily discharged or released from such service for the convenience of the Government as a result of a reduction in force; and

"(4) who, but for being discharged or released before completing such service, would have been entitled to basic educational assistance under this chapter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect—

(1) as of July 1, 1985, with respect to veterans described in subsection (b)(3)(A) of section 1417 of title 38, United States Code, as added by such amendment; and

(2) as of October 1, 1987, with respect to veterans described in subsection (b)(3)(B) of such section.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 30 is amended by inserting after the item relating to section 1416 the following new item:

"1417. Limited entitlement for certain veterans.".

SEC. 312. OPPORTUNITY FOR ENROLLMENT FOR CERTAIN ACTIVE-DUTY NON-PARTICIPANTS.

(a) IN GENERAL.—Subchapter II of chapter 30 is further amended by adding at the end (after the section added by section 311(a)) the following new section:

"§ 1418. Opportunity for certain active-duty personnel to withdraw election not to enroll

"(a) Notwithstanding any other provision of this chapter, during the 120-day period during fiscal 1989 selected by the Secretary of Defense (hereinafter referred to as the 'open period'), individuals who entered on active duty during the period beginning July 1, 1985, and ending June 30, 1988, and are serving on active duty during the open period shall have the opportunity in accordance with this section to withdraw an election made under section 1411(b) or 1412(c) of this title not to become entitled to educational assistance under this chapter.

"(b) An individual described in section 1411(a)(1)(A) or section 1412(a)(1)(A) of this title who made an election under section 1411(b) or 1412(c) of this title and who—

"(1) while serving on active duty during the open period, makes a withdrawal of such an election;

"(2) at the time of such withdrawal of election accepts an obligation to serve on active duty for a period of at least two years in addition to any period of active duty which, at the beginning of the open period, such individual was obligated to serve;

"(3)(A) serves such additional period of two years of obligated active-duty service;

"(B) after beginning to serve, but before completing, such additional period is discharged or released from active duty for a service-connected disability or for hardship; or

"(C) is discharged or released for the convenience of the Government after completing not less than 20 months of such additional period;

"(4) before completion of the service described in clause (3) of this subsection, has received a secondary school diploma (or an equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary); and

"(5) after completion of such service—

"(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to basic educational assistance under this chapter.

"(c) The basic pay of an individual withdrawing under subsection (b)(1) of this section an election under section 1411(b) or 1412(c) of this title shall, for each of the first twelve months of the period of active duty for which the individual becomes obligated to serve as described in subsection (b)(2) of this section be reduced by $100.".

(b) CONFORMING AMENDMENTS.—(1) Section 1413 is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

"(c)(1) Subject to section 1795 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 1418 of this title is entitled to 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance).

"(2) An individual described in section 1418(b)(3)(B) of this title is entitled to one month of educational assistance for each month of active duty served by the individual after the date of the beginning of the period for which an individual's basic pay is reduced under section 1418(c) of this title.".

(2) Section 1416 is amended by adding as the end the following new subsection:

"(c) A member of the Armed Forces who—

"(1) completes at least two years of service on active duty after June 30, 1985, including the first twelve months of the additional period of active duty described in section 1418(b)(2) of this title;

"(2) after such service continues on active duty without a break in service; and

"(3) but for section 1418(b)(3)(A) of this title would be entitled to basic educational assistance under this chapter,

may receive such assistance for enrollment in an approved program of education while continuing to perform the service described in such section 1418(b)(3)(A).".

(3) Section 1421(a) is amended—

(A) in the matter preceding clause (1), by inserting "or 1418" after "section 1411"; and

(B) in clause (1), by inserting "or 1418(b)(3)" after "section 1411(a)(1)".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 30 is amended by inserting after the item relating to section 1417 (as added by section 311(b) of this Act) the following new item:

"1418. Opportunity for certain active-duty personnel to withdraw election not to enroll.".

SEC. 313. SECONDARY SCHOOL DIPLOMA REQUIREMENTS.

(a) ACTIVE-DUTY PARTICIPANTS.—Sections 1411(a) and 1412(a) are each amended by striking out clause (2) and inserting in lieu thereof the following:

"(2) who received a secondary school diploma (or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary) before (A) in the case of an individual to whom clause (1)(A) of this subsection applies, completing the service described in such clause, or (B) in the case of an individual to whom clause (1)(B) of this subsection applies, initiating pursuit of a program of education with educational assistance under this chapter; and".

(b) SELECTED RESERVE PARTICIPANTS—Section 2132(a)(2) of title 10, United States Code, is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or an equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

SEC. 314. CHOICE OF BENEFITS FOR CERTAIN RESERVISTS.

Section 1412 is further amended—

(1) in subsection (b)(1), by striking out all after "Selected Reserve" and inserting in lieu thereof "(A) for a service-connected disability, (B) for hardship, or (C) in the case of an individual discharged or released after completing three and one-half years of such service, for the convenience of the Government.".

(2) by adding at the end the following new subsection:

"(e)(1) An individual described in subsection (b)(1)(A) of this section may elect entitlement to basic educational assistance under section 1411 of this title, based on an initial obligated period of active duty of two years, in lieu of entitlement to assistance under this section.

"(2) An individual who makes the election described in paragraph (1) of this subsection shall, for all purposes of this chapter, be considered entitled to educational assistance solely under section 1411 of this title. Such an election is irrevocable.".

Subpart 2—Provisions Relating to Montgomery GI Bill and Certain Other Programs

SEC. 321. REFRESHER, REMEDIAL, AND DEFICIENCY COURSES.

(a) MONTGOMERY GI BILL.—(1) Section 1434(a) is amended—

(A) by inserting "(1)" before "Except";

(B) by designating the second sentence as paragraph (2) thereof;

(C) in paragraph (2) (as so designated) by striking out "those provisions" and inserting in lieu thereof "the provisions of the sections enumerated in paragraph (1) of this subsection"; and

(D) adding at the end the following new paragraph:

"(3)(A) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in a deficiency, remedial, or refresher course or courses offered by an appropriate educational institution and required for, or preparatory to, the pursuit of an approved program of education.

"(B) Educational assistance under this chapter shall be provided without charge to entitlement for the first five months of full-time pursuit of a program consisting of such course or courses.".

(2) Section 2136(b) of title 10, United States Code, is amended—

(A) by inserting "(1)" before "Except";

(B) in paragraph (1) (as redesignated by clause (1)), by striking out "and 1683" and inserting in lieu thereof "1683, and 1691(a)(2)"; and

(C) adding at the end the following new paragraph—

"(2) Educational assistance provided under this chapter pursuant to the provisions of section 1691(a)(2) of title 38 shall be provided without charge to entitlement for the first five months of full-time pursuit consisting of such course or courses.".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1641 is amended—

(1) in subsection (a) by—

(A) inserting "(1)" after "(a)"; and

(B) by adding at the end following new paragraph:

"(2)(A) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in a deficiency, remedial, or refresher course or courses offered by an appropriate educational institution and required for, or preparatory to, the pursuit of an approved program of education.

"(B) Educational assistance under this chapter for the first five months of full-time pursuit of a program consisting of such course or courses shall be provided without charge to entitlement and paid from the Veterans' Administration appropriation account for readjustment benefits."; and

(2) in subsection (b) by striking out "1691(a)(1)" and inserting in lieu thereof "1691(a)".

(c) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.—Subsection (a) of section 1733 is amended to read as follows:

"(a)(1) The Administrator may approve the enrollment of any eligible person under this chapter in any appropriate course or courses as may be approved for an eligible veteran under section 1691(a) (if pursued in a State) of this title.

"(2) Educational assistance under this chapter for the first five months of full-time pursuit of a program consisting of such course or courses shall be provided without charge to entitlement.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c), shall take effect on September 30, 1989

(e) REPORT.—Not later than February 1, 1991, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the use of educational assistance under the amendments made by this section with and without charge to entitlement during fiscal years 1989 and 1990.

SEC. 322. TUTORIAL ASSISTANCE.

(a)(1) ASSISTANCE UNDER THE MONTGOMERY GI BILL ACTIVE DUTY.—Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1419. Tutorial assistance

"(a) An individual entitled to an educational assistance allowance under this chapter shall also be entitled to the benefits provided an eligible veteran under section 1692 of this title.

"(b) The individual's period of entitlement under this chapter shall be charged with one-half month for each $300 of such benefits received.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1416 the following new item:

"1419. Tutorial assistance.".

(b) ASSISTANCE UNDER THE MONTGOMERY GI BILL SELECTED RESERVE.—Section 2131(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "Educational" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, educational"; and

(2) by adding at the end the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, a person entitled to educational assistance under this chapter shall also be entitled to tutorial assistance under this chapter in the same manner and amount, to the same extent, and under the same conditions as provided under section 1692 of title 38, except that such person's period of entitlement under this chapter shall be charged with one-half month for each $140 of tutorial assistance received.".

(c) POST-VIETNAM ERA EDUCATIONAL ASSISTANCE PROGRAM.—(1) Subchapter III of chapter 32 of title 38, United States Code, is amended by inserting after section 1633 the following new section:

"§ 1634. Tutorial assistance

"(a)(1) An individual entitled to benefits under this chapter shall also be entitled to the benefits provided an eligible veteran under section 1692 of this title.

"(2) The individual's period of entitlement under this chapter shall be charged with one-half month for each $225 of such benefits received.

"(b) Payments of benefits under this section shall be made out of funds available for payments under such section 1692.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1633 the following new item:

"1634. Tutorial Assistance.".

(d) INCREASE IN MAXIMUM TUTORIAL ASSISTANCE PAYMENTS.—(1) Section 1692(b) of title 38, United States Code, is amended by striking out "$84" and "$1,008" and inserting in lieu thereof "$100" and "$1,200", respectively.

(2)(A) The heading of section 1692 of such title is amended to read as follows:

"§ 1692. Tutorial assistance".

(B) The item relating to section 1692 in the table of sections at the beginning of chapter 34 is amended to read as follows:

"1692. Tutorial assistance.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1988.

SEC. 323. COOPERATIVE TRAINING.

(a) MONTGOMERY GI BILL.—(1) Section 1402(3)(B) is amended—

(A) by inserting "(i)" after "includes"; and

(B) by inserting before the period at the end ", and (ii) in the case of an individual who is not serving on active duty, a cooperative program (as defined in section 1682(a)(2) of this title)".

(2) Section 1432 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly basic educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such individual under section 1415 of this title.

"(2) For each month that an individual is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month.".

(b) POST-VIETNAM-ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 1602(2)(B) is amended—

(A) by inserting "(i)" after "includes"; and

(B) by inserting before the period at the end ", and (ii) in the case of an individual who is not serving on active duty, a cooperative program (as defined in section 1682(a)(2) of this title)".

(2) Section 1631 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly benefit payment to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly benefit otherwise payable to such individual (computed on the basis of the formula provided in subsection (a)(2) of this section).

"(2) For each month that an individual is paid a monthly benefit payment for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate 80 percent of a month.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1988.

SEC. 324. TOLLING OF DELIMITING PERIODS BY REASON OF DRUG OR ALCOHOL CONDITIONS.

(a) EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ALL-VOLUNTEER FORCE.—Section 1431(d) is amended—

(1) in clause (1), by inserting, "or because of a condition (and under the circumstances) described in paragraph (2) of this subsection" after "misconduct";

(2) in clause (2), by redesignating subclauses (A) and (B) as subclauses (i) and (ii);

(3) by redesignating clauses (1) and (2) as clauses (A) and (B);

(4) by inserting "(1)" before "In"; and

(5) by inserting at the end the following new paragraph:

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection is an alcohol or drug dependence or abuse condition of an eligible individual in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such individual has received recognized treatment or participated in a program of rehabiliation for the condition, and

"(ii) the condition is sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1)(B) of this subsection, an eligible individual's application for an extension of the ten-year period for use of entitlement under this chapter because of such a condition may be granted if such individual files an application for the extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) The period of time during which, based on the existence of such a condition, such ten-year period does not run shall not exceed the lesser of—

"(I) the period during which the eligible individual was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as such individual demonstrates, to the satisfaction of the Administrator, that such individual was prevented by the condition from initiating or completing such program of education, or

"(II) four years.

"(iii) When such an extension is granted, the ten-year period with respect to the individual will again begin running on whichever of the following first occurs:

"(I) The first day, following the condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with the regulations prescribed pursuant to subparagraph (A) of this paragraph, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(II) The day after the fourth year of the extension.".

(b) PROGRAMS OF REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Section 1503(b)(1) is amended—

(1) by inserting "(A)" before "In";

(2) in subparagraph (A), as so redesignated, by inserting "(other than a condition described in subparagraph (B)(ii) of this paragraph)" after "medical condition"; and

(3) by inserting at the end the following new subparagraph:

"(B)(i) Subject to clauses (iii) and (iv) of this subparagraph, in any case in which the Administrator determines, under regulations which the Administrator shall prescribe, that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in clause (ii) of this subparagraph made it infeasible for the veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that the veteran was so prevented from participating in such a program.

"(ii) A condition referred to in clause (i) of this subparagraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) the veteran has received recognized treatment or has participated in a program of rehabilitation for the condition, and

"(II) the condition is sufficiently under control to enable the veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Clause (i) of this subparagraph applies only if the veteran has filed an application under this paragraph not later than one year after whichever of the following last occurs:

"(I) The last date of the period of eligibility otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to clause (i) of this subparagraph are published in the Federal Register.

"(iv) The period of time during which, pursuant to clause (i) of this subparagraph, the twelve-year period of eligibility does not run shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for a condition described in clause (ii) of this subparagraph plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, or

"(II) four years.

"(v) When pursuant to clause (i) of this subparagraph a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on whichever of the following first occurs:

"(I) The first day, following such condition becoming sufficiently under control to enable the veteran to participate in such program of vocational rehabilitation, on which it is reasonably feasible, as determined in accordance with the regulations prescribed pursuant to clause (i) of this subparagraph, for the veteran to initiate or resume participation in such a program.

"(II) The period of time during which that twelve-year period of eligibility has, pursuant to such clause, been stopped from running equals four years.".

(c) EDUCATIONAL ASSISTANCE FOR POST-VIETNAM ERA VETERANS.—Section 1632(a) is amended—

(1) in paragraph (2)(A)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4)(A) of this section," after "misconduct,"; and

(B) by inserting "(except as provided in paragraph (4)(B) of this subsection)" after "length of time";

(2) in paragraph (3), by inserting "because of such disability" after "subsection"; and

(3) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) the veteran has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible veteran may be granted an extension of the applicable delimiting period because of such a condition if the veteran files an application for such extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by the condition from initiating or completing such program of education, or

"(II) four years.

"(iii) When such an extension is granted, the delimiting period with respect to the veteran will again begin running on whichever of the following first occurs:

"(I) The first day, following the condition becoming sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for the veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(II) The day after the end of the fourth year of the extension.".

(d) EDUCATIONAL ASSISTANCE FOR VIETNAM-ERA VETERANS.—Section 1662(a) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection," after "misconduct"; and

(B) in the second sentence, by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) the veteran has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable the veteran to pursue the

veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such a condition if the veteran files an application for the extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by the condition from initiating or completing such program of education, or

"(II) four years.

"(iii) When such an extension is granted, the delimiting period with respect to the veteran will again begin running on whichever of the following first occurs:

"(I) The first day, following such condition becoming sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with the regulations prescribed pursuant to subparagraph (A) of this paragraph, for the veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(II) The day after the end of the fourth year of the extension.".

(e) EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS.—Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4)(A) of this section," after "misconduct";

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability," after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragaph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such a condition if such person files an application for such extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the eligible person was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by the condition from initiating or completing such program of education, or

"(II) four years.

"(iii) When such an extension is granted, the delimiting period with respect to such person will again begin running on whichever of the following first occurs:

"(I) The first day, following the condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with the regulations prescribed pursuant to subparagraph (A) of this paragraph, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(II) The day after the end of the fourth year of the extension.".

Subpart 3—Administrative and Miscellaneous Provisions

SEC. 331. COURSE WITHDRAWALS.

(a) IN GENERAL.—Section 1780(a)(4) is amended by inserting ", except that, in the first instance of withdrawal by an eligible veteran or person from a course or courses with respect to which such veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totalling not more than six semester hours or the equivalent thereof" after "circumstances".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply so as to require that mitigating circumstances be considered to exist only with respect to withdrawals from a course or courses being pursued with assistance under such title that occur after March 31, 1989.

SEC. 332. FUNDING OF EDUCATIONAL AND VOCATIONAL COUNSELING SERVICES.

(a) IN GENERAL.—Subchapter II of chapter 36 is amended by adding at the end the following new section:

"§ 1797. Funding of contract educational and vocational counseling

"(a) Subject to subsection (b) of this section, educational or vocational counseling services obtained by the Veterans' Administration by contract and provided to an individual applying for or receiving benefits under section 524 or chapters 30, 32, 34, or 35 of this title or chapter 106 of title 10, shall be paid for out of the Veterans' Administration appropriations account for readjustment benefits.

"(b) Payments from the appropriations account for readjustment benefits under this section shall not exceed $5,000,000 in any fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 36 is amended by inserting after the item relating to section 1796 the following new item:

"1797. Funding of contract educational and vocational counseling.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to fiscal year 1989 and subsequent fiscal years.

SEC. 333. MEASUREMENT OF FULL-TIME STUDY.

Section 1788(e) is amended to read as follows:

"(e)(1) In order to determine the total clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) of this section for a course which is offered by an institution of higher learning and for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a quarter- or semester-hour basis—

"(i) the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, with respect to the semester, quarter, or other applicable portion of the academic year during which such unit courses or subjects were pursued, be converted to equivalent clock hours, as determined pursuant to paragraph (2) of this subsection; and

"(ii) such equivalent clock hours shall be combined with the actual weekly clock hours, if any, of training concurrently pursued at such institution in the course not leading to a standard college degree.

"(2) For the purpose of determining equivalent clock hours under paragraph (1) of this subsection, the total number of credit hours (semester or quarter hours) being pursued will be multiplied by the quotient of the number of clock hours which constitute full time under clause (1) or (2) of subsection (a) of this section, as appropriate, divided by the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.".

SEC. 334. EDUCATIONAL ASSISTANCE FOR CERTAIN INCARCERATED VETERANS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.

Section 1631 is further amended by adding at the end (after subsection (d) as added by section 323(b)(2)) the following new subsection:

"(e)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed the lesser of (A) such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 1633 of this title. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.

"(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this *chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony."*

SEC. 335. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 1792 is amended—

(1) in subsection (a), by inserting before the period at the end of the second sentence ", and the chairman of the Commission to Assess Veterans' Education Policy established under section 320 of Public Law 99-576"; and

(2) in subsection (c), by striking out "December 31, 1989" and inserting in lieu thereof "December 31, 1993".

SEC. 336. VIETNAM-ERA GI BILL ELIGIBILITY FOR CERTAIN SERVICE ACADEMY GRADUATES.

(a) IN GENERAL.—Section 1652(a) of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out the period at the end of clause (C) and inserting in lieu thereof "; or"; and

(B) by adding at the end the following new clause:

"(D)(i) before January 1, 1977, commenced the third academic year as a cadet or midshipman at one of the service academies or the third academic year as a member of the Senior Reserve Officer Training Corps in a program of educational assistance under section 2104 or 2107 of title 10 if the individual (I) served on active duty for a period of more than 180 days pursuant to an appointment as a commissioned officer received upon graduation from one of the service academies or upon satisfactory completion of advanced training (as defined in section 2101 of title 10) as a member of the Senior Reserve Officers' Training Corps, respectively, (II) was discharged or released from such period of active duty under conditions other than dishonorable, and (III) enrolled in the educational assistance program under chapter 32 of this title, and (ii) before January 1, 1990, submits to the Administrator, in such form and manner as the Administrator may prescribe, an irrevocable election to be eligible after the date of such election for assistance under this chapter and, if enrolled under the chapter 32 program of educational assistance under this title at the time of such election, to be disenrolled from such program at that time."; and

(2) by adding at the end the following new paragraph:

"(4) For the purposes of this subsection, the term 'service academies' means the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.".

(b) CONFORMING AMENDMENT.—Section 1652(a)(2) of such title is amended by striking out "or (B)" and inserting in lieu thereof ", (B), or (D)".

(c) DISENROLLMENT FROM CHAPTER 32 PROGRAM AND REFUNDS OF CONTRIBUTIONS.—Upon receipt of an election under clause (D)(ii) of section 1652(a)(1) of title 38, United States Code (as added by subsection (a)(1), the Administrator shall—

(1)(A) not later than 60 days after receiving such an election, refund to the individual concerned the amount of the individual's unused contributions to the Post-Vietnam Era Veterans Education Account (hereinafter in this subsection referred to as the "VEAP Account"), and

(B) if the individual has received educational assistance under chapter 32 of such title for the pursuit of a program of education, pay to the individual (out of funds available for the payment of educational assistance under chapter 34 of such title) an amount equal to the amount by which the amount of the educational assistance that the individual would have received under chapter 34 of such title for the pursuit of such program exceeds the amount of the educational assistance that the individual received under such chapter 32 for the pursuit of such program; and

(2) refund to the Secretary of Defense the amount contributed by the Secretary to the VEAP Account on behalf of such individual remaining in the Account.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as of January 1, 1977.

SEC. 337. REPEAL OF EXPIRED PROGRAM OF ACCELERATED-PAYMENT LOANS.

(a) REPEAL.—Sections 1682A, 1686, 1737, and 1738 are repealed.

(b) CONFORMING AMENDMENTS.—Section 1798 is amended—

(1) by striking out "or person" each place it appears;

(2) in subsection (a)(1)—

(A) by striking out "and eligible person"; and

(B) by inserting "(if the program of education is pursued in a State)" after "subchapter";

(3) in subsection (b)—

(A) in paragraph (1), by striking out "or eligible person" and

(B) in paragraph (3), by striking out "or subchapter II of chapter 35, respectively,"

(4) in subsection (e)—

(A) in paragraph (2), by striking out "or person's"; and

(B) by amending paragraph (3)(B) to read as follows:

"(B) data regarding the default experience and default rate with respect to loans made under this section"."

(5) in subsection (f)—

(A) by striking out paragraphs (1) and (3); and

(B) by striking out "(2)"; and

(6) in subsection (g)(2)(A)—

(A) in the first sentence, by striking out "and eligible persons"; and

(B) in the second sentence, by striking out "or eligible person".

(c) CLERICAL AMENDMENTS.—

(1) the table of sections at the beginning of chapter 34 is amended by striking out the items relating to sections 1682A and 1686.

(2) The table of sections at the beginning of chapter 35 is amended by striking out the items relating to sections 1737 and 1738.

(3) The table of sections at the beginning of chapter 36 is amended by striking out the heading relating to subchapter III and inserting in lieu thereof the following:

"SUBCHAPTER III—EDUCATION LOANS".

(4) Chapter 36 is amended by striking out the heading for subchapter III and inserting in lieu thereof the following:

"SUBCHAPTER III—EDUCATION LOANS".

PART C—NON-SERVICE-CONNECTED DISABILITY PENSION RECIPIENTS' VOCATIONAL TRAINING PROGRAM

SEC. 341. EXTENSION OF PROGRAM PERIOD.

(a) VOCATIONAL TRAINING.—Section 524 of title 38, United States Code, is amended—

(1) in subsection (a)(4), by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1990"; and

(2) in subsection (b)(4), by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1990".

(b) PROTECTION OF HEALTH-CARE ELIGIBILITY.—Section 525(b)(2) of such title is amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1990".

TITLE IV—MISCELLANEOUS BENEFITS PROVISIONS

PART A—INSURANCE PROGRAMS

SEC. 401. PAYMENT OF INTEREST ON SETTLEMENTS.

(a) AUTHORITY FOR PAYMENT.—(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

"§ 728. Authority for payment of interest on settlements

"(a) Subject to subsection (b) of this section, the Administrator, under regulations which the Administrator shall prescribe, may pay interest on the proceeds of a participating National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

"(b)(1) The Administrator may pay interest under subsection (a) of this section only in accordance with a determination by the Administrator that the payment of such interest is administratively and actuarially sound for the settlement option involved.

"(2) Interest paid under subsection (a) of this section shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts under the insurance program involved.".

(2) Subchapter II of chapter 19 is amended by adding at the end the following new section:

"§ 763. Authority for payment of interest on settlements

"(a) Subject to subsection (b) of this section, the Administrator, under regulations which the Administrator shall prescribe, may pay interest on the proceeds of a United States Government Life Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

"(b)(1) The Administrator may pay interest under subsection (a) of this section only in accordance with a determination by the Administrator that the payment of such interest is administratively and actuarially sound for the settlement option involved.

"(2) Interest paid under subsection (a) shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 19 is amended—

(1) by inserting after the item relating to section 727 the following new item:

"728. Authority for payment of interest on settlements.";

and

(2) by inserting after the item relating to section 762 the following new item:

"763. Authority for payment of interest on settlements.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to insurance policies maturing after the date of the enactment of this Act.

SEC. 402. ADJUSTMENT OF DISCOUNT RATES FOR ADVANCE PAYMENT OF PREMIUMS.

(a) AUTHORITY TO ADJUST RATES.—Subchapter I of chapter 19 is further amended by adding at the end (after the section added by section 401(a)(1)) the following new section:

"§ 729. Authority to adjust premium discount rates

"(a) Notwithstanding sections 702, 723, and 725 of this title and subject to subsection (b) of this section, the Administrator may from time to time adjust the discount rates for premiums paid in advance on National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance.

"(b)(1) In adjusting a discount rate pursuant to subsection (a) of this section, the Administrator may not set such rate at a rate lower than the rate authorized for the program of insurance involved under section 702, 723, or 725.

"(2) The Administrator may make an adjustment under subsection (a) of this section only in accordance with a determination by the Administrator that the adjustment is administratively and actuarially sound for the program of insurance involved.".

(b) The table of sections at the beginning of chapter 19 is amended by inserting after the new item relating to section 728 (as added by section 401(b)(1) of this Act) the following new item:

"729. Authority to adjust premium discount rates.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to premiums paid after the date of the enactment of this Act.

PART B—STATE CEMETERY CONSTRUCTION GRANT PROGRAM

SEC. 411. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

Paragraph (2) of section 1008(a) is amended by striking out "four" the second place it appears and inserting in lieu thereof "nine".

PART C—HOME LOAN GUARANTY PROGRAM

SEC. 421. WAIVER OF INDEBTEDNESS.

Section 3102(b) is amended by striking out "the veteran" and all that follows through "veteran's" and inserting in lieu thereof "any individual described in section 1802(a) of this title as being eligible for housing loan benefits under chapter 37 of this title, or such individual's".

TITLE V—BOARD OF VETERANS' APPEALS

SEC. 501. INDEPENDENCE OF THE CHAIRMAN.

Section 4001(a) is amended by striking out "directly responsible to the Administrator" in the first sentence and inserting in lieu thereof "(hereinafter referred to as the 'Chairman')".

SEC. 502. TIMELINESS OF DISPOSITIONS.

Section 4001(a) is further amended by inserting before the period at the end of the second sentence "in a timely manner".

SEC. 503. APPOINTMENT AND REMOVAL OF THE CHAIRMAN AND MEMBERS.

(a) IN GENERAL.—Section 4001(b) is amended to read as follows:

"(b)(1) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of five years. An individual may serve as Chairman for not more then three complete terms. The Chairman may be removed by the President for good cause.

"(2)(A) The members of the Board (including the Vice Chairman) shall be appointed by the Chairman for a term of nine years. A member appointed to fill a vacancy resulting from the resignation, death, or removal of a member before the end of the term for which the original appointment was made shall serve for the remainder of the unexpired term. Members may be reappointed without limitation. The Chairman shall designate one member as Vice Chairman to perform such functions as the Chairman shall designate and to serve as the Acting Chairman during the absence or disability of the Chairman or in the event of a vacancy in the office of Chairman. Such member shall serve as Vice Chairman at the pleasure of the Chairman.

"(B) A member of the Board may be removed only by the Chairman and only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Merit Systems Protection Board. Section 554(a)(2) of title 5 shall not apply to a removal action under this subparagraph. In such a removal action, a member shall have the rights set out in section 713(b) of such title.".

(b) INITIAL APPOINTMENTS UNDER AMENDED PROVISIONS.—(1) The President shall appoint a Chairman of the Board of Veterans' Appeals under section 4001(b)(1) of title 38, United States Code (as amended by subsection (a)), not later than one year after the date of the enactment of this Act. The individual who is serving as Chairman of the Board of Veterans' Appeals on the date of the enactment of this Act may continue to serve as Chairman until a successor is appointed. If such individual is appointed as Chairman under such section, none of the service of such individual as Chairman before the date of that appointment shall be considered for the purpose of determining the term of appointment or eligibility for reappointment under such section.

(2) Appointments of members of the Board of Veterans' Appeals under subsection (b)(2)(A) of section 4001 of title 38, United States Code (as amended by subsection (a)), may not be made until a Chairman has been appointed under subsection (b)(1) of such section. An individual who is serving as a member of the Board on the date of the enactment of this Act may continue to serve as a member until the earlier of the date on which the individual's successor is appointed under subsection (b)(2)(A) of such section or the expiration of the 180-day period that begins on the day after the Chairman is appointed under subsection (b)(1) of such section.

(3) Notwithstanding the provision in section 4001(b)(2) of title 38, United States Code (as amended by subsection (a)), that specifies the term for which members of the Board of Veterans' Appeals shall be appointed, of the first members appointed under such section—

(1) twenty-one members shall be appointed for a term of three years;

(2) twenty-two members shall be appointed for a term of six years; and

(3) twenty-two members shall be appointed for a term of nine years.

The first Vice Chairman of the Board designated under such section shall be selected from among the members appointed for terms of six years or nine years.

SEC. 504. SALARY OF CHAIRMAN.

Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chairman, Board of Veterans' Appeals.".

SEC. 505. REPORTS ON BOARD ACTIVITIES AND RESOURCES.

Section 4001 is further amended by adding at the end the following new subsection:

"(d) The Chairman shall submit a report to the Committees on Veterans' Affairs of the Senate and the House of Representatives, not later than December 31, 1988, and annually thereafter, on the experience of the Board during the prior fiscal year together with projections for the fiscal year in which the report is submitted and the subsequent fiscal year. Such report shall contain, as a minimum, information specifying the number of cases appealed to the Board during the prior fiscal year, the number of cases pending before the Board at the beginning and end of such fiscal year, the number of such cases which were filed during each of the 36 months preceding the then current fiscal year, the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the prior fiscal year, and the number of members of, and the professional, administrative, clerical, stenographic, and other personnel employed by, the Board at the end of the prior fiscal year. The projections for the current fiscal year and subsequent fiscal year shall include, for each such year, estimates of the number of cases to be appealed to the Board and an evaluation of the Board's ability, based on existing and projected personnel levels, to ensure timely disposition of such appeals as provided for by subsection (a) of this section".

SEC. 506. PROHIBITION OF BONUSES FOR MEMBERS.

Section 4001 is further amended by adding at the end (after the subsection added by section 505) the following new subsection:

"(e) Notwithstanding any other provision of law, no member or temporary or acting member of the Board shall be eligible for or receive, directly or indirectly, bonuses (in addition to salary) relating to service on the Board.".

SEC. 507. VOTING BY THE BOARD.

Section 4003 is amended to read as follows:

"§ 4003. Determinations by the Board

"(a)(1) A determination, when concurred in by the requisite number of members of a section, shall be the final decision of the Board.

"(2) The requisite number of members of a section who must concur in a determination for it to constitute a final decision is—

"(A) for an allowance of a claim, a majority of the members of the section; or

"(B) for a denial of a claim, all members of the section.

"(b) When there is a disagreement among the members of a section in any case in which unanimity is required for a final decision, the concurrence of the Chairman with the majority of the members of such section shall constitute the final decision of the Board. The Chairman may, instead of voting, expand the size of the section for determination of that case, and the concurrence of a majority of the members of the expanded section shall constitute the final decision of the Board.

"(c) If, without the vote of a temporary member designated under section 4001(c)(1) of this title or the vote of an acting member designated under section 4002(a)(2)(A)(ii) of this title, a section would be evenly divided in the determination of any claim—

"(1) such member shall not vote; and

"(2) the Chairman shall expand, by not less than two members, the size of the section for determination of that claim.

"(d) Notwithstanding subsections (a) and (b) of this section, the Board on its own motion may correct an obvious error in the record or may reach a contrary conclusion *upon the basis of additional information from the department of the Secretary concerned after notice of such additional information is furnished to the claimant and the claimant is provided an opportunity to be heard in connection with such information.".*

SEC. 508. DECISIONS OF THE BOARD.

(a) Decisions Based on the Record.—(1) Section 4004(a) is amended—

(A) by striking out "involving" in the first sentence and inserting in lieu thereof "for"; and

(B) by inserting before the period at the end of the second sentence "after affording the claimant an opportunity for a hearing and shall be based exclusively on evidence and material of record in the proceeding, and upon consideration of all such evidence and material, and on applicable provisions of law."

(2) Section 4005(d)(5) is amended by striking out "will base its decision on the entire record and".

SEC. 509. REOPENING OF DISALLOWED CLAIMS.

Subsection (b) of section 4004 is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, when a claim is disallowed by the Board, it may not thereafter be reopened and allowed and no claim based upon the same factual basis shall be considered.

"(2) Following such a disallowance, the Board (directly or through the agency of original jurisdiction, as described in section 4005(b)(1) of this title)—

"(A) when new and material evidence is presented or secured, shall authorize the reopening of a claim and a review of the Board's former decision; and

"(B) for good cause shown, may authorize the reopening of a claim and a review of the Board's former decision.".

SEC. 510. NOTICE AND CONTENT OF DECISIONS.

Subsection (d) of section 4004 is amended to read as follows:

"(d) After reaching a decision in a case, the Board shall promptly mail notice of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and at the last known address of the claimant's authorized representative, if any. Each decision of the Board shall include—

"(1) a written statement of the Board's findings and conclusions, and the reasons or bases therefor, on all material issues of fact and law and on matters of discretion presented on the record; and

"(2) an order granting appropriate relief or denying relief.".

SEC. 511. PROHIBITION AGAINST PRESUMPTION OF AGREEMENT.

Paragraph (4) of section 4005(d) is amended to read as follows:

"(4) The claimant may not be presumed to agree with any statement of fact or law contained in the statement of the case to which the claimant does not specifically express agreement.".

SEC. 512. MEDICAL OPINIONS.

(a) In General.—Section 4009 is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 4009. Medical opinions"; and

(2) by adding at the end the following new subsections:

"(c)(1) Whenever there exists in the evidence of record in a case being considered by the Board a substantial disagreement between the substantiated findings or opinions of two physicians with respect to an issue material to the outcome of the case, the Board shall, upon the request of the claimant and after taking appropriate action to attempt to resolve the disagreement, arrange for an advisory medical opinion in accordance with the procedure prescribed in subsection (b) of this section. The claimant may appeal a denial of a request for such an opinion to the Chairman.

"(2) If the Board or the Chairman upon appeal denies a request for an advisory medical opinion, the Board, or the Chairman after the appeal, shall prepare and provide to the claimant and the claimant's authorized representative, if any, a statement setting forth the basis for the denial and, in the case of a denial of such request by the Board, a notice of the claimant's right to appeal the denial to the Chairman.

"(3) Actions of the Board under this subsection, including any such denial concurred in by the Chairman (if appealed), shall be final and conclusive, and no other official or any court of the United States shall have the power or jurisdiction to review any aspect of any such action by an action in the nature of mandamus or otherwise.

"(d) If a member of the Board receives the medical opinion of any physician relating to any appeal under consideration by such member (other than a medical opinion of a physician on the section of the Board considering such appeal) or an employee of the Board in the consideration of such appeal receives such an opinion, the Board shall furnish such opinion to the claimant and shall afford the claimant 60 days in which to submit a response to such opinion before the Board issues a final decision on the appeal. The Board shall consider any such response and shall include in the final decision a discussion of such opinion, the response (if any), and the effect of such opinion and response on the Board's decision.".

(b) Clerical Amendments.—The table of sections at the beginning of chapter 71 is amended by striking out the item relating to section 4009 and inserting in lieu thereof the following:

"4009. Medical opinions.".

SEC. 513. ADJUDICATION PROCEDURES.

(a) In General.—Chapter 71 is further amended by adding at the end the following new section:

"§ 4010. Adjudication procedures

"(a) For purposes of conducting any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, the Administrator and the members of the Board may administer oaths and affirmations, examine witnesses, and receive evidence.

"(b) Any oral, documentary, or other evidence, even though inadmissible under the rules of evidence applicable to judicial proceedings, may be admitted in a hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, but the Administrator and the Chairman, under regulations which the Administrator and the Chairman shall jointly prescribe, may provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(c)(1) In the course of any proceeding before the Board, any party to such proceeding or such party's authorized representative shall be afforded the opportunities—

"(A) to examine and, on payment of a fee prescribed pursuant to section 3302(b) of this title (not to exceed the direct cost of duplication), obtain copies of the contents of the case files and all documents and records to be used by the Veterans' Administration at such proceeding;

"(B) to present witnesses and evidence, subject only to such restrictions as may be set forth in regulations prescribed pursuant to subsection (b) of this section, as to materiality, relevance, and undue repetition;

"(C) to make oral argument and submit written contentions, in the form of a brief or similar document, on substantive and procedural issues;

"(D) to submit rebuttal evidence;

"(E) to present medical opinions and request an independent advisory medical opinion pursuant to section 4009(c) of this title; and

"(F) to serve written interrogatories on any person, including any employee of the Veterans' Administration, which interrogatories shall be answered separately and fully in writing and under oath unless written objection thereto, in whole or in part, is filed with the Chairman by the person to whom the interrogatories are directed or such person's representative.

"(2) The fee provided for in paragraph (1)(A) of this subsection may be waived by the Chairman, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(3) In the event of any objection filed under paragraph (1)(F) of this subsection, the Chairman shall, pursuant to regulations which the Chairman shall prescribe establishing standards consistent with standards for protective orders applicable in the United States District Courts, evaluate such objection and issue an order (A) directing that, within such period as the Chairman shall specify, the interrogatory or interrogatories objected to be answered as served or answered after modification, or (B) indicating that the interrogatory or interrogatories are no longer required to be answered.

"(4) If any person upon whom interrogatories are served under paragraph (1)(F) of this subsection fails to answer or fails to provide responsive answers to all of the interrogatories within thirty days after services or such additional time as the Chairman may allow, the Chairman, upon determining that the party propounding such interrogatories has shown the general relevance and reasonableness of the scope of the interrogatories, shall issue a subpena under section 3311 of this title (with enforcement of such subpena to be available under section 3313 of this title) for such person's appearance and testimony on such interrogatories at a deposition on written questions, at a location within one hundred miles of where such person resides, is employed, or transacts business.

"(d)(1) A claimant may request a hearing before a traveling section of the Board. Cases shall be scheduled for hearing before such a section in the order in which the requests for hearing are received by the Board.

"(2) If a claimant makes a request for a hearing before a traveling section of the Board and, by reason of limited time for the conduct of hearings by such section at the location for the requested hearing, such claimant's appeal is not scheduled for hearing or the hearing is not conducted, the Board shall afford such claimant an opportunity to present the case to the Board in a hearing conducted by telephone or video connection before a section of the Board or in a videotape of a hearing conducted for

the Board by Veterans' Administration adjudication personnel at a regional office of the Veterans' Administration. An audiotape or videotape of such hearing shall be included in the record of the appeal and considered by the Board in the same manner as recordings of testimony and documentary evidence are considered.

"(e) In the course of any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, an employee of the Veterans' Administration (including an employee of the Board of Veterans' Appeals) may at any time disqualify himself or herself, on the basis of personal bias or other cause, from adjudicating the claim. On the filing by a party in good faith of a timely and sufficient affidavit averring personal bias or other cause for disqualification on the part of such an employee, the Administrator, as to proceedings other than proceedings before the Board, or the Chairman, as to proceedings before the Board, shall determine the matter as a part of the record and decision in the case, pursuant to regulations prescribed jointly by the Administrator and the Chairman.

"(f) The transcript or recording of testimony and the exhibits, together with all papers and requests filed in the proceeding, and the decision of the Board (1) shall constitute the exclusive record for decision in accordance with section 4004(a) of this title, (2) shall be available for inspection by any party to such proceeding, or such party's authorized representative, at reasonable times and places, and (3) on the payment of a fee prescribed under section 3302(b) of this title (not to exceed the direct cost of duplication), shall be copied for the claimant or such claimant's authorized representative within a reasonable time. Such fee may be waived by the Chairman, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(g) Notwithstanding section 4004(a) of this title, section 554(a) of title 5, or any other provision of law, adjudication and hearing procedures prescribed in this title and in regulations prescribed by the Administrator, as to proceedings other than proceedings before the Board, or by the Chairman, as to proceedings before the Board, or by the Administrator and the Chairman jointly, under this title for the purpose of administering veterans' benefits shall be exclusive with respect to hearings, investigations, and other proceedings in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4010. Adjudication procedures.".

SEC. 514. NOTICES OF PROCEDURES.

(a) IN GENERAL.—Chapter 71 is further amended by adding at the end (after the section added by section 513(a)) the following new section:

"§ 4011. Notices of procedures

"In the case of any disallowance, in whole or in part, of a claim for benefits under laws administered by the Veterans' Administration, the Administrator, as to proceedings other than proceedings before the Board, or the Chairman as to proceedings before the Board, shall, at each procedural stage relating to the disposition of such a claim, beginning with disallowance after an intitial review or determination, and including the furnishing of a statement of the case and the making of a final decision by the Board, provide to the claimant and such claimant's authorized representative, if any, written notice of the procedural rights of the claimant. Such notice shall be on such forms as the Administrator or the Chairman, respectively, shall prescribe by regulation and shall include, in easily understandable language, with respect to proceedings before the Veterans' Administration and the Board (1) descriptions of all subsequent procedural stages provided for by statute, regulation, or Veterans' Administration policy, (2) descriptions of all rights of the claimant expressly provided for in or pursuant to this chapter, of the claimant's rights to a hearing, to reconsideration, to appeal, and to representation, and of any specific procedures necessary to obtain the various forms of review available for consideration of the claim, (3) in the case of an appeal to the Board, the rights to and opportunities for a hearing provided in section 4010(d) of this title, and (4) such other information as the Administrator or the Chairman, respectively, as a matter of discretion, determines would be useful and practical to assist the claimant in obtaining full consideration of the claim.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end (after the item added by section 513(b)) the following new item:

"4011. Notices of procedures.".

SEC. 515. EFFECTIVE DATE OF AWARDS IN REOPENED CASES.

Section 3010(i) is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following new paragraph:

"(2) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence in the form of official reports from the department of the Secretary concerned, the effective date of commencement of the benefits so awarded shall be the date on which an award of benefits under the disallowed claim would have been effective had the claim been allowed on the date it was disallowed.".

SEC. 516. ATTORNEYS' FEES.

Section 3404(c) is amended—

(1) by inserting "(1)" before "The";

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively; and

(3) by adding at the end of the following new paragraph:

"(2) The provisions of this subsection shall apply only to cases involving claims for benefits under the laws administered by the Veterans' Administration, and such provisions shall not apply in cases in which the Veterans' Administration is the plaintiff or in which other attorneys' fees statutes apply.".

TITLE VI—HEALTH CARE

PART A—PROGRAMS RELATING TO POST-TRAUMATIC STRESS DISORDER AND MENTAL HEALTH

SEC. 601. CARE FOR VIETNAM VETERANS' WITH SERVICE-RELATED POST-TRAUMATIC STRESS DISORDER.

(a) IN GENERAL.—Section 602 is amended—

(1) by inserting "(a)" before "For"; and

(2) by adding at the end the following new subsection:

"(b) Any veteran—

"(1) who served on active duty in the Republic of Vietnam or elsewhere in the Vietnam theater of operations, and

"(2) whom a mental health professional designated by the Chief Medical Director has diagnosed, following an examination of such veteran by such professional, to be suffering from post-traumatic stress disorder related to such service,

shall be furnished care and services for such disorder pursuant to sections 610(a)(1)(A) and 612(a)(1)(A) even though such disorder has not been determined to be service connected.".

(b)(1) The heading of such section is amended to read as follows:

"§ 602. Special provisions relating to mental illness disabilities".

(2) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"602. Special provisions relating to mental illness disabilities.".

SEC. 602. SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER.

(a) EVALUATION OF STUDY OF POSTWAR PSYCHOLOGICAL PROBLEMS OF VIETNAM VETERANS.—(1) Not later than April 1, 1989, the Special Committee on Post-Traumatic Stress Disorder (hereinafter in this section referred to as the "Special Committee"), established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2691), shall submit to the Administrator of Veterans' Affairs a report setting forth the Special Committee's evaluation of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 994). Such report shall include the Special Committee's—

(A) overall evaluation of the conduct, validity, and meaning of the study;

(B) assessment of the capability of the Veterans' Administration to meet the needs for the diagnosis and treatment of post-traumatic stress disorder of veterans, and other psychological problems of veterans in readjusting to civilian life, as estimated in the results of such study;

(C) evaluation of the Administrator's report on the study; and

(D) recommendations for any further or follow-up research on the matters addressed in the study.

(2) Not later than 30 days after receiving the Special Committee's report under paragraph (1), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments concerning the report that the Administrator considers appropriate.

(b) UPDATES OF REPORTS UNDER SECTION 110(c) OF PUBLIC LAW 98-528.—(1) Not later than February 1 of each of 1990 and 1991, the Special Committee shall submit to the Administrator a report containing information updating the reports submitted to the Administrator under section 110(e) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2693), together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Veterans' Administration to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 60 days after receiving each of the Special Committee's reports under paragraph (1), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Repre-

sentatives a copy of the report, together with any comments concerning the report that the Administrator considers appropriate.

SEC. 603. STUDY OF PSYCHOLOGICAL PROBLEMS AMONG ASIAN-AMERICAN, AMERICAN-INDIAN, NATIVE-HAWAIIAN, OTHER NATIVE-AMERICAN PACIFIC ISLANDER (INCLUDING AMERICAN SAMOAN NATIVE), AND ALASKA NATIVE VIETNAM VETERANS.

(a) STUDY REQUIREMENT.—The Administrator of Veterans' Affairs shall provide for the conduct of a comprehensive study of the following matters:

(1) The prevalence and incidence of the following psychological problems in the populations of Asian-American, American-Indian, Native-Hawaiian, other Native-American Pacific Islander (including American Samoan Native), and Alaska Native Vietnam veterans:

(A) Post-traumatic stress disorder.

(B) Other psychological problems experienced by such veterans in readjusting to civilian life.

(2) The effects of such disorder and such problems on such veterans. The Administrator shall provide for particular attention to be devoted in the conduct of the study to veterans who have service-connected disabilities and to women veterans.

(b) REPORT.—Not later than October 1, 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the results of the study required by subsection (a).

(c) DEFINITIONS.—For the purposes of this section:

(1) The terms "veteran", "service-connected", and "Vietnam veteran" shall have the same meanings as are provided in section 102(c) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 38 U.S.C. 612A note).

(2) The term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(3) The term "Native Hawaiian" has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

SEC. 604. MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CENTERS.

(a) ESTABLISHMENT OF PROGRAM.—Section 4101 is amended by adding at the end the following new subsection:

"(g)(1) The purposes of this subsection are (A) to improve and expand the capability of Veterans' Administration health-care facilities to respond with the most effective and appropriate services possible to the needs of veterans suffering from mental illness, especially from those conditions which are service-related, and (B) to advance scientific knowledge regarding mental illness, especially service-related conditions, and regarding such needs and the methods of meeting them by facilitating higher quality care for eligible veterans suffering from mental illness, especially service-related conditions, through research, the education and training of health personnel in the provision of health care to such veterans, and the development of improved models of clinical services for eligible veterans suffering from mental illness.

"(2)(A) In order to carry out the purposes of this subsection, the Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than five Veterans' Administration health-care facilities (at least one of which shall be designated before July 1, 1989) as the locations for centers of mental illness research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

"(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator, upon the recommendation of the Chief Medical Director, shall ensure appropriate geographic distribution of such facilities.

"(C) The Administrator may not designate any health-care facility as a location for a center under subparagraph (A) of this paragraph unless the Administrator, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(i) with an accredited medical school which provides education and training in psychiatry and with which such facility is affiliated, an arrangement under which residents receive education and training in psychiatry through regular rotation through such center so as to provide such residents with training in the diagnosis and treatment of mental illness;

"(ii) with an accredited graduate school of psychology which provides education and training in clinical or counseling psychology or both and with which the facility is affiliated, an arrangement under which students receive education and training in clinical or counseling psychology or both through regular rotation through such center so as to provide such students with training in the diagnosis and treatment of mental illness;

"(iii) an arrangement under which nursing, social work, or other allied health personnel receive training and education in mental health care through regular rotation through such facility;

"(iv) the ability to attract the participation of scientists who are capable of ingenuity and creativity in research into the causes, treatment, and prevention of mental illness and into models for furnishing care and treatment to veterans suffering from mental illness;

"(v) a policymaking advisory committee composed of appropriate mental health care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center during the period of the operation of such center; and

"(vi) the capability to conduct effectively evaluations of the activities of such center.

"(3) There are authorized to be appropriated for the basic support of the research and education and training activities of the centers established pursuant to paragraph (1) of this subsection $3,125,000 for fiscal year 1989 and $6,250,000 for each of the next three fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate.

"(4) Activities of clinical and scientific investigation at each such center shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for mental illness.

"(5) The Chief Medical Director shall ensure that research activities carried out through such centers include an appropriate emphasis on the psychosocial dimension of mental illness and on models for furnishing care and treatment to veterans suffering from mental illness.

"(6) The Chief Medical Director shall ensure that useful information produced by the research, education and training, and clinical activities of such centers is disseminated throughout the Department of Medicine and Surgery through the development of programs of continuing medical and related education provided through regional medical education centers under subchapter II of chapter 73 and other means.

"(7) The official within the Central Office of the Department responsible for mental health and behavioral sciences matters shall be responsible for the supervision of the operation of the centers established pursuant to paragraph (1) of this subsection.".

(b) REPORTS.—Not later than February 1 of each of 1990, 1991, and 1992, the Administrator shall submit to the Committee on Veterans' Affairs of the Senate and House of Representatives a report on the experience for the prior fiscal year under the centers established pursuant to the amendment made by subsection (a). Each such report shall contain—

(1) descriptions of (A) activities carried out at each center and the funding provided for such activities, (B) the advances made at each center in research, education and training, and clinical activities, and (C) the efforts to disseminate throughout the Department of Medicine and Surgery useful information produced by such activities; and

(2) the Administrator's evaluations of the effectiveness of the centers in fulfilling the purposes of subsection (g) of section 4101 of title 38, United States Code, as added by subsection (a).

SEC. 605. READJUSTMENT COUNSELING ELIGIBILITY EXTENSION.

Section 612A is amended—

(1) in subsection (a)—

(1) by inserting "(1)(A)" before "Upon";

(2) by amending the first sentence of paragraph (1)(A) (as redesignated by clause (1) of this section) to read as follows: "Upon the request of—

"(i) any veteran who served on active duty during the Vietnam era, or

"(ii) any veteran who served on active duty after May 7, 1975, in an area during a period in which hostilities (as defined in paragraph (2) of this subsection) occurred in such area,

the Administrator shall furnish counseling to assist such veteran in readjusting to civilian life."; and

(C) by adding at the end of the following:

"(B) Upon the request of any veteran who served on active duty during World War II or the Korean conflict, the Administrator may furnish counseling to such veteran in overcoming any psychological problems associated with such veteran's service during such period. In furnishing counseling under this paragraph, the Administrator shall place particular emphasis on the needs of those who engaged in combat with the enemy. Such counseling shall include a general mental and psychological assessment to ascertain whether such veteran has mental or psychological problems associated with such veteran's active military, naval, or air service.

"(2) For the purposes of subparagraph (1)(A)(ii) of this subsection, the term 'hostilities' means a situation in which members of the Armed Forces were, as determined by the Administrator in consultation with the Secretary of Defense, subjected to danger from armed conflict comparable to the danger to which members of the Armed Forces have been subjected in battle with the enemy during a period of war."; and

(2) in subsection (e)(1), by inserting "to a veteran described in paragraph (1)(A) of such subsection (a)" after "section".

SEC. 606. COMMUNITY-BASED ALCOHOL AND DRUG TREATMENT SERVICES.

(a) PERMANENT CONTRACT PROGRAM.—Section 620A is amended—

(1) by striking out subsections (e) and (f); and

(2) by redesignating subsection (g) as subsection (e).

(b) CLINICAL EVALUATION AND REPORT.—(1) During fiscal years 1989 through 1997, the Administrator shall conduct a clinical evaluation in order to determine the long-term results of drug and alcohol abuse treatment furnished to veterans in contract residential treatment facilities under section 620A of title 38, United States Code.

(2) The evaluation shall include an assessment of the following:

(A) The long-term results of treatment referred to in paragraph (1) on drug and alcohol use by veterans who may have received such treatment.

(B) The need for hospitalization of such veterans for drug and alcohol abuse after completion of the residential treatment.

(C) The employment status and income of such veterans.

(D) The extent of any criminal activity of such veterans.

(E) Whether certain models and methods of residential treatment for drug and alcohol abuse are more successful for veterans with specific abuses, specific levels of resources available to them, and specific needs than are other models and methods.

(3) To the extent feasible, the Administrator shall select for consideration in the evaluation veterans whose treatment for drug and alcohol abuse in contract residential treatment facilities under such section represents a variety of models and methods of residential drug and alcohol abuse treatment.

(C) REPORTS.—The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the following reports on the evaluation:

(1) Not later than February 1, 1993, an interim report containing information obtained during the first four years of the evaluation and any conclusions that the Administrator has drawn on the basis of that information.

(2) Not later than March 31, 1998, a final report containing information obtained during the evaluation and the determinations and conclusions of the Administrator based on that information.

PART B—OTHER HEALTH-CARE PROGRAMS

SEC. 611. RESPITE CARE.

(a) EXTENSION OF AUTHORITY.—Section 620B(c) of title 38, United States Code, is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) EXTENSION OF DUE DATE FOR REPORT.—Section 201(b)(2) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3254) is amended by striking out "February 1, 1989" and inserting in lieu thereof "February 1, 1990".

SEC. 612. CONTRACTS AND GRANTS FOR MEDICAL CARE FOR UNITED STATES VETERANS IN THE REPUBLIC OF THE PHILIPPINES.

(a) IN GENERAL.—Subsections (a) and (b)(1) of section 632 are amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) REPORTS.—The Administrator shall—

(1) not later than February 1, 1989, and 1990, submit reports containing detailed information describing the use of grant funds provided to the Republic of the Philippines under section 632(b) of title 38, United States Code, during the preceding fiscal year; and

(2) not later than May 1, 1989, submit a report containing—

(A) information for each of fiscal years 1986, 1987, and 1988, with breakdowns providing such information with respect to veterans being furnished care or treatment for service-connected disabilities and those being furnished care or treatment for non-service-connected disabilities, as to (i) the number of United States veterans furnished care at Veterans' Administration expense pursuant to such section 632(b), (ii) the numbers of inpatient days of care and outpatient visits so furnished for United States veterans, and (iii) the amounts of such care and visits so furnished at the Veterans Memorial Medical Center or at other facilities in the Republic of the Philippines;

(B) an analysis comparing (i) the cost-effectiveness of furnishing care and treatment to such veterans through the Veterans Memorial Medical Center or other facilities in the Republic of the Philippines, and (ii) the quality of care available at the Center and such other facilities;

(C) a projection of the needs for care and treatment of United States veterans in the Republic of the Philippines during each of fiscal years 1990 through 1993;

(D) a projection of the needs of the Veterans Memorial Medical Center for each of fiscal years 1990 through 1993 for the replacement and upgrading of equipment and the rehabilitation of the physical plant and facilities in order to maintain the provision of an appropriate quality of care for United States veterans at the Veterans Memorial Medical Center;

(E) the Veterans' Administration's plans for meeting the needs for care and treatment of United States veterans residing in the Philippines;

(F) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report; and

(G) any comments the Secretary of State may wish to make on the contents of the report.

SEC. 613. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) Section 5051 is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "health-care facilities".

(b) Section 5053 is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) in the first sentence, by striking out "charge" and all that follows and inserting in lieu thereof "methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved."; and

(B) in the second sentence, by inserting before the period at the end "and to funds that have been allotted to the facility that furnished the resource involved".

SEC. 614. STATE HOME CONSTRUCTION GRANTS.

Section 5033(a) is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 615. PILOT PROGRAMS FOR PROVIDING ASSISTIVE ANIMALS.

(a) REQUIREMENT FOR PILOT PROGRAM.—During fiscal years 1989, 1990, 1991, and 1992, the Administrator shall conduct a pilot program under which the Administrator shall—

(1) provide (A) monkeys specially trained to assist in the performance of the tasks of daily living for individuals who are quadriplegic to not more than twenty veterans who have service-connected disabilities rated 50 percent or more disabling and are quadriplegic, and (B) dogs so trained to up to ten such veterans; and

(2) facilitate the provision of such monkeys to not more than twenty other veterans who are quadriplegic.

(b) SELECTION OF VETERAN-PARTICIPANTS.—In making a determination whether to provide a veteran with a monkey or dog, or facilitate the provision of a monkey to a veteran, under the pilot program, the Administrator shall (1) take into account the extent to which the veteran needs and can benefit from the assistance that the monkey or dog would provide, and (2) provide a preference to veterans who have service-connected quadriplegia. The Administrator shall approve a veteran for participation in the pilot program only upon a determination by the Administrator that the veteran is well-suited to carrying out the responsibilities involved in the care and effective use of the monkey or dog for the purpose of assisting the veteran in the task of daily living.

(c) ADMINISTRATIVE MATTERS.—The Administrator is authorized to enter into contracts for the provision of monkeys under subsection (a)(1) under which the Administrator would make payments to the provider, in advance of the monkey being provided, to reimburse the provider for training costs incurred or, under terms and conditions established by the Administrator to protect the interests of the Government, to make payments in advance of the incurring of such costs.

(2) Ownership of an animal provided under the pilot program shall be determined in accordance with a contract between the provider and the veteran.

(d) EVALUATION AND REPORT.—(1) The Administrator shall evaluate the conduct of the pilot program, the nature and extent of the benefits to veterans of being provided with animals under the program (including any benefits related to employment), the costs and cost-effectiveness of providing animals to veterans who are quadriplegic, and the effect of providing animals to veterans on the recruitment and retention of the veterans' primary caregivers (if paid) or on the morale of such caregivers (if unpaid).

(2) Not later than February 1, 1992, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the ex-

perience under the pilot program. The report shall contain—

(A) the results of the evaluation carried out under paragraph (1), including descriptions of the procedures and criteria used to select veterans to be provided with monkeys or dogs, the nature and extent of the benefits to the veterans involved of being provided with monkeys or dogs, and the amounts and types of costs incurred by the Veterans' Administration in the conduct of the program;

(B) the Administrator's views on the relationship between the provision of a monkey or dog to a veteran and the payment to a veteran of (i) an aid and attendance allowance under section 314(r) of title 38, United States Code, or (ii) an annual rate of pension under section 521 of such title based on the veteran's need of regular aid and attendance; and

(C) any recommendations that the Administrator considers appropriate with respect to continuation of the pilot program or whether the authority to provide such monkeys and dogs should be made permanent.

(e) DEFINITIONS.—For the purposes of this Act, the terms "veteran" and "service-connected" have the meanings given those terms in paragraphs (2) and (16), respectively, of section 101 of title 38, United States Code.

(f) SIGNAL DOGS PILOT PROGRAM.—(1)(A) Except as provided in subparagraph (B), during fiscal years 1989, 1990, 1991, and 1992, the Administrator shall conduct a pilot program under which the Administrator shall provide dogs specially trained to provide hearing assistance to individuals who are deaf (such dogs being hereinafter in this subsection referred to as "signal dogs") to not more than twenty veterans with service-connected hearing impairments who are in need of the assistance of such dogs.

(B) The requirement in subparagraph (A) of the conduct of a pilot program shall not apply if the Administrator determines that the provision of such dogs to such veterans by the Veterans' Administration is authorized under chapter 17 of title 38.

(2) In making a determination whether to provide a veteran with a signal dog under paragraph (1), the Administrator shall (A) take into account the extent to which the veteran needs and can benefit from the assistance that the signal dog would provide, and (B) provide a preference to veterans who have service-connected hearing impairments. The Administrator shall approve a veteran for participation in the pilot program only upon a determination by the Administrator that the veteran is well-suited to carrying out the responsibilities involved in the care and effective use of the signal dog.

(3) Ownership of a signal dog provided under paragraph (1) shall be determined in accordance with a contract between the provider and the veteran.

(4) If a pilot program is required to be conducted under paragraph (1), the Administrator shall—

(A) evaluate the conduct of the program, the nature and extent of the benefits to veterans of being provided with signal dogs under the program (including any benefits related to employment), and the costs and cost-effectiveness of providing such dogs to veterans who have hearing impariments; and

(B) include in the report required by subsection (d)(2)—

(i) the results of the evaluation carried out under clause (A) of this paragraph, including descriptions of the procedures and criteria used to select veterans to be provided with signal dogs, the nature and extent of the benefits to the veterans involved of being provided with such dogs, and the amounts and types of costs incurred by the Veterans' Administration in the conduct of the program; and

(ii) any recommendations that the Administrator considers appropriate with respect to continuation of the pilot program or whether the authority to provide signal dogs should be made permanent.

PART C—HEALTH-CARE PERSONNEL

SEC. 621. APPOINTMENT OF VETERANS' ADMINISTRATION-TRAINED PERSONNEL.

Section 4106 is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding subchapter I of chapter 33 of title 5, the Administrator, upon the recommendation of the Chief Medical Director, may appoint in the competitive service under title 5 individuals with a recognized degree or certificate from an accredited institution in a health-care profession or occupation who were appointed to and successfully participated in a Veterans' Administration-affiliated clinical education program.

"(2) In using such authority to appoint individuals in such service, the Administrator shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.".

SEC. 622. APPROVAL OF SPECIAL RATES OF PAY.

Section 4107(g)(4) is amended—

(1) in the first sentence, by striking out "ninety" and inserting in lieu thereof "forty-five"; and

(2) by adding at the end the following new sentence: "If, prior to such effective date, the President approves such increase, the Administrator may advance the effective date to any date not earlier than the date of the President's approval.".

SEC. 623. HEALTH PROFESSIONAL SCHOLARSHIP AWARDS.

Section 4312(b)(5) is amended to read as follows:

"(5) In selecting applicants for the Scholarship Program, the Administrator shall—

"(A) give priority to the applications of individuals who will be entering their final year in a course of training; and

"(B) ensure an equitable allocation of scholarships to persons enrolled in their second year of a program leading to an associate degree in nursing.".

SEC. 624. ASSISTANCE TO HEALTH-PERSONNEL EDUCATIONAL INSTITUTIONS.

(a) DEVELOPMENT OF NEW HEALTH CAREERS.—Section 5091 is amended by inserting "(in collaboration with representatives of the professions the members of which are currently responsible for carrying out the duties involved)" after "paramedical personnel, and".

(b) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—(1) Subchapter III of chapter 82 is amended by adding at the end the following new section:

"§ 5094. Authorization of appropriations

"(a) There is authorized to be appropriated for the purpose of making grants under this subchapter $5,000,000 for each of fiscal years 1989 and 1990 and $6,000,000 for each of fiscal years 1991 and 1992.

"(b)(1) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the fifth fiscal year following the fiscal year for which they are appropriated.

"(2) Of the funds appropriated pursuant to the authorization in subsection (a) of this section, not to exceed 10 percent may be expended for the purpose described in section 5096(2) of this title.".

(2) The table of sections at the beginning of chapter 82 is amended by inserting after the item relating to section 5093 the following new item:

"5094. Authorization of appropriations.".

SEC. 625. PILOT PROGRAM OF PAY AND PERSONNEL MANAGEMENT PRACTICES.

(a) IN GENERAL.—The Chief Medical Director of the Veterans' Administration shall conduct a pilot program at not less than five Veterans' Administration medical centers during calendar years 1989, 1990, and 1991, in order to determine—

(1) the effects of pay and personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incident to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen; and

(2) whether it is desirable to—

(A) establish programs which foster interdisciplinary professional collaboration and collegial relationships between physicians and registered nurses, and what effects such programs would have on the ability of the Veterans' Administration to recruit and retain registered nurses;

(B) expand the administrative and supervisory responsibilities of the position of Chief of the Nursing Service, where such Chief has the requisite qualifications and experience, to include responsibility for support services and clinical departments other than nursing;

(C) create new alternatives for utilizing the skills and knowledge of registered nurses in furnishing direct-patient care and what effects this change would have on the ability of the Veterans' Administration to recruit and retain registered nurses and the cost of providing care to veterans;

(D) increase the pay differential for evening and night service to attract adequate numbers of qualified workers to these shifts and, as a result, provide the opportunity for consistent day shift positions;

(E) revise the grade, classification, pay, performance qualifications and other appropriate personnel management systems used in the Department of Medicine and Surgery; and

(F) establish flexible employment benefits programs for Department of Medicine and Surgery employees.

(b) CONDUCT OF PILOT PROGRAM.—In conducting the pilot program under subsection (a) the Chief Medical Director shall—

(1) at not less than three sites, expand the administrative and supervisory responsibilities of the Chief of the Nursing Service to include responsibility for support services and clinical departments other than nursing;

(2) at not less than one site, establish a collaborative practice committee involving physicians, nurses, and, as appropriate, other direct health-care personnel;

(3) at not less than one site, significantly increase the pay differential for evening and night service;

(4) at not less than three sites, implement new alternatives for utilizing the skills and knowledge of registered nurses in the furnishing of direct-patient care;

(5) at not less than one site, establish systems alternative to or additional to the systems established under chapter 73 of title 38 or chapters 33, 43, 51, 53, 54, and 61 of title 5, United States Code, for grade, classification, pay, performance, qualifications, and other appropriate aspects of personnel management; and

(6) at not less than one site, establish flexible employment benefits programs alternative to or additional to the programs established under chapter 73 of title 38 or chapters 63, 79, 87, and 89 of title 5, United States Code.

(c) Reports.—(1)(A) Not later than June 30, 1990, the Chief Medical Director shall submit to the Administrator a report on the results of the first 12 months' experience under the pilot program required by subsection (a). The report shall contain—

(i) the evaluation of the Chief Medical Director of the effectiveness of each management practice undertaken in the pilot program on the Veterans' Administration's ability to recruit and retain health-care employees;

(ii) information on the cost factors associated with each such management practice;

(iii) an evaluation of the functioning and productivity of the employees involved in or affected in any substantial way by such practices;

(iv) in the cases of expansions of the responsibilities of the Chief of the Nursing Service pursuant to subsection (b)(1), information as to the supervision and support provided to all designated departments;

(v) any effects on the quality and timeliness of care provided to veterans; and

(vi) any planned administrative actions, and any recommendations for legislation, that the Chief Medical Director considers appropriate to include in the report on the basis of the results of such pilot program.

(B) Not later than 60 days after receiving the report under subparagraph (A), the Administrator shall submit a copy of the report to the Committees on Veterans' Affairs of the Senate and the House of Representatives, together with any comments on the report and any recommendations for legislation that the Administrator considers appropriate to submit.

(2)(A) Not later than June 30, 1991, the Chief Medical Director shall submit to the Administrator a report on the results of the first 24 months' experience under the pilot program required by subsection (a). The report shall contain updates of all information provided in the report submitted pursuant to paragraph (1)(A) of this subsection and any recommendations for legislation that the Chief Medical Director considers appropriate to include in the new report.

(B) Not later than 60 days after receiving the report under subparagraph (A), the Administrator shall submit a copy of the report to the Committees on Veterans' Affairs of the Senate and the House of Representatives, together with any comments on the report and any recommendations that the Administrator considers appropriate to submit.

(3)(A) Not later than June 30, 1992, the Chief Medical Director shall submit to the Administrator a final report on the pilot program required by subsection (a). The report shall contain—

(i) updates on all information provided in the report submitted pursuant to paragraphs (1)(A) and (2)(A) of this subsection;

(ii) the Chief Medical Director's final assessment of the pilot program based on 36 months of operation; and

(iii) any recommendations for legislation that the Chief Medical Director considers appropriate to include.

(B) Not later than 60 days after receiving the report under subparagraph (A), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a copy of the report together with—

(i) any comments on the report that the Administrator considers appropriate;

(ii) the Administrator's final assessment of the pilot program based on 36 months of operation; and

(iii) any recommendation for legislation that the Administrator considers appropriate to submit.

(d) The Chief Medical Director is hereby authorized to expend such appropriated funds as are necessary to carry out this section in fiscal years 1989, 1990, 1991, and 1992.

(e) Section 231(d) of Public Law 100-322 is repealed.

SEC. 626. CONVERSION OF NON-PHYSICIAN MEDICAL CENTER DIRECTORS TO THE SENIOR EXECUTIVE SERVICE.

(a) Section 4101(e) is amended by striking out "and persons appointed under section 4103(a)(8) of this chapter".

(b) Section 4103(a) is amended—

(1) by striking out paragraph (8); and

(2) by redesignating paragraph (9) as paragraph (8).

(c) Section 4107(c) is amended to read as follows:

"(c) Notwithstanding the provisions of section 4101(e) of this title, any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title shall be deemed to be a career appointee for the purposes of sections 4507 and 5384 of title 5.".

(d) Except as provided in paragraph (2), notwithstanding any other provision of law and without regard to the provisions of subsections (b) through (e) of section 3393 of title 5, each person holding an appointment as a director under section 4103(a)(8) of title 38, United States Code, on the day before the date of the enactment of this Act, shall, on such date, become a career appointee in the Senior Executive Service established pursuant to chapter 31 of title 5.

(2) Any person holding an appointment on the date of the enactment of this Act as such a director may, not later than 60 days after such enactment date, elect to retain the terms and conditions of that appointment for as long as that person continues to serve as such a director.

(3) This section shall not result in a reduction in the pay of any person.

SEC. 627. DISCIPLINARY ACTIONS AND GRIEVANCES.

(a) Procedures for Cases Involving Lesser Penalties.—Section 4110 is amended—

(1) in subsection (a)—

(A) by striking out "of inaptitude, inefficiency, or misconduct" and inserting in lieu thereof "in disciplinary actions for performance or conduct during tenure with the Veterans' Administration, except with respect to matters described in subsection (f) of this section,"; and

(B) by adding at the end the following new sentence: "The Chief Medical Director may delegate the function of appointing a board to an employee of the Department of Medicine and Surgery who is not involved in deciding whether or not to file charges against the employee and who is not subordinate to any official involved in so deciding.";

(2) in the first sentence of subsection (d), by striking out "suitable" and all that follows and inserting in lieu thereof "that the proposed disciplinary action be sustained or modified within limitations prescribed by the Administrator."; and

(3) by adding at the end the following new subsection:

"(f)(1) An employee against whom disciplinary action consisting of a suspension for 14 days or less, reassignment or reduction in rank without a reduction in basic pay, reprimand, or admonishment is proposed is entitled to—

"(A) an advance written notice stating the specific reasons for the proposed action;

"(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(C) be represented by an attorney or other representative; and

"(D) a written decision and the specific reasons therefor at the earliest practicable date.

"(2) Actions taken under paragraph (1) of this subsection shall be subject to review under either the provisions of section 4120A of this title, in the case of employees appointed under authority of this title who are members of a bargaining unit recognized under chapter 71 of title 5, or an agency review procedure to be established by the Administrator, in the case of such employees who are not members of such a unit. Any such agency review procedure established by the Administrator shall include—

"(A) an informal review of the decision on the disciplinary action by an official of a higher level than the official who made the decision;

"(B) a prompt decision by such higher level official and a right to formal review by an impartial examiner within the agency;

"(C) a prompt report of the findings and recommendations by the impartial examiner; and

"(D) a prompt review of the examiner's findings and recommendations, together with any comments by the employee and the agency on such findings and recommendations, by an official of a higher level than the official who conducted the review pursuant to clause (A) of this paragraph.".

(b) Grievances.—(1) Subchapter 1 of chapter 73 is further amended by adding at the end the following new section:

"§ 4120A. Grievances and certain disciplinary reviews

"(a)(1) For the purpose of resolving (A) grievances of employees appointed under authority of this title who are members of a bargaining unit recognized under chapter 71 of title 5, or (B) except as prescribed in paragraph (2), disciplinary actions as described in subsection 4110(f)(1) of this title involving such employees, the Administrator shall authorize review of agency actions on grievances or disciplinary actions under the procedures negotiated under the authority of chapter 71 of title 5.

"(2) In any matter, as determined by either party, involving disciplinary actions involving questions of clinical competence, the individual selected to arbitrate the matter must be qualified as an arbitrator and also be qualified as a physician, dentist, nurse, or otherwise qualified, by specialized experience or training or both, in examining and adjudicating health-care issues.

"(b) For the purpose of resolving grievances of supervisors and employees appointed under authority of this chapter who are not members of a bargaining unit recognized under chapter 71 of title 5, the Admin-

istrator shall authorize review of agency action on such grievances pursuant to an agency review procedure as described in section 4110(f)(2).

"(c) For the purposes of this section, the term 'grievance' means a matter of concern by an employee appointed under this title (as may be negotiated under authority of chapter 71 of title 5) with respect to his or her employment but does not include matters similar to those excluded from grievance procedures under chapter 71 of title 5.".

(2) The table of sections at the beginning of chapter 73 is amended by adding at the end of subchapter I the following new item:

"4120A. Grievances and certain disciplinary reviews.".

TITLE VII—MISCELLANEOUS

SEC. 701. DEFINITION OF VIETNAM ERA.

(a) Expansion of Definition.—Section 101(29) of title 38, United States Code, is amended to read as follows:

"(29) The term 'Vietnam era' means—

"(A) the period beginning February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during such period; and

"(B) the period beginning August 5, 1964, and ending on May 7, 1975, in all other cases.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1988. No person shall be entitled to receive by reason of the amendment made by subsection (a) any benefits for any period before such date.

SEC. 702. EXTENSION OF AUTHORITY FOR REGIONAL OFFICE IN THE PHILIPPINES.

Section 230(b) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1992".

SEC. 703. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

(a) Disclosure of Return Information.—Paragraph (7)(D) of section 6103(l) of the Internal Revenue Code of 1986 is amended—

(1) by striking out "and" at the end of clause (vi);

(2) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and";

(3) by adding at the end the following new clause:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Veterans' Administration;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under sections 610(a)(1)(I) and (2)(A), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total; except that, in such cases, only wage and self-employment information may be disclosed."; and

(4) by inserting before the period at the end of the heading ***"or to the Veterans' Administration"****.*

(b) Protection Against Improper Use of Return Information.—(1) Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Protection of benefit applicants and recipients from improper use of certain information

"(a)(1) In order to protect applicants for and recipients of the benefits and services described in paragraph (2) of this subsection from the improper use of information obtained from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(7)(D)(viii)), the Administrator may not terminate, deny, suspend, or reduce any such benefits or services of an individual until the Administrator has complied with the requirements in section 1137(c) of the Social Security Act (42 U.S.C. 1320b-7(c)), and such requirements shall be fully applicable in the case of such benefits and services.

"(2) The benefits and services described in this paragraph are—

"(A) needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Veterans' Administration;

"(B) parents' dependency and indemnity compensation provided under section 415 of this title;

"(C) health-care services furnished under sections 610(a) (1)(I) and (2)(A), 610(b), and 612(a)(2)(B) of this title; and

"(D) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(b) In the case of compensation described in subsection (a)(2)(D) of this section, the Administrator may independently verify or otherwise act upon wage or self-employment data referred to in subsection (a) of this section only if the Administrator finds that the amount and duration of the earnings reported therein clearly indicate that the individual may no longer be qualified for a rating of total disability.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3116 the following new item:

"3117. Protection of benefit applicants and recipients from improper use of certain information.".

(c) Notification of Income Verification.—Not later than 90 days after the date of the enactment of this Act and prior to obtaining information from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, the Administrator of Veterans' Affairs shall notify applicants for and recipients of the benefits described in subsection (a)(2)(A), (B), and (D) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished by such applicants and recipients may be compared with information from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986. Thereafter, the Administrator shall notify all new applicants for such benefits and for services described under subsection (a)(2)(C) of such section 3117 that income information furnished by them may be so compared and shall periodically renotify all recipients of such benefits and services.

(d) Payment of Administrative Costs.—The costs incurred by the Administrator in obtaining, verifying, and using information disclosed pursuant to the amendments made by subsection (a) shall be paid for out of the Veterans' Administration's compensation and pension account, and amounts collected as a result of such actions shall be paid into such account.

SEC. 704. PROCUREMENT THROUGH LOCAL CONTRACTS.

(a) Effective Dates of Provisions Enacted in the Veterans' Benefits and Services Act of 1988.—Notwithstanding section 403(b) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322)—

(1) subsections (a) and (b)(2) of section 5025 of title 38, United States Code, shall not take effect until May 20, 1989; and

(2) subsection (d) of such section 5025 shall take effect on December 1, 1992.

(b) Transition Period.—During the period beginning December 1, 1988, and ending November 30, 1992—

(1) not later than February 1 of each year, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out section 5025 of title 38, United States Code, during the preceding fiscal year. The February 1, 1989, report shall contain information showing the percentage of the total of all health-care items procured by the Veterans' Administration in fiscal year 1988 through local contracts (as defined in subsection (e)(2) of such section) measured as a percent of total costs. The February 1, 1990, 1991, and 1992, reports shall contain information showing the percentage of the total of all health-care items procured by the Veterans' Administration and by each Veterans' Administration medical center in such fiscal year which were purchased through local contracts (as defined in subsection (e)(2) of such section), measured as a percent of total costs and, in the case of each medical center at which the percentage was greater than 20 percent, an explanation of the reasons why that occurred; and

(2) the definition of the term "health-care item" in such section 5025 shall be deemed not to include any item listed in, or (as determined by the Administrator of Veterans' Affairs) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 73.

(c) Standardization.—Section 402 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322) is amended in the first sentence by striking out "medical and pharmaceutical items" and inserting in lieu thereof "health-care items (as defined in section 5025(e)(1) of title 38, United States Code)".

SEC. 705. TECHNICAL CORRECTIONS.

(a) Corrections Necessitated by Amendments Made by Public Law 100-322.—(1) Section 603(a)(2)(B) is amended—

(A) by striking out "612(a)(4)" and inserting in lieu thereof "paragraphs (2), (3), or (4) of section 612(a)"; and

(B) by striking out "612(a)(5)" and inserting in lieu thereof "612(a)(5)(B)".

(2) Section 4114(a) is amended—

(A) in paragraph (1)—

(i) in clause (A), by inserting "pharmacists, occupational therapists," after "vocational nurses,"; and

(ii) in clause (B), by inserting "pharmacists and occupational therapists," after "vocational nurses,"; and

(B) in paragraph (3)(D) by striking out "the category" and all that follows through "vocational nurses" and inserting in lieu thereof "a category of personnel described in such section 4104(3)".

(b) Effective Date.—The amendments made by subsection (a)(1) shall apply with respect to the furnishing of medical services by contract to veterans who apply to the

Veterans' Administration for medical services after June 30, 1988.

(c) RATIFICATION.—Any action of the Administrator of Veterans' Affairs in contracting with facilities other than Veterans' Administration facilities for the furnishing of medical services (as defined in section 601(6) of title 38, United States Code), for the purpose described in section 612(a)(5)(B) of such title, to an individual described in paragraph (2) or (3) of section 612 of title 38, United States Code, who applied to the Veterans' Administration for such services during the period beginning on July 1, 1988, and ending on the date of enactment of this Act is hereby ratified.

Amend the title so as to read: "An Act to increase the rates of compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans; to amend title 38, United States Code, to improve and extend various veterans' health and benefits programs authorities; and for other purposes.".

Mr. CRANSTON. Mr. President, I am delighted, as the chairman of the Committee on Veterans' Affairs, to urge our colleagues to give their unanimous approval to the pending measure, S. 2011, the proposed Veterans' Benefits and Programs Improvement Act of 1988 as reported unanimously by the committee on August 1 as it will be modified by an amendment offered by our committee's ranking minority member [Mr. MURKOWSKI] and myself which I will describe in more detail later in my statement.

Mr. President, the measure as it comes before the Senate today—which I will refer to as the committee bill—is derived from a significant number of bills which are described in detail in the committee's report accompanying this measure, Senate Report No. 100-439. There are over 60 substantive provisions covering a wide range of subjects, including provisions providing for cost-of-living adjustments for VA compensation and related service-connected benefits; benefits in connection with agent orange exposure; rehabilitation for veterans with service-connected disabilities; Montgomery GI bill and other VA education program modifications; greater independence for the Board of Veterans Appeals; enhancements in various VA mental-health care programs, including programs for posttraumatic stress disorder; and new initiatives to improve the VA's ability to recruit and retain health-care personnel.

Mr. President, because the various provisions in the committee bill are described in detail in the committee's report, I will at this time just set forth a summary of the provisions and then discuss some selected provisions that I want to highlight. I refer my colleagues and all others with an interest in this bill to the committee report for more complete information on it.

SUMMARY OF PROVISIONS

Mr. President, S. 2011 as reported and as modified by the committee amendment has seven titles: Compensation and Related Benefits; Agent Orange and Related Provisions; Education and Rehabilitation; Miscellaneous Benefits Provisions; Board of Veterans Appeals; Health Care; and Miscellaneous, as follows:

TITLE I—COMPENSATION AND RELATED BENEFITS

Mr. President, title I contains amendments to chapters 11 and 13 of title 38, United States Code, and freestanding provisions that would:

First, require the Administrator of Veterans' Affairs to adjust, effective December 1, 1988, the rates and limitations for compensation paid to veterans with service-connected disabilities and dependency and indemnity compensation [DIC] paid to certain service-connected-disabled veterans' survivors by the same percentage, rounded down to the nearest dollar, as that paid to Social Security recipients and VA pension beneficiaries, originally estimated by the Congressional Budget Office to be 4.5 percent but likely to be in the 4.1-percent range as a result of CBO's recent reestimates, effective on that same date.

The basic adjustment would apply to: First, basic compensation rates for service-connected disabled veterans and the rates payable for certain severe disabilities; second, the allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30 percent or more disabled; third, the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance, including a wheelchair, that tends to tear or wear out clothing; and fourth, the DIC rates paid to: surviving spouses of veterans whose deaths were service connected; surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of regular aid and attendance or to be permanently housebound; and the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

Second, expand the annual clothing allowance to include cases in which veterans with certain skin conditions use medications which stain clothing.

TITLE II—AGENT ORANGE AND RELATED PROVISIONS

Mr. President, title II contains amendments to title 38, Public Laws 96-151, 98-160, and 98-542, and freestanding provisions that would:

First, provided for the payment of disability or death benefits, effective January 15, 1989, equal to VA service-connected disability compensation and DIC, in the cases of Vietnam veterans having non-Hodgkin's lymphoma [NHL], or their survivors, if applications for these benefits are submitted not later than 6 months after the results of the Centers for Disease Control's Selected Cancers Study [SCS] are submitted to the VA.

Second, authorize the Administrator to suspend the awarding of such benefits with respect to new applications if, after receiving the reports on the SCS by the Office of Technology Assessment [OTA] and the Veterans' Advisory Committee on Environmental Hazards [EHAC], the Administrator finds that the SCS results together with any other scientific evidence then available do not support an association between NHL and service in Vietnam.

Third, presumptively service connect chloracne for Vietnam veterans where it or another acneform skin disease consistent with chloracne appeared within 1 year after service in Vietnam.

Fourth, extend for 15 months, from September 30, 1989, to December 31, 1990, VA health care eligibility for agent orange- and radiation-exposed veterans.

Fifth, exclude from computation of income for purposes of VA needs-based pension and parents' DIC and veterans' health-care eligibility based on financial status, payments received in settlement of or as the result of a judgment in litigation based on injuries or disabilities alleged to have been incurred as a result of events that occurred during the active duty service of the veteran, as long as the annual amount of such payments does not exceed the annual income limits set for pension benefits for a veteran with the same marital status and number of dependents.

Sixth, require the Administrator: First, to contract for a comprehensive review—by the National Academy of Sciences [NAS] or, if the NAS declines, another appropriate private, nonprofit, scientific entity—of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds and for a report, due by October 1, 1989, on the review's results and the contractor's conclusions as to the weight of the evidence on such effects, and second, within 60 days after receiving the NAS report, to decide whether the VA's regulations regarding compensation for diseases based on Agent Orange exposure should be amended.

Seventh, with respect to studies described in Public Law 96-151—which, as expanded in Public Law 97-72, requires epidemiological study of any long-term adverse health effects in humans of service in Vietnam require the EHAC and the OTA to review the reports submitted upon completion of each of the studies carried out under that provision and provide written reports on each to the VA and the two Veterans' Affairs Committees within 60 days after receipt of each report; and require the Administrator to decide within 60 days after receiving both the EHAC and OTA reports whether the VA's regulations on agent orange should be amended and to advise the committees of that decision and the reason therefor. The same procedures also would be established with respect to study of the health effects of exposure to ionizing radiation described in Public Law 98-160 and the VA regulations pertaining to compensation based on such exposure.

Eighth, with respect to studies not described in Public Law 96-151, require the Administrator, within 60 days after receiving a report from the EHAC based on any such study recommending that the VA agent orange regulations be amended, to decide whether the regulations should be amended and to advise the two Veterans' Affairs Committees of that decision and the reasons therefor.

TITLE III—EDUCATION AND REHABILITATION

Mr. President, title III contains provisions to make various improvements in VA programs of education and vocational rehabilitation.

PART A—REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

Part A of this title contains amendments to chapters 11 and 31 of title 38 that would:

First, allow the use of State and local government agencies, supported in whole or in part with Federal funds, to provide uncompensated training or work experiences for service-disabled veterans' programs of vocational rehabilitation under chapter 31.

Second, allow, under certain conditions, the use of for-profit organizations to provide employment assistance to disabled veterans and to conduct programs of independent living services for severely handicapped veterans.

Third, extend for 1 year, through January 1, 1990, the temporary program of trial work periods and vocational rehabilitation evaluation, for veterans receiving compensation at the rate paid to totally disabled veterans based on a determination of individual unemployability.

PART B—EDUCATION PROGRAMS

Part B of this title includes amendments to chapters 30, 31, 32, 34, and 35 of title 38 and chapter 106 of title 10 that would:

SUBPART 1—MONTGOMERY GI BILL PROVISIONS

First, provide entitlement of 1 month of educational assistance for each month of active duty served for a Montgomery GI bill [MGIB] participant who: First, is discharged from military service for a preexisting medical condition which the Administrator determines is not service connected or involuntarily, for reasons beyond the participant's control, due to a reduction in force [RIF]; and second, as a result, does not meet the length-of-service requirement for MGIB entitlement—20 months on active duty of a 24-month enlistment or 30 months on active duty of a 36-month enlistment.

Second, provide service members who first entered active duty during the period July 1, 1985, through June 30, 1988, and elected not to enroll in the MGIB with a one-time 120-day open period beginning on December 1, 1988, during which they may withdraw such elections and become MGIB particpants by agreeing to serve an additional 2 years on active duty.

Third, modify the secondary-school diploma/equivalency certificate requirement for MGIB participants to permit the Secretary of Defense to prescribe regulations under which the Secretaries of the service branches may determine what is an adequate equivalent.

Fourth, extend, from June 30, 1988, until the date on which a veteran begins to pursue a program of education with MGIB assistance, the deadline by which a Vietnam-era veteran who otherwise qualifies for combined Vietnam-era GI bill and MGIB benefits must obtain a secondary school diploma, or an equivalent, in order to use such benefits.

Fifth, permit MGIB participants who have completed 2 years on active duty and commenced service in the Selected Reserve but, prior to completing their Reserve obligation, are discharged due to disability to elect to receive entitlement based on either their active duty service alone or the combination of active and reserve service.

SUBPART 2—PROVISIONS RELATING TO MONTGOMERY GI BILL AND CERTAIN OTHER PROGRAMS

First, authorize pursuit of refresher, remedial, and deficiency courses under chapters 30 [MGIB], 32 Post-Vietnam Era Veterans' Educational Assistance Program [VEAP] and 35 service-connected dependents' and survivors' educational assistance of title 38 and chapter 106—MGIB based solely on selected reserve service—of title 10 without a charge to entitlement for up to 5 months and beyond that with a charge to entitlement, and require by February 1, 1991, a report on the use of these courses with and without entitlement.

Second, make MGIB and VEAP participants eligible for individualized tutorial assistance and increase the monthly tutorial allowance from $84 to $100 and the overall maximum from $1,008 to $1,200.

Third, provide for a charge to entitlement at a rate equal to the proportion that 50 percent of the tutorial assistance paid bears to the full time rate for monthly educational assistance allowance—for the use of tutorial assistance under chapters 30, 32, and 35.

Fourth, provide for pursuit of cooperative training benefits to MGIB and VEAP participants after their release from active duty, with benefits paid at the rate of 80 percent of the basic full-time monthly rate otherwise payable and with entitlement charged at the same rate.

Fifth, toll the eligibility periods for VA education-benefits or rehabilitation programs for certain veterans and other eligible persons who have been prevented from participating in such programs because of drug or alcohol dependence or abuse disabilities from which they have recovered sufficiently to participate in such programs.

SUBPART 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

First, permit a student who is using VA education benefits a one-time opportunity to withdraw from a course or courses without regard to mitigating circumstances (not exceeding 6 semester hours or the equivalent) without being required to repay the benefits paid for the period prior to the effective date of the reduction in the award for the course or courses.

Second, require that contract educational and vocational counseling services for participants in all VA-administered education, and vocational training programs other than chapter 31, be funded under the VA's readjustment benefit appropriations account up to a total of $5 million annually.

Third, simplify the formula for determining whether a student receiving VA-administered educational assistance is engaged in full-time study when pursuing a noncollege-degree course which is offered by an institution of higher learning and for which the institution requires pursuit of one or more unit courses or subjects creditable toward a college degree.

Fourth, limit the amount of educational assistance payable to a VEAP participant who is serving a sentence in a Federal, State, or local penal institution for conviction of a felony.

Fifth, extend the existence of the Veterans' Advisory Committee on Education for 4 years, to December 31, 1993, and add to its membership the Chairman of the Commission to Assess Veterans' Education Policy.

Sixth, make eligible for Vietnam-era GI bill benefits individuals who before January 1, 1977, commenced their third academic year as cadets or midshipmen at one of the service academies or as members of the Senior Reserve Officers Training Corps [SROTC]; served on active duty for more than 180 days after graduation from one of the academies or upon completing the SROTC program; if separated from active duty, were discharged or released under conditions other than dishonorable; and (d) enrolled in VEAP.

Seventh, repeal certain expired education loan authorities.

PART C—NON-SERVICE CONNECTED DISABILITY PENSION RECIPIENTS' VOCATIONAL TRAINING PROGRAM

Part C of this title contains amendments to chapter 15 of title 38 that would:

Extend for 1 year, from January 31, 1989, until January 31, 1990, the temporary programs of vocational training for certain new pension recipients and of 3-year protection of veteran-pensioners' VA health-care eligibility if they lost pension entitlement as a result of work income.

TITLE IV—MISCELLANEOUS BENEFITS PROVISIONS

Mr. President, title IV contains provisions that would make improvements in various VA benefits programs.

PART A—INSURANCE PROGRAMS

Part A of this title contains amendments to chapter 19 of title 38 that would:

First, authorize the VA to pay interest on insurance settlements from the date a policy matures to the date of payment of proceeds, and would apply to National Service Life Insurance [NSLI], Veterans Special Life Insurance [VSLI], Veterans Reopened Insurance [VRI], and U.S. Government Life Insurance.

Second, authorize the VA to adjust discount rates for premiums paid in advance on NSLI, VSLI, and VRI policies, although no adjustments could be made below the discount rates currently authorized for each program (3 percent, 5 percent, and 5 percent respectively). Adjustments could be made only if the Administrator determines that they are administratively and actuarially sound.

PART B—STATE CEMETERY CONSTRUCTION GRANTS

Part B of this title contains an amendment to chapter 24 of title 38 that would:

Extend for 5 years, through fiscal year 1994, the authorization of appropriations (of "such funds as may be necessary") for grants for the construction of State veterans' cemeteries.

PART C—HOME LOAN GUARANTY PROGRAM

Part C of this title contains an amendment to chapter 53 of title 38 that would:

Clarify that eligibility for waiver of VA home loan debts is available to active-duty service personnel.

TITLE V—BOARD OF VETERANS' APPEALS

Mr. President, title V would amend title 38 to provide for changes to the operations of the Board of Veterans' Appeals (the Board) that would:

First, remove the provision making the BVA Chairman directly responsible to the Administrator.

Second, encourage the Board to dispose of appeals before it in a timely manner.

Third, require the President, by and with the advice and consent of the Senate, to appoint the Chairman for a term of 5 years and provide that an individual may serve as Chairman for no more than three complete terms and that the Chairman may be removed by the President for good cause.

Fourth, require the Chairman to appoint Board members for a term of 9 years and designate as Vice Chairman one of the Board members; provide that a member appointed to fill a vacancy, whether caused by resignation, death, or removal, would serve for the remaining unexpired term; and provide for Board members to be removed by the Chairman for good cause, subject to the due process protections in title 5 relating to adverse personnel actions.

Fifth, require the President to appoint the Chairman no later than 1 year after the date of the enactment of this bill and allow the serving Chairman to continue until his successor is appointed; and provide that if the serving Chairman is appointed none of the time served prior to the appointment would count in calculating the terms he or she may serve.

Sixth, provide that of the first Board members appointed, 21 would be appointed for a 3-year term, 22 for a 6-year term, and 22 for a 9-year term and that an individual who is serving upon enactment as a member of the Board may continue to service until the earlier of the date on which the individual's successor is appointed or the expiration of 180-day period after the Chairman is appointed.

Seventh, require that the Chairman be paid at executive level IV.

Eighth, require the Chairman to report to the congressional Committee's on Veterans' Affairs annually on the Board's current and future workload and its ability, based on then current and projected staffing, to dispose of appeals in a timely manner.

Ninth, eliminate any direct or indirect bonuses, in addition to salary, relating to service on the Board for Board members or acting or temporary members.

Tenth, require a final determination to be a unanimous vote for a denial and a majority vote for an allowance, preclude a temporary or acting member from casting a vote in any case where the votes of the two regular members are split and require the Chairman to expand the Board section by at least two members upon such a split.

Eleventh, require the Board to provide a claimant with notice and an opportunity for a hearing before making a decision based exclusively on evidence and material of record and applicable provisions of law.

Twelfth, make a technical correction in the description of the Board's authority to reopen a claim be deletion—as inconsistent with present practice—the present requirement that new and material evidence sufficient to reopen a claim to be in form of official reports from the proper service department.

Thirteenth, expand the present requirement that Board decisions be in writing and certain findings of fact and conclusions of law separately stated, to require that such decisions include findings and conclusions and reasons and bases therefor, on all material issues of fact, law, and matters of discretion, as well as an order granting or denying relief.

Fourteenth, require prompt mailing of the Board decision in a case to the claimant and the claimant's representative.

Fifteenth, codify current Board practice, as testified to by the Board Chairman, under which the claimant shall not be presumed to agree with any statement of fact or law contained in the statement of the case unless the claimant specifically expresses agreement.

Sixteenth, expressly provide a claimant before the Board with the right, upon request, to have the Board acquire an independent expert medical [IME] opinion when there is a substantial disagreement between the substantiated findings or opinions of two physicians on an issue material to the outcome of the case and with the right to appeal a denial of a request the the Chairman; and provide that notice of any Board decision to deny such a request, the basis for such denial, and the right to appeal a denial to the Chairman would have to be provided to the claimant's representative but that such a decision would not be subject to judicial review.

Seventeenth, require notice to a claimant of any consultation, including and IME consultation, with a physician, other than the physician on the Board section deciding the case, along with the results of that consultation and provide 60 days before decision in which the claimant may respond to the opinion; and require the information gained through this process to be included in the discussion of evidence in the final decision.

Eighteenth, authorize the Administrator and the Board to administer oaths and affirmations, examine witnesses, and receive in VA claims adjudication proceedings.

Nineteenth, provide for the admission, even if inadmissible under the rules of evidence applicable in court, of all evidence submitted in VA claims adjudication proceedings subject only to such provisions as the Administrator or Chairman, depending upon the forum, may impose through regulations for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

Twentieth, provide that, in the course of hearings on a claim for VA benefits following initial denial of the claim, the claimant (or other party) shall have the right to review and, on the payment of a fee (waivable by the Chairman of the Board, pursuant to regulations that the Administrator must prescribe, on the basis of inability to pay or for other good cause shown) limited to the costs of duplication, to obtain copies of the case files and all materials to be used by the VA at the hearing, to present witnesses and evidence including medical opinions and rebuttal evidence, to make arguments and to submit written contentions, and to submit to any person written interrogatories which must be answered unless written objections thereto are filed; provide that if the person served with interrogatories files an objection thereto the Chairman of the Board must, pursuant to regulations that the Chairman must prescribe, evaluate the objection and issue an order directing that answers be given or stating that they need not be given; and provide that if the person served with interrogatories fails to comply with such an order or, in the absence of an objection, to answer the interrogatories, the party who served the interrogatories would have the right, upon a statement or showing of good cause, to have the Chairman issue a subpena (enforceable in Federal district court) for the witness' attendance at a deposition at which the unanswered interrogatories would be asked.

Twenty-first, provide that a claimant may request a hearing before a traveling section of the Board with scheduling of such cases to be on a first-come, first-served basis.

Twenty-second, provide that if a claimant requests a hearing before a traveling section of the Board, but is unable to receive such a hearing due to the limited number of hearings available, the Board shall afford the claimant an opportunity for a hearing conducted by telephone or closed circuit television before a Board panel or in a videotaped hearing before VA Regional Office adjudication personnel acting for the Board.

Twenty-third, allow, in the course of any claims proceeding, any VA employee to disqualify himself or herself on the basis of personal bias or other cause and a party to challenge such an employee on such basis.

Twenty-fourth, specify the materials that must be included in the record of VA claims adjudication proceedings and be available for the claimant's inspection and be copied for the claimant upon the payment of a fee (waivable by the Chairman, pursuant to regulations that the Chairman must prescribe, on the basis of the claimant's inability to pay or for other good cause shown) limited to the cost of duplication.

Twenty-fifth, specify that the adjudication rights contained in title 38 and prescribed thereunder by the Administrator or Chairman are exclusive.

Twenty-sixth, require the Administrator and the Chairman, at each stage of claims adjudication proceedings before the VA and the Board, to provide the claimant with detailed written notice, in easily understandable language, of the claimant's procedural rights.

Twenty-seventh, codify the present practice that retroactive awards may be made for claims reopened and allowed on the basis of new and material evidence in the form of service records.

Twenty-eighth, specify that the limitations on attorneys fees in section 3404 of title 38 shall apply only to cases involving claims for benefits under laws administered by the VA and shall not apply in cases in which the VA is a plaintiff or in which other attorneys' fee statutes apply.

TITLE VI—HEALTH CARE

Mr. President, title VI contains provisions to make various improvements is VA health-care programs and in the administration of such programs.

PART A—PROGRAMS RELATING TO POST-TRAUMATIC STRESS DISORDER AND MENTAL HEALTH

Part A of this title includes freestanding provisions and amendments to chapters 17 and 73 of title 38 that would:

First, require the VA to furnish inpatient and outpatient mental health services to Vietnam veterans—those who served either in the Republic of Vietnam or elsewhere in the Vietnam theater of operations during the Vietnam era—who a mental health professional designated by the Chief Medical Director has diagnosed, on the basis of a personal examination, as suffering from service-related post-traumatic stress disorder.

Second, mandate the VA's special committee on post-traumatic stress disorder to submit to the Administrator—who would submit them to the two Veterans' Affairs Committees—three reports—the first, due April 1, 1989, giving the special committee's evaluation of the results of the study mandated by Public Law 98-160 on the prevalence and incidence of PTSD among Vietnam veterans, and the second and third, due February 1, 1990, and 1991, respectively, updating prior reviews of the VA's efforts to meet the needs of veterans with PTSD.

Third, require the VA to carry out a scientifically valid study of the postwar psychological problems among Asian-American, American-Indian, native-Hawaiian, other native-American Pacific-Islander—including American-Samoan native—and Alaska Native Vietnam veterans.

Fourth, authorize the appropriation of $3.125 million for fiscal year 1989 and $6.25 million for each of the following 3 fiscal years to establish and operate five Mental Illness Research, Education, and Clinical Centers [MIRECC's] at VA facilities meeting certain prescribed criteria, and require at least one MIRECC to be designated by July 1, 1989.

Fifth, extend entitlement to readjustment counseling to veterans who have served in hostilities after May 7, 1975—the end of the Vietnam era—and eligibility for such services to World War II and Korean conflict veterans, with particular emphasis in the furnishing of counseling on the needs of those who served in combat.

Sixth, make permanent the VA's authority to provide drug and alcohol care, treatment, and rehabilitation services through contracts with halfway houses and other community-based treatment facilities and require the VA to conduct a longitudinal study of veterans who received treatment under this program.

PART B—OTHER HEALTH-CARE PROGRAMS

Part B of this title includes freestanding provisions and amendments to chapters 17 and 81 of title 38 that would:

First, extend for 1 year, through fiscal year 1990, the VA's authority to furnish respite care to certain chronically ill veterans and also for 1 year, through fiscal year 1990, the due date for a VA report on an evaluation of furnishing such care.

Second, extend, for 1 fiscal year, through fiscal year 1990 the authorization of annual appropriations of $500,000 for grants to the Veterans Memorial Medical Center [VMMC] in Manila to assist in equipment purchases for and the rehabilitation of VMMC facilities; and the VA's authority to contract with the VMMC for the care and treatment of certain United States veterans in the Philippines.

Third, require the Administrator, in consultation with the Secretary of State, to submit to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than February 1, 1989, and 1990, reports containing information describing the use of grant funds provided during the preceding fiscal year, and not later than May 1, 1989, a report containing: First, information on the care furnished United States veterans in the Philippines in fiscal years 1986, 1987, and 1988; second, an analysis comparing the cost effectiveness of furnishing care through the VMMC or other facilities in the Philippines, and the quality of care available at the VMMC and such other facilities; third, a projection of the needs of United States veterans in the Philippines during fiscal years 1990 through 1993; fourth, a projection of necessary VMMC equipment and physical plant upgrades; and fifth, a statement of the policy of the United States as to the extent of its continuing obligation for the care of the service-connected and non-service-connected care of United States veterans in the Philippines and of our foreign policy interest in connection therewith.

Fourth, revise the VA's authority to enter into agreements for sharing scarce medical resources so as to delete the requirement that reimbursement rates cover full costs and substitute the statutory standard for VA-Department of Defense sharing agreements—methodology that provides appropriate flexibility after costs are taken into account; provide that payments for the use of VA resources be allotted to the VA facility involved; and expand the categories of facilities with which the VA may enter into sharing agreements to include all health-care facilities.

Fifth, extend for 3 years, through fiscal year 1992, the authorization of appropriations for State veterans' home construction grants.

Sixth, require the VA to conduct a 4-year pilot program under which the agency would provide specially trained monkeys to no more than 20 veterans who have service-connected disabilities rated 50 percent or more disabling and are quadriplegic, allow the VA to provide up to 10 specially trained service dogs to such quadriplegic veterans who would benefit from the assistance provided by such a dog, and facilitate the provision of monkeys to no more than 20 other veterans who are quadriplegic; and require the Administrator to conduct an evaluation of this program.

Seventh, require the VA to conduct a pilot program for the provision of dogs specially trained to provide hearing assistance to individuals who are deaf to no more than 20 veterans with service-connected hearing impairments who are in need of the assistance of such dogs.

PART C—HEALTH-CARE PERSONNEL

Part C of this title includes freestanding provisions and amendments to chapters 73, 76, and 82 of title 38 that would:

First, authorize the VA to hire, without regard to the Civil Service register process, newly graduated, VA-trained health-care professionals other than physicians or dentists.

Second, reduce from 90 to 45 days the period, after VA submission of a title 5 health-care employees' special-pay rate request, in which the President may disapprove the proposed rate, and clarify that the VA may take action based on approval given in a shorter period.

Third, provide for the VA Health Professional Scholarship Program to be extended to persons enrolled in the second year of an associate degree nursing program.

Fourth, authorize the appropriation of $5 million for each of fiscal years 1989 and 1990 and $6 million for each of fiscal years 1991 and 1992 for the VA to reinstitute—with modifications—a program of grants to provide assistance in the education of health-care personnel, other than physicians and dentists, by VA-affiliated schools and to assist in developing and evaluating new health careers, interdisciplinary approaches, and career-advancement opportunities in collaboration with representatives of those professions the members of which are currently responsible for carrying out the duties involved, and authorize the VA to use up to 10 percent of each year's appropriation on VA programs to develop or initiate improved methods of education and training for health-care personnel.

Fifth, require the VA during calendar years 1989, 1990, and 1991 to conduct, and submit periodic reports on, a pilot program at not less than five VA health-care facilities to determine the desirability of implementing various pay and management practices relating to the recruitment and retention of registered nurses and other scarce health-care professionals; and provide the VA with the authorities to implement, as part of the pilot programs, flexible employee benefits and action to minimize pay compression.

Sixth, provide for the conversion of nonphysician VA hospital directors from appointment under title 38 to appointment under the Senior Executive Service authority in title 5—but allow such a director who wishes to remain under title 38 during his or her tenure as director to do so.

Seventh, provide that the procedures in title 5 for the resolution of specified lesser disciplinary actions—admonishments, reprimands, suspensions of 14 days or less, and transfers not involving loss of grade—would be used in cases involving title 38 VA health-care personnel—including the use of a negotiated grievance procedure involving an appeal to an arbitrator for those employees who are members of recognized bargaining units—and create, in title 38, a grievance-resolution process that parallels that available to title 5 employees.

TITLE VII—MISCELLANEOUS

Mr. President, title VII contains amendments to title 38 and the Internal Revenue Code of 1986, and freestanding provisions which would:

First, expand the period defined for title 38 purposes as the Vietnam era in the case of veterans who served in the Republic of Vietnam to include the period beginning February 28, 1961, and ending August 4, 1964—the day before the starting date in current law.

Second, extend for 4 years, through fiscal year 1992, the VA's authority to maintain a regional office in the Republic of the Philippines.

Third, require disclosure to the VA of certain information maintained by the Internal Revenue Service [IRS] and the Social Security Administration [SSA] relating to income for purposes of verifying eligibility for VA needs-based pension or parents' dependency and indemnity compensation or for VA health-care services based on income status, and IRS and SSA information relating only to wage and self-employment income for purposes of determining eligibility for compensation paid at the total-disability rate based on an individual determination of unemployability.

Fourth, allow the VA, in the case of compensation beneficiaries with total-disability ratings based on individual unemployability, to verify or otherwise act upon wage or self-employment data only if the Administrator finds that the amount and duration of the earnings reported therein clearly indicate that the individual may no longer be qualified for a rating of total disability.

Fifth, prohibit the Administrator from using such IRS or SSA information without first complying with Social Security Act requirements relating to independent verification of the data; notifying the individual concerned; and allowing the individual fair opportunity to contest agency findings based on such information.

Sixth, require the VA, within 90 days after the date of enactment and before obtaining any such IRS or SSA information, to notify certain recipients of and applicants for VA benefits and services that income reported to the VA will be subject to verification against such information and subsequently to so notify new applicants and renotify all recipients.

Seventh, provide that the VA's costs for the program under which IRS and SSA information would be obtained, used, and verified would be paid from the VA's compensation and pension account and that amounts collected as a result of the program would be paid into that account.

Eighth, postpone for 4 years, until December 1, 1992, the requirements that annual December 1 reports from VA medical centers to the Administrator, and February 1 reports from the Administrator to the Committees on Veterans' Affairs, contain lists indicating the quantity of each health-care item procured at each VA medical center under a local contract and the total amount paid for such item; postpone until May 20, 1989, certain restrictions on procuring health-care items under local contracts; and amend the definition of the term "health-care item" so as not to include kitchen equipment and utensils.

Ninth, make certain technical corrections necessitated by the enactment of Public Law 100-322.

COMPENSATION/DIC COLA

Section 101 of the committee bill would provide for a cost-of-living adjustment [COLA] in the rates of VA service-connected compensation and dependency and indemnity compensation [DIC]—originally estimated by the CBO to be 4.5 percent but likely to be in the 4.1-percent range as a result of CBO's recent reestimates.

I believe that we must attach the highest priority to meeting the needs of the 2.2 million veterans with service-connected disabilities and the 310,000 survivors of those who have made the final sacrifice. This is and always has been my No. 1 priority in veterans' affairs. Through the COLA, we can ensure that the value of their VA benefits is not eroded by inflation. For greater detail on this provision, I would refer my colleagues to the report accompanying the committee bill—pages 60-63.

The CBO estimates that the costs resulting from the enactment of the 4.5-percent COLA, rounded down to the nearest dollar—as compared to costs under current law—would be $392 million in budget authority and $353 million in outlays in fiscal year 1989 and $2.220 billion in budget authority and $2.184 billion in outlays during the first 5 fiscal years following enactment.

TITLE II—AGENT ORANGE BENEFITS

Mr. President, since agent orange first came to public attention in the late 1970's, I have been working to resolve the concerns raised about the possible adverse health effects arising from veterans' exposure to agent orange in Vietnam. These have been very emotional and controversial issues, and the inability to resolve them completely has undoubtedly contributed to a feeling on the part of some Vietnam veterans that they have not been treated fairly by the Nation for which they fought.

At the outset, I want to recognize the contribution of the ranking minority member, Senator MURKOWSKI, in introducing the first agent orange compensation measure in this Congress and in working with me to author the agent orange provisions in title II of the committee bill. His efforts started a momentum which I believe can and will result in the enactment of agent orange legislation this year.

I also wish to recognize the leadership on this issue of Senators DASCHLE and KERRY, who also introduced several agent orange benefits bills this Congress. They have worked long and hard for many years to resolve the concerns of Vietnam veterans. I respect and fully appreciate their dedication and persistence on this issue, for this has been a long battle for me as well.

Mr. President, I wish to note at this time that I shortly will be joining Senators DASCHLE and KERRY in an amendment which would expand the provisions provided in title II of the committee bill. At that time, I will discuss in greater detail the background regarding this issue. Therefore, I will now only describe the provisions in the committee bill.

For greater detail on the provisions in title II of the committee bill, I would refer my colleagues to the report accompanying the committee bill—pages 64-84.

NON-HODGKIN'S LYMPHOMA

The disease about which the most uncertainty now exists regarding a possible association with agent orange or service in Vietnam is non-Hodgkin's lymphoma [NHL]. Although some studies have not found any association between NHL and agent orange or dioxin, the findings from three recent studies raise troubling concerns about a possible association between NHL and some risk factor—not necessarily agent orange—arising from service in Vietnam. I will discuss the scientific evidence regarding a possible association between non-Hodgkin's lymphoma and service in Vietnam or agent orange exposure in greater detail in the context of the Daschle-Kerry-Cranston maendment.

In order to give Vietnam veterans the benefit of the reasonable doubt to the greatest extent currently supported by the science, the committee bill would provide an interim presumptive benefits period, ending no later than 6 months after the submission of the results from the Centers for Disease Control's Selected Cancers Study [SC Study], for Vietnam veterans with NHL—and their survivors. After the SC study results are submitted, the VA and the Congress would have to determine whether, in light of those results and all other available scientific evidence, a permanent presumption of service connection for Vietnam veterans with NHL—or any other disease—is warranted.

The Administrator would be authorized to suspend the application of this provision with respect to new claimants if, after he reviews the SC study results and the reports on it from the Veterans' Advisory Committee on Environmental Hazards and the Office of Technology Assessment [OTA], he determines that the scientific information does not support an association between NHL and service in Vietnam. If the SC study does support that association, the Administrator would have clear authority under existing law to create a permanent presumption of service connection for NHL in Vietnam veterans; and, if he does not, I would make every effort to ensure that the Congress does not.

PRESUMPTIVE SERVICE CONNECTION OF CHLORACNE

Mr. President, section 203 of the committee bill would establish a presumption of service connection for chloracne—a severe form of acne—for Vietnam veterans where it or another acneform skin disease consistent with chloracne appeared within 1 year after service in Vietnam.

Chloracne is the only disease in humans as to which scientific evidence has established a clear association with the dioxin contaminant present in agent orange. Studies of substantial occupational exposure to dioxin over extended periods of time as well as of victims exposed through explosions, spills, and other types of accidents have demonstrated a consistent causal connection between chloracne and dioxin exposure.

Although chloracne can develop within days of exposure, it also may not appear for several months. Recurrence of chloracne has been reported as long as 30 years after exposure. In addition, chloracne can be mistaken for other skin diseases and thus can be difficult to diagnose, especially if dioxin exposure is not suspected. Health care personnel in Vietnam and most civilian and VA physicians were not specially trained to diagnose chloracne and thus may not have recognized it as such.

In view of these potential difficulties in diagnosing chloracne, section 203 of the committee bill would thus provide a presumption of service connection for it or any other acneform skin disease that is consistant with chloracne—and thus might have been chloracne that was incorrectly diagnosed as a condition other than chloracne. In light of the scientific evidence that chloracne is not always manifested immediately after exposure to dioxin, a 1-year period between service and required first manifestation—which is consistent with other statutory presumptions of service connection but longer than the 3 months currently provided for in VA regulations, 38 Code of Federal Regulations 311a—would be provided. Additionally, like all other title 38 presumptions of service connection, this presumption would be rebuttable. For greater detail on this provision, I would refer my colleagues to the report accompanying the committee bill—pages 77-78.

EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR RADIATION EXPOSURE

Mr. President, section 204 of the Committee bill, which is derived from section 207 of S. 9, would extend by 15 months, from September 30, 1989, to December 31, 1990, VA health care eligibility for Vietnam veterans who may have been exposed to dioxin and for certain ionizing-radiation-exposed veterans.

As I mentioned earlier, Public Law 97-72 provided Vietnam veterans who may have been exposed to dioxin—and certain veterans exposed to ionizing radiation—with eligiblity for VA health care for any disability except for a disability found to have resulted from some cause other than exposure to dioxin—or ionizing radiation—without requiring a determination of an association between that exposure and such disabilities. Given the scientific uncertainties regarding the effect of human exposure to dioxin and in light of the epidemiological studies underway on the effects of such exposure, the Congress believed that it was not fair to deny VA health care to Vietnam veterans when science might later determine that their disabilities were linked to their service in Vietnam. Section 204 would ensure that such health-care eligibility continues through 1990. For greater detail on this provision, I would refer my colleagues to the report accompanying the committee bill—page 79.

PAYMENTS FROM AGENT ORANGE SETTLEMENT

Mr. President, section 205 of the committee bill would provide that certain payments received in settlement of or as the result of a judgment in litigation which was based on injuries alleged to have resulted from events that occurred during the veteran's active-duty service would not be countable as income for purposes of VA needs-based pensions, parents' DIC, and health care based on financial status.

This provision is derived from S. 1805, which Senator Mitchell introduced to exclude payments made in settlement of the agent orange litigation from being counted as income for purposes of needs-based VA benefits and services. Without a legislative exclusion, those payments would in effect be paid to the Government in the case of veterans receiving VA pension and not to the veteran or his or her survivors by virtue of the offsetting reduction in VA pension benefits required under current law.

Section 205 would ensure that the neediest veterans—those qualifying for needs-based pensions—would not be prevented from receiving any net gain—after offset—from payments they receive from litigation based on injuries alleged to be linked to their service. For example, without the income exclusion, veterans with no dependents who have an annual income of approximately $6,214 would gain virtually no net benefit from the maximum annual $1,800 payment—paid annually for 7 years—currently anticipated for veterans under the agent orange litigation settlement. However, in order to ensure that needs-based benefits and services are not provided to veterans or survivors who, by virtue of such payments, clearly no longer are in need, only payments which do not exceed the annual income limits set for pension benefits for the veteran or survivor—based on the number of dependents—would be excluded. For greater detail on this provision, I would refer my colleagues to the report accompanying the committee bill—pages 79-81.

AGENT ORANGE SCIENTIFIC EVIDENCE REVIEW

Section 206 of the committee bill, which is derived from S. 1510—which I introduced with Senator Kerry and which was included as section 115 of S. 9 as reported last year—would require the VA to contract for a comprehensive review to be conducted—by the National Academy of Sciences [NAS] or, if the NAS declines, another appropriate nonprofit scientific entity—of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds, and that a report be submitted to the VA not later than October 1, 1989, on the review's results as to the weight of the evidence on this subject. The Administrator would be required to decide, within 60 days after receipt of such report, whether the VA's regulations regarding compensation for diseases based on agent orange exposure should be amended and to advise the Senate and House Veterans' Affairs Committees of such decision.

Numerous studies have been conducted relevant to the human health effects of exposure to agent orange. In many respects, the results of those studies have been contradictory and inconclusive. No up to date, unified analysis exists of the preponderance of the results obtained from such studies. I believe that a report by the NAS could provide a unified compilation and analysis of the results from the various scientific studies and could help guide future public-policy decision making in this area. For greater detail on this provision, I would refer my colleagues to the report accompanying the committee bill—pages 82-83.

MODIFICAITON OF PROCEDURES FOR CONSIDERATION OF CERTAIN STUDIES

Mr. President, section 207 of the committee bill would improve certain procedures set forth in the Veterans' Health Programs Extension and Improvements Act of 1979 (38 U.S.C. 219 note) governing the process for review and evaluation of and reporting to the Administrator and congressional committees on agent orange—and radiation—studies and the VA's consideration of the need for amending its regulations pertaining to exposure to agent orange—and radiation.

I believe that the VA should promptly evaluate studies relevant to Vietnam veterans' exposure to agent orange—or certain veterans' ionizing radiation—including the mortality study of Operation Crossroads veterans being conducted by the National Research Council—upon such studies' completion in order to determine whether changes in its regulations relating to exposure to dioxin—and ionizing radiation—should be revised. The committee bill would ensure that the VA utilizes the expertise of the EHAC with respect to its scientific assessment of such studies and its decision regarding such regulations, as Public Law 98-542 intended, and makes decisions on regulatory changes within a clear timeframe. Because of the comprehensive scope of the studies mandated by Public Laws 91-151 and 98-160, the committee bill would also would ensure that the VA has the timely benefit of the OTA's expert assessment of the results of such studies. For greater detail on this provision, I refer my colleagues to the report accompanying the committee bill—pages 83-84.

COST ESTIMATE FOR TITLE II

The CBO estimates that the costs resulting from the enactment of title II of the committee bill—as compared to costs under current law—would be $24 million in budget authority and $22 million in outlays in fiscal year 1989 and $158 million in budget authority and $156 million in outlays during the first 5 fiscal years of enactment.

CONCLUSION REGARDING TITLE II PROVISIONS

In my view, and that of Senator Murkowski, the provisions in title II of the committee bill strike an appropriate balance between the incomplete state of science and compassion for Vietnam veterans—and give veterans the benefit of every reasonable doubt by providing for compensation payments for thousands of veterans and supervisors.

REHABILITATION PROGRAMS FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

Mr. President, title III of S. 2011 would make several improvements in the education and rehabilitation programs administered by the VA, all of which are discussed in detail in the committee report. Two of these provisions in this title should have a very positive impact on the VA's provision of rehabilitation services to veterans with service-connected disabilities under chapter 31 of title 38, United States Code.

Section 302 of the bill would amend chapter 31 of title 38 to allow the VA to contract with for-profit organizations to provide employment-assistance services to certain disabled veterans under the chapter 31 program and to conduct programs of independent living services for such veterans with very severe disabilities. Contracting with for-profit organizations for these purposes would be authorized only in cases in which the Administrator determines that comparable services are not available from, or cannot be provided cost effectively through, public or nonprofit organizations or, in the cases of programs of independent living services, the VA's Department of Medicine and Surgery [DM&S].

Current law provides the VA with authority to provide employment assistance to employable veterans who have participated in a vocational rehabilitation program under chapter 31 or a similar program under the Rehabilitation Act of 1973, under which the States provide vocational rehabilitation services with Federal financial assistance. However, this employment assistance may be provided only through the job development and placement services of certain specified public agencies and other public or nonprofit organizations having placement services available. Similarly, the VA is limited in the provision of programs of independent living services to services available from public or nonprofit agencies or DM&S.

This provision should help improve rehabilitation services because for-profit organizations can provide the extensive, individualized services and follow-up for specific job development and direct placement that are sometimes necessary but rarely available through a public or not-for-profit service provider due to the volume of its caseload. For the first time, the VA should have an expanded—public and private—array of providers with which to contract for these services.

Mr. President, section 332 of the committee bill would also improve the VA's performance in the furnishing of services under chapter 31 by requiring that contract educational and vocational counseling services for participants in all VA-administered educational and vocational training programs other than chapter 31 be funded under the VA's readjustment benefits account up to a total amount not to exceed $5 million in any fiscal year.

This provision would both help improve the quality and timeliness of education and vocational counseling services to veterans under the non-chapter 31 programs by increasing the availability of those services and should substantially improve the counseling services for chapter 31 participants by freeing-up the VA's own counseling psychologists (CP's) to focus their efforts more on these disabled veterans. During fiscal year 1987, due to unmanageable caseload sizes, disabled veterans experienced at least a 90-day wait for an initial evaluation from CP's. I envision a much-needed reduction in this waiting time under this provision by virtue of the CP's being relieved of the workload that would be shifted to the contract counselors funded under the readjustment benefits account.

IMPROVEMENTS IN THE MONTGOMERY GI BILL AND OTHER EDUCATION-ASSISTANCE PROGRAMS

Mr. President, the bill as reported also includes a number of provisions which I believe will make the Montgomery GI bill [MGIB]—the program of educational assistance for the All-Volunteer Force—even more successful than it already is. This program, first enacted in 1985 in Public Law 98-525 as a 3-year test program and made permanent last year by legislation, Public Law 100-48, which I was pleased to author in the Senate, has become a very popular recruitment tool for the Armed Forces. It also has great value—as I noted in my remarks in the May 8, 1987, Record (beginning on page S 6201) at the time of Senate action on S. 12, my bill to make the program permanent—as an investment in the development of a more highly trained, competitive, and productive work force and as an educational and vocational means to assist in the readjustment of service personnel who elect to return to civilian life. In many cases, this program provides educational opportunities to those who might not otherwise be able to afford them.

This year, however, the need to make some fine-tuning adjustments—none affecting the basic structure of, or underlying conceptual basis for, the program—have come to light. I will highlight these changes, which are proposed in sections 311 to 324 of the bill, only briefly at this point and note that detailed discussions appear on pages 87-100 of the committee report.

The committee bill would, first, provide entitlement of 1 month of educational assistance for each month of active duty served for an MGIB participant who is discharged from military service for a pre-existing medical condition or is discharged involuntarily due to a reduction in force and, as a result, does not meet the length-of-service requirements for MGIB entitlement, which are 20 months on active duty of a 24-month enlistment or 30 months for a 36-month enlistment; second, provide service members who first entered active duty during the period July 1, 1985, through June 30, 1988, and elected not to enroll in the MGIB with a one-time, 120-day MGIB open period during which they may withdraw such elections and become MGIB participants upon becoming obligated to serve an additional 2 years on active duty; third, modify the secondary school diploma equivalency certificate requirement for MGIB participants to permit the Secretary of Defense to prescribe regulations under which the Secretaries of the service branches may determine what is an adequate high school equivalent; fourth, extend, from June 30, 1988, until the date on which a veteran begins to pursue a program of education with MGIB assistance, the deadline by which a Vietnam-era veteran who otherwise qualifies for combined Vietnam-era GI bill and MGIB benefits must obtain a secondary school diploma—or an equivalent—in order to use such benefits; and fifth, permit an election of benefits—either a greater monthly benefit or a longer period of entitlement—for MGIB participants who have completed 2 years on active duty and commenced service in the Selected Reserve but, prior to completing their Reserve obligation, are discharged due to disability.

Mr. President, S. 2011 would also enhance the MGIB and certain other educational assistance programs so as, first, to authorize pursuit of refresher, remedial, and deficiency courses under the MGIB Program, the chapter 32, Post-Vietnam Era Veterans' Educational Assistance Program [VEAP] and the chapter 35, Service-Connected Dependents' and Survivors' Educational Assistance Program without a charge to entitlement for such courses for up to 5 months, and beyond that with a charge to entitlement; second, to make MGIB and VEAP participants eligible for individualized tutorial assistance and increase the monthly tutorial allowance from $84 to $100 and the overall maximum from $1,008 to $1,200; third, provide for a charge to entitlement, at a 50-percent rate, proportionately based on the tutorial assistance allowance amount received in relation to the monthly educational assistance allowance entitlement, for the use of tutorial assistance under the MGIB, VEAP, and chapter 35; fourth, provide for pursuit of cooperative training benefits by MGIB and VEAP participants after their release from active duty, with benefits paid at the rate of 80 percent of the basic full-time monthly rate; and, fifth, toll the eligibility period for VA education-benefits or rehabilitation programs for certain veterans and other eligible persons who have been prevented from participating in such programs because of drug or alcohol dependence or abuse disabilities from which they have recovered sufficiently to participate in such programs.

TOLLING OF DELIMITING PERIODS BY REASON OF DRUG OR ALCOHOL CONDITIONS

Mr. President, section 324 of the bill contains provisions I authored to extend VA education and vocational-rehabilitation benefits eligibility periods—referred to as "delimiting periods"—for those who have been prevented by alcohol or drug conditions from pursuing education or training and have undergone treatment and recovered to the point at which they can pursue education or training. The Senate has previously passed such provisions on six different occasions since 1979—most recently as part of S. 9 last year. During much of this time, the VA has been defending in court its position of generally disallowing delimiting-period extensions based on drug or alcohol dependencies on the grounds that such conditions are the result of willful misconduct and, thus, do not constitute grounds for extensions under the general provisions of law allowing extensions based on disabilities. Now, with the April 20, 1988, Supreme Court decision in the casse of *Traynor* v. *Turnage,* 56 U.S.L.W. 43119, it is clear that no judicial relief is available to achieve the goal of this legislation. Only Congress can provide a remedy.

In the GI Bill Improvement Act of 1977, Public Law 95-202, Congress enacted legislation I had proposed to amend the Vietnam-era GI bill and the Survivors' and Dependents Educational Assistance Programs—chapters 34 and 35 of title 38, respectively—to grant extensions of the 10-year delimiting period in the case of an eligible veteran or an eligible spouse who is prevented from pursuing a program of education during that period due to a mental or physical disability not the result of willful misconduct. Similar provisions were subsequently incorporated in all of the title 38 education programs—the chapter 30 Montgomery GI bill program, the chapter 31 vocational rehabilitation program, and the chapter 32 VEAP program. Under these provisions, the delimiting period does not run during any period of time that the veteran or eligible spouse is determined to have been unable to pursue training because of the disability.

However, the VA has routinely denied a delimiting-period extension to an otherwise eligible veteran when the condition on which the veteran based his or her claim was an alcohol or drug abuse or dependence disability, which the VA considers to be a condition due to willful misconduct. The VA has based its denial in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension.

Mr. President, I strongly believe that this proposal to afford veterans a further opportunity to use VA educational and rehabilitation benefits is most desirable and could be extremely important to the readjustment and rehabilitation of the individuals involved. Delimiting period extensions for those who were, but are no longer, prevented by alcohol or drug disabilities from using those benefits would have considerable value in contributing to achieving and maintaining the medical, social, and economic rehabilitation of those recovering from disabilities related to alcohol or drugs—and that is a goal in which society in general, as well as the individual, has a tremendous stake.

In view of the national priority for, and the urgency of, ending drug and alcohol dependency in our society, I am hopeful that our colleagues on the House Committee on Veterans' Affairs will be willing to reconsider their opposition to these provisions which we have repeatedly passed in the Senate.

BOARD OF VETERANS' APPEALS

In an effort to foster independence at the Board of Veterans' Appeals [BVA], and to ensure claimant's due process rights, title V of this bill provides for a number of changes in the operations of the BVA. These changes were also included in S. 11, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act," as passed by the Senate on July 11, 1988. I refer our colleagues to my statement of S. 11 which appears beginning on page S9182 of the July 11, 1988, issue of the RECORD.

PROGRAMS RELATED TO POSTTRAUMATIC STRESS DISORDER AND MENTAL HEALTH

Mr. President, I have long been concerned about the VA's overall response to mental health matters, including, in recent years, the agency's diagnosis and treatment of posttraumatic stress disorder.

With specific reference to PTSD, I have monitored for a number of years the VA's response to veterans with PTSD and, on July 14, the committee held an oversight hearing on this issue, during which we learned that the incidence of this disorder today—over 15 years after most veterans left Vietnam—among Vietnam veterans is much higher than had previously been thought. This finding, in turn, has raised serious questions about the VA's present capacity, under current law and practice, to furnish the care needed by veterans suffering from PTSD.

According to the data presented at the July hearing by the Research Triangle Institute (RTI) of North Carolina, approximately 470,000 Vietnam veterans are currently suffering from PTSD. At the same hearing, the VA stated that about 158,000 of the veterans seen by its Vet Centers have ever been "seen for PTSD, diagnosable according to present standards" and that about 20,000 veterans receive disability compensation for PTSD.

The VA has only 16 specialized PTSD inpatient programs, all of which have waiting lists for admission into the program, ranging between 1 week to 6 months with the majority having waiting lists between 5 and 10 weeks in length. In addition to these special units, only 15 VA medical centers have special PTSD treatment teams—teams of four personnel—two funded by Central Office and two from the existing budget at the medical centers—including one psychiatrist, who are specially trained in diagnosing PTSD—among its 172 medical centers.

Given the RTI data that 470,000 Vietnam veterans are currently suffering from PTSD and the RTI data from a preliminary report released August 15, 1987, which indicated that half of the male Vietnam theater veterans currently experiencing high levels of PTSD symptoms have never been seen by any mental health professional—VA or non-VA—for their PTSD symptomatology and that 87 percent have not been seen recently by any health professional concerning their symptoms, it is apparent that a great number of veterans remain to be treated and are in need of treatment today.

Working on this issue within the VA is the VA's Special Committee on PTSD which was established pursuant to section 110(b) of Public Law 98-528. The committee, which is chaired by Dr. Matthew Friedman, a psychiatrist at the White River Junction VA Medical Center, has been of great help in identifying both problems and solutions with regard to treatment of veterans with PTSD. However, despite the fact that the VA Chief Mecical Director has agreed with most of the recommendations made by the special committee in its four reports submitted thus far, a significant number of the recommendations have yet to be implemented.

For instance, with regard to the specialized PTSD inpatient treatment programs, the special committee recommended in its 1986 report that these programs be visited every 2 years to provide "periodic evaluation of such units with respect to: purposes and goals, program planning and design, length of stay, aftercare, administrative support, funding, geographic distribution and clinical outcome"; that explicit standards be developed and used to evaluate the programs; and that there be at least one specialized PTSD unit in each region of the country. To date, none of these recommendations have been implemented, although the VA is in the process of developing a program guide for these units.

With regard to the use of treatment teams, the special committee has recommended, in each of its annual reports since 1985, that each VA be provided with a team, and that these teams should be phased-in over a 5-year period. As I just noted, to date only 15 VA Medical Centers have these treatment teams.

I also note that although the special committee, in each of its annual reports, called for more research regarding effective treatment of PTSD and although the CMD concurred in that recommendation, in fiscal year 1987 the VA committed only $832,121 out of its $200-million research budget to PTSD research.

CARE FOR VIETNAM VETERANS WITH SERVICE-RELATED POST-TRAUMATIC STRESS DISORDER

Mr. President, in view of the continuing high prevalence of PTSD among Vietnam veterans and the extent of the VA's response and commitment of resources to PTSD treatment, I believe that it is fully appropriate and necessary for Congress to direct the VA to provide care and services, on a priority basis, to Vietnam veterans diagnosed by a DM&S mental health professional, after a personal interview, as suffering with PTSD related to service.

Hence, section 601 of the committee bill would amend section 602 of title 38 to add a new subsection (b) which would require the VA, in the case of a Vietnam veteran who a mental health professional designated by the VA CMD has diagnosed as suffering from combat-related PTSD, to furnish needed inpatient and outpatient mental health services to treat that veteran's PTSD on the same basis as if the disorder were service connected, without the need for a formal adjudication.

Mr. President, I anticipate that this provision will result in some reallocation of VA resources. I believe that any such change in focus so as better to serve the needs of veterans with PTSD is fully in accordance with the historic priorities of the VA to address those needs of veterans which are associated with their military service, most especially to seek to treat physical or mental health problems that are related directly to their service.

Although the VA opposes this provision, the VA anticipates that over 17,400 veterans would come forward to seek treatment under this provision each year, at a cost to the VA approximately of $13.9 million in fiscal year 1989, and $69.5 million over the next 5 fiscal years. These figures clearly demonstrate a tremendous unmet need.

In an effort to bolster the VA's resources to treat PTSD, I successfully proposed the addition of $5 million to the VA's fiscal year 1989 appropriation specifically to be spent for additional PTSD treatment. This provision was enacted on August 19, 1988. I understand that plans are under way to use these funds to, among other things, create an additional 11 treatment teams, bolster the 15 original treatment teams, create one or two dual diagnosis—alcohol/drug abuse and PTSD—specialized inpatient units, create one or two specialized impatient/domiciliary PTSD units, and conduct an assessment of the effectiveness of the treatment teams and current specialized inpatient units. I am delighted to see that these funds will be used in a constructive manner.

SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER

Mr. President, another issue addressed in the committee bill is the future role of the special committee. Under current law, the special committee has another report due to Congress in 1988; after that, the committee's reporting requirement would come to an end which, in turn, would lead to disbanding of the committee. Given the important role the special committee has played with regard to identifying problems and solutions, I believe that it must be extended.

Accordingly, section 611 of the committee bill, which is derived from section 10 of S. 2462, would require the special committee to submit three additional reports to the Administrator. The first report, due by April 1, 1989, would be required to set forth the special committee's evaluation of the results of the study being carried out by RTI which I discussed earlier. The committee would be required to provide its assessment of the VA's capability to meet the need for diagnosis and treatment of veterans with PTSD, an evaluation of the Administrator's report on the study, and recommendations for any further on follow-up research on the matters addressed in the study. The second and third reports, due by February 1 of 1990 and 1991, respectively, would be required to provide information updating prior reviews of the overall efforts of the VA to meet the needs of veterans with PTSD. Within 30 days after receiving the first report, and within 60 after receiving each of the next two, the Administrator would be required to submit them, together with the VA's comments, to the two Veterans' Affairs Committees.

STUDY OF PSYCHOLOGICAL PROBLEMS AMONG CERTAIN POPULATIONS OF VIETNAM VETERANS

Mr. President, another issue relating to PTSD is the prevalence of this disorder among various racial/ethnic groups. Although the RTI study has oversampled the racial/ethnic groups of blacks and Hispanics, and has also over sampled women veterans, in order to develop estimates of the prevalence of PTSD and other post-war psychological problems in readjusting to civilian life among these groups, it has not oversampled some other racial/ethnic groups, including Asian-American, American-Indian, Native-Hawaiian, other Native-American Pacific-Islanders (including American Samoan Native), and Alaska Native populations. Because these various groups exist in small numbers in the general population of Vietnam veterans, oversampling would be required to derive an estimate of the prevalence of PTSD and other post-war psychological problems in readjusting to civilian life.

Mr. President, based on the data on the current prevalence of PTSD that was reported to the committee at its July 14 hearing on PTSD, it appears that the prevalence of PTSD among racial/ethnic groups is much higher than among whites. For example, the findings for racial/ethnic subgroups of male Vietnam Theater veterans indicates that the prevalence of PTSD for whites/others is about 14 percent, while for blacks the prevalence is 19 percent and for Hispanics it is as high as 27 percent. Several witnesses at the committee hearing also discussed a cultural reluctance among various ethnic/racial groups, including blacks and Asian-Americans, to seek treatment which may lead to an incomplete understanding of the scope of this disorder in such populations.

Given the possible culturally based reluctance among some of these groups to seek treatment and the reported higher percentage of PTSD among certain racial/ethnic groups already studied, I believe there is a need to determine the extent to which the groups not oversampled in the RTI study are suffering from PTSD and other post war psychological problems in readjusting to civilian life.

Accordingly, section 603 of the committee bill would require the VA to conduct such a scientifically valid study, either in-house or by contract, on the incidence of PTSD among Asian-American, American-Indian, Native-Hawaiian, and other Native-American Pacific Islander (including American-Samoan Native) and Alaskan Native Vietnam veterans, and to submit a report on the results of the study to the two Veterans' Affairs Committees by October 1, 1990.

MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CARE

Mr. President, section 604 of the committee bill, which is derived from S. 2463, which I introduced on May 27, 1988, together with Senators MATSUNAGA, DECONCINI, ROCKEFELLER, and GRAHAM, would provide for the establishment and operation of five mental illness research, education, and clinical centers [MIRECC's] and would authorize the appropriation of $3.125 million for fiscal year 1989 and $6.25 million for each of the following 3 fiscal years for the MIRECC's. These MIRECC's—modeled after the very successful Geriatric Research, Education, and Clinical Center [GRECC's]—are intended to foster much-needed improvements in the VA's capability to respond to the needs of veterans suffering from mental illness—especially from conditions which are service-related. MIRECC's would also advance scientific knowledge regarding mental illness by focusing research efforts on specific mental illnesses or disorders, especially conditions that are service-related—an area of research in which the VA is, unfortunately, lagging.

In addition, MIRECC's would improve the VA's ability to attract topnotch psychiatrists and psychologists. Many VAMC's are experiencing serious difficulties in recruiting and retaining psychiatrists—in large measure because psychiatric services within the VA have been traditionally understaffed and underfunded. Although those issues must be addressed to reverse this trend, the opportunities that MIRECC's would afford to psychiatrists and psychologists to conduct meaningful mental health research would be a positive incentive in attracting and retaining those professionals.

For further discussion of this provision, I would refer my colleagues to pages 129-32 of the the committee report.

READJUSTMENT COUNSELING ELIGIBILITY EXTENSION

Mr. President, section 602 of the committee bill, which is derived from section 2 of S. 2462 which in turn was derived from section 301 of S. 1464 as reported by our committee last September and passed by the Senate on October 16, would make two changes in the statutory eligibility for readjustment counseling under current section 612A of title 38.

First, this section of the committee bill would extend readjustment counseling entitlement to veterans of service in hostilities after May 7, 1975, the end of the Vietnam era. Under this change, the Administrator, after consultation with the Secretary of Defense, would determine that service during specific periods of time in specific locations in which U.S. Armed Forces were under hostile fire would be qualifying service for readjustment counseling purposes. This provision recognizes that members of our Armed Forces are at times exposed to combat situations short of declared war—such as existed in Beirut or Grenada or in connection with our actions against Libya, or in connection with Navy efforts in the Persian Gulf, or that possibly exist today in Central America. These situations well might produce the need among those involved in them for readjustment counseling to help deal with the psychological aftermath of the experiences and is particularly important in light of the current understanding, as noted in the VA's testimony at our committee's July 11 oversight hearing on issues related to post-traumatic stress disorder, that early intervention can effect the severity and persistence of symptoms in an individual following exposure to a traumatic event.

Mr. President, the second change in eligibility for readjustment counseling services would be to make veterans of World War II and the Korean conflict, with a particular emphasis on those who were in combat with the enemy, eligible for such counseling if they requested it. It is my strongly felt view that the Federal Government should never allow to go unmet the requests for counseling help from those who have experienced the stress of combat while serving in the Armed Forces.

Mr. President, I refer our colleagues and others with an interest in the background of this provision to the discussion in the committee report (pages 133-35). There is one point from that discussion that I wish to highlight at this time. In our report, the committee noted the testimony of Dr. Arthur Blank, Director of the VA's Readjustment Counseling Service, during the committee's June 16 hearing, when, in response to a question from Senator ROCKEFELLER, Dr. Blank indicated that Vet Centers nationwide are presently seeing as new clients approximately 375 World War II and 400 Korean war veterans per month. Although not so stated by Dr. Blank, this degree of activity—which I applaud—is being provided without statutory authority. I believe that it is time for the Congress to recognize that this level of demand for readjustment counseling services from veterans of earlier wars does indeed exist and to authorize expressly the VA to meet this demand.

COMMUNITY-BASED ALOCOHOL AND DRUG TREATMENT SERVICES

Mr. President, section 606 of the committee bill would make permanent the VA's authority—first enacted in 1979, in Public Law 96-22—to provide drug and alcohol care, treatment, and rehabilitation services through contracts with halfway houses and other community-based treatment facilities.

In addition, the committee bill would substitute for the existing data collection and reporting requirements a requirement that the VA conduct or provide for a longitudinal study of veterans who have received case through the contract program. The purpose of the study would be to assess the long-term impact of such treatment with regard to drug or alcohol use, the need for subsequent hospitalization for drug or alcohol abuse, veterans' employment, and other factors that the Administrator considers appropriate. The study would also compare different community residential care models to determine whether certain models are more successful for individuals with certain addictions and with varying levels of resources and needs. The information gained from this study would be very helpful to the development of programs for the treatment of veterans, as well as nonveterans, with alcohol and drug dependencies.

More information on this section of the bill is set forth on pages 135-37 of the committee bill.

I am very pleased to note that the Senate has voted to make available to the VA additional funding for its drug and alcohol treatment programs—just as was done for fiscal year 1987 through the enactment of Public Law 99-570, the Anti-Drug Abuse Act of 1986—through the Omnibus Anti-Substance Abuse Act of 1988, S. 2852. A provision has been included in that legislation, at my request, to transfer to the VA for outpatient substance abuse treatment 4.5 percent of the treatment funds that become available over each of the next 5 fiscal years under the bill. This would enable the VA to expand its outpatient and contract programs in order to treat thousands of additional veterans, who must now, in many cases, wait as long as a month to receive treatment. I would urge the VA to give priority to treatment of drug addicts, and, in particular, those addicts at high risk for AIDS.

I would also note that the omnibus legislation includes, at my request, an authorization of appropriations of $1 million for the conduct of an evaluation of the VA's ongoing inpatient and outpatient drug and alcohol treatment programs. Information gathered through this evaluation would be very helpful in determining what the most effective methods of treatment are for both veterans and the general public.

PILOT PROGRAM FOR PROVIDING ASSISTIVE ANIMALS

Mr. President, section 615 of the committee bill, which incorporates with modifications the provisions of S. 2511 which I introduced on June 14, 1988, represents an innovative effort to help veterans with quadriplegia improve their lives. It would require the VA to conduct a pilot program under which it would provide specially trained monkeys to not more than 20 veterans who have service-connected disabilities rated 50 percent or more disabling and are quadriplegic; provide specially trained service dogs to up to 10 such veterans; and facilitate the provision of monkeys to up to 20 other veterans who are quadriplegic.

Additionally, under this provision, the Administrator would be required to conduct an evaluation of the program, including the nature and extent of the benefits to the veterans, the costs and cost-effectiveness of the program, the effect of the provision of the monkeys on the recruitment and retention of the veterans' primary care-takers (if paid) or the morale of the veterans primary care-takers (if unpaid).

The VA would also be required to conduct a similar pilot program for the provision of dogs specially trained to provide hearing assistance to individuals who are deaf to not more than 20 veterans with service-connected hearing impairments if the VA determines that it lacks the authority to provide such dogs.

As a longstanding advocate of the VA being at the forefront of innovation in aiding severely disabled veterans, I believe that the assistance provided by these specially-trained animals has great potential for enabling severely disabled veterans live fuller, more independent lives. For detailed discussions of the types of assistance these animals can provide and the issues surrounding the provision of them, I would refer my colleagues to my statment on S. 2511, which appears beginning on page S2294 of the June 14, 1988, issue of the RECORD and to pages 146–149 of the committee report.

RECRUITMENT AND RETENTION OF HEALTH-CARE PERSONNEL WITHIN DM&S

Mr. President, sections 621 through 625 of the committee bill, which are discussed in detail in the committee report accompanying S. 2011 (S. Rept. No. 100–439, pages 150–63), are designed to help the VA overcome problems in the recruitment and retention of health-care personnel within VA facilities. The committee continues to be most concerned about the shortages of health-care professionals currently being experienced by the VA.

Last year, on May 12, 1987, I introduced S. 1195, the proposed "Veterans' Administration Health-Care Personnel Act, with provisions aimed at helping the VA overcome serious difficulties in this area, including measures which would have established a tuition reimbursement program, expanded the VA's scholarship program, and provided nurses who work on Saturdays with the same premium pay currently applicable to Sunday work. These provisions, along with a measure which I authored to require the Administrator to study and report on various issues relating to enhancing the VA's recruitment and retention of health-personnel—and to conduct a pilot program through which various innovative practices relating to these issues could be tested—were incorporated in title III of S. 9 as passed by the Senate on December 4, 1987. Subsequently, these and other measures pertaining to recruitment and retention strategies were included, with modifications, in title II of H.R. 2616 as enacted into law on May 29, 1988, as Public Law 100–322.

A detailed history of recruitment and retention problems leading up to these actions can be found in the committee report accompanying S. 9 (S. Rept. No. 100–215, pages 150–61).

Since the time that the vacancy and turnover statistics cited in the committee report on S. 9 were gathered and reported by the VA's Department of Medicine and Surgery [DM&S] in the study entitled "1986 Survey of Health Occupational Staff", the staffing situation within VA health-care facilities has generally worsened. Figures from an April 29, 1988, DM&S report, entitled "1987 Survey of Health Occupational Staff", make clear both that the 1987 turnover and vacancy rates have increased for registered nurses [RN's], licensed practical nurses [LPNs], and occupational therapists [OTs], and that, although the turnover rates have decreased somewhat for pharmacists and physical therapists [PTs], the vacancy rates for those positions remain critically high.

Mr. President, the VA continues to require additional authorities to meet today's challenge of recruiting and retaining qualified health-care workers. There is a growing rivalry among health-care facilities throughout the country for the services of these professionals; the VA is not alone in confronting this crisis in the recruitment and retention of health-care personnel. Additionally, I believe the VA must be more innovative, flexible, and resourceful in utilizing the authorities the agency already possesses.

With this background, I introduced on May 27, 1988, S. 2462 which contained, among other provisions, measures related to (a) reducing the time required for the President to approve special salary rates proposed by the VA, (b) streamlining the process necessary for the appointment of VA-trained graduates, (c) providing assistance in the form of grants to public and nonprofit institutions of higher learning in order to enhance their ability and capacity to provide needed health-care personnel, (d) awarding VA scholarships to students enrolled in associate degree nursing programs, and (e) requiring a pilot program to study the effects of certain pay and personnel practices. I am pleased that these provisions have been included, with minor modifications, in sections 621–25 of the committee bill and, as noted above, are described in detail in the committee report. By helping the VA to compete more effectively for the services of well-qualified health-care personnel, these provisions should be of great value to the Nation's service-disabled and other veterans who rely on the VA for health-care services.

USE OF CERTAIN IRS/SSA DATA FOR INCOME VERIFICATION

Section 703 of the committee bill would give the VA access to certain information maintained by the Internal Revenue Service and the Social Security Administration in order to verify self-reported beneficiary income for purposes of needs-based VA benefits and services. This provision is based on recommendations in a March 1988 General Accounting Office report which found that over one-third of the pension recipients studied had more income on IRS and SSA records than had been reported to the VA. The CBO estimates that these provisions would achieve net savings of $674 million in the first 5 years after enactment. Other Government agencies currently are permitted access to IRS and Social Security third-party tax data for purposes of eligibility determinations for certain needs-based programs, such as Supplemental Security Income, Aid to Families with Dependent Children, and Medicaid. These provisions also were reported separately as S. 2611 and referred to the Finance Committee, whose Subcommittee on Taxation and Debt Management heard testimony on S. 2611, among other bills, on July 12.

Mr. President, I would like to emphasize two things about this provision. First, nothing in section 703 of the committee bill would eliminate or reduce the entitlement of any VA beneficiary. It would merely provide the VA with a tool, previously provided to other Government agencies, to ensure that the furnishing of certain needs-based benefits and services is in accordance with statutory requirements. Indeed, these provisions would apply to the VA the strict requirements for giving beneficiaries notice of any proposed reductions in payments, the basis for the proposed reduction, and an opportunity for the beneficiary to respond to the VA's proposed action and those governing the confidentiality of such information which has been disclosed, that the other Government agencies that have been given access to such information also must meet. Second, almost all of the data involved is furnished by employers, financial institutions, and other third parties—not by the veteran—to the Internal Revenue Service and the Social Security Administration. Only a very small portion of the data involved is provided by the veteran—the income data reported quarterly to the Social Security Administration by those who are self-employed.

In addition, the committee bill would require the VA to notify the benefits' recipients and applicants potentially affected, prior to beginning any verification, that self-reported income data would be subject to verification by means of matching against information in reports submitted by third parties and the self-employment data. Subsequently, the VA would be required to provide notice of the income-verification program to all new applicants for the benefits involved or for health-care services based on income status and periodicaly to renotify all recipients about such matching.

The CBO estimates that this provision would save $36 million in both budget authority and outlays in fiscal year 1989, and $698 million in both BA and outlays in fiscal years 1989 through 1993. The fiscal year 1989 savings are essential to pay for the agent orange compensation benefits included in the committee bill, as well as a portion of the presumptive benefits for radiation exposure which were provided in Public Law 100–321, enacted in May of this year.

The VA's administrative costs of establishing and operating the verification program would be paid from the VA's compensation and pension account, into which all program savings produced by this matching program would accrue. For greater detail on this provision, I would refer my colleagues to the report accompanying the committee bill (pages 169-174).

CONCLUSION

Mr. President, it has been a pleasure to work with Senator MURKOWSKI and all the members of the committee in the development of this comprehensive legislation. I want to note the contributions of, and express my deep gratitude to, the committee staff members who have worked on this legislation—on the minority staff, Lisa Moore, Chris Yoder, Laura Stepovich, Tom Roberts, Tony Principi, in his last effort before leaving the position of minority chief counsel and staff director, and Tony's successor, Al Ptak, minority staff director; Roy Smith, who so ably provides editorial support to the committee; and, on the majority staff, Jane Wasman, Sandi Isaacson, Barbara Masters, Elizabeth Buechler, Darryl Kehrer, Kris Hardy, Tabb Osborne, Erin McGrath, Deborah Leon, Ann Danelski, Charlotte Hughes, Loretta McMillan, Sharon Blackman, Claudia Kashin, Bill Brew, Ed Scott, and Jon Steinberg and Cathy Chapman, Jennifer Loprocaro, and Liz Giffin, who have left the staff.

Mr. President, I also want to thank all members of the committee for their consistent support, assistance, and many contributions and active participation in committee activities as we have gone through the legislative process this year leading up to the development of the committee bill. I specifically note Senator MATSUNAGA's introduction of S. 2521, legislation which would require the VA to conduct a study on the incidence and prevalence of PTSD among certain populations of Vietnam veterans who are members of specified racial or ethnic groups. Section 603 of the committee bill was derived from that bill. I also deeply appreciate his chairing the committee's May 25 hearing on amendments to the Montgomery GI bill and his contributions to those provisions. I thank Senator DECONCINI for his chairing a field hearing of the committee in Arizona on July 5 which focused on VA health care issues and for his great willingness to assist in the chairing of committee hearings. Provisions derived from two measures introduced by Senator MITCHELL—S. 1805, which would exclude payments received in settlement of the agent orange product liability litigation from computation of income for purposes of certain needs-based VA programs, and S. 2396, to extend the period considered as the "Vietnam era" for VA purposes in the case of veterans who served in Vietnam—are included in the committee bill as sections 204 and 701, respectively. I thank Senator ROCKEFELLER for chairing the committee's June 16 hearing on health care legislation and oversight of the VA's vocational rehabilitation program and note his introduction of S. 2446, legislation to extend the VA's authority to furnish respite care, and S. 2459, legislation which would extend by 1 year the period for temporary programs of vocational rehabilitation and health care eligibility for certain VA pension recipients. Provisions derived from these measures are included in the committee bill as sections 611 and 341, respectively. Finally, I thank Senator GRAHAM for his help in chairing committee hearings and his active participation in committee activities and note his strong interest in the VA's home loan program and his contributions to the home loan provision in the reported bill and those in S. 2049 passed by the Senate on April 28.

Mr. President, I also note that, as I will describe in a moment, Senator SIMPSON has proposed an amendment that will be included in the committee modification which will require the Administrator of Veterans' Affairs and the Secretary of Labor to provide a breakdown in their annual budget submissions showing the amount that is projected to be spent in the coming year on various VA and DOL programs on or on behalf of combat and combat-theater veterans. I thank him for his continued strong involvement in the work of the committee.

Before closing, Mr. President, I also would like to note that I am confident that we will be able to enact a compensation COLA before this Congress adjourns so as to ensure that the increase will be made on time on December 1. We have experienced considerable delay in getting this bill before the Senate. Many of the reasons for the delay related to the needs of the very crowded legislative schedule and had no relationship to the merits of the pending measure—or amendments scheduled to be proposed to it. I want to assure veterans that the delay we have experienced in taking up this bill on the floor during this busy legislative period should not in any way adversely affect the benefits that service-connected veterans so richly deserve.

Mr. President, I am delighted that we have been able, once again, to develop a truly bipartisan measure that will fulfill our commitment to ensure that compensation and DIC benefits for this Nation's service-connected-disabled veterans and the survivors of those who have died from service-connected causes are protected from the effects of inflation, that will help to maintain and improve the quality and efficiency of health care services provided to eligible veterans, and that will provide needed safeguards for and improvements in VA programs.

Mr. President, I urge the Senate's approval of the pending legislation.

Mr. MURKOWSKI. Mr. President, as ranking minority member of the Committee on Veterans' Affairs, I rise in strong support of S. 2011, the proposed Veterans' Benefits and Programs Improvement Act of 1988. I am particularly pleased to join with the chairman of the Committee on Veterans' Affairs in speaking in favor of this omnibus legislation. S. 2011, as reported, makes significant improvements in veterans' benefits and health-care programs administered by the Veterans' Administration. I am again pleased that the committee was able to reach agreement on nearly every provision contained in S. 2011, as reported.

S. 2011, as reported, contains 7 titles and addresses fundamentally important issues: compensation and other benefits; Agent Orange; education and rehabilitation; the Board of Veterans' Appeals; and health care. The provisions are too numerous to describe in detail; thus, I urge my colleagues to review the report which accompanies S. 2011 (S. Rept. 100-439). I would like to take this opportunity to highlight several of the provisions in the bill.

COST-OF-LIVING INCREASE

First and foremost, title I of the bill would provide a needed and deserved cost-of-living adjustment [COLA] for our most deserving beneficiaries—those receiving compensation for service-connected disabilities and for survivors of those who died during or as a result of active service. The increase, effective December 1, 1988, would be equal to the Social Security COLA.

The Congress has consistently rejected proposals index permanently the monthly rates of veterans' disability compensation and related benefits. Indexing would automatically adjust these benefits for changes in the cost-of-living. Rejection of this approach has the advantage of compelling close oversight over VA programs and annual legislation to maintain the purchasing power of veterans' benefits programs. At the same time, this policy imposes an obligation on the Senate to ensure enactment each year of legislation to provide a COLA for veterans' benefits. The legislation before us fulfills that obligation.

AGENT ORANGE

Mr. President, title II contains vital provisions relating to agent orange. My colleagues and I will be discussing this issue in great detail during the Senate's consideration of this bill. Therefore, my comments on these provisions will be brief. Section 202 of the committee bill, contains a provision derived from my bill, S. 1692. My legislation would have provided a presumption of service connection for Vietnam veterans with non-Hodgkin's lymphoma. I am pleased that I was able to play a role in this very emotional and complex issue. I strongly believe that the committee has done a commendable job and has developed a sound and reasonable approach to addressing the concerns about possible adverse health effects of veterans exposure to agent orange.

EDUCATION

Title III of the bill contains 17 provisions relating to veterans's education and vocational rehabilitation programs.

Among the more significant provisions is section 311, which would provide eligibility for education benefits to Montgomery GI bill participants who do not meet minimum length-of-service requirements because they were discharged early due to a disability which existed prior to entry on active duty. Under current law, these individuals have no eligibility for benefits even though they accepted the $1,200 reduction in pay necessary to qualify for benefits and even though their early release was involuntary. S. 2011 would provide these individuals with 1 month of benefits for each month of active duty served.

In another significant measure section 312 of the bill responds to findings that in the early days of the Montgomery GI bill many service members were not well-informed of the pros and cons of participation and were unable to make an informed decision as to their participation. Section 312 responds to this situation by providing a one-time 120-day "open season" when individuals who entered on active duty during the period July 1, 1985 through June 30, 1988 may withdraw their election not to participate in this program.

BOARD OF VETERANS'S APPEALS.

Mr. President, title V of the committee substitute contains provisions affecting the Board of Veterans' Appeals. Generally, these provisions do two things: They make a move toward independence for the BVA, and they impose certain trial-type rules with respect to proceedings before the Board.

If these provisions sound familiar, they are. The Senate passed most of these provisions when it passed S. 11, the Veterans' Administration Adjudication Procedure and Judicial Review Act in July.

My friend from California, the distinguished chairman of our committee, has done his usual thorough job of explaining this portion of the bill. I will not burden the record further in that regard.

I would, however, like to point out a bit of political reality: These provisions are not going anywhere.

Our friends in the other body tend, I believe, to look at the issues of BVA reform and judicial review as being of a piece. Frankly, so do I. The fact that the Senate passes the same provisions twice in the same Congress—indeed, twice in the same session—is not going to make the House look more favorably upon these measures than if we had passed them only once.

I think my position on this approach to BVA reform was made pretty clear in the additional views I coauthored with Senators THURMOND and STAFFORD in the committee's report on S. 11. (S. Rept. 100-418 at pages 111-115.) It seems to me that if you're going to make the Board independent of the Veterans' Administration, then either do it—as I did in S. 2292—or abolish it and replace it with an independent court—as the House Veterans' Affairs Committee does in H.R. 5288.

I want to make it quite clear to my colleagues that I have no desire to strike this portion of the bill, much less oppose S. 2011. I believe that the committee substitute presents well-crafted and necessary legislation for our Nation's veterans. My purpose here is merely to highlight the fact that we should perhaps be a bit more realistic when we put together these so-called omnibus veterans' bills.

I believe that we are on verge of a breakthrough on judicial review. This is due in large part to the leadership and dedication of my friend from California. It is also due to the willingness to compromise in the House led by SONNY MONTGOMERY and GERRY SOLOMON. I hope we can pursue a reasonable and meaningful compromise on this important issue.

HEALTH CARE

Mr. President, the provisions in title VI of the bill relate to veterans health care and address three primary issues: recruitment and retention of health-care personnel, extension of certain health-care program authorities, and mental illness.

Recruitment and retention

If the VA is to maintain a vital and comprehensive health-care delivery system, adequate staff are necessary. Without doctors, nurses, pharmacists, lab technicians, and the many other health-care personnel who are needed to run a hospital, the actual physical plant is useless. As we know, there is a shortage of registered nurses in this country. This is no secret. Simply put, nursing school enrollment is down and many schools have closed their doors. Therefore, the situation is not likely to improve in the next several years. Frankly, nursing is not perceived to be an attractive career, as it once was.

Because the competition is so fierce and the private sector—by nature—reacts more quickly to shortages than does the public sector, the VA is in a difficult position. Under current law and present budgetary constraints, the VA—in certain locations—simply cannot pay nurses enough to keep them working in the system. In certain geographic regions, the situation is severe. The committee has addressed this problem through legislation—S. 9, as reported; S. Rept. 100-2150. Many of those provisions were ultimately enacted on May 20, 1988 as part of Public Law 100-322.

Section 621-625 of S. 2011 again address the recruitment and retention issue. For example, section 621 would provide the VA with increased flexibility to appoint VA-trained personnel to full-time positions. In order to expedite requests for special pay for nurses, among others, section 622 would reduce the amount of time that the Office of Personnel Management is permitted to disallow VA requests for special pay.

I look forward to working with Senator CRANSTON and the other members of the committee to determine what long-term solutions to the nursing shortage exist.

Extension of program authorities

Section 604 of the committee bill would make permanent the VA's authority to contract in community-based halfway houses for alcohol and drug abuse treatment. A recently received evaluation of the effectiveness of this program states that it is an effective one. The VA's authority to conduct a program of providing respite care would be extended by section 611 of the committee bill.

Assistive animals

I am pleased that the committee bill contains a provision—section 615—derived from S. 2207 which I introduced—which would provide for assistive animals to certain quadriplegic veterans. I applaud the Paralyzed Veterans of America and the VA for their interest and funding of this most innovative program. Assistive monkeys and dogs can be a useful—if not invaluable—tool in increasing the independence of persons with quadriplegia. I look forward to the VA's participation in this program and to reading the evaluation of it.

Mental Health

I joined with Senator CRANSTON in introducing S. 2463, which would provide for the establishment and operation of centers of excellence in the area of mental illness research and treatment. This provision is contained in section 604 of the committee bill.

These centers—to be known as mental illness research, education, and clinical centers [MIRECC]— would enhance the VA's ability to recruit and retain psychiatrists and other mental health professionals as well as add to the body of knowledge about mental illness. This is an important provision and I am pleased that it has been included in the committee bill.

IRS DATA MATCHING

Mr. President, section 703 of the committee bill would permit the VA to cross-check certain income reporting against third-party reports to the Internal Revenue Service. The purpose of this authority—which exists in other Federal programs—is to ensure the VA benefits meant for the needy go to the needy.

Some of the benefits administered by the VA are "needs based," that is, eligibility for, or the amount of, the benefit depends upon the income of the recipient. Among these benefits are eligibility for health care without a copayment; survivors' benefits for the parents of those who die while on active duty or due to a service-connected cause; and, most importantly, nonservice connected disability pension. These pensions are paid to low-income wartime veterans who are over the age of 65 or who are permanently and totally disabled subsequent to their service. Low-income survivors of wartime veterans who die subsequent to service due to a cause unrelated to their service are also eligible for nonservice-connected survivor's pension. These benefits are convincing evidence of the generosity with which the Congress views the Nation's obligation to its veterans because these benefits are paid to individuals whose disabilities have no relationship to their service or even those with no disability if they have attained age 65. In fiscal year 1988 we will pay over $3.8 billion to over 1.2 million beneficiaries through these programs.

Under current law, the income upon which eligibility and benefit amounts are based is almost entirely self-reported. In 1985, troubled by persistent reports of under-reporting of income, I requested a GAO study of the accuracy of income reporting. In March 1988, the GAO published its findings which confirmed reports of significant under-reporting of income. After reviewing the records of 1.4 million pension recipients, GAO found 549,00 pensioners had a total of $947 million in income that was not reported to the VA. Considering only discrepancies greater than $100, potential overpayments totaled $182.5 million paid to 149,000 VA beneficiaries. Based on these findings, I immediately urged the committee to adopt legislation which would provide the VA with the same access to third-party tax data currently provided to the agencies administering other Federal need-based programs.

I am pleased Chairman CRANSTON and the committee promptly responded and that the committee bill contains a provision based on this proposal. It is important to remember that this proposal does not reduce or eliminate any veteran's benefit, nor does it require the collection of any data not already collected. It does ensure that all-too-scarce resources available for veterans' benefits will be targeted only at those who meet the eligibility requirements established by law.

CONCLUSION

Mr. President, before closing, I would like to commend my colleagues on the committee, especially Senator CRANSTON, for his accommodation to me and other Members on this side of the aisle. We work together well and generally in a bipartisan fashion to address the needs of our Nation's veterans. I want to also note my appreciation for the outstanding efforts of the Veterans' Affairs Committee staff who worked hard on this important legislation. From my own staff, I thank my chief counsel-staff director, Alan Ptak, Tom Roberts, Chris Yoder, Lisa Moore, Laura Stepovich, Susan Theroux, and Tracy Gourd. I also want to thank my former chief counsel/staff director, Tony Principi who helped to develop this legislation.

In addition, I recognize the fine work of the majority staff including Jane Wasman, Darryl Kehrer, Sandi Isaacson, Barbara Masters, Elizabeth Buechler, Sharon Blackman, Claudia Kashin, Ann Danelski, Kris Hardy, Deborah Leon, Erin McGrath, Loretta McMillan, Tabb Osborne, Charlotte Hughes, Lorraine Beilan, Bill Brew, Ed Scott, and the majority chief counsel/staff director, Jon Steinberg. Finally, I thank our editorial director, Roy Smith, who worked endlessly and tirelessly on the committee report to S. 2011.

I urge my colleagues to support this legislation. I thank the Chair.

Mr. MOYNIHAN. Mr. President, I wish to thank the distinguished chairman of the Veterans' Affairs Committee, Senator CRANSTON, and the distinguished ranking minority member, Senator MURKOWSKI, for including in their committee amendment to S. 2011 the provisions of my bill, S. 2670.

The purpose of my legislation is to prevent disabled veterans and their survivors from losing Federal public assistance benefits if they are recipients of settlement payments in the litigation against the manufacturers of agent orange.

As announced by a Federal district court in Brooklyn on July 5, totally disabled Vietnam veterans who were exposed to the highly toxic herbicide agent orange will begin receiving payments early next year from the settlement of a suit against the chemical's makers.

On June 30, a U.S. Supreme Court ruling cleared the last legal obstacle to the 1984 settlement agreement. Under the agreement, the chemical companies agreed to pay $180 million to settle all claims while admitting no liability for any injuries or deaths caused by the use of agent orange. The settlement amount has now grown to $240 million from interest. To receive payments, a veteran must be totally disabled, must show exposure to agent orange in Vietnam, and show that the disability was not caused by another injury. Payments will also be made to the families of veterans whose deaths are linked to agent orange.

Mr. President, based on court estimates, an eligible veteran will receive an average disability settlement payment of about $5,700 over the 6-year distribution period, or an average annual payment of about $950. An eligible survivor will receive an average total death payment of about $1,800. Of the 250,000 veterans who have filed preliminary claims, about 40,000 to 60,000 may be eligible for payments.

Without a change in the law, these settlement payments will be counted as income for purposes of determining eligibility for and benefit amounts under Federal programs such as veterans pensions, supplemental security income, AFDC, and food stamps. My bill would change the law so that disabled veterans and their family members who receive Federal assistance benefits would not lose their benefits or have them reduced by reason of receiving these very modest agent orange settlement payments.

Section 205 of the veterans bill under consideration, S. 2011, includes a provision to exclude the agent orange settlement payments from income for purposes of certain veterans' programs. The committee amendment offered by Senators CRANSTON and MURKOWSKI includes a modification to this income-exclusion provision to make it apply to all Federal assistance programs, consistent with my legislation. I thank the Senators for this modification, which will benefit the most vulnerable among our honorable Vietnam veterans.

S. 2011, THE VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT OF 1988

Mr. MITCHELL. Mr. President, I support S. 2011, the Veterans' Benefits and Programs Improvement Act of 1988.

S. 2011 is on the floor because of the strong leadership of the distinguished chairman of the Veterans's Affairs Committee, ALAN CRANSTON and the ranking minority member FRANK MURKOWSKI. I commend both and the other members of the committee for their efforts on this legislation which will make improvements in a wide range of Veterans' Administration benefits programs.

The engine that pulls this train is the cost-of-living increase, equal to the percentage increase made to Social Security and VA pension benefits, in the rates of disability compensation for disabled veterans and indemnity compensation for surviving spouses and children effective December 1, 1988.

The Congressional Budget Office estimates that the COLA will be 4.1 percent. Maintaining the value of these benefits to veterans and their survivors against the rate of inflation is among the highest priorities of this Congress in any year. Section 101 has my complete support.

Although I will not discuss them in detail today, I want to express my support for a number of the provisions in S. 2011 that address critical needs in the VA's health care programs, especially in recruiting and retaining qualified health care providers; that make much needed changes in the operations of the Board of Veterans Appeals; and that enhance the value to veterans of several of the VA-administered benefit programs.

And although I support S. 2011 and many of the amendments that I understand will be offered to it on the floor today, I also want to express my hope that when this bill goes to conference with the House, the provisions from H.R. 5114 that would offer special pay for the registered nurses in the VA will be accepted by the leadership of the committee.

The Veterans' Administration suffers from a severe nursing shortage that has resulted in the reduction in the number of open hospital beds in the system, the closing of wards, the delay in scheduling surgery and most importantly, a serious decline in the moral of the VA's nursing professionals.

I know from talking to administrators and nurses at the Togus, ME, VA Medical Center that the nursing shortage is real and affecting health care delivery at Maine's only VA Medical Center.

According to the latest figures, Togus has 20 vacancies for registered nursing out of an authorized FTEE level of 180. There are 8 vacancies on the center's authorized FTEE of 37 as far as licensed practical nurses are concerned.

The Center Director tells me that the quality of care has maintained during this period by reducing 45 medical and surgical beds and by filling PKN positions with nursing assistants since the center is unable to recruit LPN's.

The problem can be easily identified: salaries at Togus have not kept pace with salaries in southern Maine and most importantly, the Boston metropolitan area. Qualified nurses are leaving the VA every day for the higher salaries, better benefits, and positive working atmosphere elsewhere.

Under the nurse pay provisions of H.R. 5114, all VA nurses could receive a combination of special and incentive pay up to $7,000 annually, starting with annual special pay of $1,500—$1,000 in fiscal year 1989—over their regular salary.

In addition, nurses could get special incentive pay up to $5,500 per year under this schedule:

First, $500 for 2-year tenure in the VA;

Second, $1,000—$500 in fiscal year 1989—for 5-year tenure in the VA;

Third, $4,000—$2,000 in fiscal year 1989—for service in specialties where the VA has retention and recruitment difficulties;

Fourth, $1,500—$1,000 in fiscal year 1989—for service in locations where the VA has retention and recruitment difficulties; and

Fifth, $1,500—$1,000 in fiscal year 1989—for service as a head nurse.

Proportional amounts would be provided for the nurses who work part time in the VA.

Raising nurse pay will not, by itself, correct the entire problem. But, I don't believe the present situation at Togus will improve without a pay increase for nurses.

Enactment of the pay provisions in H.R. 5114 is imperative if the VA is to seriously compete with private-sector hospitals for the skilled nurses it needs to provide the high-quality medical care our veterans need and deserve.

I hope it can be accepted by the Senate managers in conference.

At this time, I want to discuss the two provisions in S. 2011 that were derived from legislation I introduced.

Before doing so, I want to express my appreciation to Chairman CRANSTON and Senator MURKOWSKI for their cooperation in scheduling my legislation for hearing before the Veterans' Affairs Committee, for allowing me to suggest witnesses to testify about these provisions, and for working with me so that those provisions could be included in S. 2011.

Section 205, would provide that payments received from a settlement or judgement in litigation based on injuries alleged to have resulted from events that occurred in a veterans' active-duty service would not be countable as income for the purposes of VA needs-based pensions, parents' survivors compensation and health-care based on financial status, as long as the payments do not exceed the VA's annual income limits set for pension benefits.

I strongly support this provision. It expands my original legislation, S. 1805, cosponsored by Senators ROCKEFELLER, MATSUNAGA, DECONCINI, and BURDICK, that would have excluded payments made to veterans or their survivors from the agent orange liability settlement fund from being counted as income when determining eligibility for VA pensions or medical care.

Those payments will be made to eligible individuals under a distribution plan that is part of the settlement of a class action suit, originally reached in May 1984, filed on behalf of 16,000 Vietnam veterans and their dependents against the chemical companies who manufactured and provided the United States military with agent orange for use as a defoliant in Vietnam.

The distribution plan has two principal parts. The first is a $52 million class assistance foundation to provide grants to organizations to help meet the service needs of the class.

The second is a $170 million program to provide cash compensation to: First, veterans who can show exposure to agent orange while in or near Vietnam from 1961 to 1972 and who are presently suffering from a long-term total disability—using the same test of disability as Social Security—which occurred prior to the veteran's 60th birthday and is not caused by trauma, accident, or self-infliction or; second, spouses or children of deceased veterans who qualify under the criteria.

The office of Ken Feinberg, the special master, appointed by Judge Weinstein to oversee the distribution of the fund, tells me that the process of making final arrangements for distribution could be completed in a fairly timely fashion.

It now appears that veterans could receive up to $12,800 and survivors could receive up to $3,400 under the settlement plan. Exact payment levels cannot be established until the number of eligible claimants is determined, of course.

Under current law, veterans who receive VA pensions would be adversely affected by receipt of payments under the settlement fund. In fact, they stand to have their benefits reduced, on a dollar-for-dollar basis, for any payment received under the agent orange settlement. Let me explain why.

VA pensions are provided to wartime veterans with limited incomes who are permanently and totally disabled for reasons not traceable to service, nor due to willful misconduct or vicious habits. Annual payments to eligible veterans are based on the number of dependents and are reduced on a dollar-for-dollar basis by the amount of the veteran's annual countable income.

The law requires the VA to count all payments of any kind or from any source, subject to specified exclusions. By regulation, the VA considers personal injury damages as income. The VA's general counsel has ruled that payments from the agent orange plan were income since they result from a settlement in a lawsuit brought to obtain damages.

As a result, veterans who receive settlement payments will have their VA pension benefits reduced because of their participation in the agent orange settlement.

In addition, the settlement payments could cause a limited number of veterans to lose their eligibility for free VA medical care because the $12,000 settlement payment could push their incomes to the point where the VA, under law, would only be able to offer them care on a space-available basis, subject to a copayment.

I cannot say strongly enough that it is wrong to deny or reduce an individual's veterans benefits because of payments that veteran or survivor may receive as a result of the agent orange settlement, while the scientific evidence grows that there is a connection between agent orange exposure and a veteran's health.

I am very pleased that my colleagues on the Veterans' Affairs Committee, after considering this legislation, joined with me and modified my original legislation so that veterans affected by the agent orange settlement, or who may benefit from a similar settlement or judgment, should not have their eligibility for VA benefits hurt by receipt of these payments now or at some future time under a different settlement.

On a related matter, when I introduced S. 1805 last year, I said that veterans, or their survivors, who receive payments from the agent orange settlement fund and who participate in other Federal means-tested programs could lose eligibility for any of these means-tested programs. Many of the witnesses who testified in support of S. 1805 recommended that its exclusion be expanded to cover the other Federal programs.

The committee did not do so; its jurisdiction is over veterans programs only. But, I'm pleased that the managers intend to accept Senator MOYNIHAN's amendment that would exclude payments from the settlement fund for purposes of determining an individual's eligibility for all Federal means-tested programs: Aid to Families with Dependent Children [AFDC] and Child Support Enforcement; Food Stamps; Supplemental Security Income [SSI]; Child Nutrition and Supplemental Food Programs; Medicaid; Guaranteed Student Loans; Subsidized Housing Programs; Earned Income Tax Credit; Refugee Assistance; and Low-income Home Energy Assistance.

Mr. President, the other provision in S. 2011 derived from legislation I introduced is section 701, which is based on S. 2396. That legislation has been cosponsored by Senators CRANSTON, DECONCINI, and BURDICK.

It would change the definition of the Vietnam era which is not statutorily established in section 101(29), title 38, United States Code, as August 5, 1964, to May 7, 1975.

Service in the Armed Forces during that period entitles veterans, who qualify under specific eligibility requirements, to VA benefits such as pension, readjustment counseling, burial, and on-the-job training, education, or apprenticeship benefits.

The present starting date, August 5, 1964, coincides with President Johnson's message to the Congress of an attack by North Vietnamese gunboats on two United States Navy destroyers in the Gulf of Tonkin the preceding day. The end date, which would be unaffected by enactment of section 701, was originally set by President Ford in a Presidential proclamation and later enacted by Congress.

Mr. President, establishing a starting date for a period of war, such as Vietnam, where there was no one, single action beginning the involvement of United States service personnel is at best an uncertain science. Nonetheless, I think that a better option for designating the starting point of the Vietnam era for those veterans who served in the Republic of Vietnam prior to the Gulf of Tonkin incident is available to the Senate.

That is February 28, 1961, the date, set forth in Public Law 89-257, after which United States personnel could accept awards from the Government of the Republic of Vietnam in connection with service in Vietnam.

February 28, 1961, also begins the Vietnam era for the purposes of the Internal Revenue Service—relating to the treatment of income for tax purposes for members of the Armed Forces serving in Vietnam in certain circumstances—and the Immigration and Naturalization Service—relating to expedited naturalization based on wartime service.

Efforts to move back the starting point of the definition of "Vietnam era" for veterans who served in Vietnam prior to August 5, 1964, are not new. In fact, the Senate has twice passed legislation to extend the starting point back February 28, 1961, most recently as part of H.R. 505 on July 30, 1985. The House has not agreed with making such a change.

In concept, the Gulf of Tonkin incident is an acceptable date to delineate the beginning of the Vietnam era. Clearly, it is the watershed event in the history of the United States involvement in Vietnam. In fact, at this point, I ask unanimous consent that an article from the August 17, 1988, Washington Post on this question be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 17, 1988]

EVENTS OF FEBRUARY 28, 1961, MAY BE PUT TO VOTE

(By Laurie M. Grossman)

Although it never officially sanctioned the Vietnam war, Congress is now trying to start it.

A provision easing its way through the Senate would set the official beginning of the Vietnam war as Feb. 28, 1961.

The purpose of the measure, a section of the Senate's Veterans' Compensation Cost-of-Living Adjustment Act of 1988, is to extend eligibility for wartime veterans benefits and pensions to those who served in combat prior to Aug. 5, 1964, the starting date now on federal books. On that day, President Lyndon B. Johnson notified Congress that U.S. Navy destroyers had been attacked in the Gulf of Tonkin.

For many historians, what happened on Feb. 28, 1961 is less apparent.

"If we took the 100 most knowledgeable people about the Vietnam war, the date would not mean anything," said Prof. Douglas Pike, director of the Indochina studies program at the University of California at Berkeley, who is compiling a chronology of the war. "In all of February nothing happened in Vietnam, with respect to the war, that has any historical significance at all."

The February 1961 date is already the start of the conflict for some Internal Revneue Service tax exemptions, which cover the missing in action and prisoners of war; but for all other combat troops, federal tax codes use 1964, said IRS spokeman Wilson Fadely. Eligibility for the Army's Combat Infantryman's Badge and for foreign combat awards also depends on the 1961 date.

Congressional aides explain the selection of the proposed date as the time American military advisers began to accompany Vietnamese military operations in the field.

But Pike, who said he arrived in Vietnam in the fall of 1960 to join the 600 American advisers already there, remembered that "I went on military operations in December 1960. Americans were going on military operations two years before that."

The Senate approved the date shift in the last two Congresses, but the measure did not make it to the House floor or through conference negotiations, according to congressional aides. A free-standing bill, currently in the House Veterans' Affairs Committee, sponsored by Rep. Paul E. Kanjorski (D.-Pa.), would start the Vietnam war on March 1, 1981.

If Congress does decide to change the date, Vietnam scholars may not work around it. "You can't change history that way, not by legislation," said Walter Capps, professor of religious studies at the University of California at Santa Barbara.

Capps, who teaches a course about the Vietnam era to 900 students, said he still intends to lecture that the Gulf of Tonkin resolution was "the official starting date because that's when the equivalent to the war powers act was enacted."

Some Vietnam experts suggested, that for purposes of benefits, the law should extend as far back as the first American casualty—1959, which is the starting date on the Vietnam Veterans Memorial.

"If they are concerned about people's benefits, why not go back further?" asked Stanley Karnow, veteran Asian correspondent and author of "Vietnam: A History."

For some scholars the earlier date at least is better than the one on the books now. "Certainly people in 1961 to 1963 suffered as much as in 1964," said Pike.

"It's pretty obvious we had people in Vietnam, people were dying. . . . It's probably not good public policy not to recognize historical fact," said Robert Hill, an aide to Kanjorski.

Mr. MITCHELL. But, while conceptually defensible the present definition serves to exclude the United States troops who served in the Republic of Vietnam, sometimes in combat conditions, well before August 5, 1964, from qualifying for certain veterans benefits. I would note, for example, that the names on the Vietnam Veterans War Memorial includes casualties prior to that date.

Mr. President, I believe there is enough supporting reason to extend the present definition of Vietnam era as proposed in this legislation. Making the change would bring conformity among Federal agencies in terms of defining this period. Most importantly, it would discontinue the present situation in which the Federal Government tells veterans who served in actual combat situations in Vietnam prior to August 5, 1964, that they are not Vietnam-era veterans when the veterans apply to the VA for certain benefits.

Once again, I commend the managers, Senator CRANSTON and Senator MURKOWSKI, for the quality of their work product and the bipartisan manner in which they conduct the business of the Veterans' Affairs Committee. It is a pleasure to serve with them and the other members of that committee in addressing the benefits earned by this Nation's veterans in service to this country.

Mr. President, I believe that S. 2011, the "Veterans' Benefits and Programs Improvement Act of 1988" deserves the support of the Senate.

Mr. MATSUNAGA. Mr. President, I rise in support of expeditious adoption of the pending measure, S. 2011, the Veterans' Benefits and Programs Improvement Act of 1988. This omnibus measure, the last major veterans' bill the Senate will consider in the 100th Congress, has been painstakingly worked out on a bipartisan basis by the members and staff of the Veterans' Affairs Committee. It contains important additions to and modifications of existing compensation, health care, and education and training programs, as well as provisions relating to reform of the existing claims review process.

Title I of the measure provides for a cost-of-living adjustment for recipients of disability compensation and dependency and indemnity compensation equal to that which is provided to Social Security and VA pension beneficiaries. This provision will help mitigate the erosive effects of inflation on the compensation benefits of some of this Nation's most needy and deserving veterans and their survivors.

Title III of the bill makes changes to veterans' education and rehabilitation programs. One of the most important of these changes entails extending the eligibility period for entitled education benefits for veterans who are not able to take advantage of their education benefits because of drug or alcohol conditions. The committee believes that rather than penalize such veterans under current regulations, the VA should see that veterans with serious alcohol and drug problems are given every opportunity through education to become healthy, productive members of society.

Mr. President, title V of the bill makes important internal changes in the Board of Veterans' Appeals [BVA], currently the authority of final resort for benefits claims. These internal changes are designed to make the Board more efficient and impartial. Some of these changes include: requiring the chairman of the BVA to be appointed by the President, not the Administrator, and subject to confirmation by the Senate; prohibiting the practice of awarding cash bonuses to Board members for exceeding case quotas; codifying existing adjudication procedures without undermining the nonadversarial atmosphere associated with them; and eliminating existing limitations on attorneys' fees for cases that do not involve claims benefits, such as constitutional challenges. As the chairman has indicated, although these particular provisions were included in the judicial review bill which the Senate passed some months ago, and although they do not bear on the issue of judicial review itself, they are important enough in and of themselves and merit adoption regardless of the outcome of that legislation.

Mr. President, title VI of S. 2011 relates to a variety of health care matters, including provisions that would aid in the recruitment and retention of indemand health care personnel, such as nurses, occupational therapists, physical therapists, and pharmacists. It reauthorizes the State Home Construction Grant Program and the respite home care program; permanently authorizes the highly successful pilot program of contract community-based alcohol and drug treatment services; and, extends eligibility for readjustment counseling from Vietnam-era veterans alone to veterans of WWII, Korea, and post-Vietnam hostilities. The last-mentioned provision merely codifies what has long been recognized by experienced Vets Center staff—that readjustment problems are not exclusive to veterans of Southeast Asia, but are evident in survivors of all military conflicts. This is a good provision that will legalize the counseling that I and other Members of this body suspect is already being quietly provided by compassionate counselors to non-Vietnam-era veterans at many vets centers throughout the Nation.

Title VI also includes a section that requires the VA to provide health care on a priority basis to Vietnam veterans suffering from post-traumatic stress disorder [PTSD]—in other words, on the same basis as if the condition has been adjudicated as a service-connected disability. Recent reports and this summer's PTSD hearing have affirmed the high incidence of mental health problems, including PTSD, among Vietnam veterans, many of whom go untreated. I was happy to support Chairman CRANSTON in including this provision in the committee bill, and I am also happy to be a cosponsor of the amendment that I believe the chairman intends to offer later to extend the benefits under this section to veterans of all periods, not just Vietnam.

On a related issue, I am particularly pleased that a provision based on S. 2521, a bill I introduced earlier this year, is included in this legislation. S. 2521 would have required the VA to conduct a study of the prevalance and incidence of psychological problems, including PTSD, among Asian- and Polynesian-American Vietnam veterans. Section 603 of the pending measure mandates this study and extends it to cover native Americans, native Hawaiians, and Native Alaskans. This small but important study will help address a fundamental lack of knowledge regarding the mental health problems of minority Vietnam veterans. Preliminary research indicates that the origin, manifestation, and treatment of certain psychological problems may be unique to particular cultural and ethnic populations. Given the disturbing fact that black and Hispanic veterans are known to suffer from a significantly higher incidence of PTSD than do their white comrades-in-arms, it is important that the VA devote research to the mental health problems of veterans who come from even smaller minority groups.

Mr. President, title II of S. 2011 contain various items concerning agent orange benefits. One of these, section 205, excludes payments from the settlement of suits based on disabilities incurred on active-duty service—including the $240 million agent orange trust fund—from the income used to compute eligibility for needs-based pensions, compensation, and health care. Without this relief, certain needy veterans would be in the distressing situation of receiving judicial settlements on the one hand, and losing Federal veterans' benefits on the other. Section 205 is derived from legislation offered by the junior Senator from Maine [Mr. MITCHELL], who drew on his experience on the Federal bench in developing his bill. I commend Senator MITCHELL for the role he has played regarding this matter, and am pleased to note that I cosponsored his original legislation.

Finally, title II also contains provisions relating to one of the most difficult issues that the committee has faced during my nearly 12 years of service on it. This is the matter of presumptive compensation for certain diseases that many believe are associated with exposure to agent orange. Mr. President, after several hearings and long and careful examination of the scientific evidence regarding the health effects of agent orange exposure, the committee believes that there is enough evidence to merit a permanent presumption of service connection for chloracne and a temporary presumption of service-connection for non-Hodgkin's lymphoma [NHL]. A final decision on the NHL presumption will be made after the results of the Centers for Disease Control's intensive "Selected Cancers Study" are known in 1990.

I believe this approach strikes a balance between the plight of aging veterans who were exposed to the herbicide and are now suffering from NHL, and the demands of scientific evidence which often requires lengthy and exhaustive examination. While the committee's approach is not perfect in everyone's eyes, the fact of the matter is that it marks a historic departure from previous treatment of this important and contentious issue. I hope that Senators will support this particular provision, as well as the amendment that will be offered by Senators DASCHLE, KERRY, and CRANSTON to add soft-tissue sarcoma along with non-Hodgkin's lymphoma to the list of diseases that are, temporarily, to be presumed service-connected.

Mr. President, I urge my colleagues to support this omnibus legislation. But before closing, I would like to commend the committee's chairman and ranking minority member, Senators CRANSTON and MURKOWSKI, for the outstanding leadership that they have demonstrated in developing the proposals outlined in this bill. Because of their efforts, the veterans' committee is indeed blessed with an enviable record of bipartisan cooperation on matters of concern to one of America's most deserving constituencies, the Nation's 27 million veterans.

Mr. DOLE. Mr. President, I join my colleagues in support of S. 2011, the Veterans' Benefits and Programs Improvement Act of 1988. This legislation addresses a number of areas and needs important to our Nation's veterans, including health care and education programs, compensation and other benefits. I commend the chairman and ranking member, Senators CRANSTON and MURKOWSKI, and other members of the committee for their exhaustive efforts, and, at this time, would just like to note a few of the many important provisions in the bill.

Mr. President, I am very pleased that the Senate is taking action to provide an appropriate cost-of-living adjustment (COLA) for disabled veterans receiving compensation and for survivors of those who died on active duty. These veterans should continue to receive priority interest from the Senate—they are the ones who deal daily with the burdens of our Nation's battles.

Another burden of national significance, the agent orange issue is also dealt with in S. 2011. While the debate over this issue has, at times, been divisive and emotional, I feel the committee has successfully resolved the complex issues involved based on present evidence. Our action today is a reasonable, responsible approach to addressing the concerns of veterans suffering from health problems that may be associated with their exposure to agent orange. If future evidence warrants additional presumptions for compensation, then I'm confident the committee will respond accordingly.

Additionally, Mr. President, I have always felt strongly about providing educational incentives to our service men and women. S. 2011 makes several improvements in the Montgomery GI bill, an already highly successful program. I am especially grateful for the overwhelming support for my death benefit provision amendment. I certainly appreciate the committee staff's cooperation relating to my amendment. Professional staff member Chris Yoder was particularly helpful.

The bill also contains several important provisions which impact directly on patient care. If the VA is to maintain its quality health-care delivery system, we have to make sure there are enough doctors, nurses and other medical personnel. I am particularly concerned about the shortage of registered nurses in this country. The VA is in a difficult position trying to compete with the private sector.

We must do whatever is necessary to attract and retain quality medical care personnel—who are the ones that make the health-care system work. While provisions in S. 2011 address the recruitment and retention issue, we must continue to work aggressively to solve this problem. I am pleased that the veterans' committee has made this a high priority.

Finally, I would like to commend Senator MURKOWSKI for his creative approach to helping some of our most needy veterans, those with quadriplegia. With the support of the Paralyzed Veterans of America and the VA, Senator MURKOWSKI has introduced an innovative program of providing assistive animals to quadriplegic veterans as a tool in increasing their independence. I sincerely hope this initiative gets favorable results. If assistive monkeys and dogs can provide any support for veterans and quadriplegia, funding for this program will have been extremely worthwhile.

Needless to say, there are numerous other new programs and benefits in S. 2011 which I have not had time to address, but fully support. I know our Nation's veterans will be most appreciative.

Mr. ADAMS. Mr. President, I rise today to express my support for S. 2011, the Veterans' Benefits and Programs Improvement Act of 1988. I view this as a great opportunity to join with my colleagues to reaffirm our commitment to those courageous men and women who have served our Nation and to those who survive them.

By acting on and agreeing to this COLA, the Senate is again making an effort to assure that the purchasing power of these benefits keep pace with our society's rising cost of goods and services. This is of critical importance to the more than 2.2 million veterans who suffer from disabilities resulting from their service and more than 310,000 survivors of those who died from service-connected causes that rely on these benefits to meet their basic needs.

The bill will also expand upon existing VA programs in some very crucial areas to all veterans. The range of the counseling and education benefits will be enhanced along with drug and alcohol-treatment programs. I consider these to be vital programs in assisting veterans in both their readjustment to civilian life as well coping with some of the problems experienced by veterans. S. 2011 will also require the Veterans' Administration to provide mental-health care to Vietnam veterans who are diagnosed as suffering from post-traumatic stress disorder.

In addition to these provisions, my colleague Senator DASCHLE has an amendment which will allow eligible veterans to use their benefits to pursue flight training. This amendment will begin to alleviate two problems at once: the projected shortage of trained pilots and unemployment amongst our veteran population. I applaud his dedication to this issue and am happy to support his amendment.

Senators DASCHLE, KERRY, and CRANSTON have also jointed together to propose an approach for dealing with the problems of non-Hodgkins lymphoma and soft tissue sarcoma which are being studied and closely linked with the use of many dioxins in the Vietnam war. This amendment will grant disability and death benefits to Vietnam veterans suffering from these diseases so long as they can be linked to their service. Mr. President, I feel this is the proper position to take as we continue to study the affects of agent orange and other dioxins used in the Vietnam war. But I also want to indicate that as additional studies are completed, we may need to revisit this issue and adopt an approach which makes it easier for Vietnam veterans suffering from these diseases to get additional assistance.

I congratulate the sponsors of this legislation and would like to once again recognize the commitment of the Senate to dealing with all of those who have served our Nation.

AMENDMENT NO. 3721

Mr. CRANSTON. Mr. President, I would now like to proceed with the amendment modifying the committee bill. Mr. President, I send to the desk on behalf of myself and Senator MURKOWSKI and the committee a committee amendment in the nature of a modification.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself and Mr. MURKOWSKI proposes an amendment numbered 3721.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 25, strike out "January 15, 1989" and insert in lieu thereof "December 31, 1988".

On page 12, line 5, strike out "six" and insert in lieu thereof "fifteen".

On page 15, between lines 10 and 11, insert the following:

(c) Non-Veterans' Administration Benefits.—None of the payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the case of *In re Agent Orange Product Liability Litigation*, MDL No. 381 (E.D.N.Y.), shall be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally-assisted program other than a program to which the amendments made by subsection (a) and (b) apply.

On page 16, between lines 21 and 22 insert the following:

(c) Not later than 60 days after receiving the report described in subsection (b), the Administrator, after consideration of the findings and conclusions set forth in the report, and any other available pertinent scientific information, shall evaluate the need for any amendments to regulations prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542; 38 U.S.C. 354 note) and shall advise the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's decision regarding the need for any such amendments.

On page 16, line 22, strike out "(c)" and insert in lieu thereof "(d)".

On page 17, line 1, strike out "(d)" and insert in lieu thereof "(e)".

On page 24, strike out all on lines 17, 18, and 19 and insert in lieu thereof the following:

Section 363 is amended—

(1) in subsection (a)(2)(B), by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992";

(2) in subsection (c)—

(A) by striking out paragraphs (2), (3), and (4);

(B) in paragraph (1)—

(i) by striking out "(A)" and all that follows through "subsection, in" and inserting in lieu thereof "In"; and

(ii) by redesignating subparagraph (B) as paragraph (2); and

(C) in paragraph (2), so redesignated, by striking out "subparagraph (A)" and all that follows through the end of such subparagraph and inserting in lieu thereof "paragraph (1) of this subsection, the Administrator shall offer to the veteran the opportunity for an evaluation under section 1506(a) of this title."

On page 27, line 9, strike out all after "period" through "Defense" on line 10 and insert in lieu thereof "beginning on December 1, 1988".

On page 67, between lines 2 and 3, insert the following:

SEC. 422. AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND.

Section 1824 is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding subsection (b) of this section, the Fund shall be available to the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts and subject to paragraph (3) of this subsection, for contracts for the performance of such supplementary services described in paragraph (2) of this subsection for which the Administrator is otherwise authorized to contract, and for the acquisition of such supplementary equipment described in such paragraph (not including services or equipment for which the Fund is available under subsection (b) of this section), as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

"(2) The supplementary services and equipment referred to in paragraph (1) of this subsection are services or equipment not performed or available during fiscal year 1988, or services in excess of the level of such services performed during fiscal year 1988, and may include, among other things—

"(A) the services of—

"(i) appraisers to review appraisal reports and issue certificates of reasonable value;

"(ii) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

"(iii) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

"(iv) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(v) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certificates;

"(vi) contractors to list for sale in local newspapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(vii) contractors to prepare closing documents and review them after closing; and

"(viii) contractors to provide automated data processing equipment, supplies, services, and software for carrying out the program administered under this chapter.

"(3) The Administrator may not in any fiscal year obligate more than $25 million for services or equipment under this subsection.".

On page 67, line 21, strike out "for good cause" and insert in lieu thereof "only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office".

On page 98, between lines 15 and 16, insert the following:

SEC. 607. READJUSTMENT COUNSELING FACILITIES.

(a) Relocations for Circumstances Beyond Veterans' Administration Control.—Section 612A(g)(1) is amended—

(1) in subparagraph (A), by striking out "The" and inserting in lieu "Except as provided in subparagraph (C) of this paragraph, the"; and

(2) by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (A) of this paragraph, the Administrator may relocate a center in existence on January 1, 1988, to a new location away from a general Veterans' Administration facility when such an action is necessitated by circumstances beyond the control of the Veterans' Administration. Such a relocation may be carried out only after the end of the 30-day period beginning on the date the Administrator notifies the Committees on Veterans' Affairs of the Senate. and House of Representatives of the proposed relocation, the circumstances making it necessary, and the reasons for the selection of the new site for the center.".

(b) Authorization for Relocation of Seventeen Facilities.—The requirements of section 612A(g)(1) of title 38, United States Code, shall not apply with respect to the planned relocation, as described in July 25, 1988, letters to the Chairmen of the Committees on Veterans' Affairs of the Senate and House of Representatives from the Chief Medical Director of the Veterans' Administration, necessitated by circumstances beyond the control of the Veterans' Administration, of seventeen Veterans' Administration Readjustment Counseling Service Vet Centers from their current locations away from general Veterans' Administration health-care facilities to other such locations.

On page 107, between lines 19 and 20, insert the following:

SEC. 616. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

Section 232 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322) is amended by striking out "August 1, 1988" and inserting in lieu thereof "February 1, 1990".

On page 108, line 13, strike out "APPROVAL OF".

On page 108, between lines 13 and 14, insert the following:

(a) Increase in Limitation.—Section 4107(g)(3) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by inserting at the end the following new subparagraph:

"(B) Whenever the amount of an increase under paragraph (1) of this subsection is made in an amount that is 94 or more percent of the maximum amount permitted under subparagraph (A) of this paragraph, the Administrator shall promptly provide the Committees on Veterans' Affairs of the Senate and House of Representatives with notice thereof.

On page 108, line 14, insert "(b) Approvals.—" before "Section".

On page 121, immediately above line 12, insert the following:

SEC. 628. CONDITIONS OF EMPLOYMENT OF CERTAIN PERSONNEL.

Notwithstanding the provisions of section 4108 of title 38, United States Code, or of any other law, rule, regulation, or decision of any court of competent jurisdiction, the Administrator of Veterans' Affairs shall, through September 30, 1989—

(1) ensure that the provisions of all labor agreements negotiated under the authority of chapter 71 of title 5, United States Code, applicable to individuals employed in positions listed in section 4104(1) of such title 38 who are appointed under subchapter I of chapter 73 of such title which were in effect on July 19, 1988, are given full force and effect through September 30, 1989, unless renegotiated by the parties prior to such date; and

(2) continue to negotiate in good faith with exclusive representatives, recognized under such chapter 71, all conditions of employment and other matters affecting such

employees which had been the subject of negotiations prior to July 19, 1988.

On page 122, strike out line 11 and all that follows through page 123, line 12, and insert in lieu thereof the following:

(a) DISCLOSURE OF RETURN INFORMATION.—Paragraph (7) of section 6103(1) of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (D)—

(A) by striking out "and" at the end of clause (vi);

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and ";

(C) by adding at the end the following new clause:

"(viii) the following programs administered by the Veterans' Administration, but only with respect to disclosure of return information other than taxpayer return information and only for taxable years beginning in 1988 and 1989—

"(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Veterans' Administration;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under sections 610(a)(1)(I) and (2)(A), 610(b), and 612(a) (2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total, except that, in such cases, only wage information may be disclosed."; and

(2) in the heading, by inserting before the period the following: "OR TO THE VETERANS' ADMINISTRATION".

On page 128, between lines 2 and 3, insert the following:

SEC. 705. EXPANSION OF MULTIYEAR PROCUREMENT AUTHORITY TO INCLUDE NON-MEDICAL ITEMS.

(a) IN GENERAL.—Section 114 is amended—

(1) by striking out the heading and inserting in lieu thereof the following:

"§ 114. Multiyear procurement".

(2) in subsection (a), by striking out "for use in Veterans' Administration health-care facilities";

(3) in subsection (b)(2)(A), by striking out "health-care"; and

(4) in subsection (e)—

(A) by striking out paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CLERICAL ADMINISTRATION.—The table of sections at the beginning of chapter 1 is amended by striking out the item relating to section 114 and inserting in lieu thereof the following:

"114. Multiyear procurement.".

SEC. 706. VETERANS EMPLOYMENT PREFERENCE WITHIN LOCAL HIRE OF ALASKA CONSERVATION SYSTEM UNITS.

Section 1308 of the Alaska National Interest Lands Conservation Act * * * (U.S.C. 3198) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) PREFERENCE ELIGIBLES WITHIN LOCAL HIRE.—Notwithstanding the provisions of subsection (a), any individual who is eligible to be selected for a position under the provisions of subsection (a) and is a preference eligible as defined in section 2108(3) of title 5, United States Code, shall be give an employment preference, consistent with the preference in the competitive service as defined in section 2102 of such title for which such person is eligible under subchapter I of chapter 33 of such title, in selection to such position.".

SEC. 707. TRANSFERS OF EXCESS PROPERTIES FOR STATE HOME FACILITY USES.

(1) in paragraph (2)(a), by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraphs (B) and (C) of this subsection, the Administrator may, without regard to paragraph (2) of this subsection or any other provision of law relating to the disposition of real property by the United States, transfer to a State for use as the site of a State home nursing-home or domiciliary facility real property described in subparagraph (D) which the Administrator determines to be excess to the needs of the Veterans' Administration.

"(B) a Transfer of real property may be made under this paragraph only—

"(i) if the Administrator has determined that the State has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of title 38, United States Code, and section 641 of such title) necessary to construct and operate a State home nursing or domiciliary care facility; and

"(ii) subject to the conditions (I) that the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of this title, and (II) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States.

"(C) A transfer under this paragraph shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

"(D) Real property described in this subparagraph is real property that is owned by the United States and administered by the Veterans' Administration.".

SEC. 708. INCOME EXCLUSION FOR CASUALTY LOSS REIMBURSEMENTS.

(a) PARENTS DIC.—Clause (I) of section 415 (f)(1) is amended to read as follows:

"(I) reimbursement of any kind for any casualty loss, as defined in regulations which the Administrator shall prescribe, but in no event shall the amount to be excluded exceed the greater of the fair market value or reasonable replacement value of the property involved immediately preceding the loss;".

(b) PENSION.—Clause (5) of section 503(a) is amended to read as follows:

"(5) reimbursements of any kind for any casualty loss, as defined in regulations which the Administrator shall prescribe, but the amount excluded under this clause may not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediately preceding the loss;".

SEC. 709. SPECIFICATION OF FUNDS FOR OTHER VETERANS BENEFITS.

(a) IN GENERAL.—In the documentation providing detailed information on the budgets for the Veterans' Administration and the Department of Labor that the Administrator of Veterans' Affairs and the Secretary of Labor, respectively, submit to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Administrator and the Secretary shall identify, to the maximum extent feasible, the estimated amount in each of the appropriation requests for Veterans' Administration accounts and Department of Labor accounts, respectively, that is to be obligated for the furnishing of each of the following services or benefits only to, or with respect to, veterans who performed active military, naval, or air service in combat with the enemy or in a theatre of combat operations during a period of war or other hostilities:

(1) Employment services and other employment benefits under programs administered by the Secretary of Labor.

(2) Compensation under chapter 11 of title 38, United States Code.

(3) Dependency and Indemnity Compensation under chapter 13 of such title.

(4) Pension under chapter 15 of such title.

(5) Inpatient hospital care under chapter 17 of such title.

(6) Outpatient medical care under chapter 17 of such title.

(7) Nursing home care under chapter 17 of such title.

(8) Domiciliary care under chapter 17 of such title.

(9) Readjustment counseling services under section 612A of such title.

(10) Insurance under chapter 19 of such title.

(11) Specially adapted housing for disabled veterans under chapter 21 of such title.

(12) Burial benefits under chapter 23 of such title.

(13) Educational assistance under chapters 30, 32, and 34 of such title and chapter 106 of title 10, United States Code.

(14) Vocational rehabilitation services under chapter 31 of title 38, United States Code.

(15) Survivors' and dependents' educational assistance under chapter 35 of such title.

(16) Home loan benefits under chapter 37 of such title.

(17) Automobiles and adaptive equipment under chapter 39 of such title.

(b) REPORT ON FEASIBILITY.—If the Administrator of Veterans' Affairs or the Secretary of Labor determines that, with respect to any services or benefits referred to in subsection (a), it is not feasible to identify an estimated dollar amount to be obligated for furnishing such services or benefits only to veterans described in such subsection for any fiscal year, the Administrator and the Secretary shall, with respect to an appropriation request for such fiscal year relating to such services or benefits, report to the Committees on Veterans' Affairs of the Senate and the House of Representatives the reasons for the infeasibility. The report shall be submitted contemporaneously with the budget submission for such fiscal year. The report shall specify (1) the information systems, equipment, or personnel that would be required in order for it to be feasible for the Administrator or the Secretary to identify such amount, and (2) the actions to be taken in order to ensure that it will be feasible to make such an estimate in connection with the submission of the budget request for the next fiscal year.

On page 128, line 3, strike out "SEC. 705" and inset in lieu thereof "SEC. 710".

On page 128, line 16, strike out "and".

On page 128, line 23, strike out the period and insert in lieu thereof "; and".

On page 128, between lines 23 and 24 insert the following:

(3) Subsection (c) and (d) of section 4323 are each amended by striking out "section 4322(f)" and inserting in lieu thereof "section 4322(e)".

(4) Section 4324 is amended—

(A) in clause (2) of subsection (a)—

(i) by striking out "completion and all that follows through "quarter" and inserting in lieu thereof "participation in the problem";

(ii) by inserting "or is payable" after "paid"; and

(iii) by inserting before the period at the end "; reduced by the proportion that the number of days served toward completion of the service obligation bears to the total number of days in the participant's period of obligated service".

(B) in subsection (b)—

(i) by striking out paragraph (1); and

(ii) by redesignating paragraph (2) of subsection (b) as subsection (b).

On page 5, below the item relating to section 421, insert the following new item:

Sec. 422. Authority for increased procurement of services through the Loan Guaranty Revolving Fund.

On page 5, below the item relating to section 615, insert the following new item:

Sec. 616. Report on certain activities relating to training in geriatrics of medical and other health-professional schools affiliated with the Veterans' Administration.

On page 5, amend the item relating to section 622 to read as follows:

Sec. 622. Special rates of pay.

On page 5, below the item relating to section 606, insert the following new item:

Sec. 607. Readjustment counseling facilities.

On page 6, below the item relating to section 627, insert the following new item:

Sec. 628. Conditions of employment of certain personnel.

On page 6, below the item relating to section 704, insert the following new items:

Sec. 705. Expansion of multiyear procurement authority to include nonmedical items.
Sec. 706. Veterans employment preference within local hire of Alaska Conservation System units.
Sec. 707. Transfers of excess properties for State home facility uses.
Sec. 708. Income exclusion for casualty loss reimbursements.
Sec. 709. Specification of funds for other veterans benefits.

On page 6, amend the item relating to section 705 to read as follows:

Sec. 710. Technical corrections.

The **PRESIDING OFFICER**. The Senator has a right to modify the committee substitute on behalf of the committee, and the amendment will be so modified.

COMMITTEE MODIFICATION

Mr. **CRANSTON**. Mr. President, I would now like to explain the committee modification. Following our committee's June 29 meeting to mark up S. 2011, a number of issues warranting legislative action have arisen or been brought to our attention. In most cases, the committee's ranking Republican member [Mr. MURKOWSKI] and I have been able to reach agreement on the provisions involved, with the approval of the other members of the committee—and where the proposal has been made by a Senator or Senators not on the committee, with the agreement of those Senators as well. Most of the provisions on which agreement has been achieved have been included in a committee modification that I will shortly send to the desk as a modification to the committee-reported amendment. The modification would make a number of substantial improvements in a wide range of programs to meet veterans' needs, and I wish to thank all the Senators involved for their excellent cooperation in the development of this amendment.

SUMMARY OF PROVISIONS

In summary, the provisions of the committee modification would:

First, accelerate the effective date for the provisions in section 202 of the committee bill, under which interim benefits may be awarded to Vietnam veterans suffering from non-Hodgkin's lymphoma, or their survivors, by advancing from January 15, 1989, to December 31, 1988, the beginning date of the period during which awards of benefits would be granted.

Second, provide for settlement payments under the Agent Orange litigation to be disregarded in the making of determinations of eligibility for benefits under need-based Federal and federally assisted non-VA programs.

Third, amend secton 303 of the committee bill to extend for 3 years the pilot program of trial-work periods and rehabilitation evaluations for veterans with individual unemployability ratings and to make all the evaluations voluntary.

Fourth, expand the VA's authority to use the loan guaranty revolving fund, to the extent provided in appropriations acts, for the costs of certain contracted-for supplementary services and equipment where doing so would be in the interest of the stability and solvency of the fund.

Fifth, amend section 503 of the committee bill to provide that the President may remove the Chairman of the Board of Veterans' Appeals only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office.

Sixth, authorize generally the expedited relocation of a community-based vet center to another location in the community if the relocation is necessitated by circumstances beyond the control of the VA; and specifically 17 such intracommunity relocations proposed by the VA's Chief Medical Director.

Seventh, postpone by 18 months, until February 1, 1990, the due date of a report on the VA's activities to promote increased efforts by affiliated schools in geriatric training and research.

Eight, increase the maximum amount by which the VA may, for recruitment and retention purposes, increase special rates of pay for health-care employees appointed under the title 38 personnel system; and require the Administrator to notify the Senate and House Veterans' Affairs Committees when a special salary rate reaches or exceeds 94 percent of the maximum allowable rate.

Ninth, maintain until October 1, 1989, the practices relating to collective bargaining with certain VA health-care employees that were observed prior to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in the Colorado Nurses cases.

Tenth, amend section 703 of the committee bill so as to limit the tax data authorized to be disclosed thereunder to the VA for income-verification purposes to only third-party-provided data relating to tax years 1988 and 1989.

Eleventh, expand the VA's multiyear procurement authority to include non-health-care supplies and services.

Twelfth, authorize the VA, without regard to other provisions of law, to transfer directly to States for use as the sites of State veterans' home, nursing home, or domiciliary care facilities properties that are excess to the VA's needs.

Thirteenth, provide that veterans' preference applies to the special Alaska national parks local-hire authority.

Fourteenth, require annual VA-Department of Labor reporting on amounts in their budgets for benefits and services programs for or in connection with veterans who served in combat theaters.

Fifteenth, provide for the exclusion of all casualty-loss reimbursements from countable income for VA needs-based pension purposes.

Sixteenth, make certain technical corrections in provisions enacted in Public Law 100-322, consistent with the intention of the conferees on that measure, to reduce the payback obligation of participants in the VA Department of Medicine and Surgery's Tuition Reimbursement Program who breach their obligated-service agreements so as to require payment of only those sums which have actually been expended, prorated to reflect the time remaining in their agreements, and to provide that a participant in the Tuition Reimbursement Program who fails to maintain VA employment during a course of training shall be held liable for the amount which either has been paid to or is payable on his or her behalf—rather than only the amount that has been paid.

Seventeenth, make technical corrections in sections 206 and 312, respectively, of the committee bill so as, consistent with the committee's intent, to add a provision requiring the Administrator to submit to the congressional Committees on Veterans' Affairs a report relating to agent orange and to specify that the beginning date of the open period for enrollment in the Montgomery GI bill would be December 1, 1988.

NON-HODGKIN'S LYMPHOMA BENEFITS EFFECTIVE DATE

Mr. President, the committee amendment would change the effective date of section 202 of the committee bill which, as I described earlier, would provide an interim period for the award of presumptive benefits for Vietnam veterans with non-Hodgkin's lymphoma [NHL] and their survivors. The effective date currently in the committee bill, January 15, 1989, would be changed to December 31, 1988, based on an unanticipated availability of funds in the committee's section 302(b) crosswalk allocation.

AGENT ORANGE LITIGATION SETTLEMENT PAYMENTS

Mr. President, as I discussed earlier, section 205 of the committee bill would exclude from computation of income for purposes of VA needs-based benefits, certain payments received in connection with litigation based on disabilities allegedly incurred as a result of events which occurred in service. I am pleased that the committee amendment includes a provision authored by Senator MOYNIHAN—who has long been a special friend to Vietnam veterans—to provide a similar income exclusion to cover all Federal benefits in the case of payments received in connection with the settlement of the in re agent orange product liability litigation.

Section 205 would apply a cap on the level of litigation payments which could be excluded in the case of VA benefits. This would prevent the receipt of VA needs-based benefits by persons who receive large litigation payments. However, since the maximum annual settlement payment in the agent orange litigation is expected not to exceed $6,000, no cap would be needed with respect to the other Federal benefits.

The Moynihan provision would ensure that the neediest Vietnam veterans and their families would not be denied any gain from the Agent Orange case settlement payments by virtue of offset against their Federal benefits—to achieve which years were spent in fighting. I applaud my good friend from New York [Mr. MOYNIHAN] for his compassion and concern for these veterans and their families.

NATIONAL ACADEMY OF SCIENCES AGENT ORANGE EVIDENCE REVIEW

Mr. President, the committee amendment would make a technical correction to section 206 of the committee bill which, as I described earlier, would require a comprehensive review of the scientific evidence relating to the human health effects of agent orange exposure. The amendment would clarify—as is described on pages 82 and 83 of the committee report—that the Administrator, after evaluation of the report submitted following this review and determination as to whether the VA's regulations regarding agent orange exposure should be amended, must promptly advise the Senate and House Veterans' Affairs Committees of such determination. This provision was inadvertently omitted from the bill as reported.

EXTENSION OF TEMPORARY PROGRAMS OF TRIAL WORK PERIODS AND VOCATIONAL-REHABILITATION EVALUATION

Mr. President, this amendment contains a provision, proposed by the distinguished committee member from West Virginia [Mr. ROCKEFELLER] and myself, which would amend section 303 of the committee bill to extend for 3 years, through January 31, 1992, the temporary program of trial work periods and vocational-rehabilitation evaluations for veterans receiving compensation at the rate paid to totally disabled veterans based on a determination of individual employability, commonly referred to as an "IU rating", and make these veterans' participation in the evaluations voluntary as is currently their participation in any subsequent vocational rehabilitation.

The current program is designed to encourage and assist a veteran who is awarded an "IU" rating to attempt to return to the work force. Under the evaluation program, when a veteran is awarded an IU rating, the VA evaluates his or her ability to achieve a vocational goal. If the veteran fails to complete the evaluation for reasons other than reasons beyond the veteran's control, the VA terminates payments based on the IU rating, but not the schedular disability rating, until the evaluation is completed.

If achievement of a vocational goal is reasonably feasible, an individualized written plan of vocational rehabilitation under chapter 31 of title 38 must be prepared for the veteran. If the veteran fails, after due notice of the consequences, to pursue the vocational rehabilitation program described in the plan, the law, section 363(c)(3)(B), requires that the results of the veteran's evaluation be considered in the next scheduled review of the veteran's IU rating.

Section 303 of the bill as reported would extend this program for only 1 year, through January 30, 1990, with no program changes.

The committee limited its extension to 1 year because it did not receive until July 28, 1988, the VA's statutory report on the implementation of this program during the 3-year period ending January 31, 1988. The report was due on April 15, 1988. The committee has now had an opportunity to evaluate the report's findings and recommendations, and agrees with the Administrator of Veterans' Affairs' recommendations, based on experience under the temporary program, that the veterans' participation in the evaluations should be voluntary and that the program should be extended for 3 years.

Mr. President, I would like to cite very briefly some data from the VA report. For veterans awarded IU ratings before February 1, 1985—as to whom participation in an evaluation and rehabilitation was completely voluntary—the outreach program to inform them about the program was the primary source of applicants for the program and the response indicated that these efforts were useful motivational techniques. Of the 573 evaluations provided to veterans awarded IU ratings prior to the program period, over 500 resulted directly from this outreach effort. For 221 of the 573 veterans evaluated, a vocational goal was found to be feasible, and 121 elected to participate in a program of services.

In contrast, of the 440 veterans manditorily evaluated who had been awarded IU status after February 1, 1985, a vocational goal was found feasible for only 27, of whom 15 elected to participate in a vocational rehabilitation program.

The difference in the determinations of feasibility of achieving a vocational goal between those veterans rated IU before and after February 1, 1985, is attributed by the VA to the differences between the "self-selected" veterans who participated voluntarily and the "unselected" veterans who were required to participate.

The VA data indicate that essentially the same proportions of veterans in each group—55 percent—for whom achievement of a vocational goal is reasonably feasible elect to pursue a vocational rehabilitation program and about 45 percent of those for whom such a goal is feasible actually enter a program.

Mr. President, I think the data are clear that the most cost-effective approach to administering the program of vocational-rehabilitation evaluations for veterans with a total disability based on an IU rating is to make the program totally voluntary. With these improvements, I believe we should authorize this program for 3 more years.

Mr. President, I urge the Senate's support for this provision in our amendment and want to express my appreciation to the Senator from West Virginia [Mr. ROCKEFELLER] for the fine leadership and advocacy he has demonstrated on this issue.

OPPORTUNITY FOR ENROLLMENT FOR CERTAIN ACTIVE DUTY NONPARTICIPANTS IN THE MONTGOMERY GI BILL

Mr. President, our committee modification would make a technical correction in new section 1418 of title 38 as proposed to be added by section 312(a) of the committee bill. This new section would provide to servicemembers who first entered active duty during the period July 1, 1985, through June 30, 1988, and who elected not to participate in the Montgomery GI bill [MGIB] the opportunity, during a one-time 120-day open period, to withdraw their election and become participants in the program.

As noted in the discussion of this provision in the committee report (S. Rept. No. 100-439, page 90), the committee intends that this open period begin on December 1, 1988. However, the provision in the committee bill was mistakenly drafted so as to authorize the Secretary of Defense to select a date during fiscal year 1989 as the start of the open period. This part of the committee modification corrects this error by specifying December 1, 1988, as the starting date.

CONTRACT SERVICES PAID FROM THE LOAN GUARANTY REVOLVING FUND

Mr. President, I am pleased that the committee amendment contains a provision which would expand the VA's authority, to the extent provided in an appropriation act, to pay from the loan guaranty revolving fund [LGRF] Loan Guaranty Program administrative expenses for supplementary contractual services and equipment purchases not otherwise authorized to be paid from the LGRF when the Administrator makes a finding that such supplementary contracting and equipment are in the best interest of the long-term stability and solvency of the LGRF. A ceiling of $25 million per fiscal year would be placed on the amounts which could be used for these purposes. This provision is derived from section 12 of S. 1801, the proposed "Veterans' Home Loan Program Improvements Act of 1987," which the Senate passed last year. However, section 12 was not included in the compromise agreement on such legislation—H.R. 2672, enacted as Public Law 100-198.

Staffing shortages have severely hampered the VA's ability to provide many Loan Guaranty Program services on an adequate and timely basis. Between fiscal years 1983 and 1988, the number of foreclosures on VA-guaranteed loans increased 132 percent, from 22,508 to 52,173, and the number of properties which the VA acquired increased 88 percent, from 21,411, to 40,148. In addition, the number of VA loan originations over the 3-year period from 1986 to 1988 increased 53 percent over the previous 3-year period, from 679,058 to 1,040,140. Despite this tremendous increase in the volume of activity in the Home Loan Program, the number of FTEE in the program rose by less than 8 percent—from 1,9381.7 to 2,020.8—from fiscal year 1983 to fiscal year 1988. Not surprisingly, the provision of discretionary services has at times been abbreviated or discontinued, regardless of their cost effectiveness or favorable long-term impact on the program.

Mr. President, I believe that permitting the Administrator to use the LGRF to pay for certain additional contracted-for administrative costs in addition to fee-basis appraisers and brokers' commissions—which can be paid for from the LGRF under current law—and for certain supplemental acquisitions of equipment would allow for a more consistent, comprehensive, and cost-effective provision of services in the Home Loan Program.

Under this amendment, LGRF funds could be so utilized only where the Administrator finds that that would be in the interest of the long-term solvency and stability of the LGRF. This would be the case where the short-term cost of contracting for the additional services and equipment is expected to generate long-term savings which would exceed the cost of such services and equipment.

The supplemental services which could be contracted and paid for from the LGRF would include monitoring and review of appraisal reports; personal loan servicing; onsite audits of approved lenders; marketing of VA foreclosed properties; and preparation of closing documents. Contractual costs from supplemental services and equipment associated with automating the Home Loan Guaranty Program administration—the loan processing system—also could be paid for from the LGRF. By making such funds available only for supplementary services and equipment—defined as such services and equipment which were not available during, or are to be provided at a level in excess of what is provided for, fiscal year 1988—the expansion of authority to use revenues in the LGRF could not be used to offset any reduction in or reassignment of loan guaranty program FTEE or equipment which would otherwise be provided.

STANDARD AND PROCEDURES FOR THE REMOVAL OF CHAIRMAN OF THE BOARD OF VETERANS' APPEALS

Mr. President, our amendment would revise section 4001(b) of title 38, as proposed to be amended by section 503(a) of the committee bill, so as to articulate specific standards and procedures for removal of the Chairman of the Board of Veterans' Appeals. The bill as reported by the committee contains language which would simply allow the President to remove the Chairman for "good cause." This amendment would specify that the President could remove the Chairman "only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office." As was our intent in proposing the other changes in the structure and operations of the BVA which are contained in S. 2011 as reported, and S. 11 as passed by the Senate on July 11, this change is being made to promote the independence of the BVA by defining more precisely the reasons for, and method of, removing its Chairman. This standard for removal is identical to the one used for removal of the Presidentially appointed/Senate confirmed members of the Federal Labor Relations Authority, pursuant to section 7104(b) of title 5, United States Code.

Mr. President, although Senator MURKOWSKI has some reservations about this aspect of the committee's amendments, he has graciously allowed it to be included, and I appreciate his continuing cooperation on this legislation.

READJUSTMENT COUNSELING FACILITIES

Mr. President, our committee floor amendment contains provisions relating to the process by which decisions are to be made by the VA regarding the location of Vietnam veteran readjustment counseling centers, the so-called vet centers, through which the VA currently provides readjustment counseling services to eligible Vietnam-era veterans.

As our colleagues will recall, section 107 of Public Law 100-322 significantly altered that process. Prior to the enactment of that section, the VA was under a statutory mandate to undertake a 2-year transition effort—beginning on October 1, 1987—during which the program was to transition from a program providing services primarily through vet centers, which are generally storefront facilities situated in local communities apart from general VA facilities, to a program providing such services primarily through general VA health care facilities, such as medical centers and outpatient clinics.

Section 107 of Public Law 100-322 repealed the mandatory transition requirement, as I had proposed, and, in lieu of that requirement, required the Administrator, after considering the recommendations of the CMD, to submit a national plan, at any time but not within 60 days before or after the end of a session of Congress, setting forth plans for not less than the next year with respect to each vet center in existence on January 1, 1988, and also setting forth any plans to open any new centers. The plan would have to describe as to each vet center whether it is to be relocated to another VA facility, moved to another location, or closed.

Mr. President, section 107 of the new law also provided that no action is to be taken with respect to any existing center prior to receipt of the national plan and for 120 days thereafter and also specified that, after the national plan is submitted, if the VA wishes to change the plan as to one or more centers, the Administrator would have to submit a revision to the national plan for that center or those centers in accordance with the same type of reporting requirements as apply to the initial plan and explaining the basis for the changes in the plan. No action as outlined in any revision could be implemented for 60 days. Finally, the new law provided that, after the national plan is submitted, action could be taken as to the centers covered by the plan only in the way described therein or in a revision.

Mr. President, on August 8, the Administrator submitted an initial national plan which set forth the agency's plans to relocate 18 existing vet centers from one community location to another. The plan proposes no relocations to other VA facilities and no closures of vet centers. If there is no intervening action on the part of the Congress—and I expect none—the VA will be able to begin to implement such relocations on December 6, 1988.

Mr. President, on July 25, 1988, prior to the submission of the national plan, Dr. John Gronvall, the VA's Chief Medical Director, wrote to me and my counterpart on the House Veterans' Affairs Committee, Chairman Sonny Montgomery, to advise us of the agency's "need to relocate certain Readjustment Counseling Service Vet Centers, within the community, on a nondiscretionary basis." The VA letter indicated that these relocations are necessary for various reasons, including the fact that the current site no longer meets VA fire and safety regulations, the owners of the buildings in which the current centers are located are proposing rent increases outside of VA appraisal limits, or the building ownership has changed and the new owners are no longer willing to rent to the VA.

Although I fully understand the situations described in the VA's July 25 letter, there is no basis in current law for such nondiscretionary relocations of vet centers outside of the national-plan process which I just outlined.

Mr. President, in order to address this situation, our amendment would do two things. First, it would generally amend the law so as to permit the relocation of a vet center from one community location to another in cases in which the move is necessitated by conditions beyond the VA's control, such as the reasons cited in the VA's July 25 letter. Such relocations could take place with 30-day advance notice but without regard to the limitations enacted in Public Law 100-322. Second, our amendment would specifically authorize the movement, for reasons beyond the VA's control, of the 17 vet centers proposed for relocation in the Chief Medical Director's July 25 letter.

Mr. President, I ask unanimous consent that the VA's July 25, 1988, letter and the August 8 plan be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Veterans Administration, Department of Medicine and Surgery,
Washington, DC, July 25, 1988.
Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: With reference to amendments by P.L. 100-322 to 38 U.S.C. § 612A, I am writing to apprise you of the need to relocate certain Readjustment Counseling Service Vet Centers, within the community, on a non-discretionary basis. Situations currently exist affecting seventeen Vet Centers which I believe fall into the non-discretionary category. For example, at nine locations (Norwich, CT, New Bedford, MA, Boston, MA, Washington, DC, Knoxville, TN, Indianapolis, IN, Laredo, TX, Tucson, AZ and Little Rock, AR), it may not be possible to renew the Vet Center lease because the site will not meet agency fire and safety regulations. At another location (North Chicago, IL) there have been several breakins, as well as a recent fire suspected to be arson. Clients are indicating a reluctance to involve their families in the counseling process due to their feeling that the neighborhood is unsafe. At four other locations (Savannah, GA, Portland, ME, St. Thomas, VI and Montebello, CA), lessors have proposed rent increases in connection with lease renewal which are not within VA appraisal limits and which necessitate relocation. Finally, at two other locations (Salem, OR and Billings, MT), a change in building ownership is expected to lead to the new owner's unwillingness to renew the lease. Because the Brighton, MA Vet Center has been scheduled to consolidate with the Boston Vet Center (a move which has considerable local constituency support and which has previously been reported to Congress), the need to move the Boston Vet Center on a non-discretionary basis will also require movement of the Brighton Vet Center. Such circumstances as these routinely arise from time to time, requiring relocation of a Vet Center within the community on a relatively short timetable in order to maintain services to veterans.

It is my understanding that the P.L. 100-322 amendments to 38 U.S.C. § 612A, concerning the relocation of Vet Centers either to new community leased space, or to a VA medical facility, were intended to apply only to discretionary relocations, and not to the type of non-discretionary relocations to leased space within the community such as I have referenced above. Unless I hear otherwise from you, we will proceed on that basis, in order to prevent disruptions in the delivery of readjustment counseling services. Any discretionary relocations of any type will of course be reported to the Congress in the manner now prescribed by 38 U.S.C. § 612A, with application of the waiting periods as required by statute.

Thank you for your continued interest in VA readjustment counseling services. A similar letter has been sent to Honorable G. V. (Sonny) Montgomery.

Sincerely,

John A. Gronvall, M.D.,
Chief Medical Director.

Veterans Administration, Office of the Administrator of Veterans Affairs,
Washington, DC, August 5, 1988.
Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: I am pleased to provide you with the report required by 38 U.S.C. 612A(g) as amended by P.L. 100-322, Sec. 107.

As stipulated, the report describes the Agency's national plan, based upon recommendations provided to me by the Chief Medical Director, for the operational disposition of all vet centers in existence on January 1, 1988. The plan calls for the relocation of 18 vet centers within the same communities, and details the reasons for, and anticipated benefits of such action vis-a-vis the criteria set forth in P.L. 100-322, Sec. 107.

Your continued interest in the Agency's readjustment counseling services for Vietnam era veterans is greatly appreciated. A similar letter has been sent to Senator Murkowski and to the Chairman and Ranking Minority Member of the House Committee on Veterans' Affairs.

Sincerely,

Thomas K. Turnage,
Administrator.

A Report to the Committees on Veterans Affairs of the United States Senate and House of Representatives on The VA (Veterans Administration) National Plan Regarding All Vet Centers in Existence on January 1, 1988

(PURSUANT TO THE REQUIREMENTS OF 38 U.S.C. SEC. 612A(G) AS AMENDED BY P.L. 100-322, SEC. 107)

I. INTRODUCTION AND BACKGROUND

This is a report to the Committees on Veteran's Affairs of the Senate and House of Representatives, pursuant to title 38 U.S.C. 612A(g) as amended by Public Law 100-322, Sec. 107, which describes the Administrator's national plan, based upon recommendations provided by the Chief Medical Director, for all vet centers in existence on January 1, 1988. This plan specifies the proposed geographical and operational disposition for each vet center for an indefinite period of time of not less than twelve months from the date of submission of this report.

In format the report consists of two sections, the first of which contains a national list of all vet centers identified by number and location with those vet centers being planned for relocation indicated by an asterisk. Those vet centers not indicated with an asterisk will continue operations in the current community-based setting. A subsequent section delineates, for each vet center being planned for relocation, how the proposed move will ensure the continued availability and effective provision of readjustment counseling services to eligible veterans vis-a-vis the criteria stipulated by Public Law 100-322, Sec. 107.

II. NATIONAL VET CENTER LIST

Vet Center, No, Vet center, location.
102, Boston, Massachusetts.
103, Springfield, Massachusetts.

104, Avon, Massachusetts.
105, Brooklyn, New York.
106, Manhattan, New York.
107, Buffalo, New York.
108, Manchester, New Hampshire.
109, Elmhurst, New York.
110, Bronx, New York.
111, Albany, New York.
112, Virgin Island, St. Croix.
113, Cranston, Rhode Island.
114, Puerto Rico, San Juan.
115, Portland, Maine.
116, New Haven, Connecticut.
117, Hartford, Connecticut.
118, South Burlington, Vermont.
119, Virgin Islands, St. Thomas.
120, Babylon, New York.
121, Bangor, Maine.
122, White River, Junction.
123, White Plains, New York.
124, Rochester, New York.
125, Lowell, Massachusetts.
126, Worcester, Massachusetts.
127, Norwich, Connecticut.
128, New Bedford, Massachusetts.
129, Puerto Rico, Arecibo.
130, Puerto Rico, Ponce.
131, Syracuse, New York.
202, Baltimore, Maryland.
203, Jersey City, New Jersey.
204, Newark, New Jersey.
205, Trenton, New Jersey.
206, Fayetteville, North Carolina.
207, Norfok, Virginia.
208, Huntington, West Virginia.
209, Elkton, Maryland.
210, Philadelphia, Pennsylvania.
211, Pittsburgh, Pennsylvania.
212, Charlotte, North Carolina.
213, Siver Spring, Maryland.
214, District of Columbia.
215, Wilmington, Delaware.
216, Morgantown, West Virginia.
217, Richmond, Virginia.*
218, Harrisburg, Pennsylvania.
219, Philadelphia, Pennsylvania.*
220, McKeesport, Pennsylvania.
221, Greenville, North Carolina.
222, Erie, Pennsylvania.
223, Charleston, West Virginia.
224, Martinsburg, West Virginia.
225, Johnson City, Tennessee.
226, Roanoke, Virginia.
227, Greensboro, North Carolina.
228, Springfield, Virginia.
229, Scranton, Pennsylvania.
230, Linwood, New Jersey.
301, St. Petersburg, Florida.
302, Birmingham, Alabama.
303, N. Charleston, South Carolina.
304, Atlanta, Georgia.
305, Jacksonville, Florida.
306, Jackson, Mississippi.
308, Louisville, Kentucky.
309, Memphis, Tennessee.
310, Miami, Florida.
311, Fort Lauderdale, Florida.*
313, Mobile, Alabama.
314, Orlando, Florida.
315, Knoxville, Tennessee.
316, Greenville, South Carolina.
317, Lexington, Kentucky.
318, Tampa, Florida.
320, Sarasota, Florida.
321, Pensacola, Florida.
322, Biloxi, Mississippi.
323, Savannah, Georgia.
324, Columbia, South Carolina.
325, Tallahassee, Florida.
326, Palm Beach, Florida.
327, Chattanooga, Tennessee.*
401, Lincoln Park, Michigan.
402, Oakpark, Michigan.
403, Grand Rapids, Michigan.
404, Cincinnati, Ohio.
405, Cleveland Heights, Ohio.
406, Cleveland, Ohio.
407, Chicago Heights, Illinois.
408, Columbus, Ohio.
409, Fort Wayne, Indiana.
410, Chicago Illinois.
411, Oak Park, Illinois.
412, Gary, Indiana.
413, Indianapolis, Indiana.
414, St. Louis, Missouri.
415, Milwaukee, Wisconsin.
416, Dayton, Ohio.
417, Peoria, Illinois.
418, Evansville, Indiana.*
419, Madison, Wisconsin.
420, Chicago, Illinois.
421, Springfield, Illinois.
422, East St. Louis, Illinois.
501, Cheyenne, Wyoming.*
503, Minot, North Dakota.
504, Denver, Colorado.*
505, Des Moines, Iowa.
506, Fargo, North Dakota.
508, Kansas City, Missouri.
509, Billings, Montana.
510, St. Paul, Minnesota.
511, Rapid City, South Dakota.
513, Omaha, Nebraska.
514, Salt Lake City, Utah.
516, Sioux Falls, South Dakota.
517, Wichita, Kansas.
519, Casper, Wyoming.*
522, Lincoln, Nebraska.
524, Sioux City, Iowa.
525, Colorado, Springs.
526, Duluth, Minnesota.
527, Boulder, Colorado.*
528, Missoula, Montana.*
530, Moline, Illinois.
531, Pocatello, Idaho.
532, Provo, Utah.
602, Concord, California.
603, Anchorage, Alaska.
604, Boise, Idaho.
605, Sepulveda, California.
606, Los Angeles, California.
607, Los Angeles, California.
609, Honolulu, Hawaii.*
610, Las Vegas, Nevada.
611, Riverside, California.
612, Oakland, California.
613, Reno, Nevada.
615, San Jose, California.
617, Portland, Oregon.*
618, San Diego, California.
620, San Francisco, California.
621, Seattle, Washington.
622, Tacoma, Washington.
623, Montebello, California.
624, Anaheim, California.
625, Spokane, Washington.
626, Eugene, Oregon.
628, Fresno, California.
630, Fairbanks, Alaska.*
631, Wasilla, Alaska.*
632, Kenai, Alaska.
637, Upland, California.
638, Sacramento, California.
639, Marina, California.
640, Salem, Oregon.
642, Escondido, California.*
643, Santa Barbara, California.
644, Eureka, California.
645, Grand Pass, Oregon.
646, Marin County, California.
647, San Mateo, California.*
701, Albuquerque, New Mexico.
702, Amarillo, Texas.
703, Austin, Texas.
704, Bossier City, Louisiana.
705, Corpus Christi, Texas.
706, Dallas, Texas.
707, El Paso, Texas.
708, Fort Worth, Texas.
709, Gallup, New Mexico.
710, Houston, Texas.
711, Laredo, Texas.
712, Little Rock, Arkansas.
713, Lubbock, Texas.
714, McAllen, Texas.*
715, Midland, Texas.
716, Louisiana, New Orleans.
717, Oklahoma City, Oklahoma.
718, Phoenix, Arizona.*
719, Prescott, Arizona.
720, San Antonio, Texas.
721, Sante Fe, New Mexico.
722, Tucson, Arizona.
723, Tulsa, Oklahoma.

III. EVALUATION OF PROPOSED VET CENTER RELOCATIONS VIS-A-VIS LEGISLATIVELY REQUIRED CRITERIA

A. List of Required Criteria:

(i) Population Distribution

The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

(ii) Geographical Distance

The distance between the center and general Veterans Administration facility.

(iii) Non-VA Service Availability

The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam era veterans in the area served by the center.

(iv) Transportation and Parking

The availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

(v) VA Medical Facility Space Availability

The availability, cost, and suitability of the space at the general Veterans' Administration facility.

(vi) Cost Impact

The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Veterans' Administration facility.

(vii) Workload Trends

The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

(viii) Other Factors

Such other factors as the Administrator determines to be relevant to making the required evaluations.

B. Evaluation of Specific Vet Centers:

1. Richmond, VA Vet Center (No. 217).—It is proposed that this vet center be relocated approximately 5 miles to a new more suitable community-based location in an area away from a general Veterans Administration facility to increase service accessibility through establishment at a street level facility. The current vet center location is below street level and the space is subject to routine flooding from faulty sewer pipes running through the vet center ceiling.

(i) Population Distribution

The catchment area of this vet center includes a Vietnam era veteran population of 51,820. The proposed relocation will maintain the vet center's strategic centrality within the catchment area generally, and will improve the vet center's location within the community vis-a-vis the major concentration of Vietnam era veterans.

(ii) Geographical Distance

The vet center is currently located about six miles from the VA support facility. The vet center will be moving about five miles from its current location and will remain about the same distance from the VAMC.

(iii) Non-VA Availability

There are no comparable non-VA service providers available in the area.

(iv) Transportation and Parking

The proposed new site is better situated vis-a-vis public transportation routes and parking resources.

(v) VA Medical Facility Space Availability

There is no available space at the VAMC suitable to accommodate the relocation of this vet center.

(vi) Cost Impact

The proposed relocation will require no significant impact to nonrecurring start-up or recurring operating costs.

(vii) Workload Trends

The vet center has maintained client activity at or above established standards for the past two years. The proposed move to a street level facility more strategically located within the community is anticipated to maintain or increase the workload trends.

(viii) Other Factors

Continued location in a community-based setting is considered significant for this vet center to adequately support the team's outreach activities which have been essential in the treatment of local veterans for PTSD and other military related and readjustment problems. VA experience has indicated that Veterans from all local ethnic and socio-economic groups have been better able to utilize services having an informal, nonmedical, and rehabilitative character.

2. Philadelphia, PA Vet Center (No. 219).—It is proposed that this Vet Center be relocated to a new more suitable community-based location within the same neighborhood away from a general Veterans Administration facility to increase service accessibility through establishment of a street level facility. The current vet center location is above street level adversely affecting visibility and accessibility which is particularly true regarding handicapped veterans because the building's elevator does not operate during all vet center business hours.

(i) Population Distribution

The catchment area of this vet center includes a Vietnam era veteran population of 68,296. The vet center will be relocated into suitable street level space within the same neighborhood which is strategically located regarding local concentrations of Vietnam era veterans.

(ii) Geographical Distance

The vet center is currently 12 miles distance from the VA support facility and it would remain at approximately the same distance after the proposed relocation.

(iii) Non-VA Service Availability

There are no other comparable service providers available in this area.

(iv) Transportation and Parking

The general neighborhood is located within a major urban transportation center complex complete with bus and subway access to veterans from northern Philadelphia. Parking in this area is also ample between public on-street parking and a nearby public parking lot.

(v) VA Medical Facility Space Availability

There is no available space at the VAMC to accommodate the relocation of this vet center.

(vi) Cost Impact

The proposed relocation will require no significant impact to nonrecurring start-up or recurring operating costs.

(vii) Workload Trends

The client activity at this vet center has been consistently in excess of established standards for the last two years. It is anticipated that the planned relocation will, by enhancing accessibility for services, maintain or slightly increase current workload trends.

(viii) Other Factors

This vet center will be maintained in a community-based location because the proposed site is strategic to the concentration of veterans in northern Philadelphia. This will greatly facilitate client accessibility and vet center outreach operations which are vital to the readjustment counseling mission. The experiences of vet center service providers to date have demonstrated the importance of outreach for locating, informing, and engaging clients who need readjustment counseling. Also significant to the success of vet center treatment of readjustment problems is direct familiarity with the veteran's community and its resources.

3. Ft. Lauderdale, FL Vet Center (No. 311).—It is proposed that this vet center relocated approximately 5 miles to a new community-based location away from a general Veterans Administration facility into a downtown site in close proximity to the veteran population and other community service providers.

(i) Population Distribution

The catchment area of this vet center includes a Vietnam era veteran population of 41,490. This vet center's position within the greater catchment area will not be affected, but the move to a downtown space will improve the vet center's visibility and proximity to other community service providers.

(ii) Geographic Distance

The VA medical center is 30 miles distance in Miami and located within another vet center's catchment area.

(iii) Non-VA Service Availability

There are no other comparable non-VA service providers available in this area.

(iv) Transportation and Parking

Both transportation to, and parking at the vet center will be improved at the proposed new downtown site as compared to the current location.

(v) VA Medical Facility Space Availability

There is no available space at either the VAMC or VAOPC to accommodate the relocation of this vet center.

(vi) Cost Impact

The proposed relocation will not significantly impact nonrecurring start-up or recurring operating costs.

(vii) Workload Trends

Workload trends at this vet center have been consistently high over the two previous fiscal years. It is anticipated that relocation to a more visible and accessible community site will maintain if not increase client activity rates.

(viii) Other Factors

The area surrounding the current vet center location has undergone significant industrial development which has increasingly obscured visibility to veteran consumers. Also the current site is no longer situated in proximity to areas naturally frequented by potential clients which is essential for a community-based service. Further, the community networking activities of the vet center will be significantly enhanced through relocation to a downtown site in closer association to other service providers.

4. Chattanooga, TN Vet Center (No. 327).—It is proposed that this vet center be moved approximately 10 miles to a new community-based location away from a general Veterans Administration facility to improve the center's proximity to major local travel routes, to local concentrations of Vietnam era veterans, and to other community service agencies.

(i) Population Distribution

The catchment area of this vet center includes a Vietnam era veteran population of 47,820. This vet center's position within the greater catchment area will not be affected, but the move from its current location in the suburbs to a downtown space will significantly increase service accessibility to all groups of local veterans. The new site will be more centrally located within the city, closer to major public transportation routes, and closer to other community service agencies. The VA support facility is located 100 miles distance in Murfreesboro, TN.

(ii) Geographical Distance

The Chattanooga Vet Center is located 100 miles from the Murfreesboro VA Medical Center and 15 miles from the local VA Outpatient Clinic (VAOPC). The proposed relocation will situate the vet center about 8 miles from the VAOPC, but will not significantly alter the distance between it and the VAMC.

(iii) Non-VA Service Availability

There are no other comparable non-VA service providers for readjustment counseling in this area.

(iv) Transportation and Parking

Parking facilities at the proposed vet center site will be ample. Also, the new vet center site will be located more centrally within the community and situated adjacent to major highways and public transportation systems.

(v) VA Medical Facility Space Availability

There is no available space at either the VA support facility or the VAOPC to accommodate the relocation of this vet center.

(vi) Cost Impact

The proposed relocation will not significantly impact nonrecurring or recurring operating costs.

(vii) Workload Trends

The workload activity at this vet center has been consistently active and has shown a slight increase for the first 6 months of FY 88 over the same period in FY 87. It is anticipated that current workload rates will be sustained by movement to a more accessible location within the community.

(viii) Other Factors

It has been concluded that the current vet center site, located 15 miles from downtown in a middle class suburban shopping mall, has posed some social and geographical barriers to ethnic minorities and lower socioeconomic veteran groups. The proposed move is intended to correct this situation while continuing service availability to middle class groups as well. Also the move will enhance the vet center's community networking, social service and rehabilitation components which have proven essential to the whole readjustment process.

5. Evansville, IN Vet Center (No. 418).—It is proposed that this vet center be relocated approximately 3 miles to a new community-based site from a general Veterans Administration facility to improve service accessibility through establishment of a street level facility away from the ongoing highway construction which has seriously impeded traffic at the current site.

(i) Population Distribution

The catchment area of this vet center includes a Vietnam era veteran population of 47,190. This vet center's position within the greater catchment area will not be affected, but the proposed move to a adjacent neighborhood will significantly enhance service accessibility for all groups of local veterans. The vet center's current location is in an industrial park away from residential areas. Travel to and from this site has become seriously disrupted by new highway construction which has literally blocked access from the main streets and placed the vet center at the end of a dead end street. Also, the current vet center is maintained on two floors with handicapped access to the first floor only. The new location will be ground level store front facility clearly visible and easily accessible to street traffic. The VA support facility is located 98 miles distance in Marion, IL.

(ii) Geographic Distance

The new vet center site will maintain the same geographic proximity to both the VA support facility in Marion, Illinois, and the local VAOPC. Evansville, Indiana is located approximately 98 miles from the Marion, Illinois, VA Medical Center and the vet center will remain approximately 2 miles distance from the local VAOPC.

(iii) Non-VA Service Availability

There are no other non-VA service providers for readjustement counseling available in this area.

(iv) Transportation and Parking

There is no public transportation access to the current vet center site and street access is very limited. Parking at the current site is limited and has to be shared with other tenants. The new location is on city bus routes and is easily accessible by street traffic. Parking will be improved at the new site with more reserved spaces for vet center clients.

(v) VA Medical Facility Space Availability

There is no available space at either the VA support facility the VAOPC to accommodate the relocation of this vet center.

(vi) Cost Impact

The proposed relocation will not significantly impact nonrecurring or recurring operating costs.

(vii) Workload Trends

The workload activity at this vet center has been consistently in accord with established standards for the last two fiscal years. However, a slight decrease in the number of visits for recent months in this fiscal year can be directly related to the above explained decrease in client accessibility at the current site. It is anticipated, therefore, that current workload rates will be maintained and eventually increased to previous levels through move of this vet center to a more visible and accessible location within the community.

(viii) Other Factors

Experiences gained at vet centers during the eight years of their operation have indicated that the mission of readjustment counseling is most favorably achieved through highly visible community networking and outreach activities conducted by a small team working within a non-medical community-based facility firmly established within the veteran community. It is the objective of this proposed relocation to re-establish these goals and to re-integrate the vet center within the context of the local veteran community.

6. Cheyenne, WY Vet Center (No. 501).—This vet center is planned for a relocation to a new community-based location away from a general Veterans Administration facility to increase the center's proximity to local veteran concentrations and main traffic routes. The new site will also provide improved space for a group counseling room.

(i) Population Distribution

The catchment area of this vet center includes a Vietnam era veteran population of 21,670. This vet center's position within the greater catchment area will not be altered, but the planned move will significantly increase the vet center's proximity to existing concentrations of veterans within the community.

(ii) Geographic Distance

The current vet center is located approximately 1 mile from the VAMC and the new location will be about 4 miles from the support facility.

(iii) Non-VA Service Availabilty

There are no other comparable service providers available in this area.

(iv) Transportation Parking

The new proposed vet center location will improve existing parking conditions by adding parking lot facilities to on-street parking. Also the new site is closer to the downtown traffic flow which is critical access factor in a rural city not equipped with extensive mass transit systems.

(v) VA Medical Facility Space Availability

There is no available space at the VA support facility to accommodate the relocation of this vet center.

(vi) Cost Impact

The proposed relocation will not significantly impact nonrecurring or recurring operating costs for this vet center.

(vii) Workload Trends

This vet center has consistently served veterans in excess of established workload standards. It is anticipated that his activity will be maintained and possibly increased through relocation to an improved facility.

(viii) Other Factors

The current vet center facility is not adequate in square footage to accommodate assigned staff and there is no adequate room for group counseling. The planned move will correct these problems plus relocate the vet center to a more accessible site regarding coummunity veteran concentrations and traffic patterns. Denver, CO Vet Center (No. 504).—This vet center is planned for a relocation of approximately 5 miles to a new community based location away from a general Veterans Administration facility to increase proximity to local veteran concentrations, improve handicapped accessibility, and improve building maintenance.

(i) Population Distribution

The catchment area of this vet center includes a Vietnam era veteran population of 81,530. The vet center's position within the greater catchment area will not be changed, but the proposed move will re-position the vet center in closer proximity to their distribution of local Vietnam era veterans.

(ii) Geographic Distance

The vet center is located approximately 2 miles from the VAMC and the new site will increase the distance to approximately 7 miles.

(iii) Non-Va Services Availability

There are no other comparable non-VA service providers in this area.

(iv) Transportation and Parking

The current vet center has limited parking and is situated several blocks from a city bus stop. The new proposed vet center site will have on-site reserved and street parking availability, and it is located on the major city bus routes.

(v) VA Medical Facility Space Availability

There is no available space at the VA support facility to accommodate relocation of this vet center.

(vi) Cost Impact

The proposed relocation will not significantly impact nonrecurring or recurring operating costs.

(vii) Workload Trends

The Denver Vet Center's client activity has been consistently above established standards for the past several years. It is anticipated that these trends will continue.

(viii) Other Factors

Problems of maintenance, interior design and space have adversely impacted this vet center's ability to provide services to veterans and the current landlord is unwilling to implement any needed improvements. The new location will be properly maintained, will provide sufficient space for a reception area, and will accommodate wheelchair traffic.

8. Casper, WY Vet Center Satellite (No. 519).—This vet center satellite is planned for a relocation of approximately 2 miles to a new community-based location away from a general Veterans Administration facility to increase proximity to the local veteran concentrations and major community traffic routes. Inadequate building maintenance at the current site will also be corrected.

(i) Population Distribution

This vet center's catchment area includes 18,000 Vietnam era veterans, 16,810 of who reside in outlying counties. The vet center's position within the greater catchment area will be unaffected, but the proposed move will increase accessibility by situating the vet center directly within the community's business center.

(ii) Geographic Distance

The vet center is located 180 miles from the VA support facility in Cheyenne and the planned relocation will not significantly alter the distance between the two facilities.

(iii) No-VA Services Availabilty

There are no other comparable non-VA service providers in this area.

(iv) Transportation and Parking

The proposed new site will have increased parking facilities and will be closer to the main downtown traffic routes which is critical in small communities without public transportation.

(v) VA Medical Facility Space Availability

There is no available space at the VA support facility to accommodate relocation of this vet center.

(vi) Cost Impact

Impact to nonrecurring start-up and recurring operating costs resulting from this move will be insignificant.

(vii) Workload Trends

This vet center has maintained its workload in accord with established standards for the past two fiscal years, and it is anticipated that a move to a more visible site will maintain or increase workload.

(viii) Other Factors

Physical maintenance at the current site has been allowed to deteriorate and ongoing highway construction has seriously impeded access to this vet center.

9. Boulder, CO Vet Center (No. 527).—This vet center is planned for a relocation of approximately 2 miles to a new community-based location away from a general Veterans Administration facility to improve accessibility through establishment of a highly visible street level facility and to increase proximity to local veteran population concentrations.

(i) Population Distribution

The vet center's catchment area includes 58,700 Vietnam era veterans, 48,050 of whom reside in outlying counties. The vet center's position within the great catchment area will be unaffected, but the new location will be directly adjacent to the main traffic routes.

(ii) Geographic Distance

The distance between the vet center and the VA support facility in Denver is 29 miles. The proposed move will not significantly alter this distance.

(iii) Non-VA Services Availability

There are no other comparable non-VA services in this area.

(iv) Transportation and Parking

The current vet center site is located away from main access routes at the far western edge of Boulder and has limited parking. The proposed new site is close to the main traffic routes, on a city bus route, and has ample parking.

(v) VA Medical Facility Space Availability

There is no available space at the VA support facility to accommodate relocation of this vet center.

(vi) Cost Impact

The impact to nonrecurring start-up and recurring operating costs from this relocation will be insignificant.

(vii) Workload Trends

The Boulder Vet Center has shown workloads consistently higher than established standards and it is anticipated that a move to a more visible and accessible site will maintain these trends.

(viii) Other Factors

The current vet center is housed off street level on the second floor and has inadequate space for auxiliary staff and group counseling.

10. Missoula, MT Vet Center (No. 528).—This vet center is planned for a relocation of approximately 3 miles to a new community-based location away from a general Veterans Administration facility. The proposed new location will be closer to downtown traffic routes and will be more visible and acceptable to all veteran socio-economic groups.

(i) Population Distribution

This vet center serves a catchment area of 19,930 Vietnam era veterans thinly distributed over a large area. The proposed move will not alter the vet center's position within the greater catchment area, but it will increase client accessibility by relocation downtown in closer proximity to local veteran concentrations and to city transportation systems.

(ii) Geographic Distance

The vet center is currently located 118 miles from the VA support facility, and the proposed move will not significantly change this distance.

(iii) Non-VA Services Availability

There are no other comparable non-VA service providers in this area.

(iv) Transportation and Parking

The current vet center site has adequate parking, but it is located 4 miles from downtown which is inconvenient to city traffic or bus routes. The new proposed vet center site will be strategically situated in downtown Missoula directly on city traffic and bus routes. The new site will also have ample parking.

(v) VA Medical Facility Space Availability

There is no available space at the VAMC to support the operation of this vet center.

(vi) Cost Impact

This planned move will result in no significant cost impact to nonrecurring start-up or recurring operating costs.

(vii) Workload Trends

The workload activity for this vet center has been consistently in accord with standards and steadily increasing over the past several years. It is anticipated that these rates will be maintained through move to a more visible and accessible location.

(viii) Other Factors

The current vet center is located within an affluent residential district about which many area Vietnam era veterans do not feel comfortable. The proposed move will place this vet center into closer proximity with the local veteran community and will maintain comfortable accessibility for all socio-economic groups.

11. Honolulu, HI Vet Center (No. 609).—This vet center is planned for a relocation approximately 3 miles to a new location away from a general Veterans Administration facility. The proposed new vet center site will confine operations to a clearly visible street level community-based location. The current vet center location is above street level which adversely affects visibility and service accessibility with particular reference to handicapped veterans.

(i) Population Distribution

This vet center serves a catchment area of 28,560 Vietnam era veterans in Honolulu and disbursed throughout the island. The vet center and the VA support facility, both located within the central business district of Honolulu about 1.5 miles apart, are similarly positioned regarding accessibility to area veterans throughout the greater catchment area.

(ii) Geographical Distance

The Honolulu VAOPC is currently located 1.5 miles from the vet center. The proposed relocation will reduce that distance by 1 mile.

(iii) Non-VA Services Availability

There are no other comparable non-VA service providers in this area.

(iv) Transportation and Parking

As stated above the vet center and the VAOPC are located in the midst of the Honolulu business district adjacent to all main roadways and public transportation systems. The relocation of the vet center within the same general area will not alter its accessibility to ground transportation. Parking facilities, however, will be greatly improved at the new proposed location with ample spaces reserved for vet center clientele including handicapped spaces.

(v) VA Medical Facility Space Availability

There is no available space at the VAOPC to support the operation of this vet center.

(vi) Cost Impact

The planned move will result in no significant impact to nonrecurring start-up or recurring operating costs.

(vii) Workload Trends

Workload activity at this vet center has been consistently in accord with established productivity standards, and it is anticipated that these trends will be maintained through relocation to a more visible street level location.

(viii) Other Factors

The current vet center building maintenance has deteriorated through landlord neglect and disinterest. Also the vet center does not have adequate space for group counseling, having to hold sessions currently in a converted garage behind the main building. The planned relocation will also correct these deficiencies.

12. Portland, OR Vet Center (No. 617).—It is proposed that this vet center be moved approximately 3 miles to a new community-based location away from a general Veterans Administration facility to improve the center's visibility and acceptability for all veterans socio-economic groups. The current vet center site is in a lower economic working class neighborhood characterized by high crime rates. Many vet center clients have reported being apprehensive about brining their families into this neighborhood for treatment.

(i) Population Distribution

The catchment area of this vet center includes a Vietnam era veteran population of 43,690. The proposed move will not alter the vet center's position within the greater catchment area, but it will increase client accessibility by relocating to an area that is more socially acceptable to most local Vietnam era veterans

(ii) Geographical Distance

The Vet Center is located approximately 6 miles from the VA support facility and the new site will increase the distance slightly to approximately 8 miles.

(iii) Non-VA Service Availability

There are no other comparable non-VA service providers in the community.

(iv) Transportation and Parking

The vet center is located close to the major highways and city bus routes but has minimum parking facilities. The new proposed site for the vet center will be as accessible by automobile and bus but will have much improved parking facilities.

(v) VA Medical Facility Space Availability

There is no available space at the VA medical center to support the operation of this vet center.

(vi) Cost Impact

The move will result in no significant impact to nonrecurring or recurring operating costs.

(vii) Workload Trends

The workload activity for the Portland vet center is in accord with established standards and it is anticipated that these workload rates will be maintained through move to a more visible and accessible location.

(viii) Other Factors

Building maintenance at the current site has deteriorated due to owner neglect and the group counseling space is located in the second floor with no handicapped access. The new proposed site will correct these deficiencies plus relocate the vet center to an area of the community equally as accessible to all veteran socio-economic groups.

13. Fairbanks, AK Vet Center (No. 630).—This vet center is planned for a relocation of approximately 2 miles to a community-based location away from a general Veterans Administration facility to improve visibility of the center in the community and ensure adequate building maintenance.

(i) Population Distribution

The catchment area of this vet center includes a Vietnam era veteran population of 5,260 which is scattered over a large remote rural area. The planned relocation will not affect the vet centers' position within the greater catchment area, but will improve the physical condition and suitability of the site for providing professional social and mental health services. The VA support facility is located in Anchorage which is 470 miles southeast of the Fairbanks Vet Center.

(ii) Geographical Distance

As stated above the VA support facility in Anchorage is located 470 miles Southeast of the Fairbanks Vet Center. The new proposed vet center site, being within 2 miles of the current site, will not significantly alter the distance between the vet center and the VA support facility.

(iii) Non-VA Service Availability

There are no other comparable non-VA service providers in the Fairbanks area.

(iv) Transportation and Parking

The Fairbanks community has limited public transportation and most transporation is done by automobile. Road access can be very limited depending upon the weather. The vet center is located as strategically as possible given the transportation situation that exists. Both the current vet center and the new proposed vet center site have adequate parking facilities.

(v) VA Medical Facility Space Availability

There is no available space at the VA support facility to accommodate the relocation of this vet center.

(vi) Cost Impact

The planned move will result in no significant impact to nonrecurring or recurring operating costs.

(vii) Workload Trends

The Fairbanks Vet Center has been operating well within established productivity standards for the previous two fiscal years, and it is anticipated that these rates will be maintained through relocation to an improved site.

(viii) Other Factors

The heating system and physical maintenance at the current site are not sufficient to support the delivery of professional mental health services to veterans and their families. The planned relocation will correct these deficiencies as well as improve the visibility of the vet center within the community.

14. Wasilla, AK Vet Center (No. 631).—This vet center is planned for a relocation of approximately 2 miles to a new community-based location away from a general Veterans Administration facility to improve the visibility of the center and to increase proximity to currently existing veterans population concentrations.

(i) Population Distribution

This vet center services a catchment area of 1,680 Vietnam era veterans scattered over a large rural area. The proposed move will not alter the vet center's position in the greater catchment area, but it will increase client accessibility through relocation to the center of this rural community. The VA support facility is located in Anchorage which is a distance of 50 miles.

(ii) Geographical Distance

The distance between the Wasilla Vet Center Satellite and the VA support facility in Anchorage is 50 miles. The proposed move of 2 miles within the town of Wasilla will not significantly alter the distance between the vet center and the support facility.

(iii) Non-VA Services Availability

There are no other comparable non-VA Service providers in the Wasilla area.

(iv) Transportation and Parking

There are no public transportation systems in the town of Wasilla, all local travel is via automobile. Through relocation to the center of town, the vet center will be maximally situated regarding local travel patterns. Parking facilities are adequate at both the current vet center site and the new proposed location.

(v) VA Medical Space Availability

There is no availability space at the VA support facility to accommodate the operation of this vet center.

(vi) Cost Impact

The plan to move will result in no significant impact to nonrecurring or recurring operating costs.

(vii) Workload Trends

The workload at this vet center is well within established productivity standards and it is anticipated that these rates will be maintained through relocation to an improved site.

(viii) Other Factors

The veteran population in Wasilla has recently undergone a rapid decrease based on the severe economic situation in Alaska. This has caused a shift in the community's population concentrations. The relocation of this vet center will realign it with veteran population concentrations.

15. Escondido CA Vet Center (No. 642).—This vet center is planned for a relocation of approximately 35 miles to a new community-based location away from a general Veterans Administration facility to realign the center into closer proximity to currently existing veteran population concentrations. The Escondido vet center serves a three county catchment area having a Vietnam era veteran population of 236,740. The Vietnam era veteran population is widely disbursed and is concentrated along the ocean coast communities. The proposed new site is in Seaside California, an ocean front community at the western edge of San Diego County.

(i) Population Distribution

As stated above the western end of the catchment area has a greater concentration of Vietnam era veterans than the current site of the vet center in Escondido.

(ii) Geographical Distance

The VA support facility is located in San Diego which is approximately 28 miles from the current vet center and 20 miles from the proposed new site in Seaside California.

(iii) Non-VA Services Availability

There are no other comparable non-VA Service providers in this area.

(iv) Transportation and Parking

The current vet center is not easily accessed by freeway traffic and is near only limited bus services. The new proposed vet center site is directly accessible via the California freeway system and it has ample parking facilities.

(v) VA Medical Space Availability

There is no available space at the VA support facility to accommodate relocation of this vet center.

(vi) Cost Impact

The proposed relocation will not significantly impact nonrecurring or recurring operating cost.

(vii) Workload Trends

The workload activity at this vet center has been consistently within established productivity standards for the previous two fiscal years and it is anticipated that these rates will be maintained through relocation of this vet center to a more accessible location.

(viii) Other Factors

The relocation in this vet center into closer contact with the major population concentrations in the area will increase its visibility and accessibility to veterans and their families. Further the community networking activities of the vet center will be significantly enhanced through relocation to a site in closer association with other service providers.

16. San Mateo, CA Vet Center (No. 647).—This vet center is planned for a relocation away from a general Veterans Administration facility increase the center's visibility through establishment of a street level site and to enhance local acceptability of all veteran socio-economic groups.

(i) Population Distribution

This vet center serves a Vietnam era veteran population of about 23,000 which is concentrated about 40 miles south of the VA support facility. The proposed move will not affect the vet center's ability to serve local veterans within the greater catchment area, but it will increase accessibility by moving from an affluent middle class setting to an area more central to all socio-economic groups.

(ii) Geographical Distance

The San Mateo vet center is located 40 miles south of the VA support facility in San Francisco which is approximately one hour driving time. The proposed new vet center site will be located 38 miles from the VA support facility having approximately the same driving time.

(iii) Non-VA Service Availability

There are no other comparable non-VA service providers in this area.

(iv) Transportation and Parking

The proposed new vet center site is readily accessible via the freeway system and is on major city bus routes. The parking situation at the new vet center is a great improvement over the current site having both regular and handicapped reserved spaces.

(v) VA Medical Space Availability

There is no available space at the VAMC to support the operation of this vet center.

(vi) Cost Impact

The planned move will result in no significant impact to nonrecurring or recurring operating costs.

(vii) Workload Trends

Workload activity at this vet center has been consistently in accord with established productivity standards, and it is anticipated that these trends will be maintained through relocation to a more visible street level location.

(viii) Other Factors

The vet center is currently in a second story office that is inconvenient and not readily visible from the street. Also the landlord will not allow outside signs which further compounds a clear identification of the vet center in the community. The proposed move to the new site will greatly enhance vet center accessibility and will also offer a clearly identifiable site.

17. McAllen, TX Vet Center (No. 715).—This vet center is planned for a relocation of approximately 3 miles to a new community-based location away from a general Veterans Administration facility to enhance accessibility for all veteran ethnic populations and to increase proximity to other community service providers.

(i) Population Distribution

The catchment area for this vet center includes a Vietnam era veteran population of 13,000. The vet center's position within the greater catchment area will not be affected, but the planned relocation will enhance the vet center's visibility and accessibility vis-a-vis local concentrations of Vietnam era veterans.

(ii) Geographical Distance

The vet center is located 250 miles from the San Antonio VA Medical Center and one mile from the local VAOPC. The proposed relocation will not alter the distance to either facility.

(iii) Non-VA Service Availability

There are no other comparable non-VA service providers for readjustment counseling in the area.

(iv) Transportation and Parking

The new proposed vet center site maximizes the transportation advantages by being adjacent to a major city bus transfer point. The new site also improves parking facilities as compared to the current vet center.

(v) VA Medical Space Availability

There is no available space at either the VAMC or the VAOPC to accommodate operation of this vet center.

(vi) Cost Impact

The planned move will result in no significant impact to nonrecurring start-up or recurring operating costs.

(vii) Workload Trends

The workload activity at this vet center has been consistently in accord with established productivity standards, and it is anticipated that these trends will continue after relocation to a more visible centrally located site.

(viii) Other Factors

The McAllen Vet Center serves a high volume of Black and Hispanic Vietnam era veterans which necessitates careful selection of a location which is equally as accessible and socially acceptable to all ethnic and socio-economic groups in the community. The proposed relocation takes these considerations into account. Also the new vet center site is located in closer contact with other federal, state, and local service agencies which enhances the vet center's networking and referral function.

18. Phoenix, AZ Vet Center (No. 719).—This vet center is planned for a relocation of approximately 2 miles to a new community-based location away from a general Veterans Administration facility to increase proximity to existing local veteran population concentrations and to improve, which, accessibility at the current site is disrupted due to ongoing highway construction.

(i) Population Distribution

The catchment area for this vet center includes 108,000 Vietnam era veterans. The planned relocation will not affect the vet center's position within the greater catchment area, but will increase its proximity to local veteran concentration and traffic patterns.

(ii) Geographical Distance

The distance between the vet center and the VAMC is approximately 2.5 miles, and the proposed relocation will not alter this distance.

(iii) Non-VA Service Availability

There are no other comparable non-VA service providers for readjustment counseling in this area.

(iv) Transportation and Parking

The new proposed vet center site will have both improved accessibility via city bus lines and much improved parking facilities.

(v) VA Medical Space Availability

There is no available space at the VAMC to support the operations of this vet center.

(vi) Cost Impact

The planned move will result in no significant impact to nonrecurring start-up or recurring operating costs.

(vii) Workload Trends

Workload activity at this vet center has been consistently in line with established productivity standards, and the proposed move to a site of improved accessibility is anticipated to maintain high workload rates.

(viii) Other Factors

Ongoing highway construction has seriously impeded access to this vet center and the current space is no longer sufficient to accommodate staff needs. The relocation will also enhance outreach functions by positioning the vet center closer to other local federal, state, and private service agencies. Serving a large number of Black, Hispanic, and Native American Vietnam era veterans, the relocation of this vet center is also designed to enhance social acceptability for all veteran groups.

REPORT ON TRAINING IN GERIATRICS

Mr. CRANSTON. Mr. President, the committee modification would add to the committee bill, in a new section 616, a provision to extend until February 1, 1990, the due date of the report on the VA's activities to promote increased efforts by affiliated schools in training health-care professionals to care for older patients and in research efforts into the aging process. This report, which was required by section 232 of Public Law 100-322, was due on August 1, 1988. However, on August 22, the Chief Medical Director wrote to me that because of the complexity of the report, the VA would be unable to meet the statutory deadline and, therefore, requested an extension.

Mr. President, I believe that this report will contain very valuable information about the present efforts and future plans of the VA to promote efforts to meet the needs of the growing elderly veterans population. Thus, this amendment would extend the deadline in order to give the VA the opportunity to produce a thorough report on this matter.

Mr. President, I ask unanimous consent that the text of the Chief Medical Director's August 22 letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 22, 1988.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Public Law 100-322, Sec. 232 requires, not later than August 1, 1988, a report on training in geriatrics by medical and other health professional schools affiliated with the Veterans Administration. This report is to address . . . "Veterans' Administration's activities, and the success of those activities, designed to promote increased efforts by affiliated institutions (1) in training health-care professionals to care for older patients, and (2) in research into the aging process and diseases and disabilities associated with aging."

Due to the complexity and time consuming nature of this report, I request the deadline be extended until early 1990. Most of the information required by the report must be based upon data which can only be obtained by surveying the more than 1,000 medical and other health professional institutions affiliated with the VA. A public information collection of this nature and magnitude is subject to the requirements of the Paperwork Reduction Act. To comply with that Act, we must notify the public, by means of a Federal Register notice, of our intent to survey, and request from the Office of Management and Budget approval of this data collection activity. This OMB clearance and public notification process takes a minimum of 90 days. Upon approval, affiliates will be surveyed, the data compiled and analyzed, and the findings and conclusions reported as required.

We currently have a number of programs to promote geriatric training of health-care professionals. In Fiscal Year 1987, 60 physician geriatric fellows were trained at a cost of $2.2 million. Approximately 300 medical residents participated in geriatric rotations at the VA medical centers at an estimated cost of $2.6 million. $1.5 millon was utilized for training associated health professionals in geriatrics and the Interdisciplinary Team Training in Geriatrics (ITTG) program. In addition, nearly 19,000 VA medical center staff members participated in continuing education courses dealing with geriatrics at an estimated cost of $488,500.

The VA is also substantially involved with affiliated institutions in research into the aging process and diseases and disabilities associated with aging. In FY 1987, over $5 million of VA funding and nearly $4 million of extra-VA funding by granting agencies, such as the National Cancer Institute, the National Institute on Aging, and National Institute on Mental Health, supported approximately 350 active research projects. These research projects deal with various problems related to the aging process and numerous diseases and disabilities, such as Alzheimers and Rheumatoid Arthritis. Currently, in FY 1988, there are 294 active research projects at 66 VA medical centers.

I hope this delay in meeting the statutory reporting requirement will not inconvenience you or other members of the Committee.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

SPECIAL SALARY RATES FOR HEALTH-CARE EMPLOYEES

Mr. CRANSTON. Mr. President, I am very pleased that the committee amendment contains my proposal to amend section 4107(g)(3) of title 38 to make a much needed improvement in the VA's ability to provide special salary rates for its health-care employees when it is determined to be necessary to obtain or retain the services of certain employees providing direct health-care services, or services incident to direct health-care services. The extent to which salary rates can be increased under this authority is limited to the amount by which the maximum for the affected grade exceeds the mimimum for that grade. Our amendment would raise this limit so that the increase could be up to twice the difference between the maximum and the minimum for the grade involved.

This improvement is most needed with respect to the great difficulties the VA faces in hiring and keeping registered nurses [RN's]. The majority of RN's in the VA fall within one of four grades—junior, associate, full, or intermediate—each grade having nine primary steps. The increments from one step to the next are approximately 3 percent. The VA assigns a newly recruited RN to a grade based on his or her educational level, experience, skills, and capabilities. For example, an RN who has graduated from either an associate degree program or diploma program and who has no experience is placed in the junior grade; an RN who is a graduate of a baccalaureate degree program and has no experience is placed in the associate grade. Nurses are promoted to higher grades if they meet the criteria specified for that higher grade, and they can advance within a grade by going up the steps through merit and longevity increases.

At one time, the first step within the grade was considered the entry level. However, as the nurse shortage has become more acute and as the competition for the services of RN's has become keener, nurse salaries in non-Federal hospials have increased. To remain competitive and maintain the ability to recruit and retain nurses the VA has had to advance starting salaries so that today, in the Boston, New York, San Francisco, and Los Angeles areas, the starting salary for junior grade nurses is at the maximum amount authorized by law—including the increase under section 4107(g)(3). The maximum has also been reached in the Boston area for associate grade nurses. In San Francisco, the starting salary for associate grade nurses is very close to the maximum, and it is expected that salaries will quickly reach that point as a result of a new labor contract providing a 21-percent increase over the next 34 months for nurses in surrounding non-Federal hospitals in the bay area. According to VA officials, the salaries of associate grade nurses in Los Angeles and New York will not be far behind. This amendment is aimed at helping to ensure that the VA has the ability to increase salaries of its nurses and other health professionals so as to continue to remain competitive.

It is my understanding that in New York salary rates for junior grade nurses reached the maximum authorized by law on or before February 28, 1988; in San Francisco on March 27, 1988; and in Los Angeles on June 23, 1988. Neither the Senate nor the House Veterans' Affairs Committees were officially notified of this fact, and I wonder how the VA was expecting to remain competitive and hire adequate numbers of RN's to care for veteran patients in those areas. To avoid future situations in which the agency allows its competitive capability to vanish without notifying the Congress of the need for a legislative remedy, this amendment would require the Administrators to notify both the House and Senate Veterans' Committees when salaries come with 94 percent or more of the maximum rates. This should provide the Congress with the forewarning necessary to consider the need for new legislation in a timely manner.

CONDITIONS OF EMPLOYMENT OF CERTAIN PERSONNEL

Mr. President, the committee modification includes a provision which would hold in abeyance, until October 1, 1989, the decision of the U.S. Court of Appeals for the District of Columbia Circuit in the case *Colorado Nurses Association and VA Medical Center, Ft. Lyon, Colorado* v. *Federal Labor Relations Authority,* No. 87-1104, July 19, 1988. That decision reversed a decision of the Federal Labor Relations Authority [FLRA] which held that the VA has a duty under the Civil Service Reform Act [CSRA], Public Law 96-454, to bargain with those VA employees appointed under the title 38 personnel system over conditions of employment. The court ruled that the VA Administrator has exclusive discretion to establish regulations concerning the working conditions of such employees and is, therefore, not under any obligation to bargain with such employees based on the CSRA.

Mr. President, as is discussed in more detail in the report accompanying the committee bill—see pages 164-167—legal challenges have been brought in recent years, including by the American Federation of Government Employees and the National Federation of Federal Employees, to the legality, in light of the enactment of CSRA, of certain attributes of the separate VA personnel system, particularly to those relating to the resolution of employee grivances and disciplinary actions. These challenges have been based on the theory that CSRA established Governmentwide procedures in the area of labor-management relations and, in so doing, superseded VA-specific laws.

Although, as was noted in the committee report accompanying S. 9 last year—S. Rept. 100-215, pp. 146-47—this legal theory was accepted by the FLRA in some cases involving VA disciplinary procedures, the FLRA ruling that the VA was obligated to adhere to CSRA procedures, these results have consistently been reversed on appeal to Federal appellate courts. The court's decision in Colorado Nurses is the latest such decision.

Mr. President, because our committee is concerned that the ongoing confusion and litigation over employee-management issues within the VA's Department of Medicine and Surgery is not conducive to the agency's fulfilling its mission of providing quality health care to eligible veterans, we have been active over the past 2 years with efforts that seek to clarify the employer-employee relationship between the VA and those VA health-care professionals employed under the title 38 personnel system.

Because the court's decision in Colorado Nurses affects so significantly the underlying relationship between these employees and the VA, we now anticipate that the committee will have to undertake concerted efforts next year involving the Congress, the VA, organizations representing VA employees, and others with an interest in VA health-care matters to try to develop an overall solution to this matter.

In the meantime, in order to allow that process to go forward, the provision in our amendment would provide interim relief by staying the effect of the Colorado Nurses decision for a year during which time the parties would be in the same position with regard to collective bargaining as they were in before the decision was issued. I am very grateful to Senator MURKOWSKI for his cooperation in proceeding with this provision today.

INCOME VERIFICATION PROGRAM

Mr. President, the committee amendment also would make two modifications—worked out with the distinguished Senator from Arizona [Mr. PRYOR]—to section 703 of the committee bill to allow the VA access to certain Internal Revenue Service [IRS] and Social Security Administration [SSA] data in order to verify self-reported income for purposes of needs based VA benefits.

First, the VA would be permitted access only to IRS and SSA wage data—that is, data reported by third parties such as employers. The VA would not be allowed access to self-reported data such as from self-employment earnings. Second, the VA would be permitted access only with respect to IRS and SSA data from tax years 1988 and 1989; the committee bill contained no such limit.

In the case of the first amendment, the VA has informed me that it would eliminate the use of only 5 percent of the data in question. Limiting the access to tax years 1988 and 1989 data would enable the VA to clean up the pension rolls and other eligibilities but would require new legislative authorization before the VA could run another match. The 1988-89 match would likely produce the vast bulk of the savings anticipated by the CBO for section 703 as reported—$278 million over the next 3 fiscal years.

The Veterans' Affairs Committee unanimously approved the provisions in section 703 on June 29. However, when the identical provisions—in S. 2611—were presented at a Finance Committee meeting on July 26, concerns regarding the effect of the provisions on voluntary taxpayer compliance, increasing the influence and reach of the IRS into taxpayers' lives, and other matters were raised by Senator PRYOR and others. Although both Senator MURKOWSKI and I felt that the provisions in the committee bill contained safeguards to protect against these problems, we believe the proposed modifications should help address Senator PRYOR's concerns while still providing the VA with an effective tool to help ensure that only those who are entitled to receive VA benefits actually do receive them.

EXPANSION OF MULTIYEAR PROCUREMENT AUTHORITY TO INCLUDE NONMEDICAL ITEMS

Mr. President, this amendment would add to the bill a new section 706, which I coauthored with the distinguished ranking minority member of our committee, Mr. MURKOWSKI, which would expand—to include nonmedical items—the multiyear procurement authority authorized with respect to medical-care items in section 404 of Public Law 100-322, enacted on May 19, 1988. This provision derives from administration proposed legislation, S. 2306, which I introduced by request on April 21, 1988, to provide the VA with multiyear procurement authority for any supplies and services, not just health-care items.

Each year the VA's Department of Medicine and Surgery [DM&S] spends approximately $1.2 billion to purchase drugs, medical supplies, equipment, and other items to run its 172 hospitals, 117 nursing homes, 16 domiciliaries, 229 outpatient clinics, and other facilities. The health-care multiyear procurement authority provided in Public Law 100-322 allows the VA to reduce these costs, achieve economies in contract administration, increase quality of service from contractors, and encourage competition in its procurement of medical items. In addition to any other benefits, the VA expects a 5- to 10-percent decrease in bid prices for contracts found to warrant a multiyear commitment. I would also not that the new law delineates specific conditions for the use of the multiyear authority which are designed to ensure that the authority is used in the best interests of the Government and to provide appropriate protections for the contractors. These conditions are explained in the joint explanatory statement of the conferees on H.R. 2616, the Veterans' Benefits and Services Act of 1988 (H. Rept. No. 100-578, pages 124-25).

According to the VA, it is already implementing the new multiyear contract authority in DM&S for maintenance of building service equipment at VA health-care facilities, preventive maintenance of medical equipment, elevators, and fire alarm systems, waste maintenance, and pest control, and it is aware of no reason to restrict the authority to its health-care facilities.

Mr. President, this amendment simply would expand the multiyear contracting authority to cover the procurement of nonmedical items needed for the operation of the VA's Department of Veterans Benefits [DVB] and its Department of Memorial Affairs [DMA]. To illustrate potential uses, the VA advises that the multiyear contracting could be used for service contracts for grounds maintenance of VA national cemeteries and supply contracts for headstones, markers, and graves liners and for contracts for the approval of courses of education and training for veterans by State approving agencies and for certain rehabilitation services provided to disabled veterans by organizations such as Goodwill Industries and sheltered workshops.

In addition—also pursuant to a VA suggestion made in response to a question I submitted to the VA in followup to the committee's June 16 hearing, which covered S. 2306, along with various other measures—this amendment makes a technical correction to the current multiyear procurement authority so as to delete an unnecessary and faulty definition of the terms "cancel" and "cancellation."

Mr. President, this provision should improve the cost effectiveness and efficiency of VA procurement programs and, as a result, of VA services to veterans.

TRANSFER OF EXCESS VETERANS' ADMINISTRATION LANDS FOR STATE VETERANS' HOME USES

Mr. President, a provision in the committee modification worked out in conjunction with the Senator from Tennessee, Mr. SASSER and our ranking minority member, Mr. MURKOWSKI, would amend section 5022(a) of title 38, United States Code, to authorize the VA under certain conditions to transfer real property that is excess to the VA's needs to a State for use as the site of a State veterans' home, nursing home, or domiciliary care facility.

Such a transfer would be made without regard to Federal laws relating to the disposal of Government real property, including section 5022(a)(2) of title 38, which applies specifically to VA properties.

Under Governmentwide property management and disposal laws and policies—implemented through the Federal Property Management Regulation (41 CFR part 101.47)—an agency which determines that a Government-owned property is excess to its needs must submit a report of excess real property to the General Services Administration [GSA], which generally handles disposal actions. The property may be transferred to a State of other non-Federal public body for no compensation only if the property has no commercial value. In addition, certain VA-specific rules apply to the disposal of property under section 5022(a)(2) of title 38. These rules, first, prohibit the VA from taking any action in a fiscal year to declare as excess to its needs any real property valued in excess of $50,000 unless the Administrator has, at the time of the President's budget submission to the Congress for that year, provided the Veterans' Affairs Committees with a proposal to do so, second requires that the sale of any such property be at fair market value, and third, requires that the revenues generated from the sale of the property be deposited in the nursing home construction fund established under section 5016, to title 38.

An example of the potential positive impact of this amendment can be observed in the State of Tennessee, where that State is requesting the VA to transfer to it a 5- to 7-acre tract of land at the Alvin C. York VA Medical Center in Murfreesboro for the purposes of the construction and operation of a 120-bed State veterans' home nursing home for veterans. The Medical Center Director, the Tennessee Department of Veterans' Affairs, and the Tennessee Departments of the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars all strongly support this proposal as indicated in their letters sent to Senator Sasser or to House Veterans' Affairs Committee Chairman G.V. "Sonny" Montgomery. Mr. President, I request unanimous consent that these letters, without enclosures, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. CRANSTON. However, Mr. President, we have agreed to a generic approach to this situation rather than dealing only with the Tennessee situation. Hence, under the amendment these general and VA-specific requirements would not apply when a State is ready and willing to use the excess VA land to construct and operate a State home nursing home or domiciliary unit for veterans. In such cases, the transfer to the State would enable the property while in the hands of the State, to continue to be used for essentially the basic purpose of providing care for VA-health-care eligible veterans, and the exemption from those requirements would be entirely appropriate.

Mr. President, I would note that the legislation contains a number of safeguards to ensure that the purpose of the transfer would be fulfilled. Thus, a transfer could be made only if the Administrator determines that the State has provided sufficient assurance that it has the resources, including any resources which are reasonably likely to be available to the State under the VA's State home construction grant and per diem programs, necessary to construct and operate a State home nursing or domiciliary care facility. In addition, any such transfer would have to be made subject to the conditions first, that the property be used by the State for a nursing home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under the construction grant program and second, that, if the property is used at any time for any other purpose, the property would revert to the United States, and such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

Mr. President, I congratulate the Senator from Tennessee for his leadership on this amendment.

VETERANS' EMPLOYMENT PREFERENCE WITHIN THE ALASKA CONSERVATION UNITS LOCAL HIRE PROGRAM

Mr. President, a provision in the committee amendment proposed by the committee's ranking minority member (Mr. Murkowski) would amend section 1308 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 (16 U.S.C. 3198), to clarify that the advantages of veterans' preference would apply to veterans and other preference-eligibles who are otherwise eligible to be selected for a position under the local-hire authority of Alaska Conservation Units (national parks).

Mr. President, section 1308 of Public Law 96-487 required the Secretary of the Interior to establish a local-hire program with respect to employment in Alaska National Parks. Under that program, certain individuals who have special knowledge or expertise in the natural or cultural resources of an Alaska National Park area can be employed by the applicable conservation unit without regard to personnel ceilings and civil service laws or regulations requiring minimum periods of training or experience or employment preferences. I agree with my distinguished colleague from Alaska that, among those who are eligible for unemployment under the local hire program, veterans deserve and should recieve the benefit of the veterans' preference generally applicable to Federal employment.

In effect, this amendment would clarify that the regular Civil Service veterans' preference provisions would apply to veterans and other preference-eligibles who are otherwise eligible to be selected for a position under the local-hire authority of Alaska Conservation Units.

EXCLUSION OF CASUALTY LOSS REIMBURSEMENT FROM PENSION INCOME COMPUTATIONS

Mr. President, the committee modification also includes a provision, derived from section 202 of S. 940, and administration proposal, which would exclude property-loss reimbursement from any source from the beneficiary's income as used by the VA for purposes of determining eligibility for, and rates of, pension and parents' DIC. The amount excluded would be limited to the fair market value or reasonable replacement value, whichever is greater, of the property immediately preceding the loss.

Under current law, the VA, in determining income for purposes of pension and parents' DIC, must include all payments of any kind or from any source unless the payment is specifically excluded by law. Current law specifically excludes the proceeds of fire insurance policies, but, in the VA's view, requires all other reimbursements for property loss to be counted as income.

However, in my view, the proceeds of insurance or other reimbursement for property loss should not be considered as income but rather as the involuntary conversion of an asset, the property, into another form, the cash received in reimbursement. In such a case, the recipient has not improved his or her net material condition. Thus, I believe that it is appropriate to apply this principle, now limited to fire insurance, to all forms of reimbursement for all casualty property loss.

Last year, the Senate passed this provision as section 141 of S. 9. The House conferees would not accept it, but in the conference report the conferees suggested that a 1984 VA General Counsel's opinion would allow the VA to interpret section 415(f)(1)(i) broadly enough to include insurance proceeds from causes other than fire loss, and urged the VA to issue regulations consistent with such a broad interpretation. However, in a July 18, 1988, letter, the VA stated, in response to a question of mine in followup to the committee's June 9 hearing on compensation and other matters and subsequent to the committee's June 30 markup, that it is firmly of the belief that it does not have the statutory authority to interpret that section so broadly.

Mr. President, I ask unanimous consent that my question and the VA's answer be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 2.)

REPORT ON EXPENDITURES FOR COMBAT VETERANS

Mr. CRANSTON. Mr. President, the committee modification includes a provision, authored by my good friend from Wyoming [Mr. Simpson], which would require the Administrator of Veterans' Affairs and the Secretary of Labor generally to include, as part of the agencies' annual budget submissions, information on the amount of funds that will be expended in the coming fiscal year in various VA and Department of Labor [DOL] benefits and services programs for or in connection with veterans who served in combat or combat theaters during a time of war. The covered programs include employment services and other DOL programs for veterans; compensation, DIC, and pension benefits; inpatient and outpatient health care and services; vocational rehabilitation services; educational assistance; insurance benefits; readjustment counseling services for Vietnam-era veterans; and home loan benefits.

I note that this provision requires that this information be submitted only "to the maximum extent feasible." This recognizes that it may not be possible, based on currently available data bases, for all of the requested information to be supplied. However, if the VA or DOL is unable to supply some element of the required information, the agency involved would be required to indicate in the budget documents why it cannot comply and what action would be necessary to enable it to do so.

Mr. President, I am pleased that we were able to accommodate the desire of Senator SIMPSON to require the submission of this information to the extent feasible, and look forward to continuing to work with him on veterans benefits and many other matters.

TUITION REIMBURSEMENT

Mr. President, the provision to the committee amendment regarding the payback requirement of the tuition reimbursement program would correct an inadvertent error in section 4324 of title 38 enacted in Public Law 100-322 and, thus, make the section consistent with the intent of the conference committee on H.R. 2616.

The joint explanatory statement accompanying the conference report on H.R. 2616—H. Rept. No. 100-578, page 106—which was enacted on May 20, 1988, as Public Law 100-322, the conferees stated that the Senate provision, which I had authored, to establish a new tuition-reimbursement program for certain VA employees pursuing a nursing degree had been adopted with two amendments, one "requiring participants who have not fulfilled their obligation to repay only those sums which have actually been expended, prorated to reflect the time remaining in the agreement." However, the legislation itself inadvertently provided both that participants who do not fulfill their obligation must repay the full amount expended, rather than a prorated amount, and, inconsistently, that such participants must make repayments of three times the amount paid on their behalf, prorated to reflect the time remaining in their agreements. Our amendment would make the law conform to the explanatory statement and Congress' intent.

Our amendment would make another minor change in section 4324(a)(2), requested by the VA, to clarify the liability of individuals who leave VA employment while taking a course provided in a VA health-care facility under section 4322(e) of title 38. Section 4322(e) allows the VA to contract with an educational institution to provide courses at a VA facility and to pay the institution a specific amount for each employee who takes the course. Payment may be made before or after the course has been provided. If the employee fails to complete the course, he or she remains liable under section 4323(d) for a 1-year service obligation. If the service obligation is breached by a participant who fails to maintain employment throughout the course, he or she should be liable for the amount the VA paid the educational institution for the course. To ensure that this is the case, this amendment would add the word "is payable" to section 4324(a)(2) and the reference in that provision to a service obligation arising from "completion of a course in a previous semester" would be revised to refer to an obligation arising from "participation in the program."

The amendment also would correct two faulty cross-references in section 4323 (c) and (d) to subsection (f)—which does not exist—of section 4322 so that they are to the intended provisions, subsection (e) of section 4322.

Mr. President, that concludes my explanation of the committee modification to the reported bill.

EXHIBIT 1

VETERANS' ADMINISTRATION,
Murfreesboro, TN, July 12, 1988.
Hon. C.V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, 335 Cannon House Office Building, Washington, DC.

DEAR MR. MONTGOMERY: This letter is written in response to your request for additional information concerning the proposed State Veterans Home. Enclosed is a letter dated May 28, 1986 wherein the State of Tennessee inquired concerning the potential availability of land. Our reply dated June 11, 1986 is enclosed wherein we indicated two possible locations. A letter dated May 17, 1988 requesting that the VA begin official actions which would allow the State to construct a 120-bed nursing care facility on our campus is enclosed. Our reply dated June 2, 1988 indicating our full support of the proposal is also included. This correspondence should provide a brief history of the proposal.

The exact amount of land required has not yet been determined. However, we have expressed a willingness to deed to the State or provide a long term lease for approximately ten acres in the southeast corner of the property. The land would be bounded on the south by Compton Road and on the east by Water Plant Road and the State of Tennessee (Middle Tennessee State University research farm). The property and the proposed building could be integrally joined to the VA Nursing Home, Building 116 now under construction, or it could be separated by a lawn area. The minimum amount needed is estimated to be five acres and the maximum ten acres. The State has not yet determined their exact configuration desired, so a more precise land description is unavailable at this time. A map of the area is enclosed.

As you are aware, we have a very large long-term care veteran population. We are currently operating 179 intermediate medicine beds and 48 nursing home beds. We are looking forward to our new nursing home building to be completed by June, 1989. This will bring our total number of nursing home beds to 120. In addition, we have a large number of long-term care psychiatric patients. A state veterans nursing home unit on or near our facilities would promote the integration of our programs with the State programs for more efficient operation for all of us.

In summary, I support this proposal and feel that it will be in the best interest of the VA, the State, and the veterans in the State of Tennessee, if it can be accomplished with the policies of the Veterans Administration and within the laws passed by the United States Congress.

Sincerely,

RONALD L. NELSON,
Medical Center Director.

STATE OF TENNESSEE,
DEPARTMENT OF VETERANS AFFAIRS,
Nashville, TN June 8, 1988.
Hon. JAMES R. (JIM) SASSER,
298 Russell Senate Office Building, Washington, DC.

DEAR SENATOR SASSER: Governor McWherter recently signed legislation that authorizes State Veterans Homes in Tennessee under the provisions of the Veterans Administration's programs. An amendment to the FY-89 State appropriations bill stipulated that our first nursing care facility be built in Rutherford County, Tennessee. The Alvin C. York VA Medical Center is located in this county and from the outset of our studies of potential sites, the Director of York VAMC and his staff have supported a plan to locate a State Veterans Home on 5-7 acres in the Southeast corner of the VAMC property. We understand that the Veterans Administration cannot directly transfer title of the property to the state without legislative authority.

The purpose of this letter to each member of the Tennessee delegation is to request that appropriate language be added to the VA Omnibus Medical Care Bill that would authorize transfer of the property to the state. This bill is scheduled for markup by the House Veterans Affairs Sub-Committee on Hospitals and Health Care on June 15, 1988. A diagram showing the proposed site is attached.

Our pre-application for the VA grant has been filed for a 120 bed nursing care facility. The formal application will follow by August 1, 1988, so as to be considered for FY-89 prioritization in accordance with the VA's procedures The state must have title to the property before VA can award the construction grant. We expect to be high on the priority list for the VA grant and our hope is to be ready to start construction in early CY-1989.

Please advise if it appears that the legislative route suggested is not feasible for enactment before fall adjournment. In that event, we will pursue an alternate site.

Sincerely,

W.D. (BILL) MANNING, Jr.,
Commissioner, TDVA.

THE AMERICAN LEGION,
DEPARTMENT OF TENNESSEE,
Nashville, TN, September 19, 1988.
Hon. JAMES R. SASSER,
U.S. Senate, 298 Russell Senate Office Building, Washington, DC

DEAR SENATOR SASSER: We have been following with interest the progress of Tennessee's first Veterans Home Project. The work that you and the entire Tennessee delegation have accomplished to get legislation approved for the transfer of VA property at the Alvin C. York Medical Center at Murfreesboro to the State of Tennessee is qreatly apppreciated.

The American Legion, Department of Tennessee, has wholeheartedly supported this effort that will lead to constrution of the first State Veterans Home conveniently located adjacent to the VA Medical Center is Murfreesboro.

It is our understanding that you will try to have incorporated into the Senate version of the Veterans Health Care Bill this week language that would authorize the VA to transfer up to seven (7) acres of land to the State for the purpose of constructing a State Veterans Home. We understand that such language has been incorporated into HR 5114 as approved by the House Veterans Affairs Committee last week. This was based on Representative Bart Gordon's Bill HR 5301. We are very hopeful that the Senate version of the Bill can include this provision so that Tennessee can proceed with all deliberate speed to construct the first State Veterans Home as soon as this legislative authorization is given for the transfer of property.

Thanks again for your support of State Veterans Home in Tennessee.

Sincerely,

CHARLES G. NORTON,
Department Adjutant.

DISABLED AMERICAN VETERANS,
September 19, 1988.

Hon. JAMES R. SASSER,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR SASSER: The Disabled American Veterans, Department of Tennessee, appreciates the hard work that you and the entire Tennessee Congressional Delegation has done in support of legislation that would enable the Veterans Administration to transfer title of property at the Alvin C. York VA Medical Center to the State of Tennessee for a State Veterans Home. We understand that Representative Bart Gordon's bill HR-5301 that would accomplish this was recently approved by the House Veterans Affairs Committee and incorporated into the language of HR-5114, Veterans Health Care Program Amendments for 1988. Please be assured that the DAV fully supports your efforts and we hope that you can be successful in getting similar language incorporated into the Senate version of the Health Care bill.

Again, thank you for supporting this State Veterans Home legislation which is so important to Tennessee's veterans.

Sincerely,

DONALD SAMUELS,
Department Adjutant.

VETERANS OF FOREIGN WARS,
DEPARTMENT OF TENNESSEE,
Nashville, TN, September 19, 1988.

Hon. JAMES R. SASSER,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR SASSER: The Veterans of Foreign Wars, Department of Tennessee fully supports the efforts that you and the entire Tennessee Congressional Delegation have put forth in getting property at the Veterans Medical Center in Murfreesboro transferred to the State of Tennessee for our first State Veterans' home.

We have learned that the House Veterans Affairs Committee approved language in HR-5114, Veterans Health Care Program Amendments for 1988, that authorizes the Veterans Administration to transfer to the state of Tennessee up to seven acres for the purpose of establishing a state veterans home adjacent to the Alvin C. York Medical Center. We certainly hope that you can be successful in getting similar language included in the Senate version of the Veterans Health Care Bill.

Again, thanks for your hard work and support of this important project for Tenessee's veterans.

Sincerely,

R.P. LOCKE,
State Commander,
Department of Tennessee, VFW.

EXHIBIT 2

VETERANS' ADMINISTRATION,
Washington, DC, July 18, 1988.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed please find the Agency's responses to questions raised by you following the June 9, 1988, hearing regarding compensation-related legislation. Thank you for the opportunity to provide this additional information for the record.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

Enclosure.

Question 4. In the joint explanatory statement accompanying the conference report on H.R. 2616 (enacted as P.L. 100-322), the conferees urged the VA to issue regulations "consistent with the broad interpretation of current law set forth in the September 10, 1984, opinion of the General Counsel to the Chief Benefits Director", which interprets the term "fire insurance proceeds" broadly enough to also include insurance proceeds for losses from causes other than fire. (H. Rept. No. 100-578, page 130.) What are your plans for issuing such regulations?

Response. The General Counsel opinion of September 10, 1984, pointed out the paradox that legislation consistently has mentioned only "fire insurance" but legislative history suggests that payments for replacement of property damaged in other ways as well should be excluded from countable income. The opinion noted that fire insurance coverage often extended to other damage such as windstorm. The General Counsel opinion spoke to exclusion of losses other than fire but only if covered under a "fire insurance" policy or a homeowners insurance policy covering damage to a dwelling.

A notice of intent to amend the pertinent regulation was proposed immediately upon receipt of the General Counsel's opinion. The notice of intent stated that all proceeds of property insurance for replacement or repair of lost or damaged real or personal property would be excluded from countable income. The General Counsel replied that the September 10, 1984, opinion did not conclude that all property insurance could be excluded because it was asset replacement, the rationale used in the notice of intent. The General Counsel reiterated that the only permissible exclusion remains, by statute, proceeds of fire insurance policies. The issue addressed in the September 10, 1984, opinion was, according to the General Counsel, the definition of fire insurance. The General Counsel specifically stated, for example, that proceeds of auto insurance could not be excluded. The request for approval to amend the regulation was withdrawn since it was clear that all that would be permitted under the General Counsel opinion was a slight redefinition of the term "fire insurance." It was not felt that regulatory change was appropriate, or needed.

Our proposed legislative change goes far beyond the General Counsel opinion to include any payments received due to casualty loss intended to replace or restore the value of real or personal property damaged, including by theft. Payments from disaster relief agencies or received from litigation where loss was not covered by insurance would be excluded from countable income. We believe that the proposed legislation is needed to clarify existing ambiguities and to more equitably exclude all types of casualty loss replacement.

Mr. MURKOWSKI. Mr. President, I am pleased to join with my colleague from California, the distinguished chairman of the Committee on Veterans' Affairs, in offering this amendment to S. 2011, as reported by the committee.

As my colleagues know, new issues often arise between committee action and Senate consideration of legislation. This amendment contains provisions which address some of these new issues. I am pleased to urge my colleagues to support this important bipartisan amendment.

I would like to highlight several of the particularly important provisions contained in this amendment.

AGENT ORANGE

Mr. President, section 206 of the committee bill directs the VA to contract for an independent review and evaluation of the evidence on agent orange. This amendment would require the VA to respond to that review.

For almost two decades, lawmakers and veterans have been frustrated by attempts to find answers about possible adverse health effects of exposure to herbicides. The Congress has been, and continues to be, responsive to the concerns of Vietnam veterans who believe they may have or will suffer adverse health effects as a result of possible exposure to the herbicide known as agent orange.

The Congress has mandated and funded large-scale studies to examine the health of Vietnam veterans as well as the possible effects of agent orange. Unfortunately, science cannot always find all the answers in as timely a fashion as we might like. Nevertheless, we are beginning to see the fruits of this commitment by the Congress and the Nation as the Centers for Disease Control [CDC] and other bodies publish their research. As we should expect, the results published to date have not been clear-cut: The findings have a range of uncertainty; some of the findings contradict each other. These and other factors make the results subject to interpretation and dispute.

We know, Mr. President, that some veterans lack confidence in interpretations or conclusions reached by scientists affiliated or associated with the Government. While I do not believe their concerns are warranted, I would observe that it is a reality with which the Senate must contend. That is why section 206 of the committee bill would direct the VA to contract for a review and evaluation of the evidence by the National Academy of Sciences [NAS], an independent body of unquestioned integrity and competence. We take this step, not because we question the integrity or the competence of the scientists who have conducted the studies or interpreted their findings. We do not.

We take this step because we recognize that the studies have a two-fold purpose: In the event of positive findings, to establish a basis for compensation; or, if the findings are negative, to reassure Vietnam veterans their health is not at risk. The reality of skepticism may, for some veterans, defeat the second purpose should findings be negative. The committee's provision for NAS review and report is an attempt to deal with this mistrust and, if no association between Vietnam service and disease is found, ensure that the largest possible number of Vietnam veterans receive the benefit of the reassurance negative findings should provide.

After the bill was reported, the committee recognized that the bill did not mandate that the VA respond to the NAS report. It is certainly the committee's desire that the VA respond to the evaluation and conclusions of the NAS, whether negative or positive. The committee amendment would, therefore, require the VA to consider the NAS report, to evaluate the need for change in VA regulations and to notify the Committees on Veterans' Affairs of its decision. This amendment makes clear the committee desires appropriate action, as well as study.

VOCATIONAL REHABILITATION

As reported, the committee bill also includes a 1-year extension of the temporary program of trial work periods and vocational rehabilitation for service-connected disabled veterans who are not totally disabled but are paid at the 100-percent rate because their disabilities prevent them from obtaining or holding suitable employment. This program has a great deal of merit because it recognizes that a suitable job is a better readjustment benefit for a disabled veteran than a compensation check.

The committee-reported extension was for only 1 year because, when the committee approved the bill, we had not yet received the required VA report on the pilot program's implementation and effectiveness. The report has now been received, and Chairman CRANSTON and I agree the report justifies a longer extension. The committee amendment would extend this program until January 31, 1992, at which time the committee will once again consider the effectiveness of this program.

LOAN GUARANTY

The committee amendment also includes a provision which would authorize the VA to utilize funds in the Loan Guaranty Revolving Fund [LGRF] to contract for services and equipment to enhance and improve the operation of the Home Loan Guaranty Program.

The Loan Guaranty Program has endured back-breaking losses in recent years and has been, therefore, subject to a great deal of criticism. It is no secret that this Senator has, on occasion, joined in that criticism. In fairness, I must acknowledge that VA's efforts to respond to the program's losses and to address the criticisms of its operation have been hampered by a lack of funds to implement even the most basic modernizations and improvements. As a critic of the program, I also assume an obligation to help provide the means to fix the problems I criticize. This amendment is one step to do just that.

There is no doubt in this Senator's mind that the goods and services for which this amendment would allow the VA to contract have the potential to more than pay for themselves in reduced program losses.

VETERANS' PREFERENCE IN ALASKA

I am particularly pleased the committee amendment includes a provision addressing an unintended consequence of a provision in law providing for "local hire" of staff at National Park Service managed conservation units in Alaska. In establishing parks and other conservation units in Alaska in 1980, the Congress wisely included a provision that recognizes the value of a staff well-versed in the culture and natural resources of the park units by mandating that certain staff be hired from the local population. In order to ensure this local resource is utilized, the law now requires the employment of individuals who live or work near the unit without regard to other employment preferences.

In disregarding other preferences, the Congress unintentionally nullified the veterans' employment preference earned by local-hire eligible persons who served their country in uniform. The committee amendment would correct this situation by providing that any veterans who also meet local residency requirements for these positions would be given the usual veterans' preference over local residents who are not veterans. It would not provide veterans who are not local residents a preference over local residents who do meet the existing local-hire criteria.

RECRUITMENT AND RETENTION OF HEALTH CARE PERSONNEL

One cannot read the paper, watch TV, or listen to the radio without learning of the nursing shortage facing our Nation. This national problem is obviously affecting the Veterans' Administration—the Nation's largest health care system. Under current law, the Administrator has the authority to increase special rates of pay for certain VA health care personnel—including registered nurses—in order to address a staffing shortage. There are limitations as to how high the rate can be increased. The committee amendment would give the Administrator greater flexibility to increase—to a much higher rate— rates of pay to a competitive level. In effect, this amendment would allow personnel to receive a higher special salary rate so as to increase the salary of VA health care personnel.

MULTI-YEAR PROCUREMENT AUTHORITY

In order to provide more efficiency in the VA's procurement program, Public Law 100-322, enacted May 20, 1988, provided the VA with the authority to use multiyear procurement contracts for health care supplies and services. This amendment would expand that authority to allow the VA to enter into such contracts for non-health care supplies. The VA has requested this additional authority to achieve further cost savings. I commend the VA for their efforts to purchase needed items in the most cost-effective manner possible.

I urge my colleagues to support the Cranston/Murkowski amendment to S. 2011.

Thank you, Mr. President.

Mr. BYRD. Mr. President, I am pleased to support the Veterans' Benefits and Programs Improvement Act of 1988. This bill provides for a cost-of-living adjustment in benefits paid to veterans with service-connected disabilities and to the dependents of those who have died of service-connected causes, as well as a number of provisions to address the problems of recruitment and retention in VA facilities.

The bill also includes a number of provisions relating to agent orange, including the payment of interim disability or death benefits in the cases of Vietnam veterans having non-Hodgkin's lymphoma, or their survivors while we await the completion of a study being undertaken by the Centers for Disease Control. Also included are provisions to require the VA to provide treatment to those suffering from service-related post-traumatic stress disorder.

I have heard from many West Virginians concerning both the need for counseling services as well as a number of health problems which they attribute to agent orange.

West Virginia has over 67,000 Vietnam-era veterans, and ranks second in the number of participants in the Vietnam war as a percentage of the male population. West Virginia ranked fifth in the number of participants as a percentage of the male population in World War II, first in the Korean conflict. West Virginians have traditionally served their country with pride in times of war and peace.

This measure before us today fulfills a commitment made to those veterans, and I urge its passage.

TRANSFER OF EXCESS VETERANS' ADMINISTRATION LANDS FOR STATE VETERANS' HOME USES

Mr. SASSER. Mr. President, I thank the distinguished chairman and ranking minority member of the Veterans Affairs Committee for their assistance in including this provision in the Veterans Affairs Committee amendment. The Veterans' Administration and State governments have a commitment to working together to provide adequate nursing home and domiciliary care to our Nation's veterans. I believe that allowing the Veterans' Administration to transfer title of its excess real property to State governments for the purpose of establishing a State veterans' nursing home or domiciliary care facility will allow this joint effort to progress more smoothly.

On September 22, the House of Representatives, with the very able leadership of Chairman SONNEY MONTGOMERY, passed unanimously H.R. 5411, which includes a provision—section 308—authorizing the transfer of Veterans' Administration excess land for the purpose of building a State Veterans' nursing home in Murfreesboro. State and Veterans' Administration officials in Tennessee stand ready to meet those needs.

This comparable Senate provision would, in effect, waive the General Service Administration excess property regulations in cases in which the Veterans' Administration finds it to be in the best interest of the U.S. Government and of our Nation's veterans. As the chairman stated, a current proposal in my home State of Tennessee is a perfect example of how this provision could work. The proposal is to tranfer 6 to 7 acres of excess land to the State of Tennessee of construction of the first State veterans' nursing home in Tennessee.

This excess land is part of the Alvin C. York Veterans' Medical Center in Murfreesboro. The York Medical Center serves a substantial portion of the State's veterans who are in need of long-term care and/or psychiatric care.

The York Medical Center is currently operating 179 intermediate medicine beds and only 48 nursing home beds. The proposed plan for the new State nursing home would add 120 long-term care beds. This additional facility on the Murfreesboro Medical Center premises would bring the Veterans' Administration closer to fully meeting the needs of veterans. The facility would be constructed and operated by the State of Tennessee in keeping with the provisions of the Veterans' Administration State Home Program. The State veterans' administration has applied for a veterans' administration construction grant. However, the State must have title to the property before the grant can be awarded. We hope that construction of this facility can begin in early 1989.

The proposal enjoys broad support in the State, Mr. President. Governor Ned McWherter has signed authorizing legislation into law, and the State legislature has appropriated start up money for the Tennessee State Veterans' Home Board and the necessary State matching funds for this facility.

The Disabled American Veterans, the American Legion, and the Veterans of Foreign Wars Organization, in Tennessee and other veterans groups have urged action on the proposal. The Tennessee Veterans' Administration enthusiastically supported the nursing home proposal, and the entire State congressional delegation has worked closely with Tennessee Veterans' Adminstration official on this matter. I would especially like to commend Congressman BART GORDON for his untiring work in this project.

Mr. President, as chairman of the Subcommittee on Government Efficiency, Federalism, and the District of Columbia, I am always encouraged when we can find ways to improve intergovernmental coordination which works to the advantage of all concerned—particularly the taxpayer. I believe that the transfer of excess Veteran's Administration property to States so that veterans can be better served as a very meritorious proposition. On behalf of the more than 500 thousand veterans in Tennessee who will benefit directly or indirectly from this project, I urge my colleagues to support this provision of the committee amendment.

Mr. DOLE. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I yield.

Mr. DOLE. Do we have a time agreement on the flight training amendment?

Mr. CRANSTON. Yes, we do—a half hour equally divided.

Mr. DOLE. And that will be the only vote on this bill?

Mr. CRANSTON. I believe so—and that will come up first, I trust.

AMENDMENT NO. 3722

(Purpose: To amend titles 38 and 10, United States Code, to provide veteran's educational assistance benefits for flight training)

Mr. DASCHLE. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. FORD, Mrs. KASSEBAUM, Mr. KERRY, Mr. MITCHELL, and Mr. BINGAMAN, proposes an amendment numbered 3722.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, between lines 7 and 8, insert the following:

SEC. 325. EDUCATIONAL ASSISTANCE FOR FLIGHT TRAINING.

(a) THE NEW GI BILL.—(1) Section 1434 is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) The Administrator may approve the pursuit of flight training by an individual entitled to basic educational assistance under this chapter if—

"(A) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(B) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license; and

"(C) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

"(2) This subsection shall not apply to flight training that commences on or after October 1, 1993.".

(2) Section 1432 is amended by inserting after subsection (c) the following new subsection:

"(d)(1) Notwithstanding subsection (a) of this section, each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 1434(d) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay.

"(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Administrator has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

"(3) The number of months of entitlement charged in the case of any individual for a program of education described in paragraph (1) of this subsection shall be equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such program by the monthly rate of educational assistance which, except for paragraph (1) of this subsection, such individual would otherwise be paid under subsection (a)(1), (b)(1), or (c) of section 1415 of this title, as the case may be.".

(b) THE SELECTED RESERVE EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 2136 of title 10, United States Code, is amended by adding the following new subsection:

"(c)(1) The Administrator of Veterans' Affairs may approve the pursuit of flight training by an individual entitled to educational assistance under this chapter if—

"(A) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(B) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license; and

"(C) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

"(2) This subsection shall not apply to flight training that commences on or after October 1, 1993.".

(2) Section 2131 of such title is amended—

(A) in subsection (b), by striking out "Each" and inserting in lieu thereof "Except as provided in subsection (d), each"; and

(B) by adding at the end the following new subsection:

"(d)(1) Each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 2136(c) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay.

"(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Administrator has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

"(3) The period of entitlement of an individual pursuing a program of education described in paragraph (1) shall be charged with one month for each $140 which is paid to that individual as an educational assistance allowance for such program.".

(c) Evaluation of Providing Assistance for Flight Training.—(1)(A) The Administrator of Veterans' Affairs shall conduct an evaluation of paying educational assistance for flight training under chapter 30 of title 38, United States Code, and chapter 106 of title 10, United States Code.

(B) The evaluation required by subparagraph (A) shall be designed to determine the effectiveness of the provision of educational assistance referred to in such subparagraph in preparing the recipients of such assistance for recognized vocational objectives in the field of aviation.

(2) Not later than January 31, 1993, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation required by paragraph (1). Such report shall include:

(A) Information, separately as to payments made under chapter 30 of title 38, United States Code, and payments under chapter 106 of title 10, United States Code, regarding—

(i) the number of recipients paid educational assistance allowances for flight training;

(ii) the amount of such assistance;

(iii) the amount paid by the recipients for such training;

(iv) the vocational objectives of the participants; and

(v) the extent to which the training (I) assists the participants in achieving employment in the field of aviation, or (II) was used only or primarily for recreational or avocational purposes.

(B) Any recommendations for legislation that the Administrator considers appropriate to include in the report.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on September 30, 1989.

Mr. DASCHLE. Mr. President, the amendment we are offering today is quite simple. It provides flight training benefits to eligible veterans under the new GI bill.

This amendment addresses two major concerns facing our Nation—veteran unemployment and pilot shortages. I believe it addresses these concerns in a reasonable, cost-effective manner.

There is a significant need to expand employment opportunities currently available for veterans. It is a national tragedy that 1 of every 3 homeless people on the streets is a veteran. Lack of adequate job training is one of the primary contributors to this tragedy.

This flight training amendment is certainly not intended to be a panacea for addressing veterans' employment needs. But commonsense dictates that if we do a better job of matching the skills and interests of our veterans with vocations currently in demand, we will reduce the number of veterans unable to find jobs. That is why I believe the new GI bill can be strengthened by authorizing flight training as benefits.

As a former chairman of the House Veterans' Affairs Subcommittee on Education, Employment and Training, I presided over hearings where time and again we were told that veterans do not just concern themselves with employment but with what kind of employment they can secure. Veterans are looking for opportunity, diversity, and quality, not just statistical employment.

We are trying to address that in this amendment. But once in a while we meet a need with another need and get a solution, and I really believe that may be the case here.

I know my colleagues are aware that America is facing a serious pilot shortage. The Future Aviation Professionals of America [FAPA] quantified part of that shortage. FAPA states that in the next decade, America will need to fill approximately 32,000 jet pilot positions and up to 30,000 nonjet regional airline pilot positions.

This demand for pilots cuts across all segments of the aviation industry. The University of North Dakota's Center for Aerospace Sciences estimates that by the year 2010, 240,000 pilot positions will need to be filled. The majority of these openings will be for commuter pilots, not airline captains.

Similarly, the Aircraft Owners and Pilots Association has stressed that the Nation's 80,000 to 120,000 nonairline positions—such as air ambulance pilots, crop dusters, and corporate pilots—are facing the same shortage as the rest of the industry.

As soon as 1992, AOPA reports, current efforts to train commercial and instrument pilots will leave us with a shortfall of over 4,000 pilots.

The pilot shortage has been caused by a number of factors. A review of pilot training over the last 15 years tells part of that story. Student pilot starts have dropped by 30 percent. Instrument rating issuances are down 49 percent, and commercial pilot certificates issues are down a staggering 58 percent.

These dramatic decreases in pilot training coincide with an 11-percent increase in the average age of commercial pilots. Within the next 10 years, we can expect to lose nearly 2,000 pilots annually due to retirement.

These statistics add up to one indisputable conclusion—America is faced with a pilot shortage of drastic proportions. The problem is exacerbated by the fact that current methods of training pilots simply cannot meet this demand. A reasonable response to this growing problem is needed.

To address the increasing demand for qualified pilots, some airlines have taken it upon themselves to establish training programs that will, in conjunction with 4-year college degree programs, train pilots to step directly from flight school into the cockpits of major airline jets.

While these efforts are certainly welcome in addressing the need for airline pilots, they cannot meet the current shortage for three reasons:

First, these programs are in their infancy. They cannot be expected to produce pilots at a rate that will meet demand.

Second, the lack of availability of such instruction nationwide will prohibit individuals in certain parts of the country—especially rural areas—from participating. This situation creates an unfortunate geographic bias against veterans in these areas, and unnecessarily limits the pool of people from which we draw qualified pilots.

Furthermore, the pilot shortage, as noted earlier, effects all aspects of the aviation community. From jet airline pilots to crop dusters, we need pilots to fill many diverse flight vocations. The type of training provided by professional flight programs in conjunction with college degree programs is simply not geared to addressing the varied occupational demands of the pilot shortage.

Finally, with price tags of $23,000 to $46,000, the cost of these programs will be prohibitive for many veterans. According to the Aircraft Owners and Pilots Association, the more traditional means of training pilots range in cost from $12,500 to $15,000.

That is why this amendment is important. We authorize training that must meet the same FAA standards required of all flight programs, but we enable veterans to use the training methods that are available to them by region, and the types of training that will address all aspects of the pilot shortage, not just one. Our amendment offers a comprehensive approach to this extensive problem at a cost that can be realistically afforded by most veterans.

In the past, the concern has been raised that flight training benefits have allowed individuals to use the GI bill for recreational purposes. Extreme care has been taken in crafting this amendment to prevent such use of the benefit. This amendment contains the same protections offered in the bill I introduced earlier this Congress.

Specifically, it requires veterans to have their private pilot's license prior to being deemed eligible for these benefits. This ensures commitment of personal time and approximately $3,500 of a veteran's own money before the veteran is allowed to use the flight training benefits.

Second, flight schools participating in this program must meet Federal Aviation Administration standards, as well as the requirements of their State approving agencies. The tests and training standards are the same regardless of whether flight training is taken from a 4-year degree program or a fixed base operator.

Third, the training a veteran is taking must be geared toward the attainment of a vocational objective in the field of aviation. The veterans' flight training curriculum will prepare them for jobs that we know are available.

In addition to these safeguards against misuse of flight training benefits, the amendment stipulates that flight training benefits under the GI bill will no longer be authorized for training that is recognized as being ancillary to a vocation. This program will not encourage the use of GI bill benefits for purposes other than aviation vocations.

This amendment establishes flight training as a 4-year test program. An evaluation will be conducted to ascertain the utility of the benefits by the end of the program.

Finally, the percentage of tuition that must be paid be the veteran has been increased by lowering the Government's reimbursement from 75 to 60 percent. With the average cost of the flight training authorized under this amendment ranging between $12,000 and $15,000, the training will not exceed the general benefit cap of $10,800 under the new GI bill.

Even with these steps to prevent against recreational use of this program, opponents will tell you that more safeguards are needed. In fact, they will suggest that the only type of flight training that should be authorized is the previously mentioned limited and costly training offered in conjunction with 4-year college degrees.

Opponents of this amendment will tell you that general aviation flight schools should not be allowed to participate in flight training benefits. They offer two reasons:

First, opponents of this amendment maintain that general aviation flight schools are least likely to prepare a pilot for a career with a major airline. As I mentioned earlier, however, this argument is irrelevant, as the pilot jobs in demand will cover all aspects of the industry. All instruction options made available through our amendment will provide valuable and needed training.

But perhaps more importantly, all flight schools, including general aviation flight schools, must meet FAA standards for training. Time has proven that general aviation flight training has prepared pilots for all flying jobs—from major airlines to commuter flights to air ambulances.

The second concern raised is that general aviation flight training will result in the abuse of these benefits. This contention is at the crux of our opponents argument, and is based largely on the 1979 GAO report recommending the termination of flight training benefits.

It is important to note, however, that by the GAO report's own conclusions, that document is inapplicable to this amendment.

The 1979 report held that, "The number of veterans who have already received flight training under the GI bill substantially exceeds the number of pilot jobs presently available through 1985." While there may have been a shortage of pilot jobs in 1979, we cannot meet the demand for pilots today.

This distinction is critical. The fact that the pilot market was apparently saturated in 1979, as opposed to today's inexhaustible demand for pilots, renders the conclusions of the report invalid for the purposes of this amendment.

But even if we were to grant some validity to the 1979 GAO report, its findings were reached through methods that completely ignored the unique nature of a career in aviation.

The GAO reviewed IRS tax returns for 188 veterans who participated in flight training, and if they had not declared their occupation on their tax forms as "pilot" or "flight instructor," it was assumed they had abused their benefits.

This conclusion is flawed due to the unique nature of securing a job as a pilot. To obtain a commercial pilot's license, a pilot needs 250 hours of flying time. But, to be considered qualified to fly for many aviation jobs, a pilot with a commercial license will often be required to have more than 1,000 hours of flight time, while for major airlines, nothing less than 1,500 will be acceptable.

The accumulation of those 1,000 or more hours of flight time will require different amounts of time for different veterans. A veteran's inability to call himself a professional pilot during this period does not mean that he is abusing his GI bill benefits. It very likely means that he has another job and must accumulate flying hours on the side. This simple reality of aviation vocations is not accounted for in the GAO report.

The GAO report included no direct contact with veterans who had participated in the program. There was no follow-up to ascertain whether or not veterans were actually pursuing aviation careers.

For these two reasons—a methodology that ignored the unique nature of aviation vocations and data that is completely outdated by the circumstances of 1988—the 1979 GAO report should not be relied on for making a decision on this amendment.

You will undoubtedly hear concerns raised that flight training benefits in the past were excessively costly. I am pleased to report that the official CBO estimate of the cost of the training authorized in this amendment is $1 million annually.

I ask unanimous consent that a copy of the CBO cost estimate be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 29, 1988

1. Bill number: Amendment to be offered by Mr. Daschle to The Veterans' Benefits and Programs Improvement Act of 1988, S. 2011.

2. Bill title: None.

3. Bill status: Proposed floor amendment to S. 2011, the Veterans' Benefits and Programs Improvement Act of 1988.

4. Bill purpose: To amend title 38, United States Code, and title 10, United States Code, to provide for educational assistance for certain flight training under the Montgomery GI Bill (chapter 30).

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1989	1990	1991	1992	1993
Budget Authority	(1)	1	1	1	1
Estimated Outlays	(1)	1	1	1	1

[1] Less than $500,000.

The costs of this amendment would fall within budget function 700.

Basis of estimate: This amendment would allow individuals entitled to educational assistance under the Montgomery GI Bill, who have a private pilot's license and who meet the medical requirements necessary for a commercial pilot's license, to pursue flight training at approved institutions. The training must be accepted, by the Veterans'

Administration (VA), as necessary for a vocation in the field of aviation. Flight trainees would be reimbursed at 60 percent of the flight school's established charges for tuition and fees. Only people who participate in flight training between September 30, 1989 and October 1, 1993 would be eligible for this benefit. Under current law, service members are entitled to a total benefit that equals a fixed monthly educational assistance benefit paid for 36 months (or 24 months for two year enlistments). No monthly benefit payment may exceed the fixed amount. This amendment, however, eliminates the ceiling on monthly payments for flight training. The amendment also requires the VA to evaluate the effectiveness of providing flight training assistance in preparing recipients for work in the field of aviation.

This estimate is based on a 1980 VA study of flight training by post-Korean conflict and Vietnam era veterans and in-service personnel and on previous CBO analyses. We assume that this amendment would not increase the number of service members who sign up for pay reductions for future benefits under the new GI bill, but would cause more service members who are already eligible to use their benefits.

This amendment would cause an estimated 200 to 250 eligible service members to use their GI bill benefits in fiscal year 1990. The number would increase by 1993 to between 400 and 450. These rising numbers result from the increasing number of service members who will be eligible under current law for Montgomery GI Bill benefits. The average yearly flight training benefit is assumed to equal $2,250 in 1990 and is adjusted through 1993 for projected inflation. We assume that these benefits will be paid out of the basic entitlement.

We also assume that few Reserve members would take advantage of flight training benefits due to the significant cost of flight training relative to the Reserve's monthly educational benefit level of $140. Based on conversations with personnel at the VA, we expect the cost of the VA study on the effectiveness of flight training would not be significant.

6. Estimated cost to State and local government: The Congressional Budget Office has determined that the budgets of state and local governments would not be directly affected by enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: On August 17, 1987 the Congressional Budget Office completed an estimate of H.R. 2950 which also would have added flight training under the Montgomery GI Bill.

9. Estimate prepared by: Richard Curley.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Mr. DASCHLE. Mr. President, before I conclude, let me emphasize once more: This is a test. During the next 4 years, we will have the first opportunity in more than a decade to evaluate the new GI bill and its application to aviation. I sincerely hope that no one in this body would oppose the opportunity to learn more.

With its built-in safeguards, let us determine the value of this program. Should we reject this amendment, we may never know. Should we pass it, we just may be providing veterans with great new career opportunities while providing the airline industry with some of the best pilot's to be found in the country.

This amendment is a workable and commonsense approach to solving two serious national problems. I urge my colleagues to support this effort.

I retain the remainder of my time and again cite the important contribution that has been made by the chairman of the Aviation Subcommittee, and I thank as well the chairman of the Veterans' Affairs Committee for his support of this legislation.

I yield to the chairman of the Veterans' Committee, the distinguished chairman, at this point for any comments that he might have.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from California has 15 minutes.

Mr. CRANSTON. Mr. President, I can accept the amendment of the Senator. Unfortunately, I think it cannot be accepted on the other side.

ELIGIBILITY FOR FLIGHT TRAINING UNDER THE MONTGOMERY GI BILL

Mr. President, I am pleased to support the amendment to S. 2011 as proposed by the distinguished Senator from South Dakota [Mr. DASCHLE] and others to permit veterans and members of the Selected Reserve to pursue commercial pilot training at flight schools under the Montgomery GI bill. Senator DASCHLE has worked closely with me in making several modifications to his original bill (S. 820) for purposes of this amendment, and I thank him for his cooperation in this regard.

PROGRAM DESCRIPTION

Senator DASCHLE'S amendment would amend sections 1432 and 1434 of title 38 and sections 2131 and 2136 of title 10, United States Code, so as to enable MGIB participants to use their educational assistance benefits for flight training if such training is necessary for the attainment of a recognized vocational objective in the field of aviation. The MGIB participants are already eligible for flight training under section 1673(b) when such training is pursued at an institution of higher learning for credit toward a standard college degree. Under the Daschle amendment, which would permit individuals to train at private flying schools, an individual would be required to possess a valid private pilot's license and meet the medical requirements necessary for pursuit of a commercial pilot's license. In addition, the flight school courses would have to meet the Federal Aviation Administration standards and be approved by the FAA and the State Approving Agency.

Benefits would be paid at the rate of 60 percent of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight courses are required to pay. Computation of MGIB educational entitlement used would depend on the educational assistance program. In the case of an individual receiving training under chapter 30 of title 38, United States Code, the number of months of entitlement charged would be computed by dividing the total amount of educational assistance paid for flight training by the participant's normal monthly rate of educational assistance. A member of the Selected Reserve pursuing flight training under chapter 106 of title 10 would be charged 1 month of entitlement for each $140 paid to that individual.

BACKGROUND

Mr. President, before discussing the Daschle amendment, let me briefly provide some historical background on the flight training program. Anyone who is familiar with VA-funded flight training knows that four administrations recommended the termination of GI bill benefits for flight training under the Vietnam-era GI bill on the ground that this type of training does not lead to jobs for the majority of trainees and that flight training courses tend to serve avocational, recreational, and personal enrichment objectives, rather than basic employment objectives. Prior to 1979, our committee did not believe that adequate justification was available to substantiate that assertion.

In 1979, on behalf of the committee, I requested the Comptroller General to conduct a survey in order to obtain a factual basis on which to evaluate VA benefits for flight training. In the committee's view, the Comptroller General's August 24, 1979, report, entitled "GI Bill Benefits for Flight Training and Correspondence Training Should Be Discontinued," did indeed show a need to modify the program, but did not provide sufficient justification to terminate GI bill benefits for flight training.

Thus, in 1980, in Public Law 96-466 Congress enacted measures which I proposed to eliminate abuses in the flight training program. We strengthened the so-called 50-percent employment rule—requiring a 50-percent job placement requirement for VA-funded vocational programs including flight training—and reduced from 90 to 60 percent the VA's share of the cost of a course of flight training while making veterans enrolled in flight training programs eligible for VA education loans.

However, there has been no opportunity to determine if the modifications the Congress made in Public Law 96-466 worked. In 1981, in partial fulfillment of cost-savings requirements placed on the House and Senate Veterans' Affairs Committees by reconciliation instructions in the congressional budget resolution for fiscal year 1982, the committees proposed, and Congress enacted in August 1981 in the

Omnibus Budget Reconciliation Act (Public Law 97-35), provisions to terminate flight training benefits under the GI bill except for training taken for credit in pursuit of a standard college degree. Hence, the 60-percent reimbursement rate was in effect for only 11 months.

NEED FOR COMMERCIAL PILOTS

Mr. President, there is absolutely no doubt that, for many veterans, flight training with GI bill benefits could indeed be a legitimate vocational objective. For large numbers of veterans with backgrounds in military or naval aviation, pursuing flight training could facilitate a direct and successful transition from a military occupational specialty to a civilian job. Although many of the flying hours required for a commercial license are logged on active duty, a recently discharged Air Force pilot is still required to obtain the specific certification or rating that will enable him or her to fly for a commercial airline.

Deregulation of the airlines industry in 1978 has created a significant need for professional pilots, and making flight training available under the MGIB could help address the need—as projected by the Future Aviation Professionals of America—of about 32,000 airline jet pilots and 10,000 to 20,000 nonjet regional airline pilots in the 10-year period from 1987 to 1997. The July issue of Aviation Daily reported that a record number of pilots will be hired this year and the July 1988 report by the Office of Technology Assessment, "Safe Skys for Tomorrow," has confirmed that this trend will continue into the next decade.

This growing demand for commercial pilots will help ensure that those pursuing flight training over the next several years will have the opportunity to use their training for vocational purposes.

DASCHLE AMENDMENT SAFEGUARDS

Mr. President, the Daschle amendment contains an important requirement—possession of a valid private pilot's license—that was also required under the Vietnam-era GI bill to help ensure that MGIB participants using their benefits for flight training will have vocational objectives. Based on the written testimony of the Aircraft Owners and Pilots Assocation [AOPA] at our committee hearing on May 25, the investment needed to obtain a valid private pilot's certificate—from that individual's own resources—is currently around $3,500.

In addition, under the amendment the reimbursement rate would be 60 percent, not the 75 percent originally proposed in S. 820, of the established charges for tuition and fees. As I noted earlier, 60 percent was the reimbursement percentage in effect when flight training under the Vietnam-era program was repealed in 1981. We did not have sufficent experience with the use of the flight training program under the 60-percent reimbursement rate during the 11 months it was in effect on which to make a judgment either to increase or decrease that percentage.

Mr. President, I believe it is important to recognize that the 90-percent reimbursement rate in effect at the time of the Comptroller General's study in 1979 did not require the individual to make a substantial personal investment in his or her training costs to become a commercial pilot. However, a 60-percent reimbursement rate does require a very substantial personal investment on the part of the participant and, thus, is much more likely to screen out individuals who are not serious about this vocational pursuit. In this regard, I would note that, according to the AOPA, the training costs for a commercial pilot may easily exceed $10,000 and the training for an instrument rating—desirable for commercial pilots—costs approximately $3,500.

In addition, the amendment would protect against abuses in two other ways. First, it would delete language that was included in Senator DASCHLE's original legislation on this subject, S. 820, and in the Vietnam-era GI bill, authorizing the use of GI bill flight training benefits for a purpose "generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation." This language would allow pursuit of flight training for purposes other than training for a recognized vocational objective in the field of aviation. For example, the training would be available to individuals engaged in professions such as medicine, law, sales, engineering, or insurance who cover a large territory and claim that being able to fly themselves around would enhance their productivity.

In my view, it would be more difficult to be assured that individuals with career goals outside the field of aviation would be using their training for vocational purposes than it would be with respect to those with declared vocational objectives in this field. Thus, I agree with the statement of AOPA President John L. Baker who, in his September 13, 1988, letter to me asserted that Senator DASCHLE's proposal "guards against program abuse by eliminating ancillary training."

Second, the amendment would authorize flight training only for those who begin their training during the 4 years beginning September 30, 1989, and ending September 30, 1993. It would also require the Administrator of Veterans' Affairs to submit to the Committees on Veterans' Affairs no later than January 31, 1993, an evaluation of the MGIB flight training program's effectiveness in preparing participants for a recognized vocational objective in the field of aviation. I believe this approach would provide the Congress with objective data on which to base further policy decisions in this program.

CONCLUSION

Mr. President, I believe that veterans of the All-Volunteer Force and members of the Selected Reserve are deserving of having a good crack at the professional pilot positions that will be opening in the next decade. This amendment would help ensure that they have that opportunity through commercial pilot training in a way that is designed to protect the integrity of the MGIB.

Mr. President, I urge the adoption of this amendment.

Mr. DASCHLE. I thank the distinguished chairman for his kind remarks and accepting the amendment.

Let me also add as a cosponsor, and proudly so, the distinguished senior Senator from the State of Hawaii, Senator INOUYE. He has always been a strong enthusiast of aviation and veterans' issues, and I am delighted to have him as a cosponsor.

At this time if the distinguished Senator from Kentucky has any comments he would like to make, I yield to him for those remarks.

Mr. FORD. Mr. President, could I have 2 minutes?

Mr. DASCHLE. I yield the Senator 2 minutes.

Mr. FORD. I thank my distinguished friend.

Mr. President, this is an extremely important bill. Minor though it may seem, it gives our veterans a first crack and opportunity to do a job with substance.

We find veterans are statistics. But here our institutions of higher learning will need 240,000 pilots within the next 2 decades. I think more schools ought to have the ability to train and if this test period works we will find many institutions of higher learning using this as a factor in the future.

As my distinguished friend said, not only does this provide jobs for pilots, but it also provides jobs for other entities as it relates to aviation.

What we see here is deregulation of the aviation industry. We see the growth in the aviation industry. We see need for training, for new procedures.

And I think the veterans need the first crack.

So, Mr. President, I am delighted to support this and I really cannot understand why anyone would want to object to an amendment that has the merits that this particular amendment has.

Maybe as we travel on in the next 30 minutes we will find that there is very little objection to this amendment, and I congratulate my good friend and thank him for the 2 minutes.

Mr. DASCHLE. I thank the distinguished Senator for his comments and for his support, and I retain the remainder of my time.

I ask the President how much time the Senator from South Dakota has remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. DASCHLE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I yield a few minutes to my colleague from South Carolina, the senior member of the Veterans' Affairs Committee on our side.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise to speak in opposition to the amendment offered by the distinguished junior Senator from South Dakota, Senator DASCHLE.

The amendment we are considering today would authorize veterans to use their GI bill benefits to pursue flight training. This is not a new issue. Years ago, the use of GI bill benefits for flight training was authorized by law. However, many who took advantage of this law abused it, by using flight training for recreational purposes. Accordingly, Congress wisely saw fit to end this program in 1981. We should not reinstitute this program now.

Mr. President, the General Accounting Office issued a report in August 1979, which recommended that GI bill benefits for flight training be discontinued. The GAO's review of a random sample of veterans who completed flight training showed that only about 16 percent of flight-trained veterans had full-time jobs relating directly to their training. In addition, we have no definitive information from studies or other sources which states categorically that flight training should be reinstated.

Mr. President, I believe the evidence speaks for itself. If the program had proven itself worthy, then it would be appropriate to authorize it again. However, the program did not meet the test. It is just not wise to again authorize flight training.

In addition, the Veterans' Administration opposes this amendment for many of the same reasons. They are the ones who administered the flight training program in the past and they should certainly be looked to for guidance. They, too, do not think it is wise to reinstate this program.

Mr. President, just to quote one line here from the Veterans' Administration. This is a letter written to the distinguished ranking member, Senator MURKOWSKI, and signed by Mr. Turnage, the VA Administrator.

> The Veterans' Administration strongly opposes enactment of this proposed amendment as it affects the Montgomery GI Bill-Active Duty (Chapter 30) program for the same reasons as stated in our August 3, 1987, report to you.

Mr. President, I also wish to quote the Sacramento Aero Services, Inc. They said this about it:

> The great majority of money that has been expended on these programs has not gone to produce employment. It has mainly produced training merely for the personal satisfaction and personal use of the trainee. The goal of GI bill assistance is gainful employment for the veteran.

And, Mr. President, the Comptroller General made a statement. He said:

> Over 1 billion dollars in educational assistance has been paid by the Veterans' Administration to veterans enrolled in flight or correspondence training since the current GI bill was enacted in 1966. However, GAO's review of a random sample of veterans who completed such training during a recent 5-year period showed that only about 16 percent of flight-trained veterans and 34 percent of correspondence-trained veterans have full-time jobs related directly to their training.

Mr. President, I ask unanimous consent that the letter from the Administrator of the Veterans' Administration, Mr. Turnage, the letter from the Sacramento Aero Services, and a report by the GAO be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
Washington, DC, September 22, 1988.

Hon. FRANK H. MURKOWSKI,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: I am pleased to respond to your request for the views of the Veterans Administration on a proposed amendment to S. 2011 which would provide Montgomery GI Bill education benefits for vocational flight training.

The Veterans Administration strongly opposes enactment of this proposed amendment as it affects the Montgomery GI Bill-Active Duty (chapter 30) program for the same reasons as stated in our August 3, 1987, report to you on S. 820, a bill "To amend titles 38 and 10, United States Code, to provide veteran's educational assistance benefits for flight training." We defer to the views of the Department of Defense on the merits of this proposal with regard to the Montgomery GI Bill-Selected Reserve (chapter 106) program.

Both a 1978 VA report, prepared pursuant to Public Law 94-502, concerning vocational objectives under the noncontributory GI Bill and a 1979 GAO survey, which studied a representative sample of GI Bill trainees who had completed flight training or correspondence courses, clearly reflected that flight training did not lead to jobs for the majority of trainees. These reports found that the courses tended to serve avocational, recreational and/or personal enrichment goals, rather than basic employment objectives. Our reports on S. 820 noted that the provisions of that bill were substantially similar to those contained in the noncontributory GI Bill which resulted in quite serious problems and abuses.

Substantively, the proposed amendment to S. 2011 differs from S. 820 in four areas: (1) educational assistance would not be allowed for flight training ancillary to the pursuit of a vocation other than aviation; (2) the amount of educational assistance allowance payable for pursuit of such training under chapter 30 would be reduced from 75 to 60 percent of the amount of the tuition and other fees charged by the institution for the flight training; (3) educational assistance would not be payable for flight training commencing after September 30, 1992; and (4) the VA would be required to evaluate the effectiveness of providing such assistance for flight training during the "test" period. We do not view these differences as likely to produce results materially different from the unfavorable experience with such training under the Vietnam Era GI Bill.

The proposed exclusion of education benefits for ancillary flight training purposes, in our view, would have only slight effect in deterring program abuse. We note, for instance, that neither of the previously mentioned reports on flight training under the Vietnam Era GI Bill indicates that the use of benefits for avocational or recreational purposes, rather than the vocational purposes intended, was exclusive to, or even more prevalent among, those who claimed benefits for flight training ancillary to pursuit of a vocational objective other than aviation.

Moreover, the ancillary flight training exclusion would, as a practical matter, be unenforceable. Obviously, bona fide reasons exist for an individual in an established full-time occupation to seek a change of occupation to one in the aviation field. Nevertheless, in order to distinguish such case from an attempt to circumvent the ancillary training exclusion, the VA would be placed in the position of having to question the claimant's motives and intuit his or her actual intent in requesting training assistance for a vocational flight objective. Not only would such action be administratively burdensome, but it also would create an adversarial climate, produce highly subjective decisions, and ultimately prove unproductive. In short, we see no reason to believe that we would be in any better position to prevent use of benefits for such purposes than for avocational or recreational purposes, usage prevalent under the Vietnam Era GI Bill.

Likewise, we view the proposed reduction in the rate of benefit reimbursement for flight charges as having no significant effect on curbing potential program abuse. Reimbursement at 60 percent of flight training costs still constitutes a quite substantial subsidy for individuals who are interested solely in avocational or recreational flying. It would seem, moreover, that the reduced benefit rate would place a far lesser burden on an individual who has an established full-time occupation and seeks avocational flying opportunities, for example, than on an individual who needs flight training to obtain a bona fide vocational flight objective. Thus, the reduction could prove counterproductive to its intended purpose.

With regard to the proposed VA evaluation of the flight training program which the amendment would require to be completed by July 1, 1992, the time period provided is probably too short. In order to complete a report by July 1, 1992, the VA would have to limit its sample to those who completed their training by the end of 1991. Twenty-seven months would be insufficient time to prepare many flight school students to become pilots.

It was our experience in administering the Vietnam Era GI Bill that many trainees in northern states completed little or no flight training during the colder half of the year. Further, it must be considered that many potential pilots may require not only a commercial pilot course, but also an instrument rating, transport pilot course, multi-engine rating, etc., in order to accomplish the desired vocational objective. Since these students would still be in training at the time of the evaluation, we would not have reliable data on the true percentage of course completers pursuing employment in the field for which they trained and, thus, would not be able to determine program effectiveness or discern any pattern of abuse.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to your Committee and that enactment of this amendment to S. 2011 would not be in accord with the program of the President.

Sincerely,

Thomas K. Turnage,
Administrator.

Sacramento Aero Services, Inc.,
Sacramento, CA, June 18, 1988.

Senator Murkowski,
U. S. Senate, Washington, DC.

Dear Sir: I am writing regarding the "GI Bill" now being considered by the Veterans' Affairs Committee, particularly the portion which proposes to provide educational assistance for flying training.

I am opposed to that provision.

Having worked in the aviation training business for 30 years, currently as airport manager and director of a large flying training operation, I have witnessed previous GI Bill training programs. The great majority of money that has been expended on these programs has not gone to produce employment. It has mainly produced merely for the personal satisfaction and personal use of the trainee. The goal of GI Bill assistance is gainful employment for the veteran.

In this day of record budget deficits, flight training subsidies are not a wise investment of taxpayer's money.

Sincerely,

Russell W. Kilmer.

GI Bill Benefits for Flight and Correspondence Training Should Be Discontinued

Over 1 billion dollars in educational assistance has been paid by the Veterans Administration to veterans enrolled in flight or correspondence training since the current GI bill was enacted in 1966. However, GAO's review of a random sample of veterans who completed such training during a recent 5-year period showed that only about 16 percent of flight-trained veterans and 34 percent of correspondence-trained veterans have full-time jobs related directly to their training.

Employment survey reports submitted to VA by vocational/technical schools indicate that in general over 50 percent of flight and correspondence course graduates have found training-related employment. However, these reports provide no assurance that most veterans obtained full-time employment in training-related occupations. GAO findings support proposed legislation submitted by VA to terminate GI bill benefits for flight and correspondence training.

The Chairman, Senate Committee on Veterans' Affairs, asked GAO to survey a representative sample of veterans who had completed flight or correspondence courses to determine whether their full-time occupations were related to the training they had received under the GI bill.

TYPE OF FLYING INDICATED BY VETERANS WHO COMPLETED FLIGHT TRAINING

Type of flying	Number	Percent	Margin of error [1]
Business: Aeronautical occupation	[2] 39	15.6	4.5
Nonaeronautical occupation with flying in previous 6 months:			
Over 60 hours	10	4.0	2.4
Under 60 hours	21	8.4	3.4
Business and pleasure	5	2.0	1.7
Pleasure	142	56.8	6.1
No medical record	33	13.2	4.2
Total	[3] 250	100.0	

[1] Sampling error at 95-percent confidence level.
[2] Includes 18 veterans with military flying hours.
[3] Includes 47 veterans with military flying hours.

FAA did not have specific data on the extent to which veterans in the sample were actually employed full time as pilots or in other training-related occupations. However, we were able to combine the data from airman and medical certificates and medical certificate applications for the sampled veterans to estimate the number whose primary vocational pursuit was directly related to the flight training. We considered veterans to be full-time pilots if they (1) had a commercial or airline transport pilot certificate and a first- or second-class medical certificate, (2) indicated that their primary type of flying was for business, (3) had an aeronautical occupation (flying), and (4) had flown over 60 hours in the 6 months before applying for their most recent medical certificate.

Mr. THURMOND. Mr. President, in view of the past history of it, it is clear that this should not be reinstituted. They found it was not satisfactory and, therefore, it should be discontinued. I urge my colleagues to defeat this amendment.

Mr. MURKOWSKI. Mr. President, I thank my friend, the senior Senator from South Carolina.

Mr. President, I think it appropriate to address the real issue. That is the question of whether, the amendment by my friend from South Dakota is needed.

Mr. President, the amendment now before this body, which would provide Montgomery GI bill education benefits for vocational flight training, has a laudable goal. I believe it is intended to expand educational opportunities for veterans and address the pilot training needs of the aviation industry. I commend the authors of the amendment for their intentions.

Unfortunately, I do not believe the solution they propose will accomplish their goals. I fear their amendment is unnecessary, ineffective and wasteful.

I think it is evident that this body should reflect on the question of the necessity for this particular amendment, which I intend to move to table at a later time today. It is unnecessary because, in reality, veterans education benefits are available now, under current law, for pilot training if that training is part of a college-degree curriculm. Mr. President, right now, as we debate, there are veteran students receiving VA education benefits for pilot training in these programs. There is ample evidence the air transport industry recognizes the value of combining college and pilot training.

Obviously, the requirements for a commercial airline license include a good deal of education, as well. For example:

Northwest Airlines sponsors a pilot training program in cooperation with the University of North Dakota.

United Airlines and Southern Illinois University are developing a pilot training program built upon that university's 2-and-4-year degree program.

The pilot entry program of Eastern Airlines is associated with Louisiana Tech University as well as Miami Dade, San Jacinto and Aimes Community Colleges in Florida, Texas and Colorado.

The answer to my friend from Kentucky's question of need—and the question is a legitimate one—is that the need is being fulfilled already through the various training programs offered by various universities for which VA benefits are now available.

Mr. President, I ask unanimous consent to have printed in the Record a letter from the VA confirming that these programs either can be, or already are, appproved for veterans' benefits.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Veterans' Administration,
Washington DC, July 18, 1988.

Hon. Frank H. Murkowski,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

Dear Senator Murkowski: This is in response to your letter concerning the approval status of certain pilot training programs.

Currently, there is no statutory authority to approve a program of vocational flight training. However, there are numerous college degree programs that include pilot training as part of the approved course. The special condition upon which approval is contingent is that the pilot training portion of the program results in credit being earned toward a standard college degree.

The particular circumstances or conditions which have prohibited approval have generally been the fact that these programs have not met State Approving Agency criteria for inclusion in a degree program. That is, the pilot training portion of the training program has not been determined to be an integral part of a recognized college level degree program.

To determine the current approval status of the programs included in the Aviation Week and Space Technology articles we consulted with our Education Liaison Representatives (ELR) at the appropriate regional offices. Specifically, we asked the ELR's to review the current approval status for the programs you identified, and to report other approved degree programs that included pilot training as part of the curriculum.

Our Chicago office reported that Southern Illinois University is approved for a two-year degree in Aviation Flight and a four-year degree in Aviation Management. The two year program is designed to train pilots. An additional training program being developed with United Airlines has not yet been approved. Another two-year program is approved at Belleville Area Community College, Belleville, Illinois.

The training proposal by Ohio State University with United has not resulted in the approval of a new program. However, our regional office in Cleveland reports that both Ohio State University and Kent State University have bachelor degree programs approved in aviation. Both schools include options that train students to become commercial pilots. A two-year program is approved at Cuyahoga Community College in Cleveland.

Two schools located in the Denver area have approved pilot training programs. The Aims Community College program is designed for persons seeking employment with Eastern Airlines and includes two pilot training courses. Metropolitan State offers a B.S. Degree leading to the objective of Professional Pilot. Both schools use facilities at a local vocational flight school that has maintained its approval status with the state of Colorado.

The University of North Dakota's (UND) Center for Aerospace Science is approved for a broad range of courses in the aviation field. UND has two and four-year degree programs that include pilot training courses. The school's Masters Degree in Space Studies does not include pilot training. Our Fargo office reported that UND has not requested approval for a new training program offered in conjunction with Northwest Aerospace Training Corp.

Our regional office in St. Petersburg advised us that Miami-Dade has many two-year degree programs approved in Aviation Administration or Allied Studies. The option of Career Pilot is included in both programs. In addition, there are active pilot training programs approved at Florida Institute of Technology in Melbourne and at the main campus of Embry-Riddle Aeronautical University at Daytona Beach.

San Jacinto College in Houston is approved for a two-year Aeronautical Technology Degree option for Career Pilot. A four-year degree in Professional Aviation is approved at Louisiana Tech University. A separate two-year pilot training program is approved at Nicholls State University in Thibodaux, Louisiana.

We discussed the flight program at Parks College with our St. Louis and Chicago offices. Parks College is affiliated with St. Louis University, but is located in Cahokia, Illinois, a suburb of St. Louis. Parks College is approved for a B.S. Degree in Aeronautics and Airway Science. One of the options available is a program titled Aviation/Professional Pilot.

As you can see there are a variety of pilot training programs offered as part of college degree courses. We trust the information furnished will help you to assess the opportunities available to veterans desiring to use VA eduation benefits for careers in aviation.

Thank you for the opportunity to review this matter.

Sincerely yours,

R.J. VOGEL,
Chief Benefits Director.

Mr. MURKOWSKI. Mr. President, the amendment would be ineffective in meeting its goals. While I have no doubt some professional pilots trained in programs similar to those which would be provided by the amendment have had successful careers, they did so against formidable odds.

The training provided by the amendment is only distantly related to the skills required by an air transport pilot. It follows criteria established in the 1950's which have been outpaced by changes in air frame, engine, and electronic technologies.

Mr. President, another point that I think needs a clarification is that the amendment would provide benefits for training which could be provided in a single-engine trainer in a visual flight rules environment. Well, I spend a good deal of my time in the air, Mr. President. To quote one flight instructor, "Airliners are not flown solo and never have one engine." A July 13, 1988 article in Aviation Week observed:

> There is no way for an airline to verify accurately the logged times and quality of a pilot who has come up through the general aviation ranks as a flight instructor.

I grant that they can move beyond that stage, but it does require further a commitment of education and training to get beyond a private pilot's license.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of articles from Aviation Week describing the weaknesses of the system proposed by this amendment and the steps the air transport industry has taken to circumvent those weaknesses. Happily, the steps taken by the airlines result in training for which the VA can pay benefits under current law.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[Aviation Week & Space Technology, June 13, 1988]

PROJECTED COMMERCIAL PILOT SHORTAGE SPURS AB INITIO TRAINING DEVELOPMENT

(By Paul Proctor)

U.S. air carriers are developing more progressive and thorough pilot training programs and have started up pilot-training pipelines using regional airline partners to meet a forecasted demand for 42,000 qualified pilots over the next ten years.

New approaches to pilot training such as ab initio training, where qualified candidates with zero flight time are trained to air transport proficiency and seasoned in smaller regional airline aircraft, are already under way (AW&ST Nov. 9, 1987, p. 141). Other efforts seek to teach improved cockpit crew coordination to both new and experienced flight crewmembers and build on lessons learned in recent airline crashes. Researchers are also investigating problems caused by increasing cockpit automation.

A shift to contract training is occurring as major and regional airlines seek to reduce costs by eliminating training facilities and related overhead. The growth of smaller regional carriers is driving the construction of several simulators duplicating their aircraft types.

TRAINING MILESTONE

A training milestone was reached last week when the recommendations of a joint industry task force on flight crew performance were turned over to Allan McArtor, FAA administrator. He had called for such a task force in a meeting with airline chief pilots in Kansas City in summer, 1987. That session followed a series of operational incidents by Delta Air Lines pilots.

The task force report is expected to call for regulatory flexibility to meet modern training needs and recognize additional training experience gained through simulation. It also will call for most flight crew training and record keeping at commuter and regional airlines to be brought up to strict, major airline standards.

Research aimed at providing improved and more efficient pilot training is being conducted on both a broad and narrow basis. NASA-Ames is funding a three-year study by University of Miami professor Earl Wiener on the problems created by highly automated cockpits.

Wiener, an industrial psychologist and human factors expert, said automated cockpits, also known as glass cockpits because of their multiple cathode ray tube displays, require a new look at traditional training and flight-check methods. "The skills of flying a glass cockpit are more strategic, more cerebral," than those required to fly conventional aircraft, Wiener said. "The computer is both an aid and a hindrance." Greater cockpit management expertise is required in addition to flying skills as there are more alternatives the crew can select, he said.

Training and flight-checking the crew of a modern aircraft should now include the completion of such basic maneuvers as a direct descent to a navigation point and crossing it at a certain altitude. More complicated scenarios would include the loss of automation after initiation of an approach or go-around maneuver, Wiener said.

Wiener noted that any training syllabus for a highly automated aircraft should be flexible enough to accommodate a mix of learning speeds. A characteristic of crew training in high-technology cockpits is a wider variation between the slow- and high-speed learners than is experienced in conventional aircraft, he said.

United Airlines' progressive cockpit resources management program is being updated. It was developed by CRM, a joint venture of United and Scientific Methods, Inc., an Austin, Tex., company.

According to Robert Blake, SMI chairman, the United course concentrates on improving the interrelationship between crewmembers. It is based on similar SMI programs designed to increase command efficiency on the surgical amphitheater floor and in nuclear power plants, Blake said.

The purpose of the training is to increase cockpit effectiveness and safety by teaching crewmembers to attack problems, dig out the relevant facts and analyze them as a team. Then they develop the best possible solution. Too often an assigned cockpit expert makes an important decision prematurely, without considering all the options, according to Blake.

WIND SHEAR PROGRAMS

United pilots undergo CRM-designed simulator training to improve their cockpit resource management skills as part of their initial and recurrent training programs.

Simulator sessions are videotaped so that flight crews can later review their performance.

The flexibility of simulator computer software will allow the demonstration of more and more flight problems during simulator sessions, according to Albert Gagne, director of air carrier support for FlightSafety International. Generic wind shear programs have already been written to help train pilots to identify, react and successfully fly out of a wind shear, he said. Similar updates will address other safety-of-flight scenarios.

FlightSafety is experiencing a boom in contract training of airline pilots because of an industry drive to increase competitiveness by reducing overhead, Gagne said. "From a balance sheet standpoint [contract flight training] is a lot more practical," he said. The finance-oriented people now heading most airlines also "recognize the value of the money they've tied up in ground-training equipment," he said.

"DRY LEASE" ARRANGEMENTS

Most of FlightSafety's training contracts are "dry lease" arrangements where the carriers supply their own ground school, course materials and instructors. FlightSafety provides the simulators, simulator buildings and software that has been customized to the carrier's operating requirements and equipment. Transport aircraft simulators typically cost $8-$10 million each. Gagne said.

FlightSafety serves about 30 major air carrier customers including Trans World Airlines and Iberia. The company operates about 16 heavy transport simulators at various points throughout the country. The acquisition of five or six more simulators—either new or existing equipment—is being considered. One or several of these may be located overseas.

FlightSafety also is expanding into regional air carrier training. The company currently operates four types of regional aircraft simulators duplicating the Fairchild Metro, Saab 340 and de Havilland Dash 8 and Twin Otter aircraft.

A new FlightSafety simulator for the Aerospatiale/Aeritalia ATR42 is scheduled to come on line by October. In the next 12 months, simulators for the de Havilland Dash 7, Short Brothers 360 and Beech 1900 will be added to the company's regional aircraft simulation product line. FlightSafety will also add Embracer EMB-120 Brasilia and British Aerospace Jetstream 31 flight simulators.

The Miami-based Airbus Service Co., Inc., also is providing increased contract training. The company, a sublicensee of an Airbus Industrie and FlightSafety joint venture, applies training methods that were proved in France to teach the pilots of Airbus aircraft flying in the U.S., Canada and South America. The Miami facility offers complete ground school and motion simulator training for the Airbus A300B4 and A310/A300-600. An A320 simulator will be installed in late 1988 and is scheduled to begin operations in early 1989.

AUDIOVISUAL LEARNING

The training programs incorporate instruction in advanced cockpit systems trainers as well as sophisticated motion-based simulators. Computer-based individual learning carrels provide self-paced audiovisual learning, according to Luc Bourgogne, director of commercial training for Airbus Service Co.

Based on current Airbus orders for North and South America and forecasted demand, Airbus Service Co. could have six simulators at its Miami facility within three years, Bourgogne said.

Ongoing advances in pilot training focus on ab initio instruction. Foreign carriers such as Lufthansa German Airlines, have trained pilots from scratch for years. The concept is new to U.S. carriers, however, who have traditionally been faced with an oversupply of pilots, many highly qualified from military service.

Over the past two years Northwest Airlines, United Airlines, and Texas Air Corp. carriers Eastern and Continental have formulated ab initio programs in cooperation with academic partners.

Easterns' Pilot Entry Program (PEP) is given in association with college degree programs at four schools and costs students between $9,000 and $15,000, including flight training. The participating schools include Miami-Dade, San Jacinto and Aims, three community colleges located near major Texas Air Corp. crew bases at Miami, Houston and Denver, respectively.

They incorporate PEP training into an average 2½-year associates degree program. A fourth program at Louisiana Tech University in Ruston, La., is incorporated with that college's four-year degree.

Currently about 650 students are enrolled in all four PEP programs, according to Robert O'Donovan, PEP executive director. Although entrance requirements vary from state to state, all candidates must have a high school degree. They also must obtain and keep current a Federal Aviation Administration first class medical certificate during their training.

Required courses include general physics, aerodynamics and physiology of flight. Aviation-specific instruction includes classroom time covering subjects typically addressed in private pilot and commercial license ground school.

Students in the PEP program also must pass several general courses that indirectly enhance their abilities as pilots. Depending on the individual college's degree requirements, a student may have to take a basic computer course, for instance, to increase his proficiency in the operation and programming of aircraft navigation computers. A speech class may be required to improve communication skills.

MULTIENGINE RATINGS

PEP program flight training totals about 250 hr. Students graduate with a commercial pilot's license and instrument and multiengine ratings. They must also pass the FAA written exam for flight engineers.

Although Eastern Airlines is overseeing the PEP program, it does not guarantee successful candidates a flying job upon the completion of their degree, O'Donovan said. Periodic evaluations during the training program determine who will be offered flying jobs with the airline.

Pilots chosen by Texas Air are then assigned to a regional carrier for training on a specific aircraft type. This training is performed in the field because Texas Air carriers operate 72 different commuter aircraft types. Pay ranges from the high teens to the low twenties, O'Donovan said.

Once at the commuter PEP graduates will build time "flying in a controlled airline environment," as copilots on turboprop equipment, O'Donovan said. Eventually the carrier may even assign these pilots Eastern or Continental seniority numbers to encourage them to stay with the respective carriers.

PEP graduates will fly with the assigned regional carrier for a minimum of 1½ years, until they gain the turbine time and pilot-in-command time necessary to meet Eastern or Continental hiring requirements. During their term with the regional airline, they will transition from the copilot's to captain's position.

AB INITIO TRAINING

Early enrollments indicate that a significant number of older students with established families are joining the PEP program as the start of a second career, O'Donovan said. Rather than spending their time as a copilot on an Eastern or Continental jet, it is expected they will stay with the regionals as captains. They will have access to some of the most advanced regional airline equipment, while being able to sleep at home most nights, he said.

Another advantage of ab initio training is that regionals are assured of the product they are getting. O'Donovan said. There is no way for an airline to verify accurately the logged times and quality of a pilot, who has come up through the general aviation ranks as a flight instructor, he said.

Nortwest Aerospace Training Corp. (NATCO) has paired with the University of North Dakota's (UND) Center for Aerospace Sciences to develop a slightly different ab initio training syllabus. The NATCO/UND program is envisioned as an 18-month course for those who already have their four-year degrees. UND undergraduate students also can integrate the flight training into the course load of their bachelor's degree.

The NATCO/UND syllabus is designed to train new pilots to Northwest Airlines' standards. A 1,000-page task analysis has already been completed by several Northwest training captains and UND personnel. An exact curriculum is being developed.

Training will be airline-oriented, and students will graduate with about 350 hr. of flight time in aircraft and simulators. Advanced training will take place in turboprop and turbojet aircraft.

Although graduates will not be guaranteed a job at Northwest, the carrier's regionals will be given first choice of graduates. Under a separate program with Northwest regional Express One, those pilots accepting jobs will have to sign a 2-3-year contract with the small carrier. Upon completion of their tour, they will be given preferred hiring status at Northwest.

NATCO is putting up half of the $6-million cost for a new aerospace center at UND's Grand Forks, N.D., campus, where the ab initio training will take place (AW&ST July 6, 1987, p. 69). The remainder will be financed by an FAA research grant. The 60,000-sq.-ft. facility will be jointly operated by NATCO and the university. NATCO is planning to move a Boeing 727 and McDonnell Douglas DC-9 simulator to the center by October for use in the course. First classes are scheduled to start in January.

A secondary benefit to Northwest's farm team concept will be the reduction of turnover at its regionals. Future Aviation Professionals of America (FAPA) estimates annual pilot turnover at regionals runs as high as 120%. The higher-paying regionals still lose one in five pilots to major airline jobs, FAPA said.

United Airlines and Southern Illinois University are developing a third ab initio training effort. It builds on SIU's existing two- and four-year associate of flight and aviation management degrees.

The program, which is expected to cost students about $40,000 each over four years including regular college costs, guarantees successful graduates an interview with United and placement in their lineup of potential pilot new hires. Students accepted into the course are required to pass stringent medical and psychological tests and maintain a certain grade point average. A typical student will graduate with about 500 hr. of flight experience.

An initial group of about 10-15 students has been identified as candidates for the course. United also is studying a training proposal by Ohio State University. It would create a one-year airline-job-oriented post-graduate program for students completing its four-year aviation management degree.

Flight Safety also is involved in ab initio training at its Lakeland and Vero Beach, Fla., learning centers. Students receive their initial training at Vero Beach and graduate with about 250 hr. of flight experience and their commercial pilot's license with instrument and multiengine ratings. A handful of the best students are then offered further instruction at Lakeland followed by placement in a regional airlines.

TRAINING SYLLABUS

The Lakeland training syllabus, which is about 100-hour long, was developed in cooperation with Atlantic Southeast Airlines, Inc., a Delta Connection regional based in Atlanta, Ga. ASA participates in the selection of the students for the program and follows their progress through the airline-oriented course. After simulator checks with ASA's top training and ground school instructors, candidates must undergo specific type training at ASA and report for duty as reserve captains.

In addition to classroom time covering Part 121 regulations, the Lakeland candidates learn to use specific ASA forms for weight and balance and dispatch. They also are instructed in high- and low-altitude oxygen requirements and turboprop engine fundamentals. Simulator sessions are conducted in a Piper Cheyenne 2/3 simulator.

The first three graduates of the course, which cost them $5,000 apiece, are already flying with ASA. A second class of 10-15 should start next month.

GENERAL AVIATION SHIFTS METHODS TO TRAIN PILOTS FOR AIRLINE CAREERS

Flight training within the general aviation industry is experiencing a fundamental shift away from the traditional training methods toward specialized, professional pilot programs administered by collegiate-level institutions.

The movement away from established training channels has picked up momentum since 1983. Deregulation and expansion in the air transport industry, coupled with diminishing numbers of experienced military pilots, has created demand on civilian training establishments for professionally trained aircrews.

To meet that demand, larger U.S. flight schools are designing specialized training curriculums aimed directly at the burgeoning needs of regional and major airlines. Development of these long-range programs also includes a college-level education as an integral part of the flight training course.

REVAMPING OLD METHODS

Donald E. Mettler, president of the Air Carrier Academy (ACA), based in Broomfield, Colo., said that "the old methods of training through FBO flight schools" and methods used to evaluate pilot proficiency levels "must be revamped and brought to a much higher level." ACA's program is tailored specifically to ab initio airline flight crew training requirements. The academy is set up to train zero-time pilots for airline careers. Typical pilot courses offered by FBOs are not taught.

The Federal Aviation Administration and the National Transportation Safety Board have acknowledged that Part 141 of the Federal Aviation Regulations, which govern minimum requirements for pilot experience and training at FAA-approved schools, are outdated and need to be overhauled.

An ACA official said Part 141, created in the 1950s, "has no baseline criteria" for today's pilot training needs. He said it also has experience requirements that have been outpaced by changes in air-frame, engine and electronics technologies such as electronic flight instrument systems (EFIS), and the national airspace environment.

Under current Part 141 rules, "we have to give pilots basic instruction in single-engine Cessna 152s in a visual flight rules environment, when we really want to train them in multiengine aircraft in an instrument flight rules environment, like the air carriers do," one ACA official said.

According to an academy instructor pilot, ACA would like to see the FAA exempt institutions like ACA from having to train future airline pilots to be private pilots first, using single-engine aircraft. "Airliners are not flown solo and never have one engine," said the instructor.

NEW TICKET PROPOSED

Instead, ACA wants the FAA to issue an interim "Air Carrier Apprentice" certificate when students complete commercial, instrument and multiengine/instrument courses. The certificate could only be converted to an airline transport pilot license when requirements for an ATP are met.

Schools like ACA offer students a route to the right seat of a Boeing 727 that bypasses the traditional apprenticeship in general aviation, allowing the graduate pilots to obtain airline employment faster than previously possible. An ACA official said graduates of air transport-oriented schools "will be the prime candidates for top airline jobs in the future."

It costs $46,000 to attend ACA for the complete 16-month program. But Mettler says the airlines "are realizing that you get what you pay for," adding that "cheap training does not meet today's need for professional flight crew members."

Other facilities such as FlightSafety International's FlightSafety Academy in Vero Beach, Fla., offer a more traditional range of fixed- and rotary-wing courses, taught by 40 certified instructors. A commercial pilot license with instrument and multiengine ratings and an airline transport pilot license cost about $23,000 at FlightSafety Academy. Most of the flying is done in multiengine aircraft to improve a graduate's employment opportunities.

"Pilots have a better chance for an airline job now than five years ago, without working in general aviation," Tom Gillespie, manager of the academy, said. But a student at the academy has the flexibility to design a curriculum toward a general aviation career, if desired.

FlightSafety operates a 25-hr. airline transition course at Lakeland, Fla, to teach students turbine engine operation and airframe systems common to larger aircraft. After completing the transition course, academy graduates are qualified for employment as first officer candidates with Atlantic Southeast Airlines, an Atlanta-based regional operator.

As more airline pilots retire in the next decade, the influx of replacement pilots will place increased strain on the corporate sector and regional airlines as younger, less experienced pilots move up to the major airlines.

General aviation flight schools are already feeling the early effects of this turnover through enrollment of more young students than in the last five years. An official at Embry-Riddle Aeronautical University, a flight school based in Daytona Beach, Fla., said most of their entry-level students are 19-20 years old, compared with the late 1970s, when most students were 28-30 years old.

Jon E. Forbes is president of SimuFlite Training International Div., a Dallas/Ft. Worth International Airport-based company specializing in initial and recurrent pilot training. He said the lack of ex-military pilots and continued recruitment of corporate pilots for the airlines has caused a noticeable trend toward "younger applicants."

The Air Carrier Academy said the growing shortage of professionally trained corporate pilots coupled with the good opportunities for airlines employment is also causing non-pilots to take up flying as a new career. Mettler said the majority of these students are 25-35 years old, and make "better and more serious students and bring maturity to the cockpit."

Dana D. Siewert, director of flight operations for the University of North Dakota (UND) in Grand Forks, N.D., said demand for pilots is likely "to stay the same through the mid-1990s and possibly beyond," and that the trend at UND is toward older, more mature students.

MANAGERS WANTED, TOO

But Siewert and UND believe that in the next decade the aviation industry will be seeking not just pilots, but pilots with a college education and skills in business and management who can do more than fly an aircraft. Siewert said the college is geared to produce graduates capable of both flying an aircraft and managing an aviation operation.

In October, UND is scheduled to start its first ab initio airline pilot training class in conjunction with Northwest Aerospace Training Corp. and Northwest Airlines.

Because of the weak U.S. dollar and the "lack of professional flight training facilities outside the U.S.A.," Forbes said, general aviation schools are enjoying a brisk business from foreign students.

Forbes said about 10% of SimuFlite's students are from foreign countries, and he anticipates that number will increase in the next few years. "Cost is not the main consideration" for international students coming to the U.S., Forbes said. They also come because of a lack of modern equipment and techniques abroad, he said.

However, England has taken the lead in Europe in an effort to provide pilots for European airlines. The British Aerospace Flying College in Prestwick, Scotland, is a well-equipped, modern flight training school with specialized curriculums designed specifically to graduate qualified air transport crew members.

The majority of students enrolling in U.S. flight schools are seeking a commercial pilot license with instrument and multiengine ratings, necessary for employment in general aviation or airline operations.

At FlightSafety Academy, Gillespie said they are placing increased emphasis on basic attitude instrument flying techniques. Proficiency under partial-panel conditions, when the pilot must fly the aircraft by reference to the fundamental turn and slip and airspeed indicators, is becoming an integral part of instrument training courses in most U.S. flight schools.

R.W. DeDecker, general manager of the Commercial Systems Div. of FlightSafety International, said many pilots lack even basic instrument flying skills, requiring additional practice and instruction during initial or recurrent pilot training in simulators.

"We see a tremendous problem with IFR skills at lower levels of the pilot community," said DeDecker. He also said partial-panel skills, which are monitored closely during recurrent training, are often a problem for pilots of all experience levels.

In 1985, the FAA reduced flying time required for an instrument rating from 200 hr. to 125 hr. The decrease has caused the number of pilots obtaining an instrument rating to increase. In 1986, 13,595 ratings were issued. In 1987, there was a 34.5% jump to 18,296 ratings.

Donald O. Robb, chief flight instructor for Leesburg, Va.-based FBO Janelle Aviation, said the number of pilots obtaining an instrument rating in the last two years has "definitely increased," mostly as a result of the FAA time reduction.

INSTRUMENT SKILLS

To emphasize the importance of instrument flying ability, flight schools like Embry-Riddle and FlightSafety Academy are integrating instrument training throughout their curriculums, from the student pilot phase of training through completion of commercial and instrument courses.

Omer Benn, chief of pilot training for the University of Illinois Institute of Aviation at Champaign-Urbana, Ill., said the university is investigating an "instrument first" training concept. The program teaches student pilots both private pilot and instrument knowledge together, as an integrated package. "We know it can be done," Benn said. The program's goal is to gain FAA approval for certifying graduates as private pilots with an instrument rating.

An instrument rating costs about $4,400 at FlightSafety Academy, using a Piper Arrow 2 high-performance, single-engine aircraft. Costs for an instrument rating at most fixed base operations run about $2,500-$3,500, depending on the aircraft used and how much simulator time is allotted.

Gillespie said most students pursuing airline careers are taking all of their instrument training in multiengine aircraft to enhance their employment potential. Both airline and general aviation employers favor multiengine instrument flight time.

The Air Carrier Academy said 80% of its 16-month airline pilot course is conducted under instrument flight conditions, with most of that flow in multiengine aircraft.

Although aircraft produce more revenue per hour of instrument training, FBOs are recognizing that simulators are an attractive time- and cost-saving training device. Most FBOs elect to install table-top devices patterned after single-engine aircraft, chiefly because of their relatively low price of about $7,000.

Kenneth L. Tallman, president of Embry-Riddle, said approximately 40 hrs. of simulator time are included in the school's private and commercial pilot courses, using fixed-base, non-visual instrument trainers.

Tallman said a Frasca 242 non-motion simulator has been modified with a IVEX VDS 1000 visual display system to enhance multiengine and instrument training. The Frasca trainer is also used as a cockpit systems simulator to train students for the multiengine instruction in the school's twin-engine Cessna 303.

MULTIENGINE COURSES

Like FlightSafety Academy, Embry-Riddle offers a multiengine commercial license and instrument rating course for students oriented toward an airline career. "The multiengine track of the training program has increased so that nearly 60% of our total enrollment elects to take the more expensive version," Tallman said.

The cost of multiengine training programs is two or three times that of single-engine training, depending upon which multiengine aircraft is used. Most FBOs and large flight schools prefer Piper Aztec or Piper Seminole twin-engine trainers, although the Beechcraft Duchess and Cessna 303 and 310-series light twins are also in use.

Alan Stolzer, chief of flight training for Parks College of St. Louis in Cahokia, Mo., said applications for pilot training at Parks have increased 30% in the last year.

Of the 175 students currently enrolled, about 80% are participating in airline-oriented curriculums.

Stolzer said use of simulators at the entry-level phase of pilot training is expediting student learning and performance in the actual craft. The Frasca 121 single-engine aircraft simulators and 122-series multiengine simulators used at Parks are being incorporated as "an integral part of professional pilot training courses," chiefly because the devices improve the overall quality of training.

The Air Carrier Academy said cockpit procedures trainers (CPT), which have no motion or visual capability, are used extensively to train students in crew coordination, flight deck management and normal and emergency procedures.

MORE NEW TRAINEES

Initial pilot training at ACA is done with ATC-710 multiengine simulators before progressing to advanced motion and visual simulators, including a Boeing 727 Phase 2 device used under an agreement with United Airline's training center. Approximately 50% of ACA's pilot training is accomplished in simulators.

The number of entry-level student pilots, often used to gauge the health of the general aviation training industry, decreased from 210,200 in 1980 to 146,652 in 1985—the worst years of the current economic downturn in the industry.

But the trend is now upward, with 25,531 students starting training from January through April, 1988, representing a 2.8% increase over the same period in 1987. The General Aviation Manufacturers Assn. said much of the upswing can be attributed to the airline pilot shortage.

The completion rate of students seeking a private pilot license increased in 1987, when the FAA issued 42,278 licenses compared to 34,816 in 1986. Through April of this year, GAMA figures indicate an 11% decrease in the number of licensed private pilots in the U.S., but expects year-end figures to be higher than last year.

The general aviation training aircraft fleet flown by students is aging. Most FBOs and large flight schools buy or lease trainers, but the lack of new aircraft coupled with the increasing scarcity of well-equipped, low-time aircraft like the Cessna 150 and 152, Piper PA-112 Tomahawk or Piper PA-28-161 Warrior 2 is causing FBOs to keep their fleets longer than desired.

The only basic trainer in production is Piper's Cadet, a two-seat version of the Warrior 2 (AW&ST May 9, p. 9). Beech and Cessna are not producing any basic trainers.

Future trends for general aviation training include development of personalized systems and flight instruction for owner-flown, high-performance piston-powered aircraft such as the single-engine Cessna 210 Centurion series and Piper PA-46-310 Malibu.

FlightSafety has developed courses for most piston-powered single- and twin-engine small aircraft at its Cessna Learning Center in Wichita, Kan. An FSI official said the single-engine courses are proving very popular, especially because FSI will arrange for on-site instruction at the customer's location. FSI also conducts a three-day factory course on the Mooney 201, 231 and 252 aircraft for new owners.

A FlightSafety official said the market for single- and twin-engine small aircraft pilot training "is rapidly reflecting the training process" for turbine-powered aircraft. FSI expects to build fixed-base simulators for single-engine aircraft in the near future and place them in company learning centers.

Mr. MURKOWSKI. Mr. President, the bottom line is that the amendment would be basically wasteful and excessive. The amendment would be proposed to be in force until September 1993. It is estimated the first year the cost would be about $1 million. The estimated cost after that is very difficult to determine because those that would be eligible would be those that had gone on active duty after July of 1985.

So the point is that in the later years, you would have more and more individuals coming into the program as they complete their initial active duty commitment, so it is pretty difficult to estimate what the cost might be.

In the 1970's, flight training benefits were costing the taxpayers between $60 and $80 million per year with little return. A 1979 GAO study, requested by the Committee Chairman CRANSTON, confirmed VA findings that few graduates used their benefits for vocational purposes. GAO found only 16 percent of graduates were employed in aviation. This data was confirmed by data provided by the graduates themselves on their tax returns and additionally by data they provided to the FAA for their pilot medical certificates. Within a few years of graduation, only 45 percent—less than half—even bothered to keep their commercial pilot licenses renewed. But that is not surprising. In their applications for pilot medical certificates, 56 percent told the FAA they flew for pleasure. Mr. President, we do not need a pilot program—no pun intended—to determine the effectiveness of VA benefits for vocational flight training. We performed that experiment for a decade. And the experiment clearly demonstrated this program is inherently vulnerable to abuse.

Proponents of the amendment will argue they have provided safeguards against abuse. Unfortunately, these so-called safeguards are the same ones which proved ineffective in protecting prior GI bills from abuse.

Prior GI bills provided no reimbursement for a private pilot license.

Prior GI bills required FAA approval of the courses.

Prior GI bills provided only partial reimbursement of training costs.

Prior GI bills required students to meet medical criteria.

None of these precautions prevented widespread abuse.

I ask unanimous consent to enter into the Record a letter from the director of the Sacramento Aero Services in California. This firm would benefit from the amendment because it provides the training which would be authorized. The writer opposes the amendment based on his observation of the abuses of the prior program.

There being no objection, the material was ordered to be printed in the Record, as follows:

Sacramento Aero Services, Inc.,
Sacramento, CA, June 18, 1988.

Senator Murkowski,
U.S. Senate, Washington, DC.

Dear Sir: I am writing regarding the "GI Bill" now being considered by the Veterans' Affairs Committee, particularly the portion which proposes to provide educational assistance for flying training.

I am opposed to that provision.

Having worked in the aviation training business for 30 years, currently as airport manager and director of a large flying training operation, I have witnessed previous GI Bill training programs. The great majority of money that has been expended on these programs has not gone to produce employment. It has mainly produced training merely for the personal satisfaction and personal use of the trainee. The goal of GI Bill assistance is gainful employment for the veteran.

In this day of record budget deficits, flight training subsidies are not a wise investment of taxpayer's money.

Sincerely,

Russel W. Kilmer.

Mr. MURKOWSKI. Mr. President, I support expanding educational opportunities for veterans. If there are ways to expand pilot training opportunities for veterans, I am anxious to explore them. But, not at the expense of returning to a widely abused program the Congress wisely grounded in 1981. This Senator tries to learn from experience and avoid repeating the mistakes of the past. I urge the Senate to learn from the lessons of the hisory of this program so we do not have to repeat them.

Mr. President, in the interest of time, I would attempt to address a couple of specifics that were brought up by my friend in the sense of that adoption of the amendment would cost.

A statement has been made that it would not cost a material amount to adopt the amendment. Well, we have heard of the camel's nose poking under the tent. This amendment only applies to the Montgomery GI bill participants, most of whom are still in the Service. The true cost really would not be known until we extend it out, because it is only in years to come that there will be a large number of eligible veterans.

The taxpayers paid an average of $65 million per year for flight training in the 3 years prior to a GAO study of the last flight training program. There is no reason to believe that this flight training program would cost less once it gets going. In an era of tight budgets for VA benefits, we cannot afford to divert money to such an easily abused program and previously we have seen abuses in the program.

The CBO cost estimate assumes no more than 450 veterans will use the benefit. Well, that is anybody's guess. But if CBO is correct—and this is the point—if only 450 veterans use the benefit, the amendment will do little or nothing toward solving the alleged pilot shortage or to provide the employment opportunities for veterans.

You cannot have it both ways. I think that is the point that I would like to make in response to the arguments made by my good friend from South Dakota.

The Senator from South Dakota is suggesting that this is in the interest of the veterans. I would suggest that we cannot have it both ways. A program must either do nothing, in which case we do not need it, or do a lot, in which case we have to look at the realities of whether we can afford it. Especially when we have a functional training program available through various universities and college institutions throughout the United States.

Mr. President, I believe that there may be other Senators who intend to come to the floor and speak on this issue who are not here now.

● Mr. SIMPSON. Mr. President, I rise today in opposition to the amendment offered by Senator Daschle to allow veterans to use education benefits for vocational flight training.

Senator Murkowski has raised several points in opposition to this amendment that bear repeating. Flight training is currently eligible for education benefits if it is part of a degree program. The training provided by the bill is that which is least likely to qualify a veteran for employment.

Educational benefits were once provided for this type of flight training, and Congress abolished such benefits in 1981 after a report by the General Accounting Office found widespread abuses, in addition to finding that only 16 percent of those who used the benefits were employed as pilots.

Senator Daschle in a recent "Dear Colleague" has said that this provision is needed to address the problems of pilot shortage and veteran unemployment. In the first place, this amendment is not designed to provide training that is likely to lead to qualification as a commercial pilot. Therefore, it will do little to address the pilot shortage.

In the second place, the so-called "critical problem" of veteran unemployment is one that just does not exist. Veterans are certainly unemployed, but at a much lower rate than the overall unemployment rate. Vietnam veterans are unemployed at a rate of 3.6 percent, which compares to the most recent figures for overall unemployment in the United States of 5.5 percent.

That does not suggest a "critical problem" to me.

This is a program that has been tried and proven to be costly, ineffective, and subject to rampant abuse. I suggest that we do not need to go down this road again, and I urge my colleagues to vote against this amendment.●

Mr. MURKOWSKI. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Four and a half minutes.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from South Dakota.

Mrs. KASSEBAUM. Mr. President, I rise in support of the pending amendment. This is a tightly drawn amendment. It is a workable amendment. And it is structured to address a serious problem confronting commercial aviation.

As the ranking member of the Aviation Subcommittee, I can attest to the fact that we are facing a serious shortage of qualified commercial aviation pilots. The military pipeline from which qualified pilots have, historically, moved into commercial aviation is no longer adequate to meet the growing demand for pilots.

Fewer pilots are being trained by the military. Fewer pilots are leaving the military. Yet, air carriers are hiring more pilots than ever before, and current projections indicate demand will continue to increase.

That is, of course, the reason why large air carriers have begun working with colleges and universities to develop pilot training programs. I think that is an extremely healthy development for the industry. I do not, however, think that anyone—including major air carriers—believes that such programs can meet pilot training needs alone.

Major airlines are presently looking to a multitude of sources for pilots.

Colleges and universities, the military, commuter airlines, cargo airlines, and flight training schools are all sources of major airline pilots. That will continue to be the case for the foreseeable future.

The pilot needs of regional airlines present a particularly unique problem. They fill the short haul, commuter role that the major airlines do not choose to undertake. Unfortunately, they also serve as pilot training farm clubs for the national airlines.

While pilots who work for United, American, or TWA are likely to fly for those airlines until they retire, that is not true for pilots working for Air Wisconsin, Air Midwest, or Midwest Express. Pilots currently flying for those airlines will also most likely retire from United, American, or TWA. Regional airlines need a fresh supply of pilots on a continuing basis. That brings me to the merits of the pending amendment.

Mr. President, this amendment does not provide a carte blanche grant of Government approval for veterans to undertake subsidized flight training. The amendment requires a substantial personal commitment in terms of time, effort, and financial sacrifice, before a single Government dollar goes out.

To qualify for flight training benefits, a veteran must first secure a private pilot's license, without Government financial help. In addition, all medical requirements for commercial pilot certification must be met, and certification of the planned training must be approved. Once vocational training begins, under an FAA-approved curriculum, there is still no free ride. The veteran is required to cover 40 percent of all tuition costs for his entire course of training.

Mr. President, this is far from a giveaway program. The total out-of-pocket costs to each veteran will easily exceed $5,000 and may well run double that amount. This substantial copayment—and it is very substantial—provides a tremendous disincentive to program abuse. In fact, I cannot think of a single existing Government benefit program with a copayment requirement as substantial as the pending amendment requires.

In short, Mr. President, this amendment addresses a serious national problem—the growing shortage of commercial aviation pilots. It does so in a highly responsible and tightly controlled fashion. The investment required on the part of the Government is not a giveaway, it is an investment. That investment, in combination with a comparable private investment, will produce tangible benefits for the economy, the Nation, and for our national transportation system. Thank you.

Mr. KERRY. Mr. President, I am pleased to join with Senator TOM DASCHLE as a cosponsor of the flight training amendment. As a veteran and a pilot, I strongly support this effort and I urge my colleagues to vote for the amendment.

The amendment would allow eligible veterans to use their new GI bill benefits to pursue flight training as a vocation. Too many veterans today are unemployed, underemployed, or are dislocated workers. Senator HEINZ and I have offered another amendment to S. 2011 which would improve the job training programs for veterans of the VA and the Department of Labor. This amendment complements and adds to that effort.

Currently, 1 in 8 veterans in America is unemployed. Out of 1 million workers displaced annually, 1 in 4 is a veteran. Meanwhile, America is suffering from a shortage of pilots. An OTA report issued in July of this year indicates that, in the next decade, about 32,000 jet pilot jobs and up to 20,000 nonjet regional airline pilot positions will need to be filled. As soon as 1992, we will likely have a shortage of over 4,000 commercial and instrument pilots. By the year 2010, an estimated 240,000 pilot positions will need to be filled.

The Aircraft Owners and Pilots Association recently pointed out that the Nation's 80,000 to 120,000 nonairline pilot jobs—including air ambulance pilots, crop dusters, and corporate pilots—are also facing a shortage.

This amendment would help fill that gap. It would meet a need both among veterans, and in the airline and aerospace industry.

This amendment would not, as has been alleged, create loopholes which would allow veterans to abuse the flight training program for recreational purposes. This bill sets up strict criteria for eligibility in the flight training program.

Before being ruled eligible for the program, candidates must first spend about $3,500 of their own money to secure a private pilot's license, and meet the medical requirements for certification. State agencies must certify that the student's training is for vocational purposes only. And the curriculum must meet the rigid FAA requirements for commercial pilots.

This program is authorized for a 4-year test period, and flight training will not be allowed for a purpose deemed ancillary to a vocation. The tuition reimbursement offered under the program has been reduced from 75 to 60 percent, so that an individual will have to make a substantial commitment of his own financial resources to take part in it.

This is no fly-by-night program. It is a serious, responsible effort to address an important problem in our Nation's economy. There is no pool of talent better equipped than our Nation's veterans. Let's not let that talent go to waste.

I urge my colleagues to join in supporting this amendment.

Mr. SYMMS. Mr. President, this amendment, as I understand it, is intended to provide veterans an opportunity to pursue careers as professional pilots. That is a worthy goal, which I support. However, I cannot support this amendment to S. 2011. Such a program is unnecessary because current law provides veterans with free education as long as they are working toward a college degree. Almost all colleges offer aviation training classes and for a veteran to be competitive as a professional pilot, college degrees are becoming a requirement.

Since 1983, there has been a movement away from traditional training programs toward pilot programs administered by collegiate-level institutions. U.S. flight schools are promoting more intense, specialized curriculums which include college-level education as a required part of the flight training program. Veterans can and do receive benefits for this kind of training under current law.

The type of training proposed by Senator DASCHLE will not be sufficient in the near future to qualify veterans for jobs as professional pilots. The Federal Aviation Administration and the National Transportation Safety Board have both acknowledged that current minimum requirements for pilot positions are outdated and inadequate. The requirements which were completed in the 1950's do not have the criteria needed for today's pilots. Therefore, veterans receiving training under the Daschle amendment will still be underqualified for prevailing pilot positions. If our veterans are going to be trained as pilots, let them be trained in colleges and universities. Only then can we ensure their competitiveness in the job market.

In 1981, Congress terminated veterans' benefits for vocational flight training due to the fact that funds were being misused. The Government Accounting Office found that only 16 percent of veteran graduates were employed as pilots. The safeguards against abuse of veteran funds have been shown by Senator MURKOWSKI to be ineffective. As Senator MURKOWSKI has pointed out, the provisions in the Daschle amendment are virtually the same as those which proved to be worthless in the Vietnam GI bill. This measure was removed from the rehabilitation programs several years ago as a result of numerous impracticalities.

Because I feel that veterans should have the best training available to become commercial pilots and that the taxpayers' money should not be wasted, I don't feel that the Daschle amendment should be adopted. This amendment would revisit the problems that Congress terminated in 1981. We would be burying ourselves in the same hole that we dug ourselves out of in 1981. Let's concentrate on moving ahead with veterans' benefits, not falling behind.

Mr. DASCHLE. Mr. President, I might respond to a few of the comments made by both the distinguished Senator from South Carolina and my friend from Alaska, first with regard to need.

It has been said on a couple of occasions now that we do not need this amendment. Obviously things must be going very well so why change it.

Well, if it is going so well why is it that student pilot starts have dropped 30 percent since we have changed the law? Why is it that instrument rating issuances have dropped 49 percent in that period of time? Why is it that commercial pilot certificates have dropped 58 percent?

Statistics, as has often been said around this place, are very stubborn things. Those are the statistics. We are not meeting the demand that is out there right now.

Second, with regard to need, the program, as the Senator accurately stated, is currently offered in colleges. He is from a big State. I am from a very large State. In a lot of Western States accessibility is a very significant factor. I would not have offered this amendment had I not been approached by so many student pilots and commercial pilots in my State and other Western States who say: I do not have the time to go to college. I am a professional. I am working in other jobs. I would like to be able to get my commercial pilot's license at night. I want to work with a fix-based operator somewhere in a Western State, maybe 100, 200 miles from a college. I do not have that access. And that is what we are talking about here, access.

The third is a statement made by my friend, the Senator from Alaska, with regard to single engines, saying that the only thing you can get oftentimes—and I only paraphrase him—with fixed-base operators is a single-engine license and there is no need, commercially, for single-engine training.

We have a lot of aerial sprayers in South Dakota. We have a lot of aerial photography in South Dakota working for the Government, both in rangeland and cropland, spraying that cropland. Professional pilots rely on single engines in all of those cases. Those professional pilots are not interested in a multiengine license.

But, regardless, having said that, I want to stress that training from fixed-base operators does not have to be limited to single engine aircraft. Having had the good opportunity to get my twin-engine license recently from a fixed-base operator, I am absolutely convinced of the value of the training they provide. I would put the training that I have received from a fixed-base operator against the training one would get in a college in any case.

Finally, with regard to cost, the Senator from Alaska has said that obviously this is going to cost. It ought to do nothing or it ought to do a lot, one or the other. We have never said it is going to do nothing nor have we said it is going to do a lot. What we have tried to say is this: Is it not worth our interest in passing a program that will give us a 4-year evaluation now that the GAO Report on this matter is a decade old and the relevant circumstances have changed so drastically. Is it not a good opportunity now to take a good look at the advantages for veterans this training may provide?

We have reevaluated this program. We know we have a need. We know some changes had to be made, and we incorporated those changes in the bill. Let us incorporate those changes, let us run this program for 4 years, let us take a look at its costs and then take a look at whether we want to implement this program permanently.

It is worth our knowing. It is worth the information we are going to get.

I retain the balance of my time.

Mr. FORD. Will the Senator yield me 1 minute?

Mr. DASCHLE. I will be happy to yield to the Senator from Kentucky.

Mr. FORD. Mr. President, as I have heard from the other side, the real issue, and as I understand it, is job opportunities for the veterans. It is a test program. It is not long range.

Then I hear from the distinguished Senator from South Carolina that evaluating the program from 1981 back, only 16 percent of those now have licenses. Well, we are talking about 1981 forward. We have had deregulation. Jobs are crying out for people to fill them in this particular industry. Aviation is on the move. We need more help. They need more training. And the veterans ought to have the first crack at it.

This is a test for 4 years. The jobs are available. We have veterans that want to fill them. We ought to give a veteran wherever he is located the opportunity to get this type of training and to secure the better job opportunity that is afforded him.

Mr. DASHCLE. I retain the balance of my time. I might ask how much time remains?

The PRESIDING OFFICER. One minute and 40 seconds.

Mr. DASCHLE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I think we have pretty adequately debated the merits of the pending amendment and very shortly I will move to table. I think we can always make a case, a legitimate case, for extending veterans' programs. To respond to the suggestion that this is a test program, and that we take a look at the results, and see what happens in 4 years—this is a legitimate way to proceed. But we have had a test program. We have had experience with this program. It was called flight training under the Vietnam-era GI bill.

The GAO confirmed that flight training failed that test. I think we have an obligation to learn from the lessons of history, although it is perhaps a shortcoming of this body that we are all somewhat guilty of not meeting that obligation. Otherwise, we are simply doomed to repeat those lessons.

The prior test proved the program was unneeded. Sure, you can justify any program. But it was unneeded because there are alternative ways to the same goal.

We have seen in the debate questions as to whether we are training commercial pilots or whether we are training professional people who want to fly for pleasure or whether we are training single-engineer pilots who want to go out and spray crops—all of these things can be worthwhile. And one can justify the desire of extending further benefits. But the question is—and I think we have to ask ourselves as keepers of the tax dollar, so to speak—are they all necessary?

There are alternative ways to the same goal. Most of the pilots that are going into commerical aviation with the airlines, as my friend from South Dakota is aware, are coming out of the military. That is, indeed, unfortunate. But the reality of the industry is such that they are attracting with salaries and conditions that allow pilots to make the difficult decision to leave the military after their time is up and go into commerical aviation. That source is not filling the entire need.

Deregulation, resulting in many, many smaller airlines providing service, requires more pilots. There is also the reality that some of our airports are becoming congested to the point where larger aircraft seem to be the answer to reduce the congestion. We are also seeing the more sophisticated aircraft take away the flight engineer and they are flying our new aircraft, commercial aircraft, with just pilots and copilots.

So we have to monitor this.

I do not begrudge my colleague from South Dakota on the merits of his goal of extending additional benefits to veterans because you can justify that kind of extension. But you have to ask whether it is needed.

It is not needed because there are alternative ways to the same goal. It is ineffective because there are other ways to train commercial pilots. You can do it the way provided by the amendment, but you get a mixed bag, Mr. President. You have a mixed bag of students including those who fly for pleasure.

We have seen the program abused by those who are flying and using their flight hours for personal use. They have no intention of moving on. The proposed amendment of my colleague from South Dakota, is justifiable, but it it not necessary. And I think it is fair to say it is wasteful.

Fifty-seven percent of the graduates of the program that we had for Vietnam era veterans, said they flew for pleasure.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DASCHLE. Mr. President, I intend to yield back the remainder of my time with just a couple of comments. Let me emphasize, so people understand, three things. First of all, this is a test. Second of all, the CBO said this will cost less than $1 million. Third, the statistics have clearly demonstrated that the current systems not working. We have got to find an alternative, and this may be it.

I yield back the balance of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. MURKOWSKI. Mr. President, I move to lay on the table amendment No. 3722.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the motion of the Senator from Alaska. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. Bentsen], the Senator from Delaware [Mr. Biden], the Senator from New Mexico [Mr. Bingaman], the Senator from New Jersey [Mr. Bradley], the Senator from Louisiana [Mr. Breaux], the Senator from Florida [Mr. Chiles], the Senator from North Dakota [Mr. Conrad], the Senator from Arizona [Mr. DeConcini], the Senator from Illinois [Mr. Dixon], the Senator from Connecticut [Mr. Dodd], the Senator from Georgia [Mr. Fowler], the Senator from Tennessee [Mr. Gore], the Senator from Louisiana [Mr. Johnston], the Senator from Massachusetts [Mr. Kennedy], the Senator from Michigan [Mr. Levin], the Senator from Maryland [Ms. Mikulski], the Senator from Georgia [Mr. Nunn], the Senator from Arkansas [Mr. Pryor], and the Senator from Mississippi [Mr. Stennis], are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico [Mr. Bingaman], and the Senator from Michigan [Mr. Levin], would each vote "nay."

Mr. DOLE. I announce that the Senator from Missouri [Mr. Bond], the Senator from Rhode Island [Mr. Chafee], the Senator from Missouri [Mr. Danforth], the Senator from Minnesota [Mr. Durenberger], the Senator from Utah [Mr. Garn], the Senator from Texas [Mr. Gramm], the Senator from Nevada [Mr. Hecht], the Senator from Pennsylvania [Mr. Heinz], the Senator from Nebraska [Mr. Karnes], the Senator from Oklahoma [Mr. Nickles], the Senator from Oregon [Mr. Packwood], the Senator from Indiana [Mr. Quayle], the Senator from Delaware [Mr. Roth], the Senator from Wyoming [Mr. Simpson] the Senator from Vermont [Mr. Stafford], the Senator from Virginia [Mr. Trible], the Senator from Wyoming [Mr. Wallop], the Senator from Connecticut [Mr. Weicker], and the Senator from California [Mr. Wilson], are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Simpson], would vote "yea."

The PRESIDING OFFICER (Mr. Exon). Are there other Senators in the Chamber who desire to vote?

The result was announced—yeas 15, nays 47, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—15

Armstrong
Cochran
Dole
Evans
Grassley
Hatch
Hatfield
Helms
Lugar
McClure
Murkowski
Proxmire
Rudman
Symms
Thurmond

NAYS—47

Adams
Baucus
Boren
Boschwitz
Bumpers
Burdick
Byrd
Cohen
Cranston
D'Amato
Daschle
Domenici
Exon
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Humphrey
Inouye
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Pell
Pressler
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Warner
Wirth

NOT VOTING—38

Bentsen
Biden
Bingaman
Bond
Bradley
Breaux
Chafee
Chiles
Conrad
Danforth
DeConcini
Dixon
Dodd
Durenberger
Fowler
Garn
Gore
Gramm
Hecht
Heinz
Johnston
Karnes
Kennedy
Levin
Mikulski
Nickles
Nunn
Packwood
Pryor
Quayle
Roth
Simpson
Stafford
Stennis
Trible
Wallop
Weicker
Wilson

So the motion to lay on the table Amendment No. 3722 was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 3722) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS BENEFITS AND PROGRAMS IMPROVEMENT ACT

(Continued)

AMENDMENT NO. 3723

(Purpose: To provide for a payment to the survivors of certain Montgomery GI Bill participants who die while on active duty)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. Dole), for himself, Mr. Cranston, Mr. Murkowski, Mr. Chafee, Mr. Cochran, Mr. Cohen, Mr. DeConcini, Mr. Glenn, Mr. Graham, Mr. Hatch, Mr. Heinz, Mr. Inouye, Mrs. Kassebaum, Mr. Lugar, Mr. McCain, Mr. Pell, Mr. Pressler, Mr. Trible, Mr. Warner, and Mr. Bingaman, proposes an amendment numbered 3723.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, between lines 18 and 19, insert the following:

SEC. 315. PAYMENTS IN CASE OF DEATH OF CERTAIN PARTICIPANTS DURING ACTIVE-DUTY SERVICE.

(a) In General—(1) Subchapter IV of chapter 30 of title 38, United States Code, is amended by adding at the end the following; new section:

"§ 1437. Payment in case of death on active duty

"(a) In the event of the service connected death of an individual who was serving on active duty at the time of death and whose basic pay has been reduced under section 1411(b) or 1412(c) of this title, the Administrator shall pay the amount specified in subsection (c) of this section to the first listed person or persons surviving on the date of such individual's death, as follows:

"(1) The beneficiary or beneficiaries designated by such individual to receive the proceeds of Servicemen's Group Life Insurance by reason of the death of such individual.

"(2) The spouse of the individual.

"(3) The child or children of the individual, in equal shares.

"(4) The parent or parents of the individual, in equal shares.

"(b) No payment may be made under this section in the case of an individual whose death is referred to in subsection (a) of this section if no person listed in such subsection survives such individual.

"(c) The amount of any payment under this section shall be equal to—

"(1) the total amount by which the pay of the individual whose death is referred to in subsection (a) of this section was reduced under section 1411(b) or 1412(c) of this title, less

"(2) the total amount of the basic educational assistance that was paid such individual under this chapter."

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1437. Payment in case of death on active duty.".

(b) SOURCE OF PAYMENTS.—Section 1435(b)(1) of such title is amended by inserting "and payments under section 1437" after "chapter".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of July 1, 1985.

On page 4, after the item relating to section 314, insert the following new item:

"SEC. 315. Payments in cases of death of certain participants during active-duty service.".

Mr. DOLE. Mr. President, I am pleased that many of my colleagues, on both sides of the aisle, are joining with me today to correct a minor, but important oversight in the Montgomery GI bill.

Since the Montgomery GI Bill Program took effect on July 1, 1985, it has offered thousands of young soldiers an opportunity to get a college education they might not otherwise have been able to afford. While all the facts aren't in, several recent studies show that the program has been an invaluable recruiting tool, and a sizable majority of enlistees in every branch of the service are forfeiting some of their hard-earned pay to get an education.

Unfortunately, some of these participants are never able to take advantage of the educational benefits. Approximately 2,000 soldiers die while serving on active duty each year. Included in this group are the 37 heroic sailors who were killed in last year's U.S.S. *Stark* tragedy, a number of other brave men and women who proudly served our country and a young Kansan who had great potential, Sp4c. John Grady.

John was stationed in West Germany in January 1987 and has just been decorated with the Army's Achievement Medal for Outstanding Service when tragedy struck. That same day John's rental car hit an ice patch, spun out of control and ended his promising young career.

Like many other young men, John contributed $1,200 under the GI education program so that he could attend college after his service. He had hoped to attend the University of Kansas last fall. Tragically, John will never have the opportunity and never be able to realize his self-expressed goal of becoming "the finest communications officer the Army had ever seen."

Mr. President, as the law now stands, if a GI bill participant, like John Grady, is killed on active duty, his contribution to the educational fund is automatically forfeited. My amendment provides special compensation to the beneficiary of the deceased for the amount of the service member's contribution to the GI Bill Program.

I know that there has been some resistance to tinkering with this highly successful program. But, I firmly believe, in special circumstances such as these, providing the families of the deceased with compensation for the service men's foregone pay, is a fully warranted, compassionate gesture.

I am pleased that so many other Senators agree with me.

Mr. President, I have talked to the father of John Grady on two or three occasions. This is not a matter of a monetary amount but a matter of fairness. It is not fair to John Grady's family; it is not fair to the other GI's who are tragically denied the benefits because of death.

I thank my colleagues on both sides of the aisle. I think the amendment has been agreed to by both managers.

Mr. MURKOWSKI. Mr. President, the Republican leader has offered an amendment all Senators should be proud to support. His amendment is a skillfully crafted and compassionate response to the tragedy faced by the survivors of Montgomery GI bill participants who die while on active duty. No act of Congress can mitigate an untimely death, but approval of this amendment will be evidence that the Congress recognizes and responds to the tragic and unique circumstances surrounding such a death.

I commend the Republican leader for this amendment and urge the Senate to join with me in endorsing it.

His amendment responds to a truly unique situation created by the fact that the Congress, in order to ensure Montgomery GI bill participants share in the responsibility for their post-service readjustment and education, requires those participants to elect to receive a lesser rate of pay for the first 12 months of their services. At the end of 1 year of service a nonparticipant will have received $1,200 more pay than a participant. The Congress adopted a reduction in pay rather than a requirement for a contribution on the part of participants in order to avoid the problems created in the predecessor Veterans' Educational Assistance Program [VEAP] which permitted refunds of participant contributions. The availability of these refunds led to a large number of veterans forfeiting their eligibility for education benefits and defeated the primary purpose of the benefit.

In crafting this amendment, the Republican leader has done a commendable job of resolving the conflicts presented in this issue. On one hand he wanted to provide the survivors of service members who die on active duty with the benefit of the salary foregone by the deceased service members. At the same time, however, he wanted to avoid setting a precedent for those who may seek a refund of the foregone pay.

By creating a survivor's benefit, he has made it clear there is no refund. This is appropriate because there is, in fact, nothing to be refunded. At the same time, he responds to the inequity created when a service member sacrifices through reduced pay to create entitlement to a benefit which will never be used because the service member subsequently dies while on active duty. This amendment is a compassionate response to the unique circumstances created by the in-service death of Montgomery GI bill participants. I commend the Republican leader for his insight and leadership in leading the Senate to a step which will help create a gentler, kinder Nation.

PAYMENTS TO SURVIVORS OF ACTIVE DUTY PARTICIPANTS IN THE MONTGOMERY GI BILL

Mr. CRANSTON. Mr. President, I am pleased to join with the distinguished minority leader, Mr. DOLE, and the ranking minority member of the Committee on Veterans' Affairs, Mr. MURKOWSKI, in this amendment which would provide for a payment to the survivors of certain Montgomery GI bill [MGIB] participants who die while on active duty. On December 21, 1987, I introduced a similar measure, S. 1997, with Senators MATSUNAGA, DECONCINI, MITCHELL, ROCKEFELLER, GRAHAM, KENNEDY, and COHEN. Senator DOLE later joined as a cosponsor.

Mr. President, this amendment would require the Veterans' Administration to pay to the survivor of a participating service member who died or dies from service-connected causes while on active duty a death benefit equal to the total amount that the service member's pay had been reduced by reason of his or her participation in the program minus any amount the participant had received in MGIB benefits.

The payment formula would work as follows: If, for example, the amount of the service member's basic pay reduction was $1,200 at the time of the member's service-connected death and the member had used $300 of MGIB educational assistance benefits, the survivor would receive $900—the difference between the dollar amount of the basic pay reduction and the dollar amount of entitlement used. If the member's basic pay reduction had reached only, for example, $600 at the time of death—an amount less than the $1,200 basic pay reduction required for eligibility to use MGIB educational assistance benefits—the survivor would receive the $600. Enactment of this provision would be retroactive to those service members who participated in the new GI bill since its inception on July 1, 1985.

Mr. President, I believe that the service-connected death of an active-duty MGIB participant is a tragic circumstance which merits this one exception to the concept under current law that the basic pay reduction is nonrefundable and irrevocable, a fundamental principle of this program.

However, this situation is quite different from that of a living service member who for whatever reason does not use his or her MGIB benefits, and I would like to speak to this very briefly because of a provision that the committee included—based on an excellent proposal by the Association of the U.S. Army and the Retired Officers' Association—in S. 2011 as reported. In the case of an MGIB participant who is discharged from military service, first, for a preexisting medical condition which is not service connected, or second, involuntarily for reasons beyond his or her control due to a reduction in force without serving a minimum of 20 months on active duty of a 24-month enlistment or 30 months on active duty of a 36-month enlistment, section 311 of the committee bill would provide entitlement to 1 month of educational assistance for each month of active duty served. In light of the fact that the Congress intended the MGIB as an educational assistance program, I believe this approach is the most appropriate way to remedy the inequity for living service members whose pay has been reduced in connection with their MGIB participation but who, through no fault of their own, would otherwise not meet the eligibility criteria for obtaining entitlement to these educational benefits.

I am opposed to establishing refunds for living service members or veterans because establishing a policy of doing so in the cases of any particular group or groups of veterans who are denied the opportunity to use the MGIB because of reasons beyond their control would make it difficult to resist the claims of other living service personnel or veterans that may have equal validity. My basic concern is that a proliferation of exceptions would confuse and complicate the clear, straightforward nature of the program as one under which, once the individual is enrolled, his or her pay will be reduced and these reductions are irrevocable. There is absolutely no ambiguity about this irrevocability.

The service members who participate acknowledge in writing that they cannot recoup the $1,200 pay reduction under any circumstance if they do not use their benefits.

However, deceased service members have no opportunity whatsover to use these educational benefits. The tragic loss of 37 heroic sailors on the U.S.S. *Stark* on March 16, 1987, and the untimely loss of 248 soldiers in the Gander air crash of a military charter on December 12, 1985, serve as grim reminders that some MGIB participants—for reasons totally beyond their control—never have the opportunity to benefit from a program in which they opted to participate in return for reductions in basic pay. Therefore, I believe that this is the one type of situation in which a payment—to the survivor—is appropriate.

Mr. President, I am pleased to join as a cosponsor of this amendment, congratulate the Senator from Kansas on it, and urge its adoption.

Mrs. KASSEBAUM. Mr. President, over the past 44 years the GI bill has provided a vital service to the men and women of our armed services—the opportunity for an education to help them in the transition from military to civilian life. However, an oversight in the most recent revision to this entitlement, the Montgomery GI bill, raises an important question. In the event a GI bill participant dies or becomes disabled, what happens to his or her contribution to the program?

This question has been raised over the past several years by a number of families to whom this situation applies, including the family of Spc 4 John Grady of Topeka, KS. John was stationed in West Germany when he was tragically killed in an automobile accident. Upon review of John's finances, it soon became apparent that his payroll contribution of $1,200 to the GI bill was forfeited. After consultation with officials from the U.S. Army, John's family was informed that a death benefit provision for educational assistance did exist in the law prior to passing of the Montgomery GI bill. However, since the new law is silent on this, the death benefit no longer exists.

This oversight will be remedied by approving the Dole amendment, which will allow reimbursement of the deceased serviceman's payroll contribution to the GI bill. This death benefit would be a lump-sum payment and would go to the serviceman's immediate family. An additional provision would provide reimbursement directly to an individual who, owing to a service-connected disability, is incapable of pursuing an education. I ask my colleagues in the Senate to support this amendment so that eligible family members and servicemen can receive these funds that rightfully belong to them.

Mr. DOLE. Mr. President, I appreciate the statement of the managers of the bill.

I ask unanimous consent that the names of Senators STEVENS, THURMOND, and BOSCHWITZ be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3723) was agreed to.

Mr. DASCHLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3681

(Purpose: To provide an improved system for determining the existence of service-connection between active service in Vietnam during the Vietnam era (including service involving exposure to certain toxic agents) and diseases experienced by veterans of such service; to improve the provision for interim benefits for veterans of such service who have certain diseases; and to make improvements in the composition of the advisory committee on the "Ranch Hand Study" and the procedures used by such advisory committee).

Mr. DASCHLE. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] (for himself, Mr. KERRY, Mr. CRANSTON, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. CHAFEE, Mr. CONRAD, Mr. DECONCINI, Mr. DODD, Mr. GORE, Mr. HARKIN, Mr. HEFLIN, Mr. HEINZ, Mr. LAUTENBERG, Mr. MATSUNGA, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. SANFORD, Mr. SASSER, and Mr. WIRTH) proposes an amendment numbered 3681.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, strike out line 19 and all that follows through page 13, line 4, and insert in lieu thereof the following:

SEC. 201. SHORT TITLE.

This title may be cited as the "Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1988".

PART A—AGENT ORANGE PRESUMPTIONS, BENEFITS, RESEARCH, AND OUTREACH MATTERS

SEC. 211. INTERIM PERIOD FOR AWARD OF BENEFITS FOR VIETNAM VETERANS WITH NON-HODGKIN'S LYMPHOMA AND CERTAIN SARCOMAS.

(a) PRESUMPTIVE DISABILITY AND DEATH BENEFITS.—(1) In the case of a veteran—

(A) who served in the active military, naval, or air service in the Republic of Vietnam during the Vietnam era, and

(B) who has—

(i) non-Hodgkin's lymphoma, or

(ii) a soft-tissue sarcoma,

the Administrator shall, except as provided in subsection (b), pay a monthly disability benefit to the veteran in accordance with this section for any disability resulting from that disease.

(2) If a veteran described in paragraph (1) dies from a disease described in clause (B) of such paragraph, the Administrator shall pay a monthly death benefit to the survivors of the veteran in accordance with this section.

(b) Exceptions.—Benefits may not be paid under this section with respect to a disease described in subsection (a)(1)(B) occurring in a veteran—

(1) where there is affirmative evidence that such disease was not incurred by the veteran during service in the Republic of Vietnam during the Vietnam era; or

(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of such disease was suffered by the veteran between the date of the veteran's most recent departure from the Republic of Vietnam during active military, naval, or air service and the onset of the disease described in subsection (a)(1)(B).

(c) Benefit Amounts.—(1) A disability benefit payable to a veteran under this section for a disability resulting from a disease described in subsection (a)(1)(B) shall be paid at the rate at which compensation would be payable under chapter 11 of title 38, United States Code, to that veteran for the disability resulting from that disease if the disability were determined to be service connected.

(2) A death benefit payable under this section to the survivors of a veteran shall be paid to such survivors based upon the eligibility requirements (other than the requirement that the death be the result of a service-connected or compensable disability) for, and at the rates that are applicable to, dependency and indemnity compensation under chapter 13 of that title.

(d) Non-Duplication of Benefits.—A benefit may not be paid under this section with respect to a disability resulting from a disease described in subsection (a)(1)(B) or the death of a veteran for any month for which compensation is payable to the veteran for that disability under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of that title.

(e) Treatment of Disability or Death as Service-Connected Except for Compensation Purposes.—A disability or death from a disease described in subsection (a)(1)(B) establishing eligibility for a disability or death benefit under this section shall be treated for purposes of all laws of the United States (other than the provisions of chapter 11 (other than sections 357, 358, and 361) of title 38, United States Code, and chapter 13 of such title) as if such disease were service-connected. The receipt of a disability benefit under this section shall be treated for purposes of all laws of the United States as if such benefit were disability compensation under chapter 11 of such title, and the receipt of a death benefit under this section shall be treated for purposes of all other laws of the United States as if such benefit were dependency and indemnity compensation under chapter 13 of title 38, United States Code.

(f) Award of Benefits.—Section 3010(g) of title 38, United States Code, shall apply to the award of benefits under this section.

(g) Expiration of Interim Benefits.—No benefit may be paid or service provided by virtue of this section for any period beginning after the date six months after the later of—

(1) the date on which the Administrator receives the report of the Centers for Disease Control on the final results of the Selected Cancers Study conducted pursuant to section 307 of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note);

(2) the date on which Congress receives such report; or

(3) the date on which such report is made public.

(h) Notification of the Provisions of This Section.—(1) The Administrator of Veterans' Affairs shall take all reasonable actions—

(A) to publicize the provisions of this section not later than March 1, 1989; and

(B) to provide actual notice of the provisions of this section, not later than March 1, 1989, to each person described in subsection (a)(1) who, before the date specified in subsection (i), has filed any claim for benefits under programs administered by the Veterans' Administration on the basis of a disease described in subsection (a)(1)(B).

(2) The Administrator shall enclose with at least three distributions of benefits payment checks to each veteran receiving benefits under this section a notice that the authority to pay benefits under this section is temporary. The notice shall contain the approximate date of the expiration of such authority. The first notice shall be enclosed with the first payment of such benefits to a veteran. The last notice shall be enclosed with the last payment of such benefits. At least one notice shall be enclosed with a payment distributed in approximately the middle of the estimated period during which the authority is to be in effect.

(i) Effective Date.—This section, other than subsection (h), shall take effect on March 26, 1989. No benefit may be paid for any period before such date by reason of the enactment of this section.

On page 13, line 5, strike out "sec. 203." and inserting in lieu thereof "sec. 212."

On page 13, between lines 19 and 20, insert the following:

SEC. 213. PRESUMPTIONS RELATING TO CERTAIN DISEASES.

Section 312, as amended by section 212 of this Act, is further amended by adding at the end the following new subsections:

"(e)(1) For the purposes of section 310 of this title, and subject to section 313 of this title in the case of a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era, a disease described in paragraph (2) of this subsection shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service, if the Administrator—

"(A) determines under section 312A of this title that such disease is reasonably associated with such service; and

"(B) lists such disease in regulations prescribed pursuant to section 312A of this title for the purpose of this section.

"(2) A disease referred to in paragraph (1) of this subsection is—

"(A) non-Hodgkin's lymphoma;

"(B) any soft-tissue sarcoma; or

"(C) any other disease listed for the purposes of this subsection in regulations prescribed by the Administrator pursuant to section 312A of this title.

"(3) For the purposes of this subsection, the term 'soft-tissue sarcoma' means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

"(f)(1) For the purposes of section 310 of this title, and subject to section 313 of this title in the case of a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era and who, during such service, was exposed to dioxin or any other toxic agent in an herbicide used in support of United States and allied military operations in the Republic of Vietnam, each disease (if any) listed in regulations prescribed by the Administrator for the purposes of this subsection pursuant to section 312A of this title shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) For the purposes of this subsection, a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era and who has a disease referred to in paragraph (1) of this subsection shall be presumed to have been exposed during such service to dioxin or another toxic agent referred to in such paragraph unless there is affirmative evidence to establish conclusively that the veteran was not so exposed during such service. The Veterans' Administration shall have the burden of proof (including the burden of nonpersuasion) for rebutting such presumption.

"(3) The Administrator may extend the applicability of paragraph (1) of this subsection to the case of any veteran who, during the performance of active military, naval, or air service outside the Republic of Vietnam during the Vietnam era, was exposed to dioxin or any other toxic agent referred to in such subsection.".

SEC. 214. DISEASES ASSOCIATED WITH EFFECTS OF EXPOSURE TO CERTAIN TOXIC AGENTS, OR EFFECTS OF SERVICE IN THE REPUBLIC OF VIETNAM, DURING THE VIETNAM ERA.

(a) In General.—(1) Subchapter II of chapter 11 is amended by inserting after section 312 the following new section:

"§ 312A. Procedures for determining diseases associated with effects of exposure to certain toxic agents or effects of service in Vietnam during the Vietnam era

"(a)(1) Subject to subsections (d) and (e) of this section, the Administrator shall enter into an agreement with an appropriate private nonprofit scientific organization that requires such organization—

"(A) to determine on the basis of studies referred to in paragraph (2) of this subsection and other relevant scientific evidence or information, in the case of dioxin and each other known toxic agent in the herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, which diseases (if any) are associated to any degree with—

"(i) the known biological effects of exposure to dioxin or such other agent on humans, and

"(ii) the biological effects on humans that it is reasonable to infer, on the basis of the known biological effects of exposure to dioxin or such other agent on appropriate animal models, result from exposure of humans to dioxin or such other toxic agent, including those effects involving porphyrin synthesis, lung cancer, other cancers, nervous system function, immune function, reproduction, and birth defects;

"(B) to determine whether any disease described in clause (A) or (B) of section 312(e)(2) of this title or any other disease is associated to any degree with military, naval, or air service in the Republic of Vietnam during the Vietnam era; and

"(C) to estimate the strength of any association referred to in clause (A) or (B) of this paragraph using methods as quantitative and as objective as the relevant available data permit.

"(2) In order to make determinations under this subsection and related estimates under paragraph (1) of this subsection, the private nonprofit scientific organization referred to in such paragraph shall—

"(A) conduct, with the assistance of and subject to the review of a peer review panel of recognized experts in toxicology, medicine, epidemiology, and related fields—

"(i) a survey of completed and ongoing scientific studies of, and other scientific evidence or information regarding, the effects that dioxin and other known toxic agents in the herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era have on humans or other animals that have been exposed to dioxin or such an agent; and

"(ii) a survey of completed and ongoing scientific studies of, and other scientific evidence or information regarding, the health effects of military, naval, or air service in the Republic of Vietnam during the Vietnam era on veterans of such service; and

"(B) review and consider the report, submitted to the Administrator by the Centers for Disease Control, containing the final results of the Selected Cancers Study conducted pursuant to section 307 of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note).

To the maximum extent practicable the surveys under clauses (A) and (B) shall include all scientific studies, evidence, and information described in such clauses.

"(3) Not later than 60 days after the date on which the scientific organization referred to in paragraph (1) receives the report on the Selected Cancers Study referred to in paragraph (2) of this subsection, such organization shall transmit to the Administrator and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report, in writing, containing—

"(A)(i) the name of each disease (if any) determined as provided in paragraph (1)(A) of this subsection to be associated to any degree with the biological effects referred to in such paragraph; and

"(ii) a discussion of the biological basis for such association of such disease with such effects; and

"(iii) the estimate of the strength of such association determined as provided in paragraph (1)(C), including a determination of whether the association is applicable to the highest level of exposure to dioxin or any other toxic agent referred to in paragraph (1)(A) of this subsection that is reasonably attributable to active military, naval, or air service in the Republic of Vietnam during the Vietnam era (determined on the basis of the circumstances, duration, and intensity of the exposure associated with the disease); and

"(B)(i) the name of each disease described in clause (A) or (B) of section 312(e)(2) of this title (if any) determined to be associated to any degree with military, naval, or air service in the Republic of Vietnam during the Vietnam era and the name of each other disease (if any) determined to be associated to any degree with such service;

"(ii) a discussion of the biological basis for such association of such disease with such service; and

"(iii) the estimate of the strength of such association determined as provided in paragraph (1)(C).

"(4) Not later than 60 days after the date on which the Administrator receives the report under paragraph (3) of this subsection, the Administrator shall—

"(A)(i) determine, on the basis of such report and all other relevant scientific evidence or information available to the Administrator at the time of the determination, which diseases (if any) are reasonably associated with active military, naval, or air service in the Republic of Vietnam during the Vietnam era as a result of the biological effects referred to in paragraph (1)(A) of this subsection; and

"(ii) issue proposed regulations for the purpose of section 312(f) of this title that list each such disease;

"(B)(i) determine, on the basis of such report and all other relevant scientific evidence or information available to the Administrator at the time of the determination, whether any disease described in clause (A) or (B) of section 312(e)(2) of this title or any other disease, is reasonably associated with military, naval, or air service in the Republic of Vietnam during the Vietnam era; and

"(ii) issue proposed regulations for the purpose of section 312(e) of this title that list each such disease reasonably associated with such service; and

"(C) transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives—

"(i) a report containing the Administrator's determinations under clauses (A) and (B) of this paragraph and the scientific basis for such determinations; and

"(ii) a copy of the reports referred to in clauses (A)(i) and (B)(i) of this paragraph.

"(5) Not later than 60 days after the date on which the Administrator issues any proposed regulations pursuant to paragraph (4) of this subsection, the Administrator shall—

"(A) issue final regulations, effective on the date of issuance of such regulations, for the purpose of section 312(f) of this title that list each disease (if any) determined by the Administrator to be reasonably associated with the biological effects referred to in paragraph (1)(A) of this subsection; and

"(B) issue final regulations, effective on the date of issuance of such regulations, for the purpose of section 312(e) of this title that list each disease described in clause (A) or (B) of section 312(e)(2) of this title determined by the Administrator to be reasonably associated with military, naval, or air service in the Republic of Vietnam during the Vietnam era (if any) and each other disease (if any) determined by the Administrator to be reasonably associated with such service.

"(b)(1) The Administrator shall provide for a periodic (but not less often than annual) survey of scientific studies, evidence, and information relevant to determinations of which diseases should be listed in regulations for the purposes of subsections (e) and (f) of section 312 of this title. The survey shall include studies described in subsection (a)(2) of this section that have been published or otherwise become available since the last survey under this section. The first periodic review shall be conducted after completion of the actions required under subsection (a). To the maximum extent practicable each such survey shall include all scientific studies described in the first sentence.

"(2) Subject to subsections (d) and (e) of this section, the Administrator shall enter into an agreement with a private nonprofit scientific organization that requires such organization—

"(A) to conduct the survey under paragraph (1) of this subsection; and

"(B) to determine, taking into consideration the results of all of the scientific studies, evidence, and information surveyed under this subsection and subsection (a)(2)(A) of this section and the report referred to in subsection (a)(2)(B) of this section—

"(i) whether there is warranted on a scientific basis any modification of the determinations previously made under this section with respect to diseases associated with the biological effects referred to in subsection (a)(1)(A) of this section and diseases associated with military, naval, or air service in the Republic of Vietnam during the Vietnam era;

"(ii) the name of each disease (if any) that is associated to any degree with the biological effects referred to in subsection (a)(1)(A) of this section;

"(iii) the biological basis for the association of such disease with such effects; and

"(iv) an estimate of the strength of such association (determined using methods as quantitative and as objective as the relevant available data permit), including a determination of whether the association is applicable to the highest level of exposure to dioxin or any other toxic agent referred to in subsection (a)(1)(A) of this section that is reasonably attributable to active military, naval, or air service in the Republic of Vietnam during the Vietnam era (determined on the basis of the circumstances, duration, and intensity of the exposure associated with the disease); and

"(C) to determine—

"(i) the name of each disease described in clause (A) or (B) of section 312(e)(2) of this title (if any) that is associated to any degree with active military, naval, or air service in the Republic of Vietnam during the Vietnam era and the name of each other disease (if any) that is associated to any degree with such service; and

"(ii) the biological basis for the association of such disease with such service; and

"(iii) an estimate of the strength of such association using methods described in clause (B)(iv) of this paragraph.

"(3) After each survey under paragraph (1) of this subsection, the organization conducting the survey shall submit to the Administrator a report on the survey and on the determinations of such organization.

"(4) Upon receiving a report under paragraph (3) of this subsection, the Administrator shall—

"(A) determine, on the basis of such report, all previous reports received under this subsection and subsection (a) of this section, and all other relevant scientific evidence and information available to the Administrator at the time of the determination, whether any disease not previously listed in any regulations prescribed pursuant to this section should be so listed in regulations so prescribed; and

"(B) promptly transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives—

"(i) a report containing the Administrator's determinations under clause (A) of this paragraph and the scientific basis for such determinations; and

"(ii) a copy of the report received under paragraph (3) of this subsection.

"(5) Not later than 60 days after transmitting a report to the Committees on Veterans' Affairs under paragraph (4)(B)(i) of this subsection, the Administrator shall prescribe regulations amending the regulations referred to in paragraph (4)(A) of this subsection as may be necessary to reflect the Administrator's determinations included in that report. The amended regulations shall take effect 30 days after the date on which such amendatory regulations are prescribed.

"(c) Whenever a determination is required to be made by the Administrator under this section regarding the existence of a reasonable association between a disease and exposure to dioxin or another known toxic agent in the herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, and whenever a determination is required to be made by the Administrator under this section regarding the existence of a reasonable association between a disease and military, naval, or air service in the Republic of Vietnam during the Vietnam era, any reasonable doubt shall be resolved in favor of the existence of such reasonable association.

"(d) The private nonprofit scientific organization referred to in subsections (a)(1) and (b)(2) shall be the National Academy of Sciences, except that the Administrator may enter into an agreement with any other appropriate private nonprofit scientific organization for the purposes of either subsection if—

"(1)(A) in the case of an agreement referred to in subsection (a)(1), the National Academy of Sciences has not entered into an agreement with the Administrator under such subsection by March 1, 1989; or

"(B) in the case of an agreement referred to in subsection (b)(2), the National Academy of Sciences does not enter into an agreement with the Administrator under such subsection;

"(2) the Administrator has transmitted to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification, in writing, containing the name of the other organization; and

"(3) ninety days have elapsed since the date on which such committees receive such notification.

"(e) The authorities provided in this section to enter into a contract shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

"(f) This section shall cease to be effective on the date 10 years after the first day of the fiscal year in which a private nonprofit scientific organization transmits to the Administrator the report under subsection (a)(3) of this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 312 the following new item:

"312A. Procedures for determining diseases associated with effects of exposure to certain toxic agents or effects of service in Vietnam during the Vietnam era.".

(b) Interim Regulations.—(1) If the authority to pay benefits under section 211 of this Act expires before the Administrator of Veterans' Affairs issues final regulations under of section 312A(a)(5) of title 38, United States Code (as added by subsection (a)), the Administrator shall issue emergency regulations, effective upon issuance, providing for the payment of disability compensation under chapter 11 of such title to each veteran who receives benefits under section 211 of this Act for a disease listed in regulations proposed by the Administrator under section 312A(a)(4) of such title. Payment of such disability compensation shall be effective on the date of the expiration of the authority under section 211 of this Act. The Administrator shall pay disability compensation to such a veteran pursuant to this paragraph without requiring such veteran to submit an application in addition to the application submitted for benefits under section 211 of this Act.

(2) Payment of disability compensation as provided in paragraph (1) may be terminated in the case of any veteran after the Administrator issues final regulations under section 312A(a)(5) of title 38, United States Code, but only if the Administrator determines that such veteran's disability is not service connected (taking into consideration the applicable presumption under section 312 (e) or (f) of such title (as added by section 213 of this Act)). In no event, however, may a veteran be required, by reason of such a determination, to repay disability compensation paid to the veteran before the date of such a determination.

(c) Special Effective Date of Award of Disability Compensation.—(1) If the Administrator of Veterans' Affairs fails to issue final regulations under section 312A(a)(5) of title 38, United States Code (as added by subsection (a)), before the date 180 days after the date determined under paragraph (2), any award of disability compensation under chapter 11 of such title on the basis of a presumption provided in section 312 (e) or (f) of such title (as added by section 213 of this Act) shall be effective on such date, except that benefits may not be paid under chapter 11 of such title for any period pursuant to both this subsection and subsection (b).

(2) The date referred to in paragraph (1) is the date six months after the later of—

(A) the date on which the Administrator receives the report of the Centers for Disease Control on the final results of the Selected Cancers Study conducted pursuant to section 307 of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note);

(B) the date on which Congress receives such report; or

(C) the date on which such report is made public.

(d) Contract Authority Subject to Additional Authorization.—Notwithstanding section 312A(d) of title 38, United States Code (as added by subsection (a)), the Administrator of Veterans' Affairs may not enter into an agreement with a private nonprofit scientific organization under such section, other than an agreement with the National Academy of Sciences, until specifically authorized to do so by an Act other than this Act.

SEC. 215. RESULTS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO CERTAIN HERBICIDES OR TO SERVICE IN VIETNAM.

(a) In General.—The Administrator of Veterans' Affairs shall compile and analyze, on a continuing basis, all clinical data that (1) is obtained by the Veterans' Administration in connection with examinations and treatment furnished to veterans by the Veterans' Administration after November 3, 1981, by reason of eligibility provided in section 610(e)(1)(A) of title 38, United States Code, and (2) is likely to be scientifically useful in determining the association, if any, between the disabilities of veterans referred to in such section and exposure to dioxin or any other toxic substance referred to in such section or between such disabilities and active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(b) Annual Report.—The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report containing—

(1) the information compiled in accordance with subsection (a);

(2) the Administrator's analysis of such information;

(3) a discussion of the types and incidences of disabilities identified or treated by the Veterans' Administration in the case of veterans referred to in subsection (a);

(4) the Administrator's explanation for the incidence of such disabilities;

(5) other explanations for the incidence of such disabilities considered reasonable by the Administrator;

(6) the Administrator's views on the scientific validity of drawing conclusions from the incidences of such disabilities, as evidenced by the data compiled under subsection (a), about any association between such disabilities and exposure to dioxin or any other toxic substance referred to in section 610(e)(1)(A) of title 38, United States Code, or between such disabilities and active military, naval, or air service in the Republic of Vietnam during the Vietnam era; and

(7) the evaluation of such report submitted by the Director of the Office of Technology Assessment pursuant to subsection (c)(2).

(c) Consultation with OTA.—(1) The Administrator shall consult with the Director of the Office of Technology Assessment before compiling and analyzing any information under this section and shall submit the annual report required by subsection (b) to the Director before submitting such report to the committees referred to in such subsection.

(2) The Director of the Office of Technology Assessment shall review the annual report submitted under paragraph (1) and transmit to the Administrator the Director's evaluation of the content of the report.

(d) First Report.—The first report under subsection (b) shall be submitted one year after the date of the enactment of this Act.

SEC. 216. TISSUE ARCHIVING SYSTEM.

(a) Establishment of System.—For the purpose of facilitating future scientific research on the effects of exposure of veterans to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, the Administrator of Veterans' Affairs shall establish and maintain a system for the collection and storage of voluntarily contributed samples of blood and tissue of veterans who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era. The system may be administered by the Veterans' Administration or under a contract awarded by the Administrator, whichever is more cost-effective.

(b) Security of Specimens.—The Administrator shall ensure that the tissue is collected and stored under physically secure conditions and that the tissue is maintained in a condition that is useful for research referred to in subsection (a).

(c) Authorized Use of Specimens.—The Administrator may make tissue available from the system for research referred to in subsection (a) in a manner consistent with the privacy rights and interests of the blood and tissue donors.

(d) Limitations on Acceptance of Samples.—The Administrator may prescribe such limitations on the acceptance and storage of blood and tissue samples as the Administrator considers appropriate consistent with the purpose specified in the first sentence of subsection (a).

(e) Consultation with OTA.—The Administrator shall consult with the Director of the Office of Technology Assessment on the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

SEC. 217. FEASIBILITY STUDIES.

(a) Studies.—The Administrator of Veterans' Affairs shall establish a program to provide for the conduct of studies of the feasibility of conducting additional scientific research on—

(1) health hazards resulting from exposure to dioxin;

(2) health hazards resulting from exposure to other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era; and

(3) health hazards resulting from active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(b) Program Requirements.—(1) Under the program established pursuant to subsection (a), the Administrator shall, pursuant to criteria required to be prescribed under paragraph (2), award contracts or furnish financial assistance to non-Government entities for the conduct of studies referred to in subsection (a).

(2) The Administrator shall prescribe criteria for (A) the selection of entities to be awarded contracts or to receive financial assistance under the program, and (B) the approval of studies to be conducted under such contracts or with such financial assistance.

(c) Report.—The Administrator shall promptly report the results of studies conducted under the program to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(d) Consultation with the National Academy of Sciences.—To the extent provided under any agreement entered into by the Administrator and the National Academy of Sciences (1) the Administrator shall consult with the National Academy of Sciences regarding the establishment and administration of the program under subsection (a), and (2) the National Academy of Sciences shall review the studies conducted under contracts awarded pursuant to the program and the studies conducted with financial assistance furnished pursuant to the program. The agreement shall require the National Academy of Sciences to submit to the Administrator and the Committees on Veterans' Affairs of the Senate and the House of Representatives any recommendations that the National Academy of Sciences considers appropriate regarding any studies reviewed under the agreement.

(e) Contract Authority Subject to Appropriation.—The authority provided in this section to enter into contracts shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 218. OUTREACH SERVICES.

(a) In General.—The Administrator of Veterans' Affairs shall—

(1) conduct an active, continuous outreach program for furnishing to veterans of active military, naval, or air service in the Republic of Vietnam during the Vietnam era information relating to (A) the health risks (if any) resulting from exposure during such service to dioxin or any other toxic agent in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, including annually furnishing updated information on such health risks to such veterans and (B) services and benefits available to such veterans;

(2) take reasonable actions to update the information on veterans contained in the Veterans' Administration Agent Orange Registry; and

(3) take reasonable actions to organize the information contained in such registry in a manner that enables the Administrator promptly to notify a veteran of any increased health risk for such veteran resulting from exposure of such veteran to dioxin or any other toxic agent referred to in clause (1) during Vietnam era service in the Republic of Vietnam whenever the Administrator determines, on the basis of physical examination or other pertinent information, that such veteran is subject to such increased health risk.

(b) Information to Committees on Veterans' Affairs.—The Administrator, promptly after furnishing any information to veterans pursuant to subsection (a)(1), shall furnish such information to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

SEC. 219. REPORT RELATING TO RESEARCH ON TREATMENTS FOR EXPOSURE TO DIOXIN AND OTHER TOXIC AGENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing a discussion of the research being conducted to identify and develop treatments for physiological absorption of dioxin and other toxic agents similar to the toxic agents in herbicides used in support of United States and allied operations in the Republic of Vietnam during the Vietnam era, including research relating to exposure to dioxin and other toxic agents outside the Republic of Vietnam.

On page 13, line 20, strike out "sec. 204." and insert in lieu thereof "sec. 220.".

On page 14, line 1, strike out "sec. 205." and insert in lieu thereof "sec. 221.".

On page 15, strike out line 11, and all that follows through page 17, line 4.

On page 17, line 5, strike out "sec. 207." and insert in lieu thereof "sec. 222.".

On page 18, line 18, strike out "Act" and all that follows through line 21, and insert in lieu thereof the following: "Act, shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the Administrator's decision regarding the need for any such amendments and the reasons for such decision, and take any action required by subparagraph (B).".

On page 18, line 24, strike out ", not later" and all that follows through "paragraph (1)," on line 25.

On page 19, between lines 1 and 2, insert the following:

"(C) Not later than 60 days after the date on which the Administrator issues any proposed amendments to regulations under subparagraph (B), the Administrator shall issue final regulations amending the regulations prescribed pursuant to section 5 of Public Law 98-542.

On page 22, between lines 7 and 8, insert the following:

SEC. 223. DEFINITIONS.

In this part—

(1) the terms "Administrator", "veteran", "service-connected", "active military, naval, or air service", and "Vietnam era" shall have the meanings given those terms in paragraphs (1), (2), (16), (24), and (29), respectively, of section 101 of title 38, United States Code;

(2) the term "disability" refers to a disability within the meaning of chapter 11 of such title; and

(3) the term "soft-tissue sarcoma" means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

PART B—ADVISORY COMMITTEE ON SPECIAL STUDIES RELATING TO THE POSSIBLE LONG-TERM HEALTH EFFECTS OF PHENOXY HERBICIDES AND CONTAMINANTS

SEC. 231. DEFINITIONS.

In this part:

(1) The term "Advisory Committee" means the committee known as the "Advisory Committee on Special Studies Relating to the Possible Long-term Health Effects of Phenoxy Herbicides and Contaminants" which has been established to monitor the conduct of the Ranch Hand Study.

(2) The term "Ranch Hand Study" means the special study, conducted by the Department of the Air Force, relating to the possible long-term health effects of phenoxy herbicides and contaminants on Air Force personnel who participated in Operation Ranch Hand in the Republic of Vietnam during the Vietnam era.

SEC. 232. ADVISORY COMMITTEE PERSONNEL AND SUPPORT.

(a) Composition.—(1) Effective on March 1, 1989, not less than one-third of the total number of members of the Advisory Committee shall be individuals selected by the Secretary of Health and Human Services from among scientists recommended by veterans' organizations and determined by the Secretary to be qualified for service on the Advisory Committee.

(2) A scientist shall be qualified for service on the Advisory Committee if—

(A) the scientist—

(i) has received a doctor of medicine degree or a doctor of philosophy or other advanced degree from an institution of higher education in a field relevant to the responsibilities of the Advisory Committee; and

(ii) has published articles relevant to such responsibilities in peer-reviewed scientific literature; or

(B) the scientist has equivalent qualifications.

(b) Chairman.—On and after March 1, 1989, the Chairman of the Advisory Committee may be an officer or employee of the Federal Government (other than by reason of his or her service as a member of the Advisory Committee) only if the Secretary of Health and Human Services determines that there is no individual qualified and available to serve as Chairman other than an officer or employee of the Federal Government. The Secretary shall report any such determination to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(c) ADMINISTRATIVE ASSISTANCE.—The Secretary of Health and Human Services shall furnish the Chairman the logistical and financial support necessary for the operation of the Advisory Committee.

SEC. 233. ADVISORY RELATIONSHIP.

The Advisory Committee may directly consult with and provide information and recommendations to the Department of the Air Force scientists conducting the Ranch Hand Study, and such scientists may directly consult with and provide information and recommendations to the Advisory Committee. No officer or employee of the Federal Government may intervene in or impair direct communication between the Advisory Committee and such scientists under this section except as may be necessary to prevent an inappropriate disclosure of classified information.

SEC. 234. REPORTS.

(a) SCHEDULE OF REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Veterans' Affairs and on Armed Services of the Senate and the House of Representatives a schedule of reports on the Ranch Hand Study and on any other studies conducted by the Department of Defense in order to determine the possible long-term effects of phenoxy herbicides and contaminants on the health of the Air Force personnel who participated in Operation Ranch Hand in the Republic of Vietnam during the Vietnam era. The schedule shall provide for the preparation of annual reports and a final report.

(b) CONTENT OF REPORTS.—(1) The reports referred to in subsection (a) shall contain the following matters:

(A) A discussion of the progress made in the studies referred to in subsection (a) during the period covered by the report.

(B) A summary of the scientific activities conducted during such period and the findings resulting from such activities. Such summary shall be prepared by the scientists conducting such activities.

(2) Such a report need not contain (A) a discussion of progress discussed in any other report, issued by the Department of Defense under this section or otherwise, regarding a study referred to in subsection (a), or (B) a scientific summary included in any other such report unless such discussion or summary needs to be modified in order to be complete, accurate, and current.

(c) TRANSMITTAL OF REPORTS.—The Secretary of Defense shall transmit to the committees referred to in subsection (a) a copy of each report prepared under such subsection.

PART C—EFFECTIVE DATE

SEC. 241. EFFECTIVE DATE.

Except as provided as in section 211(i) of this Act, this title shall take effect on the date of the enactment of this Act.

In the table of contents set out in section 1(b), strike out the items relating to title II (including the items relating sections 201 through 207) and insert in lieu thereof the following:

TITLE II—AGENT ORANGE AND RELATED PROVISIONS

Sec. 201. Short title.

PART A—AGENT ORANGE PRESUMPTIONS, BENEFITS, RESEARCH, AND OUTREACH MATTERS

Sec. 211. Interim period for award of benefits for Vietnam veterans with non-Hodgkin's lymphoma and certain sarcomas.

Sec. 212. Presumptive service connection of chloracne.

Sec. 213. Presumptions relating to certain diseases.

Sec. 214. Diseases associated with effects of exposure to certain toxic agents or effects of service in the Republic of Vietnam during the Vietnam era.

Sec. 215. Results of examinations and treatment of veterans for disabilities related to exposure to certain herbicides or to service in Vietnam.

Sec. 216. Tissue archiving system.

Sec. 217. Feasibility studies.

Sec. 218. Outreach services.

Sec. 219. Report relating to research on treatments for exposure to dioxin and other toxic agents.

Sec. 220. Extension of health-care eligibility based on agent orange or ionizing radiation exposure.

Sec. 221. Income exclusion of certain payments for purposes of eligibility for certain needs-based veterans' benefits.

Sec. 222. Modification of procedures for consideration of certain studies.

Sec. 223. Definitions.

PART B—ADVISORY COMMITTEE ON SPECIAL STUDIES RELATING TO THE POSSIBLE LONG-TERM HEALTH EFFECTS OF PHENOXY HERBICIDES AND CONTAMINANTS

Sec. 231. Definitions.

Sec. 232. Advisory committee personnel and support.

Sec. 233. Advisory relationship.

Sec. 234. Reports.

PART C—EFFECTIVE DATE

Sec. 241. Effective date.

Mr. DASCHLE. Mr. President, the amendment Senators KERRY, CRANSTON, and I are offering today is the result of over a year of work and long negotiations with many people concerned about the possible health effects of exposure to agent orange. Our amendment would compensate, on an interim basis, Vietnam veterans suffering from two rare, terminal cancers—non-Hodgkin's lymphoma and soft-tissue sarcoma—and provide independent scientific reviews to evaluate the evidence on these and other diseases that may be associated with exposure to agent orange or service in Vietnam.

The amendment would also establish a tissue archiving system to facilitate future research, review VA medical data on Vietnam veterans, require pilot studies to determine whether or not a large-scale epidemiological study on agent orange exposure is feasible, provide improved outreach services for veterans who may have been exposed to agent orange, and restructure the Advisory Committee for the Air Force's ranch hand study.

This amendment is a genuine compromise. It does not contain everything we wanted, but it is another important step down the road toward a meaningful resolution of the agent orange issue.

Before I go on, I want to say a few words about the Senator from Massachusetts, Senator KERRY. Aside from being an outstanding legislator, he is a decorated Vietnam veteran, and he has firsthand knowledge of many of the issues we are discussing today. He and I have been working together for over a year to make agent orange legislation a reality, and I want to thank him for all his efforts. We would not be here today were it not for him, and I am honored to have coauthored this legislation with him.

I also want to thank Senator CRANSTON, the chairman of the Senate Veteran's Affairs Committee, and Senator MURKOWSKI, the ranking minority member, for their efforts. While we have all had our different thoughts about the best way to approach this complex issue, Senators CRANSTON and MURKOWSKI have worked with Senator KERRY and me to address our differences, and the amendment we are offering today is the result of those efforts.

In response to the concerns raised by Senators CRANSTON and MURKOWSKI, Senator KERRY and I have agreed to interim benefits for non-Hodgkin's lymphoma [NHL] and soft-tissue sarcoma [STS] to extend until 6 months after the release of the final results of the selected cancers study, which is expected some time between late 1989 and mid-1990. At that point, the Veterans' Administration, based on the scientific review to be provided by the National Academy of Sciences and any other relevant information, will be asked to determine whether or not NHL, STS, or any other diseases are reasonably associated with exposure to agent orange or service in Vietnam.

At issue in the debate over agent orange compensation is the point at which Congress should act on behalf of disabled veterans who may have been injured as a result of their exposure to agent orange. In 1984, Public Law 98-542, which Senator CRANSTON and I sponsored in the Senate and House, respectively, reiterated the longstanding principle that in cases where there is reasonable doubt regarding the possible connection between a veteran's disability and military service, the benefit of the doubt shall be given to the veteran seeking compensation. Four years later, and 13 years after the fall of Saigon, Vietnam veterans are still waiting for help from the Government they fought to protect. Some of them are already dead. While it is too late for them, it is not too late for other veterans.

The reasonable doubt standards has been applied to veterans with 54 presumptive diseases already in title 38, including 13 diseases associated with exposure to atomic radiation, diabetes within 7 years of service, multiple sclerosis, and spastic colon in former POW's. The time is long overdue for us to apply it to diseases associated with agent orange.

Many scientists disagree about the weight of scientific evidence implicating agent orange in the various disabilities associated with agent orange. The evidence is not definitive, but it is strongly suggestive and growing all the time. The establishment of the reasonable doubt standard has provided Congress and the VA with a mechanism for resolving these issues for compensation purposes.

Science cannot dictate all our policy choices, especially within the timeframe necessary to respond effectively to veterans' disability claims. If we wait for scientific unanimity, we will be waiting a long time, and veterans who deserve compensation will go without it. In the end, we will have to make those policy choices ourselves, for that is what we were elected to do. That is the least we owe the men and women who answered the call to service in defense of our freedoms.

Dr. Peter Kahan, as associate professor in biochemistry at Rutgers University and a member of the New Jersey Agent Orange Commisison, capsulized the issue in a letter supporting S. 2675, Senator KERRY's and my legislation to provide permanent presumptions for non-Hodgkin's lymphoma and soft-tissue sarcoma:

> There is an abundance of evidence suggesting a connection, . . . but evidence to convict beyond reasonable doubt does not exist. You and your colleagues are thus left with the classic policy maker's dilemma of how to act in the absence of sure and certain information. If you do nothing, and if the men's medical problems do, in the end, prove to be related to their military service, the country will have denied aid to men who have earned it. You risk making an error that cannot be restored. Conversely, if you provide presumptive aid for men who need it, you may and probably will aid at least some whose problems did not arise from military service. This, too, would be an error. Only if you both do nothing and if agent orange exposure proves not to be responsible for later medical problems can you be sure of making no error. The choice among these is not scientific; it is moral, and the moral quality of the country is shown by which choice it makes.

Given the strong evidence in support of an association between agent orange and/or Vietnam service and both non-Hodgkin's lymphoma and soft-tissue sarcoma, I believe it is time to compensate veterans suffering these disabilities. While I firmly believe there is sufficient evidence to warrant permanent presumptions for these diseases, I am willing to agree to this compromise because it offers interim benefits for both NHL and STS and provides the mechanism Senator KERRY and I offered in S. 2675 to evaluate the scientific evidence relating to these and all other diseases potentially related to agent orange or Vietnam service.

Since we are not scientists, we have to rely to a large degree on the scientific community to counsel us on the state of the scientific evidence. We should rely, however, on independent scientific assessments, and we must be careful to ask the right questions. Our amendment requires that an independent nonprofit scientific organization conduct annual reviews of the scientific evidence relating to the possible negative health effects of exposure to agent orange or service in Vietnam, and make recommendations to Congress and the Veterans' Administration regarding which diseases are associated with these factors.

Our amendment requires the VA to contact with the National Academy of Sciences [NAS] to fulfill the requirements for scientific reviews if the NAS is willing to conduct them. It is our hope that the NAS will agree to conduct the reviews, for the NAS is widely held as an entity that can assemble the best scientific minds to provide expert, objective judgments about the plausibility of causal associations between agent orange exposure or Vietnam service and certain disabilities.

The NAS is uniquely qualified for this task, for it has the confidence of virtually all of us who are familiar with the complex scientific issues and political controversy surrounding the agent orange debate. That in itself is an amazing achievement. Also, the NAS has dealth with the agent orange issue since 1979, when the Government first became involved in agent orange studies.

The provision for annual scientific reviews is the most important long-term element of this legislation. Agent orange studies and decisions have been mired in controversy and subjected to a myriad of economic and political pressures. The scientific reviews in our amendment are intended to provide a nonpolitical, systematic mechanism for addressing the scientific issues so that Congress and the VA may be fully informed when making policy decisions.

It should be clear that we are not asking the entity conducting the reviews to make political judgments. We are asking that entity to make scientific judgments, based on all the valid scientific information available, about the degree to which any diseases may be associated with the one, exposure to dioxin or other toxic agents in agent orange or other herbicides, or two, service in Vietnam.

The amendment requires the organization conducting the review "to estimate the strength of any association . . . using methods as quantitative and as objective as the relevant available data permit." In some cases, the data may permit probabilistic statements about the overall relative risk for veterans of contracting a certain disease. For example, the combined evidence may support a statement such as, "There is an 80 percent chance of a 40 percent increase in soft-tissue sarcoma among veterans exposed to herbicides." If the data do not permit such a probabalistic statement, the organization is called upon to provide its best scientific judgment about the reasonableness of an association drawn between each disability and agent orange exposure or military service.

The amendment also requires the scientific organization to advise the VA as to whether or not the association between a disease and dioxin exposure—or exposure to another toxic agent in herbicides—is consistent with possible exposures in Vietnam. It should be clear that this provision is intended to preclude only presumptions for diseases that cannot be reasonably associated with the maximum level of dioxin exposure possible for a Vietnam veteran. For the application of this standard, a worst case scenario should be assumed. That is, it should be assumed that all exposed veterans were exposed at the maximum possible level during their Vietnam service. Only diseases associated only with exposures beyond that level should be excluded from the list of diseases reasonably associated with dioxin exposure for VA disability compensation purposes.

This independent review is necessary for several reasons. First, many of the studies relating to agent orange and Vietnam service are being conducted by the U.S. Government. Since 1979, many have questioned whether or not the Government should be, in effect, studying itself. Regardless of whether or not there is a bias in Government-sponsored science related to these issues, independent reviews can provide an element of objectivity that is necessary to instill confidence in the science among veterans, scientists, Congress, and the public at large.

Second, there are many indications that the Government-sponsored science is, in fact, biased—that the Government is hiding behind the science in an effort to justify doing nothing and outlast the survivors. We know that the Government has delayed public notification of study results, obstructed funding of dioxin-related studies, altered expert testimony submitted to congressional committees, violated study protocols, and provided questionable interpretations of scientific data. I will cite specific examples of this Government management of the science in a moment. For now, suffice it to say that there is little confidence in the Government's role in the agent orange issue, and an independent voice in this process is absolutely essential. Our annual reviews should address this need.

Finally, the independent reviews are necessary to provide a focused, comprehensive view of the evidence. While various Government and private entities have reviewed bits and pieces of the relevant scientific literature, continuity is needed in this area if we are to make informed policy choices. Several Government agencies have also conducted reviews, but they have not been clearly focused, and they, too, have at least the stigma of Government bias.

As I mentioned, there are many concrete examples of Government interference in the scientific inquiries surrounding agent orange. The simplest form is obstruction of Government information through delays in scientific reports. Three examples come immediately to mind. First, the Air Force, heeding advice from the Ranch Hand Advisory Committee appointed by the Secretary of Health and Human Services, has delayed reporting the results of its 1984 reproductive outcome update identifying an approximate doubling of birth defects among veterans who participated in the ranch hand operation, which was responsible for the fixed-wing aerial sprayings of agent orange in Vietnam and Laos.

It is now 1988, and the Air Force still refuses to release the birth defects report, claiming that the negative reports of birth defects are still being verified. In fact, in 1985, a year after the Air Force learned that the birth defects findings were much more serious than originally believed, an Air Force spokesman publicly stated that birth defects were not a problem in the ranch hand children.

The Air Force did finally agree, at my insistence, to release a technical report advising the public and scientific community of some of the birth defects findings and other findings reassessing conclusions in the 1984 morbidity report: that is, an exposure index that is uncorrelated with actual exposure, an increase in birth defects—in ranch hand children—that are not limited to minor lesions, an increase—in ranch hand veterans—in skin cancers that are not caused by overexposure to the Sun, and an increase—in ranch hand veterans—in cancers that are not necessarily limited to the skin. After releasing the report, however, the Air Force did all it could to discredit the report, which has been praised by the scientific community.

Second, in 1987, the VA apparently delayed the release of the VA's proportionate mortality report, which found a 110-percent increase in non-Hodgkin's lymphoma and a 58-percent increase in lung cancer among marines who served in the most heavily sprayed areas in Vietnam. The VA study was released only after news of its existence was leaked to the New York Times.

A third example of Government delay in reporting study results related to the CDC's Vietnam experience study, which the CDC refused to release until it was published in the Journal of the American Medical Association. In fact, the Senate hearing on agent orange was delayed for months because CDC refused to release its results. Then, at the hearing, CDC reported no significant problems potentially associated with agent orange. CDC did acknowledge six cases of non-Hodgkin's lymphoma in the veterans who served in Vietnam as opposed to one case among those who served elsewhere, but we were told they had not yet been verified—that the study was not over. Several days later, CDC notified Senators Cranston and Murkowski and Representatives Montgomery and Solomon by letter that the NHL cases had been verified and that the ratio was now 7 to 1, but cautioned them not to overinterpret the data.

This brings up another case in point. The progress, or lack of it, of the CDC's agent orange exposure study has been released in pieces since July of last year. In July 1987, the CDC published its preliminary findings, which CDC interpreted to mean that few Vietnam veterans were exposed to agent orange. In September 1987, CDC released the results of OTA's review of their results. In May and June 1988, CDC released the results again at the Senate and House agent orange hearings, and just a few weeks ago, CDC released the results for a fourth time. I have no objection to reporting results as soon as they come in, but I do object to this administration's tendency to hold back results they do not like, while rushing out, and giving more weight to, results they do like.

Another form of Government interference in agent orange studies has been attempted, not through the agencies actually doing the studies, but through the Office of Management and Budget [OMB]. In 1986, the House Energy and Commerce Subcommittee on Oversight and Investigations reported that OMB, "under the guise of paperwork control," interfered with the substance of CDC research and obstructed funds for environmental and occupational health studies, including dioxin studies. In fact, OMB, contrary to the recommendations of agency scientists, suggested that there has been enough research on dioxin. The subcommittee's report, prepared by scientists from the Harvard School of Public Health and the Mount Sinai School of Medicine, concluded that "OMB has delayed, impeded and thwarted governmental research efforts designed to answer public demands for information on serious public health questions."

An unfortunate experience implicating the Department of Defense also occurred in 1986, shortly after a House hearing, chaired by Representative Bob Edgar and myself, to investigate the progress of the CDC's agent orange exposure study. At the hearing, CDC officials predicted that they would not be able to conduct a valid, large-scale epidemiological study of health effects in veterans exposed to agent orange based on military records

Mr. Richard Christian, Director of the U.S. Army-Joint Services Environmental Support Group, which was charged with finding potential study subjects, testified that he believed a valid study could be conducted, but that CDC was not using the military records in the best way. I, along with Representatives Edgar and Ridge, submitted followup question to Mr. Christian to learn more about his thoughts on this improtant issue. Mr. Christian answered those questions, but his answers were altered before they were submitted to the subcommittee. I will later ask that a Department of Defense document listing the changes and their significance be printed in the Record.

Also, the Department of Defense, through the chief Air Force ranch hand scientist, directly interfered in a Massachusetts study of the effects of agent orange exposure. Col. William Wolfe wrote all ranch hand study participants advising them not to participate in the Massachusetts study. The Ranch Hand Vietnam Association, headed by a strong opponent of agent orange compensation, also advised against participation in the Massachusetts study and suggested that the Massachusetts study "does not appear to be good science. * * *"

Perhaps one of the most troubling forms of management and interference has come in the form of study protocol violations. The study protocol is written for the express purpose of promoting scientific objectivity. Adherence to the protocol is essential for all studies and is especially important in Government studies, where objectivity is already a question. In the case of the Air Force ranch hand study, the protocol has been violated several times. Although the protocol requires that data anaysis flow directly from the Air Force scientists conducting the study and the advisory committee established to peer review their work, outside influences have been documented in correspondence between the Air Force scientists and me. This letter will also be submitted for the Record.

There are two other problems concerning the advisory committee. First, the advisory committee makeup is in clear violation of the protocol, which requires that it consist of members representing, in equal proportions, scientists from the Government, scientists from academia, and scientists nominated by veterans' advocacy groups. There are no scientists nominated by veterans' groups on the advisory committee, a situation which nullifies the protocol's design to involve all affected constituencies in the peer review process.

The probable impact of this violation can be seen in the advisory committee's recommendations to the Air Force scientists. After reviewing the draft 1984 ranch hand morbidity report, the advisory committee directed the Air Force scientists to change its conclusion, which originally stated. "It is incorrect to interpret this baseline study as negative." The final report stated that the "study results should be viewed as reassuring to the ranch handers and their families. * * *" The advisory committee also advised the Air Force scientists to take other information suggesting negative health effects out of the report and, at the submission of the 1984 reproductive outcome update, advised the scientists to discontinue work on the birth defects study.

Interestingly enough, there are two versions of the minutes of the advisory committee meeting at which these recommendations were made. One version was given to me by the Air Force's scientist in charge of the ranch hand study, and I received the other from the chairman of the agent orange working group, who also serves as the Under Secretary of the Department of Health and Human Services. The Air Force version, which presumably is the one the Air Force scientists were using, was dated February 21, 1984, and contained explicit recommendations to alter the morbidity report and discontinue the birth defects inquiry. The agent orange working group version was dated 2 days later and contained neither of these directions.

Finally, there are numerous cases where the Government has couched scientific data in less than scientific interpretations. The word "reassuring" appears repeatedly in Air Force agent orange reports, and its seems that its use bears little connection to the actual study results.

The CDC reports that a 7-to-1 ratio for NHL negatively affecting Vietnam veterans in the Vietnam experience study is explained away by CDC, which says that the data should not be overinterpreted because the numbers are too small. CDC even questioned the usefulness of testing these findings for statistical significance, but did so, apparently only because I requested it. The findings were statistically significant.

While virtually every credible scientist would agree that the NHL findings should be taken very seriously, especially since the study was not designed to detect increases in diseases as rare as NHL, let me quote just one of them. Dr. Aaron Blair, Chief of the Occupational Studies Section, Environmental Epidemiology Branch, Division of Cancer Etiology at the National Cancer Institute, defending the Swedish studies on NHL and STS and the National Cancer Institute Study on NHL, had this to say: "Small numbers cannot be used to explain away a statistically significant positive finding."

Another common manipulation of the scientific evidence is the statement, used throughout the various Government agencies involved in agent orange work, that there is "no cause-and-effect relationship between exposure to agent orange and disease in humans." While it is true that a definitive causal relationship has not been established, neither has a causal relationship been disproved, and the evidence supporting a causal relationship is both abundant and strongly suggestive.

Furthermore, as of this date, no scientific studies have assessed their data with a proper exposure index. Since the scientists are not yet sure who was exposed, it is impossible for them to be sure how to rate the relative risks facing the exposed groups. In fact, it is a clear epidemiological fact that poor exposure classification underestimates or hides actual increased risks and underestimates the degree of any such risks. Nevertheless, Government representatives continue to make meaningless statements, such as, "We observed no dose-response relationship between the exposed veterans and the incidence of disease."

I have spoken here before about other Government methods to obstruct the science or inhibit veterans or public access to information regarding their health. The list of examples is very long, and I will submit other documents for the RECORD. But it is important for us all to realize that it is happening and that closer oversight of agent orange-related activities is necessary to protect veterans' legitimate interests as well as the public health and the environment.

I want veterans and all those interested in the agent orange/dioxin issue to know that I will be watching the Government's involvement in this area very closely and will continue to push for whatever is necessary and appropriate to ensure scientific integrity in the relevant studies and agencies.

As I stated earlier, one of the primary purposes of this amendment is to establish an independent peer review system to evaluate the scientific evidence on the agent orange issue and to make scientific recommendations to Congress and the VA. While I am confident that this is an important first step toward improving the Government's response to veterans' concerns, it is our job to ensure that the information the independent peer review group receives is as accurate and objective as possible. Toward that end, I will continue to work with Senator KERRY and the chairman and ranking minority member of the Veterans' Affairs Committee.

These scientific issues are crucial to a complete resolution of the health and environmental issues surrounding dioxin and agent orange. But the final answers are a long way away, for the issues are extremely complex. In the meantime, we are faced with decisions about what our policy toward and relationship with disabled veterans suffering from agent orange-related illnesses should be.

The situation can be summed up this way. Vietnam veterans are suffering diseases they believe to be a result of their exposure to agent orange. In many cases, there is no other apparent cause for their diseases, and the available scientific literature strongly suggests that exposure to dioxin or other factors peculiar to their military service put them at a higher risk for these diseases. Definitive answers are not readily available, and we must make a decision about whether it is better to risk erring on the side of compensating the veteran, as we have for 54 other diseases, or risk erring on the side of doing nothing.

Please do not mistake a decision to wait for more definitive science as a way of avoiding a real decision. The decision is before us. In fact, it is long overdue. Veterans have waited patiently as we deferred decisions in this area, but they cannot be expected to wait indefinitely. They are growing tired of our indecision, and many of them are dying. they die without Government recognition of their ultimate sacrifice simply because their sacrifice took a different form from the traditional sacrifices made in war.

Vietnam was no traditional war. Never before had we subjected our troops to the vast array of chemicals to which Vietnam veterans were subjected. And never before had we sent our boys to fight an unpopular war and return to public humiliation. In spite of the tragic circumstances to which we subjected them and their mixed emotions about the war itself, Vietnam veterans answered their country's call. They gave their Government the benefit of the doubt because they loved their country. It is time we did the same for them.

In memory of those who have paid the ultimate sacrifice, and out of respect for those still suffering, I believe it is my duty, as a veteran, as a

Member of Congress, and as a human being, to do all I can to see that these veterans are treated fairly. The amendment we urge my colleagues to support it.

Mr. President, I ask unanimous consent to have material in connection with this matter printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The American Legion,
Washington, DC, July 27, 1988.

Hon. Thomas Daschle,
U.S. Senate,
Washington, DC.

Dear Senator Daschle: The American Legion has reviewed your proposed legislation, the "Veterans Agent Orange and Vietnam Service Disabilities Act of 1988". We feel that the measure seeks a reasonable approach toward resolving the Agent Orange dilemma. We hope that, if enacted, this bill will offer reassurance to most veterans who believe they suffer the residuals of dioxin exposure.

In our opinion, the presumption of service connection for two disabilities and the creation of presumptive mechanisms for other disabilities are certainly appropriate. Your proposal clearly recognizes the need for more aggressive research, more cooperation among research groups, more substantive actions to be taken by the Veterans Administration, greater outreach and information sharing, and regular reporting of research developments to Congress. We agree that all of these undertakings are essential.

Senator, as an organization whose membership consists of almost one million Vietnam Era veterans, The American Legion wishes to express its deep appreciation to you for your continuing leadership on this issue. We also appreciate your willingness, in developing this measure, to accommodate the views of other veterans advocates, both in Congress and in the veterans community.

Sincerely,

E. Philip Riggin,
Director,
National Legislative Commission.

Veterans of Foreign Wars of the United States;
Washington, DC, July 29, 1988

Hon. Tom Daschle, U.S. Senate,
Washington, DC.

Dear Senator Daschell: This is written to express the support of the Veterans of Foreign Wars of the United States for the draft legislation which you are about to introduce entitled, "Veterans' Agent Orange and Vietnam Service Disabilities Act of 1988."

Our review of this draft legislation has shown it to be, at least in our estimation, a very carefully considered and sincere effort to assist those long neglected Vietnam veterans who are suffering from disabilities as a result of their demonstrated exposure to dioxin or other toxic agents in the herbicides used in Vietnam. We also commend this bill's provision of a rebuttable presumption of service connection for two diseases which are domonstrably associated with Vietman service in general.

It also bears mentioning at this time that I appreciate your not only having asked for our views in the development of this legislation, but also for heeding them as well. In light of the VFW's long-standing mandate to justly answer the needs of those veterans who are actually suffering from herbicide exposure, we are gratified with the manner in which this legislation has been developed and with the role we have played in it. With your bill, veterans suffering from Agent Orange exposure may at last be afforded the recognition and assistance they deserve.

Best wishes and kind regards, I am

Sincerely,

Cooper T. Holt,
Executive Director

Vietnam Veterans of America, Inc.,
Washington, DC, July 22, 1988.

Hon. Thomas A. Daschle,
Hart Senate Office Building,
Washington, DC.

Dear Senator Daschle: The Vietnam Veterans of America, Inc. (VVA) takes this opportunity to express its full support for the amendatory legislation you plan to introduce concerning Agent Orange disabilities sustained by veterans having served in Vietnam. While we continue to support legislation that you and Senator Kerry introduced last autumn, S. 1787, this latest initiative represents a balanced and prudent compromise agreeable to most parties with a direct interest in this issue.

Naturally, we were as disappointed as you that the Senate Veterans' Affairs Committee failed to go farther than it did in addressing this critical issue when on June 29 it added only cursory Agent Orange provisions to S. 2011, the Veterans Benefits and Programs Improvement Act of 1988. We are convinced, as you are, that even in the presence of scientific evidence that lacks unanimity on the specific health effects of dioxin exposure that enough evidence exists to begin compensating veterans for those diseases strongly implicated by the existing scientific evidence.

In this connection, your amendatory legislation is careful to limit those diseases for which compensation is to be provided to non-Hodgkin's lymphoma and soft tissue sarcoma. Each of these diseases has been repeatedly shown to be more likely evidenced in individuals exposed to dioxin than in individuals who were not.

Importantly, this legislation also establishes an independent review mechanism for evaluating the scientific evidence related to the health effects of dioxin exposure in Southeast Asia with a directed focus on diseases involving porphyrin synthesis, nervous and immune system functions and reproductive problems, as well as cancers including lung cancer and birth defects. The need for an independent review of the scientific studies is needed because the VA's Committee on Environmental Hazards which was charged with similar responsibilities has apparently adopted the operational view that no disease should be compensable in the absence of scientific evidence showing an absolute cause and effect relationship between exposure and disease. It should be noted, in this regard, that no veteran has yet to be compensated for a single Agent Orange claim.

In closing, Senator Daschle, we appreciate your consistent attention to this particular issue. For over 10 years the matter of Agent Orange has served as one of the most unsettling causes of fear and anxiety among Vietnam veterans and their families. It is as important as it is pressing that the Congress begin to resolve this issue. Your amendments would constitute an important first step.

Sincerely,

Mary R. Stout,
President.

National Vietnam Veterans Coalition,
Washington, DC, September 8, 1988.

Senator Thomas Daschle,
U.S. Senate,
Washington, DC.

Senator John Kerry,
U.S. Senate,
Washington, DC.

Re: Agent Orange.

Dear Senators Daschle and Kerry: We take great pleasure in supporting S 2675, the Veterans Agent Orange and Vietnam Service Disabilities Act of 1988.

The Agent Orange issue has been hemmed in by numerous political barriers. Your efforts to maneuver past those barriers with this "new improved" version of the ongoing effort to secure justice for a large number of Vietnam veterans and their families is greatly appreciated.

Sincerely,

J. Thomas Burch, Jr.,
Chairman.

Jewish War Veterans of the United States of America,
Washington, DC, September 1, 1988.

Hon. Tom Daschle,
Hart Senate Office Building,
Washington, DC.

Dear Senator Daschle: The Jewish War Veterans of the USA is pleased to support S. 2675, the "Veterans' Agent Orange and Vietnam Service Disabilities Act of 1988."

JWV resolutions and testimony have repeatedly urged the US government to use all possible resources to determine the consequences of exposure to Agent Orange on Vietnam Veterans and to provide compensation to those who suffer disease and disability from exposure to this chemical.

JWV specifically supports legislation which would authorize a presumption of service-connection for the condition of non-Hodgkins lymphoma arising in veterans who were exposed to Agent Orange during service in Vietnam. We also support continued scientific investigation into determining other conditions which may have been caused by Agent Orange.

Your bill is especially important as it seeks increased coordination concerning Agent Orange among veterans advocates and stresses the need for increased research.

On behalf of our entire membership, I commend you for introducing this important legislation and for your continued leadership on this issue.

Sincerely,

Herbert D. Greff,
National Commander.

Environmental Defense Fund,
Washington, DC, September 7, 1988.

Hon. Thomas Daschle,
U.S. Senate,
Washington, DC.

Dear Senator Daschle: I have read carefully the text of S. 2675, a bill introduced by you provide for U.S. Vietnam veterans who sustained medical injuries associated with exposure to constituents of Agent Orange as used during the Vietnam War, and to encourage appropriate research and scientific oversight of this issue. I am also familiar with the papers cited in support of the presumptions of casuality between such exposure and certain defined medical conditions and diseases.

The issue of health effects of Agent Orange (dioxin, 2,4,5-T; 2,4-D) remains contentious; however, the need to dispose of all outstanding biomedical issues with scientific certainly should not continue to be used as an excuse to avoid dealing equitably with veterans during the time of their greatest need. In my opinion, the largest obstacle in the way of resolving many of these issues has to do with exposure assessment rather than with establishing reasonably certain epidemiological and toxicological causal inferences. As reported recently by the CDC, the exposures of veterans who has served in Vietnam to dioxin varied greatly. This is not surprising; in most occupational situations, exposures among groups of similarly exposured workers generally shows great variations. Your bill establishes a reasonable process whereby the confirmed diagnosis of certain medical conditions justifies a presumption of service-related injury; this presumption can be modified by appropriate information—derived either from service records or from actual biological monitoring—which refines the exposure inference. With the accumulation of considerable data on "background" levels of dioxins and furans in the nonveteran, nonoccupationally exposed population, and with refinements in analytic methodology recently published by Kahn and by the CDC group, this is an appropriate process of definition.

Moreover, the bill provides exemplary language to accommodate increases in our knowledge of dioxin and its human health effects of charging the National Academy of Sciences or a similar organization with the duty to provide ongoing review of new data. Our growing knowledge of the mechanisms of dioxin—the involvement of multigene batteries in cell response, and the effects of dioxin on late-stage events in carcinogenesis and as an immunotoxin—all suggest that the effects of dioxin are likely to be very complex. It is unlikely that dioxin causes a single socalled "sentinel" health effect, an outcome which is either so rare in the absence of dioxin exposure or so strongly associated with such exposure that the diagnosis of the effect is almost by itself sufficient evidence upon which to presume exposure. By establishing process of critical peer review and scientific advice to the Veterans Administration, you are ensuring access to information and new data, which has to date been lacking in Veterans Administration deliberations.

You appropriately propose in this legislation to establish a presumption of exposure-related etiology for veterans of the Vietnam war who are diagnosed with non-Hodgkin's lymphoma or soft tissue sarcoma. These two conditions have been reported to be associated with dioxin exposure in several well-conducted studies (see, for instance, the recent review of the epidemiological literature recently conducted by the National Research Council Committee on Dioxin, on which I served). While these cancers, like many others, are likely to be multifactorial in origin, the case: control and cohort studies are consistent with an assumption of association. Moreover, the relative rarity of soft tissue sarcoma supports utilizing this category of tumors as a quasi-sentinel disease for purposes of identifying persons with a high probability of dioxin-related toxicity.

It is true that at this point the epidemiological literature on dioxin and human diseases is far from conclusive. To put this in context, it is well to remember that it took many decades for consensus to be reached as to the associations between asbestos exposure and mesothelioma and between smoking and lung cancer. Thus the decade which has elapsed since the beginning of serious epidemiological study of dioxin, without final resolution of all outstanding issues, is not untoward or out of line with the expected pace of scientific factfinding. Second, most of the studies which have failed to find an association between dioxin and disease or specific cause of death have not been negative, but rather inconclusive. This difference is critical for your evaluation of the current state of the evidence. A negative study is a study which is sufficient in size and design to rule out a reasonable likelihood of an association between exposure and disease; an inconclusive study is a study which for avoidable or unavoidable reasons cannot provide sufficient evidence (or statistical power) to rule out either possibility (e.g., that dioxin is or is not associated with an increased incidence of disease or rate of mortality). Third, most of the epidemiological studies to date suffer from very weak definitions of exposure. This problem, which is called misclassification, tends, as Monson has explained, to bias results strongly towards the negative (either through misplacing "controls" in the exposed group, or exposed persons in the control group, the real differences—if they exist—between groups which are due to exposure, are obviously blurred).

Some of the industry studies are particularly problematic in exposure assessment: the Dow studies, for instance, have grouped in the "exposed" cohort persons with vastly different lengths of employment and likelihood of exposure on the job. We have reexamined the Cook study published in Chemosphere and find that if the data are grouped into short and long-term employment categories there are in fact large increases in observed rates of death as compared to expected for nonHodgkins lymphoma, among other outcomes. In the absence of better exposure information (ideally, biomonitoring of the cohort), it is difficult to figure out why the Dow scientists grouped the data in the way in which they did. The case: control studies have been exhaustively reviewed by EPA peer review panels and others. Reevaluation of diagnostic criteria has been considered. According to such reviews (most recently in the EPA's supporting documents on reassessing dioxin, published in August 1988), the Hardell studies are scientifically valid and support an association between dioxin exposure and increased risk of soft tissue sarcoma(s). Dr. Olaf Axelson has responded to some of the more unfounded critiques of the Swedish studies in the enclosed document. The Hoar-Zahm study published in 1987 by NCI has recently been confirmed by another study from the same group (Blair); it is incorrect to confuse the issue between 2,4,5-T and 2,4-D in these studies. Agent Orange contained both phenoxyacetic acids and both of them were contaminated with dioxins

As part of your recognition of the evolving nature of the biomedical evidence on dioxin, you rightly provide for ongoing research and support for a registry which archives biological samples from veterans. There is a need for targetted research on critical issues related to dioxin, particularly with respect to the implications of dioxin immunotoxicity. A system of stored samples, like EPA's National Human Adipose Tissue Survey, can be used again and again as analytic techniques and mechanistic understanding improves. For instance, it may be the case that within the near future we will identify certain genes whose expression is altered by dioxin; stored samples containing lymphocytes can provide material to determine if such critical markers are measurable in men assumed to have been exposed to dioxin.

For these reasons I strongly support S. 2675 and find it to be scientifically based as well as compassionate and in the national interest.

Yours Sincerely,
ELLEN SILBERGELD, Ph.D.,
Chair, Toxic Chemicals Program.

UNIVERSITY OF ROCHESTER,
ENVIRONMENTAL HEALTH SCIENCES CENTER,
Rochester, NY, August 29, 1988.

Senator THOMAS A. DASCHLE,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DASCHLE: I am writing to express my support for the principles outlined in the provisions of the "Veterans' Agent Orange and Vietnam Service Disabilities Act of 1988" that is now being considered by the Senate.

As a scientist having researched the biological mechanisms of action of dioxin (2,3,7,8-TCDD) for the past 11 years, and as an individual testifying and hearing other testimony before the Senate Veterans' Affairs Committee (May 12, 1988), I realize the issues under consideration are difficult, time consuming, and highly controversial. To add to this controversy, the scientific data needed to make an accurate assessment of the health risks to exposed Vietnam veterans is as yet incomplete. Furthermore, given the limitations of the epidemiological methods used to assess these health risks to Vietnam veterans or any other dioxin-exposed population, the necessary data may not be available in the immediate future. However, in spite of these limitations, we do have some knowledge of 1) disease states in humans known and/or suspected to be due to exposure to the compounds contained in Agent Orange, 2) consistent effects of dioxin in experimental animals, and 3) the movement of dioxin in the tissues of humans and other animal species. It is my belief that the bill presented has used the best of this knowledge to fairly provide certain service-related presumptions for those exposed Veterans. Furthermore, and perhaps more importantly, the bill provides for the continued evaluation of newer scientific data and their application to present and future service-related claims regarding exposure to dioxin.

More specifically:

(1) There is evidence to suspect a relationship between the use of and exposure to phenoxyherbides and the increased incidence of non-Hodgkin's lymphoma and soft-tissue sarcoma. Although this evidence is certainly not conclusive, the data available cannot be disregarded. Furthermore, and as noted above, conclusive data is unlikely to be available in the near future.

(2) It is important that the service-related presumptions be based on some evidence of exposure; the best being documentation of elevated tissue levels of dioxin. It is appropriate that the actual level of dioxin considered to be "abnormal" is determined by an independent panel of expert scientists (i.e., National Academy of Sciences).

(3) It is very important that a review of previous and newer scientific studies be conducted and continued to determine other disease states that may be reasonably associated with Agent Orange exposure. A prime impetus for this is the knowledge we have obtained from a multitude of animal studies that effects, such as altered immune responses, are consistently observed in all ex-

posed experimental animals. Thus, it is likely that at some level of exposure similar effects will be seen in humans. Furthermore, we know (that the mechanism of action involves the modulation of the manner in which genes are expressed in cells, and ii) that human tissues possess the same "machinery" for the potential toxic action of dioxin. Again, the National Academy of Sciences is the appropriate group for the assessment of these studies and the recommendations as to the status of other disease states.

If I am able to provide you with any information regarding this matter, please do not hesitate to contact me.

Sincerely,

THOMAS A. GASIEWICZ, PH.D.,
Associate Professor in Biophysics.

RUTGERS,
New Brunswick, September 12, 1988.
Senator THOMAS A. DASCHLE,
317 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DASCHLE: I have received the packet of materials concerning S. 2675, the "Veterans' Agent Orange and Vietnam Service Disabilities Act of 1988." I support what you are trying to do with the bill and agree with you that something of the sort is long overdue. I have, in addition, some specific comments.

1. In the bill itself within Section 102, subsection (3)(A)(i) and (ii) states that a veteran shall be presumed exposed unless his serum or adipose dioxin level is not elevated above "normal" and he did not participate extensively in tactical operations. What will happen to men who may have left Viet Nam with elevated dioxin levels but who have returned to normal levels in the twenty or so years since? The "normal" background level in any population is a mean and will involve a range of values. Although the normal level is around 3-5 parts per trillion (ppt) of adipose or blood lipid, most of us would accept a person with 15 ppt as within the normal range in the absence of a reason to do otherwise. To make this discussion simple, let's use 5 ppt as the normal mean. A man with 15 ppt would thus be 10 ppt above the mean. If he was, in fact, exposed to dioxin in Viet Nam, this 10 ppt could arise from wartime exposure, the remainder of his body burden arising from normal sources of exposure. Although the half-life of dioxin in humans is not yet firmly established, existing evidence supports half-lives of five to seven or so years. To be conservative, let's use seven years, i.e. three half-lives (twenty-one years) since his wartime exposure ceased. Ten ppt now would thus have meant 80 ppt twenty-one years ago (three doublings, one per half-life). He would thus have left Viet Nam with 85 ppt dioxin, 80 from the war and five of normal background. If the half life is five years, the situation is even worse, for twenty years would constitute four half-lives, i.e. four doublings. He would thus have left Viet Nam with 165 ppt, 160 from the war and five from the background.

The upshot of this analysis is that there is no clean way to distinguish a genuinely exposed man who left Viet Nam with 80-160 ppt of dioxin from an unexposed man who happens to be near the upper limit of the normal range of body burdens.

Unfortunately, adding the sub-section specifying that he must also not have been much involved in field operations does not help. One of the men whom we selected as a control individual in our recent study of Viet Nam veterans was a clerk who spent his time at a desk and never took part in combat. We thought, therefore, that he would be ideal as a control. His adipose tissue level was 14.9 ppt. None of our other controls exceeded 9 ppt. We wondered why he should exceed the other controls by as much as he did and discovered upon interviewing him in depth that his office was near the perimeter of a base and that the perimeter was sprayed while he was there. We believe there is a significant number of similar individuals and that a low blood or adipose tissue level should not disqualify a man from receiving benefits.

It is one thing to use body burden measurements to establish exposure status in an epidemiological study of health effects; the use of the data is statistical, and on the average persons with high levels are more likely to have been exposed than those having low levels. It is quite another to use such measurements in individual cases. The statistical problem is exactly the same as that of the smoker who develops lung cancer. On the average a smoker is more likely to develop the disease than a nonsmoker, but because non-smokers also develop lung cancer, one cannot tell with certainty in an individual case whether or not the person's cancer is related to his smoking.

2. Sub-section C, in which a veteran may be required ". . . to submit to a blood test in order to determine the level of dioxin or other toxic agent in the veteran's serum or adipose tissue . . ." contains a wording problem, a possible constitutional problem, and a problem of technical feasibility. The wording problem is that one can't determine adipose tissue levels from a blood test. I believe that the wording should be ". . . to submit to a blood or adipose tissue test. . . ." The possible constitutional problem is that I don't know if such a test can be required at all or, more to the point, the nature of the tests may influence the permissiblity. Blood dioxin analyses require between half a unit and a full unit of blood, i.e. 200–450 ml, which is what one donates when one gives blood to the blood bank. A normal blood test such as is done in the doctor's office involves typically 5-15 ml. The difference in quantity is significant, for there are people who cannot give that much blood on medical grounds. An adipose tissue specimen must be 10-30 g and is taken by a surgical procedure. The surgery is minor, to be sure, and is done on an outpatient basis under local anesthesia, but it is surgery nevertheless. Both the legal and ethical implications of requiring either blood or an adipose tissue sample ought to be more thoroughly thought out before being included.

The feasibility question arises in the event that a substantial number of men have to be tested. There is at present in the United States only one laboratory which can do blood TCDD measurements. It is at the C.D.C., and it is very good. At the moment their throughput, I believe, is in the range of several hundred samples per year. Although other labs will, I am sure, eventually tool up for blood analyses, they have not yet done so, and it will take time for them to validate their procedures, and some sort of certification would have to be devised. Thus the capacity does not yet exist to handle many samples, and it will not exist for several years at least. Unfortunately, while blood tests can be done, their technical difficulty means that they are a research tool at present and not a clinical one; they are not at all a routine procedure.

In any case, however, the fact that individual body burden measurements, if low, cannot on scientific grounds be used legitimately in individual cases as described above supercedes this discussion.

3. Section (4)(b)(iii) I think involves a confusion. We do not know if there are variations in the capacity of individuals to absorb dioxin and other toxic agents. We do know that there are variations in individuals' susceptibility to toxic effects, but whether this has anything at all to do with variation in absorptive capacity is anyone's guess. In addition, because of the genetic heterogeneity of the human population, one would expect to encounter variability in the half-life of dioxin excretion, and in their study of Ranch Handlers, that is exactly what C.D.C. found. I should point out, however, that the C.D.C. workers did a statistical analysis that enabled them to account for the scatter in the half-life data as a result of the 20% coefficient of laboratory variation in the measurements. Their work thus suggests that the true half-life in humans is not very variable. Although I can find nothing wrong with their analysis, a lack of variability is contrary to most biological observations. Be that as it may, I think the problems of this subsection can be cleared up simply by omitting the words "absorption of" from it. The sub-section would then read, "(iii) variation in the susceptibility of individuals to dioxin and such other toxic agents."

4. Concerning the tissue archive and the funding of pilot research to establish, if possible, bases for further work, I support both in the strongest possible terms. I have urged both for some years. Had we begun ten years ago with a series of small investigator intiated pilot projects and waited for the results before formulating large scale projects, we would be in much better shape scientifically. The problems encountered by the C.D.C. might well have been avoided. I wish to emphasize the importance of having investigator initiated projects as the dominant though not necessarily the exclusive component of the research. With investigator initiated projects, the investigator has a strong investment in making the project work. To put it bluntly, people are more likely to come up with rigorous answers—positive or negative—and to solve the inevitable problems that arise in the course of research if they want to know the results so badly they can taste it.

I do have some concerns about the funding mechanism and about choosing among competing proposals. Unfortunately, the VA has generally not aided Viet Nam veterans unless absolutely compelled to do so. As a result it is not trusted by large numbers of veterans and by many investigators. There is thus a problem of credibility in having the VA choose which research is to be done and in having them run an archive. There are some good researchers in the VA system, however, and I believe some of the funds should be made available for in-house VA sponsored research. The twin study is an example. To avoid very real problems, the archive and, especially, peer review of research applications should be handled by an outside entity. The NIH or NSF come to mind, but other mechanisms are certainly possible. I would go one step further, in addition, in having the development of a call for research proposals be issued by the outside entity with, certainly, input from the VA.

5. The lists of research papers and other articles indicating or commenting on posi-

tive association between herbicide exposure and NHL and STS incidence contains two minor errors of fact and what I believe to be an error of presentation. The Sarma and Jacobs paper on STS was a case report of several STS cases among Viet Nam veterans. There were no statistics in the paper, for case reports generally don't entail epidemiological work. The observation of similar cases often leads to later epidemiological research, which is how Hardell's work started, and the initial cases are often published before the epidemiological research is begun, but by themselves, case reports do not attempt to demonstrate statistical association.

Concerning your description of the paper by Hoar, et al., I am not aware of any report that 2,4-D contains or contained 2,3,7,8-TCDD. The dioxin contaminant in Agent Orange arose as a manufacturing by-product of the 2,4,5-T component, 2,4-D and 2,4,5-T having been present as the herbicidal ingredients in Agent Orange in equal amounts. Hoar mentions that some 2,4,5-T had been used in her study area in Kansas and that this could have influenced her results. That cannot be ruled out. Her work raises the possibility, however, that 2,4-D exposure may itself be associated with NHL. This is scientifically important, but from the point of view of Viet Nam veterans it does not matter whether a cancer arose from the dioxin in Agent Orange or from one of the herbicides itself.

In presenting the lists themselves to support the bill, I think you would have done better to have (a) mentioned that some items are research reports and some are editorial comments in scientific journals on research results and (b) mentioned that conflicting data exist. Since the purpose of the bill is to give the veterans the benefit of the doubt and since there is a considerable body of research supporting a connection between exposure and the two forms of cancer, the existence of negative studies is not really the point. The scientific issue is not settled at present, and it may be decades before it is. The men need help now, which is what you are trying to provide on a presumptive basis until the research community can answer the scientific questions. It may be twenty-twenty hindsight, but had the two lists contained a prefatory comment of this sort, one of the attacks of Professor MacMahon in his letter of 21 August would have been blunted.

6. I come last to Professor MacMahon's letter. It is disturbing in a number of ways. In referring to the materials you cite in support of the connection between herbicide exposure and the two categories of cancer, he calls them "a list of opinions and conclusions, many of which are incorrect, misleading or irrelevant. . ." (paragraph 3). To be precise your list contains published, peer reviewed research papers, reports by state and federal agencies and comments on some of these in scientific journals that include both research reports and various forms of editorial discussion of research results. Every research paper contains conclusions which may be of varying strength depending on the work. Absent compelling evidence to the contrary, it is to be assumed that the authors' hard work led them to those conclusions. Similarly, scientists who write commentaries on published work do not do so flippantly. One may disagree, but one ought not to dismiss the seriousness of the work or of the people who did it or commented on it. Professor MacMahon's statement does just that; it is a "put down", making legitimate scientific conclusion and editorial comment appear to be the result of unreasoned, baseless prejudice. To label these as Professor MacMahon has done boils down to an ad hominem attack on scientists with whom he happens to disagree. Such attacks are unacceptable in scientific—or political—discourse.

What is more, his attack is unnecessary to the point he was trying to make in that paragraph and which I addressed in item five above. Since it was unnecessary, one is led to wonder why he did it.

Later in his letter Professor MacMahon presents a list of studies most of which were negative along with brief comments on each of them. The first of these, by Axelson, et al., from 1980 involved twelve cancer deaths in the exposed group. Professor MacMahon points out that none were from NHL or STS. In the U.S. STS represents approximately 1% of all cancers and NHL approximately 4%. Sweden being an advanced industrial country with a standard of living comparable to ours, the rates there are probably approximately the same as here. That would yield an expectation of 0.12 STS deaths and 0.48 NHL deaths at the rates seen for the general population. If exposure were to increase the risk by a factor of three (Hoar found 2.2 for NHL; Hardell 5-6 for STS in his earlier reports and 3 in a recent one), Axelson would have seen 1.5 NHL and 0.36 STS. These numbers are so small that not seeing them tells one nothing. Not all studies have equal power.

An interesting point in Hardell's work concerns the method of estimating exposure. When he classified people according to their occupations or occupational categories he found no association with STS or NHL. Only when detailed individual exposure histories were obtained, a laborious task, were statistically significant results obtained. Professor MacMahon cities work by Wiklund and Holm from 1986, Milham from 1982, and Woods, et al., from 1987 among others. All three gauged exposure by occupation. It is not surprising, therefore, that their results were negative. As an epidemiologist and chairman of a respected department, Professor MacMahon should have known about and remarked on this point.

He is correct, of course, in noting that recall bias could have affected the positive results of Hoar, et al. Anytime questionnaire or interview procedures are used to gather epidemiological data that possibility exists. Both Hoar and Hardell took considerable pains to avoid such bias. Hardell, for example, in addition to his controls from the general population also used colon cancer patients as controls. If having a cancer makes people more likely to remember exposures, that should have affected his herbicide exposed patients and the colon cancer patients equally. Colon cancer is generally accepted among specialists as not arising from chemical exposure, and still Hardell found an association between exposure and cancer. This was not his only effort to avoid recall bias. Thus considerable care was taken to minimize the possible impact of error. It is true one can never be absolutely sure it has, in fact, been eliminated, but responsible workers grapple with it, and both Hoar and Hardell have done so. One cannot, therefore, dismiss the work because of the theoretical possibility that some may remain.

I could go on, but in a larger sense Professor MacMahon's letter is somewhat off the point. It may turn out in the end that there is no connection between Agent Orange exposure and later medical problems. I doubt that will prove to be the case, but I may be wrong. There is an abundance of evidence suggesting a connection, some of which you cite, but evidence to convict beyond reasonable doubt does not exist. You and your colleagues are thus left with the classic policy maker's dilemma of how to act in the absence of sure and certain information. If you do nothing, and if the men's medical problems do, in the end, prove to be related to their military service, the country will have denied aid to men who have earned it. You risk making an error that cannot be restored. Conversely, if you provide presumptive aid for men who need it, you may and probably will aid at least some whose problems did not arise from military service. This, too would be an error. Only if you both do nothing and if Agent Orange exposure proves not to be responsible for later medical problems can you be sure of making no error. The choice among these is not scientific; it is moral, and the moral quality of the country is shown by which choice it makes.

I regret that time prevents more detailed comment, but I returned only a few days ago from a sabbatical in France, and the new semester is upon me.

Yours very truly,

Peter C. Kahn, Ph.D.,
Associate Professor of Biochemistry, and member,
N.J. State Commission on Agent Orange.

Rutgers,
New Brunswick, NJ,
September 26, 1988.

Senator Thomas A. Daschle,
317 Hart Senate Office Building,
Washington, DC.

Dear Senator Daschle: Concerning your bill, S. 2675, the "Veterans' Agent Orange and Vietnam Service Disabilities Act of 1988," I would like to add to the comments in my letter of September 12.

In the long run one of the most corrosive features of the controversy over the potential effects of Agent Orange is the effect on science and on the public perception of science. Although there is an abundance of evidence to suggest a connection between chronic low level exposure to dioxin contaminated materials and later medical problems, suggestion is not proof. We do not have evidence to convict beyond reasonable doubt in the sense of a murder conviction. In the absence of such overwhelming evidence, the government, in effect, has said it will do as little as possible to help veterans who have problems. What little has been done has been forced upon the government by political pressure, and wherever the law can be interpreted to the veterans' disadvantage, it is.

It may be decades before the scientific questions are answered and consensus emerges. In the meantime the government is hiding behind the scientific uncertainty. This puts science—and scientists—in an impossible position. We cannot produce tidy, clean-cut results on short order. When the people are told that they will have to wait for the science, though, they become impatient, the scientist is seen as the stumbling block, and science is discredited in their eyes. Does the U.S. Government really want that to happen?

It would be much better simply to take care of those Vietnam veterans who have problems for which there are plausible grounds to suspect a connection with military service, even if ironclad proof is lacking. This would take the pressure off the science and allow us to proceed in an orderly way, free of hysteria, to learn what dioxin and the herbicides do—and don't—cause.

The underlying issue is not really scientific; it is political and moral. What do we as a country owe to those we sent off to war, particularly to an unpopular war? For a variety of reasons we have treated the Vietnam veterans shabbily, and if we treat shabbily those who fought the last war, who will we get to fight the next one.

I have spent my entire adult life doing research and teaching science. Whatever the human failings of the individuals who take part in it, I teach that the enterprise is a noble one. The spectacle of the U.S. Government concealing a failure of political and moral courage behind a demand for research is appalling; it demeans the veterans, the general public, science, and the Government itself. As a people, we can ill afford it.

Yours very truly,
PETER C. KAHN, Ph.D.,
Associate Professor of Biochemistry and member, N.J. Commission on Agent Orange.

SEPTEMBER 9, 1988.

Hon. TOM DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: I have just finished reviewing a letter and "critical" comments from Brian MacMahon, MD, dated August 21, 1988, concerning the literature on NHL/STS and dioxins. First, I would like to state that it is generally recognized that all epidemiological evidence is vulnerable to criticism; especially if you have a mind set in that direction. There are few absolute truths in this field, only a preponderance of evidence to corroborate reasonable hypotheses.

As with the smoking/cancer issue, one may (mis)interpret the NHL/STS/dioxin data and criticize the protocol to support a parochial (vested-interest) position; and, that is how it appears to be with Dr. MacMahon's comments.

Even as the evidence mounts to condemn dioxins as having a causative effect with respect to NHL and STS, there will still be those who support the "no effect" position, just as they supported the tobacco industry's position that cigarettes were not linked to a variety of human diseases.

As a former government scientist in the Chemical Weapons Branch, BW/CW Division, Air Force Armament Development Laboratory, Eglin AFB, Florida, I was instrumental in writing the specifications for the A/A 45Y-1 spray tank (ADO 42), and am quite familiar with the early and recent research on Agents Orange/White and dioxin. In addition, I was the scientist who prepared the final report on Ranch Hand: Herbicide Operations in SEA, July 1971, while assigned to the Department of Life Sciences, USAFA, after completing my work in Vietnam.

The current literature on dioxins and NHL/STS can be characterized by the following:

1. It underestimates (reduced risk estimates) the effect of dioxins on human tissue systems. As additional studies are completed we can expect to see even stronger correlations of dioxin exposure and NHL/STS.

2. Previous studies were not sensitive enough to detect small, but statistically significant increases in NHL/STS. I believe that analysis of previous studies with newer, more sensitive statistical procedures, will demonstrate those significant increases. In addition, current studies with more refined techniques, will show an even stronger relationship between dioxin exposure and NHL/STS than previously encountered.

The inaccurate criticisms of many of the pioneer efforts (conducted by Drs. Hardell, Eriksson, Zahm and others) must be frustrating for them, as well as those who wish to make the proper decisions concerning the Agent Orange issue. Dr. Hardell's and Dr. Eriksson's recent paper (Cancer 62:652-656, 1988) satisfactorily addresses criticism of their earlier work (1979), and may well become a classic in the field. And, Dr. Zahm's recent paper (Herbicides and Cancer: A Review and Discussion of Methodologic Issues) presented at the International Symposium on Occupational Cancer Epidemiology, June 1988) points out the necessity for more rigid protocols in future studies; but, confirms that the previous scientific studies demonstrate a positive relationship between dioxin exposure and NHL/STS.

As time progresses, and additional evidence is forthcoming, it will be increasingly difficult for anyone to deny the relationship between dioxin exposure and NHL/STS.

When we (military scientists) initiated the herbicide program in the 1960's, we were aware of the potential for damage due to dioxin contamination in the herbicide. We were even aware that the "military" formulation had a higher dioxin concentration than the "civilian" version, due to the lower cost and speed of manufacture. However, because the material was to be used on the "enemy", none of us were overly concerned. We never considered a scenario in which our own personnel would become contaminated with the herbicide. And, if we had, we would have expected our own government to give assistance to veterans so contaminated. We sprayed over 14,000,000 gallons of herbicide in SEA, with large quantities being dispensed in War Zones C and D, as well in I Crops (garrisoned mostly by marines).

The scientific literature presented in your "Dear Colleague" letter, dated August 1, 1988, in support of Senate Bill 2675, reasonably and accurately represents the facts as they exist today.

There is no question that the scientific evidence available in the literature strongly supports the very moderate action proposed in Senate Bill 2675.

If you, or any other members of the Committee on Veterans' Affairs have any questions, please do not hesitate to call me.

I appreciate the opportunity to comment on this very important issue.

Sincerely,
JAMES R. CLARY, Ph.D.

UNIVERSITY OF UMEA,
September 12, 1988.

Senator THOMAS A. DASCHLE,
317 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DASCHLE: During a recent visit to Professor Peter Kahn of Rutgers University in New Jersey I learned about your efforts to compensate veterans suffering from diseases potentially related to Agent Orange. I have to stress that I am very much in favour of your proposals.

I have also studied a letter from Professor MacMahon of Harvard University dated August 21 concerning the same subject. In my opinion this letter reflects an unbalanced, one sided, narrow sighted view.

My background is in environmental analytical chemistry. I have been involved in research concerning dioxins for more than seventeen years. Although my expertise is not epidemiology or medicine, I am quite familiar with current methodology of risk assessment. I have been a member of numerous international groups evaluating dioxin risks within the World Health Organization, the Nordic Council, and the International Agency for Research on Cancer (IARC), a U.N. organization based in Lyon, France.

Professor MacMahon's statement that IARC has concluded that there is *inadequate* evidence for the carcinogenic risk to humans of phenoxy herbicide exposure is not correct. I was a member of the working group collected to evaluate the carcinogenic risk of occupational exposure to these herbicides. We evaluated critically all published studies. I think this evaluation is most relevant here.

We had to make an evaluation from the conflicting data in the literature. Contrary to Prof. MacMahon our expert group were unable to find any biases or errors in the Hardell studies.

We also examined the Smith study from New Zealand with the same result. Consequently we found ourselves in a situation where we had highly conflicting data, and we came to the conclusion that the data were *insufficient* for evaluating the carcinogenic risk of occupational exposure to phenoxy herbicides.

In the IARC evaluation system there is a three grade ranking of carcinogenic risks:

Sufficient data: An evaluation can be made.

Insufficient data: An evaluation cannot be made, but the available studies are of good quality.

Inadequate data: The data are of poor quality and cannot be used.

From my discussions with Prof. Allan Smith it is my understanding that he also accepts the Hardell studies. We have tried to find an explanation for the conflicting results but yet without success.

I would like also to comment on the use pattern of phenoxy herbicides in Sweden. Historically, 2,4,5-T has been used in agriculture and forestry throughout Sweden, including the south. My group has analyzed historical products containing 2,4,5-T used in agriculture in the south from the sixties and found 2,3,7,8-TCDD in them. During the seventies the 2,4,5-T was replaced in agriculture by 2,4-D and MCPA. Thus there has been considerable 2,4,5-T usage in southern Sweden. I think this information could be of use for you in evaluating the Hardell data.

Sincerely yours,
CHRISTOFFER RAPPE,
Professor and Chairman.

[From the San Antonio Express, Nov. 29, 1985]

STUDY DISPUTES EXPOSURE, AGENT ORANGE DEATH RATES

(By James Coburn)

Agent Orange exposure during the Vietnam War hasn't affected the death rate of men who were exposed the most, a new Brooks AFB study indicates.

Col. William H. Wolfe, a Brooks physician who has been a study leader since the Air Force began the investigation in October 1978, said in an interview Thursday that "results of what we have found so far are encouraging."

Noting that there have been fewer deaths among the 1,257 Air Force men exposed to the defoliant than among several comparison groups of non-exposed men. Wolfe expressed the hope that the latest report will "alleviate a lot of fear" among those exposed to Agent Orange.

Wolfe, chief of the Epidemiology Division of the School of Aerospace Medicine at Brooks, said that researchers have "not found anything we can link directly" to the herbicide since physical examinations began in January 1982 for the exposed group and a similar group of Air Force men who weren't exposed.

Some 12 million gallons of Agent Orange, which contained trace amounts of dioxin, were sprayed from Air Force C-123 planes between January 1962 and April 1970 to destroy jungle canopies that concealed communist forces in Southeast Asia.

Limits were placed on the use of dioxin because it caused problems in laboratory animals, Wolfe said, and defoliant used after April 1970 did not contain dioxin.

Agent Orange also was used to destroy Viet Cong rice fields, but that use was ordered stopped after miscarriages were reported among Vietnamese women near the sprayed areas.

More birth defects have been reported by parents in the exposed group than by parents in the unexposed comparison group, a previous study report revealed. It also was reported that the exposed group had more skin cancer.

Wolfe said Thursday, however, that the latest study had determined there was "no difference" between the two groups when only major birth defects were considered.

Another round of physical examinations for the two groups began in May and are scheduled for completion in March.

Wolfe said that the 1985-88 cost of the study, because private firms are under contract to perform the examinations, compile data and make surveys, is about $22.5 million.

Some 25 to 30 Epidemiology Division personnel at Brooks are monitoring the study, scheduled to run until 2002.

Wolfe said that researchers currently are examining all birth defects that have occurred among the 7,000 children in both groups. The incidence of skin cancer is being examined to see if there was a difference between the groups in exposure to the sun, he added.

It is possible, he explained, that the exposed group is reporting minor birth defects that aren't being considered defects by parents in the unexposed group.

Wolfe said that some of the Air Force men being studied "were 1,000 times more exposed (in Agent Orange) than ground forces in a direct spray pattern on a one-time basis."

Bullets ruptured tanks holding the chemical, he said, and maintenance crews were "kneeling in the stuff" to repair the damage.

He added that the chemical worked well to clean off grease and men "cleaned their hands with it." The substance is "absorbed very rapidly through the skin," he noted.

At the height of its use, Wolfe said, 35 or 36 aircraft were spraying the defoliant on a daily basis.

Air crews also were exposed to the spray, he said, since side doors normally were left open to reduce the heat and cockpit windows were left open to lessen the chance of injury from window fragments.

The spraying program was dubbed Operation Ranch Hand, so the study was named Operation Ranch Hand II.

The latest study report comes after a $180 million settlement by chemical companies that made the herbicide was approved early this year. More than 180,000 veterans filed claims for the money, with some 4,600 Texans filing the largest number.

Wolfe said that the companies may have settled to avoid the costs of lengthy litigation.

Also, President Reagan signed a bill in October that provides temporary compensation for two years to veterans who have developed a skin disease conclusively linked to Agent Orange.

Wolfe said that the disease, a severe facial condition called chloracne, was not present in the Air Force men exposed. He said that the skin eruptions, which aren't fatal, are predominately found among people who were exposed during industrial accidents involving the herbicide.

Mortality figures released with the latest report show 55 deaths (4.4 percent) among the Ranch Hand personnel and 285 deaths (4.6 percent) among the 6,171 men in the comparison group.

According to the mortality rate of the general U.S. Anglo male population, Wolfe added, there should have been about 90 deaths (7 percent) among Anglo men exposed to Agent Orange instead of the 51 that occurred.

A study of Army and Marine personnel who were exposed to Agent Orange is just beginning.

U.S. House of Representatives,
Subcommittee on Oversight and
Investigations of the Committee on Energy and Commerce,
Washington, DC, September 26, 1986.

LETTER OF TRANSMITTAL

To Members of the Committee on Energy and Commerce

Dear Colleague: It is my pleasure to transmit the attached report entitled "OMB Review of CDC Research: Impact of the Paperwork Reduction Act." This report was prepared, at the request of the Subcommittee, by members of the Occupational Health Program of the Harvard School of Public Health and the Director of the Division of Environmental and Occupational Medicine of the Mount Sinai School of Medicine. Their report is based primarily upon a technical analysis of documents provided by the Centers for Disease Control.

The attached report documents how the White House Office of Management and Budget (OMB) has abused its authority under the Paperwork Reduction Act in its review of research projects of the Centers for Disease Control. In numerous cases, including proposed studies of the health effects of dioxin and of the potential (but as yet undocumented) reproductive hazards of video display terminals, OMB has interfered with the substance of CDC's research under the guise of paperwork control. In each case, scientifically untutored OMB officials sought to second-guess the professional judgments of agency scientists and the multidisciplinary panels of outside experts.

In addition, the report discloses that OMB's Office of Information and Regulatory Affairs has implemented the Paperwork Reduction Act in a biased manner by discriminating against the collection of information for environmental and occupational health research. The report found that OMB officials were seven times more likely to reject CDC's environmental and occupational health research projects than research relating to infectious or other disease processes. Studies with a focus on reproductive hazards also were treated unfavorably by OMB.

The report demonstrates that OMB has exercised its paperwork clearance functions over CDC research in a manner contrary to the public interest. Rather than minimizing the costs of information collection, the paperwork review process has resulted in a significant diversion of tax dollars from productive public health research into nonproductive paper-pushing and unnecessary contracting expenses. Rather than protecting the public against unnecessary government intrusion, OMB has delayed, impeded, and thwarted governmental research efforts designed to respond to public demands for answers to serious health questions.

This report provides further evidence that OMB's Office of Information and Regulatory Affairs has flaunted Congressional intent. It will provide valuable information to the Congress as we consider the future of OMB's paperwork review office and possible changes in the Paperwork Reduction Act.

Sincerely,

John D. Dingell,
Chairman, Subcommittee on Oversight and Investigations.

[From the Boston Globe, Sept. 26, 1986]

Study Says OMB Curbed Research

(By Richard A. Knox)

Reagan administration budget officials have blocked funding for environmental and occupational health studies involving some politically sensitive issues, including the hazards of Agent Orange and video display terminals, according to a congressionally commissioned study released today.

An analysis of 51 studies proposed over a two-year period by the U.S. Centers for Disease Control found that the federal Office of Management and Budget was seven times more likely to reject certain kinds of research with regulatory implications than more traditional studies involving infections and other diseases.

A closer look at six proposals, including those involving Agent Orange and VDT effects on pregnancy, revealed a clear pattern of "interference" with research that has already been cleared by scientific review panels under the guise of a 1980 act intended to cut federal paperwork requirements, the study said.

"The health policy implications are serious," said the study's authors, researchers at the Harvard School of Public Health and the Mount Sinai School of Medicine. "OMB has delayed, impeded and thwarted governmental research efforts designed to answer public demands for information on serious public health questions."

The report was commissioned by House Democrats as part of an ongoing investigation of OMB's role in health research funding and federal regulation on such issues as asbestos.

OMB's Office of Information and Regulatory Affairs is charged under the Paperwork Reduction Act of 1980 with reviewing all federal studies and requests for information. The Democratic-controlled House recently cut $5.4 million in funding for that office which would eliminate it.

In a recent letter to Congress, OMB director James C. Miller 3rd listed elimination of the OMB office as one issue that would result in a veto of the fiscal 1987 budget.

Rep. John D. Dingell (D-Mich.), chairman of the House subcommittee on oversight and investigations, said the study demonstrated that "scientifically untutored OMB officials sought to second-guess the professional judgments of agency scientists and the multidisciplinary panels of outside experts."

An OMB spokesman said the agency would not comment on the study until officials there had a chance to review it. A staff member for the Republican minority on the subcommittee did not return the Globe's calls.

A senior policy analyst in the White House Office of Science and Technology Policy, Col. Alvin Young, defended OMB's criticisms of a controversial Agent Orange study. Budget officials raised serious scientific questions overlooked by earlier expert review, Young said.

Young said he "never saw any basis" for the charge that politics was involved in OMB's initial rejection and subsequent redesign of a proposed CDC study of 360 industrial workers exposed to dioxin, a contaminant in the herbicide Agent Orange, which was widely used during the Vietnam War. "They may make that [charge] in their little case study, but I never saw that at all," Young said in a telephone interview. "I saw it as a scientific issue."

According to the study, Young was involved in OMB's initial disapproval of the dioxin study. Internal documents from the National Institute on Occupational Safety and Health, an arm of the CDC, indicated that OMB consulted him about the dioxin study after it had been approved by a 12-member panel of scientists and the White House Agent Orange Working Group, of which Young is a member.

According to the new report, the NIOSH memos "state that Colonel Young indicated his view that the Dow and Monsanto studies might have been enough. He said that he had not been able to justify the expenditure when compared with the need to fund radon studies."

Young acknowledged that he advised OMB to hold up the dioxin study, but said his reason was that CDC scientists had failed to make changes in the dioxin study design that had been recommended by the White House panel.

DEPARTMENT OF THE ARMY,
Washington, DC, 22 September 1986.

A comparative analysis of major differences between Mr. Richard Christian's original answers and Mr. Sam Brick's changed responses concerning congressional questions from the Honorable Bob Edgar, the Honorable Tom Daschle, and the Honorable Tom Ridge.

1. Congressman Daschle Question 1: All proposed ESG recommendations were changed. Mr. Brick's version does not fully respond to the question. All references to General Murray and his report is deleted. The original attachment which was an extract from General Murray's report was deleted by Mr. Brick. Ths significance of this attachment (See Tab A) verified Mr. Christian's statement concerning the bizarre methodology that CDC employed in the Congressionally mandated Agent Orange Study as documented by Major General John E. Murray during his peer review of ESG.

2. Congressman Daschle Question 2: Mr. Brick deleted all references to General Murray and his report. The original attachments (two) which were extracts from General Murray's report were deleted by Mr. Brick. One attachment which Mr. Brick deleted (See Tab B) was an extract detailing General Murray's recommendations for the Agent Orange Study. The other deleted attachment (See Tab C) concerned General Murray's explanation of his alternative recommendations.

3. Congressman Daschle Question 3: Mr. Brick deleted information concerning the problems about the blood serum study and the paragraph explaining how the Department of Justice deprived veterans of ESG's findings. OSD(HA) stated these paragraphs were personal opinions of Mr. Christian's and not official Army policy. The fact that ESG findings can be and should be used "to support contentions of veterans in civil court cases, where proof is not scientific, but based on jury findings and the preponderance of evidence" is an essential part of Mr. Christian's answer. This could realistically become the most important discovery of the Congressional Hearings.

4. Congressman Ridge Question 1: No changes were made.

5. Congressman Ridge Question 2: Mr. Brick shortened the response and deleted important and true statements from Mr. Christian's original answers. Mr. Brick deleted the statements "ESG never heard of the minimal 14-day exposure until it was discussed during the Congressional Hearings on 31 July 1986 and that ESG had never been provided an approved Exposure Opportunity Index."

6. Congressman Ridge Question 3: Mr. Brick deleted two paragraphs pertaining to ESG's Pilot Study that was completed in April 1986. The attachment, ESG's Pilot Study report was deleted. This deleted attachment (See Tab D) provided the first documented assessment of individual exposure opportunity and was a major part of the Special White House Science Sub-Panel conclusions and final report.

7. Congressman Ridge Question 4: No changes were made.

8. Congressman Ridge Question 5: Mr. Brick changed a definitive answer by Mr. Christian to reflect his own thoughts. Mr. Christian's answer to Congressman Ridge was an emphatic "No." Mr. Brick's explanation for the answer was different than Mr. Christian's.

9. Congressman Ridge Question 6: Mr. Brick deleted all of Mr. Christian's professional observations as a technical expert on the Agent Orange Epidemiological Study. Mr. Brick deleted an important statement" . . . the "14 day exposure" score was a surprise announcement at the 31 July hearing." This comment was necessary to show that CDC had never previously provided ESG an approved exposure index score.

10. Congressman Ridge Question 7: Mr. Brick deleted information that was necessary to clarify the answer. Mr. Christian stated, the main objective of the Pilot Study was to confirm a units' location in a sprayed area within 2 kilometer 6 days. Late in the Pilot Study ESG was requested to identify and provide exposure opportunity scores on as many men as we could to complete the Pilot Study. He also stated "all criteria requirements such as the 180 days in a line company were eliminated for the Pilot Study.

11. Congressman Ridge Question 8: Basically, no changes were made.

12. Congressman Ridge Question 9: Mr. Brick completely changed the meaning and answer to this question. All reference to General Murray and his report was deleted. Mr. Christian had stated "the less stringent the criteria, the easier to qualify study subjects. The important criteria is whether a person was exposed, regardless of rank, multiple tours, multiple re-enlistments, or time in a line company and so forth. The man's opportunity for exposure score should be the number one priority. By expanding the window out of III Corps, South Vietnam, and examining the records of 300 Battalions, the ability to identify subjects is vastly increased. General John E. Murray's report (Page 52) dated 27 May 1986, offers this as an option". (Reference Tab B of this report).

13. Congressman Ridge Question 10: No changes were made.

14. Congressman Ridge Question 11: No changes were made.

15. Congressman Ridge Question 12: Mr. Brick has changed Mr. Christian's definitive answer. Mr. Brick used his own thoughts to answer this question. Mr. Christian's answer to the questions were "yes". He stated "we do our best research when we are provided data for case control studies. That is to say we are provided the names and units first. It can be, and is done. However, CDC exiled volunteers from the study".

16. Congressman Ridge Question 13: No changes were made.

17. Congressman Ridge Question 14: Mr. Brick deleted all reference to General Murray and his report. This eliminated important recommendations. Tab B of this document will show the recommendations that were deleted, thus changing Mr. Christian's answer.

18. Congressman Ridge Question 15: Mr. Brick deleted a sentence that states ESG will complete 143 data elements on a study subject but, CDC will disqualify the veteran later. Mr. Brick also deleted the attachment which was the Agent Orange Personnel Data Collection Form (See Tab E). Mr. Brick indicated that the form should be withdrawn as they, the Congress would not understand it. The form illustrates the enormous amount of data that had to be compiled for each veteran who met all the criteria requirements. Even this did not insure the veteran would not be disqualified by CDC at a later date.

19. Congressman Ridge Question 16: No changes were made.

MAXIE M. TENBERG,
Major, USA, Chief, Scientific Support Division.

DEPARTMENT OF THE AIR FORCE,
Brooks Air Force Base, TX.

DEAR PARTICIPANT: 1. The Air Force Health Study (AFHS) team and the Centers for Disease Control (CDC) are currently conducting a pilot study to determine dioxin levels in blood. A group of 200 study participants has been contacted by the AFHS team at Brooks AFB and will shortly be contacted by CDC to establish a time and place for the blood to be drawn. We are hopeful that this pilot study will help to further define exposure levels as a result of Vietnam service. If successful, we plan to request participation on a larger scale within our study population.

2. CDC is the only organization with whom we are currently cooperating to determine individual dioxin levels. Any other organization or individual attempting to determine dioxin levels does not represent the interest of the AFHS or the CDC. You may be contacted by a group in Massachusetts and be asked to participate in a fat biopsy study. We recommend that you do not participate

in that study. The Air Force/CDC effort does not require a surgical procedure and will be at no cost to the participants. Information collected by other researchers will not be combined with the data we have accumulated to date. We are confident that the CDC technology offers us the best chance to provide further answers to the question as to whether or not adverse health effects may result from exposure to herbicides.

3. We will keep you informed as to further developments in this area and will continue to examine all technologies and proposals that may help answer the important health issues of the AFHS study. If additions are made to the study, we will inform and advise you.

4. We look forward to seeing you in La Jolla.

William H. Wolfe,
Colonel, USAF, MC,
Chief, Epidemiology Division.

Ranch Hand Vietnam,
17 February 1987.

Dear Rancheros: Just before press time the Association learned that a significant number of Ranch Hand veterans had received a letter from the Massachusetts "Agent Orange" Program requesting Ranch Hand participation in a Fat Biopsy Study being conducted at the Massachusetts General Hospital.

As a result of consultation the Association learned that the principal investigator had been criticized for the methodology of the investigation, and the previous conclusions expressed by the same authors, in testimony given to the Veterans Administration Advisory Committee on Environmental Hazards on November 17, 1986. After careful review, this study does not appear to be good science, i.e.: employing good scientific principles, techniques and the fair objective analysis of data.

The Ranch Hand Vietnam Association does not endorse this study and was not a party to the Massachusetts "Agent Orange" Program receiving our addresses.

This program does not have the support of the United States Air Force.

The letter and entire subject should be viewed with certain skepticism.

Ranch Hand Mortality Update: The following is an excerpt from an Air Force news release dated 10 February 1987:

"The U.S. Air Force today released the fourth mortality report of its Ranch Hand (Agent Orange) study. This report is a part of a 20-year epidemiological investigation to determine whether there are possible adverse health effects from herbicide exposure to Air Force members who conducted aerial spraying missions in Southeast Asia (Operation Ranch Hand).

"This fourth mortality analysis, like the preceding three, released in 1983, 1984 and 1985 respectively, has not demonstrated any health effects which can be conclusively attributed to herbicide or dioxin exposure.

"The small number of deaths since the last analysis (4 Ranch Hand and 27 comparison) suggests that the findings of the last report are still valid: there are no overall statistically significant mortality differences between the Ranch Handers and their matched comparisons. These data will be subject to extensive statistical analysis in the next report, planned for later this year.

"Mortality surveillance will continue since the study groups are still relatively young and healthy. While sufficient time may have elapsed for some clinically significant conditions to occur, additional time is necessary for other conditions to develop which may possibly be attributable to herbicide exposure."

1987 Ranch Hand II Health Study:

Within the next 4 to 6 weeks each of us will receive a "package" outlining our third physical exam in the Ranch Hand II Study at Scripps Institute in LaJolla, California.

The Association cannot emphasize enough the importance of our continued participation in this epidemiology study.

Scientifically the Ranch Hand Study results are extremely important to everyone. They represent a careful study of the men known to have been exposed to "Agent Orange" and other herbicides. For this reason, and others, we are and will remain unique to science.

The Ranch Hand II Study is the only study that examines current and continuing health status and current and past mortality. That is the bottom line in the "Agent Orange" controversy.

Please "Saddle Up"! See you again in LaJolla.

21st Annual Reunion: The 1985 and 1986 reunions were highlighted by the dedication of the Ranch Hand Memorial and seeing it completed after the eagle was received and mounted in the granite.

Many new faces were in attendance during the past two years. The following is the combined attendance for the two reunions:

Bill Aldrich, Dick and Linda Alexander, Chuck Avery, Ed Blaufuss, Paul and Sharon Badders, John and Betty Brady, Jack Brennecke, Earle and Kate Briggs, Norm and Coralie Baker, Paul Cecil, Willie Clark, Bryce and Carol Conner, Mr. and Mrs. Bob Crutz, Ed and Jeannie Dabbert, Col. Bud and Doris Day, Ralph and Dolly Dresser, Col. Glenn Davis,

Ted and Sue Encke, Rick and Cherie Evans, Rolf Eagleson, Ed and Ann Fitzpatrick, Jack Gilchrist, Jack and Bobbie Gentry, Lee and Bobbie Harrison, Johnny and Gloria Hoch, Charlie and Beth Hubbs, Cal Jeffries, Doug and Gaile Jones, George and Pearl Ketzel, Cary Lahmon, Dr. George and Ernie Lathrop, Bob and Gloria Leon, Steve and Faye Lowe, Al and Trudy Luigi.

USAFRES Crew: Bob Bien, Terry Biery, Paul Sargent, Hal Luke, Clem Lockamy, Art McConnell, Carl and Sandy Marshall, Ed and Louise McGee, Roger Meekins, Paul Mitchell, Mick Mikolasy, Gen. Russ and Billie Mohney, Frank and Dot Moore, Burke Mucho, Ed Murro, Al and Emily Nicolas, Rod Nestor, Jean "Super Nurse" Perkins, Dick Peshkin,

Clyde and Tru Picht, Sidney and Bevery Rust, Pappy and Moe Rothermel, John and Lois Richmond, Mr. and Mrs. Bill Rhodes, Mike Shuppert, Jack and Marilyn Spey, Pete and Kathy Spivey, John Shipe, General Sloan (DEP/SG), James Stillwell, Dave and Margaret Stockton, Alan and Dorothy Tremaine, Jim Umstead, Frank and Nancy Wencel, Gary White, Richard Wolf, Dr. Bill Wolfe, Keith and Toni Yale, Marv Zepf.

Memorial Dedication Ceremony Excerpts:

The mission of Operation Ranch Hand was to spray agricultural herbicides along lines of communications in an effort to deny enemy cover, and also to remove foliage from enemy safe-haven areas to make it, easier for our fighting men. In addition, the unit was involved in the destruction of enemy crops, thereby placing additional burden on the enemy's logistical system.

Operation Ranch Hand received 5 OUA from the United States Air Force, in addition to 3 Presidential Unit citations. The Vietnamese Government honored the unit with the award of 2 Vietnam Cross of Gallantry with Palm.

1,265 men served in this unit, and the mission was not without risk. The unit's aircraft received over 7,000 rounds of enemy fire during its history.

During combat, a special bond is created between men. Nowhere was this bond stronger than in our organization. This bond remains today. The loss of these men in the defense of freedom only strengthens and perpetuates that bond. They are honored elsewhere and remembered elsewhere; but more importantly we honor them here today.

Their sacrifice was inspirational to us then, and it is inspirational to us now.

To our Comrades!

The dedication was attended by General Sloan, Deputy Air Force Surgeon and Col. Butler, Hurlburt Field Wing Commander.

The "Book of the Month": "Dioxin, Agent Orange," by Michael Gough, pub: Plenum Press, N.Y.

Dr. Gough is currently Director of the Risk Science Institute in Washington, D.C. Previously he was Director of Special Projects in the Division of Health and Life Sciences at the Congressional Office of Technology. With a PHD in biology he teaches microbiology at Baylor and State University of New York. He has published more than 20 scientific papers and has been awarded two Fulbright Lectureships.

For a long time facts and science concerning the "Agent Orange" controversy needed to be told. Dr. Gough's excellent book does the job. A "Well Done Award" to Dr. Gough.

Memorial Fund & General Fund:

The memorial fund has a balance of $6,400, leaving $3,600 needed to repay the construction loan. The pace of contributions has exceeded expectations but we still have a way to go. Please make checks payable to the Ranch Hand Memorial Fund.

The general fund has a balance of $800 before the expense of this newsletter. To help our recordkeeping, please send two checks when contributing to both memorial and general fund. Thanks to all of you for your contributions!

Reunion 1987: The 22d Annual Reunion of the World's Greatest Herbicide Warriors will be held in Ft. Walton Beach, Florida on October 9, 10 and 11, 1987. Gen Russell Mohney (904-678-7815) will be the "producer" this year. Details will be provided in future newsletters. Make plans now! Oct. 1, 10 & 11!

We look forward to seeing our comrads in LaJolla starting in May and in Ft. Walton Beach in October.

To the Ranch,

Jack Spey,
President, Ranch Hand
Vietnam Association.

[From the Cape Cod Times, Apr. 12, 1987]

DOCTOR URGES VETS TO AVOID STATE AGENT ORGANIZE STUDY

Boston.—An Air Force doctor charged with testing Vietnam veterans exposed to agent orange is urging veterans not to participate in a similar study by state officials in Massachusetts.

Col. William H. Wolfe warned against the Massachusetts study in a letter to the 2,309 veterans participating in the federal study. He wrote that the Air Force study was the "best chance" to provide answers to health problems associated with the defoliant because the Pentagon was working directly with the Center for Disease Control in Atlanta.

In an interview Friday, Wolfe said the real reason for discouraging veterans from participating in the Massachusetts study was a fear that the state review could bias veterans, giving them pre-conceived notions about agent orange.

The undated letter, a copy of which was obtained by The Associated Press, was criticized as "highly unusual and unprofessional" by Massachusetts Veterans Services Commissioner John Halachis.

Halachis, in an interview Friday, complained that the letter has compromised the state's $63,000 study.

Fifteen veterans who agreed to participate in the study have backed out because of the Wolfe letter, acccording to Joseph V. Bangert of Brewster, director of the state's agent orange program.

"Colonel Wolfe's letter had the effect of inhibiting scientific inquiry and research," Halachis said. "The letter, in our opinion, has exacerbated an already confused and emotional subject upon our veteran community and their families."

In a letter sent Friday to Lt. Gen. Murphy Chesney, the surgeon general of the Air Force, Halachis complained about Wolfe's referring to his agency as simply, "a group in Massachusetts."

"The Massachusetts Agent Orange Program is the governor's initiative, funded and approved by our Legislature and supervised by this agency," the commissioner wrote. Wolfe's letter gave no indication that the Massachusetts study was being conducted by the state.

Halachis said Massachusetts set up a division to study agent orange because state officials believed the federal government was not moving quickly enough to determine how the defoliant used extensively during the Vietnam War has affected veterans. Many suspect the chemical has caused cancer and other health problems in U.S. veterans.

Wolfe said in a telephone interview, Friday from the USAF School of Aerospace Medicine at Brooks Air Force Base in Texas that his main concern was the question of blasting the participants, a concern not mentioned in the letter.

Massachusetts plans to take fat tissues from 50 veterans to study the level of dioxin, which could have been caused by the defoliant agent orange. State researchers wanted to test 25 veterans who participated in the "Ranch Hand" operation during the war.

With the impact of the Wolfe letter, Bangert said, only 10 Ranch Hand veterans are expected to participate in the Massachusetts study. Nine more veterans were scheduled to be tested Saturday at Massachusetts General Hospital.

THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF HUMAN SERVICES, OFFICE OF COMMISSIONER OF VETERANS' SERVICES, LEVERETT SALTONSTALL BUILDING, GOVERNMENT CENTER,
Boston, March 31, 1987.

Lt. Gen. MURPHY CHESNEY,
USAF, Office of the Surgeon General, U.S. Air Force, Bolling Air Force Base, Washington, DC.

DEAR GENERAL CHESNEY: My reason for writing is to express a concern regarding an undated letter signed by Colonel William H. Wolfe, USAF, MC, Chief, Epidemiology Division, USAF School of Aerospace Medicine, Brooks Air Force Base, Texas. (enclosed)

For four years, the Office of the Commissioner of Veterans' Services of the Commonwealth of Massachusetts has been engaged in legislative mandated activities and studies concerning the herbicide Agent Orange and other dioxin contamination as it affects Massachusetts men and women both during and after their service in Vietnam.

In Colonel Wolfe's letter, there was a reference that the Massachusetts Agent Orange Program was referred to as either an "organization" or an "individual". In this instance, the originator's reference was not only uninformed but highly inappropriate. The Massachusetts Agent Orange Program is the Governor's initiative, funded and approved by our legislature and supervised by this agency. Moreover, this agency was never requested by the USAF School of Aerospace Medicine to forward a copy of our protocol for the Massachusetts Fat Biopsy Study. Therefore it would appear that the school's position of discouraging potential candidates from coming forward for fat biopsies is highly unusual and unprofessional. Needless to say, we would have enthusiastically complied with any Air Force request for such information, had we received such a request.

Under the laws of the Commonwealth, the Office of the Commissioner of Veterans' Services is responsible for the health, welfare and morale of those men and women who served in the Armed Forces. I am charged with the responsibility to act on behalf of veterans with health problems or who are filing claims for entitlements from agencies of the Federal government. Our Commonwealth's General Court has mandated scientific exploration of the Agent Orange question. This agency is complying with this Massachusetts law.

Colonel Wolfe's letter had the effect of inhibiting scientific inquiry and research. The letter, in our opinion has exacerbated an already confused and emotional subject upon our veteran community and their families.

Colonel Wolfe's undated letter was a most unfair refutation of a scientific study conducted by respected world-class professionals in the field of dioxin research. It would be helpful if you could provide the rationale behind the sending of such a letter.

As a retired USAF officer, I am surprised that the USAF would allow such a letter to be distributed to veterans without appropriate clearance from your office. It would even be more disturbing if Colonel Wolfe's letter was intended as an attempt to inhibit an independent scientific research endeavor.

An early response to our concern is requested. I find it difficult to believe that the USAF would intentionally intervene in a State's effort to seek answers to the Agent Orange question.

Sincerely,
JOHN HALACHIS,
Commissioner.

DEPARTMENT OF THE AIR FORCE, USAF SCHOOL OF AEROSPACE MEDICINE (AFSC), BROOKS AIR FORCE BASE, TX,
August 25, 1987.

Hon. THOMAS DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: In response to your recent letter concerning the Air Force epidemiologic study of the health effects of Agent Orange, Dr. Joel Michalek, Dr. Richard Albanese and I have prepared the following comments in response to your specific questions. Dr. Albanese was a study principal investigator from 1978 to 1984. Dr. Joel Michalek was a major study contributor from 1978 to 1984 and has been a principal investigator since, while I have served as principal investigator since 1978.

a. Reference your paragraph 1. Verification of all reported birth defects in the children fathered by the participants in our study was conducted using medical records and birth certificates in 1984. Sixty-one percent of the defects reported by the Ranch Handers and their wives and 63% of those reported by the comparisons were verified as being codable defects. These percentages were not statistically different, and there is no evidence of differential reporting of these data. The Ranch Hand children had increased numbers of birth defects, but the increase was in those children born to mothers who smoked during pregnancy. There was no evidence of any association with herbicide exposure but such an association cannot be said to have been ruled out. A report of the analyses of these data was submitted to the Advisory Committee in 1984 but they recommend that it not be published. The verification of all reported birth defects has resolved one source of possible bias in the study of reproductive endpoints (overreporting). However, potential bias from underreporting remains. The negative reports on the remaining 5,614 children are currently being verified by medical record review. This is a very time-consuming process due to difficulties in locating and obtaining records. Many of these "children" are now adults and their consent must be obtained before records can be requested. I anticipate completion of this effort by November 1988. The verified data will then be analyzed and the results will be released after review by the Advisory Committee appointed by the Agent Orange Working Group.

b. Reference your paragraph 2. A series of flight tests was performed in C-123 aircraft in 1981 by Major Stephen L. Meek as background for a master's degree thesis at the University of Washington School of Public Health. The results of his work were considered in the development of the exposure assessments used in our data analyses. Unfortunately, technical difficulties were encountered in the conduct of the study, and the data were not as helpful in clarifying exposure as we all had hoped. Further preliminary work was conducted by the Air Force Occupational and Environmental Health Laboratory to assess the feasibility of using glycerin as a simulant. However, full-scale simulations were not conducted due to operational difficulties. Additionally, significant difficulties were encountered in developing scenarios that accurately reflect the actual in-flight conditions prevailing during the 9 years the combat missions were flown. The recent development of a technique to determine dioxin levels in serum will provide a direct measure of individual exposure without reliance on the assumptions and uncertainties implicit in simulation studies.

c. Reference your paragraph 3. In May 1984, Dr. Bernadine Bulkley (formerly of the Office of Science and Technology Policy) asked that we verify several of the baseline report results. However, these verifications were already underway by our staff prior to her request. A meeting occurred with the staff of the Office of Science and Technology Policy in October 1986 to provide them with an update of the Air Force study. No technical direction was received at that time. They have acted as advocates of the program to obtain legislative support. The Air Force Surgeon General's office and the Air Force Systems Command (AFSC) headquarters have had no control over the science of the study. AFSC and intervening staff offices have managed funding and personnel resources, relieving the program scientists of these burdensome but important administrative tasks.

d. Reference your paragraph 4. The Advisory Committee for our study was appointed by the Agent Orange Working Group. The baseline report sent to the Advisory Committee was essentially the same as the published report. The committee recommended several editorial changes in writing style and emphasis but felt no additional data analyses were indicated. They felt the Executive Summary should be expanded, emphasis should be placed on an explanation of elements used in determining causality, and other minor "wordsmithing" changes should be made. The comments of the committee were included in the final report. The initial morbidity report contained "followup" analyses of data which, unfortunately, are subject to misinterpretation. This difficulty has been mitigated in the second morbidity report by strict adherence to a preset statistical protocol. Specifically, while the increment in Ranch Hand cancer appears limited to the skin, a systemic increase cannot be unambiguously ruled out. Similarly, the increased reported birth defect rate may not be confined to minor lesions.

e. Reference your paragraph 5. All interactions with the Advisory Committee have been purely technical in nature, dealing exclusively with epidemiologic and statistical issues. The concerns of veterans were foremost in the initial decisions in 1978 and 1979 to proceed with this study. Although a veterans group representative was not on the committee, veterans' concerns are addressed. We are committed to caring for the Air Force community, including retired and separated Air Force veterans. Their welfare is our first priority.

f. Reference your paragraph 6. The Australian, Centers for Disease Control (CDC), and Air Force studies are relatively consistent in their conclusions. However, while they do not assert a causal ralationship between Agent Orange and adverse health, a clear exoneration of the defoliant and its dioxin contaminant is not supported. All of these studies, including the Air Force-sponsored research, suffer from some limitations. The studies have been limited in their ability to accurately measure individual levels of exposure to the chemicals, and a more precise estimation of exposure is needed before definitive conclusions can be made. The CDC birth defect and Air Force studies are the only ones specifically addressing Agent Orange with dioxin exposure. The others are limited to the effects of Vietnam service, and the finding cannot be interpreted as the result of Agent Orange. All of these studies suffer from misclassification of exposure. The opportunity to make more accurate exposure assessments in our study is available with the serum dioxin assay. Design problems in the CDC and the Australian birth defect studies were apparent in their inability to control for the pre-Vietnam reproductive experience of the study groups. Similarly, the lack of medical verification of the birth certificate data is a significant weakness in these studies. Due to the small number of deaths occurring to date in these relatively young populations, all of the mortality studies suffer from low statistical power to detect increases in important disease categories. Despite their limitations, these six studies have been conducted as carefully and as scientifically as possible, and they have made major contributions toward the clarification of the Agent Orange/dioxin controversy.

g. Reference you paragraph 7. The weight of scientific evidence from epidemiologic studies in humans does not confirm a link between Agent Orange and adverse health nor does it rule out such a link. Continued surveillance is definitely indicated. Latency periods for malignant disease are just being reached, and studies have identified several findings which need to be reevaluated in subsequent examinations to determine their clinical relevance. At this time, Agent Orange cannot be implicated or exonerated.

h. Reference your paragraph 8. Additional work in establishing exposure through the use of the serum dioxin assay is needed. This assay will reduce uncertainties in estimating individual exposures and will significantly decrease any misclassification in the analysis of the data from the Air Force study. We are currently working with the CDC to implement this procedure for the analysis of the 1987 physical examination data. This procedure will improve our exposure assessments and should support more solid statistical and epidemiologic conclusions if it is applied to all participants, including the comparisons. In the context of the Air Force study, the dioxin assay presents a unique opportunity to clarify the dioxin issue.

i. Reference paragraph 9. The principal investigators in the Epidemiology Division have full and final responsibility for the science of the study. The Advisory Committee has scientific oversight of the study and works closely with the Air Force team. The Air Force management structure limits its impact on the study to purely administrative matters of funding, manpower and equipment management. In October 1984, the Commander of the USAF School of Aerospace Medicine resolved an impasse among the principal investigators concerning the format of the 1984 Mortality Report. It was later very clear that his solution was scientifically correct. All reports are released by the Air Force Surgeon General in the form approved by the Advisory Committee. The report of the 1985 physical examinations is currently being prepared for review by the Advisory Committee, and public release is expected in the fall of this year. Similarly, the 1987 update of the ongoing mortality study is expected in January or February 1988.

j. Reference your paragraph 10. The principal investigators have attended scientific meetings in this and other countries to freely exchange information on the Agent Orange/dioxin issue. Telephone and mail contacts are equally unrestricted. For a time after the release of the first morbidity report in February 1984, all public inquiries were coordinated through the Public Affairs Office; all questions were answered by designated individuals.

I hope this material is of assistance to you and your staff.

Sincerely

William H. Wolfe, *Colonel, USAF, MC,*
Chief, Epidemiology Division.

Department of the Air Force,
Brooks Air Force Base, TX,
November 23, 1987.

Ms. Laura Petrou,
U.S. Senate,
Washington DC.

Dear Ms. Petrou: In your telephone call to me on 2 November, you requested a copy of the draft of the 1984 Air Force Health Study Morbidity Report and a copy of the statistical analysis conducted on the incomplete birth defect data.

I was unable to locate a copy of the draft Morbidity Report in my files. After the review of that draft by Dr. Robert Miller's Advisory Committee, the final version of the report was prepared and was only slightly changed from the draft. I have located a copy of the committee's recommendations and enclosed them for your use (Atch 1). These comments should clarify any questions you may have about the content of the draft report.

The analysis of the partially verified birth defect data was carried out in late 1984, at the urging of the Air Force Surgeon General's Office. The principal investigators and the Advisory Committee had major reservations about the validity of that analysis, since only 67 percent of the children reported to have birth defects and none of the 5,635 of those reported to be normal had been checked against medical records. The lack of verification of the health status of these children made this 1984 analysis invalid. The report was prepared as an internal working document soley for the study investigators and Dr. MIller's Advisory Committee. Since the data were incomplete, any conclusions based on the analysis are invalid and would be miseleading.

The process of obtaining the medical records and verifying the health status of the remaining children fathered by study participants is proceeding on schedule. The analysis of that data is planned for late 1988. When that analysis is completed, a report will be prepared, reviewed by the Advisory Committee, and released to the public. I will ensure that you receive a copy of that report.

If you have any further questions or need more information on this matter, please contact Ms. Patricia Turner, the Assistant for Congressional and Public Affairs in the Office of the Air Force Surgeon General (commercial telephone (202) 767-5046).

Sincerely,

William H. Wolfe, Colonel,
USAF, MC, Chief, Epidemiology Division.

[Memorandum]

Public Health Service

Date: February 28, 1984.
From: Chair Pro Tempore, Agent Orange Working Group.
Subject: Air Force Ranch Hand Study.
To: Members, Agent Orange Working Group.

Enclosed please find a copy of the Air Force Ranch Hand Study report on morbidity along with the minutes and critique offered by the Advisory Committee on Special Studies.

We will arrange for a briefing and discussion at the next appropriate meeting.

Edward N. Brandt, Jr., M.D.

[Memorandum]

National Cancer Institute

Date: February 21, 1984.
From: Chief, Clinical Epidemiology Branch, NCI.
Subject: Advisory Committee's Critique of the Ranch Hand Draft Report on Morbidity.
To: Assistant Secretary for Health, HHS.

Attached for you and the Secretary is a list of points made by the Advisory Committee concerning the present interim report, and additional information to be developed in the future. Also attached is a more flowing account of the meeting.

Robert W. Miller, M.D.

Advisory Committee: Critique of the Ranch Hand Morbidity Draft Report

On February 6, 1984, a meeting of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants was held at NIH, 9:30 AM–4:30 PM, to discuss the draft report on morbidity among Ranch Hand (RH) personnel. The list of Air Force scientists in attendance is attached. The Advisory Committee, convened on short notice, was present except for Dr. Selikoff, who had developed the flu, and Dr. Comstock, who was able to attend only in the afternoon. Dr. Gilbert W. Beebe, a biostatistician with long experience in studying the health of military veterans at the National Academy of Sciences, served as a consultant throughout the day.

Four Air Force scientists presented a thirty-minute summary of their results. Each Committee member was asked to suggest topics of special importance to the discussion from his point of view.

Our advice concerned a) modifications of the present interim report and b) development of additional information for future reports—intermingled at the meeting, but here presented separately.

A. FOR THE INTERIM REPORT:

1. Add more a priori structure to the report by describing hypotheses to be tested concerning the occurrence of chloracne, soft tissue sarcoma, porphyria cutanea tarda, psychological or neurologic effects, immunologic perturbation, and genetically induced impairment of reproductive performance. Give the background for each possible effect at the outset, and return in the Discussion to the hypotheses.

2. Describe in the Executive Summary (ES), text and conclusions the elements that help establish causality, and weigh each of the findings in this regard (i.e., the presence or absence of a dose-response effect, biologic plausibility, consideration of explanations other than herbicide exposure, the correct temporal relationship (exposure *before* onset of the disease), the specificity of the association and the consistency of the findings). Indicate how each finding measures up. The excess of skin cancer, for example, did not exhibit a dose-response effect. Among the flying enlisted personnel the response was in the wrong direction: it was greatest among those who were the least exposed.

3. Do not summarize the number of comparisons for which probability (p) values indicating that differences between the groups were unlikely to be due to chance. Psychologic test-scores in particular are not independent of one another and add disproportionately to the number of differences between the groups compared. These differences may have antedated the experience in Viet Nam or have been due to influences other than exposures to herbicides. Also, some differences favorable to the RH group have been added to those that are unfavorable, and p values for unverified subjective information have been given equal weight to those for well-documented objective observations.

4. Known (and unknown) effects from smoking, alcohol and diabetes were easily detected in this study, in contrast to the findings with regard to effects of herbicide exposures. This contrast should be featured in the ES and the text.

5. Further description of the intensity and nature of the exposures, as well as their known effects, would enhance reader's understanding; i.e., 2,4-D, 2,4,5-T, dioxin, malathion, arsenic—and the possibility of as yet unknown contaminants. How much of each was used, and who was most heavily exposed, on the ground or in the air?

6. The absence of chloracne thus far needs special attention. Can other effects occur without a history of chloracne?

7. Describe the etiologic possibilities other than herbicides for the decrease observed in peripheral pulses in the RH group vs. the comparison group. Do the same for skin cancer, transitional cell carcinoma of the urinary bladder, reproductive outcome, psychological test-scorer, and learning disabilities among children as described in the interviews with their parents.

8. Mention the possibility that the elevated levels of thyroid hormones in the blood of the RH group suggests that, in accord with animal experimentation, the effects of dioxin may be mediated by the thyroid.

9. Describe the differences between genetic effects conveyed by germ-cell mutations in the sperm as contrasted with teratogenesis in which malformations, an effect on the embryo, occur because of maternal exposures during pregnancy (not possible in this study).

10. A germ-cell mutation should induce a known genetic disease, not an ill-defined assortment of defects, such as skin blemishes.

11. The point should be made that comparison groups are likely to differ from the RH group in characteristics or exposures before, during and/or after military services. The best one can do is to come as close as possible to selecting a comparison group that differs minimally from the cases except for herbicide exposure. The possibility should be constantly in mind that differences other than herbicides exposure, e.g., media attention, may influence the results.

12. Add the findings on sperm to the Executive Summary.

13. Rephrase the statement. This baseline report is not negative.

14. Delete Table X-5 because it combines etiologically dissimilar cancers (of the genitourinary tract) and replace it with Appendix X, which is far more informative because it lists diagnoses histologically in a way that can be etiologically meaningful. The occurrence of three cases of transitional cell carcinoma of the bladder should be explained.

15. Reports of miscarriages are notoriously inaccurate and should be regarded with great caution.

16. The word "overselected" is inappropriate in describing the selection of the 18% who did not fit the criteria for the comparison group.

17. The statements that certain findings are "of concern" should be modified because what is really meant is that they merit further study. None has been causally related to herbicide exposure.

B. IN THE FUTURE.

(1) Review promptly the military medical records for acute illnesses at the time of herbicide exposure, looking especially for the known effects of the various agents used.

(2) Give the age-distribution of the men with skin cancer. Each case should be briefly described. A case-control study might reveal factors that contributed to the occurrence of these neoplasms.

(3) With regard to the men with urinary bladder cancer, give the case-histories including exposure to known carcinogens.

(4) Consider a case-control study of the RH men with diminished peripheral pulses. Could this finding be due to a "jackhammer" effect from the aircraft they used?

(5) The data on the children are from hearsay only, and may be heavily influenced by differential reporting. Confirmation by review of medical or school records may be possible. The plausibility of the genetic origins of any differences found should be evaluated.

(6) Data on stillbirths and neonatal deaths should be confirmed from medical records, and combined.

(7) A separate report should be published on previously unknown physiologic effects of smoking and alcohol use as found in this multiphasic study.

Overall, we advised that the Executive Summary be expanded, that emphasis be placed in it and elsewhere on the elements necessary in establishing causality (not just p values) and how the findings meet these criteria. Modifications of the text were advised but no further data analyses were needed for this report. Several by-product studies appeared to be worthy of further development, especially in relation to previously unknown physiologic effects of smoking, drinking and diabetes, as studied epidemiologically.

Robert W. Miller, M.D.

Minutes, Agent Orange Meeting

(Robert W. Miller, M.D.)

On February 6, a meeting of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants was held at NIH to discuss the draft report on morbidity on Ranch Hand personnel. Four Air Force scientists led off with succinct summaries of the findings. Each Advisory Committee member was asked to list topics of special importance to the discussion from his point of view. The report was judged to be clearly written and well-organized.

Exposure: The text can be clarified concerning the diversity of exposures: 2,4-D; 2,4,5-T; dioxin, arsenic, malathion, and/or other unknown contaminants. The discussion brought out the nature of the heavy exposures of some ground personnel in a way that the reader cannot derive from the report as it is presently written. This information should be added. Mention should also be made of the absence, as yet, of anecdotal accounts or data from clinical records on acute medical effects from the exposures, in contrast, for example, to Japanese mustard-gas workers who suffered acutely from chemical effects on the skin and respiratory tract. This information should appear in the text and in the Executive Summary (ES). It was noted that the data had not been analyzed as to the number of missions flown because this information was not well recorded for enlisted personnel. It should be made clear that effects of exposure on health might be due to any one or a combination of the chemicals to which Ranch Hand personnel were exposed.

Hypotheses: At the outset of the report, known effects of various exposures, experimentally and/or in man, should be described—not just for dioxin. (Example: Arsenic may induce skin or respiratory cancers.) In general, the study should focus on hypotheses based on information from previous studies. In the Discussion, the authors should return to these hypotheses in evaluating the results. More a priori structure to the study and interpretation of the results would enhance the presentation. The other abnormalities found, then, are incidental and problematic.

The elements in establishing causality should briefly be described in the text and in the ES. They are crucial to understanding the observations made. They are: (1) a dose-response (strength of association); (2) consistency of the association; (3) temporally correct relationship; i.e., the event must precede the disease; (4) specificity of association; (5) biologic plausibility; and (6) consideration of possible explanations other than herbicide exposure.

One reviewer with long experience in the research use of military medical records was surprised that the review was not yet complete for illnesses at the time of the exposure.

Chloracne: No cases of chloracne are known among the Ranch Hand group. Discussion of this observation would be helpful. Can one have other effects of dioxin without having chloracne? Some investigators claim that without chloracne, a search for other effects is not warranted. It was pointed out that mice are relatively insensitive to chloracne but develop other effects of exposure to dioxin. In the Missouri horse-arenas contaminated with dioxin, one of two children who played in the dirt containing dioxin developed hemorrhagic cystitis but not chloracne. Exposure at the same site killed about sixty horses and numerous birds. Other components of the herbicides are not known to cause chloracne. Each of the above items should be mentioned in the ES.

Abnormal Pulses: Pulses at five anatomic locations showed a statistically significant decrease in the RH group. The reason is unknown. RH flying personnel experienced vibrations in their aircraft, unlike that of the comparison group, we were told. The possibility of a "jackhammer" effect on the vasculature was raised, as is known to occur in workers who use these devices. Certain drugs or chemicals; e.g., ergot, might also narrow the lumens of blood vessels. For this and other unexpected findings described in the report, case-control studies might reveal contributing factors, inborn or due to environmental exposures, not necessarily herbicides. In this way the study might yield extra dividends of information.

Skin Cancer: The absence of a dose-response effect suggests that the excess of skin cancer is due to herbicide exposure. The age-distribution of the men with skin cancer should be given, and a case-control study made to seek possible causes. For all such findings, a brief description of the history of the illness and physical findings should be given. Adjustments have not yet been made for sun exposures according to place of residence.

Genitourinary Cancer: This category of neoplasia is terribly mixed with regard to etiology (prostate cancer vs. testicular cancer vs. bladder cancer vs. kidney cancer). The lack of a difference from the comparison group is shown in Appendix X, which should be substituted for Table X-5 in the text. At first glance, Appendix X raises suspicion about the occurrence of transitional cell carcinoma of the urinary bladder among young men exposed to herbicides, but one of the three developed his neoplasm at the time of exposure; that is, without a latent period. The other two cases occurred after a long-enough interval, but are too few for drawing inferences about the role of herbicide exposure. These two cases should be evaluated with regard to exposure to other known bladder carcinogens (most such cancers are environmentally induced). Appendix X should be labeled "Cancers, Excluding Skin."

(NOTE: Suggestions that involve recontacting the men or their families are for future studies and not for inclusion in this report. No further analyses of data were suggested before issuing this report.)

Reproductive Outcomes: The excess of birth defects among children of the RH is due to miscellaneous skin blemishes at birth. One would expect mutation to cause a known genetic disorder, such as chromosomal abnormalities or xeroderma pigmentosum. The birth defects were ascertained by history, not by examination of the children. Their birth records have not yet been reviewed. Unequal reporting by the parents in the groups compared may be involved here. The specific diagnoses of the skin abnormalities should be ascertained and listed in a future report.

The text for the present report should emphasize the distinction between genetic effects transmitted through sperm, and teratogenesis, which occurs due to the exposure of the embryo early in pregnancy. None of these children were exposed in utero. Therefore, the skin blemishes observed cannot be due to a teratogenic effect of herbicides.

Reports by parents of miscarriages are notoriously inaccurate. Stillbirths and neonatal deaths are more reliable, can be verified, and may be combined.

The most solid observation is a lack of a difference between the groups in the morphologic observations of sperm. This finding, omitted from the ES, should be included in it.

Learning Disabilities: Again, because the data on learning disabilities among children are entirely from interviews with their parents, the responses are highly subjective. Differences in reporting or in parental attitudes toward the children can influence the results. If parents were concerned about the fathers' herbicide exposures, they may be anxious about the health of their children. Overprotection, for example, can lead to the "vulnerable child syndrome," as in youngsters with heart murmurs in infancy who are later found not to have disease, and the murmurs disappear spontaneously. Continuing parental concern, though, can affect the behavior of the children.

Hyperthyroxemia: The statistically significant higher levels of certain thyroid hormones in the blood of the RH group were of great interest pharmacologically, for the observation raises the possibility that dioxin disrupts the function of the thyroid. Studies of experimental animals have shown that the thyroid mediates the effects of dioxin.

P Values and Psychological Test-Scores: The listing of the test-results in Appendix XVIII and some statements in the text and Executive Summary (ES) indicate that the RH group differed significantly from the comparison group far more often than one would expect by chance. The report does not make clear that in some instances the RH group had more favorable test-results, and that a substantial proportion of the "adverse" differences were in the numerous components of the psychological test-scores. These values are not independent of one another, so the same attribute can influence various test-scores. The psychological attributes may have been present before the men entered the Air Force, or the attributes may be due to the experience but not related to herbicide exposure. One would have to postulate an interaction between exposure and educational level to explain why high-school graduates showed an effect and college graduates did not.

Effects of Smoking, Drinking, Diabetes and Age: The study clearly shows the known effects of these variables, as well as physiologic effects not previously known—in particular, the effects on immunologic function. These new findings will be separately reported and seem to be an important by-product, which may open new avenues of research. The capacity of the study to reveal these effects should be described in the ES, perhaps in comparison with the results as they relate to herbicide exposure.

The Groups Compared: In this sort of study the groups compared should be alike except for herbicide exposure. Because self-selection and military assignments differ according to the work involved, it is probably impossible to select groups for comparison that do not differ before the assignment. In epidemologic research one must take things as they are, rather than as they might ideally be (e.g., the ideal might be identical twins reared together, one assigned to RH and the other to the comparison group). The Air Force investigators selected a reasonable comparison group, as was confirmed by four independent peer review committees. The data on duty assignments of the comparison group were recorded in a fashion that misclassified some men. After the study began, it was found that 18% had not served in Southeast Asia, as was required by the study protocol. The comparison group consists of (a) those who matched the cases and agreed to be examined, (b) those who declined, (c) those who replaced the men who declined, and (d) the ineligible 18 percent. The Air Force research group has grappled with the question of the best means to avoid biased results in analyses that make use of the original comparison group with or without the replacement group or the ineligible group. The Advisory Committee did not go into this question and did not disagree with the handling of the data analysis for this report. Future analyses can evaluate the differences in results when comparison is made of available data for each of the groups that participated, as well as the incomplete information available for those who did not. Such studies may be interesting to an epidemiological audience, but the biologic implications of the results to date concerning exposures to herbicides are unlikely to be altered. The word "overselected" was deemed inappropriate for describing the erroneous selection of men who were ineligible for the comparison gorup.

The Advisory Committee strongly urged modifying the statement "this baseline report is not negative" to one that stated that no effects attributable to herbicide exposures have as yet been detected. This conclusion does not exclude the possibility of undetected effects or effects with may not yet have occurred. The Committee viewed the findings "of concern," to be findings in need of further exploration. None appeared to be causally related to herbicide exposure as indicated by the lack of a dose-response effect, biologic implausibility, and/or alternative explanations for the effect in question.

MINUTES, ADVISORY COMMITTEE MEETING ON PHENOXY HERBICIDES—RANCH HAND MORBIDITY STUDY

(Robert W. Miller, M.D.)

On February 6, a meeting of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants was held at NIH to discuss the draft report on morbidity on Ranch Hand personnel. Four Air Force scientists led off with succinct summaries of the findings. Each Advisory Committee member was asked to list topics of special importance to the discussion from his point of view. The report was judged to be clearly written and well-organized.

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Hypotheses: At the outset of the report, known effects of various exposures, experimentally and/or in man, should be described—not just for dioxin. In general, the study should focus on hypotheses based on information from previous studies. In the Discussion, the authors should return to these hypotheses in evaluating the results. More *a priori* structure to the study and interpretation of the results would enhance the presentation. The other abnormalities found, then, are incidental and problematic.

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Chloracne: No cases of chloracne are known among the Ranch Hand group. Discussion of this observation would be helpful. Can one have other effects of dioxin without having chloracne? Some investigators claim that without chloracne, a search for other effects is not warranted. It was pointed out that mice are relatively insensitive to chloracne but develop other effects from exposure to dioxin. Other components of the herbicides are not known to cause chloracne.

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Skin Cancer: The absence of a dose-response effect suggests that the excess of skin cancer is not due to herbicide exposure. The age-distribution of the men with skin cancer should be given, and a case-control study made to seek possible causes. For all such findings, a brief description of the history of the illness and physical findings should be given. Adjustments have not yet been made for sun exposures according to place of residence.

Genitourinary Cancer: This category of neoplasia is terribly mixed with regard to etiology (prostate cancer vs. testicular cancer vs. bladder cancer vs. kidney cancer). All cancers should be listed in a table in the text according to anatomic site and histologic type, as in Appendix X.

Reproductive Outcomes: The excess of birth defects among children of the RH is due to miscellaneous skin blemishes at birth. One would expect nutation to cause a known genetic disorder, such as chromosomal abnormalities or xeroderma pigmentosum. The birth defects were ascertained by history, not by examination of the children. Their birth records have not yet been reviewed. Unequal reporting by the parents in the groups compared may be involved here. The specific diagnoses of the skin abnormalities should be ascertained and listed in a future report. The text for the present report should emphasize the distinction between genetic effects transmitted through sperm, and teratogenesis, which occurs due to exposure of the embryo early in pregnancy. None of these children were exposed in utero. Therefore, the skin blemishes observed cannot be due to a teratogenic effect of herbicides.

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p *Values and Psychological Test-Scores:* The summary of probability (p) values does not make clear that in some instances the RH group had more favorable test-results, and that a substantial proportion of the "adverse" differences were in the numerous components of the psychological test-scores. These values are not independent of one another, so the same attribute can influence various test-scores. The psychological attributes may have been present before the men entered the Air Force, or the attributes may be due to the experience but not related to herbicide exposure. One would have to postulate an interaction between exposure and educational level to explain why high-school graduates showed an effect and college graduates did not.

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Overall, we advised that the Executive Summary be expanded, that emphasis be placed in it elsewhere on the elements necessary in establishing causality (not just p values) and how the findings meet these criteria. Modifications of the text were advised but no further data analyses were needed for this report. Several by-product studies appeared to be worthy of further development, especially in relation to previously unknown physiologic effects of smoking, drinking and diabetes, as studied epidemiologically.

(Note: Suggestions that involve recontacting the men or their families are for future studies and not for inclusion in this report. No further analyses of data were suggested before issuing this report.)

Public Health Service,
Bethesda, MD, September 27, 1988.
Hon. Thomas Daschle,
U.S. Senate,
Washington, DC.

Dear Senator Daschle: Thank you for your letter to Dr. Richard Adamson, asking that I respond to criticisms of certain epidemiologic studies on herbicides and cancer. I am pleased to offer my comments on this important topic.

The results from studies of herbicides and cancer have not been entirely consistent. Associations between exposure to herbicides (particularly phenoxyacetic acid herbicides) and non-Hodgkin's lymphoma have been noted in some case-controlled studies conducted in the United States and Sweden. The associations between herbicides and Hodgkin's disease and soft-tissue sacroma seen in Swedish studies, however, were not observed in the National Cancer Institute (NCI) study in Kansas. Because of the agricultural and economic importance of herbicides, these studies have received careful scientific scrutiny. Small numbers of persons studied and accuracy of assessment of herbicide exposure have been the major methodologic issues raised. These are legitimate concerns that deserve careful consideration in all epidemiologic studies.

Statistical tests are available to estimate the probability that risk estimates are in error due to the role of chance. Small numbers cannot be used to explain away a statistically significant positive finding. However, with studies involving small numbers it is difficult to be certain about the validity of a negative finding.

Assessment of exposure in epidemiologic studies is difficult, and the effect of exposure misclassification on risk estimates should be carefully considered. Exposure misclassification may be either random or nonrandom. One type of nonrandom misclassification that may occur in case-controlled studies (the design used in several studies in Sweden and by the NCI in studies in Kansas and Nebraska) is case-response bias, which occurs when recall of exposure is better among respondents with cancer than among the nondiseased controls. The observation from both the United States and Sweden that patients with colon cancer reported levels of herbicide similar to those of nondiseased controls indicates that such a bias is unlikely with respect to cancer in general. In addition, a survey of suppliers in the Kansas study found a similar level of corroboration between the recollection of cases and controls with information obtained from establishments that sold pesticides to the farmers. This indicates that case-response bias is unlikely to explain these positive findings.

On the other hand, random exposure misclassification probably did occur in all studies. This type of exposure misclassification may occur because not all subjects can accurately recall the specific herbicide used, the frequency of use, the years they were used, or the duration of use. Unfortunately, it is not possible in these studies to estimate the magnitude of this type of misclassification, because there is no "gold standard." The effect such randon exposure misclassification would have on risk estimates, however, is well known. It would reduce estimates of risk and mute exposure-response gradients. Thus, random exposure misclassification is a possible explanation for the failure of some studies to detect a positive association, but it cannot be used to explain away associations that occur.

In summary, although the case-controlled studies from Sweden and the United States have limitations, they are not ones that are likely to create false positive associations. Therefore, if the associations observed between herbicide and some cancers are spurious, explanations must be sought elsewhere.

I hope these comments are helpful to you.

Sincerely,

Aaron Blair, PhD.,
Chief, Occupational Studies Section, Environmental Epidemiology Branch, Division of Cancer Etiology.

Mr. DASCHLE. I thank the President and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair.

Mr. CRANSTON. Mr. President, if the Senator will yield for a moment, could we get a time agreement on this amendment—say not more than 15 minutes?

Mr. KERRY. Mr. President, I only need 5 minutes.

Mr. CRANSTON. With all second-degree amendments not in order.

The PRESIDING OFFICER. That is a unanimous-consent request I presume?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. I thank the President.

Mr. CRANSTON. How much time does the Senator need?

Mr. KERRY. Six minutes or 7 minutes.

Mr. CRANSTON. I yield 6 minutes.

Mr. KERRY. I thank the distinguished Senator from California.

Mr. MURKOWSKI. Pardon me for interrupting.

The PRESIDING OFFICER. The Chair will advise the yielded time is not part of the unanimous-consent request. The Chair has no objection, but it is not part of the present order.

Mr. DASCHLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DASCHLE. If there is a time agreement, who controls the time?

The PRESIDING OFFICER. That was not made clear in the unanimous-consent request. The Chair will certainly entertain a motion to that effect just for clarification of the record.

Mr. CRANSTON. I ask unanimous consent that the chairman of the committee control the time.

The PRESIDING OFFICER. And the opposition?

Mr. CRANSTON. There is no opposition.

Mr. MURKOWSKI. For clarification, I wonder if 20 minutes is not sufficient?

Mr. CRANSTON. I asked for 15 minutes.

The PRESIDING OFFICER. Is there objection to the addition to the unanimous-consent request?

Without objection, it is so ordered.

The Chair understands that 2 minutes had been yielded to the Senator from Massachusetts. Is that correct?

Mr. CRANSTON. Six minutes.

The PRESIDING OFFICER. Six minutes has been yielded to the Senator from Massachusetts.

The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the President, and I thank the distinguished Senator from California.

Mr. President, I am privileged to join with Senator Daschle as a coauthor of this amendment. I thank the distinguished chairman of the Veterans' Affairs Committee for his patience in working with us to be able to reach a point where this amendment is now acceptable.

I think for both the Senator from South Dakota and myself this is a moment that has been a long time coming, and I hope that when the House of Representatives receives this, they will look carefully at the foundation of this amendment.

Mr. President, this amendment represents a first—the beginning of the process of compensation for Vietnam veterans who are victims of agent orange.

I would like to express my gratitude to Senator Daschle for his tireless efforts on this issue. We have been full partners in this effort, and I am very appreciative of the commitment that Tom Daschle has demonstrated to Vietnam veterans and particularly to the victims of agent orange. We would not be at this point today without his efforts.

I would also like to express my appreciation to Senator Cranston for his willingness to negotiate and to meet us halfway on this issue. This amendment is a compromise which all of us can agree upon as a good start in addressing the agent orange issue and laying a foundation for the future.

We have been a long time in coming to this day. It has been over 25 years since agent orange was first sprayed in Vietnam. It has been 20 years since the spraying of massive amounts of agent orange was first ordered. And it has been over a decade since veterans first began coming to the VA for treatment of illnesses caused by their exposure to the toxic chemicals in agent orange.

Incredibly, Vietnam veterans are still not receiving any compensation whatsoever from the United States Government for illnesses and diseases caused by agent orange exposure in Vietnam. This may be hard for some to believe, but it is true. Although a law was passed by Congress in 1984 requiring that "reasonable doubt" on agent orange be resolved in favor of the veteran, and although the VA was authorized to provide compensation for agent orange-related diseases, no compensation has yet been paid. This is a disgraceful situation, one which our amendment would finally correct.

What our amendment does is really very simple. It says that when a Vietnam veteran—someone who was exposed to agent orange in Vietnam and now suffers from a rare cancer—comes to the VA and applies for benefits, he will receive benefits for those diseases. That does not mean that he will automatically receive benefits. He must be able to show that he served in Vietnam and that he suffers from one of two rare cancers, non-Hodgkins lymphoma or soft-tissue sarcoma.

Those benefits will continue on an interim basis until such time as the selected cancer study of the Centers for Disease Control is completed and the final results are published, and for 6 months thereafter. The National Academy of Sciences will be mandated to review those results, and report to the Congress and the Administrator of the Veterans' Administration as to the strength of the evidence on agent orange. And a decision will be made at that point as to whether to continue those benefits and create a permanent presumption of service-connection for those diseases, or other diseases which may be linked to agent orange.

This is not a give-away program. It does not create any windfalls for Vietnam veterans. It sets up a strict standard of proof, in accordance with VA procedures and regulations. But it does provide compensation for those veterans who are entitled to it, and who deserve it.

Mr. President, our bill is really very modest. It is a bill that has been developed in close consultation with the veterans organizations who represent Vietnam veterans. It has the support of the American Legion, the Veterans of Foreign Wars, and of the Vietnam Veterans of America.

And let me tell you what our bill does. The essence of it is that it would create an interim presumption of service-connection for two diseases—non-Hodgkins lymphoma, and soft-tissue sarcoma. Just two diseases. And these are both rare forms of cancer.

By contrast, the bill which we passed here in the Senate a few months ago to provide benefits for "atomic veterans" who are victims of radiation, would provide a presumption of service connection for 13 new diseases. Thirteen diseases. It would bring the total of disease for which the VA provides compensation to a grand total of 54 diseases. There were 41 diseases on the list before the atomic veterans bill, and now there are 54.

And we are only asking that two more diseases be added. Not 13 diseases—just 2.

And I as mentioned, these are rare forms of cancer. So we are not talking about a huge number of veterans to be compensated, or a huge amount of money. Our bill would cost no more than the atomic veterans bill, and probably less. Out of the 3 million Vietnam veterans in America, we estimate that only a few thousand of them would be eligible for compensation under our bill. But the symbolism and the statement that our bill makes to Vietnam veterans is very important.

As Adm. Elmo Zumwalt said to the Senate Veterans Affairs Committee, not all Vietnam veterans are "walking time bombs". Only a few of them are. But, as the admiral pointed out, "they are real, and they suffer."

Let me also say what our bill does not do. The bill has been changed in several significant ways from the original version, S. 1787, which we introduced last fall. Our original bill contained a presumption of service connection for lung cancer. That has now been dropped.

Our original bill also made the presumptions in it nonrebuttable. That has now been changed, and the presumptions can be rebutted by affirmative evidence to show that the disease was not caused by exposure to agent orange.

We made these changes at the request of veterans groups and in consultation with scientists and other interested parties. Our bill also includes a provision for a review of all the scientific evidence on agent orange by the National Academy of Sciences, which would look at evidence pertaining to other diseases which might be linked to agent orange. If they found such evidence, they could recommend to Congress that these diseases be added to the list in the future.

Our bill does not provide compensation for other diseases and conditions which have been linked to agent orange, such as lung cancer, birth defects, testicular cancers, nasal cancers, liver cancers, reproductive problems, or post traumatic stress disorder. We ask only that these conditions be studied further.

Our bill also contains other provisions not relating to compensation which were requested by the major veterans organizations. These include creation of a blood and tissue archive, outreach to veterans, and feasibility studies on issues related to agent orange. These are modest provisions, but they could make a difference to veterans who are suffering.

One other point is important. Our bill is called the Veterans' Agent Orange and Vietnam Service Benefits Act. The significant of the phrase "Vietnam service" is very simple. It means that the real issue here is whether or not these diseases are linked to one's Vietnam service. And clearly they are.

The real issue that these men are suffering from diseases which are clearly linked to their Vietnam service, for whatever reason. And they should be compensated.

Some may ask—if agent orange did not cause these diseases, then what did? My answer is that I believe agent orange did cause these diseases. But there were other toxic agents used in Vietnam, labeled with other colors—like agent blue, agent green, agent white, and so on. Perhaps these chemicals also contributed. Perhaps there were other factors as yet unknown to us. But the point is, these men went to Vietnam healthy, and they came back with a deadly disease caused by their Vietnam service. The statistics show an absolute correlation between the Vietnam service and the diseases. And that is why they should be compensated.

Vietnam veterans should be treated with respect and dignity by their government. They should no longer be treated as pariahs, as a suspect class of people whose concerns are somehow not considered as legitimate.

We didn't treat the veterans of World War II this way. We didn't treat them as if their injuries and illnesses were just the figment of their imagination. We didn't stigmatize them, and put them in some kind of special category unlike all other veterans. We didn't treat veterans from the Korean war that way. And we should not treat Vietnam veterans any differently than we treated the veterans of any other war.

Vietnam veterans resent being told to continually wait for "one more study." There have been many, many studies relating to dioxin and agent orange already. There will be many more. And we have already been told too many times to wait for "one more study."

In 1979, Mr. President, the Congress mandated that the Centers of Disease Control conduct a major study on agent orange. Last year, in 1987, after 8 years of delay, the CDC told us that they could not do the study. They killed the agent orange study. Why? Supposedly because they could not find enough veterans who had been exposed to agent orange.

They only tested 646 veterans out of the 3 million Vietnam veterans in America. They did not even use all the tests or all the technologies that were available to them. They did not make a real effort to identify veterans who had been exposed to dioxin, or to measure that exposure. They did not use techniques such as fat biopsy that could have provided a more accurate measurement. They did not do so because they had no desire and no intention of doing a study that would find results that might contradict the official position on agent orange. So they decided that they could not and would not do an agent orange study.

It is strange, Mr. President, how this process works. A few months ago, we were told by this administration that we should wait for yet a different study. They told us that we should wait for the release of the CDC's Vietnam Experience Study. They told us that when that study was released, all would be clear.

Well, that study was finally released, also after many delays. And a hearing was held in the Senate on agent orange. And what happened? Somehow, after the hearing was over, a few days later it came out that the CDC had failed to publish or report the fact that its own Vietnam Experience Study showed a 7 to 1 ratio of cases in non-Hodgkins lymphoma among Vietnam veterans as opposed to nonveterans. Seven to one.

But of course this was not part of the hearing record in the Senate on agent orange, because this data was not presented at the hearing. It was not reported on the nightly news. It didn't make the papers. It only came out belated, and grudgingly, after the hearing was already over. And then they tried to somehow tell us that this was not really very significant, because the sample was small. Seven to one, Mr. President.

That was the Vietnam Experience Study. But now we are being told by the administration to wait for yet another study, the Selected Cancer Study.

And I have a feeling that when that study is finally released, and all the data is finally made public, we will be told that we have to wait for yet one more study. They will tell us that we need to wait for the results of the Air Force Ranch Hand Study, a study of the crews involved in the spraying of agent orange. They will tell us that the Ranch Hand Study is the definitive study.

But the Ranch Hand Study is not scheduled to be complete until the year 2002. And when the year 2002 rolls around, they will probably tell us that the study is not finished yet. Or if it is finished, they will tell us to wait for "one more study." And by that time, the average age of Vietnam veterans will be 55—and many will be in their 60's or 70's. If they are still alive.

Mr. President, there is a pattern here. How long are we going to wait? Are we going to ask them to wait 30 to 40 years, as the atomic veterans did? Are we going to finally decide after 40 years have passed to pay them compensation, as we did with Japanese-Americans who were interned during World War II? Are we going to wait until there are many more Elmo Zumwalts, until the victims of agent orange have all died of cancer?

Mr. President, the victims of agent orange have been waiting long enough. There are already enough studies, and enough evidence. The time to act is now.

Mr. President, let me state my view as to what is really at the heart of this matter. This issue is about the relationship between a veteran and his government, the government that called him to service. That relationship should be one of trust. A veteran should know in his heart that the nation which called upon him to serve, which put him in a uniform and sent him into harm's way, is prepared to take care of him should he suffer as a consequence of that commitment.

That covenant, that unspoken contract between veteran and country, is a solemn and sacred commitment. What kind of message does it send to a veteran, what does it say to him when he discovers that his government and his country are not willing to live up to their end of the bargain? What does it say to the men—and women—who served in Vietnam when the VA refuses to even acknowledge that the diseases they and their children are suffering from were caused by exposure to agent orange? What kind of message does it send to them when the Veterans' Administration becomes their adversary, rather than their ally?

The men who fought against the VC in Vietnam should not have to fight against the VA at home.

And what kind of message does it send, not only to those who have already served, but to those who would serve in the future, when their government—our government—refuses to accept its responsibility to care for those who served in Vietnam? I submit that it sends the wrong message, and a very harmful message, to Vietnam veterans and to those who might want to serve their country in the future.

I would ask my colleagues, as they consider this amendment, to put themselves in the position of one who served in Vietnam and now suffers from a rare and potentially fatal cancer—one which could have been caused by his exposure to agent orange in Vietnam.

Mr. President, a few moments ago I mentioned Admiral Zumwalt. I would like to say a few words about Admiral Zumwalt and about his son, Lt. Elmo Zumwalt III.

Many of my colleagues may be aware that, just last month, Elmo Zumwalt III died of cancer at age 42. He had two types of cancer, Hodgkin's disease and non-Hodgkin's lymphoma. His cancers were caused by his exposure to agent orange in Vietnam. No one has questioned that fact.

I have profound sympathy for Admiral Zumwalt and for how he must feel at this moment. He has lost his son. But in addition to that tragic fact, he also knows it was his own decision and his own order which led to the spraying of agent orange—spraying which may very well have caused the cancer that led to his son's death. Admiral Zumwalt has borne that burden with strength and dignity. He has never attempted to shrink from or minimize the consequences of his decision. He has never sought to place blame or responsibility elsewhere, or to second-guess his own decision.

It would be very easy for a man in Admiral Zumwalt's position to say, "No, there is no evidence that agent orange caused any cancers, or any other diseases." That would be the easy way out. But Admiral Zumwalt has never taken that position. He has looked hard at the facts and the evidence, and he has accepted the fact that agent orange was in fact the agent which caused many cancer, birth defects, and other diseases in Vietnam veterans. But he also feels, and rightfully so, that the spraying of agent orange saved many American lives in Vietnam.

I would like to quote briefly from the book "My Father, My Son," written by Admiral Zumwalt and his son Elmo before Elmo's death. First, the words of the younger Zumwalt.

> I am a lawyer, and I don't think I could prove in court, by the weight of the existing scientific evidence, that agent orange is the cause of all the medical problems—nervous disorders, cancer, and skin problems—reported by Vietnam veterans, or of their children's severe birth defects. But I am convinced that it is.
>
> I realize that what I am saying may imply that my father is responsible for my illness and (my son) Russell's disability. I have the deepest love and admiration for Dad as a man, and the deepest respect for him as a military leader. I do not doubt for a minute that the saving of American lives was always his first priority. Certainly thousands, perhaps even myself, are alive today because of his decision to use agent orange.

Bear in mind that those words were written 4 years ago, when the scientific evidence on agent orange was not nearly as strong as it is today.

Then there are the words of his father, Admiral Zumwalt. He wrote:

> Knowing what I now know, I still would have ordered the defoliation to achieve the objectives it did, of reducing casualties. But that does not ease the sorrow I feel for Elmo, or the anguish his illness, and Russell's disability, give me.

Finally there are the words of Admiral Zumwalt in testimony before the Senate Veterans' Affairs Committee in May of this year, a few months before his son's death. He said:

> As one who shares personal responsibility for the use of agent orange, I believe the time has come for this country to make some compensatory amends.

Mr. President, I cannot say it any more simply or eloquently than that. I would only add that I believe that Elmo Zumwalt's name belongs on the wall at the Vietnam Memorial in Washington, just as surely as do the names of the 58,000 other victims of the Vietnam war.

Mr. President, the Supreme Court has now said that it is time to put this issue behind us, and to start compensating the victims of agent orange. The Court ruled on June 30 of this year that the lower court's judgment should be upheld, and the funds from the settlement of the agent orange lawsuit should now be distributed to Vietnam veterans. While the court did not reach a conclusion as to the scientific evidence, it said by its decision that it is time to put this issue behind us, and to exercise compassion toward Vietnam veterans who are disabled. That is the significance of the Court's ruling.

But let me clarify a few points about that decision.

First, there are no U.S. Government funds involved in the agent orange settlement. This settlement came as a result of a lawsuit brought by Vietnam veterans against seven chemical companies involved in the manufacture of agent orange. Those companies settled with the veterans in a class action suit for the sum of $180 million. It has now grown with interest to about $240 million. That sounds like a lot of money.

But by the time the funds are distributed, each veteran who is eligible will get a total of only about $5,700. This is for a veteran who is 100 percent disabled only. And death benefits of about $1,800 will go to the survivors.

That is better than nothing. But it is not much for a totally disabled Vietnam veteran, or his family, to live on for the rest of their lives. And let me clarify one other point. Only a small number of veterans will even be eligible for those payments. Out of 250,000 veterans in the class action suit, only about 40,000 to 60,000 will even be eligible for any payments at all. The rest of them will get nothing.

So while the Court's decision is important symbolically, it does not provide much in the way of actual benefits for many Vietnam veterans. And it does not in any way relieve the Veterans' Administration of its obligation to provide the same benefits and compensation for Vietnam veterans who are victims of agent orange as they would do for any other veterans who suffer from service-connected disabilities.

Now let me say a word about the scientific disputes on this issue. Senator DASCHLE has gone into the many scientific studies which have shown a linkage between agent orange and disease, or between dioxin and disease. I will review some of that evidence in a moment.

But let me just say first that there are always going to be scientific disputes. There are always going to be further scientific studies, and more evidence. And all scientists are not going to agree.

But the law does not require that there be absolute unanimity among all scientists before we can provide any compensation to Vietnam veterans. It requires only that there be a reasonable doubt. And it requires that the benefit of the doubt be given to the veteran.

Mr. President, that requirement has surely been met. There is more than a reasonable doubt about the effects of agent orange.

To those who would tell us that agent orange has no harmful effects, I would say—tell that to the family of Elmo Zumwalt.

Tell that to David Maier of Bay Village, OH—who had to have his left arm amputated because of a soft-tissue sarcoma caused by his exposure to agent orange in Vietnam.

Tell that to Julio Gonzales of Chicago, IL—who now suffers from a cancer caused by agent orange.

Tell that to Wayne Sanborn of Malden, MA—an Air Force veteran who helped spray agent orange in Vietnam and is now totally disabled and suffers from multiple diseases caused by his exposure to agent orange.

Tell that to Linda Wagenmakers of Agoura Hills, CA—who lost her husband Aarno, a Marine Corps veteran of Vietnam, to diseases caused by agent orange.

Tell that to Beverly Nehmer of Santa Cruz, CA—who lost her husband Daniel, also a Marine Corps veteran, to a cancer caused by agent orange.

And tell that to the families of many other Vietnam veterans who are now suffering.

Let me also say a few more words about the "atomic veterans" bill. This issue is similar in many ways. First of all, it is similar in that many of the same arguments were made. The Veterans' Administration also opposed any compensation for the atomic veterans. They told us that there was not enough scientific evidence. They told us that there was no proof that radiation had caused these diseases in veterans. They said there was no proof of service-connection. and they said that the veterans should not receive any compensation for these diseases.

But let me quote from what Senator ALAN CRANSTON said in reply to those arguments on the Senate floor in the debate over that bill. And bear in mind that his words could apply equally well to the debate over agent orange.

Senator CRANSTON said, and I quote:

> I am aware of opposition to this bill from the Administration and members of this body who fear that H.R. 1811 will set a "dangerous precedent" for other groups . . . to press for resumptive compensation. They use the fiscal argument that the Federal Government will be held liable for millions of dollars in claims it is in no position to pay.
>
> Mr. President, that is entirely beside the point. The point is that American veterans may be suffering from the ill effects of radiation they incurred in the line of duty to our nation. If there is a reasonable chance that their claims of service-connection have some scientific basis, it is incumbent on Congress to give them the benefit of the doubt.
>
> Mr. President, it is not our job to find excuses to deny benefits to deserving individuals. It is not our place to reject compensation for atomic veterans solely on the basis that such action may open the door for other would-be claimants to seek compensation. If atomic veterans deserve compensation, they should be granted compensation.

Those were the words of the chairman of the Veterans' Affairs Committee a few months ago on the floor of the Senate. And I agreed with him. I voted for that bill. And a majority of the Senate agreed with him, and passed the bill. And the President signed the bill, and that bill is now the law.

All we are asking for, Mr. President, is the same treatment for Vietnam veterans that we have given to the atomic veterans, and to the veterans of other wars. We do not seek any special treatment or special favors. But we will not settle for anything less than equal treatment, either.

I said earlier that I would review the scientific evidence on agent orange. I have already placed many of the scientific studies relating to agent orange into the CONGRESSIONAL RECORD, and Senator DASCHLE and I have distributed information on those studies to our colleagues in "Dear Colleague" letters.

But let me just quickly run through some of the scientific studies that pertain to the two diseases covered by our bill, non-Hodgkins lymphoma and soft-tissue sarcoma. These epidemiological studies clearly show that there is an absolute statistical correlation between exposure to dioxin and these two rare forms of cancer.

There are at least 12 major studies which have been done since 1981 showing a clear linkage between dioxin exposure and non-Hodgkins lymphoma. And there are at least 14 major studies since 1977 which have shown an equally clear linkage between dioxin exposure and soft-tissue sarcoma.

Last year, the VA reluctantly released a long-term mortality study which showed a 110 percent excess of non-Hodgkins lymphomas among Marines who served in areas of Vietnam heavily sprayed with agent orange.

This year, as I mentioned earlier, the CDC released results from the Vietnam Experience Study showing a 7-to-1 ratio of NHL among Vietnam veterans as opposed to non-Vietnam veterans.

A 1986 study by the National Cancer Institute showed a six-fold increase of NHL among Kansas farmers exposed to herbicides laced with dioxin. And another recent study by the National Cancer Institute, just published this year, showed a three-fold increase in NHL among farmers in eastern Nebraska exposed to those herbicides.

The evidence on soft-tissue sarcoma is just as strong. Two recent studies, both published in 1988, have strengthened the case on soft-tissue sarcoma considerably.

A long-term mortality of Massachusetts Vietnam veterans, conducted by scientists working with the Massachusetts Agent Orange Program, surveyed Vietnam veterans who died between 1972 and 1983. The study found a five-fold increase in soft-tissue sarcoma deaths among Vietnam veterans. These results were recently published in the International Journal of Epidemiology.

And a Swedish study, just published in August 1988 in the journal Cancer, showed a three-fold increase in soft-tissue sarcomas among Swedish farm workers who were exposed to phenoxy herbicides similar to agent orange.

These results buttress and confirm the results of many other studies which have shown similar results. Senator DASCHLE and I have circulated a list of these studies to our colleagues, and have placed many of them into the CONGRESSIONAL RECORD. Taken together, the scientific case is very strong indeed.

There is a clear pattern of excessive incidence of both non-Hodgkin's lymphomas and soft-tissue sarcomas. These are both rare types of cancer. It is simply not logical to conclude that there is any other explanation for the abnormal incidence of these diseases among populations which have been exposed to toxic herbicides containing dioxin, such as agent orange. In addition, studies in Vietnam itself have corroborated this evidence.

There are many diseases which may also be linked to agent orange. We are not seeking compensation for all of these diseases in our current bill—only for two rare cancers. But we are asking that the National Academy of Sciences look at all of the studies—not just one—and assess all of the evidence to determine if these diseases and others are associated with dioxin exposure. There is certainly enough evidence to suggest that a number of diseases are associated with exposure to dioxin.

But is that really so surprising? What would we expect if we expose people to massive amounts of toxic chemicals? They are going to get sick. Any reasonable person, certain any person who has been around toxic chemicals, would understand that.

Mr. President, as this presentation indicates, the evidence relating to agent orange continues to grow. It gets stronger and stronger every year. And no doubt, as more years pass by and more veterans become ill with cancer, the evidence will get stronger still.

One final point. The reason why science cannot give us more definitive answers is very simple. We cannot do the unltimate experiment on dioxin exposure. We cannot take two groups of people, and expose one of them to massive amounts of dioxin, and then measure them against the control group. The reason we cannot do that is that it would be unethical, and no reputable scientist would do that experiment. Because we already have enough evidence to know that dioxin is extremely harmful to human health, and we could not ethically expose people to that risk in a scientific experiment. We know enough about dioxin to know that.

But how do our opponents respond to this massibe body of scientific evidence. Let me quote from a letter written by Billy E. Kirby, national commander of the Disabled American Veterans, which was circulated to the Senate.

Billy E. Kirby wrote, and I quote:

> Simply stated, we are of the opinion that insufficient scientific evidence exists that would justify such premature action. We view this provision as one of pure emotion, lacking any rational scientific or medical substantiation.

Pure emotion, lacking any rational scientific or medical substantiation. That is the view of Billy E. Kirby.

Mr. President, I find it disgraceful that the Disabled American Veterans, an organization which should be an advocate for Vietnam veterans suffering from diseases caused by agent orange, would engage in this kind of smear campaign.

I would emphasize once again that the major responsible veterans organizations—the American Legion, the Veterans of Foreign Wars, and the Vietnam Veterans of America—all support our legislation. Indeed, they helped to develop and craft our bill.

And I would add that we also met with the DAV, and consulted with them, and even incorporated provisions that they recommended into our bill. And this is their response. It is very hard to understand.

It is even harder to understand why the DAV sent out a totally false and misleading letter to all of their members in Massachusetts, stating that Senator DASCHLE and I were somehow holding up S. 2011, the bill we are now considering, and somehow preventing veterans from receiving their benefits and cost-of-living adjustments.

Nothing could be farther from the truth. I strongly support the provisions of S. 2011 which deal with veterans benefits and cost-of-living increases. In fact, we were eager to see S. 2011 come up. We would have liked to see it come up before now. But of course, this was not under our control.

I must say that I am disappointed with the tactics of the DAV. If they oppose our bill, let them do so on the merits—not on the basis of false information and scare tactics.

We are dealing with a very serious issue here. It goes beyond just the question of agent orange, or providing compensation or creating a presumption. As I said before, it really has to do with the relationship between Vietnam veterans and their country.

This issue is really about healing the final wounds of the Vietnam war. In recent weeks, we have heard a great deal of debate and discussion about who served in Vietnam and who did not. I happen to be one who did serve in Vietnam.

But I am not going to criticize those who did not serve. I am not going to criticize those who chose to stay home and join the National Guard, or to pursue their careers. As a Vietnam veteran, and one with strong feelings about that whole era, I recognize that it was a very difficult period of time, and that different people made different choices. I do not feel that it is appropriate for us, 20 years later, to criticize the choices that people may have made at that time.

But while we accept the choices of those who did not choose to go to Vietnam, let us not forget about those who did.

Vietnam veterans have had a long road home from Vietnam. Many of them have had to struggle and to suffer. As we know, Vietnam veterans were not welcomed home from the war. They suffered from prejudices and stereotypes. Some Americans chose to blame the warriors for the war. Some treated Vietnam veterans as outcasts. Some regarded them as crazies, as psychopaths, as drug addicts and dropouts and losers. Some just ignored them.

Over the past few years, many of those attitudes have changed. And that is good. But there are still wounds which have not yet healed. Some of those wounds were caused by Agent Orange.

Mr. President, America is a compassionate Nation, and a generous Nation. Americans want to heal the wounds of Vietnam, and welcome home the men who fought there. Many of those men are now suffering.

And whether you supported the war or opposed, whether you feel we did too much in Vietnam or too little, is not the issue today. The war is now behind us. Each of us can draw our own lessons and our own conclusions from that war.

But all of us should have compassion for the veterans who are still victims of that war. All of us, regardless of our views about the Vietnam war, should be able to agree on that. We have been compassionate to people all over the world. And we should show that same compassion to our own veterans.

Vietnam veterans are not asking for any special sympathy, or special treatment. They want only the same respectful treatment which has been accorded to the veterans of every other war we have fought. Nothing more, nothing less.

I believe that we owe them that much. Vietnam veterans went when they were called. They served their country. Many of them died. Many more were injured. And many are still suffering.

Vietnam veterans gave their country the benefit of the doubt. I hope that we can do the same for them. Let us heal the final wounds of Vietnam. Let us remember those who are still suffering. And let us help the victims of agent orange now—before it is too late.

Mr. President, this is not just a compensatory amendment; this is the result of scientific evidence. It is the foundation of the contract between Government and those who serve. The benefit of the doubt should be in favor of those who serve. That is what this bill does and, Mr. President, I strongly urge its adoption.

● Mr. HEINZ. Mr. President, as a Pennsylvanian, I am proud of what the people of my State have done to preserve, protect and defend this great country of ours. Of the nearly 12 million citizens of our Commonwealth, 1½ million served in the Armed Forces of the United States.

It was their duty. They went. They served in Europe, in the Pacific, in Korea and in Vietnam.

Some sacrificed their lives for their country. Others came back wounded, disabled for a time or permanently. Most came home safe (thank God!), married, went to work built their communities, raised families.

Each and every Member of this Senate believes that this Nation owes a special debt to the veterans who have borne the battle, and to the widows and children of those who died. That is why we have a Veterans' Administration.

If the question before this body was whether or not to provide health care reimbursement for a soldier who lost his legs to a land mine, I cannot think there would be a vote against it. The sacrifice is there. It is visible. It is directly and immediately connected to a specific event.

But, now the question before us is agent orange—a terribly hazardous chemical that maims undetected over a long period of time.

Here we cross the threshold of modern medical knowledge. Medical science is just beginning to trace and understand the invisible poisons in our air and water and their effect on human beings. We deal not with certainties but probabilities, not witness to a single catastrophic event but a long chain of causation.

For years, the response to agent orange has been: let medical science move forward, wait. I am sure we will hear that argument again today. But we now have enough evidence to move forward. And move forward we must.

Veterans—people who put their lives on the line for this country—are suffering because of exposure to agent orange.

These are men who thought they came home safe. They have wives and children. They have jobs and roles in their communities. Now they discover they carried the wounds of their service to this country deep inside their bodies: Non-Hodgkins Lymphoma, soft tissue sarcoma, and all the other diseases and cancers from chemical exposure.

These veterans suffer real pain. They suffer real loss of income if they cannot hold down a job. They suffer real health costs if they need medical tretment. If the veteran dies, his widow and children need real help.

But, their government—our Government—hasn't helped. And that is wrong.

Mr. President, for the United States the Vietnam war ended 15 years ago—but for those exposed to agent orange, the war has never been resolved.

Last year I was proud to cosponsor S. 1787, a bill that provides a presumption of service connection for veterans exposed to agent orange. I rise today as a cosponsor of a similar amendment offered by the authors of that bill. I have supported compensation for victims of agent orange for as long as I have been a Senator, and the pending amendment, in my view, is a realistic measure that gives us the best chance we may ever have to finally address agent orange.

Given that so many acknowledge the need for action, I hope the Senate will recognize the value of our amendment. We should not have to debate, one more time, the merits of providing benefits for victims of agent orange. The VA's own studies—particularly the longitudinal mortality study of marines stationed in Vietnam—refute the arguments of those who believe that compensation cannot yet be justified by science—that the evidence is not in yet on diseases related to agent orange.

There comes a point when Congress makes a judgment based on the best evidence available. I would point out that we have presumptions of service connection on the books that are not proven conclusively to be linked to past activity. Rather, the benefit of the doubt is given to the victims. In legislation I introduced along with others, we succeeded in securing benefits for ex-prisoners-of-war by granting a presumption of service connection. Presumptions for radiation exposure as well as for multiple sclerosis have also been granted to affected veterans by this Congress. Yet to this date, veterans exposed to these terribly hazardous defoliants have never received either priority care in the VA system, or disability compensation.

The Daschle-Kerry amendment establishes presumptions of service connection for Vietnam veterans suffering from non-Hodgkin's lymphoma and soft-tissue sarcoma as well as diseases associated with exposure to these deadly defoliants. Additional diseases are to be determined by the Veterans' Administration, based on unbiased review of the evidence. In addition to these provisions, the bill also contains steps to assure that the problem continues to be examined. I believe that, when taken together, these measures allow for a comprehensive and humane approach to a problem that has gone too long without any serious effort toward a solution.

The amounts we are considering here are estimated to be $40 million—a small price tag for a fair, humane response to a legitimate need. It is my desire to see that this legislation be put in place not only to address past inattention to this problem, but also to see that it continues to be addressed in the future. Let us not spend any more Senate floor time on this matter. Time is running out on this Congress, and it is also running out for certain Vietnam veterans. The time has come to move from analysis to action—to assist those who are suffering.●

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I yield 6 minutes to the distinguished Senator, the ranking member of the committee, the Senator from Alaska [Mr. MURKOWSKI].

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank my friend from California, the chairman of the committee.

Mr. President, I rise in support of the amendment offered by Senators DASCHLE, KERRY, and CRANSTON relating to agent orange. I have worked closely with the sponsors of this amendment in order to reach an agreement.

As has been partially pointed out, this amendment would:

Provide temporary disability benefits to Vietnam veterans who are sick due to non-Hodgkin's lymphoma [NHL] or soft tissue sarcoma [STS].

Provide for a prompt and continuing National Academy of Sciences [NAS] review of all the evidence relating to the health effects of herbicides or service in Vietnam, including the Centers for Disease Control Selected Cancers Study due to be released in early 1990.

Require the VA to act upon the NAS review.

Require VA to organize clinical data derived from the treatment of Vietnam veterans.

Require VA to establish a tissue archive for samples donated by Vietnam veterans for use in scientific research.

Require that one-third of the scientific advisory panel for the Air Force study of the herbicide spray crews be chosen from scientists nominated by veterans' groups.

While I have certain reservations and concerns about several of the provisions, I intend to support this amendment in the interest of compromise.

Much concern continues to exist about the health of Vietnam veterans. These veterans may have been exposed to agent orange during their service in Vietnam. The issue of what, if any, adverse health effects may have resulted from that exposure is an extremely difficult one. It is one often filled with emotion. For over a decade, veterans of the Vietnam war, the American people, and the Congress have faced the questions:

"What harm, if any, comes from exposure to herbicides?" and

"What do we do about it?"

The questions are easy. The answers are much more difficult.

There can be, however, no question that we in the Congress take very seriously our obligation to address these issues and our obligation to act upon the evidence.

When the questions were first raised, many felt there was no reason to suspect that products which were in everyday use could be harmful. But the Congress takes seriously its obligation to those we call upon to serve our country. We called upon the scientific community to deal with issues which clearly call for such expertise.

When the initial results failed to confirm an association between Vietnam service and subsequent disease, we did not stop the investigation. We told the scientists to look again—and look harder.

The search for possible delayed health effects of Vietnam service has become one of the greatest health-science quests in this century. The fact that these studies have been in progress for over a decade is not evidence that the Congress seeks to avoid the question by consigning it to perpetual study. Rather, it is evidence that we in Congress are so committed to a fair resolution of the question that we have mandated the quest to continue until every reasonable lead has been exhausted.

Today, as we debate this issue, we can't answer every question. But we can answer one. We can answer, with our heads held high, this question: "Has the Senate been responsive to the needs and concerns of veterans who served in Vietnam?" The answer is "Yes".

Vietnam veterans know that concern for their health has led to one of the most extensive series of health studies in our history. And these studies have, for the most part, confirmed their good health. That's good news.

Vietnam veterans who are ill know that they are eligible for priority care in VA health-care facilities based on nothing more than the possibility that a link may someday be established between their service and their illness.

The Committee on Veterans' Affairs, under the able chairmanship of Senator ALAN CRANSTON, unanimously approved S. 2011, the legislation now before the Senate. This bill contains far-reaching and unprecedented provisions in response to the Senate's concerns for the well-being of Vietnam veterans. I am pleased that a bill I introduced, S. 1692, would have provided compensation for Vietnam veterans with non-Hodgkin's lymphoma. I am pleased that S. 1692 led the way for legislation to compensate these veterans.

The agent orange provisions supported by the Veterans' Affairs Committee are good ones—ones which I very strongly support. The committee's goal was to provide the maximum possible benefit to Vietnam veterans while maintaining the integrity of the VA's compensation system.

The additional provisions contained in this amendment have been discussed in detail by my colleagues. I shall not burden the RECORD further in that regard. I do, however, have several key points which I believe are critical to the proper understanding of the intent of this compromise.

First, this amendment would provide temporary—I repeat, temporary—benefits for Vietnam veterans with both non-Hodgkin's lymphoma and soft-tissue sarcoma. I have concerns that the scientific evidence does not now support an association between soft-tissue sarcoma and Vietnam service or exposure to agent orange. I believe that a decision that an association exists should be made by the scientific experts. The amendment ensures benefits will be paid while this question is resolved.

It is vitally important that my colleagues understand that Senators DASCHLE, KERRY, CRANSTON, and I have agreed that benefits will stop unless the scientific evidence—as evaluated by the National Academy of Sciences [NAS] through literature reviews and evaluation of the selected cancers study being conducted by the Centers for Disease Control—supports such an association. If an association is found, the VA could modify its regulations to reflect this new scientific knowledge or, if necessary, legislation could be enacted to restore benefits or extend them for additional diseases. Nevertheless, it is important for everyone—the Senate, the public, the press, and most importantly, veterans—to know that these temporary payments will stop 6 months after the CDC study is released. It will take an act of Congress or a VA determination to restore them. Such action would be taken only if scientific evidence supports their restoration. The VA will be required to notify—on three separate occasions—veterans that these payments are temporary.

This sunset provision is absolutely central to the compromise, Mr. President. There must be no mistake about our intent.

Second, the amendment requires that the realities of Vietnam service be kept in mind. It is vital that the scientific reviews and evaluations by both the NAS and the VA consider association between exposure to herbicides or service in Vietnam and any disease in the context of the circumstances of exposure that were reasonable for Vietnam. While the amendment creates an assumption that Vietnam veterans received the worst case reasonable exposure, it is critical to the compromise that no disease be presumed to be service connected unless science agrees that there is a reasonable association between exposure at that level and subsequent disease.

Third, the amendment deals responsibly with future studies. I am pleased that the provision which would require the VA to establish and maintain a system to collect blood and tissue samples from Vietnam veterans for future study would provide the VA with flexibility to do so in a such a way as to ensure the samples are scientifically useful. Once an adequate number of samples have been collected, I believe that further collection could stop.

Fourth, the amendment gives voice to veterans' advocacy groups. The provisions relating to the composition of the so-called Ranch Hand Advisory Committee do not reflect a lack of confidence in that committee. I fully expect that the scientists recommended by veterans' advocacy groups will be qualified and will provide a useful and productive addition to the committee. Scientists selected for the advisory committee must be selected on the basis of expertise. I am pleased to support a provision which will ensure veterans' groups have an opportunity to help identify and nominate qualified scientists.

In closing, I would like to express my appreciation to Laura Petrou of Senator DASCHLE's staff and Eric Hamburg of Senator KERRY's staff for their willingness to work with my staff. I also thank Jane Wasman and Jon Steinberg of the chairman's staff for their hard work on this amendment. Finally, I appreciate the fine efforts of my staff including Alan Ptak, Chris Yoder, Lisa Moore, Tom Roberts, Laura Stepovich, Susan Theroux, and Tracy Gourd.

I commend the authors of the amendment for their compassion and for their diligent efforts to ensure an unbiased and open evaluation of the evidence on this issue which is troubling to so many Vietnam veterans.

I think it is fair to say that those of us, and our staffs, who met in order to resolve concerns on the issue of agent orange have legitimate concerns.

Nevertheless, I intend to support the amendment in the interest of compromise. I think much has been made of the issue of whether there is some kind of a conspiracy out there impeding our ability to reach a conclusion on agent orange. When I first came into the Senate in 1980 and became a member of the Veterans' Affairs Committee, the issue of agent orange was very much before us. As I recall, at that time there was an extensive agent orange study authorized by the Congress. Unfortunately, in spite of the intensive desire for a study of the health effects of exposure to agent orange. That study like all other agent orange studies was not scientifically feasible.

I have had an opportunity to talk to various expert witnesses on the subject. There seems to be a genuine consensus among the scientific community that they just do not know, beyond a reasonable doubt, all the aspects associated with agent orange. We have had numerous hearings on this subject and numerous witnesses, even witnesses from firms that were responsible for the production and design of the various items used for defoliage of the jungle.

So I think that the amendment we are considering here is a responsible one in the sense of recognizing that we are giving the veteran the benefit of the doubt. But we must remember that in approving this legislation, we are not suggesting that we know the effects of exposure to agent orange beyond a reasonable doubt. I think we are all ready to acknowledge that and ready to admit that.

Mr. President, I continue to believe very strongly that a decision as to whether an association exists should be made by the scientific experts. I think that point is adequately covered under the amendment because the amendment ensures the benefits will be paid while the question is being resolved, and that is the significance of this amendment. Those veterans out there that are concerned with having been exposed to agent orange will have the assurance that, as this scientific process continues, their concerns will be appropriately addressed.

● Mr. SIMPSON. Mr. President, I would like to say a few words about the agent orange compensation provision of this bill, and about the amendment proposed by Senators KERRY and DASCHLE. I regret that I am unable to support the compromise position which has been reached. In saying that, I recognize that our job of legislating calls for practicing the art of compromise, and it is a difficult art to practice. I also recognize that this provision is an effort to be responsive to the concerns of those who feel deeply that the disabilities they suffer are the result of their service to their country.

The bill provides for payment of disability and death benefits equal to VA service-connected disability compensation for Vietnam veterans who have non-Hodgkins Lymphoma and for payment of dependency and indemnity compensation to their survivors. I understand and appreciate the compassionate motivations of my colleagues who have inserted this provision in the bill, and I am also equally concerned about this issue—I have been for years.

I do, however, want to be very clear that this presumption is not based on scientific or medical evidence, and it therefore is unjustified. There is no scientific basis for associating exposure to agent orange with diseases, except in the limited case of chloracne.

Even if agent orange were scientifically associated with certain diseases, it would not justify a presumption based simply on Vietnam service. To extend the presumption to soft-tissue sarcoma, as contemplated by this amendment, makes even less sense, and is even less rational. Vietnam veterans generally did not receive high exposure to agent orange. High exposure levels have been found only among those who participated in Operation Ranch Hand. The Ranch Hand Vietnam Association, made up of veterans who participated in Operation Ranch Hand, has taken the position that scientific evidence does not support connection between exposure and the diseases. Ranch Hand veterans feel their service has been discredited and a "myth" of agent orange has emerged. I must say that their point has merit.

Evidence linking agent orange with non-Hodgkins Lymphoma [NHL] is inconclusive and inconsistent. The Centers for Disease Control [CDC] is doing a study of selected cancers which is expected to be complete in 1½ years, and it studies NHL and four other rare cancers. Although I recognize that there is a cutoff date for the compensation, and that is a positive provision, it is still premature to enact presumptive compensation before that study is completed.

None of the studies conducted to date supports the creation of a presumption of service-connection for NHL or soft tissue sarcoma.

The radiation compensation provisions of H.R. 1811 we recently enacted cover a relatively small group of veterans—about 220,000—and the cost of $36 million the first year. This compensation for Vietnam veterans covers potentially 3.4 million veterans if it affects just those who served in the Southeast Asia theater of operations. If it is limited to those who served in-country, it still covers 2.6 million people. The provision already in the bill has a 1-year cost of $25 million, and its 5-year cost is $131 million. The Daschle/Kerry amendment would increase that 1-year cost to $39 million in outlays and $57 million in budget authority, with a 5-year cost of nearly $200 million.

The cost alone would not be sufficient reason to oppose this amendment if there were scientific and medical evidence justifying the presumptions. I cannot emphasize that too much. But there is not such justification, Mr. President. We are reacting here to emotion and hysteria and pressure from some of the professional fund-raising veterans' groups, and not on the basis of adequate scientific evidence.

It makes no sense to enact presumptive compensation provisions where the scientific and medical evidence just does not support it, and a study which might provide the support, or might find there is no proven connection, is still in the works.

My remarks do not indicate a lack of compassion for those who honestly suffer disabilities related to their military service. I do feel most strongly that we must assure that there is some reasonable basis on which to create presumptions of connection between the disease and conditions experienced in the service. And I would emphasize that, under current law, if a connection can be shown between service and the disease, it will be found to be service-connected. This just creates "presumptions."

Having said my piece, Mr. President, I will not ask for a vote on this amendment, knowing full well what the result would be, but I ask my colleagues to think seriously about what we are doing when we open the Federal purse wider and dig deeper to provide compensation when the evidence does not support a connection between military service and the diseases for which we are providing compensation.●

Mr. CRANSTON. Mr. President, how much time is there remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. CRANSTON. Mr. President, I will take 2 minutes. Please advise me when they are used up.

Mr. President, I am delighted to join my good friends, Senators DASCHLE and KERRY, in cosponsoring this amendment to provide benefits to veterans who may have been exposed to agent orange during their service in Vietnam. I also appreciate having Senator Murkowski's support on this issue. We have worked together intensively over the last several weeks—along with the Senator from Alaska [Mr. Murkowski]—to reach an agreement that would accommodate our differing views on this very complex issue, and I am delighted that we have succeeded in doing so. I appreciate the hard work and cooperation of the Senators and their staffs, which were an essential part of our reaching this goal.

Mr. President, the agent orange benefits provisions in title II of the committee bill were unanimously ordered reported by the committee. I believe that they would provide a comprehensive package of health care, benefit payments, and scientific review provisions to assist Vietnam veterans in ways that were reasonably related to current scientific knowledge. Working from the committee bill and from S. 2675—introduced by Senators Daschle and Kerry—I believe that we have produced legislation that will go even further toward addressing the concerns of Vietnam veterans who may have been exposed to agent orange.

As I mentioned earlier, it has been a long, hard struggle to help ensure that serving our Nation in an unpopular war did not unfairly prevent those veterans from receiving all of the benefits they deserve. I am proud to have worked with so many of my colleagues in this fight over the years, and to join now in presenting the opportunity for the Senate to pass agent orange benefits legislation.

Mr. President, I also would like to note that I am confident that we will be able to enact a compensation COLA before this Congress adjourns so as to ensure that the increase will be made on time on December 1. In the last analysis, I want to assure veterans that the delay we have experienced in taking up this bill on the floor during the very busy legislative period should not in any way adversely affect the benefits that service-connected veterans so richly deserve.

BACKGROUND

Mr. President, for over 10 years, I have been working to resolve the concerns raised about the possible adverse health effects arising from veterans' exposure to agent orange in Vietnam. As either the chairman or ranking Democratic member of the Veterans' Affairs Committee, I have participated in numerous hearings and discussions on this issue, and I am proud to have authored or coauthored in the Senate various laws designed to provide solutions to the agent orange dilemma. These include measures enacted into law to accomplish the following: First, provide veterans exposed to agent orange in Vietnam with eligibility for VA health care for the treatment of any condition that cannot be affirmatively related to some other cause (Public Laws 97-72, 99-166, and 99-72); second, require the VA both to conduct epidemiological study of Vietnam veterans to evaluate the health effects of the exposure to agent orange and to carry out a review of the literature on the health effects of such exposure—Public Law 96-151—and, later, authorize such study to cover the health effects of their overall experience in Vietnam—Public Law 97-72—and third, require the VA through public rulemaking to develop policies and procedures for the adjudication of veterans' claims for compensation or other benefits based on their exposure to agent orange—Public Law 98-542, which I coauthored with Senator Simpson.

The questions which have been raised about the health effects of agent orange have not been easy ones. They are scientific questions requiring thorough and comprehensive scientific research and analysis. I believe that we owe it to our Vietnam veterans to search for meaningful answers—not just for purposes of providing compensation but so that we can know the full extent of any threat which may exist to their health. Accordingly, a major focus of any efforts and those of the Committees on Veterans' Affairs in both Houses has been on research which might eventually led to a greater understanding of the health effects of agent orange exposure and how best to address the special needs of those veterans who may have been exposed to this herbicide.

On May 12, 1988, I chaired the 6½ hour hearing of our Committee on Agent Orange-Related Oversight and Legislation, during which the committee heard extensive testimony on the state of the science relating to agent orange exposure and the concerns of veterans who may have been so exposed in Vietnam. We heard reports regarding numerous studies which have been conducted regarding the effects of exposure to agent orange and its contaminant byproduct, dioxin, and to its component parts and to related phenoxy herbicides. The results from those studies have been conflicting and difficult to interpret. Although many of the studies reassuringly have found no adverse human health effects, others present more troubling suggestions that agent orange may be associated with an increased risk of disease in humans. That many veterans believe that their or their children's health problems are related to agent orange exposure in Vietnam certainly is cause for great concern, and we owe it to them to continue to press for better answers than we now have.

SUMMARY OF COMPROMISE AGREEMENT PROVISIONS FROM THE COMMITTEE BILL

The compromise amendment builds upon the basic premises and provisions of the committee bill, which I described in greater detail earlier, and the provisions of S. 2675, introduced by Senators Daschle and Kerry. The following provisions from the committee bill, which I will summarize briefly, would continue to be included in the pending bill and would:

First, temporary benefit payments during an interim period for veterans who served in Vietnam and who develop non-Hodgkin's lymphoma [NHL].

Second, presumptive service connection, for the purposes of VA disability compensation and DIC, of chloracne manifested to a degree of 10 percent or more where it or an acneform disease consistent with chloracne first appeared within 1 year after service in Vietnam.

Third, extension of VA health-care eligibility 15 months, to December 31, 1990, for veterans exposed to agent orange—and ionizing radiation.

Fourth, exclusion of agent orange settlement and certain other litigation payments from counting as income for purposes of VA needs-based benefits. It also would exclude payments from settlement of the agent orange litigation from income computation for purposes of all other Federal benefits.

Fifth, improvement of the process for review and evaluation of and reporting to the VA on agent orange—and radiation—studies and the VA's consideration of changes in its presumptive compensation regulations. These improvements would be modified by the amendment to ensure that the procedures parallel the review-and-consideration procedures established in the amendment regarding the Centers for Disease Control's [CDC] selected cancers study [SC study].

PROVISIONS DERIVED FROM S. 2675 AND THE COMMITTEE BILL

The following provisions are derived from S. 2675, Senators Daschle and Kerry's agent orange benefits legislation, except where I will note otherwise.

INTERIM BENEFITS FOR NON-HODGKIN'S LYMPHOMA AND SOFT-TISSUE SARCOMA

First, the amendment would provide an interim benefits period for soft-tissue sarcoma [STS] as well as NHL in a provision derived in substantial part from section 202 of S. 2011.

The disease about which the most uncertainty now exists regarding a possible association with agent orange or service in Vietnam is NHL. Although some studies have not found any association between NHL and agent orange or dioxin, the findings from three recent studies raise troubling concerns about a possible association between NHL and some risk factor—not necessarily agent orange—arising from service in Vietnam.

First, a study of agricultural exposure to herbicides among Kansas farmers conducted by the National Cancer Institute [NCI] and the University of Kansas found a six- to eightfold increase in NHL among those with heavy exposure. The exposure in that study was not to dioxin, but to 2,4-D, a separate agent orange component not previously linked to NHL. In addition, the farmers, unlike Vietnam veterans, had experienced years of direct contact with herbicides. Because of these differences in exposure, the NCI and other scientists have suggested caution in extrapolating from those results to any finding that Vietnam veterans face an increased risk of NHL. Nevertheless, the association found in this study between NHL and one of the component parts of agent orange is hardly reassuring.

Second, the VA proportionate mortality study—which examined the effect of service in Vietnam, not agent orange exposure—found a twofold increase in NHL among the subgroup of 4,000 marines in the study. No increase in NHL was present among the total group of 25,000 Vietnam veterans or among a subgroup of 21,000 Army veterans. Moreover, the marine increase was based on only a small number of excess deaths, and the Office of Technology Assistance [OTA], and VA and other scientists have cautioned about overinterpretation of these results and called for further scrutiny of the data and the circumstances where the marines served. That these findings do not clearly establish an association between NHL and service in Vietnam—or service as a marine in Vietnam—does not mean, however, that they can simply be dismissed. Rather, this study forms another piece of the "NHL puzzle," with troubling implications, and the VA is, indeed, at our request, following up and pursuing the questions that have been raised.

Third, the CDC's Vietnam experience study [VES]—a comprehensive study of the health effects of service in Vietnam—found seven cases of NHL among Vietnam veterans but only one case among non-Vietnam veterans. Both the CDC and the OTA have stressed that those numbers are too small to be meaningful in the study's population of 15,300 and could be the result of chance alone. The CDC has specifically urged that the results "be interpreted cautiously," pointing out in a June 23 letter a number of reasons for this admonition. Especially in light of the other two studies, however, the data from the VES regarding NHL is disturbing.

I do not believe that the scientific knowledge currently available can provide us with a conclusive answer as to whether NHL is or is not associated with service in Vietnam. However, the CDC, through its SC study—the largest study ever done on NHL and STS—is evaluating whether Vietnam veterans are at risk of suffering these two, and three other, cancers because of anything in Vietnam service, including agent orange exposure. The CDC has advised us that the study results will be made available to the Congress in late 1989. That extremely powerful study—which has a 98-percent chance of detecting an increase as small as a doubling of risk—is expected to provide the best answers we ever will have with respect to these cancers.

The issue which we are facing, then, is whether, in light of several significant studies—all with scientifically valid methodology and highly qualified investigators—which do raise suspicions regarding an association between NHL and Vietnam service, we should ask Vietnam veterans to wait until the SC Study is completed for the compensation issue to be resolved. I believe that the answer is "no."

The VA benefits system is unique among Federal benefits systems in that its benefits are earned through service to and sacrifice in defense of our Nation. We are not giving veterans benefits out of charity; rather, VA benefits were paid for the hard way—by the veterans themselves. For that reason, in adjudicating claims for VA benefits, the VA is required to give veterans the benefit of reasonable doubt when there is an approximate balanced of positive and negative evidence regarding the merits of issues material to the determination of a veteran's claim. It seems to me that, with respect to NHL, pending the results of the SC study, such a reasonable doubt has been raised. Once we have the SC study results, of course, we will be better able to decide whether NHL should be permanently service-connected for Vietnam veterans.

Although I had significant reservations regarding providing any benefits for STS because of the weakness of the scientific evidence to support an association between it and service in Vietnam, including exposure to agent orange, I am willing to accept the provision in the amendment to provide short-term benefits for STS. This compromise on STS was an essential part of reaching the overall compromise on the amendment we now are considering. I note that Senators DASCHLE and KERRY have come a long way from their position of proposing, in S. 1787, nonrebuttable presumptive compensation for NHL and lung cancer and later, in S. 2675, proposing permanent, essentially nonrebuttable compensation for NHL and STS. On our part, we too, have come a long way. That is what reasonable compromise is all about.

Thus, the Daschle-Kerry-Cranston amendment would provide an interim benefits period which would begin March 26, 1989, and would end 6 months after the later of the date on which final results from the CDC's SC study are submitted to the VA Administrator, submitted to the Congress, or are made public—which events are expected to occur essentially simultaneously approximately 15 months later, in July 1990.

During the interim period, the CDC would submit the final results from the SC study—expected in late 1989. Not later than 60 days after those results are submitted, the National Academy of Sciences [NAS]—or, if the NAS declines, another appropriate scientific entity—after reviewing all relevant scientific evidence and the SC Study results, would report to the Administrator according to a specified procedure set forth in the next provision which I will be discussing regarding whether any associations exist between veterans' service or exposure to dioxin (or other known toxic agents used in herbicides used by the United States in Vietnam during the Vietnam era) in Vietnam and NHL, STS, and any other disease in humans. The OTA and the Veterans' Advisory Committee on Environmental Hazards would also be required by the committee bill provisions to submit to the Administrator a report on the SC study results.

The Administrator would have 60 days from the receipt of those reports to determine whether NHL, STS, or any other diseases are reasonably associated with service or dioxin—or other toxic agent—exposure in Vietnam and, if so, to issue proposed regulations providing permanent presumptions of service connection for any such disease. The Administrator would then have to prescribe final regulations—which would be immediately effective—so providing within 60 days from the date of such decision. Benefits under any such permanent presumptions would be paid from the day after the interim period ends. Individuals receiving interim benefits would not have to reapply for permanent benefits for the same condition, if such are provided.

No benefits would be paid under the temporary presumption after the interim period ends. The total cost of these temporary benefits during the likely interim period of 15 months would be approximately $43 million, whereas the cost of the benefits for NHL under the committee bill would have been $115 million over the first 5 years.

The VA would be required to take reasonable steps by March 1, 1989, to publicize the availability of interim benefits and to contact veterans who had previously applied for compensation for NHL or STS.

NATIONAL ACADEMY OF SCIENCES SCIENTIFIC EVALUATION

Second, the amendment would, in a provision derived in part from section 206 of S. 2011, establish procedures for the NAS—or, if the NAS declines, another appropriate scientific entity—to evaluate annually all science relating to the health effects of exposure to dioxin—or other known toxic agents in herbicides used in Vietnam—and service in Vietnam, and to make determinations as to whether any disease is associated with either factor and the strength of any such association.

The Administrator would be required, on the basis of the NAS report and all other available relevant science, to determine—within the prescribed time period which I just discussed—whether any disease should be presumptively service-connected on the basis of service or exposure to dioxin or such other toxic agents in Vietnam and, if so, to issue proposed and then—immediately effective—final regulations so providing.

CLINICAL DATA FROM AGENT ORANGE HEALTH CARE TREATMENT

Third, the amendment would require the VA to compile, analyze, and submit annual reports to the Senate and House Veterans' Affairs Committee on all clinical data, obtained through VA examinations and treatment of Vietnam veterans pursuant to the agent orange-exposure health-care eligibility, that are likely to be scientifically useful in determining the health effects of service or exposure to dioxin or other known toxic agents in Vietnam. The VA would have to consult with the OTA before beginning such compilation and analysis. Although some of the clinical data obtained through such examination and treatment would not be subject to evaluation in a scientifically valid way, other such data may well be scientifically useful.

BLOOD AND TISSUE ARCHIVE

Fourth, the amendment would require the VA, in consultation with the OTA, to establish and maintain a blood and tissue archive of sufficient numbers of voluntarily donated samples from Vietnam veterans to facilities research on the health effects of exposure to agent orange or service in Vietnam. I strongly urge the Administrator to evaluate utilization of the NAS' Medical Follow-up Agency in connection with the archive.

FUNDING FEASIBILITY STUDIES

Fifth, the amendment would require the VA to carry out a program under which it would, to the extent provided in appropriation acts, award contracts or grants to scientifically qualified non-Government entities to carry out scientifically valid studies on the feasibility of conducting a comprehensive agent orange exposure study. The Administrator, in awarding such contracts or grants, would have to prescribe and adhere to criteria regarding the selection of entities to receive such assistance and the approval of the proposals for studies to be conducted. To the extent provided by contract, the NAS would review such program and studies funded under it.

Public Law 96-151 mandated that comprehensive epidemiological study of the effects of exposure to agent orange in Vietnam be conducted. The implementation of this study depended on the development of a scientifically valid agent orange exposure index. The CDC and environmental support group in the Defense Department and others spent several years attempting to devise such an exposure index, but concluded—after conducting a substudy utilizing a methodology for detecting residuals of dioxin in blood—that such an agent orange study could not be conducted.

Although the OTA agreed with the CDC that the study could not go forward, there has been much criticism of the CDC and much frustration over the inability to complete the mandated agent orange study. Accordingly, the amendment would require the VA to award contracts or provide grants to qualified individuals and entities which have developed scientifically valid protocols for studies on the feasibility of conducting an agent orange study. It would be my intention to seek the OTA's evaluation of any protocols submitted for such proposed feasibility studies before they are funded by the VA.

VA OUTREACH PROGRAM

Sixth, the amendment would require the VA to conduct an outreach program to keep Vietnam veterans informed of new developments regarding the health effects of service in Vietnam and the benefits and services available to those veterans. The VA also would be required to reorganize the agent orange registry and keep it updated, so that it can be used to facilitate appropriate outreach efforts to agent orange-exposed veterans.

DIOXIN TREATMENT RESEARCH

Seventh, the amendment would require the Secretary of Health and Human Services [HHS] to report to the Congress 6 months after enactment on research being conducted regarding potential treatments for exposure to dioxin and other toxic agents similar to those in herbicides used in Vietnam.

RANCH HAND STUDY ADVISORY COMMITTEE

Last, the amendment would make certain improvements to the advisory committee established to monitor and provide advice regarding the conduct of the Air Force epidemiological study on veterans who participated in herbicide spraying missions in Vietnam—Operation Ranch Hand.

The amendment would require, effective March 1, 1989, that at least one-third of the Ranch Hand study advisory committee be composed of qualified scientists nominated by veterans' organizations. Only scientists qualified by virtue of academic achievement and scientific experience would be eligible to serve on the committee. The Ranch Hand study protocol contained such a one-third requirement, but it has not been met. In addition, also effective March 1, 1989, the amendment would provide that the chairman of the advisory committee could not be a Government scientist unless a non-Government scientist were not available. Further, the amendment would require the Secretary of HHS to furnish financial and logistical support to the advisory committee chairman, in order to clarify and ensure the source of such support for the committee.

The amendment would also provide that the members of the advisory committee and the Air Force scientists conducting the Ranch Hand study may directly consult with one another. I assume this consultation is already an ongoing activity.

Finally, the amendment would require the Secretary of Defense to submit to the Congress a schedule of annual progress reports and a final report for the Ranch Hand study, which reports would then also have to be submitted to the Senate and House Veterans' Affairs Committees.

CONCLUSION

Mr. President, I want to take this opportunity again to express my appreciation to Senators DASCHLE and KERRY and their hard-working staff members for their cooperation in reaching this compromise.

I urge all of my colleagues to join me in support of this amendment to provide agent orange benefits. Vietnam veterans served their Nation when they were called—it is time that we in turn see to it that they are treated compassionately and fairly and that we take further steps to resolve this very complicated, divisive, intensely felt, and vitally important issue.

Mr. President, I yield the remainder of my time remaining to the Senator from South Dakota.

The PRESIDING OFFICER. There is 1 minute remaining.

The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I again wish to commend those who have been so involved in the work on this amendment over the many months that we have negotiated.

Let me also emphasize that I understand that we are not through the legislative process yet. I am sincerely hopeful that, as we go into conference with the House, and I hope there will be a conference with the House, that we can retain the language specifically as it is written in this amendment that will pass tonight. It is critical that we retain this language. We have negotiated very carefully to the point where we are today. It is very important that we not water it down any further, for anything less could not meaningfully address this very critical issue.

Our amendment is the product of extremely difficult negotiations. It would be a major disappointment and a significant loss were we to allow any degradation whatsoever of this amendment.

So, Mr. President, it is my hope that we will not only pass this amendment this evening, but that we will retain it in our negotiations with the House and send it off to the President intact. I strongly believe that this very modest amendment is one of the most important contributions we can make to the whole issue of agent orange exposure and the much-deserved compensation for which Vietnam veterans have waited so long.

The PRESIDING OFFICER. Time has expired.

The question is on agreeing to the amendment.

The amendment (No. 3681) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3724

(Purpose: To make applicable to all veterans who served in an area of hostilities the provision requiring the furnishing of treatment on a priority basis to veterans who have post-traumatic stress disorder (PTSD) related to their service and to require specification of funding for compensation, treatment, and research for PTSD in Veterans' Administration budget documents)

Mr. CRANSTON. Mr. President, on behalf of myself and Senators Matsunaga and Mitchell, I send an amendment to the desk and ask for its immediate consideration. This amendment will take no time. There is no controversy over it.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. Cranston], for himself, Mr. Matsunaga, and Mr. Mitchell, proposes an amendment numbered 3724.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 85, line 19, strike out "the" and all that follows through the comma on line 21 and insert in lieu thereof "a theater of operations during World War I, World War II, the Korean conflict, or the Vietnam era or in any other area during a period in which hostilities (as defined in subsection (c) of this section) occurred in such area,".

On page 86, line 6, strike out the quotation marks and the second period.

On page 86, line 6 and 7, insert the following:

"(c) For the purposes of subsection (b) of this section, the term 'hostilities' means a situation in which members of the Armed Forces were, as determined by the Administrator in consultation with the Secretary of Defense, subjected to danger from armed conflict comparable to the danger to which members of the Armed Forces have been subjected in battle with the enemy during a period of war."

On page 98, between lines 15 and 16, insert the following new section:

In the documents providing detailed information on the subject for the Veterans' Administration that the Administrator of Veterans' Affairs submits to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Administrator shall identify the amounts in the appropriations requests for Veterans' Administration accounts that are estimated to be obligated for—

(1) the payment of compensation to veterans for disabilities resulting from service-connected post-traumatic stress disorder (hereinafter in this section referred to as "PTSD");

(2) the treatment of veterans for PTSD related to their active-duty service, including specific designation of funds for the treatment of PTSD—

(A) in PTSD programs designated pursuant to section 110(a)(1) of Public Law 98-528,

(B) in Veterans' Administration inpatient psychiatric programs and outpatient mental health programs other than such designated PTSD programs,

(C) in Veterans' Administration readjustment counseling programs pursuant to 612A of title 38, United States Code,

(D) under contract through non-Veterans' Administration providers of (I) readjustment counseling services pursuant to section 612A(e) of such title, (II) mental health services pursuant to such section 612A(e), or (III) mental health services pursuant to other authority, and described in the first annual report submitted pursuant to section 110(e)(1) of Public Law 98-528 as having been proposed by the Special Committee on PTSD;

(3) education, training, and research at—

(A) the National Center on PTSD established under section 110(c) of Public Law 98-528;

(B) the centers of mental illness research, education, and clinical activities established under subsection (g) of section 4101 of title 38, United States Code, as added by section 604, and

(C) other Veterans' Administration research facilities; and

(4) the operation of the National Center on PTSD.

Mr. CRANSTON. Mr. President, this amendment contains two provisions relating to benefits and services for veterans who have post-traumatic stress disorder [PTSD] as a result of their service.

EXPANSION OF ELIGIBILITY FOR PRIORITY CARE FOR SERVICE-RELATED PTSD

First, this amendment would expand so as to be applicable to all veterans of service in combat theaters of operations and other areas of hostilities section 601 of the committee bill requiring the VA to furnish care on a priority basis to veterans of service in Vietnam whom mental health professionals, designated by the VA's Chief Medical Director, have diagnosed as having PTSD related to that service.

Mr. President, inasmuch as combat service is frequently associated with the development of PTSD and the VA's foremost health-care mission is to treat veterans with service-related disabilities, I strongly believe the treatment of PTSD needs to be at the top of the VA's list of health-care priorities. To aid in the allocation of resources and to ensure that veterans with service-related PTSD were able to receive the treatment they need, I proposed the provisions contained in section 601 of the committee bill. Since the primary motivation for this provision was information—discussed on pages 122 through 125 of the committee report—of a high prevalence of PTSD among Vietnam veterans and the VA's inadequate response to the mental-health treatment needs of these veterans, my provision was drafted to respond directly to their needs. Subsequently, however, taken into account reports of veterans of combat situations other than those in Vietnam also experiencing PTSD—including the testimony at the committee's July 14, 1988, hearing that substantial numbers of veterans from the Korean war and World War II are seeking help at the vet centers for PTSD—I concluded that there is no reason for this provision to be limited to Vietnam veterans. That same point was made in the additional views of the committee's ranking minority member, Senator Murkowski, and others. Thus, this amendment would expand the reported provision to apply to veterans of service in theaters of operations during prior periods of war—for example, the European or Pacific theaters of operations during World War II—and to veterans of service in areas in which U.S. personnel were subjected to danger from armed conflict comparable to that of battle with an enemy during a period of war—such as in Beirut or Grenada.

DISCLOSURE OF RESOURCES BUDGETED FOR BENEFITS BASED ON PTSD

In an effort to monitor the extent to which the VA is allocating resources to address the needs of veterans suffering from PTSD, including the tremendous unmet need that was clearly demonstrated at the committee's July 14, 1988, hearing on PTSD—and which I have discussed earlier today in my statement on the committee bill—this amendment would require the VA to be more specific about its plans to spend money on PTSD-related activities. Specifically, this amendment would require the VA, when submitting its annual budget documents to the Congress, to identify the amounts to be obligated in the upcoming fiscal year for, first, payment of compensation to veterans for disabilities resulting from service-connected PTSD; second, the treatment of veterans for PTSD related to their active-duty service, including specific designation of funds for inpatient care—specialized programs, general programs, and treatment teams—outpatient care, vet centers, and contract care; third, PTSD education, training, and research—at the National Center for PTSD, at MIRECC's, and generally—and fourth, for the operations of the National Center for PTSD.

It is my intention that requiring the VA to focus on its allocation of resources to PTSD-related activities will help the agency to make more adequate provisions for meeting the needs of veterans who, due to the combat-related nature of their illness, are so deserving of help on a priority basis and who so greatly need that help.

Mr. President, I urge all of my colleagues to support this amendment.

Mr. MURKOWSKI. Mr. President, section 601 of the committee bill would provide an entitlement to inpatient and outpatient care for the treatment of post-traumatic stress disorder [PTSD] for veterans who served in Vietnam or the Vietnam theater of operations and who have been diagnosed with PTSD even though the VA has not determined that their PTSD is related to service. I, together with some of my colleagues on the committee, expressed serious concerns about this provision in separate views which accompanied S. 2011, Senate Report. 100-439.

The amendment now being offered by the chairman of the committee would modify the aforementioned provision so as to make veterans who served in the theater of operations during World War I, World War II, the Korean conflict or any other period of hostility also entitled to care and treatment of PTSD. Again, a determination that the PTSD is related to service is not required.

Mr. President, I had criticized the committee's provision because, among other things, I believed it was inappropriate to designate in law a requirement that the VA treat a single specified disorder for veterans of a single war. Although I am pleased that Senator Cranston's amendment takes into account this concern, I remain concerned about creating new entitlements.

The reality of the situation is that there are limited VA health-care dollars. The funding situation was the subject of 2 days of hearings before the Committee on Veterans' Affairs. Representatives of VA hospitals concurred that the Congress cannot keep adding new entitlements for VA care if funds do not accompany them. The proponents argue that this entitlement will be paid for by simply "shifting resources." But which resources? Resources currently devoted to AIDS treatment? To long-term care for the elderly? To care for spinal cord injuries?

The bottom line is this: There is not a modicum of evidence that this provision would do the slightest bit of good for anyone. It is not going to shorten waiting lines at VA's PTSD units. It is not going to make money drop out of the sky. At best, it will raise the hopes of veterans that immediate PTSD treatment will be provided. In effect, we are making a promise that the VA will provide care. If that promise cannot be realized—and we don't think it can be—then these veterans would have been better served if no entitlement for care was provided in the first place.

The Cranston amendment would also require the VA to submit, with its annual budget request to Congress, a breakdown of dollars allocated to PTSD treatment, research, and compensation. It takes money and staff to gather this type of detailed information. Frankly, I don't see how such information is useful. It is important to note that the VA is not required to provide this detailed data on the treatment of other disorders, diseases, or illnesses. Simply put, even if we did receive this information, what will it really tell us?

I will not request a rollcall vote on the Cranston amendment but I did want to share my views on this provision. I thank the Chair.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 3724) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3725

(Purpose: To require the Secretary of Labor and the Administrator of Veterans' Affairs to provide information and assistance regarding services and benefits programs to veterans who are dislocated workers or are otherwise unemployed)

Mr. MURKOWSKI. Mr. President, on behalf of Senators Heinz, Kerry, and Moynihan, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. Murkowski] for himself, Mr. Heinz, Mr. Kerry, and Mr. Moynihan proposes an amendment numbered 2725.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VII add the following:

SEC. 706. COORDINATION OF SERVICES AND BENEFITS.

(a) Purpose.—It is the purpose of this section to ensure that veterans who are dislocated workers eligible for assistance under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or are otherwise unemployed receive, to the extent feasible, assistance (including information on vocational guidance or vocational counseling, or information on both vocational guidance and vocational counseling) needed by such veterans (1) to apply for services and benefits for which they are eligible as veterans, dislocated workers, or unemployed persons, (2) to obtain resolution of questions and problems relating to such services and benefits, and (3) to initiate any authorized administrative appeals of determinations or other actions relating to such services and benefits.

(b) Memorandum of Understanding.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Labor and the Administrator of Veterans' Affairs shall enter into a memorandum of understanding to carry out the purpose of this section. The memorandum shall include provisions that define the relationships and responsibilities of the Veterans' Administration, the Department of Labor, and State and local agencies with respect to the provision of the following information, forms, and assistance:

(A) Information on services and benefits referred to in subsection (d).

(B) All application forms and related forms necessary for individuals to apply for such services and to claim such benefits.

(C) Assistance in resolving questions and problems relating to receipt of such services and benefits.

(D) Assistance in contacting other Federal Government offices and State offices where such services or benefits are provided or administered.

(2) The memorandum of understanding entered into pursuant to paragraph (1) shall include a provision for the periodic evaluation, by the Secretary of Labor and the Administrator of Veterans' Affairs, of the implementation of their respective responsibilities under such memorandum.

(c) Coordination of Department of Labor Activities.—The Assistant Secretary of Labor for Veterans' Employment and Training, in consultation with the office designated or created under section 322(b) of the Job Training Partnership Act, shall except as the Secretary of Labor may otherwise direct, coordinate the activities of the components of the Department of Labor performing the responsibilities of the Secretary of Labor under this section.

(d) Covered Services and Benefits.—This section applies with respect to the following services and benefits:

(1) Employment assistance under—

(A) part C of title IV of the Job Training Partnership Act (96 Stat. 1380; 29 U.S.C. 1721 et seq.); and

(B) the Veterans' Job Training Act (97 Stat. 443 29 U.S.C. 1721 note).

(2) Employment and training assistance for dislocated workers under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.).

(3) Employment assistance and unemployment compensation under the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 (29 U.S.C. 2271 et seq.) and under any other program administered by the Employment and Training Administration of the Department of Labor.

(4) Educational assistance under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.); and

(B) chapters 30, 31, 32, 34, and 35 of title 38, United States Code.

(5) Certification of a veteran as a member of a targeted group eligible for the targeted jobs credit determined under section 51 of the Internal Revenue Code of 1986.

(f) Definition.—In this section, the term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

Mr. MURKOWSKI. Mr. President, I commend the Senators from Pennsylvania, Massachusetts, and New York for their work on this amendment and endorse the final product now before this body.

This amendment would require the Department of Labor and the VA to enter into an agreement with each other. The agreement would ensure unemployed veterans are both informed of the programs and benefits available to them and receive effective assistance in applying for and participation in those programs. It would also define the role of each agency in the information, assistance and service delivery process.

The concerns that led to the development of this amendment are real. There are many programs available to, or targeted to, unemployed veterans. Provision of accurate and timely information about them is an intimidating task. Veterans have earned the fruits of these programs and have every right to insist that they be efficiently and effectively coordinated.

Failure to meet this goal imposes a cost not just in poor service to veterans, but in missed opportunities and wasted lives. That cost is unacceptable.

The Senator from Pennsylvania has wisely identified an area requiring increased emphasis and has skillfully crafted an amendment to address the problem. I particularly commend him for his willingness to mold the amendment into a form acceptable to the committee. I believe the Senate, as well as the Nation's veterans, are the beneficiaries of his work.

I am pleased to urge the Senate to approve the amendment.

● Mr. HEINZ. Mr. President, over 1 million veterans seek employment assistance very year. And, every year, we spend over $500 million on job training programs, and veterans education programs. The question that Senator Kerry, Senator Moynihan, Senator Levin, Senator Murkowski, Senator Cranston, and I have asked is, Are we getting a return on that investment? Are displaced veterans being returned to employment in a timely fashion, and will they be able to keep those jobs at their existing skill levels?

According to data received from the Bureau of Labor Statistics, of the over 1 million veterans who sought employment assistance over the 9-month period which ended last March, only 1 in 8 found a permanent job, only 1 in 12 received counseling and skills assessment, and less than 1 in 100 were placed in job training. As a result, although veterans make up 12 percent of the working-age population, 26 percent of dislocated workers are veterans of the armed services.

Is the answer another new program? We think not. Congress recently expanded assistance to displaced workers under the Job Training Partnership Act, rewrote the Trade Adjustment Assistance Program, and continued the Veterans Job Training Act. In addition, veterans are eligible to receive education benefits, rehabilitation services, job placement under the targeted jobs tax credit, services under the Adult Education Act, and more.

The problem is not a lack of programs. For too long, there has been no one minding the store, and no single point of contact for veterans seeking help.

It is a tragedy and a disgrace that men and women who served their Nation in time of war cannot now receive the adjustment assistance which they are fully entitled to, and which we have provided for them. Above all, veterans should not have to run like white mice through a maze to get help.

Programs to assist veterans are administered by the Veterans' Administration, the Department of Labor, and the Department of Education. At the local level, services are provided by different offices, and coordination of services, while often encouraged, is not required. Coordination is essential given the decline in employment services.

The primary point of contact for unemployed veterans is the U.S. Employment Service, which provides unemployment insurance benefits. Through the efforts of Senator Murkowski and Senator Cranston, most offices now have veterans employment representatives. These men and women work hard to see that veterans do receive their full entitlement. But, staff levels at most employment services offices are down by 25 to 40 percent. When I recently met with veterans employment representatives in Pittsburgh, they told me that—because of short staffing—they must assist everyone who comes in the door, often overlooking veterans who need help.

On behalf of myself, Senator Kerry, Senator Moynihan, and Senator Levin, I developed an amendment to help veterans return to productive employment. I have worked at some length with the members of the Veterans' Affairs Committee, as well as staff of the Labor Committee, to clear this amendment. That effort has paid off. The pending measure contains the full text of our amendment.

It requires the Department of Labor and the Veterans' Administration to provide assistance and information to veterans who are dislocated workers or are unemployed. Both agencies would have to implement a memorandum of understanding in order to provide dislocated and unemployed veterans with all services and benefits authorized under the Job Training Partnership Act, the Veterans Job Training Act, trade adjustment assistance, the Adult Education Act, all veterans education benefits, and the targeted jobs tax credit.

The two agencies will not provide all information and applications necessary for veterans to apply for these programs, to resolve problems and complaints relating to these programs, or to file any authorized appeals of benefit adjudication.

This kind of coordination is essential in a diversified set of programs, where displaced or unemployed veterans may enter the system at any number of different points. Ultimately, it is my goal that the New Worker Readjustment Program be used to centralize the provision of services under these several programs.

For instance, in a well-run job training program, veterans assistance would be an integral part of any rapid response to a plant closing or a layoff. The rapid response team should include a veterans employment representative, and that person should have available all information and applications regarding the programs covered in my amendment. The rapid response team should help process those applications, and ensure that the veteran in question receives his or her full entitlement.

Thus, veterans would receive all assistance necessary from a single local point of contact. I look forward to working with the cosponsors of this amendment, and the members of the Veterans' Affairs and Labor Committees, to make just this goal a reality for the Nation's veterans.

Mr. President, I ask unanimous consent that a letter in support of this amendment, which I received from the Vietnam Veterans of America, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Vietnam Veterans of America, Inc.,
Washington, DC, September 23, 1988.
Senator John Heinz,
Russell Senate Office Building, Washington, DC.

Dear Senator Heinz: The Vietnam Veterans of America, Inc. takes this opportunity to express its strong support for your veterans' employment amendment to this year's legislation, S. 2011, to authorize a cost-of-living compensation adjustment for disabled veterans. It has become increasingly evident that the existing framework for providing employment and training services for veterans is failing to accomplish its intended goals.

With veterans comprising only 13 percent of the national workforce but comprising fully 26 percent of those dislocated by plant closings, layoffs and the general reshaping of the nation's economy in the last several years, neither veterans nor the economy can afford continued failure to provide adequate assistance. In this connection, it is especially important to assist Vietnam era veterans because they are generally better educated and more highly skilled than their similarly situated non-veteran peers. The desparity in education and skills between veterans and non-veterans is because many of these veterans made use of the G.I. Bill education benefits available to them following military service.

Moreover, there is a hidden fact concerning the levels of training and aptitude of Vietnam era veterans that must be clearly understood as the general economy continues its transformation into a service economy. The fact is that even though many of these veterans gravitated to the heavy industrial and manufacturing sectors following military service due to the lateness of their training and subsequent entry into the job market, their education and skill levels make them among the best suited for the training needed to fill the kinds of jobs being created by the emergency of a service economy. As national and local governments prepare to implement public policies designed to provide training for these new "high tech" service jobs, it would be a mistake to ignore the interim human resource gap that veterans are already prepared to fill.

With this in mind, Senator Heinz, your amendment requiring coordination of services for veterans is an important first step. We applaud your foresight in offering the veterans' employment and training amendment and pledge our support. As always, your continued interest in issues most critical to Vietnam era veterans is appreciated.

Sincerely,

Paul W. Egan,
Legislative Director.●

Mr. **KERRY.** Mr. President, I am very pleased to join with my colleague from Pennsylvania [Senator HEINZ] in offering this amendment. The purpose of this amendment is to require the Secretary of Labor and the Administrator of Veterans Affairs to coordinate their efforts to provide information and assistance to veterans who are unemployed or dislocated workers.

It is a sad fact that here in the richest country in the world, one in eight veterans in America is unemployed. Nearly one-third of the 1 million workers displaced annually are veterans. Vietnam veterans, who constitute the majority of unemployed veterans, are especially hard hit by declining employment in the manufacturing sector.

To address this problem, Senator HEINZ and I recently introduced S. 2491, the Veterans Services Improvement Act. This amendment is derived from that legislation. The amendment takes the steps necessary to improve the current haphazard system which distributes information and provides assistance to unemployed veterans. The bill simplifies the process by which individuals obtain information about services and benefits to displaced veterans, apply for such services and benefits, and initiate administrative appeals for benefits.

The legislation makes one agency, the U.S. Department of Labor, responsible for coordinating all education and training assistance available to veterans. The Secretary of Labor must designate the appropriate office in each State to provide services and benefits to displaced veterans. The Secretary must also provide for centralized administration and coordination of these activities. It also requires the Department of Labor to enter into memoranda of understanding with the other relevant Federal and State agencies to ensure that veterans receive coordinated services.

While veterans represent about 12.5 percent of the Nation's work force, they represent approximately 26 percent of the Nation's dislocated workers. The most recent statistics show that while over 2 million veterans, including almost 1 million Vietnam-era veterans, sought assistance from the veterans' employment service, only 12 percent were placed in jobs of 150 days or longer, only 8 percent were provided counseling, and less than 1 percent were placed in training.

I believe that veterans who are currently dislocated workers have much to offer our work force. This program, in close cooperation with the private sector, will enable them to reach their full potential.

It is a human tragedy that more than 200,000 veterans in America are permanently displaced from employment. Veterans have a lot to contribute to this country, and we need to give them every opportunity we can. Let's remember that the best bet is to hire a vet. This legislation will help us do that.

Mr. **CRANSTON.** Mr. President, this amendment by Senators HEINZ and KERRY is acceptable to the committee. It is simple and straightforward. It would require the Secretary of Labor and the Administrator of Veterans' Affairs to enter into a memorandum of understanding, not later than 1 year after the date of enactment of this act, for the following purpose: to ensure that, to the extent feasible, veterans who are either dislocated workers eligible for assistance under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or who are otherwise unemployed receive the assistance they need in order, first, to apply for services and benefits for which they are eligible as veterans, dislocated workers, or unemployed persons, second, to resolve questions and problems they may have relating to such services and benefits, and third, to initiate available administrative appeals of determinations or other actions relating to these services and benefits.

The memorandum would include provisions that define relationships and responsibilities of the VA, the Department of Labor [DOL], and State and local agencies with respect to providing veterans with information, forms, and assistance regarding the following services and benefits: First, part C of the Job Training Partnership Act (96 Stat. 1380; 29 U.S.C. 1721 et seq.); second, the Veterans' Job Training Act (96 Stat. 443; 29 U.S.C. 1721 note); third; employment and training assistance for dislocated workers under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 (29 U.S.C. 2271 et seq.), and any other program administered by the Employment and Training Administration of the DOL; fourth, educational assistance under the Adult Education Act (20 U.S.C. 1201 et seq.) and chapters 30, 31, 32, 34, and 35 of title 38, United States Code; and fifth, the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986.

Mr. President, the VA and DOL are drafting entered into an agreement—in light of the interagency coordination and cooperation required by section 2008 of title 38, United States Code—providing for, first, ongoing coordination of counseling, employment, and training services under programs administered by each agency; second, the exchange of labor market and other information; third, staff training and development; and fourth, other areas of mutual concern. The agreement is currently being updated, in response to various provisions in the Veterans' Employment, Training, and Counseling Amendments of 1988 (Public Law 100-323) which I authored in the Senate, to help ensure the day-to-day coordination and cooperation of the personnel who are responsible for the furnishing of services and benefits to veterans. It is my understanding in accepting this amendment that this agreement would need to be modified in only minor ways for purposes of implementing the provisions of this amendment.

Mr. President, the sponsors of the amendment have worked closely with the committee in making several modifications to their original amendment on this issue, and I thank them both for their leadership and excellent cooperation in this regard. I believe this amendment has potential to improve VA-Labor Department-State employment agency cooperation with respect to employment and related services for veterans, and I am pleased to support it and urge its adoption.

The **PRESIDING OFFICER.** If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3725) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on the adoption of the committee substitute.

The committee substitute, as amended, was agreed.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I rise today in support of the Veteran's Benefit's and Programs Improvement Act (S. 2011). This bill contains many worthwhile and important provisions, but I would like to focus on one specific aspect of the bill: "WILLFUL MISCONDUCT."

When veterans apply for extensions of their GI bill benefits—known as tolling—the Veterans' Administration customarily denies the request unless the veteran was unable to use the benefit because of a "physical or mental disability." Many of us here on Capitol Hill and around the Nation believe that alcohol or chemical dependency fit into this category. The VA, however has qualified the disability criteria by stating that it cannot be "the result of his own willful misconduct." According to the VA, alcoholism or other chemical addictions fall under "conscious wrongdoing" and thus constitute willful misconduct.

This issue was brought to my attention back in May 1979, when a Minnesota veteran came to me for help in appealing his case. He had been discharged in August 1968 and had run the rollercoaster of alcoholism—could not hold a job, cannot stay in school, suffered marital problems—until January 1975, when he finally decided he needed treatment. He has stayed clean since competition of that treatment.

In his statement and in supporting statements from others, the case was made that he began drinking at age 11, was a steady user by age 15, and drank throughout his 2 years in the military.

However, the VA ruled that because "his excessive drinking was undertaken voluntarily, we find that he may not be excused from accountability for making the early steps down the path which eventually led to his dependence on alcohol." Therefore the VA ruled: "the veteran's progressive overindulgence in alcoholic beverages, which eventually led to his alcoholism was both wrong and voluntary." The appeal was denied.

Mr. President, it is interesting to note that the two medical doctors involved in the appeal both dissented from the decision to deny.

In the past several years the Senate has repeatedly voted that alcoholism is not willful misconduct. When I was a member of the Veteran's Affairs Committee, I worked closely with my colleagues on this issue. I have introduced legislation on willful misconduct in the past and am currently a cosponsor of Senator SPECTER's willful misconduct bill (S. 2328). Despite strong Senate support for these measures, the House of Representatives has always prevented willful misconduct legislation from going forward.

Mr. President, earlier this year the Supreme Court upheld (4-3) the VA's authority to define alcoholism as "willful misconduct" in determining eligibility for time-limited education benefits. The Supreme Court's cases involved two recovering alcoholics who wanted extensions on the GI bill. The Court concluded that the VA's definition does not necessarily conflict with section 504 of the Rehabilitation Act of 1973. This act mandates that Federal programs cannot discriminate against the handicapped solely because of their handicap.

I understand the problems the VA has with the issue. To them, this is simply the first step down a road they don't want to go: granting special compensation to veterans who have suffered from chemical dependency. I don't share this fear.

Mr. President, in conclusion, I would like to note that the VA and Congress have come a long way in our recognition of alcoholism as a disease. I think the Supreme Court's ruling is a real setback that we on Capitol Hill must address. I am very pleased that the committee included a willful misconduct provision in S. 2011, and I urge our colleagues in the House to support its inclusion in the bill's final version.

Mr. DOMENICI. Mr. President, I am pleased to support the pending legislation, S. 2011, the Veterans Benefits and Improvements Act of 1988.

Our Nation's veterans have served their country and the free world, and our Government must never forget the contributions these men and women have made. This legislation is proof that Congress is committed to our veterans' welfare.

S. 2011 addresses many veterans' programs and issues, among them compensation, agent orange, education and rehabilitation, and health care. I would like to take a moment to discuss some of these provisions.

S. 2011 includes a full cost-of-living adjustment [COLA] for veterans' compensation payments. At a time when Federal spending is being restrained, veterans have continued to receive a full COLA for compensation and pension payments. As the ranking member of the Senate Budget Committee, I am pleased to have had a major role in this effort.

The health care provisions contained in this bill are of particular interest to me, and I believe they will go a long way toward meeting some very pressing shortfalls in the VA health care system.

S. 2011 authorizes a cumulative appropriation of approximately $22 million for fiscal years 1989-92, for the establishment and operation of five mental illness research, education, and clinical centers at VA facilities. I have been very active as the U.S. Senator to address our Nation's mental illness needs, an illness that affects many veterans.

Many mentally ill people are also faced with homelessness. Recently, the Senate passed legislation authorizing expenditures to address the needs of the homeless. Approximately one-third of our Nation's homeless are veterans.

We must do more to understand what causes mental illness, and we must improve the care of our Nation's mentally ill. I am very optimistic that New Mexico will play a role in learning more about the causes of such illness, through research that will be occurring at the Veterans Medical Center [VAMC] in Albuquerque.

Researchers at Los Alamos National Laboratory have developed an exciting and promising way to study the brain through a process called magnetoencephalography [MEG]. The VA has joined with Los Alamos to develop MEG in a clinical setting at the VAMC, where researchers hope to learn more about stroke, schizophrenia, Alzheimer's disease, and other brain and nervous system disorders.

Another health care provision of particular interest to me in S. 2011 is the section regarding cost sharing of resources.

The Albuquerque VAMC participates in a very innovative cost-sharing agreement with neighboring Kirtland Air Force Base. In a pilot project with the Air Force, all Air Force inpatient and emergency services are provided at the VAMC. The Air Force occupies one floor of the medical center for its inpatient needs, and it shares the emergency room with the VA.

The Air Force provides its doctors and nurses for Air Force inpatient services, and Air Force and VA personnel work side by side in the emergency room. The VA provides certain support services, such as housekeeping, and is reimbursed by the Air Force.

S. 2011 would give VA medical centers flexibility in their agreements with DOD, so that they could enter into agreements without having to be reimbursed for full costs. The bill also provides that the funds be returned to the VA facility involved.

Finally, I am pleased that S. 2011 includes provisions to address health care personnel shortages.

VA medical centers are suffering from a shortage of nurses, a problem that is faced by public and private hospitals throughout the Nation. The VA and the Congress have taken measures to address this shortage, and the pending legislation will be beneficial also.

S. 2011 provides for expedited review of special pay requests, expedited hiring practices for newly graduated professionals, and assistance with regard to the education of health care personnel. The bill also requires the VA to conduct a minimum of five VA health care facilities to determine the desirability of implementing new pay and management procedures.

S. 2011 will go a long way toward providing for the needs of America's veterans, including mechanisms to meet several urgent VA health care needs. I urge my colleagues to support this legislation.

Mr. ROCKEFELLER. Mr. President, I rise today in strong support of S. 2011, the Veterans' Benefits and Programs Improvement Act of 1988. This bill contains important and urgently needed measures to assist this country's veterans. S. 2011 includes an important cost-of-living adjustment, education and rehabilitation provisions, and vital health care measures.

This legislation will increase benefits paid to disabled veterans and survivors of servicemen by the Social Security cost-of-living adjustment. This will restore benefits, eroded by inflation, to reasonable and adequate levels of compensation. Nationally, this will benefit over 2 million disabled veterans and over 300,000 surviving spouses and children.

I am extremely happy that two bills I introduced have been folded into the legislative package we are voting on today. The bills continue the emphasis to develop flexible programs to meet the educational and health care needs of this Nation's veterans.

S. 2446, the Respite Care Act, extends the Veterans' Administration's authority to provide respite care services until February 1, 1990, when a study evaluating the VA Respite Care Program is due. Preliminary data on the Respite Care Program reveals that this program is a very valuable service for many veterans and their families. Respite care gives relatives or friends a temporary break from the stress of caregiving. Respite care can make the difference between a veteran going into a nursing home and remaining in the community.

It is crucial that we look at different ways to help aging veterans and their families—respite care is one option. By 1990, 62,000 West Virginian veterans will be over 65 years old. We must have a variety of programs in place to meet the anticipated huge demand for long-term care services by an aging veterans population.

My bill, S. 2459, to extend authorization for a vocational training pilot program, has also been included in the legislation before us today. This pilot program, initially authorized as a 4-year project, expands vocational training assistance to a new group of veterans. Under this program, veterans can receive up to 24 months of vocational training and 18 months of supportive services, such as medical care and other employment services. I believe that the VA must explore a variety of training initiatives to see which programs are most effective. Vocational training is essential to help our veterans rejoin the civilian work force.

Mr. President, another important health measure, included in this bill, will make sure that Vietnam veterans suffering from posttraumatic stress disorder will receive immediate mental health assistance. This provision is long overdue. The Veterans' Administration would be required to give the same priority to providing inpatient and outpatient mental health services to Vietnam veterans suffering from posttraumatic stress disorders as is currently given to other service-connected health care services. Finally, broken families and broken lives will be given the vital assistance they need to heal and grow.

One study found that almost 15 percent of veterans who served in Vietnam have suffered or are suffering from posttraumatic stress disorder. Many of these veterans, some estimates are as high as 80 percent, are alcoholics or drug addicts. The Vietnam war left emotional scars on too many young West Virginians. It's been estimated that over 7,000 West Virginians continue to suffer from posttraumatic stress disorder. I think that number is shocking.

Mr. President, what is even more startling is the suicide rate of Vietnam veterans. By 1979, more Vietnam veterans had died by their own hand since the war than actually died in combat. This provision will provide the means for many veterans struggling with the emotional aftermath of the Vietnam war to regain their spirit and live their lives free of dependence on alcohol or drugs.

I am also pleased, Mr. President, to be a cosponsor of landmark agent orange legislation. Too many questions have been raised about serious health effects on veterans exposed to agent orange not to do something. The agent orange amendment will help many veterans who were unknowingly exposed to a potentially very harmful chemical. This legislation will give very real benefits to veterans suffering from very real diseases. I would like to add that I think this amendment is appropriately cautious by providing for interim benefits until more definitive studies on agent orange are completed.

I urge my colleagues to support this legislation. It's important to the almost quarter of a million veterans in West Virginia. It's important to the 28 million veterans nationwide.

Mr. THURMOND. Mr. President, I rise today in support of final passage of S. 2011, the "Veterans' Benefits and Programs Improvement Act of 1988." I want to thank the chairman of the Veterans' Affairs Committee, Senator CRANSTON, and the ranking minority member, Senator MURKOWSKI, for their hard work in putting together this comprehensive bill. This legislation addresses a variety of issues. It makes important improvements in veterans' benefits and health-care programs.

The seven titles contained in this legislation address the following matters: Title I—Cost of Living Adjustment; Title II—Agent Orange; Title III—Education and Rehabilitation; Title IV—Miscellaneous Benefits Provisions; Title V—Board of Veterans' Appeals; Title VI—Health Care; and Title VII—Miscellaneous Provisions.

While all of these provisions are important, I would like to briefly draw attention to three provisions.

First, this legislation would provide an annual cost-of-living adjustment to those surviving spouses who are receiving dependency and indemnity compensation. The increase, effective December 1, 1988, would be the same as that provided to Social Security recipients. At this time, the Congressional Budget Office estimates the increase to be 4.5 percent. Mr. President, Congress has provided for an annual increase in these rates since 1976. The increase this year is most appropriate and I am pleased it is included in this legislation.

Second, this bill contains carefully drafted provisions which address the matter of agent orange. One provision provides a permanent presumption of service-connection for chloracne, a skin disease that has been scientifically identified as having an association with exposure to agent orange. Another provision provides a temporary presumption of service-connection for non-Hodgkin's lymphoma and soft-tissue sarcoma. The reason for the temporary nature of these presumptions is to await the results of the selected cancers study being conducted by the Centers for Disease Control. Depending upon the findings of the study, a determination would then be made whether a permanent presumption for non-Hodgkins lymphoma and soft tissue sarcoma is warranted. I believe this is a wise approach and I am pleased with it.

Finally, this legislation makes several improvements in the Board of Veterans' Appeals. They include the Presidential appointment of the chairman of the Board of Veterans' Appeals, provision for claimants to request a hearing before a traveling section of the Board, and the requirement that the VA provide the claimant with an easily understandable written notice of his procedural rights. Mr. President, these provisions are not all inclusive. There are many more. Time, however, does not permit listing of them all.

Mr. President, this is a good bill, it is comprehensive, and I believe it will serve our veterans well. I urge its adoption.

Mrs. KASSEBAUM. Mr. President, I rise in support of S. 2011, the Veterans Benefits and Program Improvement Act of 1988. A great deal of time and energy has gone into formulating this measure and preparing it for consideration on the Senate floor. Many individuals deserve a great deal of credit for shaping this bill, most notably Senators CRANSTON and MURKOWSKI and their respective staff members, and I would like to begin by commending their efforts.

As you know, Mr. President, the underlying purpose of S. 2011 is to increase cost-of-living adjustments [COLA's] for compensation paid to veterans with service-connected disabilities. In addition, the rates of dependency and indemnity compensation paid to the survivors of these veterans would also be increased. This adjustment would be the same percentage—estimated to about 4.1 percent—provided to Social Security recipients and VA pension beneficiaries. I am pleased that additional amendments will be introduced today that will improve many health and education services currently provided by the VA. I am a cosponsor of two of those amendments, and I will provide additional comments on them at the appropriate time in this debate.

Mr. President, the veterans of our armed services hold a special place in the minds and hearts of American citizens and, like most Americans, I am especially grateful to those who incurred service-connected disabilities. They deserve due compensation. In order to gain a better perspective of the degree and quality of compensation through health services provided to Kansas veterans, earlier this month I had two of my staff members tour the three Kansas VA hospitals. I was impressed with their findings. At a time of tight budgetary restraints, resources have been allocated in such a way that the hospitals are still able to offer many excellent services. I would like to take this time to highlight just a few.

The VA Medical Center in Leavenworth, KS, specializes in a wide range of medical services, among them neurology, cardiology and nuclear medicine. Especially impressive is the domiciliary care unit, a 900-bed facility that provides vital long-term care to veterans whose illnesses are of such a nature that hospitalization and nursing home care is not required but who have no adequate means of support.

The Colmery-O'Neil VA Medical Center in Topeka also provides many important primary and secondary medical services. Through its affiliation with the internationally renowned Karl Menninger School of Psychiatry, which is also located in Topeka, the hospital has developed an excellent mental health care program. Of particular note is the work done with veterans afflicted with post traumatic stress disorder, a misunderstood and oft-neglected disorder that has prevented many Vietnam veterans from adjusting well to civilian life. Colmery-O'Neil has one of the finest PTSD units in the country, drawing patients from 48 States this year alone. I am pleased that Senator CRANSTON will be proposing an amendment to S. 2011 that would require data on the VA benefits provided to veterans specifically for PTSD.

The third VA medical center is in Wichita. This hospital is a very modern, state-of-the-art facility, complete with a recently acquired C-T scanner and gamma camera. Along with its rapidly expanding research program is an outstanding ambulatory care unit, which exceeded 70,000 outpatient visits this fiscal year. These accomplishments, along with a newly renovated, high-tech clinical laboratory, have made the hospital respected in the community at-large as an excellent care provider.

As I have stated, Mr. President, these are good hospitals providing excellent services—but there is still a great need for improvement. It is my hope that this legislation will provide some of those improvements and lay the groundwork for future legislative proposals. These veterans served bravely and sacrificed a great deal for this country. It is imperative that we maintain our commitment to giving them the best health care possible. I ask my colleagues to join me in support of S. 2011. Thank you very much.

Mr. WARNER. Mr. President, I wish to take this opportunity to address the committee substitute for S. 2011, the Veterans' Benefits and Programs Improvement Act of 1988. Because I am a veteran, having served in World War II and Korea and as both Under Secretary and Secretary of the Navy during our involvement in Vietnam, I feel a special kinship with those men and women who proudly and bravely have served our Nation during times of conflict. As such, I fully understand how important veterans benefits, and I dare say veterans rights, are to those who have given so much to preserve our freedoms, and the freedom of generations to come.

I am certain that my commitment toward our Nation's veterans is shared by all of my colleagues in the Senate. In that light, I want to take this opportunity to commend the chairman of the Veterans' Affairs Committee, Mr. CRANSTON, and the ranking Republican member, Mr. MURKOWSKI, for their extensive and dedicated work on this measure. These gentlemen fully understand that the actions we take in the Senate affect not only these deserving veterans, but their entire families—their spouses, and their sons and daughters—collectively, a group totaling nearly 28 million Americans looking to Congress for leadership on issues that affect their well being. I salute Senators CRANSTON and MURKOWSKI for providing that leadership.

As the ranking Republican on the Armed Services Committee, I, along with my good friend and committee chairman, Senator NUNN, have worked to ensure that the men and women of our Armed Forces are properly equipped, trained, and compensated for the difficult and dangerous tasks they perform daily throughout the world. But, equally important has been my support for benefits and programs provided to these individuals after they have completed their active-duty service to our Nation and join the ranks of our Nation's veterans.

S. 2011, as reported, addresses several long standing issues which require congressional consideration, such as the ongoing agent orange debate. I am most pleased that we are finally addressing agent orange compensation and treatment in a meaningful manner.

Since the late 1970s, when agent orange first came to public attention, the issue has evoked much emotional and controversial debate in Congress, as well as in public and scientific sectors. Fortunately, these long years of searching for meaningful answers are near an end.

In my opinion, the May 12, 1988, Senate Veterans' Affairs Committee hearing made the single greatest stride in the past 10 years in the integration and interpretation of the scientific evidence associated with Vietnam service, and the possible adverse health affects caused by exposure to agent orange.

While current scientific evidence does not conclusively support an association between dioxin, a contaminant of agent orange, and non-Hodgkin's lymphomia [NHL] or soft-tissue sarcoma [STS], I am very pleased that this bill will provide interim benefits to Vietnam veterans with these diseases. I am hopeful that when the Centers for Disease Control's selected cancer study is completed scientific evidence will prove, without reasonable doubt, whether NHL, STS, or other diseases are associated with agent orange and Vietnam service. It is my intention to support any legislation that will provide compensation for Vietnam veterans if scientific evidence confirms an association between a disease and agent orange.

In addition to the agent orange provisions, the committee is to be commended for their extensive efforts concerning the personnel and programs of the health care system on which so many of our veterans and their family members depend. I'm particularly pleased this bill extends for 3 years the authorization of funding for State veteran's home construction grants. I also commend the committee for their thorough work in the areas of disability compensation, dependency, and indemnity compensation, cost-of-living adjustments, and educational programs particularly in relation to the GI bill.

Additionally, I would like to take this opportunity to address other significant actions taken by this body—although not a part of this specific piece of legislation—that directly affect our many veterans, and to go on record as strongly supporting these measures.

One such measure is H.R. 3471, a bill elevating the Veterans' Administration to a Cabinet-level Department. On July 12, this body overwhelmingly passed this important legislation. By making the Administrator of the Veterans' Administration a member of the President's Cabinet, our Nation's veterans will have a full and equal voice in the making of Federal policy. I believe that this action will benefit not only veterans, but the Nation as a whole. However, I deeply regret that due to communication difficulties in my office, including the disruption of phone service at the time the Senate voted on this bill, I was not contacted in sufficient time to cast a vote. However, as I have publicly stated many times, I strongly support this measure and, as such, I would like to go on record again at this time. I was very pleased to have been a cosponsor of S. 533, the original Senate version of this legislation and I deeply regret not having had the opportunity to show my strong support by joining with the majority of my colleagues in casting a vote in support of this legislation.

Another matter which disturbs me, is our treatment of radiation exposed military members or "atomic veterans." Toward the end of the 99th Congress and again through the 100th I have worked, along with several of my colleagues, to repeal section 1631 of the 1985 Department of Defense Authorization Act and restore to these veterans the right to seek redress in court for their injuries.

At the time this legislation was passed, I was assured by officials of the Veterans' Administration and the Justice Department that the members of our Armed Forces who were injured by radiation exposure from the effects of atomic weapons, would be appropriately cared for by the Veterans' Administration. However, in the years since its' passage I have become convinced that this legislation has had the effect of unfairly restricting the rights of our atomic veterans. I am disappointed at our inability to act on behalf of these individuals and pass S. 612, legislation offered by my distinguished colleague, Senator SIMON, and of which I am an original cosponsor, which will restore these necessary rights to out atomic veterans. Nevertheless, I will continue my resolve to bring this legislation to the floor. I am committed to restore these rights to our atomic veterans.

Mr. SYMMS. Mr. President, I regret that I am unable to support S. 2011, the Veterans' Benefits and Programs Improvement Act of 1988. While I strongly support maintaining the service-connected disability compensation program, S. 2011 would, on a one-time basis, index rates of disabled veterans' benefits to the automatic COLA that will take effect for Social Security benefits.

Section 101 of the bill would require the Administrator of Veterans' Affairs to adjust upwardly, as of December 1, 1988, the rates and limits of veteran's disability compensation and the rates of dependency and indemnity compensation paid to disabled veterans' surviving spouses and children. Under section 3112 of title 38, United States Code, the dependency and indemnity compensation [DIC] rates would be adjusted at the same time as Social Security and VA pension benefits.

This measure is yet another example of Congress putting the cart before the horse.

Rather than this approach, Congress should examine ways to index the rates of disability compensation and dependency and indemnity compensation [DIC] directly to the Consumer Price Index [CPI]. Such a formula would provide increases in benefits proportional to future annual Consumer Price Index [CPI] increases, a provision not included in S. 2011.

In support of this argument, the VA issued a written statement on June 9, 1988 which stated:

> The Administration strongly supports COLA's based upon actual cost-of-living increases, and we believe that goal would best be effectuated by legislation providing for an automatic annual increase in compensation rates indexed to increases in the CPA.

In addition, all other witnesses at the June 9 committee hearing testified against linking compensation and DIC COLA's to annual Social Security increases.

Again, I want to emphasize that I am not against disability and death benefits for veterans and their survivors. I just believe there is a more effective plan than what is provided in S. 2011.

Mr. MATSUNAGA. Mr. President, I rise in strong support of the pending amendment offered by Senators DASCHLE, KERRY, and CRANSTON to provide important additional benefits to veterans who may have been exposed to agent orange, the toxic herbicide uses as a defoliant during the Vietnam war. I am pleased to be a cosponsor of this important measure.

Simply put, the amendment requires that interim health and compensation benefits be provided to veterans who were exposed to agent orange and who now suffer from soft-tissue sarcoma [STS]. In conjunction with the agent orange provisions contained in the underlying legislation, interim benefits would be provide for STS and for non-Hodgkin's lymphoma [NHL], and permanent benefits would be provided for chloracne, a serious skin condition.

If this amendment is adopted, the interim benefits for NHL and STS would begin next March and run until the results of the centers for disease control's powerful selected cancers study, due in 1990, are evaluated by the National Academy of Sciences, the Office of Technology Assessment, and the VA's Advisory Committee on Environmental Hazards. These reports will assess the likelihood of any causal association between agent orange exposure or any other toxic herbicide and diseases in humans. The Veterans' Administrator would then be able to make a final determination on whether to curtail or make permanent the temporary presumption of service-connection for non-Hodgkin's lymphoma and soft-tissue sarcoma.

Mr. President, for many years now whether there exists a causal relationship between agent orange exposure and diseases in humans has been an issue of great controversy. Many studies and tens of millions of dollars after the first reports intimating that the herbicide could have adverse health effects, we are still far from conclusively proving or disproving that connection. After all this time, research is hampered by such fundamental questions as what particular veterans may have been exposed to agent orange, or what amount of the herbicide or its protentially toxic components, including dioxin, may have been retained in their bodies, or how exposure to these chemicals is related to specific diseases.

The state of our knowledge is so lacking in certainty, so ambiguous in many instances, that establishing a 100-percent causal relationship between agent orange and specific disabilities may never be possible. Therefore, the problem facing members of the committee has alway been to determine at what stage in our scientific knowledge a disability must be presumed to be associated with agent orange, especially given the fact that the alleged victims of the herbicide are not getting any younger. On the one hand, we had to ask ourselves should we wait decades for absolute evidence that might never appear? And if such evidence did surface, how would we compensate in the year 2010 veterans who died of agent orange-generated cancers in 1989? On the other hand, if we presumed such a connection prematurely, and without the necessary scientific evidence in hand, are we doing irrevocable damage to the veterans' disability compensation system by lowering the scientific threshold for determining a connection between service and a particular disability?

Mr. President, I believe that the pending amendment offers a middle ground between these opposing considerations. It provides compensation for veterans who suffer from two of the most serious conditions that some studies indicate may be associated with agent orange exposure. But the amendment also requires that the future of such compensation is dependent on further scientific investigation and evaluation. In other words, the amendment provides a measure of relief to veterans suffering from diseases that one day may be conclusively shown to be associated with service in Vietnam, while preserving the integrity of the compensation system.

Mr. President, the approach that this amendment encompasses is a tribute to the spirit of accommodation and commitment to veterans' welfare exhibited by the junior Senator from South Dakota, the junior Senator from Massachusetts, and the senior Senator from California, the chairman of the Veterans' Affairs Committee. No one has toiled and agonized over this difficult issue longer than these three distinguished veterans' advocates. I salute them and urge my colleagues to support this amendment, a measure that fairly and compassionately addresses one of the most problematic and emotional veterans' issues this Congress has ever faced.

The PRESIDING OFFICER. If there be no further amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 4741, the House-passed veterans' compensation COLA bill; that the Senate proceed to immediate consideration of H.R. 4741; that a substitute amendment in the form of the text of S. 2011, as amended, and a title amendment, as reported in S. 2011, be the only amendments in order, and that the substitute amendment and title amendment be adopted; and that the Senate proceed immediately to third reading of H.R. 4741.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, I ask the rollcall vote be dispensed with and the yeas and nays on final passage of H.R. 4741, as amended, be vitiated. I ask for a voice vote.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? If not, it is so ordered.

Mr. CRANSTON. We have not acted on my unanimous-consent request.

The PRESIDING OFFICER. The unanimous-consent request is incorporated in the request of the Senator from Alaska and is agreed to without objection.

The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4741) as amended, was passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was agreed to.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I request that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' JUDICIAL REVIEW ACT

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 11.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 11) entitled "An Act to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Judicial Review Act".

SEC. 2. DECISIONS BY ADMINISTRATOR.

Section 211 of title 38, United States Code, is amended to read as follows:

"§ 211. Decisions by Administrator; opinions of Attorney General

"(a)(1) The Administrator shall decide all questions of law and fact necessary to a decision under a law affecting the provision of benefits to veterans and the dependents and survivors of veterans. Except as provided in paragraph (2) of this subsection, the decisions of the Administrator as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to—

"(A) matters subject to section 223 of this title;

"(B) matters covered by sections 775 and 784 of this title;

"(C) matters arising under chapter 37 of this title; and

"(D) matters covered by chapter 71 of this title.

"(b) When requested by the Administrator, the Attorney General shall provide to the Administrator advice or the opinion of the Attorney General with regard to any question of law arising under the Constitution or under any law other than a law providing benefits for veterans and the survivors and dependents of veterans.".

SEC. 3. VETERANS' ADMINISTRATION RULEMAKING.

APA PROCEDURES.—(1) Chapter 3 of title 38, United States Code, is amended by inserting after section 222 the following new section:

"§ 223. Rulemaking: procedures and judicial review

"(a) In applying section 552(a)(1) of title 5 to the Veterans' Administration, the Administrator shall take care to ensure that subparagraphs (C) and (D) of that section are complied with, particularly with respect to opinions and interpretations of the General Counsel.

"(b) The provisions of section 553 of title 5 (other than subsection (a)(2) of that section) shall apply, according to the provisions of that section, to any matter relating to loans, grants, or benefits under the jurisdiction of the Administrator.

"(c) An action of the Administrator to which section 552(a)(1) or 553 of title 5 (or both) refers (other than an action relating to the adoption or revision of the schedule of ratings for disabilities under section 355 of this title) is subject to judicial review. Such review shall be in accordance with chapter 7 of title 5, except that—

"(1) such review may be sought only in the Court of Appeals for the Federal Circuit; and

"(2) if such review is sought in connection with an appeal brought under the provisions of chapter 71 of this title, the provisions of that chapter shall apply rather than the provisions of chapter 7 of title 5.".

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out the item relating to section 211 and inserting in lieu thereof the following:

"211. Decisions by Administrator: opinion of Attorney General.";

and

(B) by inserting after the item relating to section 222 the following new item:

"223. Rulemaking: procedures and judicial review.".

SEC. 4. ATTORNEY FEES.

(a) REVISION OF ATTORNEY FEE LIMITATION.—Section 3404(c) of title 38, United States Code, is amended to read as follows:

"(c)(1) In connection with a case relating to benefits under laws administered by the Veterans' Administration, no fee may be charged, allowed, or paid for services of agents and attorneys with respect to proceedings occurring or services provided prior to the time the Administrator issues a statement of the case under section 4015 of this title with respect to the case in question.

"(2) A person who acting as agent or attorney represents a person before the Veterans' Administration with respect to any proceeding on matters occurring after the Administrator issues a statement of the case shall file a copy of any fee agreement between them with the Veterans' Administration at such time as may be specified by the Administrator. The Administrator may review such a fee arrangement and may order a reduction in the fee called for in the agreement if the Administrator finds that the fee is excessive or unreasonable. An order under this paragraph may be reviewed by the Court of Veterans Appeals.".

(b) VIOLATION TO BE A MISDEMEANOR.—Section 3405 of such title is amended by striking out "shall be fined not more than $500 or imprisoned at hard labor for not more than two years, or both" and inserting in lieu thereof "shall be fined as provided in title 18 or imprisoned for not more than one year, or both".

SEC. 5. COURT OF VETERANS APPEALS.

(a) ESTABLISHMENT OF COURT.—Chapter 71 of title 38, United States Code, is amended to read as follows:

"CHAPTER 71—COURT OF VETERANS APPEALS

"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"Sec.
"4001. Status.
"4002. Jurisdiction; finality of decisions.
"4003. Composition.
"4004. Organization.
"4005. Offices.
"4006. Times and places of sessions.

"SUBCHAPTER II—PROCEDURE

"4011. Fee for filing petition.
"4012. Representation of parties; fee agreements.
"4013. Rules of practice, procedure, and evidence.
"4014. Administration of oaths and procurement of testimony.
"4015. Filing of notice of disagreement and appeal.
"4016. Witness fees.
"4017. Hearings.
"4018. Decisions.
"4019. Availability of proceedings.
"4020. Publication of reports.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"4031. Employees.
"4032. Expenditures.
"4033. Disposition of fees.
"4034. Fee for transcript of record.
"4035. Practice fee.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"4041. Date when Court of Veterans Appeals decision becomes final.
"4042. Review by Court of Appeals for the Federal Circuit.

"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"§ 4001. Status

"There is hereby established, under article I of the Constitution, a court of record to be known as the United States Court of Veterans Appeals.

"§ 4002. Jurisdiction; finality of decisions

"The Court of Veterans Appeals shall have exclusive jurisdiction to consider all questions involving benefits under laws administered by the Veterans' Administration. Decisions by the Court are subject to review as provided in section 4042 of this title. A determination by the Court of Veterans Appeals as to a factual matter may not be reviewed in any other court. The Court may not review the schedule of ratings for disabilities under section 355 of this title or any action of the Administrator in adopting or revising that schedule.

"§ 4003. Composition

"(a) The Court of Veterans Appeals shall be composed of a chief judge, two deputy chief judges, and not more than 62 associate judges.

"(b) The judges of the Court of Veterans Appeals shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member of the bar of a Federal court or of the highest court of a State.

"(c) The term of office of the chief judge and of the two deputy chief judges of the Court shall be 15 years. The term of office of an associate judge of the Court shall be 10 years.

"(d) The chief judge is the head of the Court. The deputy chief judges shall perform such functions as the chief judge directs.

"(e)(1) The chief judge and the two deputy chief judges shall each receive a salary at the same rate as is in effect for judges of the district courts of the United States.

"(2) The associate judges of the court shall each receive a salary at a rate not to exceed the rate of basic pay in effect for positions at Level IV of the Executive Schedule.

"(f)(1) A judge of the Court of Veterans Appeals may be removed from office by the President on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability which, in the opinion of the President, prevents the proper execution of the judge's duties. A judge of the Court may not be removed from office by the President on any other grounds.

"(2) Before a judge may be removed from office under this subsection, the judge shall be provided with a full specification of the reasons for the removal and an opportunity to be heard.

"(3) A judge of the Court who is removed from office under this subsection (other than for physical disability) shall not be permitted to practice before the Court.

"§ 4004. Organization

"(a) The Court of Veterans Appeals shall have a seal which shall be judicially noticed.

"(b) The Court may hear cases by judges sitting alone or in panels, as designated by the chief judge. Any such panel shall have not less than three judges. The chief judge shall assign the judges of the Court to such panels and shall designate the chief of each such panel.

"(c)(1) A majority of the judges of the Court shall constitute a quorum for the transaction of the business of the Court. A vacancy in the Court shall not impair the powers or affect the duties of the Court or of the remaining judges of the Court.

"(2) A majority of the judges of a panel of the Court shall constitute a quorum for the transaction of the business of the panel. A vacancy in a panel of the Court shall not impair the powers or affect the duties of the panel or of the remaining judges of the panel.

"§ 4005. Offices

"The principal office of the Court of Veterans Appeals shall be in the District of Columbia, but the Court and any panel of the Court may sit at any place within the United States.

"§ 4006. Times and places of sessions

"The times and places of sessions of the Court of Veterans Appeals shall be prescribed by the chief judge. Those times and places shall be prescribed with a view to securing reasonable opportunity to petitioners to appear before the Court with as little inconvenience and expense to petitioners as practicable.

"SUBCHAPTER II—PROCEDURE

"§ 4011. Fee for filing petition

"The Court of Veterans Appeals may impose a fee for the filing of any petition with the court. The amount of any such fee may not exceed $50. The court shall establish procedures under which such a fee may be waived in the case of a person who demonstrates that the requirement that such fee be paid will impose a hardship. A decision as to such a waiver is final and may not be not reviewed in any other court.

"§ 4012. Representation of parties; fee agreements

"(a) The Administrator shall be represented before the Court of Veterans Appeals by the General Counsel of the Veterans' Administration. A petitioner shall be represented in accordance with the rules of practice prescribed by the Court. A qualified person may not be denied admission to practice before the Court by reason of failure to be a member of any profession or calling.

"(b) A person who represents a petitioner before the Court shall file a copy of any fee agreement between the petitioner and that person with the Court at the time the petition is filed. The Court may review such a fee arrangement and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order under this subsection is final and may not be reviewed in any other court.

"§ 4013. Rules of practice, procedure, and evidence

"(a) The proceedings of the Court of Veterans Appeals shall be conducted in accordance with such rules of practice, procedure, and evidence as the Court prescribes.

"(b) The mailing of a pleading, decision, order, notice, or process in respect of proceedings before the Court shall be held sufficient service of such pleading, decision, order, notice, or process if it is properly addressed to the address furnished by the petitioner on the notice of appeal and it is mailed by certified or registered mail.

"§ 4014. Administration of oaths and procurement of testimony

"(a) Oaths may be administered by a judge of the Court of Veterans Appeals, the clerk of the Court and any deputy clerk of the Court, *and any other employee of the Court designated in writing for such purpose by the chief judge.*

"(b)(1) A judge of the Court and any employee of the Court designated for such purpose under section 4017(b) of this title may examine witnesses.

"(2) A judge of the Court may require by subpoena—

"(A) the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, and

"(B) the taking of a deposition before any designated individual competent to administer oaths under this chapter.

"(3) In the case of a deposition, the testimony shall be reduced to writing by the individual taking the deposition or under that individual's direction and shall then be subscribed by the person giving the deposition.

"(4) A subpoena under this subsection shall be ordered by the Court of Veterans Appeals and shall be signed by the chief judge (or the clerk of the Court or any other employee of the Court when acting as deputy clerk).

"(c) The Court shall, upon a showing of good cause, require employees of the Veterans' Administration to testify at a hearing or to give a deposition in a proceeding before the Court.

"(d)(1) The Court shall have power to punish by fine or imprisonment such contempt of its authority as—

"(A) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(B) misbehavior of any of its officers in their official transactions; or

"(C) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(2) The Court shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for a district in which the Court is sitting shall, if requested by the chief judge of the Court, attend any session of the Court in that district.

"§ 4015. Filing of notice of disagreement and appeal

"(a)(1) A petitioner may initiate review by the Court of Veterans Appeals by filing a notice of disagreement with the activity or office (hereinafter in this chapter referred to as the 'agency of original jurisdiction') which made the determination with which disagreement is expressed. Any such notice must be filed within 180 days of the mailing of the notice of decision. In simultaneously contested claims where one is allowed and one is denied, the time allowed for filing a notice of disagreement shall be 60 days from the date notice of the adverse decision is mailed. In such a case, the agency of original jurisdiction shall notify all interested persons of the shortened time period for filing a notice of disagreement.

"(2) A notice of disagreement shall be in writing and shall be filed by the petitioner.

"(3) If a notice of disagreement is not filed in accordance with this section within the prescribed period, the determination shall become final and the petitioner may not thereafter request reconsideration of the claim except as permitted by this title.

"(b) If a petitioner files a notice of disagreement within the prescribed period with the agency of original jurisdiction, the agency of original jurisdiction shall take such action to develop additional evidence or to review the case as it considers proper. If that action does not resolve the disagreement either by granting the benefit sought or through withdrawal of the notice of disagreement, the agency of original jurisdiction shall promptly issue to the petitioner a formal statement containing the matters specified in subsection (c) of this section and known as a statement of the case.

"(c) A statement of the case under subsection (b) of this section shall include the following:

"(1) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed.

"(2) A citation to pertinent laws and regulations and a discussion of how such laws and regulations affect the agency's decision.

"(3) The decision on each issue and a summary of the reasons for such decision.

"(d)(1) In order to complete and perfect an appeal to the Court, the petitioner must file a formal appeal with the Court as prescribed by the rules of the Court within 90 days of the mailing of the statement of the case. Such time period may be extended by the Court for good cause shown.

"(2) An appeal shall be in such form as the Court shall by rule prescribe. An appeal shall set out specific allegations of error of fact or law which are related to issues presented by the petitioner's claim. The benefits sought on appeal shall be clearly identified.

"(e)(1) The Court shall base its decision on the entire record. The Court may dismiss an appeal which fails to allege a specific error of fact or law in the determination being appealed.

"(2) If the Court finds that the record sets forth insufficient evidence upon which to base a decision, the Court may remand the petition or take such other steps as it considers appropriate.

"(f) The agency of original jurisdiction and the Court shall adopt appropriate procedures to expedite decisions on simultaneous claims in order to assure a prompt and fair resolution of a disagreement.

"§ 4016. Witness fees

"(a) A witness who is summoned or whose deposition is taken under section 4015 of this title shall receive the same fees and mileage as witnesses in courts of the United States.

"(b) Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

"(1) In the case of a witness for the Administrator, such payments shall be made by the Administrator out of moneys appropriated for general operating expenses and may be paid in advance.

"(2) In the case of any other witness, such payments shall be made, subject to rules prescribed by the Court of Veterans Appeals, by the party at whose instance the witness appears or the deposition is taken.

"§ 4017. Hearings

"(a) Notice and opportunity to be heard upon a proceeding instituted before the Court of Veterans Appeals shall be given to the petitioner and to the Administrator. A hearing before the Court may be closed to the public upon the determination of the Court. The testimony and the argument at any such hearing shall be stenographically reported.

"(b) The Court may designate employees of the Court to conduct hearings relating to a case and to make recommendations to the Court with respect to the case.

"§ 4018. Decisions

"(a) A decision upon a proceeding before the Court of Veterans Appeals shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court except as provided in subsection (d) of this section.

"(b) The Court shall include in its decision upon a proceeding a statement of its findings of fact and conclusions of law. Subject to such conditions as the Court may by rule provide, the requirements of this subsection are met if findings of fact or conclusions of law are stated orally and recorded in the transcript of the proceedings.

"(c) A judge or panel shall make a determination upon any proceeding before the Court, and any motion in connection therewith, that is assigned to the judge or panel by the chief judge. The judge or panel shall make a report of any such determination which constitutes its final disposition of the proceeding.

"(d) The decision of the judge or panel shall become the decision of the Court at the end of the 30-day period beginning on the date of the report by the judge or panel, unless within that period the chief judge, upon the motion of either party, at the request of the judge or panel, or at the chief judge's own initiative, directs that such decision shall be reviewed by an enlarged panel of the Court. The decision of a judge or panel shall not be a part of the record in any case in which the chief judge directs that such report shall be reviewed by an enlarged panel of the Court.

"(e) The Court shall designate in any such decision those specific records of the Government on which it relied (if any) in making its decision. The Administrator shall preserve records so designated for not less than the period of time designated by the Administrator of the National Archives and Records Administration.

"§ 4019. Availability of proceedings

"(a) Except as provided in subsection (b) of this section, all decisions of the Court of Veterans Appeals and all evidence received by the Court and its panels, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public.

"(b)(1) The Court may make any provision which is necessary to prevent the disclosure of confidential information, including a provision that any such document or information be placed under seal to be opened only as directed by the Court.

"(2) After the decision of the Court in a proceeding becomes final, the Court shall permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Court or any panel or the Court may, on its own motion, make such other disposition thereof as it considers advisable.

"§ 4020. Publication of reports

"(a) The Chief Judge shall designate in those decisions of the Court of Veterans Appeals which shall have value as a precedent.

"(b) The Court shall provide for the publication of decisions so designated in such form and manner as may be best adapted for public information and use.

"(c) Such authorized publication shall be competent evidence of the reports of the Court of Veterans Appeals therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

"(d) Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"§ 4031. Employees

"(a) The Court of Veterans Appeals may appoint, in accordance with the provisions of title 5 governing appointment in the competitive service, and may fix the basic pay of, in accordance with chapter 51 and subchapter III of chapter 53 of such title, such employees as may be necessary to execute the functions vested in the Court. The Court may classify such positions based upon the classification of comparable positions in the judicial branch.

"(b) The Court may employ physicians and other health professionals to provide it with expert medical advice.

"§ 4032. Expenditures

"The Court of Veterans Appeals may make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals) as may be necessary efficiently to execute the functions vested in the Court. Except as provided in section 4035 of this title, all expenditures of the Court shall be allowed and paid, out of any moneys appropriated for purposes of the Court, upon presentation of itemized vouchers signed by the certifying officer designated by the chief judge.

"§ 4033. Disposition of fees

"Except as provided in section 4035 of this title, all fees received by the Court of Veterans Appeals shall be covered into the Treasury as miscellaneous receipts.

"§ 4034. Fee for transcript of record

"The Court of Veterans Appeals may fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

"§ 4035. Practice fee

"(a) The Court of Veterans Appeals may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed $30 per year.

"(b) The fees described in subsection (a) of this section shall be available to the Court for the purpose of employing independent counsel to pursue disciplinary matters.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"§ 4041. Date when Court of Veterans Appeals decision becomes final

"(a) A decision of the Court of Veterans Appeals shall become final—

"(1) upon the expiration of the time allowed for filing a notice of appeal from such decision, if no such notice is duly filed within such time; or

"(2) if such a notice is filed within such time—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;

"(B) upon the denial of a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or

"(C) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the Court of Veterans Appeals be affirmed or the appeal dismissed.

"(b)(1) If the Supreme Court directs that the decision of the Court of Veterans Appeals be modified or reversed, the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(2) If the decision of the Court of Veterans Appeals is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

"(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(B) the petition for certiorari has been denied, or

"(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final on the expiration of 30 days from the time such decision of the Court of Veterans Appeals was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the Court of Veterans Appeals for a rehearing, and if—

"(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(2) the petition for certiorari has been denied, or

"(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered upon such rehearing shall become final in the same manner as though no prior decision of the Court of Veterans Appeals had been rendered.

"(d) As used in this section, the term 'mandate', in case a mandate has been recalled before the expiration of 30 days from the date of issuance thereof, means the final mandate.

"§ 4042. Review by Court of Appeals for the Federal Circuit

"(a)(1)(A) After a decision of the Court of Veterans Appeals is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of any statute or regulation (other than the schedule of ratings for disabilities under section 355 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal within such time after the notice of such decision is mailed to the petitioner as may be prescribed by the Supreme Court under section 2072 of title 28.

"(B) The United States Courts of Appeals for the Federal Circuit shall have exclusive jurisdiction to review and decide any challenge to the validity of any statute or regulation or any interpretation thereof brought under this section, and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision. The judgment of such court shall be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

"(2)(A) When a judge or panel of the Court of Veterans Appeals determines that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that there is in fact a disagreement between the petitioner and the Veterans' Administration with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the United States Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the Court of Veterans Appeals. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the Court of Veterans Appeals, unless a stay is ordered by a judge of the Court of Veterans Appeals or by the United States Court of Appeals for the Federal Circuit.

"(B) For purposes of subsections (b) and (c) of this section, an order described in this paragraph shall be treated as a decision of the Court of Veterans Appeals.

"(b) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any statute or regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Veterans Appeals that the Court of Appeals for the Federal Circuit finds to be—

"(1) contrary to constitutional right, power, privilege, or immunity;

"(2) in excess of statutory jurisdiction or authority;

"(3) without observance of procedure required by law; or

"(4) resting upon a policy judgment, reasoning, or factual premise so unacceptable as to render the matter arbitrary or capricious.

The Court of Appeals may not review the facts of the appeal or the application of any law or regulation to those facts unless there is presented a constitutional issue.

"(c)(1) Upon such review, the Court of Appeals for the Federal Circuit shall have power to affirm or, if the decision of the Court of Veterans Appeals is not in accordance with law, to modify or to reverse the decision of the Court of Veterans Appeals. If the decision is modified or reversed, the Court shall remand the case to the Court of Veterans Appeals for a rehearing, as justice may require.

"(2) Rules for review of decisions of the Court of Veterans Appeals shall be those prescribed by the Supreme Court under section 2072 of title 28.

"(3) The United States Court of Appeals for the Federal Circuit and the Supreme Court may impose damages in a case in which the decision of the Court of Veterans Appeals is affirmed and it appears that the notice of appeal was filed merely for delay.".

(b) CLERICAL AMENDMENT.—The items relating to chapter 71 in the tables of chapters before part I and at the beginning of part V are each amended to read as follows:

"71. Court of Veterans Appeals .... 4001".

SEC. 6. ADJUDICATIVE AUTHORITY OF VETERANS' ADMINISTRATION.

(a) IN GENERAL—Chapter 51 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—GENERAL ADJUDICATIVE AUTHORITY

"§ 3031. Right to reopen claims

"Upon the presentation of new and material evidence, the Administrator may review any previous determination of the Administrator with respect to benefits under laws administered by the Veterans' Administration. Any such review shall be carried out in accordance with regulations which the Administrator shall prescribe.

"§ 3032. Independent medical opinions

"(a) When, in the judgment of the Administrator, expert medical opinion, in addition to that available within the Veterans' Administration, is warranted by the medical complexity or controversy involved in a case being considered by the Veterans' Administration, the Administrator may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Veterans' Administration.

"(b) The Administrator shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions at the request of the Administrator. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

"§ 3033. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a person who is a claimant for benefits under a law administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist a claimant in developing the facts pertinent to such a claim. Such assistance shall include requesting information as described in section 3006 of this title.

"(b) When, upon considering all evidence and material of record in a proceeding before the Veterans' Administration involving a claim for benefits under a law administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the claim, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Administrator the burden specified in subsection (a) of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER IV—GENERAL ADJUDICATIVE AUTHORITY

"3031. Right to reopen claims.
"3032. Independent medical opinions.
"3033. Burden of proof; benefit of the doubt.".

SEC. 7. TRANSFER OF PERSONNEL AND ASSETS OF BOARD OF VETERANS APPEALS.

(a) TRANSFERS.—The personnel employed, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available, in connection with functions and offices of the Board of Veterans' Appeals shall be transferred to the Court of Veterans Appeals.

(b) PERSONNEL.—Personnel transferred pursuant to subsection (a) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that the classification and compensation of such personnel may not be reduced for one year after such transfer.

(c) UNEXPENDED FUNDS.—Unexpended funds transferred pursuant to subsection (a) may be used only for the purposes for which the funds were originally authorized and appropriated.

(d) PRESERVATION OF EXISTING CASES.—Any matter which on the day before the effective date of this Act is pending before the Board of Veterans' Appeals shall be transferred to the Court of Veterans Appeals and shall be pending in the same manner before such Court.

SEC. 8. INITIAL APPOINTMENT OF JUDGES TO COURT OF VETERANS APPEALS.

(a) CHIEF JUDGE TO BE APPOINTED FIRST.—The President may not appoint an individual to be a deputy chief judge or associate judge of the Court of Veterans Appeals under section 4003(b) of title 38, United States Code, as added by this Act, until the chief judge of such Court has been appointed. The President shall nominate an individual for appointment to the position of chief judge of such Court not later than April 1, 1989.

(b) STAGGERING OF INITIAL APPOINTMENTS.—Of the persons first appointed to the Court of Veterans Appeals under section 4003(b) of title 38, United States Code, as added by this Act—

(1) one of the deputy chief judges shall be appointed for a term of seven years, as designated by the President at the time of appointment; and

(2) of the associate judges—

(A) one-third shall be appointed for a term of 4 years;

(B) one-third shall be appointed for a term of 7 years; and

(C) one-third shall be appointed for a term of 10 years;

as designated by the President at the time of appointment.

(c) JUDGES.—Judges of the Court of Veterans Appeals may be appointed before the effective date of this Act.

SEC. 9. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—This Act shall take effect on June 1, 1989.

(b) APPLICABILITY TO CASES AFTER DATE OF ENACTMENT.—A person who on or after the date of the enactment of this Act files a notice of disagreement with the Veterans' Administration with respect to a matter is entitled to have the matter determined subject to the provisions of the amendments made by this Act. The Board of Veterans' Appeals may not hear or decide a matter with respect to which a notice of disagreement is filed with the Veterans' Administration on or after the date of the enactment of this Act.

(c) APPLICABILITY TO ATTORNEYS FEES.—The amendment to section 3404(c) of title 38, United States Code, made by section 4(a) shall apply with respect to services of agents and attorneys performed after the effective date of this Act.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide an improved system of review of decisions of the Veterans' Administration with respect to claims for veterans' benefits, and for other purposes.".

● Mr. SIMPSON. Mr. President, I have some concerns with the attorneys' fees permitted under the amendment offered to S. 11. As passed by the Senate, this bill contained some rather specific limitations on those fees, although not as stringent as I might have liked. Under this amendment, the only fee limitation—other than the 20 percent limitation on contingent fees—is that the fee be "reasonable."

I have long supported judicial review of veterans' claims. It just does not make sense to me that veterans should be virtually the only group of recipients of Federal benefits that are denied access to Federal courts to obtain an independent review of decisions relating to their benefits. While the approach contained in this amendment is not, perhaps, the one I would have chosen, it is a step in the right direction.

The attorneys' fee provisions are not, however. I have always supported a limit on the fees that attorneys might charge to represent veterans. While the $10 limitation in current law is ridiculously outdated, a virtual elimination of the cap is not an appropriate response. I favor a bill that will benefit veterans—not one that will benefit attorneys. I find it interesting that most veterans' organizations—which did not support S. 11 as passed by this body earlier this year—now support this compromise amendment, which virtually eliminates a cap on attorneys' fees. How ironic!

This is an issue that I intend to revisit in the 101st Congress, Mr. President. It is one that deserves our most serious attention.●

Mr. MITCHELL. Mr. President, I rise to express support for the amendment offered by Senator CRANSTON, the distinguished chairman of the Veterans' Affairs Committee for S. 11, "Veterans Administrative Adjudication Procedure and Judicial Review Act."

In the last four Congresses, the Senate has gone on record supporting legislation to eliminate the provisons in current law that accord veterans second-class citizenship in the area of their relationship with the Federal Government with respect to statutory benefits and services.

Unfortunately, while most Senators share my view and have passed judicial review legislation on five separate occasions, the other body, up to this point, has not passed similar legislation. But that changed October 3 when the House passed its verison of judicial review legislation by a vote of 400-0.

That action by the House opened a window of opportunity for Congress to enact judicial review legislation in the closing days of the 100th Congress.

The chairman of the Veteran's Committee seized that opportunity and has engaged in long and difficult negotiations to reach agreement with the leadership of the House Veterans' Committee on the many highly contentious differences between the House-passed bill and S. 11.

Those agreements are embodied in the amendment offered by Senator CRANSTON.

Because it's almost certain that the House will accept the language proposed by the chairman of the Veterans' Affairs Committee, Senate passage of the amendment makes enactment of judicial review legislation a very real possibility.

Although the provisions of this amendment are very different from the judicial review legislation approved by the Senate this summer, I am pleased to support the amendment because I believe its enactment will result in real reform that will finally provide veterans their day in court.

The details of the amendment have been explained with his usual thoroughness by the chairman. At this time, I want to make brief comments on three issues of particular concern.

Two are associated with the new article I Court of Veterans' Appeals that would be created under the amendment that would have jurisdiction to review BVA decisions on the record and VA rules and regulations challenged in the course of a BVA case. The other deals with attorneys' fees under the compromise.

One of the most difficult issues to work out in this compromise centered on the scope of review on factual questions available to the new court.

That's not surprising because as my colleagues know, the scope of review for factual matters decided by the Board of Veterans' Appeals has been a topic of much debate over the years of consideration of judicial review by the Senate.

The standard for review of material fact in the Senate bill, "so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result if such finding were not set aside," was deliberately constructed so as to permit a Federal court to review in only very narrow circumstances. There were two reasons for this construct.

First, was to reaffirm the Board's role as the expert arbiter of such questions by limiting the oppportunity for a Federal court to substitute its judgment for that of the BVA on fact questions.

Second, by providing that only the Board's most flawed fact findings would be open to review by a Federal court, it was hoped a "flood" of veterans benefit cases would not overwhelm this country's already overworked federal bench.

Since the only review of factual questions beyond the BVA would take place in the newly created Court of Veterans' Appeals, I'm not certain the existing standard was appropriate.

I'm pleased to see it's being replaced in the amendment with a standard of "clearly erroneous."

I support this change, which I believe to be substantially broader than the standard originally articulated in S 11. I agree with the chairman that the "clearly erroneous" standard should provide veterans confidence that BVA decisions on factual issues will be subject to full and fair review by the Court of Veterans' Appeals.

Given this new court's very limited jurisdiction, decisions by the Administrator under a law that effects the provision of benefits by the VA, the concern over maintaining the BVA's role as expert arbiter is not as compelling.

Second and most importantly, given that we would create a new court whose single role is adjudicating veterans' cases, there is little reason to so assiduously limit the number of appeals of factual questions that can be considered by the court.

On a second matter, Mr. President, under the amendment, review of VA rules and regulations, and the process by which they were issued, would move from Federal district courts to the U.S. Court of Appeals for the Federal Circuit (CAFC).

As a general principle of law, once jurisdiction attaches in a case, a court continues to have jurisdiction over the matter until a decision has been reached. So that while review of VA regulations will eventually be available in the CAFC, pending suits in district courts will remain there, unless both parties agree to take them to the CAFC.

The third matter I want to discuss is the treatment of attorneys' fee in the compromise.

As originally passed by the Senate, the present $10 fee limitation was retained until denial of a claim by the Board of Veterans' Appeal. That limitation is retained in the compromise.

In addition, S. 11 would have authorized the Administrator to approve reasonable attorneys' fee, up to $500 or 25 percent of the total amount of any past due benefits awarded if a contingency fee agreement had been entered into with the attorney for cases determined by the BVA.

For claims decided in Federal court after a determination by the BVA, the court would have been authorized to approve reasonable fees, limited to $750 in cases where the action was not resolved favorably to the claimant. In cases where the action was resolved favorably to the claimant, the reasonable fee would be set by the court.

Past benefits could be utilized to pay attorneys' fee, but the Administrator would not have been permitted to withhold any portion of benefits payable for a period after the date of the final decision of the Administrator.

The compromise agreement would retain a fee limitation until after the BVA first renders a final decision and allows "reasonable fees" for representation either before the BVA or in court after that.

Under a contingency agreement, the attorneys' fees can be paid out of past due benefits, although the fee cannot exceed 20 percent of the past due benefits awarded. Decisions as to the reasonableness of the fees would be reviewable in the U.S. Court of Veterans' Appeals only.

I support these provisions. Clearly the present $10 fee limitation serves only to preclude most veterans from obtaining the service of attorneys in preparing and presenting their claim. Capping allowable attorneys' fee as under the original language of S. 11 could serve to reduce a veteran's ability to secure the best legal counsel in pursuing his or her claim with the court.

Loosening the fee limitation should make it easier for veterans to secure capable legal representation.

Since coming to the U.S. Senate, I have been a strong proponent of allowing veterans to pursue their claims in Federal court with the assistance of counsel if they so choose.

To me it is unacceptable to deny veterans, their dependents and their survivors the basic protection of the independent judicial branch of our Government.

S. 11 will correct the current shortcomings and ensure that veterans and other claimants before the VA receive all benefits to which they are entitled under the law.

I want to express my gratitude for the great leadership provided once again on an important veterans issue by the Senator from California, Senator CRANSTON and the Senator from Alaska, FRANK MURKOWSKI, and our former chairman, AL SIMPSON.

Also deserving of commendation are the chairman and ranking minority member of the House Veterans' Affairs Committee, SONNY MONTGOMERY and JERRY SOLOMON. Only with their support and cooperation would we be this close to enacting judicial review.

Representatives DON EDWARDS of California and LANE EVANS of Illinois who have pressed so long for judicial review legislation in the House also contributed greatly to the progress we have made in this Congress. They deserve praise.

And finally, Mr. President, I think special notice is due the former Senator from Colorado, Gary Hart, who first pushed for judicial review in the 94th Congress and who continued to press for judicial review while serving in this body.

It's a long journey from the 94th Congress.

Mr. President, veterans who now feel the VA or the BVA has misinterpreted the law or decided their case without taking into account all relevant facts have no recourse outside the VA because under the present system veterans are effectively denied access to the avenue open to all other citizens: our court system.

And unless they can find a lawyer to take their case for $10 or less, they are often forced to fight the VA without effective legal counsel.

Enactment of this legislation is long overdue. I hope this amendment will be approved by the full Senate. It is time to open the courthouse doors to America's 28 million veterans and their families.

Mr. MATSUNAGA. Mr. President, I rise in strong support of the Senate amendment to the House amendment to S. 11, the judicial review legislation adopted on July 11 by this body by a vote of 86 to 11. My colleagues are aware that the House passed S. 11 earlier this month, after substituting the text of H.R. 5288, "The Veterans' Judicial Review Act," for S. 11 as adopted by the Senate. S. 11 as passed by the House and modified by the pending Senate amendment, will make significant changes in the veterans' claims process. First, it makes important changes in the constitution and operation of the Board of Veterans' Appeals [BVA], currently the point of last resort for veterans' claims. The most important of these include requiring the chairman to be nominated by the President and confirmed by the Senate, and codifying certain existing procedures that maintain the informal and nonadversarial atmosphere that makes the relationship between the VA and the veteran unique. These and related provisions are also included in S. 2011, the "Omnibus Veterans' Benefits and Programs Improvement Act of 1988," and are meant to improve the efficiency of the BVA as well as promote the independence of its members from real or perceived agency influence.

Second, it creates an article I "Court of Veterans' Appeals," similar to the U.S. Tax Court and the Court of Military Appeals, which will hear appeals beyond the BVA. The new tribunal will be permitted to rule on issues of fact related to particular cases, providing that the facts in question meet a strict standard of review, with such rulings being final. The court will also be empowered to rule on VA regulations and on the agency's compliance with existing law. Finally, the new court will be permitted to devise its own standards of practice and procedure.

Third, decisions of the Court of Veterans' Appeals, as with decisions made by inferior article III courts, will be appealable to the U.S. Court of Appeals for the Federal Circuit on questions of law and regulations. Further review by the Supreme Court is permitted, of course, upon granting of a writ of certiorari.

Finally, S. 11, as modified by the Senate amendment, will lift the current $10 limitation on attorneys' fees and allow lawyers to charge reasonable fees, beginning after an initial BVA decision and through further adjudication in the Court of Veterans' Appeals, the Federal Circuit Appellate Court, and the Supreme Court.

Mr. President, S. 11 as amended by the House considerably changes the original legislation passed by the Senate earlier this summer. Under the original Senate measure, the basic structure of the VA's appeals process was retained. Specifically, with certain changes, the Board of Veterans' Appeals was kept intact, and veterans were given the opportunity to appeal claims directly to U.S. courts of appeals, each with the power to rule on legal and, in certain egregious circumstance, factual questions. However, the House modified S. 11 to eliminate the BVA entirely, and in its stead created the proposed Court of Veterans' Appeals, which I have described. I believe that, taken alone, the House substitute is at once too drastic and too limiting: drastic, because it eliminates a body that has wide experience in making benefit determinations on a nonadversarial basis; limiting, because it does not allow direct appeal to the normal court system.

Having said this, Mr. President, I believe that the pending amendment, which has been worked out between House and Senate negotiators, offers a reasonable compromise that will be beneficial to veterans. While permitting the establishment of an intermediate judicial body, the Court of Veterans' Appeals, it retains the BVA and the principle of appeal to the regular courts, in this case the Court of Appeals for the Federal Circuit. In this respect, it provides many veterans what they have been seeking all along: the opportunity for true judicial review of claims.

Mr. President, though the Senate has passed judicial review legislation five times, this is the first time that the House has done so. With the adoption of this compromise amendment, Congress will have crossed the last yard of a long and tortuous race. I offer my congratulations for a job well done to the House and Senate Members who are chiefly responsible for this historic legislation. On the House side, they are Chairman MONTGOMERY and Representatives SOLOMON, EVANS, and EDWARDS. On the Senate side, credit should go to Senate Veterans' Affairs Committee chairman, Senator CRANSTON and former Chairmen MURKOWSKI and SIMPSON, who worked long and persistently to bring about this moment. Credit should also be given to our former colleague, Senator HART, who first started the ball rolling on this issue.

Mr. President, I urge my colleagues to support this measure.

I yield the floor.

Mr. SPECTER. Mr. President, it would appear that the Congress, after many unsuccessful attempts, has arrived at a compromise which would grant the right of judicial review to veterans seeking benefits from the Veterans' Administration [VA]. I have had a longstanding interest in this issue and thus am familiar with the diverse points of view which have existed regarding the appropriate role of the Federal courts in ensuring that veterans' claims are fairly adjudicated. I commend those who were instrumental in reaching this agreement, the distinguished chairman of the committee, as well as the ranking Republican Member who encouraged the Senate to address the interests of all the parties involved in this important issue.

I believe that the compromise we are considering today is sound and will provide veterans significant relief in those instances where the VA may have erred. I am particularly pleased that some of the concerns I raised during Senate debate on S. 11—July 11, 1988—regarding the standard of review provided by this legislation have been effectively addressed. S. 11, as previously considered by both the Committee on Veterans' Affairs, of which I am a member, and the full Senate included a standard of review which I believe was too limited. Under the terms of that bill, review of factual matters would be permitted regarding Board of Veterans' Appeals [BVA] decisions "so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result if any such finding were not set aside."

As I remarked at that time, this is an extraordinarily limited scope of judicial review. In fact, at that time, I was uncertain as to whether it would be better to defeat the bill with its limited scope of judicial review and try to get a more realistic standard or to vote for the limited version on the basis that it at least offered a beginning for this very important process. After careful thought I decided it would be more constructive to support the proposal—I did so, however, in the context of expressing my concern that the breadth of the judicial review was too limited.

The bill we are considering today is much improved over the one considered by the Senate on July 11, 1988, in terms of the scope of judicial review provided. This proposal would create an Article I Court of Veterans' Appeals [CVA] with jurisdiction to review on the BVA record all aspects of a VA claim, including review of fact under the "clearly erroneous" standard. Although the "clearly erroneous" standard has not been uniformly interpreted by the Supreme Court, the Joint Explanatory Statement of the Senate and House of Representatives specifically states their mutual intention that this standard be interpreted as "markedly wider" than the previous language of "so utterly lacking in a rational basis in the evidence." In fact, as discussed in Kenneth Culp Davis' "Administrative Law Treaties," second edition, 1984, volume 5, the Court of Veterans' Appeals would find substantial precedent for interpreting "clearly erroneous" more broadly than the often cited standard of "substantial evidence." By the "clearly erroneous" standard, the congressional intent is expressed to allow a review of the underlying facts with authority in the Court of Veterans' Appeals to reverse the findings of fact where error is clear or apparent. This more expansive factual review will allow that court to reach factual questions on appeal to see that justice is done.

Mr. President, I am pleased to support this compromise and once again commend the Members of this body as well as the House of Representatives for their hard work on behalf of our Nation's veterans.

VETERANS' JUDICIAL REVIEW ACT

Mr. CRANSTON. Mr. President, it is with enormous optimism and great pleasure that I rise today to ask my colleagues to support S. 11, the proposed Veterans' Judicial Review Act. This legislation represents a truly historic compromise in the area of judicial review of veterans's claims for benefits. The measure as it comes before the Senate today with a substitute amendment that I am proposing in lieu of a conference report—which I will refer to as the compromise agreement—represents a compromise worked out between the Senate and House Veterans' Affairs Committees on S. 11, the proposed Veterans' Administration Adjudication Procedure and Judicial Review Act as passed by the Senate on July 11, 1988, and the provisions of H.R. 5288, as passed by the House on October 3, 1988, as amendment to S. 11.

After working on this legislation for over 10 years—during which the Senate has passed judicial review legislation five times—I am delighted that the dedication and hard work of all those involved have at last resulted in a consensus on how to proceed. I am convinced that this legislation will afford veterans the opportunity for judicial review and the assistance of counsel that they so richly deserve, while retaining and enhancing the fairness and effectiveness of the current Board of Veterans Appeals [BVA] and VA basic adjudication structure.

Mr. President, in general terms, this legislation would:

First, retain the BVA with some modifications to its operations in order to enhance its independence from the rest of the VA—most noteworthy being Presidential appointment of the Board chairman by and with the advice and consent of the Senate and appointments of all Board members for a term of years;

Second, establish in Washington, DC, a truly independent article I, specialty court with from three to seven Presidentially appointed, Senate-confirmed judges, to be known as the U.S. Court of Veterans Appeals, with jurisdiction to review, on the record, all aspects of a claim for benefits as decided by the BVA, specifically including review of decisions on factual issues, utilizing a clearly erroneous standard, and review of all legal issues, including the general validity of VA rules and regulations and the fairness of BVA and VA adjudication procedures and operations;

Third, allow an attorney to charge reasonable fees for representing VA claimants before the BVA or the new court following the initial BVA decisions—with any such attorney required to file a fee statement with the court and the BVA which could be reviewed upon a charge of unreasonableness in the discretion of the court or the BVA and with no agreement regarding assignment of VA benefits permissible other than one permitting direct payment to the attorney from the VA of contingent fees of up to 20 percent of past-due benefits for representation before the agency or in the courts, or both;

Fourth, allow appeals of decisions by the Court of Veterans' Appeals on questions of law, rules, and regulations—but not of factual determinations in claims cases—to the Article III U.S. Court of Appeals for the Federal Circuit—which I will refer to as the Federal Circuit—with further review available by certiorari to the U.S. Supreme Court.

Fifth, provide for direct challenges to VA rules and regulations and the Va rulemaking process in the Federal circuit with all of the opportunities available to gain review of agency records which underlie challenges to such rules and regulation in other courts.

BACKGROUND

In the last four Congresses and again in this Congress, the Senate has gone on record as supporting legislation to eliminate provisions in current law that accord veterans second-class citizenship in the very fundamental area of their relationship with the Veterans' Administration with respect to statutory benefits and services. The first time was on September 17, 1979, while I was chairman of the committee during the 96th Congress, when the Senate unanimously passed a predecessor measure, S. 330; the second was during the 97th Congress, while Senator SIMPSON was chairman, when S. 349 was passed on September 14, 1982, again unanimously; the third was on June 15, 1983, during the 98th Congress, again while Senator SIMPSON was chairman, when S. 636 was passed unanimously. On each of these occasions, the measure died in the House, without any action having been taken.

During the last Congress, while Senator MURKOWSKI was the Chairman of the Committee, S. 367 as reported unanimously by our Committee was passed on July 30, 1985, and was sent to the House, where a companion bill, H.R. 585 introduced by my good friend from California, DON EDWARDS, was under consideration in the House Veterans' Affairs Committee; although a number of hearings were held and a markup conducted, H.R. 585, despite its 233 House cosponsors, never made it out of committee, dying on a 20-12 tabling motion.

And now, in this historic 100th Congress, comes S. 11, a special number and now again a lucky one for veterans—since it is on the 11th day of the 11th month that we honor our Nation's veterans for their numerous contributions and sacrifices to maintain our way of life. On the fifth try, we finally made it. S. 11, as it came before the Senate on July 11, 1988, was the product of an extended period of development which began in the 94th Congress. Over this period, the Committee on Veterans' Affairs has held nine hearings on judicial review legislation, and the Senate Judiciary Committee has held one such hearing. It is clear that the Senate has given a great deal of consideration to the issue of providing for judicial review of VA decisions and has indicated very clearly its support for providing an opportunity for a veterans aggrieved by a VA decision on a claim for benefits to obtain in court of such a decision, including factual issues under carefully limited circumstances.

SUMMARY OF PROVISIONS

The compromise agreement has four titles: Adjudicative and Rulemaking Authority of the Veterans' Administration; Board of Veterans' Appeals; U.S. Court of Veterans Appeals; and Effective Date and Applicability, as follows:

TITLE I.—ADJUDICATIVE AND RULEMAKING AUTHORITY OF THE VETERANS' ADMINISTRATION

This title would codify and establish various internal procedures of the VA applicable in adjudications of claims for benefits under laws administered by the VA. Included in title I of the compromise agreement are provisions that would:

First, amend section 211 of title 38—which sets forth the general preclusion of judicial review of VA decisions—to expand the present categories of exceptions to that rule and also to clarify that the Administrator must resolve all questions of law and fact necessary to a decision by the Administrator under a law that affects the provisions of benefits by the Administrator to veterans or dependents or survivors of veterans (as opposed to resolving any question of law or fact under any law administered by the VA providing benefits for veterans and their dependents or survivors).

Second, require that, in the application to the VA of section 552(a)(1) of title 5, requiring the publication by departments and agencies of certain information in the Federal Register, the Administrator ensures that subparagraphs (C), (D), and (E) of that section, relating to publication of rules of procedure, forms, and substantive rules of general application, are complied with, particularly with respect to opinions and interpretations of the General Counsel.

Third, require application of the rulemaking provisions of the Administrative Procedure Act (APA) (5 U.S.C. 553) to any matter relating to loans, grants, or benefits under a law administered by the VA.

Fourth, provide that an action of the Administrator to which either section 552(a)(1) or 553 of title 5 (or both) applies, other than an action relating to the adoption or revision of the schedule of ratings for disabilities under section 355 of title 38, shall be subject to judicial review in accordance with chapter 7 of title 5 either in the U.S. Court of Appeals for the Federal Circuit, or, if review is sought in connection with an appeal of a BVA decision, in the U.S. Court of Veterans Appeals.

Fifth, require that, if judicial review of such action described in the fourth paragraph, above, is sought in connection with an appeal under the provisions of chapter 72 of title 38, the provisions of that chapter would apply rather than those of chapter 7 of title 5.

Sixth, require the Administrator to submit to the committees, not later than May 1, 1989, a report as to how the Administrator will comply with the provision in the second paragraph, above, relating to publication in the Federal Register of certain information.

Seventh, codify the burden of proof and reasonable doubt standards in VA claims adjudication proceedings, currently provided for by regulation (38 CFR 3.102 and 3.103).

Eighth, codify the VA's current practice by requiring the reopening of a previously disallowed claim, upon presentation of new and material evidence, at a VA regional office.

Ninth, establish a procedure under which the Administrator can obtain Independent Medical Expert [IME] opinions at the Regional Office.

Tenth, require the Administrator, at both the Regional Office and BVA level, to furnish a claimant with notice that an IME opinion has been requested and, when such opinion is received, furnish the claimant with a copy of the opinion.

Eleventh, prohibit an attorney or agent from receiving any fee for services rendered prior to the rendering of the first final BVA decision; and authorize the payment of reasonable attorney's fees after the BVA first makes a final decision, as follows: First, authorize reasonable attorney's fees—for services of an attorney retained within 1 year from the final BVA decision, and in court—for representation of individuals before the VA; second, require the filing of a copy of any fee agreement between the agent or attorney and the claimant with the VA or Court, at such time as specified; third, authorize the Administrator and Court, on their own initiation or at the request of a party, to review such a fee arrangement and order a reduction in the fee if the Administrator or Court finds the fee to be excessive or unreasonable; and fourth, provide that such an order would not be reviewable in any court beyond the Court of Veterans Appeals.

Twelfth, modify the penalties for violation of restrictions on the amount attorneys may receive in connection with certain VA matters, to reduce the maximum term of imprisonment from 2 years to 1 year and to provide for fines as provided for in title 18, relating to crimes and criminal prosecutions, rather than a fine of $500, thereby reducing the offense to a misdemeanor.

TITLE II—BOARD OF VETERANS APPEALS

This title would codify and establish various internal procedures of the Board of Veterans Appeals [BVA] applicable in adjudications of claims for benefits under laws administered by the VA. Included in the compromise agreement are provisions which would:

First, encourage the Board to employ sufficient numbers of members and support personnel to enable it to dispose of appeals before it, in a timely manner.

Second, require the President, on or after February 1, 1989, and by and with the advice and consent of the Senate, to appoint a BVA chairman for a term of 6 years and provide that the chairman so appointed may be removed by the President, after notice and hearing, for misconduct, inefficiency, neglect of duty, or engaging in the practice of law or for physical or mental disability which, in the opinion of the President, prevents the proper execution of the chairman's duties.

Third, require the Administrator, with the approval of the President and based upon the recommendations of the chairman (appointed as specified in the second paragraph, above), to appoint Board members for a term of 9 years and allow Board members to be removed by the Administrator for good cause, subject to the due process protections in title 5 relating to adverse personnel actions against Administrative Law Judges.

Fourth, provide that, of the first Board members appointed to a term of years, 22 would be appointed for a 3-year term, 22 for a 6-year term, and 22 for a 9-year term; and that an individual who is serving as a member of the Board on the date of enactment of this act may continue to serve until the earlier of the date on which the individual's successor is appointed or the expiration of the 180-day period after the chairman is appointed by the President by and with the advice and consent of the Senate.

Fifth, require the chairman to be paid at Executive Level IV.

Sixth, require the BVA chairman to include as part of the VA budget justification documents—which are submitted annually to Congress in conjunction with the President's budget—a report to the Committees on Veterans' Affairs on the Board's current and future workload and its ability, based on then current and projected staffing, to dispose of appeals in a timely manner.

Seventh, provide that, if incentive awards for Board members are otherwise authorized by law, the Chairman may make a determination as to which members may receive such an award, taking into consideration the quality of performance of the Board member.

Eighth, with respect to determinations by the BVA, to: (a) provide for decisions, for either an allowance or a denial, to be by a majority vote; (b) provide that such a decision is final unless the Chairman orders a reconsideration; and (c) require that, if the Chairman orders a reconsideration, the Chairman must expand the panel which entered the original decision.

Ninth, specify that a BVA decision is to be made after giving the claimant an opportunity for a hearing and must be made on the evidence and material of record.

Tenth, require that BVA decisions include findings and conclusions and reasons and bases therefor, on all material issues of fact and law as well as orders granting or denying relief; and require the BVA to mail a copy of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and such representative.

Eleventh, specify that a claimant is not presumed to agree with any statement of fact contained in a Statement of the Case.

Twelfth, allow a claimant to request a hearing before a traveling section of the BVA and require that the scheduling of such hearings will be in the order in which the requests are received by the VA.

TITLE III—UNITED STATES COURT OF VETERANS APPEALS

This title, through a new chapter 72, would establish an article I court for review of BVA decisions on the record and VA rules and regulations challenged in a BVA case. Review of VA rules and regulations on their face, and the process by which they were issued, would be available in the Court of Appeals for the Federal Circuit (hereinafter referred to as the Federal Circuit) under the new chapter as well as through direct appeal to the Federal Circuit under new section 223. Included in title III are provisions that would:

First, provide for the Court of Veterans' Appeals to have exclusive jurisdiction to review decisions of the BVA, except for review of the schedule of ratings for disabilities under section 355 of title 38 or any action of the Administrator in adopting or revising that schedule, and specify that the court shall have the power to affirm, modify, or reverse a decision of the Board, or to remand the matter.

Second, require that, in cases of individual claims for benefits, review would be based on the record of proceedings before the VA regional office and the BVA, and the Administrator may not appeal to the court. Decisions of the court would be subject to appellate review in the Federal Circuit, except that no other court would be permitted to review a determination by the court of a factual matter.

Third, provide that the composition of the court would be as follows: (a) the court would be composed of a chief judge and not more than six nor less than two associate judges, with each to serve a term of 15 years; (b) the salary of the chief judge would be the same as that received by a U.S. court of appeals judge and the salary of the associate judges would be the same of that received by a U.S. district court judge; (c) Judges must be members in good standing of the bar of a Federal court or of the highest court of a State and be appointed by the President, by and with the advice and consent of the Senate, on the grounds of fitness to perform the duties of the office; (d) not more than half plus one of the judges may be from the same political party; (e) the chief judge would be the head of the court; and (f) the President would be authorized to remove a judge from office, after notice and an opportunity for a hearing, on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability which, in the opinion of the President, prevents the judge from executing his or her duties.

Fourth, provide that the court would be organized in the following manner: (a) the court would have a judicially noticed seal; (b) judges would hear cases alone or sitting in panels of at least three judges, pursuant to procedures established by the court; (c) a majority of judges would constitute a quorum for the transaction of business of the court, and a majority of a panel would constitute a quorum for the transaction of the business of a panel; and (d) a vacancy in the court or a panel would not impair the powers or affect the duties of the court or a panel or the remaining judges of the court or of a panel.

Fifth, provide that the court have its principal office in the District of Columbia but may sit any place within the United States.

Sixth, authorize that the principal office of the court be located, if practicable, in an existing facility that, in the judgment of the Administrative Office of the U.S. Courts [AOUSC], would maximize efficiency and economy in the operation of the court, with the AOUSC taking into consideration the convenience of the location to needed library resources, support equipment, and personnel and other needed resources.

Seventh, provide that the chief judge prescribe the times and places of sessions of the court.

Eighth, provide that the court's scope of review would be as follows: (a) the court, to the extent necessary to its decision and when presented (except with respect to the disability rating schedule), would be authorized to decide all relevant questions of law; to interpret constitutional, statutory, and regulatory provisions; to determine the meaning or applicability of the terms of actions of the Administrator; to compel action of the Administrator unlawfully withheld; and to hold unlawful and set aside decisions, findings—other than findings described in clause (v), below—conclusions, rules and regulations of the Administrator or the BVA or its chairman found to be—(i) arbitrary, capricious, an abuse of discretion, or not in accordance with law; (ii) contrary to constitutional right, power, privilege, or immunity; (iii) in excess of statutory jurisdiction, authority or limitation, or in violation of a statutory right; (iv) without observance of procedure required by law; or (v) in the case of a finding of material fact made in reaching a decision on a claim for VA benefits, hold the finding unlawful and set it aside when it is clearly erroneous. (b) In no event shall findings of fact made by the Administrator or the Board be subject to trial de novo by the court. (c) When a final decision of the Board is adverse to a party and the sole stated basis for such a decision is the failure of such party to comply with any applicable regulation, the court would be restricted to reviewing only the questions raised as to compliance with and the validity of regulations.

Ninth, authorize the court to impose a fee, not to exceed $50, for the filing of any appeal with the court, and permit the fee to be waived by the court upon a demonstration that it would impose a hardship, with a decision on the waiver not reviewable in any other court; and authorize the court to raise the filing fee periodically, taking into account inflation and the fees charged by other article I courts.

Tenth, provide that the Administrator be represented before the court by the VA General Counsel, that appellants would be represented in accordance with the rule of practice prescribed by the court, and that, in addition to members of the bar, the court may allow other persons to practice before the court who meet standards of proficiency prescribed by the court in its rules of practice.

Eleventh, require a person representing an appellant before the court to file a copy of any fee agreement with the court at the time the appeal is filed and authorize the court to review the fee agreement and order a reduction in the fee if the court finds the fee to be excessive or unreasonable; and provide that such an order is final and not reviewable by any other court.

Twelfth, authorize the court to prescribe its own rules of practice and procedure.

Thirteenth, authorize the court—

(a) to punish certain behaviors it finds to be in contempt of court;

(b) to provide for the court to have the same assistance in carrying out its writ, process, order, rules, decrees, or command as is available to a Federal court; and

(c) to require the U.S. Marshal for a district in which the court is sitting, upon the request of the court's chief judge, to attend any session of the court.

Fourteenth, authorize judicial review of a final BVA decision which is adverse to the claimant upon the filing of a notice of appeal with the court within 120 days after the BVA's mailing of notice of the final decision. A copy of the notice would also be required to be filed with the Administrator but a defect in that filing would not affect the effectiveness of a timely filing of notice of appeal with the court.

Fifteenth, authorize that decisions be made and given in the following manner: (a) the court would make a decision on appeal as quickly as practicable and include in its decision a statement of its conclusions of law and determination as to factual matters; (b) in cases heard by a panel, a majority vote would decide the case; (c) a decision of the judge or panel would become final 30 days after the date issued, and a panel, extended panel, or the court sitting en banc could review the decision when the court so directs upon the motion of a party or its own initiative; and (d) the court would be required to specify in its decision any Government records on which it relied and require the VA to preserve records so specified for not less than the period designated by the Administrator of the National Archives and Records Administration.

Sixteenth, provide that all decisions of the court, and transcripts of its hearings, would be public records open for inspection, except when the court determines it is necessary to protect such records to prevent the disclosure of confidential information.

Seventeenth, provide that after a decision becomes final, the court must permit a party to reclaim original documents and other exhibits, or may make such other disposition as it considers advisable.

Eighteenth, allow the court to provide for the publication of decisions as designated by the court or chief judge in such form and manner as may be best adapted for public information and use; and authorize the court to provide for itself or the chief judge to make appropriate exceptions to the general requirement of publication.

Nineteenth, provide that authorized publication would be competent evidence of the reports of the court in all courts of the United States and of the several States without further authentication.

Twentieth, require the reports to be subject to sale in the same manner and on the same terms as other public documents.

Twenty-first, authorize the court to appoint and pay such employees, in accordance with title 5 competitive service provisions and subchapter III of chapter 5 pay provisions, as are necessary to execute the functions vested in the court.

Twenty-second, authorize the court to classify positions based upon the classification of comparable positions in the Judicial Branch.

Twenty-third, require that all fees, except those which are collected from practice fees, received by the Court be deposited into the Treasury as miscellaneous receipts.

Twenty-fourth, authorize the Court to make such expenditures as may be necessary to execute efficiently the functions vested in the Court, with the expenditures to be paid out of appropriated money, except for that which is collected from practice fees, upon the presentation of itemized vouchers signed by the certifying officer designated by the Chief Judge.

Twenty-fifth, authorizes the Court to fix a fee, not to exceed that charged by district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any other papers and the comparison and certification thereof.

Twenty-sixth, authorize the Court, in its discretion, to impose a periodic registration fee, not to exceed $30 per year, on persons admitted to practice before the court, and provide that such fees be available to the Court for the purpose of employing independent counsel to pursue disciplinary matters and to offset administrative costs of implementing its standards of proficiency for practitioners before the Court.

Twenty-seventh, require that a decision by the Court would become final when one of the following sets of circumstances occurs:

(a) the time for filing an appeal to the Federal circuit has expired without an appeal being filed;

(b) the Federal circuit affirms the decision of the Court or dismisses the appeal and either (1) the time for filing a petition for certiorari has expired without a petition being filed, or (2) a petition for certiorari is denied;

(c) the Supreme Court directs that the decision of the Court be affirmed or the appeal to the Federal circuit be dismissed and 30 days have expired after the date of the mandate of the Supreme Court;

(d) the Supreme Court orders the decision of the Court to be modified or reversed and either (1) after the Court renders a decision pursuant to the Supreme Court's mandate, 30 days have expired without the petitioner or the Administrator instituting proceedings to have the Court's decision corrected to accord with the Supreme Court's mandate, or (2) either the Administrator or the petitioner institutes such proceedings within that 30 days and the decision is corrected;

(e) The Federal circuit modifies or reverses the decision of the Court and either (1) the time for filing a petition for certiorari with the Supreme Court has expired without a petition being filed, or (2) a petition for certiorari is denied:

(f) the Federal circuit modifies or reverses the decision of the Court, the Supreme Court affirms the Federal circuit's decision, and either (1) after the Court renders a decision pursuant to the Federal circuit's mandate, 30 days have expired without either the petitioner or the Administrator instituting proceedings to have the Court's decision corrected to accord with the Supreme Court's mandate, or (2) either the Administrator or the petitioner has instituted such proceedings within that 30 days and the decision is corrected;

(g) if either the Supreme Court orders a rehearing, or the Federal circuit remands the case to the Court for a rehearing, and (1) the time for filing a petition for certiorari has expired without a petition having been filed, (2) such a petition has been denied, or (3) the Federal circuit's decision has been affirmed by the Supreme Court, the decision of the Court would become final in the same manner as it would if no prior decision of the Court had been rendered.

Twenty-eighth, review of decisions of the Court by the Federal circuit would be as follows:

(a) any party to a decision of the Court may obtain a review of the decision with respect to the validity of any statute or regulation relied on by the Court in making the decision (other than a refusal to review the schedule of ratings for disabilities under section 355 of title 38) or any interpretation thereof;

(b) such a review would be obtained by filing a notice of appeal with the Court of Veterans' Appeals within the time and in the manner prescribed for appeal to the U.S. Court of Appeals from U.S. District Courts;

(c) the Federal circuit shall hold unlawful and set aside any statute or regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Veterans Appeals that the Federal circuit finds to be: arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or without observance of procedure required by law.

(d) the Federal circuit would have exclusive jurisdiction of the review described above, and the decision of the Federal circuit would be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

(e) under certain circumstances, an interlocutory appeal may be taken to the Federal circuit to resolve a controlling question of law if the ultimate determination of the case may be materially advanced by the immediate consideration of the question.

(f) the Federal circuit would have power to affirm, modify, reverse, or remand the decision of the Court of Veterans Appeals.

(g) rules for review of decisions of the Court of Veterans Appeals would be those prescribed by the Supreme Court under section 2072 of title 28.

(h) provide that, except to the extent that an appeal under this chapter presents a constitutional issue, the Federal circuit may not review a challenge to a factual determination or a challenge to a law or regulation as applied to a particular case.

Twenty-ninth, provide that Judges may be appointed to the Court after February 1, 1989, and that the President shall, during the period beginning on January 21, 1989, and ending on April 1, 1989, nominate an individual to be Chief Judge of the Court.

TITLE IV—EFFECTIVE DATE AND APPLICABILITY

Included in title IV are provisions that would:

First, specify that, except for the matters described below, the Act would take effect on September 1, 1989, and that the judicial review provisions would apply to cases in which a notice of disagreement is filed on or after the date of enactment.

Second, provide that section 201(a), relating to the appointment and removal of the Chairman and members of the BVA, would take effect on February 1, 1989.

Third, provide that section 302, relating to the appointment of the Chief Judge and Associate Judges, and section 303, relating to the location of the Court, would take effect on the date of enactment.

Fourth, make sections 201 (b), (c), and (d), and sections 202 through 207, relating to the BVA operations, and section 208, relating to the report filed by the BVA Chairman, effective on the date of the enactment of the act.

Fifth, make the provisions relating to attorneys' fees applicable to cases in which the notice of disagreement was filed on or after the date of enactment.

NEED FOR A JUDICIAL REVIEW BILL

There are many reasons for the enactment of judicial review legislation, and I would like to highlight some of them at this time.

Fairness for each and every claimant: One of the principal reasons judicial review is needed is to help ensure fairness to individual claimants before the VA. In saying this, I do not mean to indicate a belief that the Board of Veterans' Appeals [BVA] intentionally denies veterans full and fair hearings. To the contrary, I believe that the members of the Board are generally fair-minded, conscientious individuals who generally make a concerted effort to carry out their responsibilities in an evenhanded fashion and that, by and large, most VA claimants are treated fairly.

However, I do know that there are problems with the present system. The current system of final, unappealable decisions by the Board, together with the statutory limit of $10 on the amount a VA claimant can lawfully pay an attorney for representation before the VA, leaves many disappointed claimants believing that they have been denied a full and fair opportunity to pursue their claims and that they are denied important rights that they and other citizens have in dealing with virtually all other Federal agencies.

In addition to this perception of justice denied is the reality of actual injustices under the current system, a problem that the opportunity for judicial review would substantially ameliorate. Although I know that the VA claims adjudication system is set up to be supportive of veterans—as it should be—the VA is a very large and complex Federal agency, and unfair results do occur. I have long been concerned that the tremendous volume of claims handled be the VA's Department of Veterans' Benefits and the BVA provides a significant opportunity for individual injustices to occur. On the basis of current trends, the number of these VA claims will continue to increase, thereby increasing the possibility of unintended unfair, but potentially avoidable, results.

Review of questionable agency policies: Another basic reason for judicial review legislation is the need to establish a basis for the review of questionable agency actions restricting, withholding, or withdrawing VA benefits—actions that increase in frequency as there is greater pressure within the executive branch for the VA to achieve cost savings in current programs. There have been numerous examples, which I discussed in some detail in my statement on July 11—CONGRESSIONAL RECORD, page S9183—of such actions in recent years. There is also the potential for unduly restrictive legal opinions from the Office of the General Counsel which may operate to deny veterans' access to benefits to which they are entitled under the law.

It is clear that the lack of access to court review has serious implications. Although, the Committees on Veterans' Affairs in both Houses carry out significant oversight of the activities of the VA, the limited resources of the committees do not allow for thorough review of and congressional action to resolve satisfactorily all of the legal and policy issues arising in such a large and complex agency.

In addition, I do not believe that aggrieved veterans should have to be dependent for relief on congressional committee processes which, for all their virtues, cannot be fairly said to be designed to achieve or to be capable of achieving a systematic and evenhanded dispensation of justice.

Also, although the results of committee oversight are often salutary in terms of bringing about—either through legislation or administrative action under pressure—reversals of agency action, there is usually a long delay in having the correction made. And the political pressures involved in the legislative process not only can lead to extensive delays in securing justice through recourse to the Congress but often result as well in watered-down compromises that satisfy no one very well. A prime example of this is my over 11-year effort to modify the VA's rule relating to GI bill eligibility for veterans who were unable to pursue their education because of alcoholism or drug dependency. We are only just now about to resolve the issue in the compromise agreement on S. 2049. And although what we are achieving there is a fair resolution, it will come too late for many Vietnam-era veteran alcoholics to make much use of it.

If the veterans directly affected by various VA actions have access to court to challenge those actions, they would be guaranteed the opportunity to be heard by an entity outside of the VA and, in certain cases, to obtain urgent and timely relief. For instance, the VA's handling of claims based on exposure to agent orange, claims based on exposure to radiation from the detonation of a nuclear weapon, and claims of post-traumatic stress disorder would benefit from outside review by allowing those who believe they have been harmed to have their claims tested in an independent forum.

In making these points, I do not want to be understood as suggesting that the VA is wrong on all of these issues. Rather, I am suggesting that outside review by an independent entity to determine whether governmental action is legal and whether it is fundamentally fair would benefit all parties involved. The VA would have its processes subjected to appropriate scrutiny and, to the extent the agency's actions were upheld, would be vindicated. Likewise, to the extent the agency's actions were held unlawful or fundamentally unfair, steps could be taken to improve the process so as to ensure that the agency is fulfilling its million to serve veterans in the best possible fashion. I am concerned that agency action that does not have the benefit of outside scrutiny may fail to address fully the legitimate needs of those the agency exists to serve, and I believe that providing for judicial review would basically correct this shortcoming.

Review by an independent tribunal: Another important reason in support of judicial review is related to the status of the Board of Veterans' Appeals. Fundamental principles of due process, as guaranteed by the Constitution, require an independent review of administrative action affecting individual's liberty or property interests. Although there are earlier court decisions suggesting that veterans' benefits are gratuities and not worthy of general due process protections, such a viewpoint is no longer valid, if it ever was, either philosophically—veterans' benefits are earned by military service—or legally. A number of decisions rendered by the Supreme Court in the last two decades—for example, *Goldberg* v. *Kelly*, 397 U.S. 254 (1970); *Board of Regents* v. *Roth*, 408 U.S. 564 (1972); *Goss* v. *Lopez*, 419 U.S. 565 (1975); and *Paul* v. *Davis*, 424 U.S. 693 (1976)—have held that various statutory governmental benefits are legal entitlements and, thus, protected property interests of the beneficiary.

I do not believe that review by the Board of Veterans' Appeals provides the required independent action required by due process. Although the Board is not directly under the control of the Administrator of Veterans' Affairs, it is currently far too bound up with the agency in many informal ways to be truly independent. The changes proposed in the compromise agreement, derived from those in S. 11 as passed on July 11, 1988, would change that in some major ways. Even with the changes, however, the BVA is still bound—as it should be—by VA rules and regulations promulgated through the VA's General Counsel. Review in court is necessary to resolve challenges to VA regulations and statutory and regulatory interpretations.

Clarify the state of the law: A final purpose of judicial review legislation is to help clarify the state of the law on the scope of the current law provision that bars judicial review, section 211(a) of title 38. Although it was hoped that the U.S. Supreme Court would settle some important differences between the various Federal circuits regarding the sweep of this prohibition, particularly with regard to review of regulations, when the Court decided the connected cases of *Traynor* v. *Turnage* and *McKelvey*, v. *Turnage*, 99 L. Ed. 2d 618, 108 S. Ct. 1372, 56 U.S.L.W. 4319 (April 20, 1988), the Court left the broader issue unresolved, holding, on this threshold issue, that where the issue is whether the VA regulation sought to be administered is valid in light of a subsequent statute the enforcement of which is not the exclusive domain of the Veterans' Administration, judicial review is available.

Despite the agency's acknowledgement, in testimony before our committee in 1983, that some U.S. courts of appeals clearly have allowed veterans to bring actions challenging VA regulations on other than constitutional grounds and that the VA supports that position and despite the VA's support for decisions in a number of U.S. district courts and courts of appeals since then to the same effect, the Department of Justice, on behalf of the VA, continues to insist on raising the section 211(a) statutory bar to judicial review in VA cases that do not involve individual claims for benefits.

Fundamental fairness for veterans: I want to answer a question I am sometimes asked in view of our lack of success up until this Congress in getting judicial review legislation favorably considered in the House. The question is usually posed along the following lines: "What is so wrong about the present system for adjudicating VA claims that you have persisted in pursuing this legislation?" Although there are surely problems with the current system, I have often responded to the issue in this way:

I do not believe finding fault with the current system is a necessary step in making the case for judicial review. Rather, I believe the appropriate first question is whether there is any continuing reason—putting to one side the question of whether there ever was a valid reason—for denying veterans the same right of access to court review of VA benefits decisions that is available in the case of virtually every other major Federal benefit program. Although there are some restrictions in current law on access to judicial review of some Federal agency actions, only one area in which a restriction exists, Federal employee workers' compensation benefits, is at all analogous to VA benefits and is an infinitely smaller benefit program than the combination of the myriad VA benefits programs codified in title 38 of the United States Code. Moreover, denials of benefits in those programs which VA benefits programs resemble most closely, benefits under the Social Security Act—such as old age and survivors insurance, Social Security disability insurance, supplemental security income, and Medicare—are all able to be challenged in court.

When the issue is posed this way—why should veterans be denied rights available to others in their dealings with the Federal Government in directly analogous areas?—I have never heard a satisfactory answer justifying maintaining the current preclusion. I realize that concerns have been expressed that judicial review could have an undue impact on the agency's current claims adjudication processes. I have also heard concerns that providing for judicial review would make the VA claims process more adversarial, would create unnecessary delay, and would cost veterans money in the form of attorneys' fees. Although I fully recognize the genuineness of these concerns, I do not believe they are well founded, and I am convinced that the compromise agreement fairly addresses all of these concerns.

RULEMAKING

Mr. President, although the VA already participates in rulemaking procedures on a voluntary basis, the compromise agreement would require the Administrator to follow the rulemaking provisions set forth in section 553 of title 5, United States Code, when the rule concerns any matter relating to loans, grants, or benefits provided under a law administered by the Administrator. This provision would require the VA to give notice in the Federal Register of its proposed rulemaking, give interested persons an opportunity to submit data and comments, and publish the final rule after consideration of the submission.

Additionally, the Administrator would be required to ensure that the VA complies with section 552(a)(1) of title 5, relating to making certain information, especially VA General Counsel opinions on matters of general applicability, available to the public.

Most importantly, an action of the Administrator to which either section 552(a)(1) or 553 of title 5 refers, except for an action relating to the adoption or revision of the schedule of rating for disabilities adopted under section 355 of title 38, would be subject to judicial review under the scope of review set forth in chapter 7 of title 5. Direct review of rules of regulations would take place only in the Court of Appeals for the Federal circuit. In the Federal circuit, appellants would have the same rights as are currently available in other courts in making challenges to rules or regulations. Such a limitation of venue should significantly contribute to the formation of uniform case law regarding VA rules and regulations. As discussed more fully below, an individual would also be free to bring a challenge to a rule or regulation in connection with an appeal from a BVA decision, but review of the rule or regulation in that situation would be governed by new chapter 72 as created by the compromise agreement, and would generally be limited so that, except where a challenge to a rule or regulation is based on constitutional grounds, the Court of Appeals for the Federal circuit would not have jurisdiction to review a challenge to a regulation as applied, but only a challenge to a regulation on its face, and could not reach a different conclusion on the facts from that reached below, but must accept the facts as found in the Court of Veterans Appeals.

BOARD OF VETERANS' APPEALS

Currently, the BVA is the court of last resort for veterans and other claimants seeking review of benefit decisions made by the VA at its regional offices. Over the last few years, most often in connection with the issue of the need for judicial review—although I continue to believe the issues, while interrelated, are not interdependent—

concerns about the BVA's operations have been raised. For instance, witnesses at the committee's June 9, 1988, oversight hearing on the BVA expressed support for giving the BVA greater independence from the VA itself in order to ensure a fair hearing for the veteran and an impartial determination based on the merits of the case. Although the very size and nature of the workload at the BVA does not lend itself to either the complete separation from the VA, as was proposed by Senator MURKOWSKI in S. 2242, or the transformation of the current BVA into a fully independent article I court, as was proposed by the House of Representatives in its passage of the provisions of H.R. 5288 as an amendment to S. 11, the compromise agreement before us contains a number of changes to the operations at the BVA derived from S. 11. Along with numerous codification of current practice, the highlights of the BVA improvements are as follows:

First. Appointment and removal of the Chairman and Board members.—Currently, the BVA is composed of Chairman, Vice Chairman, 2 Deputy Vice Chairman, and up to 63 other members, along with 430 staff. The Chairman, the Vice Chairman, and the members are appointed by the Administrator with the "approval of the President." There are no terms of office and no express provisions for removal from office.

In an attempt to make the Chairman more independent, and yet create a check with the Chairman's power and ensure accountability, the compromise agreement before us would alter the current situation significantly. Section 201 would, in a provision derived from S. 11 as passed on July 11, 1988, provide that the BVA Chairman would be appointed by the President, by and with the advice and consent of the Senate, for a term of 6 years. The provisions under which the first Chairman would be appointed would become effective February 1, 1989. There would be no limitation on the number of terms a Chairman could serve.

The compromise agreement also provides, as derived from S. 11, that the Chairman would be paid at Executive Level IV—currently $74,500 as compared to the Chairman's current salary of $72,500—and could be removed by the President, after notice and an opportunity for a hearing, for misconduct, inefficiency, neglect of duty, or engaging in the practice of law or for physical or mental disability which, in the opinion of the President, prevents the proper execution of the Chairman's duties. These specific grounds for removal are very similar to the grounds required to remove Federal Labor Relations Authority members, who are also appointed by the President, with the advice and consent of the Senate (5 U.S.C. 7104).

To create more independence for the entire Board, the compromise agreement also incorporates a number of the changes in S. 11 changing the manner of appointment and removal of members. The Board members would be appointed for 9-year terms, with no limit on the number of terms and, although the members would still be appointed by the Administrator, upon approval of the President, their appointments now could be made only on the basis of recommendations by the Chairman. In order to provide for a phase-in period for the Board under this term-of-years approach, 22 members would initially be appointed for 3-year terms, 22 for 6-year terms, and 22 for 9-year terms. An individual who is serving as a member of the Board on the date of enactment of this measure would be able to continue to serve as a member until the earlier of the date on which the individual's successor is designated by the Administrator or the end of the 180-day period beginning on the day after the date on which the Chairman is appointed. The Vice Chairman would be designated by and serve at the pleasure of the Administrator. No appointments would be able to be made under this provision until a Presidentially appointed Chairman is confirmed. Once the Chairman is appointed, the Administrator would then have 180 days in which to make the 66 appointments.

Under the compromise agreement, a Board member could be removed by the Administrator only upon the recommendation of the Chairman. The provisions of section 7521 of title 5 would apply to such a removal in the same situations under which that section would govern a removal of an administrative law judge. For instance, this section does not apply to removal of an administrative law judge who is being removed for national security reasons, nor would it apply to removal of a Board member for that reason. The Board member would be afforded procedural rights, including a hearing, under section 7513(b) of title 5—the same procedure generally used to remove an administrative law judge in the Federal Government.

Second. Hearings before traveling Board panels.—One of the drawbacks to the BVA being situated in one location—in Washington, DC—is the lack of ability on the part of many veterans to attend personal hearings before the Board. This is a particular drawback because BVA statistics show that allowances are statistically far more frequent after personal appearances before the Board in Washington—19.5 percent in fiscal year 1987—and after appearances before a traveling section—30.6 percent in fiscal year 1987.

In a general effort to permit an opportunity for more personalized appearances to those who are unable to travel to Washington, DC, the BVA utilizes two alternative methods. Under the first, the BVA authorizes VA regional office adjudication personnel to act as agents for the BVA and, in that capacity, to conduct appellate hearings at regional offices. The transcripts of these hearings are then sent to the BVA for a decision by a Board panel. Although this does provide an opportunity for a hearing, it is clearly an inadequate substitute for having the decision makers see and hear the claimant and other witnesses. In response to questions I posed, the BVA Chairman, Mr. Ken Eaton, testified at the committee's June 9 oversight hearing on the BVA that there is no method for transmitting to the BVA any information about the hearing personnel's assessments of the credibility of the claimant or other witnesses.

The second alternative to a personal hearing before the BVA in Washington, DC, involves a BVA panel traveling to various regional offices and holding personal hearings for a certain number of days. Due to the limitation on resources, there are a limited number of traveling Board hearings available. In fiscal year 1987, 739 such hearings were held. At the committee's hearing, the BVA Chairman testified that because of the limited number of such traveling hearings, the BVA did not routinely tell claimants about this option. Specifically, Mr. Eaton noted, "[I]f you advertise that too much, you are going to get more than you can handle."

In light of this testimony, it is no surprise that the form filled out by claimants to request an appeal to the BVA—Form 1-9—presents only two options to the claimant: One for a field hearing before regional office personnel, as just discussed, and one for a hearing in Washington, DC. There is no option presented for selecting a hearing before a traveling Board panel. According to Mr. Eaton, the traveling Board hearings are scheduled by giving veterans' service organizations a certain number of hearings, "a quota," and allowing the service officers to determine which claimant receives a hearing.

I strongly believe that this method of allocating hearings before traveling Board panels is contrary to the accepted notions of even-handedness, fairness, and justice in that every individual should have an equal opportunity to obtain the most beneficial process. Accordingly, the compromise agreement before us contains the requirement from S. 11 that requests for traveling Board hearings must be scheduled within the area served by a regional office in the order in which the requests for hearing are received by the Veterans' Administration with respect to hearings in that area. In addition, the explanatory statement prepared by the two Veterans' Affairs Committees makes clear that fair notice requirements, although not spelled out in the compromise agreement in all the detail provided in S. 11, are a fundamental part of due process and are to be provided to all claimants. This certainly includes notice, to all claimants whose claims are disallowed at the regional office level, about options for hearings in connection with an appeal to the BVA.

Additionally, I strongly urge the BVA to develop alternatives, such as were articulated in S. 11 as passed on July 11, 1988, to personal hearings at the regional office. Such alternatives include a telephonic or closed-circuit television hearings with a BVA section in Washington, DC, or a videotaped hearing before regional office personnel.

Third. Performance Incentives.—Until just prior to the Committee's June 9 hearing, the BVA, through an awards committee composed of the Chairman, Vice Chairman, two Deputy Vice Chairmen, and three executive assistants, granted cash bonuses to certain Board members who were eligible for such awards because they had exceeded the production quota of deciding 40 cases per week. These awards were allegedly based, first, on exceeding the production quota and, second, on the quality of the decisions, in terms of writing and format but purportedly not in terms of the judgment exercised by the member. As I discussed in my statement on S. 11 on July 11, 1988—CONGRESSIONAL RECORD page S9188—concerns were raised at our hearing that the use of bonuses was improper. These concerns seem particularly well taken in light of the executive branch exemptions which specifically exclude Board members from the performance appraisal system used to evaluate Federal employees and from the merit pay system prescribed under chapter 54 of title 5.

In connection with the committee's June 9 hearing, I asked witnesses—particularly those representing veterans' service organizations—to address the effects of the bonuses, either real or perceived, and whether they would support the elimination of the use of bonuses for Board members, especially as tied to production quotas. The answers indicated that while it was unlikely that the decision by the Board members were actually being influenced by the existence and use of the cash bonuses, the appearance of impropriety was enough for most witnesses to recommend the elimination of the use of bonuses. At the June 9 hearing, the BVA Chairman announced that cash bonuses for BVA members would be discontinued but that the Board was looking for some other method of rewarding and encouraging outstanding performance by Board members.

Although I appreciate the Chairman's need for a management tool that would encourage top performance from Board members, while ensuring quality in the Board's output, I believe that any incentives utilized by the Chairman must be authorized by law. Thus, the compromise agreement would provide that if a performance incentive is otherwise authorized by law for officers and employees of the Federal Government then the Chairman may determine who shall be awarded such incentives, taking into consideration the quality of the performance of the member.

In light of the exemptions discussed above, I doubt that any law currently authorizes performance incentives. Should such incentives be available under some other provision of law or become available, this provision would provide the Chairman with guidelines as to how to proceed.

Fourth. Annual reports.—In an effort to monitor the performance of the BVA and make more adequate resource allocations to the Board, section 208 of the compromise agreement contains a provision requiring the Board to submit, with the VA's justification documents submitted with the President's budget, a report of the activities of the Board during the preceding fiscal year and a projection of the activities for the forthcoming fiscal year to the two Veterans' Affairs Committees. Each report would include, but not be limited to, such information as the number of cases appealed to the Board and the number pending, the number of such cases which were filed during each of the 36 months preceding the current fiscal year and the average length of time a case was before the Board between the time of filing of an appeal and the disposition during the preceding fiscal year.

Fifth. Notice to claimant that IMF requested.—Under current law, in cases in which there is a complex medical issue, the Board utilizes independent medical experts' [IME] opinions, sought through the offices of the Department of Medicine and Surgery, from physicians usually affiliated with medical schools outside of the VA system. The chief member on a Board panel may initiate an IME opinion request or a claimant or his or her representative may request one. The compromise agreement—section 103—would make this practice applicable in the Regional Office as well as at the Board, and would codify the current practice of giving the claimant notice of the decision to seek such an opinion and a copy of the opinion once it is received.

At the committee's June 9, 1988, hearing, Mr. Kenneth Eaton, the current BVA Chairman, testified that when a claimant's request for an IME opinion is denied by the Chief Member of a Board panel, the claimant has a right to appeal that decision to the Chairman. Although I have come to understand that the practice the Chairman was referring to is an informal and infrequent one, if such a mechanism is to exist, then each claimant whose request is denied should be given clear notice of the opportunity to appeal the denial to the Chairman.

Sixth. Adjudication procedures.—A number of provisions codifying or protective of BVA adjudication procedures which were contained in S. 11 are not contained in the compromise agreement. Those provisions were included in S. 11 so as to ensure that the informal, nonadversarial process at the BVA would not be lost with the advent of judicial review. It certainly is the intent underlying the compromise agreement that the BVA continue to operate in its informal, nonadversarial manner. For example, section 108 of S. 11 as passed would have authorized the Administrator and BVA members to administer oaths, examine witnesses, and receive evidence, even though inadmissible under the rules of evidence applicable to judicial proceedings. Additionally, provisions would have required the VA, at each procedural stage to provide the claimant with a detailed notice of the procedural rights of the claimant. I anticipate that all of these procedures will continue to be carried out.

Another provision included in S. 11 expressly provided that a judicial decison upholding, in whole or in part, the disallowance of a claim would not diminish the Boards' authority to reopen a claim and review the former decision. Although this provision is not in the compromise agreement, the explanatory statement notes that reopenings would be required without regard to whether a disallowance was by the Administrator or the BVA and whether a disallowance was upheld, in whole or in part, by a court.

ATTORNEYS' FEES

Mr. President, I am pleased to report that the compromise agreement before us contains a provision which repeals the limitation of $10 in current law on the amount an attorney can receive for representing a VA claimant and, in place of that, allows reasonable attorneys fees to be charged after the first final BVA decision.

To me, it is almost incomprehensive that the current law limit of $10 on the amount that an attorney may lawfully be paid has survived to this day. Whatever behavior characterized the legal profession at the time the original limitation was enacted following the Civil War—and I note that at the time the $10 fee was a reasonable fee, not one designed to preclude attorneys from representing claimants—it is no longer credible to insist that attorneys would prey on innocent veterans. I also am unable to accept the view that veterans, as a class, are so unable to protect themselves that there needs to be a barrier erected in law between them and attorneys.

Let me be clear—I do not believe that most veterans with claims before the VA would be well advised to seek the assistance of an attorney. Certainly, were I asked, my first advice to a veteran with such a claim would be to contact a veterans' service officer. But the existence of the valuable, free resource of representation before the VA by veterans' service officers in claims adjudication is not a reason for precluding a veteran from seeking to obtain the services of an attorney at the end of the internal VA process if the veteran wishes to do so.

The compromise agreement before us today prohibits attorneys fees until after the BVA makes its first final decision, thus contemplating that the current practice of veterans being assisted by skilled veterans' service officers throughout the VA and initial BVA administrative processes would continue to operate exactly as it does now.

It is important, however, as this provision would provide, that a veteran, once he or she has received an initial BVA decision and has sought an attorney's assistance to appeal that decision, would be able to seek further BVA review with the assistance of counsel before going to court. I realize that some have advocated limiting an attorney's involvement exclusively to court review of a case. But, because this measure allows for court review only of the record made by the Agency, limiting an attorney's involvement to court proceedings would, in many instances, preclude a veteran from receiving any assistance from an attorney because the attorney would be unable to improve the agency record. Alternatively, the attorney could seek a remand from the court in order to develop the record at the regional office level, a procedure that would result in an unnecessary use of court time and which would lead to further, unnecessary delay in the final resolution of the veteran's claim. Permitting an attorney representing a veteran to seek directly to reopen a BVA decision before the regional office would avoid these problems. It would also have the further benefit of promoting the possibility of a claim being resolved finally before the regional office or the BVA without resort to court action—a result which in many cases would be more advantageous for the veteran in terms of speedy justice and the cost of the attorney's time.

Testimony from two witnesses—Circuit Judge Breyer and District Judge Arnold—on behalf of the Judicial Conference of the United States at the committee's April 28 hearing on judicial review, stressed the desirability of limiting the amount of court time and involvement in deciding attorneys' fees. Specifically, they were concerned about a provision in S. 11 as introduced which required a court, once a claimant had lost the case before the court, to assess the likelihood of success at the outset of the case and award attorneys' fees accordingly. S. 11 as passed did not contain this provision and the compromise agreement goes even further.

Section 104 of the compromise agreement provides that an attorney may charge and receive reasonable attorney's fees for representation at the VA, BVA, and the Court of Veterans Appeals after the first final BVA decision. The Board and the Court of Veterans Appeals would be involved with the fees only to the extent of having the fee agreement on file and having discretion, upon either a motion by a party or the Board or court's own motion, to decide on the reasonableness of the fee. Although the Court of Veterans Appeals may review a decision by the Board concerning the reasonableness of attorneys fees, that court's decision on reasonableness is not appealable.

To assist claimants, whose resources may be limited but who have good cases, to acquire legal assistance, the compromise agreement would provide that a claimant and an attorney may enter into a contingency agreement pursuant to which the Administrator will pay the attorney's fees directly out of past-due, but never future, benefits awarded to the claimant. This would be an exception to section 3101 of title 38 which prohibits a veteran from assigning the rights to his or her benefits. After the final decision of the BVA is made, the fee for representation before the VA, the BVA, the CVA, or the Federal circuit under such an arrangement for payment out of past-due benefits would be limited to 20 percent of the past-due benefits awarded.

This provision, however, would not limit attorneys' fees under general contingency-fee arrangements providing for payment in a manner other than having the Administrator make the payment out of the amount of past-due benefits.

To reduce the involvement of attorneys at the VA regional office level after an initial BVA decision, the compromise agreement contains a provision limiting the availability of reasonable fees to attorneys who are retained within 1 year from the time of a first BVA decision. This provision is not intended to limit a claimant from changing attorneys once an appeals process has begun, but rather to address the possibility of a claimant receiving a final BVA decision, waiting a number of years without any action, and then retaining an attorney to request a reopening and pursuit of the claim at the regional office level. In such a case, no fee could be paid to the attorney until after a new final BVA decision. I note that this 1-year limitation does not apply to fees for representation in proceedings before a court.

With regard to representation before the U.S. Court of Veterans Appeals, I note that an individual has a number of choices. First, as with most courts, the veteran or other claimant could opt to retain an attorney to represent him or her or can choose to represent himself or herself before the court. Additionally, in a provision which is similar to one with respect to the Tax Court—26 USC 7441 et seq.—the Court of Veterans' Appeals may allow other persons, in addition to attorneys who meet the Court's rules of practice, to practice before the court if they meet standards of proficiency prescribed by the court in its rules of practice. These choices should enable a claimant to be well-represented in the Court.

I understand that some concerns have been raised about the provisions in the compromise agreement which provide for attorneys to receive reasonable fees for representing VA claimants, as provided for in the House amendment, rather than the strict dollar caps on attorneys' fee contained in S. 11 as passed. I appreciate these concerns, but I don't agree with them. In my view, the change to reasonable fees is a positive move. In our meetings to resolve the differences between the Senate-passed and House-passed versions of S. 11, the House committee expressed concern that the cap as articulated in the Senate bill could result in veterans being able to retain effective counsel. To quote an old cliche: "You get what you pay for." Certainly, if we are going to give veterans real access to judicial review, we must give them access to good, qualified attorneys. I believe that allowing attorneys to change reasonable fees will accomplish that goal and was convinced by the position of the House that its provisions on this point are preferable to the highly restrictive provisions of the Senate-passed measure.

Additionally, I believe that, along with finally granting veterans the right to obtain judicial review, we should grant them as much latitude as possible to make determinations about their representation. I also note that the compromise included provisions that allow either the BVA or the Court of Veterans Appeals to review a fee agreement for "reasonableness"—either upon a request from a party or on the Board's or Court's own initiative. This should provide protection against any overreaching on the part of attorneys.

THE U.S. COURT OF VETERANS APPEALS

Mr. President, the compromise agreement would create the U.S. Court of Veterans Appeals—a judicial tribunal in every sense of the word. The CVA, as established by the compromise agreement, would consist of a chief judge and not more than six nor less than two associated judges. Each judge would be appointed by the President with the advice and consent of the Senate, would serve a 15-year term, and would be removable by the President on specific grounds, including misconduct—on or off the job—and neglect of duty. Judges could be reappointed. The court would sit in Washington, DC, with its initial location to be determined on the basis of economical sharing of support resources with an ongoing judicial entity if that is feasible. The court would have the authority to establish its own rules of practice and procedure, and would have full judicial standing including authority to issue and enforce its judicial decrees and writs (see *Noyd* v. *Bond*, 395 U.S. 683 (1969) in which the Supreme Court recognized "all writ" authority in the Court of Military Appeals, an Article I court).

In order to make an appeal to the court, an appellant would be required to file a notice of appeal with the court within 120 days after a final BVA decision. A copy of the notice of appeal would also be filed with the VA. This is a slightly shorter time to take an appeal than that provided for in S. 11—180 days—but the amount of activity that would have to be accomplished to file the appeal under the compromise agreement is also reduced. Under S. 11, the appellant would have had to file a civil suit within the 180-day time period. Under the compromise agreement, the only action required is the filing of a notice of appeal. The time frame for filing the substantive appellate documents would be set forth by the court when it establishes its rules of practice and procedure.

In an effort to ensure the independence of the U.S. Court of Veterans Appeals, the compromise agreement—in new section 4082 of title 38—directs that the budget of the court be submitted by the court to Congress via the budget of the President or an amendment to that budget for any fiscal year, and provides that this be done without any review within the executive branch. This provision should enable the court to conduct its business without the specter of executive branch influence over or involvement in its proceedings. Moreover, it is intended that Congress would appropriate funds directly to the court.

A number of the provisions establishing the Court of Veterans Appeals, have been drawn from the Tax Court enabling legislation (26 U.S.C. 7441 et seq.); a few have been drawn from the Court of Military Appeals (10 U.S.C. 867) provisions.

First, Jurisdiction and powers: The U.S. Court of Veterans Appeals would have exclusive jurisdiction of cases involving decisions by the Administrator under a law that affects the provision of benefits by the Veterans' Administration. However, the establishment of the new court would not affect an individual's ability to bring any other type of challenge—such as a challenge to the lawfulness or constitutionality of VA action or procedure not involving a VA rule or regulation or a challenge under the Freedom of Information Act or the privacy Act or an equal opportunity challenge, to name a few—through any judicial forum or process currently available to an aggrieved party.

Matters involving VA decisions or actions could be reviewed in a variety of ways. For example, in an individual claim for benefits, when there is no associate challenge to a VA rule or regulation, the claimant would be able to appeal to final BVA decision to the court, which would conduct a full review of the decision based on the BVA record—a trial de novo would be prohibited. If the court were to find that, on the BVA record, the BVA's factual determinations were "clearly erroneous," the court would be able to modify or reverse the BVA decision or remand it for further proceedings at the BVA. No further review beyond the new court of such a purely factual matter on the merits of a benefits matter as determined by the BVA would be authorized in any other court, including the Federal circuit, under the compromise agreement.

The compromise—new section 4061 of title 38—makes it clear that if the Board decision was based solely upon the failure of the party to the case to comply with any applicable regulation prescribed by the Administrator, the court could review only the questions raised as to compliance with and the validity of the regulation, and could not review the underlying facts.

If, on the other hand, an individual is making a challenge to either a VA rule or a VA regulation, there would be a choice of forums.

The claimant could make the challenge to the rule or regulation directly to the Federal circuit under new section 223, to be added to title 38 by section 102 of the compromise agreement. The Federal circuit would then use the Administrative Procedure Act [APA] standards, as set forth in chapter 7 of title 5, to review the challenge. Procedures for review of agency rules and regulations which are otherwise available in the U.S. Courts of Appeals would be available in such cases. Unless the Supreme Court granted certiorari, there would be no further review.

Alternatively, if the individual brought the challenge to a rule or regulation as part of a benefits case—presenting either a facial challenge or one to the rule or regualtion as applied to the facts in a particular case—an appeal from the BVA's decision against the claimant would have to be brought in the new court. In such a case, the BVA, by law, would have had to follow VA rules and regulations and interpretations thereof, so the individual's challenge to the rule or regulation would have to be made in the Court of Veterans' Appeals. There, the court would conduct a review on the record made at the BVA with respect to the facts of the individual's case or on the agency record underlying the rule or regulation, utilizing the standards for review which are codified in the compromise agreement. Under new section 4092(d)(2) of title 38, as would be added by the compromise agreement, the Federal circuit would not be authorized, except to the extent that the appeal presented a constitutional issue, to review a challenge to a factual determination or a challenge to a law or regulation as applied to the facts of the individual's case. Otherwise the Federal circuit would be authorized to decide all revlevant questions of law—with one exception relating to the disability rating schedule—including interpreting constitutional and statutory provisions.

I note that one of the powers that this new article I court, like any other U.S. court, would have is the power to issue whatever writs are necessary to conduct its business. Section 1651 of title 28, United States Code, provides:

> The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

I would expect the court to utilize this power when it was determined to be necessary for it to do so in order for justice to prevail.

Although the Court of Veterans Appeals may review factual determinations of the BVA and do so on a "clearly erroneous" standard, it would be prohibited from reviewing the schedule of ratings for disabilities adopted under section 355 of title 38 of any action of the administration in adopting or revising that schedule. This prohibition is designed to retain the VA as the final arbiter of the substance of the rating schedule. We do not want a court to substitute its judgment for the Administrator's as to what ratings particular types of disability should be assigned. For example, if a veteran was assigned a service-connected disability rating of 10 percent by the BVA and in court argued that his or her disabling condition—condition A—

is as disabling as that of condition B, which has a disability rating of 30 percent under the rating schedule, the court would be prohibited from changing the veteran's rating from 10 to 30 percent because the veteran would, in effect, be asking the Court to rewrite the provisions of the rating schedule to classify condition A at the 30-percent rate. In this situation, there would be no underlying factual disagreement as to the disabling condition itself, only as to where it should fall on the rating schedule.

In contrast, Mr. President, if the BVA assigned a veteran a disability rating of 30 percent and the veteran went to court to argue that his or her rating was incorrect because the facts underlying the BVA's decision were determined incorrectly—for instance, arguing that the rating should be 50 percent because the facts demonstrate that the extension of his or her leg was limited to 45 degrees—not the 20-degree limitation the BVA found—and under the rating schedule, a 45-degree limitation is rated at 50 percent and not 30 percent—the Court could modify the decision if it found the VA's finding of fact to be "clearly erroneous."

Second. Standard of review of factual matters. The scope of review for factural matters decided by the BVA has been a topic of much debate over the years in which I have sought to have judicial review legislation enacted. I have been concerned that providing a reviewing court—a U.S. Court of Appeals in S. 11 or a U.S. District Court in the predecessor measures—too wide an opportunity for substituting its judgment for that of the BVA on factural matters could undermine the BVA's role as the expert arbiter of factual issues and flood the Federal courts with litigation. Thus, I have repeatedly stood by the standard articulated in S. 11 as being narrow enough—"so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result"—to avoid a flood of cases into the Federal Article III courts but broad enough to allow essential review in cases which include very flawed fact findings.

However, in deference to the new forum in which veterans benefits cases will be reviewed, the standard for factual review in the U.S. Court of Veterans Appeals under the compromise agreement would be the "clearly erroneous" standard, which is far broader than the standard articulated in S. 11, and should permit that court to engage in a full and fair review of BVA decisions on factual issues.

"Clearly erroneous" is the standard used by U.S. Courts of Appeals when they review factual determinations made in district court trials courts and by U.S. Courts of Appeals when they review decisions of the U.S. Tax Court, also an article I court. Despite the relatively significant amount of both case law and commentary on this standard, the full extent of the "clearly erroneous" standard is not totally clear, but there is no question that it is not a particularly restrictive standard of review. In establishing this as the standard for review by the new court of factual determinations made by the BVA, we were influenced by the analysis made by Kenneth Culp Davis, perhaps the leading commentator on administrative law matters, in his "Administrative Law Treaties," second edition, 1984, volume 5, in which he discusses the state of the law relating to various standards of review including "clearly erroneous," "substantial evidence," "clear error of judgment," and "arbitrary and capricious."

Mr. President, I ask unanimous consent that the relevant portion of that analysis be printed in the RECORD at this point.

There being no objection, the excerpt of the analysis was ordered to be printed in the RECORD, as follows:

ADMINISTRATIVE LAW TREATISE, SECOND EDITION, VOLUME 5

(By Kenneth Culp Davis)

But does it raise the question whether an opinion can be too good?

Does the opinion also raise the question whether courts should discuss the choice between review at 43.21 and review at 42.98?

Perhaps courts should avoid making any such choice.

Section 29:5. The Standards of "Substantial Evidence," "Clearly Erroneous," and "Clear Error of Judgment".

Believe it or not, Supreme Court opinions put "clearly erroneous" on one side of "substantial evidence" and they put "clear error of judgment" on the other side, and the whole structure of the standards for review seems to break down.

An understanding of what has happened has to begin with the law of review of findings of judges and juries, from which the law of review of administrative action grew. During the 19th century, the practice developed of reviewing jury verdicts less intensively than findings of judges without juries, and early in the 20th century the difference was crystallized. Equity cases differed from law cases, but the Supreme Court in 1938 adopted Rule 52(a) of the Federal Rules of Civil Procedure, which still provides: "In all actions tried upon the facts without a jury . . . findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given the opportunity of the trial court to judge of the credibility of the witnesses." The "clearly erroneous" test thus became deeply established.

Review of jury verdicts developed over the centuries in England and America, but throughout the 20th century review has been limited to the determination of whether the verdict is supported by "substantial evidence." At an early time the courts treated the Interstate Commerce Commission with more respect than they gave to the Federal Trade Commission, but soon the law settled down to reviewing administrative findings in accordance with the standard of substantial evidence. The standard came from the courts, not from Congress. In a 1913 case, the Supreme Court said it should "examine the record with a view to determinings whether there was substantial evidence to support the order." *ICC* v. *Louisville & N.R.R.*, 227 U.S. 88, 94 (1913). The Court had spoken of "mixed questions of law and fact" in *ICC* v. *Union Pac. R. Co.*, 222 U.S. 541, 547 (1912). The Federal Trade Commission Act of 1914 provided: "Findings of fact, if supported by substantial evidence, shall be conclusive." 38 Stat. 717 (1914), 15 U.S.C. § 41. The law that was thus established has not changed in the ensuing three-quarters of a century.

The judicial tendency toward the substantial evidence rule for review of administrative action become so strong that it was often followed even when a statute prescribed a different scope of review. For instance, although the Immigration Act of 1917 provided that the administrative determination "shall be final," the review was often guided by the standard of substantial evidence; see the full statement in Kessler v. Strecker, 307 U.S. 22, 34 (1939).

During the 1930s, Congress followed the courts' leadership by prescribing substantial evidence as the guide for judicial review under the Securities Act, National Labor Relations Act, Federal Power Act, Fair Labor Standards Act, and other statutes.

The Supreme Court has often lumped together the review of jury verdicts and of administrative findings. "Substantial evidence is more than scintilla, and must do more than create suspicion of the existence of the fact to be established. 'It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion,' * * * and it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury." NLRB. Columbian E. & S. Co., 306 U.S. 292, 300 (1939). Both the jury and the agency determine credibility of witnesses and draw the inferences. Gunning v. Cooley, 281 U.S. 90, 93 (1930); FIC v. Pacific States Paper Trade Ass'n, 273 U.S. 52, 63 (1927); NLRB v. Nevada Consolidated Copper Corp., 316 U.S. 105 (1942). On that base, the idea gradually grew that the test was whether the administrative determination had "warrant in the record" and "a reasonable basis in law." E.g., NLRB v. Hearst Publications, Inc., 322 U.S. 111, 131 (1944).

Judges' findings, which were mainly in equity cases, were reviewed de novo by appellate courts when they were based on interrogatories and depositions, but after adoption of the 1912 Federal Equity Rules, appellate courts refrained from substituting judgement for trial judges who had heard the witnesses testify. Findings were accepted unless they were found to be "clearly erroneous."

The classical study comparing "substantial evidence" with "clearly erroneous" is Stern, Review of Findings of Administrators, Judges and Juries: A Comparative Analysis, 58 Harv. L. Rev. 70 (1944). He states "reasons why a trial judge's findings should not be accorded the same deference as those of a jury or an administrator—why 'clearly erroneous' permits a broader review than 'substantial evidence.'" Id. at 84. Under "substantial evidence" the test is whether a reasonable person could draw the conclusion reached, and a finding can be clearly wrong without being unreasonable. Stern says that policy and history join in demonstrating that the two standards differ. The Supreme Court in District of Columbia v. Pace 320 U.S. 698 (1944), held that a statute conflicted with itself in providing for review in the same manner as administrative determinations, findings of fact by an equity court, and verdicts of juries. The Court said that "findings of fact by an equity court and the verdict of a jury have from time immemorial been subject to different rules of finality," that findings in equity "are to be undisturbed unless clearly wrong," but review of a jury verdict "is much more restricted." Id. at 701, 702. No later law has changed any of the words quoted from the Pace opinion. The D.C. Circuit has stated that "under the 'clearly erroneous' review a court may substitute its judgment for that of the trial court and upset findings that are not unreasonable." Ethyl Corp. v. EPA, 541 F.2d 1, 35, n. 74 (D.C. Cir. 1976). The Stern article contains additional reasons, which need not be restated here, and concludes: "Policy, authority and history all thus show that the 'clearly erroneous' rule gives the reviewing court broader powers than the 'substantial evidence' formula." 58 Harv. L. Rev. at 88-89. No significant law to the contrary has been found.

Even when a district judge finds an "ultimate fact," a court of appeals is in error when it makes its own finding, for the "clearly erroneous" standard under Rule 52(a) applies to all findings, including findings of ultimate facts. Pullman-Standard v. Swint, 456 U.S. 273 (1982). The court of appeals had reversed what it "thought was an erroneous finding as to whether the differential impact of the seniority system reflected an intent to discriminate on account of race. That question, as we see it, is a pure question of fact, subject to Rule 52(a)'s clearly erroneous standard. It is not a question of law and not a mixed question of law and fact." Id. at 287-88. Two Justices dissented on other grounds.

The distinction between "erroneous" and "clearly erroneous" is a refined one that is often hard to draw. In United States v. United States Gypsum Co., 333 U.S. 364, 395 (1948), the Court said that a finding of fact is clearly erroneous if "the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." That test has been consistently applied and has been quite satisfactory.

The Court held in Inwood Laboratories v. Ives Laboratories, 456 U.S. 844, 856 (1982): "By rejecting the District Court's findings simply because it would have given more weight to evidence of mislabeling than did the trial court, the Court of Appeals clearly erred. Determining the weight and credibility of the evidence is the special province of the trier of fact. Because the trial court's findings concerning the significance of the instances of mislabeling were not clearly erroneous, they should not have been disturbed." Justice Rehnquist, concurring in the result, said: "I disagree, however, with the Court's determining for itself that the findings of the District Court were not clearly erroneous." Id. at 864.

The law has thus been deeply established that "clearly erroneous" involves broader review than "substantial evidence." The courts have been confused on the question whether the standards of "substantial evidence" and "arbitrary or capricious" are the same or differ; see § 29:7. But the Supreme Court firmly said in Abbott Laboratories, Inc. v. Gardner, 387 U.S. 136, 143 (1967), that "a 'substantial evidence' test" afforded "a considerably more generous judicial review than the 'arbitrary and capricious' test . . ."

On that background, one can readily see that the whole structure of established law about scope of review of juries, judges, and agencies was largely destroyed by the Supreme Court's casual remark in Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 416 (1971), that under the "arbitrary and capricious" standard a court "must consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment." That remark put "clear error of judgment" on the opposite side of "substantial evidence" from "clearly erroneous." The previous law had been settled ever since District of Columbia v. Pace, 320 U.S. 698 (1944), that review (of a jury finding or an agency's finding) under the "substantial evidence" standard "is much more restricted," id. at 702, than review of a judge's finding under the "clearly erroneous" standard.

The effect of the Overton Park remark was to subject an agency's finding to the broader review under the "clear error of judgment" test, even though an agency's finding had previously had narrower review under the "substantial evidence" review was narrower than "clearly erroneous" standard. Before Overton Park "substantial evidence" review was narrower than "clearly erroneous" review, but according to Overton Park review under the "arbitrary or capricious" standard was "clear error in judgment"—a standard that seems verbally indistinguishable from "clearly erroneous."

Another way to state the effect of Overton Park: The "clearly erroneous test" had long been on one side of "substantial evidence," but the Overton Park language put "clear error in judgment" on the opposite side of the "substantial evidence" test.

A rational reader of the Supreme Court's Pace, Abbott, and Overton Park opinions is forced to throw up his hands and conclude that "clear error" cannot be on both sides of "substantial evidence" at the same time. That is one reason, along with many other reasons, for concluding that *the refinements about the formulas for scope of review have become more harmful than helpful. All the arrows point to the conclusion that a broad formulation, such as the italicized proposition in the first paragraph of § 29:1, is better.*

Mr. CRANSTON. Mr. President, I am confident that utilization of the "clearly erroneous" standard by the Court of Veterans' Appeals will permit that court to carry out a more complete analysis of factual matters than would be appropriate under an "arbitrary and capricious" standard, another review standard that had been suggested, and certainly a far more complete analysis than under the S. 11 standard. It is also possible, as Professor Davis suggests, that the "clearly erroneous" standard could result in more fact review than if the "substantial evidence" standard in the Administrative Procedure Act were adopted here.

Third. Venue. The U.S. Court of Appeals for the Federal Circuit was chosen as the forum for review of decisions of the Court of Veterans' Appeals in order to ensure nationwide uniformity of decisions regarding interpretation of VA laws, rules, and regulations. That court was formed by merging the Court of Claims and the Court of Customs and Patent Appeals, thereby creating a court of special jurisdiction, defined not by geography but by subject matter because of a special need for nationwide uniformity. I expressed doubts in my statement on July 11, 1988 (CONGRESSIONAL RECORD, page S9186) about the desirability of providing for review of VA claims in that forum as contrasted with providing for review generally in the U.S. Courts of Appeals around the country, as was provided for in the Senate-passed bill. However, in terrms of the value of providing wider access for veteran-appellants, I have become convinced that the opportunity to reach an agreement on legislation providing for judicial review in some article III forum and the benefits to be gained by achieving uniformity in the law combine to outweigh the loss of access. This is especially so in light of the fact that review both in the new Court of Veterans' Appeals and in the Federal Circuit would be solely on the record, thereby obviating the need for any appearance by the appellant. As part of the process creating the Court of Appeals for the Federal Circuit, special note was made by the Senate Judiciary Committee (S. Rept. No. 97-275, 97th Cong., 1st Sess., p. 4) that any expansion of the jurisdiction of that Court should be predicated on "a special need for national uniformity." I am satisfied that such a need exists in the context of VA claims.

EFFECTIVE DATES

Due to the complexity of the provisions involved in the compromise agreement, there are to be a variety of effective dates. Except for the appointment of the Chairman and Board members, the provisions which make changes to the operations at the BVA, sections 202 through 207, would become effective on January 1, 1989. These provisions are not dependent on the creation of the Court of Veterans' Appeals. Additionally, sections 201 (b), (c), and (d), relating to transition of the Board and salary of the Chairman, and section 208, relating to the annual report to be submitted to the BVA to the Committees on Veterans' Affairs, would be effective upon enactment, as would section 209 which sets limitations on the awarding of performance incentives to BVA members. I believe these provisions will help improve the processes at the BVA and, therefore, should be effective as soon as practicable.

The provisions—in section 301 of the compromise agreement—establishing the new Court of Veterans' Appeals would generally be effective on September 1, 1989.

The provision regarding the appointment of the BVA chairman and board members, section 201(a), would become effective on February 1, 1989, so that the nomination for chairman would be made by the next President, to be followed by the subsequent appointments of the 66 BVA members. Similarly, as provided for in section 302 of the compromise agreement, the chief judge of the Court of Veterans' Appeals must be nominated between January 21, 1989, and April 1, 1989, and the associate judges of that court could be nominated as early as February 1 but not until the first chief judge is appointed and confirmed. In addition to providing for the next President to make these nominations, this effective date would allow time between the nomination of the judges and the effective date of the provisions establishing the court and providing for judicial review—September 1, 1989—during which time the judges could be confirmed by the Senate and then act to set up the court and its rules of practice and procedure.

The provisions of the compromise agreement providing for judicial review specifically would apply to cases in which the veteran or other claimant files a notice of disagreement with the regional office on or after the date of enactment of the compromise agreement. Given the fact that it currently takes on the average over 355 days from the issuance of the statement of case—the step after the filing of the notice of disagreement—to the entry of a final BVA decision, the new court should have sufficient time before its effective date on September 1, 1989, in which to become fully operational before it receives its first significant number of cases.

The provision in section 104 of the compromise agreement, which amends section 3404(c) of title 38 relating to attorneys' fees, would be applicable to cases in which a notice of disagreement is filed after the date of the enactment of the compromise agreement. This will ensure that those veterans or other claimants who would be able to bring their cases to the new court under the compromise agreement will be able to do so with the assistance of paid counsel.

PENDING CASES

A question has been raised as to how the changes made in the compromise agreement might affect cases currently pending in Federal or State court. I note that as a general principle of law, once jurisdiction attaches in a case, a court continues to have jurisdiction over the matter until a decision has been reached. Accordingly, no pending case would be adversely affected by the compromise agreement.

EQUAL ACCESS TO JUSTICE ACT

Although S. 11 contained a provision specifically making the Equal Access to Justice Act—28 U.S.C. 2412(d)—applicable in VA benefit determination cases determined in Federal court, that specific reference is not included in the compromise agreement. I believe it is clear, however, that that act—which states, "Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses . . . in any civil action . . . in any court having jurisdiction of that action"—is applicable on its face to VA benefit determinations made by either the Court of Veterans' Appeals or the Federal Circuit.

CONCLUSION

Mr. President, in closing I want to express my deep appreciation to the distinguished chairman and ranking minority member of the House Committee on Veterans' Affairs—Mr. Montgomery and Mr. Solomon—as well as the ranking minority member of the Senate committee—Mr. Murkowski—for their excellent cooperation and hard work on this measure. I also want to note the great contributions made by my good friend and colleague from California—Mr. Edwards—who serves on both the House Veterans' Affairs and Judiciary Committees, to our reaching this compromise agreement. Finally, I want to recognize the long commitment to judicial review legislation on the part of my great friend, Senator Al Simpson, the principal cosponsor of S. 11 and the former chairman of our committee.

I want especially at this time also to note the contributions of, and thank, the committee staff members who have worked so very long and hard on this legislation—on the Senate side, Elizabeth Buechler, Deborah Leon, Charlotte Hughes, Sharon Blackman, Bill Brew, Ed Scott, and Jon Steinberg from the majority staff; Tom Roberts and Al Ptak from the minority staff; and Roy Smith, who so ably provides editorial support to the Committee.

I also wish to note the, as always, fine contributions of the staff of the House Committee on Veterans' Affairs, particularly, John Brizzi, Rufus Wilson, Kingston Smith, Pat Ryan, and Mack Fleming in working with us to reach what I feel is a very beneficial final agreement on this measure.

Finally, we are deeply indebted to Greg Scott of the Senate Legislative Counsel's Office and to Bob Cover of the House Legislative Counsel's Office for their outstanding work in connection with the drafting of the conference agreement.

Mr. President, I am delighted that we have been able to develop a truly bipartisan measure that will give veterans a real opportunity to have VA decisions reviewed outside of the agency and will eliminate the current situation where the VA is the last resort on benefit claims and veterans are unable to secure legal counsel to assist them in benefits matters.

This legislation is, in my view, a very significant step forward for American veterans.

As Members know, it is on the 11th day of the 11th month that we honor our Nation's veterans for their numerous contributions and sacrifices to maintain our liberties and freedoms. By acting favorably on S. 11 in this historic 100th Congress, we will be making "eleven" an even more historic number for veterans.

On this fifth try, we finally made it in S. 11.

Mr. President, I urge the Senate to give its unanimous approval to the pending compromise agreement, and I ask unanimous consent that an explanatory statement on the compromise agreement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

EXPLANATORY STATEMENT ON THE COMPROMISE AGREEMENT ON S. 11, AS AMENDED, THE "VETERANS' JUDICIAL REVIEW ACT"

This document explains the provisions of S. 11, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act", as passed by the Senate on July 11, 1988; H.R. 5288, the proposed "Veterans' Judicial Review Act", as passed by the House of Representatives on October 3, 1988, as a substitute for the text of S. 11 (hereinafter referred to as the "House amendment"); and the provisions of a compromise agreement between the Senate and House Committees on Veterans' Affairs on those provisions, which will be offered as a proposed Senate amendment to the House amendment to S. 11 as so amended and passed by the Senate. The difference between these various measures and the provisions of the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

TITLE I—ADJUDICATIVE AND RULEMAKING AUTHORITY OF THE VETERANS' ADMINISTRATION

Decisions by Administrator

Senate bill: The Senate bill (section 301) would amend section 211(a) of title 38, relating to decisions of the Administrator, to expand the present categories of exceptions to the general preclusion of judicial review of such decisions by referencing new subchapter II of chapter 71, the new judicial review subchapter added by title III of the Senate bill.

House amendment: The House amendment (section 2) would amend section 211 to—

(a)(1) specify that the Administrator must resolve all questions of law and fact—not only those arising under laws administered by the VA as under present section 211(a)—that are necessary to a decision under a law affecting the provision of benefits to veterans and the dependents and survivors of veterans, and (2) to expand the general preclusion of judicial review to the same extent;

(b) expand the present categories of exceptions to the general preclusion by making reference to section 223 of title 38 (as proposed to be added by section 3 of the House bill, discussed below), regarding rulemaking, and to matters covered by new chapter 71, the new judicial review subchapter added by title III of the bill;

(c) specify that the Attorney General, upon request, is to provide the Administrator with advice regarding any question of law arising under either the Constitution or any law other than a law providing benefits for veterans and the survivors and dependents of veterans.

Compromise agreement: The compromise agreement (section 101) contains the House provision with amendments (a) to clarify that the requirement to make decisions and the general preclusion of judicial review apply only to a decision by the Administrator under a law that affects the provision of benefits by the Administrator; and (b) to delete the amendment relating to the Attorney General's opinion.

Veterans' Administration Rulemaking

Senate Bill: The Senate bill (section 201) would amend subchapter II of chapter 3 of title 38 to add a new section 223, relating to agency rulemaking, which would—

(a) define "regulation" to include (1) statements of general policy, instructions, and guidance, and (2) interpretations of general applicability issued or adopted by the Administrator;

(b) define "rule" as having the meaning set forth in section 551(4) of title 5;

(c) require application of the rulemaking provisions of the Administrative Procedure Act (APA) (5 U.S.C. 553) to all VA rulemaking matters other than those involving agency management, personnel, public property or contracts; and

(d) provide that rules and regulations issued or adopted by the Administrator shall be subject to judicial review.

House amendment: The House amendment (section 3) would add a new section 223, relating to agency rulemaking, which would—

(a) require that, in the application to the VA of section 552(a)(1) of title 5, requiring the publication of certain information in the Federal Register, the Administrator must take care to ensure that subparagraphs (C) and (D) of that section, relating to rules of procedure, forms and substantive rules of general applicability, are complied with, particularly with respect to opinions and interpretations of the General Counsel;

(b) require application of the rulemaking provisions of the APA to any matter relating to loans, grants, or benefits under the jurisdiction of the Administrator;

(c) provide that an action of the Administrator to which either section 552(a)(1) or 553 of title 5 (or both) applies, other than an action relating to the adoption or revision of the schedule of ratings for disabilities under section 355 of title 38, shall be subject to judicial review, generally in accordance with chapter 7 of title 5 and only in the U.S. Court of Appeals for the Federal Circuit (hereinafter referred to as the "CAFC"); and

(d) require that, if judicial review of such an action is sought in connection with an appeal under the provisions of chapter 71 of title 38, as amended by the House amendment, the provisions of chapter 71 would apply rather than chapter 7 of title 5.

Compromise agreement: The compromise agreement (section 102) contains the House provision with an amendment requiring compliance with subparagraph (E) of section 552(a)(1) of title 5, relating to amendments to the material covered in subparagraphs (C) and (D). Additionally, it contains a freestanding provision requiring the Administrator to submit to the Committees, not later than May 1, 1989, a report as to how the Administrator will comply with (a), above.

The Committees note that under this provision the CAFC would be authorized to review agency records which underlie challenges to rules and regulations.

VETERANS' ADMINISTRATION ADJUDICATION PROCEDURES

Requirements Relating to Proof of Claims

Senate bill and the House amendment: The Senate bill (section 101) and the House amendment (section 6) would amend chapter 51 of title 38 to add a section which would codify the burden of proof and reasonable doubt standards in VA claims adjudication proceedings currently provided for by regulation (38 CFR 3.102 and 3.103). The House amendment would also require the Administrator, in assisting a claimant develop his or her case, to request information described in section 3006 of title 38, relating to furnishing of information by other agencies.

Senate bill: The Senate bill (section 105) would, as discussed more fully below under the heading "Reopening of Disallowed Claims", require the Board to reopen a claim when new and material evidence is presented and allow reopening upon the house showing of good cause.

House amendment: The House amendment (section 6) would further allow the Administrator, upon the presentation of new and material evidence to review any previous determination of the Administrator with respect to benefits under laws administered by the VA.

Compromise agreement: The compromise agreement (section 103) contains these provisions with an amendment deleting the discretionary reopening provision in the Senate bill.

Service of Subpenas

Senate bill: The Senate bill (section 102) would specify procedures for the service of subpenas authorized under section 3311 of title 38, including procedures for personal service or service by mail.

House amendment: No provision.

Compromise agreement: No provision.

Attorneys' Fees

Senate bill: The Senate bill (Section 401) would amend section 3404 of title 38, which sets a limitation of $10 on the amount a claimant may pay an attorney in connection with a VA claim. The bill would authorize reasonable attorneys' fees, within certain limits for representation of individuals before the VA after the Board of Veterans' Appeals first renders a final decision. Fees would also be authorized for representation in a case appealed to court under the judicial review provisions proposed to be added by title III of the Senate bill, with a specified limitation in cases in which the matter is resolved in a manner unfavorable to the claimant. Specifically, the Senate bill would—

(a) eliminate the $10 limitation on the amount an attorney may receive for services rendered after the first final BVA decision;

(b) permit the Administrator, and the Chairman of the BVA as to representation in connection with matters before the Board, to approve a reasonable attorney's fee for representation within the VA after a BVA decision, up to a maximum of either $500 or, if the claimant and attorney have entered into a contingency-fee agreement, not more than 25 percent of any past-due benefits awarded the claimant. This amount could be approved where, for example, a case remains before the VA for reconsideration or for reopening on the basis of "new and material evidence";

(c) authorize the Administrator and the Chairman to increase the $500 maximum limitation in future years to reflect changed economic conditions;

(d) authorize the Chairman to approve a fee higher than the $500 limitation in an individual case involving extraordinary circumstances warranting a higher fee;

(e) allow a reviewing court to approve a reasonable attorney's fee and specify that (1) for cases not resolved in a manner favorable to a claimant, the court must ensure that the claimant pay no more than $750, and (2) for cases resolved in a manner favorable to a claimant, the court may approve a reasonable fee, or, if a claimant and an attorney had entered into a contingent-fee agreement, a fee not exceeding 25 percent of the total amount of past-due benefits;

(f) authorize the VA to make payment to an attorney from past-due benefits, but preclude payments from benefits payable for a period following the date of the decision entitling the veteran to benefits;

(g) limit the applicability of the attorneys' fees provisions to cases involving claims for benefits;

(h) for the purpose of attorney's fees provisions, define a claim as being "resolved in a manner favorable to the claimant" when any or all of the relief sought is granted;

(i) authorize a court to award to a prevailing party, other than the Administrator, reasonable attorneys' fees and costs in accordance with the provisions of the Equal Access to Justice Act (section 2412(d) of title 28) under which such an award may be made unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust; and

(j) amend section 3405 of title 38 to provide criminal penalties for willfully and intentionally defrauding a VA claimant.

House amendment: The House amendment (sections 4 and 5) would amend section 3404 to—

(a) revise the present limitation in order to—

(1) prohibit an attorney or agent from receiving any fee for services rendered prior to the rendering of a statement of the case by a Regional Office under section 4005(d)(1);

(2) authorize reasonable attorneys' fees for representation of individuals before the VA after a statement of the case is issued;

(3) require the filing of a copy of any fee agreement between the agent or attorney and the claimant with the VA, with respect to proceedings before the VA, at such time as may be specified by the Administrator;

(4) authorize the Administrator to review such a fee arrangement and order a reduction in the fee if the Administrator finds the fee to be excessive or unreasonable, with such an order under this section reviewable in the Court of Veterans Appeals;

(5) authorize payment of a reasonable fee for services with respect to representation before the Court of Veterans Appeals (as provided for in section 5 of the House amendment); and to require the filing with the Court of Veterans Appeals of a copy of any fee agreement between the agent or attorney and the claimant;

(6) authorize the Court to review such a fee arrangement and to order a reduction in the fee if it finds the fee is excessive or unreasonable;

(7) provide that such an order would not be reviewable in any other court; and

(b) amend section 3405 to modify the penalties for violation of the restrictions in section 3404, relating generally to VA claims, or section 784, relating to suits on VA-administered insurance claims, to specify that a violation of those provisions is a misdemeanor.

Compromise agreement: The compromise agreement (section 104) contains the House provisions with amendments that authorize the Board to review fee agreements for reasonableness in those instances where a charge for representation before the VA or the Board is authorized. It also provides that (a) no fee may be charged until after the BVA first renders a final decision; (b) a reasonable fee may be charged for representation before the VA only if the attorney is retained within one year from the date of the first final BVA decision; (c) the claimant and the attorney, pursuant to a contingency agreement, may agree to have the Administrator pay the attorney's fee out of past-due benefits, but the fee under such an agreement cannot exceed 20 percent of the past-due benefits awarded; (d) the Board, not the Administrator, would decide whether a fee is reasonable; and (e) decisions by the Board as to the reasonableness of fees would be reviewable in the U.S. Court of Veterans Appeals, but not by any other court. In addition, the compromise agreement adopts the Senate provision in (h), above, relating to the definition of a favorable resolution.

TITLE II—BOARD OF VETERANS' APPEALS

Independence of the Chairman

Senate bill: The Senate bill (section 103) would amend present section 4001(a) of title 38, relating to the composition of the BVA, to delete the provision making the Chairman of the Board directly responsible to the Administrator.

House amendment: No comparable provision. The House amendment would abolish the BVA, replacing it with a 65-member Court of Veterans' Appeals as described under title III, below.

Compromise agreement: No provision.

TIMELINESS OF DISPOSITIONS

Senate bill: The Senate bill (section 103) would further amend section 4001(a) to specify that the Board is to employ sufficient numbers of support personnel to enable it to dispose of appeals before it in a timely manner.

House amendment: No comparable provision. The House amendment (section 5) contains a provision requiring the Court of Veterans' Appeals established by section 5 of the House amendment to dispose of cases "as quickly as practicable."

Compromise agreement: The compromise agreement (section 202(b)) contains the Senate provisions made applicable to BVA members as well as support personnel.

Appointment and Removal of the Chairman and Members

Senate bill: The Senate bill (section 103 of the Senate bill and section 503 of S. 2011, the proposed "Veterans' Benefits and Programs Improvement Act of 1988" as passed by the Senate on October 18, 1988, as a substitute amendment for the text of H.R. 4741) would amend present section 4001(b), relating to the appointment of members of the Board, to—

(a) require the President, by and with the advice and consent of the Senate, to appoint the Chairman for a term of five years; provide that an individual may serve as Chairman for no more than three complete terms; and (only in S. 2011) provide that the Chairman may be removed by the President after notice and hearing, for inefficiency, neglect of duty, or malfeasance in office;

(b) require the Chairman (after one is appointed with advice and consent) to appoint Board members for a term of nine years; provide that a member appointed to fill a vacancy, whether caused by resignation, death, or removal, would serve for the remaining unexpired term; and allow Board members to be removed by the Chairman for good cause, subject to the due process protections in title 5 relating to adverse personnel actions against Administrative Law Judges;

(c) require the President to appoint the Chairman not later than one year after the date of enactment and allow the serving Chairman to continue until a successor is appointed;

(d) allow the individual serving as Chairman on the date of enactment to continue serving until a successor is appointed and provide that, if that individual is appointed, none of the time served prior to the appointment would count in calculating the terms he or she may serve; and

(e) provide that, of the first Board members appointed, 21 would be appointed for a three-year term, 22 for a six-year term, and 22 for a nine-year term; and that an individual who is serving as a member of the Board may continue to serve until the earlier of the date on which the individual's successor is appointed or the expiration of the 180-day period after the Chairman is appointed.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 201) contains the Senate provision with amendments to provide that (a) the term of the Chairman would be six years, with no limit on successive terms; (b) removal of the Chairman would be by the President, after notice and an opportunity for hearing, on grounds of misconduct, inefficiency, neglect of duty, engaging in the practice of law, or physical or mental disabilities which in the President's opinion prevent proper execution of the duties of the office; (c) 65 Board members (in addition to the Vice-Chairman) would be appointed by the Administrator, upon the recommendation of the Chairman, with the approval of the President; and (d) the effective date (section 401) for the nomination of the Chairman would be February 1, 1989.

The Committees note that the Administrator, with the approval of the President, is expected to designate the incumbent member to be replaced (if an incumbent is not reappointed) at the time of the appointment of each member of his or her term. The Committees intend the nomination for Chairman to be submitted before any of the new Presidential appointments (other than the Secretary, Deputy Secretary, and Inspector General) authorized in H.R. 3471, the Department of Veterans Affairs Act.

Salary of the Chairman

Senate bill: The Senate bill (section 103) would require the Chairman to be paid at Executive Level IV.

House amendment: No provision

Compromise agreement: The compromise agreement (section 201) contains this provision.

Annual Report on Board Activities and Resources

Senate bill: The Senate bill (section 103) would require the BVA Chairman to report to the Committees on Veterans' Affairs annually on the Board's current and future workload and its ability, based on then current and projected staffing, to dispose of appeals in a timely manner.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 208) contains this provision with an amendment to require submission of the report as part of the agency's budget justification documents.

Awarding Performance Incentives to Board Members

Senate bill: The Senate bill (section 103(c)) would preclude the payment of any direct or indirect bonuses (in addition to salary) relating to service on the Board for Board members and temporary members.

House amendment: No provision

Compromise agreement: The compromise agreement (section 209) would further amend section 4001 of title 38 by providing that a performance incentive authorized by law may be awarded upon a determination by the Chairman that a member should be awarded that incentive. In making that determination, the Chairman would be required to take into consideration the quality of performance of the Board member.

Determinations by the Board

Senate bill: The Senate bill (section 104) would amend section 4003, relating to determinations by the Board, to—

(a) specify that a majority vote is sufficient for an allowance, but a unanimous vote is needed for a denial;

(b) provide that the Board may reach a contrary conclusion upon additional information after notice to the claimant and an opportunity for the claimant to be heard;

(c) preclude a temporary member, appointed pursuant to section 4001(c)(1), or an acting member, appointed pursuant to 4002(a)(2)(A)(ii) of title 38, from casting a vote in any case where the votes of the two regular members are split and require the Chairman to expand the section by at least two members in the event of such a split; and

(d) codify current Board practice (as set forth in 38 CFR 19.181) under which the Chairman may either vote with the majority or expand the section when there is a disagreement among the members of a section in any case in which unanimity is required for a final determination.

House amendment: No provision

Compromise agreement: The compromise agreement (section 202(a)) would (a) provide for decisions, for either an allowance or a denial, to be by a majority vote; (b) provide that such a decision is final unless the Board orders a reconsideration; and (c) require that, if the Board orders a reconsideration, the Chairman must expand the panel.

The Committees note that they would prefer that any expansion of a panel upon reconsideration be carried out utilizing only permanent Board members (rather than temporary or acting members). The Committees further note that the language deleted from current section 4003, authorizing the BVA, after it has made a final decision in a case, to "reach a contrary conclusion upon the basis of additional information from the department of the Secretary concerned" does not reflect current agency practice in that such action generally occurs at the Regional Office level and need not be premised only on additional information from the military department concerned but can be from any source. The Committees do not intend any claimant to be disadvantaged by the deletion of this language.

Decisions of the Board

Senate bill: The Senate bill (section 105(1)) would amend section 4004(a), relating to decisions of the Board, to specify that the Board's decision is to be made after giving the claimant an opportunity for a hearing and must be made exclusively on the evidence and material of record in the proceeding and on applicable provisions of law.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 203) contains this provision with an amendment providing that, although the decision must be based on the entire record and upon consideration of the matters specified in the Senate bill, it need not be based exclusively on material in the record, thereby affording opportunity for the Board to take notice (as courts are able to take judicial notice) of matters not on the record.

Reopening of Disallowed Claims

Senate bill: The Senate bill (section 105(2)) would amend section 4004(b), relating to the Board's, reopening of disallowed claims, to—

(a) require the Board (directly or through the agency of original jurisdiction) to reopen a claim when new and material evidence is presented or secured to review the Board's former decision and make a technical correction in the description of the BVA's authority to reopen a claim by deleting (as inconsistent with present practice) the present requirement that new and material evidence sufficient to reopen a claim be in the form of an official report from the proper service department;

(b) allow reopening upon the showing of good cause; and

(c) specify that a court decision upholding denial of a claim under title III of the bill (relating to judicial review) would not diminish the Board's discretionary authority to reopen a claim.

House amendment: As discussed above under the heading "Requirements Relating to Proof of Claims", the House amendment (section 6) would allow the Administrator, upon the presentation of new and material evidence, to review any previous determination of the Administrator with respect to benefits under laws administered by the VA.

Compromise agreement: As noted previously, the compromise agreement (section 103) contains item (a) of the Senate bill and the House amendment.

These provisions were included as amendments to chapter 51, relating to proceedings before the VA generally, to reflect the current practice in which claims are reopened at the Regional Office level, not the Board. The Committees do not intend that any claimant be disadvantaged by the redrafting of this section.

The Committees note that the reopenings would be required without regard to whether a disallowance was by the Administrator or the BVA and whether the disallowance was upheld, in whole or in part, by a court.

Notice and Content of Decisions

Senate bill: The Senate bill (section 105(3)) would amend section 4004(d), relating to the content of Board decisions, to—

(a) require the BVA to mail a detailed statement of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and such representative; and

(b) expand the present requirement that BVA decisions be in writing and contain findings of fact and conclusions of law separately stated, to require that such decisions include findings and conclusions and reasons and bases therefor, on all material issues of fact, law, and matters of discretion, as well as an order granting or denying relief.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 205) contains this provision.

Prohibition Against Presumption of Agreement With Statement of the Case Findings

Senate bill: The Senate bill (section 106) would amend section 4005(d)(4), relating to the presumption that an appellant agrees with any statement of fact in the Statement of the Case to which no exception is taken, so as to codify current Board practice under which a claimant is not presumed to agree with any statement of fact or law contained in a Statement of the Case.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 206) contains this provision with an amendment deleting "or law", since there is no current law presumption regarding conclusions of law in the Statement of the Case.

Medical Opinions

Senate bill: The Senate bill (section 107) would amend section 4009, relating to independent medical expert (IME) opinions, to—

(a) expressly provide a claimant before the Board with—

(i) the right, upon request, to have the Board acquire an independent medical opinion when there is a substantial disagreement between the substantiated findings or opinions of two physicians on an issue material to the outcome of the case; and

(ii) the right to appeal a denial of a request to the Chairman;

(b) require that notice of any Board decision to deny such a request, the basis for such denial, and the right to appeal a denial to the Chairman be provided to the claimant and the claimant's representative but provide that the decision would not be subject to judicial review; and

(c) require notice to a claimant of any consultation by a Board member with a physician, other than the physician on the Board section deciding the case, along with the results of that consultation and provide 60 days in which the claimant may respond to the opinion. The information gained through this process would be required to be included in the discussion of evidence in the final decision.

House amendment: The House amendment (section 6) revises the current law provisions regarding IME opinions to allow the Administrator to obtain such opinions during Regional Office proceedings.

Compromise agreement: The compromise agreement (section 103) contains the House provision with an amendment, derived from the Senate provision in (c), above, providing as to IME opinions at both the Board and Regional Office levels, that the claimant be notified of a request for an IME opinion and provided a copy as soon as it is received.

The Committees intend that, if the Board or Administrator establishes a mechanism for a claimant to appeal a denial of a claimant's request for an IME opinion, the notice procedures described above in (b) be followed. The Committees also note with approval the current practice of obtaining IME opinions through the Department of Medicine and Surgery.

Adjudication Procedures

Senate bill: The Senate bill (section 108) would add a new section, 4010, to the chapter concerning BVA adjudication procedures entitled "Adjudication procedures", which would—

(a) authorize the Administrator and the BVA to administer oaths and affirmations, examine witnesses, and receive evidence in VA claims adjudication proceedings;

(b) provide for the admission, even if inadmissible under the rules of evidence applicable in court, of all evidence submitted in VA claims adjudication proceedings, subject only to such provisions as the Administrator or Chairman, depending upon the forum, may impose through regulations for the exclusion of irrelevant, immaterial, or unduly repetitious evidence;

(c) provide that, in the course of hearings on a claim for VA benefits following initial denial of the claim, the claimant (or other party) shall have the right to—

(1) review and, on the payment of a fee (waivable by the Chairman of the Board pursuant to regulations that the Administrator must prescribe on the basis of inability to pay or for other good cause shown pursuant to regulations that the Administrator must prescribe) limited to the costs of duplication, to obtain copies of the case files and all materials to be used by the VA at the hearing;

(2) present witnesses and evidence including medical opinions and rebuttal evidence;

(3) make argument and submit written contentions; and

(4) submit to any person written interrogations which must be answered unless written objections thereto are filed; (d) provides that—

(1) if the person served with interrogatories files an objection thereto, the Chairman of the Board must, pursuant to regulations that the Chairman must prescribe, evaluate the objection and issue an order directing that answers be given or stating that they need not be given; and

(2) if the person served with interrogatories fails to comply with such an order or, in the absence of an objection, to answer the interrogatories, the party who served the interrogatories would have the right, upon a statement or showing of good cause, to have the Chairman issue a subpena (enforceable in Federal district court) for the witness' attendance at a deposition at which the unanswered interrogatories would be asked;

(e) provide that, a claimant may request a hearing before a traveling section of the Board with scheduling of such hearings to be on a first-come, first-served basis;

(f) provide that, if a claimant requests a hearing before a traveling section of the Board but is unable to receive such a hearing due to the limited number of hearings available the Board must afford the claimant an opportunity for a hearing conducted by telephone or closed circuit television before a Board panel or in a videotaped hearing before VA adjudication personnel at the Regional Office;

(g) allow, in the course of any claims proceeding, any VA employee to disqualify himself or herself on the basis of personal bias or other cause and a party to challenge such an employee on such bases;

(h) specify the materials that must be included in the record of VA claims adjudication proceedings and provide that the record shall be available for a claimant's inspection and shall be copied for a claimant upon the payment of a fee (waivable by the Chairman, pursuant to regulations that the Chairman must prescribe, on the basis of the claimant's inability to pay or for other good cause shown) limited to the cost of duplication; and

(i) specify that the adjudication rights contained in title 38 and prescribed thereunder by the Administrator or Chairman are exclusive.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 103) would provide that a claimant may request a hearing before a traveling section of the Board and that the scheduling of such cases will be in the order in which the requests are received by the Va as to each Regional Office.

This section is not intended to require an increase in such hearings, since traveling sections are scheduled as resources permit. In the event that a claimant indicates a desire for a hearing before a traveling section, but cannot be scheduled for the next visit by a traveling section to the nearest Regional Office, the claimant should be advised that he or she will be afforded a hearing as soon as a slot becomes available at that office.

The Committees note that they do not believe it is necessary to codify in law the current Board process as prescribed in the Senate bill. The Committees intend that those informal procedures be continued and that the title 5 procedures relating to adjudications continue to be inapplicable. The Committees encourage the Board to develop alternatives to hearings before traveling Board sections.

Notice of Procedures

Senate bill: The Senate bill (section 108) would require the Administrator and the Chairman, at each stage of claims adjudication proceedings before the VA and the BVA, to provide the claimant with detailed notice, in easily understandable language, of the claimant's procedural rights. The required notice must include:

(a) descriptions of all subsequent procedural stages provided for by statute, regulation, or Veterans' Administration policy;

(b) descriptions of all rights of the claimant expressly provided for in or pursuant to chapter 71 of title 38, of the claimant's rights to a hearing, to reconsideration, to appeal, and to representation; and of any specific procedures necessary to obtain the various forms of review available for consideration of the claim;

(c) in the case of an appeal to the Board, notice of the opportunity for a hearing before a traveling section of the Board; and

(d) such other information as the Administrator or the Chairman of the Board, respectively, as a matter of discretion, determines would be useful and practical to assist the claimant in obtaining full consideration of the claim.

House amendment: No provision.

Compromise agreement: No provision.

The Committees note that they do not believe it is necessary to codify the requirements of notice in the Senate bill because the Committees believe these requirements are a fundamental part of due process rights.

Study of Alternative Methods

Senate bill: The Senate bill (section 109) would authorize the Administrator and the Chairman of the Board to study alternative methods of ensuring the prompt and efficient resolution of claims and affording claimants the opportunity for a timely and convenient hearing or review by a disinterested authority.

House amendment: No provision.

Compromise agreement: No provision.

Effective Date of Awards in Reopened Cases

Senate bill: The Senate bill (section 110) would permit retroactive awards for claims reopened and allowed on the basis of new and material evidence in the form of service records.

House amendment: No provision.

Compromise agreement: No provision.

The Committees note that they do not intend that any claimant be disadvantaged by the noninclusion of the Senate provision.

TITLE III—UNITED STATES COURT OF VETERANS APPEALS

Senate bill: The Senate bill (section 302) would amend chapter 71 of title 38, relating to the BVA, to redesignate the existing provision as subchapter I of chapter 71 and to add a new subchapter II providing for limited judicial review, in the U.S. Courts of Appeals, of (a) final decisions of the BVA denying claims for VA benefits, and (b) VA rules and regulations.

House amendment: The House amendment (section 5) would repeal the existing provisions of chapter 71, thereby eliminating the BVA, and replace them with provisions establishing a Court of Veterans' Appeals (CVA) with not more than 65 members, generally having jurisdiction over all questions involving benefits under laws administered by the VA (but utilizing the Regional Office record of the case in individual claims decisions), with limited appellate review of CVA decisions in the U.S. Court of Appeals for the Federal Circuit (CAFC).

Compromise agreement: The compromise agreement (section 301) would add a new chapter 72 providing for judicial review of BVA decisions on the record, and of VA rules and regulations challenged in the course of a case, by a new Article I court to be known as the United States Court of Veterans Appeals, with limited appellate review in the CAFC. Review of VA rules and regulations on their face, and the process by which they were issued, would be available in the CAFC under the new chapter as well as through direct appeal to the CAFC under new section 223, discussed above under the heading "Veterans' Administration Rulemaking".

Subchapter I—Organization and Jurisdiction

Status

Senate bill: No provision. As noted above, judicial review under the Senate bill would be in the U.S. Courts of Appeals.

House amendment: The House amendment (new section 4001 of title 38) would establish an Article I court of record to be known as the United States Court of Veterans Appeals.

Compromise agreement: The compromise agreement (new section 4051 of title 38) contains this provision.

Jurisdiction and Finality of Decisions

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4002 of title 38) would provide for the Court of Veterans Appeals to have exclusive jurisdiction to consider all questions involving benefits under laws administered by the VA, except for review of the schedule of ratings for disabilities under section 355 of title 38 or any action of the Administrator in adopting or revising that schedule. In individual benefit cases, review would be based on the record of proceedings before the VA Regional Office. Decisions of the Court would be subject to appellate review as provided for in the House amendment, except that no other court would be permitted to review a determination by the Court on a factual matter.

Compromise agreement: The compromise agreement (new section 4052 of title 38) contains this provision with an amendment which (a) provides that the Court shall have the power to affirm, modify, or reverse a decision of the Board, or remand the matter, as appropriate; (b) reflects the retention of the BVA; and (c) provides that the Administrator may not appeal to the Court.

The committees note that review in the Court will be on the record created at Regional Offices and at the BVA.

Composition

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4003 of title 38) would—

(a) require the Court to be composed of a chief judge, two deputy chief judges, and not more than 62 associate judges;

(b) require that the judges be members of the bar of a Federal court or of the highest court of a State and be appointed by the President, by and with the advice and consent of the Senate, on the grounds of fitness to perform the duties of the office;

(c) require that the chief judge be the head of the Court;

(d) provide that the term of the chief judge be 15 years and the terms of the associate judges be 10 years;

(e) set the salaries for the chief judge and the two deputy chief judges at the rate for district court judges and the salaries for associate judges at the Executive Schedule Level IV rate; and

(f) provide (1) that the President may remove a judge from office, after notice and an opportunity for a hearing, on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability which, in the opinion of the President, prevents the judge from executing his or her duties, and (2) that, once a judge is removed for a reason other than physical disability, he or she would not be permitted to practice before the Court.

Compromise agreement: The compromise agreement (new section 4053 of title 38) contains the House provision with amendments providing that (a) the Court would be composed of a chief judge and not more than 6 nor less than 2 associate judges, with each to serve a term of 15 years; (b) the chief judge would receive the salary paid a judge for the U.S. Court of Appeals; (c) the associate judges would receive the salary paid U.S. District Court judges; and (d) not more than a bare majority (e.g., not more than two out of three or four out of seven) of the judges on the Court may be of the same political party. The provision prohibiting judges removed from office from practicing before the Court, (f)(2) above, is not included.

Organization

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4004 of title 38) would—

(a) provide for the Court to have a judicially noticed seal;

(b) allow judges to hear cases alone or sitting in panels of at least three judges;

(c) require the chief judge to designate the chief of each panel;

(d) provide that a majority of judges would constitute a quorum for the transaction of business of the Court and that a majority of a panel would constitute a quorum for the transaction of the business of a panel; and

(e) provide that a vacancy in the court or a panel would not impair the powers or affect the duties of the Court or a panel or the remaining judges of the Court or of a panel.

Compromise agreement: The compromise agreement (new section 4054 of title 38) contains this provision with amendments to require the Court to establish procedures to assign judges to panels and determine whether a case is to be heard by a single judge or a panel.

Offices

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4005 of title 38) would provide that the Court shall have its principal office in the District of Columbia but may sit any place within the United States.

Compromise agreement: The compromise agreement (new section 4055 of title 38) contains this provision with an amendment adding a freestanding provision (section 303) to require that the principal office of the court be located initially, if practicable, in an existing facility that, in the judgment of the Administrative Office of the United States Courts (AOUSC), would maximize efficiency and economy in the operation of the Court. In making this determination the AOUSC is to take into consideration the convenience of the location to needed library resources, support equipment, personnel and other needed resources.

Times and Places of Sessions

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4006 of title 38) would provide that the chief judge shall prescribe the times and places of sessions of the Court, with a view to securing reasonable opportunity to petitioners to appear before the Court with as little inconvenience and expense to petitioners as practicable.

Compromise agreement: The compromise agreement (new section 4056 of title 38) contains this provision with an amendment deleting the reasonable-opportunity clause.

The deleted clause was intended to encourage the Court to hear cases throughout the United States. The Committees do not believe this should be encouraged for a seven-member court, and not that the BVA is authorized to hear cases throughout the country.

SUBCHAPTER II—PROCEDURE

Scope of Review

Senate bill: The Senate bill (proposed new section 4026 of title 38) would require a reviewing court, to the extent necessary to its decision and when presented—

(a) to decide all relevant questions of law; to interpret constitutional, statutory, and regulatory provisions; to determine the meaning or applicability of the terms of actions of the Administrator, compel action of the Administrator unlawfully withheld; and to hold unlawful and set aside decisions, findings (other than findings described at item (b), below), conclusions, rules and regulations of the Administrator or the BVA or its Chairman found to be—

(1) arbitrary, capricious, an abuse of discretion, or not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitation, or in violation of a statutory right;

(4) without observance of procedure required by law; or

(b) in the case of a finding of material fact made in reaching a decision on a claim for VA benefits, hold the finding unlawful and set it aside when it is so utterly lacking in a rational evidentiary basis that a manifest and grievous injustice would result if the finding were not set aside;

(c) require a reviewing court, before setting aside a BVA finding of fact, to specify where it finds the record deficient and remand the matter a single time to the Board for further action within a reasonable, specified period of time;

(d) allow the court to review the whole record relating to a BVA-denied claim and require the court to review those parts cited by a party and take account of the rule of prejudicial error;

(e) provide that in no event shall findings of fact made by the Administrator or the Board be subject to trial de novo by the court; and

(f) when a final decision of the Board is adverse to a party and the sole stated basis for such a decision is the failure of such party to comply with any applicable regulation, restrict the court to reviewing only the questions raised as to compliance with and the validity of the regulation.

The reviewing Court would not be authorized to modify the disability rating schedule.

House amendment: The House amendment (proposed new section 4042 of title 38) would require the Court of Veterans Appeals to base its decision on the entire record, but would provide the VA and the petitioner with an opportunity for a hearing, and contains various provisions for the presentation of evidence. Further review (discussed in detail below under the heading "Review by Court of Appeals for the Federal Circuit") would be in the Court of Appeals for the Federal Circuit (CAFC), which would be directed to hold unlawful and set aside any statute or regulation or interpretation thereof, other than a determination as to a factual matter, that the CAFC finds to be—

(a) contrary to constitutional right, power, privilege, or immunity;

(b) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

(c) without observance of procedure required by law;

(d) resting upon a policy judgment, reasoning, or factual premise so unacceptable as to render the matter arbitrary or capricious.

The CAFC would be precluded from reviewing the application of any law or regulation to the facts of the appeal unless a constitutional issue is presented.

Compromise agreement: The compromise agreement (new section 4061 of title 38) makes the Senate provisions applicable to the Court of Veterans Appeals with amendments (a) providing that review of a factual determination shall be in accordance with the "clearly erroneous" standard; (b) deleting the remand requirement (item (c) in the description of the Senate bill); and (c) deleting the provision specifically requiring review of the cited parts of the record.

The Committees note that the "clearly erroneous" standard for review of Board findings of fact is markedly wider than the standard specified in the Senate bill.

Fee for Filing Petition

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4011 of title 38) would allow the Court to impose a fee, not to exceed $50, for the filing of any petition with the Court. Any fee imposed could be waived by the Court upon a demonstration that it would impose a hardship, and a decision on the waiver would not be reviewable in any other court.

Compromise agreement: The compromise agreement (new section 4062 of title 38) contains this provision with an amendment allowing the Court to raise the filing fee periodically, taking into account inflation and the fees charged by other Article I courts.

Representation of Parties; Fee Agreements

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4012 of title 38) would—

(a) provide that the Administrator would be represented before the Court by the General Counsel of the VA and that petitioners would be represented in accordance with the rules of practice prescribed by the Court, although a qualified person could not be denied admission by reason of failure to be a member of any profession or calling; and

(b) require a person representing a petitioner before the Court to file a copy of any fee agreement with the Court at the time the petition is filed and authorize the Court to review the fee arrangement and order a reduction in the fee if the Court finds the fee to be excessive or unreasonable. Such an order would be final and not reviewable by any other court.

Compromise agreement: The compromise agreement (new section 4063 of title 38) contains this provision with amendments providing that those admitted to a bar or others who met the criteria established by the court regarding standards for proficiency may represent appellants before the Court and that the Court may review the fee agreement (for representation in the Court or before the BVA or VA) upon a motion by a party or upon the Court's own motion.

The Committees note that appellants may represent themselves before the Court.

Rules of Practice and Procedure

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4013 of title 38) would provide for the Court to prescribe its own rules of practice, procedure, and evidence and provide that the mailing of a pleading, decision, process, or other document relating to proceedings before the Court by certified or registered mail properly addressed to the petitioner would be sufficient service.

Compromise agreement: The compromise agreement (new section 4064 of title 38) contains this provision with an amendment deleting the reference to rules of evidence and deleting the requirement for certified or registered mail.

Contempt Authority; Assistance to the Court

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4014 of title 38) would—

(a) authorize the Court—

(1) to administer oaths, to examine witnesses, and to issue subpoenas requiring the attendance and testimony of witnesses, or the production of necesssary documents, or requiring a person to give a deposition;

(2) upon a showing of good cause, to subpoena a VA employee to testify at a hearing or give a deposition; and

(3) to punish certain behaviors it finds to be in contempt of court; and

(b)(1) provide for the Court to have the assistance in carrying out its writ, process, order, rule, decree, or command as is available to a Federal court, and (2) require the U.S. marshal for a district in which the court is sitting, upon the request the Court's chief judge, to attend any session of the Court.

Compromise agreement: The compromise agreement (new section 4065 of title 38) contains this provision with an amendment deleting (a)(1) and (2), above.

Notice of Appeal

Senate bill: The Senate bill (proposed new section 4025(b) of title 38) would provide for judicial review of final decisions of the BVA to be instituted by a civil action brought within 180 days after the mailing by the VA of notice of such a decision.

House amendment: The House amendment (proposed new section 4015 of title 38) prescribes a procedure, substantively similar to current section 4005 of title 38, relating to appeals to the BVA, for the filing of a notice of disagreement with a VA decision and an appeal to the Court, allowing 90 days from the mailing of the statement of the case for the filing of the notice of the appeal.

Compromise agreement: The compromise agreement (new section 4066 of title 38) contains a provision which would authorize judicial review by the Court of a final BVA decision which is adverse to the claimant upon the filing of a notice of appeal within 120 days after the BVA's mailing of notice of the final decision. A copy would also be required to be furnished to the Administrator.

Witness Fees

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4016 of title 38) would require that, where a witness is summoned or a witness's deposition is taken pursuant to a subpoena, the witness be paid the same fee and mileage as a witness in another court of the United States by the party who requested the witness to appear.

Compromise agreement: No provision.

Hearings

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4017 of title 38) would—

(a) require that notice and an opportunity to be heard upon a proceeding being instituted before the Court be given to the petitioner and the Administrator;

(b) authorize the Court in its discretion to close a hearing to the public;

(c) require that the testimony and argument at a hearing be stenographically reported; and

(d) authorize the Court to designate employees of the Court to conduct hearings relating to a case and to make recommendations to the Court with respect to the case.

Compromise agreement: No provision.

Decisions

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4018 of title 38) would—

(a) require that the Court make a decision on a petition as quickly as practicable;

(b) in cases heard by a panel, provide that a majority vote would decide the case;

(c) provide that a decision of a judge or panel would become final 30 days after the date of the report of the decision unless, upon the motion of a party, the request of the judge or panel, or the chief judge's initiative, the chief judge directs that a panel or expanded panel review the case; and

(d) require that each decision state findings of fact and conclusions of law, but allow, subject to conditions prescribed by the Court, the findings and conclusions to be stated orally and transcribed; and

(e) require the Court to designate in its decision any Government records on which it relied and require the VA to preserve records so designated for not less than the period designated by the Administrator of the National Archives and Records Administration.

Compromise agreement: The compromise agreement (new section 4067 of title 38) contains this provision with an amendment deleting the provision in (d), above, authorizing oral decisions, and revising the provision in (c), above, so as to provide for review of the decision by a panel, expanded panel, or the Court en banc, when the Court so directs upon the motion of a party or its own initiative.

Availability of proceedings

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4019 of title 38) would provide that—

(a) all decisions of the Court and evidence received by the Court, including transcripts of its hearings, would be public records open for inspection, except when the Court determines it is necessary to protect such records to prevent the disclosure of confidential information; and

(b) after a decision becomes final, the Court must permit a party to reclaim original documents and other exhibits introduced into evidence or may make such other disposition as it considers advisable.

Compromise agreement: The compromise agreement (new section 4068 of title 38) contains this provision with the reference to "evidence" deleted.

Publication of Decisions

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4020 of title 38) would—

(a) require the chief judge to designate those decisions of the Court which shall have value as precedent;

(b) require the Court to provide for the publication of decisions so designated in such form and manner as may be best adapted for public information and use;

(c) provide that such authorized publication would be competent evidence of the reports of the Court in all courts of the United States and of the several States without further authentication; and

(d) require the reports to be subject to sale in the same manner and on the same terms as other public documents.

Compromise agreement: The compromise agreement (new section 4069 of title 38) contains these provisions with amendments deleting the provision described at (a), above, and authorizing the Court to provide for itself or the chief judge to make appropriate exceptions to the general requirement of publication.

The Committees note that it is up to the Court to decide what is to be published based on this standard. There is no requirement for publication of all its decisions.

Subchapter III—Miscellaneous Provisions

Employees

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4031 of title 38) would authorize the Court—

(a) to appoint and pay such employees, in accordance with title 5 competitive service and pay provisions, as are necessary to execute the functions vested in the court, including specifically, physicians and other health professionals to provide it with expert medical advice; and

(b) to classify positions based upon the classification of comparable positions in the judicial branch.

Compromise agreement: The compromise agreement (new section 4081 of title 38) contains this provision with an amendment deleting the specific authority to employ physicians and other health care professionals.

The Committees note that under the general employment authority the Court would have the authority to hire physicians and other health professionals if it so desires and that, therefore, it is not necessary to provide such authority expressly.

Budget and Expenditures

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4032) would authorize the Court to make such expenditures as may be necessary to execute efficiently the functions vested in the Court, with the expenditures to be paid out of appropriated funds (except funds collected as practice fees, which would be used for the purpose of employing independent counsel to pursue disciplinary matters) upon the presentation of itemized vouchers signed by the certifying officer designated by the chief judge.

Compromise agreement: The compromise agreement (new section 4082 of title 38) contains this provision with an amendment that requires the President to submit the budget estimates submitted by the Court without further review in the Executive Branch.

The Committees intend that appropriations be provided directly to the Court.

Disposition of Fees

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4033 of title 38) would require that all fees received by the Court, except fees paid by persons admitted to practice before the Court be deposited into the Treasury as miscellaneous receipts.

Compromise agreement: The compromise agreement (new section 4083 of title 38) contains this provision.

Fee for Transcript of Record

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4034 of title 38) would authorize the Court to fix a fee, not to exceed that charged by district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any other papers and the comparison and certification thereof.

Compromise agreement: The compromise agreement (new section 4084 of title 38) contains this provision.

Practice Fee

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4035 of title 38) would—

(a) authorize the Court, in its discretion, to impose a periodic registration fee, not to exceed $30 per year, on persons admitted to practice before the court; and

(b) provide that such fees be available to the Court for the purpose of employing independent counsel to pursue disciplinary matters.

Compromise agreement: The compromise agreement (new section 4085 of title 38) includes this provision with an amendment permitting the Court to use such collected fees for the purpose described above and to offset administrative costs of implementing its standards of proficiency for practitioners before the Court.

Subchapter IV—Decisions and Review

Date when Court of Veterans Appeals Decision Becomes Final

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4041 of title 38) would specify when a decision of the Court would become final. Under these provisions, the Court's decision would become final when one of the following occurs:

(a) The time for filing an appeal to the CAFC has expired without an appeal being filed.

(b) The CAFC affirms the decision of the Court or dismisses the appeal and either (1) the time for filing a petition for certiorari to the Supreme Court of the United States has expired without a petition being filed, or (2) a petition for certiorari is denied.

(c) The Supreme Court directs that the decision of the Court be affirmed or the appeal to the CAFC be dismissed and 30 days have expired after the date of the mandate of the Supreme Court.

(d) The Supreme Court orders the decision of the Court to be modified or reversed and either (1) after the Court renders a decision pursuant to the Supreme Court's mandate, 30 days have expired without the petitioner or the Administrator instituting proceedings to have the Court's decision corrected to accord with the Supreme Court's mandate, or (2) either the Administrator or the petitioner institutes such proceedings within that 30 days and the decision is corrected.

(e) The CAFC modifies or reverses the decision of the Court and either (1) the time for filing a petition for certiorari with the Supreme Court has expired without a petition being filed, or (2) a petition for certiorari is denied.

(f) The CAFC modifies or reversed the decision of the Court, the Supreme Court affirms the CAFC's decision, and either (1) after the Court renders a decision pursuant to the CAFC's mandate, 30 days have expired without either the petitioner or the Administrator instituting proceedings to have the Court's decision corrected to accord with the Supreme Court's mandate, or (2) either the Administator or the petitioner has instituted such proceedings within that 30 days and the decision is corrected.

If either (1) the Supreme Court orders a rehearing, or (2)(A) the CASFC remands the case to the Court for a rehearing, and (B) the time for filing a petition for certiorari has expired without a petition having been filed, such a petition has been denied, or the CAFC's decision has been affirmed by the Supreme Court, the decision of the Court would become final in the same manner as it would if no prior decision of the Court had been rendered.

Compromise agreement: The compromise agreement (new section 4091 of title 38) contains this provision.

Review by Court of Appeals for the Federal Circuit

Senate bill: The Senate bill (proposed new section 4092 of title 38) would—

(a) authorize judicial review of a final decision of the BVA and of a rule or regulation issued or adopted by the Administrator when reveiw thereof is requested by a claimant either in connection with an individual case or in an action brought only for the purpose of obtaining review of such rule or regulation;

(b) prohibit a court from directing or otherwise ordering that any disability rating schedule issued or adopted by the Administrator be modified;

(c) provide that review shall be in the U.S. Court of Appeals for the circuit in which the plaintiff resides or in which the plaintiff's principal place of business is located or in the United States Court of Appeals for the District of Columbia Circuit utilizing the scope of review described above under the heading of "Scope of Review";

(d) require that a claimant must commence a civil action for such review within 180 days after notice of a final BVA decision;

(e) require that the complaint contain sufficient information to permit the Administrator to identify and locate the plaintiff's records, and require the Administrator to file with the court pertinent documents or, if that is too burdensome, an index of those documents;

(f) specify that the court has the power to enter judgment or remand the case;

(g) provide a "sunset" for these provisions; and

(h) prohibit actions under these provisions with respect to chapter 19, relating to insurance and chapter 37, relating to housing and small business loans.

House amendment: The House amendment (proposed new section 4042 of title 38) would provide that—

(a) any party to a decision of the Court may obtain a review of the decision with respect to the validity of any statute or regulation relied on by the Court in making the decision (other than the schedule of ratings for disabilities under section 355 of title 38) and other than a factual determination (utilizing the scope of review discussed above under the heading of "Scope of Review") and that such a review would be obtained by filing a notice of appeal within such time after the notice of such decision is mailed to the petitioner as may be prescribed by the Supreme Court under section 2072 of title 28;

(b) the CAFC would have exclusive jurisdiction of the review described above, and the decision of the CAFC would be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28;

(c) under certain circumstances, an interlocutory appeal may be taken to the CAFC to resolve a controlling question of law if the ultimate determination of the case may be materially advanced by the immediate consideration of the question;

(d) the CAFC would have power to affirm, modify, reverse, or remand the decision of the Court of Veterans Appeals;

(e) rules for review of decisions of the Court of Veterans Appeals would be those prescribed by the Supreme Court under section 2072 of title 28; and

(f) that the CAFC and the Supreme Court may impose fines when decision of the Court if affirmed and it appears that the notice of appeal was filed merely for delay.

Compromise agreement: The compromise agreement (new section 4092 of title 38) contains the House provision with amendments (a) providing that a notice of appeal must be filed within the time and in the manner prescribed for appeals to the U.S. Court of Appeals from U.S. District Courts; (b) utilizing the Senate bill's scope of review for regulations, as discussed above under the heading "Scope of Review"; (c) clarifying that the only CVA decisions relating to the schedule of rulings that the CAFC would be precluded from reviewing would be decisions refusing to review issues relating to the schedule; and (d) providing that, except to the extent that an appeal under this chapter presents a Constitutional issue, the CAFC may not review a challenge to a factual determination or a challenge to a law or regulation as applied to the facts of a particular case.

With respect to the revisions in the House language with respect to the scope of review, the Committees note that (except where a challenge is based on Constitutional grounds) the CAFC would not have jurisdiction to review a challenge to a regulation as applied, but only a challenge to a regulation on its face, and could not reach a different conclusion on the facts from that reached below, but must accept the facts as found below.

Transfer of Personnel and Assets of BVA

Senate bill: No provision.

House amendment: The House amendment (section 7) would require the personnel, assets, liabilities, property and unexpended appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to or to be made available in connection with functions and offices of the BVA to be transferred to the BVA.

Compromise agreement: No provision.

Initial Appointment of Judges to Court of Veterans Appeals

Senate bill: No provision.

House amendment: The House amendment (section 8) would provide that the President may not appoint an individual to be a deputy chief judge or associate judge of the Court until the chief judge has been appointed, which must be done no later than April 1, 1989.

Compromise agreement: The compromise agreement (section 302) contains this provision with amendments deleting the reference to a deputy chief judge, changing the reference from deputy associate judges to associate judges, and providing that judges may be appointed after February 1, 1989.

TITLE IV—EFFECTIVE DATES AND APPLICABILITY

Effective dates

Senate bill: The Senate bill (sections 501 and 502) would provide for the Act to take effect on the first day of the first month beginning not less than 180 days after the date of enactment and provide that a civil action for judicial review—as authorized in subchapter II of chapter 71 as amended by the Senate bill—would be authorized to be instituted to review decisions of the BVA rendered on or after April 1, 1987.

House amendment: The House amendment (section 9) would provide for the Act to take effect on June 1, 1989; provide that the provisions of the Act would apply in the case of a petitioner who files a notice of disagreement with the VA on or after the date of enactment and that the BVA could not hear or decide such a case; and provide that the attorneys' fees provisions would apply to services rendered after June 1, 1989.

Compromise agreement: The compromise agreement (section 401, 402, and 403) would establish a general effective date of September 1, 1989, and provide for exceptions as follows:

(a) The following provision would take effect on the date of enactment:

(1) Section 201(b), (c), and (d), relating to setting up the new Board of Veterans' Appeals (BVA).

(2) Section 208, relating to the annual report on the BVA.

(3) Section 209, setting limitations on the awarding of performance incentives to BVA members.

(4) Sections 302 and 303, relating to setting up the Court of Veterans Appeals.

(b) Sections 202 through 207, relating to BVA adjudications, would take effect on January 1, 1989.

(c) Section 201(a), relating to the appointment and removal of the Chairman and members of the BVA, would take effect on February 1, 1989.

(d) The amendments made by the compromise agreement with respect to the establishment of judicial review would apply with respect to cases in which a notice of disagreement is filed under section 4005 of title 38 on or after the date of enactment.

(e) Section 104(a), relating to attorneys' fees, would take effect with respect to cases in which a notice of disagreement with a Regional Office decision is filed on or after the date of enactment.

AMENDMENT NO. 3726

Mr. CRANSTON. Mr. President, I now move that the Senate concur in the House amendment to the text of the bill with a further amendment which, on behalf of myself and Senator MURKOWSKI, I send to the desk, and which represents a compromise that the House and Senate Committees on Veterans' Affairs have reached on the House and Senate versions of this legislation.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself and Mr. MURKOWSKI, proposes an amendment numbered 3726.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MURKOWSKI. Mr. President, it is with a great deal of pride and satisfaction that I rise in support of the compromise amendment to S. 11, the Veterans' Judicial Review Act.

HOW WE GOT HERE: CONFLICT AND COMPROMISE

For over a decade, Congress has grappled with the question of judicial review of Veterans' Administration decisions. This issue—perhaps more than any other in the area of veterans' legislation—has produced sharp and prolonged differences of opinion.

The hub of the question, Mr. President, has always been this: How do we reconcile independent review of VA decisions with the system we've established within the VA? Put another way, how do we reconcile our desire to ensure that veterans get fair and unbiased review of their claims with our desire to ensure that the special, nonadversarial nature of the VA claims process is maintained?

We have struggled mightily with that conflict. Beginning in the 96th Congress, the Senate passed judicial review bills which would permit review of veterans' claims in Federal courts. No Senators, Mr. President, are more deserving of praise for the persistence of the Senate than my good friends AL SIMPSON and ALAN CRANSTON, the former and current chairmen of our committee. Neither one ever gave up on this important legislation.

Unfortunately, for four Congresses, we in the Senate could do no more than watch as those bills died in the House. As the saying goes, our bills "checked in, but didn't check out." The other body kept telling us that it did not share the Senate view of the problem and the solution. It kept telling us that throwing veterans' claims into Federal courts was not necessarily a good idea.

But this year—this year something different happened.

What happened is that we in the Senate let the House know that compromise was possible. On April 18, 1988, I introduced S. 2292, the Veterans' Judicial Act. It wasn't a terribly complex bill. It was a bill designed to respond to the articulated opposition to our past judicial review bills.

Under S. 2292, the Board of Veterans' Appeals would be an independent body—nearly the equivalent of an Article I court—and would ensure independent review of VA claims decisions. At the same time, the VA's "institutional decisions"—in other words, its regulations—would be subject to rigorous review in the U.S. courts of appeals. Attorneys could be paid for arguing legal questions, but not factual ones.

A lot of folks thought S. 2292 was a pretty good bill. The Disabled American Veterans thought so; the Veterans of Foreign Wars thought so; and the Judicial Conference of the United States, which represents the Federal judiciary, thought so too. But most important, on July 11, 36 Senators thought so. We sent a message to the House, Mr. President, that compromise was indeed possible on this divisive issue.

And the House heard us. Two days after Senate consideration of S. 2292 and S. 11, Chairman MONTGOMERY and Ranking Minority Member SOLOMON of the House Committee on Veterans' Affairs introduced a bill which in many ways paralleled the approach of S. 2292. On September 8, the House committee held extensive hearings and on September 15, for the first time in history, the House committee reported out a judicial review bill, H.R. 5288, which also took the approach of S. 2292. On October 3, the House passed H.R. 5288 by a vote of 400-0.

And now, after intensive negotiations with the House committee, Chairman CRANSTON and myself are pleased to present a final compromise on judicial review. I would like to describe briefly what this amendment does.

A NEW COURT: A COURT OF VETERANS APPEALS

Everyone's goal, Mr. President, has been to ensure that veterans get a fair shake on their claims for benefits. Now the Board of Veterans' Appeals does a splendid job of reviewing regional office determinations. Nevertheless, BVA is part of the VA; under law, it is subject to the instructions of the Administrator. It was, I think, generally believed that an independent review of VA claims decisions would be a fair and reasonable thing.

There have been several approaches to this objective: Past Senate bills, including S. 11, have made Federal courts responsible for that review; my bill, S. 2292, would have left fact review with the Board of Veterans' Appeals, but would have made the BVA independent of the VA; the Montgomery-Solomon bill, H.R. 5288, would have abolished the BVA and established a 65-judge article I court.

The key to the compromise today is a new court, established under article I of the Constitution: the U.S. Court of Veterans Appeals.

Under the compromise, the Board of Veterans' Appeals remains within the jurisdiction of the Administrator. BVA decisions, however, can be appealed to the Court of Veterans Appeals. That court will be an independent body composed of up to seven judges. Those judges will be appointed by the President with the advice and consent of the Senate.

Under the compromise, the Court of Veterans Appeals would have plenary jurisdiction to consider issues of law arising in the particular case. The court would not, however, be able to hold a new trial of the matter. Rather, it would review factual determinations under a "clearly erroneous" standard.

The idea, Mr. President, is that the VA and BVA are recognized as the premier factfinders. Indeed, this is absolutely consistent with every other judicial review bill which has been considered in either body. With respect to factual determinations, then, the purpose of the Court of Veterans Appeals is to provide a last "check" on BVA to ensure that a particular veterans' case, for whatever reason, isn't getting short shrift.

On the other hand, we expect a court to entertain and decide full-blown challenges to the validity of VA laws and regulations. That, too, has been a feature of every other judicial review bill. And that's exactly the authority the compromise amendment would grant to the Court of Veterans Appeals.

I would add the obvious, Mr. President: This is a new court. I understand that the American Bar Association and others will be undertaking a study of the Court of Veterans Appeals. I would urge those scholars to include all participants in their study, including representatives of veterans' services organizations, who will be playing such a key role in the development of the court.

APPEAL ON LEGAL QUESTIONS: THE COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Mr. President, unless there is a constitutional question, factual review stops at the Court of Veterans Appeals. This is a crucial point, and one on which there must be no mistake. Under the compromise, a veteran has two opportunities for review of facts: first at the Board of Veterans' Appeals, and second at the Court of Veterans Appeals.

Now under this compromise, there is one more level of review. The validity of laws and regulations can be challenged in the U.S. Court of Appeals for the Federal Circuit, an article III court with a specialized jurisdiction located here in Washington, DC. If a veteran believes that a law or regulation is invalid on its face and if that law or regulation was germane to his claim, then the veteran can ask the Federal circuit to rule on the validity of that law or regulation.

The Federal circuit cannot, Mr. President, review any factual questions in the veteran's appeal. The Federal circuit cannot review whether, in a particular case, a law or regulation was applied inappropriately. The key to the compromise—and I cannot overemphasize this point—is the limited nature of the Federal circuit's jurisdiction.

The compromise does not envision the Federal circuit as having general oversight of the Court of Veterans Appeals. The compromise permits the Federal circuit to review questions involving the validity of statutes and regulations as if it were reviewing them under a challenge to rulemaking. And that's it, Mr. President; that's it.

Now the fact that the Federal circuit can't review the facts of an individual case doesn't mean the veteran isn't getting review. Remember that the actual decision in any claim for benefits is first made at one of the VA's 58 regional offices. If a veteran is dissatisfied with that result, he or she then has two levels of factual review: the VA's Board of Veterans' Appeals and the Court of Veterans Appeals.

So I don't think we're shortchanging the veteran at all, Mr. President. And I think that's particularly true when we reflect on what would have been available under prior Senate bills. In those bills, the second layer of factual review—in other words, the place a veteran went after BVA—was in Federal courts, with a standard of review so tight that the Federal judges who testified before our committee thought that veterans would never prevail.

This amendment, Mr. President, gives veterans meaningful review. That's why I support it and urge my colleagues to do the same.

ATTORNEYS' FEES

Mr. President, the compromise also lifts the restrictions on fees which a veteran may pay an attorney for representation in a claim for benefits. Under current law, as is pretty well known, the limit is $10.

The compromise has two main rules about attorneys' fees:

First. Where the claimant and the attorney have entered into a contingent-fee arrangement, the fee is limited to 20 percent of past-due benefits awarded.

Second. All fee agreements are subject to review for reasonableness both at the Board of Veterans' Appeals and the Court of Veterans Appeals [COVA]. Such review can be triggered either on BVA's or COVA's own motion or at the request of any party. Upon review, the Board or the Court can either sustain or reduce the fee.

I think these are fair and reasonable provisions, Mr. President. While there have been proposals to establish additional "caps" on attorneys' fees, I believe that the limitation of contingent-fee arrangements and the power of the BVA and the Court of Veterans Appeals to review all agreements provides enough protection, at least for now. Rest assured that, if problems surface, we will be able to revisit this issue.

REVIEW OF RULEMAKING

In addition to dealing with the individual claim for benefits, the compromise also permits review of the VA's "institutional" decisions, in other words, VA rules and regulations.

Like S. 2292 and S. 11, the compromise makes the provisions of the Administrative Procedure Act applicable to the VA. That means essentially that the agency will be required to follow the notice and comment procedures of the act.

More significantly, like S. 2292 and S. 11 as reported, the compromise makes VA regulations subject to review under the APA in the Federal circuit. Any aggrieved person—and that could be a veteran or even a veterans' service organization—could challenge a VA regulation under the compromise. And because jurisdiction is limited to the Federal circuit, I think we can expect a consistent and coherent body of law on these important institutional decisions.

Mr. President, S. 2292 was the first bill to provide explicity for judicial review of VA rules and regulations. I believe this provision alone has the potential for significant examination of the VA's institutional decisionmaking. I support it fully.

CHANGES AT THE BOARD OF VETERANS' APPEALS

Mr. President, the compromise also makes some changes at the Board of Veterans' Appeals which tend to make it a bit more independent. For example, the Chairman would be appointed by the President; Board members, although still appointed by the Administrator, would be appointed for a term of years. While review in the Court of Veterans Appeals makes this independence perhaps less important than under other circumstances, I think that, in all, these are worthwhile changes to the Board.

OTHER FEATURES

The compromise does have other features, most of which codify certain practices of the VA. The most significant is the fact that the compromise puts into law the "reasonable doubt" provision which the VA has had as a regulation for many years.

CONCLUSION

Mr. President, I began this statement by saying that I felt both pride and satisfaction in this compromise. I think that we have shown—both the House and the Senate—that we really do want to provide meaningful review for veterans in their claims for benefits. I'm proud we've shared that objective. And even though each body has had, over the years, different approaches to that goal, I take satisfaction in the legislative process that allows us to find a true middle ground. I think that the support shown for S. 2292 helped lead the way on that search.

I urge my colleagues to support this amendment.

I thank the Chair.

Mr. THURMOND. Mr. President, I rise today in strong support of final passage of S. 11, the "Veterans' Judicial Review Act".

As many members of this body are keenly aware, judicial review of veterans' disability decisions has been considered several times by the Senate over the past few years, beginning with the 94th Congress. On five differenet occasions, the full Senate has considered and passed judicial review legislation, most recently in July of this year. In addition, during the first week of this month, the House of Representatives considered and passed judicial review legislation.

Mr. President, the compromise which has been crafted by the House and Senate Veterans' Affairs Committees will serve the veterans of our Nation well. Under existing law, the Board of Veterans' Appeals at the Veterans' Administration is the highest body to which a veteran can appeal a disability claim. The legislation before the Senate today would change that law.

First, it would change that law by permitting a veteran to appeal a decision of the Board of Veterans' Appeals to a newly created, article I, "Court of Veterans' Appeals". Consisting of up to seven members, this new article I court would review questions of law and fact arising out of decisions of the Board of Veterans' Appeals. Factual findings of the Board would be reversed only if those findings are found to be clearly erroneous.

In addition, questions of law could be appealed beyond the new "Court of Veterans' Appeals" to the court of appeals for the Federal circuit. However, questions of fact would not be reviewed by the court of appeals for the Federal circuit.

The second way in which existing law is changed is the $10 limit on attorneys' fees is abolished, and in its place, statutory language would limit attorneys' fees to 20 percent of past-due benefits in contingency fee cases. In noncontingency fee cases, there would be no statutory limit on fees, other than a requirement of reasonableness. However, any fee agreement must be filed with the Board of Veterans Appeals and the new Court of Veterans' Appeals.

Mr. President, these are the two main changes in the framework for reviewing disability claims. As a member of both the Veterans' Affairs Committee and Judiciary Committee, I commend these changes to my colleagues and urge adoption of this legislation.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table is agreed to.

Mr. CRANSTON. Mr. President, I move that the Senate disagree to the House amendment to the title of the bill.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

DEPARTMENT OF VETERANS' AFFAIRS—CONFERENCE REPORT

Mr. CRANSTON. Mr. President, I submit a report of the committee of conference on H.R. 3471 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3471) to establish the Veterans' Administration as an executive department, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 3, 1988.)

Mr. CRANSTON. Mr. President, as the chairman of the Veterans' Affairs Committee and a conferee on H.R. 3471, I am pleased to express my strong support for Senate approval of the pending measure, the conference report on H.R. 3471, the proposed "Department of Veterans Affairs Act".

Since first coming to the Senate in 1969, I have been active on veterans' affairs matters and am delighted that the Congress is finally on the verge of approving legislation that would upgrade the Administrator of Veterans' Affairs to Cabinet status—a result I have long advocated—and is doing so by means of such a good bill.

NEED FOR THE BILL

For over 50 years, the VA has been the principal Federal agency with responsibility for providing benefits and services to veterans and their survivors. The agency's basic mission is described concisely and eloquently in the words of Abraham Lincoln in his second inaugural address—"to care for him who shall have borne the battle and for his widow, and his orphan." It is through the VA that the United States meets its historic commitment to provide health care and compensation to veterans disabled during their service, assistance to the survivors of those who made the ultimate sacrifice, and readjustment assistance to all those who serve honorably in the Armed Forces during periods of war.

Today, there are over 27 million veterans and about 49 million dependents or survivors of veterans. Among Federal departments and agencies, only the Defense Department has more employees than the VA, and the VA's budget—around $28 billion—ranks seventh among Federal departments and agencies. The VA operates the largest centrally managed health-care system in the United States, furnishing care to 1.2 million inpatients and providing over 18 million outpatient visits. The VA distributed over $14 billion in income maintenance payments and approximately $625 million in education, training, and rehabilitation assistance payments in fiscal year 1988; operates one of the Federal Government's two major home loan guaranty programs, with over 4 million loans currently guaranteed; runs 109 national cemeteries and provides burial assistance for nearly 300,000 deceased veterans annually; and administers the largest direct insurance program in the country.

In light of the VA's size and importance, the agency and its programs should be accorded appropriate recognition, status, and treatment within the executive branch. President Carter recognized that by including his Administrator of Veterans' Affairs, Max Cleland, in meetings of the Cabinet. Too often, under the current administration, the head of the VA has been ignored, overlooked, or disregarded.

Because of my belief in the need to enhance the status of the VA Administrator, in 1983 I authored a provision, enacted as title V of Public Law 98-160, calling upon President Reagan to follow President Carter's lead and make the VA Administrator a member—but this time a full member—of his Cabinet. Unfortunately, President Reagan rejected this proposal then and has not acted on it since. In view of his endorsement last November of Cabinet-level status for the VA, I don't know why he has not signed an Executive order to bring that about, something totally in his power to achieve.

Thus, legislation such as the pending measure seems to be the only approach available to secure Cabinet-status for the VA. That is why I was an original cosponsor of Senator THURMOND's bill, S. 533. That also is why I submitted testimony to the Governmental Affairs Committee for the committee's hearing on December 9, 1987, and why I, along with the Veterans' Affairs Committee staff, worked closely with Chairman GLENN, the other members of the Governmental Affairs Committee, especially my good friend from Maine [Mr. MITCHELL] who serves on both of our committees, and the Governmental Affairs Committee staff, in the development of the bill through its initial consideration in the Senate and the conference with the House.

Mr. President, I made a comprehensive statement outlining my views and concerns about this legislation on July 11, when this legislation was last before the Senate, and I refer my colleagues and others with an interest in this measure to those remarks which begin on page S9224 of the RECORD for July 11, 1988.

CONCERNS ABOUT POLITICIZING THE VA

Throughout the process of the development of this legislation—from the introduction of S. 533 in the Senate last year, through the extended consideration of the legislation by the governmental Affairs Committee, floor debate here in the Senate, and my work as a conferee on this measure, I have stressed two general concerns—the risk of undue politicization of the agency and, in particular, the impact of turning the agency's Chief Medical Director and Chief Benefits Director into political appointees. These two positions traditionally have been nonpolitical, and I see absolutely no gain from changing that practice. I expressed these same concerns about politicizing the agency and its top line jobs in a November 10, 1987, meeting with the President at which he announced his support for VA Cabinet-level status.

Mr. President, although the final outcome in the conference report does not contain everyone of the limitations that I would have liked to have seen—few compromises are fully satisfactory to just one side—I am pleased to note that the Senate was very successful in having these concerns taken into account in the final legislation as it comes before the Senate today.

With references to the overall number of political appointees, the conference report includes provision for 13 Presidential appointees and also places limits on the total number of noncareer SES and schedule C appointees in the Department of Veterans Affairs. In my view, these are fair limitations on the number of political appointees and should serve to maintain the professional, nonpartisan nature of the VA once it becomes a department.

With reference to the CMD and CBD, although the conference agreement would make those positions subject to Presidential appointment and Senate confirmation, several safeguards—derived from the Senate-passed measure—have been incorporated that should prevent those positions from becoming simply political plums, to be filled by the White House personnel office on the basis of political patronage rather than on the basis of professional qualifications.

First, the legislation would require that, upon a vacancy in either position, a search commission would be set up to make recommendations to the President for a replacement. These search commissions would be composed of representatives of affected communities, veterans, one past occupant of the position—if the Secretary decides that it would be desirable for such a person to be a member of the commission—experts in the management of health care or benefits programs in the public or private sector, and the Deputy Secretary of Veterans Affairs. The VA Deputy Assistant Secretary who performs personnel management and labor relations functions would serve as the executive secretary of such a commission.

As the legislation makes clear, these commissions would exist "to recommend individuals to the President". I anticipate, as the Senate committee report stated, that the commissions would be "tasked to find individuals of high integrity and expertise." In seeking such individuals, a commission would be guided by a statement of qualifications set forth in the legislation—drawn almost verbatim from the Senate version—which should not only help inform the commission's efforts but also serve as a benchmark against which the Veterans' Affairs Committee could evaluate a Presidential nominee during the confirmation process. These qualifications statements expressly provide that appointments shall be made without regard to "political affiliation or activity."

Although a President would not be bound by the recommendations of any such commission, I believe that it would be very difficult for any President not to nominate a new CMD or CBD from the names recommended by the commission.

A second safeguard which should help maintain the nonpolitical, professional quality of the two offices is the establishment in the bill of 4-year terms of office for the two positions. Although a President would be able to remove an incumbent from either position, this term of office expresses the importance of achieving stability in these two offices. As the Governmental Affairs Committee report accompanying S. 533 notes, the 4-year term "conveys the committee's intent that continuity of service be emphasized and that the President, the Secretary, and potential nominees recognize the value of such longer term service."

In addition to the term-of-office requirement, the conference report—as did the Senate-passed bill—would require the President, if the President were to remove either the CMD or CBD before the end of the 4-year term, to notify the Congress of the reasons for the removal. Again, although this requirement would not limit the President's ability to remove an incumbent from either of the two offices, it should serve to force any such action to be based on reasons having to do with performance in office rather than partisan political considerations.

Mr. President, I note that the final agreement provides that the incumbent Chief Medical Director and incumbent Chief Benefits Director may continue to serve in their positions without the need for Presidential nomination. In addition, the incumbent Chief Medical Director may continue to serve in that position until the 4-year statutory term prescribed by section 4103(b)(1) of title 38, United States Code, expires unless the new Secretary removes the incumbent CMD for cause.

Mr. President, with further reference to the limitations in the conference report on political appointments, I note that of the up to 18 Deputy Assistant Secretary positions which could be established, at least two-thirds of them would have to have at least 5 years of continuous career-type service in the Federal civil service. In addition, the bill contains an express prohibition against considering political affiliation or activity in connection with the appointment or advancement of any person within the Department other than those in Presidential appointed positions. As the author of this provision and the phraseology regarding the qualifications of the Chief Medical Director and the Chief Benefits Director, I want to explain briefly the intent of the words "political affiliation or activity." Not only does this preclude consideration of party registration but also such political activities as compaign contributions or participation and questions about voting preference or for whom votes were cast.

RELATIONSHIP TO JUDICIAL REVIEW LEGISLATION

Mr. President, before closing, I want to note that the Senate has just taken up and passed the final compromise on legislation that will provide for judicial review of VA decisions. I am delighted that these two very vital matters are reaching fruition at the same time and that we were able to achieve this result without having to link the two measures as had been proposed when these two measures were last before the Senate in July. What I called for then has come to pass: These measures have proceeded separately but concurrently from their respective legislative paths to meet up this day on the Senate floor in their final forms.

CONCLUSION

Mr. President, I believe that our colleagues will agree that the Governmental Affairs Committee, especially the committee chairman [Mr. Glenn] and ranking minority member [Mr. Roth], and the committee staff—Len Weiss, Paul Light, and Lorraine Lewis—did an excellent job in considering the many issues related to elevating the VA to a Cabinet-level department and are to be congratulated for the care and attention that they brought to this task. I also want to note the fine work of the Veterans' Affairs Committee's ranking minority member [Mr. Murkowski] and the committee's minority staff as well as the crucial role played by Senator Mitchell, who is a member of both the Governmental Affairs Committee and the Veterans' Affairs Committee, for their effective work in the conference. Senator Mitchell and his staff member, Steve Hart, played a very valuable role as the coordinator of the two committees' efforts. Finally, I want to express my personal gratitude to Bill Brew, Ed Scott, and Jon Steinberg, of the Veterans' Affairs Committee staff, for the able assistance they gave me and for their many contributions to the final product.

Mr. President, I am satisfied that the conference report as it comes before us today is the appropriate way to proceed, and I urge our colleagues to give this measure their unanimous support.

Mr. MURKOWSKI. Mr. President, I join with my colleague as the ranking member of the Veterans' Affairs Committee.

Mr. President, since the earliest days of the Republic, the American people, the Congress, and the Senate have recognized the debt we owe to those who wore the uniform of our Armed Forces. We have responded to that debt by establishing what may be the most generous and comprehensive system of veterans' benefits in the world.

Regretfully, the 20th century has been a century plagued with war.

As a result, there are now over 27 million American veterans.

As a result, the budget of the VA exceeds $28 billion.

As a result, the Veterans' Administration is a major factor in many segments of our society.

In health care: The VA provides inpatient hospital care to over 1.2 million veterans with an additional 23 million outpatient visits every year. The VA is a leader in medical research in fields as diverse as geriatrics and AIDS.

In medical education: The VA is affiliated with over 1,000 educational institutions. Between one-quarter and one-half of America's health-care professionals received at least part of their training with the VA.

In the housing industry: The VA has guaranteed over 12 million home loans.

In education: Over 20 million veterans have obtained postsecondary education using GI bill benefits.

In life insurance: Nearly 7.4 million Americans are protected by life insurance policies administered by the VA.

In vocational rehabilitation: The VA is a leader in restoring the injured and disabled to employability.

Mr. President, veterans, their dependents, and the agency that administers their benefits pervade our society. The Veterans' Administration is second only to the Department of Defense and Health and Human Services in terms of budget. In terms of staff, it is larger than all except the Defense Department and Post Office.

It is the importance of the benefits we provide our veterans, as well as the extent of the Agency that administers them, that makes me proud to have joined with the Senator from South Carolina in his longstanding quest to include the VA in the President's Cabinet. It is the importance of these benefits, as well as the scope of the VA, that make me proud of this body as we fulfill our duty by completing a process set in motion too long ago—a process which will place the Veterans' Administration in the President's Cabinet.

I believe we must also recognize the contribution of the President of the United States to that process. It was almost 11 months ago that he firmly and strongly announced his support for this measure and, as a result, ensured its enactment. Just as America owes a debt to its veterans for their courage and service, so do the Senate and America's veterans owe a debt to the President for his courage and service in placing this measure at the top of the Nation's agenda.

Senators GLENN and ROTH have also earned the recognition of America's veterans. They have delivered on their commitment to ensure this legislation is well-crafted and delivers the reality of a Cabinet Department, not just the appearance of one.

I am particularly pleased that the conference report provides the authority for the early nomination of a Secretary of Veterans' Affairs. While I would have preferred an even earlier date, the bill will allow for prompt nomination of a Secretary and Senate confirmation hearings. These will, in turn, allow the first Secretary to hit-the-deck running when the Department of Veterans' Affairs becomes a reality.

America's veterans deserve no less. This bill is not a symbolic gesture to a special interest group because America's veterans are not a special interest group. This bill is recognition of two established facts: The fact that this country has an enormous debt to our veterans; and the fact that sound public administration calls for the Agency that administers the benefits we provide to those veterans, in partial payment of that debt, to be part of the President's Cabinet.

The bill provides no more—but, it provides no less.

Mr. President, I want to commend Senator GLENN and Senator ROTH, as I have indicated, and, of course, our good friend Senator THURMOND, who joins me on the floor for recognition at this time and to whom I will yield after thanking the members of the Governmental Affairs Committee for their excellent treatment of this legislation.

Mr. GLENN. Mr. President, I rise in support of passage of the conference report on H.R. 3471, the Department of Veterans Affairs Act.

Mr. President, we said if we were going to elevate the Veterans' Administration to Cabinet status, we would not do so by merely slapping on a few new signs and buying new stationery.

Mr. President, the conference report contains significant improvements in the way the new Department will operate, improvements that will benefit both the American taxpayers and the Nation's 27 million veterans.

Let me briefly summarize the major features of the final agreement between the two bills:

First, the new Department is established on March 15, 1989, but the next President will be allowed to appoint a Secretary anytime after January 21. That should allow a smooth transition.

Second, there will be up to 13 Presidential appointees in the new agency, but the Chief Medical Director and Chief Benefits Director will both be selected through the use of search commissions which will place an emphasis on expertise, not political affiliation.

In addition, the conference report contains clear restrictions on the numbers of noncareer senior executives and schedule C personal and confidential assistants in the Department. In short, the President will be able to appoint his own team, but will not be able to unduly politicize the Department.

Third, the agreement requires the designation of a new Chief Financial Officer and a Chief Information Resources Management Officer, both critical positions for encouraging modernization of the agency's cost accounting and information systems.

Fourth, the Secretary is required to strengthen the inspector general's office by 40 full-time positions over the coming 2 fiscal years. I do not believe that increase is enough, but it is an important first step. Further, the General Accounting Office is required to perform a study of the true staffing needs for an effective IG, and the Secretary must submit a plan for implementing the GAO recommendations.

Fifth, the conference report contains the Senate provisions to create a National Commission on Executive Organization, to be triggered into action by the next President. I know Senator ROTH and Senator LEVIN share my commitment to this Commission, and will join me in urging the next President to take this next step in improving the organization of the executive branch.

This agreement is the product of much hard work in both Chambers, and reflects a bipartisan commitment to making the elevation of VA much more than a hollow symbolic gesture. The many Senators who worked on this deserve our thanks, as do their staffs.

Mr. President, I urge passage of the conference report.

Mr. ROTH. Mr. President, on July 30, 1987 I announced my support for the creation of a Cabinet level Department of Veterans Affairs. My reasons for supporting this reorganization are rooted in the desire to provide to our veterans, their dependents and survivors, the benefits they have earned in the most effective and efficient manner possible. The House-Senate conference has now reconciled the differences between their respective bills. The legislation before us today is a strong bill, a constructive bill, and it deserves the support of each of our colleagues.

The new status of the Veterans' Administration will afford higher visibility for veterans issues. This reorganization will encourage thorough and consistent oversight by Congress and by those in private life. The new Secretary will be at the President's Cabinet table, on the same level as the other Secretaries, speaking as an equal. The inclusion of the Department of Veterans Affairs in these discussions brings a needed perspective to the policy formulation process especially in areas of health care, budget, and aging.

This legislation also creates needed management improvements for the new Department. The Secretary is granted new authority to foster increased accountability to the veterans on the part of those who manage veterans programs; more accurate and timely processing of veterans benefit claims; and, efficient and cost effective use of veterans affairs funds. The VA is also strengthened by a limitation on the amount of noncareer appointments within the Department and through needed management flexibility granted the Secretary in appointing and directing his deputies as well as reorganizing the central office.

There are caps placed on the number of noncareer appointees, and a restriction on the number of Deputy Assistant Secretaries who do not have at least 5 years in the Federal civil service in order to maintain the institutional memory and the agency tradition of career service. To increase accountability, the Secretary will be afforded up to six Assistant Secretaries, each assigned specific duties in regard to management and operation of administrative functions, two of whom will be designated Chief Financial Officer and Chief Information Resources Officer, bringing needed management and accountability to these important duties. The Office of the Inspector General is also enhanced in order to permit increased audit, investigative and internal control capability.

In addition to the management and organizational improvements to be afforded the Veterans' Administration through its elevation to Cabinet Department status, the legislation also contains a provision to establish a National Commission on Executive Organization, which would be charged with review of the structure of the executive branch. The proposal calls for the creation of a 16-member bipartisan Commission of distinguished citizens to address Federal Government structure and organization, and report their findings. These recommendations would then be passed on to the appropriate members of Congress and to the President for implementation either through legislation or executive action.

The size and array of VA programs and responsibilities justify its elevation to the President's Cabinet. The Veterans' Administration is the largest independent agency in the Federal Government. There are 27.7 million veterans in the United States and 51 million survivors and dependents who are eligible for some form of VA benefit today. That means that one-third of our entire population is eligible for benefits administered by the Veterans' Administration.

Mr. President, the legislation before us deserves the support of our colleagues for a broad array of reasons. This reorganization creates a veterans Department with the tools for strengthened management effectiveness and internal control. It is also an important symbolic recognition of our Nation's veterans who have served this country well in time of peace and war. Finally, the recommendations of the National Commission on Executive Organization will result in more effective delivery of goods and services and ultimately help to restore citizen confidence in our public institutions.

The broad support for a Department of Veterans' Affairs is impressive. President Reagan has endorsed the idea, and both the House and Senate overwhelmingly passed their respective versions of the bill. The value of the Cabinet level Department of Veterans' Affairs to the veterans and their dependents should be welcomed by all citizens. The National Commission will provide policymakers with a blueprint for a more streamlined Federal establishment. I commend this conference report to my colleagues and urge their acceptance of it.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Alaska for his kind remarks.

I am especially pleased, that after many, many years, the Senate will be sending a bill to the President to elevate the Veterans' Administration to a Cabinet-level department. As a veteran of World War II, it was a privilege and honor for me to introduce this legislation first in 1975, and on several occasions thereafter—most recently in February 1987. The conference report before the Senate today has over 70 cosponsors, and represents true bipartisan cooperation.

Mr. President, I want to spend just a few minutes discussing the history of this legislation. As I mentioned, this legislation was introduced in February 1987. Later, in November, the President announced his endorsement of a Cabinet-level Department of Veterans' Affairs at a White House meeting which I was privileged to attend. That same month, companion legislation passed the House of Representatives and later, in July of this year, a Cabinet bill passed the Senate.

My distinguished colleague from Ohio, Senator GLENN, provided very able leadership as chairman of the Governmental Affairs Committee, in moving the legislation through the Senate. A former marine, he is a man of integrity and ability, who consistently stated his desire to examine whether Cabinet-status was truly in the best interest of America's veterans.

Although the conference report differs from my original bill, it clearly reflects the extended thought and analysis of the conferees. It provides for up to 13 Presidential appointees which correspond to existing positions in the Veterans' Administration. Of course, included among these appointees is a Secretary of Veterans' Affairs who would be the voice of veterans at Cabinet meetings.

Mr. President, the distinguished Senator from Delaware, Senator ROTH, has provided very able leadership as ranking member of the Governmental Affairs Committee and as a conferee. In addition, I want to express my appreciation to the chairman of the Veterans' Affairs Committee—Senator CRANSTON; and the ranking minority member—Senator MURKOWSKI—for their contributions to this legislation.

Mr. President, we have come a long way since the establishment of the VA in 1930. Today, the VA serves a population of 28 million veterans, and about 51 million dependents and survivors of veterans. Its budget authority of $29 billion for fiscal year 1989 ranks among the largest of the Federal departments and agencies. Today, the VA operates the largest health-care delivery system of its kind in the world, with 172 hospitals, 117 nursing homes, 230 outpatient clinics, 188 readjustment counseling centers, over 12,000 physicians, and over 36,000 nurses.

As we all know, the VA continues to face increased demands upon its hospital and health care system. In fact, by the year 2000, the percentage of U.S. males 65 and over, who are veterans, is expected to double from 36 to 62 percent. Having a Secretary of Veterans' Affairs at the Cabinet table will help ensure that this aging population is not neglected.

In light of the commitment of our Nation to care for our veterans, not to mention the size and importance of the Veterans' Administration in our Government, it is appropriate that the VA become a Cabinet-level department. Though the VA will take on a somewhat different appearance, I am convinced that, in substance, our Nation's veterans will be better served by the new arrangement. In a time of great pressures to restrain the growth of Federal spending, it is most important that the Veterans' Administration be involved closely in Government planning at the highest level.

Mr. President, my statement would not be completed if I did not mention the strong support and hard work of the veteran's service organizations and other associations in this matter. The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, the Paralyzed Veterans of America, the Vietnam Veterans of America, the Military Order of the Purple Heart, the Blinded Veterans Association, the Jewish War Veterans, and the American Optometric Association all support this legislation.

Given the nature and scope of the VA, it is appropriate that we make it an executive department. Involvement in Government planning at the highest level will ensure that these Federal dollars are more effectively administered.

The time to act is now. I urge my colleagues to support this legislation.

Mr. HEINZ. Mr. President, we stand on the threshold of creating a Department of Veterans' Affairs. I have been a supporter of legislation to elevate the Veterans' Administration, and my support is based on a simple premise: we need to improve the accountability of that agency. For too long, decisions affecting the lives of 28 million American veterans and their 42 million dependents have been made at the lowest, not the highest, levels.

As a conferee on this legislation, I am honored to support this important measure. I would like in particular to commend my friend, Senator STROM THURMOND, for his longstanding and tireless efforts to make a cabinet-level VA a reality. I would also like to congratulate our chairman and ranking member, JOHN GLENN and BILL ROTH, for the very hard work in bringing this bill completely through the process.

The final product of the conference that is now before the Senate provides for an enhanced management structure, greater financial accountability, and a strengthened inspector general. It also limits the number of political appointees to prevent the politicization of the department.

I would like to stress that the Department of Memorial Affairs is preserved in the new department as the newly formed National Cemeteries Service. It is my belief that this department—which is small in size yet important in its mission—should not be diminished. I am pleased that my fellow conferees recognize the vital role played by Memorial Affairs.

Mr. President, it is my belief that the Veterans' Administration, with its vast and vital mission must have full access to, and attention from, all levels of government. Elevating the VA to a cabinet-level will give it the access and attention that it will deserve.

I am proud to have participated, both at the committee level as well as in conference, in the creation of a Department of Veterans' Affairs. In voting to pass the report, we in the Senate have a chance to demonstrate the highest level of commitment to those who served to defend liberty.

Thank you Mr. President.

Mr. SASSER. Mr. President, I rise to urge acceptance of this House-Senate conference report, H.R. 2471, the Department of Veterans' Affairs Act, legislation which would elevate the Veterans' Administration to cabinet level status. This conference report is the culmination of many years of legislative effort.

I cosponsored S. 533, the Senate veterans' department bill, and I am a member of the conference committee which reported the compromise version of this legislation to the floor. My colleagues on the House and Senate conference committee are to be commended for the work that has gone into ironing out the differences between the two bills. The fruit of our labors is a good, solid piece of legislation.

The Senate Governmental Affairs Committee worked closely with the House and Senate Veterans' Affairs Committee and with the House Committee on Government Operations on this conference report. Conference Chairman JOHN GLENN has provided extraordinary leadership from start to finish on this effort. I congratulate him for a job well done.

Every Congress since at least the 88th Congress has, to some degree, considered proposals to elevate the VA to cabinet level status. But none of these proposals has been enacted into law. This legislation creates a cabinet-level Veterans' Affairs Department that will allow veterans' interests to be represented at the highest levels of executive-branch decisionmaking.

Mr. President, one of the most important reasons for creating a Department of Veterans' Affairs is improving access to the President. Our Nation's veterans and their families—nearly a third of the American population—deserve to have their interests represented at the highest levels of policymaking by someone who understands and is sensitive to veterans' needs.

President Carter understood the importance of giving veterans direct access to the President. In 1981, President Carter provided de factor cabinet level status to the VA by Executive order. But, having direct access to the President on a statutory rather than ad hoc or discretionary basis if essential.

Mr. President, over the years, the responsibility for administering such vital programs as pension and compensation payments, vocational rehabilitation for disabled veterans, benefits eligibility evaluations, and medical care have been scattered among the War Department, the Department of the Interior, the Department of Treasury and other Federal agencies and bureaus. In 1930, most of the existing veterans' programs were pulled from their disparate locations and brought together under an independent agency—the Veterans' Administration. But still, over the years, there continues to be a need for more efficient management of veterans' programs.

The new Veterans' Affairs Department will be one of the largest and more complex agencies of the Federal Government. Its $30 billion budget and its staff of over 250,000 employees place it fifth in size among all Federal agencies. It is a major force in the housing and insurance industries. The Department will oversee the largest health care network in the Nation, and it will be a good deal larger than many existing departments.

This conference report goes to great pains to ensure that veterans' programs will be improved by increased efficiency, and improved management and oversight.

For example, the conference report provides for the formation of search commissions to select candidates to fill vacancies which may occur in two of the most important department positions—the Chief Benefits Director and the Chief Medical Director. Commission members will have expertise and experience in the various aspects of veterans' programs—benefits, health care services, et cetera. This feature is designed to assist in finding candidates who have strong managerial backgrounds as well as strong substantive qualifications.

The report also keeps the functions and services of the Department of Memorial Affairs separate. This Department will administer the National Cemetery System, and provide memorial plots markers, headstones, and monuments for veterans. This Department—to be renamed the National Cemetaries Service—will remain a distinct and separate entity so that veterans' requests may be handled expeditiously.

In addition, Mr. President, caps are placed on the number of noncareer appointees allowed at the new Department of Veterans' Affairs. These caps are aimed at striking the proper balance between political appointees and career professionals while allowing the Secretary the necessary amount of administrative flexibility to run the Department.

Finally, the conference report requires a General Accounting Office study of inspector general staffing needs and provides for appropriate expansion of the inspector general staff. The conference report would add 40 full-time staff members to the office of the inspector general which, currently is the second smallest inspector general staff, although the Veterans' Administration has the second largest work force in Government.

Mr. President, veterans all across the country are eager to see the Department of Veterans' Affairs established. Veterans' service associations fully support this effort and they have been extremely helpful in providing feedback and information on behalf of veterans all across the country. I have heard from many Tennessee veterans directly as well as the many veterans' organizations in Tennessee. I believe that the more than 500,000 veterans who call Tennessee home, as well as the other 27 million veterans throughout the rest of the country, will be extremely well served by the elevation of the VA to a cabinet-level department.

As a member of the Senate-House conference committee that has brought this conference report to the floor of the Senate, I urge my colleagues to support creation of the Department of Veterans' Affairs.

Mr. MATSUNAGA. Mr. President, I rise in support of the conference report to H.R. 3471, legislation to elevate the Veterans' Administration to Cabinet status. This measure is the culmination of much hard thinking and numerous congressional hearings on an issue of great import for the Nation's veterans.

As my colleagues are aware, the House and the Senate each has passed its own version of legislation to create a Department of Veterans' Affairs. Fortunately, both versions were crafted with mutual goals in mind; therefore, the conference report is relatively free of major disagreements concerning the structure and purpose of the new executive body. Thus, the basic outlines of the conference report in large measure reflect the original provisions of S. 533, the Cabinet status bill which 86 Senators voted to adopt on July 11.

Mr. President, the measure before us will create a Department of Veterans' Affairs, to be headed by a Secretary nominated by the President and advised and consented to by the Senate. It provides for the departmental positions of Chief Medical Director and Chief Benefits Director, both of whom would be chosen and nominated by the President from selections presented by a nonpartisan commission and confirmed by the Senate. It requires the appointment of a maximum of six Assistant Secretaries, also subject to Senate confirmation, who would be responsible for various management and policy functions, two of whom shall be designated a chief information resources officer and a chief financial officer; and, it calls for Presidential appointment and Senate confirmation of a general counsel.

From even the most cursory reading of the bill, my colleagues will quickly note that the drafters of the measure tried to walk a fine line between two seemingly incompatible goals. On the one hand, they understood the importance of giving the new Secretary the leeway necessary to manage his Department effectively. The essence of responsibility, after all, lies in having the means to discharge it. Thus, theirs was less an effort to tell the Secretary how to run his Department and more, one of establishing the philosophical goals and management principles that the Department should embody.

On the other hand, the drafters wanted to ensure that political considerations would not become the overriding concern of key personnel and offices, notably the appointive positions. To the maximum extent possible, then, the bill establishes selection processes or criteria that emphasize a prospective appointee's ability rather than his political affiliation. As with other Cabinet departments, the senior officials are made responsible not only to their Secretary, but to Congress and the President as well through both the statutory nomination and removal processes.

Mr. President, I think this is a "good government" bill in the best sense of that term: It defines responsibility without micromanaging. I believe some of the ideas are highly innovative and will go a long way toward protecting and improving the benefits to which 27 million veterans and their 51 million family members are entitled. The designation of a "Chief Financial Officer," for example, is a long-overdue notion. The services rendered by such an individual, combined with the improved access of Department officials to the highest policy councils, may help alleviate many of the serious budget problems that afflict the VA today. I wonder if the $1.1 billion fiscal year 1989 shortfall in the VA's health care account (only recently revealed to Congress) might have been avoided if the VA had been organized along the lines outlined in this measure. Perhaps the agency would have been in a better technical position to estimate health care costs more accurately, and in a better political position to fight for funding vis-a-vis other budget constituencies.

Before closing, I would like to recognize the chief forces behind the drive for the Department of Veterans' Affairs. First, I would like to recognize the sponsors of the respective House and Senate bills, Congressman JACK BROOKS and Senator STROM THURMOND for their perseverance in this matter. No one has pursued an issue with greater singularity of purpose than these two. Second, I would like to commend the chairman and ranking minority members of the House Government Operations and Veterans' Affairs Committees and the Senate Government Affairs and Veterans' Affairs Committees. Congressmen BROOKS, HORTON, MONTGOMERY, and SOLOMON worked closely with Senators GLENN, ROTH, CRANSTON, and MURKOWSKI in developing a truly bipartisan agreement. Last, but most important, I wish to commend the leadership taken on this issue by veterans themselves. Their voice, transmitted with great eloquence through the various service organizations, became in the final analysis the most potent instrument to effect this needed change.

Mr. President, I urge my colleagues to support this measure unanimously. I can see no more fitting end to the 100th Congress than the enactment of a bill that symbolically as well as substantively elevates all America's veterans to a place at the Nation's head table.

Mr. LEVIN. Mr. President, today the Senate is considering the conference report on H.R. 3471, legislation to elevate the Veterans' Administration [VA] to the Cabinet-level Department of Veterans' Affairs. I was pleased to serve on this conference committee.

The men and women who have served and sacrificed for our country deserve our gratitude and support. It is important that we structure the VA to gain the most effective management of veterans programs and to provide veterans with adequate access to the administration. Our Nation's veterans should be able to expect prompt and effective action in response to their concerns. The elevation of the Veterans' Administration to the Cabinet-level Department of Veterans' Affairs signifies the desire to reach these goals.

I am pleased that the conference report includes the Senate provision which would assist Congress in making decisions about the structure of the executive branch, the provision to establish a National Commission on Executive Organization. The Commission is charged with examining the current structure of the executive branch to develop guidelines as to which entities should be departments in the Cabinet and which should be agencies. It has been 20 years since a study of this type has been done, and in light of the growth of Federal programs and responsibilities, it is time that it be done again.

In the last 15 years, we have created the Department of Education, the Department of Energy, and, now, the Department of Veterans' Affairs, and there is talk of making the Environmental Protection Agency a Cabinet-level department. We should not continue to create departments on an ad hoc basis, without any guidelines as to whether or not such actions prove beneficial to the programs administered. The Commission's study could provide valuable information enabling Congress to make sound choices about the organization of the executive branch.

Unfortunately, in order to achieve a compromise with the House, this legislation merely sets up the Commission. It is up to the next President to decide to use it, and I will be urging that person, whoever it may be, to make use of this valuable tool.

I am disappointed that we were unable to include any provision for judicial review in the legislation. When Congress passed the Administrative Procedures Act several years ago, the VA was specifically exempted from the act's provisions, leaving veterans without the legal recourse enjoyed by the beneficiaries of other Federal agencies. It makes sense that at the time we are taking actions to improve the effectiveness of the VA, we would also seek to afford those who have served our country the same legal protections available to farmers, small business people, and countless other groups.

I have long been a supporter of judicial review for veterans and am very pleased that the Senate has passed freestanding judicial review legislation in this Congress and in previous Congresses. Until recently, judicial review had never been considered, let alone passed, by the House of Representatives. Just recently, that situation changed when the House passed its own version of judicial review legislation for veterans. It is an indication that the tide is turning, and I am hopeful that a strong and equitable judicial review bill will be passed in the near future.

● Mr. ROTH. Mr. President, on July 30, 1987, I announced my support for the creation of a Cabinet-level Department of Veterans' Affairs. My reasons for supporting this reorganization are rooted in the desire to provide to our veterans, their dependents and survivors, the benefits they have earned in the most effective and efficient manner possible. The House-Senate conference has now reconciled the differences between their respective bills. The legislation before us today is a strong bill, a constructive bill, and it deserves the support of each of our colleagues.

The new status of the Veterans' Administration will afford higher visibility for veterans issues. This reorganization will encourage thorough and consistent oversight by Congress and by those in private life. The new Secretary will be at the President's Cabinet table, on the same level as the other Secretaries, speaking as an equal. The inclusion of the Department of Veterans' Affairs in these discussions brings a needed perspective to the policy formulation process especially in areas of health care, budget, and aging.

This legislation also creates needed management improvements for the new department. The Secretary is granted new authority to foster increased accountability to the veterans on the part of those who manage veterans programs; more accurate and timely processing of veterans benefit claims; and, efficient and cost-effective use of Veterans' affairs funds. The VA is also strengthened by a limitation on the amount of noncareer appointments within the department and through needed management flexibility granted the Secretary in appointing and directing his deputies as well as reorganizing the central office.

There are caps placed on the number of noncareer appointees, and a restriction on the number of Deputy Assistant Secretaries who do not have at least 5 years in the Federal civil service in order to maintain the institutional memory and the agency tradition of career service. To increase accountability, the Secretary will be afforded up to six Assistant Secretaries, each assigned specific duties in regard to management and operation of administrative functions, two of whom will be designated chief financial officer and chief information resources officer, bringing needed management and accountability to these important duties. The Office of the Inspector General is also enhanced in order to permit increased audit, investigative, and internal control capability.

In addition to the management and organizational improvements to be afforded the Veterans' Administration through its elevation to Cabinet department status, the legislation also contains a provision to establish a National Commission on Executive Organization, which would be charged with review of the structure of the executive branch. The proposal calls for the creation of a 16-member bipartisan commission of distinguished citizens to address Federal Government structure and organization, and report their findings. These recommendations would then be passed on to the appropriate Members of Congress and to the President for implementation either through legislation or executive action.

The size and array of VA programs and responsibilities justify its elevation to the President's Cabinet. The Veterans' Administration is the largest independent agency in the Federal Government. There are 27.7 million veterans in the United States and 51 million survivors and dependents who are eligible for some form of VA benefit today. That means that one-third of our entire population is eligible for benefits administered by the Veterans' Administration.

Mr. President, the legislation before us deserves the support of our colleagues for a broad array of reasons. This reorganization creates a Veterans' Department with the tools for strengthened management effectiveness and internal control. It is also an important symbolic recognition of our Nation's veterans who have served this country well in time of peace and war. Finally, the recommendations of the National Commission on Executive Organization will result in more effective delivery of goods and services and ultimately help to restore citizen confidence in our public institutions.

The broad support for a Department of Veterans' Affairs is impressive. President Reagan has endorsed the idea, and both the House and Senate overwhelmingly passed their respective versions of the bill. The value of the Cabinet-level Department of Veterans' Affairs to the veterans and their dependents should be welcomed by all citizens. The National Commission will provide policymakers with a blueprint for a more streamlined Federal establishment. I commend this conference report to my colleagues and urge their acceptance of it.●

Mr. MITCHELL. Mr. President, the Veterans' Administration is a huge agency whose programs affect almost every aspect of American life. It deserves full cabinet status.

From the first day of the Senate Government Affairs Committee's consideration of this issue, I've said that in creating a Department of Veterans Affairs Congress has a responsibility to create one that can provide services to veterans in a consistent, effective, and efficient manner.

It's a pleasure, therefore, to voice my strong support of the conference report on H.R. 3471, that the leadership of the Government Affairs Committee, Senator JOHN GLENN and Senator BILL ROTH, have brought to the floor for final approval.

More than making a cosmetic change to the VA, the provisions of H.R. 3471 will establish a first-class executive department worthy of the constituents it will serve. This conference report deserves the enthusiastic support of the Senate.

This legislation closely tracks the bill, S. 533, passed by an overwhelming majority of the Senate in July. It gives the new Secretary and his management team the flexibility, authority, tools, resources, and accurate and timely information so important to good management.

Of particular importance, are those provisions of H.R. 3471 that would:

Create six Assistant Secretaries in the new department and provide that one will be designated as the department's Chief Financial Officer and another as the Chief Information Resources Officer;

Increase staffing in the Inspector General's Office by 20 full-time positions in both fiscal year 1990 and 1991; and

Modify the provisions of section 210(b) of title 38 that would limit the Secretary's management flexibility.

Equally as important, the conference report retains provisions from S. 533 that are aimed at retaining what has been the agency's traditional nonpartisan approach to providing veterans services and benefits.

I'd only highlight the provisions of H.R. 3471 that:

Cap the total number of noncareer Senior Executive Service [SES] appointees and schedule C personal and confidential assistants within the new department;

Require two-thirds of the Deputy Assistant Secretary positions in the new Department to be filled by individuals with at least 5 years of continuous service in the Federal civil service immediately proceeding their appointment by the Secretary; and

Retain the Senate provisions creating search committees to select Chief Medical Director and Chief Benefits Director solely on the basis of merit.

Mr. President, bringing the Administrator of Veterans' Affairs into the President's cabinet is a long-overdue step.

It only makes good management sense to have an agency whose programs, operation and expertise are so wide-ranging and extensive represented at the Cabinet table when domestic policy is formulated.

With 220,000 employees, the VA has more employees than any other Federal agency or department except for the Department of Defense. Its $29 billion budget is the fifth largest among all Federal departments and agencies.

It operates the largest health care system in the free world, encompassing 172 hospitals and 229 outpatient clinics and administers a range of benefits programs which totals $15 billion for more than 79 million potential clients—veterans, dependents, and survivors.

From that perspective alone, the VA deserves cabinet status.

But, I strongly believe that it is symbolically important to have the interests and concerns of America's veterans and their families fully represented at the highest levels of this Government when this country's domestic policies are considered and determined.

I want to express my gratitude for the leadership provided in the conference by the distinguished Senator from Ohio [JOHN GLENN] and the distinguished senior Senator from Delaware [BILL ROTH].

During the Government Affairs Committee's consideration of this proposal, both made it clear that they intended for Congress to approve legislation that in elevating the VA made whatever improvements in the agency's management structure that were necessary so as to make the new Department a first-rank department.

They are to be congratulated for their efforts.

So to are the chairman and ranking minority members of the Veterans' Affairs Committee, ALAN CRANSTON and FRANK MURKOWSKI, who worked very closely with the leadership of the Government Affairs Committee on the issues under the jurisdiction of that committee.

And finally, Mr. President, I think special commendation is due the senior Senator from South Carolina [STROM THURMOND] who has pushed for so many years, I believe since 1975, to have the VA take its rightful place to the President's Cabinet.

Senator THURMOND was recently awarded the Veterans of Foreign Wars' Distinguished Service Medal for his service and support for this Nation's veterans. His work on this issue is another demonstration of his resolve in providing recognition to the men and women who have sacrificed for this country.

I fully support giving veterans full representation at the President's Cabinet. Elevation is long overdue given the range and scope of the VA's programs and the importance of those programs to our Nation.

It is time to give America's 38 million veterans and their families a full voice in forming national policy.

ELEVATION OF THE VETERANS' ADMINISTRATION

Mr. HEINZ. Mr. President, we stand on the threshold of creating a Department of Veterans' Affairs. I have been a supporter of this legislation throughout its process, and my support is based on a simple premise: We need to improve the accountability of that Agency. For too long, decisions affecting the lives of 28 million American veterans and their 42 million dependents have been made at the lowest, not the highest, levels.

The need for this legislation is more than clear. For the second time in as many years, we see allegations that a major study—the mortality rate of the VA medical system—may have been quite literally doctored. Last year, serious questions were raised about the mortality study of marines who may have been exposed to agent orange during the Vietnam war. Moreover, the VA's ability to provide urgently needed medical care to an increasingly older veterans population appears to be in real jeopardy.

These questions deserve immediate attention from the President, and his Cabinet. Decisions must be made, soon, if our veterans are to receive the services we have authority for them. These questions should not be dealt with by managerial-level staff, alone. Yet that is what in all likelihood will be done if we fail to approve the pending conference report.

As a conferee on this legislation, I am pleased to report that we have made significant improvements in the structure and management of the VA. The final product of the conference provides for an enhanced management structure, greater financial accountability, and a strengthened inspector general. Limits on the number of political appointees except at the highest levels assures that appointees will be those who are best able to manage the Department, and who will be accountable to the Congress and the President.

I would like to stress that the Department of Memorial Affairs is preserved in the new Department as the national cemeteries service. It is my belief that this function—which is small in size yet important in its mission—should not be diminished. I am pleased that my fellow conferees recognize the important role played by memorial affairs, and that those who have lost loved ones in the service of this country can still count on their Government in their time of need.

All of us on the conference owe a great deal to the foresight of Senator STROM THURMOND, who has championed this legislation and without whom our job would have been far more difficult. In addition, I commend Senators GLENN and ROTH for their efforts to reach an effective compromise with our House counterparts in a timely fashion. They put in many long hours, and the legislation is better for it.

To conclude, Mr. President, it is my belief that the Veterans' Administration, with its vast, complex and vital mission must have full access to, and attention from, all levels of Government. Elevating the VA to a Cabinet-level will give it the access and attention that will help the VA accomplish its important mission.

I am proud to have participated, both at the committee level as well as in conference, in the creation of a Department of Veterans' Affairs. In voting to pass the report, we in the Senate have a chance to demonstrate the highest level of commitment to those who served to defend liberty.

Mr. DASCHLE. Mr. President, as we near the conclusion of the 100th Congress, we can look back with some satisfaction on the efforts this body has taken on behalf of the Nation's veterans. Perhaps there is no greater symbol of these accomplishments than this legislation to create the 14th Cabinet-level Department—the Department of Veterans' Affairs.

No one will deny the Veterans' Administration's immense responsibilities. The duty of a grateful Nation to the champions of its freedom is realized in the effective discharge of the VA's obligations. The improved access to the President which this legislation assures will enhance the VA's ability to perform those important tasks.

Furthermore, the level of attention given veterans issues in our Government is a direct reflection of the Nation's commitment to veterans. The creation of a Cabinet-level Veterans' Department raises veterans' concerns to a new and long-overdue status.

When I spoke in favor of this measure earlier this year, I emphasized that the elevation of the Veterans' Administration to Cabinet-level status must coincide with the elevation of the priority we are willing to give the crucial issues facing America's veterans. Today, as Congress nears adjournment, I am pleased that many of those critical issues have been addressed.

One crucial issue that has been addressed, at least partially, is judicial review. Veterans have cried out to us as their elected representatives for justice in the Veterans' Administration appeals process. Stories of veterans with legitimate service-connected disabilities being unable to receive compensation from the VA are all too commonplace today.

I am sure that every one of my colleagues can speak of veterans they know personally who have been denied the assistance to which they are entitled without any opportunity for independent review of those decisions. Judicial review of administrative decisions was established to ensure fairness to those who petition the Government. The current VA appeals system lacks that crucial element of fairness.

An important step toward that simple concept of fairness was taken today. By passing the judicial review bill, which provides access to the courts for veterans whose claims have been denied by the VA's Board of Veterans' Appeals, Congress has indicated its commitment to extend to veterans the legal protections they fought to preserve and were so long denied.

As a cosponsor of the Senate-passed judicial review legislation, I recognize the important door opened by this action. I am hopeful that this day will be long remembered as the day veterans were afforded the most fundamental right our Nation has to offer—the right to be treated fairly.

Congress has also responded to the drastic need for action on the severe health concerns facing veterans. Today, the Senate has acknowledged that veterans exposed to agent orange in Vietnam who suffering from cancers linked to dioxin—or other toxic agents in agent orange—deserve to be afforded the benefit of the doubt that their illnesses are service-connected by passing the Daschle-Kerry-Cranston amendment.

Under our amendment, Vietnam veterans suffering from diseases determined to be related to agent orange will receive disability compensation and will benefit from improved medical and outreach services at the VA. Veterans suffering from two rare cancers most frequently linked to agent orange—non-Hodgkin's lymphoma and soft-tissue sarcoma—would receive interim disability benefits until the Centers for Disease Control releases its next study and the VA makes its final determination.

Further health care needs of veterans are addressed in today's veterans' compensation bill. Along with the much deserved cost-of-living adjustment [COLA] for veterans and their survivors, this legislation provides for far greater awareness and treatment of post-traumatic stress disorder [PTSD]. The toll PTSD has taken on America's veterans is nothing short of staggering, and this effort to help heal those veterans' wounds is extremely important and truly welcome.

I am also very pleased that my colleagues have joined me in supporting the expansion of veterans' employment opportunities by adopting my amendment to authorize flight training benefits under the new GI bill. It is a national tragedy that one of every three homeless people on the streets of our Nation is a veteran. I am hopeful that by providing this avenue of employment some veterans will be able to avoid that fate through learning a valuable occupation that is very much in demand.

Mr. President, two important issues were addressed earlier in the 100th Congress. We can also take pride that we have reinstated beneficiary travel benefits to veterans. Medical treatment for veterans is of little use if it is not accessible. This change in policy toward VA travel reimbursement will assist veterans in securing the treatment they have been promised by our Government.

This year also marked the passage of legislation compensating veterans exposed to atomic radiation. The painful struggle for many veterans and their survivors to receive fair treatment of the claims is closer to a positive end thanks to this legislation.

While this Congress achieved a number of victories for veterans, our work is far from over. This is best demonstrated by the alarming fact that the Veterans' Administration budget for medical care faces a shortfall of over a billion dollars for the next fiscal year.

I have already received reports from the VA medical centers in my home State of South Dakota that some veterans will soon be denied medical care at VA facilities. This situation is completely unacceptable and cannot be tolerated.

The promises this Government made to its veterans should be sacred. These promises were given in return for veterans' individual sacrifices for the protection of our way of life. There are far too many suggestions being made that we need to compromise those promises—that we simply do not have room in the budget for keeping our word to veterans.

I find those suggestions preposterous. I urge my colleagues to join me in addressing the current inadequacies of funding for VA medical care programs and giving our veterans the assistance and care they have earned.

In conclusion, Mr. President, the 100th Congress will be remembered as a Congress that sought to live up to its commitments to veterans and understands that an even greater commitment to future veterans' needs is imperative. I congratulate my colleagues on what we have accomplished and look forward to working with them to meet future veterans' challenges.

The **PRESIDING OFFICER**. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. **CRANSTON**. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. **THURMOND**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MINORITY BUSINESS DEVELOPMENT PROGRAM REFORM ACT—CONFERENCE REPORT

Mr. **BYRD**. Mr. President, I submit a report of the committee of conference on H.R. 1807 and ask for its immediate consideration.

The **PRESIDING OFFICER**. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1807) to amend the Small Business Act to reform the Capital Ownership Development Program, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of October 7, 1988.)

Mr. **BUMPERS**. Mr. President, the conference report now before the Senate represents almost 2 years of work by the Senate and House Small Business Committees to clean up, to strengthen and to reform the primary Federal program for building minority-owned businesses, the Small Business Administration's section 8(a) program. Technically known as the Minority Small Business and Capital Ownership Development Program, this program has been both maligned and abused. The program has, unhappily, spawned Wedtech and Amex and a host of other all too familiar names with tawdry connotations.

What the public should know, however, is that the 8(a) program has also had many notable successes. The overwhelming majority of firms in the program have exemplary records, and most of the SBA officers and managers who administer the program are fine civil servants. Many of the up and coming crop of minority entrepreneurs are graduates of the 8(a) program.

This bill, H.R. 1807, and its Senate companion S. 1993, which I introduced late last year, will—we fervently hope—limit the potential for abuses which have occurred all too often; it will strengthen public confidence in our ability to promote minority entrepreneurship, and it will form the basis for a much better 8(a) program for firms now and especially in the future.

At the outset, I would note the uniform determination by Members of both Houses to reaffirm that the 8(a) program is intended to build strong minority-owned businesses. The program is not intended to help a favored few or to provide a long-term subsidy for anyone who cannot compete in the marketplace. It is intended to provide access to the Federal procurement system to those who have been denied access for a long time, and it is intended to build business skills and to develop capital through the performance of essential Government contracts.

I would like to review briefly some of the significant changes which H.R. 1807 will make in the 8(a) Program. First, as to program term, we are eliminating the somewhat arbitrary administrative system under which firms were given a term set by SBA, with an opportunity to seek an extension of time in the program. The only system, which gave firms an average of about 6.2 years nationally, resulted in many inequities and lent credence to the perception of political hanky-panky. This bill will establish a uniform 9-year term from the date of certification. We believe this is both substantially more generous than present law and also well justified.

Second, the bill contains a host of antiabuse provisions. It provides that the head of the 8(a) Program shall be a career civil servant rather than an political appointee. Moreover, it prohibits any SBA employee from taking or threatening to take or withhold any action based on political considerations. Any solicitation of improper conduct toward an SBA employee must be promptly reported to the inspector general. SBA employees are prohibited from owning any interest in an 8(a) firm for 2 years after leaving Government service. Finally, increased criminal penalties are established for so-called 8(a) front companies—those where a nondisadvantaged person is the real party in interest in the firm. Anyone who chooses to take such a risk may receive as much as 10 years and a $500,000 fine as his or her reward.

Third, H.R. 1807 mandates numerous procedural improvements in the program which are uniformly in favor of 8(a) firms. A 90-day turnaround is established for 8(a) applications, and Administrator Abdnor assured the committee that SBA can meet this mandate if given sufficient resources. Procedures for terminations are set out, including appeals of adverse decisions to administrative judges in the Office of Hearings and Appeals.

The bill gives new prominence to the firm's business plan and to SBA's obligation to give meaningful assistance to firms striving to meet the challenges of the marketplace. I would especially point to the success of a pilot program of transitional management assistance which SBA has been conducting with some 25 Washington area 8a firms. Programs like this are essential, in my view, to the long-term success of the program by helping to ensure that firms plan for the future. We have authorized $4 million in additional resources for the program and, I am happy to note, the Appropriations Committees saw fit to make provisions for this increase in the fiscal year 1989 appropriation measure, which has been signed by the President.

Finally, and perhaps most importantly, H.R. 1807 establishes for the first time a mandate for 8(a) firms to develop business outside of this program in order to continue receiving the benefits of 8(a), including sole-sources contracting. Mr. President, our committee's 4 days of hearings on this program showed without a doubt that the greatest failing of the 8(a) program is the lack of preparation of firms for life after 8(a). Unfortunately, some 30 percent of firms fail on leaving the program or soon thereafter for lack of any work outside of 8(a). Both SBA and the firms have some responsibility for this lack of success, but our committee concluded that only by mandating that firms show some reasonable and increasing percentage of business from sources other than 8(a) can we really expect action.

In S. 1993, the Senate voted to establish fixed percentage targets of competitive business which were mandatory for firms in order to continue eligibility for sole-source awards. The House committee had a similar concern, but elected to establish these targets merely as goals with little enforcement mechanism which we could discern. The conference substitute contains a compromise on this issue which, in my judgment, is closer to the Senate position than the House. We are directing SBA to establish by rules a system of targets which firms are required to meet in order to continue to receive the benefits of the program. The statement of managers strongly foreshadows that these targets should not be out of line with those suggested in S. 1993. The substitute, however, has several advantages over the provisions of the Senate bill. It gives SBA some flexibility in defining terms such as sales or revenues, and it requires the agency to determine the final numbers for the targets. And it gives the Agency flexibility to determine appropriate enforcement on a case by case basis. Clearly, however, the conferees intend that SBA should withhold sole-source contracts from firms in appropriate cases where little or no progress is shown toward long-term success. The statement of the managers addresses this issue in detail.

The compromise in no way lessens the importance of dealing with this problem. Rather, it shows an awareness by the conferees that the Agency which runs this program may be in a better position than Members of Congress to determine exactly what percentages of outside business are feasible in various circumstances, and that the Agency should have some flexibility in working with 8(a) firms to encourage them in every way to build competitive businesses.

Mr. President, this bill is the culmination of a long and deliberative process. It is a good bill. I do not agree with every provision of it, but I strongly agree with it taken as a whole. I urge all Senators to support this conference report.

Mr. WEICKER. Mr. President, I rise in support of the conference report on H.R. 1807, the Business Opportunity Development Reform Act of 1988 and urge my colleagues to vote in favor of this legislation. I also commend both House and Senate conferees and our respective staffs for the hard work, dedication ot the purpose of this act and long hours willingly put into making this a legislative package we can all feel proud of.

And we should feel proud because the Minority Small Business/Capital Ownership Development Program, commonly referred to as "8(A)" would likely have fallen into the "endangered species" category without the concerted effort and commitment of both committees to save, strengthen and preserve the very vital Minority Business Development Program. I have spoken many times on this floor of my support for the 8(A) Program—and the reasons why—and they don't need to be repeated. But I will again say, and the few who might have doubts about the need to continue to provide such business opportunities as this program offers, there is still much to be done if we are ever to meet the challenge of opening doors to the minority business community to enter and rightfully participate in this Nation's rich economy. There are more than 17 million small businesses in this country, yet less than 1 million are owned and controlled by minorities and more than 90 percent of those are still single owner, mom and pop operations.

H.R. 1807 will make significant changes in the 8(A) Program. The reforms we have agreed upon have received health debate, have had minority business community input and should get the program back on the right track and protect it from future abuses we are all so familiar with.

Mr. President, while the Senate and House bills had many similar provisions, the final bill represents compromises on many issues that had to be reconciled. I want to highlight the compromises reached on two key provisions, in particular.

The first issue involved the dollar threshold level for competing contracts in the program. The House bill required competition among 8(A) firms if the proposed contract award exceeded $2 million for manufacturing, construction services and retail and $1 million for all other industries. The original Senate bill called for a $5 million threshold for all contracts. We viewed this injection of competition into the program as a preventative measure to curb the abuse that had occurred on larger contracts. I think this was a good provision. It would have preserved the sole-source authority to allow smaller firms to develop before having to compete with the more mature firms. When the conferees first met on August 10, a tentative agreement was reached to set the competition thresholds at $4 and $2 million. However, there was a high level of concern in the minority business community that the lower the thresholds the less likely were agencies to offer contracts. Trying to get a steady flow of 8(A) contracts has always been a problem, to begin with. Thus, the conferees agreed to increase the thresholds slightly to $5 million for manufacturing and $3 million for all other industries which moved us closer to the Senate position. While this will not significantly change the number of contracts to be competed under the program, it will at least leave open the possibility for firms to receive slightly larger contracts for business development purposes.

The second issue involved the requirement in the Senate bill that firms achieve set percentages of competitive business during their later years in the program. This provision was designed to reduce reliance on sole-source contracts so that when firms graduate, and 8(A) contracts are no longer available, chances of survival are greater. The Senate bill set fix percentages, and if a firm failed to achieve the mandatory mix they would have been denied new 8(A) sole-sourced contracts. Instead of mandatory requirements, the House bill called for goals based on good faith efforts of firms. The concern in conference was that the Senate bill was too inflexible, did not recognize the uncertainties of business cycles and might well have been punitive. On the other hand we felt the House bill was not firm enough. The compromise that was reached adds flexibility to the Senate provision yet maintains a mandatory feature. It directs the SBA to develop regulations that establish competitive business targets firms would have to achieve beginning years 5 and 6 and for the remainder of the program. Although the specific percentages are removed from the bill, the conferees, in report language, provided the Agency with benchmarks for requirements that must be met by 8(A) firms. Thus, while the conference agreement gives needed flexibility to administer this provision, the conferees clearly expect the Agency to vigorously enforce the business mix with a wide-range of remedial measures. Such measures include limitations on sole-source 8(A) awards or other actions which the SBA deems appropriate to assist firms to develop competitive business. In summary, these targets are not intended to be viewed simply as goals, but rather as specific mandates developed by the Agency through regulations.

Other highlights of this final conference package include:

A program term of 9 years from the date of a firm's certification; this increases the maximum time of program participation from the current 5-7 years and should do away with the politics of deciding whether firms should get extensions.

SBA is required to act on a complete application for program entry within 90 days, rather than the 18 months to 2 years it has taken in the past for many who have sought 8(a) certification from the Agency.

To aid graduated firms that need to raise capital for their businesses, the act allows minority ownership of dip below 51 percent as long as the minorities still own the largest block of outstanding stock of the business and are responsible for its day to day operation.

A perennial problem for the 8(a) Program has been getting a flow of contracts from all procurement agencies to make the concept work; the conferees agreed to a provision for a 5-percent Government-wide goal for minority businesses and a 20-percent small business goal.

Mr. President, the success of these reforms, as is the case with any Federal program, will only be as good as the ability of the people who implement it. SBA personnel resources in this program have been scarce. To address the excess workload, we have authorized additional SBA employees for the program as well as, funding to train personnel to be able to carry-out their jobs.

A number of other provisions in the act are intended to ensure smoother and more efficient operation of all aspects of this business development program, revise the arbitrary and often inconsistent decisionmaking in the Agency and render stiff penalties and fines for fraud and abuse. Again, I give high praise to both House and Senate committees, the conferees and all of the respective staffs, including my own, for a very thorough and necessary overhaul of this program—one that should benefit all that are concerned. I am pleased with the outcome.

Again, I ask that my colleagues vote in favor of the conference report.

Mr. LEVIN. Mr. President, I rise today in support of H.R. 1807, the Minority Business Development Reform Act of 1988. This bill addresses longstanding problems with the 8(a) Program of set-asides for minority small businesses. Senators BUMPERS and WEICKER and their staffs have worked hard to reach agreement with the House on this bill, and I commend them for their great efforts.

The 8(a) Program is intended to give disadvantaged individuals a chance to own their own businesses and to bring them needed jobs and training by giving them an opportunity to participate in the Federal acquisition process. When it works right, the 8(a) Program provides important business opportunity to members of our society who have long been denied such opportunity.

All too frequently, however, the 8(a) Program has not worked as it was intended. In the course of a year-long investigation of the abuse of the 8(a) Program by the Wedtech Corp., the Governmental Affairs Subcommittee on Oversight of Government Management, which I chair, learned that as to Wedtech, the program was used not to build minority-owned business, but to line the pockets of the company's already wealthy owners and consultants. Over a 3-year period, from 1983 to 1986, Wedtech's disadvantaged owners sold a majority of their company to non-disadvantaged individuals, became millionaires, and were still able to use their connections to remain in the program and receive lucrative Federal contracts on a sole-source basis.

Indeed, hearings conducted by the Senate Small Business Committee indicate that the administration of the 8(a) Program has been seriously flawed for a number of years. Since the inception of the program, the Small Business Administration has consistently failed to distribute the resources of the program equitably or to provide effective advice and assistance to 8(a) companies attempting to develop mature businesses. As a result of these failures, approximately half of the program participants have never received a single contract, while other companies are dependent on the 8(a) Program for more than 90 percent of their contracts and, as a result, leave the program without a reasonable possibility for success in the competitive marketplace.

This bill addresses those problems. It tells the SBA that the 8(a) Program is intended to assist those who are truly disadvantaged to build their own businesses and not to help those who are already rich become richer. It tells the SBA that it should be promoting the development of balanced, competitive businesses and not building firms that are totally dependent on the program and will collapse upon graduation. It tells the SBA that contracts should be awarded on an objective basis to those who have earned them, and not on the basis of political connections.

Mr. President, we need the 8(a) Program. We need to continue bringing disadvantaged businesses into the main stream of our economy. At the same time, we need to reform the 8(a) Program to ensure that resources and assistance are more effectively targeted to build viable, competitive businesses. We cannot tolerate continued abuse of this program.

H.R. 1807, the bill now before the Senate, is a solid bill, but it cannot be successful in cleaning up the 8(a) Progarm unless the SBA itself places a greater emphasis on administration of the program. I again commend Senators Bumpers and Weicker and their staffs for their work on this bill, and I urge my colleagues to join in supporting it.

Mr. HELMS. Mr. President, I would like to ask the chairman of the Conference Committee, my colleague from Arkansas, Mr. Bumpers for some clarification regarding an apparent inconsistency between the text of the bill and some language in the joint explanatory statement.

My question pertains to the Small Business Competitiveness Demonstration Program established by title VII of H.R. 1807. As the joint explanatory statement indicates, this program originated in the Senate amendment of H.R. 1807. The House bill made no provision for such a program.

This Demonstration Program is designed to test the competitiveness of small business in four designated industry groups to succeed in the Federal procurement market. One of these industry groups is refuse systems and related services. Section 717(c) of the bill set forth in the conference report specifies that [r]efuse systems and related services shall include contract awards assigned to standard industrial classification code 4212 or 4953.

The inconsistency I see is that the joint explanatory statement more narrowly specifies the contract awards to be included in the industry group of refuse systems and related services than does the language of the bill. The joint explanatory statement suggests that only certain business activities within the standard industrial classification of refuse systems, SIC code 4953, are to be included in the bill's designated industry group of refuse systems and related services.

This apparent limitation also seems inconsistent with other statements in the joint explanatory statement. For example, section 717 of the joint explanatory statement unambiguously states that the requirements of the program including monitoring of contract awards, measuring attainment of small business participation goals, and modifications to contract solicitation practices to attain such goals, shall be undertaken on the basis of these individual SIC codes.

Further, the joint explanatory statement goes on to note that consistent efforts shall be made to achieve these goals evenly across all of the standard industrial classification, SIC, codes that comprise a designated industry group. Firms within individual SIC codes should not be disproportionately burdened.

Mr. President, I ask the distinguished chairman of the Conference Committee which language he believes expresses the intent of the Demonstration Program.

Mr. BUMPERS. Mr. President, I thank the Senator from North Carolina, Mr. Helms for seeking this clarification for it does appear that the joint explanatory statement may be misleading on this point. First of all, let me assure him that without question the language of the bill controls over the joint explanatory statement.

With respect to the specific question he raises regarding the designated industry group of refuse systems and related services, it was our intention that all contract awards assigned to the standard industrial classification code 4953, refuse systems, are to be counted. With respect to contract awards assigned to the standard industrial classification code 4212, local trucking without storage, only those local trucking activities related to collecting and transporting refuse are to be included in the Demonstration Program's definition of refuse systems and related services. This is consistent with the current edition of the Standard Industrial Classification Manual issued by the Office of Management and Budget in 1987.

Mr. DIXON. Mr. President, as the sponsor of the bill, S. 1559, which is the basis of title VII of H.R. 1807, that is also my understanding. The apparent suggestion in the joint explanatory statement that only some of the contract awards assigned to the standard industrial classification code 4953 are to be included in the industry group of refuse systems and related services would be inconsistent with the intent of the Demonstration Program. I would add that we fully understood that many small business concerns, and most emerging small business concerns, were unlikely to possess the independent capability to handle some of the refuse services covered within the classification, especially those that require extensive capital equipment. That, Mr. President, is the reason why we encouraged joint ventures and teaming agreements.

I would also note that my colleague from North Carolina has skillfully identified other passages from the joint explanatory statement that effectively capture the point he sought to make and with which we agree. Like my good friend from Arkansas, I thank the Senator for calling these inconsistencies to our attention. It will certainly result in a better implementation of the Demonstration Program by the executive agencies.

Mr. HELMS. I thank the chairman of the conference committee and the sponsor of title VII for this clarification. This should provide sufficient direction to the Office of Federal Procurement Policy in formulating its directive and test plan for conducting the Demonstration Program as intended by this legislation.

Mr. BREAUX. Mr. President, I would like to direct a question to the bill manager of H.R. 1807 with respect to title VII of the bill. I note that section 722(b) of H.R. 1807 provides that subcontract awards may be counted toward the attainment of the small business participation goals of that section, provided that there is available a system for the collection of data relating to the award of subcontracts under dredging contracts awarded by the corps. I want to first state for the record that as the result of a provision I authored in the Water Resources Development Act, section 938(a) of Public Law 99-662, the U.S. Army Corps of Engineers now collects and reports contract award data by SIC Code, including the number and dollar amount of all contracts and subcontracts awarded small business concerns and to small disadvantaged business concerns through restricted or unrestricted competition. The corps currently requires contractors to report all their direct subcontract and other commitments on standard form 294. This data is already collected by the corps. Therefore, I would like to ask the distinguished Senator from Arkansas [Mr. Bumpers] if such awards to small business concerns and small disadvantaged business concerns may be counted toward achieving the goals in section 722(b) at the start of the test program for dredging rather than later on during implementation.

Mr. BUMPERS. The distinguished Senator from Louisiana [Mr. Breaux] is correct.

Mr. BREAUX. I thank the Senator.

Mr. DIXON. Mr. President, I rise today in strong support of H.R. 1807, the Business Opportunity Development Reform Act of 1988. It contains important reforms to the minority Business Development Program operated under section 8(a) of the Small Business Act.

It is indeed unfortunate that this program has not fulfilled its objective, to help small disadvantaged companies develop into viable healthy businesses. Data gathered by our committee clearly shows that the failure of the business development aspects of the program has, in turn, led to the failure of a high proportion of participating companies after their graduation. We have seen this program dissolve over the years into a contracts award program, and not a very good one at that. Its legacy includes such well-known contract abuses as Wedtech. Further, award of these sole-source contracts has made many companies dependent on the program and they are naturally reluctant to leave. In its current state, this is not the type of program which fosters the development of small businesses able to compete successfully in the marketplace.

The reforms which we have embodied in this bill will once again return the 8(a) program to the business development tool which disadvantaged businesses need and deserve. It was my privilege to work with my good friend Senator BUMPERS, who led the Small Business Committee through the difficult process of designing meaningful changes in the program.

Further, Senators WEICKER, KERRY, and LEVIN each contributed substantially to the bill through their individual investigative efforts.

Mr. President, I am pleased to also have added to this important small business bill. I introduced the legislation which is contained in title VII of this bill. My small business competitiveness demonstration program addresses a problem which faces all small businesses; namely, the disproportionate distribution of small business contracts. This pilot program will demonstrate the competitive abilities of small firms in specific industries while improving the overall distribution of small business contracts. Several important safeguards for small businesses in general, as well as for very small businesses, have been included.

Mr. President, I again congratulate my colleagues on the excellent bill we have before us. I know that it is the result of much effort and consideration. I want to thank the staff of the Small Business Committee for their tireless work, specifically John Ball, Bob Dotchin, and Bill Montalto. I also want to acknowledge the efforts of my legislative assistant, Scott McFerren, for his contributions.

I firmly believe that the 8(a) program can be effective in developing disadvantaged businesses if it is administered correctly, if it concentrates on business development, and if it promotes the competitive viability of participating companies. The reforms which we enact today will ensure that these aims are clearly understood by all.

TITLE VII

Mr. President, the conference report on H.R. 1807 describes one of the most significant procurement reforms of this Congress. Members of the Small Business Committee, on both sides of the aisle, have labored long and hard to produce a thoughtful bill—representing sound public policy and important procurement reforms. Title VII, the Small Business Competitiveness Demonstration Program, is an integral part of this bill.

I am proud to have introduced this legislation designed to enhance Small Business participation in the Federal procurement process. The Small Business Committee held several hearings on the program and received extensive supporting testimony from public and industry witnesses. As a result, this legislation was included in the Senate's version of this important reform measure.

In conference with our House counterparts, we showed very clearly and convincingly that this program is good for small business and good for the economy. Under the able leadership of Chairman BUMPERS, the House agreed to accept the demonstration program with a few minor modifications.

Mr. President, let me take a few moments to describe the events which led to the development of this program. An examination of the distribution of small business awards reveals a distorted picture. Within a few industries, approximately 60 to 70 percent of the contract dollars are set aside. This compares to less than 3 percent in some other industries. It is obvious that if we continue to use set-asides to this degree, we are violating the fair proportion principle—a principle at the core of Federal small businesses assistance efforts.

Now there are some on Capitol Hill who would have us believe that size standard reductions are the best way to achieve a wider distribution of contract awards. But I can tell you, after conducting several hearings on this problem, that thousands of small businesses across this country would be severely impacted by size standard reductions. Furthermore, there is absolutely no assurance that size standard reductions would result in contracts being more fairly distributed. Thus, I set out to remedy the proportion problem without having to resort to size standard changes. What we succeeded in developing, after listening to countless industry and government procurement experts, represents a workable and equitable solution.

There are several points of the program which I would like to highlight for my colleagues. To begin, we permit small businesses in designated industries to demonstrate their competitive abilities. Thus, except for 8(a) and section 1207 awards, Federal contracts will not be restricted through the use of set-asides, but will be subject to open competition. Based upon the testimony we received in the Small Business Committee, we expect at least 40 percent of the contract dollars will go to our Nation's small firms. The results of this test will be measured frequently and monitored closely. If small business participation in these industries does not reach a goal of 40 percent, contracts will once again be set-aside for competition among small businesses. After the goal is reached, open competition will be reinstituted and the measurement and monitoring will continue.

Concurrent with the demonstration test, agencies will be required to reach out to underrepresented industries. For small businesses in these industries, participation in the Federal marketplace has remained an elusive dream. Less than 10 percent of the contracts have gone to small companies in these industries. The administrators of the Office of Federal Procurement Policy and the Small Business Administration will be required to work with contracting agencies to develop programs which will enhance small business participation in these underrepresented industries.

Mr. President, emerging small companies often do not have much experience in dealing with the Federal Government. Thus, their ability to prepare and win competitive Federal contract bids is not as developed as that of even the larger small companies. This situation was not lost on the conferees. We added a provision that while full and open competition is being tested within the designated industries, specific actions will be taken to protect companies which are one-half of the current size standard. The Office of Federal Procurement Policy is authorized to adjust the small business reserve in order to assure that at least 15 percent of the contract dollars will go to these emerging companies. This goal is a part of, not in addition to, the 40 percent goal for all small businesses. In summary, we will be able to test the competitive abilities of small businesses in general without sacrificing very small businesses in the process.

The Administrators of the SBA and the Office of Federal Procurement Policy will review the results of this demonstration program and will report to Congress their findings. Included in the report will be any recommendations they may have regarding permanent changes to Federal procurement practices as a result of this pilot program.

I strongly believe that greater small business participation can be achieved through this program while increasing the extent of competition within the Federal procurement process.

Mr. President, I thank Senator BUMPERS and Senator WEICKER for their role in helping me to resolve this nettlesome problem. As chairman and ranking member of the Small Business Committee, their support was critical in developing an acceptable alternative to size standard reduction. The input of our House colleagues during the conference, led by Chairman LAFALCE and ranking member MCDADE, is also most appreciated.

My personal thanks are extended to John Ball, Bob Dotchin, and Bill Montalto of the Small Business Committee, and to Scott McFerren my legislative assistant, for their diligence in crafting this initiative.

Mr. BREAUX. Mr. President, I am pleased to rise today in support of the conference report on H.R. 1807.

Both the small business and minority business set-aside programs, when properly implemented, are effective tools in the Government's efforts to make certain these types of firms receive a reasonable share of contracting opportunities.

I would like to take this opportunity to commend the distinguished chairman of the committee, Senator BUMPERS, and the distinguished subcommittee chairman, Senator DIXON, for their vision in correcting the longstanding problems in the small business program, and I commend them and their staffs for their very cooperative attitude in working with me and other Senators on this conference report.

One provision of particular importance relates to the small business set-aside program. Contracts have been issued by the Government following strict guidelines which were not keeping pace with the real world as it related to the shipbuilding community and other industries. This conference report provides a pragmatic approach to the small business program by instituting a Government-sponsored demonstration program. In this way, individual industries can be monitored more closely to determine whether permanent changes in the small business set-aside regulations are warranted in the future.

The other body adopted similar language to Mr. DIXON's demonstration projects, and, through the cooperation of the chairman and his very able staff, we were able to include the nonnuclear ship repair industry in the final conference report. I thank the Senator from Illinois and his staff for their assistance to this critically important industry so vital to the national security of our Nation.

I am also delighted that the conferees have agreed to a provision that was in the Senate bill and is now section 742. That provision makes a permanent clarification of the application of the Brooks Act to surveying and mapping services to all Federal agencies.

As a Member of the House of Representatives, I was involved in clarifying this issue in the Corps of Engineers with a provision in the Water Resources Act of 1986, Public Law 99-662, and with regard to Superfund, Public Law 99-499.

As a Member of this body, I have authored provisions in the highway bill, Public Law 100-17, and airport bill, Public Law 100-223, with regard to use of a qualifications based selection process for architecture, engineering, surveying, mapping and related services on grant programs.

Traditionally, Government procurement procedures properly have emphasized awarding contracts to the lowest bidder, or using price as a dominant factor. For many goods which Government purchases—paper, office equipment, desks, even construction services—this process serves the Government and the taxpayer well. Specifications can be written, products can be inspected and tested and safeguards can be built in to assure saving money.

Sometimes, however, agencies mistakenly assume professional surveying and mapping services fall into this category.

Unfortunately, the assumption ignores the increase in costs to administer the preparation of detailed scopes of work and bid specifications, evaluation of numerous bids, and to remedy serious consequences of unprofessional surveying and mapping. Quality, therefore, should always be the primary focus in the competition for surveying and mapping procurements. Only after high quality performance is ensured should the focus turn to the contract price.

State licensing, and the high standards established by professional organizations for their members, exemplify the critical nature of surveying and mapping work.

So, too, Government procurement regulations for these professional services should be designed to protect the public health and safety during and after contract performance. If inaccurate, a survey could cloud land titles or jeopardize subsequent construction designs that must rely on accurate survey data. Just as a poorly designed dam can burst, subjecting the State to huge claims, so too can a poorly planned or executed survey unleash a flood of problems, creating an impediment to the expeditious completion of a government project, causing substantial loss of time and money, and jeopardizing the public safety. Like a well made dam, a high quality survey or map will stand the test of time and will ensure that the Government can proceed with its design, construction or resource planning project based on complete and precise groundwork.

In addition to the direct cost of the contract, the Government must be concerned about such consequent indirect costs as physical destruction of property or clouded claims that could result from poor quality workmanship.

The Government should negotiate contracts for these services independent of other professional design or construction services to ensure that specialized surveying and mapping skills and technologies are evaluated properly and not overlooked. In this manner, the Government will benefit from direct control of both the quality of the services and the survey or map's development.

The use of the qualifications based, negotiated procedure directs the focus of procurement activity where it should be, on the quality of the surveying and mapping services specifically suited to a given contract. The Government agency publicly announces its requirement; all competitors must submit their qualifications to the procuring agency; the agency assesses the relative expertise of the competing firms; and the one most qualified firm is selected for a negotiation of the scope of work the particular procurement, and a fee that is fair and reasonable to the Government. A safeguard is built in whereby if the agency and the selected firm cannot negotiate a fee that is fair and reasonable to the Government, negotiations are terminated and a negotiation commences with the firm next in order of qualifications.

Such a procedure produces a more cost effective surveying or mapping service than can be achieved under price bidding procedures. By surveying and mapping, I am referring to the many professional services the Government obtains from private surveying and mapping firms. This includes activities associated with measuring, locating and preparing maps, charts, or other graphical or digital presentations depicting natural or man made features, phenomena, and legal boundaries of the Earth, performance of which, under this provision, is provided by licensed, certified or otherwise qualified professionals, such as surveyors, geodesists and photogrammetrists. Under this provision, if there is an applicable State licensing law, it shall be followed.

Mr. President, this provision is supported by the Committee on Federal Procurement of Architecture and Engineering Services, the Design Professionals Coalition, the Management Association for Private Photogrammetric Surveyors [MAPPS] and other groups in the industry. Surveying and mapping is becoming a critical part of today's technology. The development of computers and the use of surveying and mapping data in land information systems, geographic information systems, and multipurpose cadastres make it necessary that these services be of the highest quality, while at a fair and reasonable price. I commend the Senator from Arkansas, Mr. BUMPERS, the Senator from Illinois, Mr. DIXON, and the Senator from Connecticut, Mr. WEICKER, for including this important provision.

Mr. BOND. Mr. President, as a member of the Small Business Committee, I am pleased to support the conference report accompanying H.R. 1807, legislation which amends the Capital Ownership Development Program. I commend the conferees for their hard work on the report. It is a good compromise which makes several very significant and much needed reforms in the 8(a) program.

One of the major changes agreed to by the conferees is a requirement that eligible 8(a) companies compete for contract awards which are over a certain amount. The threshold is $5 million for manufacturing contracts and $3 million for all other contracts. For the first time there will be competition in this program, Mr. President, and I think it will greatly benefit the companies involved.

The conference agreement also requires that firms participating in the program make an active effort to solicit business outside of the program. Businesses should use 8(a) contracts to strengthen their existing business base; they should not be relied on as the sole source of business which has so often been the case in the past.

The conferees also agreed to set a 9-year limit on the length of time a company may participate in the program. This is an improvement over current law which has allowed many companies to remain in the program 12 years or more.

Finally, the legislation closes a major loophole in the law by giving the Government the authority to terminate an 8(a) contract if it is transferred to a company which is not a certified program participant. The businesses which have taken advantage of this loophole over the years have damaged both the program and the legitimate and hardworking companies which are the majority of the program's participants. It's high time these abuses were stopped.

Mr. President, the 8(a) program is an important one for my State. Last year, 60 contracts worth approximately $24 million were awarded in Missouri. These new requirements will help ensure that disadvantaged businesses have a better opportunity to improve their skills so that they can become part of the economic mainstream of this country.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1081.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1081) entitled "An Act to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan, do pass with the following amendments.

SHORT TITLE

SECTION 1. This Act may be cited as the "National Nutrition Monitoring and Related Research Act of 1988".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutrient and non-nutritive content) of food consumed in the United States;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—

(A) dietary, nutritional, and health status measurements;

(B) food consumption measurements;

(C) food composition measurements and nutrient data banks;

(D) dietary knowledge and attitude measurements; and

(E) food supply and demand determinations;

(2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the term "comprehensive plan" means the comprehensive plan prepared under section 103;

(5) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title submitted to Congress in September 1981 by the Department of Agriculture and the Department of Health and Human Services, under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178);

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established under section 201;

(7) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly;

(8) the term "local government" means a local general unit of government or local educational unit; and

(9) the term "nutritional quality" means—

(A) the appropriate levels of individual nutrients in the diet;

(B) the appropriate levels between nutrients in the diet;

(C) the bio-availability of nutrients such as absorption, digestion, and utilization; and

(D) the nutritional importance of non-nutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

ESTABLISHMENT OF THE COORDINATED PROGRAM

SEC. 101. (a) There is established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this Act.

(b) The Secretaries shall be responsible for the implementation of the coordinated program.

(c) To assist in implementing the coordinated program, there is established an

Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as determined appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months for the two-year period following the date of the enactment of this Act, and when appropriate thereafter.

(d) To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

(1) be an individual who is eminent in the field of nutrition monitoring and related areas, and be selected on the basis of the established record of expertise and distinguished service of such individual; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

FUNCTIONS OF THE SECRETARIES

SEC. 102. (a) The Secretaries, with the advice of the Board, shall—

(1) establish the goals of the coordinated program and identify the activities required to meet such goals, and identify the responsible agencies with respect to the coordinated program;

(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, in accordance with the provisions of this Act, to encourage and assist the conduct, by Federal and non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in sections 103(a)(5) and 103(b)(9));

(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, a report, on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including, but not limited to, nutrient and non-nutrititve content) of food consumed in the United States; and

(9)(A) foster cost recovery management techniques in the coordinated program; and

(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

(b) The Secretaries shall submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following the date of the enactment of this Act, a biennial report that shall—

(1) evaluate the progress of the coordinated program;

(2) summarize the results of such coordinated program components as are developed under section 103;

(3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under subsection (a)(8), and future priorities for nutrition monitoring and related research;

(4) include in full the annual reports of the Council provided for in section 202; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

DEVELOPMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM

SEC. 103. (a) The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) sample representative subsets of identifiable low income populations (such as Native Americans, Hispanics, or the homeless), and assess, analyze, and report, on a continuous basis, for a representative sample of the low-income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the activities of the Federal agencies.

(b) The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1990, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statistically reliable estimates of high-risk groups and geopolitical or geographic areas, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

(A) obtaining dietary and nutrition status data;

(B) developing related data bases; and

(C) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) The comprehensive plan shall—

(1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;

(2) contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and

(3) constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the 10-year period of the program.

(d)(1) Within 12 months after the date of enactment of this Act, the Secretaries shall publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than 60 days.

(2) Within 60 days after the comment period under paragraph (1) expires, and after considering any comments received, the Secretaries shall submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

(e) Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies—

(1) the department or agency to which funds are appropriated; or

(2) the obligations of such department or agency with respect to the use of such funds.

IMPLEMENTATION OF THE COMPREHENSIVE PLAN

SEC. 104. (a) The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(2), and shall be—

(1) carried out in accord with, and meet the program objectives specified in, section 103(a) and paragraphs (1) through (11) of section 103(b);

(2) managed in accord with paragraphs (12) through (14) of section 103(b);

(3) carried out, by the Federal agencies involved, in accord with the allocation of functions and activities under section 103(c); and

(4) funded by appropriations made to such agencies for each fiscal year of the program.

(b) Nothing in this title may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF THE COORDINATED PROGRAM AND COMPREHENSIVE PLAN

SEC. 105. The Secretaries shall coordinate the conduct of, and may contract with the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies, for such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this Act.

ANNUAL BUDGET SUBMISSION

SEC. 106. (a) The President, at the same time as the submission of the annual budget to the Congress, shall submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report shall detail, for each of the agencies that are allocated responsibilities under the coordinated program—

(1) the amounts spent on the coordinated program during the fiscal year most recently ended;

(2) the amounts expected to be spent during the current fiscal year; and

(3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

(b) Nothing in this title is intended to either—

(1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or

(2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a)(1) The President shall establish, within ninety days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity to the Secretaries.

(2) The Council shall consist of nine voting members, of whom—

(A) five members shall be appointed by the President; and

(B) four members shall be appointed by Congress, of whom—

(i) one shall be appointed by the Speaker of the House of Representatives;

(ii) one shall be appointed by the minority leader of the House of Representatives;

(iii) one shall be appointed by the President pro tempore of the Senate; and

(iv) one shall be appointed by the minority leader of the Senate.

(3) The Council also shall include the joint chairpersons of the Board as ex officio nonvoting members.

(b) Each person appointed to the Council shall be—

(1) eminent in the field of administrative dietetics, clinical dietetics, community nutrition research, public health nutrition, nutrition monitoring and surveillance, nutritional biochemistry, food composition and nutrient analysis, health statistics management, epidemiology, food technology, clinical medicine, public administration, health education, nutritional anthropology, food consumption patterns, food assistance programs, agriculture, or economics; and

(2) selected solely on the basis of an established record of distinguished service.

(c) The persons appointed to the Council by the President shall include—

(1) one member who is a director of a nutrition research unit that is primarily supported by Federal funds, and who has a specialized interest in nutrition monitoring;

(2) one member who is an employee of a State government and has a specialized interest in nutrition monitoring;

(3) one member who is an employee of a local government and has a specialized interest in nutrition monitoring; and

(4) one member who is an appointed representative of the Food and Nutrition Board, National Academy of Sciences.

(d) The Council membership, at all times, shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations.

(e) The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed five years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(f) The term of office of each of the voting members of the Council shall be five years, except that of the five members first appointed by the President, two shall be appointed for a term of two years, two for terms of three years, and one for a term of four years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. No member shall be eligible to serve continuously for more than two consecutive terms.

(g) The initial members of the Council shall be appointed or designated not later than ninety days after the date of the enactment of this Act.

(h) The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(i) Appointed members of the Council may not be employed by the Federal Government and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(j) The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

(k) The Council shall terminate 10 years after the final comprehensive plan is prepared under section 103.

FUNCTIONS OF THE COUNCIL

SEC. 202. The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the com-

prehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that—

(A) shall contain the components specified in paragraphs (2) and (3); and

(B) shall be included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 102(b).

TITLE III—DIETARY GUIDANCE

ESTABLISHMENT OF DIETARY GUIDELINES

SEC. 301. (a)(1) By January 1, 1990, and at least every five years thereafter, the Secretaries shall publish a report entitled "Dietary Guidelines For Americans". Each such report shall contain nutritional and dietary information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

(2) The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.

(b)(1) Any Federal agency which proposes to issue any dietary guidance for the general population or identified population subgroups, shall submit the text of such guidance to the Secretaries sixty days before the publication of the notice of availability for comment required to be published in the Federal Register under this section.

(2)(A) During the sixty-day review period established in paragraph (1), the Secretaries shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the "Dietary Guidelines for Americans" or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretaries. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it shall be returned to the agency. If either Secretary finds that such guidance is inconsistent with the "Dietary Guidelines for Americans" and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with the "Dietary Guidelines for Americans" the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose for the proposed dietary guidance;

(ii) provide in such notice for a public comment period of thirty days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) After review of comments received during the comment period either Secretary may approve for dissemination by the proposing agency a final version of such dietary guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

(C) Any such final dietary guidance to be disseminated under subparagraph (B) shall be announced in a notice published in the Federal Register, before public dissemination along with an address where copies may be obtained.

(D) If after the thirty-day period for comment as provided under subparagraph (A)(ii), both Secretaries disapprove a proposed dietary guidance, the Secretaries shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

(E) If a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval under subparagraph (D), request the Secretaries to review such disapproval. Within fifteen days after receiving a request for such a review, the Secretaries shall conduct such review. If, pursuant to such review, either Secretary approves such proposed dietary guidance, such guidance may be issued by the Federal agency.

(3) For purposes of this subsection, the term "dietary guidance for the general population" does not include any rule or regulation issued by a Federal agency.

(4) For purposes of this subsection, the term "identified population subgroups" shall include, but not be limited to, groups based on factors such as age, sex, or race.

(c) This section does not place any limitations on—

(1) the conduct or support of any scientific or medical research by any Federal agency;

(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or

(3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

NUTRITION TRAINING REPORT

SEC. 302. The Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, shall submit, within one year after the date of enactment of this Act, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.

TITLE IV—DRUG-FREE WORKPLACE

DRUG-FREE WORKPLACE

SEC. 401. (a) No department, agency, or instrumentality of the United States receiving funds authorized to be appropriated under this Act for fiscal years 1989 through 1999, or under any other Act authorizing appropriations for such department, agency, or instrumentality for fiscal years 1989 through 1999, shall obligate or spend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its work places are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so authorized to be appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contract, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplace of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Amend the title so as to read: "An act to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan.".

Mr. GLENN. Mr. President, it is my very great pleasure to applaud the passage of the Nutrition Monitoring and Related Research Act of 1988 (S. 1081), that was introduced last year by Senator BINGAMAN, and referred to the Governmental Affairs Committee which I chair. Senator BINGAMAN and his staff, as well as the staff of the Senate Committee on Agriculture, Nutrition, and Forestry have worked tirelessly on this most important and timely legislation. Once this bill becomes law it will mark a new beginning for comprehensively evaluating the role of nutritional and dietary factors on the health and well-being of all Americans.

Since 1977, the Federal Government has been moving in the direction of creating a national nutrition monitoring system. In a series of hearings that have spanned the decade, Congress has examined the need for a coordinated system to analyze the nutritional status of the American people and the nutritional quality of the food supply we eat. With the enactment of this legislation, we will take the legislative steps needed to ensure the creation of such a system.

The lack of a comprehensive national nutrition monitoring system has hindered the ability of policymakers and the American public to fully consider and direct the quality and safety of the food supply, ensure that the nutritional needs of the American public are met, and acquire a data base that will allow the planning and guidance of agriculture, nutrition, and health research.

The National Nutrition Monitoring and Related Research Act of 1988 (S. 1081), will address the deficiencies in the current system by establishing a coordinated and comprehensive plan for the assessment of the nutritional and dietary status of the U.S. popula-

tion and the nutritional quality of the U.S. food supply.

Various Federal agencies and congressional committees have made numerous recommendations, submitted proposals, and written reports on the need for a coordinated and integrated nutrition monitoring system. This legislation will create a legislative mandate to establish and implement such a system by:

Improving coordination of nutrition monitoring activities among Federal agencies;

Providing for scientific and technical assistance to State and local governments and providing for research to develop cost-effective research methodologies;

Providing data—on a continuous basis—on high-risk groups and geographic areas; and

Making nutrition monitoring activities a line item of the budgets of each agency accepting responsibility for the 10-year plan for nutrition monitoring activities and allowing Congress and the public oversight over expenditures of funds.

I would like to commend the junior Senator from New Mexico for his dedication and perseverance to create a truly national nutrition monitoring system. Senator BINGAMAN deserves the credit and respect of his colleagues on both sides of the aisle for his leadership in working for the establishment of such a system.

This legislation is the product of a bipartisan consensus, and is supported by the leadership and members of various committees in the Senate and House of Representatives. It also enjoys the wide support of commodity and health advocacy groups alike including the American Academy of Pediatrics, the American Dietetics Association, the American Heart Association, the American Association of Retired Persons, the American College of Preventive Medicine, the American Farm Bureau Federation, the American Meat Institute, the National Broiler Council, the American School Food Service Association, Bread for the World, the National Grange, the National Pork Producers Federation, the National Milk Producers Federation, the Food Research and Action Council, the National Association of WIC Directors, the American Baptist Churches USA, the National PTA, the Lutheran Office for Government Affairs, and World Hunger Year.

The enactment of this legislation is long overdue and I would urge President Reagan to sign this bill into law without delay.

THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1988

Mr. LEAHY. Mr. President, I strongly support the National Nutrition Monitoring and Related Research Act of 1988. I am pleased with the wide support this bipartisan legislation enjoys—both on Capitol Hill and from health advocates, educators, farm and commodity groups, religious organizations, and food advocates.

The broad range of support for this bill is almost unprecedented and includes the American Academy of Pediatrics, the American Association of Retired Persons, the American College of Preventive Medicine, the American Dietetic Association, the American Farm Bureau Federation, the American Heart Association, the American Meat Institute, Bread for the World, the National Broiler Council, the National Cattleman's Association, the National Grange, the American School Food Service Association, the National Milk Producers Federation, the National Pork Producers Federation, the United Egg Producers, the Food Research and Action Center, the National PTA, the Lutheran Office for Government Affairs, the American Baptist Churches USA, the National Association of WIC Directors, and World Hunger Year.

This legislation was introduced in the Senate by Senator BINGAMAN of New Mexico. Senator BINGAMAN has worked tirelessly on this nutrition and health initiative. Senator BINGAMAN has been a leader in the Senate in the fight to improve the health and well-being of all Americans and I salute him.

I am very disappointed that in the face of enormous bipartisan support for this bill and the valuable goals of the legislation that the administration has worked to defeat this effort.

Fortunately, Republicans and Democrats alike have joined together with health and commodity groups, and medical and religious organizations, in supporting this important legislation.

The bill sets up a 10-year scientific assessment to periodically report on the health and well-being of Americans and on the quality and nutrient content of the foods that they eat. This information should prove invaluable in analyzing the effectiveness of our nutrition programs and in studying the health of Americans.

I am concerned that our present nutrition and health-monitoring system does not adequately address the nutrition and health needs of Americans—this legislation is designed to fix that problem.

This bill, the National Nutrition Monitoring and Related Research Act of 1988, truly enhances the activities of the Department of Agriculture and the Department of Health and Human Services regarding their nutrition and health monitoring and dietary guidance programs. Among other things, it will require careful study of the needs of vulnerable groups of Americans—such as the elderly, the homeless, the rural poor and native Americans. These studies could provide a gold mine of information on the health and diets of Americans and on the quality of the American food supply.

The Hunger Prevention Act of 1988, hailed by Time magazine as one of the 10 most important pieces of legislation of the 100th Congress, resulted from extensive hearings and testimony before my committee from all across the country illustrating that poor nutrition and hunger exists in every corner of this Nation—from New York City to rural Vermont. The Nutrition Monitoring Act is a valuable complement to the Hunger Prevention Act.

Many questions are raised about the foods we eat and how to target assistance to those most at risk. Coordination at the Federal level will provide essential information.

Additionally, title III of this act addresses the need for Federal agencies to be consistent in issuing dietary guidance to Americans—"to speak with one voice." Federal agencies have sometimes issued differing warnings on what types of foods can cause health problems—leading to needless confusion and public alarm.

This bill will require for the first time that Federal agencies allow the Secretaries of Agriculture and Health and Human Services to review such guidance in advance.

I would like to thank Senator LUGAR, the ranking minority member of the Agriculture, Nutrition, and Forestry Committee, Senator HARKIN, Chair of the Nutrition Subcommittee, and Senators MELCHER and BOSCHWITZ, and their staff, who were very involved in the effort to work out the final version of this bill. I also appreciate the efforts of Senators GLENN and ROTH of the Governmental Affairs Committee regarding this bill.

I want to thank Carrie Billie of Senator BINGAMAN's staff who coordinated staff efforts regarding this bill, and Ed Barron, Laura Madden, Dave Johnson, and Mark Halverson of the Agriculture Committee staff, as well as Terri Ninteman of the staff of Senator BOSCHWITZ.

I am a strong believer in the American farmer's ability to provide high quality food at reasonable prices. This legislation provides that dietary guidance issued by the Federal Government is fair to the agriculture community, and accurate for the American public.

It is with great pleasure that I endorse this excellent piece of legislation.

Mr. BOSCHWITZ. Mr. President, I rise today in support of the National Nutrition Monitoring and Related Research Act of 1988.

As an original cosponsor of this legislation, I am very pleased that we are able to complete action on this bill before the close of the 100th Congress. Congress has been working on nutrition monitoring legislation for several years now. In fact, during the waning hours of the 99th Congress, we worked hard to get it passed but did not succeed.

This legislation enjoys broad bipartisan support from Congress. A wide range of organizations have joined together in support of this nutrition monitoring bill. Over 45 organizations, involved in health, nutrition, and agriculture, enthusiastically support this nutrition monitoring bill. I commend them for the input they have provided in the development of this legislation.

As a member of the Senate Subcommittee on Nutrition, I believe it is vital that we have accurate, timely data to determine how effective Federal hunger programs are. Indeed, the President's Task Force on Food Assistance pointed out the lack of information in this area. They recommended a number of steps to better coordinate and disseminate nutritional data, including integrating information from the two major nutrition surveys and getting the information out in a timely manner.

While improvements in coordination of nutrition monitoring have been made in recent years, this legislation will strengthen the cooperation that has been developing between Federal agancies. It creates a comprehensive and coordinated nutrition monitoring system to provide up-to-date information on our citizen's nutritional status.

This legislation will help us gather information by coordinating the efforts of the Department of Agriculture and the Department of Health and Human Services. This coordination will be achieved through a 10-year National Nutrition Monitoring and Related Research Program and an Interagency Board for Nutrition Monitoring. The purpose of this coordinated program is to continually assess the dietary and nutritional status of our Nation's population. In addition, this legislation will provide for a National Nutrition Monitoring Advisory Council to provide scientific and technical advice on how to establish and coordinate a comprehensive plan.

The bill also requires that the Secretaries of Agriculture and Health and Human Services jointly issue and publish dietary guidelines for Americans at least every 5 years. Furthermore, the bill is designed to coordinate the efforts of Federal agencies regarding dietary guidance. Any Federal agency planning to issue dietary guidance would submit the proposed guidance to both Secretaries for review. A procedure is established for approval of the proposed dietary guidance by the Secretaries to assure consistency with the dietary guidelines for Americans.

I believe that this legislation will provide us with important tools to assess the nutritional status of Americans, particularly the effect of the Federal nutrition programs, and ultimately help us design more effective programs to alleviate hunger and malnutrition.

I urge my Senate colleagues to support this important nutrition monitoring legislation.

● Mr. BINGAMAN. Mr. President, the Senate will soon consider S. 1081, the National Nutrition Monitoring and Related Research Act of 1988, as amended by our colleagues in the House. I urge my colleagues to support this important legislation.

This act will greatly enhance the Federal Government's ability to collect and disseminate information concerning the nutritional quality of our food supply. I believe it is legislation crucial to the health and well-being of all Americans, and I urge its swift passage.

A. S. 1081 PROVISIONS

The legislation before us today recognizes that we must streamline the administrative functions of Federal nutrition monitoring programs if we are to better understand the relationship between diet, nutrition, and health.

Title I of the act establishes a 10-year coordinated nutrition monitoring and research program that is to be the joint responsibility of the Secretaries of the Departments of Agriculture and Health and Human Services. An interagency board will help the Secretaries to develop a comprehensive plan for nutrition monitoring and to implement the program. The bill also stipulates that an administrator may be appointed to serve as a coordinator for the plan and program activities.

The 10-year comprehensive plan will serve both as a focal point for nutrition monitoring activities and as a means to identify national nutrition monitoring priorities. The coordinated program will build upon the 1981 joint implementation plan for a comprehensive national nutrition monitoring system, and will include, among other components:

A grants program to encourage and assist State and local monitoring initiatives;

An annual interagency budget for each fiscal year of the program;

A means to stimulate academic-industry-government partnerships to accomplish national nutrition monitoring needs and foster productive interaction; and

A biennial report, through contract with a nationally known scientific body, on the dietary, nutritional, and health related status of the American people and the nutritional quality of our food supply.

Title II establishes an advisory council, to be appointed by the President and the Congress, that will provide scientific and technical advice on the development and implementation of the national nutrition monitoring program established under title I. The council will also evaluate the effectiveness of the program.

Members of the council will represent various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest groups.

Title III stipulates that by January 1, 1990, the Secretaries are to publish a report, based on current scientific and medical knowledge, containing nutritional and dietary information and guidelines for the general public. Entitled "Dietary Guidelines for Americans," the report is to be updated at least every 5 years.

Title III also requires a public comment period before a Federal agency may issue certain dietary guidance if either Secretary finds the guidance inconsistent with the "Dietary Guidelines for Americans." Briefly, after a 60-day period during which the Secretaries are to review internally the proposed regulations, if either Secretary—or both Secretaries—objects to the proposal, the proposing agency must publish a "notice of comment" in the Federal Register. After the expiration of a 30-day comment period, either Secretary may approve the guidance for dissemination to the public. The guidance must be accompanied by an explanation of its basis and purpose which addresses any substantive comments received.

B. HOUSE AMENDMENTS

During House consideration of the bill, Members agreed to several amendments. While I do not believe these amendments affect the substance of the legislation, I believe they make it a stronger bill and are all worthy of our strong support. Briefly, the amendments are as follows:

1. GENERAL CLARIFICATIONS

The phrase "nutritional quality of the United States food supply," was revised for clarity to read "nutritional quality of food consumed in the United States." This phrase was changed everywhere it appears in the bill, including the title.

The name of the National Bureau of Standards was changed to the National Institute of Standards and Technology, consistent with Public Law 100-418.

2. COMPREHENSIVE PLAN FOR A COORDINATED NUTRITION MONITORING PROGRAM

The requirement that the coordinate program include an "evaluat[ion of] the relevant policy implications" was broadened to require the Secretaries to "describe and evaluate policy implications."

Examples of "identifiable low income population subsets" that would be sampled as part of the program were given by adding "(such as Native Americans, Hispanics, or the homeless)." Also, a requirement was added to include the collection of data "for a representative sample of the low income population," and the phrase "kinds of food obtained through such programs" were deleted.

Adjustments were made to require that the comprehensive plan be published in the Federal Register for public review before submission to the President and the Congress. Originally, the proposal was to have been submitted to the President and the Congress before publication in the Federal Register.

3. BUDGET-RELATED PROVISIONS

Section 106 was deleted and replaced by new text. The new text requires the President to submit, at the time the annual budget is submitted to the Congress, a report on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. For each of the agencies that is given responsibilities under the coordinated program, the report is to list the resources spent in the immediate past and present fiscal years and funds requested in the annual budget for the fiscal year of the budget submission. This change ensures that expenditures for the coordinated program will be clearly identified and a summary of expenditures, for all responsible agencies, will be provided with the annual budget.

4. THE NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

The number of members to be appointed to the council by the President was changed from four to five. The number of members to be appointed by the Congress was changed from five to four, and the number to be appointed by the Senate was changed from three to two, consistent with the number of members to be appointed by the House.

To accommodate the change in the number of council members to be appointed by the President, some terms of office for council members were adjusted as follows: Of the five—rather than four—members first appointed by the President, two—rather than one—shall be appointed for a term of 2 years, two for terms of 3 years, and one for a term of 4 years.

The membership of the council was changed so that the council is composed entirely of non-Federal employees, rather than allowing the participation of Federal employees from agencies other than the Department of Agriculture or the Department of Health and Human Services. This change was made to balance a non-Federal council with the Federal Interagency Board, which is to be composed of representatives of Federal agencies.

The termination of the council was changed from October 1, 2000, to 10 years after the final comprehensive plan prepared under section 103, thus maintaining the council throughout the 10-year life of the coordinated program and comprehensive plan.

5. NUTRITIONAL EDUCATION REPORT

A new section was added to require the Secretary of Health and Human Services in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, to submit a report describing the appropriate Federal role in assuring that students enrolled in U.S. medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.

6. DRUG-FREE WORKPLACE

A new title was added to reiterate the Congress' mandate to departments, agencies, and instrumentalities of the United States that they develop and implement written policies designed to ensure that all Federal offices and worksites are free from the illegal use, possession, or distribution of controlled substances by officers and employees of the respective agencies. Identical language has been added to many other bills passed by the Senate. These include:

Treasury, Postal Service and General Government Appropriations Act, fiscal year 1989, passed by the Senate on June 27, 1988, by a vote of 81 to 4;

Department of Defense Appropriations Act, fiscal year 1989, passed by the Senate on August 11, 1988, by a vote of 90 to 4;

Department of Housing and Urban Development Appropriations Act, fiscal year 1989, passed by the Senate on July 13, 1988, by a vote of 86 to 11;

Department of the Interior Appropriations Act, fiscal year 1989, passed by the Senate on July 13, 1988, by a vote of 92 to 4;

Department of Transportation Appropriations Act, fiscal year 1989, passed by the Senate on July 12, 1988, by a vote of 91 to 6.

D. CONCLUSION

Mr. President, I would like to conclude by thanking the members and staff of the Governmental Affairs and Agriculture Committees for their assistance in the development and evolution of this legislation. My good friend Senator GLENN, as chairman of the Governmental Affairs Committee, and the distinguished chairman of the Agriculture Committee, Senator LEAHY, have provided tremendous leadership and worked diligently with Senate and House Members to get us to this point today. I owe them both a tremendous amount of thanks.

I also would like to acknowledge the tremendous staff contributions to this bill. I am indebted to Dr. Eileen Choffnes of the Governmental Affairs Committee; Ed Barron, David Johnson, and Laura Madden of the Agriculture Committee; and Terri Ninetmann of Senator BOSCHWITZ's personal staff. I also must thank the American Heart Association and the American Dietetic Association, and in particular, Mary Crane and Patti Blumer, for their excellent and ready assistance.

Without the diligence and hard work of these people and many others, we would not be in a position to take this important step toward implementing a comprehensive national nutrition monitoring system. The bill before us today is the result of long and intensive negotiations spanning a number of years, and in recent months and weeks, a great number of hours.

I am pleased to note that it is supported by a strong bipartisan coalition in the Congress and by a coalition of at least 45 organizations representing health, diet, agriculture, and commodity interests. These organizations include the American Heart Association, the American Dietetic Association, the National Grange, the National Cattlemen's Association, and the United Egg Producers.

I will close by saying that the restructuring mandated in S. 1081 will ensure the effective use of Federal and State funds. It will help develop state and local initiatives to improve monitoring methods and standards. It will stimulate academic, industrial, and governmental partnerships.

And, most importantly, it will help ensure that the American public receives the most up-to-date and comprehensive dietary guidance possible so that healthful dietary decisions may be made. I urge my colleagues to support this important legislation.●

Mr. DOLE. Mr. President, I also ask that the RECORD reflect I did talk to Senator BINGAMAN today, who asked to see if we could not expedite the passage of this measure, and I indicated to him that I thought we could and we are.

Mr. BYRD. Mr. President, I express appreciation on behalf of myself to the distinguished Republican leader for his accommodation to Mr. BINGAMAN in this instance.

I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay it on the table.

The motion to lay on the table was agreed to.

IMPROVEMENTS IN THE FEDERAL COURT INTERPRETER PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1867.

The PRESIDING OFFICER (Mr. GRAHAM). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1867) to amend title XXVIII, United States Code, to make certain improvements with respect to the Federal court interpreter program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Court Interpreters Improvement Act of 1987".

SEC. 2. The Congress hereby finds that—

(1) qualified interpreters are sometimes not provided to non-English speaking persons and the hearing impaired in judicial proceedings conducted pursuant to the jurisdiction and authority of the United States District Courts; and

(2) the failure to provide competent interpretation services to such individuals in Federal judicial proceedings could, under certain circumstances, constitute a denial of rights secured by the fifth and sixth amendments to the Constitution of the United States because such individuals may—

(A) be deprived of life, liberty, or property without due process of law;

(B) be unable to confront adverse witnesses due to a lack of comprehension;

(C) be deprived of the ability to effectively consult with counsel; and

(D) fail to comprehend the rulings and pronouncements of the court and the documentary evidence introduced in such proceedings.

SEC. 3. (a) The Congress declares that the constitutional rights of non-English speaking persons and the hearing impaired, guaranteed by the fifth and sixth amendments to the Constitution of the United States shall be protected by requiring the certification of interpreters of English and other languages and by requiring the promulgation of definitive standards and criteria for otherwise qualified interpreters who may be permitted to participate in Federal judicial proceedings.

(b) The Congress declares that the purpose of this Act is to provide competent interpretation services to parties and witnesses in judicial proceedings instituted by the United States in order to assure that such persons who are hearing impaired or who have as their primary language a language other than English may participate meaningfully therein and that the constitutional rights of such persons are fully protected.

SEC. 4. Nothing in this Act shall be construed to terminate or diminish existing programs for the certification of interpreters.

SEC. 5. Section 1827(a) of title 28, United States Code, is amended to read as follows:

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.".

["(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters for the hearing impaired and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director shall certify interpreters in at least eight languages other than those previously certified. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall develop and issue regulations pertaining to all the foregoing duties within one year after the date of enactment of this section. Such examinations shall be initially developed and administered within one year of the appropriation of funds for certification in the languages identified.**]**

SEC. 6. Sec. 1827(b) of Title 28, United States Code is amended to read as follows:

"(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director shall certify interpreters for any language if the Judicial Conference determines that there is a need for certified interpreters in that language based on the lack of certified or otherwise qualified interpreters in such language and the number of proceedings in which such language will be required. The Judicial Conference shall determine the need for certified interpreters in languages other than those previously certified based upon the recommendations of the judicial councils of the circuits, who shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. Any such examinations for certification in a language shall be initially administered within 1 year after funds are appropriated for certification in that language. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of this Act.

"(2) The Director shall provide guidelines to the courts on the selection of otherwise qualified interpreters whose services may be used only in the event that certification is not available in a particular langauge, or only where no certified interpreter is reasonably available, as provided by subsection (d) of this section, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

"(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in the proceedings instituted by the United States, and in so doing shall consider the prevailing rate of compensation for comparable service in other governmental entities.".

SEC. 7. Section 1827(c) of title 28, United States Code, is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceedings available upon request.

"(2) The clerk or district executive of the court shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.".

SEC. 8. Section 1827(d) of title 28, United States Code, is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) inserting "(1)" after "(d)"; and

(3) adding at the end thereof the following:

["(2) Upon the request of a party, the presiding judicial officer shall require the judicial proceedings in which interpreters are used to be electronically sound recorded. Grand jury proceedings in which interpreters are used must also be electronically sound recorded upon the request of a party.".**]**

"(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters; and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.

SEC. 9. Section 1827(g) of title 28, United States Code, is amended—

(a) in paragraphs (1), (2), and (3) to read as follows:

"(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Officer of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this Act, except as provided in subsection (3) below.

"(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

"(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4) of this subsection, be paid by the Attorney General from sums appropriated to the Department of Justice.";

(b) by redesignating existing paragraph (4) as paragraph (5) and by adding a new paragraph (4) to subsection (g) as follows:

"(4) Upon request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of the District Court or district executive upon the request of the presiding judicial officer, shall where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.".

SEC. 10. Section 1827(h) of title 28, United States Code, is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees fixed by the Director.".

SEC. 11. Section 1827(i) of title 28, United States Code, is amended to read as follows:

"(i) The term 'presiding judicial officer' as used in this section refers to any judge of a United States district court, including a bankruptcy judge, and a United States magistrate or, for grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.".

SEC. 12. Section 1827(j) of title 28, United States Code, is amended to read as follows:

"(j) The term 'judicial proceeding' as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator), instituted by the United States and conducted in, or pursuant to, the lawful authority and jurisdiction of a United States District Court. The term 'United States District Court' as used in this subsection includes any court created by Act of Congress in a state or territory which is invested with any jurisdiction of a District Court of the United States established by section 132 of this title.".

SEC. 13. Section 1827(k) of title 28, United States Code, is amended to read as follows:

"(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer **[**with the approval of all interested parties,**]** *sua sponte or on the motion of a party,* may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.".

SEC. 14. The amendments made by this Act shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3727

(To amend title 28, United States Code, to make certain improvements with respect to the Federal court interpreter program, and for other purposes)

Mr. BYRD. Mr. President, on behalf of Mr. SIMON, I propose a substitute amendment, and I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 701. SHORT TITLE.

This act may be cited as the "Court Interpreter Amendments Act of 1988".

SEC. 702. AUTHORITY OF THE DIRECTOR.

Section 1827(a) is amended to read as follows:

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.".

SEC. 703. CERTIFICATION OF INTERPRETERS; OTHER QUALIFIED INTERPRETERS.

Section 1827(b) is amended to read as follows:

"(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of a circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Court Reform and Access to Justice Act of 1988.

"(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

"(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and doing so shall consider the prevailing rate of compensation for comparable service in other governmental entities.".

SEC. 704. LISTS OF INTERPRETERS: RESPONSIBILITY FOR SECURING SERVICES OF INTERPRETERS.

Section 1827(c) is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States Attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceeding available upon request.

"(2) The clerk or district executive of the court shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.".

SEC. 705. SOUND RECORDINGS.

Section 1827(d) is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) inserting "(1)" after "(d)"; and

(3) adding at the end thereof the following:

"(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters; and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.".

SEC. 706. AUTHORIZATION OF APPROPRIATIONS; PAYMENT FOR SERVICES OF INTERPRETERS.

Section 1827(g) is amended—

(a) by amending paragraphs (1), (2), and (3) to read as follows:

"(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this title and the Judicial Branch Improvements Act of 1988, except as provided in paragraph (3).

"(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

"(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.";

(b) by redesignating paragraph (4) as paragraph (5) and by inserting between paragraph (3) and paragraph (5), the following:

"(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the Clerk of the District Court or district executive upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.".

SEC. 707. APPROVAL OF COMPENSATION AND EXPENSES.

Section 1827(h) is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director.".

SEC. 708. DEFINITIONS.

Subsections (i) and (j) of section 1827 are amended to read as follows:

"(i) The term 'presiding judicial officer' as used in this section refers to any judge of a United States district court, including a bankruptcy judge, and a United States magistrate, or, for grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.

"(j) the term 'judicial proceedings' as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for writ of habeas corpus initiated in the name of the United States by a relator), instituted by the United States and conducted in, or pursuant to the lawful authority and jurisdiction of a United States district court. The term 'United States district court' as used in this subsection includes any court created by an Act of Congress in a State or territory which is invested with any jurisdiction of a District Court of the United States established by chapter 5 of this title.".

SEC. 709. SIMULTANEOUS INTERPRETATIONS.

Section 1827(k) is amended to read as follows:

"(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.".

SEC. 710. TECHNICAL AMENDMENTS.

(a) Section 1827(d) is amended—

(1) by striking out "competent" and inserting in lieu thereof "qualified";

(2) by striking out "any criminal" and all that follows through "relator)" and inserting in lieu thereof "judicial proceedings instituted by the United States"; and

(3) by striking out "such action" and inserting in lieu thereof "such judicial proceedings".

(b) Section 1827(e)(2) is amended by striking out "criminal or civil action in a United States district court" and inserting in lieu thereof "judicial proceedings instituted by the United States".

SEC. 711. IMPACT ON EXISTING PROGRAMS.

Nothing in this act shall be construed to terminate or diminish existing programs for the certification of interpreters.

SEC. 712. EFFECTIVE DATE.

This act shall become effective upon the date of enactment.

Mr. SIMON. Mr. President, I rise in support of S. 1867, the Court Interpreter Amendments Act of 1988. This bill passed the Committee on the Judiciary unanimously in August. This bill makes a number of improvements in the procedures and administration of the judiciary. There have been two minor modifications made to the bill since it passed unanimously and I understand it is now acceptable to the other body. I urge its adoption.

This legislation will amend the Court Interpreters Act of 1978, the original congressional attempt to ensure that non-English speakers and the hearing impaired would not be denied constitutional rights of due process in Federal court.

A decade after the original enactment, there is still only partial implementation of the 1978 act. The 1978 act instructed the Director of the Administrative Office of the United States Courts to determine the qualifications of interpreters and establish a program for certification of such persons. There are still only interim regulations for the program and only Spanish-language interpreters are certified. Today's bill makes clear that other Americans who are hearing impaired or do not speak English are to be afforded the benefits of the Court Interpreters Act.

One of the most important improvements this legislation makes is extending the Court Interpreters Act to grand jury proceedings. Accurate interpretation is particularly significant at the grand jury level. An error in the interpretation of the testimony of an accused, or that of a witness, could result in wasted court time and money. More important, an interpretation error could result in the incarceration of innocent individuals.

The Committee on the Judiciary heard extensive testimony in the 99th Congress about the dangers of this very problem. An attorney testified before the committee and read the statement of Takeru Kamiyama, a client who was sent to jail and convicted of perjury. His conviction was triggered by what amounted to an incorrect interpretation of his testimony before a grand jury.

Another important improvement made by this section is the new method for certification of languages for which interpreters are needed. This bill directs the Judicial Councils of the Federal circuits to survey the language and interpreter needs of their district courts and, based on what they learn, recommend to the Director of the Administrative Office of the United States Courts certification of necessary languages. While this process will also require the approval of the Judicial Conference, I expect that the Councils will receive the proper deference in light of their ability to directly ascertain district court needs for effective interpreter services in diverse languages.

This bill makes numerous other improvements, among them a mandate that the Director of the Administrative Office of the United States Courts provide clear guidelines to the courts on the selection of "otherwise qualified interpreters." Court interpretation must have stringent quality control. Otherwise qualified interpreters are to be employed where certified interpreters are not otherwise available. These guidelines are necessary to advance the requirement of accuracy when the services of interpreters who have not been certified are called upon in the courts.

Quality can be further enhanced by improvements in the availability of court interpreter training programs. Court interpretation requires multiple skills and a full understanding of two or more languages, interpretation, and legal terminology. State and private educational institutions need to play a more expansive role in training court interpreters in much the same way they train attorneys.

Finally, this bill brings uniformity to the issue of electronically sound recording proceedings in which an interpreter is used. This bill provides that, on the motion of the accused, the court shall require the recording of the segments of a grand jury proceeding in which an interpreter is used. In all other stages of a judicial proceeding, the presiding judicial officer is to determine whether to require electronic sound recording. This decision shall be in response to the motion of a party and will be based on identified criteria.

These and other improvements made by the bill will enable the Federal courts to become better equipped to handle the linguistically diverse populations that find themselves before our judicial system. Throughout the process of reaching this compromise legislation, a great deal of cooperation has been exhibited not only on a bipartisan basis within the Committee on the Judiciary, but with members of the other body and with representatives of the administration. Our legislation has gained the attention of members of the Diet in Japan who themselves are considering expanding court interpreter services for persons who do not speak Japanese. As our trade and other relations with that nation expand for the rest of this century and the next, I am pleased that the improvements we are making today to our court system will be recognized by other nations to the ultimate benefits of Americans who are abroad.

Mr. THURMOND. Mr. President, I support S. 1867, the Court Interpreters Improvement Act of 1987 as amended. Introduced by Senator SIMON, S. 1867 seeks to ensure that the constitutional guarantees relating to due process of law, confrontation of witnesses, and adequate assistance of counsel are secure for everyone at every stage of a Federal judicial proceeding. Meeting these goals requires that we provide the highest quality interpreting that is reasonably available to non-English-speaking and hearing-impaired defendants.

A similar bill was reported by the Judiciary Committee in the 99th Congress. At that time, I had concerns regarding the implementation of the bill and the lack of participation in such a program by the Administrative Office of the United States Courts. The bill was amended to give the Administrative Office greater discretion in choosing which languages to adopt for certification. As a result, I supported such legislation.

S. 1867 contains similar provisions adopted in the 99th Congress which have all been agreed to by the Administrative Office of the United States Courts. I believe the bill, as amended, will result in a timely reassessment of the quality of interpreting now being provided to defendants.

I support S. 1867 as amended.

The amendment (No. 3727) was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be advanced to third reading, read the third time, passed, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1867), as amended, was passed.

S. 1867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Court Interpreters Improvement Act of 1987".

SECTION 1. SHORT TITLE.

This act may be cited as the "Court Interpreter Amendments Act of 1988".

SEC. 2. AUTHORITY OF THE DIRECTORS.

Section 1827(a) is amended to read as follows:

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.".

SEC. 3. CERTIFICATION OF INTERPRETERS: OTHER QUALIFIED INTERPRETERS.

Section 1827(b) is amended to read as follows:

"(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon such a request from the judicial council of a circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall isssue regulations to carry out this paragraph within 1 year after the date of the enactment of the Court Reform and Access to Justice Act of 1988.

"(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

"(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and in doing so shall consider the prevailing rate of compensation for comparable service in other governmental entities.".

SEC. 4. LISTS OF INTERPRETERS; RESPONSIBILITY FOR SECURING SERVICES OF INTERPRETERS.

Section 1827(c) is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States Attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judical proceeding available upon request.

"(2) The clerk or district executive of the court shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.".

SEC. 5. SOUND RECORDINGS.

Section 1827(d) is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) inserting "(1)" after "(d)"; and

(3) adding at the end thereof the following:

"(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judical proceeding in which an interpreter is used under this section. In making this determination, the presiding judical officer shall consider, among other things, the qualification of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters; and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS; PAYMENT FOR SERVICES ON INTERPRETERS.

Section 1827(g) is amended—

(a) by amending paragraph (1), (2), and (3) to read as follows:

"(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this title and the Judicial Branch Improvements Act of 1988, except as provided in paragraph (3).

"(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

"(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.";

(b) by redesignating paragraph (4) as paragraph (5) and by inserting between paragraph (3) and paragraph (5), the following:

"(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the Clerk of the District Court or district executive upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.".

SEC. 7. APPROVAL OF COMPENSATION AND EXPENSES.

Section 1827(h) is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director.".

SEC. 8. DEFINITIONS.

Subsections (i) and (j) of section 1827 are amended to read as follows:

"(i) The term 'presiding judicial officer' as used in this section refers to any judge of a United States district court, including a bankruptcy judge, and a United States magistrate, or, for grand jury proceedings conducted under the auspices of the United States attorney a United States attorney.

"(j) The term 'judicial proceedings' as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator), instituted by the United States and conducted in, or pursuant to the lawful authority and jurisdiction of a United States district court. The term 'United States district court' as used in this subsection includes any court created by an Act of Congress in a State or territory which is invested with any jurisdiction of a District Court of the United States establishedley chapter 5 of this title.".

SEC. 9. SIMULTANEOUS INTERPRETATION.

Section 1827(k) is amended to read as follows:

"(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.".

SEC. 10. TECHNICAL AMENDMENTS.

(a) Section 1827(d) is amended—

(1) by striking out "competent" and inserting in lieu thereof "qualified";

(2) by striking out "any criminal" and all that follows through "relator)" and inserting in lieu thereof "judicial proceedings instituted by the United States"; and

(3) by striking out "such action" and inserting in lieu thereof "such judicial proceedings".

(b) Section 1827(e)(2) is amended by striking out "criminal or civil action in a United States district court" and inserting in lieu thereof "judicial proceedings instituted by the United States".

SEC. 11. IMPACT ON EXISTING PROGRAMS.

Nothing in this Act shall be construed to terminate or diminish existing programs for the certification of interpreters.

SEC. 12. EFFECTIVE DATE.

This Act shall become effective upon the date of enactment.

RELIEF OF RAJANI LAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1112, H.R. 3917.

The PRESIDING OFFICER. Without objection it is so ordered.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3728

(Purpose: To provide additional funds for a designated educational agency)

Mr. BYRD. Mr. President, I propose an amendment on behalf of Mr. KENNEDY, and I ask unanimous consent that reading of the amendment be dispensed with, that a statement by Mr. KENNEDY appear in the RECORD, that the amendment be adopted, that the bill be advanced to third reading, passed, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . MISCELLANEOUS PROVISIONS.

(a) TECHNICAL CORRECTIONS TO THE SPECIAL AGRICULTURAL WORKERS PROGRAM.—

(1) USE OF RETIRED FEDERAL EMPLOYEES.—Section 201(c)(2) of the Immigration Reform and Control Act of 1986 is amended in the first sentence—

(A) by striking out "18" and inserting in lieu thereof "30"; and

(B) by inserting after "this section" the following: "and with the implementation of the special agricultural worker program under section 210 of the Immigration and Nationality Act".

(2) USE OF FEES.—Section 210(b) of the Immigration and Nationality Act is amended by adding at the end thereof the following new paragraph:

"(8) USE OF APPLICATION FEES.—The Attorney General shall deposit fees collected, on or after the date of enactment of this paragraph, in connection with the filing of applications under subsection (a) in a separate account, and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed uner this section.".

(b) EMERGENCY TARGETED ASSISTANCE GRANT.—Nothwithstanding any other provision of law, of the funds appropriated for fiscal year 1989 pursuant to section 414(a)(1) of the Immigration and Nationality Act and made available to carry out section 412(c)(2) of such Act, not less than $1,000,000 shall be used for an emergency grant to a local educational agency to be designated by the Secretary of Health and Human Services, which shall be available for a one-year period to assist in meeting the costs of bilingual education, and the costs of other educational services needed particularly by Indochinese refugee children, which the community served by that local educational agency is unable to meet because of sudden influx of Indochinese refugees (including secondary migration) involving an unusually large number of refugee children.

(c) REAPPROPRIATION OF FISCAL YEAR 1988 Funds for Certain Public Schools.—(1)(A) From funds which were appropriated to the Department of Education for fiscal year 1988 and which were unobligated at the close of that fiscal year, $1,600,000 is reappropriated and shall be available to a local educational agency to be designated by the Secretary of Education, for payment of supplementary educational services and costs described in section 607(b) of the Emergency Immigrant Education Act of 1984 that are incurred as a result of a sudden and unsolicited secondary migration of refugees.

(B) Funds reappropriated pursuant to subparagraph (A) shall remain available for obligation until September 30, 1989. No such funds shall be used to reduce any subsequent allocation of funds under the Emergency Immigrant Education Act of 1984 to such local educational agency or the State in which it is situated.

(2) Funds made available by paragraph (1) shall be awarded to such local educational agency, upon submission to and approval by the Secretary of Education of an application that describes in detail the use of the funds. The Secretary of Education shall approve the application submitted by such local educational agency, if the Secretary determines that the proposed expenditures are reasonable in light of the purposes of the Emergency Immigrant Education Act of 1984.

(d) TECHNICAL CORRECTIONS TO THE IMMIGRATION TECHNICAL CORRECTIONS ACT OF 1988.—Effective as if included in the enactment of the Immigration Technical Corrections Act of 1988—

(1) section 2(n)(3) of such Act is amended by striking "and by redesignating subsection (d) as subsection (c)";

(2) section 2(r) of such Act is amended—

(a) by inserting "(1)" after ".—", and

(B) by adding at the end the following new paragraph:

"(2) Section 601(e) of IRCA is amended by striking thirty days' and inserting 3 months'."";

(3) section 8(d) of such Act is amended by striking "Section 4" and inserting "Section 5";

(4) section 9 of such Act is amended by adding at the end the following new subsection:

"(s) Except as otherwise provided in this section, the amendments made by this section shall be effective as if they were included in the enactment of the Immigration and Nationality Act Amendments of 1986."; and

(5) section 9(h) of such Act is amended by striking "1182" and inserting "1157(c)(1)".

The statement by Mr. KENNEDY is as follows:

● Mr. KENNEDY. Mr. President, the amendment which the Senator from Wyoming, Senator SIMPSON, and I offer makes needed changes in three areas.

First, it extends the time period that the Immigration Service can use retirees for the legalization program. The agricultural amnesty ends on November 30. However, the adjudication of cases filed will extend beyond that date. Without the ability to continue to use retired immigration officers, the Immigration Service will likely be required to pull valuable officers away from other important duties.

Second, our amendment provides emergency funding for the Lowell, MA, public schools. Over the past 3 years, Lowell has seen a dramatic and unexpected increase in the number of Indochinese refugee families in the city. Refugees have moved in large numbers from their points of initial resettlement in the United States to become part of what is now the largest Cambodian community on the east coast. The large number of refugee families involved, in comparison to single refugees, has placed a sudden strain on the school system.

In 1985, there were 3,500 Indochinese refugees in Lowell. Today, there are at least 15,000 refugees in a community with a population of 100,000. This 1-to-6 ratio of refugees to the total population is higher than almost any other community. For example, in Miami—which has received similar assistance for several years—the ratio is 1 to 40.

The percentage of minority students in the school system has risen from 22 percent in 1984 to 39 percent last year. Roughly, 2,000 Lowell students, out of 13,000 total, need bilingual education. The school system budget has gone from $32 million to $49 million between 1984 and 1987. Needless to say, the sudden influx of refugees has badly strained local resources.

In addition to utilizing refugee assistance moneys already appropriated to the Department of Health and

Human Services, this provision would redirect a small amount of Department of Education funds to the Lowell schools. These will come from funds already available, and will not require the curtailing of any other programs. Moreover, this provision will not require new outlays because it will be made from funds already obligated.

Mr. President, I am confident that Lowell will soon recover from this crisis in its schools. It has a strong economy and the refugees are getting jobs and beginning to contribute to the town's tax base in short order. Lowell shows every promise of becoming a welcome haven for Cambodian families and their rich culture. But in the short term, Federal help is urgently required to keep the schools afloat.

Finally, our amendment makes additional corrections to an immigration technical corrections bill passed by the Senate in June, and adopted in the House only last week. These were spotted by House legislative counsel, and are purely technical in nature.●

The bill (H.R. 3917), as amended, was passed.

CORRECTION IN ENROLLMENT OF H.R. 3146

Mr. BYRD. Mr. President, on behalf of Mr. Simon, I send a concurrent resolution to correct the enrollment of H.R. 3146, the Charity Games Advertising Clarification Act, to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 165) making technical corrections in the enrollment of H.R. 3146.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 165) was agreed to, as follows:

> Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 3146), the Clerk of the House of Representatives shall make the fol'owing correction:
>
> (1) In subsection (b) of Section 2, strike "(c)(3)".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION IN AMENDMENT NUMBERED 3702

Mr. BYRD. Mr. President, I ask unanimous consent that amendment No. 3702 be corrected to reflect the following technical change which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARINE PROTECTION RESEARCH AND SANCTUARIES ACT AMENDMENTS—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on S. 2030 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2030) to amend the Marine Protection, Research, and Sanctuaries Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the Record.)

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on S. 2030, the Ocean Dumping Ban of 1988. This bill will once and for all end the ocean dumping of sewage sludge and industrial waste.

Mr. President, I want to thank all of the Senators who have worked with me on behalf of this legislation including the chairman of the Committee on Environment and Public Works, Senator Burdick and the ranking member of the committee, Senator Stafford, the chairman of the Environmental Protection Subcommittee, George Mitchell, and the ranking member of the subcommittee, John Chafee, my colleague from New Jersey, Senator Bradley, who has worked together with me in numerous efforts to protect the oceans, Senators Roth and Biden who are original cosponsors of S. 2030 and Senator Moynihan, the chairman of the conference on S. 2030, who worked closely with me to see that the Congress passed ocean dumping legislation this year.

Mr. President, the events of the past few years have made clear that our oceans are groaning under assault. We saw it in hundreds of dolphins that died mysteriously and in the sea turtles and seabirds who continue to die from entanglement with or eating plastic debris in the ocean. We see it in diseased fish, fish which are too toxic to eat, massive fish kills and the closure of one-third of all shellfish beds in the United States and we see it in garbage and medical waste invading our shores, closing our beaches, ruining vacations, injuring our tourist economy and threatening our health. It should be clear to everyone that we simply cannot continue to use our ocean as a garbage can.

That's why the Ocean Dumping Ban Act is so important. Ocean dumping of sewage sludge and industrial waste represent a throwaway approach to waste disposal which we rejected a long time ago. Ocean dumping of sewage sludge and industrial waste is the least appropriate form of waste management. We won't know all the harm done by ocean dumping this waste until it is too late. And there is no way to clean it up.

At Senate hearings which I chaired earlier this year, we heard clear and uncontroverted evidence that land-based alternatives for sludge dumping exist. And we heard expert testimony that sludge dumping at the 106-mile site involves significant risk to east coast fishery resources which contribute $1 billion a year to coastal Atlantic States. Since dumping at the 106-mile site began in full force late last year, fishermen have complained of lower catches and increases in diseased fish.

A few months ago, Vice President Bush came to the New Jersey shore and said that EPA was working hard to end ocean dumping of sewage sludge. Mr. President, all of us would have been better off if the Vice President years ago had gone to EPA headquarters and told EPA to implement the existing ocean dumping ban.

In 1977, Congress adopted Congressman Hughes' amendment to establish a 1981 deadline for ending the ocean dumping of sewage sludge. And, in 1979, at a hearing held by the Merchant Marine and Fisheries Committee, New York City Mayor Ed Koch said that the city could meet the 1981 deadline with interim measures and would have a long-term, land-based alternative to ocean dumping by the end of 1987.

Yet today, we have no deadline, no interim or long-term land-based alternatives, and no acceptable plan to end ocean dumping. Since 1981, all EPA has to show for itself is moving the dumpsite. This year, roughly 60 percent more sewage sludge will be dumped in the ocean than in 1973, the first full year the Ocean Dumping Act was in effect. And since the 1981 deadline, dumpers have dumped enough sewage sludge to fill over 50 towers the size of a World Trade Center tower.

It's clear that we cannot count on the EPA which has earned the name the Environmental Procrastination Agency. We need a firm deadline, in the law, to end the ocean dumping of sewage sludge and industrial waste. Only then, will alternatives be put in place. Only then, will the dumping stop.

That's why I introduced S. 2030. It sets December 31, 1991, as the deadline to end ocean dumping of sewage sludge. The Senate passed this bill in August by a vote of 97 to 0. And I'm pleased that this deadline has been agreed to by the conferees. The conference bill also bans the dumping of industrial waste by 1991, establishes tough penalties for violations of the deadline, incorporates my Shore Protection Act to regulate waste handling practices of garbage barges and includes amendments offered by Senator DODD and myself to increase the penalties for illegal disposal of medical waste.

I want to emphasize a couple of points addressed in the conference agreement. It is illegal to ocean dump sewage sludge or industrial waste after December 31, 1991. Dumpers are required to develop and implement alternatives which do not require a permit under the Ocean Dumping Act, as amended. This would exclude incineration at sea or subseabed disposal. In the event that a dumper cannot meet the deadline through the use of a long-term alternative, the dumper must try to utilize interim measures to meet the deadline. EPA and the State must assist the dumper in identifying such interim measure and EPA must not sign an enforcement agreement to allow dumping to continue past the 1991 date where reasonable interim measures exist to end the dumping prior to the deadline. EPA's focus in entering into agreements with the existing dumpers must be to end the ocean dumping of sewage sludge and industrial waste at the earliest possible time.

The conference agreement includes a provision I put into the Senate version of the bill requiring EPA to provide public comment regarding the establishment and implementation of agreements with dumpers to end ocean dumping. While EPA has the discretion to establish how to implement this section, EPA must provide reasonable opportunities for public involvement in the process of ending ocean dumping of sewage sludge and industrial waste. Public involvement will assist in ending ocean dumping of sewage sludge and industrial waste at the earliest possible time.

Civil penalties are provided for the existing ocean dumpers who do not cease their dumping by the end of 1991. The conferees expect that the criminal penalties provided for in the Ocean Dumping Act will be used for anyone else who ocean dumps sewage sludge or industrial waste in violation of the act.

The conferees also believe that any permits necessary to construct or operate an interim measure or an alternative system should be addressed in an expeditious manner. It is our clear intent, however, not to waive any substantive or procedural requirements, including the preparation of any required environmental impact statement. The conferees intend not to undermine any environmental requirements, only to ensure that regulatory agencies do not engage in unnecessary delays in the permit process.

Finally, the conferees, have eliminated the loophole used by New York City to continue dumping after the 1981 deadline by amending the definition of the term "sewage sludge," the conferees also agreed not to allow the use of "environmentally sound" alternatives to ocean dumping because of their concern that this could open up another loophole in the law. The intent of the conferees is clear—to make it illegal to ocean dump sewage sludge and industrial waste after December 31, 1991.

The ocean is a resource that belongs to all of us, and most importantly to future generations who will inherit the environment we leave them. It's time to stop our assault on the ocean and to come to its rescue. Nature fights back when given a chance. Ending the dumping of sewage sludge and industrial waste in the waters off of New Jersey's shore is an essential component of this effort. Together, with other efforts of the 100th Congress including reauthorizing the Clean Water Act and passing the Medical Tracking Act, the New York Right Restoration Act, the Shore Protection Act and the Marine Plastic Pollution Research and Control Act of 1987, the Congress has passed the legislation we need to allow nature to fight beck.

I urge my colleagues to support the conference report on S. 2030. The Ocean Dumping Ban Act.

BAN OCEAN DUMPING OF SEWAGE SLUDGE

Mr. BRADLEY. Mr. President, I am very pleased that we are taking an extremely important step to reclaim our oceans and beaches. We are ensuring that we end a practice that should have ended a long time ago: the dumping of sewage sludge in the ocean. I regret the fact that New Jersey and New York are the only remaining States which still dispose of their sewage sludge in the ocean. Senator LAUTENBERG and I introduced legislation last February to stop this sorry practice. I want to commend the strong leadership that Senator LAUTENBERG has shown in guiding this measure to successful completion today.

I am sad that it has taken the unfortunate events of the last summer—as we witnessed the ocean's reaction to our long and continued assault on it—to focus national attention on the importance of the ocean dumping ban.

Today's action will ensure that any loopholes in the Marine Protection, Research and Sanctuaries Act which were used to continue dumping of sewage sludge in the ocean are closed. We must find alternatives to using the ocean as a cheap and easy repository for our waste. This measure will help those municipalities to finance those necessary alternatives to get out of the ocean by the end of 1991.

I am hopeful that the legislation we are enacting today—along with other extremely important ocean and beach protection legislation, such as the medical waste tracking bill, the ratification of MARPOL, legislation to prevent plastic pollution along our shores, and the Shore Protection Act—will form the basis of a policy to ensure a cleaner ocean and restoration of our beautiful shores. We must begin to stop careless practices of the past. The legislation before us will go a long way to do just that.

Mr. MOYNIHAN. Mr. President, as chairman of the committee of conference convened to complete this bill, I am proud to report that we have reached agreement. I know of no member of the conference, or indeed of either body, that opposes our final product.

The bill we are reporting today will set a date certain for the end of ocean dumping, December 31, 1991. This is the date we chose to set in the Senate version of this bill, as opposed to December 31, 1992, as had been adopted in the House. Anyone violating this deadline—we expect that unfortunately that several communities will—will be liable for stiff penalties, which will begin at $600 per dry ton and escalate on an annual basis. It is without doubt quite a tough bill, but it is necessary.

Before I go further I must commend Senator LAUTENBERG for his untiring efforts in this regard. The progress of this bill is due to his conviction on this matter, his energy, and his unwillingness to be discouraged.

Ocean dumping has been going on for quite some time—since the 1920's, and it has taken quite a great while to get any real evidence about what this might be doing to the ocean. We have been a long time at this, but one can only wait so long for evidence to accrue. In our case, this practice will continue without interruption until we act, and the potential for damage is just too great. We are dealing with the state of the world's oceans, the base of our food chain, and there is little excuse for inaction where the stakes are so high.

If at some future time there is undeniable evidence that ocean dumping does not threaten the health of our seas, then we have been fortunate indeed. We will have erred on the side of caution. But if we continue to dump and then find it confirmed that sludge does in actual fact cause significant and irreversible degradation of the ocean environment, there will be no way to clean up what has already been dumped. Once done, it might never be undone.

The bill now before the Senate would ban all ocean dumping of sewage sludge after December 31, 1991, and would impose large financial penalties on anyone violating this prohibition. The proposed penalties would supplant the currently applicable penalities of a maximum of $50,000 per violation.

The rationale behind these fines, which have been deliberately set at a level significantly higher than the cost of implementing alternative sludge disposal methods, is to encourage dumpers to adopt these alternative methods as quickly as possible by making this the financially preferable option. Although this may not be the most subtle form of persuasion, it will serve as a very real incentive to make all possible efforts to comply with the December 31, 1991, ban. Given the unavoidable time constraints that exist on placing alternative sludge disposal systems into operation, it is very possible, indeed, quite probable, that the nine New York and New Jersey municipalities currently dumping at the 106-mile site may not meet this deadline, regardless of the mandates of any Federal or State law. Mayor Koch of the city of New York has said that the city would agree to end ocean dumping by the year 1998.

We must freely admit that many of the factors contributing to the likelihood that our 1991 deadline will not be met are not in the control of the municipalities doing the dumping. New York State has what is called a fully adversarial siting process for environmental facilities such as landfills and incinerators—these are the very things that will be needed to dispose of this sludge on land. This means that the siting and construction of alternative disposal facilities will take a good deal of time, much of which cannot be avoided. In the bill we have encouraged the EPA to expedite its approval of alternative systems to the greatest degree possible without infringing upon any of the vital environmental safeguards it must apply to all proposed projects. These facilities pose their own environmental problems; incinerators emit into the air, and landfills can threaten ground water if improperly built or maintained. These are facts, and cannot be ignored.

But this should not dictate our choice on the fundamentally separate question of whether it should be the policy of this Nation to safeguard our oceans and end ocean dumping. All Senators will choose today whether or not we should stop ocean dumping once and for all. I believe that we should.

Over 100 municipalities that at one time disposed of sludge in the ocean have adopted land-based alternatives. It should be noted that none of these municipalities produce anywhere near to the quantity of sludge as do those currently using the 106-mile site. The quantity of sludge produced by these municipalities represents only 5 percent of the sludge now being dumped at the 106-mile site. The amount now going to the 106-mile site is very large—approximately 7.7 million wet tons per year—and consideration must be given to the practical limitations on how long it will take to implement alternatives, even if every effort is made to expedite the process.

I commend the members of the Environment and Public Works Committee, our conference committee, and Senator LAUTENBERG in particular for their work to bring this issue to the attention of the Congress and the Nation.

Mr. MITCHELL. Mr. President, I rise in strong support of the conference report on legislation to ban the ocean dumping of sewage sludge.

This legislation will bring to a prompt conclusion the practice of ocean dumping of sewage sludge off the New Jersey coast. The final passage of this bill is good news for the marine environment and is a clear statement of our determination to provide a comprehensive program for the protection of our marine and coastal waters.

I want to extend my most sincere congratulations to my colleague Senator LAUTENBERG on the passage of this legislation. Senator LAUTENBERG introduced this bill and has been the driving force behind it throughout the long legislative process.

I also want to congratulate Senator MOYNIHAN, the chairman of the House-Senate conference on the bill, on the successful completion of this legislation.

There are some differing views on the ocean dumping issue in the States of New York and New Jersey. Senators LAUTENBERG and MOYNIHAN did an excellent job of representing different perspectives and worked cooperatively and constructively to develop this final legislation.

I also want to express my appreciation to Senator CHAFEE, the ranking minority member of the Subcommittee on Environmental Protection, which I chair. Senator CHAFEE was actively involved in the early development of this legislation, in the hearings on this issue, and in subcommittee and full committee markup of the bill.

This legislation provides for an end to dumping of sewage sludge after December 31, 1991. The bill sets out a reasonable series of fees and penalties for dumping activities. These funds are to be available to help Federal agencies continue their efforts in the oversight of dumping activities and to help communities develop alternatives to ocean dumping of sewage sludge. In addition, some of these funds will be available to supplement the State revolving loan funds authorized under title VI of the Clean Water Act.

As a member of the conference, I want to offer my views on several topics covered in the bill.

First, the conference agreement provides for development of alternative methods of sludge disposal which do not require a permit under the Ocean Dumping Act. The conferees understand that, under EPA's current policy, practices such as sludge incineration at sea require a permit under the act. In addition, strong concern was expressed by several conferees about the serious problems posed by the concept of deep seabed injection of sewage sludge.

Second, the conference agreement provides that 10 percent of the grants made to the States of New York and New Jersey under title VI of the Clean Water Act are to be made available for loans to assist communities in development of sludge management alternatives. This allocation of title VI funds is to help communities overcome the very challenging problems of developing alternatives to ocean dumping and is not a policy which should be repeated in other cases. Also, we expect that these funds will be used for loans and other eligible activities under title VI, that the loans will be paid back, and that the loans will be managed effectively by the State.

I am pleased that the conference report includes provisions to address the problem of medical waste disposal at sea. We have included new authority for control of medical waste under the Clean Water Act and the Marine Protection, Research, and Sanctuaries Act. And we have provided new authority for control of medical waste dumping from Navy and other ships at sea.

I should note that we have provided the Administrator some authority to expand, by regulation, the definition of medical waste to include additional medical items. This authority may be used to provide consistency among definitions where appropriate.

Finally, I want to stress that, while the conferees recognize the need for prompt action to develop alternatives to ocean dumping, efforts to develop alternatives should proceed in compliance with all applicable, Federal, State, or local procedures and regulations, including assessments of environmental impacts.

Overall, this is a tough bill which will end ocean dumping of sewage sludge as soon as possible. Yet, it also is fair to the communities which currently dump, providing for both a reasonable penalty and an incentive to save the funds that will be needed to pay for alternative disposal methods.

Mr. BURDICK. Mr. President, I rise in support of the conference report on legislation to end the ocean dumping of sewage sludge and other industrial wastes.

This legislation is a major step toward protecting our ocean waters and I urge all of my colleagues to give it their full support.

We would not have this legislation before us today without the tireless efforts of Senator LAUTENBERG.

Senator LAUTENBERG sponsored this legislation in the Senate and pressed it forward to final adoption.

I also want to commend Senator MOYNIHAN, the chairman of the House-Senate conference on this bill.

Senator MOYNIHAN played a lead role in crafting the final legislation we are considering today.

Finally, I want to thank Senators MITCHELL and CHAFEE, the chairman and ranking minority member of the Environmental Protection Subcommittee, for their leadership in the development of this final package. This bill sets out a fair and workable plan for the termination of the ocean dumping of sewage sludge by December 31, 1991.

The bill directs dumpers to begin immediately to develop alternatives to ocean dumping. Communities get some help in financing these alternatives through the rebate of some penalties and a small set-aside of funds in State revolving loan funds. While this is a good, balanced package, I want to stress that the use of State revolving loan funds for activities outside the Clean Water Act is an exception to our general policy and any future proposal for such uses of fund moneys will be reviewed very critically. I also want to clarify that, while we want development of alternatives to ocean dumping to proceed on a fast track, we do not intend that such projects be in any way exempted from established review requirements.

Mr. President, this bill also includes some very important provisions for the control of the dumping of medical wastes in ocean and other waters. These provisions will go a long way toward addressing the medical waste pollution problems of the past summer.

I look forward to working with other Members of the Environment Committee in further review of this important problem in the coming Congress.

Finally, I want to express my appreciation to all the staff who have worked so hard to develop this legislation, including: Rick Erdheim of Senator LAUTENBERG's staff, Roy Kienitz for Senator MOYNIHAN; Rich Innes for Senator CHAFEE; and Jeff Peterson for Senator MITCHELL and myself. Again, I urge my colleagues to give this legislation their wholehearted support.

Mr. HOLLINGS. Mr. President, today we are considering the conference report on S. 2030, legislation to ban ocean dumping. Our efforts in this regard started back in 1972, when we, in Congress, realized that we could no longer use our oceans as a communal sewer. We learned that this practice was causing serious long-term damage to the marine environment. So we passed the Ocean Dumping Act, which was our attempt to phase out the ocean dumping of sewage sludge. Unfortunately, we were not entirely successful in ending the practice. Today, New York City and eight other municipalities continue to dump sewage into the ocean.

The legislation which we are considering amends title I of the Marine Protection, Research, and Sanctuaries Act which regulates the dumping of material into the ocean. The legislation provides a framework for ending the dumping of sewage sludge and will require that by 1992, all dumping be stopped. This prohibition is long overdue and I strongly support its enactment.

In addition to the prohibition on ocean dumping, the conference report includes several titles that are of interest to the committee that I chair, the Committee on Commerce, Science, and Transportation. I am referring to titles III and IV, which address the dumping of medical wastes and the establishment of a permit system for vessels.

As such, I would appreciate it if my good friend and chairman of the Committee on Environment and Public Works, Mr. BURDICK, would be willing to discuss these provisions.

Mr. BURDICK. Mr. President, it would be a pleasure to discuss the matter with the Senator from South Carolina, the distinguished chairman of the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Sections 4101-4204 of the bill require the development of a permit system by the Coast Guard for vessels that transport wastes. This provision was originally added by Senator LAUTENBERG during the Senate's consideration of the bill. Sections 3101-3106 of the legislation prohibit the dumping of medical wastes by public vessels. Both the provision establishing a permit system for vessels transporting wastes and the provision prohibiting medical waste dumping by public vessels address matters within the jurisdiction of the Commerce Committee.

The Environment Committee has consulted with the Commerce Committee about these matters and we have worked together to develop a text that reflects the interests of both committees. As a result, we support the text currently before the Senate. The problem of ocean dumping is one that must be solved. These provisions are an important part of the solution. I want to thank the distinguished chairman of the Committee on Environment and Public Works for his leadership in this area. I look forward to continued cooperation between our committees.

Mr. BURDICK. The distinguished chairman of the Committee on Commerce, Science, and Transportation is accurate in his description of the provisions under discussion and I recognize that these provisions include matters within the jurisdiction of that committee. I want to thank my colleague for his assistance in their development and his support for this legislation.

Mr. CHAFEE. Mr. President, the conference agreement on the Ocean Dumping Ban Act of 1988, S. 2030, which we have just given final approval to, represents a major step in our continuing efforts to not only protect, but restore our marine environment. As a coauthor of this legislation, along with my distinguished colleague from New Jersey, Senator LAUTENBERG, the Senator from Delaware, Senator ROTH, Senators MOYNIHAN, MITCHELL and others, I can tell you this conference report is a significant accomplishment. It sends a clear signal that we will no longer tolerate the spoiling of our near coastal waters.

This act establishes for once and for all that we cannot use the ocean as a receptacle for society's waste, and especially as the dumping ground for our sewage sludge. It will make it illegal to dump sludge in the ocean after 1991.

This legislation will prohibit those municipalities currently dumping sewage sludge at the 106-mile disposal site from doing so within 9 months of the bill's enactment, unless they enter into a compliance agreement with the environmental protection agency.

Dumpers will be required to pay $100-200 for each ton dumped before the 1991 deadline. This money must be used by the municipalities to develop viable alternatives to sludge dumping. After 1991, any municipalities continuing to dump will be fined $600 per ton plus a 10-percent annual increase—until the violators stop.

If dumping municipal sludge in the ocean were the only or the best alternative, then fine. But EPA has said unequivocally that the States utilizing the 106-mile dumpsite have not fully explored other options. This legislation requires them to develop these options. A percentage of the money from the fines will go into a trust fund, which may only be used—with EPA approval—to implement alternatives to dumping. The remaining funds go to the EPA to cover the costs of administering the program, or to the States for specific activities.

The act requires the EPA and the National Oceanic and Atmospheric Administration [NOAA] to establish a monitoring program to measure the effects of continued dumping on fisheries from North Carolina to Georges Bank. They will monitor short dumping of sludge, as well, encouraging States to find beneficial uses for sludge.

Finally, the bill includes provisions to regulate garbage operations and to make it illegal to dispose of medical waste in the ocean. The presence of medical waste on our beaches is enough evidence to prove the need for dumping regulations.

It is unfortunate that it takes a situation like we have today with medical waste washing up on our beaches, to capture the attention of the American public and of Congress. But perhaps it is a blessing in disguise, since it has resulted in our action today to put a halt to the ocean dumping of sludge. We have already passed the Medical Waste Tracking Act of 1988. Finally we have gotten the message that we must make the tough decisions necessary to protect our marine environment.

I thank my colleagues for joining with me in support of this much-needed legislation.

Mr. WEICKER. Mr. President, I am delighted that the Senate is about to pass the conference report on the Ocean Dumping Ban Act of 1988. This bill makes it crystal clear that the intent of Congress is to completely ban the ocean dumping of sewage sludge, and to get those who are currently dumping to stop as soon as is physically possible.

The act resolves a problem and a debate which has been going on for years. This clarification is necessary as the original ban passed in 1977 has since been interpreted by the courts so as to allow several municipalities in New York and New Jersey to continue ocean dumping their sewage sludge. In 1988 alone, that dumping will involve nearly 8 million tons of sludge.

The Ocean Dumping Ban Act leaves no doubt about the will of Congress with regard to sludge dumping. No one who is not currently dumping may begin to do so, and anyone who is dumping must implement an alternative disposal system as quickly as possible. The act also sets out a reasonable, fair and effective system of fees, penalties, and economic incentives for getting dumpers out of the ocean. I am proud to be associated with this measure as I believe it does something which Congress all too often does not—it goes beyond hollow rhetorical promises and actually takes the real world steps necessary to achieve its goal.

Mr. President, this past summer, when we were considering the Medical Waste Tracking Act of 1988, I expressed my concern over the broad range of abuses to which we are subjecting our oceans. Although the beachgoing season is now over, those concerns are no less relevant today. Ocean dumping of sewage sludge is only one of many human actions which degrade the marine environment. But it is unique in at least two respects—it is imminently controllable and its cessation has already been overwhelmingly approved by Congress.

As I discussed last summer, the oceans have been telling us again and again that they are under extreme stress—entire populations such as the diadema, or spiny sea urchin, dying off throughout the Caribbean, hundreds of dolphins washing up dead on our shores, and similar deaths of thousands of seals around the North Sea. The list of problems goes on and includes advice against eating certain fish whose meat is too contaminated with PCB's, the closing of as much as 30 percent of our prime shellfish beds, and so on.

There is no one cause of these problems and there is also no one solution. What we do today, however, is part of our continuing effort to protect the marine environment from further degradation and to restore those areas previously affected. We have the unique opportunity here to stop dumping before irreparable harm has been done. How foolish it would be for us not to do so.

When reviewing the current deep water sludge dumpsite, the National Oceanic and Atmospheric Administration calculated that the "potential area of influence of dumped wastes" at the 106 mile site covers "a wide area off the Northeast coast encompassing approximately 116,000 square kilometers". This is a tremendous area of the ocean to put at risk, out of ignorance or inertia, with continued sludge dumping—and the reports from fishermen in the area over the last 8 months or so tell us that we are in fact putting it at great risk. They have reported diseases in the crabs, lobsters, and bottom dwelling fish which have never been seen before in the area of the dumpsite.

Mr. President, the Senate today is approving desperately needed legislation. For many years now I have been a champion of the oceans and I believe that this legislation is one of the most important steps Congress has taken for the protection and long-term maintenance of that most precious natural resource. I also believe that act we are passing today is a realistic and a responsible one, and I am proud to have worked for its passage with my colleagues Senators LAUTENBERG, CHAFEE, MOYNIHAN, and D'AMATO.

Mr. SYMMS. Mr. President, I appreciate the problem that this bill is intended to address. It seems logical to me that hauling sewage and potentially dangerous industrial waste out into the middle of the ocean and dumping it should not be considered a viable waste disposal method.

All the same, I hope that in the process of addressing this very real problem, the bill does not needlessly impose obstacles to the disposal of rock and sediment resulting from mining and drilling.

These mine tailings and drilling wastes are substantially the same things as the sediment that lies at the bottom of the ocean already. Disposal of these inert and nontoxic piles of dirt and crushed rock on the ocean floor is sometimes the most environmentally sound practice available. I trust that, since these activities are not currently required to obtain a permit under the Marine Protection, Research, and Sanctuaries Act of 1972, they will not be prohibited by the amendment to that act found in the legislation before us.

The prohibition on ocean dumping, as proposed in this bill, would not become effective until 1992. That gives Congress plenty of time to examine the issue of mining and production waste disposal in the oceans.

A NEW ETHIC ON THE OCEANS

Mr. BIDEN. Mr. President, in the last year the Nation has undergone a tremendous change in attitude toward the ocean environment. It did not come easily, but rather through a series of shocks that hit our consciousness.

In the summer of 1987, dead dolphins washing up on east coast shores raised sobering thoughts over what it was out there that could possibly be killing them. Winter saw whales suffering similarly unexplained deaths.

1988 started out in a similar vein. Fishermen related stories of dramatic drops in catches. Crab and lobster fishermen were particularly hard hit. What they could haul in was often afflicted with a disease that burned holes in their shells. Other fishermen found more and more cases of fin rot among bottom-dwelling fish.

Scientists were unable to find a definitive cause of these maladies, but one suspect stood out. That is why Congress is about to pass legislation banning the dumping of sewage sludge in the ocean. It is a needed step, particularly in light of the damage believed to have been caused to the marine environment at the 106-mile dump site off Delaware's and New Jersey's coast, and other sites where ocean dumping it has been the disposal method of choice.

This legislation should never have been added. Over a decade ago, Congress thought it had banned ocean dumping. Unfortunately, New York City and other dumpers took the Environmental Protection Agency to court as the deadline approached and won. The case not only eliminated the 1981 deadline, it also effectively ended any chance that ocean dumping would come to a halt at any time without a new law.

Seven years later we are about to pass that new law. The dolphins, whales, and fish showed us that something was wrong out there. Our barometers of environmental health were pointing toward disaster. The 8 million tons of sewage sludge dumped at the 106-mile site last year was not disappearing, a fact that came as surprising to some.

For those of us who were most aware of the effects of ocean dumping, we knew it was a winnable battle. We closed the Philadelphia dumpsite in the late 1970's. We thought we had won a complete ban in 1977, but that proved to be premature. Passage of this bill, in effect a reversion to earlier policy, is the final round in the fight against ocean dumping. The focus now shifts to the EPA's ability to carry out this mandate, and this time there is greater assurance the EPA will do its job.

The requirement for a compliance schedule will provide the plan for meeting the December 31, 1991 deadline. The certainty of heavy fines for dumping after the deadline will focus the attention and energies of the towns and cities that continue the practice on avoiding that burden.

Beaches in my own State have been spared from the ill-effects of dumping at the 106-mile site, but Delaware residents also know that as long as ocean dumping of the sludge is an option for some, it will be viewed as an option by all. That possibility of wider use must be and will be blocked by the passage of this bill. Cities will have no reason to expect that their own sludge barges will sail with New York's to the 106-mile site or anywhere else in the Atlantic.

The summer of 1988 has been called "the summer to forget" by some New Yorkers and New Jerseyites as because of the devastating impact on the beach economy of medical waste wash-ups. But it is a summer I hope will be remembered for renewing a sense of commitment to our environment.

I find it ironic that, despite all the damage the dumping has done to the oceans and marine life, it was a syringe that sparked action. One single syringe had more impact on our Nation's attitude toward the environment than millions of tons of sludge. But the fear the syringes and red bags caused has left a most welcome legacy.

I believe this new environmental ethic will be fundamentally different from earlier actions. Protest marches and signs will not have the prominent role in the new environmentalism. It will be a more pensive activism, and more pervasive one. Its roots will run much broader.

The medical waste wash-ups this summer, and the dolphins deaths last summer, have brought home the environmental message to millions in a way that demonstrates how it affects everyday lives. You may not realize the damage caused by high ozone levels or may not appreciate the increased risk of cancer or disease from chemicals.

But when the because is closed because of medical waste or sewage, that's when you get religion. When you see lakes stilled and forests decimated by acid rain, you understand what the issues are. When you hear reports that man-made chemicals have blasted a hole in the ozone above Anarctica, you understand that major changes are occurring.

This ocean dumping bill represents just the first salvo in a rejuvenated battle to protect the environment. The fight against ocean dumping has been going on for years. The silver lining in the beach wash-ups is passage of this legislation, and the prospect of much needed action on other environmental issues in the next few years ahead.

Mr. President, I was pleased to join Senator LAUTENBERG in introducing legislation to end ocean dumping earlier this year, and I would like to commend his efforts for pushing that bill have before us down such a long and difficult road. Our two States have been keenly aware of what the dumping of millions of tons of sludge can do to the ocean. Passage of this bill is an act that both Delaware and New Jersey will celebrate.

I would also like to point out the bipartisan nature of support for this legislation in Delaware. Senator ROTH and I have introduced bills to end ocean dumping in earlier Congresses, and it is an issue we have worked closely to resolve. I am pleased to see those efforts have finally reached a successful end.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CENSUS CLASSIFICATION OF ASIAN AMERICANS AND PACIFIC ISLANDERS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate H.R. 4432, a bill relating to the census classification of Asian Americans and Pacific Islanders and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4432) to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censusses of population.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3729

(Purpose: To modify the identification of certain groups in the census)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senators KASTEN and McCAIN and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. KASTEN, for himself, Mr. McCAIN, Mr. TRIBLE, Mr. HUMPHREY, and Mr. WALLOP, proposes an amendment numbered 3729.

Mr. DOLE Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 1 through 12 and insert in lieu thereof the following:

"(A) shall include, in a checkoff format, each group identified in question 4 of the short form used in the 1980 decennial census of population; and

"(B) shall include a means to write in the name of any group not specified under subparagraph (A).

Mr. KASTEN. Mr. President, I rise to offer an amendment on H.R. 4432. This bill, which proposes certain revisions in the census regarding Asian Americans, has been held at the desk. It has not been reported to the full Senate from the Government Affairs Committee, nor has it been subject to review by any other Senate committee.

It has come to my attention and to the attention of a number of my colleagues that there are provisions of this bill that have foreign policy implications above and beyond implications for the conduct of the 1990 census.

My amendment removes from the bill the requirement that the Census Bureau add two additional categories of Asian Americans to its questions regarding ethnic and racial origin. It also removes the specific requirement that the category of "Taiwanese" be added to the census questionnaire.

These requirements which presently exist in H.R. 4432 have no place in a U.S. census form. The United States Government does not recognize the separate identity of "Chinese" and

"Taiwanese." In fact, I would remind my colleagues that basic American policy acknowledges the position that "there is only one China, and Taiwan is a part of China.

I believe it would be a mistake to distort what is supposed to be a straightforward demographic study of the American population with an extraneous political agenda. For this reason, and because of the confusion and dissension in the Chinese-American community which this provision would cause, I am moving to strike these provisions from the bill.

Mr. President, if this amendment is accepted, I would have no further objections to passage of this bill. I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3729) was agreed to.

AMENDMENT NO. 3730

(Purpose: To amend title 13, United States Code, to improve the administration of decennial censuses of population)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. PRYOR, proposes an amendment numbered 3730.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SECTION . QUESTIONS RELATING TO HOUSING.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "Secretary" means the Secretary of Commerce; and

(2) the term "census of population" has the meaning given such term under section 141 of title 13, United States Code.

(b) QUESTIONS FOR INCLUSION.—The Secretary shall take appropriate measures to ensure that—

(1) each short form and each long form used in the 1990 decennial census of population shall include 1 or more questions relating to plumbing facilities in the respondent's housing unit; and

(2) each long form used in the 1990 decennial census of population shall include (and each short form used in such census may include) 1 or more questions relating to the heating or cooling of the respondent's housing unit, including at least 1 question relating to the type of equipment used in such heating or cooling, with heating questions receiving preference in the event of difficulty with available resources.

(c) CONSTRUCTION.—Nothing in this section shall, with respect to the forms used in the 1990 decennial census of population, be considered to limit the Secretary's discretion to include questions in addition to any questions permitted or required to be included under the preceding provisions of this section.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3730) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4432) as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESTRICTIONS ON POST-EMPLOYMENT ACTIVITIES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1145, H.R. 5043.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5043) to amend section 207 of title 18, United States Code, relating to restrictions on post-employment activities.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3731

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. METZENBAUM, and Mr. LEVIN, proposes an amendment numbered 3731.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:.

SECTION 1 SHORT TITLE

This Act may be cited as the "Integrity in Post-Employment Act of 1988".

SEC. 2. RESTRICTIONS ON POST-EMPLOYMENT ACTIVITIES

(a) RESTRICTIONS.—Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches; restrictions on partners of certain current officers and employees of the executive branch

"(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOYEES OF THE EXECUTIVE BRANCH AND CERTAIN OTHER AGENCIES.—

"(1) PERMANENT RESTRICTIONS.—Any person who is an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States (including the Government Printing Office and the General Accounting Office), including the President, the Vice President, and any special Government employee, and who, after his or her service or employment with the United States Government terminates—

"(A) Knowingly acts as agent or attorney for, or other wise represents, aids, or advise any other person (except the United States) concerning any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any department, agency, court, or court-martial of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter—

"(i) in which the United States is a party or has a direct and substantial interest,

"(ii) in which the person participated personally and substantially as such officer or employee through decision, approval, disapproval, recommendation the rendering of advice, investigation, or otherwise, and

"(iii) which involved a specific party or specific parties,

shall be punished as provided in subsection (h).

"(2) Two-Year restrictions.—Any person subject to the restrictions contained in paragraph (1) who within 2 years after his or her service or employment with the United States Government terminates—

"(A) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any department, agency, court, or court-martial of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter—

"(i) in which the United States is a party or has a direct and substantial interest,

"(ii) which was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States Government, and

"(iii) which involved a specific party or specific parties,

shall be punished as provided in subsection (h).

"(3) One-year restrictions with respect to trade negotiations.—Any person subject to the restrictions contained in paragraph (1) who, within 1 year after his or her service or employment with the United States Government terminates—

"(A) knowingly acts as agent or attorney for, or otherwise represents, aids, or advises any other person (except the United States) concerning any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any department, agency, court, or court-martial of the United States, or any officer or employee thereof, in connection with any trade negotiation—

"(i) in which the United States is a party or has a direct and substantial interest, and

"(ii)(I) which was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States Government, or

"(II) in which such person participated personally and substantially as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States Government,

shall be punished as provided in subsection (h). For purposes of this paragraph, the term 'trade negotiation' means negotiations undertaken to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988. This paragraph applies only in a case in which neither paragraph (1) or (2) of this subsection applies.

"(b) One-year Restrictions on Certain Senior Executive Branch Personnel.—

"(1) Restrictions.—In addition to the restrictions set forth in subsection (a), any person who is an officer or employee referred to in paragraph (2) (other than a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates) and who, within 1 year after his or her service or employment as such officer or employee terminates—

"(A) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or,

"(B) makes, with the intent to influence; any communication on behalf of any person (except the United States) to,

any department or agency in which such person served within 1 year before such person's service or employment as such officer or employee terminated, or any officer or employee thereof, in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, which is pending before such department or agency or in which such department or agency has a direct and substantial interest, shall be punished as provided in subsection (h).

"(2) Persons to whom restrictions apply.—(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (c) or (d))—employed in a position for which the basic rate of pay is equal to or greater than the basic rate of pay payable for GS-17 of the General Schedule, or ES-4, ES-5, or ES-6 in the Senior Executive Service pursuant to the Civil Service Reform Act of 1978, or positions held by active duty commissioned officers of the uniformed services who are serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade 0-7 or 0-8, or comparable rate of pay under other authority.

(B) With respect to persons in positions described in subparagraph (A) the Director of the Office of Government Ethics shall, within 120 days of enactment of this Act, issue regulations which limit the restrictions of paragraph 1 to appropriate agencies or subagencies for each Department or agency in the executive branch, including any independent agency, which have separate and distinct subject matter jurisdiction, taking into account the purposes of this Act to prevent undue access or influence or the appearance of such. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of the Director's responsibilities under this paragraph.

"(c) Restrictions on Other Senior Executive Branch Personnel.—In addition to the restrictions set forth in subsection (a), any person who—

"(1) is appointed to a position in the executive branch or an independent agency which is listed in section 5314, 5315, or 5316 or title 5, or

"(2) is appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3.

and who, within 1 year after that person's service in that position terminates

"(A) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any department or agency in which such person served within 1 year before such person's service in such position terminated, or any officer or employee thereof, in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, change, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest shall be punished as provided in subsection (h).

"(d) Restrictions on Very Senior Executive Branch Personnel.—(1) In addition to the restrictions set forth in subsection (a), any person who—

"(A) serves in the position of President or Vice President of the United States.

"(B) is appointed to a position in the executive branch or an independent agency which is listed in section 5312 or 5313 of title 5,

"(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3, or

"(D) serves on active duty as a commissioned officer of a uniformed service in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O-9 or O-10,

and who, within 1 year after that person's service in that position terminate—

"(i) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(ii) makes, with the intent to influence, any communication-on behalf of any other person (except the United States) to,

any department, agency, or person in the executive branch, including any independent agency, in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, shall be punished as provided in subsection (h).

"(e) Restrictions on Members of Congress and Officers and Employees of the Legislative Branch.—

"(1) Members of congress and elected officers.—(A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office—

"(i) knowingly acts as agent or attorney for, or other wise represents, any other person (except the United States) in any formal or informal appearance before, or

"(ii) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any of the persons described in subparagraph (B), in connection with any matter which is pending before the Congress or any matter on which such former Member of Congress or elected officer seeks action by the Congress or by a Member of Congress in his or her official capacity, shall be punished as provided in subsection (h).

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress or elected officer are any Member of Congress, elected officer, or employee of either House of Congress.

"(2) Personal staff.—(A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after that employment terminates—

"(i) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(ii) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any of the persons described in subparagraph (B), in connection with any matter which is pending before the Congress or any matter on which such former employee seeks action by the Congress or by a Member of Congress in his or her official capacity, shall be punished as provided in subsection (h).

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

"(i) the Senator or Member of the House of Representative of whom that person was an employee, and

"(ii) any employee of that Senator or Member of the House of Representatives.

"(3) Committee staff.—Any person who is an employee of a committee of Congress and who, within 1 year after that person's employment as such employee terminates—

"(A) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any person who is a Member or an employee of that committee of Congress, in connection with any matter which is pending before the Congress or any matter on which such former employee seeks action by the Congress or by a Member of Congress in his or her official capacity, shall be punished as provided in subsection (h).

"(4) Leadership staff.—(A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after that person's employment on such staff terminates—

"(i) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(ii) makes, with the intent to influence, any communication on behalf of any other person (except the United States), to

any of the persons described in subparagraph (B), in connection with any matter which is pending before the Congress or any matter on which such former employee seeks action by the Congress or a Member of Congress in his or her official capacity, shall be punished as provided in subsection (h).

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:

"(i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives, and any employee on the leadership staff of the House of Representatives; and

"(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate, and any employee on the leadership staff of the Senate.

"(5) Limitation on restrictions.—(A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who was paid for services rendered as such employee at a rate of pay equal to or greater than the basic rate of pay payable for GS-16 of the General Schedule under section 5332 of title 5, for a period of more than 60 days during the 1-year period before that former employee's service as such employee terminated.

"(B) The restrictions contained in paragraphs (2), (3), and (4) shall not apply to any appearance, communication, or representation by a former Member of Congress, elected officer, or employee which is made in carrying out official duties as an officer or employee of the United States Government.

"(6) Definitions.—As used in this subsection—

"(A) the term 'committee of Congress' includes standing committees, joint committees, and select committees;

"(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

"(C) the term 'employee of the House of Representatives' means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

"(D) the term 'employee of the Senate' means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

"(E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the Clerk hire allowance;

"(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

"(G) the term 'employee on the leadership staff of the House of Representatives' means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (K), the minority sergeant at arms, and any policy-level employee appointed under authority of the minority party leadership of the House of Representatives;

"(H) the term 'employee on the leadership staff of the Senate' means an employee of the office of a Member of the leadership of the Senate described in subparagraph (L);

"(I) the term 'Member of Congress' means a Senator or a Member of the House of Representatives;

"(J) the term 'Member of the House of Representatives' means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

"(K) the term 'Member of the leadership of the House of Representatives' means the Speaker, majority leader, minority leader, majority whip, minority whip, chief majority whip, chief minority whip, Democratic Steering Committee, Democratic Caucus, Republican Conference, Republican Research Committee, and Republican Policy Committee, of the House of Representatives; and

"(L) the term 'Member of the leadership of the Senate' means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority or Conference of the Minority, Majority Policy Committee, and Minority Policy Committee, of the Senate.

"(f) Restrictions Relating to Foreign Entities.—

"(1) Restrictions.—Any person who is subject to the restrictions contained in subsection (b), (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in subsection (b), (c), (d), or (e), as the case may be, is employed by, represents, or advises a foreign entity shall be punished as provided in subsection (h).

"(2) Definition.—For purposes of this subsection, the term 'foreign entity' means—

"(A) the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, and

"(B) a foreign political party; or

"(C) a foreign organization which has been determined, upon request by a covered individual, by the Director of the Office of Government Ethics to be acting as an instrumentality of a foreign government or political party.

"(g)(1) Defense.—In an action under subsection (b), (c), (d), (e), or (f) of this section, it shall be an affirmative defense, which the defendant must establish by a preponderance of the evidence, that the defendant acted without receiving, or the expectation of receiving, directly or indirectly, whether in connection with a particular communication or representation of a person regarding a particular matter, any compensation, financial gain or remuneration.

"(2) As used in this subsection, the term 'compensation' means anything of value which is provided, directly or indirectly, for services rendered, including a payment, gift, benefit, reward, favor, or gratuity.

"(h) Penalties.—The punishment for an offense under subsection (a), (b), (c), (d), (e) or (f) is the following:

"(1) Any person who engages in the conduct constituting the offense shall be imprisoned for not more than 2 years or fined in the amount set forth in this title, or both.

"(2) Any person who willfully engages in the conduct constituting the offense shall be imprisoned for not more than 4 years or fined in the amount set forth in this title, or both.

"(i) General Exceptions.—

"(1) Certain elected officials and employees.—(A) The restrictions contained in subsection (a) shall not apply to any appropriate, communication, or representation which is made in carrying out official duties as an elected official of a State or local government.

"(B) The restrictions contained in subsections (a)(2), (a)(3), (b), (c), (d), (e) and (f) shall not apply to any appearance, communication, or representation by a former Member of Congress or officer or employee of the executive or legislative branch, which is made in carrying out official duties as—

"(i) an elected official of a State or local government, or

"(ii) an employee of (I) an agency or instrumentality of a State or local government, (II) an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (III) a hospital or medical research organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, if the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization.

"(2) International organizations.—The restrictions contained in subsections (a)(2), (a)(3), (b), (c), (d), (e) and (f) shall not apply to the employment by, representation of, or advice or aid to, an international organization of which the United States is a member except in cases in which the individual (1) had access to classified materials or intelligence information related to the international organization, or (2) had been officially responsible, in any way, for the determination or implementation of United States policies or programs associated with the international organization.

"(3) The restrictions contained in subsections (b), (c), (d), and (e) shall not apply to the making of public speeches or public appearances.

"(j) Exception for Scientific or Technological Information.—The restrictions contained in subsections (a), (b), (c), and (d) shall not apply with respect to the making of communications by a former officer or employee solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

"(k) Restrictions on Partners of Officers and Employees.—Any person who is a partner of an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States (including the Government Printing Office and the General Accounting Office), including the President, the Vice President, and any special Government employee, and who knowingly acts as agent or attorney for anyone other than the United States before any department, agency, court, or court-martial of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which—

"(1) the United States is a party or has a direct and substantial interest, and

"(2) such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise,

shall be imprisoned for not more than 1 year or fined in the amount set forth in this title, or both.

"(l) Exception for Testimony.—Nothing in this section shall prevent a former Member of Congress or officer or employee of the executive or legislative branch from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(m) Administrative Department.—

"(1) Authority.—If the head of a department or agency in which a former officer or employee of the executive branch or of an independent agency served finds, after notice and an opportunity for a hearing, that such former officer or employee knowingly engaged in conduct constituting an offense under subsection (a), (b), (c), or (d) of this section, such department or agency head may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any communication to, such department or agency on a pending matter of business for a period of not more than 5 years, or may take other appropriate discipinary action. For purposes of this subsection, proof of conduct constituting an offense must be established by a preponderance of the evidence.

"(2) Review of disciplinary action.—Any disciplinary action under paragraph (1) shall be subject to review in an appropriate United States district court.

"(3) Procedures.—Departments and agencies in the executive branch and independent agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection.

"(n) Civil Penalties.—The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under subsection (a), (b), (c), (d), (e), (f) or (j) and, upon proof of such conduct by a preponderence of the evidence, such person shall be subject to a civil penalty of not more than $50,000, or the amount of compensation which the person receives for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other remedy which is available by law to the United States or any other person.

"(o) Injunctive Relief.—If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under subsection (a), (b), (c), (d), (e), or (j), the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court shall order the trial of the action on the merits to be advanced and consolidated with the hearing on the petition. The court may issue such order if it finds that such conduct constitutes such an offense. The filing of a petition under this subsection does not preclude any other remedy which is available by law to the United States or any other person.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 11 of title 18, United States Code is amended by amending the item relating to section 207 to read as follows:

"207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches; restrictions on partners of certain current officers and employees of the executive branch.".

SEC. 3. EFFECTIVE DATE.

(a) In General.—Subject to subsection (b), this Act and the amendments made by this Act take effect 9 months after the date of the enactment of this Act.

(b) Effect on Employment.—(1) The amendments made by this Act apply only to persons whose service as a Member of Congress or an officer or employee to which such amendments apply terminates on or after the effective date of such amendments.

(2) With respect to service as an officer or employee which terminates before the effective date of this Act, section 207 of title 18, United States Code, as in effect at the time of the termination to such service, shall continue to apply, on and after such effective date, with respect to such service.

SEC. 4. SEVERABILITY.

If any provision of this Act, including the amendments made by this Act, or the application of any such provision to any circumstance or person is held invalid, the remainder of this Act, or the application of such provisions to any other circumstance or person is not afforded thereby.

Mr. THURMOND. Mr. President, on April 19 of this year, the Senate unanimously passed S. 237, the "Integrity in Post-Employment Act of 1988." The House of Representatives recently acted on their proposal which has come over Senate consideration. It is important that the Senate act quickly on this matter so that legislation can be enacted before the 100th Congress ends.

Regarding this important legislation, it will protect the integrity of our democratic process. This bill substantially strengthens the current law on post-employment activity by former Federal officials. It provides a uniform, straightforward, and enforceable way to prevent those who are employed by the Federal Government from leaving public service and marketing their access and influence for financial gain. In addition, the legislation prevents Federal employees from vending sensitive information vital to national interests to foreign entities for profit.

Passage of this legislation is important because clear threats arise out of the abusive use of access and influence and the vending of sensitive information: First, damage to the integrity of Government, as undue and improper influence is brought to bear on decision-making process; second erosion of public confidence in the operation of the Government, as the American people sense former employees are exerting, or appear to be exerting, improper influence of current Government decisions; and third, jeopardy to the national interests, as some former employees advise foreign clients based on sensitive information gained while in positions of trust with the Federal Government.

Regarding the history of this bill, I originally introduced the "Integrity in Post-Employment Act" in the 99th Congress. After some revision, the legislation was voice voted out of the Judiciary Committee in June 1986. As no floor action occured before adjournment, the bill was reintroduced in the 100th Congress. In May 1987, the legislation was again voice voted out of committee without opposition. After this legislation was originally reported by the Senate Judiciary Committee, I agreed to some modifications of the proposal to broaden support for the bill which unanimously passed the Senate on April 19, 1988.

Regarding the House proposal, I have reviewed it. I prefer the bill which passed the Senate on April 19, 1988. However, I am willing to accept certain modifications made by the House, but must insist on certain Senate provisions.

Major provisions of the proposal before this body which I find acceptable will:

Provide for a 12-month moratorium on Government employees with a civil service rating of GS-16 or greater, commissioned officers of a uniform service assigned to a pay grade of 0-7 or above, and the Government's highest ranking officials—which includes Cabinet members and most of their principal deputies, Members of Congress, and top White House aids—from lobbying or working for a foreign entity after leaving Government service.

Bar Members of Congress from lobbying either House of Congress for 1 year and restricts high-level executive branch officials from lobbying their branch for 1 year.

Prohibits top staff from lobbying their own Member or his or her personal staff and top committee staff from lobbying committee members or staff for 1 year.

In addition, this legislation maintains the lifetime ban in current law that prohibits all executive branch employees from lobbying on any issue in which they had "a personal and substantial" involvement while in Government service.

Under this bill, foreign entities and defined as foreign governments, foreign political parties, or organizations substantially controlled by either. Also, exemptions are included to allow employment and lobbying by former Government officials for certain charitable, scholastic, or humanitarian purposes.

Maximum criminal penalties of $250,000 in fines and 4-year prison terms, or both, are included in the measure. An additional provision allows, along with any criminal action, recovery of civil fines of up to $50,000 or the amount of proceeds obtained by and individual who violates restrictions in this bill, whichever is greater.

This legislation would become effective 9 months after it is signed into law.

In summary, I believe this bill must be enacted so that much-needed improvements to the weak, confusing, and oftentimes conflicting laws governing former Members and Federal officials who lobby the Government or work for a foreign entity will be put into place. When we face a serious problem such as the misuse of influence and access or vending of sensitive information vital to national interests, we have two alternatives—do nothing, or take steps to resolve the problem. I believe we must take action to prevent irreparable damage to our Nation and to restore public confidence and integrity in our system of government. It is time that public service be just that—not merely a stepping stone for future employment or profit.

The American people demand, deserve, and expect a standard of ethics which will instill confidence in all of us that this Government makes decisions based on the merits of an issue—not based on positions taken by those who have the most access, influence, or financial clout.

I urge passage of this bill.

Mr. METZENBAUM. Mr. President, I would like to be heard very briefly.

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. THURMOND. I am glad to yield.

Mr. METZENBAUM. Mr. President, I am very pleased that the Senate once again is considering legislation to tighten restrictions on the revolving door practices of the Federal Government. For too long, Congress has done nothing while high level officials in the executive branch left office to lobby their cronies weeks later. And, what is more, Congress has never seen fit to apply the law to itself at all. The result is justified and growing cynicism on the part of the public. They hear lots of rhetoric about the sleaze factor and about the need for a higher standard of ethics, but they don't see action. Now, we have an opportunity to take some action.

The public is watching us as we consider this bill. They are wondering if we have heard the message. The message is that the public is tired of peddling influence and access. The public is fed up with Congress exempting itself from ethics laws. They are tired of people entering Government to develop contacts to serve them when they leave.

Some of us will have to swallow hard to pass this bill. It restricts job prospects for some of us. It reduces the number of lucrative lobbying opportunities for a while after we leave office. It's no secret that many congressional staff are quietly hoping this bill will die.

But we cannot let it die. In fact, we should be ashamed if we let this bill die in the closing days of the 100th Congress. If we do, the burden is on us. The public should reject the excuse that there was not sufficient time to act. We have no excuses.

This bill stands for the principle that lobbyists should be paid for what they know, not whom they know. Public service should be valued in its own right, not as a get-acquainted orientation for a career as a lobbyist.

A few months ago, the Senate passed a good bill, a strong bill, to tighten restrictions on lobbying. That bill, which passed with no objections, barred top level members of the executive branch from lobbying the entire executive branch and Members of Congress for 1 year. It barred Members of Congress from lobbying the Congress and top level officials of the executive branch for 1 year. The original Senate bill also barred top level congressional staff from lobbying the House of Congress for which they worked.

The bill we are considering today does not go as far as the original Senate-passed bill, because we are attempting to reach an accommodation with the House. This bill will bar Members of Congress from lobbying either House of Congress for 1 year and will bar top level officials in the executive branch from lobbying the entire executive branch for 1 year. It also bars high-level congressional staff who served on the personal staff of a Member of Congress from lobbying the personal staff and Member for whom they worked for 1 year. In the case of high-level staff of congressional committees, it bars them from lobbying the Members and staff of that committee.

While I would prefer that these provisions were as strong as the original Senate-passed bill, I understand the need to compromise in order to send a bill to the President. Moreover, these provisions represent a major advance over current law. From the beginning, I pressed hard for any legislation to cover Members of Congress. Therefore, I am particularly pleased that this bill, if adopted by the House, will apply the Ethics in Government Act to Congress for the first time.

The bill we are considering today also contains other provisions which substantially improve current law. It bars senior officials from working for a foreign government for 1 year, and it bans all Federal employees from participating or advising any person regarding trade negotiations if the employee was involved in that matter while he or she was in the Government.

In addition, the bill simplifies and strengthens the application of post-employment restrictions to senior officials in the executive branch. Officials at the level of executive schedules III-V are barred from lobbying their own agency for 1 year. Officials at the level of GS-17 and 18 are barred from lobbying their subagency as defined by the Office of Government Ethics. The bill also provides that the current authority for OGE to define subagencies (compartmentalization) does not extend to the Executive Office of the President. Thus, the unseemly and inappropriate division of the Executive

Office of the President into subagencies will no longer be allowed.

Finally, the bill ends the cumbersome and arbitrary process of designation by which OGE has identified certain GS-17 and GS-18 level members of the Executive Branch which are barred from lobbying their own subagency. OGE itself reports this process is arbitrary and unworkable and serves no useful purpose. The bill simply provides that all GS-17 and 18 officials, and others in the executive branch of comparable rank, are barred from lobbying their own subagency, as defined by OGE.

Several persons have worked very hard to make this bill a reality. Senator THURMOND, the ranking member of the Judiciary Committee, is the original author of the bill and has steadfastly worked to ensure its passage. Senator LEVIN, the chairman of the government management subcommittee has contributed enormously to the drafting of the bill, particularly in ensuring that the provisions are enforceable and consistent with the proper functioning of the Office of Government Ethics. Senator SPECTER and Senator RUDMAN have also been helpful and cooperative.

I also want to commend Congressman FRANK who has taken the lead in the House in this area as well as Congresswoman KAPTUR from my own State of Ohio who has for some time pointed out the problems inherent in high level government officials being hired to work for foreign governments soon after they leave office.

This bill won't end the revolving door in Washington. It won't eliminate all the selling of influence that is so entrenched in this city. But it will eliminate the worst abuse. It will send a message to the public that the Congress is serious about ethics. I urge my colleagues in the Senate to adopt this bill. And I urge my colleagues in the House to act before this Congress ends.

Mr. LEVIN. Mr. President, I am pleased to have joined with my colleagues, Senators THURMOND and METZENBAUM in drafting the Senate's response to the post-employment lobbying bill. I hope the House will accept the bill we are passing today and send it along to the President for signature. We will then have closed one of the most egregious loopholes in our criminal post-employment laws, by including Members of Congress and top congressional staff within their coverage. And, we will have done more. We will have strengthened the provisions as they currently apply, and we will have expanded the bar on the vary top executive branch officials to the entire branch. We will have eliminated the cumbersome and uncertain process of designation, and we will also, finally, have eliminated one of the most objectionable aspects of the current system—the compartmentalization of the Executive Office of the President.

Mr. President, this bill is not perfect. It addresses an area of the law that requires a delicate balancing act—balancing the interests of the individual employee in pursuing post-Government employment against the interests of Government and the taxpaying public in ensuring fair and unbiased Government action as well as the appearance of such Government action. We don't want former Government officials and Members of Congress having special access to Government decisionmaking solely because of their former status and using such access for their personal gain. That, legitimately, offends our sensibilities. People differ as to where the lines should be drawn. This bill represents a compromise in that regard. Some will say it goes too far; others will complain that it does not go far enough. I am confortable with the provisions in this bill and believe they will significantly deter, if not eliminate, the offensive lobbying cases we have witnessed over the past several years. Public office should not be a stepping stone for quick money making; public office is not to be used for private gain.

Let me describe the changes to current law that are made in the bill we are passing today:

Members of Congress would be barred from lobbying either House of Congress for 1 year. Top congressional staff—persons being paid the equivalent of a GS-16 in the executive branch—would be barred from lobbying their former office for 1 year. If that office were a committee, the staff person would be barred for 1 year from lobbying any member of that committee as well as the committee staff.

The very top executive branch officials, what we call Executive Level I's and II's and their military equivalents—that is, the Secretaries and Deputy Secretaries of the Departments—and the very top White House officials would be barred from lobbying anywhere in the executive branch for 1 year. Currently they are barred from lobbying only their former agency.

All GS-17's and GS-18's and the top three levels of the Senior Executive Service, as well as their military equivalents, would be barred from lobbying their former agency or subagency for 1 year. Current law requires the Office of Government Ethics [OGE] to designate amongst this pool of individuals, those whom OGE thinks should be covered by the 1-year ban. This has led to a very complicated, time-consuming, and inaccurate process, whereby OGE publishes certain designated positions in the Federal Register on an annual basis. To a large extent it is a hit-or-miss operation. This bill would bring all the employees I previously mentioned under the 1 year ban, but would confine their ban to only that part of the agency identified by OGE as an appropriate subagency.

This form of compartmentalization included in this bill is different from the current compartmentalization authority. Whereas under current law, OGE can compartmentalize a department on a case by case basis, this bill would require OGE to issue governmentwide regulations, identifying the appropriate compartments in all agencies and departments for purposes of the 1 year ban as it applies to GS-17's and 18's and the top three levels of the SES. This is a much more simple and complete approach to the compartmentalization process. It would not permit the Executive Office of the President to be compartmentalized.

This bill would also bar any employee who was significantly involved in any trade negotiation from lobbying any executive branch agency on that trade negotiation for 1 year. In addition, the bill would bar very senior executive branch officials from working for any foreign entity for 1 year.

The bill increases the criminal penalties for violating these bans as well as adding the option of a civil penalty in the amount of $50,000.

Mr. President, this is a good, strong bill that will help restore the public's confidence in those of us elected to public office as well as those senior employees who serve in both the executive and legislative branches. It seeks to avoid the appearance of impropriety as much as it does the impropriety itself, and I think it accomplishes this in a balanced and reasonable manner. I urge my colleagues to support it.

Mr. HELMS. Mr. President, I am pleased that the final compromise includes the limitation on revolving door employment between the U.S. State Department—and other U.S. agencies—and various international organizations.

The pending bill prohibits any individual from leaving employment in the executive or legislative branch to go to work for international organizations in those cases in which the individual (1) had access to classified materials or intelligence information related to the international organization, or (2) had been officially responsible, in any way, for the determination or implementation of U.S. policies or programs associated with the international organization.

This provision precludes the possibility that any U.S. employee could spend his last months on the job with one eye toward currying favor and possible future employment with the very international organization it is his or her job to oversee. Indeed, there have been specific cases in which the job has been negotiated, or prearranged, while the individual was still on the U.S. Government payroll. Currently that is apparently legal, Mr. President, but it should not be. The bill prevents even the appearance of impropriety—thus protecting the reputations of those who seek employment with an international organization, but only after the 12-month period.

No employee will be able to retire from his U.S. Government job and turn right around to work for the very international organization, such as the United Nations, that it had been his job to monitor. If any person has any responsibility for the determination or implementation of U.S. policies or programs associated with the international organization, that person is precluded from accepting employment for 12 months. This is aimed at providing greater public confidence in the integrity of Government employees. Similarly, if the individual has access to classified materials or other intelligence information related to the international organization, the bill requires the 12-month period of ineligibility. Obviously, those with access to secret or top secret information should be restrained from immediate employment with foreign entities.

As examples, Mr. President, I can think of one former ambassador who shortly after his retirement from Government went to work for the King of the country to which he had served as U.S. ambassador. In another example, a CIA station chief to one African country left U.S. employment only to accept employment with the same country to which he had been assigned. These situations should be stopped.

Those whose jobs involve negotiating or deciding U.S. contributions to various international organizations certainly should not subsequently accept employment with those organizations. Neither should those who are involved in other aspects of setting and implementing U.S. policies and programs, such as those involved in policy, planning, interagency negotiations, budget presentations, and so forth.

The temptation in the case of international organizations can be great. Various United Nations salaries often total over $100,000 annually even after taxes, far in excess of U.S. civil service or foreign service rates of pay. In order to establish an ethical standard as pure as Caesar's wife, this legislation, and this specific provision, are necessary.

Several notable cases have come to my attention that warrant this provision within the pending bill. I do not impugn the motives of any of the individuals involved, but I think it proper that the bill precludes a repetition of these cases.

Within the past year or so, a foreign service officer assigned to handle U.N. matters as a member of the policy planning staff at the Department of State, retired from his U.S. job and took a high-paying position with the United Nations. While he was working within the State Department, he had worked diligently to oppose any effort to control the U.N. budget and advocated the U.N. line within the State Department.

The appearance, and I stress, the appearance, Mr. President, is not a good one.

This is but one of a growing number of cases where U.S. Government employees retire from either the civil service or the Foreign Service, and then join an international organization which in their U.S. capacity, they had the responsibility to supervise or monitor.

We have often spoken in this body of the danger of the revolving door at the Pentagon. We have spoken of the danger that contract officers in the Pentagon will be suborned by the possibility of second career jobs with the contractors they are supposed to be monitoring. Is there any difference between a military officer seeking a job with the contractor he is supervising and a Foreign Service officer seeking a job with the United Nations when he is supposed to be monitoring and supervising the United Nations? The only difference is that the first is illegal, and the second may be illegal, but is widespread in the State Department.

There are many examples of this practice. Among them are the following: The U.S. representative to the U.N.'s Food and Agriculture Organization [FAO] retired and went to work as the FAO's representative in Washington. The U.S. representative at the United Nations responsible for trying to get the United Nations budget under control quit that job and was immediately hired by the United Nations as an Under Secretary General. An officer in the International Organizations Bureau at the State Department, also responsible for U.N. budget matters, planned for years to retire and take a job with the U.N.'s Geneva office. A few years ago, the Assistant Secretary of State for U.N. matters retired from the service and immediately was hired by the United Nations. How can our principal policymakers be allowed to make policy and look for a job in the organization they monitor at the same time?

It is no wonder that the State Department has allowed the U.N. salary and benefits to soar to unheard of levels. Almost all these Foreign Service officers retiring from the State Department to take U.N. jobs get jobs whose total compensation is over $100,000. To add insult to injury U.S. taxpayers must finance a portion of these high salaries.

I am sure that each of these officers will defend his integrity and insist that no conflict of interest existed in his mind when setting U.S. policy toward the United Nations while negotiating for a job with them. Maybe that is so, but the longstanding principle is that Government employees should avoid even the appearance of conflict of interest.

The American taxpayer has the right to demand that an absolute standard of integrity in Government is maintained to prevent foreign controlled entities from undermining the integrity of the U.S. Government by holding out the possibility of postemployment financial gain to U.S. employees.

The amendment would have precluded these unfortunate episodes, and I am optimistic that when enacted, this aspect of the bill will make important strides in improving the integrity of the relations between various Government agencies and the international organizations which they monitor.

This is an excellent package, Mr. President, and I commend those within the Judiciary Committee who have shepherded the bill. We look forward to prompt House approval.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND. Mr. President, I think we are ready to vote.

The PRESIDING OFFICER. Is there objection? If there be no further debate, the question is on agreeing to the amendment.

The amendment No. 3731 was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be offered, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5043), as amended was passed.

Mr. BYRD Mr. President, I move to reconsider the vote by which the bill, as amended, was passed and move to lay that motion on the table.

The motion to lay on the table was agreed to.

INCREASED PENALTIES FOR MAJOR FRAUD AGAINST THE UNITED STATES

Mr. BYRD. Mr. President, in accordance with the order that was entered into by the Senate on October 14, and having consulted with the distinguished Republican leader, I ask the Chair lay before the Senate H.R. 3911.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3911) to amend title 18, United States Code, to provide increased penalties for certain major fraud against the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Major Fraud Act of 1988".

SEC. 2. CHAPTER 47 AMENDMENT.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1031. Major fraud against the United States.

"(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent—

"(1) to defraud the United States; or

"(2) to obtain money or property from the United States by means of false or fraudulent pretenses, representations, or promises, in any procurement of property or services for the Government, if the value of the contract, subcontract, or any constituent part thereof, for such property or services is $1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.

"(b) The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed $5,000,000 and

(1) the gross loss to the Government or the gross gain to a defendant is $500,000 or greater; or

(2) the offense involves a conscious or reckless risk of serious personal injury.

"(c) The maximum fine imposed upon a defendant for a prosecution including a prosecution with multiple counts under this section shall not exceed $10 million.

"(d) Nothing in this section shall preclude a court from imposing any other sentences available under this title, including without limitation a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to 18 U.S.C. section 3571(d).

"(e) The amount of any fine imposed under this section shall be proportional to the offense. In determining the amount of the fine, the court shall take into account—

"(A) the egregiousness of the conduct proven at trial;

"(B) the amount of the loss or gain resulting therefrom;

"(C) any past convictions or judgments for fraudulent or other illegal acts against the United States entered against the defendant; and

"(D) any other factors deemed by the court to be relevant to determining the amount of the fine to be imposed.

"(f) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time allowed under 18 U.S.C. section 3292.

"(g)(1) Upon application by the Attorney General, the court may order a payment from a criminal fine under this section to an individual who furnished information leading to the conviction under this section. The amount of such payment shall not exceed the lesser of $250,000 or 10 percent of the criminal fine imposed under this section.

"(2) An individual is not eligible for such a payment if—

"(A) that individual is an officer or employee of a government who furnishes information or renders service in the performance of official duties;

"(B) that individual failed to furnish the information to the individual's employer prior to furnishing it to law enforcement authorities, unless the court determines the individual has justifiable reasons for that failure;

"(C) the funished information is based upon public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or GAO report, hearing, audit or investigation, or from the news media unless the person is the original source of the information. For the purposes of this subsection, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government; or

"(D) that individual participated in the violation of this section with respect to which such payment would be made.

"(h) Any individual who—

"(1) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such prosecution), and

"(2) was not a participant in the unlawful activity that is the subject of said prosecution, may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.".

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide for appropriate penalty enhancements, including an additional incarceration of two years in cases under this section, where conscious or reckless risk of serious personal injury resulting from the fraud has occurred.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

"1031. Major fraud against the United States.".

SEC. 3. LIMITATION ON ALLOWABILITY OF COSTS OF CONTRACTORS INCURRED IN CERTAIN PROCEEDINGS.

(a) IN GENERAL.—Chapter 15 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 293. Limitation on Government contract costs

"(a) Any proceeding costs incurred in connection with any proceeding brought by the United States or a State government that relates to a violation of, or failure to comply with, any Federal or State law or regulation on the part of the Contractor are not allowable costs in a covered contract if the proceeding results in any of the following:

"(1) an indictment by a Federal grand jury, or a conviction (including a conviction pursuant to a plea of nolo contendre) by reason of such violation or failure to comply;

"(2) the assessment of a monetary penalty by reason of a civil or administrative finding of such violation or failure to comply;

"(3) a civil judgment containing a finding of liability, or an administrative finding of liability, by reason of such violation or failure to comply, if the charges which are the subject of the proceeding involve fraud or similar offenses;

"(4) a decision to debar or suspend the contractor or rescind, void, or terminate a contract for default, by reason of such violation or failure to comply; or

"(5) the resolution of the proceeding by consent or compromise, where the penalty or relief sought by the government included the actions described in paragraphs (1) through (5).

"(b) In any proceeding brought by the United States or a State government that does not result in any of the actions described in paragraphs (1) through (5) of subsection (a), costs for legal services incurred by a contractor in connection with such proceeding shall not be allowed in excess of the rate specified in the Equal Access to Justice Act (28 U.S.C. 2412(d)(2)(A); 5 U.S.C. 504(a)) unless the responsible contracting officer finds that a special factor (such as the limited availability of qualified attorneys or agents) justifies an award of higher rates.

"(c) For purposes of this section—

"(1) the term 'covered contract' means a contract for an amount more than $100,000 entered into by a department or agency of the United States other than a fixed-price contract without cost incentives;

"(2) the term 'proceeding' means a civil, criminal, or an administrative investigation, prosecution, or proceeding; and

"(3) the term 'proceeding costs' means all costs relating to a proceeding incurred before, during, or after the commencement of the proceeding, and such term includes—

"(A) administrative and clerical expenses;

"(B) the cost of legal services (whether performed by an employee of the contractor or otherwise);

"(C) the cost of the services of accountants and consultants retained by a contractor; and

"(D) the salaries and wages of employees, including officers and directors.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 15 of title 18, United States Code, by adding at the end thereof the following:

"293. Limitation on Government contract costs.".

(c) APPLICABILITY.—The amendments made by this section shall apply to contracts entered into after the date of the enactment of this Act.

SEC. 4. ESTABLISHMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEY AND SUPPORT PROVISIONS.

(a) ESTABLISHMENT OF POSITIONS.—Subject to the funding authorization limitations in section (a), there are hereby established within the Department of Justice additional Assistant United States Attorney positions and additional support staff positions for prosecuting cases under both the criminal and civil statutes.

(b) FUNCTION OF PERSONNEL.—The primary function of individuals selected for the positions specified in subsection (a) shall be dedicated to the investigation and prosecution of fraud against the Government.

(c) LOCATIONS.—The Attorney General shall determine the locations for assignment of such personnel. In making such determination the Attorney General shall consider concentrations of government programs and procurements and concentrations of pending Government fraud investigations and allegations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Subject to the provisions of subsection (b), for the purpose of carrying out the purposes of this Act there are authorized to be appropriated $8,000,000 for fiscal year 1989, and such sums as may be necessary for each of the four succeeding fiscal years, to be available until expended.

(b) LIMITATION.—Before expending funds appropriated pursuant to subsection (a) to carry out the purposes of this section, the Attorney General shall utilize available existing resources within the Department of Justice for such purposes.

SEC. 6. CONGRESSIONAL OVERSIGHT.

Commencing with the first year after the date of enactment of this section, the Attorney General shall annually report to the Congress with respect to—

(1) the number of referrals of fraud cases by the Department of Defense of defense contractors (with specific statistics with respect to the one hundred largest contractors), the number of open investigation of such contractors, and a breakdown of to which United States Attorney's Office or other component of the Department of Justice each such case was referred;

(2) the number of referrals of fraud cases from other agencies or sources;

(3) the number of attorneys and support staff assigned pursuant to this Act;

(4) the number of investigative agents assigned to each investigation and the period of time each investigation has been opened;

(5) the number of convictions and acquittals achieved by individuals assigned to positions established by the Act; and

(6) the sentences, recoveries, and penalties achieved by individuals assigned to positions established by this Act.

Mr. DOLE. Mr. President, will the majority leader yield? I wonder if we might take up the Cranston amendment first and have a voice vote on that. I know Senator THURMOND wants a voice vote on that. I think the rest of the amendments have been agreed to.

Mr. BYRD. I think that is a good suggestion.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3732

(Purpose: For the relief of Paulette Mendes-Silva)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 3732.

Mr. CRANSTON. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert: That (a) notwithstanding section 2675 of title 28, United States Code, and section 2401(b) of such title, or any other limitation on actions at law or in equity, the United States District Court for the District of Columbia shall have jurisdiction to hear, determine, and render judgment on any claim of Paulette Mendes-Silva against the United States for personal injuries which she allegedly incurred after an innoculation on March 12, 1963, by an employee of the Public Health Service of the United States Department of Health, Education, and Welfare. Any such claim of Paulette Mendes-Silva shall be brought within six months after the date of the enactment of this Act. The court shall apply the laws of the District of Columbia in such case.

(b) Nothing in this Act shall be construed as an inference of liability on the part of the United States.

Mr. CRANSTON. Mr. President, I would like to make a few brief remarks in support of this amendment that will add to the defense procurement fraud bill the text of private legislation (S. 1456) which I introduced on behalf of Ms. Paulette Mendes-Silva. The amendment waives the statute of limitations to allow Ms. Mendes-Silva to have her day in court to seek damages for the alleged negligence of an employee of the U.S. Public Health Service in administering an inoculation back in 1963. The facts of Ms. Mendes-Silva's case present particularly compelling reasons for waving the statute of limitations and allowing her to litigate her claim.

Ms. Mendes-Silva, a french citizen, first came to the United States in 1951 as a Fulbright scholar. After completing her tenure under the Fulbright Program, Ms. Mendes-Silva—who is fluent in five languages—worked under contract as an interpreter for the U.S. Department of State and the Agency for International Development, as well as a free lance interpreter.

Her claim is based on an inoculation she received in 1963 which was administered by the Public Health Service of the U.S. Department of Health, Education, and Welfare, in preparation for a private interpreting assignment in India. Ms. Mendes-Silva asserts that the public health nurse who administered the inoculation failed to ask if she had recently received any other inoculation and, as a result, Ms. Mendes-Silva developed post vaccinal encephalitis—causing total paralysis—from having two live virus inoculations—smallpox and yellow fever—in 1 day.

When her family subsequently inquired about the possibility of suing the U.S. Government for damages, they were discouraged from bringing a lawsuit. In a letter dated May 31, 1963, former Secretary of State Dean Rusk explained that since Ms. Mendes-Silva received the inoculations in preparation for a trip to interpret for a private organization and she was not then under contract with the U.S. Government, the Government was not responsible for her medical expenses.

After Ms. Mendes-Silva's health improved somewhat, she sought the help of an attorney but by then the 2-year statute of limitations had run. Because of her limited financial means, no lawyer would take her case.

Mr. President, Ms. Mendes-Silva should have her day in court. That's all my bill will do for her by waiving the statute of limitations. The burden of proof will be on her—not the Government—to prove that the 1963 inoculation was administered negligently by the Public Health Service nurse, and that that particular inoculation was the cause of her subsequent paralysis. The burden will not be on the Government to prove its innocence. Rather, the burden will be on Ms. Mendes-Silva to prove the Government's neglience. In fact, Mr. President, the bill explicity states: Nothing in this act shall be construed as an inference of liability on the part of the United States."

Furthermore, the waiving of the statute of limitations is warranted in this case given the timely efforts which were made to determine if a suit could be brought against the U.S. Government. The May 1963, misleading statement by former Secretary of State Dean Rusk—that the U.S. Government could not be responsible for Ms. Mendes-Silva's medical expenses—was the basis for not pursuing her legal remedies. Also Ms. Mendes-Silva was seriously ill during the time when the statute of limitations was running, she was residing outside of the United States, and she was generally unfamiliar with her rights under the American legal system.

All of these factors argue in favor of passing this amendment today. Ms. Mendes-Silva deserves her day in court. I urge my colleagues to vote in favor of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition today to an amendment by Senator CRANSTON in reference to the relief of Paulette Mendes-Silva.

Briefly, I would like to highlight the facts of this case. On March 12, 1963, she received an inoculation against smallpox at a health clinic in Arlington, VA. Later on the same day, Ms. Mendes-Silva was inoculated against yellow fever at a clinic of the U.S. Public Health Service. It is asserted that when the yellow fever inoculation was administered, the attending Public Health Service nurse failed to inquire as to whether Ms. Mendes-Silva had received any other recent inoculations.

This amendment would allow Ms. Mendes-Silva to sue the United States for injuries that allegedly were caused by an inoculation which was administered by U.S. Public Health Service on March 12, 1963, more than 25 years ago. This is despite the fact that Ms. Mendes-Silva did not file an administrative claim or filed suit in a timely manner, as required by the Federal Tort Claims Act.

Mr. President, I recognize the legitimate use of private relief legislation to address unique cases where special circumstances and inequitable situations deserve special relief. I feel sympathetic to Ms. Mendes-Silva. However, I am unaware of any strong evidence that justifies why she was unable to file a timely claim against the Government. In fact, Ms. Mendes-Silva's own lawyers have acknowledged that she tried to pursue her claim from 1963 to 1968. It is undisputed that those lawyers with whom she consulted advised her that a lawsuit, based on her claim against the United States, would probably be unsuccessful. It is apparent that there was a lack of evidence that the Government was actually responsible for her disability. There is no evidence to show that the Government was responsible.

As well, I am greatly concerned with the precedent that enactment of this legislation would set for litigation against the Federal Government. There must be some reasonable limit to the time during which the Government must remain prepared to defend itself against specific claims. Twenty-five years since the date of injury is simply too long to allow to be brought in this case.

Finally, both the Departments of Justice and Health and Human Services oppose this legislation. In a letter from the Department of Justice dated November 23, 1987, Assistant Attorney John Bolton stated, "the bill * * * waives the requirement that a claim for personal injuries be filed within the applicable statute of limitations or be forever barred. [Additionally] the bill waives the requirement that an administrative claim first be presented to the appropriate Federal agency for investigation and administrative adjudication." The letter goes on further to state that the Department of Justice is "unaware of any extraordinary circumstances that support enactment of the bill."

In closing, the most important fact may be that the President vetoed a similar bill in the 99th Congress. His opposition was based on Ms. Mendes-Silva's failure to file an administrative claim or law suit in a timely fashion and the adverse precedent this legislation would set.

For the above reasons, I will vote against this amendment.

Mr. President, I just want to say a word in closing.

Mr. President, there is no evidence to show that the Government is responsible for this. It is questionable that the two inoculations caused the illness. There is no evidence to show it. So what is the claim based upon?

The fact is she did not file an administrative claim, which she could have done, so that it could have been investigated by the Government. After all, we represent the taxpayers and it is our duty to do what is right by the taxpayers as well as an individual.

She did not file a suit. She could have filed a suit. She talked to some lawyers and the lawyers discouraged her and evidently told her there was no merit in the case.

It happened over 25 years ago, I want to remind you, Mr. President. I think it would set an adverse precedent if we approve this claim.

Why could not people come in with claims 30 years old, 40 years old, and 50 years old, if you can come in with a claim almost 26 years old? Why not come in with one for 30 or 40 years? Then how would the Government protect itself?

As I said, the President vetoed a similar bill in the 99th Congress.

I am sure the agency she had worked for would have been sympathetic to her if they felt she deserved it.

The Health and Human Services Department opposes this claim and so does the Department of Justice oppose this claim.

After all, Mr. President, we are dealing with the taxpayers' money. How could anyone go for a claim of this kind?

I have the most consideration and most compassion for people in need or who have a valid claim, but there is no valid claim here. It is not in law; it is not in fact.

How we can approve this claim, in my judgment, is not understandable. If you went back home and talked to some of your people and asked them, should the Government approve a claim like this after 25 years, what would be their answer? What would be the answer of the people in Wisconsin, in West Virginia, or in any other State? You know what the answer would be. The answer would be no. Ask the people of Florida. The answer would be no. How can the Government protect itself in a claim of this kind?

I say to you that, in my judgment, this claim should not be approved.

The PRESIDING OFFICER. Is there further debate? Who yields time? The Senator from South Carolina controls 9 minutes and the Senator from California 11 minutes.

Mr. CRANSTON. Mr. Presdient, I would like to point out that all the concerns regarding the previous Presidential veto were addressed in committee, and that both the House and Senate Judiciary Committees reported the private relief bill out favorably inspite of the previous veto. Moreover, the grounds for the previous Presidential veto are not persuasive.

First, there is basis for relief for Ms. Mendes-Silva's case. By passing this amendment we are not saying that Ms. Mendes-Silva's serious illness is the result of the Government-administered inoculation. We are merely saying that that inoculation could be the cause of her illness, and she should have her day in court to prove that in fact it was the cause. Medical literature states that "two live virus vaccines should not be given together or on the same day." This opinion is endorsed by the World Health Organization. As I pointed out before, the burden of proof will be on Ms. Mendes-Silva to establish that her illness in fact was due to the Government-administered inoculation.

Second, because Ms. Mendes-Silva and her family made timely efforts to determine if they could bring a lawsuit to recover damages for her illness, we would not be disregarding the importance of the statute of limitations. The 1963 letter from former Secretary of State Dean Rusk establishes that efforts were made on Ms. Mendes-Silva's behalf within months of the onset of her illness. That letter also establishes that Ms. Mendes-Silva was given misleading information indicating that the U.S. Government was not responsible for her medical expenses. given that Ms. Mendes-Silva was also seriously ill during the time when the statute of limitations was running, she was residing outside of the United States, and she was generally unfamiliar with her rights under the American legal system, I do not believe that we would be setting a precedent for others to disregard the statute of limitations.

For these reasons I believe that the previous Presidential veto should not deter us from adopting this amendment today.

Furthermore, Mr. President, as I have stated before, this private relief bill will not prejudice the Government. The bill explicity states that: "Nothing in this act shall be construed as an inference of liability on the part of the United States."

Moreover, the burden of proof will be on Ms. Mendes-Silva, not on the Government, to show that her illness is the result of the Government-administered inoculation. Obviously, this will be no easy task for Ms. Mendes-Silva. However, that is a separate issue from the issue of whether she should have the opportunity to prove her claim. That's all my bill will do, give Ms. Mendes-Silva the opportunity to prove her claim.

Finally, let me point out that when this bill was reported out of the Judiciary Committee in the 99th Congress—when Senator THURMOND chaired that committee—the committee report stated:

> The committee determines that the grievous circumstances following the vaccinations prevented Ms. Mendes-Silva from pursuing her claim in a timely manner. The burden of proof rests upon the claimant to show that the Government employee was negligent in administering the vaccine.

As indicated by this statement in the Judiciary Committee's report, all of the concerns which are now being raised have been addressed before, and the bill has passed muster in both the House and Senate Judiciary Committee in the 99th Congress, and in the 100th Congress. I therefore urge my colleagues to support the amendment.

I yield such time as he may need to Senator HEFLIN.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I served as the chairman of the Subcommittee on Courts and Administrative Procedure of the Committee of the Judiciary. This bill came before that committee and in my judgment it is a meritorious claim. Ms. Mendes-Silva was injured some 25 years ago, receiving a smallpox and yellow fever inoculation at the U.S. Public Helath Service. There was standards procedure at that time that no two such inoculations should be given out the same day and this lady was not warned about it. She did not know what the consequences would be. This in effect waives the statute of limitations.

The lady stayed in a coma for approximately 2 years. After she came out of the coma and it was determined what caused her problems, she attempted to bring it to her superiors and it even was brought to the attention of then the Secretary of State. I think she has fulfilled her adminstrative requirements in regards to it, and in my judgment it is a bill that has merit. I think we ought to waive the statute of limitations in this instance.

Mr. CRANSTON. Mr. President, I thank my friend from Alabama very much for that very constructive and very fair and very wise statement, typical of his view on so many matter that come before the Judiciary Committee. I am prepared to yield back all time on this side.

Mr. THURMOND. Mr. President, I just want to say in closing there is little evidence to show that the Government is responsible. If Ms. Mendes-Silva, after she was vaccinated, had told the nurse about the yellow fever shot, she probably would not have given it to her. In other words, why should the Government be held responsible in a case of this kind? There is little evidence to show that the two inoculations is the cause. Why could she not have filed a claim within the time required by statute? Why could she not brought a suit? I am sorry for Ms. Mendes-Silva, but under the law the Government is not responsible and under the facts there is little evidence that the Government should be held responsible.

Mr. CRANSTON. Mr. President, I yield back all time on this side.

Mr. THURMOND. Mr. President, unless somebody else wants to speak, I yield back the time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from California.

The amendment (No. 3732) was agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time on the bill?

AMENDMENT NO. 3733

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, on behalf of Senator GRASSLEY and myself, I send an amendment to the desk on behalf of Senator BUMPERS and ask unanimous consent it may be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report

The assistant legislative clerk read as follows:

> The Senator from Ohio [Mr. METZENBAUM] for Mr. BUMPERS, proposes an amendment numbered 3733:
>
> On page 6, delete lines 11 through 24.
>
> On page 7, delete lines 1 through 16.

Mr. METZENBAUM. Mr. President, my colleague from Iowa and I are offering this amendment to H.R. 3911 on behalf of our colleague from Arkansas, Senator BUMPERS. The amendment deletes one of the bill's provisions about which our colleague from Arkansas is concerned. The provision as reported by the Judiciary Committee would permit a court, upon application of the Attorney General, to pay up to $250,000 to a qualified individual who has disclosed the existence of fraud against the Government. This provision may only be invoked when the information led to a criminal conviction and the individual receiving the award did not participate in the criminal violation. We believe this is an important provision because it will encourage individuals with knowledge of criminal conduct to step forward.

Unfortunately, however, it does not appear that H.R. 3911 will be permitted to come to a vote as long as this provision remains in the bill. Therefore, while we do not support deleting this provision, we have agreed to offer this amendment on behalf of our colleague from Arkansas so that the other important provisions contained in H.R. 3911 may be voted on.

We expect that passage of H.R. 3911 will play a significant role in punishing and deterring major fraud schemes targeted at the Federal Government.

Mr. GRASSLEY. Mr. President, I associate myself with the remarks of the Senator from Ohio, both as to my feelings on the substance of the amendment as well as the sole purpose of expediting consideration of this bill and passage of this bill at this time. I urge the Senate to accept the amendment offered by the Senator from Ohio on the part of the Senator from Arkansas.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment offered by the Senator from Ohio.

The amendment (No. 3733) was agreed to.

AMENDMENT NO. 3734

Mr. METZENBAUM. Mr. President, I send a technical amendment to the desk in behalf of myself and Senator GRASSLEY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. GRASSLEY, proposes an amendment numbered 3734.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 4, lines 19-20, delete "from the United States".
>
> On page 4, lines 22-23, delete "for the Government" and insert in lieu thereof the following:
>
> "as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States.

On page 6 lines 9-10, delete "allowed under 18 U.S.C. section 3292" and insert in lieu thereof, "otherwise allowed by law."

On page 8, lines 16-17, delete the following: ", including an additional incarceration of two years in cases under this section,".

On page 8, line 19, insert the following after "occurred."

"The Commission shall consider the appropriateness of assigning to such a defendant an offense level under Chapter Two of the sentencing guidelines that is at least two levels greater than the level that would have been assigned had conscious or reckless risk of serious personal injury not resulted from the fraud."

Delete line 19 on page 5 through line 6 on page 6 and insert in lieu thereof the following:

"(e) In determining the amount of the fine, the court shall consider the factors set forth in 18 U.S.C. sections 3553 and 3572, and the factors set forth in the guidelines and policy statement of the United States Sentencing Commission, including—

"(A) the need to reflect the seriousness of the offense including the harm or loss to the victim and the gain to the defendant.

"(B) whether the defendant previously has been fined for a similar offense; and

"(C) any other pertinent equitable considerations."

Mr. METZENBAUM. Mr. President, my colleague and I are offering a technical amendment in response to concerns raised by the Department of Justice and the U.S. Sentencing Commission.

Briefly, the amendment addresses four points.

First, the Justice Department is concerned that currently, the bill may be interpreted to require proof of additional, unprecedented intent standard—knowledge that it was the United States that was being defrauded.

The committee did not intend this result.

I am offering this technical amendment to clarify this point.

Second, the bill currently permits a court to consider a prior Federal conviction in setting the amount of a fine.

The Justice Department would like the court to be able to consider a prior conviction by a State or local government as well.

My technical amendment clarifies this point.

Third, the current language concerning the statute of limitations may not be clear.

The Justice Department would like it to be clarified so that any existing extra limitations period still applies to a major fraud case brought under this act.

I am offering a technical amendment addressing this concern.

Fourth, the U.S. Sentencing Commission raised several technical points concerning the bill's overlap with the sentencing guidelines.

My amendment includes technical changes to address their concerns.

I urge my colleagues to support this amendment which will help strengthen this important bill.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment offered by the Senator from Ohio.

The amendment (No. 3734) was agreed to.

AMENDMENT NO. 3735

(Purpose: To amend the Federal Property and Administrative Services Act of 1949 and title 10, United States Code, to limit the allowability of costs incurred by Federal Government contractors in connection with certain criminal, civil, and administrative proceedings)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. LEVIN, and Mr. BINGAMAN proposes an amendment numbered 3735.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 14, below line 3, insert the following:

SEC. 7. LIMITATIONS ON ALLOWABILITY OF COSTS INCURRED BY FEDERAL GOVERNMENT CONTRACTORS IN CERTAIN PROCEEDINGS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 305 the following new section 306:

"LIMITATIONS ON ALLOWABILITY OF COSTS INCURRED BY CONTRACTORS IN CERTAIN PROCEEDINGS

"SEC. 306. (a) Except as otherwise provided in this section, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (1) relates to a violation of, or a failure to comply with, a Federal or State statute or regulation, and (2) results in a disposition described in subsection (b).

"(b) A disposition referred to in subsection (a)(2) is any of the following:

"(1) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in subsection (a).

"(2) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in subsection (a).

"(3) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in subsection (a).

"(4) A final decision by an appropriate official of an executive agency—

"(A) to debar or suspend the contractor;

"(B) to rescind or void the contract; or

"(C) to terminate the contract for default, by reason of the violation or failure referred to in subsection (a).

"(5) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in paragraph (1), (2), (3), or (4).

"(c) In the case of a proceeding referred to in subsection (a) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such subsection may be allowed to the extent specifically provided in such agreement.

"(d) In the case of a proceeding referred to in subsection (a) that is commenced by a State, the head of the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (1) a specific term or condition of the contract, or (2) specific written instructions of the agency.

"(e)(1) Except as provided in paragraph (3), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under subsection (a), but only to the extent provided in paragraph (2).

"(2)(A) The amount of the costs allowable under paragraph (1) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the single Government-wide procurement regulation issued pursuant to section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)).

"(B) Regulations issued for the purpose of subparagraph (A) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(3) In the case of a proceeding referred to in paragraph (1), contractor costs otherwise allowable as reimbursable costs under this subsection are not allowable if (A) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (B) the costs of such other proceeding are not allowable under subsection (a).

"(f) As used in this section:

"(1) The term 'covered contract' means a contract for an amount more than $100,000 entered into by an executive agency other than a fixed-price contract without cost incentives.

"(2) The term 'proceeding' includes an investigation.

"(3) The term 'costs', with respect to a proceeding—

"(A) means all costs incurred by a contractor, whether before or after the commencement of such proceeding; and

"(B) includes—

"(i) administrative and clerical expenses;

"(ii) the cost of legal services, including legal services performed by an employee of the contractor;

"(iii) the cost of the services of accountants and consultants retained by the contractor; and "(iv) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(4) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.".

(2) The table of contents in the first section of such Act is amended by inserting after the item relating to section 305 the following new item:

"306. Limitation on allowability of costs incurred by contractors in certain proceedings.".

(b) Amendments to Title 10.—Section 2324 of title 10, United States Code, is amended—

(1) in subsection (e)—

(A) by striking out subparagraph (N) and inserting in lieu thereof the following:

"(N) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).";

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2); and

(2) by striking out subsection (k) and inserting in lieu thereof the following:

"(k)(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision by the Department of Defense—

"(i) to debar or suspend the contractor;

"(ii) to rescind or void the contract; or

"(iii) to terminate the contract for default. by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the head of the agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the single Government-wide procurement regulation issued pursuant to section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)).

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(l)(1) In this section, the term 'covered contract' means a contract for an amount more than $100,000 entered into by the Department of Defense other than a fixed-price contract without cost incentives.

"(2) In subsection (k):

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.".

(c) Technical Amendment.—Section 832(b) of the National Defense Authorization Act, Fiscal Year 1989 is repealed.

(d) Regulations.—The regulations necessary for the implementation of section 306(e) of the Federal Property and Administrative Services Act of 1949 (as added by subsection (a)) and section 2324(k)(5) of title 10, United States Code (as added by subsection (b))—

(1) shall be prescribed not later than 120 days after the date of the enactment of this Act; and

(2) shall apply to contracts entered into more than 30 days after the date on which such regulations are issued.

(e) Effective Date.—The amendments made by subsections (a) and (b) shall take effect with respect to contracts awarded after the date of the enactment of this Act.

Mr. GRASSLEY. Mr. President, I thank Senators Levin and Bingaman for their assistance in reaching this point. I especially commend the staffs on all sides for the hours devoted to this final, product. I also want to thank Senator Metzenbaum, the manager of H.R. 3911, for his patience while this language was being worked out.

The amendment is to the section of the committee bill dealing with the allowable legal costs that can be charged off to the taxpayers in fraud cases and other Government prosecutions.

As I have explained in the past on this issue, under current law, contractors are permitted to bill the Government for the full cost of expenses incurred in fraud and other legal proceedings as an element of contract cost, unless there is a conviction, civil judgment, or a decision to suspend or debar the contractor. The anomolous result is that the same Government that prosecutes the fraud case pays the cost of the defense. We as taxpayers pay twice—we fund the prosecution by D.O.J. and D.O.D. through the Agency's budgets; then we subsidize the contractor and their high-priced lawyers.

Such an arrangement, by the way, is wholly unprecedented in more than 200 years of American jurisprudence. In no other case—whether it be a white collar, or other economic crime, or a street crime case—is a criminal defendant permitted to recover the cost of his legal defense from the Government. I might add that the guilt or innocence of the defendant is irrelevant to this general prohibition on recovery of legal fees. Criminal defendants who are acquitted have never been entitled to recover legal expenses incurred in their defense.

In civil cases, private parties that prevail over the Government can recover legal expenses only by specific statutory authorization, such as the Equal Access to Justice Act, which applies to all other businesses and individuals, and generally limits legal fee recovery to $75 per hour.

Rest assured, Mr. President, defense contractors and their high-priced lawyers who currently bill the Government for their legal bills charge far, far more than $75 per hour. Indeed, hourly rates of $250 per hour and up are not uncommon. Just because well-heeled private clients dole out huge sums doesn't mean that the Government should be equally generous.

However, there were public reports that General Dynamics Corp. billed the Government for some $20 million for attorneys fees after a criminal fraud investigation last year.

In a recent fraud case against the Bell Helicopter Division of Textron, settled by the Government 6 months ago, attorney expenses of about $3.5 million could have been billed to the Government as an element of allowable cost.

The Wall Street Journal reported in April that Rockwell billed NASA for over $800,000 in legal expenses in a fraud case where the contractor agreed to repay $500,000 in mischarges to the Government.

In another case, it was reported that the Government had potentially millions of dollars of legal fees exposure after the Justice Department decided not to indict the Pratt & Whitney group for allegedly overcharging the Government by $22 million on contracts.

It is argued by my friends at the American Bar Association and others that to charge off these legal expenses to the Government, and the taxpayer, is simply a legitimate, regular cost of doing business, much like other overhead charges such as utility bills and the like. But these are most assuredly not utility bills—no utility charges the Government $200 per hour for electricity.

I would concede that legal expenses are a cost of doing business in today's overly litigious society. But free market competition normally limits any business' ability to pass on legal costs to its customers. As we know all too well, there's far too little free market competition in public contracts, particularly defense contracts. The Government has few alternatives; there's little incentive for contractors to be competitive.

I'd concede further that the current allowability of the prevailing big-firm wage as a cost of doing business holds a kind of superficial appeal. But on closer inspection, it reveals a giant ripoff. Just as public works cost too much in part because the Davis-Bacon Act requires union-scale wages, and just as medical costs soar in part because doctors have dominated service and price decisions, so it is with contractors' legal fees. Lawyers—even good ones—need at least as much wage restraint as other contractors and subcontractors when it comes to billing the taxpayers.

Defense contractors shouldn't use their superior leverage to gouge the U.S. taxpayers on their legal bills. Like all other businesses, they should be made to find the lowest cost subcontractor, even when it is a law firm to represent them in litigation with the Government.

Under current practices, there's no incentive for contractors to keep an eye on costs or keep a careful eye on what lawyers bill them in Government fraud cases. After this amendment, there will be.

After this amendment, they will have a stake in seeking out low cost services—rather than blindly passing on costs.

We need to dispose of another argument against reform of the current taxpayer rip-off: That the current law shouldn't be characterized as permitting recovery of attorneys fees because the Government doesn't pay over a lump sum to the contractors. Instead, it's a matter of allowable costs spread out over other contracts.

But if it looks like a duck, walks like a duck, and quacks like a duck, it's a duck.

Simply calling it allowable costs doesn't change the fact that the Government is subsidizing private attorneys for the benefit of the very party they are suing—the same Government that prosecutes the fraud pays for legal defense.

Mr. President, this amendment is designed to end this abusive subsidy and, for the first time, place some reasonable limitation on the costs that can be routinely passed on to the Government, and thus, to the taxpayers.

Mr. President, the amendment is a compromise between members of the Judiciary Committee and others who raised concerns about the scope of the committee-passed language. While this amendment is not as I would draft it, were the decision mine alone, I believe it fairly accommodates the concern of my colleagues.

In summary, the amendment provides that legal proceeding costs are unallowable in any criminal, civil or administrative proceeding brought by the Federal or State Government that results in a conviction, civil liability, the imposition of a fine or other monetary penalty, a suspension or debarment, or other similar result evidencing a violation or failure to comply on the part of the contractor.

In the case of proceedings alleging law violations or a failure to comply that are resolved by consent or compromise, costs will be generally disallowed, unless the contractor and the Government agree otherwise. The parties can agree to allow all or part of the proceeding costs pursuant to that consent or compromise agreement.

In a proceeding brought by a State where the legal costs were incurred as the result of the contractor's compliance with a specific term or condition of the contract or specific written instruction of the Federal Agency, costs will continue to be allowable.

Significantly, the compromise language adopted here alters the committee-passed provision that would have imposed a bar on allowable costs in cases where there is an indictment by a Federal grand jury or an information, but no conviction.

I agreed to change the committee language to accommodate a concern that this provision was inconsistent with the presumption of innocence in criminal cases.

However, the compromise language offered here provides that in such situations, a disposition favorable to the Government in a parallel, subsequent, or other, criminal, civil or administrative proceeding involving the same contractor conduct will make all proceeding costs unallowable—both the civil or administrative proceeding and the criminal proceeding, notwithstanding that the result in the criminal proceeding was other than a conviction. Contractor costs otherwise allowable as reimbursable costs will therefore not be allowable where such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil or administrative proceeding.

In no case may a contractor recover, as a matter of allowable cost, more than 80 percent of the costs incurred and determined to be otherwise reasonable and allowable under Governmentwide regulations, which are to be promulgated pursuant to the Office of Federal Procurement Policy Act no later than 120 days after enactment of this bill. These regulations are to consider a number of factors bearing on the reasonableness of the amount and type of legal expenses, such as the principles governing the award of legal fees in civil actions involving the United States as a party.

This 80-percent provision represents another significant departure from the committee-passed language, which would have generally limited the allowability of legal proceeding costs to the hourly rates found in the Equal Access to Justice Act.

For now, I accept this substitute language, Mr. President, as a further accommodation to those with concerns over the committee-passed provision. I appreciate that legal fees bear some relation to the ability to attract competent counsel, but the purpose of the cost principle most assuredly should not be to subsidize the legal profession.

Therefore, it is my hope and expectation that the regulations will be promulgated with an eye toward creating a disincentive to increased legal expenses and on reducing what is now an open-ended, and ever-increasing cost to the Government.

The regulations are intended to guide Agency decisions on the reasonableness of contractor requests to pass on legal proceeding costs as part of overhead. As currently stated in the Federal acquisition regulations, no presumption of reasonableness shall be attached to the incurrence of costs by a contractor, either in the type of cost or the amount of cost. The contractor will be required to clearly break out the costs associated with covered proceedings, and will continue to have the burden of proof to establish that any cost is reasonable. Contracting officers and other responsible Agency officials will be required to scrutinize costs sought to be recovered for legal time that is excessive, redundant or otherwise unnecessary. Attention should be paid to ensure that outside attorneys, in particular, exercise appropriate billing judgment, since hours not properly billed to one's client are not properly billed to one's adversary, especially where the taxpayers are ultimately called on to pay the bill.

Determinations as to reasonableness will continue to be made on a proceeding-by-proceeding, and a case-by-case, basis. What is reasonable, of course, will depend on the facts and circumstances. Only after all these factors are considered will the 80-percent standard be applied.

Mr. President, should this 80-percent solution and these regulatory efforts prove unavailing to retard the upward-ratcheting of legal costs passed on to the Government, I will continue to offer amendments and language to unambiguously limit what can be passed on to the taxpayers.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator GRASSLEY and Senator LEVIN in sponsoring an amendment to establish government-wide restrictions on allowability of legal fees incurred by government contractors. This amendment builds on the work that we initiated in the National Defense Authorization Act this year, and provides new cost control procedures that will improve the government's ability to preclude excessive payment of overhead expenses to government contractors.

The amendment limits the ability of a contractor to include the cost of certain proceedings in the overhead component of charges submitted for reimbursement under a government contract. Under the amendment, when a proceeding is brought against a contractor for violating a Federal or State law or regulation, the contractor may not include the cost of the proceeding in the contractor's overhead charges if the proceeding results in: First, a criminal conviction; second, a determination of civil or administrative liability on the basis of fraud or similar misconduct; third, imposition of a monetary penalty; and fourth, a decision to debar or suspend the contractor, to rescind or void the contractor, or to terminate the contract by reason of default.

The amendment also prohibits recovery when the proceeding is resolved by consent or compromise to the extent that a limitation on costs is set forth in the agreement. The amendment also recognizes that under our Constitution, the interests of National Government are paramount. It provides a limited exception from the general rule disallowing costs of State proceedings when action inconsistent with a State rule has been undertaken because of a specific term or condition in the contract, or because of specific written instructions of the Federal agency.

Finally, the amendment regulates the costs of all other proceedings commenced by the Federal Government or a State against a contractor. The amendment requires issuance of regulations governing the reasonableness of legal fees, taking into account the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions against the United States, and other appropriate factors. In order to provide a strong incentive to hold down legal costs, the amendment limits allowability to 80 percent of the costs actually incurred. Thus, in order to be allowable, the costs must be both reasonable under the regulations, and may not exceed 80 percent of actual costs.

I appreciate the work that Senators GRASSLEY and LEVIN have done in support of this amendment. It reflects a cooperative effort by members of the Armed Services, Governmental Affairs, and Judiciary Committees, and represents an important contribution to reform of the procurement process.

Mr. METZENBAUM. Mr. President, the amendment is agreeable to sponsors of the legislation.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment offered by the Senator from Iowa.

The amendment (No. 3735) was agreed to.

Mr. GRASSLEY. I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3736

Mr. GRASSLEY. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 3736.

Mr. GRASSLEY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . QUI TAM ACTIONS.

(a) AWARDS OF DAMAGES.—Section 3730(d) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the rule of that person is advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.".

(b) TECHNICAL AMENDMENTS.—Section 3730 of title 28, United States Code, is amended—

(1) in subsection (c)(4) by insertng "the" after "Government proceeds with"; and

(2) in subsection (d)(4), as redesignated by subsection (a)(1) of this section, by striking out "actions" and inserting in lieu thereof "action".

Mr. President, in the 99th Congress, I was the principal sponsor of legislation which was intended to strengthen and revitalize the ability of both the Government and private individuals to combat fraud. That legislation, the False Claims Act Amendment of 1986, became law on October 27, 1986. A key provision of that law allows private citizens knowing of fraud—whistleblowers—to bring a suit on behalf of the Government and if successful, share in a portion of the recovery.

This part of the False Claims Act, the qui tam provision, is an acknowledgment that the Department of Justice and the various agency investigators need assistance protecting our huge volume of Government spending from fraudulent abuses. Often private individuals know of fraudulent practices, disapprove of them, but fear that only negative consequences would result from disclosing the practices. Unfortunately, history shows those fears are well-founded. Our 1986 amendments were intended to create incentives for private citizens to bring information forward without fear of reprisal. Specifically, the amended act's qui tam provision awards whistleblowers up to 30 percent of the action's proceeds and grants legal protection from retaliation.

Even though the 1986 legislation is not yet 2 years old, we have already seen positive results with as least 80 pending cases brought by private individuals disclosing evidence and allegations of fraud. These cases involve hundreds of millions of taxpayer dollars which may be rightfully returned to the Federal Treasury as a result of these individuals coming forward.

We were mindful in drafting the 1986 amendments that in some cases, only persons who participated in the false claims practice will have knowledge of the actions. It has long been recognized in both criminal and civil enforcement circles that granting a participant some benefit is often a necessary evil in order to achieve a successful prosecution. The same is true under the False Claims Act. However, the amendment I offer today is a clarification that Congress did not intend that the qui tam amendments would encourage individuals to first be a party to a false claims practice or fraud and later bring a qui tam action against other participants or their employer with the expectation of receiving a substantial share of the suit's recovery.

My amendment simply clarifies that in an extreme case where the qui tam plaintiff was a principal architect of a scheme to defraud the Government, that plaintiff would not be entitled to any minimum guaranteed share of the proceeds of the action. And in any case where a qui tam plaintiff is convicted of criminal misconduct for his or her role in the false claims practice, the qui tam plaintiff must be dismissed from the action and is entitled to zero recovery.

I do not believe there is any disagreement on this point among my colleagues. Further, it is our intent that this amendment apply retroactively just as it was our intent that the 1986 amendment apply retroactively. Clearly, in 1986 we desired to bring about immediate improvements in disclosure and prosecution of Government fraud. That effort would be significantly frustrated if our amendment applied only to suits involving actions which occurred prior to October 1986. Similarly, the amendment I offer today, is intended to apply retroactively to both previous false claims practices and pending false claims suits.

This amendment is intended to apply narrowly to principal wrongdoers, such as those convicted of criminal misconduct, and not to those qui tam plaintiffs who may have had some more minor role in the false claims conduct.

Mr. DECONCINI. Mr. President, in the 99th Congress I joined Senator GRASSLEY as the Democratic cosponsor of amendments to the False Claims Act. I believe that those amendments, signed into law in 1986, have provided the Government and the private citizenry with a powerful and effective tool against fraud. I agree with Senator GRASSLEY that while it is too early to render a complete assessment of the effect of the 1986 amendments, the actions so far appear to strike a blow in the taxpayers' favor.

The rather minor amendment which we are acting upon today is actually a clarification of our intent when legislating the 1986 amendments. In those amendments we made clear that successful private plaintiffs are guaranteed a minimum amount of recovery with the specific amount to be determined in light of the private plaintiff's participation and contribution to the litigation. However, that guarantee was not meant to be an incentive for individuals who are the main force behind a false claims scheme. The amendment offered today provides that in an extreme case where the private plaintiff was a principal architect of a scheme to defraud the Government, that plaintiff would not be entitled to any minimum guaranteed share of the proceeds of the action. Also, in any case where a private plaintiff is convicted of criminal misconduct for his or her role in the false claims practice, the private plaintiff will be dismissed from the action and not entitled to any recovery.

This amendment is in keeping with our intent to provide a strong weapon against fraud, but at the same time protect the use of that weapon from possible abuse. I am confident that the vast majority of private plaintiffs in false claims actions will not be affected by this amendment because they are not the driving force behind the false claims activities disclosed in their lawsuits. But those who do seek to abuse the statute in this manner, or have already done so, will take that action at their own risk and expense.

Our clarification today is intended to apply retroactively to pending suits so that any potential abuse is prevented. Similarly, our 1986 amendments to the False Claims Act were also intended to apply retroactively so that improvements we legislated would have an immediate effect. I am hopeful that through enacting all of these amendments we have helped to ensure that our critically needed tax dollars are spent properly.

Mr. METZENBAUM. Mr. President, I think we are ready to act on the amendment. The amendment is agreeable.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 3736) was agreed to.

Mr. GRASSLEY. I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I enthusiastically support passage of the major fraud act.

Last December, I testified in support of this legislation before the House Judiciary Subcommittee on Crime. As I stated then, it has been estimated that perhaps ten percent of the Federal budget is being lost each year due to fraud against the taxpayers.

That comes to about $100 billion of fraud.

How much is $100 billion, Mr. President?

On hundred billion dollars would fund all the weapons in this year's defense budget; it would fund our military research and development programs; it would also fund our entire agriculture budget, our transportation budget, plus our budgets for education, housing and food stamps—with billion to spare.

And as the size of our Federal Government grows, the opportunities for fraud also grow. The American taxpayer has a right to know that his Government will use every arrow in its quiver to detect and prosecute fraud.

Events of recent weeks and months only serve to underscore the need to "up the ante" for those firms that betray the American people. Just last Thurday, for example, the Justice Department announced a $115 million settlement as part of a guilty plea by Sundstrand Corp.—the largest single fraud settlement in history.

Sundstrand, and Illinois defense contractor, overbilled the Pentagon for millions of dollars in cost overruns, over a 4-year period. They were also charged with spending more than $100,000 in a crude attempt to win the favor of Pentagon personnel through gifts and gratuties.

I commend U.S. Attorney Tony Valukas for his efforts in this case. But I think even the Justice Department realizes that the increased penalties provided in this bill—without more—won't do the job we need to do. Because increasing the penalties presumes that the perpetrator of the government fraud has been caught.

We can't expect law enforcement authorities to find fraud unless we give them the resources to do it. That's why I'm pleased that this bill includes my amendment to authorize an additional $8 million per year to the Justice Department for government fraud investigation and prosection.

This amendment was first introduced by Senator Proxmire and myself last December. It was modified with the assistance of U.S. attorneys like Tony Valukas, whom I've already mentioned. It's wholeheartedly supported by the Justice Department.

In my view, it sends an unambiguous message—that we've serious about finding fraudulent acts, and then prosecuting them to the fullest extent of the law.

I urge my colleagues to support the committee substitute bill.

Mr. DeCONCINI. Mr. President, I rise today to support H.R. 3911, the Major Procurement Fraud Act of 1988. As we are all well aware, the topic of procurement fraud has been highlighted recently due to the activities of many defense contractors and their dealings with the Department of Defense.

Earlier this year a Government Accounting Office report estimated the loss due to procurement fraud to be $387 million in only 148 open cases reported to the Secretary of Defense from April 1, 1985, to March 31, 1986. In 1985 Deputy Attorney General Toensing testified before the Subcommittee on Administrative Practice and Procedure that 45 of the top 100 Department of Defense contractors were under criminal investigation. Apparently, not much has changed; in the last few months it has been reported that 39 of the 46 defense contractors who had agreed to police their own compliance with procurement rules have come under investigation for fraud. As a result of recent investigation, the Justice Department has issued 278 subpoenas and 42 search warrants and it is likely more will follow. Earlier this year the Senate Armed Services Committee, the Senate Government Affairs Committee, and the House Armed Services Committee held hearings on the procurement process.

We now have before the Senate a piece of legislation that attempts to address problems associated with Federal procurement fraud. The bill amends title 18 of the United States Code to provide increased penalties for certain major fraud against the United States. Specifically, the bill provides jail terms, fines and a whistleblower provision in the event of procurement fraud.

I would like to commend the work of my distinguished colleague from Ohio, Senator METZENBAUM. Without his efforts this bill would not be before the Senate at this time.

I urge my colleagues to join me in supporting the passage of the Major Fraud Act of 1988.

Mr. THURMOND. Mr. President, I rise today to support H.R. 3911, the Major Fraud Act of 1988. Generally, this bill establishes criminal penalties for those who defraud the Government in the procurement process. Over the last few years, Government probes of major contractors, particularly in the defense area, have exposed massive fraud. Such waste of money is inexcusable. While the Government suffers the immediate loss, the real loser in such cases is the American taxpayer.

In the last Congress, we passed the False Claims Amendments Act and the Program Civil Remedies Fraud Act which are aimed at attacking fraud against the Government. This bill would add another weapon to the prosecutor's arsenal by establishing a specific offense for major procurement fraud. I recognize that some contractors have realized the importance of stopping fraud and have set up self-policing programs. I commend those companies who have developed and are diligently enforcing such programs. However, the fact remains that fraud is still widespread in this industry.

Additionally, when the Judiciary Committee considered this bill, an amendment was adopted to provide additional resources in the Department of Justice to be primarily dedicated to the investigation and prosecution of Government fraud.

This bill is an important step toward the prosecution of major fraud. I strongly urge my colleagues to support this measure.

Mr. BUMPERS. Mr. President, I rise in strong support of H.R. 3911, the Major Fraud Act of 1988, and I want to commend Senators METZENBAUM and GRASSLEY for their work on this bill.

I especially want to thank Senator METZENBAUM for agreeing to strike the monetary reward provision of this bill. When I first read this provision, I simply had a visceral reaction against it, although I fully supported the other provisions of the bill. I informed the Senate leadership last week that I wished to offer an amendment to strike, but through inadvertence my amendment was left out of the time agreement that was reached on October 14. Even though Senator METZENBAUM strongly disagreed with my position on the monetary reward provision, he has graciously agreed to accommodate my concern.

I want the record to be clear, however. I made no threat to hold up this bill, and in fact have advocated an early passage. I support the bill; I simply wanted 30 minutes on an amendment to strike the provision I objected to. Senator METZENBAUM agreed to offer the amendment to strike on my behalf in order to avoid the problems associated with vitiating the time agreement, and I thank him for that. This is an important bill, and it is my fervent hope that it will be signed into law this year. It is long overdue.

Mr. METZENBAUM. Mr. President, fraud against the Government continues to grow. It robs taxpayers of the honest use of their hard-earned dollars. For example, the cost of building roads is increased, and the everyday cost of running the Government has increased.

It contributes to burdensome budget deficits. But even more serious: Fraud can cost lives—lives of our military personnel.

For example: Fraud may cause defective military equipment to be supplied to the Government. This may harm, or even cause the loss of the life of our soldiers. It may jeopardize our national security.

The Department of Defense estimates that procurement fraud alone cost $99.1 million for fiscal years 1986 and 1987. We need stronger laws to punish criminal fraud and to deter future fraud. H.R. 3911 is part of the answer.

It is a bipartisan bill. It increases the penalties for major fraud against the Government to a $1-million fine and/or 10 years in jail.

It permits up to a $5-million fine if the fraud involved more than $500,000 or the fraudulent conduct involved all conscious or reckless risk of serious personal injury.

It authorizes up to a $10-million fine per prosecution for major fraud.

It encourages whistleblowers to come forward with information about major fraud—and authorizes payment of up to $250,000 to them.

It protects whistleblowers from being discharged, harassed, or discriminated against for coming forward with information about major fraud.

It extends the time the Government has to investigate major frauds and to bring suit. The Judiciary Committee unanimously voted for this bill. I urge my colleagues to support this important measure.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on agreeing to the committee substitute, as amended.

The committee substitute, as amended, was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I express my appreciation to the majority leader and the minority leader for their cooperation.

SENATE SCHEDULE

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. Mr. President, the majority leader indicated earlier that we had hoped this evening to take action on the Montana wilderness bill, and we did, and the Washington wilderness bill, the veterans' COLA, the defense fraud bill, and the lobbying bill. Except for the House message that Senator PROXMIRE is going to move on, we have completed that.

I understood that if we would complete action on those, any other matter we would deal with would be by unanimous consent.

I think we have had a good day, disposed of a lot of legislation. I am not certain what will happen in the next 2 or 3 hours on the next item.

Is it safe to indicate to my colleagues that there will be no votes tonight or tomorrow?

Mr. BYRD. Mr. President, I did assure Senators, as the distinguished Republican leader has stated, that it was my intention not to have any rollcall votes tomorrow, and I think we ought to come in at 11 o'clock or noon.

There are some important measures that can be disposed of by unanimous consent. Staffs on both sides of the aisle have been working diligently and effectively to prepare a number of bills for such passage.

I understand that good progress is being made on the drug bill at this point, and I would expect that progress to continue on tomorrow. I hope they will be able to finalize action on that bill by Thursday or Friday or, if not on Friday, on Saturday.

I have no intentions of calling up any other measure that would require a rollcall vote. Of course, any Senator can ask the Chair to lay before the Senate a message from the House. It is not debatable, and it does not require unanimous consent. Any Senator may ask that a conference report be laid before the Senate. That could require a rollcall vote on a nondebatable motion.

Other than that type of action, I do not foresee any further rollcall votes on any measures, other than such conference reports or House messages, which would include, of course, the drug bill and the tax bill. Both of those will either come back to the Senate in the form of conference reports or House messages.

Mr. DOLE. I think it was also the hope of the leaders on both sides that those who are directly involved in these negotiations, even though there are no rollcall votes, will be available. As to the drug bill, I think tomorrow is going to be sort of Members' day. They will have Members, not just staff. Particularly those Senators on this side who have been active in this—Senators RUDMAN, D'AMATO, and THURMOND—will be there tomorrow. I think all our Senators will be in town, with the exception of Mr. GRAMM.

Mr. BYRD. I think several Senators have already been working on it this afternoon. Others will be in town tomorrow, on my side.

Progress, as I say, is being made, and I am somewhat optimistic at this point.

I guess what the Republican leader and I are facing at this moment is the possibility of a Senator asking that the Chair lay before the Senate a House message. Now, whether that will result in considerable debate into the evening or rollcalls, I am not in a position to say. I simply say that Senators should be alerted to the possibility of rollcalls in the event there is a motion to ask the Sergeant at Arms to request the attendance of absent Senators. There could be such a development.

I am prepared to yield the floor, unless the distinguished Republican leader has anything further.

Mr. DOLE. No, I have not.

Mr. D'AMATO. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. D'AMATO. I wish to make an observation.

I am aware that my distinguished friend and colleague, the chairman of the Senate Banking Committee, is going to offer an amendment, by way of a privileged vehicle from the House. I have no objection, basically, to that, except that he is then going to move to amend it, and it is the amendment that is very contentious.

There is no sense in deluding ourselves, and I will speak at length in regard to the points which I find totally unacceptable not only to myself but also with respect to the process.

There has been no hearing; there has been no markup. This is rather unprecedented. It is for that reason that, at the proper time, I will move to postpone the pending message until another time certain.

Let there be no mistake: That is what I intend to do if, as I envision, the process is one which I have just described.

I thank the majority leader.

Mr. BYRD. I thank the distinguished Senator. He has made clear his position and his intentions, and I think it was fair of him to do so.

I would suggest again that Senators be alerted on both sides to the fact that there might very well be a rollcall vote or some rollcall votes yet this evening.

AGE DISCRIMINATION CLAIMS ASSISTANT

Mr. MELCHER. Mr. President, in March of this year this Congress quickly passed, and the President signed into law on April 4, the Age Discrimination Claims Assistance Act [ADCAA] of 1988 to revive age discrimination in employment charges which had been filed after December 31, 1983, but allowed to expire under statutes of limitation because they were not timely processed by the Equal Employment Opportunity Commission [EEOC].

The necessity for that law came to light in an oversight investigation by the Special Committee on Aging of the administration and enforcement of the Age Discrimination in Employment Act by the EEOC.

It took months of pressure from the committee before the EEOC, for the first time, made the self-examination which revealed to it that age discrimination charges had been allowed to expire. The first public revelation by the EEOC, after that self-examination, was that some 900 individuals had lost their rights. That was the number we talked about when the ADCCA of 1988 was passed.

Subsequently, the EEOC revealed that the number was 1,200 instead of 900. But that proved to be short too.

That 1988 law required EEOC to notify in writing within 60 days after date of enactment each individual whose age discrimination claim is affected by that law. EEOC reported that 7,546 individuals were given that notice. But that's not all either. That total does not include charges being processed by local agencies under contract with the EEOC. To this date, EEOC has not been able to provide the total for those local agencies. That number might take the total over 8,000; 1,437 of that 7,546 were charges being handled at the EEOC headquarters level. The breakdown of the remaining 6,109 by EEOC district office—including area offices [AO]—is as follows:

District office:	*Total*
Atlanta	66
Baltimore (AO Norfolk, Richmond, and Washington, DC)	289
Birmingham (AO Jackson)	140
Charlotte (AO Jackson)	125
Chicago	295
Cleveland (AO Cincinnati)	192
Dallas (AO Oklahoma and El Paso)	866
Denver	73
Detroit	290
Houston	64
Indianapolis (AO Louisville)	104
Los Angeles (AO San Diego)	503
Memphis (AO Nashville and Little Rock)	112
Miami (AO Tampa)	199
Milwaukee (AO Minneapolis)	450
New Orleans	23
New York (AO Boston and Buffalo)	926

Philadelphia (AO Newark and Pittsburgh)	487
Phoenix (AO Albuquerque)	90
St. Louis (AO Kansas)	290
San Antonio	76
San Francisco (AO Fresno, Oakland, and San Jose)	264
Seattle	265

In first revealing those 900 lapses last Decemer, EEOC Chairman Clarence Thomas was inclinded to put the blame for all 900 on about 7 of the EEOC's 23 district directors. There were published stories to the effect that he indicated that the seven had been punished by poor performance ratings. But later data revealed that the lapses did not involve only seven districts. They involved all 23 districts, as well as EEOC Headquarters.

Testimony of, and documents produced by, managers, district directors and EEOC Headquarters personnel constitute clear, unequivocal evidence that the lapse of those individual rights was the direct result of long-established policies and practices for the handling and processing of discrimination claims of all types under EEOC's jurisdiction. Those policies and practices were long known and condoned by EEOC Headquarters. Those lapses did not constitute "dereliction of duty" on the part of district directors, nor any individual district director.

On October 1, 1987 EEOC officially amended its Official Compliance Manual by adding at the end of section 2.9 "Charges Warranting Priority Handling" the following new sentence: "ADEA cases where the two-year statute of limitations is near to expiring should also be investigated on a priority basis." That manual is considered the "bible" for all laws administered by EEOC.

Before that amendment no provision of that manual even suggested that ADEA charges were to be given priority over, or handled any differently than, charges under any of the other laws under EEOC's jurisdiction.

Furthermore, by official memorandum, dated January 22, 1988, to "District Directors, area directors, local directors," referenced "Administrative Enforcement—ADEA Charges," James H. Troy, Director, Office of Program Operations, the top adminstrative officer of EEOC, instructed them to "immediately" 'restructure" "case management approaches" and made the following admission:

> We are aware that the hallmark of most of your case management systems is "processing in docket order." This facet must be altered when pertaining to ADEA charges that are nearing the statute expiration.

As Chairman Thomas well knows, another crucially important factor in this situation is the backlog of discrimination charges of all types. That backlog increased from 33,000 to more than 61,000 between 1982 and 1987. The backlog at the end of fiscal year 1987 was only slightly—six percent—less than the 65,844 new charges filed that fiscal year.

Aggravating the backlog problem is the increase in the number of unprocessed charges 300 days old and older. Between 1982 and 1987 the number of such unprocessed charges 300 days old and older constituted 26 percent in 1987 compared with 9.9 percent in 1986.

Districts with exceptionally large workloads and insufficient staffs faced even worse than average 300 days older charge inventories. For instance, in the Los Angeles District office 62 percent of its August 1987 backlog of 5,133 charges was over 300 days old; about 50 percent of the St. Louis District Office's 1986 backlog was over 300 days old.

The policy changes EEOC has made are steps in the right direction, steps dictated by common sense. Singling out a few in lower management for criticism and punishment is not justified, nor fair. To the extent that that has taken place, it is a serious management mistake and should be corrected forthwith.

TRIBUTE TO SENATOR JOHN STENNIS

Mr. HEFLIN. Mr. President, it is my great honor to rise today, to pay tribute to my trusted friend and distinguished colleague from my neighboring State of Mississippi—JOHN STENNIS.

Within every organization there is usually one individual who is widely recognized as a valued representative of that organization's ideals. Ralph Waldo Emerson wrote in "Self-Reliance" that, "An institution is the lengthened shadow of one man." For the U.S. Senate in this 100th Congress, JOHN STENNIS is that man. Though he now works from a wheelchair, Senator STENNIS casts a shadow that has touched each one of us. All of us are better people for having known him and having been shaped by his guidance and his example. He diligently performs his many duties but has always had time for words of encouragement or advice.

JOHN STENNIS can truly be described as a statesman in the grand tradition of the term. His 41-year tenure in the Senate spans the terms of 8 Presidents and close to 300 Senators. His character and integrity are beyond compare and I know that the good people of Mississippi are proud of the way their native son has represented them in Washington. To put things in proper perspective, I want to inform my colleagues that Senator STENNIS has served the U.S. Senate for one-fifth the life of this great body and is surpassed in length of service by only one previous Senator.

Mr. President, recently a good friend of mine and a former Congressman from Mississippi, Frank E. Smith, sent me a 41-year-old copy of an original Stennis for Senate campaign advertisement. This political advertisement's predictions have proven to be somewhat prophetic. It says that JOHN C. STENNIS

> is a true Southern statesman of our oldest and noblest traditions. He has that combination of brilliant personality and penetrating mind that mark him with a particular capacity for greatness that will be Mississippi's pride for generations to come.

How true these words have become. In this advertisement, JOHN STENNIS also promised to "plow a straight furrow." He did indeed plow a straight furrow through Washington. As he nears the end of this row and prepares to begin his next row back in Mississippi, he can look back down this straight furrow and see the fruits of his labors and be justly proud of his many accomplishments.

I have a great affinity for Senator STENNIS which extends far beyond the geographical proximity of our States. We both come from small Southern towns. Despite his 41 years in Washington, Senator STENNIS has maintained contact with his hometown of DeKalb, MS. The influence of this small community on Senator STENNIS is obvious in his unfailing common sense and his perpetually gracious manner.

Mr. President, Senator STENNIS and I are also among the few Senators who share the honor of having served on the bench. In my judgment, Senator STENNIS' service as a district prosecuting attorney and as a circuit court judge have enabled him to exercise sound judgment over a wide range of issues. This judicial background allows him to make rational decisions without descending into the purely emotional debates which often occur in this body.

Few Senators command the type of respect afforded JOHN STENNIS by the rest of this body. The high regard for Mr. STENNIS stems from his attitude, his character, and his wisdom. He is a man of the utmost integrity with a fine legal mind. It is only fitting that JOHN STENNIS served as the first chairman of the Senate Ethics Committee and drafted the original Senate code of ethics. As the current chairman of this committee, I will endeavor to follow Senator STENNIS' good example and live up to the lofty standards which he has set.

Senator STENNIS has risen to an unparalleled level of leadership in the Senate. I can think of no person more capable of serving as the President pro tempore of the U.S. Senate, the chairman of the Senate Appropriations Committee, the chairman of the Defense Appropriations Committee, and the senior member of the Senate Armed Services Committee. As the only Senator on both the Armed Services and Appropriations Committees, he has had a large impact on the formation of national defense policy. While Senator Stennis' home State of Mississippi has certainly benefitted from this influence, he has endeavored to do what is right for this great country. The gulf coast complex containing the National Space Testing Laboratory, the Navy Oceanography Center, and the Army Ammunitions Plant represent his efforts to enhance the Mississippi economy while providing vital national services. I have worked very closely with Senator Stennis on another vital project—the Tennessee-Tombigbee Waterway. Since 1955, he has unwaveringly supported the waterway which opened in 1985. The drought of 1988 has silenced many critics of the waterway when barge traffic on the Mississippi River was often forced to follow the Tennessee-Tombigbee Waterway to reach the Gulf of Mexico.

John Stennis will leave behind a legacy which will reach far into the 21st century. He will forever be remembered as one of the outstanding members of this great deliberative body. His legendary energy inspires me and I cherish his friendship. This Chamber will always seem lacking after Senator Stennis is gone and it is my hope there will always be someone of equal ability and integrity to take his place. I will indeed miss the gentleman from Mississippi.

TRIBUTE TO SENATOR LAWTON CHILES

Mr. HEFLIN. Mr. President, it is with great pleasure that I rise, today, to pay tribute to one of our most highly regarded and respected colleagues. When Florida's senior Senator, Lawton Chiles, retires at the end of this term, the U.S. Senate will lose a wealth of both experience and prudence and integrity. Senator Chiles seems to have obtained the perfect balance which enables him to serve the best interest of this Nation while helping Florida to grow and prosper. I know the people of Lakeland and the rest of Florida will be sad to see him leave Washington but happy to welcome him home.

Much can be learned about the character and resolve of Lawton Chiles by examining his original U.S. Senate campaign in 1971. Senator Chiles had served 8 years in the Florida House of Representatives and 4 years in the Florida Senate before he ran for former U.S. Senator's Spessard L. Holland's vacated seat. This legislative experience was important but the most important aspect of the campaign was his, now legendary, walk across Florida. This walk convinced Floridians that Lawton Chiles cared about what they thought and valued their opinions. His three Senate terms have proved that these Floridians were correct.

Throughout his 18 years in the Senate, Lawton Chiles has been a model of integrity. In this day of corruption and graft, his record serves as a shining example of how much an honest politician can accomplish without yielding to special interests. Senator Chiles has consistently gone out of his way to ensure that he has no conflict-of-interests. Soon after his election, he resigned from his law practice and made personal financial disclosures which reassured voters of his honesty. He has declined to accept the honoraria which has become associated with speeches, articles, and special appearances. In keeping with his frugality and his desire to remain independent from special interests, Chiles limited campaign contributions to $10 per person in his 1976 re-election and to $100 in his 1982 re-election. And if this were not enough, he prohibited political action committee and out-of-State contributions. I wonder how many of us can claim these distinctions.

Senator Chiles has brought to this body the foresight and leadership which have enabled us to deal with many of the problems facing our great Nation. His legislative accomplishments, while far too numerous to list, represent his worthy efforts to convert his vision of a better America into a reality. Part of his vision involves opening the governmental process to the public. With this in mind he authored the Government in the Sunshine Act which allowed the press and the public access to Government agency meetings. His efforts also led to the same openness for Senate committee business.

Mr. President, Lawton Chiles has brought to this body a concern for fiscal responsibility and a belief in the responsible use of Americans tax dollars. He has been able to help enforce these beliefs through his position as a charter member of the Senate Budget Committee and its chairman since 1986. While on the Governmental Affairs Subcommittee, Senator Chiles helped expose fraud and abuse in the procurement process of the Defense Department, The General Services Administration, and the Small Business Administration's minority contracting program. His diligent efforts in these areas helped correct these problems and saved the taxpayers hundreds of millions of dollars.

While always serving the Nation's best interest, Senator Chiles never turned his back on Floridians and never forgot that it was they who elected him. He always seemed to find a way to preserve Florida's natural beauty or improve the quality of life for its citizens. He was instrumental in the establishment of the 574,000-acre Big Cypress National Preserve and its recent 146,000-acre addition which together help protect the water flow into the Everglades National Park. As you can see, Senator Chiles has shown strong support for the environment. He also led the fight against phosphate strip-mining in the Osceola and proposed legislation which successfully banned the mining. His efforts in these areas will help preserve Florida's scenic beauty for generations to come.

Senator Chiles and his wife, Rhea, realized that they could make life simpler for tens of thousands of Floridians by giving them a central location from which to explore the Nation's capital. They located and renovated a large townhouse next to the Supreme Court and across from the Capitol. This house came to be known as the Florida House and has offered a convenient information and rest stop for over 20,000 Floridians per year. This is just another one of the ways Senator Chiles has kept the best interests of Floridians in mind.

While the Senate recently passed the drug bill, Lawton Chiles has worked for 10 years to combat the mushrooming problem of illegal narcotics smuggling and trafficking. Due to geography, Florida has become a central player in the drug game. Many of Senator Chiles proposals have been enacted to halt this flow of drugs through Florida and rid his State and this country of this tragic burden. His efforts have made it easier for the military, the Coast Guard, and law enforcement officers to track and catch smugglers' planes and ships. He has helped lead efforts to increase penalties for drug traffickers and increase Governments' authority to deal with violators.

Mr. President, I am indeed sorry to see Senator Chiles leave this body. He brought his many talents and abilities to Washington and gave freely of himself. I know he is proud of his many accomplishments here and proud of the way he represented all Floridians. Most of all, I am sure he is ready to leave behind the hustle and bustle of Washington in favor of the tranquility of the Florida wilderness and his true passions of hunting and fishing. Florida is fortunate to have had someone of Lawton Chiles' ability and integrity to serve them for 18 years. I am sure they will welcome him home with open arms.

Thank you, Mr. President.

TRIBUTE TO SENATOR WILLIAM PROXMIRE

Mr. HEFLIN. Mr. President, the U.S. Senate in the 101st Congress will greatly miss the services and presence of many of the great statesmen who have influenced this body in this historic 100th Congress. WILLIAM PROXMIRE is one of these great men who has decided to retire at the end of this term. The Nation and his home State of Wisconsin will sorely miss his expertise and his diligence.

Senator WILLIAM PROXMIRE has devotedly served the U.S. Senate for the past 31 years. Since filling the vacant Wisconsin seat upon the death of Senator Joseph McCarthy in 1957, Senator PROXMIRE has risen in influence and in seniority. Today he is one of the most respected and venerated Members in the Senate. We will miss his leadership and his advice.

Senator PROXMIRE came well prepared to his first term of office. He not only brought legislative experience from the Wisconsin State Assembly but also an education from the finest institutions in the country. He was graduated from Yale in 1938 and earned a master's degree in business administration cum laude from the Harvard Graduate School of Business in 1940. He later earned a master's degree from Harvard in public administration. Senator PROXMIRE's first step into politics was his election to the Wisconsin State Assembly in 1950 and his second was his election to the U.S. Senate. In my judgment, he has compiled a stellar record.

Mr. President, I have heard many of my colleagues extol Senator PROXMIRE's virtues here on the Senate floor. Like most of them, I am justifiably amazed at Senator PROXMIRE's extraordinary rollcall voting record. As you all know, many of us pride ourselves on our voting record. Indeed, all of us try to make votes whenever circumstances permit. Senator PROXMIRE's differs in that he makes all votes and accounts for outside circumstances only if votes permit. All of our records pale against Senator PROXMIRE's record. As most of you know, his incredible string of rollcall votes spans 22 years and over 10,000 votes. That means that if the Senate held one rollcall vote per day, Senator PROXMIRE would have been here every day for over 27 years. Part of his longevity is probably due to his devotion to his health and fitness. He can regularly be seen on his daily jog to work. I'm sure this time every morning has allowed him to wrestle with the tough problems of the Senate and come to reasonable answers.

As Senator PROXMIRE's seniority grew, so did his influence. He now serves as the chairman of the Senate Banking, Housing and Urban Affairs Committee. He also serves on the powerful Appropriations Committee and the Joint Economic Committee.

Senator PROXMIRE, a prolific author, for years has been a proponent of Government fiscal responsibility. According to the National Taxpayers Union, Senator PROXMIRE has the best record for holding down Government spending since the organization was founded in 1969. The National Taxpayers Union also said that he held the best record in the Senate for the past 3 years for holding down spending.

Mr. President, for Senator PROXMIRE, integrity and responsibility are second nature. He has served this country and his home State of Wisconsin so well that he accepted no campaign contributions for his 1976 and 1982 re-election campaigns and spent only $322.83 on these two elections. Needless to say, he is loved and respected by the people of Wisconsin. Washington and the U.S. Senate are losing a great man and a distinguished statesman. Washington's loss is Wisconsin's gain as their native son is free to return home. I am sure each one of my colleagues will join me in thanking Senator PROXMIRE for his input to the Senate and in wishing him the best of luck and happiness in the future.

Thank you, Mr. President.

TRIBUTE TO SENATOR ROBERT STAFFORD

Mr. HEFLIN. Mr. President, I rise today in tribute to Senator ROBERT STAFFORD from Vermont who plans to retire following this 100th Congress. He has been in Washington for 27 years and his expertise and knowledge will be greatly missed. Like the rest of us in this body, Senator STAFFORD has endeavored to make his State and this country better places to live. In my judgment, he has done just that.

BOB STAFFORD has an outstanding record of service to the people of Vermont. He graduated from Middlebury College and Boston University Law School before serving 4 years as the Rutland City prosecutor. This service was interrupted when he entered the U.S. Navy during World War II. He was a lieutenant commander before returning to active duty in the Korean conflict and is currently a retired captain in the U.S. Naval Reserve. In his military service as in his later political life, BOB STAFFORD endeavored to protect the rights and freedoms which make this country great.

After the war, Senator STAFFORD applied his fine legal mind as the deputy attorney general and attorney general of Vermont. The people of Vermont recognized BOB STAFFORD's superior intellect and devotion by electing him as Lieutenant Governor in 1956. Since that time, BOB STAFFORD has joined the elite group of individuals that have been elected as Governor, Member of the U.S. House of Representatives, and the U.S. Senate.

Since joining the Senate in 1971, Senator STAFFORD has gained leadership, seniority, and respect. He is the ranking member on the Senate Environment and Public Works Committee and served as its chairman during the 97th, 98th, and 99th Congress. BOB STAFFORD has come to be known as a leader among environmentalists, and with good reason. His leadership helped to strengthen and expand the Superfund Program to clean up toxic waste, to identify and remove asbestos in public schools, to ensure safe drinking water and to provide needed water projects. His efforts will help keep this Nation a cleaner and safer place to live.

Mr. President, I am confident that my colleagues will join me in thanking Senator ROBERT STAFFORD for his accomplishments and his efforts during his past 27 years in Washington and in wishing him the best of luck in all his future endeavors. I am sure that the people of Vermont will miss his leadership in the Senate but welcome him home with open arms.

Thank you, Mr. President.

TRIBUTE TO PAUL TRIBLE

Mr. HEFLIN. Mr. President, it is with great honor that I rise, today, to pay tribute to my colleague from Virginia, Senator PAUL TRIBLE, as these final days bring us closer to the end of this historic 100th Congress and to his retirement from the U.S. Senate. He has served us well and his presence in this body will be greatly missed.

Senator PAUL TRIBLE has been an outstanding servant to the people of Virginia for his entire adult life. He has served Virginians in many ways, both in appointed and elected positions. He was born in Baltimore, MD, but attended college in Virginia and has lived here ever since. PAUL TRIBLE graduated from Hampton-Sydney College and Washington & Lee Law School. He had a strong attraction for Virginia and began practicing law in Alexandria. His career as a public servant began as a law clerk to a U.S. district judge. He next served as an Assistant U.S. attorney and Commonwealth's attorney for Essex County.

PAUL TRIBLE applied his legal education and experience to Congress when he was elected to the U.S. House of Representatives in 1976. His tenure in the House lasted 6 years where he was a member of the Committee on Armed Services, the Committee on Merchant Marine and Fisheries, and the House Budget Committee. He acted as the assistant minority whip in the House Before his election to the U.S. Senate in 1982.

Senator PAUL TRIBLE has served only one term here in the Senate, but in that short time he has shown his commitment to the people of Virginia and the strength of his convictions. He has worked diligently to promote economic growth and increase job opportunities.

I was fortunate to work with Senator TRIBLE on the Select Committee investigating the Iran arms sale. During the entire investigation, I was impressed with Senator Trible's diligence and his fine legal mind. I am sure that his input to the Foreign Relations, Commerce, and Governmental Affairs Committees has been just as outstanding.

I am sure that all my colleagues will join me in thanking Senator Trible for his 12 years of service in the U.S. Congress. I wish him the best of luck in all his future endeavors. The people of Virginia and this Nation have benefited from his years of service and, I am sure will benefit from his future accomplishments.

TRIBUTE TO SENATOR DAN EVANS

Mr. HEFLIN. Mr. President, I rise today to bid farewell to my colleague from Washington, Senator Dan Evans. He has brought much to this body and as this historic 100th Congress draws to a close, I want to wish him the best of luck and happiness in all his future endeavors.

An examination of Senator Evans' accomplishments shows the wealth of knowledge and experience he brought to this body. Like many other Senators, Dan Evans has spent most of his adult life in service to his State and to this Nation. His service began like that of many others in this body, in the military. He was an ensign in the U.S. Navy serving on an aircraft carrier in the Asiatic-Pacific theater. After earning bachelor of science and masters degrees in civil engineering from the University of Washington, he was recalled to active duty during the Korean war as a lieutenant on a destroyer.

Dan Evans has achieved success in each of his endeavors that many of us can only dream about. After the Korean war, he worked as a structural engineer, becoming a partner in Gray & Evans after only 7 years. A short 4 years later, he reached the pinnacle of his field when he was named Washington State's "Engineer of the Year" for 1965. At the same time he was mastering engineering, he was also mastering the legislative branch of Washington State Government. Dan Evans was elected to the Washington House of Representatives in 1956 and became the Republican floor leader in 1961. He held this position until he retired from the House to concentrate on his successful gubernatorial bid.

Dan Evans became Governor of Washington State in 1965 and began his climb to national prominence. His keynote speech at the 1968 Republican National Convention vaulted him into the spotlight. He also became one of the most respected Governors in the country and Washington's only three-term Governor. He chaired both the Western Governor's Conference in 1969 and the National Governor's Conference in 1974.

When Dan Evans stepped down as Governor of Washington in 1977, he did not step to the sidelines but instead took over as president of the Evergreen State College which he helped found 10 years earlier. Senator Evans' 6 years as president of this college, together with his other accomplishments, represent the type of experiences which help make the U.S. Senate the greatest legislative body in the world.

Although Dan Evans has represented Washingtonians well, I know they are grateful to him for his years of service. As Dan Evans returns home, I would like to join my colleagues who have thanked the Senator for his efforts and his friendship. I wish him the best of luck in the future and am confident that his new endeavors will meet with as much success as have his past endeavors.

Thank you, Mr. President.

SENATOR ROBERT C. BYRD

Mr. BIDEN. Mr. President, for the 7 months prior to last month, I had a great deal of time to reflect upon, among other things, this body and the work that we do here. I have, after all, spent more than a third of my life as a Member of the Senate, and have had the opportunity to take part in the making of much history.

I missed all of this more than you can know during my enforced absence. I missed the day-to-day challenges that we face as we attempt to resolve the important issues which face this Nation. I missed the broad interplay of ideas and values which enable each one of us to grow philosophically. And I very much missed my 99 friends here on the Senate floor.

But in addition to all of that, I missed those somewhat intangible qualities which make the Senate not only a unique legislative body, but a very special place. We are fortunate indeed that this is a body where comity and courtesy are not just good ideas, they are the rules of the house. They are part of the fabric of this institution; where after a heated debate filled with fervor and passion, we can sit down together as friends at the and of the day to plan for tomorrow.

The Senate has a proud tradition of being a place where a Senator's word is given, and taken, as his bond; where our hallowed code of conduct stands far taller than the short-term personal goals of any individual. It is a place where concepts such as respect and honor, fairness and integrity, are as real as the marble walls which surround us.

And when I think of these things that make the Senate such a special place, I find myself thinking at the same time of our distinguished majority leader, Senator Robert Byrd. Because Robert Byrd epitomizes those very qualities.

He has been, and I hope will continue to be, a proud historian of this body, sharing his wealth of Senate lore to remind us that we have a great deal to live up to. All of us have learned from the majority leader's history lessons, for they are always interesting and thought provoking. But in terms of reminding us of our heritage and our responsibility, Robert Byrd's everyday actions are themselves a lesson in senatorial conduct. We call him "Mr. Leader," not just for his title, but for the example that he sets.

In an age where too often commitment of any kind is considered old-fashioned, Senator Byrd's commitment to this institution and its role in this Republic stands out as a shining example of just the kind of commitment which we should expect from our public servants. And if his commitment, and his integrity, and his honesty, and his sense of fairness seem old-fashioned, so be it. Because Robert Byrd understands the responsibility and the trust which the people of West Virginia and his colleagues here in the Senate have placed in him. He is the consummate public servant.

I first met Senator Byrd in 1972, when he came to Delaware to campaign for a 29-year-old underdog running for the Senate. I was impressed from the start by the strength of his character. He didn't have to come, but he knew that I needed his help. And in the 16 years since, as my respect and admiration for him have increased, Senator Byrd has been there—in typical Bob Byrd fashion—when I needed him.

Nor has my relationship with Senator Byrd been a particularly unusual one. I doubt very much if there is a Member of this body for whom, in one way or another, he hasn't been there when he was needed. It is an integral part of his nature, whether as the leader, a colleague, or as a friend. I value him tremendously in each capacity.

Although he has decided to exchange his leadership post for that of chairman of the Appropriations Committee and President pro tempore of the Senate at the end of this Congress, we will still be able to take advantage of his counsel, his energy, and his dedication to the Senate and his country.

Walter Lippman once said that:

> The final test of a leader is that he leaves behind him in other men the conviction and the will to carry on.
>
> The genius of a good leader is to leave behind him a situation which common sense, without the grace of genius, can deal with successfully.

The Senate is a stronger institution today as a result of Senator Byrd's leadership. I can think of no finer legacy.

President Kennedy once said that:

> When at some future date the high court of history sits in judgment on each of us, recording whether in our brief span of service we fulfilled our responsibilities to the State, our success or failure, in whatever office we hold, will be measured by the answers to four questions: First, were we truly men of courage . . . Second, were we truly men of judgment . . . Third, were we truly men of integrity . . . Finally, were we truly men of dedication?

By any of those standards, indeed by any standard at all, ROBERT BYRD is an unqualified success.

SENATOR STAFFORD'S RETIREMENT

Mr. MURKOWSKI. Mr. President, I would like to take this opportunity to thank my colleague and dear friend, Senator ROBERT T. STAFFORD, for his long and faithful service as a Member of this body and as a member of the Senate Veterans' Affairs Committee. This is the last time my friend will be on the floor of the Senate in response to issues of importance to our Nation's veterans.

Senator STAFFORD has dedicated himself to public service, starting out as attorney general of the State of Vermont. He later served as Lieutenant Governor, Governor and as a Member of the U.S. House of Representatives. Senator STAFFORD was elected to the Senate in 1971 and has served on the Veterans' Affairs Committee since his election.

It has been a pleasure to work alongside him. As both chairman and ranking minority member, I could always depend on BOB's support and insight. He is a gentleman who is dedicated to his home State of Vermont, his country and our Nation's veterans.

He will be missed in the Senate, on this committee and by this Senator. I wish him Godspeed.

Mr. CRANSTON. Mr. President, I just want to echo the remarks about Senator STAFFORD. I have some thoughts of my own about him that I will be expressing on the Senate floor. He has been a great Senator. I worked with him on two committees, including the Veterans' Committee.

TRIBUTE TO SENATOR LAWTON CHILES

Mr. PELL. Mr. President, the decision earlier this year by Senator LAWTON CHILES not to seek reelection was a surprise to both his loyal and admiring constituents in Florida and to his colleagues here in the Senate. The decision was not only a surprise, but also a disappointment, because the distinguished senior Senator from Florida in his 18 years here in the Senate has won the esteem and respect of his colleagues for his contributions to the work of the Senate.

The Senator from Florida has an easy, low-keyed, and affable manner that has endeared him to all in the Senate. At the same time, however, there are few in the Senate who have not discovered that this easy manner is accompanied by a resolute determination to reach his legislative objectives and to fulfill his responsibilities to both the Senate and to his Florida constituents.

Senator CHILES' abilities served the Senate and the Nation particularly well when the Senator assumed the heavy responsibility of chairing the Senate Budget Committee. No committee chairmanship has been more central to the work of the Senate, nor more demanding than the chairmanship of the Budget Committee during these past several years. And Senator CHILES has met that challenge admirably.

I have not shared a major committee assignment with the distinguished Senator from Florida, but we have shared both an interest and major responsibilities for Federal Government education programs, the Senator from Florida serving as chairman of the Appropriations Subcommittee for Education while I served as chairman of the Senate authorizing subcommittee for education programs.

Senator CHILES and I did not always agree precisely on the priority to be given to the programs within the budget, but during the past 8 years when the administration has repeatedly proposed decimating cuts in Federal education programs, the Senator from Florida has been a valued ally in the effort to preserve essential education programs in the midst of very strong budget-cutting pressures.

Mr. President, Senator CHILES has been a valued Member of the Senate and he will be greatly missed. I extend to him best wishes in whatever he may undertake in the coming years.

TRIBUTE TO SENATOR PROXMIRE

Mr. PELL. Mr. President, it is very, very difficult to envision the U.S. Senate without the presence of the distinguished senior Senator from Wisconsin, Senator PROXMIRE. We know, of course, that when the 101st Congress convenes Senator PROXMIRE will not be among the Senate Members since he has chosen not to seek reelection. But BILL PROXMIRE has created such an indelible image through his 31 years of service here in the Senate that it is all but impossible to picture this body without him.

Senator PROXMIRE is among a very small handful of Members of the current Senate who were here when I first came to this body almost 28 years ago. During these years, the Senate has changed in many ways—in its committee structure, in the opening of the Senate to the public first through radio and then through television, in the size of Senate staffs, and the sophistication of our communications technology. In this sea of change, Senator PROXMIRE stands as a monument to stability.

Through all these years we have known that when the Senate convened each morning, we would soon hear the resonant voice of the Senator from Wisconsin with his pithy and often penetrating observations on the issues of the day. We came to expect and to look forward to his monthly address wittily conferring his "Golden Fleece Award" on some Government official or agency for what BILL PROXMIRE considered a breach of faith with the taxpayers.

And we learned that BILL PROXMIRE could be the very heart of persistence when he addressed the Senate daily, for years, urging ratification of the Genocide Convention. That was an objective that I shared with and worked with BILL PROXMIRE to achieve, first as a member and then as chairman of the Senate Foreign Relations Committee. One could not have a better ally.

And there are many of us in the Senate who both admired and envied Senator PROXMIRE's ability, not only to win reelection repeatedly and handily, but to do so without indulging in campaign fundraising and with an out-of-pocket expenditure of but a few dollars. There are, I think, many of us who would like to emulate BILL PROXMIRE in freeing ourselves from the work of fundraising but do not have quite the courage of the Senator from Wisconsin.

Mr. President, BILL PROXMIRE will be greatly missed when the 101st Congress convenes in January. I wish him well in whatever endeavors he undertakes in the coming years.

TRIBUTE TO SENATOR PAUL TRIBLE

Mr. HATFIELD. Mr. President, in just a short time the Senate will bid an early farewell to a distinguished public servant, Senator PAUL TRIBLE. Although I have only had the pleasure of serving with the Senator from Virginia for the past 6 years, his dedication and commitment to his constituency have continually impressed me.

Senator TRIBLE began his career of public service practicing law, first in the Justice Department, then as a Commonwealth attorney in Essex County, VA. In 1976, he was elected to the House of Representatives where he quickly earned the deserved reputation of being a champion of his constituents. Senator TRIBLE founded a scholarship fund at Hampton University, he strengthened his State's shipping industry, and in many other ways contributed to the growth and prosperity of his State. Senator TRIBLE'S efforts were not ignored—not by his constituents, who twice reelected him to his district seat, and not by his colleagues in the House who were, I am sure, as sorry to see him leave then as we are now.

In 1982, Senator TRIBLE won election to the Senate and continued his exemplary service to his constituency and his country. Undoubtedly, Virginia will miss his representation and eloquent leadership but whatever path Senator TRIBLE and his wife Rosemary choose to follow, they will always have Virginia's best interests at heart. I am hoping we have not seen the end of PAUL TRIBLE'S political life and that his retirement from the Senate is just a brief departure from his distinguished career in political service.

SENATOR PAUL TRIBLE

Mr. BIDEN. Mr. President, with the conclusion of the 100th Congress, my colleague on the Subcommittee on European Affairs, Senator PAUL TRIBLE, will be leaving the Senate to pursue other opportunities and spend more time with his family.

Senator TRIBLE has worked hard within the subcommittee and on the full Committee on Foreign Relations, has fought hard for the interests of Virginia on matters such as the transfer of National and Dulles airports to local control, and has entered into important and lively debates on the Senate floor genially and without rancor. Having represented a State so rich in America history, PAUL TRIBLE is well aware of the responsibility invested in this body, and has sought to serve the Senate and the people of Virginia in the tradition they have come to expect.

But there is more to life than just being a Senator. PAUL TRIBLE is also a devoted husband and father, and his sacrifice in order to spend more time with them is admirable. He has his priorities in the right place and we wish him and his family all the best.

SENATOR DANIEL EVANS

Mr. BIDEN. Mr. President, when DAN EVANS came to the Senate 5 years ago under some very unhappy circumstances, he had a lot to live up to. His predecessor, Senator Henry Jackson, was one of the giants in the Congress for more than four decades.

But Senator DANIEL EVANS has, in his time here, distinguished himself through his wisdom, his diligence, his conviction, and most of all, his deep sense of honor. Throughout his career, as a State legislator, Governor, college president, and Senator, DAN EVANS has demonstrated that the most valued possession of any public servant is his honor, and he has brought honor to each public office that he has held.

Having been a successful executive for many years—he was rated by one study as one of the 10 best Governors in this century and played a major role in transforming the National Governors' Association into an effective voice in American public policy—Senator EVANS has at times been frustrated with the deliberate pace of our collegial decisionmaking. But he has remained a constructive, dedicated, principled spokesman for the causes in which he believes. I think that all of us have learned something from DAN EVANS.

From my own standpoint, Senator EVANS has been a trusted and valuable colleague on the Foreign Relations Committee, a firm believer that partisan politics ought to stop at the water's edge. He has been among the committee's experts on the Pacific Rim and strategic and economic interests in that region.

DAN EVANS' term in the Senate caps off a most distinguished career in elected office. I very much doubt however, that it concludes his career in public service. Because DAN EVANS, regardless of whether or not he holds public office, will remain a distinguished and honorable public servant.

CREDIT FLOWS AMENDMENT

Mr. BRADLEY. Mr. President, I was necessarily absent for the vote on the Sense of the Senate amendment on credit flows and debt reschedulings to the Soviet Union offered by the Senator from Idaho. I share the Senators concerns. I, too, was deeply troubled to learn that Britain and Italy are planning to extend generous lines of credit to the U.S.S.R. These developments contravene compelling Western interests in ensuring that the Soviet Union finances its economic reform by reducing the share of resources going to the military. Western guarantees and other subsidies that artificially reduce the cost of Soviet borrowing are counterproductive because they allow the Soviets to defer the inevitable choice between guns and butter.

This administration has been remiss in developing a policy toward East-West economic relations that enjoys active Allied support. Unless the next President acts quickly to fill the vacuum, we could face deep divisions within the alliance over what is and is not appropriate in our commercial dealings with the U.S.S.R. and Eastern Europe. That is why I would urge him to put this issue at the top of his agenda and to raise it at the 1989 Western Economic Summit.

Unfortunately, I believe the Senator from Idaho's amendment places too much emphasis on untied loans, which are merely one aspect of a much broader problem. Moreover, since credit is fungible, shutting off the flow of untied loans would not deal with the broader issue of capital flows of all kinds. Nor does it address what is likely to be the major source of future friction; namely, Government guarantees and insurance. So while I share the Senator's concern, I question the emphasis he puts on untied loans.

Mr. President, I ask unanimous consent that a statement I recently submitted to the House Banking Committee on East-West Economic Relations be included in the RECORD.

TESTIMONY OF SENATOR BILL BRADLEY

WHY THE SOVIETS NEED REFORM

The reason the new Soviet leadership is committed to change—economic reconstruction and a modicum of political freedom—is because the economy has stagnated, living standards have deteriorated, the budget deficit has ballooned, corruption is rampant, shortages are proliferating, and the people are losing hope. Gorbachev knows that unless things change the Soviet Union could remain a third-rate economic power, and become a second-rate military power, in his lifetime. That is why he has embarked on an abitious program of economic reform that emphasizes efficiency, decentralization, and a much bigger role for the market in setting prices and allocating resources. As the reformers say, "economic criteria will become more dominant in the allocation of resources."

Whatever its ultimate payoffs, this "perestroika" carries big political risks. It means higher prices, less job security, and harder work today in exchange for the promise of a better life sometime in the future. No wonder there's so much oppostion—from workers, bureaucrats, peasants, party officials, consumers, black marketeers.

That is where "glasnost" comes in. Glasnost is merely greater permission to speak, not freedom of speech guaranteed under law as in American. Yet, it has won over many intellectuals, not just in the USSR but also in the West, and made them advocates of Gorbachev's reforms. This, together with the new opportunities for entrepreneurship—like cooperative restaurants, music stores, dry cleaning shops, truck-farms, long-term leases of land—is supposed to take the edge off the harsh realities of the new economic policies, deflect opposition to change, and keep the Soviet people on board. Glasnost has also generated public discussion of the system's ills. Because Soviets are finally admitting how bad things are, it may be possible to mobilize support for the radical changes perestroika requires.

Will it succeed? No one, including Gorbachev, knows. How should the West react? Some people, including some of our European allies, argue that Gorbachev's new policies are the best hope for the West and that his failure would harm prospects for a more peaceful and humane Soviet Union. They urge the West to promote reform by easing Soviet access to Western markets, credits, and technology. Others, mainly American skeptics, argue the opposite, that successful reform and economic revival would only make the Soviet Union more powerful and menacing, not make it less expansionist or repressive. They urge the US to reduce Soviet access to Western capital and markets.

In my view, neither position fully reflects the interests of the West. As for helping Gorbachev, it is naive to rest our hopes on the success of any Soviet leader, since he will ultimately be followed by another who may disown his policies. It is also unrealistic to think that the West can do much either to help or to hinder him, even if we wanted to. The success or failure of Gorbachev and his reforms will be determined by the quality of his leadership, the responsiveness of the Soviet people, and the adaptability of the Soviet system, not by whether the rest of the world supports or opposes him. Moreover, our interests would be served if, but only if, a successful revival of the Soviet economy is accompanied by lasting changes in the way Soviet society is governed and its resources are used, e.g. through real democratization, greater openness, and stronger civilian claims for highly talented manpower, modern machinery, and other scarce factors of production.

The real test is whether the Soviets choose butter over guns. So far, this hasn't happened. A recent House Armed Services Committee report found that "there have been no significant, identifiable changes traceable to Gorbachev's drive to scale back defense spending . . . Not only has Gorbachev failed to suppress defense spending, but it has actually increased. According to preliminary unclassified intelligence estimates, Soviet military spending grew by about 3 percent in both 1986 and 1987, almost double the growth rate of the 1981-6 period . . . The conclusion is inescapable that so far the military's budget has not been nicked by Gorbachev."

The West has a strong interest in seeing the military burden decline. We want increases in consumption and productive investment to come out of the Soviet military, not from Western depositors, shareholders, and taxpayers. It would be a tragic mistake if Western capital enables the U.S.S.R. to put off the hard choice between "guns" and "butter." Not only would it threaten Western security, but it would subvert Soviet reform.

I see two problems with the approach that says the West should not have any dealings with the Soviet Union. First, perestroika will need imports of technology and consumption items that the Soviets cannot now produce and do not have the hard currency to pay for. Second, the United States does not have a monopoly on capital, trade, and technology. Attempting to deny the Soviets access to all Western capital and credit without the cooperation of Japan, Western Europe, and other nations which may assess the Soviet threat somewhat differently from us, is neither feasible nor desirable. So, imposing unilateral restrictions on U.S. banks, farmers, and businessmen is just shooting ourselves in the foot. And blustering about it to our allies endangers alliance cohesion.

That is why we need a middle ground between "helping" and "hindering," one that friends and allies will support.

A WESTERN APPROACH TO ECONOMIC RELATIONS WITH THE U.S.S.R.

What might be the basis for a common approach? It would proceed from a couple of fundamental goals: fostering a more peaceful and prosperous world, and preserving a cohesive Western economic and security alliance. It would be premised on the assumptions that:

(a) economic reform in the Soviet Union would be in the West's interests if it: permanently reallocates resources away from Soviet military use and control into civilian consumption and productive capital formation; and paves the way for greater political liberalization and respect for human rights; and

(b) by speaking with one voice on key aspects of East-West economic relations, Western governments and businesses may be able to reinforce the efforts of those in the USSR who are working for these goals.

What are the main issues Western nations should focus on in formulating a strategy toward economic relations with the Soviet Union and Eastern Europe? I see five key areas:

Multilateral export controls on militarily critical technologies [COCOM];

Soviet activities in Western capital markets;

East-West trade, including U.S. political constraints on trade and export credits;

Soviet participation in Western economic institutions; and

Investment in joint ventures and special economic zones.

Let me briefly outline my views on each of them.

MULTILATERAL EXPORT CONTROLS [COCOM]

In the 21st century, our collective security will depend even more heavily on preserving and replenishing the West's technological advantage vis-a-vis the Soviet Union and the Eastern bloc. In recent years, multilateral export controls [COCOM] have been strengthened. More countries have recognized that COCOM is vital to their own security. They have tightened their laws and put more resources into enforcing them. Yet as Soviet interaction with the West expands, export controls on sensitive technology will probably come under increasing pressure from potential exporters. Developments within the EEC raise new challenges for Western cooperation. On the one hand, the EEC's commitment to create a common regulatory framework for foreign trade offers the prospect of stronger national laws to meet new community standards by 1992. Yet, on the other hand, projected negotiations toward cooperation with the Eastern bloc could exacerbate alliance frictions over COCOM and complicate further progress toward improved enforcement. Western solidarity and Western security both depend on our ability to maintain and enforce the COCOM regime. As in the past, United States leadership will be critical to ensure Western cooperation.

SOVIET ACTIVITIES IN WESTERN CAPITAL MARKETS

To my knowledge, there is no single, readily accessible comprehensive, and authoritative compilation of statistics on East European and Soviet external debt. Several bodies, including the OECD and the BIS, collect and publish much of the relevant data but not all.

Despite differences in their coverage and methodology, they present a consistent picture of growing indebtedness since Gorbachev took power in 1985. According to OECD estimates (which are adjusted for fluctuations in the dollar), the gross debt of the Eastern bloc (including the Soviet Union) was valued at $129 billion at the end of 1987, up from $82 billion at the end of 1984. In the case of the U.S.S.R., the value of its debt rose from $22.5 billion at the end of 1984 to $38 billion at the end of 1987. In 1986, Western Europe apparently provided about 55 percent of all Western loans, Japan 40 percent, and the United States 2 percent. Over the medium term, most observers expect a moderate but steady rise in Soviet indebtedness. Some people are predicting more substantial increases, particularly in the international securities markets where the Soviets have already floated bond issues. The official Soviet position is to limit debt service to 25 percent of export earnings. However, influential Soviet experts acknowledge that this may not be feasible. They might want more debt.

The Soviet Union and other East European countries, including the U.S.S.R., have been able to take advantage of competition among various Western creditors to obtain preferential borrowing terms. In 1986, for example, the U.S.S.R. and Czechoslovakia were able to obtain loans on private markets at rates just one-eighth of a point above LIBOR, which is the rate for the most preferred, credit-worthy borrowers. These are better terms than those available to Latin American debtors and even to many Western firms and individuals. While Western creditors' attitudes toward the Eastern bloc vary depending on how they assess each country's situation, it appears that in the Soviet case, interest rates have generally fallen and repayment periods have lengthened.

Leading Western governments also guarantee or insure financing for exports to the U.S.S.R. and Eastern Europe. In West Germany, export financing can be guaranteed by a private company, Hermes Credit Insurance, which acts as an agent for the German government. In the United Kingdom, the government administers guarantees through the Export Credits Guarantee Department. In France, there is the French Bank of Foreign Trade and the French Insurance Company for Foreign Trade, a semipublic joint stock company. In Japan, the government Export-Inport Bank cooperates with commercial banks to provide export credit financing, while government-backed insurance is available through the Export Insurance Division of the Ministry International Trade and Industry [MITI]. In the United States guarantees would be provided by the Ex-Im Bank. However, under the Stevenson Amendment to the 1974 Trade Act, there is a $300 million ceiling on new Ex-Im Bank authorizations to finance exports to the U.S.S.R.

Why are these government guarantees important? First, they are just like any other subsidy. Because the financing is backed by the full faith and credit of the lender's government, the borrower gets better terms. Second, they insulate lenders from the full extent of the risk of doing business in the U.S.S.R. and pass that risk onto the taxpayers. Third, the data on the extent and magnitude of insurance and guarantees is quite sketchy. Western governments are apparently reluctant to let voters and taxpayers know just what good deals the Soviets are getting.

The news on the official credit and guarantee front is not all bad. The United States has taken the lead in persuading representatives of OECD governments to stop directly subsidizing trade credits, including export sales to the Eastern bloc. This agreement, the "Arrangement on Guidelines for Officially Supported Export Credits", has been strengthened since it was signed by twenty Western governments in 1978. But it still lacks an enforcement mechanism. Subsidies are permitted upon notification to the parties to the agreement. And in recent years, the growing number of deviations from the agreement indicates a troubling weakening of creditor discipline vis-a-vis the Eastern bloc.

The United States' ability to strengthen this discipline has been compromised by the Administration's allowing the Soviet Union to benefit from subsidized grain sales under the Export Enhancement Act. In 1983, we negotiated a Long Term Grain Agreement with the U.S.S.R. This agreement specifies the minimum level of Soviet grain purchases from the United States over a 5-year period. Beginning in 1984, the Soviets failed to meet their commitments under the agreement. In 1985-86, the Reagan Administration attempted to induce the Soviets to buy more American grain by subsidizing their purchases, first to the tune of $15/metric ton, and when that didn't work, $44/metric ton—a twofold increase that substantially undercut the world price. Understandably, American taxpayers and European allies were outraged. Since then, the subsidy has declined to $19/metric ton, but it remains a sore point between the United States and other nations.

What might the elements of a rational, Western policy toward capital flows to the U.S.S.R. be? First, recognize that there is no strategic justification for official Western loans. Second, Western governments and creditors should forego all types of loan subsidies, guarantees, and other indirect means of reducing the costs of borrowing by Soviet government agencies, enterprises, and joint ventures. And we must improve our ability to enforce that mechanism.

Third, Western governments and financial institutions should review the extent of our ability to monitor Soviet activity in Western capital markets, including the adequacy of reporting by the BIS, OECD, and Western central banks and, where necessary, upgrade the collection and disclosure of data on Soviet financial flows. (There are a number of technical questions about the adequacy of existing reporting systems that I am submitting for the record.)

Finally, Western governments need a better process for periodic consultations on Soviet borrowing. Even though we may not expect their borrowing to surge, we need a common Western understanding and a mechanism in place should the unexpected occur. Certainly, we do not want Soviet bloc debt to mount up the way LDC debt has. In addition, we ought to monitor how the Soviet Union uses Western capital to ensure that our credits do not preempt the reallocation of industrial resources from non-productive military uses to civilian consumption or productive capital formation.

EAST-WEST TRADE

From the West's standpoint, as well as Soviet reformers, it is better if the Soviets finance legitimate imports by increasing civilian exports than by borrowing more from the West. This is because having to produce and sell goods in a highly competitive world market is more likely to accelerate the pace and broaden the scope of reform than more borrowing would. If they want to sell, they have to improve quality. To improve quality, the system must evolve. The extensive contacts with the West that would be essential to a civilian export strategy would reinforce the reformers' goal of decentralization and a greater role for the market. Weakening the hold of the Soviet state could, in time, promote political liberalization and amplify the voice of human rights advocates within the U.S.S.R. as well as in the West. On the other hand, borrowing allows them to avoid what it takes to function as a member of the open world economy.

The difficulties with this approach are twofold. In the short run, the U.S.S.R. is unlikely to produce much that foreigners want, aside from natural resources, gold, and weapons. Second, the United States, a potentially significant market, has several foreign policy barriers to Soviet exports, in particular, the Jackson-Vanik amendment to the 1974 Trade Act which links MFN to emigration.

I would oppose repeal of Jackson-Vanik unless there is a resurgence in emigration and a new and proven respect in the Soviet Union for human rights. However, it must be said that there is not much evidence it has worked, that is that it has induced the U.S.S.R. to liberalize emigration. The numbers speak for themselves. In 1979, 51,320 Jews were permitted to emigrate. In 1981, it was down to 9,447 and in 1986 to 914. So far this year, 9,520 Jews have been allowed to leave. German emigration has also dropped dramatically since the 1970's.

If the Soviets are serious about reform, they will get serious about human rights. Not just emigration, but freedom to worship, to give one's children a religious education, freedom from fear of persecution and humiliation for one's beliefs. So I hope that changes in Soviet behavior will make Jackson-Vanik moot. If this happens, the United States should be prepared to reevaluate its policy toward trade in light of overall developments within the U.S.S.R.

WESTERN ECONOMIC INSTITUTIONS

The Soviets have expressed interest in exploring opportunities for participating in GATT, the IMF, the World Bank, the BIS, and the Asian Development Bank [ADB]. They have already obtained limited representation rights at the ADB's 1987 and 1988 meetings. In 1986, they formally requested observer status in GATT, which was denied. They are expected to repeat this request in the near future. However, they are unlikely to seek membership in the World Bank or the IMF at this time.

It has been argued that Soviet observer status, and even membership, in GATT would serve, or at least would not hurt, Western interests. However, the GATT's fundamental principles presuppose the existence of a market-pricing system and a substantial competitive private sector. Thus, it would be difficult, perhaps impossible, for GATT to assimilate a centrally planned economy which views membership as a political platform instead of an economic commitment. In the final analysis, the Soviets must understand that radical economic reform, not diplomacy, is the key to acceptance in GATT and the West's main financial and economic institutions. The West should not give the Soviets the rights of a major economic power until they earn them. This requires, among other things:

A market-pricing system linked to world prices through exchange rate and a convertible currency;

Dismantling of central planning for most goods and services;

Opening Soviet markets to foreign as well as domestic competition; and

Scaling back the military sector so that the economy produces the things people want and need.

Even if the Soviets choose this direction, getting there will take time. The West should not undercut those in the USSR who advocate more radical price reform by granting the Soviets membership, or even observer status, in GATT on the cheap. Instead, the West should condition observer status in GATT on complete access to (that is transparency of) the Soviet pricing system. That is, observer status should depend on the Soviet Union providing the West with comprehensive, detailed data on the pricing structure and on how they actually set both domestic and foreign prices for all non-military goods and services, including those produced by defense industries. Since the Soviets seem to have an incomplete understanding of how their own pricing system works, such a cooperative study could make important contributions to the domestic economic reform process. In addition, it would provide the basis for an evaluation by Western countries of the merits, costs, and terms of eventual Soviet membership.

INVESTMENT IN JOINT VENTURES AND SPECIAL ECONOMIC ZONES

The U.S.S.R. is actively seeking to attract Western investment by encouraging joint ventures. However, joint ventures are unlikely to be a major factor in Soviet reform and modernization because there are still too many uncertainties for, and restrictions on, foreign investment. Nonetheless, contacts with Western businessmen could facilitate reform by teaching the Soviets what is required to compete successfully in the international marketplace and by pushing the bureaucracy to make necessary changes.

However, there is a danger that joint ventures (particularly consortia of joint venturers from individual countries backed by their respective governments) will not push for decentralizing power and resources but will instead prefer to deal with powerful, centralized, autocratic bureaucracy that gives their needs priority. In this case, joint ventures could retard rather than promoted real reform.

The same considerations apply to special economic zones. On the one had, they might facilitate experimentation with price reform, tax structures, currency exchange, etc. On the other hand, they could impede decentralization and slow the pace of reform in areas ouside the zones. China's experience is relevant. Having developed several special economic zones, the Chinese are now questioning the extent of their contribution to reform. Some Chinese econmists are concerned that the benefits have been concentrated almost entirely within the zones and that, on balance, they have not been a significant factor in strengthening and expanding reforms elsewhere.

In any event, Western governments should refrain from insuring, guaranteeing, or otherwise artificially reducing the risk of investing in the U.S.S.R. Western investors should base their calculations of profitability on Soviet realities, not on how generously Western taxpayers will insulate them from losses. Western businessmen need to be rational, not romantic, capitalists when dealing with the Soviet Union.

CONCLUSION

The issue of how the West should manage its economic relations with the Soviet Union and Eastern Europe is potentially divisive. It does not have to be. The Soviets obviously have an interest in fueling competition among Western bankers and businessmen to secure the best possible terms. But the West has an interest in a collective strategy toward commercial dealings with the Soviets that will avoid a destructive beggar-thy-neighbor approach and reinforce the pressures for reform within the U.S.S.R. The United States must take the lead in developing that strategy. I would hope that the next American President will put it high on his agenda and be ready to raise it at the Allied Economic Summit in Paris next year.

THE STEWART B. McKINNEY HOMELESS ASSISTANCE ACT

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on H.R. 4352, the McKinney Homeless bill. The conference agreement includes a version of S. 2844, the Department of Housing and Urban Development Radon Policy Act, which Senator HEINZ joined me in introducing a few weeks ago. I want to express my thanks to Senator CRANSTON, chairman of the Subcommittee on Housing and Urban Affairs, and Senator HEINZ for their hard work in seeing that the issue of radon in Federal housing is addressed in the conference report.

Last month, the U.S. Public Health Service announced a national radon advisory for everyone living in homes and up to the second floor in apartments to test their homes for radon. At the same second time, EPA released the results of surveys of radon contamination in seven States carried out in response to my 1986 legislation which requires EPA to conduct a national radon assessment. One in three houses in these States had radon levels in excess of the standard established by EPA for taking action. In my state of New Jersey, the Department of Environmental Protection estimates that nearly 2 million of the State's dwellings may be at risk from high levels of radon. Nationally, EPA estimates that 1 in 8 of the Nation's 75 million homes may contain excessive levels of radon.

Scientists believe that radon causes up to 20,000 lung cancer deaths a year, the second leading cause of lung cancer after smoking. It's clear that the danger posed by radon requires a comprehensive Federal and State effort and that radon contamination is one of the most serious problems facing the Nation's housing policymakers.

While EPA has developed a reasonably successful radon program, the Nation's housing agency, the Department of Housing and Urban Development, has failed to act.

According to a GAO report, "Indoor Radon: Limited Federal Response to Reduce Contamination in Housing," which I released in April and confirmed by testimony at a May hearing before the Senate Superfund and Environmental Oversight Committee which I chair, HUD: First, has reacted to radon in a limited, piecemeal manner and doesn't have a radon policy, second, hasn't asked for any funding for radon, third, has failed to implement its responsibilities under the 1986 Superfund Amendments and Reauthorization Act to work with EPA in radon research and fourth, hasn't implemented its existing authority to provide safe housing, housing which is safe from the threats of radon.

As former EPA Deputy Administrator Jim Barnes said at our May hearing, HUD has an important role to play in the Nation's radon program by serving as a model and leader for the private sector.

Yet, HUD takes the attitude that it won't act without a mandate. And HUD says that it can't act because there is no Federal radon regulatory standard. Section 1091 of the McKinney bill addresses these problems by providing HUD with a mandate and requiring HUD to use whatever standards or guidelines EPA develops and which are being used by every other Federal agency and by State and local governments.

The McKinney bill requires HUD to develop and recommend to Congress a policy for dealing with radon contamination including programs for education, research, testing, and mitigation of radon hazards in housing covered under the bill. The bill does not authorize HUD to duplicate the efforts already being made by EPA and other Federal agencies. The bill specifically requires HUD to use the information EPA develops in its program. But the bill does require HUD to take this information and use it to establish and apply a radon policy and program to certain housing programs specified in the bill. The bill also requires HUD to enter into an agreement with EPA to more fully establish HUD's radon responsibilities, particularly its research responsibilities under title IV of the Superfund Amendments and Reauthorization Act of 1986.

Radon poses a serious health threat. But we know how to test, detect, and mitigate elevated levels of radon. With strong National and State efforts, we will be able to protect our citizens from the threat posed by radon. HUD, as the Nation's housing agency, has an important role to play in this effort. The McKinney bill takes the first step in requiring HUD to undertake that role.

MEASURES REFERRED

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5319. An act relating to compensation for members of the U.S. Park Police and members of the U.S. Secret Service Uniformed Division; to the Committee on Governmental Affairs.

ENROLLED BILL SIGNED

The Acting President pro tempore (Mr. SANFORD) reported that on today, October 18, 1988, he had signed the following enrolled bill, which had previously been signed by the Speaker of the House:

S. 2749. An act to provide certain additional fiscal year 1989 defense authorization policies, to provide procedures to facilitate the closure and realignment of obsolete or unnecessary military installations, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 18, 1988, he had presented to the President of the United States the following enrolled bill:

S. 2749. An act to provide certain additional fiscal year 1989 defense authorization policies, to provide procedures to facilitate the closure and realignment of obsolete or unnecessary military installations, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. REID:

S. 2906. A bill to provide for the establishment of an occupational safety and health standard applicable to boxing, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. THURMOND:

S. 2907. A bill to amend title 5, United States Code to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Governmental Affairs.

By Mr. D'AMATO:

S. 2908. A bill to prevent retroactive change in tax treatment of a qualified intermodal cargo container of a U.S. person and to clarify existing tax law by providing a general rule of nondiscriminatory application for investment tax credit and cost recovery purposes; to the Committee on Finance.

By Mr. BAUCUS:

S. 2909. A bill to amend the Toxic Substances Control Act to protect the environment and human health from unreasonable adverse effects caused by the release of novel organisms into the environment, to promote the safe use of novel organisms, to protect human health and the environment by requiring testing and necessary distribution restrictions on novel organisms, to establish a National Environmental Biotechnology Library and Data Base, and for other purposes; to the Committee on Environment and Public Works.

By Mr. D'AMATO:

S. 2910. A bill for the relief of Lea Gelb, Chaim Morris Gelb, and Sidney Gelb; to the Committee on Foreign Relations.

By Mr. BYRD (for Mr. FOWLER):

S. 2911. A bill to reorganize the leadership of the parks, preservation, and recreation program of the Department of the Interior; to the Committee on Energy and Natural Resources.

By Mr. BYRD (for Mr. FOWLER):

S. 2912. A bill to provide for the preservation of our historic heritage and resources; to the Committee on Finance.

By Mr. HEINZ:

S. 2913. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to modify the calculation of Federal deficits and maximum deficit amounts under the Balanced Budget and Emergency Deficit Control Act of 1985 and to modify the maximum deficit amounts set by the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STENNIS (for himself, Mr. Hatch, Mr. Kennedy, Mr. Simon, Mr. Pell, Mr. Dole, and Mr. Stafford):

S. Res. 502. A resolution commending A. Blair Crownover for his service to the Senate; considered and agreed to.

By Mr. BYRD (for Mr. Simon):

S. Con. Res. 165. A concurrent resolution to make a correction in the enrollment of H.R. 3146; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 2906. A bill to provide for the establishment of an occupational safety and health standard applicable to boxing, and for other purposes; to the Committee on Labor and Human Resources.

BOXING LABOR STANDARDS ACT

Mr. REID. Mr. President, today I am introducing the Boxing Labor Standards Act. This legislation will provide boxers with the kind of minimum health and safety protections that they desperately need.

The Boxing Labor Standards Act would establish a blue-ribbon commission of boxing experts to make recommendations to the Secretary of Labor regarding the establishment of minimum standards to provide for the health and safety of boxers. The Secretary of Labor would then establish regulations to protect boxers, and enforce those regulations through the Occupational Safety and Health Administration.

The legislation would also charter the establishment of the Fighters Institute of Support and Training [FIST]. FIST would be a nonprofit corporation dedicated to providing prizefighters with counseling, educational scholarships, substance abuse assistance, and job training and placement assistance. FIST would help prizefighters with the sometimes difficult transition to productive employment subsequent to boxing.

The sport of boxing has brought hours of pleasure to fans all over the world. Just days ago many of us were able to enjoy the excitement of international boxing competition in the Olympics.

Mr. President, I am a boxing fan myself, and I hope to continue to enjoy watching skillful athletes like Mike Tyson and Sugar Ray Leonard as they display their talents in the ring. As a boxing fan, I realize that the continued existence of the sport is dependent upon the establishment of standards for the protection of the health and safety of the athletes who compete. I urge my colleague to join me in this effort to provide for those standards.

By Mr. THURMOND:

S. 2907. A bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Governmental Affairs.

CREDIT OF CERTAIN SERVICE FOR CIVIL SERVICE RETIREMENT PURPOSES

Mr. THURMOND. Mr. President, today I am pleased to introduce legislation to permit credit for civil service retirement and other benefit purposes for certain individuals who performed National Guard technician service before January 1, 1969.

Under present law, National Guard technicians are permitted credit for service performed prior to January 1, 1969, only if they continued in service beyond that date. This means that technicians that left the Guard before January 1, 1969, for such good reasons as Medicare disability or to transfer to the Reserves, are presently ineligible for credit for their prior service toward a number of very important benefits.

Mr. President, my bill will correct this situation by allowing credit for all prior service without regard to date of separation. It will provide fair and equal treatment for all those men and women who have served their country as technicians in the National Guard, and guarantee them equal compensation for equal work. Individuals who were separated from the Guard between January 1, 1969, and the date of enactment of this Act will have 1 year after enactment to apply for redetermination of length of service for their benefits.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record. I urge my colleagues to support this legislation.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2907

Be it enacted by the Senate and House of Reprsentatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RETIREMENT CREDIT.

Section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32 after December 31, 1968."

SEC. 2. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RECEIVING CREDIT FOR PURPOSES OF CERTAIN OTHER BENEFITS.

Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; 32 U.S.C. 709 note) is amended by striking out the last sentence.

SEC. 3. APPLICABILITY.

(a) Applicability of Section 1.—(1) Except as provided in paragraph (2), the amendment made by section 1 applies only with respect to individuals separating from employment by the Government on or after the date of enactment of this Act.

(2)(A) In the case of any individual who—

(i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from employment by the Government on or after January 1, 1969, and before the date of enactment of this Act.

any annuity under subchapter III of chapter 83 of title 5, United States Code, based on the service of such individual (as defined in section 8331(12) of such title) shall be redetermined to take into account the amendment made by section 1, if application therefor is received by the Office of Personnel Management within one year after the date of enactment of this Act.

(B) Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date of enactment of this Act.

(C) Any individual described in subparagraph (A) or any survivor of such an individual may make a deposit under section 8334(c) of title 5, United States Code, with respect to the service of such individual under section 709 of title 32, United States Code.

(b) Applicability of Section 2.—(1) Except as provided in paragraph (2), the amendment made by section 2 applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act and only to determine—

(A) any annual leave accruing under section 6303 of title 5, United States Code, to the individual on or after such date; and

(B) the length of service of the individual for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

(2)(A) The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act, for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term "annuitant"), for the purposes of chapter 89 of such title.

(B) Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of such title) the choice of such individual, if—

(i) application for enrollment is received by the Office of Personnel Management within one year after the date of the enactment of this Act; and

(ii) such individual qualifies under section 8905(b)(1)(A) of such title (taking into account years of service considered pursuant to subparagraph (A)).

By Mr. D'AMATO:

S. 2908. A bill to prevent retroactive change in tax treatment of a qualified intermodal cargo container of a U.S. person and to clarify existing tax law by providing a general rule of nondiscriminatory application for investment tax credit and cost recovery purposes; to the Committee on Finance.

TAX TREATMENT OF QUALIFIED INTERMODAL CARGO CONTAINERS

● Mr. D'AMATO. Mr. President. I am today introducing a bill to prevent retroactive change in tax treatment of a qualified intermodal cargo container of a U.S. person and to clarify existing tax law by providing a general rule of nondiscriminatory application for investment tax credit and cost recovery purposes. I am also including for printing in the CONGRESSIONAL RECORD an explanation and detailed statement about the legislative language.

Mr. President, it is clear that this body has many pressing issues that must be resolved before the 100th Congress adjourns sine die, and my intent is not to press for consideration of the bill at the present time. However, I do intend to pursue the cargo container tax issue during the 101st Congress, if the matter is not resolved satisfactorily by administrative action, as I think it ought to be, before the new Congress convenes in January 1989.

My purpose in introducing this bill today is to focus attention on the issues involved, and to offer some suggestions as to how a satisfactory resolution of the specific issues may be achieved. I, for one, strongly believe that any new adverse rules imposed upon the taxpayers of this country should apply prospectively, and not retroactively change the rules for many taxpayers who relied upon contrary historical administrative interpretation of the law in developing their commercial dealings and in making substantial investments.

My belief is that satisfactory resolution can be made of the outstanding issues between the Treasury Department and U.S. cargo container leasing industry, and my sincere hope is that such resolution would make unnecessary a legislative solution to prevent years of litigation between individual taxpayers and the Internal Revenue Service.

I, therefore, ask that this bill be introduced, that it and the explanatory material be printed in the CONGRESSIONAL RECORD, and that the proposed legislation be referred to the appropriate committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) GENERAL RULE.—In applying section 48(a)(2)(B)(v) of the Internal Revenue Code of 1954 or 1986 to a qualified intermodal cargo container with respect to any taxable year beginning on or before the date of promulgation of regulations conforming to subsection (b)—

(1) NO RETROACTIVE APPLICATION OF NEWLY ENUNCIATED RESTRICTIONS.—No effect shall be given to any interpretation or to any recordkeeping or substantiation requirement that would condition allowance of any investment tax credit or cost recovery deduction claimed by a taxpayer prior to the enunciation of such interpretation or requirement; and

(2) GENERAL RULE TREATING A CONTAINER NOT LESS FAVORABLY THAN A VESSEL.—Such a qualified intermodal cargo container shall be treated as used in the transportation of property to and from the United States.

(b) CHANGES IN RULE FOR THE FUTURE.—

(1) CHANGES TO BE ONLY BY PROSPECTIVE REGULATION.—The general rule prescribed under subsection (a) may be changed for the future only by a regulation which is—

(A) promulgated after the date of enactment of this Act,

(B) effective only with respect to taxable years beginning after the date of promulgation of such regulation, and

(C) not inconsistent with the standards for nondiscrimination described in paragraph (2).

(2) CHANGES TO BE NONDISCRIMINAORY.—No effect shall be given to any regulation promulgated pursuant to paragraph (1) to the extent it fails to provide treatment of a qualified intermodal cargo container at least as favorable as would be the case if such container were any one or more of the kinds of equipment held for use in international transportation and described in clause (i) (relating to aircraft), (ii) (relating to railroad rolling stock), (iii) (relating to vessels), or (iv) (relating to motor vehicles) of section 48(a)(2)(B) of the Internal Revenue Code of 1986.

(c) QUALIFIED INTERMODAL CARGO CONTAINER DEFINED.—For purposes of this section, the term "qualified intermodal cargo container" means any intermodal cargo container of a United States person which is—

(1) licensed or approved by the United States Coast Guard (or any other authority recognized by the United States under international agreement as competent to exercise such authority) as having been constructed in accordance with safety and customs standards established pursuant to international agreements to which the United States is a party, as evidenced either by listing of such container in the Official Intermodal Equipment Register published pursuant to the tariff authority of the Interstate Commerce Commission or the Federal Maritime Administration, by an order or contract for the purchase of a container which requires construction in compliance with such standards or by other satisfactory proof; and

(2) leased or offered for lease on terms which do not preclude movement of the container in the commerce of the United States.

EXPLANATION OF BILL TO PREVENT RETROACTIVE CHANGE IN TAX TREATMENT OF A QUALIFIED INTERMODAL CARGO CONTAINER

The bill prevents the Internal Revenue Service from retroactively applying any newly enunciated restrictive interpretation or recordkeeping or substantiation requirement under the container exception in section 48(a)(2)(B)(v) of the Internal Revenue Code to a qualified intermodal cargo container of a United States person. The bill (in subsection (a)) also provides a general rule, for the past and for the future, that such a container shall be treated as "used in the transportation of property to and from the United States" with respect to any taxable year beginning on or before the date on which any prospective and nondiscriminatory regulation changing the general rule is promulgated after the date of enactment.

A "qualified" intermodal cargo container is defined in the bill (in subsection (c)) as one which is licensed or approved by the United States Coast Guard (or any other authority recognized by the United States under international agreement as competent to exercise such authority) as having been constructed in accordance with safety and customs standards established pursuant to international agreements to which the United States is a party, and which is leased or offered for lease on terms which do not preclude movement of the container in the commerce of the United States. The bill (in subsection (a)(1)) also provides guidance as to the type of proof necessary to establish that a container meets the prescribed standards. Any regulations issued in the future which change the general rule shall be prospective only and must be nondiscriminatory (subsection (b)). No effect shall be given to any new regulation to the extent it fails to provide treatment of a qualified intermodal cargo container at least as favorable as would be the case if such container were any one or more of the kinds of equipment held for use in international transportation and described in clause (i), (ii), (iii), or (iv) of section 48(a)(2)(B) relating, respectively, to aircraft, railroad rolling stock, vessels, and motor vehicles.

United States lessors of containers have consistently claimed the investment tax credit on containers leased for use on the high seas in international commerce ever since the enactment of the credit in 1962 (and prior to the repeal of the credit in 1986). This claim is based on an interpretation of the container exception, analogous to the interpretation of the vessel exception long approved by the Treasury and the Internal Revenue Service, which does not require a container to return to the United States or to return with any specified degree of frequency.

The container exception is one of several exceptions which have applied since 1962 to except specified types of international transportation equipment from a general rule that property "used predominantly outside the United States" is not eligible for the investment credit and rapid depreciation. Since 1962 the container exception has applied to "any container of a United States person which is used in the transportation of property to and from the United States." Other exceptions include an exception for a "vessel documented under the laws of the United States which is operated in the foreign or domestic commerce of the United States," and an exception for an aircraft registered by the FAA which is "operated to and from the United States."

The legislative history of the 1962 and 1971 Acts reveals no Congressional intention or expectation that vessels or containers be required to return to the United States with any degree of frequency. Treasury regulations promulgated in 1964 provide that a vessel is deemed to be operated in foreign commerce if it is documented for such use. The Internal Revenue Service ruled in 1969 that such a vessel qualifies even if the vessel is used exclusively outside the United States. In contrast, the 1962 Congressional committee reports and subsequent Treasury regulations specified that aircraft must return to the United States with "some degree of frequency." In 1973 a Service ruling provided a safe-harbor rule that an aircraft which returned to the United States once every two weeks would qualify.

The Treasury regulations failed to provide any specific guidance for applying the container exception, and the Service has never issued any ruling to provide guidance, notwithstanding more than 25 years of administration of the container exception.

The above noted interpretation of the U.S. container lessors (i.e., that the container exception applies to containers leased for use on the high seas in international commerce) generally was not disturbed on audit until recently when questions were raised as to whether containers must return to the United States with some degree of frequency. Although intermodal cargo container traffic is centered on the United States, it is not feasible for lessors to trace the movements of individual containers which are relatively low cost, interchangeable units. The U.S. lessor lease several hundred thousand units which make millions of trips annually. Attempting to trace the movements of containers placed in service many years ago, when no specific record-keeping requirements for containers were prescribed, is not feasible.

The bill (section 1) provides that these containers should qualify on the basis of rules analogous to the rules applied to vessels since 1962, unless and until the Treasury Department prescribes some other rules on a protective and nondiscriminatory basis.●

By Mr. BAUCUS:

S. 2909. A bill to amend the Toxic Substances Control Act to protect the environment and human health from unreasonable adverse effects caused by the release of novel organisms into the environment, to provide the safe use of novel organisms, to protect human health and the environment by requiring testing and necessary distribution restrictions on novel organisms, to establish a National Environmental Biotechnology Library and Data Base, and for other purposes; to the Committee on Environment and Public Works.

NOVEL ORGANISM RELEASE ACT

● Mr. BAUCUS. Mr. President, I am introducing legislation to regulate the deliberate release of genetically engineered organisms, or novel organisms as they have been called, as an amendment to the Toxic Substances Control Act. This is in response primarily to public concern over the potentially undesirable consequences of the release of these organisms into the environment. It is also to address the industry's need for a clear statement of our national regulatory policy on biotechnology.

In November 1987, the Subcommittee on Hazardous Wastes and Toxic Substances held a Federal oversight hearing on biotechnology. We heard about the potential benefits and potential hazards that might result from application of these new technologies to the needs of society. We were confronted by a case of civil disobedience brought on by the tangle of statutes being used to regulate biotechnology. We were warned to avoid the implementation of new regulations that would discourage American competitiveness in biotechnology. In short, we were presented with a dilemma: Protect human health and the environment on one hand; encourage the scientific and commercial development of a new technology with unknown risks on the other.

So let's take a look at the big picture. Biotechnology is as old as the practice of agriculture. And the range of products and activities are familiar to all; the food we eat, the drugs we use to fight infections, the treatment of our sewage. The "new" biotechnology incorporates the use of recombinant DNA technics, cell fusions, and other methods of genetic manipulation into the myriad of activities encompassed under the "old" biotechnology, plus a whole lot more. It is this diversity of products and applications that should make us realize that to attempt to regulate the new biotechnology with a single statute would be absurd. Products derived from the new biotechnology are not sufficiently different from their counterparts derived by other methods, and they should be subjected to the same regulatory schemes, for the most part.

Biotechnology has much to offer to society. With it as a tool, we may be able to do many things better than we have been able to do them before. For instance, in the chemical industry, instead of going through repeated steps of separation and purification to produce a chemical product, microorganisms can carry out several steps in a synthetic process, under safer conditions and with less pollution. Even more exciting is the promise that we will be able to do some things that we were unable to do before. There are 48 human hormones that have been identified as potential candidates for production by genetically engineered organisms. Of these, only 10 are presently used in medical therapy. The other 38 are not, largely because they have not been available in sufficient quantities for therapeutic studies. Novel organisms can be designed to produce these compounds in sufficient quantities for therapeutic testing and application. This has already been demonstrated by the production of human insulin for treating diabetes, erythropoietin for treating anemia associated with kidney disease, factor eight for treating hemophilia, further, they may be used to discover the nature and function of hormones that are so dilute that they are not even detected.

Novel organisms may be used to preserve and restore our environment. Hazardous wastes may be detoxified by bacteria that have been engineered to metabolize those materials into nontoxic materials before their disposal. And presently contaminated sites may be cleaned up by novel organisms. Crop pests may be controlled by genetically engineered microbial pesticides, or by crop plants that have been engineered to produce their own defensive pesticides. The creation of transgenic animals has led to the production of livestock that grow faster and leaner, on less feed, than their nontransgenic litter-mates. A rabies vaccine administered orally by offering treated bait to wild animals can be used to reduce the incidence of rabies in the wild populations, the major reservoir of rabies which infects our domestic animals. The promises of biotechnology are coming to fruition.

But there still are some very disturbing aspects to the new biotechnology. We must keep our eyes open to what we are doing. Think about the enthusiasm that surrounded the discovery of DDT. It was a magic bullet. Countless lives were saved from the ravages of malaria, typhus, and other insect-borne diseases. It wasn't until Rachel Carson's Silent Spring that we realized the dilemma in which we had placed ourselves, where our actions were affecting the ecological balance. The development of resistance to biological pesticides is another thing of which we must be careful, because it almost assuredly will happen if we mismanage the use of these biological pesticides. If we get onto a biological pesticide treadmill it may not be long before we reach a minimal infective dose of the pesticide for some nontarget organism, or even human beings. The outbreak of legionnaires disease was due to the buildup of a population of bacteria that are not normally infective for human beings. Herbicide resistant plants offer us savings through alternative agricultural practices, but we must not use them as rationalizations for using more herbicides that eventually contaminate our ground water. We want to make the environment a safer place to live, not glaze over pollution and contamination of our natural resources by engineering organisms that can survive in a polluted world.

As part of our factfinding efforts, we have talked to persons and groups representing the public, academia, industry, the environment, and the international community. The Office of Technology Assessment released a report on public perceptions of biotechnology in May 1987, and the public in general, has a positive attitude about biotechnology. The No. 1 public concern is "what if a genetically altered organism goes out of control and starts adversely affecting the environment and human health?" OTA released their report on field testing genetically engineered organisms in May of this year, in which they concluded that field tests should proceed with caution and sufficient regulatory oversight, but that they should proceed.

The question is, "How can we let these things go into the environment if we don't have any experience with what sorts of unintended outcomes might occur? How can we predict outcomes if we lack experience with these sorts of releases?" Well, we're not completely without experience. There exists a relatively large body of data, derived primarily from agriculture, that supports the conclusion that, with appropriate regulatory oversight, field tests and planned introductions are not likely to result in serious ecological problems. However, releases of genetically altered organisms still present enough uncertainties that these releases must be approached with thoughtful caution and appropriate regulation.

We have waited for years for the Environmental Protection Agency to publish rules to regulate biotechnology. They have not come. This legislation is not a mandate for EPA to hastily prepare a set of rules that will unnecessarily hinder research and the industry. These rules will require intense dialog between the regulatory agency, industry, academia, and environmental groups. The resolutions we need will not come from within a regulatory agency, but rather from purposeful interaction of the groups involved in these issues.

Therefore, I am introducing legislation to regulate the release of novel organisms into the environment, the Novel Organism Release Act. It is designed to grow as our knowledge of biotechnology and the environment grows, and to facilitate the accumulation and utilization of that knowledge. It is designed to categorically distinguish between safe applications of biotechnologies and those that present unacceptable risks, and thus facilitate the development of safe biotechnologies into new products and industries. It is designed to encourage interaction and dialog between scientists, industrialists, and lay people, and thus foster mutual understanding and confidence. And if it does all of that, it will achieve its ultimate goal, the protection of human health and the environment.

Mr. President, I request unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.—This Act may be cited as the "Novel Organism Release Act".

Sec. 2. Amendment.—The Toxic Substances Control Act is amended by adding at the end thereof the following:

"SEC. 32. REGULATION OF RELEASES OF NOVEL ORGANISMS.

"(a) Definitions.—For purposes of this section, the term—

"(1) 'distribute in commerce', and 'distribution in commerce' and the term 'health and safety study', when used in this section, shall also include those actions described in section 3 of this title as they would apply to novel organisms;

"(2) 'best scientific evidence' (BSE) means the complete body of relevant scientific data and analytical and theoretical considerations reasonably available at the time of notification of the proposed release;

"(3) 'best technical skill' (BTS) means those technological skills and instrumentations which are most suitable to accurate determination of the scientific information required, reasonably available, at the time of the notification of the proposed release;

"(4) 'common practice' means one which is a traditional or established use or activity in society, science, or commerce;

"(5) 'novel organism' means any living organism, including but not limited to, a naked or encapsulated nucleic acid, or a plasmid, virus, bacterium, fungus, blue-green algae, or protist or algae, or plant or animal, the genetic material of which has been deliberately manipulated or altered by human intervention through methods including, but not limited to, gene amplification, conjugation, transformation, transduction, transposition, cell fusion, or methods of genetic engineering;

"(6) 'notification' is used to refer to either a notification of a proposed release of a novel organism or an application for a permit to release a novel organism; and

"(7) 'release' means the dissemination of material into the environment, or to disseminate material into the environment, or the failure of containment.

"(b) Clarification of the Regulation of Releases of Novel Organisms.—

"(1) Instruction manual for notifications of proposed releases of novel organisms.—

"(A) The Administrator shall prepare and publish a concise Instruction Manual for Notification of Proposed Releases of Novel Organisms, hereinafter called the 'Manual'.

"(B) The Manual shall contain forms for submission of notifications, a listing of the information required in a notification, a listing of the criteria for ranking the categorization of releases, and other information and materials that may be helpful in preparing a notification of a proposed release.

"(C) The Manual shall explain the relationship of this section to other Federal laws, pointing out where duplication of notification or application may be required.

"(D) The Administrator shall publish the Manual within 365 days of enactment of this Act.

"(E) The Administrator shall review and revise the Manual at least once every 2 years.

"(F) The Administrator shall make the Manual available to all universities, colleges, research institutions, and commercial firms that are active in the research or commerce of biotechnology.

"(2) Office of Pesticides and Toxic Substances, Division for Biotechnology Assistance.—

"(A) The Administrator shall establish within the Office of Pesticides and Toxic Substances a Division for Biotechnology Assistance, hereafter in this paragraph referred to as the 'Division'.

"(B) The Division shall provide technical and other nonfinancial assistance to biotechnology researchers and commercial firms and others who are interested in the requirements and activities under this section.

"(C) To help people understand the requirements under this section, Toxic Substances Control Act, Federal Insecticide, Fungicide, and Rodenticide Act, and other Federal laws regulating biotechnology, the Division shall provide a toll-free telephone information service, regular periodical publication in an Environmental Protection Agency bulletin, field consultations and other technical assistance upon request.

"(D) The Division shall be staffed by persons trained in both the science of biotechnology and the Federal regulation of biotechnology.

"(c) Categories of Releases.—

"(1) Based upon factors that contribute to risk to health and the environment, including but not limited to such things as the characteristics of the organism, its ability to persist in the environment, and the probability of transfer of genetic material to other organisms, the Administrator shall assign a proposed release to one of the designated categories in paragraph (2).

"(2) Provided that no category of novel organism shall be released except in compliance with this section, based upon the best scientific evidence and best technical skills, the Administrator shall rank a notification of a proposed release of a novel organism within the following established categories of organisms and their uses as:

"(A) Suitable for release (R1): exempt, notification requested: Such as, but not limited to, common practices or the release of a significant increase in the number of members of an unmodified indigenous species;

"(B) Suitable for release (R2): low probability for adverse effects, notification required: Such as, but not limited to, common practices which have been slightly modified by using organisms which have undergone magnification of an existing genetic trait, e.g., multiple nitrogen fixation genes.

"(C) Suitable for release (R3): moderate probability for adverse effects, permit required: Such as, but not limited to, release of an organism that has been conferred with a physiological trait not normally associated with that organism, e.g., delta toxin in pseudomonas species, or, deletion of a repressor gene for toxin production in a fungal species.

"(D) Suitable for release (R4): reasonable probability for adverse effects if controlled, stringent review and monitoring; permit required: Such as, but not limited to, releases of organisms which have been genetically altered to increase their invasiveness, or to increase their pathogenicity, to mammalian target species.

"(3) The Administrator shall promulgate interim final rules for the ranking and categorization of releases of novel organisms. These rules shall be published in the Federal Register within 180 days of enactment of this section.

"(4) The Administrator shall review and revise the Rules for Categorization of Releases of Novel Organisms at least once every 2 years, based upon the best scientific evidence.

"(d) Environmental Biotechnology Information Library and Data Base.—There is established within the National Library of Medicine (NLM), a Biotechnology Environmental Release Database. In connection therewith, the Administrator—

"(1) shall require and coordinate the accumulation and organization of information and data concerning the interactions and impacts of novel organisms with the environment based upon notifications and application materials and upon data generated to fulfill permit conditions or submitted on a voluntary basis from persons engaging in the release of novel organisms;

"(2) shall store and house such information within the computerized data retrieval system under the appropriate division within the National Library of Medicine;

"(3) shall develop models for predicting the impacts of novel organisms on health and the environment making use of extant scientific data and the data and information collected from notifications and generated in fulfilling the requirements of this section; and

"(4) shall develop methods of risk assessment for use in fulfilling the requirements of this section.

"(e) Coordinaton of the Regulation of Releases of Novel Organisms.—

"(1) General framework for coordination of regulatory efforts.—

"(A) The Administrator shall establish through memoranda of understanding, a general framework for the coordination of the efforts and expertise of the several governmental agencies for the regulation and approval of releases of a novel organism, taking into account the expertise and familiarity of those agencies with the details and real and potential outcomes of a proposed release.

"(B) The Administrator shall publish said memoranda in the Federal Register within 180 days of enactment of this section.

"(2) Review of notifications of proposed releases.—

"(A) Persons submitting a notification of a proposed release of a novel organism shall initially contact the Administrator of the Environmental Protection Agency.

"(B) The Administrator shall direct the notification to the appropriate agency for review as established in subparagraph (1)(A) within 10 working days from the date of receipt of the notification.

"(C) The Administrator or appropriate official of the referral agency shall review the notification and report recommendations on the suitability of the proposed release based upon the factors in paragraph (c)(1).

"(D) The referral agency shall complete the review of a proposed release and return a recommendation on the suitability of the release to the Administrator within 90 days of the date of referral.

"(3) Referral agency recommendation to allow the proposed release.—If the referral agency recommends to allow the proposed release, there shall be included in the recommendation:

"(A) a ranking of the proposed release within one of the categories in paragraph (c)(2);

"(B) a listing of any permit conditions or restrictions on the proposed release as specified in paragraph (j)(5); and

"(C) a listing of the factors that influenced the conclusions of the recommendation.

"(4) Referral agency recommendation to prohibit a proposed release.—If the referral agency recommends to prohibit the proposed release, there shall be included in the recommendation a listing of the factors that influenced the conclusions of the recommendation.

"(5) Although the recommendations of the referral agency are not absolutely binding upon the final decisions of the Administrator, they shall influence the Administrator's final decisions on the proposed release.

"(f) Internal Environmental Biosafety Committees (IEBC).—An Internal Environmental Biosafety Committee (hereinafter referred to as the 'IEBC' shall be established whenever the release of a novel organism is proposed.

"(1) Function of the IEBC.—

"(A) The IEBC shall be initially responsible for reviewing the proposed release and for recommending a tentative categorization of the proposed release within the categories established in paragraph (c)(2).

"(B) The comments and recommendations of the IEBC shall be taken into consideration as part of the notification of a proposed release.

"(C) Although the recommendations of the IEBC shall be given consideration in the categorization of a proposed release, they shall not be binding upon the Administrator.

"(2) Membership of IEBC.—

"(A) The IEBC shall be comprised of at least five individuals, at least two of whom are familiar with and learned in the scientific content and putative consequences of the proposed release.

"(B) These shall be—

"(i) the Principle Investigator of the experimental procedure, or primary supervisor of the proposed release;

"(ii) the Department Head of the institutional or corporate department of which the Principle Investigator is a member;

"(iii) an Institutional or Corporate Officer;

"(iv) an outside Scientific Reviewer who is trained in ecology;

"(v) an outside Scientific Reviewer who is trained in molecular biology.

"(C) In the absence of a Department Head or an Institutional or Corporate Officer, these may each be replaced by an additional outside Scientific Reviewer, or an individual whose training is in subject matter that is germane to the conditions and putative consequences of the proposed release.

"(D) Alternatively, parties proposing a release of a novel organism may call upon an existing Institutional Biosafety Committee (IBC) (F.R. Vol. 51, No. 88; 16958, May 7, 1986) to review a proposed release of a novel organism and serve the other functions of the IEBC as set out in this section if such committee is qualified to review such proposed release.

"(g) Public Hearings.—

"(1) Concurrent with notification of the proposed release to the Administrator, the applicant shall take all of the following actions:

"(A) Publish a notice and a brief analysis of the proposed release and make the essential elements of the proposed release available to the public;

"(B) Provide an opportunity for submission of written and oral comments; and

"(C) Schedule, within 30 days, a public meeting at or near the site of the proposed release regarding the proposed release and the scientific, social, and moral issues related to the release. The notice and analysis published under paragraph (1) shall include sufficient information as may be necessary to provide a reasonable explanation of the proposed release and its putative consequences. The notice and analysis published under subparagraph (A) and the time and place of the scheduled public meeting shall be included in the notification of the proposed release and made reasonably available to these individuals in close proximity to the location of the proposed release.

"(2) Report of the public hearing.—

"(A) The minutes and an analysis of the public meeting, hereafter in this paragraph called the Report, shall be submitted to the Administrator within 10 days of the public meeting.

"(B) The Report shall include all comments and objections to the proposed release and a detailed response to how these objections shall be addressed.

"(C) The Report shall be published within 10 days of the public hearing.

"(3) Publication.—For purposes of this section, publication shall include, at a minimum, publication in a major local newspaper of general circulation. In addition, each item developed, received, published, or made available to the public under this subsection shall be available for public inspection and copying at or near the site of the proposed release.

"(h) Confidential Business Information (CBI).—

"(1) Authority to withhold confidential business information.

"(A) General authority.—

"(i) With regard to release of a novel organism, any person required under this section to submit information to any other person may withhold from such notification certain specific information as defined by the Administrator under this section to be Confidential Business Information (hereinafter referred to as 'CBI', if the person complies with paragraph (3).

"(ii) Any person withholding CBI shall, in the place on the notification where the CBI would normally be included, include a generic class or category of the information, as the case may be.

"(B) Persons entitled to withhold CBI.—A person is entitled to withhold CBI under paragraph (1) if such person—

"(i) claims that such information is CBI, on the basis of factors enumerated in paragraph (2),

"(ii) includes in the notification of a proposed release an explanation of the reasons why such information is claimed to be a CBI, based on the factors enumerated in paragraph (2), including a specific description of why such factors apply, and

"(iii) submits to the Administrator a copy of such notification, and the information withheld from such notification.

"(C) In submitting to the Administrator the information required in item (B)(iii), a person withholding information under this subparagraph may—

"(i) designate, in writing and in such manner as the Administrator may prescribe by regulation, the information which such person believes is entitled to be withheld under subparagraph (A), and

"(ii) submit such designated information separately from other information submitted under this subsection.

"(D) Limitation.—The authority under this subsection to withhold information shall not apply to information which the Administrator has determined, in accordance with subsection (3) is not CBI.

"(2) CONFIDENTIAL BUSINESS INFORMATION FACTORS.—No person required to provide information under this section may claim that the information is entitled to protection as CBI under paragraph (1) unless such person shows each of the following:

"(A) Such person has not disclosed the information to any other person, other than a member of a local emergency planning committee, an officer or employee of the United States or a State or local government, an employee of such person, or a person who is bound by a confidentiality agreement, and such person has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures.

"(B) The information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law.

"(C) Disclosure of the information is likely to cause substantial harm to the competitive position of such person.

"(D) The information is not readily discoverable by means searching and analyzing the public scientific literature.

"(3) CONFIDENTIAL BUSINESS INFORMATION REGULATIONS.—As soon as practicable after the date of enactment of this section, the Administrator shall prescribe regulations to implement this section. With respect to subparagraph (2)(D), such regulations shall be equivalent to comparable provisions in the Occupational Safety and Health Administration Hazard Communication Standard (29 CFR 1910.1200) and any revisions of such standard prescribed by the Secretary of Labor in accordance with the final ruling of the courts of the United States in *United Steelworkers of America, AFL-CIO-CLC* v. *Thorne G. Auchter.*

"(4) PETITION FOR REVIEW.—

"(A) IN GENERAL.—Any person may petition the Administrator for the disclosure of the specific identity, genetic composition, or unusual nature of a novel organism which is claimed as CBI under this section. The Administrator may, in the absence of a petition under this subparagraph, initiate a determination, to be carried out in accordance with this subsection, as to whether information withheld constitutes CBI.

"(B) INITIAL REVIEW.—Within 30 days after the date of receipt of a petition under subparagraph (A) (or upon the Administrator's initiative), the Administrator shall review the explanation filed by a CBI claimant under paragraphs (1)(B) and (1)(C) and determine whether the explanation presents assertions which, if true, are sufficient to support a finding that the specific information is due protection as CBI.

"(C) FINDING OF SUFFICIENT ASSERTIONS.—

"(i) If the Administrator determines pursuant to subparagraph (B) that the explanation presents sufficient assertions to support a finding that the specific information is CBI, the Administrator shall notify the CBI claimant that he has 30 days to supplement the explanation with detailed information to support the assertions.

"(ii) If the Administrator determines, after receipt of any supplemental supporting detailed information under clause (i), that the assertions in the explanation are true and that the specific information is CBI, the Administrator shall so notify the petitioner and the petitioner may seek judicial review of the determination.

"(iii) If the Administrator determines, after receipt of any supplemental supporting detailed information under clause (i), that the assertions in the explanation are not true and that the specific information is not CBI, the Administrator shall notify the CBI claimant that the Administrator intends to release the information. The CBI claimant has 30 days in which he may appeal the Administrator's determination under this item to the Administrator. If the Administrator does not reverse his determination under this item in such an appeal by the CBI claimant, the CBI claimant may seek judicial review of the determination.

"(D) FINDING OF INSUFFICIENT ASSERTIONS.—

"(i) If the Administrator determines pursuant to subparagraph (B) that the explanation presents insufficient assertions to support a finding that the specific information is CBI, the Administrator shall notify the CBI claimant that he has 30 days to appeal the determination to the Administrator, or upon a showing of good cause, amend the original explanation by providing supplementary assertions to support the CBI claim.

"(ii) If the Administrator does not reverse his determination under item (i) after an appeal or an examination of any supplementary assertions under clause (i), the Administrator shall so notify the CBI claimant and the CBI claimant may seek judicial review of the determination.

"(iii) If the Administrator reverses his determination under clause (i) after an appeal or an examination of any supplementary assertions under clause (i), the procedures under subparagraph (C) of this subsection apply.

"(5) EXCEPTION FOR INFORMATION PROVIDED TO HEALTH PROFESSIONALS.—Nothing in this section, or regulations adopted pursuant to this section, shall authorize any person to withhold information which is required to be provided to a health professional, a doctor, or a nurse in accordance with subsection (h).

"(6) PROVIDING INFORMATION TO THE ADMINISTRATOR; AVAILABILITY TO PUBLIC.—Any information submitted to the Administrator under paragraphs (1)(B), (1)(C), or (4)(C) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that the information (or a part thereof) to which the Administrator has access under this section if made public would divulge information entitled to protection under section 1905 of title 18, United States Code, such information or part shall be considered confidential in accordance with the purposes of that section, except that such information or part may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this section.

"(7) INFORMATION PROVIDED TO STATE.—Upon request by a State, acting through the Governor of the State, the Administrator shall provide to the State any information obtained under paragraphs (1)(B), (1)(C), or (4)(C).

"(8) INFORMATION ON ADVERSE EFFECTS.—

"(A) In any case in which information about a novel organism or circumstances of its release into the environment is claimed as CBI, the Governor or a State Emergency Response Commission shall identify the unreasonable adverse health effects associated with the novel organism and shall assure that such information is provided to any person requesting information about such novel organism.

"(B) In any case in which information about a novel organism or circumstances of its release into the environment is claimed as CBI, the Administrator shall identify the adverse health and environmental effects associated with the novel organism and shall assure that such information is included in the computer database required by subsection (d) and is provided to any person requesting information about such novel organism.

"(9) INFORMATION PROVIDED TO CONGRESS.—Notwithstanding any limitations contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this section shall be made available to a duly authorized committee of the Congress upon written request by such a committee.

"(i) PROVISION OF INFORMATION TO HEALTH PROFESSIONALS, DOCTORS, AND NURSES.—

"(1) DIAGNOSIS OR TREATMENT BY HEALTH PROFESSIONAL.—A CBI claimant under this section shall, to the best of his ability, provide information to any health professional who requests such information in writing if the health professional provides a written statement of need under this subsection and a written confidentiality agreement under paragraph (4). The written statement of need shall be a statement that the health professional has a reasonable basis to suspect that—

"(A) the information is needed for purposes of diagnosis or treatment of an individual,

"(B) the individual or individuals being diagnosed or treated have been exposed to the novel organism, and

"(C) knowledge of the novel organism and circumstances of its release will assist in diagnosis or treatment.

Following such a written request, the CBI claimant to whom such request is made shall promptly provide the requested information to the health professional. The authority to withhold the information under subsection (h) when such information is CBI shall not apply to information required under this subsection, subject to the provisions of paragraph (4).

"(2) A CBI claimant under this section shall provide all and any information requested by any treating physician or nurse if such physician or nurse determines that—

"(A) a medical emergency exists,

"(B) the information is necessary or will assist in emergency or first aid diagnosis or treatment, and

"(C) the individual or individuals being diagnosed or treated have been exposed to the novel organism concerned.

Immediately following such a request, the CBI claimant to whom such request is made shall provide the requested information to the physician or nurse. The authority to withhold the information under subsection (h) when such information is a CBI shall not apply to information required to be provided to a treating physician or nurse under this subsection. No written confidentiality agreement or statement of need shall be required as a precondition of such disclosure, but the CBI claimant disclosing such information may require a written confidentiality agreement in accordance with paragraph (4) and a statement setting forth the items listed in subparagraphs (A) through (C) as soon as circumstances permit.

"(3) PREVENTIVE MEASURES BY LOCAL HEALTH PROFESSIONALS.—

"(A) PROVISION OF INFORMATION.—A CBI claimant shall provide the information, if known, to any health professional (such as a physician, toxicologist, or epidemiologist)—

"(i) who is a local government employee or a person under contract with the local government, and

"(ii) who requests such information in writing and provides a written statement of need under subparagraph (B) and a written confidentiality agreement under paragraph (4).

Following such a written request, the CBI claimant to whom such a request is made shall promptly provide the requested information to the local health professional. The authority to withhold the information under subsection (h) when such information is CBI shall not apply to information required to be provided under this paragraph, subject to the provisions of paragraph (4).

"(B) WRITTEN STATEMENT OF NEED.—The written statement of need shall be a statement that describes with reasonable detail one or more of the following health needs for the information:

"(i) To assess exposure of persons living in a local community to the hazards of novel organism involved.

"(ii) To conduct or assess sampling to determine exposure levels of various population groups.

"(iii) To conduct periodic medical surveillance of exposed population groups.

"(iv) To provide medical treatment to exposed individuals or population groups.

"(v) To conduct studies to determine the health effects of exposure.

"(vi) To conduct studies to aid in the identification of a novel organism that may reasonably be anticipated to cause an observed health effect.

"(4) CONFIDENTIALITY AGREEMENT.—Any person obtaining information under paragraph (1) or (3) shall, in accordance with such paragraph (1) or (3), be required to agree in a written confidentiality agreement that he will not use the information for any purpose other than the health needs asserted in the statement of need, except as may otherwise be authorized by the terms of the agreement or by the person providing such information. Nothing in this subsection shall preclude the parties to a confidentiality agreement from pursuing any remedies to the extent permitted by law.

"(5) REGULATIONS.—As soon as practicable after the date of the enactment of this section, the Administrator shall promulgate regulations describing criteria and parameters for the statement of need under paragraphs (1) and (3) and the confidentiality agreement under paragraph (4).

"(j) IN GENERAL.—

"(1) Organisms subject to this section are not subject to the provisions of section 5(a)(1) of this Act.

"(2) Organisms and their uses subject to this section are not constrained by restrictions defined in section 3(a)(2)(B) of this Act.

"(3) Research and manufacturing facilities practicing contained use of novel organisms but which demonstrate compliance with EPA Good Laboratory Practice Guidelines (40 CFR 160.12) and compliance with NIH Guidelines for Recombinant DNA Research and Containment of Genetically Engineered Organisms (FR 16598: vol. 51 (no. 88)) shall be exempted from the notification and permit requirements under this Act.

"(4) Except in compliance with a permit issued under this section, or under conditions of notification or an exemption specified under this section, no person may release a novel organism into the environment for any purpose, for instance, no person may—

"(A) release a novel organism into the environment for experimental purposes,

"(B) release a novel organism into the environment for purposes of commerce,

"(C) release a novel organism into the environment as a result of commerce or manufacturing practices,

"(D) release a novel organism into the environment as a result of failure of containment devices or practices,

"(E) distribute in commerce a novel organism intended for release into the environment,

"(F) import into the United States or release within the United States any novel organism for the purposes of personal collection or possession,

"(G) dispose of a novel organism in a manner which results in an unintentional release, or

"(H) disperse in the environment nucleic acids or other chemicals for the purpose of intentionally causing genetic modifications in situ.

"(5) The Administrator is authorized to issue permits for certain of the activities described in paragraph (4) which will fall within category C and category D described in subsection (c) of this section. The Administrator shall include in a permit issued under this section such conditions and restrictions as the Administrator deems necessary to protect human health and the environment. Such conditions and restrictions may include, but are not limited to—

"(A) restrictions on the quantity of novel organisms manufactured, prepared, or released; restrictions on the method of manufacture, preparation, or release; and training or certification of persons who may come into contact with the novel organisms;

"(B) requirements for labeling of restrictions or conditions on use, including designation of authorized uses, manner and method of applications, and geographic, temporal, or seasonal restrictions on application or use;

"(C) requirements for containment or control of the novel organisms or of other methods of limiting environmental movement or human exposure;

"(D) monitoring requirements; and

"(E) restrictions or conditions on disposal.

"(6) The Administrator shall not issue a permit to authorize the activities described in paragraph (4) if the Administrator determines, after review of an application submitted under subsection (g) and such other information as is brought to the attention of the Administrator, that the activity authorized by permit may cause an unreasonable adverse effect to human health or the environment.

"(7) The Administrator may revoke or modify a permit issued under this section, or impose permit status, at any time if the Administrator determines that the activities undertaken pursuant to the permit may cause an unreasonable adverse effect to human health or the environment.

"(8) The Administrator may waive the requirements of this subsection for classes and categories of organisms or for classes and categories of activities described in paragraph (4) if the Administrator determines, on the basis of known lack of pathogenicity, inability to persist in the environment, or other factors related to potential effects on human health or the environment, that such waiver will not cause an unreasonable adverse effect to human health or the environment.

"(9) The Administrator may not impose permit application requirements or notification requirements upon a person practicing the release or use of an organism that has been in common practice in research and development or in widespread use before the date of enactment of this Act so long as such practice does not impose an unreasonable adverse effect on health or the environment. The responsibility for documentation of a common practice shall fall upon the applicant.

"(10) The Administrator may require such data as may be helpful in delineating environmental interactions of novel organisms released into the environment.

"(k) NOTIFICATIONS OF PROPOSED RELEASES OF NOVEL ORGANISMS.—

"(1) Notifications of proposed release or applications for permits to release a novel organism for experimental or commercial purposes shall be submitted at least 120 days before the date of the proposed release.

"(2) Notifications of a proposed release of a novel organism for experimental purposes shall be made by the Principle Investigator.

"(3) Notifications of a proposed release or applications for a permit to release a novel organism as a commercial service or to distribute in commerce a novel organism for purposes of release into the environment shall be made by the manufacturer or distributors of such organisms. A permit issued by the Administrator may authorize releases of such organism by other persons, including future purchasers of the organism, consistent with the terms and conditions of the permit.

"(4) Any person who purchases or otherwise acquires an organism for which a permit has been issued under this subsection shall be subject to all permit conditions and restrictions.

"(5) Notifications and applications for a permit under this subsection shall include the following information:

"(A) Identity of the microorganism, including—

"(i) characteristics, and

"(ii) means and limits of detection.

"(B) Description of natural habitat of the organism or its parental strains, including—

"(i) predators,

"(ii) parasites, and

"(iii) competitors.

"(C) Description of the host range, if any, of the organism or its parental strains.

"(D) Information on the relative environmental competitiveness of the microorganism.

"(E) A description of the proposed testing program including—

"(i) site locations,

"(ii) description of site,

"(iii) purpose of the release,

"(iv) method of introduction or application,

"(v) target organisms, if any,

"(vi) possible unintended target organisms, if any,

"(vii) procedures to protect the test area from intrusion by unauthorized individuals,

"(viii) the proposed dates or periods and times of the proposed release program, including the significance of the timetable to the program,

"(ix) description of procedures for monitoring the test organism within and adjacent to the release site during and after the release program,

"(x) methods of disposal or removal of material exposed or produced during the release, and "(xi) means of evaluating potential adverse effects and methods of controlling the organism if detected beyond the release site.

"(F) A description of the methods used to genetically manipulate the organism, including—

"(i) the identity and location of rearranged or inserted/deleted gene segments,

"(ii) information on the control region of the genes and a description of the new traits or characteristics that are expressed, and

"(iii) data on potential for genetic transfer and exchange with other organisms and on the genetic stability of any inserted sequence.

"(6) In the event that significant evidence is presented that the release of a novel organism is resulting in unreasonable risk to health or the environment, the Administrator is authorized to—

"(A) issue a stop order for a release that has been allowed or granted a permit;

"(B) change the permit conditions and restrictions that have been imposed on a release;

"(C) impose permit conditions and restrictions on a release that was previously allowed without conditions or restrictions or was exempt; or

"(D) require notification of a release that was previously exempt from the requirements of this section.

"(l) ENFORCEMENT.—

"(1) Whenever the Administrator determines that any person has violated or is in violation of any requirement of this section, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

"(2) Any order issued pursuant to this section may include a suspension or revocation of any permit issued by the Administrator under this section and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $25,000 per day of noncompliance for each violation of a requirement of this section.

"(3) Any order issued pursuant to this section shall become final unless, no later than 30 days after the order or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(4) If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator.

"(5) Any person who knowingly and willfully violates any provisions of this section shall, upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed 2 years for each day of a violation.

"(6) Any person who violates any requirement of this section shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall constitute a separate violation.

"(7) INTERIM STATUS CORRECTIVE ACTION ORDERS.—

"(A) Whenever on the basis of any information the Administrator determines that there is or has been a release into the environment of a novel organism for which no permit has been granted or in a manner which violates the conditions of any permit that has been granted allowing for such release, the Administrator may issue an order requiring corrective action or such other response measure as he deems necessary to protect human health or the environment, or the Administrator may commence a civil action in the United States district court in the district in which the release occurred or in which the person or persons the Administrator determines are responsible for such release are located or conduct business for appropriate relief, including a temporary or permanent injunction.

"(B) Any order issued under this subsection, which may include a suspension or revocation of a permit issued under this section, shall state with reasonable specificity the nature of the required corrective action or other response measure, and shall specify a time for compliance. If any person named in an order fails to comply with the order, the Administrator may assess, and such person shall be liable to the United States for, a civil penalty in an amount not to exceed $25,000 for each day of noncompliance with the order.

"(8) Whenever possible, the Administrator shall enforce the provisions of this section in consultation and cooperation with State enforcement agencies.

"(m) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall—

"(1) preempt any State or local law;

"(2) otherwise affect any State or local law or the authority of any State or local government to adopt or enforce any State or local law, or

"(3) affect or modify in any way the obligations or liabilities of any person under Federal law.

"(n) The Administrator may, at the Administrator's discretion, issue post de facto permits for releases of novel organisms made in response to emergency situations, such as but not limited to oil spills, toxic chemical spills, or agricultural or environmental pest infestations.

"(o) Except as specifically provided in this section, nothing in this section is intended to restrict or otherwise affect the authorities of the Administrator under this Act.

"(p) The Administrator is authorized to publish rules and regulations to implement the provisions of this section.

"(q) APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 in fiscal year 1989, $15,000,000 in each of the fiscal years 1990 and 1991, and $20,000,000 in each of the fiscal years 1992, 1993, and 1994.

"(r) The provisions of this section shall expire 20 years after the date of its enactment, unless hereafter extended by a law enacted by the Congress.".●

By Mr. D'AMATO:

S. 2910. A bill for the relief of Lea Gelb, Chaim Morris Gelb, and Sidney Gelb; to the Committee on Foreign Relations.

RELIEF OF LEA GELB, CHAIM MORRIS GELB, AND SIDNEY GELB

● Mr. D'AMATO. Mr. President, old wounds may heal themselves, but ancient wrongs require action to be put right. I rise to offer legislation to correct an injustice done many years ago to American citizens. Morris and Lenke Gelb owned a flour and produce business in Munkacevo, Czechoslovakia prior to World War II. Because they were Jewish, the Gelbs were advised to flee Czechoslovakia. Soon after their departure, the Nazis seized and occupied their property. Remaining family members were taken to concentration camps.

After the war, the Gelbs learned from surviving relatives of the deterioration of their property and the subsequent annexation of the region of Czechoslovakia including Munkacevo into the Soviet Union. When it was clear that their property was not reclaimable, the Gelbs remained in the United States and filed for citizenship.

Title II of the War Claims Act of 1948 provided for claims of nationals of the United States based on the loss of or damage to real property in many European nations, including Czechoslovakia, as a result of military operations. Mr. President, this poses a peculiar problem for the Gelbs. Even though their property was in Czechoslovakia before and during the war, it is now located in the Soviet Union.

Since, however, the Czech Government officially ceded this area of land to the Soviet Union, the Gelb claim would still be compensable. Unfortunately, Mr. President, this is not the opinion of the Foreign Claims Settlement Commission or the Justice Department.

Therefore, Mr. President, this legislation is necessary to ensure that the Gelbs receive a fair hearing at the Foreign Claims Settlement Commission. Specifically, this legislation requires the Commission to redetermine the validity of the claims by the Gelbs without any regard to any previous determinations.

There is precedent for this action, Mr. President. In 1984, private legislation was signed into law, Private Law 98-54, which directed the Foreign Claims Settlement Commission to reopen a case for precisely the same reason—Czechoslovakian cessation of land to the Soviet Union does not preclude United States property claims from that region.

I realize, Mr. President, that there is not enough time to act on this legislation in the 100th Congress. I do intend, however, to reintroduce this legislation in the 101st Congress and I would ask colleagues to pass this legislation during that session.●

By Mr. BYRD (for Mr. FOWLER):

S. 2912. A bill to provide for the preservation of our historic heritage and resources; to the Committee on Finance.

COMPREHENSIVE PRESERVATION ACT

● Mr. FOWLER. Mr. President, I am pleased to announce today my introduction of legislation to strengthen our Nation's historic preservation program. How we conserve and protect our past says much about what our values are and what kind of society we are. Preservation of our country's prehistoric and historic heritage is essential if we and future generations are to truly know from whence we have come and where we are headed.

This past year has been an exciting time for preservation in the United States. We passed Senator BRADLEY's abandoned shipwreck bill. Legislative efforts to protect the Civil War battlefields at Manassas and Antietam, and to strengthen our laws against the looting of archeological resources have moved close to enactment. And here, in this magnificent early 20th century building, a public-private partnership has restored the glory of Union Station, to stand once again among the great monuments in our Nation's Capital.

And yet, for all of these triumphs, there are many problems, many unanswered questions about the Federal historic preservation program. If we have made some progress in improving the protection of our Nation's phehistoric and historic resources, there are still too many gaps in that protection. If we have made some advance in saving particular parts of our national heritage from uncontrolled development, many more sites face current or future peril because of inadequate nationwide standards. If we can take some encouragement from the smashing success of Union Station, it must be acknowledged that recent changes in the Tax Code have sharply reduced the financial attractiveness of preservation investments by the private sector. If we, the Congress, can take some justifiable pride in preventing administration attempts to reduce or eliminate Federal funding for historic preservation, the reality is that actual appropriations for these programs have fallen far short of what was provided under the last administration, and even further short of the actual need. Finally, if we have seen an explosion of interest and involvement in preservation by State and local governments and by the private sector, we have also witnessed in many ways an abdication of Federal responsibilities, financial and otherwise.

It is with this backdrop, of encouraging recent trends but long-term concerns, that I introduce the Comprehensive Preservation Act of 1988, legislation designed to strengthen the protections for our country's prehistoric and historic heritage, to provide adequate Federal grant and tax incentives for preservation efforts, and to improve the clout and the accountability of the Federal/State/tribal/local organization of preservation programs.

The legislation is divided into nine titles. Title I concerns the organization of Federal preservation programs. Among other things, a new National Center for Preservation Technology would be created as a private, nonprofit subsidiary of the Federal preservation program. The national center would be charged with the responsibility of developing and disseminating preservation technologies. A September 1986 report by the Office of Technology Assessment found that "the lack of adequate (preservation) technology transfer demonstrates a conspicuous need for an institution to coordinate research, disseminate information, and provide training about new technologies." The center established by my bill, which is based on the work of the National Coalition for Applied Preservation Technology, is in response to that need.

I will return to a further discussion of the organizational details of my bill later.

Titles II, III, and IV address State, tribal, and local preservation programs, respectively. Basically, these sections of my bill are aimed at recognizing, and facilitating an expanded role for each of these parties in the national preservation program. In addition, and contrary to an all too frequent current occurrence, when Federal responsibilities are transferred to another level of government, so will be the resources to pay for them. As a former local official myself, I strongly believe in this concept of matching resources with responsibilities as a central tenet of our Federalist system.

Title V is aimed at assuring sufficient, long-term funding for Federal preservation programs. It does so by incorporating the historic preservation fund provisions of S. 2199, the American Heritage Trust Act which I am pleased to sponsor along with Senator CHAFEE. These provisions would make the historic preservation fund, which in theory is already a trust fund for preservation purposes financed by annual contributions of $150 million from Outer Continental Shelf receipts, into a true trust fund. The failure of the current arrangement is demonstrated by the actual appropriations from the fund—only about $25 million a year under the current administration—and by the accumulated unappropriated balance in the fund—now over $1 billion. The measure I am introducing today would guarantee annual spending from the fund of at least $100 million.

While I believe we need an expanded Federal leadership role in promoting historic preservation, including the relatively small but significant expansion in spending from the historic preservation fund, we must be very aware of the overall deficit crisis afflicting our Government. Therefore, my legislation contains three features designed to insure a fiscally responsible program. First, almost all of the initiatives established by my proposal, from expanding education programs, to the National Center for Preservation Technology, to the preservation tax incentives, are to be financed from the Federal side by the trust fund, not be general revenues. Second, there is provision for the termination of additional Federal contributions into the historic preservation fund when the fund balance reaches five times its current value. Finally, like the current system, the Federal preservation program under my legislation is based on limited Federal grant and tax incentives leveraging additional resources from State and local governments and the private sector.

Title VI strengthens Federal tax incentives for the protection of archeological resources. One provision makes preservation expenditures for archeological sites and historic landscapes eligible for the existing preservation tax credit. Another section increases the tax value for the donation of an archeological site. Finally, donations of archeological artifacts not registered under the new artifact registration program—created in title IX of this bill—would not be tax deductible.

By providing financial incentives and by in essence extending a Federal "seal of approval" for preservation expenditues, the Internal Revenue Code has been perhaps the biggest booster of private sector investment in historic structures. The proposals in title VI are designed to extend this boost to investments for the preservation of archeological properties. The last section aims at removing any Federal tax incentive for trafficking in looted artifacts.

Title VII is taken verbatim from S. 2115, Senator DANFORTH's community Revitalization Tax Act of which I am a cosponsor. Basically, this title seeks to restore the effectiveness of the low-income housing and rehabilitation tax credits, which were severely limited by the 1986 Tax Reform Act. In a dramatic demonstration of the impact of these changes on historic preservation, a recent National Park Service study discovered that in 1987 historic rehabilitation activity fell to the lowest level since the very first year of the rehabilitation tax credit back in 1977.

Specifically S. 2115—and title VII of my bill: removes the rehabilitation and low-income housing credits from the passive loss rules; tightens the existing limitations on individual taxpayer use of all business tax credits, including the rehabilitation and low-income housing credits; conforms the at-risk rules for the rehabilitation credit to those of the low-income credit in order to encourage a more coordinated use of the two credits; and removes disincentives to nonprofit sponsorship of rehabilitation and low-income housing.

Taken together, these provisions will restore the rehabilitation and low-income housing tax credits to the strong investment incentives which were intended by Congress, and which existed in fact prior to the Tax Reform Act of 1986. However, in recognition of fiscal reality this legislation further tightens the restrictions on over-use and abuse of the credits.

Title VIII of my bill is, in my opinion, one of the most important portions of the entire measure. It establishes a comprehensive education and training program which among other things includes provisions to increase public awareness of and participation in historic preservation, and to improve and expand training opportunities in reservation fields, including special assistance to historically black colleges and universities to establish preservation degree programs.

As with so many areas in our free society, public education must be at the root of any successful effort to promote historic preservation. Only if our citizens are concerned about threats to our national heritage will our protection efforts be successful, and lasting. And only if the public understands and supports the values underlying our preservation programs will these programs receive the kind of backing, financial and otherwise, which they need to achieve their objectives.

Title IX is the heart of the enhanced protection standards offered by the Comprehensive Preservation Act. This section spells out Federal responsibilities for our National Preservation Program. It clarifies, coordinates and strengthens Federal agency preservation responsibilities, the National Register, and the National Historic Landmarks Program. Among these provisions are strengthened authorities for timely action to protect threatened historic properties so that we will not again be faced with a last-minute crisis like the Manassas case.

Title IX also contains a number of items aimed at expanding and improving Federal efforts to preserve and learn from archeological resources. For example, my legislation builds upon the abandoned shipwreck bill enacted earlier this session by extending Federal protection to submerged historic properties, including abandoned shipwreck sites, lying between 3 and 200 nautical miles offshore. There are also provisions to improve the value and the conduct of Federally-sponsored archeology—which may involve as much as $300 million a year in expenditures—by focusing the work on important research questions, and by requiring the professional certification of archeologists who wish to participate in the Federal program.

In addition the legislation attempts to curb the looting and illegal trade or archeological resources by: establishing a voluntary registration of antiquities program to both encourage the conduct of scientifically valid excavations and create a potential market incentive in favor of certified antiquities; calling for an international conference on the antiquities trade; reforming and strengthening Federal laws against unauthorized removal and trade of archeological resources from public and Indian lands; and providing information and incentives to encourage private owners of archeological resources to protect those resources.

Finally, title IX establishes a set of principles to govern Federal policy on the rebuttal of human remains and grave-associated artifacts. This has been a contentious question, raising a number of difficult ethical, religious, scientific, and legal issues between and among native Americans, the scientific community, and government. My bill attempts to address the problem by reconciling the competing claims of scientific research and the desires of cultural descendants.

Now, to return to the issue of organizational reform, in order to promote the maximum amount of comment on this important issue, I am presenting two alternative organizational arrangements, both of which are designed to strengthen the visibility, the accountability and the clout of the Federal historic preservation program.

The first alternative, which is included in the Comprehensive Preservation Act of 1988, contains the following provisions:

Creates a new historic preservation agency to oversee and coordinate the national program. This new agency would not represent an expansion of the Federal bureaucracy, but would be put together by transferring existing functions and personnel from the Advisory Council on Historic Preservation—which would be abolished— and the National Park Service—which would transfer some of its "external" programs to the new agency. The new system would increase the visibility and accountability of preservation concerns within the Federal Government; and

Strengthens the independence of the National Park Service within the Interior Department by: making its director subject to Senate confirmation, transferring the Secretary of Interior's responsibilities for the Park Service to the Director, and creating separate deputy director positions for the Park Service and for recreation, conservation, and open space. By reducing control of the Park Service by the large, and essentially development-oriented Interior Department, the service's natural and cultural conservation responsibilities will receive clearer and more visible direction.

The second organizational option, contained in the Parks, Preservation, and Recreation Reorganization Act has the following features:

Creating a new Assistant Secretary for Conservation, Preservation and Recreation within the Department of Interior, which will be subject to Senate confirmation, and establishing, under the new Assistant Secretary, separate directors for the National Park Service, historic preservation, and recreation. This arrangement seeks to build upon the current National Park Service structure, but raises the profile of these programs by essentially elevating each part one "notch" within the Interior Department;

Establishing a Preservation Agency within the Interior Department, headed by a Director appointed by the new Assistant Secretary for Conservation, Preservation, and Recreation; and

Retaining the existing Advisory Council on Historic Preservation.

To sum up, I am introducing today a legislative package designed to expand and strengthen our national commitment to historic preservation. My legislation contains enhanced protection, increased incentives, and organizational reform to further those objectives.

The measure I place before you is the product of many hands, though I alone accept full responsibility for the total package. I want to especially thank Loretta Neumann and Kathleen Reinburg with the Society for American Archaeology, Eric Hertfilder and Nancy Miller with the National Conference of State Historic Preservation Officers, Nellie Longsworth with Preservation Action, Ian Spatz and Helen Hooper with the National Trust for Historic Preservation, Malcolm Simmons with the Congressional Research Service, Liz Lyon with the State of Georgia Historic Preservation Section, Greg Paxton with the National Alliance of Statewide Preservation Organizations, and all of the other individuals and organizations who have contributed so much to this effort with their analyses and recommendations.

Introduction of the legislation today is only the first step in placing historic preservation on the action agenda for the next Congress which convenes in January, and I look forward to working with all interested parties in making further improvements before I reintroduce the package next year.

The next Congress, the 101st, will celebrate the congressional bicentennial, and it will be altogether fitting and appropriate for it to make a strong contribution toward conserving our national heritage.●

By Mr. HEINZ:

S. 2913. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to modify the calculation of Federal deficits and maximum deficit amounts under the Balanced Budget and Emergency Deficit Control Act of 1985 and to modify the maximum deficit amounts set by the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on Government Affairs.

REMOVING THE SOCIAL SECURITY TRUST FUND FROM THE BUDGET.

● Mr. HEINZ. Mr. President, we in this body are used to facing hard decisions—especially when we are dealing with hard facts associated with deficit spending. The issue I wish to address today is related to that deficit: What should be done with Social Security trust fund surpluses that are, in fact, hiding the true deficit?

This is not a new issue. Since 1983, when we changed the Social Security program to make sure that reserves would be put aside for future retirees, Social Security surpluses have been accumulating—at first very slowly, and now in quite significant amounts. In fact, they are accumulating at the pace of $109 million per day. Since 1983, however, these surpluses also have been used to mask the Nation's real budget deficit. It shouldn't take a wizard of economics to tell us that this simply does not bode well for today's workers—who are tomorrow's retirees.

Mr. President, this is a serious problem which, in my opinion, we must address soon. Let me explain why.

Right now, the Social Security trust fund is masking the country's real deficit—about $40 billion in fiscal year 1988 alone. In fiscal year 1989, the Social Security trust fund surplus is projected to be another $46 billion.

In 1993, once Gramm-Rudman-Hollings runs its course, the deficit is to be zero. What we will find, however, if we stripped away the mask of the Social Security surplus, is that the real deficit will be a startling $99 billion in 1993—not zero as people will think and believe. And if we continue the current, flawed method of calculating the budget deficit in 1994, what will be reported as a zero deficit will actually balloon to an underlying $113 deficit without passing a single bill to spend new money.

If Social Security surpluses continue to be counted against the general fund deficit, as now, this distortion will grow more and more pronounced with each passing year. Ultimately, I believe there will be a massive and entrenched structural deficit, a deficit that will, in fact, have far-reaching implications for our national economy for the rest of this century and well into the next.

Mr. President, if we do nothing now, we will need to take a butcher knife, not a scalpel to Government programs, to cut and eliminate the $113 billion deficit we will suddenly face in 1994. It has been very difficult to cut Government spending this year to meet Gramm-Rudman-Hollings' targets calling for a $25 billion cut, and I expect it will be just as difficult next year. Why do we think it will be easier in 1994 when we will no longer have the Social Security surpluses to hide behind?

We are talking about some very big numbers. By 2030 or thereabouts, the total assets in the Social Security trust fund are projected to be about 30 percent of that year's gross national product. In fact, by 2005, according to current projections, the trust fund will have accumulated reserves of about $2.6 trillion in today's dollars. That surplus, if it is not "lent and spent" as we are doing now, would be enough to eliminate most or all of the national debt, which stands at $2.4 trillion today.

In just 11 years—by the year 2000—following the current policy of "lend and spend," we will end up with a national debt of about $5 trillion, about twice what we have now, all the time reporting balanced budgets from 1993 on. Furthermore, the interest we will have to pay on this debt will absorb between one-half and three-quarters of all general revenues in the year 2000, and a higher percentage each year thereafter.

Our goal must be to halt the growth of the national debt. The only way to do it is to get Social Security out of the budget and look at the deficit for what it really is, without the shadows and mirrors now provided by the Social Security surpluses. We need the will to be responsible and make responsible choices now—not 3 or 4 years from now; the problem will be too big and too daunting.

Mr. President, I know the trust fund is scheduled to be removed from the budget in 1994. My fear is that the hidden deficit by that time will be so large and so embarrassing that Congress will heed that suggestion I mentioned earlier and actually continue calculating the trust fund in with the deficit rather than go through the very public pain of doing what is needed to eliminate the deficit. If that happens, our national debt will surely continue to soar. Our Social Security surpluses will in effect be spent to finance current obligations. Worse still, what non-Social Security revenues we reserve will increasingly be paying interest on the national debt, leaving less and less to pay for highways and bridges, job training, and health care.

I want to point out that just the interest on the Nation's accumulating debt already consumes 14 percent of each year's budget and 28 percent of this year's non-Social Security, or general revenues. As the debt builds, those dollars paying the interest on the debt are not available for other programs. New programs are in competition with those already in place. The drug program will not be funded the way it ought to be; our education programs are now being fully funded, housing projects and programs for the elderly have already been curtailed. And, I should point out, those dollars used to pay our interest debt do not go to poor people, to struggling students, or to research cancer or Alzheimer's disease. Rather, the individuals who get the interest payments are the most affluent—investors, bankers, financiers—and many are foreigners.

Obviously, the way we are going ensures that people who need help will get poorer. Those who are already well off will get richer.

What I am suggesting today makes fiscal sense. I ask you, my colleagues, to weigh the consequences of doubling the national debt and its interest. In fiscal year 1989 we can expect to pay $177 billion in interest payments, or 28 percent of our non-social security—or general—revenues. If we continue to build the national debt as we have been, our interest payment in just 11 years, by 2000, will consume $375 billion a year of revenue dollars. If we have even a small surge in inflation, it could go much, much higher.

Every day we postpone removing the trust fund off budget simply compounds the pain. As the surplus spirals, the task will become more intimidating.

For that reason I am introducing legislation to take the last step in removing Social Security from the Federal budget and to disclose the true state of the Federal budget. I realize that this bill will not be passed this year, but I am putting it forward at this time to ensure its consideration during the budget reconciliation process next year.

The measure I am proposing attempts to do four things: First, leave Gramm-Rudman-Hollings' targets in place; second, freeze the Social Security surplus at the current levels which can be counted against the deficit; third, remove the Social Security trust fund from the "deficit counting game" by revealing the $46 billion additional deficit at the end of FY 1993; and fourth, extend the G-R-H law 2 years to eliminate the $46 billion deficit altogether.

Mr. President, let us agree that in future years, we will not use more Social Security surplus than the projected $46 billion Social Security surplus in fiscal year 1989 to calculate the national deficit. Freezing the use of Social Security surpluses to offset the deficit will force us to look at a more accurate representation of that year's deficit—and take appropriate action by either cutting Government spending or raising additional revenues. If we take such action in increments, the pain of taking such action later should be reduced, and, we will not risk future Congresses, succumbing to the temptation of using the Social Security surpluses to finance a continuing spending spree.

In 1983 we revised the Social Security Program to make sure that there would be a surplus reserve. Today's workers—euphemistically called the baby-boomers—will be retiring at a time when there will be fewer workers to support them. We must make sure that the revenues that have been building up for these future retirees are protected for their uses. They will not be there if they have been loaned out to a government that is already hopelessly overextended.

I urge my colleagues to join with me in meeting realistic budgetary goals during the next few years to ensure prosperity down the road. I urge my colleagues' support for a proposal which will reduce public spending in a planned, thoughtful manner over the next few years rather than risk either an entrenched structural deficit or abrupt cuts which promise to be even more difficult to make. I urge my colleagues' support for a plan that would ensure future retiree benefits as well as a reduction in the national debt, thus assuring our country's overall economic strength. It won't be easy, but it must be done.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2913

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF INCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

Section (3)(6) of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by striking "for any fiscal year" in the second sentence, and inserting in lieu thereof "for fiscal years preceding 1990".

(2) by inserting after the second sentence the following:

"In calculating the deficit for purposes of comparison with the maximum deficit amount and in calculating the excess deficit, for fiscal years 1990 through 1993—

"(A) an amount of the sum of receipts of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Trust Fund for such fiscal year and taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986 during such fiscal year shall be included in total revenues for such fiscal year equal to:

"(i) the sum of the disbursements of each such trust fund during that year; plus

"(ii) the excess of receipts and taxes over disbursements of the trust funds for fiscal year 1989; and

"(B) the disbursements of each such trust fund shall be included in total budget outlays for such fiscal year".

SEC. 2. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1985, $171,900,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $144,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $136,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1990, $100,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $64,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $28,000,000,000;

"(I) with respect to the fiscal year beginning October 1, 1993, $0,000,000,000;

"(J) with respect to the fiscal year beginning October 1, 1994, $23,000,000,000;

"(K) with respect to the fiscal year beginning October 1, 1995, $0,000,000,000.●

ADDITIONAL COSPONSORS

S. 1489

At the request of Mr. Moynihan, the name of the Senator from New Jersey [Mr. Lautenberg] was added as a cosponsor of S. 1489, a bill to amend section 6 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass thru entities.

S. 2709

At the request of Mr. Sanford, the name of the Senator from Georgia [Mr. Fowler], the Senator from Wisconsin [Mr. Kasten], and the Senator from Indiana [Mr. Lugar] were added as cosponsors of S. 2709, a bill to clarify the U.S. obligation to observe occupational safety and health standards and to clarify the U.S. responsibility for harm caused by negligence at any workplace owned by, operated by, or under contract with the United States.

S. 2724

At the request of Mr. Riegle, the names of the Senator from Tennessee [Mr. Sasser] was added as a cosponsor of S. 2724, a bill to amend the Export Administration Act of 1979.

S. 2805

At the request of Mr. Grassley, the name of the Senator from Wyoming [Mr. Wallop] was added as a cosponsor of S. 2085, a bill to amend title VII of the Social Security Act to authorize appropriations for the Office of Rural Health Policy and to establish a National Advisory Committee on Rural Health, and for other purposes.

SENATE JOINT RESOLUTION. 307

At the request of Mr. Riegle, the names of the Senator from Idaho [Mr. Symms], the Senator from Massachusetts [Mr. Kerry], the Senator from Idaho [Mr. McClure], the Senator from Oklahoma [Mr. Nickles], the Senator from Montana [Mr. Baucus], and the Senator from Illinois [Mr. Simon] were added as cosponsors of Senate Joint Resolution 307, a joint resolution to designate the decade beginning January 1, 1988, as the "Decade of the Brain."

SENATE JOINT RESOLUTION 375

At the request of Mr. Moynihan, the name of the Senator from Connecticut [Mr. Dodd] was added as a cosponsor of Senate Joint Resolution 375, a joint resolution designating October 22, 1988, as "National Chester F. Carlson Recognition Day."

SENATE JOINT RESOLUTION 381

At the request of Mr. Bond, the names of the Senator from Louisiana [Mr. Johnston], the Senator from Nebraska [Mr. Exon], the Senator from Oklahoma [Mr. Nickles], the Senator from Nebraska [Mr. Karnes], the Senator from Georgia [Mr. Nunn], the Senator from North Carolina [Mr. Sanford], the Senator from Louisiana [Mr. Breaux], and the Senator from Hawaii [Mr. Matsunaga] were added as cosponsors of Senate Joint Resolution 381, a joint resolution to designate October 30, 1988, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery."

SENATE CONCURRENT RESOLUTION 150

At the request of Mr. Boschwitz, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of Senate Concurrent Resolution 150, a concurrent resolution concerning human rights of the Sikhs in the Punjab of India.

SENATE RESOLUTION 463

At the request of Mr. Roth, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of Senate Resolution 463, a resolution expressing the sense of the Congress that Federal laws regarding the taxation of State and local government bonds should not be changed in order to increase revenue.

SENATE RESOLUTION 470

At the request of Mr. Riegel, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of Senate Resolution 470, a resolution relating to Great Lakes medical waste.

SENATE RESOLUTION 492

At the request of Mr. Symms, the names of the Senator from Iowa [Mr. Grassley], the Senator from Missouri [Mr. Bond], the Senator from Nevada [Mr. Hecht], the Senator from North Carolina [Mr. Helms], the Senator from Utah [Mr. Garn], the Senator from Wyoming [Mr. Wallop], and the Senator from Texas [Mr. Gramm] were added as cosponsors of Senate Resolution 492, a resolution to express concern about the Soviet bloc governments.

SENATE CONCURRENT RESOLUTION 165—TO CORRECT THE ENROLLMENT OF H.R. 3146

Mr. BYRD (for Mr. SIMON) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 165

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 3146), the Clerk of the House of Representatives shall make the following correction:

(1) In subsection (b) of Section 2, strike "(c)(3)".

SENATE RESOLUTION 502—COMMENDING A. BLAIR CROWNOVER FOR HIS SERVICE TO THE SENATE

Mr. STENNIS (for himself, Mr. HATCH, Mr. KENNEDY, Mr. SIMON, Mr. PELL, Mr. DOLE, and Mr. STAFFORD), submitted the following resolution; which was considered and agreed to:

S. RES. 502

Whereas, A. Blair Crownover, Senior Counsel in the Office of the Legislative Counsel of the Senate, is retiring at the end of the 100th Congress, after having served for more than twenty-six years as an attorney on the staff of the Legislative Counsel of the Senate; and

Whereas, during this long period of service, A. Blair Crownover has performed his duties for the Senate with skill and distinction: Now, therefore, be it

Resolved, That the Senate of the United States extends its appreciation and gratitude to A. Blair Crownover for his long and faithful service in the Office of the Legislative Counsel of the Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to A. Blair Crownover.

AMENDMENTS SUBMITTED

MONTANA WILDERNESS ACT

MELCHER AMENDMENT NOS. 3714 THROUGH 3716

Mr. MELCHER proposed three amendments to the bill (S. 2751) to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes; as follows:

AMENDMENT No. 3714

On page 39, lines 18 and 19, strike "Land and Resource Management Plans" and insert "second roadless area review and evaluation (RARE II)".

On page 40, lines 1 and 2, strike "Land and Resource Management Plans" and insert "RARE II".

On page 40, lines 11 and 12, strike "Land and Resource Management Plans" and insert "RARE II".

AMENDMENT No. 3715

Beginning on page 52, line 7, strike Section 5 in its entirety and insert the following new language:

RELEASE TO NONWILDERNESS USES

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 94-557 and Public Law 95-150;

(2) the Department of Agriculture has completed the Second Roadless Area Review and Evaluation Program (RARE II);

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas through its Land and Resource Management Planning for National Forests; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) Without passing on the questions of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to National Forest System lands in States other than Montana, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Montana;

(2) with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture in wilderness studies conducted pursuant to Public Law 94-557 and Public Law 95-150, in RARE II, and in the unit plans and the Forest plan for the Beaverhead National Forest which were in effect prior to completion of RARE II, that such review shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) except as may be specifically provided in sections 8-12 of this Act, those areas in the State of Montana referred to in subparagraph (2) of this subsection which were not designated wilderness shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976; Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness desingation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any futher statewide roadless area review and evaluation of National Forest System lands in the State of Montana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) The provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less than five thousand acres in size.

(e) The wilderness suitability review and evaluation of national forest lands in the state of Montana completed as a part of Land and Resource Management Plans that were completed prior to the enactment of this Act, satisfy the provisions of Sec. 5(b)(2) as an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed.

Amendment No. 3716

On page 56, beginning on line 10, strike Section 7 in its entirety and insert the following:

SEC. 7. Congress finds that the waters within the Wilderness Areas designated by this Act are headwaters. The designation of such areas as wilderness shall have no effect on downstream appropriation of waters, and nothing in this Act shall be construed to affect valid existing water rights as provided under Montana State law.

SYMMS, (AND OTHERS) AMENDNENT NO. 3717

Mr. SYMMS (for himself, Mr. BOND, Mr. HECHT, Mr. THURMOND, Mr. GRASSLEY, Mr. HELMS, and Mr. WALLOP) proposed an amendment to the bill S. 2751, supra, as follows:

At the end of the committee * * * add the following:

That it is the sense of the Senate that the President of the United States should instruct the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, and the Secretary of Commerce to consult immediately with allied governments on the impact on Western security of various types of private and public sector credit flows and debt reschedulings to the Soviet Union, Warsaw Pack countries, Cuba, Vietnam, Libya, and Nicaragua, and to call for a multilateral voluntary initiative, supervised by the Organization for Economic Cooperation and Development, to end united, general purpose lending to these countries for reasons both of national security and prudent commercial banking.

McCAIN (AND OTHERS) AMENDMENT NO. 3718

Mr. McCAIN (for himself, Mr. STEVENS, Mr. BOREN, and Mr. KERRY) proposed an amendment, which was subsequently modified, to the bill S. 2751, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) FINDINGS.—The Senate finds that:

(1) The Sandinista regime is a signatory to the Esquipulas II agreement, and has thereby committed itself to the promotion of peace in Central America and democratization in Nicaragua;

(2) The Sandinista regime nevertheless continues to violate the provisions of the Esquipulas accord, which it is committed to observe;

(3) The Sandinistas continue blatant violations of the Esquipulas II accords, by continuing to receive unacceptably large Soviet-bloc military assistance, and by taking advantage of the Sapoa accord to strengthen their military position; and

(4) The Sandinistas continue to prevent the United States from maintaining a fully functioning Embassy in Nicaragua.

(b) It is the sense of the Senate that:

(1) The Senate condemns the continued suppression of human rights and blatant violations of the Esquipulas II accord by the Sandinistas and calls upon all who seek both peace and freedom in Central America to join in that condemnation;

(2) The United States should respond to the continued blatant violations of the Esquipulas II accord by:

(i) Continuing efforts to strengthen the internal democratic opposition and the independent media of Nicaragua; and

(ii) Reaffirming its support of humanitarian assistance to the Democratic resistance.

(3) The Sandinista regime and the people of Nicaragua should understand that if the Sandinistas comply with their commitments to democratize, the United States should consider responding by lifting the economic embargo against Nicaragua.

(4) The Sandinista regime should understand that continued failure to comply with the Esquipulas II accord will very likely cause the Congress to approve additional military assistance for the Nicaraguan Resistance.

HARKIN AMENDMENT NO. 3719

Mr. HARKIN proposed an amendment to amendment No. 3718, as modified, proposed by Mr. McCAIN (and others) to the bill S. 2751, supra, as follows:

At the end of the amendment, add the following:

SEC. . POLICY TOWARD THE RESTORATION OF DEMOCRACY IN CHILE.

(a) FINDINGS.—The Congress finds that—

(1) the Armed Forces of Chile under the leadership of General Augusto Pinochet Ugarte seized power on September 11, 1973;

(2) General Pinochet has ruled Chile without interruption for the past fifteen years;

(3) Throughout this fifteen-year period the people of Chile have expressed their growing desire for a restoration of democratic processes and procedures;

(4) The results of the Chilean national plebiscite held October 5, 1988 have clearly demonstrated the desire of the people of Chile to end General Pinochet's rule and to replace him with a chief executive freely chosen by the people;

(5) On thd day of the plebiscite, Chileans turned out in exceptionally high numbers and took part in exemplary process, which they helped administer, demonstrating the Chilean people's unwavering commitment to the restoration of democracy to their country;

(6) The United States and its chief representative in Chile, Ambassador Harry Barnes, have supported the Chilean people in their quest for democratic rule and respect for human rights.

(b) STATEMENT OF POLICY.—It is the sense of the Senate that—

(1) the United States fully recognizes, appreciates and welcomes the expressed desire of the Chilean people for the restoration of a civilian government based upon democratic processes and procedures;

(2) the United States commends the Government of Chile and the Armed Forces of Chile for conducting a free and fair plebiscite;

(3) the United States calls upon the Government of Chile to respect the results of the plebiscite and to hold free, fair and competitive presidential elections in 1989; and

(4) the United States encourages all efforts at dialogue toward reaching a consensus on a restoration of full democracy.

WASHINGTON WILDERNESS ACT

EVANS (AND ADAMS) AMENDMENT NO. 3720

Mr. EVANS (for himself and Mr. ADAMS) proposed an amendment to the bill (S. 2165) to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes, as follows:

On page 20, beginning on line 4, strike subsection (a) in its entirety and insert the following:

(a) MISDEMEANOR PENALTIES.—Section 3 of the Act of March 6, 1942 (56 Stat. 136; 16 U.S.C. 256(b)) is revised by deleting all after the phrase "or situated therein," and inserting the following: "shall be deemed guilty of a class B misdemeanor in accordance with provisions of Title 18 of the United States Code.".

On page 21 beginning on line 14, strike subsection (c) in its entirety and renumber Section 104(d) as Section 104(c).

On page 34, beginning on line 18, delete section 502 in its entirety and insert the following in lieu thereof:

"Subject to valid existing rights, within the areas designated as wilderness by this Act, Congress hereby expressly reserves such water rights as necessary, for the purposes for which such areas are so designated. The priority date of such rights shall be the date of enactment of this Act.".

VETERANS COMPENSATION ACT

CRANSTON (AND MURKOWSKI) AMENDMENT NO. 3721

Mr. CRANSTON (for himself and Mr. MURKOWSKI) proposed an amendment (on behalf of the Committee on Veterans' Affairs) to the bill (S. 2011) to increase the rates of Veterans' Administration compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans; as follows:

On page 11, line 25, strike out "January 15, 1989" and insert in lieu thereof "December 31, 1988".

On page 12, line 5, strike out "six" and insert in lieu thereof "fifteen".

On page 15, between lines 10 and 11, insert the following:

(c) NON-VETERANS' ADMINISTRATION BENEFITS.—None of the payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the case of *In re Agent Orange Product Liability Litigation*, MDL No. 381 (E.D.N.Y.), shall be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally-assisted program other than a program to which the amendments made by subsection (a) and (b) apply.

On page 16, between lines 21 and 22 insert the following:

(c) Not later than 60 days after receiving the report described in subsection (b), the Administrator, after consideration of the findings and conclusions set forth in the report, and any other available pertinent scientific information, shall evaluate the need for any amendments to regulations prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542; 38 U.S.C. 354 note) and shall advise the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's decision regarding the need for any such amendments.

On page 16, line 22, strike out "(c)" and insert in lieu thereof "(d)".

On page 17, line 1, strike out "(d)" and insert in lieu thereof "(e)".

On page 24, strike out all on lines 17, 18, and 19 and insert in lieu thereof the following:

Section 363 is amended—

(1) in subsection (a)(2)(B), by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992";

(2) in subsection (c)—

(A) by striking out paragraphs (2), (3), and (4);

(B) in paragraph (1)—

(i) by striking out "(A)" and all that follows through "subsection, in" and inserting in lieu thereof "In"; and

(ii) by redesignating subparagraph (B) as paragraph (2); and

(C) in paragraph (2), so redesignated, by striking out "subparagraph (A)" and all that follows through the end of such subparagraph and inserting in lieu thereof "paragraph (1) of this subsection, the Administrator shall offer to the veteran the opportunity for an evaluation under section 1506(a) of this title."

On page 27, line 9, strike out all after "period" through "Defense" on line 10 and insert in lieu thereof "beginning on December 1, 1988".

On page 67, between lines 2 and 3, insert the following:

SEC. 422. AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND.

Section 1824 is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding subsection (b) of this section, the Fund shall be available to the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts and subject to paragaph (3) of this subsection, for contracts for the performance of such supplementary services described in paragraph (2) of this subsection for which the Administrator is otherwise authorized to contract, and for the acquisition of such supplementary equipment described in such paragraph (not including services or equipment for which the Fund is available under subsection (b) of this section), as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

"(2) The supplementry services and equipment referred to in paragraph (1) of this subsection are services or equipment not performed or available during fiscal year 1988, or services in excess of the level of such services performed during fiscal year 1988, and may include, among other things—

"(A) the services of—

"(i) appraisers to review appraisal reports and issue certificates of reasonable value;

"(ii) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

"(iii) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

"(iv) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(v) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certificates;

"(vi) contractors to list for sale in local newspapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(vii) contractors to prepare closing documents and review them after closing; and

"(viii) contractors to provide automated data processing equipment, supplies, services, and software for carrying out the program administered under this chapter.

"(3) The Administrator may not in any fiscal year obligate more than $25 million for services or equipment under this subsection.".

On page 67, line 21, strike out "for good cause" and insert in lieu thereof "only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office".

On page 98, between lines 15 and 16, insert the following:

SEC. 607. READJUSTMENT COUNSELING FACILITIES.

(a) RELOCATIONS FOR CIRCUMSTANCES BEYOND VETERANS' ADMINISTRATION CONTROL.—Section 612A(g)(1) is amended—

(1) in subparagraph (A), by striking out "The" and inserting in lieu "Except as provided in subparagraph (C) of this paragraph, the"; and

(2) by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (A) of this paragraph, the Administrator may relocate a center in existence on January 1, 1988, to a new location away from a general Veterans' Administration facility when such an action is necessitated by circumstances beyond the control of the Veterans' Administration. Such a relocation may be carried out only after the end of the 30-day period beginning on the date the Administrator notifies the Committees on Veterans' Affairs of the Senate, and House of Representatives of the proposed relocation, the circumstances making it necessary, and the reasons for the selection of the new site for the center.".

(b) AUTHORIZATION FOR RELOCATION OF SEVENTEEN FACILITIES.—The requirements of section 612A(g)(1) of title 38, United States Code, shall not apply with respect to the planned relocation, as described in July 25, 1988, letters to the Chairmen of the Committees on Veterans' Affairs of the Senate and House of Representatives from the Chief Medical Director of the Veterans' Administration, necessitated by circumstances beyond the control of the Veterans' Administration, of seventeen Veterans' Administration Readjustment Counseling Service Vet Centers from their current locations away from general Veterans' Administration health-care facilities to other such locations.

On page 107, between lines 19 and 20, insert the following:

SEC. 616. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

Section 232 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322) is amended by striking out "August 1, 1988" and inserting in lieu thereof "February 1, 1990".

On page 108, line 13, strike out "APPROVAL OF".

On page 108, between lines 13 and 14, insert the following:

(a) INCREASE IN LIMITATION.—Section 4107(g)(3) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by inserting at the end the following new subparagraph:

"(B) Whenever the amount of an increase under paragraph (1) of this subsection is made in an amount that is 94 or more percent of the maximum amount permitted under subparagraph (A) of this paragraph, the Administrator shall promptly provide the Committees on Veterans' Affairs of the Senate and House of Representatives with notice thereof.

On page 108, line 14, insert "(b) APPROVALS.—" before "Section".

On page 121, immediately above line 12, insert the following:

SEC. 628. CONDITIONS OF EMPLOYMENT OF CERTAIN PERSONNEL.

Notwithstanding the provisions of section 4108 of title 38, United States Code, or of any other law, rule, regulation, or decision of any court of competent jurisdiction, the Administrator of Veterans' Affairs shall, through September 30, 1989—

(1) ensure that the provisions of all labor agreements negotiated under the authority of chapter 71 of title 5, United States Code, applicable to individuals employed in positions listed in section 4104(1) of such title 38 who are appointed under subchapter I of chapter 73 of such title which were in effect on July 19, 1988, are given full force and effect through September 30, 1989, unless renegotiated by the parties prior to such date; and

(2) continue to negotiate in good faith with exclusive representatives, recognized under such chapter 71, all conditions of employment and other matters affecting such employees which had been the subject of negotiations prior to July 19, 1988.

On page 122, strike out line 11 and all that follows through page 123, line 12, and insert in lieu thereof the following:

(a) DISCLOSURE OF RETURN INFORMATION.—Paragraph (7) of section 6103(1) of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (D)—

(A) by striking out "and" at the end of clause (vi);

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and ";

(C) by adding at the end the following new clause:

"(viii) the following programs administered by the Veterans' Administration, but only with respect to disclosure of return information other than taxpayer return information and only for taxable years beginning in 1988 and 1989—

"(I) any needs-based pension provided under chapter 15 of title 38, United States Code,or any other law administered by the Veterans' Administration;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under sections 610(a)(1)(I) and (2)(A), 610(b), and 612(a) (2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total, except that, in such cases, only wage information may be disclosed."; and

(2) in the heading, by inserting before the period the following: "OR TO THE VETERANS' ADMINISTRATION".

On page 128, between lines 2 and 3, insert the following:

SEC. 705. EXPANSION OF MULTIYEAR PROCUREMENT AUTHORITY TO INCLUDE NON-MEDICAL ITEMS.

(a) IN GENEAL.—Section 114 is amended—

(1) by striking out the heading and inserting in lieu thereof the following:

"**§ 114. Multiyear procurement**".

(2) in subsection (a), by striking out "for use in Veterans' Administraton health-care facilities";

(3) in subsection (b)(2)(A), by striking out "health-care"; and

(4) in subsection (e)—

(A) by striking out paragraph (2); and

(B) by redesigning paragraphs (3) and (4) as paragraphs (2) and (3), resepctively.

(b) CLERICAL ADMINISTRATION.—The table of sections at the beginning of chapter 1 is amended by striking out the item relating to section 114 and inserting in lieu thereof the following:

"114. Multiyear procurement.".

SEC. 706. VETERANS EMPLOYMENT PREFERENCE WITHIN LOCAL HIRE OF ALASKA CONSERVATION SYSTEM UNITS.

Section 1308 of the Alaska National Interest Lands Conservation Act * * * U.S. 3198) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) PREFERENCE ELIGIBLES WITHIN LOCAL HIRE.—Notwithstanding the provisions of subsection (a), any individual who is eligible to be selected for a position under the provisions of subsection (a) and is a preference eligible as defined in section 2108(3) of title 5, United States Code, shall be give an employment preference, consistent with the preference in the competitive service as defined in section 2102 of such title for which such person is eligible under subchapter I of chapter 33 of such title, in selection to such position.".

SEC. 707. TRANSFERS OF EXCESS PROPERTIES FOR STATE HOME FACILITY USES.

(1) in paragraph (2)(a), by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraphs (B) and (C) of this subsection, the Administrator may, without regard to paragraph (2) of this subsection or any other provision of law relating to the disposition of real property by the United States, transfer to a State for use as the site of a State home nursing-home or domiciliary facility real property described in subparagraph (D) which the Administrator determines to be excess to the needs of the Veterans' Administration.

"(B) a Transfer of real property may be made under this paragraph only—

"(i) if the Administrator has determined that the State has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of title 38, United States Code, and section 641 of such title) necessary to construct and operate a State home nursing or domiciliary care facility; and

"(ii) subject to the conditions (I) that the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of this title, and (II) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the Untied States.

"(C) A transfer under this paragraph shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

"(D) Real property described in this subparagraph is real property that is owned by the United States and administered by the Veterans' Administration.".

SEC. 708. INCOME EXCLUSION FOR CASUALTY LOSS REIMBURSEMENTS.

(a) PARENTS DIC.—Clause (I) of section 415 (f)(1) is amended to read as follows:

"(I) reimbursement of any kind for any casualty loss, as defined in regulations which the Administrator shall prescribe, but in no event shall the amount to be excluded exceed the greater of the fair market value of reasonable replacement value of the property involved immediately preceding the loss;".

(b) PENSION.—Clause (5) of section 503(a) is amended to read as follows:

"(5) reimbursements of any kind for any casualty loss, as defined in regulations which the Administrator shall prescribe, but the amount excluded under this clause may not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediatley preceding the loss;".

SEC. 709. SPECIFICATION OF FUNDS FOR OTHER VETERANS BENEFITS.

(a) IN GENERAL.—In the documentation providing detailed information on the budgets for the Veterans' Administration and the Department of Labor that the Administrator of Veterans' Affairs and the Secretary of Labor, respectively, submit to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Administrator and the Secretary shall identify, to the maximum extent feasible, the estimated amount in each of the appropriation requests for Veterans' Administration accounts and Department of Labor accounts, respectively, that is to be obligated for the furnishing of each of the following services or benefits only to; or with respect to, veterans who performed active military, naval, or air service in combat with the enemy or in a theatre of combat operations during a period of war or other hostilities.

(1) Employment services and other employment benefits under programs administered by the Secretary of Labor.

(2) Compensation under chapter 11 of title 38, United States Code.

(3) Dependency and Indemnity Compensation under chapter 13 of such title.

(4) Pension under chapter 15 of such title.

(5) Inpatient hospital care under chapter 17 of such title.

(6) Outpatient medical care under chapter 17 of such title.

(7) Nursing home care under chapter 17 of such title.

(8) Domiciliary care under chapter 17 of such title.

(9) Readjustment counseling services under section 612A of such title.

(10) Insurance under chapter 9 of such title.

(11) Specially adapted housing for disabled veterans under chapter 21 of such title.

(12) Burial benefits under chapter 23 of such title.

(13) Educational assistance under chapters 30, 32, and 34 of such title and chapter 106 of title 10, United States Code.

(14) Vocational rehabilitation services under chapter 31 of title 38, United States Code.

(15) Survivors' and dependents' educational assistance under chapter 35 of such title.

(16) Home loan benefits under chapter 37 of such title.

(17) Automobiles and adaptive equipment under chapter 39 of such title.

(b) REPORT ON FEASIBILITY.—If the Administrator of Veterans' Affairs or the Secretary of Labor determines that, with respect to any services or benefits referred to in subsection (a), it is not feasible to identify an estimated dollar amount to be obligated for furninishing such services or benefits only to veterans described in such subsection for any fiscal year, the Administrator and the Secretary shall, with respect to an appropriation request for such fiscal year relating to such services or benefits, report to the Committees on Veterans' Affairs of the Senate and the House of Representatives the reasons for the infeasibility. The report shall be submitted contemporaneously with the budget submission for such fiscal year. The report shall specify (1) the information systems, equipment, or personnel that would be required in order for it to be feasible for the Administrator or the Secretary to identify such amount, and (2) the actions to be taken in order to ensure that it will be feasible to make such an estimate in connection with the submission of the budget request for the next fiscal year.

On page 128, line 3, strike out "SEC. 705" and inset in lieu thereof "SEC. 710".

On page 128, line 16, strike out "and".

On page 128, line 23, strike out the period and insert in lieu thereof "; and"

On page 128, between lines 23 and 24 insert the following:

(3) Subsection (c) and (d) of section 4323 are each amended by striking out "section 4322(f)" and inserting in lieu thereof "section 4322(e)".

(4) Section 4324 is amended—

(A) in clause (2) of subsection (a)—

(i) by striking out "completion and all that follows through "quarter" and inserting in lieu thereof "participation in the problem";

(ii) by inserting "or is payable" after "paid"; and

(iii) by inserting before the period at the end "; reduced by the proportion that the number of days served toward completion of the service obligation bears to the total number of days in the participant's period of obligated service".

(B) in subsection (b)—

(i) by striking out paragraph (1); and

(ii) by redesignating paragraph (2) of subsection (b) as subsection (b).

On page 5, below the item relating to section 421, insert the following new item:

Sec.422. Authority for incrensed procurement of services through the Loan Guaranty Revolving Fund.

On page 5, below the item relating to section 615, insert the following new item:

Sec. 616. Report on certain activities relating to training in geriatrics of medical and other health-professional schools affiliated with the Veterans' Administration.

On page 5, amend the item relating to section 622 to read as follows:

Sec. 622. Special rates of pay.

On page 5, below the item relating to section 606, insert the following new item:

Sec. 607. Readjustment counseling facilities.

On page 6, below the item relating to section 627, insert the following new item:

Sec. 628. Conditions of employment of certain personnel.

On page 6, below the item relating to section 704, insert the following new items:

Sec. 705. Expansion of multiyear procurement authority to include nonmedical items.

Sec. 706. Veterans employment preference within local hire of Alaska Conservation System units.

Sec. 707. Transfers of excess properties for State home facility uses.

Sec. 708. Income exclusion for casualty loss reimbursements.

Sec. 709. Specification of funds for other veterans benefits.

On page 6, amend the item relating to section 705 to read as follows:

Sec. 710. Technical corrections.

DASCHLE (AND OTHERS) AMENDMENT NO. 3722

Mr. DASCHLE (for himself, Mr. FORD, Mrs. KASSEBAUM, Mr. KERRY, Mr. MITCHELL, and Mr. BINGAMAN) proposed an amendment to the bill S. 2011, supra, as follows:

On page 53, between lines 7 and 8, insert the following:

SEC. 325. EDUCATIONAL ASSISTANCE FOR FLIGHT TRAINING.

(a) THE NEW GI BILL.—(1) Section 1434 is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) The Administrator may approve the pursuit of flight training by an individual entitled to basic educational assistance under this chapter if—

"(A) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(B) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license; and

"(C) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

"(2) This subsection shall not apply to flight training that commences on or after October 1, 1993.".

(2) Section 1432 is amended by inserting after subsection (c) the following new subsection:

"(d)(1) Notwithstanding subsection (a) of this section, each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 1434(d) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay.

"(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Administrator has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

"(3) The number of months of entitlement charged in the case of any individual for a program of education described in paragraph (1) of this subsection shall be equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such program by the monthly rate of educational assistance which, except for paragraph (1) of this subsection, such individual would otherwise be paid under subsection (a)(1), (b)(1), or (c) of section 1415 of this title, as the case may be.".

(b) THE SELECTED RESERVE EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 2136 of title 10, United States Code, is amended by adding the following new subsection:

"(c)(1) The Administrator of Veterans' Affairs may approve the pursuit of flight training by an individual entitled to educational assistance under this chapter if—

"(A) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(B) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license; and

"(C) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

"(2) This subsection shall not apply to flight training that commences on or after October 1, 1993.".

(2) Section 2131 of such title is amended—

(A) in subsection (b), by striking out "Each" and inserting in lieu thereof "Except as provided in subsection (d), each"; and

(B) by adding at the end the following new subsection:

"(d)(1) Each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 2136(c) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay.

"(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Administrator has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

"(3) The period of entitlement of an individual pursuing a program of education described in paragraph (1) shall be charged with one month for each $140 which is paid to that individual as an educational assistance allowance for such program.".

(c) EVALUATION OF PROVIDING ASSISTANCE FOR FLIGHT TRAINING.—(1)(A) The Administrator of Veterans' Affairs shall conduct an evaluation of paying educational assistance for flight training under chapter 30 of title 38, United States Code, and chapter 106 of title 10, United States Code.

(B) The evaluation required by subparagraph (A) shall be designed to determine the effectiveness of the provision of educational assistance referred to in such subparagraph in preparing the recipients of such assistance for recognized vocational objectives in the field of aviation.

(2) Not later than January 31, 1993, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation required by paragraph (1). Such report shall include:

(A) Information, separately as to payments made under chapter 30 of title 38, United States Code, and payments under chapter 106 of title 10, United States Code, regarding—

(i) the number of recipients paid educational assistance allowances for flight training;

(ii) the amount of such assistance;

(iii) the amount paid by the recipients for such training;

(iv) the vocational objectives of the participants; and

(v) the extent to which the training (I) assists the participants in achieving employment in the field of aviation, or (II) was used only or primarily for recreational or avocational purposes.

(B) Any recommendations for legislation that the Administrator considers appropriate to include in the report.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on September 30, 1989.

DOLE (AND OTHERS) AMENDMENT NO. 3723

Mr. DOLE (for himself, Mr. CRANSTON, Mr. MURKOWSKI, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. DECONCINI, Mr. GLENN, Mr. GRAHAM, Mr. HATCH, Mr. HEINZ, Mr. INOUYE, Mrs. KASSEBAUM, Mr. LUGAR, Mr. MCCAIN, Mr. PELL, Mr. PRESSLER, Mr. TRIBLE, Mr. WARNER, Mr. BINGAMAN, Mr. PRESSLER, Mr. THURMOND, and Mr. BOSCHWITZ) proposed an amendment to the bill S. 2011, supra; as follows:

On page 32, between lines 18 and 19, insert the following:

SEC. 315. PAYMENTS IN CASES OF DEATH OF CERTAIN PARTICIPANTS DURING ACTIVE-DUTY SERVICE.

(a) IN GENERAL.—(1) Subchapter IV of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1437. Payment in case of death on active duty

"(a) In the event of the service connected death of an individual who was serving on active duty at the time of death and whose basic pay has been reduced under section 1411(b) or 1412(c) of this title, the Administrator shall pay the amount specified in subsection (c) of this section to the first listed person or persons surviving on the date of such individual's death, as follows:

"(1) The beneficiary or beneficiaries designated by such individual to receive the proceeds of Servicemen's Group Life Insurance by reason of the death of such individual.

"(2) The spouse of the individual.

"(3) The child or children of the individual, in equal shares.

"(4) The parent or parents of the individual, in equal shares.

"(b) No payment may be made under this section in the case of an individual whose death is referred to in subsection (a) of this section if no person listed in such subsection survives such individual.

"(c) The amount of any payment under this section shall be equal to—

"(1) the total amount by which the pay of the individual whose death is referred to in subsection (a) of this section was reduced under section 1411(b) or 1412(c) of this title, less

"(2) the total amount of the basic educational assistance that was paid such individual under this chapter.".

"(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1437. Payment in case of death on active duty.".

(b) SOURCE OF PAYMENTS.—Section 1435(b)(1) of such title is amended by inserting "and payments under section 1437" after "chapter".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as July 1, 1985.

On page 4, after the item relating to section 314, insert the following new item:

"Sec. 315. Payments in cases of death of certain participants during active-duty service.".

CRANSTON (AND OTHERS) AMENDMENT NO. 3724

Mr. CRANSTON (for himself, Mr. MATSUNAGA, and Mr. MITCHELL) proposed an amendment to the bill, S. 2011, supra, as follows:

On page 85, line 19, strike out "the" and all that follows through the comma on line 21 and insert in lieu thereof "a theater of operations during World War I, World War II, the Korean conflict, or the Vietnam era or in any other area during a period in which hostilities (as defined in subsection (c) of this section) occurred in such area,".

On page 86, line 6, strike out the quotation marks and the second period.

On page 86, between lines 6 and 7, insert the following:

"(c) For the purposes of subsection (b) of this section, the term 'hostilities' means a situation in which members of the Armed Forces were, as determined by the Administrator in consultation with the Secretary of Defense, subjected to danger from armed conflict comparable to the danger to which members of the Armed Forces have been subjected in battle with the enemy during a period of war.".

On page 98, between lines 15 and 16, insert the following new section:

In the documents providing detailed information on the budget for the Veterans' Administration that the Administrator of Veterans' Affairs submits to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Administrator shall identify the amounts in the appropriations requests for Veterans' Administration accounts that are estimated to be obligated for—

(1) the payment of compensation to veterans for disabilities resulting from service-connected post-traumatic stress disorder (hereinafter in this section referred to as "PTSD");

(2) the treatment of veterans for PTSD related to their active-duty service, including specific designation of funds for the treatment of PTSD—

(A) in PTSD programs designated pursuant to section 110(a)(1) of Public Law 98-528,

(B) in Veterans' Administration inpatient psychiatric programs and outpatient mental health programs other than such designated PTSD programs,

(C) in Veterans' Administration readjustment counseling programs pursuant to 612A of title 38, United States Code,

(D) under contract through non-Veterans' Administration providers of (I) readjustment counseling services pursuant to section 612A(e) of such title, (II) mental health services pursuant to such section 612(e), or (III) mental health services pursuant to other authority, and

(E) * * * described in the first annual report submitted pursuant to section 110(e)(1) of Public Law 98-528 as having been proposed by the Special Committee on PTSD;

(3) education, training, and research at—

(A) the National Center on PTSD established under section 110(c) of public Law 98-528;

(B) the centers of mental illness research, education, and clinical activities established under subsection (g) of section 4101 of title 38, United States Code, as added by section 604, and

(C) other Veterans' Administration research facilities; and

(4) the operation of the National Center on PTSD.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 3725

Mr. MURKOWSKI (for himself, Mr. HEINZ, Mr. KERRY, and Mr. MOYNIHAN) proposed an amendment to the bill S. 2011, supra, as follows:

At the end of title VII add the following:

SEC. 706. COORDINATION OF SERVICES AND BENEFITS.

(a) PURPOSE.—It is the purpose of this section to ensure that veterans who are dislocated workers eligible for assistance under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or are otherwise unemployed receive, to the extent feasible, assistance (including information on vocational guidance or vocational counseling, or information on both vocational guidance and vocational counseling) needed by such veterans (1) to apply for services and benefits for which they are eligible as veterans, dislocated workers, or unemployed persons, (2) to obtain resolution of questions and problems relating to such services and benefits, and (3) to initiate any authorized administrative appeals of determinations or other actions relating to such services and benefits.

(b) MEMORANDUM OF UNDERSTANDING.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Labor and the Administrator of Veterans' Affairs shall enter into a memorandum of understanding to carry out the purpose of this section. The memorandum shall include provisions that define the relationships and responsibilities of Labor, and State and local agencies with respect to the provision of the following information, forms, and assistance:

(A) Information on services and benefits referred to in subsection (d).

(B) All application forms and related forms necessary for individuals to apply for such services and to claim such benefits.

(C) Assistance in resolving questions and problems relating to receipt of such services and benefits.

(D) Assistance in contacting other Federal Government offices and State offices where such services or benefits are provided or administered.

(2) The memorandum of understanding entered into pursuant to paragraph (1) shall include a provision for the periodic evaluation, by the Secretary of Labor and the Administrator of Veterans' Affairs, of the implementation of their respective responsibilities under such memorandum.

(c) COORDINATION OF DEPARTMENT OF LABOR ACTIVITIES.—The Assistant Secretary of Labor for Veterans' Employment and Training, in consultation with the office designated or created under section 322(b) of the Job Training Partnership Act, shall, except as the Secretary of Labor may otherwise direct, coordinate the activities of the components of the Department of Labor performing the responsibilities of the Secretary of Labor under this section.

(d) COVERED SERVICES AND BENEFITS.—This section applies with respect to the following services and benefits:

(1) Employment assistance under—

(A) part C of title IV of the Job Training Partnership Act (96 Stat. 1380; 29 U.S.C. 1721 et seq.); and

(B) the Veterans' Job Training Act (97 Stat. 443, 29 U.S.C. 1721 note).

(2) Employment and training assistance for dislocated workers under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.).

(3) Employment assistance and unemployment compensation under the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 (29 U.S.C. 2271 et seq.) and under any program administered by the Employment and Training Administration of the Department of Labor.

(4) Educational assistance under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.); and

(B) chapters 30, 31, 32, 34, and 35 of title 38, United States Code.

(5) Certification of a veteran as a member of a targeted group eligible for the targeted jobs credit determined under section 51 of the Internal Revenue Code of 1986.

(f) DEFINITION.—In this section, the term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

VETERANS JUDICIAL REVIEW ACT

CRANSTON (AND MURKOWSKI) AMENDMENT NO. 3726

Mr. CRANSTON (for himself and Mr. MURKOWSKI) proposed an amendment to the amendment of the House to the bill (S. 11) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration, and for other purposes; as follows:

In lieu of the text proposed to be inserted by the House amendment, insert the following:

In lieu of the matter proposed to be inserted by the House amendment to the text of S. 11, insert the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Judicial Review Act".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ADJUDICATIVE AND RULEMAKING AUTHORITY OF THE VETERANS' ADMINISTRATION

SEC. 101. DECISIONS BY ADMINISTRATOR.

(a) MATTERS TO BE DECIDED BY ADMINISTRATOR.—Subsection (a) of section 211 is amended to read as follows:

* * * * *

Veterans Administration, the Administrator shall ensure that subparagraphs (C), (D), and (E) of that section are complied with, particularly with respect to opinions and interpretations of the General Counsel.

"(b) The provisions of section 553 of title 5 shall apply, without regard to subsection (a)(2) of that section, to matters relating to loans, grants, or benefits under a law administered by the Administrator.

"(c) An action of the Administrator to which section 552(a)(1) or 553 of title 5 (or both) refers (other than an action relating to the adoption or revision of the schedule of ratings for disabilities adopted under section 355 of this title) is subject to judicial review. Such review shall be in accordance with chapter 7 of title 5 and may be sought only in the United States Court of Appeals for the Federal Circuit. However, if such review is sought in connection with an appeal brought under the provisions of chapter 72 of this title, the provisions of that chapter shall apply rather than the provisions of chapter 7 of title 5.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 222 the following new item:

"223. Rulemaking: procedures and judicial review."

(b) REPORT ON IMPLEMENTATION.—Not later than May 1989, the Administrator shall submit to the Committees on

* * * * *

regarding the merits of an issue material to the determination of the matter, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Administrator the burden specified in subsection (a) of this section.

"§ 3008. Reopening disallowed claims

"If new and material evidence is presented or secured with respect to a claim which has been disallowed, the Administrator shall reopen the claim and review the former disposition of the claim.".

"§ 3009. Independent medical opinions

"(a) When, in the judgment of the Administrator, expert medical opinion, in addition to that available within the Veterans' Administration, is warranted by the medical complexity or controversy involved in a case being considered by the Veterans' Administration, the Administrator may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Veterans' Administration.

"(b) The Administrator shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

"(c) The Administrator shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Administrator.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3006 the following new items:

"3007. Burden of proof; benefit of the doubt.
"3008. Reopening disallowed claims.
"3009. Independent medical opinions.".

(b) CONFORMING AMENDMENTS.—Section 4009 is amended—

(1) in subsection (a), by striking out "is authorized to" and inserting in lieu thereof "may";

(2) in subsection (b)—

(A) by striking out "Such arrangement will" and inserting in lieu thereof "Any such arrangement shall"; and

(B) by striking out "any individual case will" and inserting in lieu thereof "an individual case shall"; and

(3) by adding at the end the following new subsection:

"(c) The Board shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Board.".

(c) TECHNICAL AMENDMENTS.—(1) The items relating to chapter 51 in the table of chapters before part I, and in the table of chapters at the beginning of part IV, are amended by striking out "Applications" and inserting in lieu thereof "Claims".

(2) The heading of chapter 51 is amended to read as follows:

"CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS".

(3) The item relating to subchapter I in the table of sections at the beginning of chapter 51 is amended by striking out "APPLICATIONS" and inserting in lieu thereof "CLAIMS".

(4) The heading of subchapter I of chapter 51 is amended to read as follows:

"Subchapter I—Claims".

SEC. 104. ATTORNEYS FEES.

(a) REVISION OF ATTORNEY FEE LIMITATION.—Section 3404 of title 38, United States Code, is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) In connection with a proceeding before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services provided before the date on which the Board of Veterans Appeals first makes a final decision in the case. Such a fee may be charged, allowed, or paid in the case of services provided after such date only if an agent or attorney is retained with respect to such case before the end of the one-year period beginning on that date. The limitation in the preceding sentence does not apply to services provided with respect to proceedings before a court.

"(2) A person who, acting as agent or attorney in a case referred to in paragraph (1) of this subsection, represents a person before the Veterans' Administration or the Board of Veterans' Appeals after the Board first makes a final decision in the case shall file a copy of any fee agreement between them with the Board at such time as may be specified by the Board. The Board, upon its own motion or the request of either party, may review such a fee agreement and may order a reduction in the fee called for in the agreement if the Board finds that the fee is excessive or unreasonable. A finding or order of the Board under the preceding sentence may be reviewed by the United States Court of Veterans Appeals under section 4063(d) of this title.

"(d)(1) When a claimant and an attorney have entered into a fee agreement described in paragraph (2) of this subsection, the total fee payable to the attorney may not exceed 20 percent of the total amount of any past-due benefits awarded on the basis of the claim.

"(2)(A) A fee agreement referred to the paragraph (1) of this subsection is one under which (i) the amount of the fee payable to the attorney is to be paid to the attorney by the Administrator directly from any past-due benefits awarded on the basis of the claim, and (ii) the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant.

"(B) For purposes of subparagraph (A) of this paragraph, a claim shall be considered to have been resolved in a manner favorable to the claimant if all or any part of the relief sought is granted.

"(3) To the extent that past-due benefits are awarded in any proceeding before the Administrator, the Board of Veterans' Appeals, or the United States Court of Veterans Appeals, the Administrator may direct that payment of any attorneys fee under a fee arrangement described in paragraph (1) of this subsection be made out of such past-due benefits. In no event may the Administrator withhold for the purpose of such payment any portion of benefits payable for a period after the date of the final decision of the Administrator, the Board of Veterans' Appeals, or Court of Veterans Appeals making (or ordering the making of) the award.".

(b) VIOLATION TO BE A MISDEMEANOR.—Section 3405 of such title is amended by striking out "shall be fined not more than $500 or imprisoned at hard labor for not more than two years, or both" and inserting in lieu thereof "shall be fined as provided in title 18, or imprisoned not more than one year, or both".

TITLE II—BOARD OF VETERANS' APPEALS

SEC. 201. APPOINTMENT AND REMOVAL OF THE CHAIRMAN AND MEMBERS.

(a) IN GENERAL.—Subsection (b) of section 4001 is amended to read as follows:

"(b)(1) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Chairman may be removed by the President for misconduct, inefficiency, neglect of duty, or engaging in the practice of law or for physical or mental disability which, in the opinion of the President, prevents the proper execution of the Chairman's duties. The Chairman may not be removed from office by the President on any other grounds. Any such removal may only be made after notice and opportunity for hearing.

"(2)(A) The other members of the Board (including the Vice Chairman) shall be appointed by the Administrator, with the approval of the President, based upon recommendations of the Chairman. Each such member shall be appointed for a term of nine years.

"(B) A member of the Board (other than the Chairman) may be removed by the Administrator upon the recommendation of the Chairman. In the case of a removal that would be covered by section 7521 of title 5 in the case of an administrative law judge, a removal of a member of the Board under this paragraph shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subparagraph. In such a removal action, a member shall have the rights set out in section 7513(b) of such title.

"(3) Members (including the Chairman) may be appointed under this subsection to more than one term.

"(4) The Administrator shall designate one member of the Board as Vice Chairman. The Vice Chairman shall perform such functions as the Chairman may specify. Such member shall serve as Vice Chairman at the pleasure of the Administrator.".

(b) SALARY OF CHAIRMAN.—(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chairman, Board of Veterans' Appeals.".

(2) The amendment made by paragraph (1) shall take effect when the President first appoints an individual as Chairman of the Board of Veterans' Appeals under section 4001(b)(1) of title 38, United States Code (as amended by subsection (a)).

(c) TRANSITION TO NEW BOARD.—(1) Appointments of members of the Board of Veterans Appeals under subsection (b)(2) of section 4001 of title 38, United States Code (as amended by subsection (a)), may not be made until a Chairman is appointed under subsection (b)(1) of that section.

(2) An individual who is serving as a member of the Board on the date of the enactment of this Act may continue to serve as a member until the earlier of—

(A) the date on which the individual's successor (as designated by the Administrator) is appointed under subsection (b)(2) of that section, or

(B) the end of the 180-day period beginning on the day after the date on which the Chairman is appointed under subsection (b)(1) of such section.

(d) INITIAL TERMS OF OFFICE.—Notwithstanding the second sentence of section 4001(b)(2) of title 38, United States Code (as amended by subsection (a)), specifying the term for which members of the Board of Veterans' Appeals shall be appointed, of the members first appointed under that section—

(A) 22 shall be appointed for a term of three years;

(B) 22 shall be appointed for a term of six years; and

(C) 22 shall be appointed for a term of nine years, as determined by the Administrator at the time of the initial appointments.

SEC. 202. DETERMINATIONS BY THE BOARD

(a) MAJORITY VOTE IN SECTIONS.—Section 4003 is amended to read as follows:

"§ 4003. Determined by the Board

"(a) Decisions by a section of the Board shall be made by a majority of the members of the section. The decision of the section is final unless the Chairman orders reconsideration of the case.

"(b) If the Chairman orders reconsideration in a case, the case shall upon reconsideration be heard by an expanded section of the Board. When a case is heard by an expanded section of the Board after such a motion for reconsideration, the decision of a majority of the members of the expanded section shall constitute the final decision of the Board.

"(c) Notwithstanding subsections (a) and (b) of this section, the Board on its own motion may correct an obvious error in the record.".

(b) RESOURCES TO DISPOSE OF APPEALS IN A TIMELY MANNER.—Section 4001(a) is amended—

(1) by inserting "and" after "Vice Chairman,";

(2) by striking out "necessary, and" and inserting in lieu thereof "necessary in order to conduct hearings and dispose of appeals properly before the Board in a timely manner. The Board shall have"; and

(3) by adding at the end the following new sentence: "The Board shall have sufficient personnel under the preceding sentence to enable the Board to conduct hearings and consider and dispose of appeals properly before the Board in a timely manner.".

SEC. 203. DECISIONS OF THE BOARD.

(a) DECISIONS BASED ON THE RECORD.—Section 4004(a) is amended by adding at the end the following new sentences: "The Board shall decide any such appeal only after affording the claimant an opportunity for a hearing. Decisions of the Board shall be based on the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulations.".

(b) CONFORMING AMENDMENT.—Section 4005(d)(5) is amended by striking out "will base its decision on the entire record and".

SEC. 204. REOPENING OF DISALLOWED CLAIMS.

Subsection (b) of section 4004 is amended to read as follows:

"(b) Except as provided in section 3008 of this title, when a claim is disallowed by the Board, the claim may not thereafter be reopened and allowed and a claim based upon the same factual basis may not be considered.".

SEC. 205. NOTICE AND CONTENT OF DECISIONS.

Section 4004 is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) Each decision of the Board shall include—

"(1) a written statement of the Board's findings and conclusions, and the reasons or bases for those findings and conclusions, on all material issues of fact and law presented on the record; and

"(2) an order granting appropriate relief or denying relief.

(e) After reaching a decision in a case, the Board shall promptly mail a copy of its written decision to the claimant and the claimant's authorized representative (if any) at the last known address of the claimant and at the last known address of such representative (if any).".

SEC. 206. STATEMENT OF THE CASE.

(a) MATTERS TO BE INCLUDED.—Paragraph (1) of section 4005(d) is amended in the second sentence by striking out "will prepare" and all that follows and inserting in lieu thereof the following: "shall prepare a statement of the case. A statement of the case shall include the following:

"(A) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed.

"(B) A citation to pertinent laws and regulations and a discussion of how such laws and regulations affect the agency's decision.

"(C) The decision on each issue and a summary of the reasons for such decision.".

(b) PROHIBITION AGAINST PRESUMPTION OF AGREEMENT.—Paragraph (4) of such section is amended to read as follows:

(4) The claimant in any case may not be presumed to agree with any statement of fact contained in the statement * * *.

* * * * *

"(E) the number of members of the Board at the end of the year and the number of professional, administrative, clerical, stenographic, and other personnel employed by the Board at the end of the preceding fiscal year.

"(3) The projections in each such report for the current fiscal year and for the next fiscal year shall include (for each such year)—

"(A) an estimate of the number of cases to be appealed to the Board; and

"(B) an evaluation of the ability of the Board (based on existing and projected personnel levels) to ensure timely disposition of such appeals as required by * * *.

* * * * *

* * * consideration the quality of performance of the Board member.".

TITLE III—UNITED STATES COURT OF VETERANS APPEALS

SEC. 301. UNITED STATES COURT OF VETERANS APPEALS.

(a) ESTABLISHMENT OF COURT.—Part V is amended by inserting after chapter 71 the following new chapter:

"CHAPTER 72—UNITED STATES COURT OF VETERANS APPEALS

"Subchapter I—Organization and Jurisdiction

"Sec.
"4051. Status.
"4052. Jurisdiction; finality of decisions.
"4053. Composition.
"4054. Organization.
"4055. Offices.
"4056. Times and places of sessions.

"Subchapter II—Procedure

"4061. Scope of review.
"4062. Fee for filing appeals.
"4063. Representation of parties; fee agreements.
"4064. Rules of practice and procedure.
"4065. Contempt authority; assistance to the Court.
"4066. Notice of appeal.
"4067. Decisions.
"4068. Availability of proceedings.
"4069. Publication of decisions.

"Subchapter III—Miscellaneous Provisions

"4081. Employees.
"4082. Budget and expenditures.
"4083. Disposition of fees.
"4084. Fee for transcript of record.
"4085. Practice fee.

"Subchapter IV—Decisions and Review

"4091. Date when United States Court of Veterans Appeals decision becomes final.
"4092. Review by United States Court of Appeals for the Federal Circuit.

"Subchapter I—Organization and Jurisdiction

"§ 4051. Status

"There is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the United States Court of Veterans Appeals.

"§ 4052. Jurisdiction; finality of decisions

"The Court of Veterans Appeals shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. The Administrator may not seek review of any such decision. The court shall have power to affirm, modify, or reverse a decision of the Board or to remand the matter, as appropriate.

"(b) Review in the Court shall be on the record of proceedings before the Administrator and the Board. The extent of the review shall be limited to the scope provided in section 4061 of this title. The Court may not review the schedule of ratings for disabilities adopted under section 355 of this title or any action of the Administrator in adopting or revising that schedule.

"(c) Decisions by the Court are subject to review as provided in section 4092 of this title.

"§ 4053. Composition

(a) The Court of Veterans Appeals shall be composed of a chief judge and at least two and not more than six associate judges.

"(b) The judges of the Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member in good standing of the bar of a Federal court or of the highest court of a State. Not more than the number equal to the next whole number greater than one-half of the number of judges of the Court may be members of the same political party.

"(c) The term of office of the judges of the Court of Veterans Appeals shall be 15 years.

"(d) The chief judge is the head of the Court.

"(e) (1) The chief judge of the Court shall receive a salary at the same rate as is received by judges of the United States Courts of Appeals.

"(2) Each judge of the Court, other than the chief judge, shall receive a salary at the same rate as is received by judges of the United States district courts.

"(f) (1) A judge of the Court may be removed from office by the President on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability which, in the opinion of the President, prevents the proper execution of the judge's duties. A judge of the Court may not be removed from office by the President on any other ground.

"(2) Before a judge may be removed from office under this subsection, the judge shall be provided with a full specification of the reasons for the removal and an opportunity to be heard.

"§ 4054. Organization

"(a) The Court of Veterans Appeals shall have a seal which shall be judicially noticed.

"(b) The Court may hear cases by judges sitting alone or in panels, as determined pursuant to procedures established by the Court. Any such panel shall have not less than three judges. The Court shall establish procedures for the assignment of the judges of the Court to such panels and for the designation of the chief of each such panel.

"(c) (1) A majority for the judges of the Court shall constitute a quorum for the transition of the business of the Court. A vacancy in the Court shall not impair the powers or affect the duties of the Court or of the remaining judges of the Court.

"(2) A majority of the judges of a panel of the Court shall constitute a quorum for the transaction of the business of the panel. A vacancy in a panel of the Court shall not impair the powers or affect the duties of the panel or of the remaining judges of the panel.

"§ 4055. Offices

"The principal office of the Court of Veterans Appeals shall be in the District of Columbia, but the Court may sit at any place within the United States.

"§ 4056. Times and places of sessions

"The times and places of sessions of the Court of Veterans Affairs shall be prescribed by the chief judge.

"Subchapter II—Procedure

"§ 4061. Scope of review

"(a) In any action brought under this chapter, the Court of Veterans Appeals, to the extent necessary to its decision and when presented, shall—

"(1) decide-all relevant questions of law, interpret constitutional, statutory, and regulatory provisions, and determine the meaning or applicability of the terms of an action of the Administrator;

"(2) compel action of the Administrator unlawfully withheld;

"(3) hold unlawful and set aside decisions, findings (other than those described in clause (4) of this subsection), conclusions, rules, and regulations issued or adopted by the Administrator, the Board of Veterans' Appeals, or the Chairman of the Board found to be—

"(A) arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(D) without observance of procedure required by law; and

"(4) in the case of a finding of material fact made in reaching a decision in a case before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, hold unlawful and set aside such finding if the finding is clearly erroneous.

"(b) In making the determination under subsection (a) of this section, the Court shall take due account of the rule of prejudicial error.

"(c) In no event shall findings of fact made by the Administrator or the Board of Veterans' Appeals be subject to trial de novo by the court.

"(d) When a final decision of the Board of Veterans' Appeals is adverse to a party and the sole stated basis for such decision is the failure of the party to comply with any applicable regulation prescribed by the Administrator, the Court shall review only questions raised as to compliance with and the validity of the regulation.

"§ 4062. Fee for filing appeals

"(a) The Court of Veterans Appeals may impose a fee of not more than $50 for the filing of any appeal with the Court. The Court shall establish procedures under which such a fee may be waived in the case of an appeal filed by or on behalf of a person who demonstrates that the requirement that such fee be paid will impose a hardship on that person. A decision as to such a waiver is final and may not be reviewed in any other court.

"(b) The Court may from time to time adjust the maximum amount permitted for a fee imposed under subsection (a) of this section based upon inflation and similar fees charged by other courts established under Article I of the Constitution.

"§ 4063. Representation of parties; fee agreements

"(a) The Administrator shall be represented before the Court of Veterans Appeals by the General Counsel of the Veterans' Administration.

"(b) Representation of appellants shall be in accordance with the rules of practice prescribed by the Court under section 4064 of this title. In addition to members of the bar admitted to practice before the Court in accordance with such rules of practice, the Court may allow other persons to practice before the Court who meet standards of proficiency prescribed in such rules of practice.

"(c) A person who represents an appellant before the Court shall file a copy of any fee agreement between the appellant and that person with the Court at the time the appeal is filed. The Court, on its own motion or the motion of any party, may review such a fee agreement.

"(d) In reviewing a fee agreement under subsection (c) of this section or under section 3404(c)(2) of this title, the Court may affirm the finding or order of the Board and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order of the Court under this subsection is final and may not be reviewed in any other court.

§ 4064. Rules of practice and procedure

"(a) The proceedings of the Court of Veterans Appeals shall be conducted in accordance with such rules or practice and procedure as the Court prescribes.

"(b) The mailing of a pleading, decision, order, notice, or process in respect to proceedings before the Court shall be held sufficient service of such pleading, decision, order, notice, or process if it is properly addressed to the address furnished by the appellant on the notice of appeal filed under section 4066 of this title.

"§ 4065. Contempt authority; assistance to the Court

"(a) The Court shall have power to punish by fine or imprisonment such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(b) The Court shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for a district in which the Court is sitting shall, if requested by the chief judge of the Court, attend any session of the Court in that district.

"§ 4066. Notice of appeal

"(a) In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by that action must file a notice of appeal with the Court. Any such notice must be filed within 120 days after the date on which notice of the decision is mailed pursuant to section 4004(e) of this title.

"(b) The appellant shall also furnish the Administrator with a copy of such notice, but a failure to do so shall not constitute a failure of timely compliance with subsection (a) of this section.

"§ 4067. Decisions

"(a) A decision upon a proceeding before the Court of Veterans Appeals shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court except as provided in subsection (d) of this section.

"(b) The Court shall include in its decision a statement of this conclusions of law and determinations as to factual matters.

"(c) A judge or panel shall make a determination upon any proceeding before the Court, and any motion in connection with such a proceeding, that is assigned to the judge or panel. The judge or panel shall make a report of any such determination which constitutes the judge or panel's final disposition of the proceeding.

"(d)(1) In the case of a proceeding determined by a single judge of the Court, the decision of the judge shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the judge the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by a panel of the Court. In such a case, the decision on the judge initially deciding the case shall not be a part of the record.

"(2) In the case of a proceeding determined by a panel of the Court, the decision of the panel shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the panel the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by an expanded panel of the Court (or the Court en banc). In such a case, the decision of the panel initially deciding the case shall not be a part of the record.

"(e) The Court shall designate in its decision in any case those specific records of the Government on which it relied (if any) in making its decision. The Administrator shall preserve records so designated for not less than the period of time designated by the Administrator of the National Archives and Records Administration.

"§ 4068. Availability of proceedings

"(a) Except as provided in subsection (b) of this section, all decisions of the Court of Veterans Appeals and all briefs, motions, documents, and exhibits received by the Court (including a transcript of the stenographic report of the hearings) shall be public records open to the inspection of the public.

"(b)(1) The Court may make any provision which is necessary to prevent the disclosure of confidential information, including a provision that any such document or information be placed under seal to be opened only as directed by the Court.

"(2) After the decision of the Court in a proceeding becomes final, the Court shall permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, submitted to the Court before the Court may, on its own motion, make such other disposition thereof as it considers advisable.

"§ 4069. Publication of decisions

"(a) The Court of Veterans Appeals shall provide for the publication of decisions of the Court in such form and manner as may be best adapted for public information and use. The Court may make such exceptions, or may authorize the chief judge to make such exceptions, to the requirement for publication in the preceding sentence as may be appropriate.

"(b) Such authorized publication shall be competent evidence of the decisions of the Court of Veterans Appeals therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

"(c) Such publications shall be subject to sale in the same manner and upon the same terms as other public documents.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"§ 4081. Employees

"The Court of Veterans Appeals may appoint such employees as may be necessary to execute the functions vested in the Court. Such appointments shall be made in accordance with the provisions of title 5 governing appointment in the competitive service, except that the Court may classify such positions based upon the classification of comparable positions in the judicial branch. The basic pay of such employees shall be fixed in accordance with subchapter III of chapter 53 of title 5.

"§ 4082. Budget and expenditures

"(a) The budget of the Court of Veterans Appeals as submitted by the Court for inclusion in the budget of the President for any fiscal year shall be included in that budget without review within the executive branch.

"(b) The Court may make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals) as may be necessary to execute efficiently the functions vested in the Court.

"(c) All expenditures of the Court shall be allowed and paid upon presentation of itemized vouchers signed by the certifying officer designated by the chief judge. Except as provided in section 4085 of this title, all such expenditures shall be paid out of moneys appropriated for purposes of the Court.

"§ 4083. Disposition of fees

"Except for amounts received pursuant to section 4085 of this title, all fees received by the Court of Veterans Appeals shall be covered into the Treasury as miscellaneous receipts.

"§ 4084. Fee for transcript of record

"The Court of Veterans Appeals may fix a fee, not in excess of the fee authorized by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record of any proceeding before the Court, or for copying any record, entry, or other paper and the comparison and certification thereof.

"§ 4085. Practice fee

"(a) The Court of Veterans Appeals may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed $30 per year.

"(b) Amounts received by the Court under subsection (a) of this section shall be available to the Court for the purposes of (1) employing independent counsel to pursue disciplinary matters, and (2) defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"§ 4091. Date when United States Court of Veterans Appeals decision becomes final

"(a) A decision of the United States Court of Veterans Appeals shall become final upon the expiration of the time allowed for filing, under section 4092 of this title, a notice of appeal from such decision, if no such notice is duly filed within such time. If such a notice is filed within such time, such a decision shall become final—

"(1) upon the expiration of the time allowed for filing a petition for certiorari with the Supreme Court of the United States, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;

"(2) upon the denial of a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or

"(3) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the Court of Veterans Appeals be affirmed or the appeal dismissed.

"(b)(1) If the Supreme Court directs that the decision of the Court of Veterans Appeals be modified or reversed, the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(2) If the decision of the Court of Veterans Appeals is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

"(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(B) the petition for certiorari has been denied, or

"(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final upon the expiration of 30 days from the time such decision of the Court of Veterans Appeals was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the Court of Veterans Appeals for a rehearing, and if—

"(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(2) the petition for certiorari has been denied, or

"(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered upon such rehearing shall become final in the same manner as though no prior decision of the Court of Veterans Appeals had been rendered.

"(d) As used in this section, the term 'mandate', in case a mandate has been recalled before the expiration of 30 days from the date of issuance thereof, means the final mandate.

"§ 4092. Review by United States Court of Appeals for the Federal Circuit

"(a) After a decision of the United States Court of Veterans Appeals is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of any statute or regulation (other than a refusal to review the schedule of ratings for disabilities adopted under section 355 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal with the Court of Veterans Appeals within the time and in the manner prescribed for appeal to United States courts of appeals from United States district courts.

"(b)(1) When a judge or panel of the Court of Veterans Apeals, in making an order not otherwise appealable under this section, determines that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that there is in fact a disagreement between the appellant and the Administrator with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the Court of Veterans Appeals. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the Court of Veterans Appeals, unless a stay is ordered by a judge of the Court of Veterans Appeals or by the Court of Appeals for the Federal Circuit.

"(2) For purposes of subsections (d) and (e) of this section, an order described in this paragraph shall be treated as a decision of the Court of Veterans Appeals.

"(c) The United States Courts of Appeals for the Federal Circuit shall have exclusive jurisdiction to review and decide any challenge to the validity of any statute or regulation or any interpretation thereof brought under this section, and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision. The judgment of such court shall be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

"(d)(1) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any statute or regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Veterans Appeals that the Court of Appeals for the Federal Circuit finds to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(D) without observance of procedure required by law.

"(2) Except to the extent that an appeal under this chapter presents a constitutional issue, the Court of Appeals may not review (A) a challenge to a factual determination, or (B) a challenge to a law or regulation as applied to the facts of a particular case.

"(e)(1) Upon such review, the Court of Appeals for the Federal Circuit shall have power to affirm or, if the decision of the Court of Veterans Appeals is not in accordance with law, to modify or reverse the decision of the Court of Veterans Appeals or to remand the matter, as appropriate.

"(2) Rules for review of decisions of the Court of Veterans Appeals shall be those prescribed by the Supreme Court under section 2072 of title 28.".

"(b) CLERICAL AMENDMENT.—The tables of chapters before part I and at the beginning of part V are each amended by inserting after the item relating to chapter 71 the following new item:

"72. Court of Veterans Appeals, 4051".

SEC. 302. INITIAL APPOINTMENT OF JUDGES TO COURT OF VETERANS APPEALS.

(a) CHIEF JUDGE TO BE APPOINTED FIRST.—The President may not appoint an individual to be an associate judge of the United States Court of Veterans Appeals under section 4053(b) of title 38, United States Code, as added by section 301, until the chief judge of such Court has been appointed. The President shall, during the period beginning on January 21, 1989, and ending on April 1, 1989, nominate an individual for appointment to the position of chief judge of such Court.

(b) JUDGES.—Subject to subsection (a), judges of the Court of Veterans Appeals may be appointed after February 1, 1989.

SEC. 303. FACILITY FOR PRINCIPAL OFFICE OF COURT.

In the implementation of section 4055 of title 38, United States Code (as added by section 301), the principal office of the Court of Veterans Appeals shall be located, if practicable, in a facility existing on the date of the enactment of this Act that, as determined by the Administrative Office of the United States Courts, would facilitate maximum efficiency and economy in the operation of the Court. The Administrative Office of the United States Courts shall take into consideration the convenience of the location of such facility to needed library resources, clerical and administrative support equipment and personnel, and other resources available for shared use by the Court and other courts or agencies of the Federal Government.

TITLE IV—EFFECTIVE DATES AND APPLICABILITY

SEC. 401. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, this Act (and the amendments made by this Act) shall take effect on September 1, 1989.

(b) EFFECTIVE DATE FOR CERTAIN TRANSITION PROVISIONS.—The amendment made by section 201(a) shall take effect on February 1, 1989.

(c) DATE OF ENACTMENT.—Sections 201 (other than subsection (a)), 208, 209, 302, and 303, and the amendments made by those sections, shall take effect on the date of the enactment of this Act.

(d) BOARD OF VETERANS APPEALS.—Sections 202 through 207 shall take effect on January 1, 1989.

(e) COMMENCEMENT OF OPERATION OF COURT OF VETERANS APPEALS.—Notwithstanding subsection (a), the United States Court of Veterans Appeals established pursuant to chapter 72 of title 38, United States Code (as added by section 301) shall not begin to operate until at least three judges have been appointed to the court.

SEC. 402. APPLICABILITY TO CASES AFTER DATE OF ENACTMENT.

Chapter 72 of title 38, United States Code, as added by section 301, shall apply with respect to any case in which a notice of disagreement is filed under section 4005 of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 403. APPLICABILITY TO ATTORNEYS FEES.

The amendment to section 3404(c) of title 38, United States Code, made by section 104(a) shall apply only with respect to services of agents and attorneys in cases in which a notice of disagreement if filed with the Veterans' Administration on or after the date of the enactment of this Act.

COURT INTERPRETER AMENDMENTS ACT

SIMON AMENDMENT NO. 3727

Mr. BYRD (for Mr. SIMON) proposed an amendment to the bill (S. 1867) to amend title 28, United States Code, to make certain improvements with respect to the Federal court interpreter program, and for other purposes, as follows:

SEC. 701. SHORT TITLE.

This act may be cited as the "Court Interpreter Amendments Act of 1988".

SEC. 702. AUTHORITY OF THE DIRECTOR.

Section 1827(a) is amended to read as follows:

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.".

SEC. 703. CERTIFICATION OF INTERPRETERS; OTHER QUALIFIED INTERPRETERS.

Section 1827(b) is amended to read as follows:

"(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of a circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Court Reform and Access to Justice Act of 1988.

"(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

"(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and doing so shall consider the prevailing rate of compensation for comparable service in other governmental entities.".

SEC. 704. LISTS OF INTERPRETERS: RESPONSIBILITY FOR SECURING SERVICES OF INTERPRETERS.

Section 1827(c) is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States Attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceeding available upon request.

"(2) The clerk or district executive of the court shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.".

SEC. 705. SOUND RECORDINGS.

Section 1827(d) is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) inserting "(1)" after "(d)"; and

(3) adding at the end thereof the following:

"(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters; and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.".

SEC. 706. AUTHORIZATION OF APPROPRIATIONS; PAYMENT FOR SERVICES OF INTERPRETERS.

Section 1827(g) is amended—

(a) by amending paragraphs (1), (2), and (3) to read as follows:

"(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this title and the Judicial Branch Improvements Act of 1988, except as provided in paragraph (3).

"(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

"(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.";

(b) by redesignating paragraph (4) as paragraph (5) and by inserting between paragraph (3) and paragraph (5), the following:

"(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the Clerk of the District Court or district executive upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.".

SEC. 707. APPROVAL OF COMPENSATION AND EXPENSES.

Section 1827(h) is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director.".

SEC. 708. DEFINITIONS.

Subsections (i) and (j) of section 1827 are amended to read as follows:

"(i) The term 'presiding judicial officer' as used in this section refers to any judge of a United States district court, including a bankruptcy judge, and a United States magistrate, or, for grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.

"(j) the term 'judicial proceedings' as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for writ of habeas corpus initiated in the name of the United States by a relator), instituted by the United States and conducted in, or pursuant to the lawful authority and jurisdiction of a United States district court. The term 'United States district court' as used in this subsection includes any court created by an Act of Congress in a State or territory which is invested with any jurisdiction of a District Court of the United States established by chapter 5 of this title.".

SEC. 709. SIMULTANEOUS INTERPRETATIONS.

Section 1827(k) is amended to read as follows:

"(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.".

SEC. 710. TECHNICAL AMENDMENTS.

(a) Section 1827(d) is amended—

(1) by striking out "competent" and inserting in lieu thereof "qualified";

(2) by striking out "any criminal" and all that follows through "relator)" and inserting in lieu thereof "judicial proceedings instituted by the United States"; and

(3) by striking out "such action" and inserting in lieu thereof "such judicial proceedings".

(b) Section 1827(e)(2) is amended by striking out "criminal or civil action in a United States district court" and inserting in lieu thereof "judicial proceedings instituted by the United States".

SEC. 711. IMPACT ON EXISTING PROGRAMS.

Nothing in this act shall be construed to terminate or diminish existing programs for the certification of interpreters.

SEC. 712. EFFECTIVE DATE.

This act shall become effective upon the date of enactment.

RELIEF OF RAJANI LAL

KENNEDY (AND SIMPSON) AMENDMENT NO. 3728

Mr. BYRD (for Mr. KENNEDY, for himself, and Mr. SIMPSON) proposed an amendment to the bill (H.R. 3917) for the relief of Rajani Lal, as follows:

At the end of the bill, add the following new section:

SEC. . MISCELLANEOUS PROVISIONS.

(a) TECHNICAL CORRECTIONS TO THE SPECIAL AGRICULTURAL WORKERS PROGRAM.—

(1) USE OF RETIRED FEDERAL EMPLOYEES.—Section 201(c)(2) of the Immigration Reform and Control Act of 1986 is amended in the first sentence—

(A) by striking out "18" and inserting in lieu thereof "30"; and

(B) by inserting after "this section" the following: "and with the implementation of the special agricultural worker program under section 210 of the Immigration and Nationality Act".

(2) USE OF FEES.—Section 210(b) of the Immigration and Nationality Act is amended by adding at the end thereof the following new paragraph:

"(8) USE OF APPLICATION FEES.—The Attorney General shall deposit fees collected, on or after the date of enactment of this paragraph, in connection with the filing of applications under subsection (a) in a separate account, and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.".

(b) EMERGENCY TARGETED ASSISTANCE GRANT.—Notwithstanding any other provision of law, of the funds appropriated for fiscal year 1989 pursuant to section 414(a)(1) of the Immigration and Nationality Act and made available to carry out section 412(c)(2) of such Act, not less than $1,000,000 shall be used for an emergency grant to a local educational agency to be designated by the Secretary of Health and Human Services, which shall be available for a one-year period to assist in meeting the costs of bilingual education, and the costs of other educational services needed particularly by Indochinese refugee children, which the community served by that local educational agency is unable to meet because of the sudden influx of Indochinese refugees (including secondary migration) involving an unusually large number of refugee children.

(c) Reappropriation of Fiscal Year 1988 Funds for Certain Public Schools.—(1)(A) From funds which were appropriated to the Department of Education for fiscal year 1988 and which were unobligated at the close of that fiscal year, $1,600,000 is reappropriated and shall be available to a local educational agency to be designated by the Secretary of Education, for payment of supplementary educational services and costs described in section 607(b) of the Emergency Immigrant Education Act of 1984 that are incurred as a result of a sudden and unsolicited secondary migration of refugees.

(B) Funds reappropriated pursuant to subparagraph (A) shall remain available for obligation until September 30, 1989. No such funds shall be used to reduce any subsequent allocation of funds under the Emergency Immigrant Education Act of 1984 to such local educational agency or the State in which it is situated.

(2) Funds made available by paragraph (1) shall be awarded to such local educational agency, upon submission to and approval by the Secretary of Education of an application that describes in detail the use of the funds. The Secretary of Education shall approve the application submitted by such local educational agency, if the Secretary determines that the proposed expenditures are reasonable in light of the purposes of the Emergency Immigrant Education Act of 1984.

(d) Technical Corrections to the Immigration Technical Corrections Act of 1988.—Effective as if included in the enactment of the Immigration Technical Corrections Act of 1988—

(1) section 2(n)(3) of such Act is amended by striking "and by redesignating subsection (d) as subsection (c)";

(2) section 2(r) of such Act is amended—

(A) by inserting "(1)" after ".", and

(B) by adding at the end the following new paragraph:

(2) Section 601(e) of IRCA is amended by striking 'thirty days' and inserting '3 months'.";

(3) section 8(d) of such Act is amended by striking "Section 4" and inserting "Section 5";

(4) section 9 of such Act is amended by adding at the end the following new subsection:

"(s) Except as otherwise provided in this section, the amendments made by this section shall be effective as if they were included in the enactment of the Immigration and Nationality Act Amendments of 1986."; and

(5) section 9(h) of such Act is amended by striking "1182" and inserting "1157(c)(1)".

DETAILED TABULATIONS OF ASIAN AMERICANS AND PACIFIC ISLANDERS IN THE DECENNIAL CENSUS OF POPULATION

KASTEN (AND OTHERS) AMENDMENT NO. 3729

Mr. DOLE (for Mr. Kasten, for himself, Mr. McCain, Mr. Trible, Mr. Humphrey, and Mr. Wallop) proposed an amendment to the bill (H.R. 4432) to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population; as follows:

On page 2, strike lines 1 through 12 and insert in lieu thereof the following:

"(A) shall include, in a checkoff format, each group identified in question 4 of the short form used in the 1980 decennial census of population; and

"(B) shall include a means to write in the name of any group not specified under subparagraph (A).

PRYOR AMENDMENT NO. 3730

Mr. BYRD (for Mr. Pryor) proposed an amendment to the bill H.R. 4432, supra; as follows:

At the end of the bill, add the following new section:

SECTION . QUESTIONS RELATING TO HOUSING.

(a) Definitions.—For the purpose of this section—

(1) the term "Secretary" means the Secretary of Commerce; and

(2) the term "census of population" has the meaning given such term under section 141 of title 13, United States Code.

(b) Questions for Inclusion.—The Secretary shall take appropriate measures to ensure that—

(1) each short form and each long form used in the 1990 decennial census of population shall include 1 or more questions relating to plumbing facilities in the respondent's housing unit; and

(2) each long form used in the 1990 decennial census of population shall include (and each short form used in such census may include) 1 or more questions relating to the heating or cooling of the respondent's housing unit, including at least 1 question relating to the type of equipment used in such heating or cooling, with heating questions receiving preference in the event of difficulty with available resources.

(c) Construction.—Nothing in this section shall, with respect to the forms used in the 1990 decennial census of population be considered to limit the Secretary's discretion to include questions in addition to any questions permitted or required to be included under the preceding provisions of this section.

RESTRICTIONS ON POST-EMPLOYMENT ACTIVITIES

THURMOND (AND OTHERS) AMENDMENT NO. 3731

Mr. THURMOND (for himself, Mr. Metzenbaum, and Mr. Levin) proposed an amendment to the bill (H.R. 5043) to amend section 207 of title 18, United States Code, relating to restrictions on post-employment activities, as follows:

Strike out all after the enacting clause and insert the following:.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Integrity in Post-Employment Act of 1988".

SEC. 2. RESTRICTIONS ON POST-EMPLOYMENT ACTIVITIES.

(a) Restrictions.—Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches; restrictions on partners of certain current officers and employees of the executive branch

"(a) Restrictions on All Officers and Employees of the Executive Branch and Certain Other Agencies.—

"(1) Permanent restrictions.—Any person who is an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States (including the Government Printing Office and the General Accounting Office), including the President, the Vice President, and any special Government employee, and who, after his or her service or employment with the United States Government terminates—

"(A) Knowingly acts as agent or attorney for, or otherwise represents, aids, or advise any other person (except the United States) concerning any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any department, agency, court, or court-martial of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter—

"(i) in which the United States is a party or has a direct and substantial interest,

"(ii) in which the person participated personally and substantially as such officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, and

"(iii) which involved a specific party or specific parties,

shall be punished as provided in subsection (h).

"(2) Two-year restrictions.—Any person subject to the restrictions contained in paragraph (1) who within 2 years after his or her service or employment with the United States Government terminates—

"(A) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any department, agency, court, or court-martial of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter—

"(i) in which the United States is a party or has a direct and substantial interest,

"(ii) which was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States Government, and

"(iii) which involved a specific party or specific parties,

shall be punished as provided in subsection (h).

"(3) ONE-YEAR RESTRICTIONS WITH RESPECT TO TRADE NEGOTIATIONS.—Any person subject to the restrictions contained in paragraph (1) who, within 1 year after his or her service or employment with the United States Government terminates—

"(A) knowingly acts as agent or attorney for, or otherwise represents, aids, or advises any other person (except the United States) concerning any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any department, agency, court, or court-martial of the United States, or any officer or employee thereof, in connection with any trade negotiation—

"(i) in which the United States is a party or has a direct and substantial interest, and

"(ii)(I) which was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States Government, or

"(II) in which such person participated personally and substantially as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States Government,

shall be punished as provided in subsection (h). For purposes of this paragraph, the term 'trade negotiation' means negotiations undertaken to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988. This paragraph applies only in a case in which neither paragraph (1) or (2) of this subsection applies.

"(b) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR EXECUTIVE BRANCH PERSONNEL.—

"(1) RESTRICTIONS.—In addition to the restrictions set forth in subsection (a), any person who is an officer or employee referred to in paragraph (2) (other than a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates) and who, within 1 year after his or her service or employment as such officer or employee terminates—

"(A) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or,

"(B) makes, with the intent to influence; any communication on behalf of any person (except the United States) to,

any department or agency in which such person served within 1 year before such person's service or employment as such officer or employee terminated, or any officer or employee thereof, in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, which is pending before such department or agency or in which such department or agency has a direct and substantial interest, shall be punished as provided in subsection (h).

"(2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (c) or (d)) employed in a position for which the basic rate of pay is equal to or greater than the basic rate of pay payable for GS-17 of the General Schedule, or ES-4, ES-5, or ES-6 in the Senior Executive Service pursuant to the Civil Service Reform Act of 1978, or positions held by active duty commissioned officers of the uniformed services who are serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade 0-7 or 0-8, or comparable rate of pay under other authority.

"(B) With respect to persons in positions described in subparagraph (A), the Director of the Office of Government Ethics shall, within 120 days of enactment of this Act, issue regulations which limit the restrictions of paragraph 1 to appropriate agencies or subagencies for each Department or agency in the executive branch, including any independent agency, which have separate and distinct subject matter jurisdiction, taking into account the purposes of this Act to prevent undue access or influence or the appearance of such. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of the Director's responsibilities under this paragraph.

"(c) RESTRICTIONS ON OTHER SENIOR EXECUTIVE BRANCH PERSONNEL.—In addition to the restrictions set forth in subsection (a), any person who—

"(1) is appointed to a position in the executive branch or an independent agency which is listed in section 5314, 5315, or 5316 or title 5, or

"(2) is appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3.

and who, within 1 year after that person's service in that position terminates—

"(A) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any department or agency in which such person served within 1 year before such person's service in such position terminated, or any officer or employee thereof, in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, change, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest shall be punished as provided in subsection (h).

"(d) RESTRICTIONS ON VERY SENIOR EXECUTIVE BRANCH PERSONNEL.—(1) In addition to the restrictions set forth in subsection (a), any person who—

"(A) serves in the position of President or Vice President of the United States.

"(B) is appointed to a position in the executive branch or an independent agency which is listed in section 5312 or 5313 of title 5,

"(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3, or

"(D) serves on active duty as a commissioned officer of a uniformed service in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade 0-9 or 0-10,

and who, within 1 year after that person's service in that position terminates—

"(i) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(ii) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any department, agency, or person in the executive branch, including any independent agency, in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, shall be punished as provided in subsection (h).

"(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFICERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH—

"(1) MEMBERS OF CONGRESS AND ELECTED OFFICERS.—(A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office—

"(i) knowingly acts as agent or attorney for, or other wise represents, any other person (except the United States) in any formal or informal appearance before, or

"(ii) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any of the persons described in subparagraph (B), in connection with any matter which is pending before the Congress or any matter on which such former Member of Congress or elected officer seeks action by the Congress or by a Member of Congress in his or her official capacity, shall be punished as provided in subsection (h).

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress or elected officer are any Member of Congress, elected officer, or employee of either House of Congress.

"(2) PERSONAL STAFF.—(A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after that employment terminates—

"(i) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(ii) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any of the persons described in subparagraph (B), in connection with any matter which is pending before the Congress or any matter on which such former employee seeks action by the Congress or by a Member of Congress in his or her official capacity, shall be punished as provided in subsection (h).

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

"(i) the Senator or Member of the House of Representative of whom that person was an employee, and

"(ii) any employee of that Senator or Member of the House of Representatives.

"(3) COMMITTEE STAFF.—Any person who is an employee of a committee of Congress and who, within 1 year after that person's employment as such employee terminates—

"(A) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(B) makes, with the intent to influence, any communication on behalf of any other person (except the United States) to,

any person who is a Member or an employee of that committee of Congress, in connection with any matter which is pending before the Congress or any matter on which such former employee seeks action by the Congress or by a Member of Congress in his or her official capacity, shall be punished as provided in subsection (h).

"(4) Leadership Staff.—(A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after that person's employment on such staff terminates—

"(i) knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or

"(ii) makes, with the intent to influence, any communication on behalf of any other person (except the United States), to

any of the persons described in subparagraph (B), in connection with any matter which is pending before the Congress or any matter on which such former employee seeks action by the Congress or a Member of Congress in his or her official capacity, shall be punished as provided in subsection (h).

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:

"(i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives, and any employee on the leadership staff of the House of Representatives; and

"(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate, and any employee on the leadership staff of the Senate.

"(5) Limitation on Restrictions.—(A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who was paid for services rendered as such employee at a rate of pay equal to or greater than the basic rate of pay payable for GS-16 of the General Schedule under sectin 5332 of title 5, for a period of more than 60 days during the 1-year period before that former employee's service as such employee terminated.

"(B) The restrictions contained in paragraphs (2), (3), and (4) shall not apply to any appearance, communication, or representation by a former Member of Congress, elected officer, or employee which is made in carrying out official duties as an officer or employee of the United States Government.

"(6) Definitions.—As used in this subsection—

"(A) the term 'committee of Congress' includes standing committees, joint committees, and select committees;

"(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

"(C) the term 'employee of the House of Representatives' means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representative, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

"(D) the term 'employee of the Senate' means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

"(E) a person is an employee of a member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;

"(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

"(G) the term 'employee on the leadership staff of the House of Representatives' means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (K), the minority sergeant at arms, and any policy-level employee appointed under authority of the minority party leadership of the House of Representatives;

"(H) the term 'employee on the leadership staff of the Senate' means an employee of the office of a Member of the leadership of the Senate described in subparagraph (L);

"(I) the term 'Member of Congress' means a Senator or a Member of the House of Representatives;

"(J) the term 'Member of the House of Representatives' means a Represenative in, or a Delegate or Resident Commissioner to, the Congress;

"(K) the term 'Member of the leadership of the House of Representatives' means the Speaker, majority leader, minority leader, majority whip, minority whip, chief majority whip, chief minority whip, Democratic Steering Committee, Democratic Caucus, Republican Conference, Republican Research Committee, and Republican Policy Committee, of the House of Representatives; and

"(L) the term 'Member of the leadership of the Senate' means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority or Conference of the Minority, Majority Policy Committee, and Minority Policy Committee, of the Senate.

"(f) Restrictions Relating to Foreign Entities.—

"(1) Restrictions.—Any person who is subject to the restrictions contained in subsection (b), (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in subsection (b), (c), (d), or (e), as the case may be, is employed by, represents, or advises a foreign entity shall be punished as provided in subsection (h).

"(2) Definition.—For purposes of this subsection, the term 'foreign entity' means—

"(A) the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, and

"(B) a foreign political party; or

"(C) a foreign organization which has been determined, upon request by a covered individual, by the Director of the Office of Government Ethics to be acting as an instrumentality of a foreign government or political party.

"(g)(1) Defense.—In an action under subsection (b), (c), (d), (e), or (f) of this section, it shall be an affirmative defense, which the defendant must establish by a preponderance of the evidence, that the defendant acted without receiving, or the expectation of receiving, directly or indirectly, whether in connection with a particular communication or representation of a person regarding a particular matter, any compensation, financial gain or remuneration.

"(2) As used in this subsection, the term 'compensation' means anything of value which is provided, directly or indirectly, for services rendered, including a payment, gift, benefit, reward, favor, or gratuity.

"(h) Penalties.—The punishment for an offense under subsection (a), (b), (c), (d), (e) or (f) is the following:

"(1) Any person who engages in the conduct constituting the offense shall be imprisoned for not more than 2 years or fined in the amount set forth in this title, or both.

"(2) Any person who willfully engages in the conduct constituting the offense shall be imprisoned for not more than 4 years or fined in the amount set forth in this title, or both.

"(i) General Exceptions.—

"(1) Certain Elected Officials and Employees.—(A) The restrictions contained in subsection (a) shall not apply to any appropriate, communication, or representation which is made in carrying out official duties as an elected official of a State or local government.

"(B) The restrictions contained in subsections (a)(2), (a)(3), (b), (c), (d), (e) and (f) shall not apply to any appearance, communication, or representation by a former Member of Congress or officer or employee of the executive or legislative branch, which is made in carrying out official duties as—

"(i) an elected official of a State or local government, or

"(ii) an employee of (I) an agency or instrumentality of a State or local government, (II) an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (III) a hospital or medical research organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, if the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization.

"(2) International Organizations.—The restrictions contained in subsections (a)(2), (a)(3), (b), (c), (d), (e) and (f) shall not apply to the employment by, representation of, or advice or aid to, an international organization of which the United States is a member except in cases in which the individual (1) had access to classified materials or intelligence information related to the international organization, or (2) had been officially responsible, in any way, for the determination or implementation of United States policies or programs associated with the international organization.

"(3) The restrictions contained in subsections (b), (c), (d), and (e) shall not apply to the making of public speeches or public appearances.

"(j) Exception for Scientific or Technological Information.—The restrictions contained in subsections (a), (b), (c), and (d) shall not apply with respect to the making of communications by a former officer or employee solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

"(k) RESTRICTIONS ON PARTNERS OF OFFICERS AND EMPLOYEES.—Any person who is a partner of an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States (including the Government Printing Office and the General Accounting Office), including the President, the Vice President, and any special Government employee, and who knowingly acts as agent or attorney for anyone other than the United States before any department, agency, court, or court-martial of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which—

"(1) the United States is a party or has a direct and substantial interest, and

"(2) such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise,

shall be imprisoned for not more than 1 year or fined in the amount set forth in this title, or both.

"(l) EXCEPTION FOR TESTIMONY.—Nothing in this section shall prevent a former Member of Congress or officer or employee of the executive or legislative branch from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(m) ADMINISTRATIVE DEPARTMENT.—

"(1) AUTHORITY.—If the head of a department or agency in which a former officer or employee of the executive branch or of an independent agency served finds, after notice and an opportunity for a hearing, that such former officer or employee knowingly engaged in conduct constituting an offense under subsection (a), (b), (c), or (d) of this section, such department or agency head may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any communication to, such department or agency on a pending matter of business for a period of not more than 5 years, or may take other appropriate discipinary action. For purposes of this subsection, proof of conduct constituting an offense must be established by a preponderance of the evidence.

"(2) REVIEW OF DISCIPLINARY ACTION.—Any disciplinary action under paragraph (1) shall be subject to review in an appropriate United States district court.

"(3) PROCEDURES.—Departments and agencies in the executive branch and independent agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection.

"(n) CIVIL PENALTIES.—The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under subsection (a), (b), (c), (d), (e), (f) or (j) and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000, or the amount of compensation which the person receives for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other remedy which is available by law to the United States or any other person.

"(o) INJUNCTIVE RELIEF.—If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under subsection (a), (b), (c), (d), (e), or (j), the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court shall order the trial of the action on the merits to be advanced and consolidated with the hearing on the petition. The court may issue such order if it finds that such conduct constitutes such an offense. The filing of a petition under this subsection does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 11 of title 18, United States Code is amended by amending the item relating to section 207 to read as follows:

"207. Restrictions on former officers [employees, and elected officials of the executive and legislative branches; restrictions on partners of certain current officers and employees of the executive branch.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this Act and the amendments made by this Act take effect 9 months after the date of the enactment of this Act.

(b) EFFECT ON EMPLOYMENT—(1) The amendments made by this Act apply only to persons whose service as a Member of Congress or an officer or employee to which such amendments apply terminates on or after the effective date of such amendments.

(2) With respect to service as an officer or employee which terminates before the effective date of this Act, section 207 of title 18, United States Code, as in effect at the time of the termination to such service, shall continue to apply, on and after such effective date, with respect to such service.

SEC. 4. SEVERABILITY.

If any provision of this Act, including the amendments made by this Act, or the application of any such provision to any circumstance or person is held invalid, the remainder of this Act, or the application of such provisions to any other circumstance or person is not afforded thereby.

INCREASED PENALTIES FOR MAJOR FRAUDS AGAINST THE UNITED STATES

CRANSTON AMENDMENT NO. 3732

Mr. CRANSTON proposed an amendment to the bill (H.R. 3911) to amend title 18, United States Code, to provide increased penalties for certain major frauds against the United States, as follows:

At the end of the bill insert:

That (a) notwithstanding section 2675 of title 28, United States Code, and section 2401(b) of such title, or any other limitation on actions at law or in equity, the United States District Court for the District of Columbia shall have jurisdiction to hear, determine, and render judgment on any claim of Paulette Mendes-Silva against the United States for personal injuries which she allegedly incurred after an innoculation on March 12, 1963, by an employee of the Public Health Service of the United States Department of Health, Education, and Welfare. Any such claim of Paulette Mendes-Silva shall be brought within six months after the date of the enactment of this Act. The court shall apply the laws of the District of Columbia in such case.

(b) Nothing in this Act shall be construed as an inference of liability on the part of the United States.

BUMPERS AMENDMENT NO. 3733

Mr. METZENBAUM (for Mr. BUMPERS) proposed an amendment to the bill H.R. 3911, supra, as follows:

On page 6, delete lines 11 through 24.

On page 7, delete lines 1 through 16.

METZENBAUM (AND GRASSLEY) AMENDMENT NO. 3734

Mr. METZENBAUM (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 3911, supra, as follows:

On page 4, lines 19-20, delete "from the United States".

On page 4, lines 2-23, delete "for the Government" and insert in lieu thereof the following:

"as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States".

On page 6, lines 9-10, delete "allowed under 18 U.S.C. section 3292" and insert in lieu thereof, "otherwise allowed by law."

On page 8, lines 16-17, delete the following:

", including an additional incarceration of two years in cases under this section,".

On page 8, line 19, insert the following after "occurred."

"The Commission shall consider the appropriateness of assigning to such a defendant an offense level under Chapter Two of the sentencing guidelines that is at least two levels greater than the level that would have been assigned had conscious or reckless risk of serious personal injury not resulted from the fraud."

Delete line 19 on page 5 through line 6 on page 6 and insert in lieu thereof the following:

"(e) In determining the amount of the fine, the court shall consider the factors set forth in 18 U.S.C. sections 3553 and 3572, and the factors set forth in the guidelines and policy statements of the United States Sentencing Commission, including—

"(A) the need to reflect the seriousness of the offense, including the harm or loss to the victim and the gain to the defendant;

"(B) whether the defendant previously has been fined for a similar offense; and

"(C) any other pertinent equitable considerations."

GRASSLEY (AND OTHERS) AMENDMENT NO. 3735

Mr. GRASSLEY (for himself, Mr. LEVIN, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 3911, supra, as follows:

On page 14, below line 3, insert the following:

SEC. 7. LIMITATIONS ON ALLOWABILITY OF COSTS INCURRED BY FEDERAL GOVERNMENT CONTRACTORS IN CERTAIN PROCEEDINGS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 305 the following new section 306:

"LIMITATIONS ON ALLOWABILITY OF COSTS INCURRED BY CONTRACTORS IN CERTAIN PROCEEDINGS

"SEC. 306. (a) Except as otherwise provided in this section, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (1) relates to a violation of, or a failure to comply with, a Federal or State statute or regulation, and (2) results in a disposition described in subsection (b).

"(b) A disposition referred to in subsection (a)(2) is any of the following:

"(1) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in subsection (a).

"(2) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in subsection (a).

"(3) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in subsection (a).

"(4) A final decision by an appropriate official of an executive agency—

"(A) to debar or suspend the contractor;

"(B) to rescind or void the contract; or

"(C) to terminate the contract for default, by reason of the violation or failure referred to in subsection (a).

"(5) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in paragraph (1), (2), (3), or (4).

"(c) In the case of a proceeding referred to in subsection (a) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such subsection may be allowed to the extent specifically provided in such agreement.

"(d) In the case of a proceeding referred to in subsection (a) that is commenced by a State, the head of the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (1) a specific term or condition of the contract, or (2) specific written instructions of the agency.

"(e)(1) Except as provided in paragraph (3), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under subsection (a), but only to the extent provided in paragraph (2).

"(2)(A) The amount of the costs allowable under paragraph (1) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the single Government-wide procurement regulation issued pursuant to section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)).

"(B) Regulations issued for the purpose of subparagraph (A) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(3) In the case of a proceeding referred to in paragraph (1), contractor costs otherwise allowable as reimbursable costs under this subsection are not allowable if (A) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (B) the costs of such other proceeding are not allowable under subsection (a).

"(f) As used in this section:

"(1) The term 'covered contract' means a contract for an amount more than $100,000 entered into by an executive agency other than a fixed-price contract without cost incentives.

"(2) The term 'proceeding' includes an investigation.

"(3) The term 'costs', with respect to a proceeding—

"(A) means all costs incurred by a contractor, whether before or after the commencement of such proceeding; and

"(B) includes—

"(i) administrative and clerical expenses;

"(ii) the cost of legal services, including legal services performed by an employee of the contractor;

"(iii) the cost of the services of accountants and consultants retained by the contractor; and

"(iv) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(4) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.".

(2) The table of contents in the first section of such Act is amended by inserting after the item relating to section 305 the following new item:

"306. Limitation on allowability of costs incurred by contractors in certain proceedings.".

(b) AMENDMENTS TO TITLE 10.—Section 2324 of title 10, United States Code, is amended—

(1) in subsection (e)—

(A) by striking out subparagraph (N) and inserting in lieu thereof the following:

"(N) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).";

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2); and

(2) by striking out subsection (k) and inserting in lieu thereof the following:

"(k)(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision by the Department of Defense—

"(i) to debar or suspend the contractor;

"(ii) to rescind or void the contract; or

"(iii) to terminate the contract for default. by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the head of the agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the single Government-wide procurement regulation issued pursuant to section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)).

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(l)(1) In this section, the term 'covered contract' means a contract for an amount more than $100,000 entered into by the Department of Defense other than a fixed-price contract without cost incentives.

"(2) In subsection (k):

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.".

(c) TECHNICAL AMENDMENT.—Section 832(b) of the National Defense Authorization Act, Fiscal Year 1989 is repealed.

(d) REGULATIONS.—The regulations necessary for the implementation of section 306(e) of the Federal Property and Administrative Services Act of 1949 (as added by subsection (a)) and section 2324(k)(5) of title 10, United States Code (as added by subsection (b))—

(1) shall be prescribed not later than 120 days after the date of the enactment of this Act; and

(2) shall apply to contracts entered into more than 30 days after the date on which such regulations are issued.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect with respect to contracts awarded after the date of the enactment of this Act.

GRASSLEY AMENDMENT NO. 3736

Mr. GRASSLEY proposed an amendment to the bill H.R. 3911, supra as follows:

At the appropriate place in the bill, insert the following:

SEC . QUI TAM ACTIONS.

(a) AWARDS OF DAMAGES.—Section 3730(d) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.".

(b) TECHNICAL AMENDMENTS.—Section 3730 of title 28, United States Code, is amended—

(1) in subsection (c)(4) by inserting "the" after "Government proceeds with"; and

(2) in subsection (d)(4), as redesignated by subsection (a)(1) of this section, by striking out "actions" and inserting in lieu thereof "action".

NATIONAL COMMISSION ON THE THRIFT INDUSTRY

PROXMIRE AMENDMENT NO. 3737

Mr. PROXMIRE proposed an amendment to the amendment of the House to the bill (S. 2653) to establish a National Commission on the Thrift Industry, as follows:

In lieu of the language proposed to be inserted by the House, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Proxmire Financial Modernization Act of 1988".

BYRD AMENDMENT NO. 3738

Mr. BYRD proposed an amendment to amendment No. 3737 proposed by Mr. PROXMIRE to the amendment of the House to the bill S. 2653, supra, as follows:

Strike out all after the first word, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Proxmire Financial Modernization Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—QUALIFIED AFFILIATES OF BANK HOLDING COMPANIES

Sec. 101. Authorization for bank holding companies to acquire qualified affiliates.
Sec. 102. Definition of qualified affiliate.
Sec. 103. Ninety-one day rule for qualified affiliate applications.
Sec. 104. Effect on State laws prohibiting the affiliation of banks and certain companies.
Sec. 105. Amendment to the Federal Reserve Act.
Sec. 106. Certain affiliations of FDIC-insured banks.
Sec. 107. Authorization for national banks to underwrite municipal revenue bonds, sponsor unit investment trusts, and distribute investment company securities.
Sec. 108. Amendments to the International Banking Act of 1978.
Sec. 109. Diversified financial holding companies.
Sec. 110. Study of the national payments system.
Sec. 111. Congressional vote on whether to permit qualified affiliates to underwrite equity securities.

TITLE II—EXPEDITED PROCEDURES

Sec. 201. Expedited procedures for forming a bank holding company.
Sec. 202. Expedited procedures for bank holding companies to seek approval to engage in nonbanking activities.
Sec. 203. Reduction of post-approval waiting period for bank holding company acquisitions.
Sec. 204. Reduction of post-approval waiting period for bank mergers.
Sec. 205. Amendments to the Depository Institution Management Interlocks Act.
Sec. 206. Bankers' banks.

TITLE III—STRENGTHENED ENFORCEMENT AUTHORITY

Sec. 301. Short title.

PART A—REGULATION OF BANKS

Sec. 311. Amendments to the Federal Deposit Insurance Act.
Sec. 312. Penalty for violation of "Change in Bank Control Act".
Sec. 313. Reports.

PART B—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

Sec. 321. Definition of institution-related party.
Sec. 322. Cease and desist orders.
Sec. 323. Service corporations.
Sec. 324. Temporary orders.
Sec. 325. Removal and suspension.
Sec. 326. Retention of jurisdiction.
Sec. 327. Penalties.
Sec. 328. Civil penalty.
Sec. 329. Definitions.
Sec. 330. Reports of condition.
Sec. 331. Technical amendments.
Sec. 332. Penalty for failure to report.
Sec. 333. Repealer.

PART C—CREDIT UNIONS

Sec. 341. Amendments to section 206.
Sec. 342. Amendments to section 205.

TITLE IV—TRUTH IN SAVINGS AND INVESTMENTS

Sec. 401. Short title.
Sec. 402. Findings and purpose.
Sec. 403. Definitions.
Sec. 404. Disclosure of yields and terms of accounts.
Sec. 405. Account schedule.
Sec. 406. Disclosure requirements for certain accounts.
Sec. 407. Distribution of schedules.
Sec. 408. Payment of interest.
Sec. 409. Regulations.
Sec. 410. Administrative enforcement.
Sec. 411. Civil liability.
Sec. 412. Credit unions.
Sec. 413. Review of disclosure requirements for open-end management investment companies.
Sec. 414. Effect on State law.
Sec. 415. Effective date.

TITLE V—HOME EQUITY LOANS

Sec. 501. Short title.
Sec. 502. Disclosure and advertising requirements for home equity loans.
Sec. 503. Effective date.

TITLE VI—INSURANCE ACTIVITIES

Sec. 601. Short title.
Sec. 602. Amendments to the Bank Holding Company Act of 1956 relating to insurance activities.
Sec. 603. Amendments to the National Bank Act.
Sec. 604. Effective date.

TITLE VII—CONSUMER PROTECTION PROVISIONS

Subtitle A—Government Check Cashing

Sec. 701. Short title.
Sec. 702. Government check cashing account.
Sec. 703. Posting of notices.
Sec. 704. Administrative enforcement.
Sec. 705. Exclusion of banks with assets of not more than $25 million.
Sec. 706. Regulations.
Sec. 707. Definitions.
Sec. 708. Effective date.
Sec. 709. Studies and reports.

Subtitle B—Notice of Branch Closures by Banks and Thrift Institutions

Sec. 711. Short title.
Sec. 712. Notice requirements for national banks.
Sec. 713. Notice requirements for thrift institutions.
Sec. 714. Effective date.

TITLE VIII—MISCELLANEOUS

Sec. 801. Limitations on grandfathered nonbank banks owned by bank holding companies.
Sec. 802. Joint marketing restrictions.
Sec. 803. Industrial banks.
Sec. 804. Status of certain company controlled by savings banks.
Sec. 805. Certain management interlocks not affected.
Sec. 806. Expedited funds availability.
Sec. 807. Payroll tax filing service organizations.
Sec. 808. Effectuating the principle of national treatment for banks.
Sec. 809. Study of merger of commerce and banking.
Sec. 810. Increased penalties under the Bank Holding Company Act.
Sec. 811. Financial consumers associations.
Sec. 812. Conversion of mutual savings and loan associations into stock associations.
Sec. 813. Expansion of use of underutilized minority banks, women's banks, and low income credit unions.
Sec. 814. Amendment to the Export-Import Bank Act of 1945.
Sec. 815. Directors of national banks.

TITLE IX—DEPOSIT INSURANCE COMMISSION

Sec. 901. Establishment of Commission.
Sec. 902. Membership of Commission.
Sec. 903. Functions of Commission.
Sec. 904. Powers of Commission.
Sec. 905. Expenses of Commission.
Sec. 906. Termination of Commission.

TITLE I—QUALIFIED AFFILIATES OF BANK HOLDING COMPANIES

SEC. 101. AUTHORIZATION FOR BANK HOLDING COMPANIES TO ACQUIRE QUALIFIED AFFILIATES.

Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end thereof the following new paragraph:

"(15)(A) QUALIFIED AFFILIATES.—Notwithstanding any provision of the Banking Act of 1933 (other than section 21 of that Act), shares of a qualified affiliate which may, in accordance with this paragraph, do one or more of the following:

"(i) Engage in underwriting, distributing, or dealing in securities of any type.

"(ii) Engage in securities brokerage, private placement, investment advisory, or other securities activities.

"(iii) Engage in, or acquire the shares of a company engaged in, any activity that is not described in clause (i) or (ii) of this subparagraph, if another provision of this section permits a bank holding company or subsidiary thereof to engage in that activity or acquire those shares, and—

"(I) the Board permits the bank holding company to engage in that activity or acquire those shares through the qualified affiliate, or

"(II) that provision permits the bank holding company or a subsidiary thereof to engage in that activity or acquire those shares without the Board's approval.

"(B) APPLICATION REQUIREMENTS.—

"(i) Except as provided in subparagraph (D)(ii) of this paragraph, a bank holding company shall not directly or indirectly acquire or retain shares of a qualified affiliate under this paragraph without complying with this subparagraph.

"(ii) The following provisions shall apply during the 4 years following the date of enactment of the Proxmire Financial Modernization Act of 1988:

"(I) A bank holding company shall not acquire or retain shares of a qualified affiliate pursuant to this paragraph without the Board's prior approval.

"(II) In acting on an application under this paragraph, the Board shall apply the criteria specified in this subparagraph, in subparagraphs (C) and (D)(i) of this paragraph, and in paragraph (8)(B)(iv) of this subsection.

"(III) The Board shall not approve an application under this paragraph unless the Board is satisfied that the bank holding company possesses the managerial resources to conduct the securities activities safely and soundly. In making that determination, the Board shall take into account the experience of management and its record of successfully managing the bank holding company or enterprises engaged in activities that are the same as or similar to those authorized for qualified affiliates under this paragraph.

"(iii) Beginning 4 years after the date of enactment of the Proxmire Financial Modernization Act of 1988, a bank holding company seeking to acquire or retain shares pursuant to this paragraph shall comply with paragraph (8)(B) of this subsection. In making a determination under that paragraph, the Board shall apply the criteria specified in clause (iv) of that paragraph and in subparagraphs (C) and (D)(i) of this paragraph.

"(C) CONCENTRATION OF RESOURCES.—

"(i) The Board shall disapprove any acquisition pursuant to this paragraph that would result in the affiliation of—

"(I) a bank holding company or bank that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $30,000,000,000, with

"(II) an investment banking organization that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $15,000,000,000.

"(ii) The dollar limitations in clause (i) of this subparagraph shall be adjusted annually after December 31, 1988, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this subsection.

"(D) INVESTMENT IN A QUALIFIED AFFILIATE.—

"(i) A bank holding company shall not acquire control of a qualified affiliate pursuant to this paragraph if the acquisition would reduce the bank holding company's capital below the minimum level established by the Board for bank holding companies.

"(ii) A bank holding company that has acquired control of a qualified affiliate pursuant to this paragraph shall not directly or indirectly make any additional equity investment in the qualified affiliate unless it gives the Board prior written notice of the proposed investment and—

"(I) the Board issues a written statement of its intent not to disapprove the notice; or

"(II) the Board does not disapprove the notice within 30 days after the notice is filed.

"(iii) The Board may disapprove a notice filed under clause (ii) if the Board finds that the investment would reduce the bank holding company's capital below the minimum level established by the Board or would otherwise be unsafe or unsound or inconsistent with the bank holding company's obligation to serve as a source of strength to its subsidiary banks.

"(E) CAPITAL STANDARDS.—(i) In determining whether a bank holding company complies with the capital requirements or guidelines established by the Board for bank holding companies—

"(I) the bank holding company's capital and total assets shall each be reduced by an amount equal to the amount of the bank holding company's equity investment in any qualified affiliate, and by an amount equal to the amount of any extensions of credit by the bank holding company to any qualified affiliate that are considered capital for purposes of any capital requirement applicable to the qualified affiliate,

"(II) the assets and liabilities of the qualified affiliate shall not be consolidated with those of the bank holding company, and

"(III) the bank holding company's total assets and total liabilities shall each be reduced by an amount equal to the amount of the bank holding company's extensions of credit to any qualified affiliate, excluding extensions of credit described in subclause (I).

"(ii) Clause (i) of this subparagraph does not apply to the extent that the Board determines by order that an item described in that clause relates to activities that are not described in clause (i) or (ii) of subparagraph (A) of this paragraph.

"(F) LIMITATIONS ON QUALIFIED AFFILIATES AND THEIR AFFILIATES.—

"(i) No bank or insured institution affiliated with a qualified affiliate shall, directly or indirectly—

"(I) extend credit in any manner to the qualified affiliate or a subsidiary thereof,

"(II) purchase for its own account financial assets of the qualified affiliate or a subsidiary thereof,

"(III) issue a guarantee, acceptance, or letter of credit, including an endorsement or a standby letter of credit, for the benefit of the qualified affiliate or a subsidiary thereof, or

"(IV) extend credit in any manner to any investment company advised by or the shares of which are distributed by the qualified affiliate.

"(ii) Clause (i)(I) of this subparagraph does not apply to any extension of credit by a bank or insured institution made to acquire or sell any securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies if—

"(I) the extension of credit is to be repaid on the same calendar day,

"(II) the extension of credit is incidental to the clearing of transactions in those securities through that bank or insured institution, and

"(III) both the principal of and the interest on the extension of credit are fully secured by securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies.

"(iii) No bank or insured institution affiliated with a qualified affiliate shall directly or indirectly extend credit, or issue or enter into a standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility, for the purpose of enhancing the marketability of a securities issue underwritten or distributed by the qualified affiliate.

"(iv) No bank holding company or subsidiary thereof (other than a qualified affiliate) shall knowingly extend or arrange for the extension of credit, directly or indirectly, secured by or for the purpose of purchasing any security while, or for 30 days after, that security is the subject of a distribution in which a qualified affiliate of that bank holding company participates as an underwriter or a member of a selling group.

"(v) No bank or insured institution affiliated with a qualified affiliate shall, directly or indirectly, extend credit to an issuer of securities underwritten by the qualified affiliate for the purpose of paying the principal of those securities or interest or dividends on those securities. Nothing in this clause prohibits an extension of credit for a documented purpose (other than paying principal, interest, or dividends) if the timing, maturity, and other terms of the credit, taken as a whole, are substantially different from those of the underwritten securities.

"(vi)(I) No officer or director of a qualified affiliate shall serve at the same time as an officer or director of any affiliated bank or insured institution.

"(II) Notwithstanding subclause (I) of this clause, an officer or director of a qualified affiliate may serve at the same time as an officer or director of an affiliated bank or insured institution if the qualified affiliate and the affiliated bank or insured institution are subsidiaries of a bank holding company that has total banking assets of not more than $500,000,000.

"(III) The dollar limitation in subclause (II) of this clause shall be adjusted annually after December 31, 1988, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this section.

"(IV) The Board may, by order or by regulation, grant exemptions from subclause (I) of this clause. In determining whether to grant such exemptions, the Board shall consider the size of the bank holding companies, banks, and qualified affiliates involved, any burdens that may be imposed by subclause (I), the safety and soundness of the banks and qualified affiliates, and other appropriate factors, including unfair competition or the improper exchange of nonpublic customer information.

"(vii) Pursuant to regulations issued by the Board, a qualified affiliate shall prominently disclose in writing to each of its customers—

"(I) that the qualified affiliate is not a bank or insured institution and is separate from any affiliated bank or insured institution; and

"(II) that securities sold, offered, or recommended by the qualified affiliate are not deposits, are not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are not guaranteed by an affiliated bank or insured institution, and are not otherwise an obligation of such a bank or insured institution.

"(viii) No bank, insured institution, or subsidiary thereof shall express an opinion on the value of, or the advisability of purchasing or selling, securities underwritten, distributed, or dealt in by an affiliated qualified affiliate unless the bank, insured institution, or subsidiary discloses to the customer that the qualified affiliate is underwriting, distributing, or dealing in the securities.

"(ix) No bank, insured institution, or subsidiary thereof shall disclose to an affiliated qualified affiliate, nor shall a qualified affiliate disclose to an affiliated bank, insured institution, or subsidiary thereof, any nonpublic customer information (including an evaluation of the creditworthiness of an issuer or other customer of that bank, insured institution, subsidiary, or qualified affiliate) without the consent of that customer.

"(x) A qualified affiliate shall not underwrite or distribute securities secured by or representing an interest in mortgages or other obligations originated by an affiliated bank, insured institution, or subsidiary thereof unless those securities—

"(I) are rated by an unaffiliated, nationally recognized statistical rating organization;

"(II) are issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association; or

"(III) represent interests in securities described in subclause (II) of this clause;

"(xi) Each appropriate Federal banking agency shall establish a program for—

"(I) enforcing compliance with this paragraph by banks or insured institutions under its supervision; and

"(II) responding to any complaints from customers about inappropriate cross-marketing of securities products or inadequate disclosure.

"(xii) The authority granted to the Federal banking agencies by this paragraph shall be in addition to, and not in derogation of, any other authority provided by Federal law.

"(G) QUALIFIED AFFILIATES APPROVED UNDER PARAGRAPH (8).—

"(i) Effective after the expiration of 180 days after the date of enactment of this paragraph, no bank holding company may engage in, or retain the shares of any company engaged in, activities of the type described in subparagraph (A)(i) of this paragraph on the basis of the Board's approval of an application under paragraph (8) of this subsection—

"(I) unless the bank holding company obtains the Board's approval to retain the shares of that company pursuant to this paragraph; or

"(II) except to the extent that those activities are specifically authorized by statute for a national bank and involve securities that are expressly described in that statute, or that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(ii) The Board shall, after the date of enactment of this paragraph, disapprove any notice by a bank holding company under paragraph (8) of this subsection to engage in, or acquire the shares of a company engaged in, any activity that is described in subparagraph (A)(i), except to the extent that the activity is described in clause (i)(II) of this subparagraph.

"(H) ACTIVITIES PERMITTED FOR BANK AFFILIATES.—A bank holding company that acquires control of a qualified affiliate under this paragraph shall not, after one year from the date of that acquisition, permit a bank or insured institution that it controls or any subsidiary thereof to engage, directly or indirectly, in the United States—

"(i) in activities described in subparagraph (A)(i) (except to the extent that those activities are described in subparagraph (G)(i)(II)); or

"(ii) in underwriting or distributing securities backed by or representing an interest in mortgages or other obligations originated or purchased by the bank or its affiliates.

"(I) COMPLIANCE WITH RISK-BASED CAPITAL STANDARDS.—

"(i) Notwithstanding subparagraph (A) of this paragraph, a qualified affiliate shall not commence any of the following activities unless each of its affiliated banks is in compliance with any applicable risk-based capital standards issued by the appropriate Federal banking agency:

"(I) underwriting, distributing, or dealing in unsecured corporate debt securities that at the time of issuance have a maturity of one year or more; or

"(II) underwriting, distributing, or dealing in equity securities other than those issued by an investment company registered under the Investment Company Act of 1940.

"(ii) A bank is in compliance with the capital standards described in clause (i) if that bank is in compliance with a schedule for achieving compliance with those standards prescribed by the appropriate Federal banking agency.

"(J) DEFINITIONS AND RULES OF CONSTRUCTION.—For purposes of this paragraph:

"(i) A branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank (as the terms 'agency', 'branch', 'commercial lending company', and 'foreign bank' are defined in section 1 of the International Banking Act of 1978, shall be considered a bank.

"(ii)(I) In the case of any bank holding company that controls a depository institution described in section 19(b)(1)(A)(vii) of the Federal Reserve Act and a qualified affiliate, any company that owns any interest in or participates in the activities of that bank holding company or depository institution, and any subsidiary of any such company, shall be treated as a bank or insured institution subsidiary of that bank holding company.

"(II) Subclause (I) of this clause shall not apply with respect to any bank, and any affiliate of that bank, if the aggregate amount of the interests held by that bank and all affiliates of that bank in a bank holding company or depository institution described in subclause (I) do not exceed 5 percent of all interests in that bank holding company or depository institution.

"(iii) The term 'appropriate Federal banking agency' means the agencies referred to in section 3(q) of the Federal Deposit Insurance Act with respect to banks referred to in that section and the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) with respect to insured institutions.

"(iv) The terms 'deal in' and 'dealing in' do not include purchasing or selling securities for the account of another person.

"(v) The term 'securities' does not include insurance and the term 'securities activities' does not include insurance activities.

"(K) PHASE-IN OF OR SEPARATE CONGRESSIONAL VOTE ON CERTAIN SECURITIES ACTIVITIES.—Notwithstanding subparagraph (A) of this paragraph, a qualified affiliate shall not—

"(i) engage before 180 days after the date of enactment of the Proxmire Financial Modernization Act of 1988, in underwriting, distributing, or dealing in—

"(I) unsecured corporate debt securities that at the time of issuance have a maturity of one year or more, or

"(II) securities issued by an investment company registered under the Investment Company Act of 1940; or

"(ii) engage in underwriting, distributing, or dealing in equity securities, other than those issued by an investment company registered under the Investment Company Act of 1940, except as authorized pursuant to a joint resolution pursuant to section 111 of the Proxmire Financial Modernization Act of 1988.".

SEC. 102. DEFINITION OF QUALIFIED AFFILIATE.

Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(n) QUALIFIED AFFILIATE.—The term 'qualified affiliate' means any company that is engaged in the United States pursuant to section 4(c)(15)(A) of this Act in one or more of the activities described in that section.".

SEC. 103. NINETY-ONE DAY RULE FOR QUALIFIED AFFILIATE APPLICATIONS.

(a) NINETY-ONE DAY RULE.—Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking out "paragraph (8)" in the penultimate sentence and inserting in lieu thereof "paragraph (15)".

(b) SUNSET PROVISION.—The penultimate sentence of section 4(c) of the Bank Holding Company Act of 1956 (as amended by this Act) is repealed, effective 4 years after the date of enactment of this Act.

SEC. 104. EFFECT ON STATE LAWS PROHIBITING THE AFFILIATION OF BANKS AND CERTAIN COMPANIES.

Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended by inserting before the final period the following: ", except that no State may prohibit the affiliation of a bank or bank holding company with a qualified affiliate solely because the qualified affiliate is engaged in activities described in clause (i) or (ii) of section 4(c)(15)(A) of this Act".

SEC. 105. AMENDMENT TO THE FEDERAL RESERVE ACT.

Section 23B(b)(1)(B) of the Federal Reserve Act (12 U.S.C. 371c-1(b)(1)(B)) is amended by inserting "and for 30 days thereafter" after "during the existence of any underwriting or selling syndicate".

SEC. 106. CERTAIN AFFILIATIONS OF FDIC-INSURED BANKS.

(a) AFFILIATIONS.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended by sections 109(b) and 602(b) of this Act, is amended by adding at the end thereof the following new subsection:

"(k) CERTAIN AFFILIATIONS OF FDIC-INSURED BANKS.—

"(1) GENERAL RULE.—Except as provided in subsection (c)(15) of this section, an insured bank (as that term is defined in section 3(h) of the Federal Deposit Insurance Act) shall not be an affiliate of any company that directly or indirectly acts in the United States as an underwriter or dealer of any security, other than a security that a national bank is specifically authorized by statute to underwrite or deal in and—

"(A) that is expressly described in that statute; or

"(B) that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—This subsection does not apply to—

"(i) an insured bank that is described in subparagraph (D), (H), or (I) of section 2(c)(2); or

"(ii) a foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 solely because it has an insured branch in the United States.

"(B) CREDIT CARD BANKS.—This subsection and sections 20 and 32 of the Banking Act of 1933 do not apply to any bank that is described in section 2(c)(2)(F).

"(3) GRANDFATHER PROVISION.—This subsection does not prohibit—

"(A) the continuation of any affiliation that existed on March 5, 1987; or

"(B) any affiliation by an insured bank that has an affiliation that would be prohibited if it were not covered by subparagraph (A) of this paragraph.

"(4) TRANSITION RULE.—An affiliation that became unlawful as a result of the enactment of the Competitive Equality Amendments of 1987, or that becomes unlawful as a result of the enactment of the Proxmire Financial Modernization Act of 1988, may continue until August 10, 1989.".

(b) CONFORMING AMENDMENT.—Clause (i) of section 408(m)(1)(A) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)) is amended by inserting after "clause (iii) of this subparagraph," the following: "and in section 4(k) of the Bank Holding Company Act of 1956,".

(c) TECHNICAL AMENDMENT.—Section 18(j)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)(A)) is amended by striking "or any provision of section 20 of the Banking Act of 1933" and inserting "or any provision of paragraph (6) of this subsection".

(d) LIMITATIONS ON CERTAIN ACTIVITIES INVOLVING MUNICIPAL REVENUE BONDS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end thereof the following new paragraph:

"(6) LIMITATIONS ON CERTAIN ACTIVITIES INVOLVING CERTAIN MUNICIPAL SECURITIES.—

"(A) UNDERWRITING OR DISTRIBUTION BY AFFILIATE OF INSURED BANK.—No affiliate of an insured bank shall underwrite or distribute securities described in subparagraph (C) of this paragraph unless that insured bank, as well as any affiliated insured institution (as defined in section 408(a)(1) of the National Housing Act), complies with section 4(c)(15)(F)(iii) of the Bank Holding Company Act of 1956 in the same manner and to the same extent as if the insured bank were a bank and the affiliate were a qualified affiliate for purposes of section 4(c)(15)(F)(iii).

"(B) UNDERWRITING OR DISTRIBUTION BY INSURED BANK.—An insured bank that underwrites or distributes securities described in subparagraph (C) of this paragraph shall not take any action with respect to those securities that would violate subparagraph (A) of this paragraph if those securities were underwritten or distributed by an affiliate of the insured bank.

"(C) CERTAIN MUNICIPAL SECURITIES DESCRIBED.—Securities are described in this subparagraph for purposes of this paragraph if—

"(i) a national bank could underwrite those securities only pursuant to the sentence of paragraph Seventh of section 5136 of the Revised Statutes that refers to an obligation issued by or on behalf of or guaranteed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing; and

"(ii) no State, territory, or possession of the United States, political subdivision thereof, or the District of Columbia pledges its full faith and credit for payment of the entire principal of and interest on the securities.

"(D) DEFINITION OF 'AFFILIATE'.—For purposes of this paragraph, the term 'affiliate' has the meaning given to that term in section 2(k) of the Bank Holding Company Act of 1956.".

SEC. 107. AUTHORIZATION FOR NATIONAL BANKS TO UNDERWRITE MUNICIPAL REVENUE BONDS, SPONSOR UNIT INVESTMENT TRUSTS, AND DISTRIBUTE INVESTMENT COMPANY SECURITIES.

(a) AUTHORIZATION.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

"The limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to an obligation issued by or on behalf of or guaranteed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing. Notwithstanding the preceding sentence, such limitations and restrictions shall apply to a private activity bond (as defined in section 141 of the Internal Revenue Code of 1986) unless—

"(1) a State, territory, or possession of the United States or political subdivision thereof, or the District of Columbia, pledges its full faith and credit for payment of the entire principal of and interest on such bond; or

"(2) the interest on such bond is excluded from gross income under section 103(a) of the Internal Revenue Code of 1986, and the issuer, or the governmental unit on behalf of which such bond was issued, is the sole owner, for Federal income tax purposes, of the facility to be financed from the proceeds of such bond.

For purposes of the foregoing sentence, any bond described in section 1312(c)(2) of the Tax Reform Act of 1986 to which section 141(a) of the Internal Revenue Code of 1986 does not apply (by reason of section 1311, 1312, or 1313 of that Act), shall not be treated as a private activity bond.

"If the association is not an affiliate of a qualified affiliate (as the terms 'affiliate' and 'qualified affiliate' are defined in section 2 of the Bank Holding Company Act of 1956 the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to—

"(1) the securities of unit investment trusts holding only securities that the association is specifically authorized by statute to underwrite and that are expressly described in that authorizing statute, or expressly described as being authorized for a national bank to underwrite in a regulation promulgated before November 18, 1987, by the Comptroller of the Currency pursuant to that authorizing statute, and

"(2) the distribution of securities issued by investment companies that are not sponsored, managed, or controlled by the association or any affiliate of the association.".

(b) Technical Amendment.—The sixth sentence of paragraph seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking out "or general obligations of any State or of any political subdivision thereof,".

SEC. 108. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) Restrictions on United States Banking Activities of Large Foreign Banks That Acquire Large Investment Banking Organizations With United States Offices.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by redesignating subsection (e) as subsection (g) and by inserting after subsection (d) the following new subsection:

"(e)(1) No foreign bank described in paragraph (2) of this subsection, and no foreign bank controlled by a foreign company described in paragraph (2), shall—

"(A) acquire or retain control of a bank,

"(B) establish or maintain a branch or agency in a State, or

"(C) acquire or retain control of a commercial lending company organized under State law.

"(2) A foreign bank or foreign company controlling a foreign bank is described in this paragraph for purposes of paragraph (1) if—

"(A) the foreign bank or foreign company became an affiliate of an investment banking organization (as that term is used in section 4(c)(15)(C)(i)(II) of the Bank Holding Company Act of 1956) after the date of enactment of the Proxmire Financial Modernization Act of 1988;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign bank or foreign company had been a bank holding company at the time of the transaction;

"(C) the affiliation has not been terminated; and

"(D) the investment banking organization maintains an office or subsidiary in a State.".

(b) Restrictions on United States Investment Banking Activities of Large Foreign Investment Banking Organizations That Acquire Large Bank Holding Companies or Banks.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by inserting after subsection (e) (as added by subsection (a)) the following:

"(f)(1) No foreign investment banking organization (including any of its subsidiaries or affiliates) described in paragraph (2) shall acquire or retain control of a qualified affiliate.

"(2) A foreign investment banking organization (including any of its subsidiaries or affiliates) is described in this paragraph for the purposes of paragraph (1) if—

"(A) the foreign investment banking organization became an affiliate of a bank holding company or bank after the date of enactment of the Proxmire Financial Modernization Act of 1988;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign investment banking organization had been required to file an application or notice under section 4(c)(15); and

"(C) the affiliation has not been terminated.".

(c) Technical Amendment.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting "affiliate," after "(13) the terms" and by inserting "qualified affiliate" after "control,".

SEC. 109. DIVERSIFIED FINANCIAL HOLDING COMPANIES.

(a) Definition.—Section 2 of the Bank Holding Company Act (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(o) Diversified Financial Holding Company.—For purposes of this Act, the term 'diversified financial holding company' means a company that directly or indirectly controls any bank and that is described in each of the following paragraphs:

"(1) Engages only in financial activities.—The company engages only in activities that are—

"(A) permissible for bank holding companies under section 4 of this Act; or

"(B) permissible under section 4(i)(4).

"(2) 80-percent test.—On average during the preceding calendar year, the company devoted 80 percent or more of its consolidated assets to activities that are permissible under paragraph (8), (13), (14), or (15) of section 4(c) of this Act, excluding—

"(A) activities conducted by any entity described in subparagraph (A) or (B) of paragraph (3) of this subsection; and

"(B) insurance activities that are permissible under section 4(c)(13) but not permissible under section 4(j), to the extent that those activities exceed 10 percent of the company's consolidated assets.

"(3) Limit on FDIC-insured banks, FSLIC-insured institutions, and subsidiaries thereof as percentage of assets.—On average during the preceding calendar year, 20 percent or less of the company's consolidated assets consisted of the following entities in aggregate:

"(A) insured banks (as defined in section 3(h) of the Federal Deposit Insurance Act) and any subsidiaries thereof; and

"(B) insured institutions and any subsidiaries thereof.

"(4) Global limit on depository institutions and their subsidiaries as percentage of assets.—On average during the preceding calendar year, 40 percent or less of the company's consolidated assets consisted of the following entities in aggregate:

"(A) insured banks and uninsured banks (as defined in section 3(h) of the Federal Deposit Insurance Act) and any subsidiaries thereof;

"(B) insured institutions and any subsidiaries thereof, and uninsured institutions (as defined in section 408(a)(1)(B) of the National Housing Act) and any subsidiaries thereof;

"(C) foreign banks (as defined in section 1(b)(7) of the International Banking Act of 1978) and any subsidiaries thereof; and

"(D) other depository institutions, whether or not in the United States, and any subsidiaries thereof.

"(5) Election.—The company has filed with the Board a written notice of its intent to be treated as a diversified financial holding company.".

(b) In General.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended by sections 106(a) and 602(b) of this Act, is amended by inserting after subsection (b) the following new subsection:

"(i) Diversified Financial Holding Companies.—

"(1) Status.—A diversified financial holding company shall not be considered a bank holding company.

"(2) Applicable law.—Except as provided in paragraph (4) or (6) of this subsection, a diversified financial holding company shall be subject to any provision of Federal law relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company.

"(3) Intermediate holding companies.—

"(A) A subsidiary of a diversified financial holding company is not a bank holding company because it controls a bank.

"(B) If a subsidiary of a diversified financial holding company controls a bank, that subsidiary shall be subject to any provision of Federal law relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company, except to the extent that the diversified financial holding company is not subject to that provision.

"(4) Authority to continue to engage in nonconforming financial activities.—Notwithstanding subsection (a) of this section, a diversified financial holding company may engage in, or acquire or retain direct or indirect ownership or control of shares of any company engaged in, any activity described in paragraph (5) of this subsection (other than an activity described in subsection (c)(15)(A)(i) of this section) in which the diversified financial holding company was lawfully engaged in the United States, directly or through a subsidiary, as of February 1, 1988.

"(5) Definition of financial activities.—The following activities are described in this paragraph for purposes of paragraph (4) of this subsection:

"(A) insurance underwriting activities;

"(B) insurance agency activities;

"(C) real estate brokerage activities;

"(D) real estate investment and development activities;

"(E) travel agency activities; and

"(F) any other activities that the Board has determined to be financial.

"(6) Exemption from examination and capital requirements.—

"(A) Except as provided in subparagraph (B) of this paragraph, a diversified financial holding company, and any subsidiary (other than a bank) of that bank holding company, shall not be subject to inspection or examination or to reporting or capital requirements established by the Board under this Act or the International Lending Supervision Act of 1983.

"(B) The Board may examine or require reports of any company that has filed a notice under section 2(o)(5) of this Act, and any nonbank subsidiary thereof, in order to—

"(i) determine whether that company is a diversified financial holding company;

"(ii) assure compliance by that company or nonbank subsidiary with the provisions of this Act, the Bank Holding Company Act Amendments of 1970, and sections 23A and 23B of the Federal Reserve Act; or

"(iii) assure that the safety and soundness of that company's subsidiary banks are not threatened by the activities or condition of that company or its nonbank subsidiaries whenever the Board determines that emergency conditions exist requiring such assurance.

"(7) Restrictions on Joint Marketing.—No subsidiary bank of a diversified financial holding company shall—

"(A) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15) of this section, or

"(B) permit its products or services to be offered or marketed in connection with products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15).

"(8) Restrictions on Lending to Affiliates Engaged in Nonconforming Activities.—If a company engages in any activity pursuant to paragraph (4) of this subsection, subsection (c)(15)(F)(i) of this section shall apply with respect to that company in the same manner and to the same extent as if the company were a qualified affiliate.

"(9) Divestiture of Subsidiary Banks.—

"(A) If a company that has filed a notice under section 2(o)(5) of this Act fails to maintain the capital of each of its subsidiary banks at or above the level established for that bank by the appropriate Federal banking agency, the Board shall notify the company of the capital deficiency and provide the company 30 days in which to restore the capital of the bank to the level required by the appropriate Federal banking agency.

"(B) If the Board determines that the company is unable to restore the capital of its subsidiary bank to the required level, the Board may issue an order requiring the company to terminate its ownership or control of the bank within 180 days of the date of the order.".

SEC. 110. STUDY OF THE NATIONAL PAYMENTS SYSTEM.

(a) Finding.—It is the finding of Congress that the continued smooth and efficient functioning of the large-dollar payments system of the United States is essential to the growth and stability of the economy of the United States and other nations and that the recent growth in the volume of payments due to new technology and changes in the financial services industry suggest that consideration of the mechanism by which large-dollar payments in the United States are made is necessary.

(b) Study.—The Board of Governors of the Federal Reserve System is hereby directed to study and prepare a report on the steps necessary to ensure the integrity and reliability of large-dollar payments systems in the United States, including the current status of the mechanism by which large-dollar payments are made in the United States and the steps that appear necessary or advisable to strengthen the reliability and safety and soundness of that mechanism over time. Such report shall be transmitted to Congress within one year of the enactment of this Act.

(c) Consultation.—The Board is directed to consult with the providers of large-dollar payment services, the users of such services, the vendors of equipment used in the provisions of such services, and appropriate regulatory authorities.

SEC. 111. CONGRESSIONAL VOTE ON WHETHER TO PERMIT QUALIFIED AFFILIATES TO UNDERWRITE EQUITY SECURITIES.

(a) Definition and Submission of Joint Resolution.—

(1) Joint resolution defined.—For purposes of this section, a joint resolution means a joint resolution introduced pursuant to the procedures described in this section—

(A) the matter after the resolving clause of which is as follows:

"That section 4(c)(15)(K) of the Bank Holding Company Act of 1956 is repealed.";

(B) which does not have a preamble; and

(C) the title of which is "Joint Resolution pursuant to the Proxmire Financial Modernization Act of 1988".

(2) Submission to the congress.—On the first day of the first session of the 102d Congress, the Secretary of the Treasury shall submit the joint resolution to the Congress, together with a specific legislative recommendation on whether or not qualified affiliates should be permitted to underwrite, distribute, and deal in equity securities. The recommendation shall be prepared by the Secretary of the Treasury in consultation with the Comptroller General of the United States, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, and shall be limited solely to the issue of whether the powers prohibited under section 4(c)(15)(K)(ii) of the Bank Holding Company Act of 1956 shall be authorized.

(b) Procedure for Handling Joint Resolution.—

(1) Within 30 days of the date of submission by the Secretary of the Treasury, such joint resolution as defined in subsection (a) of this section shall be introduced (by request) in the House by the Speaker of the House for himself and the minority leader of the House or by Members of the House designated by the Speaker and the minority leader, and shall be introduced (by request) by the majority leader of the Senate for himself and the minority leader of the Senate or by Members of the Senate designated by the majority leader and the minority leader.

(2) Such joint resolution introduced in the House of Representatives shall be referred to the appropriate Committee or Committees, and such joint resolution introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

(3) If any Committee of either House to which the joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the Committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(4) Not later than 90 calendar days after the first day of session of the 102d Congress, it shall be in order to move to proceed to the consideration of such joint resolution.

(5)(A) A motion in the House of Representatives to proceed to the consideration of such joint resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on such joint resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate shall not be debatable. No amendment to, or motion to recommit, the joint resolution shall be in order. It shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(C) Motions to postpone made in the House of Representatives with respect to the consideration of such joint resolution and motions to proceed to the consideration of other business shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to such joint resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this paragraph, consideration of such joint resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other joint resolutions in similar circumstances.

(6)(A) A motion in the Senate to proceed to the consideration of such joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on such joint resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 20 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with such joint resolution shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of such joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of such joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, the joint resolution is in order in the Senate.

(7) In the case of a joint resolution described in subsection (a), if prior to the passage by one House of a joint resolution of that House, that House received the joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if the joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(8) The vote on passage of the joint resolution in each House shall occur on or before April 1, 1991.

TITLE II—EXPEDITED PROCEDURES

SEC. 201. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)",

(2) by inserting before the period at the end of the second sentence the following: "; or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after the reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if, immediately following the acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization than is required for a similarly sized bank that is not a subsidiary of a bank holding company".

SEC. 202. EXPEDITED PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN NONBANKING ACTIVITIES.

Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraphs (C), (D), and (E) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) through (G), and any cross references thereto as clauses (i) through (vii), respectively; and

(3) by striking out all that precedes "purposes of this subsection it is not" and inserting in lieu thereof the following:

"(8)(A) Activities closely related to banking.—In accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph, shares of any company whose activities the Board has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto, after taking into account technological or other innovations in the provision of banking or banking-related services.

"(B) Notice requirements.—

"(i) No bank holding company shall engage in any activity or acquire the shares of a company pursuant to this paragraph, either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given 60 days prior written notice of that proposal and, within that period, the Board has not issued an order—

"(I) disapproving the proposal, or

"(II) extending the time period in accordance with clause (iii) below.

"(ii)(I) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written statement of its intent not to disapprove the proposal.

"(II) The Board shall publish in the Federal Register notice of receipt of a notice under this paragraph involving insurance and provide a reasonable period for public comment. The Board shall issue an order involving any such notice.

"(III) No notice under this paragraph is required for a bank holding company to establish de novo an office to engage in any activity previously authorized for that bank holding company under this paragraph or to change the location of an office engaged in that activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice, except that the Board may require only such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the notice under the criteria specified in clause (iv). If the Board requires additional relevant information beyond that provided in the notice, the Board may by order extend the time period provided in clause (i) of this subparagraph until it has received that information, and the activity that is the subject of the notice may be commenced within 60 days of the date of that receipt unless the Board issues a disapproval order as provided in clause (i). Such an extension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in the notice by a bank holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(v) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(C) Insurance activities not closely related to banking.—For".

SEC. 203. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK HOLDING COMPANY ACQUISITIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by adding before the period at the end of the fourth sentence thereof the following: "or if no adverse comment has been received regarding section 4(c)(8)(C) or section 4(j) of this Act, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 204. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK MERGERS.

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence thereof the following: "or such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 205. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

(a) Affiliation Threshold.—Section 202(3)(B) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(B)) is amended by striking "50" both places it appears and inserting "25".

(b) Exclusion of Advisory and Honorary Directors.—Section 202(4) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(4)) is amended by inserting after "(including an advisory or honorary director" the following: ", except in the case of a depository institution with total assets of less than $100,000,000".

(c) Exception for Failed or Failing Institution.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end thereof the following:

"(7) A depository institution or a depository holding company that—

"(A) closes or is in danger of closing, as defined by the principal Federal supervisory agency charged by section 207 of this title with the administration and enforcement of this title, and

"(B) is acquired by another depository institution or depository holding company,

for a period of 5 years after the date of acquisition of the institution or company that is closed or is in danger of closing.".

(d) Limited Exception for Diversified Savings and Loan Holding Companies.—

(1) Section 202 of the Depository Institution Management Interlocks Act (12 U.S.C. 3202) is amended by adding at the end the following:

"(6) the term 'primary Federal supervisor' shall mean, with respect to any entity subject to this Act, the agency authorized by section 209 of this Act to issue rules or regulations carrying out this title.".

(2) Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end the following:

"(8) A diversified savings and loan holding company (as defined in section 408 of the National Housing Act), with respect to the service of a director of a nonaffiliated depository institution or depository holding company (including a savings and loan holding company) as a director of the diversified savings and loan holding company. The director may begin the dual service allowed by this paragraph upon the expiration of 60 days after notice of the proposed dual service by the diversified savings and loan holding company to its primary Federal supervisor and to the primary Federal supervisor of the nonaffiliated depository institution or depository holding company if prior to the expiration of that 60-day period, neither primary Federal supervisor disapproves the proposed dual service. Either primary Federal supervisor may disapprove the proposed dual service if it finds that (A) the dual service would result in a monopoly or substantial lessening of competition in financial services in any part of the United States; (B) the dual service would lead to substantial conflicts of interest or unsafe and unsound practices; (C) in the primary metropolitan statistical area in which the diversified savings and loan holding company's subsidiary depository institution is located, there is substantial competition between that subsidiary depository institution and the nonaffiliated depository institution or a depository institution subsidiary of the nonaffiliated depository holding company; or (D) the applying company neglects, fails, or refuses to furnish all the information required by either primary Federal supervisor. Either primary Federal supervisor may require that a permitted dual service be terminated if there occurs a change in circumstance that would have provided a basis for disapproving the dual service when it was originally proposed.".

(e) Extension of Grandfather Clause.—Subsections (a) and (b) of section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) are each amended by striking "ten years" and inserting "15 years".

SEC. 206. BANKERS' BANKS.

(a) BANKERS' BANKS AND BANK HOLDING COMPANIES.—

(1) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by inserting "or their holding companies" after "is owned exclusively (except to the extent directors qualifying shares are required by law) by depository institutions".

(2) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by inserting—

(A) ", directly or through a holding company," after "which is owned", and

(B) "or their holding companies" after "other depository institutions" each place it appears in paragraph (b)(1).

(b) TECHNICAL AMENDMENT ON BANKERS' BANKS AND DEPOSIT INSURANCE.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking "bank described in the last sentence of section 2(c)" and inserting "a bankers' bank as described in section 5169 of the Revised Statutes (12 U.S.C. 27)".

(c) LIMIT ON LOANS SECURED BY SECURITIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 percentum" in each place it appears and inserting in lieu thereof "15 percent".

(d) BANKERS' BANKS SERVING MINORITY BANKS.—Section 5169(b) of the Revised Statutes (12 U.S.C. 27(b)) is amended by adding at the end thereof the following new paragraph:

"(3) BANKERS' BANKS SERVING MINORITY BANKS.—

"(A) IN GENERAL.—Notwithstanding the limitation contained in paragraph (1) with respect to ownership, a bank organized under such paragraph to serve the needs of minority banks or bank holding companies which control minority banks, and any holding company which controls a bank organized under such paragraph, may accept capital investments in such bank or holding company by companies which are not depository institutions or depository institution holding companies if such investment does not give such company the right to vote or exercise control, directly or indirectly, over such bank or holding company.

"(B) MINORITY BANK.—The term 'minority bank' means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

"(i) more than 50 percent of the ownership or control of which is held by minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to minority individuals.

"(C) MINORITY.—The term 'minority' means any Black American, Native American, Hispanic American, or Asian American.".

(e) SECTION 3(e) OF THE BANK HOLDING COMPANY ACT OF 1956.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking out "bank described in the last sentence of section 2(c)" and inserting in lieu thereof "depository institution described in section 19(b)(1)(A)(vii) of the Federal Reserve Act".

(f) SECTION 5136 OF THE REVISED STATUTES.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) (as amended by section 206(a)(1) of this Act) is amended by striking out "shares required by law)" and inserting in lieu thereof "shares required by law or capital investments which are permitted under section 5169(b)(3)(A) of chapter 2 of this title)".

TITLE III—STRENGTHENED ENFORCEMENT AUTHORITY

SEC. 301. SHORT TITLE.

This title may be cited as the "Enforcement Powers Improvement Act of 1988".

PART A—REGULATION OF BANKS

SEC. 311. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) AMENDMENTS TO SECTION 8.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank";

(B) "director, officer or other person"; and

(C) "director, officer, employee, agent or other person";

each place they appear and inserting "institution-related party";

(2) by adding at the end of subsection (b) the following new paragraph:

"(6) The authority to issue an order under this subsection which requires an insured bank or institution-related party to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such bank or institution-related party to—

"(A) make restitution or provide reimbursement or indemnification or a guarantee against loss if—

"(i) such bank or institution-related party was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the appropriate Federal banking agency;

"(B) rescind agreements or contracts;

"(C) dispose of any loan or asset involved; or

"(D) take such other action as the appropriate Federal banking agency determines to be appropriate.";

(3) after the first sentence of paragraph (1) of subsection (c), by inserting the following sentence: "Such order may place limitations on the activities or functions of the bank or any institution-related party.";

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) Whenever a notice of charges specifies that an insured bank's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable with reasonable effort to determine the financial condition of that bank or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that bank, the agency may issue a temporary order requiring cessation of any activities the agency deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (b) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the agency determines by examination or otherwise that the bank's books and records are accurate and capable of reflecting the financial condition of the bank.";

(5) in subsection (e), by striking paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever the appropriate Federal banking agency determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured bank or business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty;

"(B) such insured bank or business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its depositors have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of such institution-related party or demonstrates willful or continuing disregard for the safety or soundness of such insured bank or business institution,

the agency may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured bank.";

(6) in subsection (e), by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively, and by amending paragraph (3), as redesignated, to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written order to such effect served upon such party, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any bank where the party involved is presently associated.";

(7) after paragraph (5) of subsection (e), as redesignated, by inserting the following new paragraphs:

"(6) Any person who is subject to a removal, suspension, or prohibition order pursuant to this subsection or subsection (g) shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(A) any insured institution,

"(B) any bank holding company or subsidiary of a bank holding company,

"(C) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(D) any savings and loan holding company (as those terms are defined in the National Housing Act), and

"(E) any institution chartered under the Farm Credit Act of 1971, unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.

"(7) The appropriate Federal banking agency may serve notice under paragraph (1) or (2) of the agency's intention to prohibit any institution-related party from participating in the conduct of the affairs of any insured bank or other federally regulated depository institution, notwithstanding the fact that such person has ceased to hold the position of officer or director of an insured bank or has ceased to participate in the conduct of the affairs of such insured bank, as the case may be.";

(8) in subsection (f), by striking "(e)(4)" and inserting "(e)(3)", and by striking "(e)(1), (e)(2), or (e)(3)" and inserting "(e)(1) or (e)(2)";

(9) in the first sentence of subsection (i)(2)(i), by inserting after "this section" the following: "or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank";

(10) by amending subsection (j) to read as follows:

"(j) Penalty.—Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (e) or under subsection (g) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency—

"(1) participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof or any other institution described in paragraph (1) of this subsection; shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (e) of this section may prohibit any act that would violate this subsection.";

(11) by amending subsection (k) to read as follows:

"(k) Definitions.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' means—

"(A) the appropriate Federal banking agency, as provided in subsection (q) of section 3 (12 U.S.C. 1813);

"(B) the Federal Home Loan Bank Board, acting either in its own name or as operating head of the Federal Savings and Loan Insurance Corporation, in the case of a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, or the subsidiary of such an institution, a Federal savings bank or a subsidiary of such a savings bank, a savings and loan holding company, or a subsidiary of a savings and loan holding company;

"(C) the National Credit Union Administration Board in the case of a depository institution whose accounts are insured by the National Credit Union Share Insurance Fund; and

"(D) the Farm Credit Administration in the case of an institution chartered under the Farm Credit Act of 1971.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the appropriate Federal banking agency (i) with the consent of the bank or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (h) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (iv) under paragraph (1) or (3) of subsection (g) of this section.

"(3) The term 'institution-related party' means a director, officer, employee, agent, or other person participating in the conduct of the affairs of an insured bank or a subsidiary of an insured bank, or any person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under section 7(j).

"(4) The term 'insured institution' means an insured bank or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund.

"(5) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation."; and

(12) by adding at the end thereof the following new subsection:

"(t) Effect on Other Authority.—The authority granted to the Federal banking agencies under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

(b) Increased Penalty for Participation by Convicted Individual.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"PENALTY FOR PARTICIPATION

"Sec. 19. Except with the written consent of the Corporation, no person who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust shall serve as the director, officer, or employee of an insured bank or shall participate in the conduct of the affairs of such bank. For each willful violation of this section, the bank or the individual involved shall each be subject to a penalty of not more than $2,500 for each day such prohibition is violated, which the Corporation may recover for its use.".

SEC. 312. PENALTY FOR VIOLATION OF "CHANGE IN BANK CONTROL ACT".

Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the appropriate Federal banking agency by written notice. As used in this paragraph, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing upon request made within 10 days after receipt of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within 20 days from the date of such order and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States as miscellaneous receipts.".

SEC. 313. REPORTS.

(a) Amendment to the Bank Protection Act of 1968.—Section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking in the first sentence of subsection (b) the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) Reports of Condition; Form; Content; Date of Making Publication; Penalty for Failure To Make Reports; Penalties for False or Misleading Reports.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) by striking, in the fifth sentence of subsection (a), "within ten days after the receipt of a request thereof from him;" and inserting "within the period of time specified by him;";

(2) by striking "; penalties" in the heading of subsection (c); and

(3) by striking the last sentence of subsection (c).

(c) National Banks.—Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended by striking the first sentence and inserting "Every association which fails to make, obtain, transmit or publish any report or information required by the Comptroller under section 5211 of the Revised Statutes (12 U.S.C. 161) or which submits any false or misleading report or information shall be subject to a penalty of not more than $1,000 for each day during which such failure continues or such false or misleading information is not corrected. The Comptroller may, in his discretion, compromise, modify, or remit such penalty. In determining the amount of the penalty, the Comptroller shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.".

(d) State Nonmember Banks.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the last sentence and inserting "Every such bank which fails to make or publish any such report within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of not more than $1,000 for each day during which such failure continues or such false or misleading information is not corrected. Such penalty shall be recoverable by the Corporation for its use, and may be collected by the Corporation by suit or otherwise. The Corporation may, in its discretion, compromise, modify, or remit such penalty. In determining the amount of the penalty, the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.".

(e) Federal Reserve Members.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking the fourth sentence and inserting "Every bank which fails to make such reports within the period of time specified by the Board of Governors of the Federal Reserve System or which submits or publishes any false or misleading report or information shall be subject to a penalty of not more than $1,000 for each day during which such failure continues or such false or misleading information is not corrected. The Board may, in its discretion, compromise, modify, or remit such penalty. In determining the amount of the penalty, the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.".

(f) Bank Holding Companies.—Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)) is amended by inserting after the word "thereto" in the first sentence "or any company which fails to make such reports as are required by this chapter or any regulation or order issued pursuant thereto within the period of time specified by the Board or which submits or publishes any false or misleading report or information,".

Part B—Regulation of Savings and Loan Associations

SEC. 321. DEFINITION OF INSTITUTION-RELATED PARTY.

(a) National Housing Act.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such institution";

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution";

(E) "director, or other person";

(F) "director or officer of an insured institution, or other person participating in the conduct of the affairs of such institution";

(G) "director or officer or other person";

(H) "director or officer thereof or other person participating in the conduct of its affairs"; and

(I) "director or officer or other person participating in the conduct of its affairs"; and

(2) by inserting in lieu of each such phrase the phrase "institution-related party".

(b) Home Owners' Loan Act of 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(f)) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such association";

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association";

(E) "director, officer, or other person";

(F) "director or officer of an association, or other person participating in the conduct of the affairs of such association"; and

(G) "director or officer or other person", each place that such phrases appear, and

(2) by inserting in lieu of each such phrase the phrase "association-related party".

SEC. 322. CEASE AND DESIST ORDERS.

(a) National Housing Act.—Section 407(e) of the National Housing Act (12 U.S.C. 1730(e)) is amended by adding at the end thereof the following new paragraphs:

"(4) The authority to issue an order under this subsection which requires an insured institution, or any institution-related party, to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such insured institution or institution-related party to—

"(A) make restitution or provide reimbursement or indemnification or a guarantee against loss if—

"(i) such insured institution or institution-related party was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Corporation;

"(B) rescind agreements or contracts;

"(C) dispose of any loan or asset involved;

"(D) take such other action as the Corporation determines to be appropriate.

"(5) The authority to issue an order under this subsection or subsection (f) includes the authority to place limitations on the activities or functions of an institution, or any director, officer, or other person participating in the conduct of the affairs of an institution.

"(6) The authority granted to the Corporation under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(2) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)) is amended by adding at the end thereof the following new subparagraphs:

"(D) The authority to issue an order under this subsection which requires an association, or any association-related party, to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such association or association-related party to—

"(i) make restitution or provide reimbursement or indemnification or a guarantee against loss if—

"(I) such association or association-related party was unjustly enriched in connection with such violation or practice; or

"(II) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Board;

"(ii) rescind agreements or contracts;

"(iii) dispose of any loan or asset involved;

"(iv) take such other action as the Board determines to be appropriate.

"(E) The authority to issue an order under this paragraph or paragraph (3) includes the authority to place limitations on the activities or functions of an association, or any director, officer, or other person participating in the conduct of the affairs of an association.

"(F) The authority granted to the Board under this subsection shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

SEC. 323. SERVICE CORPORATIONS.

Section 407(e)(3) of the National Housing Act (12 U.S.C. 1730(e)(3)) and section 5(d)(2)(C) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(C)) both are amended by striking the phrase "affiliate service corporation" and inserting the phrase "service corporation or any subsidiary of a service corporation, whether wholly or partly owned,".

SEC. 324. TEMPORARY ORDERS.

(a) National Housing Act.—Section 407(f) of the National Housing Act (12 U.S.C. 1730(f)) is amended—

(1) in the first sentence of paragraph (1), by striking the phrase "or any institution any of the accounts of which are insured" and inserting the phrase "with respect to the served institution";

(2) after the first sentence of paragraph (1) of subsection (f), by inserting the following sentence: "Such order may place limitations on the activities or functions of the institution or any institution-related party.";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

"(3) Whenever a notice of charges specifies that an institution's books and records are so incomplete or inaccurate that the Corporation is unable with reasonable efforts to determine the financial condition of that institution or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that institution, the Corporation may issue a temporary order requiring cessation of any activities the Corporation deems appropriate until completion of proceedings conducted under subsection (e) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Corporation determines by examination or otherwise that the institution's books and records are accurate and capable of reflecting the financial condition of the institution.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(3)) is amended—

(1) by inserting the following sentence after the first sentence of subparagraph (A) of subsection (d)(3): "Such order may place limitations on the activities or functions of the association or any association-related party.".

(2) by redesignating subparagraph (C) as subparagraph (D).

(3) by inserting after subparagraph (B) the following:

"(C) Whenever a notice of charges specifies that an association's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that association or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that association, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under subsection (d)(2) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (B) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the association's books and records are accurate and capable of reflecting the financial condition of the association.".

SEC. 325. REMOVAL AND SUSPENSION.

(a) National Housing Act.—Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(1) by striking paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever, in the opinion of the Corporation—

"(A) any institution-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order, which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured institution or other business institution, or has committed or engaged in any act, omission or practice which constitutes a breach of its fiduciary duty;

"(B) such insured institution or other business institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of the institution-related party or demonstrates willful or continuing disregard for the safety or soundness of the insured institution or other business institution,

the Corporation may serve on such institution-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any insured institution.";

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4) respectively, and by amending paragraph (3) of subsection (g) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party or any other person referred to in paragraph (1) or (2) of this subsection, the Corporation may if it deems it necessary for the protection of the institution or the interests of its savings account holders or of the Corporation, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the institution. Such suspension or prohibition shall become effective upon service of such order upon the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (6) of this subsection, shall remain in effect pending the completion of the administrative proceeding pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Corporation shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon the institution with which the party involved is presently associated."; and

(3) by inserting after paragraph (4) of subsection (g) (as so redesignated) the following:

"(5) Any person who, pursuant to this subsection or subsection (h), is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured institution or a service corporation or a subsidiary of a service corporation of an insured institution, whether wholly or partly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(A) any insured bank (as that term is defined in the Federal Deposit Insurance Act),

"(B) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(C) any organization organized and operated under section 25 of the Federal Reserve Act,

"(D) any insured institution,

"(E) any service corporation or subsidiary of a service corporation of an insured institution, whether wholly or partly owned,

"(F) any savings and loan holding company or subsidiary of a savings and loan holding company,

"(G) any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(H) any institution chartered under the Farm Credit Act of 1971,

without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(4) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(4)) is amended—

(1) by striking subparagraph (B) and amending subparagraph (A) to read as follows:

"(4)(A) Whenever, in the opinion of the Board—

"(i) any association-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any association or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of its fiduciary duty;

"(ii) such association or other business institution has suffered or will probably suffer substantial financial loss or other damage or the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the association-related party has received financial gain by reason of such violation, practice, or breach; and

"(iii) such violation, practice, or breach involves personal dishonesty on the part of the association-related party, or demonstrates willful or continuing disregard for the safety or soundness of the association or other business institution,

the Board may serve upon such association-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any institution.";

(2) by redesignating subparagraphs (C) through (E) as subparagraphs (B) through (D) respectively, and by amending subparagraph (C) (as so redesignated) to read as follows:

"(C) In respect to any association-related party or any other person referred to in subparagraph (A) or (B) of this paragraph, the Board may, if it deems it necessary for the protection of the association or the interests of its savings account holders, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the association. Such suspension or prohibition shall become effective upon service of such order upon the association-related party and, unless stayed by a court in proceedings authorized by subparagraph (F) of this paragraph, shall remain in effect, pending the completion of the administrative proceedings pursuant to the notice served under subparagraph (A) or (B) of this paragraph and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this subparagraph shall also be served upon the association with which the party involved is presently associated."; and

(3) by inserting after subparagraph (D) of subsection (d)(4) (as so redesignated) the following:

"(E) Any person who, pursuant to this subsection or subsection (d)(5), is removed, suspended, or prohibited from participation in the conduct of the affairs of an association or a service corporation or a subsidiary of a service corporation of an association, whether partly or wholly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(i) any insured bank (as that term is defined in the Federal Deposit Insurance Act),

"(ii) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(iii) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(iv) any association or any institution insured by the Federal Savings and Loan Insurance Corporation,

"(v) any service corporation or subsidiary of a service corporation of an association or an institution insured by the Federal Savings and Loan Insurance Corporation,

"(vi) any savings and loan holding company or subsidiary of a savings and loan holding company,

"(vii) any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(viii) any institution chartered under the Farm Credit Act of 1971,

without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in section 8(k) of the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

SEC. 326. RETENTION OF JURISDICTION.

(a) National Housing Act.—Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended by inserting after paragraph (6) the following new paragraph:

"(7) The Corporation may serve notice under paragraph (1) or (2) of the Corporation's intention to prohibit any institution-related party from participating in the conduct of the affairs of any insured institution or other federally regulated depository institution, notwithstanding the fact that such person has ceased to hold the position of officer or director of an insured institution or has ceased to participate in the conduct of the affairs of such insured institution, as the case may be.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(4) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(4)) is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) The Board may serve notice under subparagraph (A) or (B) of the Board's intention to prohibit any association-related party from participating in the conduct of the affairs of any association, notwithstanding the fact that such person has ceased to hold the position of officer or director of an association or has ceased to participate in the conduct of the affairs of such association, as the case may be.".

SEC. 327. PENALTIES.

(a) National Housing Act.—Section 407(p) of the National Housing Act (12 U.S.C. 1730(p)) is amended to read as follows:

"(p) Penalties.—(1) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (h) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in section 8(k) of the Federal Deposit Insurance Act—

"(A) participates in any manner in the conduct of the affairs of any insured institution, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any service corporation of an insured institution or subsidiary of a service corporation, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as these terms are defined in the National Housing Act), any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, or any institution chartered under the Farm Credit Act of 1971, from which that person has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect to any voting rights in such institutions; or

"(B) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank or any other institution described in paragraph (i) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.

"(2) Except with the prior written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured institution or shall participate in the conduct of the affairs of such institution who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the institution or the individual involved shall each be subject to a penalty of not more than $2,500 for each day this prohibition is violated, which the Corporation may recover by suit or otherwise for its own use.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(12) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(12)) is amended by striking paragraphs (A) and (B) and inserting the following:

"(12) Penalties.—(A) Any person against whom there is outstanding and effective any order served upon such person under subparagraph (C) or (D) of paragraph (4) or under (5) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency (as that term is defined in section 8(k) of the Federal Deposit Insurance Act)—

"(i) participates in any manner in the conduct of any association or institution insured by the Federal Savings and Loan Insurance Corporation, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, any association or other institution insured by the Federal Savings and Loan Insurance Corporation, any service corporation of an association or institution insured by the Federal Savings and Loan Insurance Corporation or subsidiary of a service corporation, or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents or authorizations in respect to any voting rights in such institutions; or

"(ii) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank, or any other institution described in subparagraph (A)(i) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (d)(4) of this section may prohibit any act that would violate this subsection.

"(B) Except with the prior written consent of the Board, validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States.".

SEC. 329. DEFINITIONS.

(a) National Housing Act.—Section 407(r) of the National Housing Act (12 U.S.C. 1730(r)) is amended—

(1) by redesignating subparagraphs (B) through (D) of paragraph (1) as subparagraphs (C) through (E), respectively;

(2) by striking subparagraph (A) of paragraph (1) and inserting the following:

"(A) The term 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Corporation (i) with the consent of the institution or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the Corporation has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in subsection (j); or (v) an order issued under subsection (h) of this section.

"(B) The term 'institution-related party' means a director, officer, controlling person, employee, agent, or other person participating in the conduct of the affairs of an insured institution or of any service corporation or any subsidiary of a service corporation or an insured institution, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company as those terms are defined in section 408 of this title; and any person who has filed or is required to file a change-in-control notice with the Corporation under subsection (q) of this section. For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'institution-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity."; and

(3) by striking paragraph (4) and inserting the following:

"(4) As used in subsections (e), (f), (g), (h), and (p) of this section, the term 'insured institution' means any institution the deposits of which are insured by the Corporation, any institution that retains deposits insured by the Corporation notwithstanding termination of its status as an insured institution, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraphs (2) through (4) of paragraph (13)(A) as paragraphs (3) through (5) respectively; and

(2) by striking paragraph (1) of paragraph (13)(A) and inserting the following:

"(1) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (A) with the consent of the association or the association-related party concerned; (B) with respect to which no petition for review of the action of the Board has been filed and perfected in a court of appeals as specified in paragraph (7)(B) of this subsection; (C) with respect to which the action of the court in which such a petition is filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in paragraph (7)(B); or (D) under paragraph (5) (A) or (C) of this subsection.

"(2) The term 'association-related party' means—

"(A) a director, officer, controlling person, employee, agent, or other person participating in the conduct of affairs of an association or of any service corporation or of any subsidiary of a service corporation of an association, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act, or of any association with respect to which the Federal Home Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act and the National Housing Act; or

"(B) any person who has filed or is required to file a change-in-control notice with the Federal Savings and Loan Insurance Corporation under subsection (q) of section 407 of the National Housing Act.

For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'association-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity."; and

(3) by striking paragraph (14) and inserting the following:

"(14)(A) As used in paragraphs (2), (3), (4), (5), and (12) of this subsection, the term 'association' includes any former association that retains deposits insured by the Federal Savings and Loan Insurance Corporation notwithstanding termination of its status as an institution insured by such Corporation, and any Federal savings bank whose deposits are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.

"(B) As used in this subsection, the terms 'Federal savings and loan association' and 'association' include any institution with respect to which the Federal Home Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act, and the National Housing Act.

"(C) References in this subsection to savings account holders and to members of associations shall be deemed to be references to holders of withdrawable accounts in institutions over which the Board has any statutory power of examination or supervision as provided in this paragraph, and references therein to boards of directors of associations shall be deemed to be references to boards of directors or other governing boards of such institutions. The Board shall have power by regulation to define, for the purposes of this paragraph, terms used or referred to in the preceding sentence and other terms used in this subsection.".

SEC. 330. REPORTS OF CONDITION.

Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following:

"(u) REPORTS OF CONDITION; PENALTIES.—

"(1) Each insured institution or Federal saving bank shall make reports of condition to the Corporation which shall be in such form and shall contain such information as the Corporation may require. The Corporation may require reports of condition to be published in such manner, not inconsistent with any applicable law, as it may direct.

"(2) Any insured institution or Federal savings bank which fails to obtain and furnish any report or information required by the Corporation under this section within the period of time the Corporation specifies or which submits any false or misleading report or information shall be subject to a penalty of $1,000 each day during which such failure continues or is not corrected. Such penalty shall be assessed and collected in the manner as prescribed by section 407(q)(18) of this title.".

SEC. 331. TECHNICAL AMENDMENTS.

(a) NATIONAL HOUSING ACT.—(1) Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended by striking "(1), (2), (3), or (4)" from the fifth sentence of paragraph (1) and inserting "(1), (2), or (3)".

(2) Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended by inserting after "this section" in the first sentence of paragraph (2)(A) the following: "or any of the provisions of this title, or any regulation issued pursuant thereto,".

(b) HOME OWNERS' LOAN ACT OF 1933.—(1) Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by striking "(A), (B), (C) or (D)" from the fifth sentence of subparagraph (5)(A) and inserting "(A), (B) or (C)".

(2) Section 5(d)(8) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)) is amended by inserting after "this subsection" in the first sentence of subparagraph (B)(i) the following: "or any of the provisions of this Act, or any regulation issued pursuant thereto,".

SEC. 332. PENALTY FOR FAILURE TO REPORT.

Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end of subsection (b)(2) thereof the following: "Every savings and loan holding company which fails to make such reports within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by subsection (j)(4) of this section.".

SEC. 333. REPEALER.

Section 5(d)(15) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(15)) is repealed, and section 5(d)(16) (12 U.S.C. 1464(d)(16)) is redesignated as section 5(d)(15) (12 U.S.C. 1464(d)(15)).

PART C—CREDIT UNIONS

SEC. 341. AMENDMENTS TO SECTION 206.

(a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by striking the following phrases:

(A) "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union";

(B) "director, officer, committee member, employee, agent, or other person";

(C) "director, officer, committee member, or employee";

(D) "director, officer, or committee member";

(E) "director, committee member, or officer";

(F) "director, committee member, officer, or other person";

(G) "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union";

(H) "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union";

(I) "director, committee member, or officer or other person";

(J) "director, officer, committee member, or other person"; and

(K) "director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union";

each place they appear and inserting "institution-related party";

(2) by adding at the end of subsection (e) the following new paragraphs:

"(3) The authority to issue an order under this subsection which requires an insured credit union or any institution-related party to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such insured credit union or institution-related party to—

"(A) make restitution or provide reimbursement if—

"(i) such credit union, or institution-related party, was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Board;

"(B) provide indemnification or a guarantee against loss;

"(C) rescind agreements or contracts;

"(D) dispose of any loan or asset involved;

"(E) take such other action as the Board determines to be appropriate.

"(4) The authority to issue an order under this subsection or subsection (f) includes the authority to place limitations on the activities or functions of an insured credit union, or any director, officer, or other person participating in the conduct of the affairs of an insured credit union.";

(3) in subsection (f), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Whenever a notice of charges specifies that any insured credit union's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that credit union or the details or purpose of any transactions that may have a substantial effect on the financial condition of that credit union, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (e) of this section. Such order shall become effective upon service, and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (3) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the credit union's books and records are accurate and capable of reflecting the financial condition of the credit union.";

(4) by striking paragraph (2) and amending paragraph (1) of subsection (g) to read as follows:

"(1) Whenever the Board determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured credit union or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty, or by conduct or practice has evidenced his personal dishonesty or unfitness to continue as an institution-related party; and

"(B) such insured credit union or other business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its insured members have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach,

the Board may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured credit union.";

(5) in subsection (g), by striking "(A)" and striking subparagraph (B) in paragraph (7), and by redesignating paragraphs (3) through (7) of subsection (g) as paragraphs (2) through (6), respectively, and by amending paragraph (3) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the Board may, if it deems necessary for the protection of the credit union or the interests of its members, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraphs (1) and (2) of this subsection and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any institution where the party involved is presently associated.";

(6) in subsection (g)(6), as redesignated, by striking all that follows "National Housing Act)," and inserting "and any institution chartered under the Farm Credit Act of 1971, unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.";

(7) in subsection (g)(5) (as redesignated), by striking "(4)" and inserting "(3)", and by striking "(1), (2), or (3)" and inserting "(1) or (2)";

(8) in subsection (g), by inserting after paragraph (7) the following new paragraph:

"(8) The Board may serve notice under paragraph (1) or (2) of the Corporation's intention to prohibit any institution-related party from participating in the conduct of the affairs of any insured credit union or other federally regulated depository institution, notwithstanding the fact that such person has ceased to hold the position of officer or director of an insured credit union or has ceased to participate in the conduct of the affairs of such insured credit union, as the case may be.";

(9) in the first sentence of paragraph (2)(A) of subsection (k), by inserting after "this section" the following: "or any condition imposed in writing by the Board in connection with the granting of any application or other request by the credit union", and by striking "subsection (e), (f), or (q)" and inserting "subsection (e), (f), or (p)";

(10) by amending subsection (l) to read as follows:

"(l) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (i) who, directly or indirectly, without the prior written approval of the Board—

"(1) participates in any manner in the conduct of the affairs of—

"(A) any insured institution,

"(B) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(C) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(D) any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or

"(E) any institution chartered under the Farm Credit Act of 1971,

from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, committee member, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof, or any other institution described in paragraph (1) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.";

(11) by striking subsection (m) and redesignating subsections (n), (o), (p) and (q) of this section as subsections (m), (n), (o) and (p) respectively; and

(12) by adding at the end thereof the following:

"(q) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' has the same meaning as in section 8(k) of the Federal Deposit Insurance Act.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (A) with the consent of the credit union or the institution-related party concerned; (B) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (C) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (D) under paragraphs (1) or (3) of subsection (i) of this section.

"(3) The term 'institution-related party' means a director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of an insured credit union.

"(4) The term 'insured institution' means an insured credit union, as defined in section 101, or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

"(5) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(r) EFFECT OF OTHER LAW.—The authority granted to the Board under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

SEC. 342. AMENDMENTS TO SECTION 205.

Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended—

(1) in the first sentence of subsection (d), by inserting after the phrase "insured credit union" "or shall participate in the conduct of the affairs of such insured credit union";

(2) by striking the second sentence of subsection (d) and inserting "For each willful violation of this subsection, the credit union or the individual involved shall each be subject to a penalty of not more than $2,500 for each day this prohibition is violated, which the Board may recover for its use."; and

(3) in the first sentence of paragraph (2) of subsection (e), by inserting a period after the word "standards" and striking the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

TITLE IV—TRUTH IN SAVINGS AND INVESTMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Truth in Savings and Investments Act".

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that economic stability would be enhanced, competition among depository institutions and investment companies would be improved, and the ability of the consumer to make informed decisions regarding accounts and investments would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest and earnings are paid and fees are assessed.

(b) PURPOSE.—It is the purpose of this title to require the clear and uniform disclosure of—

(1) the rates of interest and yields which are payable on accounts and investments; and

(2) the fees that are assessable against accounts and investments,

so that consumers can make meaningful comparisons among the competing claims of depository institutions and investment companies.

SEC. 403. DEFINITIONS.

For the purposes of this title—

(1) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) ACCOUNT.—The term "account" means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(4) INTEREST.—The term "interest" includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(5) MULTIPLE RATE ACCOUNT.—The term "multiple rate accounts" means any account that has 2 or more annual rates of simple interest which take effect in succeeding periods and which are known at the time of disclosure.

(6) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" shall be equal to the total amount of interest that would be received on a $100 deposit under the terms described in paragraphs (3) and (4) of section 405(c) over a year, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

SEC. 404. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS.

(a) IN GENERAL.—Except as provided in subsection (b), each advertisement, announcement, or solicitation initiated by any depository institution relating to any account which includes any reference to a specific rate of interest payable on amounts held in such account, or to a specific yield or rate of earnings on amounts so held, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield (which shall be noted in greater prominence than any other stated rate).

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) A statement that regular fees or other conditions could reduce the yield.

(6) A statement of any penalty imposed for early withdrawal.

(b) BROADCAST AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING EXCEPTION.—The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) MISLEADING DESCRIPTIONS OF FREE OR NO-COST ACCOUNTS PROHIBITED.—No advertisement, announcement, or solicitation made by any depository institution may refer to or describe an account as a free or no-cost account if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions are limited during such period; or

(2) any regular service or transaction fee is imposed.

(d) MISLEADING OR INACCURATE ADVERTISEMENTS, ETC., PROHIBITED.—No depository institution shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 405. ACCOUNT SCHEDULE.

(a) IN GENERAL.—Each depository institution shall maintain a schedule of fees, charges, yields, and other terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) INFORMATION ON FEES AND CHARGES.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charges, or penalties (or the method by which such amounts will be calculated), and the conditions under which any such amounts will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) INFORMATION ON YIELDS.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1), (3), and (4) shall be provided for each period during which a different annual rate of simple interest is in effect (or, if applicable, the method for computing such information).

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) OTHER INFORMATION.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) STYLE AND FORMAT.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to give consumers the ability to readily understand the terms of the accounts offered.

SEC. 406. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall by regulation prescribe such modifications in the disclosure requirements under this title relating to annual percentage yields as may be necessary to carry out the purposes of this title in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate; and

(4) multiple rate accounts.

SEC. 407. DISTRIBUTION OF SCHEDULES.

(a) In General.—Any schedule required under section 405 shall be—

(1) mailed to holders of the account not more than 90 days after the effective date of the initial regulations prescribed by the Board under this Act;

(2) made available to any person upon request; and

(3) provided to any potential customer before an account is opened or a service is rendered.

(b) Distribution in Case of Certain Initial Deposits.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 405(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account not later than 10 days after the date of the initial deposit.

(c) Distribution of Notice of Certain Changes.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 405(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account, all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(3) This subsection does not apply to changes in annual percentage yields of variable rate accounts.

(d) Distribution in Case of Accounts Established by More Than 1 Individual or by a Group.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

SEC. 408. PAYMENT OF INTEREST.

(a) Determination of Balance on Which Interest Is Calculated.—Except as provided in subsection (b), interest shall be calculated on the principal balance in an interest-bearing account at a depository institution by using the average daily balance method, which is the sum of each day's closing balance divided by the number of days in the period.

(b) Special Rule for Credit Unions.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

(1) calculates the accrual of interest or dividends by a method other than the method described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of interest payment policy in the manner required by section 605(e) of the Expedited Funds Availability Act.

(c) Calculated on Full Amount of Principal.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this title.

(d) No Particular Method of Compounding Interest Required.—Subsection (c) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SEC. 409. REGULATIONS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Board, after consultation with each agency referred to in section 410(a) and after providing public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this title. The regulations may contain any classification, differentiation, or other provision, and may provide an exception for any class of accounts which, in the judgment of the Board, may be necessary or proper to carry out the purposes of this title, to prevent circumvention or evasion of the requirements of this title, or to facilitate compliance with the requirements of this title.

(b) Model Forms and Clauses.—

(1) In general.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this title. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) Use of forms and clauses deemed in compliance.—Nothing in this title may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this title if the depository institution—

(A) uses any appropriate model form or clause published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this title; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) Public notice and opportunity for comment.—The Board shall adopt model disclosure forms and clauses after giving appropriate notice and opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 410. ADMINISTRATIVE ENFORCEMENT.

(a) In General.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than member banks of the Federal Reserve System) by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(3) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of Federal credit unions; and

(4) the Federal Trade Commission Act, by the Federal Trade Commission in the case of State-chartered credit unions.

(b) Additional Enforcement Powers.—

(1) Violation of this title treated as violation of other acts.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) Enforcement authority under other acts.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each agency may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on such agency by law.

(c) Regulations by Agencies Other Than the Board.—The authority of the Board to issue regulations under this title does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this title.

SEC. 411. CIVIL LIABILITY.

(a) Civil Liability.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this title or any regulation prescribed under this title with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) Class Action Awards.—In determining the total amount of an award in a class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) Bona Fide Errors.—

(1) General rule.—A depository institution may not be held liable in any action brought under this section for a violation of this title if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) Examples.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a depository institution's obligation under this title is not a bona fide error.

(d) Jurisdiction.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) Reliance on Board Rulings.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Notification of and Adjustment for Errors.—A depository institution shall not be liable under this section or section 410 for any failure to comply with any requirement imposed under this title with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(g) Multiple Interests in 1 Account.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) Examples.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a depository institution's obligation under this title is not a bona fide error.

(d) Jurisdiction.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) Reliance on Board Rulings.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Notification of and Adjustment for Errors.—A depository institution shall not be liable under this section or section 410 for any failure to comply with any requirement imposed under this title with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(g) Multiple Interests in 1 Account.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this title shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(h) Continuing Failure to Disclose.—

(1) Certain continuing failures treated as 1 violation.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) Subsequent failure to disclose.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) Coordination with section 410.—This subsection shall not limit or otherwise affect the enforcement power under section 410 of any agency referred to in subsection (a) of such section.

SEC. 412. CREDIT UNIONS.

(a) In General.—No regulation prescribed by the Board under this title shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) Regulations Prescribed by the NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this title, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 413. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES.

The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 66. REVIEW OF DISCLOSURE REQUIREMENTS FOR YIELDS AND TERMS.

"Not later than January 1, 1989, and annually thereafter, the Commission shall consult with the Board of Governors of the Federal Reserve System (and any other agency it deems appropriate) to review the regulations prescribed under this title and the Securities Act of 1933 and the regulations prescribed under the Truth in Savings and Investments Act to determine whether such regulations are providing consumers the ability to effectively compare savings and investments options. If at any time as a result of such review, the Commission finds its regulations are not providing consumers the ability to effectively compare savings and investments options, it shall modify its regulations to insure that consumers have such ability.".

SEC. 414. EFFECT ON STATE LAW.

(a) In General.—The provisions of this title shall supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts. The Board is authorized to determine whether such inconsistencies exist.

(b) Balance on Which Interest Is Calculated.—The provisions of this title shall supersede any provisions of any State law relating to the determination of the balance on which interest is calculated to the extent such State law specifies the manner for determining the balance on which interest is calculated.

SEC. 415. EFFECTIVE DATE.

This title shall take effect upon the expiration of 1 year after the date of its enactment.

TITLE V—HOME EQUITY LOANS

SEC. 501. SHORT TITLE.

This title may be cited as the "Home Equity Loan Consumer Protection Act of 1988".

SEC. 502. DISCLOSURE AND ADVERTISING REQUIREMENTS FOR HOME EQUITY LOANS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 127 the following new section:

"SEC. 127A. REQUIREMENTS FOR OPEN END CREDIT PLANS SECURED BY THE CONSUMER'S PRINCIPAL DWELLING.

"(a) APPLICATION DISCLOSURES.—

"(1) IN GENERAL.—In the case of an open end consumer credit plan secured by a consumer's principal dwelling, the creditor shall make the following disclosures:

"(A) A statement that loss of the consumer's home may occur in the event of default.

"(B) A clear and conspicuous statement of the time by which an application must be submitted to obtain the terms disclosed or, if applicable, a statement that the terms may change at any time, and a statement that the consumer may elect not to enter into the plan agreement if the terms change, in which case the consumer shall have the right to a refund of all fees and costs paid by the consumer in connection with the application. The creditor shall also include a statement that the consumer should make or otherwise retain a copy of this information.

"(C)(i) A statement that the creditor may terminate the plan and require payment of the outstanding balance in full if the consumer fails to meet the repayment terms, the creditor's security is adversely affected by action or inaction of the consumer, or the consumer has engaged in fraud or made a material misrepresentation.

"(ii) A statement that the creditor may freeze or reduce the credit line if there is a material change in the consumer's financial circumstances affecting the consumer's ability to repay, a decline in the value of the consumer's home, the consumer fails to meet a material obligation under the plan, or the government takes action that prevents the lender from enforcing its rights under the loan agreement.

"(iii) A statement, if applicable, that the creditor may change any contract term that is not material to the contract after the agreement is signed.

"(iv) A statement that the consumer may obtain, upon request, a list of the types of obligations the borrower will have under the plan, and that failure to meet such obligations will allow the lender to freeze or reduce the credit line.

"(D) If applicable, a statement of any additional fees that may be imposed by the creditor upon termination of the account by either the creditor or the consumer.

"(E) The repayment options for the plan (separately stated, if applicable, for the period when advances may be obtained and the period when repayment is made without new advances), including—

"(i) the length of the plan, including, if applicable, both the length of the period when advances may be obtained and the length of the repayment period when advances may not be obtained;

"(ii) an explanation of how the minimum monthly or periodic payment will be determined;

"(iii) an example, based on a $10,000 amount outstanding and a recent interest rate (other than a rate not based on the index), showing the minimum monthly or periodic payment, and the time it would take to repay the entire $10,000 if the consumer paid only the minimum payment and obtained no other advances; and

"(iv) whether the plan includes a balloon payment feature.

"(F) If the minimum monthly or periodic payment will not reduce the outstanding principal balance, a statement of that fact.

"(G) Any monthly or other numerical restrictions on the consumer's right to draw funds against the line of credit, and any minimum outstanding balance or minimum advance requirements, stated in dollar amounts.

"(H) A statement that interest paid may not be deductible, or completely deductible, for all taxpayers.

"(I) An itemization of any fees imposed by the creditor in connection with the availability or use of such plan, including, but not limited to, annual fees, application fees, transaction fees, and closing costs such as points and the time when such fees are payable. Based on its experience with such plans, the creditor shall also provide the consumer with a general estimate within a reasonable range indicating the overall amount of additional fees that may be imposed by third parties (such as governmental authorities, appraisers, and closing attorneys) in connection with opening the plan, and a statement that the consumer may ask the creditor for a good faith estimate of such fees.

"(J) For other than variable rate plans, the creditor shall disclose the corresponding annual percentage rate or rates and a statement that this represents only interest and does not include closing costs.

"(2) VARIABLE RATE PLANS.—In the case of any open end consumer credit plan secured by a consumer's principal dwelling which is subject to a variable rate of interest, the creditor shall, in addition to the disclosures required by paragraph (1), make the following disclosures:

"(A) If an initial corresponding annual percentage rate not based on the index is offered, a statement of such rate and the period of time such initial rate will be in effect, and a statement that this represents only interest and does not include closing costs.

"(B) The formula used in making adjustments, including identification of the index and margin, if applicable, and a source of information about such index.

"(C) A statement that the consumer should ask about the current index value and interest rate.

"(D) The frequency of interest rate and payment changes.

"(E) Any rules relating to changes in the index, corresponding annual percentage rate, payment amount, and outstanding loan balance including, for example, an explanation of interest rate or payment limitations, negative amortization, and interest rate carryover.

"(F) A table, based on a $10,000 advance, showing how the corresponding annual percentage rate and minimum payment under each repayment option of the plan would have been affected by changes in the index value during the preceding 15-year period. The creditor shall consistently select one rate of interest for each year, and the manner of selecting the rate from year to year shall be consistent with the plan.

"(G) A statement of the maximum corresponding annual percentage rate and the minimum corresponding periodic payment which may be assessed under each repayment option of the plan, based on a $10,000 outstanding balance, and the earliest date such interest rate may be assessed.

"(H) A statement that interest rate information will be provided on or with each periodic statement.

"(I) The maximum amount by which the corresponding annual percentage rate may change in any 1-year period. If no limit exists, that fact shall be disclosed.

"(J) The maximum corresponding annual percentage rate that may be imposed at any time under the plan.

"(K) Any other term required by the Board.

"(b) TIME AND FORM OF DISCLOSURES.—

"(1) TIME.—

"(A) GENERAL RULE.—The creditor shall furnish the disclosures required by subsection (a) and the brochure required under paragraph (2) on or with the application, and at least 3 business days before the consumer incurs a nonrefundable fee.

"(B) TELEPHONE, PUBLICATIONS, AND THIRD-PARTY APPLICATIONS.—In the case of telephone applications, applications contained in magazines or other publications, or applications provided by a third party, the disclosures required under subsection (a) shall be provided by the creditor not later than 3 business days following the receipt of the application by the creditor, and the consumer shall have 3 business days from the date of receipt of the disclosure before incurring a nonrefundable fee. For purposes of determining when a nonrefundable fee may be incurred under this subsection, the day of receipt by the consumer is deemed to be 3 business days after the date of mailing by the creditor.

"(C) THIRD-PARTY APPLICATIONS.—In the case of an application provided by a third party, the third party shall—

"(i) comply with the time requirements set forth in subparagraph (A) or (B) in providing the disclosures regarding the plan of the creditor to which the third party sends an application, or

"(ii) if the third party cannot provide specific terms about the plan because specific information about the plan terms is not available, the third party shall not collect any fee until 3 business days after the disclosures are mailed by the creditor.

"(2) BROCHURE.—The creditor shall provide the consumer with a copy of the home equity line of credit brochure published by the Board, or a suitable substitute. Such brochure shall describe how home equity plans operate, define terms the consumer might not be familiar with, and advise the consumer how to compare among home equity plans and between home equity and closed end credit plans.

"(3) FORM.—The disclosures required by subsection (a) shall be grouped together and shall be segregated in accordance with regulations of the Board. The disclosures required by subparagraphs (A), (B), and (C) of subsection (a)(1) shall precede all of the other required disclosures.

"(c) RELATION TO SECTION 127 DISCLOSURES.—The disclosures required by subsection (a) shall be given in addition to and at the same time as the disclosures required by section 127(a), except to the extent the Board determines such disclosures are duplicative.

"(d) Restrictions on Contract Terms.—

"(1) No unilateral changes by creditor.—

"(A) In general.—No open end consumer credit plan secured by a consumer's principal dwelling may contain a provision which permits a creditor to change unilaterally the terms required to be disclosed under subsection (a) or any other material term after an agreement has been entered into.

"(B) Changes not precluded.—Notwithstanding the provisions of subsection (a), a creditor may—

"(i) Change the index and margin applicable to such plan if the index used by the creditor is no longer available and the substitute index and margin would result in a substantially similar interest rate.

"(ii) Freeze or reduce the credit line during the period when there is a decline in the value of the security interest because of a significant decline in the original appraisal value of the property securing the line.

"(iii) Freeze or reduce the credit line during the period when there is a material change in the borrower's financial circumstances such that the creditor has reason to believe that the consumer will be unable to repay.

"(iv) Freeze or reduce the credit line during the period of any other material default under the plan agreement. Upon request and at closing the consumer shall be given a list of the categories of contract obligations which shall be deemed material under the plan.

"(v) Freeze or reduce the credit line during any period after the account is established, if the creditor is precluded by government action from imposing the corresponding annual percentage rate provided for in the plan agreement, or if such government action adversely affects the priority of the creditor's security interest to the extent that the value of the creditor's secured interest in the property is less than 120 percent of the amount of the credit line.

"(vi) Make any change that will benefit the consumer. The Board may, by regulation, determine categories of such change.

"(2) Use of independent index.—

"(A) In general.—A creditor may change the corresponding annual percentage rate imposed under an open end consumer credit plan secured by a consumer's principal dwelling only if—

"(i) such change is made on the basis of an index which is not within such creditor's immediate control, and

"(ii) such index is readily available to the general public.

"(B) Special rule for credit unions.—Notwithstanding the provisions of subparagraph (A), credit unions may use their individual cost of funds as the index if such cost of funds does not exceed the prime rate, as published by the Board of Governors of the Federal Reserve System. Each credit union offering an open end consumer credit plan secured by a consumer's principal dwelling, and using its cost of funds as its index, shall publish and distribute to its members its cost of funds on at least a quarterly basis.

"(3) Terms changed after application.—If any term or condition required to be disclosed under subsection (a) changes (other than a change contemplated by a variable feature of the plan) before opening the account, and if, as a result, the consumer elects not to enter into the plan agreement, the creditor shall refund all fees and costs paid by the consumer in connection with the application for such account.

"(4) Grounds for acceleration of outstanding balance.—A creditor may not unilaterally terminate an open end consumer credit plan secured by a consumer's principal dwelling and require payment of the outstanding balance in full, except in the case of—

"(A) fraud or material misrepresentation on the part of the consumer in connection with the plan;

"(B) failure by the consumer to meet the repayment terms of the agreement for any credit outstanding; or

"(C) any other action or failure to act by the consumer which adversely affects the creditor's security for the loan or rights in such security.

"(e) Definitions.—For purposes of this section and section 143(b)—

"(1) Balloon payment.—The term 'balloon payment' means a repayment feature of an open end credit plan secured by the consumer's principal dwelling that requires the account holder to repay the entire outstanding balance at a specific time after the open end credit agreement is entered into and the minimum payments leading up to that payoff date are not fully amortized on the basis of that time period.

"(2) Corresponding annual percentage rate.—The term 'corresponding annual percentage rate' means 'annual percentage rate' as defined under section 107(a)(2).

"(3) Principal dwelling.—The term 'principal dwelling' means a dwelling which is used in whole or in part as a residence by the consumer, and is either—

"(A) the principal dwelling of the consumer, or

"(B) a second or vacation home of the consumer.".

(b) Advertising Requirements.—Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended—

(1) by striking "No advertisement" and inserting "(a) In General.—No Advertisement", and

(2) by adding at the end the following new subsection:

"(b) Open End Credit Plans Secured by the Consumer's Principal Dwelling.—In addition to the requirements of subsection (a), any advertisement to aid, promote, or assist, directly or indirectly, the extension of consumer credit through an open end credit plan secured by the consumer's principal dwelling that states, affirmatively or negatively, any specific terms of the plan including, but not limited to any periodic payment amount, shall contain the following information, in such form and manner as the Board may require:

"(1) Any loan fee which is imposed as a percentage of the credit line and a general estimate within a reasonable range indicating the overall amount of other fees for opening the account, based on the creditor's experience with such plans.

"(2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as a corresponding annual percentage rate.

"(3) The highest corresponding annual percentage rate that may be imposed under the plan.

"(4) If the plan includes a balloon payment feature, a statement of that fact.

"(5) Any other information the Board may by regulation require.

If the advertisement states an initial corresponding annual percentage rate for a variable rate plan that is not based on the index for the plan, the advertisement shall also state the current rate with equal prominence. The current rate must be current as of a reasonable time given the media involved.".

(c) Technical Amendment.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 127 the following new item:

"Sec. 127A. Requirements for open end credit plans secured by the consumer's principal dwelling.".

SEC. 503. EFFECTIVE DATE.

(a) In General.—Except as provided in subsections (b) and (c), the amendments made by this title shall apply to any open end consumer credit plan secured by a consumer's principal dwelling which is entered into after March 31, 1990.

(b) Effective Date of Section 127A(d).—The provisions contained in section 127A(d) shall apply to any open end consumer credit plan secured by a consumer's principal dwelling which is entered into after the date which is 90 days after the date of enactment of this title.

(c) Effect of Board Regulations.—Notwithstanding the provisions of subsections (a) and (b), any creditor may comply with the amendments made by this title, in accordance with the regulations prescribed by the Board, prior to the effective date of this title.

TITLE VI—INSURANCE ACTIVITIES

SEC. 601. SHORT TITLE.

This title may be cited as the "Bank Holding Company and National Bank Improvements Act of 1988".

SEC. 602. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956 RELATING TO INSURANCE ACTIVITIES.

(a) Definition.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(p) Insurance Activities.—For the purposes of this Act, the term 'insurance activities' means providing insurance as principal, agent, or broker.

(b) Insurance Activities.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended by sections 106(a) and 109(b) of this Act, is amended—

(1) by inserting after subsection (i) the following subsection:

"(j) Insurance Activities.—

"(1) In general.—Notwithstanding any other provision of this section or section 3 of this Act (but subject to paragraphs (2) and (3)), a bank holding company or any bank or nonbank subsidiary thereof shall not engage in insurance activities in the United States, except that a bank holding company or any bank or nonbank subsidiary thereof may provide insurance—

"(A) pursuant to subsection (c)(8) of this section;

"(B) through a State bank or subsidiary thereof to the extent permissible under clause (i), (ii), (iii), (v), or (vi) of subsection (c)(8)(C) and under State law;

"(C) if—

"(i) the insurance is provided by a State bank subsidiary of a bank holding company, or by a subsidiary of that State bank;

"(ii) that bank or subsidiary thereof is located in the one State where the operations of that bank holding company's banking subsidiaries are principally conducted for purposes of section 3(d) of this Act;

"(iii) the insurance activities engaged in by the bank or subsidiary thereof are authorized by State law; and

"(iv) the insurance is provided only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; or

"(D) pursuant to section 5136 or 5136B of the Revised Statutes.

"(2) Exclusions.—Paragraph (1) shall not apply to insurance activities of any company or institution pursuant to section 3(f) or the proviso to subsection (a)(2) of this section.

"(3) Authority to continue certain activities.—Notwithstanding any other provision of this section, a bank holding company may continue to—

"(A) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank was acquired after December 31, 1984, and before March 2, 1988, pursuant to Board approval under section 3(d) of this Act;

"(ii) the bank provides insurance only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; and

"(iii) such insurance insures against the same types of risks as insurance provided by the bank or subsidiary as of the day before its acquisition by the out-of-state bank holding company or as of March 2, 1988, or against functionally equivalent risks;

"(B) provide title insurance coverage through a State bank or subsidiary thereof if the bank was required to be empowered to provide title insurance as a condition of its initial chartering under State law;

"(C) continue to engage in any insurance activity lawfully engaged in prior to the date of enactment of this subsection, in the State of Indiana and in any State contiguous thereto, if the bank holding company or subsidiary thereof is located in the State of Indiana and was acquired on June 30, 1986, pursuant to Board approval under section 3(d) of this Act issued on May 28, 1986;

"(D) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank is described in clauses (i) and (ii) of subparagraph (A); and

"(ii) the insurance activity of the State bank or subsidiary thereof is limited (I) to life, accident, and health insurance activities for which it has been licensed prior to March 2, 1988, pursuant to State law enacted after July 20, 1987, and in effect prior to September 28, 1987, and (II) to the State in which it has been licensed; or

"(E) provide through a State bank, or subsidiary thereof, pursuant to authorization by the appropriate State banking regulator prior to March 2, 1988, financial guaranty insurance. For purposes of this subparagraph, the term 'financial guaranty insurance' means insurance against the risk of default on State and local government debt obligations, corporate debt and other monetary obligations, pass-through securities (other than those secured by mortgages on real property which are insurable by a mortgage guaranty insurer), and installment purchase agreements executed as a condition of sale, but such term does not include life, property, or casualty insurance. This subparagraph does not preclude any interested party from challenging the legality of these described activities under section 4(c)(8) of the Bank Holding Company Act of 1956, as in effect on March 2, 1988.

"(4) Definitions.—

"(A) Insurance.—For purposes of this subsection and subsections (c)(8) and (c)(15)(J)(iv) of this section, the term 'insurance' means—

"(i) traditional insurance products and services;

"(ii) variable annuity contracts; and

"(iii) variable life insurance contracts.

"(B) Resident.—For purposes of this subsection, the term 'residents of that State' includes natural persons who are residents of the State and—

"(i) companies incorporated in, or organized under the laws of, the State,

"(ii) companies licensed to do business in the State, and

"(iii) companies having an office in the State."; and

(2) in subsection (c)(8)(C)(iv), by inserting immediately before the semicolon at the end the following: ", except that—

"(I) the authorization to provide insurance pursuant to this clause shall terminate if control of the company providing the insurance is acquired by a bank holding company—

"(a) on or after October 15, 1982, in a transaction requiring Board approval under section 3(d) if the bank holding company did not obtain board approval to engage in such insurance activities under this section prior to March 2, 1988; or

"(b) on or after March 2, 1988;

unless such acquiring company is a successor or is and continues to be a bank holding company with total assets of $50,000,000 or less; and

"(II) no company that is an affiliate of a company providing insurance pursuant to this clause (other than a company that is an affiliate of the company providing insurance pursuant to this clause only because of common control by one or more individuals who do not constitute a company) shall provide insurance pursuant to this clause on or after March 2, 1988, unless such affiliated company itself meets the requirements of this clause.".

SEC. 603. AMENDMENTS TO THE NATIONAL BANK ACT.

(a) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended—

(1) by inserting "(a) In General.—" immediately before "Upon duly making and filing"; and

(2) by adding at the end thereof the following new subsection:

"(b) Limitation on Insurance Powers.—

"(1) In general.—Except as provided in paragraph (2), a national bank, or subsidiary (as defined in section 2(d) of the Bank Holding Company Act of 1956) of a national bank, may not engage in insurance activities in the United States except to the extent that the insurance is limited to assuring the repayment of the outstanding balance due on any specific extension of credit by the national bank in the event of the death, disability, or involuntary unemployment of the debtor and except to the extent provided in section 5136B of this title.

"(2) Exceptions.—Paragraph (1) does not prohibit (A) any company engaged in municipal bond guarantee insurance activities pursuant to authorization by the Comptroller of the Currency on or before May 2, 1985, from continuing to engage in such activities, or (B) any company lawfully engaged in title insurance activities as of March 2, 1988, from continuing to engage in such activities, if such activities are limited to the State in which the bank is located, and if the bank is not acquired after March 2, 1988, by a bank holding company the principal banking operations of which are conducted in another State.

"(3) Insurance definition.—The term 'insurance' has the meaning given to that term in section 4(j)(4) of the Bank Holding Company Act of 1956.

"(4) Insurance activities defined.—The term 'insurance activities' means providing insurance as principal, agent, or broker.".

(b) Chapter 1 of title LXII of the Revised Statutes is amended by inserting after section 5136A the following new section:

"SEC. 5136B. LIMITED INSURANCE POWERS FOR NATIONAL BANKS LOCATED IN RURAL AREAS.

"(a) In General.—In addition to the powers vested by law in national banking associations, any such association located in a place that has a population not exceeding 5,000 (as shown by the preceding decennial census) may sell insurance as defined in section 5136(b)(3) so long as such insurance activities are confined to that place, and the insurance is sold only to residents of the State in which the association is located or to natural persons employed in that State. For purposes of this subsection, the term 'residents of that State' includes (1) natural persons who are residents of the State, (2) companies incorporated in, or organized under the laws of, the State, (3) companies licensed to do business in the State, and (4) companies having an office in the State.

"(b) Additional Limitations.—No national banking association described in subsection (a) may—

"(1) assume or guarantee the payment of any premium on insurance policies issued through the agency of the association by the insurance company for which such association is acting as agent pursuant to subsection (a); and

"(2) guarantee the truth of any statement made by an assured in filing such person's application for insurance.".

(c) Effect on Certain Companies.—This section shall not affect the ability of—

(1) a national bank or a subsidiary thereof, located in Oregon or Washington, to continue to engage in insurance activities lawfully engaged in as of March 2, 1988, within the State in which the main office of such national bank is located; or

(2) a national bank chartered in 1882 (or a subsidiary thereof) to continue to engage in insurance activities in which it was lawfully engaged as of March 2, 1988, within 30 miles of such bank's main office if such main office is not within 30 miles of any city that had a population exceeding 150,000 under the 1980 census.

SEC. 604. EFFECTIVE DATE.

The provisions of this title shall take effect on March 5, 1987.

TITLE VII—CONSUMER PROTECTION PROVISIONS

Subtitle A—Government Check Cashing

SEC. 701. SHORT TITLE.

This subtitle may be cited as the "Government Check Cashing Act".

SEC. 702. GOVERNMENT CHECK CASHING ACCOUNT.

(a) Requirement to Offer Account.—Each depository institution shall offer a government check cashing account that meets the requirements of this section.

(b) Exception.—A depository institution is not required to provide a government check cashing account under this subtitle to any individual who has—

(1) a transaction account at any depository institution, or

(2) another government check cashing account at any depository institution.

(c) Registration Requirements.—

(1) In general.—The Board of Governors of the Federal Reserve System shall prescribe such regulations as may be necessary to establish the customer registration program required to open a government check cashing account.

(2) Minimum requirements.—Regulations prescribed by the Board under paragraph (1) of this subsection shall contain, at a minimum, the following requirements:

(A) Each depository institution shall provide for registration in all of its deposit taking offices staffed by individuals employed by such depository institution.

(B) Registration shall be by means of an application containing the application date, and the name, address, date of birth, and handwritten signature of the applicant as well as other information the Board determines to be reasonably necessary to facilitate registration of customers for the purpose of this section.

(C) At the time of account registration, an applicant may be required by the depository institution to sign a document in which he states whether he has or has applied for any transaction account or other government check cashing account.

(D) At the time of account registration, an applicant may be required to present an identification card in such form as the Board may require, which includes the signature and a photograph of such customer.

(E) The applicant shall be provided a copy of the completed account registration evidencing the fact that the registration has been received and filed with the depository institution within 15 days of such filing.

(3) Rejection for intentional material misrepresentation.—If the depository institution determines that an intentional material misrepresentation has been made in the information provided to open a government check cashing account, the depository institution may reject such registration.

(4) Initial waiting period.—The depository institution may impose a waiting period of not more than 20 days after the registration is completed before cashing any government check in connection with such account.

(d) Terms and Conditions of Account.—A government check cashing account offered by a depository institution meets the requirements of this section with respect to providing government check cashing services if it is an account—

(1) which is available to individuals (or to members, in the case of a credit union) for the purpose of cashing government checks in amounts of $1,500 or less if the individual presenting the check is the individual to whom the check has been issued;

(2) which does not have a minimum opening or minimum balance requirement;

(3) which does not require other account relationships with such depository institution;

(4) which does not require the individual to meet any prerequisite which discriminates against low-income individuals in order to open such account;

(5) for which fees, if any, for cashing government checks do not exceed an amount needed to recover all related costs, including fraud losses, as determined by the Board based on actual cost studies;

(6) which allows the customer to designate not less than 3 offices of such depository institution at which such customer may cash government checks upon presentation of—

(A) a copy of the registration provided in accordance with subsection (c) of this section;

(B) an identification card in the form described in subsection (c)(2)(D) of this section; and

(C) the government check cashing account number.

(e) Information on Accounts.—Upon request by any individual, a depository institution shall provide such individual with a written summary describing the account offered by such depository institution which meets the requirements of subsection (a).

(f) Government Check Defined.—For purposes of this section, the term "government check" means any check which was issued by—

(1) the United States, any State, or any agency of the United States; or

(2) any agency of the State in which the check is presented for cashing purposes (in connection with a government check cashing account), any local unit of local government of such State, or any agency of any such unit of local government.

(g) Special Rule for Credit Unions.—Any credit union which, in the ordinary course of business, cashes checks for members shall cash any government check in an amount of $1,500 or less for any member without charge if the member presenting the check is the individual to whom the check has been issued.

(h) Special Rule for Certain Depository Institutions.—A depository institution which does not cash checks for customers shall not be required to provide government check cashing services pursuant to this subtitle.

(i) Prevention of Fraud Losses.—

(1) In general.—The Board may, by regulation or order, suspend any requirement of this section for any classification of checks if the Board determines that—

(A) depository institutions are experiencing an unacceptable level of losses due to check-related fraud with respect to such class of checks; or

(B) there is reasonable cause to believe that such class of checks is being used in a scheme to defraud.

(2) Report to congress.—Within 10 days of issuing any order or prescribing any regulation under paragraph (1), the Board shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the reason for the order or regulation and the evidence considered in making the determination to issue an order or prescribe a regulation.

(j) Exception.—

(1) In general.—In accordance with regulations which the Board shall prescribe, this section shall not apply with respect to any government check presented for cashing to a depository institution if the depository institution has reasonable cause to believe that—

(A) such check is being fraudulently presented or has been altered or forged; or

(B) the identification card described in subsection (c)(2)(D) which is presented in connection with cashing such check has been altered or forged.

(2) Standard.—For purposes of paragraph (1), reasonable cause to believe requires the existence of facts which would cause a well-grounded belief in the mind of a reasonable person.

(k) Consumer Rights.—Notwithstanding any other provision of law, the Board may promulgate regulations to ensure that any individual shall have the right to require that any recurring government check issued to that individual be directly deposited in an account held by that individual in a depository institution, taking into account the safety and soundness of the institutions involved and the efficient operation of the payments system.

SEC. 703. POSTING OF NOTICES.

(a) Notice Required.—Each depository institution shall post a conspicuous notice in the appropriate area of each location where deposits are accepted that informs account holders and potential account holders that government check cashing services through government check cashing accounts are available pursuant to this subtitle.

(b) Contents of Notice.—Any notice required under subsection (a) shall clearly explain the material features and limitations of government check cashing accounts, so that customers can reasonably be expected to understand the terms of the account offered.

SEC. 704. ADMINISTRATIVE ENFORCEMENT.

(a) Administrative Enforcement.—Compliance with the requirements imposed under this subtitle and regulations prescribed by the Board under section 706 shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the Comptroller of the Currency with respect to national banks;

(B) by the Board with respect to member banks of the Federal Reserve System (other than a national bank); and

(C) by the Board of Directors of the Federal Deposit Insurance Corporation with respect to banks the deposits of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System);

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) with respect to any depository institution which is subject to any provision of such sections; and

(3) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any insured credit union.

(b) Additional Enforcement Powers.—

(1) Violation of this subtitle treated as violation of other acts.—For purposes of the exercise by any Federal depository institutions regulatory agency of any such agency's powers under any Act referred to in subsection (a), a violation of—

(A) a requirement imposed under this subtitle shall be deemed to be a violation of a requirement imposed under that Act; and

(B) any regulation prescribed by the Board under section 706 shall be deemed to be a violation of a regulation prescribed by such agency under such Act.

(2) Enforcement authority under other acts.—In addition to any Federal depository institutions regulatory agency's powers under any provision of law referred to in subsection (a), each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this subtitle, any other authority conferred on such agency by any other law.

SEC. 705. EXCLUSION OF BANKS WITH ASSETS OF NOT MORE THAN $25 MILLION.

(a) Exclusion of Small Banks.—The provisions of this subtitle shall not apply to any depository institution which had total assets of less than $25,000,000 as of its last full fiscal year.

(b) Adjustment to Limitation.—The dollar limitation in subsection (a) shall be adjusted annually after December 31, 1988, by the annual percentage increase in the Consumer Price Index as described in section 4(c)(8)(C) of the Bank Holding Company Act of 1956.

SEC. 706. REGULATIONS.

The Board shall prescribe such regulations as it may determine to be appropriate to carry out the provisions of this subtitle.

SEC. 707. DEFINITIONS.

For purposes of this subtitle—

(1) Federal depository institutions regulatory agency.—The term "Federal depository institutions regulatory agency" means—

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board with respect to member banks of the Federal Reserve System (other than national banks);

(C) the Board of Directors of the Federal Deposit Insurance Corporation with respect to federally insured depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than national banks and member banks of the Federal Reserve System);

(D) the Federal Home Loan Bank Board with respect to federally insured depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of such Act; and

(E) the National Credit Union Administration Board with respect to federally insured depository institutions described in clause (iv) of section 19(b)(1)(A) of such Act.

(2) Board.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) Depository institution.—The term "depository institution" means any federally insured depository institution described in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(4) State.—The term "State" has the meaning given to such term in section 3(a) of the Federal Deposit Insurance Act.

(5) Transaction account.—The term "transaction account" means a transaction account as defined in section 19(b)(1)(C) of the Federal Reserve Act.

SEC. 708. EFFECTIVE DATE.

(a) In General.—This subtitle shall take effect at the end of the 12-month period beginning on the date of enactment of this Act or on such earlier date as the Board of Governors of the Federal Reserve System promulgates final regulations to carry out this subtitle.

(b) Recommendations of Board Regarding Government Check Cashing Services.—Five years after the effective date of this subtitle, the Board shall submit recommendations to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate as to whether this subtitle should be amended or repealed. In making such recommendations, the Board shall consider—

(1) whether the accounts are necessary to provide adequate government check cashing services;

(2) the conclusions reached in the study mandated by section 709(b) concerning direct deposit of government checks; and

(3) other relevant factors.

SEC. 709. STUDY AND REPORT ON DIRECT DEPOSIT PROGRAM FOR UNITED STATES GOVERNMENT ENTITLEMENT PROGRAMS.

(a) Study Required.—Beginning 1 year after the effective date of this subtitle, the Board shall conduct a study of the feasibility and desirability of requiring the direct deposit of Federal Government checks which are issued in connection with Federal entitlement programs to a depository institution designated by the payee for such deposit into the payee's account and the implications of any such requirement.

(b) Report Required.—Not later than 2 years after the effective date of this subtitle, the Board shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the findings and conclusions of the Board with respect to the study required under subsection (a), together with such recommendations for legislative and administrative action as the Board determines to be appropriate.

Subtitle B—Notice of Branch Closures by Banks and Thrift Institutions

SEC. 711. SHORT TITLE.

This subtitle may be cited as the "Notice of Bank and Thrift Branch Closure Act of 1988".

SEC. 712. NOTICE REQUIREMENTS FOR NATIONAL BANKS.

(a) Notice to Comptroller of the Currency Required.—In the case of any national banking association or District bank which proposes to close any branch of such association or bank, such national banking association or District bank shall provide written notice of such proposed action to the Comptroller of the Currency not less than 90 days and not more than 180 days before such action is to occur.

(b) Notice to Customer.—

(1) Notice required.—In the case of any national banking association or District bank which proposes to close any branch of such association or bank, such national banking association or District bank shall provide—

(A) notice of such proposed action to customers of such branch in the manner described in paragraph (2); and

(B) the mailing address of the Comptroller of the Currency and a statement that comments on the proposed closing of such branch may be mailed to the Comptroller of the Currency.

(2) Method.—Any notice required to be provided under paragraph (1) shall be provided in the following manner:

(A) Posted on branch premises.—A general notice of the plan to close a branch and the date such action is planned shall be posted in a conspicuous place on the premises of such branch not later than the date on which written notice is provided to the Comptroller of the Currency pursuant to subsection (a).

(B) Notice in statement of account.—Notice of such plan shall be inserted in at least 1 of any periodic statements of account which are mailed—

(i) to any person who maintains an account at such branch; and

(ii) during the period beginning 180 days before the date such action is to occur and ending 90 days before such date.

(c) Exception in Case of Emergency.—This section shall not apply with respect to the closing of a branch of a national bank if—

(1) the Comptroller of the Currency places the national bank in receivership; or

(2) the Comptroller of the Currency or the Federal Deposit Insurance Corporation authorizes another company to acquire (as such term is defined in section 13(f)(8)(E) of the Federal Deposit Insurance Act) control of such bank in connection with a transaction under section 13(c) or section 13(f) of the Federal Deposit Insurance Act.

(d) Definitions.—

(1) Branch.—For purposes of this section, the term "branch" has the meaning given to such term by section 5155(f) of the Revised Statutes.

(2) Depository Institution.—For purposes of this section, the term "depository institution" has the meaning given to such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(e) Technical and Conforming Amendment.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by adding at the end thereof the following new subsection:

"(i) Branch Closing.—No branch of a national bank association may be closed unless notice of such closing has been provided to the Comptroller of the Currency and to customers of such branch in accordance with section 712 of the Bank and Thrift Branch Closure Act of 1988.".

SEC. 713. NOTICE REQUIREMENTS FOR THRIFT INSTITUTIONS.

The Home Owners' Loan Act of 1933 (12 U.S.C. 1461 et seq.) is amended by redesignating section 11 as section 12 and by inserting after section 10 the following new section:

"SEC. 11. ASSOCIATION BRANCH CLOSINGS.

"(a) Notice to Board Required.—In the case of any association which proposes to close any branch of such association, the association shall provide written notice of such proposed action to the Board not less than 90 days and not more than 180 days before such action is to occur.

"(b) Notice to Customers.—

"(1) Notice required.—In the case of any association which proposes to close any branch of such association, the association shall provide—

"(A) notice of such proposed action to customers of such branch in the manner described in paragraph (2); and

"(B) the mailing address of the Board and a statement that comments on the proposed closing of such branch may be mailed to the Board.

"(2) Method.—Any notice required to be provided under paragraph (1) shall be provided in the following manner:

"(A) Posted on branch premises.—A general notice of the plan to close a branch and the date such action is planned shall be posted in a conspicuous place on the premises of such branch not later than the date on which written notice is provided to the Board pursuant to subsection (a).

"(B) Notice in statement of account.—Notice of such plan shall be inserted in at least 1 of any periodic statements of account which are mailed—

"(i) to any person who maintains an account at such branch; and

"(ii) during the period beginning 180 days before the date such action is to occur and ending 90 days before such date.

"(c) Exception in Case of Emergency.—This section shall not apply with respect to the closing of a branch of an association pursuant to an order of—

"(1) the Board placing the association in receivership;

"(2) the Board or the Federal Savings and Loan Insurance Corporation authorizing another company to acquire (as such term is defined in section 13(f)(8)(E) of the Federal Deposit Insurance Act) control of such association in connection with a transaction under section 406(f) or 408(m) of the National Housing Act or if the closing of such branch is necessary to facilitate such acquisition; or

"(3) the Board or the Corporation authorizing the transfer of insured deposit liabilities to another insured institution pursuant to section 405(b) or 408(m) of the National Housing Act.

"(d) Definitions.—

"(1) Branch defined.—For purposes of this section, the term 'branch' has the same meaning with respect to associations as such has under section 5155(b) of the Revised Statutes with respect to national banking association.

"(2) Depository institution.—For purposes of this section, the term 'depository institution' has the meaning given to such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.".

SEC. 714. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

TITLE VIII—MISCELLANEOUS

SEC. 801. LIMITATIONS ON GRANDFATHERED NONBANK BANKS OWNED BY BANK HOLDING COMPANIES.

Section 4(g)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(g)(1)) is amended—

(1) by inserting after subparagraph (B) the following new subparagraph:

"(C) accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others, or make commercial loans, unless—

"(i) such institution was authorized in writing to do so (other than as an incidental activity) by the Board as of August 10, 1987 (and then only to the extent authorized by the Board as of such date); or

"(ii) such institution—

"(I) was informed in writing by the General Counsel of the Board as of December 31, 1987, that an application is not required to be filed by such bank holding company for Board approval under this Act to retain ownership of such institution or to expand such institution's activities in a manner which is consistent with the requirements of subparagraph (A) of this paragraph;

"(II) does not increase the number of locations of such institution in excess of the number of locations in existence on July 7, 1988; and

"(III) does not move any location to any place other than a place within any of the counties in which such institution maintained locations on July 7, 1988."; and

(2) by striking out "or" at the end of subparagraph (A); and

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or".

SEC. 802. JOINT MARKETING RESTRICTIONS.

(a) Bank Holding Companies.—Section 4(f)(3)(B)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)(ii)) is amended—

(1) by inserting "or subsection (c)(15)" after "subsection (c)(8)" the first place it appears; and

(2) by striking "by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under subsection (c)(8)" and inserting "in connection with products or services of an affiliate that are not permissible for a bank holding company to provide under subsection (c)(8) or subsection (c)(15)".

(b) Savings and Loan Holding Companies.—Section 408(p)(2) of the National Housing Act (12 U.S.C. 1730a(p)(2)) is amended—

(1) in subparagraph (A), by inserting "or section 4(c)(15)" after "section 4(c)(8)" the first place it appears;

(2) in subpargraph (A), by striking "by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under section 4(c)" and inserting "in connection with products or services of an affiliate that are not permissible for a bank holding company to provide under section 4(c)(8) or section 4(c)(15)"; and

(3) in subparagraph (B), by striking "(i)" and inserting "(i)(I)", by striking "(ii)" and inserting "(II)", by striking the period at the end of redesignated subclause (i)(II) and inserting in lieu thereof "; or", and by adding at the end the following new clause:

"(ii) such diversified savings and loan holding company was formed pursuant to an acquisition agreement dated as of August 4, 1987.".

SEC. 803. INDUSTRIAL BANKS.

(a) Clerical Amendment.—Section 2(c)(2)(H)(i)(I) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)(i)(I)) is amended by inserting "or deposits" after "demand deposits".

(b) Activities Authorized as of March 5, 1987.—Section 2(c)(2)(H)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)(ii)) is amended by inserting after "was not lawfully engaged" the words ", or authorized to engage,".

SEC. 804. STATUS OF CERTAIN COMPANY CONTROLLED BY SAVINGS BANKS.

A corporation, incorporated on March 29, 1985, under the laws of the State of Maryland, and duly registered under the Investment Company Act of 1940 on February 21, 1986, all of the present shareholders of which are savings banks, shall be deemed to have been registered under such Act on the date of its incorporation.

SEC. 805. CERTAIN MANAGEMENT INTERLOCKS NOT AFFECTED.

Section 305(b) of the Federal Power Act (16 U.S.C. 825d(b)) is amended by adding the following at the end of the subsection:

"Any person now holding or proposing to hold the position of officer or director of a public utility and officer or director of a bank, trust company, or banking association is authorized to hold such positions without authorization of the Commission, as long as such bank, trust company, or banking association does not underwrite or participate in the marketing of securities (including commercial paper) of the public utility for which the person serves or proposes to serve as an officer or director.".

SEC. 806. EXPEDITED FUNDS AVAILABILITY.

(a) Reasonable Exceptions.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "(a)(2)," after "limitation established under subsection";

(2) in subsection (c)(1), by striking out "(a)(2)(F)," and inserting in lieu thereof "(a)(2),"; and

(3) in subsection (d), by inserting "(a)(2)," after "subsections".

(b) Disclosure.—Section 604(f) of such Act is amended by adding the following:

"(4) Notice with respect to cashier's, certified, and similar checks.—A depository institution issuing a check described in section 603(a)(2)(F) in excess of $5,000 shall notify the person to whom it issued that funds may be made available later than the time specified in section 603(a).".

(c) Next Day Availability For Certain Deposits.—

(1) U.S. treasury checks.—Section 603(a)(2)(A) of the Expedited Funds Availability Act (12 U.S.C. 4002(a)(2)(A)) is amended—

(A) by striking out "and" at the end of clause (i);

(B) by inserting "and" after the semicolon at the end of clause (ii); and

(C) by adding at the end thereof the following new clause:

"(iii) is deposited in a receiving depository institution which is staffed by individuals employed by such institution;".

(2) Checks drawn on the same depository institution.—Section 603(a)(2)(E) of the Expedited Funds Availability Act (12 U.S.C. 4002(a)(2)(E)) is amended to read as follows:

"(E) a check which—

"(i) is deposited in a branch of a depository institution which is staffed by individuals employed by such institution; and

"(ii) is drawn on the same or another branch of the receiving depository institution if both such branches are located in the same State or the same check processing region.".

(d) Section 604 Notice of Exceptions.—Section 604(f)(2)(C) of the Expedited Funds Availability Act (12 U.S.C. 4003(f)(2)(C)) is amended by striking out "(d)" and inserting in lieu thereof "(b), (d),".

(e) Section 611 Civil Liability.—The first sentence of section 611(f) of the Expedited Funds Availability Act (12 U.S.C. 4010(f)) is amended by inserting "or other entities participating in the payments system, including States and political subdivisions of States on which checks are drawn," after "depository institutions".

(f) Delay in Applicability of Civil Liability Provisions to Certain Violations.—Section 613 of the Expedited Funds Availability Act (12 U.S.C. 4001 note) is amended by adding at the end thereof the following new subsection:

"(g) Delayed Applicability of Certain Provisions.—A depository institution may not be held liable under subsection (a) or (b) of section 611 for failure to comply with any requirement imposed under sections 604(f) and 605 during the period beginning on September 1, 1988, and ending on December 31, 1988.".

SEC. 807. PAYROLL TAX FILING SERVICE ORGANIZATIONS.

Section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)) is amended—

(1) in clause (i), by inserting after "in trust funds" the following: "or in Treasury tax and loan accounts maintained by a payroll tax filing service organization,";

(2) in clause (iii), by inserting after "third parties or others" the following: ", except for deposits of funds by a payroll tax filing service organization in Treasury tax and loan accounts or in trust pending payment of such funds for Federal, State, or local tax obligations,"; and

(3) in clause (iv)(I), by inserting before the semicolon the following: "except in connection with the transfer by a payroll tax filing

service organization of funds held in trust pending payment of such funds for Federal, State, or local tax obligations".

SEC. 808. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS.

The International Banking Act of 1978 is amended by adding at the end thereof the following:

"NATIONAL TREATMENT

"SEC. 15. (a) GENERAL RULE.—If the President or his designee has made a written determination that a foreign country is described in subsection (b) of this section, has transmitted the determination to a Federal banking agency, and has not revoked the determination, the Federal banking agency may, notwithstanding any other provision of law, deny any application by an entity described in subsection (c) that requires the approval of that agency, or disapprove any notice by such an entity that is subject to disapproval by that agency, if—

"(1) that entity is chartered or incorporated or has its principal place of business in that foreign country; or

"(2) any person that directly or indirectly controls that entity resides, is chartered or incorporated, or has its principal place of business in that foreign country.

"(b) DENIAL OF NATIONAL TREATMENT.—A country is described in this subsection for purposes of this section if that country does not accord to United States banks and bank holding companies the same competitive opportunities as it accords to domestic banks and bank holding companies.

"(c) CERTAIN FOREIGN ENTITIES DESCRIBED.—The following entities are described in this subsection for purposes of this paragraph:

"(1) a foreign bank; and

"(2) any other company subject to the Bank Holding Company Act of 1956 under section 8(a) of this Act.".

SEC. 809. STUDY OF MERGER OF COMMERCE AND BANKING.

(a) IN GENERAL.—The Board of Governors shall conduct a study of the need, if any, to continue the separation of full-service banking and commerce in the United States. In carrying out such study, the Board shall consult with all appropriate departments and agencies of the United States and representatives of all segments of the financial services and other industries.

(b) PARTICULAR AREAS OF STUDY.—In carrying out the study under this section, the Board shall in particular examine—

(1) the economic, regulatory, and consumer issues involved in continuing or eliminating the separation of banking and commerce;

(2) the competitive issues involved in eliminating the separation of banking and commerce, including the adequacy of antitrust and other laws relating to the maintenance of other competition; and

(3) organizational issues, particularly with respect to the appropriate types and structures of organizations that may engage in full-service banking, financial services, and commercial activities.

(c) REPORT REQUIRED.—Not later than one year after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall transmit the report required by this section to the Congress.

SEC. 810. INCREASED PENALTIES UNDER THE BANK HOLDING COMPANY ACT.

(a) Section 8(a) of the Bank Holding Company Act of 1956 is amended by striking "$1,000" and inserting "$50,000", by striking "$10,000" and inserting "$100,000", and by striking "one year" and inserting "three years".

Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)) is amended by striking "$1,000" and inserting "$5,000".

SEC. 811. FINANCIAL CONSUMERS ASSOCIATIONS.

(a) NATIONAL BANKS.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured banks, as defined in section 3 of the Federal Deposit Insurance Act, to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, national banks shall comply with the insert requirements.".

(b) SAVINGS AND LOAN ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding the following new subsection:

"(t) FINANCIAL CONSUMERS ASSOCIATIONS.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured institutions as defined in section 401 of the National Housing Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, associations, as defined in subsection (d), shall comply with the insert requirement.".

(c) CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding the following new section:

"FINANCIAL CONSUMERS ASSOCIATIONS

"SEC. 130. Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured credit unions as defined in section 101(7) of this Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, Federal credit unions shall comply with the insert requirement.".

SEC. 812. CONVERSION OF MUTUAL SAVINGS AND LOAN ASSOCIATIONS INTO STOCK ASSOCIATIONS.

Section 5(i)(2) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)(2)) is amended by adding at the end the following sentence: "In determining whether to approve the conversion of any Federal association from the mutual form to the stock form of organization, the Board shall not deny the application for a voluntary supervisory conversion solely on the basis of the market appreciation of the preferred stock of the Federal Home Loan Mortgage Corporation which such association owns.".

SEC. 813. EXPANSION OF USE OF UNDERUTILIZED MINORITY BANKS, WOMEN'S BANKS, AND LOW INCOME CREDIT UNIONS.

(a) CONSULTATION ON EXPANDED USE.—The Secretary of the Treasury shall consult with the appropriate Federal banking agencies and the National Credit Union Administration Board on methods for increasing the use of underutilized minority banks, women's banks, and limited income credit unions as depositaries or financial agents of Federal agencies.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury and each appropriate Federal banking agency shall submit a report to the Congress on actions taken by such Secretary or agency pursuant to subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) MINORITY BANK.—The term "minority bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the ownership or control of which is held by minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to minority individuals.

(3) MINORITY.—The term "minority" means any Black American, Native American, Hispanic American, or Asian American.

(4) LOW INCOME CREDIT UNION.—The term "low income credit union" means any depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act which serves predominately low income members (as defined by the National Credit Union Administration Board pursuant to section 101(5) of the Federal Credit Union Act).

(5) WOMEN'S BANK.—The term "women's bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the outstanding shares of which are held by women;

(B) a majority of the directors on the board of directors of which are women; and

(C) a significant percentage of senior management positions of which are held by women.

SEC. 814. AMENDMENT TO THE EXPORT-IMPORT BANK ACT OF 1945.

Section 2(c)(3) of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.), is amended by inserting at the end thereof the following new sentence: "With respect to medium-term and long-term obligations insured or guaranteed by the Bank before the date of enactment of the Export-Import Bank Act Amendments of 1986, the Bank shall authorize the unrestricted transferability of such obligations by the originating lenders or their transferees to other lenders or their transferees without affecting, limiting, or terminating the guarantee or insurance provided by the Bank.".

SEC. 815. DIRECTORS OF NATIONAL BANKS.

(a) RESIDENCY REQUIREMENTS.—Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by inserting after "except that" in the first sentence the following: "(1) the Comptroller of the Currency may waive the residency location requirements for not more than a minority of the total number of directors of an association if the Comptroller of the Currency finds that the nonresident directors can adequately discharge their responsibilities as directors and that the waiver is appropriate in light of the nature or geographic scope of the association's business, and (2)".

(b) CLERICAL AMENDMENT.—Section 5146 of the Revised Statutes (as amended by subsection (a)) is amended by striking "in the case of" after "requirement of citizenship" and inserting "for".

TITLE IX—DEPOSIT INSURANCE COMMISSION

SEC. 901. ESTABLISHMENT OF COMMISSION.

There is hereby established a commission to be known as the National Commission on Federal Deposit Insurance (hereafter in this title referred to as the "Commission").

SEC. 902. MEMBERSHIP OF COMMISSION.

(a) NUMBER AND APPOINTMENT.—The Commission shall initially be composed of 12 members, appointed not later than November 1, 1988. After the declaration of an individual as the President-elect in connection with the Presidential election on November 8, 1988, the Commission shall be expanded to 14 members. The members shall be appointed as follows:

(1) 2 citizens of the United States, appointed by the President.

(2) 1 Senator and 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(3) 1 Senator and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(4) 1 Member of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(5) 1 Member of the House of Representatives and 1 citizen of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect of the United States.

(b) ADDITIONAL QUALIFICATIONS.—

(1) IN GENERAL.—Members of the Commission who are appointed under any paragraph of subsection (a) other than paragraph (1) and are not Members of the Congress shall be appointed from among individuals who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(2) LIMITATION.—Of the total number of the members of the Commission who are described in paragraph (1) of this subsection, not more than 2 of such members may be, at the time of or during the 12 months prior to any such member's appointment and during any such member's service on the Commission—

(A) a director, officer, or employee of any Federal or State agency or instrumentality with supervisory or regulatory authority over any thrift or banking institution; or

(B) a director, officer, employee, or agent of thrift or bank or any trade association which represents any thrift or banking institution.

(c) TERMS.—Members shall be appointed for the life of the Commission.

(d) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(f) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(g) VACANCIES.—No vacancy on the Commission shall affect the powers of the Commission and any such vacancy shall be filled in the manner in which the original appointment was made.

(h) COMPENSATION AND EXPENSES.—

(1) NO BASIC PAY.—Except as provided in paragraph (2), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) PER DIEM AND TRAVEL EXPENSES.—Members of the Commission who are appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

(i) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 903. FUNCTIONS OF COMMISSION.

(a) CONTENTS AND SPECIFIC RECOMMENDATIONS.—The Commission shall conduct an investigation and evaluation of, and shall report and make recommendations on, the following issues:

(1) The adequacy of the regulation of thrift and banking institutions at the Federal and State level.

(2) The current and future financial condition of the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation and the current and future ability of the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation to eliminate the inventory of troubled depository institutions.

(3) Sources of income for the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation should the Commission determine that the current financial resources of the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation will be insufficient to eliminate the inventory of troubled depository institutions.

(4) Problems in the structure of the deposit insurance system, such as the calculations of premiums, and proposals for such reforms as a risk-based premium.

(5) Options for reform and restructuring of the banking and thrift industries, such as separating the deposit insurance and regulatory functions of the Federal Home Loan Bank Board, combining thrift institution and bank regulation in one agency, combining bank and thrift deposit insurance in one agency, and permitting bank holding companies to acquire healthy thrift institutions.

(6) Future methods of increasing capital levels in the thrift industry and the level of capital currently supplied by investor, versus bank holding company, purchasers of troubled thrifts.

(7) Future methods to improve the regulation of the thrift industry, including capital and accounting standards.

(8) The impact on the thrift industry of the various assistance programs carried out by the Federal Savings and Loan Insurance Corporation.

(9) The role of the thrift industry in providing mortgage credit, including such industry's projected share of the mortgage market in the year 2000.

(10) The role of the mortgage banking industry, the commercial banking industry, and the secondary mortgage market in relation to the role of the thrift industry in providing mortgage credit.

(11) The need for specialized depository institutions to serve the mortgage market, including the extent to which the existence of such institutions affects the availability of low- and moderate-income housing.

(b) FINAL REPORT.—

(1) TIME FOR SUBMISSION.—The Commission shall submit to the President and to the Congress a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable, in two stages: First, the Commission shall report on all the issues principally relating to the thrift industry and the Federal Savings and Loan Insurance Corporation, as well as those issues relating to both the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, by February 1, 1989; and second, the Commission shall report on the issues relating principally to the banking industry and the Federal Deposit Insurance Corporation by March 1, 1989.

(2) MAJORITY VOTE.—Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission.

(3) ADDITIONAL, DISSENTING, AND SUPPLEMENTAL VIEWS.—The report required under paragraph (1) shall contain any additional, dissenting, or supplemental views of any member of the Commission.

SEC. 904. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings and sit and act at such times and places as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organizations, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this title. Each such agency or instrumentality shall furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) ADMINISTRATIVE SUPPORT SERVICES AND PERSONNEL.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this title, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 905(b).

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title, subject to the limitation on total expenses set forth in section 905(b).

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 905(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act.

SEC. 905. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $500,000.

(c) GAO AUDIT.—Prior to the termination of the Commission pursuant to section 906, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 906. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 60 days after the date on which the Commission submits the report required under section 903(b) of this title.

Amend the title so as to read: "An Act to modernize and reform the regulation of financial services, to strengthen the enforcement authority of depository institution regulatory agencies, and for other purposes.".

ADDITIONAL STATEMENTS

WESTERN ACADEMIC LEADERS MOVE TO SUPPORT THE SCC IN ARIZONA

● Mr. DECONCINI. Mr. President, the superconducting super collider belongs in the American West. And no Western State better exemplifies the excitement of new exploration, research, and discovery so long the mark of the West than my own State of Arizona. And no State better symbolizes the abundant high technology industries, world-class research institutions, highly-skilled workforce, and commitment to future excellence than Arizona.

Placement of the super collider at the Arizona/Maricopa site will not only tap the rich resources of Arizona itself, but also those of the entire Western region. While Arizona remains the best site for the SSC in view of its superior geology, low environmental impact, ease of land transfer, and its quality of life, Arizona will not be alone in operating the SSC. Arizona has already begun to seek active and meaningful support from its Western neighbors. It is this interdependence that gives the Arizona SSC site a distinct regional advantage, and will ensure the future viability of the SSC project.

Academic excellence is a critical criteria in assessment of the seven proposed SSC sites. Two of Arizona's public higher education institutions—Arizona State University and the University of Arizona—have demonstrated their ability to develop and sustain some of the finest research programs in the world. Both are committed to continuation of broad and impressive expansions of their high energy physics programs, and have consulted widely with other major universities in the West relative to the potential for establishment of professorships, research fellowships, and other such positions in support of the SSC project.

This would bring together truly the finest assemblage of experts in the field of high energy physics and associated disciplines, all contributing the success of the SSC project. It is the promise of such a cooperative regional undertaking that has not only resulted in a solid unity of commitment behind the SSC across every conceivable constituency in Arizona, but has also attracted significant support beyond the State's borders.

One such expression of support for the Arizona site is particularly noteworthy in that it comes from one of the world's most prestigious research institutions. Mr. President, I ask that the following letter from Donald Kennedy, president of Stanford University, be printed in the RECORD as one example of growing support for the SSC in Arizona from a broad array of academic leaders throughout the West.

The letter follows:

STANFORD UNIVERSITY,
Stanford, CA, September 28, 1988.

Hon. JOHN HERRINGTON,
Secretary, U.S. Department of Energy, Washington, DC.

DEAR JOHN: I write you concerning the Superconducting Super Collider, a project of great importance—but also one about which you may already have heard a good deal. I want to express my personal belief that of the sites now under consideration for this project, that in Arizona has especially good prospects for realizing the full research potential of the SSC.

There are several reasons. First, a very strong high energy research community here in California can utilize the Arizona facility best for reasons of propinquity alone. Second, I think the vigorous growth of Arizona and the other western states, and their emerging connections with Japan and the other Pacific Rim countries, is a strong argument for that location. Third, I am impressed both with the technical quality of the site as I understand it, and with the attractiveness for the scientific staff it hopes to employ.

I emphasize that this is an individual view; but I know that it is shared by many others in the California scientific community.

With best regards,

Sincerely yours,

DONALD KENNEDY.●

C. WALTON LILLEHEI AND RICHARD C. LILLEHEI, DEDICATED MEDICAL RESEARCHERS

● Mr. DURENBERGER. Mr. President, I rise today to commend the contributions of two brothers dedicated to research and technology in the field of medicine. On October 22, C. Walton Lillehei and Richard C. Lillehei will be recognized by the Lillehei Surgical Society, in cooperation with the University of Minnesota, with the creation of The C. Walton and Richard C. Lillehei Chair in Thoracic and Cardiovascular Surgery.

C. Walton Lillehei received his B.S., M.D., and M.S. in physiology and Ph.D. in surgery from the University of Minnesota. He rose to professor in the Department of Surgery, where he remained until leaving in 1967 to become chairman of the Department of Surgery at the New York Hospital-Cornell Medical Center.

Minnesotans have many reasons to be proud of our pioneering research in many aspects of health. Dr. Lillehei led the team that performed the first successful open heart surgery in 1952. In 1958, he implanted the first artificial heart valve. By passing these techniques along to his students and to surgeons throughout the world, C. Walton Lillehei helped to save the lives of thousands of people with heart defects and disease.

Brother Richard C. Lillehei, too, received his B.S., M.D., and Ph.D. in surgery from the University of Minnesota. He performed the first successful pancreas transplant at the University Hospital in 1967, and he made major contributions in the management of shock and the preservation of organs for donation. Unfortunately, Dr. Lillehei died in an accident in 1981 while training for the Boston Marathon. Like his brother, Richard is remembered for his dedication to teaching and developing new methods to save patients dying from organ failure. We mourn the loss of this extraordinary man.

The era of open heart surgery began 34 years ago at the University of Minnesota Hospital. What began there has grown to include 170,000 coronary bypass operations each year in the United States as well as tens of thousands of repairs inside the heart.

On the basis of extensive animal experiments, Dr. Lillehei and colleague, Dr. Richard Varco, pioneered a new procedure—"cross-circulation". Drs. Lillehei and Varco did the first cross-circulation heart operation on March 26, 1954. The first patient was a 12-year-old boy; his father served as a heart-lung machine.

In March 1955 the Mayo Clinic started a series of successes with their adaption of the Philadelphia heart-lung machine. The next month, Dr. Lillehei began using successfully another version of the heart-lung machine which he and Dr. Richard DeWall invented—the bubble oxygenator.

Despite surgical repair, some hearts still didn't beat correctly. Dr. Lillehei invented one bulky device that, working outside the body in a hospital room, sent electrical signals to keep the patient's heart beating steadily. He turned to Mr. Earl Bakken, whose small firm then operated out of a garage for a miniaturized version that the patient could wear.

Earl Bakken's 1958 invention of a wearable, external unit was followed by a fully implantable pacemaker. His company, Medtronic, Inc., based in Minnesota, today has over 5,000 employees and is the world's largest maker of implantable heart pacemakers.

In 1976, the world's first successful heart transplant was done. The surgeon, Dr. Christiaan Barnard, had been trained under Richard Lillehei at the University of Minnesota.

It is evident that in years to come, we will continue to feel the effects of the teachings and developments in medical science that both of these men have contributed.

Mr. President, I ask my colleagues to join me in expressing the Nation's gratitude to these men who are responsible literally for saving many lives.●

DISTINGUISHED AMERICANS REQUEST EXECUTIVE ORDER ON FETAL RESEARCH

● Mr. NICKLES. Mr. President, a few days ago, some 600 prominent Americans—physicians and nurses, legal scholars and academicians, religious leaders and ethicists—expressed support for President Reagan's publicly stated intention to issue an Executive order concerning fetal experimentation. They include former Education Secretary Bill Bennett, former HHS Under Secretary David Swoap, novelist Walker Percy, astronaut Joseph Kerwin, Rev. Jerry Falwell, Pat Robertson, Cardinal O'Connor of New York, Dr. Samuel J. Fox, president, Massachusetts Council of Rabbis, Robert Destro of the U.S. Commission on Civil Rights, columnist Nat Hentoff, Prof. Arthur Dyke of Harvard, Dr. Richard Schmidt, past president of the American College of Obstetrics and Gynecology, and many more.

This diverse group has one thing in common: a belief in the sanctity of human life and a conviction that nontherapeutic research and experimentation upon aborted children, or those slated for abortion, undermines the sanctity for us all. That is why they have endorsed the President's decision to ensure that no agency of the Federal Government in any way supports such activities. That is not, as some have erroneously put it, a ban on fetal research. It would, however, prohibit Federal involvement in research upon fetuses whose natural development was cut short by induced abortion.

This is more than an expression of disapproval toward elective abortion. It involves the reassertion of an old principle of law: No one should be the object of research or experimentation without consent. In the case of children, living or dead, parents usually have the right to make that decision. But there are limits to their right. For instance, if a father killed his child, would we allow him thereafter to donate the child's body to science? Certainly not. The same holds true with regard to elective abortion, when a parent decides to put an abrupt end to parenthood.

These are not pleasant matters to discuss. For in every instance of elective abortion, we are dealing with a human tragedy, both for the infant and for its parents. Recognizing that, President Reagan has repeatedly turned our attention to the need for compassion and concern for mother and child. To that end, he has initiated the process of an executive order that will reinforce the stand of our Government in favor of human life.

I ask that the President's draft executive order be printed in the RECORD, along with the letter and signatories in support of it, as well as a column by Don Feder from the Boston Herald of October 10, which emphatically brings home the urgency of President Reagan's proposed action.

The material follows:

THE EQUAL PROTECTION OF CHILDREN

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to ensure that unborn and newborn children receive the same protection that is afforded other children from potentially harmful biomedical and behavioral research activities and transplantation procedures, it is hereby ordered as follows:

Section 1. It shall be the policy of the Federal Government, to the extent permitted by law, to respect the humanity and dignity of living unborn and newborn children from the time of fertilization by protecting them from biomedical and behavioral research activities that involve greater than minimal risk of suffering, injury, or death, unless such activities are intended to directly benefit the individual research subject and the risk is justified by the anticipated benefit to the individual subject. This policy shall not be construed as restricting activities whose purpose is the development of important biomedical knowledge which cannot be obtained by other means, when such activities involve no greater than minimal risk to the subject. In determining risk, a child intended for abortion or who has been aborted may not be subjected to risk which would not be imposed on a child intended for survival. This Order also shall not be construed as overriding Federal, state or local policies which provide additional protections for unborn or newborn children.

Section 2. It shall be the policy of the Federal Government, to the extent permitted by law, to protect living unborn and newborn children from removal of organs and tissues for transplantation or research purposes solely for the benefit of other individuals when such removal involves greater than minimal risk. Accordingly, such procedures may not be conducted unless (1) they are intended to directly benefit the individual subject from whom organs or tissues are removed, and the risk is justified by the anticipated benefit to that individual subject, or (2) stringent precautions are taken to ascertain that the procedures do not induce or hasten injury, suffering, or death.

Section 3. It shall be the policy of the Federal Government, to the extent permitted by law, to protect unborn and newborn children who are intended for removal of organs or tissues from potential harm, by presuming such children to be living and protected by the safeguards in Section 2 above, unless the death of these children is certified to have been determined in accordance with criteria no less strict than irreversible cessation of circulatory and respiratory functions, or irreversible cessation of all functions of the entire brain, including the brain stem (as specified in the Uniform Determination of Death Act). Death must be determined by a physican who does not participate in the procedures for removing or transplanting organs or tissues (in accordance with precautions such as those outlined in the Uniform Anatomical Gift Act), and who represents the interests of the child independent of any consideration involving a decision to transplant any body part for the benefit of another individual. The determination of death by such physician shall be based on reasonable medical certainty that death has occurred, governed by the common medical understanding that brain death is more difficult to confirm in young children (as stated in the Guidelines for the Determination of Brain Death in Children, 1987, endorsed by the American Academy of Neurology and other medical organizations).

Section 4. It shall be the policy of the Federal Government, to the extent permitted by law, that an unborn or newborn child who has died as a result of an induced abortion shall not be used for purposes of research or transplantation.

Section 5. It shall be the policy of the Federal Government, to the extent permitted by law, to prohibit the commercial use or sale of an unborn or newborn child's body, organ or tissue.

Section 6. Activities and procedures not in conformance with the policies of Sections 1 through 5 above may not receive Federal funds, nor may such activities be conducted by Federal agencies or departments or in facilities governed by Federal law, to the extent permitted by law.

Section 7. Federal departments and agencies affected by this Order shall issue any regulations and guidelines necessary to implement this Order, to the extent permitted by law. Such regulations and guidelines shall be printed in the Federal Register for public comment within 60 days of the date of this Order. Final regulations shall be issued by November 1, 1988.

Section 8. The Department of Justice shall review current law to determine its adequacy to protect unborn and newborn children from biomedical and behavioral research activities and transplantation procedures that involve greater than minimal risk of suffering, injury, or death, and report to the Domestic Policy Council within sixty days of this Order, with recommendations for legislation that might be proposed to the Congress, if appropriate.

Section 9. This Order shall be effective immediately. Thirty days from the date of this Order, and on July 1 of every year thereafter, the heads of departments and agencies affected by this Order shall submit a report, through the Office of Policy Development, to the President, on the steps taken to implement this Order. The Office of Management and Budget shall ensure that this Order is implemented.

RONALD REAGAN,

THE WHITE HOUSE, ——, *1988.*

October 10, 1988.

President RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The federal dollar is essential to the funding of almost all medical research and human experimentation.

We, the undersigned, commend you for the proposed Executive Order governing non-therapeutic research and use of fetal life. The proposed Executive Order is, we believe, superbly crafted in its moral perspective with its clear recognition of the inherent dignity of the human fetus. We are convinced that it responsibly addresses the looming abuses of a crass pragmatism which would reduce the human fetus to a research object for the convenience of other human beings and medical experimentation.

The heart of your Executive Order is Section 4, dealing with the fetus made available by deliberately induced abortion. That human fetus, living or dead, must not become subject to an inhuman medical traffic, pushing American society ever closer to a macabre efficiency. Already reported evidences of abuses in fetal research shame us, with preemptive excision of human fetal organs and proposed cynical, even incenstuous, uses of human pregnancy reducing wholly innocent nascent human life to a mere product of convenience.

Dr. Henry K. Beecher ("Experiment in Man", J.A.M.A. 169, p. 468, 1959) long ago pointed out that if an experiment is moral, it is moral from the outset; it does not become moral because it produces valuable data or results.

The Philosopher, Hans Jonas ("Philosophical Reflections on Experimenting with Human Subjects" 98 Daedalus, 245, 1969) has perceptively observed:

"Progress is an optional goal, not an unconditional commitment. Let us remember that slower progress in the conquest of disease would not threaten society, grievous as it is to those who have a particular disease that has not been conquered. But society would indeed be threatened by the erosion of those moral values whose loss, possibly caused by too ruthless a pursuit of scientific progress, would make its most dazzling triumph not worth having."

If it be the gift and responsibility of wise government to prevent the degradation of its own culture, your Executive Order is in the best tradition of such wisdom and responsibility.

We urge you to make your Executive Order final and operative for the common good of our society.

Respectfully,

Matthew J. Bulfin, M.D., F.A.C.O.G., Fort Lauderdale, FL; Eugene F. Diamond, M.D., F.A.A.P., Chicago, IL; Arthur J. Dyck, Ph.D., Cambridge, MA; Joseph R. Stanton, M.D., F.A.C.P., Needham, MA; Paul J. Murphy, S.J., Weston, MA; Henry C. Luthin, J.D., Boston, MA; Joseph I. Mulligan, Jr., J.D., Boston, MA; Anne E. Bannon, M.D., F.A.A.P., St. Louis, MO; Patrick J. Derr, Ph.D., Worcester, MA; Gertrude H. Murphy, M.D., F.A.A.P., Hingham, MA; William E. May, Ph.D., Washington, DC; Bernard N. Nathanson, M.D., F.A.C.O.G., New York, NY; Nat Hentoff, New York, NY; Carl A. Anderson, J.D., Washington, DC; Jacqueline Nolan-Haley, J.D., New York, NY; Rabbi Dr. Samuel Fox, Lynn, MA; Walker Percy, M.D., Covington, LA; and Thomas Howard, Ph.D., Beverly Farms, MA.

Henry Armitage, M.D., F.A.C.S., Andover, MA; Bart Heffernan, M.D., F.A.C.C., Fort Lauderdale, FL; Pastor Richard John Neuhaus, New York, NY; Gerard Wegemer, Ph.D., Irving, TX; Jacqueline Kasun, Ph.D., Bayside, CA; Joseph E. Murray, M.D., Wellesley, MA; John M. Haas, Ph.D., Columbus, OH; John M. Grondelski, Ph.D., Perth Amboy, NJ; Damian Fedoryka, Ph.D., Front Royal, VA; Edward B. Hanify, S.J.D., L.L.D., Belmont, MA; Charles G. Kelley, M.D., F.A.C.A., Andover, MA; Charls E. Rice, J.D., Notre Dame, IN; Gerard V. Bradley, J.D., Champaign, IL; Robert Barry, O.P., Ph.D., Champaign, IL; Thomas Herman, M.D., A.C.R., Boston, MA; E. Joanne Angelo, M.D., Boston, MA; William E. Bennett, Ph.D., Washington, DC; William F. Colliton, Jr., F.A.C.O.G., Bethesda, MD; John Cardinal O'Connor, New York, NY; John G. Masterson, M.D., Elmhurst, IL; John G. Boutselis, M.D., Columbus, OH; and Jay M. Arena, M.D., F.A.A.P., Durham, NC.

Betty Hartnett, R.N., Framingham, MA; James M. O'Kane, Ph.D., Madison, NJ; Robert T. Constable, Ph.D., Chicago, IL; Glen W. Olsen, Ph.D., Salt Lake City, UT; Judie Brown, Stafford, VA; Rhonda Chervin, Ph.D., Camarillo, CA; D. Allan Shewmon, M.D. Los Angeles, CA; Jane T. Crimlisk, R.N., Chestnut Hill, MA; Helen T. Jackson, M.D., F.A.C.O.G., Boston, MA; John T. Gueguen, Ph.D., Normal, IL; Micheline Mathews-Roth, M.D., Boston, MA; J. P. McFadden, New York, NY; Curtis E. Harris, M.D., Oklahoma City, OK; Thomas L. Bill, Ph.D., Portland, OR; Thomas Joseph Loughran, Ph.D., Vancouver, WA; John J. Brennan, M.D., A.C.O.G., Milwaukee, WI; Clare V. Nash, J.D., Weymouth, MA; John Jefferson Davis, Ph.D., Hamilton, MA; Hymie Gordon, M.D., F.R.C.P., Rochester, MN; Allan C. Carlson, Ph.D., Rockford, IL; Msgr. William B. Smith, S.T.D., Yonkers, NY; Charles R. Druffner, M.D., Scranton, PA; and Michael Schwartz, Washington, DC.

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Prof. Victor G. Rosenblum, J.D., Evanston, IL; William F. Kistner, M.D., St. Louis, MO; Leroy F. Ortmeyer, M.D., St. Louis, MO; Thomas C. Knechtges, M.D., St. Petersburg, FL; Arthur L. Reinardy, M.D., Kewaunee, WI; John F. Michaelree, M.D., St. Louis, MO; John F. Shaner, M.D., F.A.C.S., Mexico, MO; B.C. Portuondo, M.D., St. Louis, MO; Harry K. Purcell, M.D., St. Louis, MO; James E. Moorman, M.D., St. Louis, MO; Gretna, LA; John D. Briggs, M.D., Boca Raton, FL; James J. Nolan, M.D., Orange, CA; Howard N. Short, M.D., F.A.C.S., Washington, MO; Harry R. Brady, M.D., St. Louis, MO; Joseph L. Abbott, M.D., West Chester, PA; Dominic S. Francisco, M.D., St. Louis, MO; John L. Krieger, MD., St. Louis, MO; Lester E. Wall, M.D., F.A.A.P., F.A.A.A., St. Louis, MO; Edward M. Sullivan, M.D., F.A.C.O.G., Media, PA; Arthur R. Thelemann, Jr., M.D., F.A.C.O.G., Minnespolis, MN; Walter B. Rugh, M.D., F.A.C.O.G., Cincinnati, OH; Maria D. Falzon Kirby, M.D., F.A.C.O.G., Brookline, MA; Kenneth M. Mitzner, Ph.D., Torrance, CA; C. Robert Stanhope, M.D., Rochester, MN; James M. Glynn, M.D., F.A.C.O.G., Rockville Centre, NY; James B. Tormey, Jr., M.D., F.A.C.O.G., Rockville, Centre, NY; and William H. Devries, M.D., F.A.C.O.G., Rockville Centre, NY.

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[From the Boston Herald, Oct. 10, 1988]

NAZI DOCTORS, FETAL TRANSPLANTS . . . AND THE NIH

(Don Feder)

Auschwitz casts its satanic shadow over American medicine: A panel convened by the National Institutes of Health is drafting a report endorsing the medical use of fetal tissue.

The late Dr. Leo Alexander was a distinguished Boston psychiatrist and an ardent right-to-lifer. After World War II, Alexander (himself a Jewish refugee from Nazism) was a consultant to the Nuremberg War Crimes Tribunal.

Alexander uncovered the case of a German physician who had placed an order for the brains of 100 Holocaust victims. Very specific instructions were given for the careful removal of the brains, which were to be stored in airtight containers and delivered to the doctor for study and experimentation.

Alexander interviewed this German doctor in his prison cell, where the ghoul resolutely defended his actions. After all, he reasoned, I didn't authorize their murders; they were marked for death anyway. It would have been a pity to waste "such wonderful material' which might have been of incalculable benefit to medical science.

Lest you imagine such theories were buried in the rubble of the SS laboratories, consider the sentiments of Dr. Lars Olson, a Swedish neurobiologist, disclosed in testimony to the NIH panel. Passionately defending the use of fetal tissue transplants, the researcher argued that since abortions will be performed regardless, it would be a pity to discard all of this excellent material. Indeed, said he, "I believe it is unethical not to try these procedures in patients."

Exploiting the bodies of the murdered unborn could be the next medical frontier. Some scientists look forward to the day when tissues from the tiny victims will be utilized to treat a host of ailments from Alzheimer's to Parkinson's Diseases.

In response to a proposed executive order banning federal funding in this area, the NIH has assembled an advisory committee to assess the ethics of fetal transplants; a report is anticipated in early December. The panel, of course, was stacked heavily in favor of transplant research.

Like the graverobber of the Third Reich, pro-transplant panelists argue that the deaths will occur independently of what later transpires. It's not that we like abortion, they solemnly declare, but at least some benefit can be derived from what otherwise would be an unmitigated tragedy.

They promise stringent safeguards, to forestall potential abuses—abortion for profit, doctors soliciting abortions, and the like.

But abuses are bound to occur. Once the procedure is common, it won't be long before some activist federal judge decides that since a woman has the right to dispose of her unborn child, it follows that she may do what she will with the remains. Once that principle is established, fetal farming won't be far behind.

Medical facilities will be encouraged to engage in commercial transactions. Why take a chance of getting damaged merchandise when, by prior arrangement, surgeons can procure the freshest and the most desirable tissue?

There is even an instance of two sisters whose father was suffering from a neurological disorder and who offered to be impregnated with his seed, carry the fetuses for 10 or 12 weeks, then abort so the tissue could be used to combat the disease. (An incestuous conception provides a closer tissue match.) Reportedly, such horrors have happened in East Germany.

Worst of all, fetal tissue therapy gives the illusion of sanctifying abortion. What formerly was disdained as a selfish act on the mother's part is seemingly ennobled. The woman isn't simply ridding herself of an unwanted child, but making a humanitarian contribution to the cure of chronic diseases.

However you slice it, the moral dimension doesn't change. Even if the treating physician doesn't facilitate the abortion, by exploiting the by-product, he at least sanctions it. Like the Nazi doctor ordering his brains, he becomes an accomplice after the fact, and in so doing, implicitly condones the crime.

Dr. Joseph Stanton, a friend of Leo Alexander, today released a letter to the president, signed by more than 100 prominent individuals (including Dr. Joseph E. Murray of Harvard, the first physician to successfully transplant a human kidney, and Dr. Walker Percy, M.D., author of the best-selling "Thanatos Syndrome") urging President Reagan to proceed with his order. To stop the descent into the abyss, at the bottom of which Josef Mengele awaits us, he must heed their plea.●

NATIONAL RECOGNITION FOR TUPELO SCHOOL SYSTEM

● Mr. COCHRAN. Mr. President, the city of Tupelo, MS, recently received national recognition at ceremonies here in Washington for its efforts to develop a school system with outstanding educational opportunities for its students.

It was cited by the Ford Foundation and the John F. Kennedy School of Government as one of the 10 best school systems in the Nation.

This is a remarkable accomplishment, and it is a tribute to Tupelo educators, city officials, taxpayers, and students who contributed to this community-wide effort.

I invite the attention of my colleagues to an editorial from the Northeast Mississippi Daily Journal concerning Tupelo's nationally recognized accomplishments. I ask that the article be printed in the RECORD.

The article follows:

FORD AWARD BUILT ON STRONG RECORD

The Ford Foundation and Harvard University's John F. Kennedy School of Government recognized Tupelo's efforts to make its school system one of the 10 best in the country with a $100,000 award announced Friday in Washington.

The award, for Innovations in State and Local Governments, moves Tupelo's efforts to develop public/private partnerships that strengthen its schools to a new pinnacle of national recognition. More than 970 entries were submitted nationwide for the project. Ten awards were made.

The $100,000 grant from the Ford Foundation will be used to start a trust fund endowment called the Innovations in Education Fund. The project application calls for an eventual permanent endowment of $3 million to fund projects in three areas: $750,000 for education innovations, $750,000 for general social program projects and $1.5 million for projects related to housing.

City officials, school administrators and community leaders have worked on the project proposal most of 1988. The requirements included extensive documentation of planning, goals, past achievements, visits to Tupelo, and interviews.

PAST ACHIEVEMENTS RECOGNIZED

Ford Foundation award recognizes a specific proposal, but the framework for success was laid in years of previous work between the public and private sector for the Tupelo public schools.

Ford Foundation and Kennedy School officials saw in the project application that the proposal was not a hastily organized attempt to gain publicity and funding. Tupelo's efforts toward public education excellence have an important history:

The city of Tupelo has spent $885,000 in the past three years for the Quality Leap Forward initiative. The Quality Leap Forward program set as its goal extra tax funding applied to reducing teacher-pupil ratios in mathematics and English classes in grades 7-12, and that goal has been achieved.

The Association for Excellence in Education was organized in 1982 to invest private funds in approved projects in the public schools. Almost $500,000 has been raised through the association for particular areas of need in the school system.

Project H.O.P.E. was initiated by the public schools, North Mississippi Medical Center and CREATE, Inc., as a comprehensive approach to solving the problem of school dropouts and entrapment in the poverty cycle. More than $1 million has been committed to the five-year project.

AWARD PRESENTS NEW CHALLENGES

The award recognizes a tradition of well-planned, persistent work for education improvements. It also challenges our community to press on to the goal of becoming one of the 10 best school systems in the nation.

One of the long-range goals is to surpass the Southeastern average in expenditures per pupil. Tupelo's average in the 1986-87 school year was $2,673; the Southeastern average was $3,277; the national average was $3,970.

The public/private partnership has raised per pupil investment in education about 2.6 percent, but an additional increase of 22 to 24 percent is needed to reach the goal of top 10 standing nationwide.

We can achieve the goal if our efforts remain unified and coordinated. People who contend that individuals can do little working alone to improve public schools are correct. However, many individuals working toward common goals, with clear plans and good ideas, can accomplish almost anything they set out to do.

Students in the Tupelo public schools deserve the best education in America. Our community, working together, can provide it.●

THE MAKING OF THE KING HOLIDAY

● Mr. FOWLER. Mr. President, I have long been proud of the remarkable contributions that Dr. Martin Luther King, Jr., a fellow Georgian, made toward racial understanding and social justice. Even in death, Dr. King's memory remains an inspiration to our young people. Just this summer, thousands of people from around the country gathered on the Mall in Washington to commemorate Dr. King's famous "I Have a Dream" speech, delivered from the steps of the Lincoln Memorial 25 years ago. Furthermore, the Martin Luther King Center for Non-Violent Social Change continues the spirit of understanding and community that he so clearly articulated, and Georgians are rightfully proud that this living monument to Dr. King is one of Atlanta's leading educational centers.

Dr. King's lasting effect on this country was officially recognized in 1983 when the U.S. Congress passed legislation establishing Dr. King's birthday as a national holiday, the highest honor a nation can bestow upon one of its citizens.

I have recently had the privilege of viewing "MLK: The Making of a Holiday," an entertaining documentary hosted by LeVar Burton and featuring Stevie Wonder, Marla Gibbs, Coretta Scott King, and a number of our colleagues in the Congress. This film details the long effort to make Dr. King's birthday a national holiday. Although the first bill to recognize Dr. King's birthday was introduced within hours of his death, it took 15 years of struggle and the support of a coalition of legislators and entertainers to create a national holiday.

Many people in this Chamber worked for years to bring this commemoration of the civil rights struggle and Dr. King's central role in it to national recognition. "MLK: The Making of a Holiday" documents both the strenuous efforts and the lighter moments of this process. This film will be airing in many States in January, and I highly recommend it to my colleagues' attention when it is shown in our home States.●

REVEREND HOOD: DETROIT'S AMERICAN HERO

● Mr. RIEGLE. Mr. President, I rise today to pay tribute to a Michigan humanitarian, Rev. Nicholas Hood, of Detroit. Nick Hood is a man whose dedication and never ending work with Michigan's mentally and physically impaired persons remains unsurpassed.

Reverend Hood is a perfect example of an American hero. He is the creator, founder, and developer of the Cyprian Center in Detroit. The Cyprian Center is a remarkable facility that provides a multitude of services to the developmentally disabled. Nick Hood created the Cyprian Center with one room and a dream. His dream was inspired by his strong commitment to community service and his deep rooted desire to help people with disabilities. The Cyprian Center opened its doors 13 years ago and Reverend Hood has served as executive director ever since. He strives to provide personalized care to keep disabled individuals actively involved in society.

Recently, the Cyprian Center was awarded a $1.4 million Federal grant to construct housing for those individuals that it serves. Providing subsidized housing for those most needy is within the spirit of the Cyprian Center. It is part of the dream that Reverend Hood envisoned for his program whose primary objective is to help Detroit's disabled persons achieve a higher quality of life. Providing housing is just one of the many programs Hood developed for the Cyprian Center. Additional programs include a Partial Day Care Center for mentally and physically disabled children, the Cyprian Manor housing project and a respite program. His tireless efforts serve as an example of selflessness and service of the highest degree.

Nicholas Hood's contributions to society extend far beyond the realm of the Cyprian Center. He was the senior minister of the Plymouth Congregational Church for almost 30 years. He has served on the Detroit City Council for 20 years where he is currently serving as president pro tempore. He also holds seats on the Hutzel Hospital Board, the Detroit Economic Development Board, and the Wayne County Board of Mental Health.

Reverend Hood is truly an asset to the State of Michigan and his city of Detroit, and for this, I salute him as one of our finest.●

REAUTHORIZATION OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

● Mr. DECONCINI. Mr. President, I rise today to call the Senate's attention to the passage last friday of H.R. 1801, the Criminal and Juvenile Justice Partnership Act of 1988. This measure reauthorizes the Office of Juvenile Justice and Delinquency Prevention [OJJDP] and specifically the Law-Related Edcuation Program [LRE]. I am pleased that this reauthorization has been approved by the Senate.

The LRE is comprised of five national, not-for-profit organizations—the Constitutional Rights Foundation, the Center for Civic Education, the National Institute for Citizens Education in the Law, as well as the American Bar Association and the Phi Alpha Delta legal fraternity. Through these organizations, LRE provides citizenship education to youths by teaching them about law, the legal process, and the legal system.

The benefits of LRE stretch all across the Nation. LRE is active in about 40 States, with its effects being felt in many parts of the country, including Arizona. I am especially proud of the outstanding program conducted by the Arizona Center for Law Related Education. The Arizona center has conducted many excellent projects, including a project where Phoenix students attended special classes for 3 weeks, then were paired with an immigrant who desired tutorial instruction to pass the naturalization test. When asked what they had learned from the experience, one student replied that "I learned to appreciate my country and government, and I also learned I need to participate in making it better." Mr. President, I think it is safe to say that this kind of youth education is the type of education that will help our youth to understand both the legal process and the people who make that process work.

Finally, I think it is important to note that if we are serious about helping our young people become productive citizens and avoid the tragedy of drugs, youth gangs, and juvenile delinquency, the LRE Program is the type of program we should applaud. The reauthorization of OJJDP will fund this unique, productive program that has provided key training in our efforts to help the youth of today. Again, I applaude the reauthorization of the OJJDP.●

SEVENTIETH ANNIVERSARY OF LATVIAN INDEPENDENCE

● Mr. LEVIN. Mr. President, this year marks the 70th anniversary of the Republic of Latvia's Proclamation of Independence. On November 18, 1918, the people of Latvia established an independent government. I call upon Congress to join with Latvian-Americans in Michigan and across the country in remembering this significant event in Latvian history. Today, as we follow the brave actions of Latvians who seek greater independence, it is appropriate to remember an earlier period of genuine freedom for the Latvian people.

The signing of the secret protocols of the Molotov-Ribbentrop Pact of 1939, negotiated by Hitler and Stalin, marked the end of national sovereignty for the Baltic peoples. The following year, Latvian independence and self-government were abruptly crushed under the cover of World War II. The Soviet Union annexed Latvia, as well as Lithuania and Estonia. Mass terror and deportations of hundreds of thousands of men, women, and children followed in an attempt to eradicate the national identity of this determined people in their own land.

But, the Soviets did not anticipate the fierce sense of national identity and love of freedom which have sustained the Latvian people. Despite the suffering and loss of political independence, Latvian national pride remains strong.

On October 9, 1988, the Latvians came together in Riga, the capital of Latvia, to demand the freedoms denied them for so long. Over 150,000 people met at the city's stadium to support the Popular Front of Latvia. The bold calls for change are testimony to the indomitable Latvian national spirit. And, the quest for greater democracy and cultural freedom pose a challenge to the Soviet leadership to make good on the promise of glasnost.

A new generation of Latvians, born and rasied under Soviet rule, are joining in the fight for Latvian freedom. They are leading the resurgence of Latvian culture and inspiring all with their calls for an independent legal system and mass media, the elimination of privileges for the party elite, republican representation at such activities as the United Nations and the Olympic games and even a separate currency.

For the first time in decades, Latvians have been able to display their red-and-white national flag. Latvian has been declared the official language of the republic.

I join with Latvian-Americans in celebrating the anniversary of Latvian independence. As we remember the courageous resistance of the past, we are inspired by the Latvian voices of the future. Let us pray that this proud people will truly again be free. In the words of the nation's hymn of independence: "God Bless Latvia."●

SALUTE TO SOL ABRAMS

● Mr. LAUTENBERG. Mr. President, on Sunday, November 13, Sol Abrams of New Milford, NJ, will be honored as "Man of the Year" by Corporal Charles M. Wallach Post 773 of the Jewish Veterans of the U.S.A. I wish to join Sol's family, friends and colleagues in honoring him for his achievements and contributions to his country and community.

A veteran of World War II, Sol Abrams served with the First Army Air Force Base unit and Strategic Command, earning the distinction of being of the first servicemen to be awarded the Army Commendation medal. Upon returning home after his military service, Sol played an instrumental role in founding the Corporal Charles M. Wallach Post 773 of the Jewish War Veterans of the U.S.A. Since its inception 23 years ago, Sol Abrams has been commander of Post 773, which serves the communities of Bergen County.

As a student on the G.I. Bill studying journalism and public relations at Long Island University, Sol organized and served as first president of the William Bernstein Young Zionist District of the Zionist Organization of America. Throughout this life, Sol's involvement and commitment to Jewish causes has been steadfast. A former member of the Board of Directors of the New Milford Jewish Center, where the Abrams family has long been active in fundraising efforts, Sol Abrams has also served for 13 years as his community's chairman of the United Jewish Appeal.

And in the business community, Sol Abrams has left his mark on the public relations and market consulting industry. For some 25 years, Sol headed up the publicity, public relations, advertising, and entertainment activities at the legendary Palisades Amusement Park, which provided fun and amusement for scores of New Jerseyans and others. In his own firm and as vice president of Corporate Affairs and Communications of Murphy Realty in Saddle River, Sol is regarded as a creative and talented man who has made significant contributions to his industry.

Mr. President, the celebration of Sol Abrams as Man of the Year by the Jewish War Veterans is indeed a happy occasion. He has served his country and community with honor and distinction. I am pleased to recognize his life of accomplishments.●

BILL COCHRANE

● Mr. JOHNSTON. Mr. President, I have recently had brought to my attention an article from the June 4, 1988, edition of the Charlotte Observer paying tribute to Bill Cochrane, my friend and one of the Senate's most respected staff members.

Bill recently received a service award from the North Caroliniana Society, and the Observer article, written by associate editor Jack Claiborne, focuses on a few of the reasons Bill Cochrane is so deserving of that award. And it conveys a sense of those unique qualities that have earned Bill Cochrane such special affection around here.

Bill Cochrane was one of the first people I met when I arrived in Washington in November of 1972. By that time, of course, Bill had already been here many years, and I shall forever be grateful for the quality of the advice and assistance which Bill gave me at that time and has continued to give me over the years.

In his humble, self-effacing way, Bill characterizes his years of dedicated Senate service as mere "laboring in the vineyard." those of us who know Bill, know better. His has been a remarkable career of selfless service to the people of North Carolina and all of this country. I ask that the article, "Honoring A Laborer", be printed in the RECORD.

HONORING A LABORER—NORTH CAROLINIANA SOCIETY PAYS TRIBUTE TO WASHINGTON CAREER OF BILL COCHRANE

William M. "Bill" Cochrane, often, referred to as "North Carolina's third senator" in Washington, was embarrassed by the fuss being made over him in Chapel Hill Friday. He said he didn't belong in the same company with Paul Green, Albert Coates, Sam Ervin or Bill and Ida Friday, who in other years had also received a service award from the North Caroliniana Society.

All those were giants, Mr. Cochrane said, while he had spent his 72 years as "a mere laborer in the vineyard." Ah, but what a laborer.

"We are honoring him because he's never done anything that some politician hasn't taken credit for," said Dr. H.G. Jones, curator of the N.C. Collection at the UNC Library and instigator of the North Caroliniana Society, a 140-member nonprofit organization formed to promote interest in and knowledge of N.C. history and culture.

BEFRIENDED CARL BOETTCHER

"You take 'The Circus Parade,'" Dr. Jones said, "the Carl Boettcher carving now in the lobby of the cafeteria at Carolina Inn. Almost anybody who's been to Chapel Hill in the past 30 years has seen and admired that carving. Dozens of university officials and Chapel Hill residents has taken credit for its being there. But the truth is, it was the Cochrane family of Newton who took that German boy into their home, and it was Bill Cochrane who persuanded him to come to Chapel Hill. But you would never know that from talking to Bill Cochrane."

Mr. Cochrane's mission has been service, not celebrity. He is one of those rare North Carolinians who is on a first-name basis with at least one person in every county in the state. In most counties he knows many such people because at one time or another he has done them a favor.

DID CONSOLIDATION STUDIES

His service to the people of Charlotte, for instance, includes a pioneering slum-clearance law that he first wrote as a graduate student at Yale. "Got me straight A's," he said. It also includes the studies that led to the conslidation of city and county schools, city and county health departments and city and county jails.

He made those studies in 1948-49, when he was a young lawyer for the UNC Institute of Government. His partner in the project was a colleague from Fayetteville, a young man named Terry Sanford who later become governor, president, of Duke University and now a U.S. senator, Early in their college days, Mr. Cochrane and Mr. Sanford had roomed together—in a loft over Sutton's Drug Store in downtown Chapel Hill.

The North Caroliniana Society did not bestow its 11th annual service award on Mr. Cochrane without exacting a price. He had to "sing for his supper" by talking about his behind-the-scenes career as a legislative aide in Washington. His lecture was titled "Fifty Years in the U.S. Senate Cloak Room."

The title was slightly exaggerated. He has been in Washington only 34 years. He went there in 1954 as an aide to newly elected Sen. Kerr Scott. After Sen. Scott's death, he stayed on as legislative aide to Sen. B. Everett Jordan. After Sen. Jordan's 1972 defeat Mr. Cochrane became senior counsel to the Senate Rules Committee, where he has been since. But as a founder of the U.S. Capitol Historical Society, he is familiar with Senate lore dating from the earliest days of Congress.

THE FIGHT OVER NEW HOPE

His "cloakroom" talk covered a lot of interesting politics, including the long fight to build a dam on New Hope Creek south of Durham to control flooding along the upper Cape Fear River. The chief opponent was N.C. Congressman Harold Cooley of Nash County, then chairman of the House Agriculture Committee. Congressman Cooley objected to flooding farmland and predicted the proposed the dam would create "a vast cesspool" in the middle of North Carolina.

Sen. Scott, an exagriculture commissioner and former governor with pretty good soil-conservation credentials of his own, pushed the proposal anyway, and B. Everett Jordan saw it through to completion. The lake, which now bears Sen. Jordan's name, never became the cesspool that Congressman Cooley envisioned. It is more likely to be an economic lifesaver as a source of water for the burgeoning Research Triangle area.

The wonderful thing about Bill Cochrane has been his enthusiasm for helping young people get jobs in Washington. Every summer a new crop of college students stops by his little cubbyhole to ask for advice about where to go and whom to see. He has a filing cabinet full with old photos and resumes.

HIRES INCLUDED LIDDY DOLE

Among them is one for Liddy Hanford of Salisbury, who had just graduated Phi Beta Kappa from Duke University with honors in political science. "I think I hired her on the spot," Bill Cochrane said. She went on to Oxford, to Harvard and Harvard Law School. She later married Sen. Robert Dole of Kansas and in the Reagan administration was secretary of transportation.

Though he has been in Washington 34 years, Bill Cochrane refuses to be a Washingtonian. He has kept a home in Chapel Hill, maintained his voter registration there and continued to do his banking there. Last month he strengthened those ties by beginning a year's term as president of the 170,000-member UNC Alumni Association, succeeding N.C. Supreme Court Chief Justice James G. Exum.

Not bad for a mere laborer in the vineyard.—Jack Clairborne.●

REFORM OF THE 1872 MINING LAW

● Mr. BUMPERS. Mr. President, as the 100th Congress draws to a close it is time not only to reflect upon past accomplishments but to discuss the agenda for the next Congress. One item that is high on my personal agenda is reform of the 1872 mining law. I plan to request that the Energy and Natural Resources Committee conduct oversight hearings in the spring of 1989 on options for reform and to follow those hearings with proposals for changing this anachronistic law.

The 1872 mining law is the final remnant of outmoded public land laws and policies which were designed to encourage the settlement and economic development of the Western frontier. In the 20th century we have rejected most of those laws as leading to unregulated exploitation of our public resources.

Under the mining law, any person who discovers what he thinks to be a valuable mineral deposit on Federal land can locate a claim by filing a notice in the local courthouse and posting a notice on his claim site. Until recordation requirements were imposed in 1976, he could then start mining without informing anyone else about it. Simply by filing and recording, the miner receives free access to his claim and necessary use of the surface for mining and development. Rights to a claim may be maintained indefinitely if the miner demonstrates that he has performed at least $100 worth of work on the claim annually. In 1872, $100 of work meant something. Retaining in law the same amount today is ludicrous.

The 1872 law allows miners with a valid claim to gain ownership of Federal land by obtaining a patent. To obtain a patent from the Government, the miner must show that he has found a valuable deposit and that a total of $500 has been spent in labor and money working on the claim. The patent may then be purchased for the same fee as in 1872: $5 an acre for a lode claim and $2.50 for a placer claim. This is the ultimate real estate bargain. After a claim is patented the owner of that land may legally put it to any use he chooses.

The mining industry often complains that too much Federal land is off limits to hardrock mining—that millions of acres have been withdrawn from location and patent under the mining law. In fact, the major reason for these withdrawals is the mining law's patenting provision. In certain environmentally sensitive areas, land managers simply cannot take the risk that lands may go out of Federal ownership and control. As a result entire tracts of Federal land have been withdrawn from hardrock mining.

The mining law sticks out like a sore thumb in the context of our other mineral resource laws. If you want to extract sand and gravel from the public lands you must pay the Government fair market value, but gold and silver are virtually free. Coal, oil, and gas are leased and a royalty payment is required, while strategic minerals are allowed to pass into private ownership without payment to the Government.

One of the most troublesome aspects of the mining law is its lack of express requirements for the protection of the environment. I recognize that the provisions of many general environmental protection statutes such as the Clean Air and Clean Water Acts apply to mining operations. The fact remains that the mining law does not require the prevention of environmental degradation or the reclamation of mined lands. Administrative regulations have been issued under the authority of FLPMA, but these are inadequate, and of course have no application to patented claims.

In summary, Mr. President, modern public land policy favors the retention of the public lands in Federal ownership but the mining law permits the disposal of lands for a whopping $2.50 per acre. Public lands are supposed to be managed for multiple uses but the mining law negates modern concepts my making mining the dominant use. Land managers are directed to develop land use plans for Federal lands but the mining law defies planning. Modern environmental policies call for the reclamation of mined land and for the regulation of mining activities to prevent environmental degradation—the mining law provides neither. Current resource policy generally requires the payment of fair market value for publicly owned lands and minerals—the mining law provides for no royalties, lease fees, bonuses, or other payments for Federal minerals. Obviously, the 1872 mining law needs to be modernized to conform to current public land policy.

Over the past 20 years numerous private, government, and congressional studies have recommended either revising the mining law or repealing it completely. All have failed due to the staunch opposition of the mining industry. Yet many in that industry will admit that the mining law does not efficiently and effectively promote mineral development. Improvements can be made in the law which will benefit miners as well as the general public.

I do not have a blueprint for mining law reform. But I am serious about achieving meaningful revisions in this obsolete law. My intention is to seek the advice of experts in the field on the key issues presented by the 1872 mining law and to develop legislation to address these issues. I look forward to hearing the views of my colleagues and the interested public over the months ahead and in the next Congress.●

ORGAN TRANSPLANTATION

● Mr BUMPERS. Mr. President, I want to take this opportunity to discuss a tragedy that befalls hundreds of Americans each year and to remind my colleagues of a measure I have introduced to address this situation. I am talking about the tragedy of patients who are deprived of organ transplants because of a lack of funding. I have introduced a bill, S. 2409, the Cooperative Organ Transplant Contributions Act, which would allow Americans to contribute, through a checkoff on the income tax form, to an organ transplant trust fund which would be used to finance transplants for needy Americans. The 100th Congress will end without taking final action on this bill, which is cosponsored by Senators INOUYE, SANFORD, PROXMIRE, STAFFORD, CONRAD, CHILES, HEFLIN, FORD, HATCH, and THURMOND but I intend to renew my fight to get it enacted early in 1989.

Each and every year, many Americans lose their second chance at life when they realize they cannot pay for the organ transplants that hold the promise of life. Those unlucky patients don't have any health insurance, don't have adequate health insurance, have Medicaid coverage but live in a State where Medicaid won't pay for transplants, or don't have any savings to help pay for a transplant.

I am sure all of my colleagues have received calls from constituents who have been told by a transplant center that they cannot even be put on the waiting list for an organ until they put down a sizable deposit for the transplant or prove that they have adequate health insurance coverage. These constituents generally come to us only after they have exhausted all other avenues for help, and try as we might we usually aren't very helpful to them either. If the patient is a photogenic or appealing child, a public appeal sometimes works. In those cases, bake sales and community fundraising are sufficient to purchase an organ transplant. That is not true for most needy transplant patients, and I don't think we should force any transplant patient to go through such a fundraising effort.

I find it unacceptable that the miracle of organ transplantation is withheld from those who are unlucky enough to be uninsured or who don't have any private resources to finance their transplant. I propose that we tap the generosity of people who want to help transplant patients by setting up a checkoff on the 1040 personal income tax form through which individuals could donate part or all of their tax refund, or make other contributions, to a trust funds for organ transplant assistance. Individuals would be donating their own money; they wouldn't be diminishing Federal revenues. Funds that are contributed through the checkoff would then be made available to the States for distribution to patients who need assistance paying for their transplants.

This approach is perhaps not an orthodox approach to funding medical procedures, but I think it is a very appropriate one in an age of astronomical budget deficits. I also believe it makes perfect sense to single out organ transplants for this method of financing because transplants are truly a matter of life and death for transplant candidates. A number of States use tax checkoffs to raise funds for a wide variety of projects, and the State of Massachusetts has a checkoff for organ transplants.

On September 20, 1988, Senator Baucus chaired a hearing of the Subcommittee on Taxation and Debt Management of the Senate Finance Committee to consider this bill. At that hearing an impressive group of transplant surgeons, including Dr. Thomas E. Starzl of the University of Pittsburgh and Dr. Goran Klintmalm of Baylor University Medical Center, and the wife of a transplant recipient testified eloquently about the need for new sources of funding for transplants. The record of that hearing provides a strong argument for the tax checkoff I propose, and I believe it will be of great benefit in my efforts to get this measure enacted in the 101st Congress.

Mrs. Sherry Clifton, whose husband Hardie had a heart transplant in September 1984, described at that hearing her tireless efforts to raise funds for her husband's transplants. Mrs. Clifton worked tirelessly to guarantee that her husband would get his organ transplant, and she was finally successful. Some transplant candidates are not fortunate enough to have an advocate like Mrs. Clifton and die before they even get on a waiting list at a transplant center. Mrs. Clifton's testimony about the need for an organ transplant fund was moving:

> I just did not want to believe that my beloved country was going to allow my husband to die because "there were no funds available" to save his life. All during my ordeal, I was praying that no one else's loved one would have to go through what I had to go through.

And as Dr. Starzl testified:

> Part of the spirit of this bill * * * is that it gives a very powerful signal that, as far as the Government is concerned * * * we do recognize that there is a moral imperative to treat all of our patients and not to exclude that 60 million people who do not have means of payment for this technology.

It is time that we take action to see that families and patients don't have to go through what Hardie and Sherry Clifton went through. It is time we quit ignoring the plight of our fellow citizens who desperately need help in financing organ transplants. After my bill is enacted, a citizen need never again feel helpless when he hears about a patient who cannot finance a transplant. We will all be able to make a contribution to solve this problem. I will vigorously pursue this legislation in the 101st Congress.●

SUPERCONDUCTING SUPER COLLIDER IN THE WEST

● Mr. HATCH. Mr. President, in a few weeks Americans will usher in a new political era. Though a new administration will have its own distinctive program, an agenda of unfinished business will remain to confront the next President and the 101st Congress. A key item on that agenda is how best to assert leadership in an increasingly competitive global marketplace.

One such competitive area is science research. The United States is no longer the unchallenged leader is basic research, particularly in high energy physics. During the period 1971 to 1986, the number of physics doctorates awarded to foreign students at American universities doubled. American predominance in science is clearly being pressured. How will we respond?

Investment in science research and education must be a high national priority in the coming decade. In that regard, one of the most promising possibilities for scientific breakthroughs is the superconducting super collider. I applaud the leadership of President Reagan and Secretary of Energy Herrington in advancing the super collider to the point of construction. If the United States is to retain its edge in high energy physics, which itself is a root science for many other disciplines, the super collider must be built. Next month, Secretary Herrington will recommend to the President where the collider should be located.

On September 29, 14 Western Governors, including Gov. Norman Bangerter of Utah, wrote to President Reagan urging the collider be sited in either of two Western States, Arizona or Colorado. Their recommendation tracked an earlier resolution of the Western Governors Association as well as a resolution passed by the Western Interstate Commission for Higher Education.

The West has long been a hospitable home to science research. Examples of major research facilities abound in the region, at places such as the Kitt Peak National Observatory, the Los Alamos National Laboratory, the Palomar Observatory, and the Lawrence Berkeley Laboratory. The West is also home to NASA's Jet Propulsion Laboratory, the Silicon Valley, and such high-technology industry cities as Salt Lake City, Phoenix and Denver.

Mr. President, the Governors' letter sets out the numerous persuasive arguments for locating the super collider in the West and demonstrate solid regional support for the project. I will ask unanimous consent that the letter be printed in the Record at the conclusion of my remarks.

Placing the super collider in the West does much to guarantee the success of this project. It permits the Government to access vast regional academic, manufacturing, labor, and political resources. Geologic reports confirm that southwestern construction conditions permit building the super collider at considerably greater speed and much less expense than elsewhere, minimizing the strain on taxpayer dollars and permitting earlier commencement of important experiments. Altogether, these factors demonstrate that the surest way to guarantee construction and viability of the super collider is to locate it in the West.

These considerations should be significant in choosing a site. The super collider must be built. High energy physics is an area which demands American leadership. If our resolve to lead fails us, others will fill the vacuum, and America's position in scientific research will surely decline. We will have no one to blame but ourselves. The United States is blessed with the technology and the geologic setting to make a success of this project and maintain a leadership role into the next century. By choosing a Western site, we will materially advance this vital project to completion.

Mr. President, I now ask that the aforementioned letters be printed in the Record.

The letters follow:

Western Governors' Association,
Denver, CO, September 29, 1988.

Hon. Ronald Reagan,
President of the United States, The White House, Washington, DC.

Dear Mr. President: In January 1987 you committed the United States to a leadership role in scientific research with the announcement of your support for building the Superconducting Super Collider (SSC). The SSC and associated technological advances signals the rest of the world that this Nation intends to remain at the forefront of high energy physics research.

The Department of Energy in January of this year, after reviewing the National Academies of Science and Engineering recommendations, selected seven sites from thirty nationally for further study. Two of these sites are in western states, Arizona and Colorado. The governors of both Colorado and Arizona have worked extremely hard at bringing the SSC to the West and have supported continued funding of the program by Congress.

The Western Governors believe the West offers two superior sites for the SSC and want you to know their position. In 1987 the Western Governors passed a policy resolution supporting the location of the SSC in the West. That position and commitment is reaffirmed by this letter.

As a fellow westerner, you are aware that locating the SSC in the West offers several unique advantages to the Department of Energy and the Nation. The western sites would allow the federal government to build on the existing commitments to advanced scientific research in high energy physics and superconductivity at the federal laboratories at Los Alamos, Sandia, Lawrence Livermore, and the National Center for Atmospheric Research—Boulder.

The western universities and associated centers of excellence have joined to establish the Western States SSC Coalition. The Coalition is dedicated to establishing regional cooperative research centers for scientific research and to provide additional resources for supporting the SSC through their institutions. The Western Interstate Commission for Higher Education in a rare action endorsed the location of the SSC in the West and committed to work with the Western States SSC Coalition in establishing cooperative research and educational programs.

The western states due to their environmental settings offer both the quality of life and the amenities needed to attract and retain superior scientists. The western sites also were judged in the environmental impact statement as being the least disruptive of the seven in terms of environmental impact. Additionally, both sites were found to offer extensive monetary savings in terms of construction and operating costs over the life of the facility.

As Western Governors we urge you in preparing your recommendation to the Congress for funding to select one of the two western sites under consideration.

Sincerely,

George Deukmejian, Governor of California, Chairman, WGA; Steve Cowper, Governor of Alaska; Roy Romer, Governor of Colorado; Cecil Andrus, Governor of Idaho; Richard Bryan, Governor of Nevada; George Mickelson, Governor of South Dakota; Booth Gardner, Governor of Washington; George Sinner, Governor of North Dakota; Vice-Chairman, WGA; Rose Mofford, Governor of Arizona; John Waihee, Governor of Hawaii; Ted Schwinden, Governor of Montana; Neil Goldschmidt, Governor of Oregon; Norman Bangerter, Governor of Utah; Michael Sullivan, Governor of Wyoming.

The University of Utah,
September 28, 1988.

Hon. John Herrington,
Secretary, U.S. Department of Energy, Washington, DC.

Dear Secretary Herrington: I am writing concerning the Superconducting Super Collider, which I believe to be of major significance to the United States scientific effort. It is important that the full potential of the facility be realized by selecting the most favorable site.

It appears to me that the Arizona site not only meets all of the requirements but also has several features that can contribute positively to the success of the laboratory. These include the quality of life in Arizona which will attract the best scientific staff, and the collaborative efforts of the Western universities which will help develop the most effective research program.

Funding for the SSC project is surely difficult in these fiscal times, but approaches must be found to make the laboratory happen. I have urged our congressional delegation to support the project and will continue to do so if the SSC is located in Arizona.

Sincerely,

James J. Brophy,
Vice President for Research.●

TELECOMMUNICATIONS ACCESSIBILITY ENHANCEMENT ACT

● Mr. McCAIN. Mr. President, last Friday night the Senate passed the Telecommunications Accessibility Enhancement Act of 1988. This is an important piece of legislation that I wanted to discuss for a minute.

It is unfortunate that there are millions of Americans who do not enjoy equal access to this Nation's telecommunications network. For too long we have overlooked the 24 million hearing-impaired, and the almost 3 million speech-impaired, Americans. We have the opportunity to correct this situation and allow these citizens to share in the finest telecommunications system in the world. And with this legislation, we start to accomplish that goal.

The passage of this legislation is evidence to the hearing and speech impaired communities that we in Congress intend to incorporate all our citizens into the Federal Telecommunications System. For 126 years, since the invention of the telephone, our hearing impaired citizens have not been granted this equal access. The spirit of the Communications Act of 1934 called for such integration, and the necessary technology has been available for years. But he progress was not evident, so I introduced S. 2221, a bill to improve the Federal Telecommunications System for the benefit of the hearing and speech impaired on March 29, 1988. On July 26, 1988, our colleague in the House, Mr. Gunderson, introduced an identical companion bill, H.R. 4992.

The distinguished chairman of the Commerce Committee Senator Hollings, along with Senators Inouye, Danforth, and Packwood joined me and cosponsored my bill. The committee favorably reported S. 2221 to the full Senate for its consideration on June 28, and on August 10, 1988, with 27 cosponsors, the Senate passed S. 2221.

Mr. President for almost a year now we have worked very hard to see the passage of this bill. This legislation provides Congress and the Federal Government with a blueprint for the future that assures full and equal access to our Federal Telecommunications System. It calls for the Federal Communications Commission to take by regulation such action as necessary to ensure that the Federal Telecommunications System is fully accessible to all hearing and speech impaired individuals. To achieve this goal they shall:

First, expand and continue the current Federal relay and employ the appropriate staff.

Second, to initiate an analysis and propose regulations for modifying our Federal telecommunications network by placing telecommunication devices for the deaf [TDD's] in Federal offices so that full access can be achieved for the hearing and speech impaired populations and report those findings back to Congress.

Third, to publish and maintain a directory of Federal TDD phone numbers and make that directory available to concerned parties.

Fourth, to adopt a standard logo to signify the presence for a TDD or TDD accessable station in Federal buildings.

Fifth, to promote research by both public and private entities to reduce the cost and improve the capabilities of telecommunications devices and systems that provide access to hearing and speech impaired peoples and provide for the future of the Federal Telecommunications System so that the equal access achieved now will continue and evolve with the advent of technology.

Sixth, to order the FCC to complete its current inquiry into the interstate relay system for users of TDD's.

And finally to call for Congress to make itself accessible to the full constituencies it represents by equipping itself with TDD's.

Mr. President, there is no good reason with today's technology to deny 27 million taxpayers the ability to fully communicate with their Government because of speech or hearing disabilities. After the Senate acted, and approved this legislation, it was the House of Representatives turn. The bill was referred to the Committee on Government Operations, the Committee on Energy and Commerce, and the Committee on House Operations. On September 23 the Subcommittee on Telecommunications held hearings and reported it to the full committee for its consideration. On September 27 the Committee on Energy and Commerce approved the bill and ordered it to be reported to the full House. The committee felt that since the bill only mandated changes to the Federal Telecommunications System, the jurisdiction for imlementation of the measure belonged to the General Services Administration rather than the FCC. Both the Committee on House Operations and the Committee on Government Operations, agreeing to this change in language from control by the FCC to control by the GSA in consultation with the FCC, allowed the full House to take the bill under consideration on October 12, where it was subsequently passed by voice vote and sent to the Senate. Because of the lateness of the session and our desire to accommodate the shared objective of dealing with this issue promptly, the Senate passed the bill as H.R. 4992, even though it began as, and is substantially the same as S. 2221.

I would also like to take this opportunity to thank all my colleagues for their help and commitment to this crucial legislation and to the staff who worked on it. But most importantly, I would like to express my sincere thanks to the deaf and hearing impaired communities, without whose support and tireless efforts this legislation would never have been possible.●

ACCESS FOR THE HEARING IMPAIRED

● Mr. DANFORTH. Mr. President, on October 14, the Senate passed H.R. 4992, a bill that will ensure that hearing-impaired and speech-impaired persons have access to their Federal Government. This legislation accomplishes that goal by providing for a relay system for users of TDD's (telecommunications devices for the deaf). A TDD is a piece of equipment with a keyboard that enables hearing-impaired and speech-impaired persons to type out messages over telephone wires.

Under this legislation, there will be a Federal relay operator who can receive and transmit messages for TDD users. For example, a hearing-impaired person who wanted to find out the status of a proceeding at a Federal agency could send a message to the Federal relay operator. The operator would in turn find out the status from the relevant Federal agency and relay the information, via a TDD, back to the hearing-impaired person.

This legislation also calls for the Administrator of the General Services Administration to create a much needed TDD directory. The Administrator, in consultation with the Architectural and Transportation Barriers Compliance Board, shall adopt a logo to signify the presence of a TDD.

The Administrator shall also, in consultation with the Federal Communications Commission [FCC], promote research to reduce the cost and improve the capabilities of telecommunications devices and systems that provide access to hearing-impaired and speech-impaired individuals. The FCC is further directed by this legislation to complete its existing inquiry regarding an interstate relay system for users of TDD's. The House and Senate are also directed to establish a policy under which their Members may obtain TDD's for their offices.

Although it bears a number from the House of Representatives, this legislation is really the creation of Senator JOHN MCCAIN. On March 29, Senator MCCAIN, along with Senators HOLLINGS, INOUYE, PACKWOOD, and myself, introduced a TDD bill, S. 2221. This bill was referred to the Commerce Committee, and the committee held hearings on June 23. Support for the bill was widespread, and the committee quickly reported out a substitute on June 28. The speedy action by the commitment is due to the dedication of Senator MCCAIN, who took a strong interest in moving this legislation forward. On August 10, the Senate passed S. 2221 by unanimous consent.

Because he wanted this legislation to pass, in the waning hours of the 100th Congress, more than he wanted recognition for his efforts, Senator MCCAIN did not insist that we delay this legislation and use the Senate bill number. Senator MCCAIN certainly deserves recognition for his efforts in making sure that this bill will become law.●

● Mr. HOLLINGS. Mr. President, in the closing days of the 100th Congress I am proud to have the opportunity to speak about H.R. 4992. Last week the Senate passed this bill which would provide to our hearing and speech impaired populations what every citizen ought to have: equal access to the Federal Government.

H.R. 4992 is the identical companion bill to S. 2221 which was introduced by our colleague, Senator MCCAIN, and of which I along with Senator INOUYE, Senator DANFORTH, and Senator PACKWOOD were original cosponsors. This bill simply gives to the hearing and speech impaired of this country the access to the Federal Government that all other people enjoy. It does this by setting guidelines, to be enforced by the General Services Administration, that will ensure access by expanding the Federal relay system and placing telecommunication devices for the deaf [TDD's] in Federal offices. It further establishes policies that will keep these lines of communication open and current with advancing technology.

With the technology that currently exists, there are no reasons why this population is being left out of our telecommunications system. This Nation has recognized that a person's disabilities do not limit his or her ability to participate in society. I am proud to have been a part of this legislation to help break down the barriers that exist and give equal access to all our citizens.●

ACT NOW TO PREVENT "NEW KILLING FIELDS"

● Mr. PELL. Mr. President, the October 17 New York Times contains an urgent reminder that action is needed now to guard against a return to power of the Khmer Rouge forces who were responsible for the genocidal reign of terror in Cambodia in the 1970's. Anyone who saw the extraordinary film "The Killing Fields" will need no convincing of the importance of assuring that there is no repeat of that grisly chapter in Cambodia's history.

For years United States policy has concentrated on pressing for the withdrawal of Vietnamese forces from Cambodia. At the same time, we now recognize that the Vietnamese presence has for nearly a decade served as the main military factor preventing renewed military gains by the Khmer Rouge—the most significant military force in Cambodia after the Vietnamese. The Vietnamese withdrawal now appears to be underway—and we must insist that it continue to completion. But this leaves unanswered the very serious question of the fate of the Cambodian people if the Khmer Rouge have a free hand to resume a significant role in that country.

The New York Times article of October 17 emphasizes that the time to act against the Khmer Rouge is now. The particular policy action that is called for is to work, in tandem with other countries such as Japan and France, to convince the People's Republic of China and other concerned governments to shift their military support to the non-Khmer Rouge elements of the Cambodian resistance. As the article states: "Rather than end military pressure on the Vietnamese, this would redirect assistance to the non-Communist forces so that the aid does not continue to strengthen Pol Pot."

Mr. President, the article to which I am referring was written by a distinguished American foreign service officer, Lionel A. Rosenblatt, who recently retired from the State Department after a career largely devoted to aiding refugees. Mr. Rosenblatt received one of the highest awards of the American Foreign Service Association for his initiative in helping rescue Vietnamese during the fall of Saigon. He subsequently directed our refugee programs along the Thai-Cambodian border during the major influx of Cambodians fleeing the Khmer Rouge killing fields and the Vietnamese invasion.

One of his last assignments in the State Department was as a senior congressional liaison officer, and I know that many of us have come to rely on Lionel Rosenblatt for information and advice concerning refugee and related matters. I regret his departure from the State Department but I'm pleased to know that he will continue his work with international programs now in the private sector.

I ask that the October 17 New York Times article entitled "New Killing Fields" by Lionel Rosenblatt be printed in the RECORD at this point.

The article follows:

[From the New York Times, Oct. 17, 1988]

NEW KILLING FIELDS?

(By Lionel A. Rosenblatt)

In the final scene of the movie the "Killing Fields," Dith Pran, now a New York Times photographer, reaches freedom from the Khmer Rouge in a refugee camp along the Thai border. Now, according to officials in Thailand and Washington, the Khmer Rouge—who were ousted by the Vietnamese almost 10 years ago, after murdering as many as a million civilians—are forcibly emptying some of these border camps, enslaving civilians and threatening to return to dominance.

In recent weeks, the Khmer Rouge have forced several thousand refugees to quit camps along the Thai border and return involuntarily to the interior of Cambodia. There, these civilians face a probable future of forced labor of the most onerous and dangerous variety, such as ammunition-bearing and mine-clearing. In a chilling throwback to the forced evacuation of Phnom Penh in 1975, the Khmer Rouge are abandoning the crippled and infirm as of no use in whatever fighting lies ahead. Everyone else is marched off.

Against this backdrop, plans continue to be spun out for a "reconciliation" Government, perhaps headed by Prince Norodom Sihanouk and possibly including the Khmer Rouge. And the Chinese now appear willing to accept in exile the Khmer Rouge leader, Pol Pot, and a few of his close associates. But the removal of the leadership does not preclude a return of the Khmer Rouge, given that they are the dominant military faction.

Nevertheless, in an inexplicable echo of the media's hear-no-evil approach to the first couple of years of the Pol Pot regime, the American press has been relatively silent on this ominous Khmer Rouge reversion. To date, there have been no reports about the forced return of civilians to Cambodia. The European press has been only slightly more attentive. Yet, until international opinion focuses on the matter, we face the possibility of renewed tragedy.

Although the re-emergence of the Khmer Rouge is linked to Vietnam's withdrawal, that does not mean we should ease pressure on the Vietnamese to end their occupation of Cambodia. Indeed, the Vietnamese are attempting to secure their long-term interests with "advisers" and clandestine cadres who will stay behind to be sprinkled in and out of government.

How can we insure that Pol Pot—or a proxy—does not re-emerge on the flip side of a Vietnamese withdrawal? There is no magic formula. Indeed, the Chinese and some others are so well served by the presence of the Khmer Rouge that it will be extraordinarily difficult to persuade them to forsake their Faustian ally.

But the effort should be made. In tandem with other countries, such as Japan and France, the United States should approach China to shift military support to the non-Khmer Rouge elements of the Cambodian resistance. Rather than end military pressure on the Vietnamese, this would redirect assistance to the non-Communist forces so that the aid does not continue to strengthen Pol Pot.

The Chinese would be unenthusiastic about this and our leverage with Beijing is not high. But if we and others persist, the international abhorrence of a continuing blank check to Pol Pot should eventually begin to penetrate in Beijing.

We must also join the issue with the Association of South East Asian Nations, where there is growing awareness of the problem. Thailand is the front-line state having played the major and widely applauded humanitarian role in the 13 years of exodus from Indochina since the Communist takeover. Understandably, the Thais also want to continue the pressure on Vietnam and they see the Khmer Rouge as the best means to that end. The Thais are increasingly concerned, as well, that the Vietnamese may be withdrawing fewer troops and at a slower rate than announced.

Moreover, Thailand is concerned about possible retribution by the Khmer Rouge if they agree to a diversion of military assistance to the non-communist elements. After all, when the Khmer Rouge ruled Cambodia, they massacred Thai villagers more than once.

The Khmer Rouge's potential to wreak havoc is the major rationale for an international peacekeeping force. Thus, we should begin urgently to develop the consensus and framework for an international force to monitor Vietnamese withdrawal and prevent the return to power of the Khmer Rouge.

The logical starting point or exploring solutions is to recognize that there is an urgent problem; there are hopeful signs that the Administration and some members of Congress have. This momentum needs to carry through into the transition.

Meanwhile, maybe news editors should ask correspondents to begin trying to report on the fate of the thousands of Cambodians who have been driven recently into the interior by the Khmer Rouge. Where are these latest victims? Gone to the new killing fields and beyond?●

CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWRY

● Mr. BOND. Mr. President, the close of the 100th Congress also brings to a close my chairmanship of the Congressional Call to Conscience for Soviet Jewry, an honor that I have shared this year with the distinguished Senator from Illinois, Senator DIXON. While it has been a privilege to assist my colleagues in calling attention to the plight of Soviet Jews, this is most certainly a position that we all wish would be rendered obsolete. A position which, in the 1980's, still demands the coordination of calls for religious tolerance, for freedom of travel, and for fundamental human rights, is an unenviable honor at best.

We have seen the Soviet Union undergo many dramatic changes in the past few years, yet it appears that in the area of Jewish emigration, the effects of glasnost have not yet been fully felt. Jewish emigration has fluctuated drastically in the past several years from a high of 51,230 in 1979 to fewer than 1,000 in 1986. The trend is up this year, giving us some hope that there will be a significant change in the emigration policy. And we have seen many of the most celebrated refuseniks—Natan Sharansky and Ida Nudel—for example, released. However, there are still thousands who are denied permission to leave the country. This inconsistency in the Soviet Government's emigration policy must be met with steadfast consistency on the part of the United States Congress and the American people. We must display consistency in our condemnation of human rights abuses, our pressure on the U.S.S.R. to comply by the Helsinki accords, and our support for those victimized by religious persecution.

I commend those in this body who have made statements on the floor, written letters, and taken other actions in support of those wishing to emigrate. We have all heard and read the tragic accounts of individual refuseniks faced with employment discrimination, ignored medical emergencies, bureaucratic nightmares, and the dissolution of families. As Members of Congress, we must not let the Soviet Government forget for a moment that the American people are monitoring the human rights situation in their country.

Since its inception in 1976, the Congressional Call to Conscience has offered Members of Congress an effective mechanism for voicing opposition to this intolerable situation. In conjunction with the Union of Councils for Soviet Jews, we have sent a clear message to the Soviet leadership. We must continue in this vigil until no Soviet Jews are denied the right to emigrate, until religious freedom is the rule—not the exception, and until innocent citizens are no longer harrassed because of their faith.

I would therefore like to ask my colleagues to ensure that the end of the 100th Congress is not the end of this body's and this Nation's commitment to religious tolerance and basic human rights. I urge my colleagues to continue to participate in the Call to Conscience in the next Congress, and to continue to make public the plight of those Jews who wish to leave the Soviet Union so that they can practice their religion in freedom.●

LAW-RELATED EDUCATION PROGRAM

● Mr. McCONNELL. Mr. President, the Omnibus Anti-Substance Abuse Act of 1988 contained within it the reauthorization of the Juvenile Justice and Delinquency Prevention Act. In our deliberations over the drug bill and the drug problems afflicting this Nation, there was strong agreement that the future of our Nation is at stake and that the future rests with our children.

Since its passage in 1974, the Juvenile Justice and Delinquency Prevention Act has helped meet many of the serious problems affecting our youth and serves as a beacon of hope for the future. I strongly advocated the reauthorization of this act, to continue to prevent juvenile delinquency, and promote respect for the law. Through reenactment of this legislation, juvenile programs nationwide will be strengthened.

Mr. President, it is vital that the Federal Government fulfill its leadership role in preventing and treating delinquency, and give opportunities for States to adopt successful program models. We must continue to support initiatives to deter crime, illegal gang activities, and juvenile drug involvement.

One of the effective programs to result from the Juvenile Justice and Delinquency Prevention Act is the National Law-Related Education Program. This program has been used in my home State of Kentucky as an effective tool in fighting juvenile delinquency.

The law-related education curriculum has been outstanding in reaching young people and teaching them about the legal system that governs our society. It teaches respect for our legal institutions and, most importantly, explains the reasons for having those legal institutions.

The survival of the Law-Related Education Program hinges on the reauthorization of the Juvenile Justice and Delinquency Prevention Act. With renewed Federal funding, and with the invaluable support of the Constitutional Rights Foundation, the Center for Civic Education, the National Institute for Citizen Education in the Law, the American Bar Association, and Phi Alpha Delta Legal Fraternity International, the Law-Related Education Program fortunately will continue to be implemented in Kentucky's schools and expanded into other settings.

Mr. President, I commend those who have worked to make the Law-Related Education Program a success, and in so doing have made the future a lot brighter for Kentucky's young people.●

TRIBUTE TO THE HUNDRED CLUB OF COOK COUNTY

● Mr. SIMON. Mr. President, I would like to call to the attention of the Senate the remarkable work of a remarkable organization in Greater Chicago, the Hundred Club of Cook County.

On September 22, Chicago was stunned by the killing of Police Officer Irma Ruiz of the Chicago Police Department. In keeping with a longstanding general order of the department, the superintendent received the first call about this tragedy. Under that same general order, the president of the Hundred Club of Cook County received the second call. The result of that second call was delivery within hours of an initial $2,500 check to Officer Ruiz' widower to meet the family's immediate needs.

Ambassadors from the Hundred Club of Cook County have been the community's first ambassadors to such grief-stricken families each time a police officer or firefighter in Cook County has fallen in the line of duty since the club was founded in 1966. Each time, a club member has quietly delivered an initial check for urgent costs and, later, additional checks for virtually all existing debts, including mortgages of up to $30,000. Later on, they help with the college and medical expenses of the children of these families. In its first 20 years, the Hundred Club of Cook County has provided $2,186,509 to help the families of 163 of these slain public servants. Only interest from members' contributions—never the members' contributions themselves—is used to pay for the club's modest overhead costs.

When members' dues are not enough to meet the needs of stricken families, members chip in with still more of their resources. And great good has been done with the additional contributions bequeathed by members in their wills.

The club also recognizes distinguished service by police and fire personnel with its annual valor awards, presented each year to as many as four recipients.

In the spirit of this unique "family of strangers," club members take personal interests in the families, arranging summer jobs for youngsters and giving a helping hand whenever it's needed.

Their good work is done quietly—in fact, reverently. Many, many fine citizens have helped make the Hundred Club of Cook County the pillar of the community it is today—too many to name here. But I would like to extend particular recognition to President Ralph G. Scheu and these officers, directors and senior directors of the club: James J. O'Connor, Michael R. Notaro, Patrick L. O'Malley, Marshall Korshak, Sidney L. Port, B. Michael Pallasch, Stephen J. Scheu, Mary Ann Erickson, Ralph A.L. Bogan Jr., William F. Eichelberg, Robert H. Asher, Thomas G. Ayers, Edward J. Barrett, Martin R. Binder, Mrs. Albert T. Candy, Gerald W. Cavanagh, Saul A. Epton, Russell H. Ewert, Ronald J. Gidwitz, Sheldon F. Good, Jack C. Leahy, Fred G. Litsinger, Daniel P. Lydon, Judd D. Malkin, Frederick M. McCahey, Walter F. Mullady Sr., Arnold Newberger, Vincent J. O'Conor Jr., O. William Olson, Vernon J. Pellouchoud, Nels L. Pierson, Bernard Pollack, Richard F. Prendergast, Ike Sewell, Robert E. Shamburg, James F. Sheerin, Robert Sheridan, Jackson W. Smart Jr. and Arthur R. Waddy.

They make the families of our fallen public servants part of their family, and we are a better city and a better nation for all they do.●

MENTAL ILLNESS AWARENESS WEEK

● Mr. SIMON. Mr. President, mental illness is a disease which afflicts millions of Americans. While physical ailments are often treated promptly, those suffering mental ailments still face many barriers for effective treatment in American society. Mental Illness Awareness Week was created to help the public become more aware that mental illness is a disease which can be treated.

It is estimated that 30 to 45 million Americans suffer from mental illness. Problems are experienced by men and women, all races, the very young, the very old and by people from all walks of life. Suicide is the third leading cause of death among those 15 to 24. Every hour, 18 teenagers take their lives and 57 children and teenagers attempt to take their lives. These young people must be reached.

The elderly also face many problems in mental illness treatment. Many of the elderly are labeled as being senile while, in fact, they have a mental illness and can, with treatment, lead healthier lives.

There are several types of mental illness. Schizophrenia, depression, bipolar depression, anxiety disorders, substance abuse, and phobias incur heavy personal and social costs for America. It is estimated that the direct cost of mental illness is $20.9 billion a year. Substance abuse is estimated to directly cost $109 billion a year. If these costs are combined with the indirect costs of substance abuse estimated at $185 to $190 billion, it is apparent that the costs to America are extensive. These startling figures are only one indication of the damage caused by mental illness. These figures do not begin to reflect the personal anguish and damage inflicted upon victims of mental illness and their families.

Though most cases of mental illness can be treated, only one in five pursue help. With one of the most severe occurrences of mental illness—schizophrenia—80 percent of patients can have their acute symptoms reduced with medications. Most of the severe mental illnesses can be treated with therapy and medications. Many incidents of mental illness are not the most severe cases but they, as well, face stigmas in society which inhibit individuals from seeking help. It is my hope that some of those stigmas can be removed this week.

How do we fight this disease?

This Congress is concerned with funding for mental illness research. Here are the approximate figures in funding for research for 1987, 1988, and 1989:

MENTAL ILLNESS RESEARCH

[In millions of dollars]

Categories	Fiscal year—		
	1987	1988	1989
Brain and behavior	81.4	85.5	102.6
Schizophrenia	32.1	36.1	45.8
Depression and bipolar dep	28.3	29.2	33.1
Elderly	16.4	17.5	22.9
Children	17.5	21.8	23.3
Anxiety	12.4	12.7	12.9
Behavior disorders and distress	6.7	6.7	6.6
Epidemiology	10.6	10.7	10.7
Prevention	8.4	8.5	9.4
Biometric and clinical	9.0	10.8	13.2
Antisocial and violent behavior	9.0	9.2	8.2
Minority research	3.7	4.5	4.7
Total (approximately)	235.7	253.0	293.0

Mental Illness Awareness Week underscores the need for understanding the necessity of treatment for mental illness and the need for education and sensitivity. I am proud to have been a cosponsor of the resolution and I join mental health professionals, the mentally ill themselves and their families in bringing this crucial issue to the attention of the public.●

DRUGS AND PUBLIC HOUSING

● Mr. SIMON. Mr. President, it is my understanding that a provision authored by my friend and colleague, Frank Lautenberg, entitled the "Public Housing Drug Elimination Act of 1988" is included in the omnibus drug bill to provide $8.2 million for a competitive grant program for public housing authorities to combat drugs. In my home State of Illinois, the Chicago Housing Authority has had an unfortunate reputation. Drug-related crimes have increased to crisis proportions in public housing developments across the Nation and Chicago is no exception.

I am pleased to say that under the bold and courageous leadership of its new executive director, Vincent Lane, the Chicago Housing Authority is making strides. I believe the New York Times said it best in its recent article about Vince and his program:

> Less than 4 months into his new job, Vincent Lane, the head of the Chicago Housing Authority has set an audacious course for himself: he wants to turn a giant public housing system that is overwhelmed by gangs, crime and corruption into a laboratory for innovation.

I believe that Vince and the Chicago Housing Authority should be given as much support as possible. I therefore would urge that the Secretary of Housing and Urban Development, in making grant awards to the public housing authorities, give the Chicago Housing Authority full consideration. It is time that the Chicago Housing Authority and Vince Lane be given an adequate chance to turn things around.

I ask the New York Times article be printed in the Record.

Bold Plans for During Sick Housing

(By William E. Schmidt)

Chicago.—Less than four months into his new job, Vincent Lane, the head of the Chicago Housing Authority, has set an audacious course for himself: he wants to turn a giant public housing system that is overwhelmed by gangs, crime and corruption into a laboratory for innovation.

Until now the Chicago Housing Authority, a city within a city made up of 150,000 residents, has largely proven immune to change. Many here see the nation's second largest housing authority, after New York City's, as a symbol of wasteful management, patronage politics and a callous indifference to the poor and powerless people in its charge.

Since taking over as executive director and chairman of the board in June, Mr. Lane, a 46-year-old businessman, has turned to consultants to rebuild the authority's management and to help reduce an $11 million operating deficit. He has enlisted the assistance of the police and Federal agents to clear buildings of gangs and illegal squatters.

Moreover, he has asked Congress for money to train residents in home remodeling skills, brought in as a consultant a former assistant United States Attorney to turn Federal racketeering statues against his own corrupt employees and begun to organize tenants to take over leasing and eviction procedures in their buildings.

SEEKS CHANGE IN HOUSING LAW

And to assure more economic diversity in the housing complexes, he has begun soliciting support in Congress for key changes in Federal housing law, including a proposal to rewrite the Brooke Amendment, a basic building block of Federal public housing policy that fixes a tenant's rent at 30 percent of their income.

Mr. Lane wants Congress to impose a cap on the maximum dollar amount of rent a tenant is required to pay, so that those with jobs will not be priced out of public housing by rents that climb with their incomes.

Federal housing officials, local political leaders and urban affairs experts believe that he is on the right track to making the projects safer, cleaning up corruption in the agency and giving tenants a greater voice.

Aides to Senator Paul Simon said the Illinois Democrat was so impressed with Mr. Lane that he arranged to have him brief the state Congressional delegation on public housing.

"He is willing to talk about change inside the C.H.A. and this is completely new," said Robert S. Slayton, a professor of history at Chapman College in Orange, California., who until last month was director of research and planning for the Chicago Urban League.

Unlike most of his predecessors in recent years, Mr. Lane was not closely tied to the city's political power structure. A private developer who runs 5,000 units of federally subsidized low-income housing here, he was appointed by Acting Mayor Eugene Sawyer at the urging of civic and business leaders who felt the system was on the brink of callapse.

In the face of cutbacks in Federal housing subsidies and the depth of the agency's own fiscal problems, however, Mr. Lane has embarked on a task of near Sisyphean proportion, and there is no assurance he will succeed.

REMEMBERS HOUSING YEARS AGO

At the heart of Mr. Lane's strategy is a remembrance of what public housing was like when he was growing up on the city's South Side. He was envious of those who lived in Wentworth Gardens, a public housing project with neat walks and clean apartments and a strong sense of community.

"What I want to do is dispel the idea that public housing tenants, because they are poor, are lazy, slovenly and want to live with gangs, and drug dealers," said Mr. Lane, a 6-foot-3-inch man who earned a graduate degree in business from the University of Chicago.

His tenure coincides with a period of intense public discussion about the failure of public housing in Chicago and, more specifically, about the relationship between life in the projects and a wide range of social pathologies such as poverty, welfare dependency, drugs, crime and gangs.

Over the summer, both the Chicago Urban League and the Mayor's Advisory Council on the housing authority produced reports sharply critical of the agency. The Urban League report said that as a result of Federal cutbacks and management turnover, the Chicago Housing Authority was facing the worst crisis in its history.

Nearly two-thirds of the city's 40,000 public housing units are clustered inside 168 high-rise buildings. Most of their residents are poor and black; two-thirds are children, most of whom live with single mothers.

The largest complexes were built in the 1950's and early 1960's, commissioned by Chicago politicians who, historians now argue, were more interested in containing the city's poor blacks, a strategy that helped earn Chicago its place as perhaps the nation's most segregated large city.

The buildings are spare and forboding, smeared with graffiti and garbage and surrounded by desolate expanses of concrete. The hallways and elevators are on the exterior of the buildings, open and exposed to the city's mean winters. There are no lobbies, no front doors and no security.

Gangs control several of the buildings, terrorizing tenants with gun battles and bombings. Despite a waiting list of some 100,000, one in every six apartments is vacant, many rendered uninhabitable by vandals. Tenants are two-thirds more likely than others in the city to be the victim of violent crime, and the elevators have been described by one urban studies expert as the city's most dangerous public transportation system.

Mr. Lane's most dramatic move so far has been an effort to wrest control of the worst of the projects from gangs, by having the police evict squatters and gang members and then locking them out by sealing the building entrances and elevators—once open to anyone who wanted to enter—with steel mesh, armed guards and a sophisticated security system.

He estimates there are 50,000 to 100,000 tenants living illegally in the authority's 40,000 units, although his first sweep on a building on the city's West Side two weeks ago turned up only three people. He blamed tipsters who leaked plans of the raid for the poor results.

Those security measures have provoked some criticism. Timothy C. Evans, a South Side Alderman who is expected to run for Mayor, for instance, said some public housing residents have complained that in securing the buildings with guards and iron gates, friends are unable to visit.

"It's good he is getting the criminal element out of those buildings, but he shouldn't trample on people's rights along the way," said Mr. Evans. For his part, Mr. Lane says he hopes the measures are temporary. "We are dealing with an emergency," he said.

REJECTS RAZING BUILDINGS

So far he has rejected a suggestion, raised by both the Urban League and the Mayor's Advisory Council, that he consider tearing down the worst of the high-rise buildings and replace them with low-rise buildings scattered about the city.

"When you have got a waiting list of 100,000 people and a growing problem with homelessness, you cannot lose any of your housing stock," he said.

Instead, Mr. Lane this month will seek bids from contractors on a $2.5 million contract to install new security systems and enclose elevators in three 16-story buildings at the Robert Taylor Homes on the South Side, the nation's largest public housing development.

In the past, just as today, there were hopes of improving the housing authority. For instance, when Harold Washington was elected the city's first black mayor in 1983 the agency hired Zirl Smith, a public housing director in Delaware, as its new manager.

But Mr. Smith clashed with the agency's chairman, and both men were forced out in a dispute with Federal housing officials.

For his efforts so far, Mr. Lane has won the applause of tenant groups, and aides to Senator Simon say he intends to support legislation on behalf of Mr. Lane, proposing the change in the Brooke Amendment to fix rents.

"The bottom line is to have a healthier mix of people, with a variety of incomes," said Tim Tilley, a Simon aide.

And unlike his predecessors, he is receiving plaudits from Federal housing officials. "We are very pleased with the directions that Mr. Lane is taking," said Adolph J. Slaughter, a public affairs spokesman for the Department of Housing and Urban Development, which two years ago withheld millions of dollars in Federal subsidies and threatened to take over management of the housing authority if it did not adopt tougher cost control policies.

Although the Chicago Tribune criticized Mr. Lane for giving lucrative jobs to three close associates of Acting Mayor Sawyer, the newspaper has applauded recent efforts to clear the gangs from buildings. Those hiring problems, the newspaper said, "will be minor blips in comparison to the major contribution to public safety he will make if he follows through with his campaign to kick the terrorists out of public housing."●

DR. ARTHUR JAMES KRAUS

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a very special man. Dr. Arthur James Kraus, formerly a professor at City College of New York, in 1932 spoke out against a proven evil, but ironically spent the rest of his life clearing his name.

In 1932, Professor Kraus planned a student march in New York City to protest the growing rise of fascism in Germany and its ascension in Poland. City leaders objected to the march, so it was cancelled. In protest, Professor Kraus began an 8-day hunger strike which ended only at the urging of his students and City College officials. The college's officials commended Professor Kraus on his humanitarianism and courage.

Soon after, Professor Kraus returned to his classes on the condition that he undergo a physical examination. At this examination he was physically assaulted, declared to be of "mentally unsound make-up and unusually highly strung mentality," and subsequently dismissed from the faculty of City College. Professor Kraus spent the succeeding years fighting to clear his name and for academic freedom.

His efforts were not futile. In 1969, the Board of Higher Education of New York apologized to Professor Kraus for his unfair dismissal in 1933. The State of New York subsequently passed a bill to provide pension benefits to persons—such as Professor Kraus—discharged without just cause. The mayor of the city of New York has also honored Professor Kraus on his commitment to academic freedom and social justice.

Mr. President, I salute Professor Kraus on his long struggle for justice and freedom. He has traveled a remarkable journey on his quest for fairness.●

ST. ISIDORE SCHOOL

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a very special institution. The St. Isidore School of Riverhead, NY, had been selected by the U.S. Department of Education for academic excellence in the 1987-88 National School Recognition Program.

Each year, this program honors elementary, junior high, and high schools. In 1988, 287 elementary schools throughout the United States were chosen. I am proud to say that 26 of these are New York State schools.

St. Isidore's School has many unique programs. For example, an individuallized reading program allows each student to proceed at his or her own speed. The program has resulted in high reading levels among the students over the 7 years of the program's existence. In addition, eighth graders are divided into groups that read high school literature or American biographies. With only 230 students, the school is close-knit. An established "buddy" system matches the younger children to the older students, with the older ones watching over the younger in school and on the bus.

This annual recognition program was initiated by William J. Bennett, former Secretary of the U.S. Department of Education, to recognize excellence in our schools. It is important to establish role models for struggling schools to follow. Since our educational system has been severely criticized in recent years, it is important to praise those deserving it.

Nearly 500 schools, both public and private, were nominated by 48 States this year. After the Department of Education received these recommendations, they selected schools to be visited by their representatives. Extensive criteria determined the winners. First, schools were chosen for their overall academic environment. Second, the Department of Education looked for the school's involvement in community affairs and vice versa. Standardized test scores and unique characteristics also pointed to a deserving school. From the site visits, Education representatives acquired a feel for the school's environment. There is not a specified number of schools to be selected, but each year the list number of schools recognized grows.

The winning schools are first recognized in Washington at a White House reception, and later at the school itself, where all of the school can participate in the festivities.

Mr. President, I salute St. Isidore's School and all the New York State schools selected in the National School Recognition Program for their outstanding achievements. Our schools are a very important part of our future. I am proud to have such fine schools in New York.●

TIRO A SEGNO

● Mr. D'AMATO. Mr. President, I rise today to honor a special club on its 100th anniversary. "Tiro a Segno," Italian for "Hit the Target" or "On the Target", will celebrate its 100th anniversary as a rifle club this year.

For 100 years this Italian-American rifle club, the oldest of its kind in the United States, has been a part of the New York City Italian community.

One of the club's main functions is to serve as a shooting club. Tiro a Segno still contains a practice range for pistol and small-arm practice. The club also organizes outings and tournaments for its hunting pleasure.

Being a social club as well, Tiro a Segno of course hosts a variety of other events. The club raises money for numerous causes including victims of the recent earthquake in Italy and for a scholarship fund for both Italian and non-Italian students.

Membership in Tiro a Segno is not limited to Italian-Americans. Since its founding, the club has accepted non-Italian associate members. The club currently consists of almost 400 members.

Originally located at 139 MacDougal Street in Greenwich Village in Manhattan, the organization later moved down the street to its present location at 77 MacDougal Street.

I salute Tiro a Segno on its many fine contributions to its community and wish it another successful 100 years.●

OUR LADY OF MERCY SCHOOL

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a very special institution. Our Lady of Mercy School of Hicksville, NY, has been selected by the U.S. Department of Education for academic excellence in the 1987-88 National School Recognition Program.

Each year, this program honors elementary, junior high, and high schools. In 1988, 287 elementary schools throughout the United States were chosen. I am proud to say that 26 of these are New York State schools.

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H.R. 4432: A BILL REGARDING THE 1990 CENSUS TABULATION

● Mr. PELL. Mr. President, this bill provides a procedure for gathering important information regarding the precise ethnic composition of the Asian-American and Pacific Islander population in the United States. The procedure will be similar to that employed during the 1980 census, where a check-off format was used on the census form. The form provides Asian Americans and Pacific islanders with an opportunity to identify which subgroup they belong to—such as Japanese, Korean, or Hawaiian—by checking the appropriate category from a list of subgroups.

The census is the best snapshot we have of the ethnic diversity of America. We must therefore take steps to ensure that the census gives us an accurate portrait of the American population. That is why the House bill includes a provision that would create a check-off box for Taiwanese Americans. There can be no denying that the native Taiwanese constitute a distinct ethnic group separate from the mainland Chinese. While many in Taiwan's ruling KMT party came from mainland China, that does not transform the native Taiwanese population into ethnic Chinese. It is beyond the power of any government to change the ethnic origins of an individual. To asset otherwise is to play politics with the truth. Thus, when native Taiwanese become U.S. citizens, their Taiwanese heritage should be recognized and respected.

Unfortunately, I understand that several Senators threatened to kill the entire bill unless the provision creating a check-off box for Taiwanese Americans was removed. Therefore, in the interest of accommodating those Senators who are anxious to see this bill passed, I have decided not to object to the unanimous-consent agreement that has been reached. However, I want to state for the record that, by removing the House provision, the Congress will be denying Taiwanese Americans the opportunity to check-off their ethnic affiliation in the same way that Korean, Japanese, Hawaiian, and Chinese Americans are able to do. I think that result is unfair and should be corrected in the future.●

REMARKS BY RICHARD NORTON SMITH ON THE 114TH ANNIVERSARY OF THE BIRTH OF HERBERT HOOVER

● Mr. HATFIELD. Mr. President, I want to bring to the attention of my colleagues the August 7, 1988 remarks of Richard Norton Smith commemorating the 114th anniversary of the birth of Herbert Hoover on August 10, 1874. Mr. Smith is the current director of the Herbert Hoover Library and the author of "Thomas E. Dewey and His Times," "An Uncommon Man: The Triumph of Herbert Hoover," and "The Harvard Century: The Making of a University to a Nation." He speaks eloquently of Herbert Hoover's vision of America. I remind my colleagues of this vision with the hope that we may all learn from it and strive to bring it to fruition.

Mr. President, I ask that Richard Norton Smith's remarks be printed in the RECORD.

The remarks follow:

REMARKS ON THE 114TH ANNIVERSARY OF THE BIRTH OF HERBERT HOOVER

(Richard Norton Smith, Director, Herbert Hoover Library)

In the bleak, intemperate spring of 1932, the President of the United States found three children on his doorstep. Their father was an unemployed laborer from Detroit, who enroute home from a job hunting trip out west had been arrested on a charge of auto theft. Soon after, a trio of unhappy youngsters set off for the nation's capital. Believing the man in the White House possessed of unlimited powers, they were determined to lay their case before him.

The President's advisers thought him too busy to hear such an appeal. After all, there was a worldwide depression to combat, a jittery nation to reassure, a political campaign to organize. Herbert Hoover thought otherwise. As he put it, "Three children resourceful enough to manage to get to Washington to see me are going to see me." He directed the Justice Department to investigate the case, before opening his door to two girls and a boy, the eldest no more than thirteen.

"Now Bernice," he said to the group leader," tell me the whole story." As she did so, the muscles of the President's face twitched in an effort to control his emotions. There must be a great deal of good in any man whose children were so devoted, he remarked. He took from his desk a keepsake for each. "I want you to have this to remember me by," he said. "Now run along and go straight home. Dad will be waiting for you".

When presidential secretary Ted Joslin entered the Oval Office a few minutes later, he found the President staring out a window, fighting back tears. "Get that father out of jail immediately," he commanded. Joslin wanted the press informed. Hoover would have none of it. The children might remember his act of kindness. But neither it nor they would be exploited for personal advantage.

And so the incident remained hidden from view, alongside images of a doting grandfather accompanied to work by two skipping youngsters named Peggy and Pete. Or the public servant who donated his salary anonymously to the San Francisco Board of Public Welfare. Or the sympathetic husband who, following the uproar caused by the White House visit of a black congressman's wife, advised the woman he called "my Lou" to ignore the cries for his impeachment from the Texas legislature. One of the advantages of orthodox religion, he assured her, was its promise of a hot Hell for—among others—the legislators of Texas.

As reticent as he was generous, for half a century Herbert Hoover has covered his tracks. Only now are we beginning to unravel the puzzle he left for posterity. Only in recent years have we become well acquainted with the orphan boy who figuratively adopted a billion youngsters, and the sophisticated globetrotter whose favorite place was a rustic village on the fringe of America's vast prairie. Old men often revisit the haunts of their youth. So it came as no surprise when Herbert Hoover went home to celebrate his 74th birthday—home to West Branch, Iowa.

He came forty years ago this week, to rekindle memory and draw a roadmap for generations yet unborn. He recalled picking potato bugs at the "oppressive wage rate" of one cent per hundred. He described an 1880 torchlight parade for James Garfield, boycotted by the town's sole Democrat, who just happened to be the town drunk. He painted a vivid portrait, of a widowed mother supporting herself with knitting needles, and a small boy trapped in the silent space of a Quaker meetinghouse, struggling to see the Inner Light by which his steps might be guided.

In the words of poet Emily Dickinson, "I dwell in possibility." Herbert Hoover never lived anywhere else. But he called his dwelling place by another name. What to other was an address was for him a supreme source of inspiration. Not a country but a cause: this was what Herbert Hoover proclaimed on that hot August afternoon forty years ago. America, he declared, was far more than a continent bounded by two oceans. She was far greater than all the factories or mines, the cities and armies; even the traditions of westward migration which over the years had emptied European neighborhoods devoid of hope.

More than homes and farms, Hoover's America found voice in schoolrooms and church pews. For it was there that the great doctrines of divine creation and human liberty took root. Such ideals made West Branch a way station on the underground Railroad that led north from slavery to freedom. Freedom, said Hoover, was every American's birth right. Freedom that enabled men to subdue the land. Freedom that encouraged women to work long hours to make life blossom on the harsh prairie. It was freedom that carved this land from a raw continent and shaped it through the hand of a generous God.

All this happened long ago, in that faraway country we call the past. But not to Herbert Hoover. For him the love of country was timeless. So was a warning against those he called "fuzzy minded people" who were prepared to scoff at values older than America herself. "They explain that these qualities were good while there was a continent to conquer, and a nation to be built," said Hoover. "They say that time has passed. No doubt the land frontier has passed. But the frontiers of science and better understanding of human welfare are barely opening. This new land with all its promise cannot and will not be conquered except by men and women inspired from these concepts of free spirit and free mind".

Forty years later, we are engaged in one of those quadrennial attempts to define America by debating her needs, options, and opportunities. In all likelihood, neither George Bush nor Michael Dukakis will visit West Branch between how and November. More's the pity. For they could learn much by emulating Mr. Hoover's example in coming home, to this spot, in search of America's worldly purpose and spiritual power.

Dukakis and Bush will talk of peace. They might remember that it was Herbert Hoover who withdrew U.S. Marines from Nicaragua and Haiti. Dukakis and Bush will talk of disarmament. But it was Mr. Hoover who called the London Naval Conference, and negotiated nonagression pacts with more than fifty nations.

Dukakis and Bush will talk of ethics in government. We remind them of the example of Herbert Hoover, who sixty years ago declared that while dishonestry in business meant the loss of money alone, in the realm of government it tarnished the coin of public confidence in the ability of free people to rule themselves.

Finally, Dukakis and Bush will talk about children, and of Washington's obligation to promote family values. We need only quote the words of Herbert Hoover, spoken at the first White House Conference on Child Health in 1930:

"We approach all problems of childhood with affection. Theirs is the province of joy and good humor. They are the most wholesome part of the race * * * for they are fresher from the hands of God . . . We live a life of apprehension as to what their opinion may be of us; a life of defense against their terrifying energy; we put them to bed with a sense of relief and a lingering of devotion. We envy them the freshness of adventure and discovery of life; we mourn over the disapppointments they will meet.".

In a lifetime of adventure, Herbert Hoover met more than his share of disappointment on the campaign trail. For a while he went out of fashion, eclipsed by a newer style of governing, obscured by his own, stubborn refusal to play a false part demanded by political convention. By the time he returned to greet his old neighbors in the summer of 1948, however, the hero had replaced the scapegoat. The savior of Belgium, the dynamo of Washington, the Great Humanitarian who singlehandedly rescued more people than all the tyrants of this blood-soaked century could put to death: Iowa's favorite son had come home.

In doing so, he made this place forever synonymous, not only with his name, but with the ideals of the classless society and a limitless frontier that define America in the family of nations. Before taking his last bow on the stage of history, Mr. Hoover issued a call that still resounds, and an invitation for us to dwell with him in land of possibility. We reiterate it today, for presidential candidates and ordinary citizen alike.

If you want to know the meaning of America, come to West Branch, and stand on this hillside where he sleeps beside his beloved Lou Henry. If you want to know the promise of America, come to West Branch, and gaze across the open vista that links the house of his birth with the site of his final homage. If you want to know the glory of America, come to West Branch, and reflect on a life that began in a whitewashed cottage of two rooms, reached its pinnacle according to the stern humanitarianism of a Quaker meeting, and closed triumphantly after ninety years spent giving back to America what she had given to him. Standing on this overlook, it all comes clear: West Branch is America at her best. And Herbert Hoover is the best of America.

COMMEMORATING THE 50TH ANNIVERSARY OF NOTRE DAME HIGH SCHOOL

● Mr. SIMON. Mr. President, today it is my privilege to have the opportunity to pay tribute to the Notre Dame High School for Girls, by honoring it on its 50th anniversary, November 11, 1988. In 1938, the Sisters of Notre Dame de Namur of the Ohio Province opened the doors to this school in the great city of Chicago. Fifty years later, Notre Dame High School can claim over 10,000 alumnae who have received the benefits of this fine institution.

Notre Dame High has provided quality Catholic education to young women from all walks of life. Its reputation for academic excellence has attracted students from a wide variety of religious, ethnic, and cultural backgrounds. The concern Notre Dame has shown over the years for the healthy intellectual, emotional, and spiritual growth of its student body serves as a shining example for both public and private secondary schools nationwide.

Among the numerous accomplishments of the school, perhaps none shines so brightly as their recently being named as an "Exemplary Private School" by the U.S. Department of Education. This honor was bestowed to only a handful of private institutions across the country, and it stands as testament to the outstanding success of the school.

The 880 young women who attend Notre Dame High School at the present time continue to build on the school's outstanding reputation through their ongoing efforts and achievements. Under the leadership of Notre Dame's principal, Sister Mary Bridget Murphy, and an array of highly qualified and dedicated administrators and faculty members, Notre Dame High School is sure to continue their impressive legacy of excellence for another 50 years and beyond.

All of us benefit when a school of this caliber continues to enrich the lives of hundreds of young women each year. Mr. President, I hope my colleagues will join me in congratulating and commemorating Notre Dame High School for girls on its 50th anniversary, and its commitment to a higher standard of education.●

SOCIETY FOR SCIENTIFIC EXPLORATION

● Mr. PELL. Mr. President, earlier this year at Cornell University I attended a meeting of the Society for Scientific Exploration. This organization provides a vehicle for qualified scientists to research, discuss, and publish results of their investigations into the broadest and most remote areas of science. No condition of humankind is off limits for inquiry. One of the speakers at that meeting was Prof. Robert Jahn from my alma mater, Princeton University. Dr. Jahn is the former dean of the School of Engineering and Applied Sciences. He founded the Princeton Engineering Anomalies Research Program.

I ask that Dr. Jahn's talk entitled "Anomalies: Analysis and Aesthetics," be printed in the RECORD. He presents a most important challenge to account for the role of consciousness in our understanding of physical reality.

The remarks follow:

ANOMALIES: ANALYSIS AND AESTHETICS

(By Robert G. Jahn)

Three epistemological premises prompted the conception and birth of our Society for Scientific Exploration, and have guided its early life:

(1) Empirical anomalies in any scientific sector can be precious indicators of the limits of established wisdom and can open trails to better understanding.

(2) Study of such anomalies must be pursued with uncompromising rigor and critical conservatism.

(3) Contemporary anomalies research needs an objective interdisciplinary forum for comfortable professional discussion of the phenomena and their implications.

By our membership policies, the structure and conduct of our meetings, and the design of our publications, we have attempted to implement these ideals to insure that SSE shall indeed propagate its research with at least as high a level of technical rigor and critical judgment as prevail in most mainstream scientific organizations. Yet, in this lofty commitment there lurk possibilities for severe pragmatic tensions, if the premises are not profoundly interpreted and carefully balanced.

The problem, of course, is not with the principles, per se, but with their abuse. As Dorothy Sayers reminds us, the familiar adage "the road to hell is paved with good intentions" may not so much refer to noble aspirations left unfulfilled by neglect, distraction, or incompetence, as to those pursued so slavishly that they become ends in themselves, to the point of negating, or even inverting, their original virtues. The sacred tenets of science are by no means invulnerable to such distortion by excess. As a present and pertinent example, we might point to the prevailing plethora of criticism concerning the conduct and interpretation of the various forms of anomalies research in which we are engaged. To the extent that such commentary is informed, fair, and constructive, it provides important restraints along the paths of understanding, and nothing that follows here should be construed to contradict the essential role of such critical analysis in the scholarly progress of our Society. But in its uninformed, unfair, or self-serving misapplication, such criticism becomes distracting, devisive, and counterproductive, and must be courageously resisted.

So also with excessive deference to other canons of the scientific process. In allying ourselves too assiduously with the prevailing content, methodology, and standards of science, we can become bound by its dogma and limited by its self-imposed horizons; in over-valuing scientific caution, we can become mired in scientific inertia. Three categories of such encumbrance that bear quite directly on the SSE situation might be termed "scientific stodginess," "scientific segregation," and "scientific secularity." Let us consider the first two very briefly, and the third in more detail.

SCIENTIFIC STODGINESS

All of us have witnessed, and possibly even contributed to, legitimate professional disagreements that have escalated to matters of principle, then into ad hominem personal conflicts, and thence to outright bigotry and inanity. Many of the greatest minds of science have similarly blundered into such foibles. History records a dreary sequence of cases where scholars of immense stature, themselves having broken through entrenched pedantry to open new horizons, later obstructed scientific progress with their own brands of bombast. We think of Ernest Rutherford, who first showed the world the nuclear atom, subsequently fulminating:

"The energy produced by breaking down of the atom is a very poor kind of thing. Anyone who looks for a source of power in the transformation of the atom is talking moonshine" (DeRopp, 1972; Weher, 1973).

With equally misplaced authority, the Astronomer Royal, Richard Wooley, proclaimed one year before Sputnick, that "space travel is utter bilge." Lord Kelvin assured us that x-rays would prove a hoax and that heavier-than-air travel was impossible. Ernst Mach decried both atoms and relativity. D'Alembert distrusted the probability theory, and Lavoisier and Ostwald disputed atomic chemistry. The list of such derailments of scholarly judgment is long and humbling.

More modern examples of similar abuse of scientific conservatism also abound. In the particular fields of our interest, we find them displayed not only by individual critics, but by a number of fully-blown professional organizations. And the tragedy lies not only in the direct encumbrance of the research they decry, but even more seriously in the adulteration of legitimate criticism that could constructively separate valid evidence from fantasy.

One obviously should not claim that short-sighted authoritarian opposition of this sort automatically guarantees the validity of the concept criticized. Nonetheless, there may well be some subtle correlation between the emotionality of a critical reaction and the viability of its target, especially when the latter seriously threatens some deeply entrenched professional or personal position. In this respect, "the lady protesteth too much" criterion may occasionally apply to Madame Science, as well.

SCIENTIFIC SEGREGATION

Modern science has proven supremely effective in systematically subdividing complex problems into more manageable portions, discriminating among potential mechanisms and competing concepts, analyzing elemental processes, and cataloging the results. In general, however, it has proven considerably less effective in putting the pieces back together—in synthesizing new systems and unfamiliar interactions, especially when these have involved multidisciplinary aspects. To confirm this imbalance of competence, one need look no further than the number of extant specialist and sub-specialist professional societies and journals compared to those addressing interdisciplinary topics or strategies, or examine the relatively primitive states of such fields as human factors engineering operations research, complex systems analysis, etc., or note the essential absence of any basic discipline that might qualify as "systems science."

Along with this severe conceptual subdivision come equally esoteric languages that further inhibit transdisciplinary dialogues, engender professional chauvinisms, and even raise suspicions fostered by unfamiliarity and exclusion. This "Babel" of hyperspecialization is becoming a progressively greater obstruction to the comprehension and application of much conventional modern science; in the fields of research that our society encompasses, it could be quite fatal to the entire enterprise.

How often do we feel that the courageous experimentation and blazing insight featured in our own research deserves the most broad-minded respect and admiration from our colleagues, while the work they pursue is just too controversial and implacable to be fully credible? Yet it is quite possible that each of our topics remains anomalous precisely because we lack the breadth of perspective to put it in that larger context of understanding wherein the phenomena can be accommodated naturally, and wherein more comprehensive theoretical models could pertain. Are we not more likely to unfold that broader comprehension collectively, rather than individually? And do we not need to learn how to converse collectively before we can reason collectively?

SCIENTIFIC SECULARITY

The third, and possibly most severe, class of impediment imposed by the excessively rigid stance of modern science arises from its categorical and contradictory denial of its own metaphysical essence and heritage. The very word "metaphysical" has come to carry distasteful or suspicious connotations for most scientific purists, and is usually applied pejoratively in any scientific context. As we use the term here, however, it is simply meant to encompass all subjective, intuitive, impressionistic, or aesthetic aspects of a scientific situation which, while not submitting comfortably to prevailing catalogues and formalisms, nonetheless are found empirically, or hypothesized heuristically, to be relevant to the given event or process.

The historical precedents for inclusion of such factors in scientific study and applications are floribundant beyond question. Ancient science, from prehistoric civilizations through the Egyptians, Babylonians, Orientals, and classical Greeks, was an inextricable admixture of mystical, magical, and analytical manipulation that served for millenia to undergird the technological needs of those societies. Medieval alchemy likewise propagated as a sacred marriage of the Hermetic philosophical tradition with the early methods of analytical chemistry. Even the first echelon of the analytical astronomers—Copernicus, Tycho Brahe, Kepler, Galileo—now popularly represented as breaking through the suffocating fog of theological dogma with sound scientific methodology, actually carried forth much of the same metaphysical tradition. Note how Copernicus justified his heliocentric universe:

"In the middle of all sits the Sun enthroned. In this most beautiful temple, could we place this luminary in any better position from which he can illuminate the whole at once? He is rightly called the Lamp, the Mind, the Ruler of the Universe: Hermes Trismegistus names him the Visible God, Sophocles' Electra calls him the All-Seeing. So the Sun sits as upon a royal throne, ruling his children, the planets which circle around him" (Bronowski, 1973).

Kepler similarly rationalized his orbital geometry:

"When intersected by a plane, the sphere displays in this section the circle, the genuine image of the created mind, placed in command of the body which it is appointed to rule; and this circle is to the sphere as the human mind is to the Mind Divine. . ." (Pauli, 1955).

Even the mighty Isaac Newton, on whose classical machanics and optics modern science is irrevocably based, has been accurately described by one biographer as:

". . . not the first of the age of reason. He was the last of the magicians, the last of the Babylonians and Sumerians, the last great mind which looked out on the visible and intellectual world with the same eyes as those who began to build our intellectual inheritance rather less than 10,000 years ago" (Keynes, 1963).

and by another as that premier scientist who regarded the ultimate mechanism of change in the universe to reside in the "mystery by which mind could control matter" (Kubrin, 1981).

Ah, we say, but did nor Sir Francis Bacon, the Age of Enlightenment, the Scientific Revolution, and the formation of the Royal Society clean all of this naïve metaphysical junk off of the work tables of modern science? Not quite. It is true that Bacon, the acknowledged father of the modern scientific method, insisted on a critical dialogue between hard empirical evidence and sound analytical logic, but he then proceeded to apply such methods to the study of telepathic dreams, psychic healing, and "experiments touching transmission of spirits and the force of the imagination" (Walker, 1972). In his Charter for the Royal Society, Robert Hooke indeed rejected "meddling with Divinity, Metaphysics, Moralls, Politicks, Grammar, Rhetoric, or Logick" (Lyons, 1944), but then went on himself to study, write, and lecture on keenly metaphysical topics. His colleague Robert Boyle, author of "The Skeptical Chymist," retained an intense commitment to the Hermetic heritage (More, 1962), and the Royal Society as a whole promoted scientific study of astrology, alchemy, prophecy, magic, and witchcraft.

To be sure, toward the close of the nineteenth century, the profound triumphs of electromagnetic wave theory prompted the prevailing physics establishment to wax rather smug about the omnipotence of deterministic, causal science, apparently overlooking the intuitive conviction of natural symmetry that had led Maxwell to propose his subtle, but all-important, displacement current. But the complacency was short-lived, for over the following decades there erupted a host of new physical anomalies—black-body radiation, atomic and molecular line spectra, photoelectric and Compton effects, specific heats of solids, and numerous others, that simply could not be swept under the classical scientific rug, and the enigmatic era of modern physics was at hand.

An enigmatic era indeed, featuring quanta and photons, wave/particle dualities, uncertainty and exclusion principles, probability-of-observation wave mechanics, and countless other counter-intuitive concepts that reimbued physical science with a distinctly metaphysical aroma. And none recognized the philosophical inescapability and pragmatic impact of this dimension more profoundly than the patriarchs of modern physics themselves. The father of their clan, Max Planck, courageously broached the fundamental issue:

"Once we have decided that the law of causality is by no means a necessary element in the process of human thought, we have made a mental clearance for the approach to the question of its validity in the world or reality" (Planck, 1932).

Neils Bohr responded with his own radical conviction:

"Causality may be considered as a mode of perception by which we reduce our sense impressions to order" (Bohr, 1961).

Erwin Schrödinger took a yet more vigorous metaphysical position:

"The world is given to me only once, not one existing and one perceived. Subject and object are only one. The barrier between them cannot be said to have broken down as a result of recent experience in the physical sciences, for this barrier does not exist. Mind has erected the objective outside world of the natural philosopher out of its own stuff" (Schrödinger, 1977).

And Louis de Broglie, the Prince of particulate probability, closely presaged our own present convictions about the role of consciousness in the establishment of reality:

"Science is therefore a strange sort of penetration into a world which through human consciousness and reason has learned to become aware of itself.

"Even in the most exact of all the natural sciences, in Physics, the need for the margins of indeterminateness has repeatedly become apparent—a fact which, it seems to us, is worthy of the attention of philosophers, since it may throw a new and illuminating light on the way in which the idealizations formed by our reason become adaptable to Reality" (de Broglie, 1939, 1962).

There is no substitute for thorough reading of the extensive personal writings of these and the other pioneers of modern physics to acquire full appreciation of the implicit and explicit mystical dimensions of this era of science. And it is an era that is far from closed. Even now, we continue to be confronted by latter-day EPR paradoxes and action-at-a-distance experiments that severely contradict the premises of local causality. In our conceptualization and linquistic representation of sub-nuclear phenomena on one extreme,—quarks, gluons, strangeness, charm, and so on—and of astrophysical and cosmological processes on the other—quasars, black holes, cosmic strings, pulsating bubble universes, etc.—there smolder some of the same metaphysical propensities that were more explicitly enflamed in Hermes's precepts or the alchemist's forge.

And we certainly must include in this list the research encompassed by this society, which in many of its projects addressed frankly metaphysical effects. For example, data on man/machine anomalies have been presented in this forum on several occasions (Jahn, Dunne, & Nelson, 1987). One particular case pertains to the interaction of one human operator with a microelectronic random event generator (REG) in a very carefully controlled sequence of experiments extending over nine years. Plotted are the accumulated deviations of the output of the machine from chance expectation, obtained under a tripolar protocol wherein the operator alternately attempted to achieve a high number of counts (HI), a low number of counts (LO), or the chance number of counts (BL), interspersed in a random sequence of efforts, with all other technical and procedural aspects of the experiment held identical. The null-intention or baseline effort yields a string of data oscillating stochastically about the theoretical chance mean. The high-intention efforts produce results displaying the same sort of stochastic oscillations, but now superimposed on a systematic trend toward ever increasing excess above chance. The low-intention efforts show a similar, but even more substantial trend in the opposite direction. For the more than 30,000,000 bits processed in the more than 50,000 tripolar trials of this operator's program, the likelihood of obtaining the displayed split of the HI and LO data by chance is less than a few parts per million.

More than thirty other operators have performed this same experiment. Some are successful in only one direction of effort, or in the other; some display only chance results; a few achieve extra-chance results in directions opposite to their intentions. But despite these major differences in detail, in most cases each operator's pattern is serially consistent with itself, i.e. internally replicable in the statistical sense, so much so that we refer to the individual cummulative deviation graphs as operator "signatures."

In some cases, these signatures are sensitive to secondary technical parameters of the experiment, such as whether the operator is allowed to choose the direction of efforts or is instructed by some randomization criterion, or whether the operator is allowed to initiate each trial at his comfort or is presented with a regularly spaced sequence of automatic trails. or whether on-line feedback is provided and in what form. In other cases, however, the signatures appear insensitive to such options. Nonetheless, if the results of all operators, obtained under all permutations of these secondary parameters, are combined in a grand concatenation, the cumulative deviations still compound to highly significant statistical departures from chance behavior.

Although these REG data are clearly operator-specific intention-specific, and in some cases parameter-specific, curiously they seem to be much less device-specific. Several other similarly extensive experiments have been performed using different microelectronic noise sources, pseudo-random sources constructed from arrays of microelectronic shift registers, programmed computer algorithms, and even macroscopic mechanical analogue devices. In a number of cases, an operator's signature of performance is found to transfer with remarkable similarity from one class of device to another.

A great deal more data from experiments of this sort could be shown, where the only independent variables of consequence are the individual operators and their directions of effort. Unless such results can be discredited, the need for some metaphysical component in any model attempting to explicate, or even to correlate, the data seems unavoidable. Although these illustrations have been drawn from our own research base, many other studies, including some presented to this Society over the past several years, would seem to lead toward similar conclusions.

SUMMARY

What is the point of this potpourri of historical, philosophical, and scientific musing? It is not, of course, a plea for return to blind superstition or superficial mysticism, nor for compromise with soft-shell sciences of any form. Rather, it is a suggestion that research such as our society fosters would be better served by a more complementary balance between our objective and subjective perspectives, of much the same sort that Bohr proposed:

". . . we must, indeed, remember that the nature of our consciousness brings about a complementary relationship, in all domains of knowledge, between the analysis of a concept and its immediate application. . . . in associating the psychical and physical aspects of existence, we are concerned with a special relationship of complementarity which it is not possible thoroughly to understand by one-sided application either of physical or psychological laws. . . . only a renunciation in this respect will enable us to comprehend . . . that harmony which is experienced as free will and analyzed in terms of causality" (Bohr, 1961).

Heisenberg also offered a similar generalization of the complementarity principle:

"We realize that the situation of complementarity is not confined to the atomic world alone; we meet it when we reflect about a decision and the motives for our decision or when we have the choice between enjoying music and analyzing its structure" (Heisenberg, 1958).

and Pauli specifically addressed it to our context:

"On the one hand, the idea of complementarity in modern physics has demonstrated to us, in a new kind of synthesis, that the contradiction in the applications of old contrasting conceptions (such as particle and wave) is only apparent; on the other hand the employability of old alchemical ideas in the psychology of Jung points to a deeper unity of psychical and physical occurrences. To us . . . the only acceptable point of view appears to be the one that recognizes *both* sides of reality—the quantitative and the qualitative, the physical and the psychical—as compatible with each other, and can embrace them simultaneously. . . . It would be most satisfactory of all if physics and psyche could be seen as complementary aspects of the same reality" (Pauli, 1955).

In short, our plea is for more formal acknowledgement of the pervasive metaphysical stream that continues to permeate and nourish much of our contemporary science and technology. This acknowledgement is not likely to be initiated by any of the well-established sectors of modern analytical research. These are too structured and hierarchical, too busy and comfortable, and admittedly too effective, to confront this dimension without considerably greater demonstration of its local relevance and provincial benefits. But within the traffic pattern of SSE, we not only have the opportunity and the disposition, but very possibly the necessity, of reengaging the analytical and the aesthetic aspects of scholarly science. Man/machine anomalies are not likely to be rendered theoretically comprehensible without some disciplined inclusion of the role of consciousness as an active ingredient in the establishment of reality. One modest attempt at such a model, presented earlier to SSE, allows consciousness the same wave/particle duality it has ascribed to various physical systems, and then invokes the formalisms of quantum wave mechanics to represent interactions of consciousness with its environment (Jahn & Dunne, 1986, 1987).

Clearly, any attempt to generalize the analytical mechanics of science to encompass the metaphysical mechanics of consciousness is a monumental task, fraught with all manner of seductive and dangerous sinkholes of naïveté. But it is a task that is ultimately unavoidable. As Carl Friedrich von Weizsäcker put it nearly fifty years ago:

"Two fundamental functions of consciousness underlie every statement of physics: cognition and volition" (von Weizsäcker, 1941).

We can and, wherever possible, we should keep trying to accommodate our growing assortment of empirical anomalies within the concepts and formalisms of established science. But when this fails, and when all legitimate attempts to disqualify the anomalous data subside, there is no alternative but to expand the conceptual base. Like Sherlock Holmes, when confronted by an arrary of valid but irreconcilable evidence, we must boldly and cleverly redefine the question. In so doing, however primitively and incompletely, we shall not only enlighten some of our own enigmas and advance our parochial understanding, but we may well offer all of science a precious key to a more powerful future paradigm for many other areas of its endeavor.

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NATIONAL COMMISSION ON THE THRIFT INDUSTRY

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I am not going to speak long, about 5 minutes, and then I am going to ask for action by the Chair. I am going to speak on an amendment of very great importance which I believe that the distinguished majority leader is going to offer.

Mr. President, an amendment will be shortly offered to S. 2653, an act to establish a National Commission on Federal Deposit Insurance, which was itself amended and passed by the House of Representatives before being sent to the Senate.

The amendment includes some small changes to the House passed bill to establish a commission on the thrift industry and also includes a modification of the Proxmire Financial Modernization Act of 1988 which repeals the provisions of the Glass-Steagall Act that bar affiliations between investment banking and commercial banking firms.

Mr. President, that bill passed the Senate overwhelmingly. In the first place it passed the Banking Committee after detailed hearings and it passed by a smashing vote 18 to 2. It passed the Senate then by 84 to 2.

That bill, S. 1886, is modified in three ways, and I want to make clear what they are:

First, rather than mixing the banking and securities provisions in one bill, as S. 1886 does, the two types of provisions would be separated into two bills. The first bill, the revised banking bill, would include the amendments to the Bank Holding Company Act and other banking laws.

Titles III and IV of the original Financial Modernization Act that pertain to enforcement and regulation of securities powers are removed from the bill so that they may be attached to another bill that focuses on several aspects of securities law, including, possibly, insider trading legislation.

The second change is in form. The revised banking bill conforms titles I and II of S. 1886 to aspects of the House Banking Committee bill H.R. 5094 prior to its amendment by the Energy and Commerce Committee of the House. It is also modified to conform to the principle that banking law amendments should be addressed separately from securities law amendments. There is no significant change in substance, none.

These modifications are undertaken in the hope that it will ease the jurisdictional difficulties between the House Banking Committee and the House Energy and Commerce Committee and facilitate passage of substantive financial restructuring legislation this year.

That is what tied that bill up, the fact that two committees in the House have jurisdiction over the bill we sent over there. Otherwise I am sure that the House would have been able to act perhaps with the same kind of overwhelming unanimity with which the Senate acted.

The changes made in this bill do not compromise the essential balance that was created by S. 1886.

The third change from the Senate passed S. 1886 is the introduction of consumer legislation. The consumer provisions include government check cashing and mandatory prior notice of branch closing, and that is all. We have held hearings on both of those. We had extensive discussion of them. Check cashing particularly has been discussed at great length on the floor. And it passed the Senate I might add in the last Congress.

The Financial Modernization Act of 1988 passed the Senate by a vote of 94 to 2 on March 30, as I say, after being reported out of committee by a vote of 18 to 2.

That margin of victory is all the more significant in light of the historic importance of this legislation.

The impressive support for the bill reflects not only the fact that it is an evenhanded approach toward financial restructuring but also the widespread and substantial benefits that it offers this Nation's nonfinancial economy.

The bill promotes greater competition in the provision of financial services. New competition, especially in the market for underwriting services which has been a highly concentrated sector of the financial services industry, will reduce the oligopoly, will reduce the costs of raising capital for households, State and local governments, and corporations.

Mr. President, let me give some evidence about how important that is for raising capital in our country. Users of financial services support the bill.

Users of financial services support the bill. According to a survey conducted by our committee, 77 percent of the chief financial officers of the Fortune 500 corporations favor the repeal of the Glass-Steagall separation between commercial and investment banks. The National Association of Manufacturers supports the bill, as does the National Governors Conference, the National Conference of State and Local Governments, and the Nationl Association of Home Builders.

In fact, the homebuilders estimate, in testimony before our committee, that the increased competition in the market for mortgage-backed securities could save the homebuyer $1,000 on a $100,000 mortgage.

Reducing the cost of capital will benefit us all indirectly as well. A competitive and efficient credit allocation process will enhance capital formation.

Greater capital investment will accelerate the modernization of American industry and enhance our ability to succeed in foreign competition. Export and import-competing industries will gather strength to reduce our dangerously high trade deficit.

The Financial Modernization Act promotes the competitiveness and efficiency of U.S.-based financial firms. It enables them to provide a broader range of financial services and to respond more flexibly to the competitive challenges of foreign financial firms in this increasingly global financial market.

The fact is, the Glass-Steagall Act has outlived its usefulness. Technological change, financial innovation, and regulatory interpretation have already combined to perforate the barrier between commercial banking and investment banking created by the Glass-Steagall Act in 1933. We need a successor to that legislation—one that reflects modern marketplace realities without compromising the safety of our banking system.

Finally, let me say the Financial Modernization Act does exactly that. It allows more competition within a sound regulatory framework. The bill requires securities activities to be conducted through a securities affiliate of the holding company that is separate from the bank. Direct interaction of the securities affiliate with the bank is limited by substantial interaffiliate restrictions. The bill bars any bank loans to its securities affiliate; and any loan to an underwriting client for the purposes of supporting the securities underwritten.

That means that it will be safe and sound and any notion that this is going to make banking more risky has no merit.

The bank regulators overwhelmingly have supported it and, of course, the bank regulators are the experts who are most concerned with and responsible for the safety and soundness of our banks.

The holding company structure promotes safety and soundness and effectively prevents the conflicts of interest that skeptics suggest could result when securities and banking activities are combined.

Moreover, the bill includes titles that protect the consumer by increasing disclosure requirements and prevented misleading advertising in connection with savings deposits, mutual fund investments, and home equity loans.

I believe that this bill will benefit the American economy and our financial system. I believe that the Senate-passed bill is a strong bill and that we can reach an agreement with the House Banking Committee with these modifications. This bill is clearly superior to the House Banking Committee bill H.R. 5094, as amended by the Energy and Commerce Committee. The Congress must catch up with technological developments that have revolutionized the capital raising process and rendered Glass-Steagall obsolete. We must modernize the legislation governing our financial system to reflect the changes in technology and market practices of the present and future. The Energy and Commerce amended bill takes several steps backwards. Rather than creating the legislative architecture for an efficient and competitive financial system which provides financial services to consumers at low cost, it appears that the result of this bill would be to protect the Wall Street investment banks from competition that would erode their astronomical profits.

The Energy and Commerce bill claims to be expanding the securities powers granted to banks. It clearly reduces, obstructs, or makes costly the conduct of existing powers granted to banks under current law and does not grant substantive new powers.

The Energy and Commerce bill would force commercial banks to divest of activities that they have safely engaged in continuously since the time of passage of Glass-Steagall in 1933. Banks have conducted private placements of securities for many years. The Energy and Commerce bill would require banks to divest of them. Even the new securities affiliate of the bank would not be permitted to act as placement agent for corporate debt and equity securities, overturning longstanding banking law.

The Energy and Commerce bill would restrict bank commercial paper activities and revenue bond underwriting activities despite the fact that the Federal Reserve and the Supreme Court have already permitted banks to engage in them.

The Energy and Commerce bill would overturn a major court decision and prohibit banks or their securities subsidiaries from providing full service brokerage services. This is another step backward which appears to serve only the interests of Wall Street.

Under current law banks are permitted to sponsor, organize, control closed end investment companies and act as an investment advisor to both closed and open end investment companies. Banks may also act as agents for customers purchasing shares of mutual funds that the banks serves as an advisor. The Energy and Commerce bill has decided to take away these existing activities and confine banks solely to the distribution of unaffiliated funds

The Financial Modernization Act and the House Banking Committee passed bill both permit banks to sponsor, underwrite and distribute mutual funds.

On the question of underwriting of asset-backed securities, the Energy and Commerce bill would require securities firms to be joint underwriters of asset-backed securities offerings of banks' securities affiliates. The securities firm would be given the responsibility to set the price of the offering. One must ask, why should it be necessary to include securities firms in the offering other than to create a cumbersome and costly mechanism to bolster the profits of Wall Street? In addition, the bank's securities affiliate would only be permitted to participate in offerings only if they were rated as investment grade or higher.

If a security is to be rated for the consumer they would be warned of the dangers implied by a low-grade rating. Why would it be safe for a securities firm to sell that low-grade security to the consumer while it would be unsafe for a bank's securities affiliate to do so? In practice such a provision would do little to protect the consumer while serving merely to protect the profits of Drexel Burnham Lambert and other underwriters of so-called junk bonds.

The Financial Modernization Act passed by the Senate, and the House Banking Committee bill both permit banks to underwrite corporate debt securities. The Energy and Commerce bill does not. In 1987 the top five firms accounted for 68.7 percent of the underwriting of nonconvertible debt. Permitting new entrants into the market for corporate debt underwriting would reduce this highly concentrated market structure and reduce the monopoly power of those providing underwriting services. Issuing corporations would save substantially on the cost of raising funds through debt issuance. These cost savings would help in improving the competitiveness of U.S. firms enabling them to succeed in the international market and to pass on some of the savings to consumers. Instead, the Energy and Commerce bill would continue to fill the coffers of Wall Street investment banks.

The proponents of keeping banks from providing corporate debt suggest that somehow banks can make a loan to a corporation which they will hold until maturity, but that it is too risky to issue a bond for that firm where the bank's securities affiliate would hold the debt for at most a few days. Even if they did not place the entire issue and were forced to tie up capital holding it until maturity it would be no riskier than a bank loan of the same term.

In summary, the Energy and Commerce amendments to the House Banking bill are not constructive public policy. They are protectionist legislation for investments banks who, judging from their recent profitability, certainly do not need a public subsidy. The restrictions on existing securities powers and the decision to drop corporate debt and mutual fund powers from the House Banking Committee bill makes the Energy and Commerce version of H.R. 5094 a bad bill. No bill at all is better than such a bad bill.

It is my sincere desire to complete legislation on fundamental financial reform prior to the end of this session. I believe that modified S. 1886 remains a constructive and balanced effort working toward that goal. I hope that the House of Representatives will choose to work with us and not against us so that we can move forward and accomplish this long overdue financial reform. We are so close to success but time is short. It would be a shame to let this opportunity to move forward slip away when there is such an enormous backlog of work on other financial issues that will surely demand the attention of the Congress in the years ahead.

Mr. President, as I say, this is something we have held hearings on. We have debated it at great length. We know it. It is a big amendment that is going to be offered, but it is an amendment that this body understands and understands well. Titles III and IV of it will be acted on separately. They are taken out. And the only other substantial change is that Government check cashing is permitted according banks to cash Government checks for noncustomers, that means people on welfare who obviously do not have an account at the bank in most cases can cash their check at a bank instead of going to a liquor store and paying $10 to cash it.

The remainder are technical changes entirely.

Mr. President, I earnestly hope that the Senate will be able to act on this.

As I say we have acted on it once and this is the only way we can get it through the House.

Mr. METZENBAUM. Mr. President, I want to thank Senators PROXMIRE and GARN for their cooperation on the Government check cashing provision which is contained in the Senate banking package now before us. This provision will help ensure that low income and elderly persons have access to a safe place to cash their social security and welfare checks.

As the Senate sponsor of similar legislation, I am delighted that my colleagues have included this measure in the bill before us.

We cannot underestimate the importance of this measure.

Today, many people simply cannot afford to pay for badly needed banking services. Financial institutions are charging huge fees for opening accounts. There are large penalties for returned checks. And there are requirements for maintaining minimum balances.

For many Americans, these costs are just too expensive.

So millions of Americans are going without any banking or checking accounts. In fact, according to the General Accounting Office, almost one-fifth of the families in this country do not have bank accounts.

Many of these people are having a tough time trying to cash their social security or welfare checks. That's because a large number of banks and savings and loans simply will not cash Government-issued checks for noncustomers at any price.

Indeed, the Consumer Federation's annual national bank fee survey released in June of this year found that three-quarters of the Nation's banks were continuing to refuse to cash Government checks.

Mr. President, many people are being forced to travel long distances to find places to cash their Govenment checks. They are being forced to go to check cashing outlets and liquor and food stores and they are being charged exorbitant prices for their troubles.

A survey by the New Jersey Department of the Public Advocate found that consumers in that State were being charged up to 500 percent more than the regulated amount to cash social security and welfare checks at check cashing outlets.

A consumer's union study revealed that 40 percent of low income people in California—those with incomes under $20,000 a year—did not have bank accounts and were often charged as much as 6 percent of the face value for cashing Government checks and 10 percent for purchasing money orders at check cashing outlets.

This is a disgraceful situation.

Low-income and elderly persons deserve to be able to cash Government checks in a manner that is safe and reasonably priced.

As Congress wrestles with legislation to extend new financial powers to banks, it is appropriate that we take action to help these millions of Americans who are shut out of the current banking system.

The American Association of Retired Persons, a proponent of the Government check cashing provision, noted in a recent Washington Post ad: "Consumers shouldn't have to jump through hoops to get basic banking services."

I applaud my colleagues on both sides of the aisle for taking steps to help remove one of these hoops.

The Government check-cashing provision included in this banking package reflects a true compromise.

It would require financial institutions, within 1 year of passage of the banking bill, to cash Federal, State and local government checks for a fee that would be determined by the Federal Reserve Board. This minimal fee would be based on what it actually costs banks to cash such checks.

The checks to be covered would include social security, public assistance, Government disability, and veterans benefits. It would also apply to the myriad of Government retirement checks such as railroad retirement, State pensions and teacher retirement.

The measure also includes language to guard against fraud.

* * * banks and savings and loans wouldn't have to cash local Government checks which were issued in a different State.

* * * they wouldn't have to cash checks with face values greater than $1,500.

* * * individuals would have to present photo I.D.s to cash these checks.

* * * banks could impose a 20 day waiting period after registration to verify someone's identification.

* * * and, no bank would have to cash any check presented by a customer if they had reasonable cause to believe that the check was fraudulent or had been tampered with.

Finally, to address the concerns of very small banks, the committee has included a small bank exemption. Banks with assets of $25 million or less would not be required to cash Government checks.

Mr. President, this check cashing measure is an extremely important one. It will address a major problem facing many low-income Americans today who are having great difficulty cashing Government-issued checks.

I want to again thank my colleagues for their cooperation and support in moving this issue forward.

Mr. PROXMIRE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2653.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2653) entitled "An Act to establish a National Commission on the Thrift Industry", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. ESTABLISHMENT OF COMMISSION.

There is hereby established a commission to be known as the National Commission on the Thrift Industry (hereafter in this Act referred to as the "Commission").

SEC. 2. MEMBERSHIP OF COMMISSION.

(a) Number and Appointment.—The Commission shall initially be composed of 16 members, appointed not later than October 15, 1988. After the declaration of an individual as the President-elect in connection with the Presidential election on November 8, 1988, the Commission shall be expanded to 18 members. The members shall be appointed as follows:

(1) 2 citizens of the United States, appointed by the President.

(2) 2 Senators and 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(3) 2 Senators and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(4) 2 Members of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(5) 2 Members of the House of Representatives and 1 citizen of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect of the United States.

(b) Additional Qualifications.—

(1) In general.—Members of the Commission who are appointed under any paragraph of subsection (a) other than paragraph (1) and are not Members of the Congress shall be appointed from among individuals who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(2) Limitation.—Of the total number of the members of the Commission who are described in paragraph (1) of this subsection, not more than 2 of such members may be, at the time of any such member's appointment and during any such member's service on the Commission, may be—

(A) a director, officer, or employee of any Federal or State agency or instrumentality with supervisory or regulatory authority over any thrift institution; or

(B) a director, officer, employee, or agent of any trade association which represents any thrift institution.

(c) Terms.—Members shall be appointed for the life of the Commission.

(d) Chairperson.—The Commission shall elect a Chairperson from among the members of the Commission.

(e) Quorum.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(f) Voting.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(g) Vacancies.—No vacancy on the Commission shall affect the powers of the Commission and any such vacancy shall be filled in the manner in which the original appointment was made.

(h) Compensation and Expenses.—

(1) No basic pay.—Except as provided in paragraph (2), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) Per diem and travel expenses.—Members of the Commission who are appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

(i) Meetings.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 3. FUNCTIONS OF COMMISSION.

(a) Contents and Specific Recommendations.—The Commission shall conduct an investigation and evaluation of, and shall report and make recommendations on, the following issues:

(1) The adequacy of the regulation of thrift institutions at the Federal and State level.

(2) The financial condition of the Federal Savings and Loan Insurance Corporation.

(3) The sources of income for the Federal Savings and Loan Insurance Corporation.

(3) The sources of income for the Federal Savings and Loan Insurance Corporation.

(4) The extent of the liability relating to the Federal Savings and Loan Insurance Corporation's inventory of troubled thrift institutions.

(5) The potential sources of income for the Federal Savings and Loan Insurance Corporation should the Commission determine that the financial resources of such Corporation will be insufficient to eliminate the inventory of troubled depository institutions.

(6) Methods for increasing capital levels in the thrift industry.

(7) Problems in the structure of the deposit insurance system for thrift institutions and appropriate options for reforming and restructuring such system.

(8) The impact on the thrift industry of the various assistance programs carried out by the Federal Savings and Loan Insurance Corporation.

(9) The role of the thrift industry in providing mortgage credit, including such industry's projected share of the mortgage market in the year 2000.

(10) The role of the mortgage banking industry, the commercial banking industry, and the secondary mortgage market in relation to the role of the thrift industry in providing mortgage credit.

(11) The need for specialized depository institutions to serve the mortgage market, including the extent to which the existence of such institutions affects the availability of low- and moderate-income housing.

(b) Final Report.—

(1) Report Required.—On or before February 1, 1989, the Commission shall submit to the President and to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including such recommendations for administrative and legislative action as the Commission determines to be appropriate.

(2) Majority vote.—Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission.

(3) Additional, dissenting, and supplemental views.—The report required under paragraph (1) shall contain any additional, dissenting, or supplemental views of any member of the Commission.

SEC. 4. POWERS OF COMMISSION.

(a) Hearings.—The Commission may hold such hearings and sit and act at such times and places as the Commission may find advisable.

(b) Rules and Regulations.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organizations, and personnel.

(c) Assistance From Federal Agencies.—

(1) Information.—The Commission may request from the head of any Federal agency or instrumentality such information

as the Commission may require for the purpose of this Act. Each such agency or instrumentality shall furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) ADMINISTRATIVE SUPPORT SERVICES AND PERSONNEL.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this Act, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 5(b).

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this Act, subject to the limitation on total expenses set forth in section 5(b).

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 5(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act.

SEC. 5. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $500,000.

(c) GAO AUDIT.—Prior to the termination of the Commission, pursuant to section 6, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 6. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under section 3(b) of this Act.

AMENDMENT NO. 3737

(Purpose: To substitute the Senate-passed bill relating to financial services)

Mr. PROXMIRE. Mr President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] proposes an amendment numbered 3737.

In lieu of the language proposed to be inserted by the House, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Proxmire Financial Modernization Act of 1988".

Mr. PROXMIRE. Mr. President, I move that the Senate concur in the House amendment with an amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, as I say, I move that the Senate concur in the House amendment with an amendment, which I understand the majority leader will offer.

AMENDMENT NO. 3738 TO AMENDMENT NO. 3737

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3738 to amendment numbered 3737.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued reading the amendment.

Mr. D'AMATO. Mr. President, before the clerk proceeds, with the permission of the majority leader, I meant what I said. I do not mean to be contentious, but, again, this is a most unusual, unprecedented manner in which an attempt to enact a body of law that has not—has not—had the benefit of a hearing or markup.

Mr. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER (Mr. DASCHLE). The clerk continued with the reading of the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

Senator D'AMATO's staff was briefed on this 15 days ago. His staff could have asked whatever questions he had.

I ask unanimous consent the reading be dispensed with.

Mr. D'AMATO. I object. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the amendment.

Mr. SANFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. D'AMATO. I object, Mr. President. I call for the regular order.

The legislative clerk continued with the reading of the amendment.

Mr. SANFORD. Mr. President, we passed this bill 94 to 2.

Mr. D'AMATO. I object, Mr. President. I call for the regular order. I call for the regular order.

Mr. SANFORD. I ask unanimous consent the reading of the amendment be dispensed with.

Mr. D'AMATO. Mr. President, I appeal to the Chair for the regular order.

Mr. SANFORD. The regular order is I have the floor.

Mr. D'AMATO. Mr. President, regular order.

The PRESIDING OFFICER. Regular order is reading of the amendment.

Mr. D'AMATO. Regular order is reading the amendment.

Mr. SANFORD. The regular order, Mr. President, is that I have asked unanimous consent that we suspend with the reading.

Mr. D'AMATO. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. D'AMATO. I object.

Mr. SANFORD. Object?

Mr. D'AMATO. Object. That is my right, I ask the Chair. Am I right?

Mr. SANFORD. That is your right.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk continued with the reading of the amendment.

Mr. SANFORD. Mr. President, I move that further reading of the amendment be dispensed with.

Mr. D'AMATO. Mr. President, I object.

The bill clerk continued with the reading of the amendment.

Mr. PROXMIRE. Mr. President, this is outrageous. The only Members on the floor are members of the Senate Banking Committee.

Mr. D'AMATO. Mr. President, I call for the regular order.

Mr. PROXMIRE. We have heard this over and over again. The Senator from New York is wasting our time.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will continue reading.

Mr. PROXMIRE. I ask unanimous consent that reading be dispensed with.

Mr. D'AMATO. Mr. President, I most respectfully object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read.

Mr. PROXMIRE. Mr. President, this is a total waste of the Senate's time.

Mr. D'AMATO. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The clerk will read the amendment.

The clerk continued with the reading of the amendment.

Mr. SANFORD. Mr. President, I move that further reading of the amendment be dispensed with.

Mr. D'AMATO. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANFORD. Was there an objection?

Mr. D'AMATO. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue reading the amendment.

The clerk continued with the reading of the amendment.

Mr. SANFORD. Mr. President, I move that further reading of the amendment be dispensed with.

Mr. D'AMATO. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANFORD. Mr. President, I do not hear an objection.

Mr. D'AMATO. The Senator has something wrong with his hearing. I object.

If you want me to do it louder, I will do it louder.

I respectfully object, Mr. President, and I ask for the regular order.

The PRESIDING OFFICER. The clerk will read the amendment.

The clerk continued with the reading of the amendment.

Mr. SANFORD. Mr. President, I move that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. There is objection. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to read the amendment.

The assistant legislative clerk continued with the reading of the amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment be considered as having been read in its entirety and that the Senate stand in recess until noon tomorrow, with the further proviso that following the two leaders on tomorrow under the standing order, there be a period for morning business until 2 p.m., and that Senators may speak during that period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

RECESS UNTIL TOMORROW

Under the previous order, the Senate, at 10:32 p.m., recessed until Wednesday, October 19, 1988, at noon.

EXTENSIONS OF REMARKS

FRENCH PRESIDENT FRANCOIS MITTERRAND IN ADDRESS AT NEW YORK UNIVERSITY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. HAMILTON. Mr. Speaker, I would like to take the opportunity to note the recent visit to the United States of the distinguished President of the French Republic, Francois Mitterrand. President Mitterrand recently delivered an address at an Academic Convocation held in his honor at New York University where he inaugurated the 18-month long commemoration by NYU of the bicentennial of the French Revolution.

The bicentennial program of New York University offers a comprehensive reassessment of the French Revolution and its profound influence on Western civilization. The celebration includes lectures, symposia, art exhibitions, film series, and special courses. New York University's bicentennial commemoration received national attention in a special insert published in the September edition of Horizon magazine. The principal sponsors of the commemoration are the National Endowment for the Humanities; the Florence J. Gould Foundation; and the Republic of France.

During the academic convocation, President Mitterrand was awarded the honorary degree of doctor of laws by our distinguished former colleague Dr. John Brademas, president of New York University.

Following are the text of the tribute to French President, Francois Mitterrand, on the occasion of his having received the honorary degree of doctor of laws from New York University and President Mitterrand's address at the New York University Academic Convocation held in his honor on September 28, 1988:

A TRIBUTE TO PRESIDENT FRANCOIS MITTERRAND

François Mitterrand—twice chosen leader of the people of France, respected world statesman, brilliant thinker, eloquent champion of human rights, you and your career embody the themes we gather today to celebrate: freedom, justice and democracy. In a public life that spans four decades, you have transformed the political landscape of your country, rebuilding your party and positioning it as a pivotal force in future governments. Your re-election this year to the highest office in your land marked a watershed in French history: the first time a president has won a second term by popular vote. A working politician who is also a working intellectual, you have spurred, through the support of education and the creative arts, a cultural renaissance in France. Following your stunning electoral victory this year, you declared, "Liberty, equality and respect for others, the refusal of exclusions, which one can also call fraternity, have not ceased to keep alive the hope of men." As New York University commemorates the event in human history that continues to enshrine the causes of liberty, equality and fraternity in the hearts of people everywhere—the French Revolution—I count it an honor and privilege to bestow upon you, by virtue of the authority vested in me, the degree of Doctor of Laws, honoris causa.

ADDRESS BY PRESIDENT FRANCOIS MITTERRAND OF FRANCE AT NEW YORK UNIVERSITY

Mr. President, ladies and gentlemen: The first thing I should like to say is how very happy I am to be here in your midst in this very handsome library of New York University. I also want to thank you for the honor that you have bestowed upon me in awarding me a doctorate honoris causa. This is a distinction that is all the more precious to me because it comes from one of the universities that has done the most for French civilization and culture in the United States, and that has done so much—by working for a community of shared values and ideals—to abolish the distance the Atlantic puts between our two countries.

NYU AND THE BICENTENNIAL OF THE REVOLUTION OF 1798

Once again, your university is in the forefront in organizing for the Bicentennial of the Revolution of 1789 one of the most comprehensive and most extensive programs in the United States. This is why I am proud to take part in the inauguration of this cycle of events. So please consider my presence here as being testimony for the gratitude of all my compatriots, gratitude which is addressed to you yourselves—to you Mr. President (Brademas), the Chancellor (Oliva) and to all the members of the organizing committee for the Bicentennial at New York University.

Actually, you were right to point out, Tom Bishop, that in this University I breathe an air I'm familiar with, so to speak. This is partly explained because it is the third time I've come here in 15 years and each time I have deeply appreciated the warmth of the welcome extended to me. Furthermore, and especially, because the Department of French at your University is, as it were, the salon, as one said in the 18th century, where one finds people conversing among themselves—the people who represent French intellectual life and research, and particularly all those who in America illustrate the great activities that you are doing in the field of French culture.

TRIBUTE TO THOMAS BISHOP AND THE UNIVERSITY

I would like to pay a particular tribute to Thomas Bishop who is the soul, the moving force, behind all this. He is head of the center for studies in French civilization and culture, and is both a very distinguished researcher and a remarkable organizer. The very vitality of the Department of French is not only illustrated by the place reserved for the teaching of the language but also by the imagination that is deployed in order to instill a detailed, lively and active knowledge of French culture so that it fits into a historical perspective.

I know that it is not only the Department of French but the whole University that has mobilized its efforts for this ambitious program commemorating the Bicentennial.

CULTURAL RELATIONS: A GREAT TRADITION

For more than two centuries, the cultural relations between France and the United States have never ceased to increase and grow stronger through a constant to-ing and fro-ing between the two shores of the Atlantic.

First there was the influence of Montesquieu and the philosophers on the evolution of American political thinking, it was also the decisive contribution of Beaumarchais, Rochambeau, Lafayete and De Grasse to the independence of the United States. Then, 20 years later, there were the contributions of Thomas Jefferson and Thomas Paine to the Declaration of the Rights of Man and of the Citizen, which itself took place only one month before the proclamation by the American Congress of the Bill of Rights.

We all know what is the wellspring of this privileged relationship: it is the same love of liberty, the same insistence upon fraternity, the inalienable certitude that men are equal before the law. Ultimately, that is the very essence of the lesson that each of us, in his or her own way can draw from the events that led to the founding of our democracies two centuries ago.

LIBERTY, EQUALITY, FRATERNITY

In a famous essay, your compatriot, the historian and philosopher Hannah Arendt, sought to oppose two great revolutionary models: revolutions for freedom, based on the American example, and revolutions for equality, along the lines of the French one. The former are motivated by a search for happiness; the latter are destined to turn into violence.

Personally, I believe that nothing better defines the modern democracy we practice today then the synthesis that must constantly be reinvented between liberty and equality. The French Republic later added fraternity, for in this world torn apart by unacceptable divisions between rich and poor nations, between haves and have nots, it remains a very modern value.

MAN'S FIRST RESPONSIBILITY

I willingly concede to historians, and to their very interesting controversies, that one does not generally tear down an old order without upheaval, convulsions and, sometimes, without excesses. But today, man's first responsibility—and this is particularly true for political leaders—is to preserve those elements of the events that shook the world that now found our political system and our public life.

I think that there are few people in our two countries today who would contest the notion that "Men are born and remain equal," or that the state must be run by laws. Nor does anyone question the separation of powers, universal suffrage, public education or the abolition of slavery; in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sum, all that founds a republic and a democracy, and, I would add, even civilization.

But we must relentlessly strive to see that these principles do indeed become facts; that is a responsibility incumbent upon all of us. We must work to end oppression, humiliation, segregation and the disrespect of human rights wherever it may occur in the world. I can assure you that this can only happen when one is willing to break away from what established order may contain in terms of false traditions.

PROFITABLE LESSONS

It is for this reason that commemorations are useful. They invite us to reflect lucidly upon what we have become in the light of the hopes and ideals espoused in the past.

Let us draw the most profitable lessons from them and find in them the encouragement we need to believe in our values, to adapt them to the evolving world, to extend them to the new fields of economy, science and ecology, areas where rapid development risks escaping man's control.

MESSAGE OF 1789

The message of 1789, or our two revolutions, has not diminished and it holds many more surprises for those people who will take the trouble to study it—and especially for those who will go to the trouble of applying it each time they are confronted with ways of thinking that must—today as yesterday—be rejected.

Ladies and gentlemen, you are such people, you the representatives of this university or other cultural groups. You, too, Mr. President, are among such people, you who earlier welcomed me so kindly. You are the ones who have chosen the right path. You, along with many others, work to make the ideals of the revolution better understood—a task that, even in France, is a long one. I hope that these ideals will be increasingly respected throughout the world. For having made this choice, and for your presence, I thank you. What else could I wish for, other than that your work will meet with all the success and recognition it deserves.

TRIBUTE TO DELORES SMITH

HON. JAMES A. TRAFICANT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. TRAFICANT. Mr. Speaker, I rise today in order to pay tribute to one of the outstanding community leaders of my 17th Congressional District of Ohio, Mrs. Delores Smith. Mrs. Smith will leave her position of 4 years as president and chief operating officer of the Warren-Trumbull Urban League to take a similar position in Winston-Salem, NC.

Mrs. Smith is excited about the change, where she will head an agency with a $925,000 budget and 18 staff members. I believe Mrs. Smith will do an excellent job in her new post. When she took over as head of the Warren-Trumbull Urban League in 1985, the league's operating budget was $155,000 with a staff of 5; presently, the league's operating budget is $440,000 with a staff of 17.

Before assuming her current position, Delores Smith was executive director of the Warren-Trumbull Community Service Agency for 5 years. She presently teaches in the black studies department of Youngstown State University.

Mr. Speaker, this devoted lady deserves to be recognized for unselfish dedication to her community. I consider it an honor and a privilege to have represented her and I wish her all the best in the future.

TRIBUTE TO WALTER P. MUTHER

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. ATKINS. Mr. Speaker, I rise today to pay tribute to Walter P. Muther, on the occasion of his retirement as president of the Associated Industries of Massachusetts [AIM]. AIM is a unique organization serving industrial employers throughout the State. Under Walter's leadership, AIM has become a well-respected and highly effective voice for Massachusetts' industry on Beacon Hill and in the Halls of Congress.

The business community in Massachusetts has come to rely on AIM to champion their causes through its comprehensive program of political action, public affairs, legislative reporting, and economic research. During this election year, we all have heard a great deal about the "Massachusetts Miracle." Walter has played a large role in making that miracle, through his tireless efforts to shape the political and economic policies which make Massachusetts a great State in which to work and live.

Walter has had a long and distinguished career of service not only to industry, but to the Commonwealth and indeed, the Nation. During the 1960's, he distinguished himself through his contributions to the design and reform of the Massachuetts corporate excise tax. The reformulation and rewriting of the tax law was a creative new approach to taxation, and was such a success that several other States adopted it, as well as Congress. Walter earned a reputation for being one of the few people from the private sector who could discuss tax policy dispassionately and could appreciate both sides of an issue. This quality has served him well through the years as AIM's chief legislative spokesman, general counsel, and president. It was under his leadership that AIM played a major and successful part in the reform of the worker's compensation system, resulting in a policy which was more efficient and equitable for workers and employers alike.

Mr. Speaker, please join me in extending our thanks and best wishes to Walter P. Muther. His contributions will be long remembered and the results of his hard work will continue to benefit the citizens of Massachusetts for many years to come.

TRIBUTE TO WILLIAM SMITH

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to William Smith, a long-time Democratic activist.

Bill Smith has been a Democratic committeeman in the 33d Ward in northeast Philadelphia for 35 years. It is this kind of loyalty that has made the Democratic party a force to be reckoned with in the northeast for decades.

A life-long resident of Philadelphia, Bill Smith and his wife Agnes have a daughter, three grandchildren, and two great-grandchildren. Bill is also a member of Machinist Local 159.

Over the years, Bill Smith has put in countless hours working for his neighborhood, his party and his country. I am proud to share the same party affiliation with this man.

I join Bill Stinson, 33d ward chairman, and everyone in the 33d ward in paying tribute to Bill Smith's 35 years of hard work and dedication as Democratic committeeman.

THE 10TH ANNIVERSARY OF THE DEATH OF CONGRESSMAN LEO J. RYAN AND THE TRAGIC EVENTS AT JONESTOWN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. LANTOS. Mr. Speaker, 10 years ago—on November 18, 1978—Congressman Leo Ryan became the first Member of Congress to be killed while performing his congressional responsibilities. Leo Ryan was my predecessor as the representative of the 11th Congressional District of California. He was also my friend.

Leo went to Guyana on an official mission on behalf of the Foreign Affairs Committee to investigate reports from some of his constituents that their relatives and hundreds of other American citizens were being enslaved under brutal circumstances in the remote colony of the Peoples Temple called Jonestown. In response to congressional inquiries, State Department officials investigated the situation in Jonestown but reported that conditions were not serious, and there was no need for further inquiry. Leo felt that the only way to resolve these conflicting reports was for him personally to conduct an on-the-spot investigation. Under authorization by the Speaker of the House and the House Foreign Affairs Committee, he led a congressional mission to Jonestown.

It was typical of Leo's courage and commitment that he went, despite the obvious danger of his mission. Accompanied by representatives of the American press, he went to Jonestown where he conducted his mission with great courage and skill. When he left, he led several residents out of Jonestown with him. As we all know, Mr. Speaker, as Leo was about to leave Jonestown to expose to the world the deplorable conditions he had discovered, he was murdered on the airport runway outside the plane that was to take him back. That night, the insane leader of the Peoples Temple, Jim Jones, led and forced over 900 of his followers into a mass suicide and murder—a tragedy that shocked and horrified the world. Leo Ryan died in his effort to unmask Jones and save these men, women, and children.

Leo's efforts to get the facts and expose conditions in Jonestown went well beyond normal service to his constituents, but it was typical of Leo's dedication. Leo Ryan set an example for all of us who serve in this House. Mr. Speaker, on this 10th anniversary of the death of Leo Ryan and the tragic events of Jonestown, I invite our fellow Members of Congress to join in remembering our distinguished colleague.

WRONG RIGHTS ARENA

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. COURTER. Mr. Speaker, I have little doubt that the cause of civil rights for black and other minority Americans has been weakened in the last two decades. There are a number of reasons for this but among the most important is the fact that the Congress, which took a courageous stand when it passed the landmark Civil Rights and Voting Rights Acts of the mid-1960s, has taken a back seat while the cause shifted to the tenuous ground of the unelected courts and agencies of government. As a result public debate over the direction and progress of civil rights waned and popular commitment was taken for granted.

It became clear by the end of the 1970s, however, that the U.S. Supreme Court was finding it ever more difficult to convince the American people to approve its version of the civil rights agenda in the absence of meaningful congressional debate. President Reagan's mandate to create a conservative majority on the Court was only the most obvious sign of the civil rights cul-de-sac.

Lawrence Wade in the following column from yesterday's Washington Times, discusses the reopening of the Runyon ruling in a current case before the Court, called Patterson verus McLean Credit Union. As Wade makes clear, Congress is the proper forum for civil rights progress because it is elected by the people and because it is the Federal legislative branch.

I sponsored the Civil Rights Enforcement Act of 1988, which would codify the Runyon rule, to do what Wade calls for: knock our racial discrimination. Neither the Supreme Court not the federal agencies have the political authority to do that. I did not wait until the Court rules on its reconsideration of Runyon some time next year because however the Court decides, the principle that freedom of contract should not be violated by acts of intentional race discrimination should be written into positive law where it cannot be removed by any Supreme Court majority.

I urge my colleagues to read the following column:

[From the Washington Times, Oct. 17, 1988]

WRONG RIGHTS ARENA?

[By Lawrence Wade]

Like the nerd depends on his big brother to fight bullies, then finds himself defenseless, the civil rights hysterics are shaking in their Gucci shoes.

Their big brother—the Supreme Court—is reviewing a 1976 dispute in which it barred private discrimination. The court's battle wouldn't have been necessary if nerds on Capitol Hill had shown guts.

In the 1976 case, Runyon vs. McCrary, the court held that an 1866 law banned discrimination in contracts between private persons. Now, in Patterson vs McLean Credit Union, the court is expected to decide if in 1976 it strayed too far.

Well, the court did go far beyond the intent of the Reconstruction Congress. And it's true: Racial attitudes have changed since the Civil War era.

But in 122 years Congress hasn't enacted many of these changes. And that's why this issue is again in court.

The Supreme Court seems to be saying that it will no longer fight battles for rights that properly belong to Congress. Civil rights hysterics and their media sob sisters says, "This is horrible!"

In fact, it is good.

Civil rights are too important to be based on the whims, predilections and perversities of a changing tribunal.

If the Reconstruction Congress had been clear about racial integration, the Supreme Court couldn't have supported segregation in 1896.

But Congress hasn't learned.

Beginning in the 1960s it passed laws banning discrimination in schools that receive federal aid. It didn't make clear whether the laws covered departments or entire schools.

The result: In 1984 the Supreme Court interpreted these laws to cover only departments. It tool until this year for Congress to overturn that ruling in the "Grove City" bill.

Since the early 1970s Congress has allowed bureaucrats and courts to fight discrimination with discrimination: affirmative action. But if its members want race and sex quotas, they should be men and women enough to write them into law.

The problem is that Congress hasn't had the guts, moxie or the "noyive" as that great tough guy, Humphrey Bogart, would have called it. And the danger is that its big brother might no longer fight its battles, especially with the justices President Reagan has appointed to the court.

Congress at best has mumbled objections to discrimination. The Civil Rights Act of 1964 needs punitive damages. And the Civil Rights Act of 1968 on fair housing was empowered only this year.

Many civil rights are weak. Is it a wonder that many still resist their enforcement?

Consider statistics from the Equal Employment Opportunity Commission. Charges of discrimination there have grown about 30 percent in recent years.

Employers still think it's worth the risk to "duke-out" minorities and women. That's no suprise. The local nerd gets no respect, either, because he's not man—or woman—enough to stand up.

And as long as Congress relies on courts to define and enforce civil rights, we won't put silly race and sex issues behind us.

Ignore the civil rights hysterics.

Even if the Supreme Court overturns its 1976 ruling, there are enough votes for new legislation, even a constitutional amendment: 66 senators and 47 states support upholding the 1976 law.

At worst, Congress will be forced to stand, draw lines and fight its own battles.

Discrimination deserves a knockout.

But this punch must come from Congress, not the Supreme Court.

MEMORIAL TRIBUTE TO THADDEUS J. DULSKI

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. KEMP. Mr. Speaker, "he was a man of the people," has been said most often about Thaddeus J. Dulski, former Congressman from Buffalo. I was privileged to have served in Congress with Ted during my first term, and to have benefited enormously from this good fortune.

Ted was a good friend and advisor. The fact that we were from different parties did not stop Ted from showing the ropes to a freshman Congressman from the adjoining district. It was from Ted that I first truly understood the difference between a politician and a statesman.

Ted was a local boy who made good. He was a true Buffalonian born and bred, and represents the best of what Buffalo can produce. I was proud to work side by side with this man for the betterment of the western New York community.

Ted was know for his kindness and his sense of humor. He was also master of the malaprop. Legislatively, he is best known for spearheading the establishment of the U.S. Postal Service from a Cabinet Department, which he engineered from his position as chairman of the Post Office and Civil Service Committee.

Ted has been a time-honored institution and an integral part of western New York for nearly three quarters of a century. He witnessed and participated in many of the changes which have made Buffalo and its environs a thriving community. He will be sorely missed. Joanne and I send our respects and condolences to his wife Betty, and his five children, Suzanne, Christine, Diane, Anthony, and Leon. We mourn the passing of a great and gentle man and a hero of our time.

THADDEUS J. DULSKI, EX-CONGRESSMAN, DIES

(By Mike Vogel)

Thaddeus J. Dulski, an eight-term congressman who kept the common touch and became a living legend in Buffalo's Polish-American community, died Tuesday evening (Oct. 11, 1988) in Roswell Park Memorial Institute after a lengthy illness. He was 73.

A highly respected member of the House of Representatives during a period that spanned the national traumas of the Kennedy assassination, Vietman and Watergate, Dulski, was a veteran and powerful chairman of the House Post Office and Civil Service Committee when he unexpectedly announced his retirement in 1974.

The congressman who had once made cancer research a pet cause had suffered in recent years from leukemia.

In his 16 years in Congress, he earned the respect of colleagues and of the national organizations that dealt with his committee. In overseeing both the nation's postal service and the government employment structure that set pay scales and benefits for every federal employee, he wielded an enormous amount of power—and wielded it fairly.

He was not a man who gloried in the trappings of power. His ranking House position in Washington merited him a limousine and chauffeur—but in the considerable amount of time he devoted to his home district, he preferred to drive his own somewhat-battered car.

He was a man of the people—and an unintentional master of the malaprop and the occasional legend-spawning mishap.

Once, at a memorial service, Ted Dulski is said to have expressed the sorrow of the multitude: "as we stand here with heavy hearts and borrowed heads." He also once shared a lighter moment with "this vast anarchy of friends," and praised a doctor for all the times he labored late into the night touring neighborhoods "on his mercenary rounds."

Perhaps the best summation of his career was given by the congressman himself, after a silver-tongued opponent had dominated a television debate during one of his election campaigns. Dulski stunned supporters by praising the man at length and declaring that his opponent was the kind of man who would be valuable to have in public office—but then paused and added simply, "Just remember—Dulski delivers."

The next day, and for the rest of that successful campaign, "Dulski Delivers" was the phrase the people remembered.

Dulski was born Sept. 27, 1914, into a Polish immigrant family that already was well-known on Buffalo's Polish East Side. His father, Jozef, was one of the founders of the Chopin Singing Society and worked as a men's clothing salesman—the man to whom almost all of Polonia's families came to outfit their sons in First Communion suits.

Dulski attended Canisius College and the University of Buffalo, then became an accountant and tax consultant. In 1940, he became an agent for the Internal Revenue Service—a seven-year career that was interrupted for World War II service.

In 1947 he resigned his IRS post to return to private practice as an accountant, but in 1951 he was called back to public life to serve as a special agent for the Federal Price Stabilization Administration. In 1953, aided by his father's door-to-door efforts and his own intensive canvassing of his neighborhoods, he won election to Buffalo's Common Council as the Walden District councilman, representing an area now known as the Fillmore District.

After two terms as the district councilman, he won election as Councilman-at-large in 1957 and served as a member of the Finance Committee and chairman of the Taxation Committee.

In 1958, he entered the 37th U.S. Congressional District race as a Democrat and won a narrow victory over Republican James O. Moore Jr., who later became a State Supreme Court justice.

His election to the 86th Congress started a 16-year career that took the Democrat-Liberal lawmaker through some of the most dramatic times of national government—the 1963 assassination of President Kennedy, the increasing American involvement in Vietnam and the bombing of Cambodia, and the trauma of the Watergate investigations and Nixon's resignation.

Against that backdrop, Dulski served on the Veterans Affairs Committee and moved quickly to a senior post as chairman of the Post Office and Civil Service Committee. He also became one of the best vote-getters in Buffalo political history.

"He was one of the people," said Daniel J. Kij, president of the Polish Union of America and a man who ran unsuccessfully against Dulski in 1962.

The campaign, he recalled, brought ample evidence of Dulski's populist touch, as well as a measure of the congressman's Washington clout; Kij found himself watching from the reviewing stand as Dulski rode the route of the Pulaski Day Parade in an open convertible with a friend he'd brought to town—President Kennedy.

"We never spent more than $5,000 on a congressional campaign, and we won them all," long-time Dulski administrative assistant James McCabe once said.

Dulski was serving as a member of the Post Office Committee when he was rocketed into the prestigious chairmanship in 1967; two more senior Southern conservative Democrats who had voted with liberal Democrats on the Civil Rights Bill lost reelection primaries, clearing the road.

"I called him at home and said, Congratulations, ranking member," recalled Stanley Franczyk, a longtime Dulski friend and former radio newsman who read the first wire reports on the primary results. "He was flabbergasted. Then, a few weeks later, I called him again and said, 'Congratulations, Mr. Chairman.'"

As a congressman, Dulski was influential in a number of bills on a wide range of interests.

He was a co-sponsor of the National Cancer Act in 1971 and campaigned even after retirement for increased cancer research funding it was his legislation that turned the U.S. Postal Department into the semi-independent Postal Service; he prepared annual federal pay bills, including one that provided a substantial pay raise for presidency during Nixon's administration; he helped lead efforts to gain funding as well as national landmark status and protection for the Wilcox Mansion and later served it on the board of the Theodore Roosevelt Inaugural Site Foundation; he supported veterans' bills and improvements in the conditions and pay of air traffic controllers, and backed development of Route 219 into a major north-south highway link in this area.

He also co-sponsored and helped pass the first Captive Nations Bill in 1959, and last year his long devotion to that cause was again evidenced as he took over the chairmanship of the local Captive Nations Committee.

He was awarded Poland's Order of Merit, one of that nation's highest civilian awards, for his work promoting Polish culture and gaining recognition for the 500th anniversary of the birth of Polish astonomer Nicolaus Copernicus; he won the Taras Shevchenko Freedom Award of the National Captive Nations Committee, and was honored by the Polish Arts Club of Buffalo, the Polish-American Congress, the Am-Pol Eagle and the Anti-Defamation Leage of B'nai B'rith.

He also won honores from the Manhattan-Bronx Postal Union, the UAW-AFL-CIO Association, the Polish Professional Businessmen's Association, the UAW Retired Workers Council, the National Star Route Carriers, the American Legion, the Buffalo Joint Council of Longshoremen, the Buffalo Southside Men's Club, the American Veterans of World War II, the Disabled American Veterans and many other organizations. This February, he was named "Man of the Year" by the Adam Mickiewicz Library and Dramatic Circle.

Franczyk, however, has stronger memories of Dulski's common touch.

"He was great at poking around in his basement kitchen," he said. "And he'd go out in the backyard with his brother-in-law, and smoke Polish sausage. One time, I think the neighbors called the Fire Department."

Dulski also occasionally took some czarnina, a traditional Polish duck's blood soup, back to Washington with him. On one flight back to Congress, he tucked a container in the pocket of a light-colored suit; "It sprang a leak," Franczyk recalled, "and the flight attendant said, 'you're bleeding!'"

The smaller incidents endeared him to friends, but it was the larger accomplishments in legislation that have earned him lasting honors.

In 1987, more than a dozen years after the Peace Street resident's retirement from Congress on Jan. 3, 1975, the government office building at 111 W. Huron St. was named the Thaddeus J. Dulski Federal Building—the first federal building named for a Polish-American, and a tribute to the congressman who had pushed hard for funding of its construction years ago.

The Thaddeus J. Dulski Community Center at 129 Lewis St. was named in his honor in 1975, shortly after his retirement. He had remained active in politics, following up his 1974 work as Western New York campaign coordinator for Hugh L. Carey with a stint as Gov. Carey's local liaison representative. More recently, he had been a vocal supporter of Mayor Griffin.

When he announced his retirement, congressional colleagues from both parties responded with a lengthy and heartfelt round of accolades. Dulski himself was more succinct; "I figure I've done my job," he said.

He was an amiable, hard-working lawmaker. When he retired, another congressman observed, "He has no enemy among us."

He took pride in his folksy mannerisms, and delighted in being known as a "people's congressman."

"I know a lot of people, businessmen, politicians, just plain working people," he once told a reporter. "I like them and I think they like me. I have sympathy for their problems. And I've tried to help them."

Dulski is survived by his wife, Elizabeth; three daughters, Suzanne Dulski, Christine Dulski and Diane Tyler, and two sons, Anthony and Leon, all of the Buffalo area.

A Mass of Christian Burial will be offered Saturday at Queen of Peace Catholic Church, 1955 Genesce St. The time has yet to be determined. Burial will be in Mount Calvary Cemetery, Cheektowaga.

The family will be present from 7 to 9 p.m. today and 2 to 4 p.m. and 7 to 9 p.m. Thursday and Friday at Pacer Funeral Home Inc., 2275 George Urban Blvd., Depew.

AMERICA'S BUSINESS FUTURE RESTS WITH SMALL BUSINESS SECTOR

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. ANDREWS. Mr. Speaker, the time to warn U.S. businesses about preparing for the new global economy has passed. The new global marketplace is here today and businesses must now compete like never before.

Unfortunately, our performance in the new international marketplace so far has not been as strong as it could be. In the short span of 4 years, the United States has gone from being the world's largest creditor nation to the world's largest debtor nation. Understanding the problem is simple: We are buying more foreign goods and selling fewer American-made goods. As a result, our foreign purchases have run up a huge bill on our line of credit which looms larger and larger every month.

The U.S. trade deficit for August was $12.2 billion, far worse than anyone had predicted. The amount of goods we imported rose to an alltime record of $79.7 billion, as our debt to all our major trading partners worsened. Numerous factors contribute to our increasingly painful trade deficit: U.S. industry's need for capital investment, Americans' growing rate of consumption, and the increased productivity of our trading partners, to name a few.

However, from the ashes of this bad news comes a bright ember of hope: the advantage of recognizing our problems so that we can rectify them. In this case, it may mean that America's small businesses will take the lead in increasing our export potential and force us to re-examine our approach to foreign sales.

Over the past year, a growing percentage of U.S. exports has come from a surprising quarter—small businesses whose annual sales are below $400 million. True, it takes a lot of $10 million orders to match the $120 million profit reached through the sale of just one Boeing 747, but the sheer numbers of the small business community makes those small companies a big player in international economics.

U.S. leaders and economists are just now beginning to recognize the market potential U.S. small businesses have to influence the global marketplace. Countries like West Germany and Italy already depend upon the products of their smaller companies to boost their export figures. Huge U.S. manufacturers—traditionally the leaders in U.S. exports—have transferred much of their production operations overseas, effectively becoming importers as much as exporters. Therefore, the hope for brightening our bleak trade deficit rests with the performance of our midsize manufacturers.

So far, the evidence for small businesses is encouraging. American exporters are finding they don't have to be big to do well in the world market. American products are cheaper, the quality is good, and a fancy sales strategy is not required.

For example, look at Houstonian Ed Kyrish, who in February purchased the Olympic International truck dealership off the North Loop East and began concentrating on exporting his trucks.

In just 10 months, Kyrish's business has blossomed. He has increased monthly export sales by almost 150 percent. His business grew so much that he needed more space. Therefore, he has started construction of a 15,000-square-foot addition for body and maintenance shops.

Kyrish describes his success: "We're flourishing because we're aggressive," he said.

Aggressiveness was vital for a Louisiana oilfield equipment and tool manufacturer who faced disaster when the oil industry bottomed out in 1983. Facing a $1 million debt, the owner withdrew $2,000 of his savings to buy an around-the-world airplane ticket. His trip paid off. He came home with contracts from buyers in Abu Dhabi, Singapore, and Indonesia and now a third of his market is overseas.

Those are just two examples of what the picture of small business can look like. While charting the growth of America's new exporting companies is difficult because the Department of Commerce does not collect data on the size of companies exporting goods, there is little doubt that the rush is on. The Export-Import Bank in Washington says the number of new exporters seeking aid has nearly tripled in the past year and it expects the United States to add thousands of new exporters by mid-1989.

While the number of small businesses increase, in the international market, many novice exporters are daunted by the seemingly insurmountable obstacles of red tape, language barriers, cultural differences, and distribution challenges confronting novice exporters. Recognizing the needs of these latter-day "Yankee traders," I joined my colleague, JAKE PICKLE of Austin, in sponsoring House Concurrent Resolution 76, which expresses the sense of Congress for supporting a private initiative to enhance small businesses, ability to understand and use U.S. trade laws. The bill would encourage corporate, labor, legal, and academic communities to consider forming a nonprofit organization to provide free legal assistance to small businesses in cases where they have been unjustly treated by foreign trading partners.

The U.S. Small Business Administration has also identified the significance small businesses may have on our balance of trade. Subsequently, the SBA has begun offering assistance to American entrepreneurs to enhance midsize companies' export boom. On October 20, the Small Business Administration, with the financial assistance of the private sector, will host a national video conference to stimulate greater interest in exporting by midsize companies. Topics for the conference will include: identifying sources of exporting assistance, protecting a copyright overseas, how to enter into joint ventures and contracts, and the common methods of international payments and finance.

The Texas Department of Commerce has also taken special interest in promoting our State's small businesses by joining with the U.S. Department of Commerce, U.S. and Foreign Commercial Service to publish a special edition of the Commercial News USA, which will be dedicated entirely to the promotion of Texas products and services. The listing will reach more than 110,000 potential agents, distributors, joint-venture partners and buyers in more than 140 countries. Small business owners can participate by calling the Houston office of the U.S. Department of Commerce at 229-2578.

American businesses cannot rely on 40 years of past successes to carry our global economic predominance as we near the turn of the century. The growing significance of midsize companies in the international marketplace signals a trend that the rest of American business would do well to heed: economic strength in an ever-changing global economy requires flexibility and initiative, not rigidity and stoicism. We must meet the needs of the changing marketplace if we plan to not only participate in the new global economy, but lead it into the 21st century.

TRIBUTE TO ST. STEPHEN'S R.C. CHURCH OF PATERSON, NJ, ON ITS 85TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. ROE. Mr. Speaker, it is with the deepest reverence and the greatest sense of pride that I rise today to salute an outstanding house of worship in my Eighth Congressional District of New Jersey which, for nearly a century, has been a spiritual focal point and a beacon of faith for countless numbers of worshipers in the greater northern New Jersey area.

I am speaking of St. Stephen's R.C. Church of Paterson, NJ, which will be celebrating its 85th anniversary on Sunday, November 6 with a mass of thanksgiving followed by a dinner in the church auditorium. I know this event will be an especially proud moment for Rev. Raymond Jasaitis, the pastor of St. Stephen's and its guiding force for these past 13 years.

Mr. Speaker, the history of St. Stephen's Church is a rich one, beginning 85 years ago, in 1903, when St. Stephen's was founded by a dedicated group of Polish families. Through the decades, St. Stephen's has evolved into a thriving parish made up of numerous ethnic groups who are united as a family of God by a common bond of caring for one another. There have been many notable moments which form the legacy of this historic parish, including the construction of a new church several years after the parish was established, the celebration of the parish's 25th anniversary in 1928 and the celebration of the church's 50th anniversary in 1953.

Mr. Speaker, the year 1953 was also significant for St. Stephen's for another reason. It also marked the 50th anniversary of the ordination to the priesthood of the pastor of St. Stephen's Rt. Rev. Msgr. James Wrzeciono, who guided the church for three decades, from 1932 until his death in 1962. This was an especially trying and yet dynamic period that took St. Stephen's through the Great Depression and World War II and into the rapidly changing world of the postwar era. It was Monsignor Wrzeciono's strong leadership during this time that was responsible for the united parish that exists today.

In the years following Monsignor Wrzeciono, there was further change, the construction of a new church in 1968 and the arrival of a new pastor, Rev. Raymond Jasaitis, who just last year celebrated the 25th anniversary of his consecration into the sacrament of holy orders. Still, despite the many changes, St. Stephen's remains a strong parish that has not only provided spiritual guidance, but which has been a vital force in the community, as well. As the official history of the church notes:

> The parish societies and organizations are the major outlets for this outreaching into one another's hearts and lives. It is through them that those lives are enriched both spiritually and socially.

Among the organizations and societies which help to provide that enrichment are the Holy Name Society, the St. Cecilia Choir, the Rosary-Altar Society, the St. Therese Society, the Bingo Committee, the Home School Association, and St. Stephen's Cub Scout Pack No. 4, and Boy Scout Troop No. 4.

And, in providing for a continuing Catholic education have been the dedicated teachers of St. Stephen's School who teach children from kindergarten through the eight grade under the Guidance of Administrator Sister M. Dorothea, C.S.F.N., who also teaches seventh and eighth grades. The other faculty members include Sister M. Olimpia, C.S.F.N, seventh and eighth Grades; Sister M. Leonetta, C.S.F.N, and Mrs. Alexandra Tsolakis, fifth and sixth Grades; Sister M. Clare, C.S.F.N, third and fourth grades; Sister M. Eileen, C.S.F.N., first and second grades; and Mrs. Florence Scullion, kindergarten.

Mr. Speaker, I appreciate this opportunity to present a portion of the history of this distinguished parish that has remained dedicated to helping others and guiding them spiritually. As St. Stephen's R.C. Church of Paterson celebrates its 85th anniversary, I know that you and all of our colleagues here is Congress will want to join me in extending our warmest greetings and felicitations for both the service and guidance it has provided for its community, State, and Nation.

DIVIDENDS RECEIVED DEDUCTION COALITION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. CRANE. Mr. Speaker, today the conferees to the long-awaited and much-needed technical corrections bill will meet. One of the most fundamental decisions these conferees will make is whether to accept a House revenue raiser or delete what is increasingly becoming known as bad tax policy. The dividends-received deduction has been drastically reduced in the House version of the technical corrections bill. The Senate is adamantly opposed to such wrongful taxation. I urge my colleagues to delete the House provision that will reduce the dividends-received deduction.

The Dividends Received Deduction Coalition, in a letter to me, has amply expressed why this tax is plainly wrong. The text of the letter follows:

OCTOBER 13, 1988.

Representative PHILIP M. CRANE,
House of Representatives,
1035 Longworth House Office Building,
Washington, DC.

DEAR REPRESENTATIVE CRANE: The House version of the Technical Correction Act of 1988 would increase the triple taxation of intercorporate dividends by reducing the dividends received deduction (DRD) from 70 to 50 percent. This provision would have an adverse impact on a wide variety of industries. The undersigned associations and corporations believe that a reduction in the DRD would be counterproductive and would have a significant negative impact on the U.S. economy. Exacerbating the triple taxation of intercorporate dividends would also be inequitable.

A reduction in the DRD would exacerbate the triple taxation of intercorporate dividends. The income these dividends represent is taxed to both the payor and payee corporations and to the individual shareholders of the receiving corporation. Taxing a particular form of income so heavily is both inequitable and distorts the economic decision-making process.

Triple taxing intercorporate dividends would raise the cost of equity capital substantially and have an adverse affect on investment, economic growth and the international competitiveness of U.S. business. As a recent Arthur Young study (July, 1988) shows, the United States taxes intercorporate dividends much more heavily than do our trading partners.

Reducing the DRD will force certain businesses to rely more heavily on debt financing. This will make U.S. business less able to weather difficult financial times and more likely to be forced into radical cost cutting measures, including layoffs.

Financial institutions often are required by regulatory agencies to maintain a certain degree of equity financing. Utilities are subject to somewhat similar regulatory oversight. Whether required by regulators or not, preferred stock is an integral part of financing needed expansion while maintaining financial soundness. A reduction in the DRD would make expansion difficult for many companies and impossible for some financial institutions.

The new risk-based capital guidelines established by the Bank for International Settlements, and reflected in new Federal Reserve guidelines, will permit only a new form of preferred stock, i.e., non-cumulative, as tier one capital for banks on a global basis. Thus, the ability of U.S. banks and bankholding companies to raise this new form of preferred stock, or to exchange outstanding cumulative preferred, will be significantly impaired by the proposed DRD reduction. The cost to banks of issuing new preferred stock, or to exchange outstanding cumulative preferred, will be markedly higher. The impact on the financial markets will be significant. The ability of U.S. banks to compete in global markets will be seriously impacted. The impact on the financial markets will be significant. The ability of U.S. banks to compete in global markets will be seriously impacted.

By making equity financing less attractive, the proposal will reduce the breadth of the equity market's capitalization. The proposal to reduce the DRD has already had an adverse impact on equity markets, particularly reducing the value of preferred stocks and those common stocks with high dividend yields. This destabilization of the stock market is highly undesirable.

There are many sound, non-tax business reasons for one company to own shares in another. A company may experience a temporary excess of capital pending initiation of a major capital investment project. That capital can be made available to another firm during the interim. At other times, economies of scale or antitrust consideration may prevent companies from owning more than 20 percent of a firm, as in the case of oil pipelines.

We respectfully urge you to oppose any reduction in the DRD during conference committee deliberations.

Sincerely,

Alliance of American Insurers, Alliance for Capital Access, American Bankers Association, American Dental Association, American Federation of Small Business, American Gas Association, American Financial Services Association, American Insurance Association, Association of Oil Pipelines, Bankers Association for Foreign Trade, Edison Electric Institute, National Association of Independent Insurers, National Association of Mutual Insurance Companies, National Association of Manufacturers, National Council of Savings Institutions, Securities Industry Association, U.S. Chamber of Commerce, U.S. League of Savings Institutions.

AFG Industries, Inc., Alabama Power Company, American Airlines, Inc., American Bankers Insurance Group, American Continental Corporation, American Electric Power Company, Inc., American General Corporation, ARCO, Arvin Industries, Inc., Baltimore Gas and Electric Company, Betz Laboratories, Black and Decker Corporation, Carolina Power and Light Company, Centerior Energy Corporation, Charter Medical Corporation, Colonial Pipeline Company, Consolidated Freightways, Inc., Consumers Power Company.

Dominion Resources, Inc., Doskocil Companies, Inc., Drexel Burnham Lambert Incorporated, Duchossois Industries, Inc., Eastman Kodak Company, Elf Aquitaine, Inc., Enron Corporation, Exxon Corporation, First Florida Banks, Inc., Flaherty & Crumrine, Forum Group, Inc., Geico Corporation, General Accident Insurance, General Electric Company, General Public Utilities Corporation, Georgia Power Company, Gulf Power Company, Hertz Penske Truck Leasing, Inc., Hounanian Enterprises, Inc., Household International, Houston Industries, Inc., Kaaz Holding Company, Inc., Kansas City Power & Light Company, Kansas Gas and Electric Company, Kemper Group, Kinder-Care, Inc., Levitz Furniture Corporation, 3M Corporation, Mack Trucks Incorporated, MDU Resources Group, Inc., Media General, Inc., MEPC American Properties Inc., Merrill Lynch and Company, Inc., Mississippi Chemical Corporation, Mississippi Power Company, Mobil Corporation.

Norfolk Southern Corporation, Northern States Power Company, Otter Tail Power Company, Pennsylvania Power & Light Company, Philadelphia Electric Company, Playtex, Inc., Portland General Electric Company, Potomac Electric Power Company, PPG Industries, Inc., Public Service Electric and Gas Company, Puget Sound Power and Light Company, Ryder System, Inc., San Diego Gas and Electric Company, Savannah Electric and Power Company, Savannah Food and Industries, Inc., Shearson, Lehman & Hutton, Smith Barney, Harris Upham & Company, Inc., Southern States Cooperative, Inc.

Spectrum Asset Management, The Cleveland Electric Illuminating Company, The Empire District Electric Company, The Montana Power Company, The Ohio Society of Certified Public Accountants, The Readers Digest Association, Inc., The Rockefeller Group, Toledo Edison Company, Town & Country Jewelry, Transol USA, Inc., Triangle Industries, Inc., Tucson Electric Power Company, Union Carbide Corporation, UST, Warnaco, Incorporated, Western Union Corporation.

TWENTY-FIFTH ANNIVERSARY OF TROOP 63

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. MORRISON of Connecticut. Mr. Speaker, I rise today to note the 25th anniversary of the founding of Troop 63 B.O.W., Quinnipiac Council, Boy Scouts of America. This troop, sponsored by the Church of the Good Shepherd in Orange, CT, has been a very important part of the lives of many young men from Orange and the nearby towns of Bethany and Woodbridge and has helped its members, approximately one-third of whom have some types of learnng disability, with the often difficult transition to adulthood.

I wish today to honor, in particular, three men who have helped Troop 63 to reach this milestone. Charles Whiting helped to found the troop 25 years ago and served as its scoutmaster from that time until 1980. Although none of his children are in the Boy Scout now, he remains active and serves as chairman of the troop committee. His successor as scoutmaster, John Smith, is now in his eighth year. Mr. Smith began his involvement with Troop 63 as a Scout and has done much to ensure that succeeding generations find Scouting as profitable and enjoyable an adventure as he did. Finally, Ernest Trowbridge is one of the foundations on which Troops 63 has been built. Few others have given as much of themselves in the effort to see Troop 63 succeed.

As Troop 63 reaches its 25th anniversary, its members, founders, and sponsors have much of which to be proud. It has produced a steady stream of young men who, because of their experiences in Scouting, are better prepared for adulthood. I congratulate them and wish them continued good fortune and success.

HARRY S. TRUMAN NATIONAL HISTORIC SITE

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. WHEAT. Mr. Speaker, on October 7, Representative IKE SKELTON and I introduced H.R. 5494, legislation to expand and preserve the Harry S Truman National Historic Site.

The legislation would add three historically significant buildings to the site, which now consists solely of the home where our 33d President lived for most of his adult life. The bill authorizes the National Park Service to buy or accept as donations three homes adjacent to Truman's residence.

The Truman Home Site and the Truman Library are two of the most popular attractions in Independence—indeed, in the entire Kansas City metropolitan area. Last month the Kansas City *Business Journal* listed both the Harry S Truman Library and the Truman Home in the top 25 attractions in the Kansas City area, with a combined attendance of nearly 265,000 visitors in 1987. Enactment of this bill would expand and preserve these symbols of the Truman legacy for tourists and historians alike.

Congress created the Truman Historic Site in 1983. This year, however, the Truman Historic Site was identified by the National Park Service as one of several historic landmarks nationwide threatened by serious damage if further steps are not taken to preserve its surroundings. This legislation will help to preserve the historical integrity of the Truman Home.

H.R. 5494 would include three historically significant homes adjacent to the Truman Home in the site. Two of the homes involved belonged to Frank and George Wallace, the brothers of Harry's wife, Bess. Harry Truman's aunt, Margaret Noland, and her family lived in the third home.

As a young man, Harry Truman was fond of visiting his Aunt Margaret and lived with her and her family during weekends while he was courting Bess Wallace. Bess lived in the house across the street that ultimately became the Trumans' home.

Bess' brothers, Frank and George, built their own houses next to the present Truman Home, and George's wife May still resides in one of these houses. The Trumans and the Wallaces remained close in the ensuing years and the three houses are an integral part of what Harry Truman called "home."

Mr. Speaker, I urge my colleagues to join me and Representative SKELTON in preserving this important part of our Nation's historical heritage. This modest addition to the Harry S Truman Historical Site is essential to preserving the memory of the contributions made to our country by this great American President.

SENATE—*Wednesday, October 19, 1988*

(Legislative day of Tuesday, October 18, 1988)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable THOMAS J. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Dear Lord, with multiplied millions who trust, the centuries have found profound consolation in the Shepherd's psalm. We thank you for this exquisite word.

"The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake * * *"

Thank you, Lord, for this infallible leadership.

"* * * Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; * * *"

Thank you, Lord, for this eternal hope.

"* * * thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies; thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever."—Psalm 23.

Thank you, Lord, for this treasured promise of eternity. Thank you, Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 19, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for rendering for us again the 23d Psalm. I have many favorites of the psalms, but this is the favorite above the favorites. It has a soothing, comforting, quieting thrust. It is meant for all times, for all seasons, and all conditions, telling us that "the Lord is my shepherd, I shall not want."

In our life of tensions, this is a psalm that brings us back to a quiet solitude. It comforts us in the time of sorrow and keeps us humble in the hour of triumph. And it reminds us that God is always with us, that His rod and His staff will protect us.

And it calls to our attention again God's promise of eternal life, as it speaks of our dwelling in His house forever.

It was my grandson's favorite scripture, the grandson I lost. The Chaplain was there with us when we gathered for our last goodbye. The Chaplain, in his sermon that day, quoted the 23d Psalm, and that psalm has been used through the ages, I am sure, by others, as the final farewells were spoken for loved ones who have set out upon the eternal sea to await in His heavenly mansions, the coming of those of us who were left behind.

I am grateful to the Chaplain and I am grateful for the 23d Psalm.

RESERVATION OF LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time under the order.

NOTICE

A final issue of the Congressional Record for the 100th Congress, second session, will be printed after the sine die adjournment of the Congress. Members may submit manuscript for printing to the Official Reporters of Debates no later than November 10, 1988.

None of the material printed in the Congressional Record after adjournment may contain subject matter, or relate to any event, which occurred after the date that Congress officially adjourned.

No provision herein shall be construed to supersede the two-page rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debate, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m.

Members of Congress desiring to purchase reprints of material submitted for printing in the Congressional Record during the adjournment may do so through the Congressional Printing Management Division located at the Government Printing Office. This office may be reached by telephoning 275-2226 between the hours of 8:00 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

FRANK ANNUNZIO, *Chairman.*

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. Mr. President, I defer to the distinguished Senator from Wisconsin.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with the Senators permitted to speak therein.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friend, the Republican leader.

WOULD THE LOSING PARTY BE LUCKY TO LOSE THE NOVEMBER PRESIDENTIAL ELECTION?

Mr. PROXMIRE. Mr. President, this Senator has said and I will say it again that whichever party wins the Presidential election this fall may not win another election for 4 years. I said they may, M-A-Y. Get it? It is conditional. Whether the winning party would have to wear a "Herbert Hoover" albatross for years if they should win the upcoming Presidential election would depend on two things. First it would depend on whether or not the country suffers a deep and prolonged recession in the 4 years of the next President's term. This, I believe, is highly likely regardless of policies the Federal Government may pursue. A recent poll of the Nation's business economists shows 89 percent—nearly 9 out of 10—believe the country will suffer a recession that will begin in the next 2 years. Why would such a recession be extraordinarily deep? Because debt in this country has become enormously burdensome. Household debt in America today exceeds $3 trillion. Household savings, in relation to income in recent years, has hit an all-time low. Not only would a recession devastate housing starts, it would drive household income so low that literally millions of householders would not be able to pay the now very heavy interest on their mortgages. Result: many homeowners would lose their homes. That bellwether American industry—automobiles—would also be in deep trouble. Two-thirds of the people who buy cars, finance the purchase with loans requiring large monthly payments on interest and principal. Again, millions of Americans who would lose their jobs in the next year or so would be unable to make their monthly payments. New auto construction would drop through the floor, many an auto owner would lose his car.

Business debt is far higher than the Federal debt or the household debt. Today it exceeds $4.3 trillion. The interest on that debt takes a record 50 cents of every dollar of the pretax earnings of the average American corporation. This is three times the interest burden of the 1950's and 1960's. Unlike other business expenditures, interest payments constitute a compulsory absolute unavoidable burden. No business can postpone these payments, stretch them out or reduce them. In most cases failure to meet the interest payments on time means bankruptcy. Indeed, even during the 6 years of this current recovery, corporate bankruptcies have been rising. This is the first time since the end of the terrible depression of the 1930's when the Nation's bankruptcies actually have risen in a period of recovery.

So what happens in a recession that hits this country when savings have been depleted and our debt has gone right through the roof? What happens is a depression that tosses millions of families out of their homes, shuts down auto plants all over the country, increases unemployment to 15 or 20 million or more, skyrockets the national debt into double digit trillions and calls for swift and drastic Federal Government action.

Some will argue that such an economic catastrophe would simply present a President with an unparalleled opportunity to act. In this view, the Federal Government could step in swiftly and decisively. It could use its sovereign powers including the constitutional warrant "to coin money and regulate the value thereof" to print whatever money was necessary to keep people in their homes, and to enable businesses to continue to function without any great increase in unemployment. But such a response would swiftly bring on explosive inflation. Interest rates would—as they always do—follow prices to the sky. Result: a further collapse of the housing and auto industries. It would be worse. Because of the international interdependence of the free world economies, our deep depression would swiftly spread to Europe, Japan and elsewhere in the free world. And precisely because of international differences, no single government, including the Government of the United States, might be able to provide the unifying leadership that would pull the free world economies together. Conflicts and competition over taxing and spending, as well as over interest rate policies, between the competing international economies might condemn our country, its trading partners and allies to such economic difficulties that the American people might throw the incumbent leadership out and keep it out for many years.

Would this happen? Possibly. Maybe. It would depend on how the next administration responded to this economic challenge. It would also depend on how other nations reacted. And, as always, in these global economic situations, it would depend very heavily on some critical developments far outside the control of the U.S. Government and even outside the control of the combined control of the governments of the free world. There can be no question of the superior productivity and efficiency of free markets and free economies compared to controlled, tightly regulated, centralized economies. There also can be no question that the performance of free economies, especially depend on developments outside of their control.

Still, the new administration might meet and master the challenge. Enormous technological advances have made modern economies much more productive and efficient. Marvelous global communications systems permit instantaneous worldwide market reaction. Sharply improved levels of education and technical skill in the developed free world and the demonstrated capacity to provide an abundance of material goods all permit life, even in an international depression, to be far better than it has been in the past.

The business cycle is not dead. Recessions and depressions are inevitable. But that does not mean the wholesale hunger and idleness of the 1930's will recur. The long trend of the international free world economy is moving ahead. The next administration will very likely be challenged by a severe recession that could easily deepen into a prolonged depression. An administration might meet that challenge with such vigor, force, intelligence, and international leadership that the country would emerge from economic hard times stronger than ever. Mabye. On the other hand, it would not. No one really knows.

THE TONGASS BILL MUST WAIT FOR NEXT YEAR

Mr. PROXMIRE. Mr. President, I am extremely disappointed that the Senate will have no opportunity to vote this year on the Tongass timber reform bill. Unfortunately, without the support of the Energy and Natural Resources Committee and its chairman, efforts at debate were pointless. Without his support, attaching Tongass as an amendment to other matters would have resulted in filibuster and stalemate. And finally, with few days remaining in the session, no time remained for clearing the bill through parliamentary maneuvers.

What a shame. This bill passed the House on July 27, 1988, by a vote of

361 to 47 and was the subject of 2 full days of Senate hearings in the Energy and Natural Resources Committee last November. One quarter of the Senate cosponsored S. 708, the companion legislation. The National Taxpayers Union and every major environmental group support it, 16 southeast Alaska communities support it and editorials in many of our Nation's leading newspapers and magazines support it.

Why is the Tongass timber reform bill so important, and why are we wrong to put it off until next year? The answers are simple. Each year that the Congress avoids dealing with the Tongass, U.S. taxpayers lose a minimum of 40 to 50 million more dollars; eagles, salmon, and grizzly bear lose more habitat; and, the Forest Service sells more 400-year-old trees for $2 to Japanese companies that make them into cellophane bags.

Even worse, taxpayers subsidize this wastefulness to the tune of 99 cents on the dollar. That is right, according to the Government Accounting Office and the Forest Service's own figures, the forest, which should by law be self-sufficient, brings in just one penny for each Federal dollar spent. And unlike every other national forest, Tongass expenditures are off-budget and immune from congressional scrutiny.

Then why do American taxpayers keep paying for the destruction of this precious resource, one of the only remaining temperate zone rain forests in the world? The Alaska Senators say that Congress promised the Tongass timber program to their State at the time we signed the Alaska National Interest Lands Act in 1980. Even ignoring the fact that one Congress cannot bind another, we meant the deal to last just 5 years, a time long since over.

So why should we continue a deal which was a loser from the start? Even worse, why should we support a deal which props up a declining timber industry at the expense of two thriving ones—tourism and fishing—that depend on an unspoiled forest for success? Together the fishing and tourism industries employ more people than the timber industry and their workers are among the strongest supporters of Tongass timber reform.

Does the 1980 deal do what we intended? No way. In 1980, we thought that subsidizing timber jobs in southeast Alaska to the tune of over $35,000 apiece would stem the out-flow of Tongass timber jobs. It didn't work. Instead of holding fast at 1980 levels or increasing, timber jobs continued to fall. In fact, according to the GAO, even though the Forest Service spent $131 million more on timber sales since 1980 than was needed to meet market demand, jobs still fell by about half in the industry during the same period. No amount of Federal investment would have maintained employment at the artificially high levels contemplated by section 705.

Instead of jobs, section 705 created a backlog of over 1 billion board feet of timber, prepared for sale but never purchased. At current cutting levels, this backlog alone would provide enough timber to keep the industry in business for at least 4 years. Since 1980, the timber industry has never purchased more than 330 million board feet of Tongass timber in a given year out of the 450 million that the Forest Service is required to offer for sale each year. Yet, because of section 705, the Forest Service must keep on spending taxpayers' dollars preparing timber that no one wants.

Mr. President, what does S. 708 do? Identical with title 1 of H.R. 1516, which passed the House, it repeals section 705(a) of the 1980 Alaska National Interest Lands Act [ASNILA] and with it the existing Tongass timber supply program.

This section required the Forest Service to offer 450 million board feet for sale in southeast Alaska each year and required the Forest Service to spend at least $40 million each year doing the job. What have these economically artificial terms meant for the Forest Service, southeast Alaska, and the timber industry? Unnecessary roads to nowhere, unused facilities, anything to spend money and mechanically comply with this nonsensical Federal mandate. At a time when the Federal deficit stands at $150 million we can't afford this waste.

H.R. 1516 in the House also contained two other sections which flowed directly from the idea that only radical surgery can save the Tongass program. I hope both of these sections will be added when the bill is reintroduced in the next Congress. Title II of the House bill gives the Secretary of Agriculture 1 year to try to renegotiate reform of two 50-year timber contracts which account for most of the Tongass timber purchased.

According to its House authors, this title gives the Forest Service, "one last shot at putting its management of the Tongass in order." For example, under these 50-year contracts, signed in the 1950's, trees which would go for $200 in the lower 48 States go for under $2 in southeast Alaska.

Title III places a 5-year moratorium on commercial harvesting of Tongass trees with special fish and wildlife, Native subsistence, recreation, or other values. This pause in the program gives the Forest Service time to evaluate these resources during revision of the Tongass land management plan now under consideration. These special areas were identified by those with the most knowledge of the resources: the southeast Alaska Conservation Council, the State of Alaska Department of Fish and Game, the United Fisherman of Alaska, Sealaska Corporation and a number of small southeastern Alaska communities.

Mr. President, last year Senator STEVENS and I had the GAO prepare an analysis of the current Tongass timber program. Here's what they said, "We do not believe that section 705's provisions for sustaining employment by ensuring the availability of timber are likely to succeed." They go to make an important recommendation to Congress: the amount of timber supplied should be based on anticipated demand for timber rather than rigid, required timber cutting. That's just what my bill does by repealing section 705 of the Alaska Lands Act and returning the Tongass to normal supply and demand laws.

According to the Congressional Budget Office this would save $40 million per year.

And what resources could we save by sensible management of the Tongass? The Tongass is our largest national forest and one of the most beautiful. It consists largely of mountain islands that rise dramatically from the sea, covered by rare, old growth forests, the world's largest populations of grizzly bear and our national emblem, the bald eagle. It contains the spawning streams for five species of salmon, critical to the region's commercial fishing industry.

Finally, Mr. President, while my bill did not contain the contracts and land protection titles found in the House bill, these measures deserve Senate support next year. The two main contracts for Tongass timber date back to the 1950's, before the era of modern forest management.

Under their terms, the Japanese-owned Alaska Pulp Corp. and the Louisiana Pacific-Ketchikan Co. have exclusive rights for 50 years to two-thirds of the commercial forest lands on the Tongass at bargain basement prices. Unfortunately for the taxpayer and the environment, the last of these contracts extends to 2011. And these two lucky companies have not been model citizens as they enjoyed their Federal largess. Both mills were found guilty of price fixing, violating antitrust laws and colluding to drive independent loggers out of business. And both repeatedly violated clean air and clean water regulations and stymied the use of modern forest planning laws. Under the House bill, these contracts would be renegotiated in accordance with the same environmental and economic standards that apply elsewhere in the National Forest System.

The Senate should also include the land protection section when it considers the Tongass bill next year. The House bill contains a 5-year moratorium on cutting some of the most environmentally significant or fragile lands in the forest. This moratorium places no hardship on a system sitting on a 4-year backlog of timber for harvesting. Nor does it unfairly "lock up" a huge portion of the forest in quasi-wilderness status. Remember, we are talking about 5 years, not forever.

In fact, only 8 percent of the high volume, commercial timber land in the forest was put into wilderness with the passage of the Alaska National Interests Lands Act in 1980. Yet this same land houses the region's most critical fish and wildlife habitat. For example, just 30 percent of the best salmon streams and most significant wildlife habitat is currently protected from logging.

Mr. President, the Tongass bill gives the Senate a chance to do something really important for the environment while saving precious dollars. How can we fail to act? I encourage all my colleagues to pass this bill next year.

A MAN CALLED LEMKIN

Mr. PROXMIRE. Mr. President, on Tuesday the New York Times carried a column by A.M. Rosenthal that is a masterpiece. It is a tribute to a remarkable man named Raphael Lemkin. Raphael Lemkin more than any other person was responsible for the action of the United Nations in adopting the Genocide Convention. In fact, it was Lemkin who actually coined the word "genocide." In his superb piece, Rosenthal tells the story of one individual who made the great difference against virtually impossible odds and without any position of power or influence. Lemkin died 29 years ago. As Rosenthal tells the story Lemkin died alone, in a hotel in New York without medals or prizes. Only seven people attended his funeral. He was a great man.

I ask unanimous consent that the article by Mr. Rosenthal be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A MAN CALLED LEMKIN

(By A.M. Rosenthal)

The story in the paper reported that after 40 years of consideration the United States Senate had voted to make it a Federal offense to commit genocide. That is the crime of acting with intent to destroy a national, ethnic, racial or religious group.

The story did not mention a man called Lemkin.

Raphael Lemkin pokes his head into a newspaper office in the headquarters of the United Nations in the village of Lake Success on Long Island.

"Here is that pest, that Lemkin," he says. "I have a genocide story for you."

Everybody groans; Oh, Lemkin again? He makes a funny face, folds his hands in begging gestures. The reporters gather around for a few minutes. He gets his little story about the genocide convention, usually tucked away in the paper on a Sunday.

Raphael Lemkin was a Polish professor of law, a distinguished academician who spoke nine languages. He was a Jew. During the Holocaust the Germans murdered 49 members of his family; see how few words it takes to tell the whole story.

He escaped to Sweden, reached the United States, found good positions at Duke and Yale. He left them and gave himself over to his life's work.

His work was to convince the nations of the world that they must make it a crime to plan or carry out another Holocaust of any people. He coined "genocide" from the Greek word for race and the Latin for killing. He wrote a convention, a treaty for the nations to sign.

Then he walked the corridors of the U.N. He stopped journalists, took junior delegates by the arm and hung on until they listened, at least a moment. To see an ambassador, he would plan and plot for weeks and sit for days in reception rooms.

He had no money, no office, no assistants. He had no U.N. status or papers, but the guards always let him pass. He carried a black briefcase stuffed with documents and his daily sandwich.

He knew that when he opened the door people would say: What, Lemkin, you here again? Sometimes it was said affectionately, sometimes with distaste. Then he would pretend he did not care. But there were many days when he sat slumped in the cafeteria over a cup of coffee, barely able to lift it for the weariness in him and the rebuff.

But if he had to wheedle and plead he did. If he met an arrogant delegate who had influence, he made himself small and fawned. Then he would turn away and make the small smacking noises of a man trying to get a bad taste out of his mouth.

He would bluff a little sometimes about pulling political levers, but he had none. All he had was himself, his briefcase and the conviction burning in him. We would say to him: Lemkin, what good will it do to write mass murder down as a crime; will a piece of paper stop a new Hitler or Stalin?

Then he put aside cajolery and his face stiffened.

"Only man has law. Law must be built, do you understand me? You must build the law!"

He walked the halls every day from the spring of 1946 until Dec. 9, 1948, when the General Assembly, in Paris, adopted a resolution approving his convention. That day reporters went looking for him to rejoice in his triumph. But we could not find him until, hours later, we thought to look into the darkened Assembly hall. He sat there weeping as if his heart would break. He asked please to be left in solitude.

Then this Lemkin came back to the corridors for years, pleading with delegation after delegation to follow through on the U.N. resolution by getting their countries to sign the treaty. There was a time when he was considered for the Nobel Peace Prize; Winston Churchill backed him.

But he died alone on Aug. 28, 1959, without medals or prizes, in a hotel in New York. There were seven people at the graveside when Raphael Lemkin was buried.

In his lifetime, and for long after, the country that gave him succor never signed the treaty, although almost 100 others did. For almost 40 years lawyers fought it on technical grounds, Senate racists fought it out of fear that blacks might use it. Some senators worried that making mass murder a Federal crime would diminish state rights.

The Senate gave its consent to the treaty in 1986. But it took two more years to push through the legislation needed to make genocide a crime in the Federal code.

Jacob Javits fought for it all his senatorial years. And at every Senate session for 19 years, Senator William Proxmire rose in outrage to plead for the convention—3,000 speeches, each different. Raphael Lemkin and the Senator from Wisconsin never met. But they would have understood each other at once.

THE GOLDEN FLEECE AWARD FOR OCTOBER

Mr. PROXMIRE. Mr. President, I am awarding my Golden Fleece Award for October to the Indian Health Service of the Department of Health and Human Services for wasting $1.3 million on housing allowances when Government housing was available.

The Indian Health Service paid twice for housing and left the American taxpayer homeless.

Through the Public Health Service Commissioned Corps, health care personnel are assigned to the Indian Health Service [IHS] to provide medical services to tribes located on reservations. In turn, the IHS provides housing to corps members through either existing living quarters or a basic housing allowance when housing facilities aren't available.

However, between April 1987 and March 31, 1988 the IHS paid housing allowances when suitable quarters were available and wasted $1.3 million because they didn't properly enforce their rules.

In addition, over the years the IHS has spent the taxpayers' money to construct and maintain quarters to be used by members of the Health Service Corps. Since 1976 the IHS has spent $48.6 million to construct housing. In 1986 another $5.6 million was appropriated to build even more housing.

While the taxpayers are left shivering in the cold, the IHS allows double payments to occur by not requiring corps members to stay in available housing and then paying them to live somewhere else.

According to the Inspector General of the Department of Health and Human Services, the Schurz Health Facility had 20 housing units of which 12 were vacant. At the same time, 11 of the 12 corps members who were assigned to Schurz were receiving quarter allowances and commuting back and forth each day from nearby communities.

Not only did the IHS not require corps members to stay in available housing, they were equally lax in who they did permit to stay in the quarters.

In the Whiteriver Service Unit area, corps members stayed in a nearby ski resort while the available quarters housed three researchers, six medical students and a missionary family. Again, housing allowances should have been terminated, but they weren't.

For paying twice for housing and leaving the taxpayer without a decent roof over their heads, the Indian Health Service of the Department of Health and Human Services deserves this month's fleece.

Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

RETIREMENT OF SENATOR JOHN C. STENNIS

Mr. DOLE. Mr. President, when the 100th Congress ends—and it will end—an era will also end. Because JOHN C. STENNIS, who has served in this body since 1947, is retiring.

JOHN STENNIS is one of the last of a breed; a true gentleman; a true patriot; a true statesman; and most of all, a true Senator's Senator.

Time and again, when the Senate leadership needed someone to tackle a difficult job, someone who could handle both delicate political situations and difficult issues, they turned to Senator STENNIS. His experience as a prosecuting attorney and 10 years as a judge in Mississippi, coupled with his unquestioned integrity made him a natural.

From Joseph McCarthy, to Bobby Baker, to Watergate, Senator STENNIS has been the one man his colleagues were most willing to trust when it came to judging issues of ethical standards. This trust, which was always well placed, culminated in his appointment as the first chairman of the Committee on Standards and Conduct—now known as the Ethics Committee.

But Senator STENNIS is perhaps best known in the legislative arena for his dedication to, and his vast knowledge of, this Nation's defense establishment. He has served as both the chairman of the Armed Services Committee, and, most recently, Appropriations Committee chairman, the two most influential positions in the Senate regarding national security policy. And while Senator STENNIS has always been a staunch supporter of the military, he has exercised his independent judgment on defense issues—whether it was on specific weapons systems or restrictions on war powers.

It did not have to be an important defense bill, or an appropriations bill that Senator STENNIS was personally involved with, for Senator STENNIS to be on the Senate floor. Whatever the issue, if it were of national consequence, Senator STENNIS was here, listening to the debate, asking questions, playing the role a Senator is supposed to play.

As I said at the outset, Senator STENNIS is one of a kind. And one of the characteristics that sets him apart is his vision of duty and responsibility. "I want to plow a straight furrow," Senator STENNIS once said, "right down to the end of my row."

There is no question that JOHN STENNIS has achieved that goal—and much, much more. I will miss Senator STENNIS, his wise counsel, his charm and courtesy, and his commitment to this institution. And I wish him Godspeed in the years ahead.

RETIREMENT OF OMB DIRECTOR JIM MILLER

Mr. DOLE. Mr. President, as we near the end of the Reagan administration, there are many in the executive branch who will be leaving the White House or other executive departments seeking other employment, and this week the Office of Management and Budget Director Jim Miller has left the White House. He has left probably the most difficult job in many ways, at least one of the least pleasant jobs, in Government, and that is heading up the Office of Management and Budget. Jim Miller, who has been the Director since October 1985, is now resigning from that post, and I want to take just a moment to thank him for his hard work and patience.

Jim has had to preside over the office during a time of fiscal restraint and retrenchment. Dividing up the shrinking pie of Federal resources is no easy task, since there are many programs, often worthwhile programs, competing for fewer and fewer dollars. As a longtime fiscal conservative, and former member of the Federal Trade Commission, Jim Miller was well prepared for the task. He carried out his duties with equanimity and an ever watchful eye on the task at hand. And his vigilance has borne fruit.

Despite a deficit that is larger than any of us would like to see, the fact is that the rate of Federal spending has slowed significantly during the Reagan years—from a 15-percent annual rate in 1981, to between 5 and 6 percent annually today. It is the policies of the Reagan administration, pursued and adhered to by people like Jim Miller, that made this possible.

One other factor contributing to the decline in spending is the Gramm-Rudman-Hollings Balanced Budget Act, a bipartisan act which was initiated in this Chamber. The law imposed additional responsibilities on OMB, which Jim has overseen and fulfilled admirably.

So, Mr. President, again, I thank Jim Miller for his years of Government service and dedication. I wish him well as he pursues new goals, and I hope he remembers us fondly around budget time next year.

GEORGE SHULTZ: STEADY HAND AT STATE

Mr. DOLE. Mr. President, another very important figure in the administration who will be leaving at the end of this year is Secretary Shultz. Secretary Shultz I think has dealt with probably everyone in this Chamber.

Through his 8 years of office, President Reagan has appointed some outstanding public servants to his Cabinet. With the exception of a former Transportation Secretary, there is none that I personally hold in higher regard than Secretary of State George Shultz.

Secretary Schultz has been a steady hand at State for more than 6 years. He has been there through many extraordinarily successful times—the negotiation and ratification of the INF agreement, the first Nuclear Arms Control Agreement in history that actually reduced the number of nuclear weapons in the world; the agreement on a Soviet withdrawal from Afghanistan; the strong stand we have taken in the Persian Gulf, strengthening our own hand in that vital region and catalyzing the Iran-Iraq peace talks.

He has also been there through some tough times—especially in the aftermath of the Iran-Contra affair.

Through it all, he has done his job with skill, quiet determination, and a total commitment to the President's policies.

We have agreed on almost every important issue. But one striking characteristic of George Shultz is that, even on those few issues on which we have held different views, he is a man with whom you can disagree—agreeably. And he is a man with whom you can work, in this real-world environment of compromise and consensus.

Mr. President, this President and this administration will leave a remarkable legacy in the foreign policy field. George Shultz is one important reason why.

UNREST IN YUGOSLAVIA

Mr. DOLE. Mr. President, many very angry chickens are coming home to roost in the Soviet Union and throughout Eastern Europe.

The people of the Balkan States—Latvia, Lithuania, and Estonia; the people of Armenia; the people of Poland, Czechoslovakia, and Yugoslavia: they are all fed up with decades of communal violence, political and social repression, and economic mismanagement. In a way that Mr. Gorbachev never intended, glasnost has given them an opening to express their pent-up anger, and yearning for greater freedom and prosperity.

One of the most dangerous and violent situations is in Yugoslavia. I will ask consent to have printed in the RECORD an article from today's Washington Post on the "tinder-box" situation in Yugoslavia.

The roots of Yugoslavia's ethnic and political crisis go back many decades. The situation is very complex. No one nationality or ethnic group has a corner on virtue; all must share the blame for increasing unrest and violence.

But I would like to express very deep concern about the unwarranted attempt by the Communist leadership of the Serbian Republic—one of the constituent Republics of Yugoslavia—to eliminate the semi-autonomous status long enjoyed by the provinces of Kosovo and Vojvodina, areas heavily populated by ethnic Albanians.

That effort is one key reason for the crisis in Yugoslavia today. If it succeeds, it would upset a delicate political and ethnic balance which is essential to preserve order in Serbia, and which many believe is essential if Yugoslavia is to survive as a nation.

The principle of semi-autonomy for Kosovo and Vojvodina should be reaffirmed; and both the Serbian and Albanian sides must "stand-down" from the escalating series of demonstrations and counterdemonstrations which have now reached a crisis state.

I hope the national leadership of Yugoslavia, and the political and ethnic leaders of Serbia, will heed this call; and that order can be restored in Yugoslavia, without further assaults on any of the citizens of that country, or on their human rights.

Mr. President, I now ask unanimous consent that the aforementioned article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Party Strife Aired in Yugoslavia—Leadership Meets on Political Crisis

(By Jackson Diehl)

Belgrade, Oct. 17.—A key meeting of the Communist Party's policy-making Central Committee opened here today under the shadow of a top-level power struggle that party president Stipe Suvar said threatens the "bare survival" of the country.

In televised speeches to the emergency committee session at Belgrade's modernistic convention-center, Serbian party leader Slobodan Milosevic, the focus of the political storm, bluntly laid out the demands of his republic—the largest of Yugoslavia's six—for more power within the national federation, while Suvar delivered a thinly veiled attack on Milosevic's crowd-stirring tactics.

A number of other speakers called also for a major shake-up in the party and in the policy-making Central Committee itself. The removal of up to a third of the committee's 165 members and the retirement of at least four from the ruling 23-member party Presidium are expected to be confirmed at the second day of the session Tuesday.

Strong contingents of police were stationed in and around the convention center to counter possible demonstrations, and party sources said contingency plans had been prepared to evacuate the Central Committee from Belgrade in the event crowds marched on the hall.

Party organizations in the capital have been instructed to prevent groups of people from converging on the meeting, official sources said. Earlier this month, crowds of Milosevic supporters besieged party headquarters in the Serbian province of Vojvodina and the republic of Montenegro, forcing resignation of Vojvodina's leadership and prompting the national government to threaten emergency security measures.

In one speech to the committee session today, Yugoslavia's Defense Minister, Lt. Gen. Veljko Kadijevich, denounced rumors of a play for power by the military, saying that it was "false and malicious" to suggest either that the Army "should take power through a putsch" or that it should stay out of politics completely.

Milosevic, who has orchestrated a dramatic series of political protest rallies by Serbs since July through appeal to their strong nationalist feelings, said that he expected the Central Committee to take decisive action to strengthen Serbia's control over its two largely autonomous provinces, Vojvodina and Kosovo, both of which lie wholly within Serbian territory.

The Serbian leader said drastic measures were needed to stop what he called "the terror in Kosovo"—the alleged persecution of Serbs in the province by the ethnic Albanian majority. "Serbia has no pretensions to the territory of other republics, but it does have pretensions to its own territory," he declared.

The national party Presidium has already endorsed constitutional changes that would strengthen Serbia's authority over the provinces, but Milosevic has also demanded that the Central Committee purge three former chiefs of the Kosovo party organization, including Azem Vlasi, who is widely considered the province's most popular Albanian politician.

Another of the Kosovo party leaders, Kolj Siroka, a member of the national Presidium, has already announced his resignation from that powerful body. Three other Presidium members also have stepped down, but Vlasi and other Albanian leaders in Kosovo have publicly defied the pressure from Milosevic.

There was no public indication of how the Central Committee session would decide the personnel dispute or what measures were contained in a resolution submitted to the committee by the Presidium. In a lengthy opening address, however, Suvar appeared to renew criticism of Milosevic's populist tactics by declaring that Serbia was seeking to impose its leader on the country.

"All reasonable people here are aware that unscrupulous confrontations, taking to the street in large numbers and the denial of all institutions of the system do not lead us anywhere," said Suvar, who represents the republic of Croatia on the Presidium. He acknowledged that incompetent leaders should be forced out, but he added: "The latest events have shown that the workers do not demand that all should resign, that the leaderships of the country, republics, provinces and communes should become headless and that states of unrest [and] anarchy . . . should be provoked.

"The strength of Yugoslavia," Suvar said, is "the unity of its nations and nationalities and their awareness that this unity is a condition not only of prosperity but of bare survival."

Milosevic responded by defending the rallies and demonstrations. "Any condemnation of rallies in Yugoslavia is not acceptable," he said. "They are held in protest against the inability of institutions and individuals to stop terror in Kosovo."

The leader of another Yugoslav republic who has opposed Milosevic, Milan Kucan of Slovenia, delivered a speech objecting to Serbia's call for an extraordinary party congress and rejected the possible imposition of emergency measures. "We must put aside ethnic differences and national tensions and consider democratizing the party," Kucan said.

Mr. President, I reserve the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LIFE SERVICE TO VETERANS AWARD TO SENATOR DOLE

Mr. BYRD. Mr. President, on May 25, 1988, the Paralyzed Veterans of America and the Vietnam Veterans Institute presented their annual Life Service to Veterans Award to Senator Bob Dole. The ceremony took place in the Madison Building of the Library of Congress and was hosted by John Michaels, president of the Paralyzed Veterans of America, and J. Eldon Yates, chairman of the Vietnam Veterans Institute.

Following the remarks from Mr. Michaels and Mr. Yates, the four previous award winners addressed the hundreds of attendees. Those award winners, speaking on Senator Dole's behalf, were Senate majority leader Robert Byrd, Senator Cranston, Representative Montgomery, and Representative Hammerschmidt. Additionally, Senators Murkowski and Kassebaum attended and addressed the gathering.

Mr. President, I ask unanimous consent that the remarks by the two heads of the organizations and the Members of Congress be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

PVA and VVI Life Service to Veterans Award

(Comments by John Michaels, President, PVA)

Paralyzed Veterans of America takes great pleasure in joining with the Vietnam Veterans Institute to recognize and pay tribute to The Honorable Robert Dole for his outstanding efforts on behalf of America's veterans. Tonight we present Senator Dole with the Fifth Annual "Award for Life Service to Veterans" as a symbolic expression of the respect, admiration and grateful appreciation we hold for his personal and legislative accomplishments.

The award is intended to recognize outstanding Americans who through public or voluntary service have made consistent, dedicated contributions to the well-being of

America's veterans. This award is a prestigious form of recognition which PVA and VVI bestow upon those individuals whose demonstrated loyalty and commitment are deserving of honor.

The significance of the award is expressed through artistic application indicating the desire to historically preserve the contributions of the recipient for all time.

On this occasion, Senator Dole will take his rightful place beside the distinguished past Life Service Award recipients, Congressman G.V. (Sonny) Montgomery, Senator Robert C. Byrd, Senator Alan Cranston, and Congressman John Paul Hammerschmidt.

For the members of Paralyzed Veterans of America, this is an extremely proud moment. Senator Dole himself is a Life Member of PVA. In 1945 Senator Dole suffered a catastrophically paralyzing injury while leading a platoon of the 10th Mountain Division Infantry in Italy. For this action he was awarded the Bronze Star with "V" device and his second Purple Heart. As a disabled veteran, he typifies the levels to which one can excel and his courage serves as an inspiration to all. Senator Dole's personal experiences have made him a strong and determined advocate for veterans and all disabled Americans. In 1985, PVA awarded Senator Dole with the Harry A. Schweikert, Jr., Disability Awareness Award.

Senator Dole's service in the U.S. Congress has spanned over 27 years but his service to veterans began even earlier as a veterans' service officer in his home state of Kansas following his lengthy recuperation after World War II. Beginning with his first election to the U.S. House of Representatives in 1960, Senator Dole has been a crusader for federal aid for American veterans and disabled individuals.

His remarkable ability to produce meaningful legislation has earned him the respect of his colleagues and the role of the Senate's Republican Leader since the 99th Congress. During this time, Senator Dole has made compensation benefits for disabled veterans and extension and improvement of the G.I. Bill among his top priorities. He was also one of the first U.S. Senators to introduce legislation elevating the Veterans Administration to Cabinet status. In addition to the Life Service Award, Senator Dole has been honored with the AMVET's Silver Helmet Award and the VFW's Congressional Award.

Senator Dole has a long and well-established leadership record on issues that affect persons with disabilities. As a disabled veteran, he recognized the necessity to support or introduce legislation that would serve to improve programs for people with disabilities. Through his vision and course of action, Senator Dole's efforts have consequently benefitted and contributed to a better life for disabled individuals, including disabled veterans. Beginning with his initial speech on the floor of the U.S. Senate in 1969, Senator Dole has focused the attention of the Senate on eliminating barriers to individuals with disabilities in this country. In the 99th Congress, he sponsored legislation to create work incentives in the Supplemental Security Income Program and is now working to do the same with the Social Security Disability Insurance Program. In 1986, Senator Dole introduced the "Air Carrier Access Act" and continues to closely monitor the regulatory process in this area. In 1984, he was an original cosponsor of the "Voter Accessibility for the Elderly and Handicapped Act" to ensure that all have access to registration and voting in polling places.

In 1984, Senator Dole established the Dole Foundation for the Employment of People with Disabilities. The disability community has honored him on numerous occasions, recognizing him for his legislative accomplishments on behalf of people with disabilities.

The remarkable career of Senator Robert Dole, both as Majority and Minority Leader of the United States Senate is the epitome of the significance of the "Award for Life Service to Veterans".

Again, we are pleased to salute U.S. Senator Robert Dole and pay tribute to him by presentation of the Fifth Annual Paralyzed Veterans of America and Vietnam Veterans Institute 1988 "Award for Life Service to Veterans."

Comments by J. Eldon Yates, Chairman, Vietnam Veterans Institute

"It was the best of times, it was the worst of times: it was the time that tried men's souls." "Fifty thousand did not go gentle into the good night as the rest returned to the winter of their discontent."

Almost two decades have passed since that generation of young Americans went to war. This Award, in a sense, stands as a tribute to them as well as to its recipient. For the veterans of the Vietnam years, this award personifies the integrity and character of a generation who, upon their return, were again subjected to hostilities vis a vis the emotional ambushing and sniping by their non-veteran countrymen.

Like the outnumbered troops at Concord and the Alamo, they forged ahead through the scrimmages of negative media stereotyping un- and underemployment to rebuild their lives. Most survived these scrimmages, some did not; but they were the generation that was called upon to "ask not what your country can do for you, but, rather, what you can do for your country."

As we gather here in camaraderie with the Paralyzed Veterans of America and our friends and guests, we wish to reaffirm our belief in the integrity of military service. Equally, we will remain ever vigilant to assure that the next generation of young Americans who are called upon, will not return to a Nation wrought with misconceptions and hostility.

It is in this spirit that the Vietnam Veterans Institute and the Paralyzed Veterans of America have selected an American who knows the perils of battle and exemplifies the courage of all Americans who fought to rebuild their lives after being stunned by the rages of war—a man who not only fought to rebuild his own life but has dedicated a major part of that life to assisting other veterans to rebuild theirs. As a result of those selfless acts, he has emerged as one of the most respected Congressional leaders of our time. It is our privilege to unveil the portrait of our 1988 recipient of the "Award for Life to Veterans", Senator Robert Dole.

Remarks of Senator Robert C. Byrd

Mr. Byrd. Senator Dole, my many colleagues, ladies and gentlemen. I am most pleased to attend this reception in honor of my good friend Bob Dole. I have known Robert Dole for a good many years. I know him as few other Americans do. We share a unique history. We both come from a rural heritage. Bob Dole's roots are in Russell, Kansas. I hale from a little town in West Virginia called Sophia. We have been in the Senate together a very long time. I was elected in 1958. Bob Dole followed me two years later in 1960.

In the last decade, there have been three Majority Leaders in the United States Senate; Bob Dole, Howard Baker, and myself. Between January 1977 and January 1981, I held the position of Majority Leader. In 1981 Howard Baker became the Majority Leader. I became the Minority Leader. In 1986 when Howard Baker gave up his seat, Bob Dole became Majority Leader. In 1987, I again became Majority Leader when the Democrats regained the majority.

In the last 28 years, Bob Dole and I have worked together, opposed each other, and stood side by side as Americans when this nation has confronted a crisis. We share a common bond in our affection for the institution in which we both serve, the United States Senate. We respect its traditions and history, its unique Constitutional role in our form of government.

I know Bob Dole as a colleague. We all know him as a war hero, a veteran, and as a champion for the handicapped. Like all of the veterans here tonight, Bob Dole is no quitter. He knows what it means to persevere.

America is a stronger country because it is full of men like Bob Dole; veterans who did not quit in the midst of the battle. Men and women of character who came back from the battlefield, overcame their own handicaps, and saw fit to contribute their leadership and talent to this country that we all love so much.

Now, the Paralyzed Veterans of America and the Vietnam Veterans Institute honor Bob Dole with the "Award for Life Service". As a previous award winner I find myself in good company. Three of my fellow Senators have been so honored: Senators Cranston, Murkowski, and Kassebaum. So I am honored to be part of this ceremony; to show our affection and respect for a colleague, an American, and patriot, Bob Dole.

Thank you.

Remarks of Senator Kassebaum

Governor Bradford of Massachusetts set down these attributes for a successful politician:

To live long politics, you must possess
the hide of a rhinoceros,
the memory of an elephant,
the presistence of a beaver,
the native friendliness of a mongrel pup.

But all of these combined are not enough, unless when it comes to the matters of principle, you also have the stubbornness of any army mule.

I don't believe Governor Bradford knew Bob Dole, but he certainly had him pegged. His courage, commitment, and leadership is unchallenged; and I can think of no more fitting recipient for this award.

Remarks of Senator Alan Cranston on the Presentation of the "Lifetime Service to Veterans" Award to Bob Dole

I am delighted to join the Paralyzed Veterans of America, the Vietnam Veterans Institute, member of Congress, and the many others who are gathered in tribute to Bob Dole for his life service to veterans.

As an honoree two years ago and a fellow World War II veteran, I want to welcome you, Bob, into this group of which I am so proud to be a part with our good friends, Robert Byrd, Sonny Montgomery, and John Hammerschmidt.

As wonderful as it is to be picked for this honor, receiving the handsome oil portrait done by Tom Nielsen is a very exciting part of this event. Tom did an outstanding job with my portrait, and I look forward to the unveiling of yours, Bob.

Bob is most deserving of this honor. As one who has participated in the process for a number of years, I can state without equivocation that Bob's contributions—on behalf of veterans, most especially those with service-connected disabilities, and on behalf of all individuals with disabilities—have been of special significance.

It's not always easy to know how someone's life was affected by this or that event. But it seems abundantly clear that the events that befell Bob Dole in Northern Italy in April, forty-three years ago, altered his life in most fundamental ways.

His experiences in battle, his injury, and his long, grueling fight to recover from those wounds left him with a deep understanding of the horrors of war, and an appreciation of the obligation to meet the needs of those who fight our Nation's battles.

When Bob speaks about veterans' issues or about matters affecting those with disabilities, the genuineness of his commitment gives special force and substance to his words.

It is certainly accurate to describe Bob as a Republican's Republican. My own roots are all Democratic. Nevertheless, it is also accurate to note that, we have always been able to work together.

In saying this, I don't want to be misunderstood—our dealings have not all been sweetness and light. I understand that Bob's World War II unit, the 10th U.S. Mountain Division, had quite a reputation for not taking prisoners and, once having taken territory, for not giving it up. That pretty much sums up Bob's Senate style!

In addition to his work specifically on behalf of veterans, Bob deserves most special recognition for his work on behalf of individuals with disabilities. He has fought long and hard—and with significant success over the years—to improve the status of disabled persons in our society. In his leadership role on the Finance Committee, he has authored and repeatedly succeeded in preserving the deduction for removing architectural and transportation barriers. A lot of deductions died in 1986—as many of you are aware—but this one was made permanent. Good work, Bob! Can you help me with my taxes?

Pursuing opportunities for disabled Americans is a matter of deep personal commitment for me as well, and I have profited from working with Bob on many such initiatives—including the 1986 legislation prompted by the PVA's lawsuit in the Supreme Court against the Department of Transportation, to promote fully accessible air transportation.

Bob and I share another area of interest—once we were both quarter milers and we're both still running. Also we both sought another position in the Federal Government, one located at the other end of Pennsylvania Avenue. Bob got closer than I did, but the less said about that affliction, the better!

Bob Dole's record on behalf of veterans and disabled individuals is absolutely first-rate. You honor yourselves in honoring him this evening.

Congratulations Bob!

REMARKS BY SENATOR FRANK H. MURKOWSKI, HONORING BOB DOLE

Thank you, Jack.

"The Faith to Endure," an article by Noel Koch, is an insightful portrait of the man the Paralyzed Veterans of America and the Vietnam Veterans Institute are honoring this evening. I would like to outline that portrait for you.

The date is April 14, 1945, and "Operation Craftsman," the spring offensive to bring about the German surrender in Italy begins. A young second lieutenant from Russell, KS, would lead the second platoon of "I" Company, of the 10th Mountain Division in the battle to take Hill 913. It has been said that, on that day, the 10th Mountain Division took more casualties than all of the allied forces in Italy combined.

Bob Dole was one of the many casualties of that day's battle. He was not expected to see a new dawn.

Bob beat the odds, and for the next three years—much of it spent on his back—he fought another battle—a battle to recover. Just as the men of the second platoon never gave up and ultimately took Hill 913, neither did Bob give up; and after years of rehabilitation he was back. In that moving article, we read the words of a young soldier in Bob's platoon which tell us much about the man we know as the Republican Leader in the Senate, "Dole was the best combat leader the platoon had. If he had to take a farmhouse, he went right for it. Never told somebody else to do it. He stayed in front."

He stayed in front. This is the Bob Dole I know, and this is why I consider it an honor to participate in this tribute. I know of no individual who better exemplifies the attributes implicit in the words "Award for Life Service."

Life service—to his Country—to Kansas—to the people of Russell—to his fellow veterans—and to those challenged by handicap. Life service is what Bob Dole is all about.

He is an individual who continually demonstrates the sensitivity, courage and determination to fight for the principles in which he strongly believes. We, as a Nation and a people, reap the harvest of his service.

Thank you.

HONORABLE JOHN PAUL HAMMERSCHMIDT—"AWARD FOR LIFE SERVICE TO VETERANS" AWARD CEREMONY FOR SENATOR ROBERT DOLE

Thank you, Jack, for that introduction.

The paralyzed Veterans of America and the Vietnam Veterans Institute do themselves proud by their selection of Senator Bob Dole as the recipient of their prestigious "Award for Life Service to Veterans". He is indeed a most worthy recipient.

The Senator has many notable accomplishments. Many are talked about. One, however, does not—in my view—get enough attention. I think that we can all agree that he married extremely well, and I think any award he gets ought to be shared with Elizabeth. Maybe we can get Tom Nielson who did the portrait on the Senator to also do one on Elizabeth.

You, of course, know that last year I was greatly honored to receive this award and the life size portrait that goes with it. It has also been given to Senator Robert Byrd, Senator Alan Cranston and Sonny Montgomery. We are now going to be joined by the distinguished minority leader of the United States Senate.

Senator Dole comes to this place tonight with a distinguished record. In war and peace he has demonstrated great leadership, unparalleled courage. He is admired and respected by each of his colleagues and by his countrymen all across the land.

The Senator knows that global wars have an individuality about them that transcends the millions of persons that have been involved in them.

The Senator knows that war often has a pain attached to it that never goes away—pain that cannot be fully described even by those upon whom it is inflicted.

He knows and understands that in the governing process there is a rightful place for a just veteran's legislative program that is and ought to be the pride of our Nation and he has been in the forefront of those who would assure that this is so.

He knows and understands that those who have suffered the ravages of injury and disease deserve to have a fair chance to compete for dignified employment and his mark is deeply inscribed on the governmental effort in this regard.

He knows and understands how a great Nation must govern itself.

He knows and understands that such a nation needs and must have leaders who can match the greatness of her people.

He knows and understands the art of compromise and that there is a great difference in compromise and being compromised.

Senator Dole has made a difference. He has made good government better government. He has touched the lives of each of us. He has overcome infirmity. He has climbed the national mountain. All of us have been made better by his exercise of leadership. Indeed the Nation has been graced by his presence and the Nation is better for it.

I am honored to have been asked to be on the award program tonight of PVA and the Vietnam Veterans Institute as they give their highest honor to Senator Bob Dole, a truly distinguished citizen of our land.

Thank you one and all.

REMARKS OF CONGRESSMAN MONTGOMERY

I'm a little confused. My invitation said this was a portrait unveiling for Dole. But I peeked behind the curtain. It doesn't look at all like Elizabeth.

The year is 1923. A year of major events. Calvin Coolidge become President. Jack Dempsey holds on to the heavyweight championship. The first talking motion picture is released. The Yankees win the World Series. In the small town of Russell, Kansas, the Doles have a son, and America gets a future leader.

I think it's worth noting that Henry Kissinger and Bob Michel were born in the same year as Bob Dole—some kind of Republican movement I guess.

Nancy Reagan was also born that year. Must have been in the stars. Bob Dole doesn't watch the planets. He is one of the most common sense guys up here. He uses his own judgment on what is best for the country.

He has paid the price for serving his Nation in physical wounds and in bravery. He is a patriot and this portrait is well deserved.

It is appropriate that the painting should be done by a Vietnam veteran, Tom Neilsen and that this event is sponsored by veterans groups, Jerry Yates of the Vietnam Veterans Institute and Jack Michaels of the Paralyzed Veterans of America.

Congratulations Senate Dole on this well deserved honor.

Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York.

DRUG-RELATED MURDERS OF POLICEMEN IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise to report to the Senate that last night, in a space of 3 hours, two New York City police officers were murdered in drug-related events. This is the first time in half a century where two police officers have died on 1 day, and yet it is an event that is part of a rising torrent of crime, violence of a like we have not seen in the modern history of the city.

On February 26, while guarding the home of a drug witness in Queens—a simple citizen who had objected to the selling of drugs in his neighborhood—drug dealers decided to murder Officer Edward Byrne. He was assassinated by three young men, mindless, destructive, and guilty. On April 13, Housing Police Officer Anthony McLean was murdered; on April 27, Sgt. John McCormick; Housing Police Officer Gary Peaco on June 16; and Officer Joe Galapo on August 16, and in the meantime, dozens of others have been wounded, harassed, injured.

We have an epidemic, Mr. President, and it is seizing the cities of this Nation.

I was in our upstate city of Rochester on Monday, and I was asked to talk about the bipartisan anti-substance abuse bill which we passed on Friday afternoon. Before I could scarcely begin a few remarks, a story was reported to us about the murder of a young man, a child, in high school, by three other young men not four blocks from where we were talking, in a city you hardly associate with murder in the streets.

What is causing these violent activities? It is crack. Mr. President, I have come to the floor before and showed it to you. There it is. These are crack bottles, manufactured in the Republic of China as the label says, which is to say Taiwan in our usage. Part of our trade deficit is the import of drug paraphernalia from overseas: Most of our drug epidemic is due to the import of cocaine from overseas. Cocaine's most potent derivative, crack. It came from the Bahamas in 1983, hit New York City in 1985 and has swept through the country like a plague.

The measure we passed on Friday is an extraordinary piece of legislation, the first true bill addressing the totality of drug abuse in the history of this body, the first consequential one since the Harrison Act of 1914. We passed it with near unanimity—87 to 3, as I recall.

At the end, the distinguished Senator from New Hampshire, Mr. RUDMAN, very handsomely noted that last spring, when each side of the aisle was developing a drug proposal, I had suggested that we had more in common than we had dividing us and we ought to work together, and we did. I think we surprised ourselves and produced a bill which is not well understood in the country. Unfortunately, the bill is not printed. I cannot understand that we would not print a bill of this consequence, but it has not been printed, so it is simply not there to be distributed and shown. Even so, we know what the House did was not very helpful, and does not address the drug epidemic in a productive manner.

I am going to take a moment of the Senate's time to set forth the principles of the Senate's bill in order that they might be in the RECORD.

The bill, as passed, provides a 2-year authorization totalling $2.6 billion in budget authority and $1.4 billion in outlays, of which 60 percent will be devoted to demand reduction programs such as treatment and education, and 40 percent to supply reduction programs, including law enforcement and eradication.

Spending of outlays immediately available in fiscal 1989, some $500 million, will be split 50-50, and the adjustment will be in the following fiscal year to maintain the overall 60-40 balance. Title I, organization, creates a Director of Drug Control Policy, a Cabinet-level position, responsible for coordinating all Federal drug efforts.

Title II is devoted to law enforcement and interdiction. It provides $1 billion over 3 years for State and local law enforcement programs to ensure the survival of this program in light of attempts to zero out this program in budget proposals. In addition, we set aside a proportion of these grants, 10 percent, for street-level law enforcement.

It authorizes $232 million—roughly a quarter of a billion dollars—in new funds for Federal prison construction. It authorizes $79 million for increased court security, juror expenses, and public defenders.

It authorizes $49 million in new funds for the Drug Enforcement Agency, $25 million for the FBI, $36 million for U.S. attorneys, $16 million for U.S. Marshals, and $11 million for the Bureau of Alcohol, Tobacco, and Fire Arms.

For Interdiction equipment and personnel, it authorizes $84 million in new funds for the Coast Guard, $93 million for Customs, and $36 million for the Immigration and Naturalization Service. It strengthens penalties for drug offenses committed within 1,000 feet of a school yard, for purchasing drugs from children, distributing drugs to children, or employing children to sell drugs.

It increases the mandatory minimum penalties for using hand guns or machine guns in drug offenses and a mandatory minimum life sentence for three-time drug offenders—a mandatory minimum life sentence. It also mandates drug testing for all persons on probation for a Federal felony or drug-related misdemeanor.

On chemical diversion, which is a necessary aspect of the production of illegal drugs, it sets strict record-keeping requirements for transactions of precursor chemicals. It strengthens precursor chemical import and export guidelines. It prohibits the unauthorized possession of machines used to manufacture medicine, and it sets penalties for violation of chemical diversion laws.

Title 3, in a way the heart of the bill, involves treatment and education. Mr. President, we call for treatment on request. We know more about the nature of cocaine addiction than we ever have. We are clear that we do not have a reliable pharmacological treatment. We have no blocking agents such as we have for heroin. Yet, we know enough to pursue such remedies.

I was talking to Dr. Goodwin this morning, of the Alcohol, Drug Abuse, and Mental Health Administration, and he made the point that we are finding that there are properties in cocaine and crack that are very close to the properties of some chemicals used successfully as antidepressants, and there is some possibility of substitution in some cases. In other words, we are making slight progress. That is how science works, and there are people determined to see that it should, and we must provide the funds to enable them to do that.

With regard to demand requests, we authorize $5.9 billion over the next 3 years. In doing so, we make the provision of substance abuse treatment on request an explicit goal of the U.S. Government.

On treatment facility construction, for the first time, we authorize the use of Federal grant moneys to build new substance abuse treatment centers.

On AIDS and intravenous drug abuse, we authorize $90 million for treatment and prevention in areas of high incidence of AIDS. The need for this is quite clear.

In my city of New York, some 2 percent of children now born test positive for AIDS. I remind my colleagues that an additional 5,000 children are born with crack in their urine.

We call for demonstration grants for drug education, focusing special efforts on high-risk youth. We know the profiles of these children, but we need to learn more. That is why we call for research and training in the field.

Title 4, on international matters, authorizes funds for the development and installation of a machine-readable passport system which will allow border officials to identify drug smugglers.

Title 5—user accountability. Yes, Mr. President, user accountability. It codifies current HUD guidelines which grant public housing agencies the authority to evict tenants if they, their families, or their guests engage in drug-related criminal activity. It also allows the Federal Government to seize housing units from tenants who violate drug laws by clarifying that public housing leases are considered property with respect to civil forfeiture laws. Lastly, it establishes a pilot program, based on a proposal by Senator LAUTENBERG, to allow public authorities to hire security personnel.

Title 5 also requires drug testing of employees in safety-sensitive positions in the airline, railroad, trucking, and bus industries, in the Federal Aviation Administration, and in urban mass transit.

As an additional user sanction, it requires the revocation of passports of individuals convicted of trafficking or money-laundering offenses.

Finally, it calls for a drug-free workplace, prohibiting the awarding of any Federal grant or contract to businesses that do not maintain a drug-free workplace by establishing a drug education program for employees.

Mr. President, I ask unanimous consent that the full text of these highlights be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, this is an extraordinary effort, 5 months in the making. The Senators who were involved in the core group, as we came to term it, all agreed that it could not have come out of our ordinary committee structure. There is no committee with this range of jurisdiction, this flexibility for response, this openness to information.

We have produced a bill which can make real inroads into this epidemic. I know there are some who regret the presence of the death penalty, and I understand exactly why, but there was a majority who felt strongly enough to make its inclusion a necessity. And the benefits from this bill cannot be underestimated.

But this bill is in jeopardy, Mr. President. Indeed, it is in harm's way. We assented to the House in the expectation that the House would either pass it or amend it and return it to us. Instead, we find ourselves being summoned to conferences on this aspect or that aspect, the inevitable territorial concerns of jurisdiction arising in the face of a clock ticking. The 100th Congress is all but over.

As I look about the Chamber, I see but three other Senators, myself making four, on this Senate floor. I do not know how many more there are in Washington. We will lose our quorum. The House will lose its quorum. And we will lose an opportunity scarcely to be expected again if this bill does not pass.

I do not know what more to say, how many more policemen will die, how many more children will ruin their lives, how many more neighborhoods will become unsustainable for any civilized society before we act.

Mr. President, I know the Senate would wish to express its condolences to the families of Officer Hoban, Officer Buczek, 26 years of age and 24 years of age respectively, and all those others, from Officer Byrne on, who have died in one city—New York—dying this year, the fourth year of the crack-cocaine epidemic of the 1980's For them, and all others who might die before the year is out, we must enact this bill

Mr. President, I thank the Chair and I yield the floor.

EXHIBIT 1

HIGHLIGHTS OF THE DRAFT BIPARTISAN DRUG BILL, OCTOBER 3, 1988

Overball Balance: The draft bill provides a 2-year authorization totaling $1.4 billion in outlays ($2.6 in budget authority), of which 60 percent will be devoted to demand reduction programs such as treatment and education, and 40 percent to supply reduction programs including law enforcement and eradication. Spending of outlays immediately available in fiscal year 1989 (approximately $500 million) would be split 50-50 between supply and demand, with subsequent spending weighted toward demand programs consistent with the need to maintain the overall 60-40 split.

In contrast, President Reagan's fiscal year 1989 budget request proposes that 72 percent of anti-drug spending be directed at supply reduction.

TITLE I—ORGANIZATION

Director of Drug Control Policy: Creates a Director of Drug Control Policy, a Cabinet-level position, responsible for coordinating all Federal anti-drug efforts.

TITLE II—LAW ENFORCEMENT AND INTERDICTION

State and Local Grants: Authorizes $1.025 billion over 3 years for the State and Local Law Enforcement grant program. President Reagan proposed no authorization for this program in fiscal year 1989. Sets aside 10 percent of these grants for street level law enforcement, the first such set aside ever.

Prisons: Authorizes $232 million in new funds for prison construction and expenses.

Courts: Authorizes $79 million in new funds for increased court security, juror expenses, and public defenders.

Law Enforcement Personnel: Authorizes $49 million in new funds for the DEA, $25 million for the FBI, $36 million for U.S. Attorneys, $16 million for U.S. Marshals, and $11 million for the Bureau of Alcohol, Tobacco, and Firearms.

Interdiction Equipment and Personnel: Authorizes $84 million in new funds for the Coast Guard, $93 million for Customs, and $36 million for the INS.

Penalties: Strengthens penalties for drug offenses committed within 1,000 feet of a schoolyard, for purchasing drugs from children, distributing drugs to children, or employing children to sell drugs. Increases mandatory minimum penalties for using handguns or machine guns in a drug offense, and a mandatory minimum life sentence for three-time drug offenders.

Drug Testing in Prisons: Provides for mandatory drug testing for all persons on probation from a federal felony or drug related misdemeanor conviction.

Chemcial Diversion: Sets strict record keeping requirements for transactions of precursor chemicals; strengthens precursor chemical import and export guidelines; prohibits the unauthorized possession of machines used to manufacture medicine; and sets penalties for violations of chemical diversion laws.

TITLE III—TREATMENT AND EDUCATION

Treatment on Request: Makes provision of substance abuse treatment on request an explicit goal, and authorizes $5.9 billion over the next three years in an effort to achieve it.

Treatment Facility Construction: For the first time, authorizes the use of federal grant money to build new substance treatment centers.

AIDS/Drug Treatment: Authorizes $90 million for drug treatment/prevention grants to areas with a high incidence of AIDS. This provision is carried over from S. 1220, the Kennedy AIDS bill.

Treatment Demonstration Grants: Creates 5 substance abuse demonstration grants serving adolescent addicts, addicted women with infant children, and minorities.

Drug Education: Reauthorizes the Drug Free Schools program at $405 million for 1989, $155 million above the President's request.

High Risk Youth: Increases current spending on demonstration grants for substance abuse prevention among high risk youth from $23 to $52 million.

Research and Training: Authorizes increased federal spending in drug and alcohol abuse research and creates a $14 million grant program for training health personnel in substance abuse treatment, counseling, and research.

TITLE IV—INTERNATIONAL

Passport Security: Authorizes funds for the development and installation of a machine readable passport system, which will allow border officers to identify drug law violators.

TITLE V—USER ACCOUNTABILITY

Public Housing: Codifies current HUD guidelines by granting Public Housing Agencies the authority to evict tenants if they, their families, or their guests engage in drug-related criminal activity.

Allows the federal government to seize housing units from tenants who violate drug laws by clarifying that public housing leases are considered property with respect to Civil Forfeiture Laws.

Establishes a $8 million pilot grant program to allow Public Housing Authorities to hire security personnel, reimburse law enforcement agencies for security services, and make physical improvements.

Drug Testing: Requires that employees in safety-sensitive positions in the airline, railroad, trucking and bus industries, in the Federal Aviation Administration and in Urban Mass Transit Authorities be subject to random, pre-employment, and post-accident drug testing.

Passports: Requires the revocation of passports of individuals convicted of drug trafficking or money laundering offenses.

Drug Free Workplace: Prohibits the awarding of any federal grant or contract to businesses that do not maintain a drug free workplace by establishing a drug education program for employees.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from New York for his leadership in this area and for his willingness to come on the floor and talk in terms of research and all the other aspects of this bill. It is an extraordinary bill, it is an extraordinary effort on the part of many people who have worked on this particular bill.

I would just like to say in backing the distinguished Senator from New York that research is really the defining mission of ADAMHA, the Alcohol, Drug Abuse, and Mental Health Administration.

Information generated through research is the foundation upon which the agency promotes effective strategies to deal with health problems and issues associated with the use and abuse of alcohol and drugs and with mental illness and mental health.

ADAMHA is "the only act in town" with respect to the generation of new knowledge applicable to the treatment and prevention of drug and alcohol abuse and mental illness. The Federal Government, largely through ADAMHA, supports more than 85 percent of the research on alcohol and drug disorders conducted in this country. This is in contrast to a 45-percent Federal share of general health research support.

At the same time, it should be realized that the Federal research budget is less than 1 percent of the total service-related costs of mental health and substance abuse disorders.

The primacy of the research mission defines but does not limit the activities of the agency.

Information obtained through research enables ADAMHA to speak authoritatively, within government and outside, to issues germane to the allocation of resources, the design and delivery of services, and the financing of services.

Adhering to a research mission does not suggest an intent to seclude the agency in an "ivory tower." If it is to be successful, the conduct of research encompasses information development and dissemination and the translation of research techniques into clinical practice through demonstration projects.

In the absence of new information regarding the causes, mechanism, treatment, and prevention of substance abuse disorders, the treatment community will "run, standing in place." Continued major investments in service systems to deliver the treatments currently available at the expense of research might be viewed as analogous to having invested 40 years ago in more sophisticated iron lungs, rather than in the research quest for a polio vaccine.

The research-driven psychopharmacologial revolution in mental illness, particularly as it applies to understanding and treatment of depression, has saved billions of dollars in burden of illness related costs; more importantly, it galvanized and energized the mental health treatment community.

A comparable research-driven breakthrough in the treatment or prevention of substance abuse would be of even greater significance to the substance abuse fields.

Permitting ADAMHA to focus on the generation of research knowledge and the translation of that knowledge into clinical practice will strengthen the agency's capacities to engage productively in national leadership as opposed to being responsible for oversight of Federal responsibilities related to the management of the Nation's State and local mental health and substance abuse service systems.

The success of States in managing the delivery of services through local mental health and substance abuse programs has truly been outstanding since we passed the first ADAMHA block grant program. The research findings of ADAMHA are being implemented by the States in cooperation with local mental health and substance abuse programs. This collegial approach, Federal, State, and community, is bringing the best knowledge and technology to our communities. Those who are delivering services, and in the best place to know, are able to adjust their programs to local needs and conditions, to provide services that are acceptable to their clients and responsive to the needs of their communities.

I am very, very concerned that we approach our discussions of this bill in our conference meetings intelligently and that we work to establish the Federal Government's preeminence in the area of research, while acknowledging the importance of States and community groups. Treatment certainly is a major concern, but it is certainly not the major role that the Federal Government should be conducting at this time and it is not the major role of the Federal Government. The major role of the Federal Government is research. Through research we might be able to resolve these problems once and for all and everybody in our society will benefit.

Finally, I would just like to say that I again thank the distinguished Senator from New York because he speaks in an articulate and intelligent way on these issues, and I appreciate standing with him on some of these issues as strongly as we have. This is a good bill. There are many, many things in the Senate bill that I think everybody should want to have. There are points of dispute and difficulties in the Senate bill but nowhere near as many as there are in the House bill.

I think what we have to do is try to work out these points of dispute and come up with the very best antidrug bill possible.

I hope we can work together to do that with our colleagues in the House.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

NUCLEAR REACTORS

Mr. EVANS. Mr. President, almost daily we read of the added problems of our nuclear production facilities for national defense. Yesterday it was a plant in Ohio, a few days before it was the Savannah River plant in South Carolina. A few days before that it was Rocky Flats in Colorado.

They are all indicative of the precarious position in which we find ourselves in producing the necessary materials for our own national defense.

The N-reactor at Hanford was shut down in 1986, and it has not been restarted. All three reactors at Savannah River have been shut down and the P reactor at Savannah River was unable to restart as scheduled. That, Mr. President, leaves us with no production capabilities today for nuclear materials for defense purposes.

The real problem is not plutonium. We seem to have enough of that explosive, at least currently. But tritium, an important element in the triggering mechanism of our nuclear weapons, does not last for an extended period of time. It decays rapidly and must be replaced.

If for an extended period of time we have no capacity to produce tritium, we will shortly get to the point where one after another of our nuclear weapons simply must be taken off the line because they are no longer viable.

Finally, Mr. President, the public and the press seems to be recognizing this fact. I do not mean to say I told you so, but these latest revelations are not new. I and others have been aware of problems with these so-called tea kettles for some time. They have been operating beyond their design lives. They have unique designs without the critical peer review which occurs in our commercial nuclear powerplants.

The actual power spike in the P reactor at Savannah River occurred on August 8, an incredible occurrence. People there did not know why it occurred and showed little interest in finding out why it occurred.

It is the evolution of a problem that should have been on the front burner for a long, long time.

Mr. President, I commend Senator GLENN for his long-standing efforts in bringing issues of this magnitude before the public. He has fought hard and continuously to ensure that our nuclear capacity for national defense is safe, done well, and capable of producing when we need that kind of production.

I also commend my colleague from the other body, Congressman Norm Dicks of the State of Washington. He has shown equal concern and has produced several important ideas that, if adopted, would allow us to do a better job in the future.

Mr. President, it is going to take billions, not millions, billions of dollars, to modernize our production complex. We seem to be talking about billions without realizing the budgetary constraints we are operating under. After the 5 years I have been in the Senate, I still find it difficult to stand on this floor and talk blightly of hundreds of millions, or even billions, without feeling a little scared about talking about that amount of money.

But each 100 million, not to mention a billion, is terribly important.

Remember that just a few days ago we avoided the automatic sequestration with all of the problems that would have carried with it under Gramm-Rudman by just $545 million out of a $1 trillion budget.

Safety and environmental considerations for this nuclear production capability will be high on the priority list as we build new production reactors. This was not the case when we built the current reactors in the 1940's and the 1950's. We built them at Hanford and at Savannah River under wartime conditions. We did it without fully knowing the consequences of all we were doing.

But the Manhattan project, which produced the first atomic bomb, and the Atomic Energy Commission, which followed it, all were focused on first winning the war and, second, embarking on what they then called a new atomic age. But, remember, as we deal today with a rebuilding of that important—no, critical—production capacity, we must understand that safety factors, environmental considerations, EIS's, and challenges to EIS's, will affect all sites. Not just Hanford, which has been undergoing a good many of those EIS challenges, but also the Savannah River project and the nuclear facilities in Idaho.

I hear, Mr. President, that Greenpeace not long ago opened an office in Idaho Falls to fight the environmental impact statement on the SIS project, and eventually the high temperature gas reactor at that site.

We must all recognize this new reality and deal with it up front. Time frames for new production must be adjusted accordingly. And I do commend Secretary Herrington for his efforts to address these problems more directly and more openly, including establishing an Assistant Secretary for Environmental Safety and Health, and an advisory panel, the so-called Ahearne Panel, which advises the Secretary on these production reactors.

Mr. President, recognizing the difficult task ahead of us in budgetary, environmental, and safety areas, to build these new production reactors we simply must turn to the job. Peace through strength has worked in arms control. We are on the right road today with the signing of an INF agreement and with a move toward a better relationship with the Soviet Union. But we cannot be strong at home without a safe and secure production complex to produce the materials, the nuclear materials for our nuclear triad.

Especially important for all of us is to maintain all options for the next administration. In less than 3 weeks a new administration will be chosen. In less than 3 months, a new administration will take charge. This issue is going to be one of the toughest challenges to be met by that new administration.

We should not at this point preclude options. And, in fact, the last months of this administration ought to be devoted to retaining all options. In fact, we ought to be accelerating our planning on all of these options during the next several months so that we can present to a new administration some responsible and complete alternatives.

Let me speak briefly about the current problems we seem to be having with our basic production facilities at Savannah River. They are already operating beyond their designed lives of 30 years. Life extension is an option but it is increasingly questionable, given the lack of an adequate safety baseline and the mismatch between design and operating specifications which seems to be endemic there. There is a real and an obvious disconnect between engineers who worked on the design and the operations and maintenance personnel. Specifications do not often match, design documents do not often exist. This is especially true in testing the ability of those reactors to react to seismic shocks.

A recent National Academy of Sciences report of safety issues at the defense production reactors pointed out several problems, including: first, the aging phenomenon caused by stress corrosion cracking; that is the hairline cracks in reactor vessels which come because of the intensity of nuclear reaction and, simply, the age of those reactors. If adequate ultrasonic testing cannot be developed, then we may seriously have to look at retiring those reactors from service.

Second, there is a lack of adequate understanding of the behavior of the reactors in a loss of cooling accident. This is the primary reason reactors have to be ramped down, if you will, operated at only 45 percent of their operating capacity. Why? Because they are simply not sure of the reactor's behavior in such a scenario. "The DOE should ensure that before restoring full power operation at Savannah River it satisfies itself on the basis of a rigorous external review that it has a thorough understanding of the behavior of the Savannah River reactors in a loss-of-coolant accident."

Third, I do not like to draw scare stories, and in fact I dislike those who do. But there is a potential for a Chernobyl-like power excursion caused by potential positive reactivity in the reactor in a severe accident. That is a scientific way of saying the potential of a meltdown is there.

Although such a scenario is not likely, the NAS has recommended that special attention should be paid to this problem.

There are other recommendations from the National Academy of Sciences as well. To my knowledge, none of these recommendations have been completed and none are scheduled to be completed prior to the restart of the K-reactor in December of this year.

Frankly, Mr. President, I am puzzled as to why the K-reactor—why the DOE now plans to restart the K-reactor in December instead of the P-reactor as it tried to do in August. The apparent reason seems to be the addition of a fourth emergency core cooling system in the K-reactor. But DOE apparently intended to restart the P-reactor without such a fourth cooling loop.

Are there other reasons for selecting K instead of P? And are all of the issues affecting these old-fashioned tea kettles, pointed out by the National Academy of Science and the others, going to be resolved in the next 8 to 10 weeks?

Mr. President, the relationship between the contractor and the Department of Energy, both on site and between Savannah River project and DOE headquarters, needs to be strengthened. There needs to be a more aggressive safety mentality in the line management of the contractor.

Safety cannot be an after-the-fact review. It must be built into the management process itself. There has got to be more understanding of reactor physics, such as reactivity issues and control rod mechanisms, in the control room itself. And whoever is in charge of each shift in those control rooms must understand thoroughly those basic physics.

Are all these problems going to be resolved by December? The contractor refused to recognize the severity of the safety issues in August after the DOE headquarters raised the range of safety issues. The attitude simply appears to be: Well, we know these reactors. We know how they operate. And outsiders simply do not. We define the scope of the problems and how they are to be resolved. Do not tell us how to run our shop.

You know, Mr. President, similar attitudes seemed to exist within commercial nuclear reactors before TMI-2 and its difficulties. That seemed to be endemic in NASA before the *Challenger* accident—insular communities become defensive when criticized by outsiders.

How is all of this going to be turned around overnight? It cannot be. A new contractor, due to come on early next year, simply will not be able to resolve this either, internally and separately.

Mr. President, we are looking ahead at the new production reactors and that process of EIS scoping hearings are going forward on three sites: Savannah River, Idaho, and Hanford. Hearings will be held in late November and early December for each site.

The Department of Energy made a decision to go forward with a dual reactor strategy as a preferred option: Heavy water reactor at Savannah River and a high-temperature gas reactor at Idaho. Hanford was preserved as a contingency for the WNP-1 option.

DOE followed, to a large extent, the recommendations of the panel, that were made in July 1988 to the Secretary. Frankly, I disagreed then with the preferred option announced by Secretary Herrington because I believed then, and I believe infinitely more so today, that it is essential for the Department of Energy to maintain the Hanford WNP-1 option. Its completion seems with each passing day to become not just a third option; not just a viable option; but a virtually inescapable one.

WNP-1 makes increasingly good sense for a number of reasons. The first one is cost. Simply, it is the least-cost operation by far: Less than $2 billion in capital outlay and a little over $4 billion on a net present value basis over the life of the plant. That is a lot of money. But it is a huge savings over each of the other options.

It is $4 billion less than the heavy water reactor at Savannah River; $3.3 billion less than the high temperature gas reactor at Idaho Falls, assuming electric power reveneus.

And Mr. President, the WNP-1 plant is already two-thirds complete. The others have yet to even be designed. Our experience over the years shows that when you start design of a new family of nuclear facilities, costs and time escalate far beyond current expectations. That will not be the case with the completion of WNP-1, most of its construction having already been accomplished.

Second, there is a cost advantage in the sale of byproduct steam for electricity purposes. At WNP-1, the steam plant is already completed. All it needs is the steam from the nuclear plant to operate.

If we do not need to use that plant for nuclear production at any one time for defense purposes, the sale of electricity from that steam will essentially cover the operating costs; thus producing a unique advantage to the Federal Government.

Third, there is a cost advantage in having a fixed-price contract to complete the project. Several contractors have said they would bid on a fixed-price basis to complete because they know what has been done and it is a relatively straightforward job to complete.

Believe me, Mr. President, there will be no fixed-price contracts on any of the other new reactors that have not yet been designed.

There are two places, and only two, in the country, Mr. President, where there is the existing infrastructure to support these important production reactors: Hanford and Savannah River. They have the ability to deal with special nuclear materials, plutonium and tritium, in an integrated fashion. We should utilize this existing infrastructure, build on it; not throw it down the drain.

The second big issue is time savings. This plant can be completed and be operational in 6 years. This compares with 10 to 12 years, and I would suggest considerably longer than that in practice, that it will take to build a new reactor from scratch. We would have a new, operating reactor a half dozen years or more ahead of time.

It is difficult to quantify the gain to our national security by having a tritium producer on line producing in that timeframe during an important window of vulnerability which this Nation has in its own national defense.

The next reason, Mr. President, is the licensability of this plant. It is 63 percent completed. It has a construction permit from the Nuclear Regulatory Commission [NRC]. The design has already been licensed and a similar design has extensive operating experience. This all benefits from the Nuclear Regulatory Commission's review process that has already taken place for most of the major structures and components. The plant has been kept in a good preservation mode since mothballing in 1981 through oversight by the NRC.

Comparability with commercial regulatory criteria will be an important part in the Congress approving funds for a new reactor, in my view. WNP-1 is halfway there. None of the other reactors come close in this regard.

Some, Mr. President, have suggested that there are proliferation problems, that somehow this is changing a commercial reactor into production for military purposes.

Well, Mr. President, that is stretching the argument quite far, indeed. The Non-Proliferation Treaty is simply not a problem. Letters from the Department of State and the Arms Control Agency reinforce this assertion, and I will shortly introduce into the RECORD those letters and reports.

We are one of several weapons States. There is no restriction in the Non-Proliferation Treaty on conversions or completions of this type. The GAO report which we requested on this issue agrees with the Department of State and ACDA on this point. Arguments that talk of potential violation of the spirit of the Non-Proliferation Treaty are a red herring and miss the point completely.

Our leadership in the nonproliferation regime depend on many other more important considerations than this one.

It is ironic, Mr. President, that those who support the high-temperature gas reactor as a second reactor for defense production appear to favor its quick transfer to the commercial field for use by utilities. This would be totally inconsistent with the position over maintaining the traditional distinction between commercial and military nuclear sectors in the development of fuel and technology and in the use of spent fuel.

With all of that, Mr. President, there are issues that need to be resolved for the completion of WNP-1 and specifically two of them:

We need to develop high-temperature tritium targets for use in several of the LWR reactors which are now under consideration. Lithium aluminate targets need to be developed to be used in light water reactors. DOE has been working on this research and development for some time and needs to accelerate its work here. It is my understanding that funds have been appropriated and will be spent in fiscal year 1989 for this purpose, and they should be.

I do not believe this is an overwhelming problem, but a reference design needs to be done within the next 3½ years if we are to utilize the WNP-1 alternative.

But there is an alternative target design, with aluminum cladding, that can deliver at least 90 percent of tritium levels we need. This was tested in the N-reactor in the 1960's and is currently available for use.

The second concern, Mr. President, is the legal question on the Department of Energy's acquisition of the plant. We do not need to study this any further, but there are some legitimate questions as to how a Federal court will deal with a condemnation proceeding and establish a price for the partially completed reactor.

A study done for the DOE suggests a low value of $35 million for the salvage, to $450 million as the upper price that the Department would have to pay for the WNP-1 plant.

DOE can and should clarify this issue, and it is simple to do so. That is to move forward with legal proceedings as soon as possible.

It is cheap, it is easy, and it does not commit the Department of Energy to anything. It gives the answer, however, as to how much that partially finished plant might cost the Government.

Some suggest, Mr. President, that there are politics in the Northwest which would mitigate any kind of use of this valuable reactor.

Again, this assertion is primarily a red herring used by proponents of plants and other sites in the country. Hanford has been a subject of division in the past, especially on the potential location of a geologic repository for spent fuel at Hanford. But that issue is over. There is opposition in our State to activities at Hanford.

There is also opposition mounting at other sites. In fact, recent developments may result in opposition at other sites far more vehement than any opposition to Hanford activities.

Environmental groups and citizen groups are gearing up for challenges at all other sites. But it is better to have these issues out in the public and debated rather than brought out on the front pages of newspapers and dealt with defensively.

Mr. President, in conclusion, we are entering into a fragile and increasingly dangerous time. The next 12 to 15 years potentially are an era of real vulnerability.

The terms "window of vulnerability" and "missile gap," and others, have been used pretty freely during the course of the last 30 or 40 years. But there is little question now with recent events and recent discoveries that we do have a very real window of vulnerability. We have the immediate problem if those reactors at Savannah River cannot be started. We have an intermediate problem to get something on line better than these old reactors as fast as possible. And we have a long-term problem of a modernized defense production complex.

That window of vulnerability is just this: If we have no capacity to produce tritium, then the viability of our nuclear arsenal decays day by day, week by week, and year by year. It would not be very long at all before one after another of our nuclear weapons would cease to be operable. And I have said it before and I will say it again: That represents, if we allow it to happen, unilateral disarmament in a still dangerous world.

We ought to work as hard as we can for peace. We ought to work as hard as we can toward the reduction of nuclear arms. But we must do it in conjunction with the Soviet Union and with others who have nuclear armaments; not do it independently, separately, unilaterally, and without thorough consideration for the consequences.

A new administration will have to face squarely up to this problem, both in the fiscal year 1990 budget request and in weapons modernization decisions, and even in arms control negotiations themselves.

Additionally, Congress will have to face up to this issue as well as the bills for hundreds of millions, even billions, are submitted to be appropriated.

Prudency, therefore, dictates that we keep all options open at this moment. We simply cannot, as a Nation, afford to ignore even one option until we are clear in our decisionmaking that will be best and safest for this Nation.

I believe, Mr. President, that WNP-1 completion especially offers clear and substantial cost savings and a quicker start of operations for the production of necessary materials faster than any other option before us.

It is no longer a question of whether we are going to move ahead. Both Houses of Congress, not on just one but on several occasions, have voted by overwhelming margins for appropriations to do just that, to move ahead on a new and modernized production system for nuclear defense.

Even the strongest opponents of nuclear war—and I think we are all opponents of nuclear war—the strongest opponents of increased defense spending, have voted to go ahead with the construction of new defense production reactors.

Those who would like to see us reduce the cost to our military have a real opportunity to do so while at the same time moving ahead in a responsible way on one or more new production reactors. WPN-1 conversion would cost less and, in doing so, reduce military expenditures while producing the necessary materials, at least as well and certainly faster than any other option.

Mr. President, let us at least adopt what we have done so well in recent years in electric power planning, and that is to embark on a least-cost strategy. That means a process to examine all alternatives, and once having examined them look at which ones can produce the electricity, and then choose the one that is least costly. I suggest we deserve to do the same thing when it comes to military expenditures, when it comes to our national defense and to our national welfare.

Mr. President, I ask that a series of articles, editorials and a GAO report be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. GOVERNMENT MEMORANDUM, SEPTEMBER 16, 1988

EH-30.

Subject: Savannah River (SR) P Reactor Events—Safety Implications.

To: Ernest C. Baynard, III.

INTRODUCTION

The events of August 1988 associated with the restart of P reactor have resulted in extensive media coverage, investigations and ongoing corrective measures at Savannah River (SR). In order to assess the safety implications and to identify lessons learned, the EH staff was directed to prepare a chronology of events. This was done August 19, 1988, and is included herein as enclosure 1. The EH resident engineers' daily reports for the time interval of interest are included as enclosure 2. As a result of onsite inspections and interviews, an augmented EH onsite contingent recommended a reactor shutdown on August 15, 1988. On August 16, 1988, a DOE/SR team proposed an alternative set of actions which was subsequently the basis for a show cause letter from DOE/SR. These documents are included as enclosure 3. Based upon the chronology, interviews with EH and SR staff, a visit to SR on September 7th and 8th, 1988, and consideration of reports prepared by outside review groups (ACNFS, DuPont's RSAC, ACRS), I have prepared my analysis to help focus on some underlying issues. This evaluation is included as enclosure 4. Reflecting on the insights gained as a result of the overview, a number of specific recommendations for enhancing safety oversight were developed and provided herein as enclosure 5.

BACKGROUND

The two events of interest were a reactivity induced transient during startup and a small power pulse. Due to the neutron poisoning effects (negative reactivity feedback) of two phenomena during startup, reactor power was decreasing to the point that shutdown ensued. The same day the reactor was restarted. A subsequent small reactor power pulse was identified. The reactor continued operating until August 17, 1988. As noted in the analysis, there were several complicating factors (e.g., poor communications, informal decisionmaking, differing interpretations, poor data, etc.) that need to be remedied. After additional facts were obtained on-site, EH staff and managers conducted a preliminary evaluation which concluded that the two events did not represent an immediate safety threat. They are precursors and indicative of the gaps in the safety analysis of the facility. Notwithstanding, there was a more serious problem. The operating crew and reactor engineer did not understand the events at the time, did not understand the phenomena involved, and lacking guidance in dealing with such anomalies, they elected to continue reactor startup and operations. Subsequent interviews demonstrated that the events would be handled the same way again if they recurred. Given the age of the reactors, including limited instrumentation and control capability, unplanned events or anomalous reactor behavior places a premium on human performance. The demonstrated lack of technical inquisitiveness and caution raises the question of adequacy of management controls to assure conservative, safe decisions toward operation.

UNDERLYING ISSUE

Assuring safe performance cannot be done with sole reliance on technical solutions. The issue is not whether the reactor was out of control; this time it was not. The more serious issue deals with an institutional problem and attitudes toward safety. There are currently some senior managers within the Department with an attitude toward production reactor safety, which on the face seems to be similar to that which existed in the space program prior to the Challenger accident. This is reflected in individuals who challenge EH staff to prove that reactors are unsafe before taking actions recommended by EH. Such a mindset presumes reactors are safe unless demonstrated otherwise. The presumption appears to be based upon historical experience and reliance on outdated safety analyses. Even when problems are identified there is a reluctance to acknowledge them, and subsequent delays in resolution are generally encountered. Steps to overcome this attitude and lack of technical inquisitiveness have been taken by the Secretary and Deputy Secretary by the reliance on outside groups (NAS) and the recognition of the need for a strong ES&H function to identify problems.

Recent experience has shown that EH safety oversight does raise safety issues that otherwise would not have been identified to the Department. However, there is pressure to reach consensus within the Department. The program and field offices jointly encourage EH to agree with the program offices' point of view. This has placed EH, and safety in particular, in a peculiar situation. There is a need to enhance the Department's checks and balances by strengthening line management safety responsibility. Currently, the program official and the field office manager are responsible for safety. This has placed an additional burden on EH and there continues to be a greater reliance on EH to find safety problems.

RECOMMENDATION

Resolving the technical problems at the production reactors will take time. There are solutions which would allow early restart of the reactors, but overcoming mindset problems will take time. However, assuring that events similar to the P reactor startup will not recur will require decisive action by the new SR contractor and by DOE senior management. In order that we benefit from the P reactor experience, I propose that we use the lessons learned as a catalyst for institutional changes. I recommend that the following topics be considered for senior management discussions as soon as possible:

1. Clarification of lines of responsibility and authority within the Department for the safety of operating nuclear facilities;
2. Enhanced EH oversight authority;
3. Improved process for resolving, at a higher level within the Department, disagreements between safety issues and production needs, and;
4. Accelerated decisions on the direction of the proposed draft Safety Policy and the attendant revisions to the Orders.

On balance, there are both technical and institutional issues that need to be faced. Resolution of the technical problems, including a schedule for implementation, should be a priority task. However, there is a critical urgency to provide enhanced real time safety oversight by qualified DOE staff for the Savannah River production reactors. A proactive approach to safety is needed to counter the current prevailing mind set.

RICHARD W. STAROSTECKI,
Deputy Assistant Secretary, Safety, Health and Quality Assurance.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 27, 1987.
Hon. DANIEL J. EVANS,
U.S. Senate

DEAR SENATOR EVANS: Thank you for your letter of February 24, 1987 to Secretary Shultz concerning the possible conversion of an unfinished nuclear reactor located in the State of Washington to defense materials production purposes. At the outset, I would like to note that it is our understanding that the Department of Energy has only completed a technical feasibility study on such a possible conversion.

With regard to your specific questions regarding any legal issues which might be raised by such a conversion, we believe that the United States would not be precluded by treaty obligation or domestic law from taking such a step. While the Atomic Energy Act of 1954, as amended in 1983, prohibits the use of special nuclear materials produced in a NRC-licensed facility for nuclear explosive purposes, this would not apply to the conversion of this unlicensed power reactor if it were rededicated to military purposes.

Moreover, the conversion of a nuclear power reactor to defense production purposes would not violate U.S. commitments under the Non-Proliferation Treaty or under our agreement with the International Atomic Energy Agency (IAEA) for safeguards application in the U.S. As a nuclear weapons state party to the NPT, the U.S. is not prevented from using its own nuclear facilities for military purposes. If a civilian power reactor were rededicated to military purposes, it would by definition become a facility of direct national security significance to the United States, and thus would not be eligible for the application of IAEA safeguards under the terms of the U.S.-IAEA treaty.

You also asked about the likely impact of conversion on United States efforts to promote foreign acceptance of IAEA controls and on non-proliferation policy generally. While the U.S. has sought to maintain a clear distinction between the peaceful and military uses of nuclear energy, it does appear in our view that, if this particular facility were converted to defense production purposes, it would not have significant implications for either foreign acceptance of IAEA safeguards or for our non-proliferation policy generally.

Finally, as you indicated, we agree that there are many potential legal and institutional questions, including non-proliferation issues, which would need to be addressed in connection with any decision to convert a civilian power reactor to national defense purposes. We will, of course, review these issues carefully in connection with any further consideration or study which might be given to such a possible conversion.

I hope these views are helpful.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative and Intergovernmental Affairs.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, DC, March 27, 1987.
Hon. DANIEL J. EVANS,
U.S. Senate

DEAR DAN: Thank you for your letter of March 3, 1987, asking about certain legal and nonproliferation policy implications of converting an unfinished commercial nuclear power reactor to a defense materials production reactor.

The United States is not precluded by treaty obligations or domestic law from carrying out the conversion you have described. With respect to this issue, the U.S. Atomic Energy Act of 1954, as amended in 1983, prohibits only the use for nuclear explosive purposes of special nuclear materials produced in facilities licensed by the NRC. These facilities include commercial and industrial facilities in the private sector, such as civilian reactors used for electric power production or research.

As a matter of policy, the United States has sought to maintain a clear distinction between the civil and military uses of nuclear energy. This separation of civil and military facilities supports US nonproliferation policy and also is an important factor in sustaining public support for civil nuclear power.

We believe the impact of such a conversion on our efforts to encourage wider acceptance of IAEA safeguards and on nonproliferation policy generally would not be very significant. If such a conversion receives further consideration, however, a number of factors should be taken into account, including implications for nonproliferation over the longer term. Of course, any such conversion would also require Congressional approval.

I hope these comments have been of use in your consideration of this question. If you should have additional questions or need additional information, please feel free to contact me or my Office of Congressional Affairs at 647-1085.

Sincerely,

Kenneth L. Adelman.

OCTOBER 11, 1988.

ACTIONS BEING TAKEN ON SRP REACTORS FACT SHEET

BACKGROUND

Since 1986, under the direction of Secretary John S. Herrington, the Department of Energy has been conducting a series of intensive reviews of the safety of its nuclear facilities. In addition to reviews and appraisals performed by the department and expert consultants, the Secretary requested that the National Academy of Sciences conduct a detailed study of the department's reactors, including the three production reactors at Savannah River. The reports from all of these reviews have been made public.

As a result of the department's safety initiative, a number of issues were identified involving the Savannah River reactors. The DOE has made a firm commitment to resolve all of the issues raised. In addition, the Department has announced its intention to replace the three Savannah River reactors, which were built in the 1950's, with new product on reactors expected to be built at Savannah River and at the Idaho National Engineering Laboratory.

The three Savannah River reactors are the nation's only current source of the tritium needed for the nation's nuclear deterrent. At present all of the three reactors are out of service for routine maintenance and accelerated safety upgrades.

The department is implementing a comprehensive program at SRP to enable the facility to resume protection of tritium within acceptable margins of safety. The program is designed to resolve uncertainties about safety issues, improve operations, improve the department's technical vigilance and strengthen oversight. The program will result in a sequenced restart of K, L and P reactors in a timely and safe manner. The sequence for initiating restart activities is:

Reactor—Time:

K reactor, late 1988.

L reactor, 1st Quarter 1989.

P reactor, 3rd Quarter 1989.

PHASED RESTARTS

The schedule and procedures for restarting each reactor will include a formal and structured program with milestones where the Department's operations, program and safety managers will examine work completed before approving the next step.

SPECIFIC ACTIONS

Specific actions will be taken prior to restart, including tightening the formal procedures and technical operations used by the contractor; strengthening the department's on-site technical expertise and safety oversight; increasing DOE presence in the plants; and resolving outstanding technical issues.

I. DOE Operations

DOE will augment both DOE program and safety staff as Savannah River Operations Office

High level manager added on site environment and safety office

Special team will develop formal startup plan including milestones for DOE review and decision. Team to be headed by Grover Smithwick, former Principal Deputy Assistant Secretary for ES&H.

II. Contractor Operations

Significant upgrading of control room staffing and opeating procedures:

Control room shift supervisor must be degreed engineer.

Add technical support personnel for each shift, including advisors with commerical reactor experience.

Add fifth shift to make time for operator training.

Training for reactor operators to provide technical background and safety consciousness.

Revised operating procedures and technical specifications which will be reviewed and approved by DOE.

Tougher internal technical reviews, including greater use of INPO.

III. Hardware/Procedures

Complete seismic reviews and make modifications as needed in all reactors.

Revise startup procedures, including technical guidelines and reactivity controls.

Recheck of all safety systems.

Add fourth loop to P reactor emergency cooling system.

STATUS OF SAVANNAH RIVER REACTORS

P reactor

Began Operations: February, 1954.

Down: August, 1988.

Reason: DuPont responding to DOE's concerns regarding operations.

Current status: The fourth emergency core cooling system (ECCS) is being designed. Seismic walk-downs have been completed.

Target restart: Initiate restart activities during third quarter of 1988.

K reactor

Began Operations: October, 1954.

Down: August, 1988.

Reason: Annual maintenance.

Current status: Fourth ECCS loop has been installed. Currently undergoing seismic walk-down.

Target restart: Initiate restart activities by the end of 1988.

L reactor

Began Operations: July, 1954 to February, 1968; Resumed October, 1985.

Down: June, 1988.

Reason: Normal summer closing due to cooling lake temperature and annual maintenance.

Current status: Currently undergoing seismic walk-down; Construction underway to upgrade electrical distribution system.

Target restart: Initiate restart activities during first quarter of 1988.

ENVIRONMENT, SAFETY AND HEALTH FACT SHEET

When Secretary John S. Herrington came to the Department of Energy in 1985, he placed a high priority on strengthening oversight activity in the areas of environment, safety and health.

Secretary Herrington ordered a thorough review of DOE's environment and safety functions, a review that identified areas in management, programs and emphasis that could be strengthened. As a result, DOE developed plans for addressing environmental and safety issues in both the short and the long term.

The three principal elements of DOE's plan to deal with those concerns were:

The establishment of an Assistant Secretary for Environment, Safety and Health (ES&H).

A thorough environmental survey of all DOE facilities to identify problem areas and rank them in order of priority.

Technical Safety Appraisals of DOE nuclear facilities, with a focus on evaluating in-plant activities. The TSA program is being expanded to include followup visits.

The Office of ES&H is responsible for ES&H requirements for operations and facilities; for monitoring the efforts of facilities in complying with DOE requirements; and, for conducting safety analyses. The Office of ES&H also provides technical support and assistance as needed for solving unique technical problems.

Where DOE is self-regulating, the office of ES&H establishes requirements through the DOE order system. ES&H adopts the requirements of the applicable regulatory system, or negotiates compliance agreements with the appropriate regulatory agencies. When ES&H oversight conflicts with the viewpoint of the program involved, those differences are brought to the attention of and resolved at the highest level of the DOE organization.

Additional safety oversight is provided by the Advisory Committee on Nuclear Facility Safety, an independent board established by the Secretary in 1987 to advise the department on safety issues.

In addition to the Environmental Survey and Technical Safety Appraisals, the office of ES&H regularly conducts additional occupational safety appraisals at DOE sites, including:

Type—Frequency:

Fire Protection, 3-5 years.

Packaging and Transportation safety, 1-3 years.

Aviation safety, six months-one year.

Provide support for safety appraisals of federal employees, 2-3 years.

High Explosives safety, 3-5 years.

ES&H appraisals are intended to be diagnostic; to identify problems and assess the underlying causes so that appropriate remedial measures are instituted.

Ernest C. Baynard III is the current Assistant Secretary for Environment, Safety and Health.

DOE ISSUES NOTICE OF INTENT TO PREPARE NEW PRODUCTION REACTOR ENVIRONMENTAL IMPACT STATEMENT

The Department of Energy today published a Notice of Intent to prepare an Environmental Impact Statement (EIS) on the proposed siting, construction and operation of new production reactor (NPR) capacity and related support facilities.

The Notice of Intent was published in the September 16 edition of the Federal Register. It invites interested agencies, organizations and members of the general public to submit comments or suggestions on the proposed scope of the EIS, and also announces a series of public scoping meetings to be held in November and December.

Three production technologies and three sites have been identified as alternatives. The three technologies are a heavy water reactor, a modular high temperature gas-cooled reactor and a light water reactor (including conversion of the Washington Public Power System's unfinished Nuclear Power Station Number 1); the three sites are the Savannah River Plant in South Carolina, the Idaho National Engineering Laboratory in Idaho and the Hanford Site in Washington.

In August, Secretary of Energy John S. Herrington announced that the department proposes a dual strategy which involves proceeding on an urgent schedule with the construction of a heavy water reactor at the Savannah River Plant in South Carolina, and concurrent preparation leading to the construction of a modular high temperature gas-cooled reactor at the Idaho National Engineering Laboratory. This recommendation is the DOE preferred alternative to be evaluated in the EIS.

The primary purpose of the proposed new production facilities is to ensure an adequate and reliable supply of tritium for the Nation's nuclear weapons program. A secondary purpose is to provide capability for plutonium production.

To aid interested parties in formulating comments and suggestions, the Notice of Intent contains background information on the proposed project and alternatives. In addition to the public scoping meetings, DOE invites written comments, which should be postmarked by December 15, 1988.

Persons interested in obtaining more information about the proposed action, the scoping process and meetings should contact:

SOUTH CAROLINA

S.R. Wright, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A., Aiken, South Carolina 29802, (803) 725-3957.

IDAHO

Peter J. Dirkmaat, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, (208) 526-6666.

WASHINGTON

Tom Bauman, U.S. Department of Energy, Richland Operations Office, Federal Building, 825 Jadwin Avenue, Room 157, Richland, Washington 99352, (509) 376-7501.

A schedule of scoping meetings is attached.

INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT ON PROPOSED SITING, CONSTRUCTION AND OPERATION OF NEW PRODUCTION REACTOR CAPACITY

Agency: Department of Energy (DOE).

Action: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS).

Summary: DOE announces its intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, to evaluate the environmental impacts of the proposed siting, construction and operation of new production reactor (NPR) capacity and related support facilities and to conduct public scoping meetings. The proposed new production reactor capacity facilities would primarily produce tritium for the U.S. nuclear weapons program. The EIS will consider reasonable alternatives among the reactor technologies and the sites reasonably suited to support production reactor and support facilities in a safe and environmentally acceptable manner. The technologies to be evaluated include the light-water reactor (including conversion of the Washington Public Power Supply System's unfinished Nuclear Power Station Number 1 (WNP-1)), the high-temperature gas-cooled reactor, and the low-temperature heavy-water reactor. The impacts of the potential production of plutonium by these technologies will also be evaluated. The environmental impacts of siting each reactor technology will be evaluated for the Hanford Site, Richland, Washington; the Idaho National Engineering Laboratory (INEL), Idaho Falls, Idaho; and the Savannah River Plant (SRP), Aiken, South Carolina.

The proposal for the siting, construction, and operation of NPR capacity and related support facilities is based upon congressional initiative (Public Law 100-202) and studies by DOE showing construction and operation of this new capacity as one of the key elements required to assure maintenance of the nuclear weapons stockpile. Preparation of the EIS will be in accordance with NEPA, the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR 1500-1508), and the DOE NEPA guidelines (52 FR 47662).

Invitation to comment: To ensure that the full range of issues related to this proposal are addressed, comments on the proposed scope and content of the EIS are invited from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS should be postmarked by December 15, 1988. Comments received after that date will be considered to the extent practicable. Agencies, organizations, and the general public are also invited to present oral comments or suggestions pertinent to preparation of this EIS at the public scoping meetings scheduled as indicated below. Written and oral comments will be given equal weight in the scoping process. Comments and suggestions received during the scoping period will be considered in preparing the draft EIS. The draft EIS is expected to be completed in 1990, at which time its availability will be announced in the Federal Register, and public comments will again be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

Addresses: Written comments or suggestions on the scope of the EIS, requests to speak at the scoping meetings, or questions concerning the project should be directed, as appropriate, to one of the following:

Mr. Peter J. Dirkmaat (INEL), U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, or;

Mr. Tom Bauman (Hanford Site), U.S. Department of Energy, Richland Operations Office, Federal Building, 825 Jadwin Avenue, Room 157, Richland, Washington 99352, (509) 376-7501, or;

Mr. S. R. Wright (SRP), U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29802, (803) 725-3957.

Those persons who wish to receive a copy of the draft EIS should make their request to:

Mr. John Jicha Jr., Director, Project Division, Office of Nuclear Materials Production, U.S. Department of Energy, Washington, DC 20545, (301) 353-2255.

Envelopes should be marked: "NRP Capacity EIS."

For further information contact: For general information on the EIS process, please contact:

Carol M. Borgstrom, Director, Office of NEPA Project Assistance (EH-25), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20858, (202) 586-4600.

Dates: Written comments and suggestions on the proposed scope of the EIS should be postmarked by December 15, 1988, to assure consideration in the preparation of the EIS. Comments received after that date will be considered to the extent practicable.

Background information: In January 1988, the Department established a formal process for reviewing and assessing sites and technologies for NPR capacity. This review resulted in the preparation of an acquisition strategy report to Congress, which was exempted from the provisions of NEPA by Public Law 100-202. The Department submitted the report, "Acquisition Strategy for New Production Reactor Capacity," to Congress on August 8, 1988. In the report, the Secretary of Energy recommended pursuing a dual strategy which involves proceeding on an urgent schedule with construction of a heavy-water reactor at SRP which can produce 100% of expected tritium requirements, and concurrent preparation leading to the construction of a modular high-temperature gas-cooled reactor at INEL which can produce 50% of expected tritium requirements. This recommendation is the DOE preferred alternative to be evaluated in the EIS.

The primary purpose of the proposed new production facilities is to ensure an adequate and reliable supply of tritium for the Nation's nuclear weapons program. A secondary purpose of the proposed facilities is to provide the capability for plutonium production. The production facilities to be evaluated in this EIS include new production reactors and related support facilities including driver fuel element and tritium production element fabrication facilities, a tritium recovery plant, a spent fuel reprocessing facility, and appropriate waste handling facilities.

Reactor technologies under consideration include the light-water reactor (LWR), high-temperature gas-cooled reactor (HTGR), and low-temperature heavy-water reactor (HWR). The LWR alternative includes possible conversion of the WNP-1 at the Hanford Site. The WNP-1 is a partially completed light-water reactor owned by the Washington Public Power Supply System. The LWR can be used to produce tritium, as well as byproduct steam for electric power generation. The HTGR is a graphite moderated, helium-cooled reactor, designed to produce tritium. The HTGR could also supply, as a byproduct, steam for electric power generation. The HWR is a heavy-water moderated, heavy-water cooled reactor which is similar to the existing production reactors at SRP. Because it would operate at low temperatures and pressures, it could not economically produce steam for electric power.

In order to meet safety and security requirements, DOE determined that NPR facilities should be constructed at large, secured, DOE-owned sites at which there has been experience with reactor operations and/or fuel reprocessing. Thirteen sites were evaluated against general screening criteria. The sites which met these criteria and are considered the reasonable alternatives to be evaluated in the EIS are the Hanford Site, INEL, and SRP.

The Hanford Site is a DOE nuclear research and defense program site of 560 square miles near Richland, Washington. The Hanford Site was the first U.S. nuclear material production site and is currently engaged in nuclear materials processing and nuclear research. The existing facilities include a production reactor (not operating), various nuclear materials processing plants, waste management facilities and a fuel fabrication facility.

INEL, located in southeastern Idaho, is a large (890 square miles) DOE reservation where various kinds of nuclear reactors and support facilities have been built and tested to demonstrate the applications of reactor technology, to conduct safety research, and to support defense programs. The existing facilities include waste management facilities and a chemical processing plant which serves as the primary facility for the recovery of fuel from the Naval Reactors Programs.

The SRP encompasses approximately 300 square miles near Aiken, South Carolina. SRP has actively produced strategic nuclear materials for national defense programs for more than 30 years. The existing facilities include production reactors, chemical processing plants, waste management facilities, fuel and target fabrication plants, and a tritium recovery facility.

Proposed action: The proposed action is the siting, construction and operation of NPR capacity and support facilities. The preferred alternative is construction and operation of a heavy-water reactor at SRP which can produce 100 percent of expected tritium goal requirements and concurrent preparation leading to the construction and operation of a modular high-temperature gas-cooled reactor at INEL which can produce 50 percent of expected tritium goal requirements.

Alternatives proposed for consideration: The alternatives proposed for consideration in the EIS are a LWR, HWR or HTGR at SRP, INEL or the Hanford Site. The LWR alternative at the Hanford Site is conversion of WNP-1. The liquid-metal reactor technology is not considered a reasonable alternative due to cost and schedule risks of reactor concept development. As required by the CEQ NEPA regulations, the EIS will also analyze the "no action" alternative (i.e., no construction of NPR capacity).

The EIS will include a comparative assessment of the environmental impacts of the reasonable reactor/site alternatives, including support facilities. For the purpose of the EIS analyses, all technologies will be analyzed at 125 percent of expected tritium requirements. This will allow flexibility in the assessment of impacts by bounding all technologies at the same level. The EIS will also address the cumulative effects of adding the proposed facilities to the sites. Alternative reactor analyses will include, where applicable, an assessment of the impacts of the by-product steam production for power generation. If any other reasonable alternatives are identified which could potentially achieve the objectives of the tritium production program, they would also be considered in the EIS.

Identification of environmental issues: The following issues have been tentatively identified for analysis in the EIS. The list of issues is intended to apply to facilities associated with NPR capacity including driver fuel and tritium production element fabrication, fuel and tritium production element reprocessing, waste handling, and the steam generation options as appropriate. The EIS will address the environmental impacts of the proposed action including routine operations and potential accidents during facility construction and operation. In accordance with CEQ NEPA regulations (40 CFR 1500.4 and 1502.21), other environmental documents, as appropriate, may be incorporated by reference, in whole or in part, into these impact analyses. This list is not all inclusive nor does it imply any predetermination of potential impacts. Additions or deletions to this list may occur as the result of the scoping process.

1. Public and Occupational Safety—The radiological and nonradiological impacts of routine operations and potential accidents including projected effects on workers and the public will be addressed in accordance with DOE policy.

2. Water Resources—The qualitative and quantitative effects on water resources and other water users in the region.

3. Air Quality—The effects of radiological and nonradiological air emissions.

4. Regulatory Compliance—Compliance with all applicable Federal, state and local statutes and regulations.

5. Wildlife Areas—The disturbance or destruction of habitat of game and nongame wildlife species including potential effects on threatened or endangered species of flora and fauna.

6. Aquatic Species—The potential for entrapment or impingement of aquatic organisms on surface water intake structures and impacts to aquatic habitats.

7. Waste Management—The environmental effects of generation, treatment, transport, storage, and disposal of radioactive, hazardous and solid wastes.

8. Socioeconomic—The socioeconomic impacts on affected communities of large construction and operation labor forces and support services.

9. Cultural Resources—The potential impacts on historical, archaeological, scientific or culturally important sites.

10. Transportation—Impacts of the transportation of NPR related supplies, materials, equipment, products and wastes on-site and off-site.

11. Decommissioning and Decontamination—To the extent that information is available, the EIS will evaluate impacts that may result from decommissioning and decontamination of existing and new facilities as a result of the proposed action.

Related documentation: Background information on the new production reactor capacity project, the alternative technologies, and the alternative sites are available in the public reading rooms listed below. The available documents include:

1. Assessment of Candidate Reactor Technologies for the New Production Reactor; A Report of the Energy Research Advisory Board to the United States Department of Energy, Washington, D.C. DOE/S-0064, July 1988.

2. Site Evaluation Report for New Production Reactor; Submitted by the DOE Site Evaluation Team to the Chairman of the Energy Systems Acquisitions Advisory Board (ESAAB) and the Acting Assistant Secretary for Defense Programs, DOE/DP-0053, July 1988.

3. Acquisition Strategy for New Production Reactor Capacity, Report to Congress by the Secretary of Energy, August, 1988.

Scoping meetings: In addition to receiving written comments, DOE will conduct public scoping meetings to assist DOE in determining the appropriate scope of the EIS and the significant environmental issues to be addressed. Public scoping meetings will be held at the following times and locations:

A. HANFORD SITE

(1) Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington, Date: November 29, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(2) Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, Washington, Date: December 1, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(3) Portland City Hall Hearing Room, 1120 S.W. Fifth, Portland, Oregon, Date: December 6, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(4) H.M. Jackson Federal Building, North Auditorium, 912 2nd Avenue, Seattle, Washington, Date: December 8, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

B. IDAHO SITE

(1) Shilo Inn, 780 Lindsay Boulevard, Idaho Falls, Idaho, Date: November 14, 1988, Time: 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(2) Boise City Hall, 150 N. Capitol Boulevard, Boise, Idaho, Date: November 16, 1988, Time: 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(3) O'Leary Jr. High School Auditorium, 2350 Elizabeth Boulevard, Twin Falls, Idaho, Date: November 10, 1988, Time: 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(4) Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, Washington, Date: December 1, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

C. SAVANNAH RIVER SITE

(1) Odell Weeks Recreation Center, Whiskey Road, Aiken, South Carolina, Date: November 29, 1988, Time: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

(2) National Guard Armory, 1 Milledge Road, Augusta, Georgia, Date: December 1, 1988, Time: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

(3) DeSoto Hilton, 15 East Liberty Street, Savannah, Georgia, Date: December 5, 1988, Time: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

(4) Radisson Hotel, 937 Assembly Street, Columbia, South Carolina, Date: December 7, 1988, Time: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

Please note that the scoping meeting in Spokane, Washington will be cosponsored by both the Hanford Site and the Idaho Site. The purpose of the scoping meetings is to offer all interested persons the opportunity to voice their opinions on the proposed content and scope of the EIS. DOE will designate a presiding officer to chair each meeting. The meetings will not be conducted as evidentiary hearings and there will be no questioning of speakers; however, the presiding officer may ask for clarification of statements made to assure that DOE fully understands the comments and suggestions. The presiding officer will establish the order of speakers and provide any additional procedures necessary for conduct of the meeting. To assure that all persons wishing to make presentations can be heard, a 5 minute limit for each speaker has been established. Speakers who wish to provide further information for the record should submit such information to one of the Operations Office addresses above by December 15, 1988. Comments received after that date will be considered to the extent practicable. Individuals who do not make an advance arrangement to speak may register to speak at the time of each meeting. After all previously scheduled speakers have been given an opportunity to make their presentations, an opportunity will be provided to these registrants to speak, as time permits. DOE reserves the right to change the meeting locations, and procedures for conduct of the scoping meetings.

DOE will prepare transcripts of the scoping meetings. The public may review the transcripts, other NEPA documents, and unclassified background information on this project at DOE public reading rooms during normal business hours. Addresses of these reading rooms are given below:

1. U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, (208) 526-0271.

2. U.S. Department of Energy, Richland Operations Office, Federal Building, 825 Jadwin Avenue, Room 157, Richland, Washington 99352, (509) 376-8583.

3. U.S. Department of Energy Reading Room, University of South Carolina, Aiken Campus, University Library, 2nd Floor, University Parkway, Aiken, South Carolina 29802, (830) 648-6851.

4. U.S. Department of Energy, Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, Southwest, Washington, DC 20585, (202) 586-6020.

Signed in Washington, DC, this 9th day of September, 1988, for the United States Department of Energy.

ERNEST C. BAYNARD III,
Assistant Secretary,
Environment, Safety and Health.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 11, 1987.

Hon. CHARLES A. BOWSHER,
Comptroller General, U.S. General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: The Department of Energy is currently reviewing available technologies and locations for a new production reactor. One of the options is conversion of the 63 percent complete Washington Public Power Supply System's No. 1 reactor (WNP-1). The possible conversion of WNP-1 has received a great deal of publicity and has resulted in many conflicting opinions concerning cost, schedule, technical feasibility, safety, non-proliferation goals, and effect on the Northwest ratepayers.

The conversion of WNP-1 could positively affect our national defense capability as well as benefiting the ratepayers of the Pacific Northwest. The Richland Operations Office has reviewed both the technical and institutional feasibility of converting WNP-1 to production reactor. The accuracy of those reviews, however, has been questioned both by opponents of the conversion and the Department of Energy.

Therefore, it is desirable that an independent agency, such as the General Accounting Office, review both the technical and institutional feasibility of the conversion of WNP-1 as well as the advantages/disadvantages when compared to other alternatives. Specifically, I request that GAO review the Richland Operations Office's analysis of WNP-1 and verify the following:

1. The methods and reasonableness of the capital and operating cost estimates to convert and operate WNP-1 as a production reactor as well as the proposed schedule to complete and convert the facility to a production reactor.

2. A comparison of WNP-1 cost and schedule to other options, if comparable information for the other possible alternatives is readily available.

3. If the proposed conversion violates the Non-Proliferation Treaty or is precluded by domestic law.

4. If the proposed conversion has adequately adressed the recommended safety enhancements proposed by the Babcock & Wilcox owners group.

5. Whether or not WNP-1 could be completed to licensable standards given its current condition. Have the licensing requirements been documented and maintained?

6. If the proposed conversion would be consistent with the recent National Academy of Sciences' recommendations for future DOE production reactors.

7. Whether or not condemnation action by DOE, for either all or part of WNP-1, would result in an event of default making the WNP-1 bonds due and payable.

Currently, the Secretary of Energy is required to make recommendations to Congress on February 1, 1989, for both the technology and locations of DOE's future production reactors. Accordingly, it is necessary that your review, or an oral briefing of the results of your review, be provided to my staff prior to the Secretary's recommendation. To expedite your review, use of previously published reports by DOE or others would be appropriate as long as GAO is confident of the validity of the information. Communication of results as they are developed would be appreciated as timeliness is essential. Please coordinate with Kitty Rising of my staff concerning the dates and locations to communicate the results of your review.

Sincerely,

SID MORRISON.

NUCLEAR SCIENCE: QUESTIONS ASSOCIATED WITH COMPLETING WNP-1 AS A DEFENSE MATERIALS PRODUCTION REACTOR

SEPTEMBER 21, 1988.

Hon. SID MORRISON,
House of Representatives.

DEAR MR. MORRISON: On December 11, 1987, you asked us to answer several questions regarding a partially completed commercial nuclear power plant which the Department of Energy (DOE) is considering acquiring and completing as a nuclear weapons materials production facility. The plant is located on DOE's Hanford Reservation near Richland, Washington, and is presently owned by the Washington Public Power Supply System (Supply System).

The questions you asked stemmed from a DOE report [1] that assessed the feasibility of acquiring and completing the plant, referred to as Washington Nuclear Plant #1 (WNP-1), as a tritium [2] production facility. Your questions dealt with issues related to the safety, licensability, and cost of WNP-1, and the schedule for completing it. In addition, you asked if completing the reactor would (1) be a violation of the 1968 Nuclear Non-Proliferation Treaty or law and (2) result in an act of default, making the WNP-1 bonds [3] due and payable.

RESULTS IN BRIEF

Our review disclosed no major safety, technical, or other barriers which would preclude WNP-1 from being considered as an option for the next new materials production reactor. In addition, we found no basis to question the process used by DOE contractors for estimating the WNP-1 completion cost and schedule. However, we did identify several unresolved issues that could have an impact on the cost and schedule for completing the WNP-1. These include:

Potential design changes identified by NRC and common to all pressurized light water reactors. For example, WNP-1's decay heat removal system and the station blackout prevention system may need to be modified.

Technical issues associated with (1) ensuring the integrity of the tritium fuel pins, (2) preventing recriticality,[4] and (3) achieving the required production of tritium.

Establishment of safety requirements or standards that may be needed for completing the WNP-1 as a tritium production reactor, instead of its intended commercial purpose. These may require review of the existing systems and also review of any modifications necessary in order to produce tritium.

Remaining legal questions surrounding the acquisition cost for the WNP-1. The cost could range from $30 million (salvage value) to $2.1 billion (total of outstanding bonds).

Policy questions arising from completing a commercial reactor as a weapons materials production reactor. Traditionally, the peaceful and military uses of atomic energy have been separated.

Regarding the legal implications, we found that completion of the WNP-1 as a production reactor would not violate federal law or the Non-Proliferation Treaty. We also found that condemnation of the WNP-1 by DOE would not be an event of default and would not make the bonds immediately due and payable.

The remainder of this letter provides you with a summary of our findings, including a discussion of the unresolved issues. More detailed answers to your specific questions on WNP-1's design, technology, licensability, cost, schedule for completion, and legal and policy questions are provided in appendixes I through VI.

BACKGROUND

DOE is responsible for producing nuclear weapons materials for national defense purposes. The primary materials used are tritium and plutonium, which are produced in nuclear reactors. The only defense production reactors presently operating are located in South Carolina. These reactors are over 30 years old and have had power reductions due to environmental and safety concerns.

The N-Reactor, located on DOE's Hanford Reservation, has been used mainly for plutonium production since it started operating in the early 1960s. The N-Reactor could be modified to produce tritium; however, it has been shut down since January 1987 for safety work and is not expected to be restarted. Thus, DOE is presently planning to construct and operate a new reactor especially for the production of tritium.

One option available to DOE is completing the WNP-1 as a materials production reactor. WNP-1 is a pressurized light water [5] reactor designed by Babcock & Wilcox for commercial power production. Construction on the plant was halted by the Supply System in 1982 because of financial problems and uncertainties concerning future electric power demand. The plant is 63-percent complete and has been maintained in accordance with Nuclear Regulatory Commission (NRC) licensability requirements.

In August 1986, DOE established a task force to examine the feasibility of completing WNP-1 as a materials production reactor. The task force assessed only the WNP-1 and did not compare it with other options. The task force's March 1987 report concluded that WNP-1 could be modified and associated support facilities made available at a cost and schedule appropriate to the requirements of DOE.

In January 1988, DOE initiated a two-prong study to aid in the selection of a site and technology for the new materials production reactor. DOE established a site evaluation team of internal officials to evaluate and advise on the suitability of several sites for the new production reactor. DOE also requested the Energy Research Advisory Board (Advisory Board), an independent peer review board appointed by the Secretary of Energy to provide input to DOE, to evaluate four different reactor types as candidate technologies for a new production reactor. In July 1988, the Advisory Board provided the Secretary of Energy with its report specifying the strengths and weaknesses of alternate technologies.[6]

On August 3, 1988, the Secretary of Energy recommended that two reactors be constructed at separate locations. He recommended a heavy water [7] reactor at DOE's Savannah River Plant in South Carolina and a high-temperature, gas-cooled reactor at Idaho National Engineering Laboratory in Idaho. In addition, as a contingency, the Secretary stated that research and development should continue on the light water reactor option (WNP-1), and that work should continue on solving any institutional problems associated with its completion. (See app. I.)

OVERCOMING DESIGN PROBLEMS

The Babcock & Wilcox Owners Group, an organization of owners of Babcock & Wilcox reactors, has proposed 215 recommendations for improving the operation and safety of its reactors. A number of the recommendations concern design issues which may apply to the WNP-1 reactor. However, the Supply System has deferred action on the recommendations until after reactor construction resumes.

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[1] *Technical Feasibility Task Force WNP-1 Conversion Preinvestment Analysis Report,* Mar. 1987.

[2] Tritium is a gaseous isotope used in nuclear weapons. It is produced in a nuclear reactor when uranium neutrons react with another element, lithium.

[3] WNP-1 was financed by the Supply System with long-term revenue bonds.

[4] Recriticality is an event that may occur during an accident in which the nuclear fuel melts and reshapes itself in a sphere configuration that sustains an uncontrolled nuclear reaction.

[5] "Light water" refers to water whose molecules contain normal rather than "heavy" hydrogen.

[6] These technologies are the heavy water reactor; light water reactor; high-temperature, gas-cooled reactor; and liquid metal reactor. WNP-1 is a pressurized light water reactor, a type of reactor explained in more detail in appendix II.

[7] Any of several isotopic varieties of water, especially deuterium oxide, consisting chiefly of molecules containing hydrogen with a mass number greater than 1, and used as a moderator in certain nuclear reactors.

In February 1987, the Union of Concerned Scientists[8] petitioned the NRC to shut down Babcock & Wilcox-designed plants because it believed the plants had serious design problems that made them unsafe to operate. The problems cited in the petition were associated with the (1) once-through steam generators, (2) reactor pressurizer, (3) auxiliary feedwater system, (4) integrated control system, and (5) non-nuclear instrumentation system. (App. II explains these features and describes the systems.)

NRC denied the petition in October 1987, although it agreed that Babcock & Wilcox reactors have experienced problems. In denying the petition, NRC stated that:

> Substantive improvements have been made to Babcock & Wilcox reactors.
>
> The petition contained no substantial health and safety issues that would warrant suspension of any licenses or permits for Babcock & Wilson reactors, or that would be resolved by granting the relief requested.

We examined the applicability of the five design issues to the WNP-1 reactor and found that Babcock & Wilcox and the Supply System either have taken steps to ensure that the issues will not affect safe operation of the WNP-1 reactor or have plans to take such steps. Four of the five design features have been resolved on the WNP-1 reactor through design changes, and the fifth—the integrated control system—is planned for modification during completion of the reactor.

In addition to the problems pointed out by the Union of Concerned Scientists, NRC has identified two problems common to all pressurized light water reactors. The major problems are decay heat removal and station blackout. (See app. II.)

The decay heat removal system is used to remove heat from the core once the reactor is shut down. NRC has ruled that the decay heat issue be addressed in the risk analysis submitted to NRC for each reactor. WNP-1's independent heat removal system is not dedicated solely to the removal of a decay heat, a condition NRC may require.

A station blackout occurs when all alternating current power to the reactor is lost. NRC has recently issued a ruling that plants be capable of enduring a blackout for up to 8 hours. The main concern is that the seals around the pumps, which circulate coolant through the reactor, may leak. For WNP-1, a backup system powered by a dedicated diesel motor is planned to prevent the failure of the pump seals

RESOLVING TECHNICAL ISSUES

WNP-1 was designed as a commercial nuclear power plant with a steam supply system to generate electricity. While most of the systems are adaptable to a tritium-producing reactor, certain modifications will be necessary because the design was not engineered to produce tritium. The major change will require redesigning the core to include fuel assemblies containing enriched uranium fuel rods and tritium target pins.

In commercial light water reactors, the core is made up of thousands of rods, each containing pellets of uranium fuel. These rods are fixed in fuel assemblies containing several hundred rods each. In WNP-1, 205 fuel assemblies form the core. In a defense production reactor producing tritium, target pins filled with lithium are added to the core. The lithium in the target pins reacts with the neutrons released during the nuclear process to form tritium.

The key issue with respect to tritium production in the WNP-1 reactor is whether tritium target pins can be designed and manufactured that will retain their structural integrity and hold the tritium during the production process. The core will contain approximately 13,000 tritium target pins that must be manufactured to extremely high quality to ensure their integrity and avoid the loss of tritium. Whether the target pins will work satisfactorily cannot be fully resolved until full-scale manufacturing and irradiation testing of the target pins have been completed.

As part of the irradiation testing, the DOE contractor plans to test a relatively small number of target pins in a DOE test reactor to determine whether leaks occur. However, testing even a few hundred target pins will only confirm that there are no gross deficiencies in the final design. It will not demonstrate that several thousand pins can be produced virtually defect-free. According to DOE's contractor, component tests and a quality assurance program are planned as part of the manufacturing process to increase confidence that the pins can be successfully manufactured on a large scale. In addition, an alternative target pin design may be developed and tested, but questions remain regarding the quality of tritium it can produce.

Another technical issue is that the uranium fuel in the WNP-1 assemblies will require uranium with a higher enrichment level[9] than a commercial power reactor needs. DOE initially planned to run the reactor with 20-percent enriched uranium fuel. However, with 20-percent enriched fuel, there is a chance of a safety concern called "recriticality." Recriticality is a condition that, on a rare occurrence, can result in an extremely severe accident. If the nuclear fuel inside a reactor becomes too hot—for example, if it overheats because the flow of coolant in the cooling system is interrupted—it may melt or slump into a shape in which the nuclear reaction restarts but is no longer controlled by the nuclear reactor control system. While DOE contends that such an accident would not breach containment, it has done calculations which provide full support for this conclusion.

The fuel enrichment has since been lowered to 10 percent, and DOE's contractor concluded that at this level of enrichment, the possibility of recriticality in WNP-1 is precluded. A consulting nuclear physicist we used to help us review technical issues examined the redesigned core and concluded, on the basis of the data and models available, that the possibility of recriticality would be virtually nil at the 10-percent enriched uranium level.

A third technical issue is whether the WNP-1 reactor will be able to produce goal-established amounts of tritium. This issue has not been fully resolved. DOE's contractor believes that tritium production goals can be achieved using 10-percent enriched uranium fuel. However, this confidence assumes that a tritium target pin for WNP-1 can be successfully designed and manufactured. (See app. III.)

ENSURING LICENSABILITY

There is considerable interest within the Congress and scientific community that DOE receive external and independent review of its reactor safety decisions of the type regularly obtained in the commercial reactor industry for all its nuclear facilities. Currently, however, DOE production reactors are not licensed by NRC.

The NRC has found that the Supply System is maintaining the WNP-1 reactor in a way that meets the NRC's licensing standards. However, completing the plant for defense production instead of for commercial purposes would require safety analyses of the existing systems and modifications needed to complete the reactor for tritium production. In this respect, the WNP-1's pressurized light water reactor design is well known and understood, thus it would seem that techniques needed to analyze the modified reactor against safety standards could be developed and used.

It is not clear how DOE plans to provide assurance that its facilities will meet NRC standards. In this regard, we and the National Academy of Sciences have pointed out the need for independent oversight of DOE facilities to ensure and certify that safe standards are maintained. We have pointed to the need for a review process to include (1) independence, (2) technical expertise, (3) the ability to perform review of DOE facilities as needed, (4) clear authority to require DOE to address the oversight organization's findings and recommendations, and (5) a system to provide public access to the organization's findings and recommendations.[10]

Legislation is in progress to establish a safety board, made up of outside experts, to review the safety of DOE facilities. However, as of August 1988, the provision to establish such a board had not been signed into law. (See app. IV.)

REASONABLENESS OF COST AND SCHEDULE ESTIMATES

A DOE subcontractor estimated in March 1988 that the cost to complete WNP-1 for tritium production is $2.6 billion, excluding the cost of acquiring the plant from the Supply System. We found no basis to question the process used by DOE contractors and subcontractors for estimating the WNP-1 completion cost and schedule. Although we did not perform a detailed examination of all of the components of the estimate, we did so for the estimate related to installing electrical cable. This is one of the larger items left to be completed; approximately 6 million feet of cable remains to be installed. We found the estimate for cable installation in WNP-1 to be reasonable.

The DOE subcontractor estimates it will take 6 years to complete WNP-1 as a tritium production plant. An important item in meeting the 6-year estimate is the successful development and testing of tritium target pins. In addition, legal uncertainties concerning the government's acquisition of a partially completed commercial plant for defense purposes could delay the completion. Delays in either case, or in the environmental or safety reviews, could ultimately affect the final cost and schedule estimates of WNP-1. (See app. V.)

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[8] An independent group of scientists concerned with U.S. energy and arms policies, especially nuclear policy.

[9] The level of enrichment of the uranium is the percentage of U^{235} present. Natural uranium is only about 0.7-percent U^{235}, the other 99.3 percent being another uranium isotope. The uranium fuel in commercial power reactors is "enriched" to 2- to 4-percent U^{235}.

[10] *Key Elements of Effective Independent Oversight of DOE's Nuclear Facilities* (GAO/T-RCED-87-32, June 16, 1987).

LEGAL AND POLICY ISSUES

Legally, condemnation of WNP-1 by DOE would not be an event of default and would not make the bonds—totalling $2.1 billion—immediately due and payable. The following are other issues associated with completing WNP-1 as a defense production plant:

Although DOE has statutory authority to condemn the WNP-1 plant, the plant's cost through condemnation is not known. The cost could range from $30 million (salvage value) to $2.1 billion (total of the outstanding bonds).

While DOE's condemnation and completion of a partially completed commercial power plant as a defense production plant do not violate the 1968 Non-Proliferation Treaty or existing law, it may raise policy questions. For example, such action may be criticized on the basis that it breaks away from the traditional separation between peaceful use of atomic energy and military use. (See app. VI.)

OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of our review was to assess the issues associated with DOE's acquiring and completing WNP-1 as a defense production plant. Our specific objectives were to (1) examine safety issues by reviewing the design and technical feasibility of the completion, (2) assess the cost and schedule estimates, and (3) answer specific legal questions.

Our scope was limited to assessing the WNP-1's completion only. We did not compare the WNP-1's completion with the other options being considered by DOE for a new materials production reactor. DOE had independent studies conducted which compare the options for the reactor technology and the site. These studies were completed after we completed our field work.

We conducted our review from November 1987 through July 1988. This review included (1) an examination of DOE's March 1987 report entitled *Technical Feasibility Task Force WNP-1 Conversion Preinvestment Analysis Report*, its classified appendixes, and supporting studies, (2) a limited review of the estimated cost and schedule to complete WNP-1 as a materials production plant, and (3) discussions with representatives from DOE, DOE contractors and subcontractors, state governments, the Union of Concerned Scientists, the Supply System, and the Natural Resources Defense Council.[11] A consulting nuclear physicist assisted us.

During the course of our work, we obtained the views of responsible DOE and contractor officials on the information we gathered. These officials generally agreed with the facts presented, and we incorporated their views in the report where appropriate. We did not obtain official agency comments on this report. This review was conducted in accordance with generally accepted government auditing standards.

As arranged with your office, we are sending a copy of this report today to Representative Vic Fazio and Norm Dicks, who also requested this work. In addition, a similar but separate report is being sent to Senator Brock Adams. Unless you or the other recipients of this report or the sister report publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to the appropriate congressional committees and the Secretary of Energy. We will also make copies available to others upon request.

This work was performed under the direction of Keith O. Fultz, Senior Associate Director. Other major contributors are listed in appendix VIII.

Sincerely yours,

J. DEXTER PEACH,
Assistant Comptroller General.

TABLE 2.2.—CONSTANT DOLLAR AND DISCOUNTED NPR LIFE CYCLE COSTS INCLUDING EFFECTS OF ELECTRIC REVENUES

[In millions of 1988 dollars]

Cost category	Ebasco HWR			DuPont HWR			West. HWR			SWR			WNP-1, Richland
	Richland	Idaho	Savannah	Richland	Idaho	Savannah	Richland	Idaho	Savannah	Richland	Idaho	Savannah	
Preoperational	352	352	346	238	229	208	234	229	208	514	514	514	514
Capital	4,232	3,727	3,146	4,378	3,963	3,040	4,692	4,129	3,379	5,711	4,936	4,836	1,954
O&M	19,837	19,143	19,555	16,956	16,334	16,544	17,103	16,347	16,785	17,955	17,320	17,858	17,591
Total costs	24,421	23,222	23,047	21,572	20,526	19,792	22,029	20,705	20,372	24,180	22,770	23,208	20,059
Electric Revenues	0	0	0	0	0	0	0	0	0	10,160	10,160	13,880	11,080
Discounted values (present worth):													
Costs	10,497	9,912	9,366	9,468	8,974	8,076	8,603	8,976	8,313	10,944	10,185	10,116	8,736
Revenue	0	0	0	0	0	0	0	0	0	3,532	3,532	4,825	4,333
Net Project Cost	10,497	9,912	9,366	9,468	8,974	8,076	9,603	8,976	8,313	7,412	6,653	5,291	4,403

Souce: "NPR capacity cost evaluation" U.S. Department of Energy, July 1988.

TABLE 2.2.—CONSTANT DOLLAR AND DISCOUNTED NPR LIFE CYCLE COSTS INCLUDING EFFECTS OF ELECTRIC REVENUES

[In millions of 1988 dollars]

Cost category	HTGR			GE LMR			RI LMR		
	Richland	Idaho	Savannah	Richland	Idaho	Savannah	Richland	Idaho	Savannah
Preoperational	547	546	547	687	687	687	677	677	677
Capital	5,946	5,314	5,306	5,005	4,887	4,873	4,125	3,907	4,014
O&M	21,345	20,063	20,415	19,102	19,044	19,036	18,062	18,014	18,007
Total costs	27,837	25,924	26,267	24,794	24,617	24,596	22,864	22,717	22,697
Electric revenues	10,840	10,840	13,760	6,480	6,480	8,280	6,040	6,040	7,800
Discounted values (present worth):									
Costs	12,347	11,476	11,434	10,806	10,697	10,591	9,784	9,692	9,589
Revenue	3,769	3,769	4,784	2,253	2,253	2,879	2,100	2,100	2,712
Net project cost	8,578	7,707	6,650	8,553	8,444	7,712	7,684	7,592	6,877

Source: "NPR Capacity Cost Evaluation" U.S. Department of Energy, July 1988.

DOE WANTS NEW WEAPONS REACTORS TO REPLACE AGING, TROUBLED ONES

The political fallout from the explosion and meltdown at Chernobyl's Unit 4 in April 1986 led to reappraisals of reactor safety around the world—nowhere with such swift effects as on the materials production program for US nuclear weapons. Chernobyl led the Secretary of Energy, John S. Herrington, to order several independent studies of reactors producing plutonium and tritium. Before the end of 1986, one panel called for major modifications or a complete shutdown of the large N-Reactor at the Hanford Nuclear Reservation near Richland, Washington, which is like Chernobyl's four RBMK-1000 plants in having a graphite core. A few months later, the department turned off the N-Reactor to make mechanial changes (Physics Today, February 1987, page 63). Since then, DOE has decided not to restart the reactor.

Other studies of DOE reactors, conducted by the National Research Council and by the department's independent Advisory Committee for Nuclear Facility Safety, found some either rapidly nearing or already past the ends of their expected lifetimes. This was especially true for defense production reactors at Savannah River, not far from Aiken, South Carolina, where deteriorating components and design changes since the reactors were turned on in the 1950s have put increased demands on control-room staffs and their supervisors. Indeed, for the past seven years the Government Accounting Office, Congress's watchdog over executive agencies, has criticized operating practices at Savannah River and designated the reactors as "high-hazard facilities."

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[11] Environmental organization staffed by lawyers and scientists who undertake litigation and research. Provides information on environmental issues, including nuclear power and non-proliferation.

So it came as a surprise when Herrington called in the news media on 3 August to announce that DOE proposed to replace the three tritium production plants at Savannah River with a single reactor that is similar in concept to those now there but would provide 100 percent of current military requirements. Experts have warned that the P, K and L reactors, all more than 30 years old, may not last the ten years it will take to design and build the successor, which would be capable of yielding plutonium as well as tritium.

Herrington's statement also contained a surprise: A smaller reactor, based on a novel high-temperature gas-cooled technology, would be constructed at the Idaho National Engineering Laboratory near Idaho Falls. This reactor would also take ten years to complete and would yield another 50 percent of the tritium the Pentagon currently uses.

The reason the Energy Department wants the capability of producing so much tritium is that this isotope, the basic fuel of thermonuclear bombs and useful in upgrading the power of fission warheads, must be replenished periodically. Tritium degrades at a rate of 5.5 percent each year. Plutonium, by contrast, is a relatively stable material, with a halflife of about 23,000 years.

"As long as this nation relies on the nuclear deterrent," explained Herrington, "we must have the capability for a steady, reliable supply of tritium and plutonium." The need for two production plants at widely dispersed locations, he said, will "minimize the technical risks to national security." This "two-reactor strategy," he declared, "involves proceeding on an urgent schedule" to make the US less vulnerable to operating interruptions. DOE estimates the price tag for the two reactors would be $6.8 billion if built today. Critics say the final cost is likely to be more.

The reactor for Savannah River would be based on proven technology for making weapons-grade material, using heavy water or deuterium. The Idaho reactor would be based on technology developed in the US and the Federal Republic of Germany. The concept originated in Britain in 1956 with the Magnox-class power reactors, which use carbon dioxide as a coolant and natural uranium as fuel. In the US, GA Technologies of San Diego pioneered the development of a reactor using helium as the coolant and graphite as the moderator. In 1967, the 40-MW Peach Bottom No. 1 plant, designed by GA Technologies (then known as General Atomics) went on line in the Philadelphia Electric Co system as part of the Atomic Energy Commission's power reactor demonstration program. The reactor was shut down in 1984 when scheduled tests were completed. The Fort St. Vrain plant was another experimental reactor built by GA Technologies for Colorado's Public Service Co. It went critical in 1974 and continues to operate. But as a commercial demonstration it was not a good advertisement for the concept. It produced only about 10 percent of the power it was designed to provide if it could have run at full capacity. Although GA Technologies claims the plant showed the benefits of helium instead of ordinary water as a coolant, frequent breakdowns of the helium circulator raise questions about its reliability.

High-temperature gas-cooled reactors have been develped in West Germany for a 15-MW power plant that has been operating since 1968 and a 300-MW plant that is set to start up soon.

The use of graphite is uncommon among nearly all reactors. Graphite was used in Hanford's N-reactor, which produced plutonium, and in Chernobyl's RBMK-1000 types. The GA design departs markedly from those reactors. A major difference from the Chernobyl reactors is that as the core temperature rises in the high-temperature, gas-cooled reactor, the nuclear reaction is choked off. At Chernobyl the opposite was true.

Unfortunately, six days after Herrington's announcement, an incident at Savannah River called into question the safety of the aging weapons-material reactors. A DOE source called the episode a "complete collapse" of safety procedures that, in worst circumstances, could have resulted in a Chernobyl-type calamity.

The history of the problem has its origin in power cutbacks of the Savannah River defense reactors to 45 percent capacity because of safety concerns. According of DOE officials, the P reactor, which had been shut down since early April for safety modifications and routine maintenance, was being restarted on 7 August when operators found that the position of its control rods apparently prevented a sustained reaction. When they attempted to restart the reactor on 9 August, its temperature and pressure surged unexpectedly in what is termed a "power spike."

Instead of trying to control the surge, however, operators not only continued to run the reactor but did exactly the wrong thing: They turned up the power. It seems that when the operators had trouble getting the reactor to sustain a chain reaction, they did not do the customary thing, pushing in the control rods to suppress the reaction, but instead pulled the rods further out. If the reactor had been running at higher power, a tragedy might have resulted, said an offical at Du Pont, which operates the Savannah River complex.

John F. Ahearne, the former chairman of the Nuclear Regulatory Commission, who heads a special DOE safety advisory committee named by Herrington last year (see page 38 for an article by Ahearne) expressed anger that the problems at the P reactor were not reported instantly. In an electronic mail message to plant managers, Ahearne admonished operators for not informing him of the problem. When Ahearne was asked what he would do in the circumstance, he recommended an immediate shutdown. That was done.

DOE's assistant secretary for environment, safety and health, Ernest C. Baynard III, said that at one point the operators increased the reactor's power to 60 percent, one-third higher than the 45-percent maximum approved by the board. The operators detected more decay products—primarily helium-3, which acts to absorb neutrons and suppress the reaction. The presence of helium-3 made the reactor more difficult to start. Puzzled by this, the operators pulled more control rods in an effort to boost the reaction. Each time they pulled the rods, the reactor surged briefly and then subsided. "You can't have people operating a nuclear reactor acting as if it is business as usual when something unusual occurs," said Baynard.

After interviewing the operators, DOE issued a report explaining that the reactor did not "exhibit uncontrollable behavior." The surge had never been more than 1 percent of the authorized power level. But the DOE criticized the operators for neglecting the "checks and balances that would prevent a recurrence of the events." Still, members of Congress have expressed concern that this worrisome episode happened at the very time that DOE is seeking their support for the new reactors.—Irwin Goodwin

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[From the New York Times, Oct. 13, 1988]

THE CANDIDATES AND THE BOMB ALARM

America's capacity to build nuclear weapons is disintegrating. Worried military planners contemplate cannibalizing their components. Worried members of Congress discover that the capacity to build them safely has eroded. And what is the response?

Energy Secretary John Herrington says sunnily, incredibly: Give us a couple of months and we'll be back in business. Meanwhile, the message from the Presidential candidates about this alarm in the night is, as they head into their last televised debate, even more astonishing. Neither has said a word.

That's no surprise. After years of neglect, complacency and mismanagement, the complex of plants that make nuclear material is becoming too decrepit to operate. The accumulated bill for remodeling and repair amounts to $130 billion.

The next President thus will have three choices: Find that huge sum, keep the present plants running despite mounting risk of disaster, or face unilateral nuclear disarmament.

Recent investigations by the Department of Energy and others are turning up an array of safety problems. The last three production reactors, at Savannah River, S.C., have been temporarily shut down. This week the department said it had closed its plutonium processing center at Rocky Flats, Colo, site of pervasive inadequacies in worker protection, maintenance and fire prevention.

The safety problems at Savannah River may not be as bad as feared but could still cause a production crisis. Du Pont, which runs the plant, cites its outstanding record of minimizing worker exposure to radiation as proof the plant has been operated safely. This is probably true, though outside experts see room for extra safety measure, like those adopted at commercial reactors after the Three Mile Island accident. Hence the three Savannah River reactors have already been put on half power and then closed down.

Richard Heckert, chairman of Du Pont, says the Savannah River plant is safe and fully capable of producing all the nuclear materials needed until new reactors are built. Energy Secretary Herrington says he intends to restart one of the reactors by December. But any delay could prompt a crisis in the supply of tritium.

Tritium, used to boost the yield of fission trigger devices, decays by 5 percent a year. Without fresh supplies, the United States would be forced to retire about 1,200 of its 22,000 nuclear warheads a year. "To have these reactors not operational is tantamount to unilateral nuclear disarmament," says a senior Pentagon official.

How could the Department of Energy allow such a risk to arise? It skimped on modernization, ignoring for a decade Du Pont's request to build a new Savannah River reactor. The Reagan Administration has run the whole aging complex at full speed making weapons. The Department has let toxic and radioactive waste accumulate in the thousand dump sites.

These problems have grown over decades but have not reached a point of crisis. It's none too soon for the next President to say how he will meet it.

[From the Atlanta Constitution, Oct. 6, 1988]

A FIX FOR THE SAVANNAH RIVER PLANT

The government has created a nasty, unscientific chain reaction at the Savannah River Plant. For three decades, the feds have run the installation in secrecy—which means they could push production at the expense of safety and get away with it. As a result, plant operations have suffered from poor training, flawed procedures and bad attitudes. Urgent constructive criticism has had a way of getting filed and forgotten.

A recent Washington hearing revealed more than a few hair-raising tales. During a startup in 1960, one reactor surged to 10 times the approved rate and came within 40 seconds of a process that could have led to a meltdown. In a 1970 power-up of another reactor, some fuel was partially melted. In 1971, the operator of still another reactor ignored alarms that showed radiation was being released. The list goes on and on.

But now, after 30 years, the Savannah River Plant's penchant for irresponsibility is about to be checked. Late last week, the president signed into law a measure that sets up a special oversight committee to monitor activities at this plant (which makes plutonium for our nuclear arsenal) and at similar installations around the country. Until now, scientists and workers at the plants could protest conditions until their lungs collapsed, but nothing would happen. Too often, the bureaucrats in the Energy Department simply ignored them.

No more. The oversight group will not be beholden to the Energy Department. The five-member board will be appointed by the president. About 100 staffers will help carry out its policing duties. The group will have the power to make recommendations for safer procedures. When it finds "severe and imminent" threats to safety, it can take them directly to the president for remedial action. Less severe problems will be taken up with Energy officials.

For the troubled Savannah River Plant and its neighbors, this is a marvelous step forward. It is not, however, a panacea.

One issue the legislation leaves cloudy is the matter of environmental cleanups. The Savannah River Plant has a ghastly problem with buried wastes. Can the board order a cleanup if it discovers "severe and imminent" threats to safety? For the sake of consensus, this question wasn't answered.

Moreover, the board members and staff can only point the Energy Department and its contractors in the right direction. The implementation of better procedures and training programs within the plants rests in the same hands as before.

The board is a fail-safe mechanism. Its outsiders may be able to prevent another destructive chain reaction born of secrecy, sloppiness and blame-dodging. They can't create competence—that must come from within. The challenge isn't over.

[From the Washington Post, Oct. 14, 1988]

RESTARTING THE WEAPONS REACTORS

All five of this country's weapons reactors—the machines that produce the material for nuclear warheads—are now out of operation. In each case, the reasons are related to safety. Two of them will probably remain out of commission permanently. The remaining three, at the Savannah River Plant in South Carolina, are waiting for the Department of Energy to decide when and under what conditions to start them up again.

They can't be allowed to remain down indefinitely. One component of nuclear weapons, tritium, decays over time, and any prolonged interruption in production will affect the country's nuclear arsenal. The Energy Department is beginning the process of building two new reactors, but they won't be completed until the turn of the century. Any tritium produced in this country over the next decade will have to come from the Savannah River Plant.

It was built in the 1950s, and the reactors there are aging. One of them malfunctioned when it was being started up last August; that's the reason for the current shutdown. These reactors have been pushed hard throughout the 1980s for the Reagan administration's buildup of weapons, and the administration has skimped on the necessary investment to keep them up to date.

The accumulated size of that investment is daunting by any measure. The General Accounting Office has concluded that, to bring all of the Energy Department's weapons facilities up to current health and safety standards, including adequate waste disposal and environmental protection, would cost $100 billion to $130 billion.

It's not just a matter of replacing worn hardware. Ever since World II the weapons plants have worked behind a heavy veil of secrecy that has segregated them almost entirely from the civilian world. The steady tightening of environmental and safety requirements over the past two decades never reached these facilities. The sweeping reforms of the civilian nuclear industry after the Three Mile Island accident never touched them. Old habits became entrenched, and the supervisory structure became ingrown.

Several years ago Sen. John Glenn and his Governmental Affairs Committee began to take a serious interest in the subject, and the current attention is largely owed to their work. After the Chernobyl disaster in the Soviet Union, the Energy Department commissioned a study of safety issues and, like Sen. Glenn, it concluded that independent oversight was essential. The department appointed a committee of outsiders headed by John Ahearne, a former chairman of the Nuclear Regulatory Commission.

The Energy Department now expects to restart one of the Savannah River reactors by the end of the year, after safety improvements, and the other two in 1989. It would be far better to turn those decisions over to the Ahearne committee. These machines have been severely overused by successive administrations that have consistently ducked the costs of bringing the weapons plants up to the standards on which, everywhere else, this country insists. Under these circumstances, the judgments about putting the reactors back into production are ones that this administration would be wise to leave to the outsiders.

[From the Christian Science Monitor, Oct. 12, 1988]

IS THIS ANY WAY TO RUN A BOMB PLANT?

National security requires the United States to build and operate plants that make materials for nuclear weapons. That activity, however, is not well served when safety and reliability of the plants get shortchanged.

Unfortunately, that appears to have been the case at the US Department of Energy's Savannah River Plant in South Carolina and Rocky Flats Plant in Colorado. Reports and memos recently surfaced listing mishaps at the Savannah plant. These range from fires and leaks of contaminated water to melted reactor fuel rods and leaks of plutonium-laced sludge. The Rocky Flats operation was shut down after a safety lapse exposed employees to radioactive material.

Savannah River's reactors have suddenly shut themselves down from nine to 12 times a year for the last 20 years. A commercial reactor with a record like that would have been closed long ago—its license revoked and heavy fines levied.

Most disturbing is the withholding of safety problems from the public on "national security grounds."

Two reasons are more likely: Either an obsession with secrecy was out of proportion to the risk, or there was a conscious attempt to mask faulty operations.

The reactors' production rates are classified, as are the existing levels of US weapons-material stockpiles. Without that information, an enemy would find it difficult to use plant downtime to figure out whether the US was failing to make the weapons-grade material it needs—unless, of course, that downtime was so frequent as to allow no other conclusion. In that case, one would have ample grounds for questioning the competence with which the weapons program was being run.

If security concerns are legitimate, secrecy only doubles the need for safe and reliable operations; having no way to check on the facility's safety record, the public is forced to trust the government to see that the plant is properly run.

This is not lost on Energy Department officials. Energy Secretary John Herrington asked the National Academy of Sciences to review safety at defense production reactors after the nuclear accident at Chernobyl in 1986. Other studies have been conducted. Various recommendations have been adopted, but they involve structural changes, which don't guarantee changed attitudes.

Mr. Herrington has said that the weapons plants should adhere to safety standards comparable to those governing the commercial nuclear industry. The key is to drive that notion deep into lower levels of management, with clear guidelines for achieving the goal and strong penalties for failing. The potential for meeting that goal has been enhanced by a change of contractors at Savannah River: Westinghouse takes over from Du Pont April 1. Westinghouse has broad experience in the commercial sector.

Congress shares responsibility. The plants are vital to US security, so there is a built-in management bias toward production. Congress must ensure that defense production reactors are adequately financed. It should not put Energy Department managers in the position of having to choose between spending on production and spending on maintenance, safety, and training.

[From the Tacoma News Tribune, Oct. 6, 1988]

SAVANNAH RIVER'S DARK, DIRTY PAST

Government secrecy seems to pay, at least for the people who run the Department of Energy's defense reactors in South Carolina.

Between 1957 and 1985, it turns out, there were no fewer than 30 alarming accidents at five reactors on the Savannah River nuclear reservation. Some of these were near-disasters. In 1960, for example, the power level in one of the reactors surged uncontrollably 10 times faster than safety guidelines permitted. In December 1970, the operators of another reactor repeatedly tried to trigger its chain reaction, apparently oblivious to an insufficient flow of cooling water. As a result, the reactor overheated and a fuel assembly melted. A few weeks later, a radioactive rod melted in another reactor, contaminating its cooling system and releasing huge quantities of radiation.

These accidents were treated as state secrets. The Atomic Energy Commission—the predecessor of today's Department of Energy—didn't reveal them, nor did local managers of the South Carolina reservation. They were finally disclosed last Friday by members of Congress who are investigating Savannah River's problems.

What's disturbing about all this is that some of the people who helped close the N Reactor last February—people like Sens. Strom Thurmond of South Carolina and Sam Nunn of Georgia—had a strong vested interest in preserving defense programs and jobs at Savannah River. It wasn't a coincidence: All along, part of the motivation for shutting down the Hanford reactor was to shift defense spending from Washington state to South Carolina. Yet the Washington plant never experienced an accident remotely as serious as those at Savannah River.

Now the country is discovering that the Savannah River plant's safety record is far worse than the N Reactor's. Over the last few years, it seems, Savannah River kept its dirty linen in the closet while Hanford's managers more openly acknowledged lesser problems at the N Reactor. Now the N Reactor is closed. A cynic might conclude the Savannah River people played it smart.

[From the Seattle Times, Oct. 9, 1988]

MANAGEMENT MELTDOWN AT SAVANNAH RIVER PLANT

The deeply disturbing revelations of serious operating problems and chronic equipment failures at the federal nuclear-weapons facility at Savannah River, S.C., could have far-reaching repercussions—even in this state.

A report just made public (after an unexplained five-month delay) by the federal Department of Energy, information released by two congressional committees, and admissions by the DuPont Co., which operates the plant, reveal that:

Some of the five reactors at Savannah River had to be shut down up to 12 times a year between 1971 and 1987—a shutdown rate three times that of civilian nuclear plants.

25 workers were exposed accidentally to radiation, and some exposures greatly exceeded federal safety guidelines.

As many as 30 significant mishaps occurred over a 30-year period—but these were never reported to the government or made public by DuPont.

Between 1954 and 1982, DuPont admitted, the plants experienced fires, equipment failures, contaminated-water floods and a reactor-coolant leak that almost caused a spontaneous nuclear reaction.

Overall, a deplorable pattern emerges of lax oversight by the federal government and sloppy performance by DuPont that threatens the nation's continuing need for weapons-grade materials. Call it a management meltdown.

How might this affect Washington state? Last February, the DOE put the Hanford N Reactor on "cold standby" and announced that the nation's plutonium and tritium needs would be met at the South Carolina facility. But depending on what happens next at Savannah River, it's possible that the N Reactor—which underwent extensive safety improvements—could be needed again. Indeed, the Savannah River disclosures make the N Reactor's problems seem relatively trivial.

In addition, the idea of converting the mothballed WPPSS Nuclear Plant No. 1 at Hanford to defense production—which could be faster and cheaper than building a new reactor from scratch—may soon start to look more attractive.

Wherever the plutonium and tritium are produced, the nation's weapons stockpile simply must be maintained. Progress on arms control could eventually reduce the need for these materials, but that remains highly speculative.

Some members of Congress have called for full investigation by the Advisory Committee on Nuclear Facilities Safety. The sorry story of Savannah River clearly needs investigating.

[From the Seattle Post-Intelligencer, Oct. 11, 1988]

UNSAFE REACTORS THREATEN SECURITY

The Reagan administration asks us to believe that on its watch our military defenses were strengthened.

Quite to the contrary.

The administration, aided by a compliant Congress, has allowed our defense posture to be seriously compromised.

The basic ingredients of our defense recipe are nuclear materials. But the administration is baking them in broken ovens.

The nuclear materials production reactors at Hanford in this state and Savannah River in South Carolina are old and unsafe. Nevertheless, the administration chose to use them to build up armaments on the cheap. And Congress went along because no one wanted to pay for the true cost: a new reactor.

Now we're in the awkward position of being unable to produce the needed trigger to fire some of our warheads—tritium, a nuclear material that decays relatively rapidly. At the moment none of the reactors is functional, so none is producing tritium.

And unless one of these unsafe reactors is switched on again, our tritium reserve will be gone by next summer, according to a report in The New York Times. No one is saying how long after that the tritium-triggered weapons on the shelf will remain functional.

But here's a clue to the situation's gravity: "To have these reactors not operational is tantamount to unilateral nuclear disarmament," says the top Pentagon official responsible for nuclear energy matters, Robert B. Barker.

While we're enthusiastic about disarmament, that enthusiasm does not extend to unilateral disarmament caused by incredible bungling.

The administration now is picking through its miserable options, which are precious few. One disagreeable one currently afloat is to turn civilian reactors into military ones—thus violating international agreements that forbid such conversions because they mean acceleration of nuclear proliferation.

Also on the list is conversion of Hanford's N Reactor to full-bore tritium production which reportedly would take four years, or an expensive conversion of Hanford's Fast Flux Test Facility reactor which would produce only small amounts of tritium. If these options fail, we are asked to hope our allies will sell us what we need to defend ourselves.

As Sen. John Glenn, D-Ohio, aptly put it, the choice comes down to: "Do we operate a perfect plant or do we accept a little less than perfect plant that is probably safe to produce tritium? That's a pretty hard decision."

"Probably safe" won't do.

Who would have thought that the ironic legacy of the Ronald Reagan arms buildup would be weapons we can't fire because of a tritium shortage caused by ignoring unsafe defense reactors?

[From the Seattle Post-Intelligencer, Oct. 6, 1988]

SAVANNAH RIVER HORROR STORIES

Disturbing news for Washington state residents is coming from South Carolina. Thirty serious nuclear accidents have occurred at Savannah River over the last 31 years at the Department of Energy's weapons complex and, until now, none has been made public.

The department at first claimed it did not know about the accidents, which happened on the watch of E.I. du Pont de Nemours and Co., the long-term contractor at the site. Now the agency claims the company did report the incidents but word never reached DOE headquarters—even though one accident took 900 people three months to clean up.

Members of Congress complain there are no records regarding any possible harm to humans or escape of radiation. Some of the accidents, which caused extensive radioactive contamination of facilities, involved loss of coolant and melting of fuel rods, first steps on the way to catastrophic meltdown. In one instance, technicians ignored a radiation alarm for two hours.

The accidents, many of which happened when the old Atomic Energy Commission ran the show, came to light when inspectors tried to ascertain why a dangerous power surge—one of many at the complex—occurred last August in one of the five reactors. They still don't understand it.

These revelations tellingly illustrate the inherent management problem in the agency, which was born when President Carter abolished the AEC, headed in 1973-74 by former Washington Gov. Dixy Lee Ray, and created the Department of Energy. Ray this week refused to answer questions from the Post-Intelligencer about whether she knew of the accidents.

Top DOE officials—sounding for all the world like a frustrated Mikhail Gorbachev battling his own bureaucrats—blame the agency's seemingly endless screw-ups on the inability to change the habitual mindset favoring secrecy among the old guard in the lower echelons.

All of this is of more than passing interest in this state, which is home to the N Reactor at Hanford, the only backup reactor capable of producing plutonium and tritium. It was put into "cold standby" for far less alarming safety concerns than these. So as Savannah River's environmental and safety horror stories continue to amaze and confound Congress and the public, Washington residents should realize that it's a good bet the N Reactor, which still has its safety problems, will seem ever more attractive as a source of weapons materials.

Congress, meanwhile, should persist in uncovering the missing information so the public is given a full explanation of what happened at Savannah River.

The tougher nut to crack will be to reform the people who run this agency, which is dangerously out of control.

[From the New York Times, Oct. 16, 1988]

AFTER 40 YEARS, THE SILENCE IS BROKEN ON A TROUBLED NUCLEAR ARMS INDUSTRY

(By Kenneth B. Noble)

WASHINGTON.—With a half-dozen Congressional committees scrambling—sometimes competing with one another—to expose the problems of the nation's nuclear weapons production industry, the Energy Department has provided a candid account of its failings. But some are beginning to wonder, why has the Government operated in virtual silence about its activities for the past 40 years?

The events of recent days suggest that behind the official quiet is an agency that kept the lid on problems rather than revealing them. Some in Congress, meanwhile looked the other way while they tried to solve more immediate problems.

The current storm began to break in August when the Energy Department shut down a reactor at the Savannah River plant in South Carolina after Government inspectors discovered severe safety problems.

Within weeks, the Energy Department said it would have to postpone opening the nation's first permanent nuclear waste repository, near Carlsbad, N.M., because its own inspectors were not satisfied that the plant could be operated safely. And then a week and a half ago, the department issued an emergency order halting plutonium processing at the Rocky Flats Plant in Colorado because of an accident in which three workers were exposed to radiation.

But the events paled in comparison with the problems of radiation exposure and contamination that unfolded at the 37-year-old arms plant at Fernald, Ohio.

Federal officials not only acknowledged last week that the plant had been releasing thousands of tons of radioactive waste into the environment for decades, but they also admitted that Government officials were aware of the contamination.

In view of such problems, Energy Secretary John S. Herrington last week acknowledged that, after years of neglect and haphazard management, many of the 15 sites in the weapons production system are falling apart.

SHORTAGE OF TRITIUM

Most of the plants were built in the decade after the initiation of the Manhattan Project in 1942. Their decay and decline was no secret to knowledgable members of Congress, who have held hearings on the matter and received reports for much of the past decade. But the problem has not been highlighted until this year, when Energy Department and Pentagon officials acknowledged that the deterioration was so acute they might be forced to dismantle some nuclear weapons because of a shortage of a key ingredient, the radioactive gas tritium, that is produced at the plants.

Why didn't Congress heed the warnings?

Environmentalists, public health officials, anti-nuclear groups and some Democrats say that much of the blame for the problems at the nuclear warhead production sites should be laid at Congress' door.

As these critics see it, Congress has long been more interested in production than in safety issues. Congressional experts, for instance, are unable to recall the last itme the Armed Services Committee, which has primary oversight of weapons production, held a hearing examining safety concerns in warhead production.

"Until now, the weapons systems were much sexier issues in Congress," said Dan W. Reicher, a lawyer for the Natural Resources Defense Council, an environmental group that has criticized many of the Government's plants. "It's difficult to get excited about radioactive waste dumps when you're contemplating the B-1 bomber," he said.

For one thing, few legislators until recently had taken a close look at how the weapon production system is operated. This attitude dates back to the early 1950's when the plant contractors, apprehensive about espionage and other real and imagined threats to their operations, sought to shroud the plants in secrecy.

UNUSUAL AUTONOMY

Getting heard on Capitol Hill, of course, is not just a matter of making the most noise. It did not go unnoticed that the Government-owned plants are managed by some of the nation's largest companies, including E.I. du Pont de Nemours & Company, and the Westinghouse Electric Corporation.

It came as little surprise then that Congress largely acceded to their desires, giving the weapon production centers an unusual degree of autonomy and self-regulation. When Federal environmental standards were tightened in the 1970's, the money the warhead centers spent to comply with the new rules left little for modernization. Then the Reagan Administration doubled production of nuclear warheads, mostly for new weapons ordered by the Carter Administration.

A few Senators, notably John Glenn, the Ohio Democrat who is chairman of the Government Operations Committee, sought to rein in the weapons plants, at least to the degree of insisting that they be subject, like most private ventures, to environmental and public health laws. But for the most part, lawmakers showed little appetite for the fight.

"At a time of tight budgets, unless something is really broken and not working, they just don't get excited about it," Mr. Glenn said.

Moreover, if the past is any guide, once the current flurry of activity fades and the condition of the weapons production sites no longer makes headlines, Congress is likely to fall into its old habits of inattention, critics say.

For one thing, a Congressional aide said, the dimensions of the problems facing the military weapons industry are so staggering that no solution will likely be seen for years to come.

"When the tough job of cleaning up the weapons' facilities is no longer on the front page," the aide said "you'll be able to count on one hand how many Senators are going to spend the rest of their careers on the thankless job of trying to clean up the mess."

[From the New York Times, Oct. 14, 1988]

FINANCES AND THE FEAR OF SERIOUS ACCIDENT PROMPT RARE OPENNESS ON WEAPON PLANTS

(By Keith Schneider)

WASHINGTON.—In a remarkable public admission, the Energy Department has acknowledged over the last two weeks that the Government's mismanagement of the nation's nuclear weapon industry has resulted in many industrial mishaps, chronic safety violations and a legacy of environmental contamination.

The scope of the difficulties almost defies comprehension. Toxic and radioactive wastes that will remain dangerous for thousands of years contaminate underground water around many of the department's weapon plants. Three major plants have been shut down in the last three months, and aging and neglected equipment at the others may no longer be able to reliably supply critical materials for nuclear weapons. The nation may thus be in an uncomfortable position of weakness.

Why is the Energy Department, normally so secretive about its military nuclear operations, now declaring that conditions at its plants pose threats to national security and public safety?

Finances and fear of a serious accident are among the forces motivating the Energy Department, a variety of experts say. By admitting that the 46-year-old program to manufacture nuclear weapons is in crisis, this reasoning goes, the department believes it can make a case for proceeding with an extraordinary expensive program of repair and rebuilding.

Congressional critics of the department argue that its candor is in many ways a political shell game. They note that many safety problems at the aging facilities stem from the Reagan Administration's decisions to pay for new weapon systems, like the B-1 bomber, by not maintaining laboratories, production plants, a waste repository and a test site in the system for producing nuclear warheads.

Another factor in the department's disclosures may have been the likelihood that if the department was not forthcoming about the problems, the press and Congress would be.

Last August, the Energy Department shut down a reactor at the Savannah River Plant in South Carolina after inspectors from Washington discovered that local operators neither understood nor cared about an unsettling power surge and other unusual events. The public learned about this not from the department but from press reports that began with The Washington Post.

Only weeks later, the Energy Department said it could not open the nation's first permanent nuclear waste repository near Carlsbad, New Mexico because its own inspectors were not satisfied the facility could be operated safely. The department's action followed a New York Times report about water seeping into rooms and corridors that were supposed to be bone dry.

And 10 days ago, top officials of the department and a predecessor agency the Atomic Energy Commission, said subordinates never made them aware of a spate of serious nuclear accidents from 1957 to 1985 at the Savannah River Plant. The accidents had just been disclosed at a joint Senate-House Committee hearing.

In recent years, national and regional newspapers have reported on a string of plant shutdowns, releases of radiation to surrounding communities, accumulation of toxic and radioactive wastes, equipment failures and management breakdowns. Taken together all these incidents convinced critics and the Energy Department's own safety officers that the system was heading for a disaster.

The Government-owned plants and laboratories are managed by some of the nation's largest companies, including E. I. du Pont de Nemours & Company, the Rockwell International Corporation and the Westinghouse Electric Corporation. For decades, these companies and others have managed the warhead production system almost as fiefdoms, free from the close scrutiny they would have received had the weapon plants been operated as private ventures and subject to the nation's environmental and public health laws.

The armed services committees in Congress, which have primary oversight of weapon production, have been intent on satisfying the Pentagon and have not paid nearly so much attention to the Energy Department's nuclear weapon production.

As a result, despite substantial evidence of contamination and unsafe conditions at many of the 15 sites in the weapon production system, the dimensions of the problems now confronting Congress and the next Administration were not clear until very recently.

Perhaps most startling, however, is that the Reagan Administration, which has prided itself on rebuilding the nation's defenses, did not recognize the crisis building in the nuclear weapon complex.

In the fiscal year 1981, at the start of the Reagan Administration, the Energy Department's budget for nuclear weapon programs was $3.7 billion. In the fiscal year 1989, which began this month, the agency will spend $8.1 billion. (Almost $1 billion of that is directed to studying and solving environment and safety problems.)

Over the same period, though, the Pentagon's budget climbed to $291.2 billion from $178.4 billion. "We all ought to be asking why we are playing catch-up ball with something so critical as this system is," said Representative John M. Spratt Jr., A Democrat from South Carolina who is on the House Armed Services Committee.

Mr. Spratt said the Administration had periodically told the committee that its weapon facilities were old and that there was a risk of not being able to fulfill the nation's weapon production needs. "But," said Mr. Spratt, "we never heard from the Energy Department that they needed substantial new funding for staff, for repairs, for safety or to take care of the entire weapon operation."

As for safety, C. Anson Franklin, the Energy Department's chief spokesman said the department had to peel away the cloak of secrecy to break through the traditional "complacency" about safety that he said had overtaken the system. "We have known that this was a public crisis waiting to happen," said Mr. Franklin. "We could see there was going to be a day we had to face up to conditions in the weapons complex."

Other experts, including Senator John Glenn, a Democrat from Ohio, said the candor was necessary to alert Congress that the weapon production system was in danger of failing and needed an infusion of money.

The question now, though, is how much will it cost? The aged equipment and systems to manufacture materials and warheads are literally falling apart. Repairing the system sufficiently to keep it operating safely for 15 to 20 more years, until new plants are built, will cost $13.3 billion from 1989 until 1995, according to the Energy Department.

At the same time, the Energy Department has asked Congress for at least $17 billion over the next decade to build the huge atom smasher dubbed the superconducting supercollider, to begin the largest biological research project in history to analyze completely the total chemical structure of all human genes and to share the cost of a high-level nuclear waste repository in Nevada. The agency also wants to build a plant in Idaho for separating and purifying and two new reactors to produce tritium in South Carolina and Idaho.

These cost estimates do not include cleaning up the radioactive and toxic waste that accumulated at about 80 sites in 27 states and Puerto Rico since the nuclear weapon program began in the Manhattan Project in December 1942.

As the Energy Department tries to restart three nuclear reactors at the Savannah River Plant, the conflict over national security and public safety will come into sharper focus. The reactors produce tritium, a radioactive gas that is essential for maintaining warheads in readiness.

In any case, solving the immediate need will not assure reliable supply over the next decade or two.

"The Department of Energy and the Department of Defense have to outline a plan for what is needed to maintain production," said Senator Glenn.

For now and years to come, the nation faces an arresting paradox. The very system designed to protect the United States from foreign enemies is now being viewed by many in Congress, and millions of Americans, as a threat to domestic safety.

[From the New York Times, Oct. 12, 1988]

ENERGY SECRETARY VOWS FAST ACTION ON ARMS REACTOR

(By Keith Schneider)

WASHINGTON.—Energy Secretary John S. Herrington said today that he had appointed a special team to correct safety failures at the Savannah River Plant and to put a reactor that produces material vital to the American nuclear arsenal back into operation in January.

In his first public response to disclosures about safety problems at the nation's largest nuclear weapon plant, Mr. Harrington said at a news conference here that he intends to begin procedures in December to restart one of the plant's reactors and to have all three reactors operating by late next summer. The timetable surprised many nuclear analysts and touched off criticism from at least one legislator that the department was trying to move too fast.

The reactors, all shut down this year, produce tritium, a radioactive gas that is necessary to keep most of the nation's warheads in a state of operational readiness. Tritium decays at a rate of 5.5 percent a year and at some point—exactly when is secret—decays enough to render weapons inoperative. Energy Department officials say that unless the reactors at Savannah River are restarted by next summer, the United States could be forced to start deactivating warheads to recover tritium for use in higher priority weapons.

PRESIDENT IS BRIEFED

Energy Secretary Herrington and Lieut. Gen. Colin L. Powell, the national security adviser, briefed President Reagan today about the conditions at weapon production plants and the supplies of tritium available for maintaining nuclear warheads. Marlin Fitzwater, the President's spokesman, said Mr. Reagan was assured that the supply of tritium was adequate as long as the reactors are restarted according to the schedule and their production schedules are maintained.

When asked if the President believed there had been a cover-up of serious reactor accidents at Savannah River for as long as three decades, Mr. Fitzwater replied: "Well, that's what the Department of Energy says. A lot of these reports were not made public, and they wanted them to be."

Mr. Herrington said today he hoped to avoid deactivating weapons. "I have committed all of the Department's resources to this program and the goal of a phased restart of these reactors beginning at the end of the year," said Mr. Herrington. "It's a realistic objective. The experts that have worked with us say that it is a realistic objective. It's one we are determined to achieve."

Mr. Herrington's announcement came amid a rash of developments that have stopped production at three of the 15 plants nationwide that form the nation's nuclear weapon manufacturing system. Workers have been on strike since Friday at the program's only uranium processing plant, the Feed Materials Production Center in Fernald, Ohio. The strike over wages and safety conditions by 632 workers at the 35-year-old plant halted production there.

The Savannah River Plant, which produces plutonium and tritium, the radioactive gas, and the Rocky Flats Plant near Boulder, Colo., have been shut by the Energy Department for safety reasons.

Critics of the agency said today that they doubted the carelessness, equipment failures, and flaws in key safety systems that have been identified in recent months at the Savannah River Plant by agency and independent investigators could be addressed and resolved by January, when Mr. Herrington said the K reactor, shut down in April, would restart. Of particular concern are suspicious marks on reactor vessels, which some believe could be indications of cracks, questions about the ability of the reactors' emergency cooling systems to function properly during earthquakes, and a long history of accidents and operational errors at the reactors that have been documented by the Energy Department, Congress, the National Academy of Sciences and other groups.

INDEPENDENT VERIFICATION

"This new self-evaluation on the part of the Energy Department is just not good enough," said Representative Mike Synar, an Oklahoma Democrat, and chairman of the House Government Operation subcommittee on Environment, Energy and Natural Resources. "Before we can feel confident that the safety problems have been resolved, we need independent verification."

Mr. Herrington today confirmed that the vast industrial network of aged plants and weapon laboratories that design, manufacture, and test nuclear weapons is plagued by daunting problems. He said that most of the reports documenting extensive radiation leaks, accidents caused by equipment failures and carelessness have been made public by the Energy Department.

"I think our facilities are safer today than they were four years ago," said Mr. Herrington, referring to February 1985 when he assumed control of the Department. "The Department of Energy's commitment to safety has greatly improved from where it was. But much more needs to be done. That is something that we all agree with."

Richard Heckert, the chairman and chief executive officer of E.I. du Pont de Nemours & Company, which built and has operated the Savannah River Plant since 1952, said at a news conference today that he was "fed up" with accusations by the Energy Department that his company had mismanaged the plant and kept serious accidents secret.

"We're getting a bum rap," said Mr. Heckert. "My company's reputation is at stake here. We're hearing about this all over the world. We did this nation a valuable public service for 38 years at that plant. And our reputation for safety is unmatched by anyone."

Richard W. Starostecki, the Deputy Assistant Secretary for Safety, Health and Quality Assurance is one of five members of a management team that will lead the agency's program to restart the K reactor, one of three still functional of the five that were built at the Savannah River Plant in the early 1950s. Grover Smithwick, the deputy manager of the Oak Ridge Reservation in Tennessee, will be the manager at the site and will hire 12 technical engineers to help him there.

The number of shifts at the reactor will be increased to allow more time to train reactor operators. Shift engineers will be required to have degrees. All activities will be more closely monitored and reviewed. New procedures, similar to those now in use in the civilian nuclear industry, will be employed at the Savannah River reactor.

A startup program requiring Energy Department officials to review every step in the reactor's operations, has been established to make certain that if engineers experience a problem in activating the K reactor, they will immediately reverse their steps and understand what occurred. Previously, said the Energy Department, operators ignored incidents and unusual events and pushed on to achieve a nuclear chain reaction, a process that Mr. Starostecki has called potentially disastrous.

QUESTIONS ABOUT TIMETABLE

But experts in Congress and in universities wondered today whether the Energy Department's goal of activating the K reactor in late December, and achieving a nuclear chain reaction in January, was too ambitious.

The Energy Department in 1985 and 1986 discovered during visual inspections that marks and flaws marred some of the reactor vessels.

"I would be uncomfortable based on what we already know if the Energy Department started the K reactor without inspecting it for cracks," said Keith O. Fultz, a senior associate director with the General Accounting Office.

[From the Wall Street Journal, Oct. 12, 1988]

U.S. Says Weapons Plant Closing Means Tritium Won't Be Produced for 3 Months

(By Paulette Thomas)

Washington.—The closing of the three aging Savannah River nuclear reactors means it will be three months before the U.S. again produces tritium, a necessary component of nuclear weapons, the Energy Department said.

The sole source of U.S. tritium—the Savannah River production reactors in Aiken, S.C.—has been shut down for safety reasons since August.

Yesterday the department said the startup of just one reactor to partial power will take longer than the six weeks the agency estimated last month.

The shutdown—the first time that production of nuclear weapons material has been suspended for reasons other than international treaties—is only one distressing symptom of the problems confronting the U.S. nuclear-weapons program. Last week, the main plutonium-processing building within the Rocky Flats, Colo., nuclear-weapons plant was shut down after tests showed that two inspectors had been exposed to greater than normal levels of radiation there.

Meanwhile, a congressional committee heard evidence, as expected, that because advance security checks have been routinely neglected, foreign intelligence agents have been given access to the nuclear weapons laboratories.

Foreign visitors are fairly common to nonclassified areas of weapons laboratories to collaborate on research for peaceful uses of nuclear weapons. But the General Accounting Office found that during a 20-month period, the Energy Department had completed security checks on only 57 of 176 communist visitors—and only six of the checks were completed before the visits. Some of the visitors were subsequently found to be foreign intelligence agents, the GAO said.

Even when the checks were completed, security procedures were ignored. Records show, for example, that three top Soviet laser scientists had access to classified areas of Lawrence Livermore National Laboratory, even though they were authorized to visit only unclassified areas, the GAO said.

In another case, an Israeli scientist barred from classified areas gained access to the laboratory's supercomputer through the telephone lines of a worker at whose home he was staying, the GAO said.

Such troubling disclosures aren't likely to end soon, Energy Department officials say. Management of the weapons-material production reactors, some nearly 40 years old, is unlike management of the highly-regulated commercial nuclear plants. Until recently, the contractors running such weapons-material plants, such as Du Pont Co. at Savannah River, were exempt from federal safety and environmental regulations, and were shielded by the secrecy of their work from regulatory oversight. Employees of private contractors that manage the facilities have become cavalier about safety, department officials say.

"I anticipate future problems," said Joseph Salgado, Deputy Secretary of Energy, yesterday. He said that the department is intensifying its oversight of the private contractors that run the facility and that it is introducing uniform operations and safety procedures.

Du Pont, which has managed the Savannah River facility since 1950, when it sprang from the Manhattan Project, defended the plant yesterday. Richard Heckert, chief executive officer of Du Pont, said, "We are getting fed up with outright distortions and lies." Minor accidents occurred, he said. "But more often than not, we were in new territory, and we changed things, and they never happened again."

Du Pont's contract at the facility ends next spring, when Westinghouse Electric Corp. will take over.

The Rocky Flats shutdown resulted from another instance of worker complacency, the Energy Department said yesterday. The plant, managed by Rockwell International Corp., was scheduled to be closed temporarily in November, said Richard Starostecki, head of quality assurance for the department, but that closing was moved up to last week after two inspectors came upon workers who were processing plutonium without having notified others in the plant. The two inspectors weren't exposed to unsafe radiation levels, Mr. Starostecki said.

The Energy Department has said it found pervasive inadequacies in worker protection, fire protection, maintenance and repeated failure by Rockwell to address previous concerns of the agency.

Referring to the agency's concerns, according to the Associated Press, a Rockwell spokeswoman said: "Safety is the highest priority. . . . It's not that [management] is lax, but we can always stand improvement."

The shutdowns, the accidents and the costs involved are especially troubling as the Energy Department prepares to construct two new reactors, including one at the Savannah River complex.

The planned construction will take as long as 10 years and at least $6.8 billion—although one congressional study has estimated that each of 21 Energy Department projects cost an average of five times more than originally estimated. Moreover, dumping of radioactive materials in open lagoons since the 1950s at old sites has spawned environmental nightmares at many of the department's 14 plant and laboratory sites. The GAO has estimated it will cost nearly $180 billion to clean up the sites, more than the government's latest estimate—$152.3 billion—of the fiscal 1988 federal budget deficit.

Given those costs, many watchdog groups are suspicious of plants to build new reactors until current problems are resolved. "Large sums of money should not be committed until the Department of Energy gets its house in order," said Robert Alvarez, project director of the Nuclear Power and Weapons Project division of the Environmental Policy Institute, a Washington lobbying and research firm.

[From the New York Times, Oct. 11, 1988]

Second Nuclear Plant Is Ordered Closed by Energy Department

(By Keith Schneider)

Washington, Oct. 10—Confronting the latest in a series of safety problems at the nation's nuclear weapon plants, the Department of Energy has shut down plutonium processing at the Rocky Flats Plant near Boulder, Colo.

The emergency order on Saturday to halt production at the heart of the operation at the Rocky Flats Plant, because of an accident involving radioactive contamination of employees, marks the second major suspension of nuclear weapon production in as many months, the Energy Department said. Three reactors at the Savannah River Plant in South Carolina have been shut down since August because of severe safety concerns.

PROBLEMS CALLED ENDEMIC

In interviews today, Richard W. Starostecki, the Energy Department's top safety expert, and C. Anson Franklin, the agency's chief spokesman, said that the severe deficiencies in equipment, employee training, management, and safety that have crippled the Savannah River Plant and the Rocky Flats Plant are endemic within the nation's nuclear weapon industry. Thirteen other major production, waste and research plants in 12 states constitute the nation's nuclear weapon manufacturing system.

Congressional investigators have found evidence, for instance, that intelligence agents from Soviet bloc and other countries have routinely been allowed unsupervised access to nuclear weapon laboratories at Los Alamos and Sandia in New Mexico and Lawrence Livermore in California. [Page A24.]

"The problems are there," said Mr. Starostecki, the Deputy Assistant Secretary of Energy for Safety, Health, and Quality Assurance. "At each facility, clearly there are difficulties. The pattern is repeated. We need to upgrade standards. The problems we're having at Savannah River are typical of the kinds of problems we are having in the system."

BRINGS PRODUCTION TO HALT

The shutdown order at Rocky Flats was prompted by an incident late last month in which an Energy Department inspector and two employees of the Rockwell International Corporation, which manages the plant, were contaminated by plutonium after they unwittingly walked into an unmarked room where maintenance and cleanup work was being performed on plutonium-contaminated equipment, Mr. Starostecki said in an interview today.

Mr. Starostecki said the shutdown of Building 771, where classified work vital to the entire plant's operation is performed, essentially brings to a halt all production at the Rocky Flats plant, which shapes plutonium, a radioactive metal, into components for nuclear weapons.

The Rocky Flats Plant is now the second major weapon production installation to be shut down since August, when Mr. Starostecki and other Energy Department officials ordered engineers at the Savannah River Plant, near Aiken, S.C., to halt their efforts to restart one of three crippled reactors. All three reactors are now shut down at the Savannah River Plant and will remain so, said Mr. Starostecki, until a number of serious problems in how the reactors were being operated, managed, and maintained are solved.

Top deputies to Energy Secretary John S. Herrington met today at the agency's headquarters here to outline a public response to recent disclosures about the poor management and inadequate safety of the vast nuclear weapon production network, which was established by the Manhattan Project in World War II. The Energy Department has scheduled a news conference for Tuesday. Mr. Franklin the Assistant Secretary of Energy for Congressional, Intergovernmental and Public Affairs, said he did not know if Mr. Herrington would attend the news conference.

"The Department of Energy is very much playing catchup," Mr. Franklin said. "What you're seeing is the result of a better cataloging of the problems under a program started three years ago by this Energy Secretary. There are problems. They are not isolated at the Savannah River Plant or at the Rocky Flats Plant. And we are trying to address those problems as fast as we can."

According to 22 comprehensive studies of safety and conditions at weapon facilities prepared since 1986 by the Energy Department and made available to the New York Times, the department is facing what could be the most expensive and difficult industrial rehabilitation project in history. The studies, known as Technical Safety Appraisals, document a disturbing pattern of inattentiveness to safety, an inability to conduct maintenance on equipment in an organized and timely manner, breakdowns in the ability of plant managers to organize activities and to direct employees, inadequacies in the operation of emergency safety systems, deficiencies in employee training, and repeated violations of the Energy Department's own code of operations. These have overtaken most of the plants and laboratories in the nuclear weapon production system, the studies show.

Last month Mr. Starostecki, in a memorandum analyzing safety problems at a reactor at the Savannah River Plant, suggested that laxity at the nation's largest nuclear plant could lead to disaster. He cited the underlying failure to address safety concerns at the reactor as "an institutional problem and attitudes toward safety."

"There are currently some senior managers with the Department with an attitude toward production reactor safety, which on the face seems to be similar to that which existed in the space program prior to the Challenger accident," Mr. Starostecki stated in the memorandum to his superiors, dated Sept. 16.

Indeed, the conclusions of the Energy Department reports are strikingly similar to the findings of the Report of the Presidential Commission on the Space Shuttle Challenger Accident, which was directed by former Secretary of State William P. Rogers and completed in 1986. That report concluded that the flaw in a booster rocket that caused the Challenger to explode on Jan. 28, 1986, killing all seven astronauts on board, was rooted in a long history of management shortcomings and inattention to the escalating risk of a failure of the shuttle's rockets.

Energy Department inspectors have identified these problems at the nation's nuclear weapon plants since 1986:

At the Purex Reprocessing Facility, managed by the Westinghouse Electric Corporation, a 1,000 foot-long plutonium processing building at the Hanford Reservation in eastern Washington, 18 of 80 operations that were reviewed in March of 1988 constituted "Level I hazards." Such hazards have a "significant probability of causing a severe injury or fatality, potentially life threatening occupational illness, or loss of the facility."

Among the Level I hazards was a failure to adequately monitor radioactive contamination of employees. The Energy Department said that employees have been tracking home radioactive particles because monitors were not working properly and because the employees and management were ignoring the readings. The latest incident at Hanford occurred in March, when the clothing of two crane operators was contaminated with small amounts of radioactive materials. The contamination was discovered the next morning when one of the operators reported back to work and set off a radiation alarm.

At the Feed Materials Production Facility, which processes uranium for nuclear weapons in Fernald, Ohio, workers are regularly exposed to potentially dangerous levels of radiation. In an inspection last March, the Energy Department found that while Westinghouse, which also manages this plant, had made improvements in radiation safety, the program was still inadequate.

"The appraisal has identified pervasive management conditions which may have contributed to the identified deficiencies," the report, issued in April 1988, concluded. "These conditions include inadequate resources, ill-defined programmatic performance goals in management motivation, and a need for more management involvement in monitoring, assessing, and promoting safety and requiring procedural adherence at all levels of the organization."

At Idaho National Engineering Laboratory near Idaho Falls, also managed by Westinghouse, the Energy Department inspectors found numerous violations of procedures and safety codes at a uranium chemical processing facility. The inspection at the Idaho Chemical Processing Plant, a 35-year-old facility, occurred in July 1987. The inspectors found radiation alarms were not working properly, radiation monitors were not calibrated correctly, workers were being exposed to "significant" low levels of radiation, maintenance on the old equipment was not being properly scheduled, and there was a potential for nuclear accidents to occur. The plant had already experienced at least two instances of "criticality" accidents in the 1970's, the inspectors said.

Westinghouse, which has been selected to take over the management of the Savannah River Plant on April 1, today defended its record of management of Energy Department plants. The company will be paid $2.4 billion annually by the Energy Department for managing seven facilities.

"When the Department of Energy selected us as the contractor at the Savannah River Plant, they cited our unsurpassed depth and breadth of experience in the nuclear industry," said Robert Henderson, a spokesman for Westinghouse in Pittsburgh. "They also cited Westinghouse's corporate commitment to safety in the nuclear industry."

The Rocky Flats Plant has been inspected three times since 1986, and the most recent report by the Energy Department found pervasive inadequacies in worker protection, fire protection, maintenance, and the repeated failure of Rockwell International to address the department's previous concerns. Building 771, the primary plutonium processing plant, was inspected in the fall of 1986. Building 774 was inspected earlier this year.

Both buildings along with two others, were found to have serious safety deficiencies, particularly in fire supression equipment and fire control systems. Rocky Flats has been the site of dozens of fires since its opening in 1952, including a fire in May 1969 that caused $45 million damage and was one of the worst industrial fires in the nation's history, according to the Energy Department.

A report completed in March by Energy Department inspectors, said many areas of the Rocky Flats Plant are in violation of such fire protection rules as alarms that don't function properly, a fire truck that frequently does not work, inadequate fire walls and some exit routes for employees are blocked or poorly marked.

[From the New York Times, Oct. 4, 1988]

ENERGY DEPARTMENT SAYS IT KEPT SECRET MISHAPS AT NUCLEAR WEAPON PLANT

(By Keith Schneider)

WASHINGTON, Oct. 4.—The Department of Energy said today that it was responsible, along with its predecessor, the Atomic Energy Commission, for keeping secret from the public a number of serious reactor accidents that occurred over a 28-year period at the Savannah River Plant in South Carolina.

The Energy Department exonerated E.I. du Pont Nemours & Company, the operator of the enormous nuclear plant, from responsibility, saying the company had fulfilled its obligation to notify the Government about the incidents. The department spokesman, C. Anson Franklin, said Du Pont had notified the regional office in Aiken, S.C., near where the plant is situated, but the information apparently never made its way to the Secretary of Energy or his deputies in Washington.

PROBLEMS ARE DEEPLY ROOTED

Moreover, a memorandum written in 1985 by a Du Pont scientist to his superiors summarizing 30 "reactor incidents of greatest significance" at the Federal nuclear weapon plant, which included the melting of fuel and extensive radioactive contamination, was never acted on. The Energy Department said it was seeking to determine why nothing was done about the memorandum.

The Energy Department said the failure to disclose the problems illustrated a deeply rooted institutional practice, dating from the days of the Manhattan Project in 1942, which regarded outside disclosure of any incident at a nuclear weapons production plant as harmful to national security.

Lawmakers and top managers at the Energy Department said today that the agency was torn by conflicting views of what sorts of events at the plant should be made available to the public. The conflict is dividing Secretary of Energy John S. Herrington, an advocate of more stringent safety procedures and public candor, and many of the agency's managers stationed at field offices near the 17 laboratories and production facilities that make up the weapon production complex.

"I have no reason to doubt Du Pont's statements that they provided information on these incidents to the Department of Energy and our predecessor agencies," said Mr. Franklin, Assistant Secretary for Congressional, Intergovernmental, and Public Affairs. "I don't think it's fair or accurate to suggest that they kept these incidents secret from the Energy Department."

Mr. Franklin was responding to disclosures made in a Congressional hearing last Friday that numerous reactor accidents had occurred at the industrial complex in South Carolina from 1957 to 1985 and had not been brought to the attention of the public. The accidents, which included the melting of fuel, extensive radioactive contamination, and significant leaks of reactor core cooling water, were summarized in a memorandum written in August 1985 by a scientist to his superiors at Du Pont.

Du Pont, which built the 192.323-acre plant and has operated it for the Government since 1952, said yesterday that it had described the accidents in technical reports on the plant's operations that it sends each month to the regional field office in Aiken.

"We're the contractor here." said Clif Webb a spokeman for Du Pont. "We operate the facility because we have been asked to operate it. We do what they ask us to do. It's not appropriate for Du Pont to tell the Energy Department how to manage its internal documents."

GLENN URGES END TO SECRECY

Senator John Glenn, a Democrat of Ohio, said that the Energy Department needs to work harder to the secrecy that has dominated the weapon production plants since the start of the Manhattan Project, the supersecret Government project to develop and build the atomic bomb.

In another accident in November 1970, a radioactive rod that was a source of neutrons to start the atomic chain reaction in one reactor melted. A processing room adjacent to reactor where cooling water was filtered was thoroughly contaminated with radiation. It took 900 people three months to clean up the contaminaton.

And in December 1970, a fuel assembly melted in another reactor, Melted fuel is considered among the worst accidents that can occur in a nuclear reactor: it can lead to the meltdown of the reactor core and releases of large amounts of radiation into the environment.

Mr. Anson said it has not been determined why the memorandum that summarized the accidents was not made available to officials in Washington.

"This report was somewhere in the D.O.E. system," said Mr. Franklin. "It did not pop up to senior management. Why? We don't know. We're trying to find out. This is the type of thing that has been happening that we are trying to address. Things are not getting kicked up far enough in the system.

Mr. Franklin said that Mr. Herrington has sought to eliminate much of the secrecy since becoming Energy Secretary in February, 1982. Mr. Herrington, said Mr. Franklin, appointed an Assistant Secretary for Environmental Health and Safety to address concern about the enormous quantities of toxic and radioactive wastes that have accumulated at such laboratories and weapon production plants as Savannah River.

Mr. Herrington also established a new office to inspect safety and health conditions at the defense nuclear plants. An inspector in the office, Jerry Hulman, directed the investigation last August of another reactor incident at the Savannah River that led to the discovery of the memorandum.

Mr. Franklin said the Energy Department has complete control over whether to disclose information about accidents to the public. He said a written policy instituted when the Energy Department was established in 1978 calls for the agency to fully disclose any accident involving the release of radiation into the environment. He said that Mr. Herrington has urged agency officials in Washington and in the field offices to be more forthcoming about other incidents, particularly those as serious as the accidents that occurred at the Savannah River Plant.

"It's accepted around here that this entire program was directed out of the secrecy of the Manhattan Project," said Mr. Franklin. "The recognition that there is a responsibility for more public accountability is coming belatedly to the Department of Energy.

"We've had a major turnaround up here," Mr. Franklin continued. "Our heart is in the right place. But we're having trouble getting the message out to the field. Translating the policies developed by the Secretary into action all the way down the system is taking longer than we would like. It continues to be our biggest problem.

Representative Mike Synar, Democrat of Oklahoma who is chairman of the House Government Operations Subcommittee on Environment Energy Department damaging its image on Capitol Hill and in states in which it operates weapon plants by not acting faster to be more forthcoming about safety mishaps.

"Our hearing clearly showed for over 30 years these accidents were due to unsafe conditions and bad attitudes about safety on the part of the Government and Du Pont," Mr. Synar said. "Until this is corrected, none of these reactors should be restarted. It takes a serious investigation like this to get the Energy Department to recognize decades old problems. And we've seen this pattern time and again over the last eight years. They have a serious attitude problem with respect to the management of these plants and with respect to safety."

[From the New York Times, Oct. 1, 1988]

Accidents at a U.S. Nuclear Plant Were Kept Secret Up to 31 Years

(By Keith Schneider)

Washington, September 30.—The Savannah River Plant in South Carolina, an enormous Government complex that produces fuel for the nation's nuclear weapons, has experienced numerous reactor accidents that have been kept secret from the public for as long as 31 years, two Congressional committees disclosed today.

The Energy Department responded to the disclosure by saying it had been unaware of the accidents, which occurred at all five of Savannah River's reactors, until inspectors began investigating a still unexplained power surge at one of them last August.

It is unclear whether the department's predecessor agency, the Atomic Energy Commission, knew of the accidents, which included the melting of fuel and one episode that resulted in extensive radioactive contamination.

NO COMMENT BY DU PONT

"It wasn't known by headquarters safety people," said Will Callicott, a spokesman for the department. The operator of the plant, the Delaware-based E.I. du Pont de Nemours & Company, had no comment when asked whether it had notified anyone in the Government of the accidents or the existence of a memorandum, obtained by the Congressional committees, that brought them to light.

Physicists interviewed today called the accidents among the most severe ever documented at an American nuclear plant. The 19-page memorandum, written by a plant supervisor to his superiors at Du Pont, did not say whether there had been any injuries or how many workers might have been exposed to dangerous levels of radiation. But nuclear experts said some of the accidents could have threatened public health or, had they gone uncontrolled, even destroyed the reactors, creating a disaster.

The incident in August and the memo raise anew questions about the willingness of the Energy Department to correct longstanding managerial and structural problems at the aging plant, which, with the shutdown of a production reactor in Hanford, Wash., two years ago, is now the nation's only source of plutonium and tritium, the two key radioactive elements used to manufacture nuclear warheads. Last year a panel of investigators from the National Academy of Sciences criticized the Energy Department for failing to apply or even clearly specify safety requirements at Hanford and Savannah River.

SELF-REGULATING PLANTS

Hanford and Savannah River, near Aiken, S.C., operated for years in secret and were essentially self-regulated. While the Government maintained regional offices at each plant, it left to the operators the responsibility for maintaining safe operations. Last year the Energy Department began an onsite inspection program in an effort to improve operations.

By contrast, the Nuclear Regulatory Commission has long imposed stringent regulations on operations at civilian nuclear reactors.

The memo, and several more recent ones written by Energy Department inspectors, describe a striking complacency at the Savannah River Plant. They were made public today at a joint hearing of the Senate Committee on Governmental Affairs and the House Government Operations Subcommittee on Environment, Energy and Natural Resources. Both committees have been investigating conditions in the Energy Department's nuclear weapons production program.

SYNAR ASSAILS AGENCY

"This hearing is about an institution and attitudes which are driving our nation's nuclear weapons program to the brink of disaster," said Representative Mike Synar, the Oklahoma Democrat who heads the Government Operations Subcommittee." What we have here is an admission that that plant had been out of control for over 30 years."

The Energy Department said it could not disagree. "There's still a lot of upgrading that needs to be done," said Bill Kaspar, the department's manager of operations in Aiken.

The memorandum describing the accidents that came to light today was written on Aug. 14, 1985, by G.C. Ridgely, a technical supervisor and physicist employed by Du Pont. Mr. Ridgely was one of 11 Du Pont scientists and engineers who, apparently in response to one such accident at Savannah River, looked at the history of the plant and ranked 30 "incidents of greatest significance" that occurred at the five reactors from 1957 to 1985. His memorandum summarizes each incident.

Jerry Hulman, a safety specialist with the Energy Department, said in testimony before the Congressional committees today that the department had the Du Pont team's full reports on some of the accidents but that other reports could not be found. He suggested that these "may have been destroyed" at Savannah River. Du Pont again declined comment.

Among the accidents summarized in the memorandum were these:

A melting of fuel rods in the C Reactor in December 1970. The accident occurred during an attempt by technicians to start the chain reaction inside the reactor. The reactor, however, automatically shutdown because the flow of cooling water was too low and the reactor was overheating. But instead of investigating the cause of the shutdown, the operators tried three more times, without success, to start the reactor. The heat generated during the attempts melted the fuel assembly.

Nuclear engineers said in interviews today that the melting of fuel was a serious accident that could lead to meltdowns of the reactor core, a scenario that occurred in the 1979 accident at the Three Mile Island generating station in Pennsylvania.

An accident in November 1970 that released huge amounts of radiation in a room, adjacent to the K Reactor, where cooling water is filtered. Nine hundred workers spent three months in a highly contaminated environment cleaning up the radiation, the memo says. This accident was caused by the melting of a vital reactor component known as a source rod. The rod, made of a mixture of antimony and beryllium, is a source of neutrons to start the nuclear chain reaction. The memo does not say why the rod melted but does indicate that the accident was made more severe by technicians' ignoring a radiation alarm for two hours.

During full power operation of the C Reactor on May 10, 1965, a "very significant leak" developed that spilled 2,100 gallons of cooling water on the reactor vessel floor. The level of cooling water within the reactor fell precipitously but the reactor automatically shut itself down said the memo. Cooling water is vital to regulating the temperature of reactor components and preventing meltdown. The memo said personnel were not aware of the leak until they saw it spill onto the floor of a room adjacent to the reactor. Again, said the memo, an alarm was disregarded for 15 minutes, and "operating personnel failed to take proper corrective action until reactor technology personnel reminded them to do so."

The most severe accident occurred on January 12, 1960, when technicians were attempting to restart the L Reactor after it had shut down automatically. By pulling safety rods and control rods, technicians were able to achieve a chain reaction that very nearly went out of control, said nuclear experts today. The reactor increased its power ten times faster than was considered safe. The memo does not say how technicians gained control over the reaction, but said "numerous procedure violations were made."

The events that led up to the 1960 accident appear similar to those that occurred last August at the plant when technicians tried to start the P Reactor after it had been out of service for four months. Reactions are regulated by control rods that absorb atomic particles known as neutrons. Pulling the rods from the reactor core allows neutrons from atoms of uranium to bombard other uranium atoms knocking free more neutrons. The reaction multiplies until an atomic chain reaction is achieved.

The procedure for pulling control rods from a reactor core is normally performed under rigorously controlled conditions. Calculations are made to estimate how many rods should be manipulated and how far they should be pulled. Failing to perform the activity carefully can result in a runaway reaction and in the worst case a dangerous core meltdown.

[From Newsweek Magazine, Oct. 17, 1988]

NUCLEAR FINGER-POINTING—

DU PONT VS. ENERGY DEPARTMENT

The power surge in P reactor began on Aug. 10, three days after operators at the U.S. Department of Energy's Savannah River Plant first tried to start the nuclear reaction. P reactor, which produces plutonium and tritium for use in nuclear weapons, was balky, despite attempts to manipulate its control rods, the aging atomic pile had stubbornly refused to produce a sustained chain reaction. Control-rod problems are commonplace at Savannah River, and so are balky start-ups. So when P reactor suddenly began to produce an unexpected and unexplained neutron flux, the operators just kept operating. When the control-room staff was debriefed by Energy Department officials, they had no idea what caused the mysterious event—and what was worse, one investigator later wrote in capital letters. "THEY DIDN'T CARE!" At that point, DOE officials ordered a complete shutdown, and P reactor hasn't been started since.

The August incident was neither the first nor the worst at the sprawling Savannah River Plant, a top-secret government weapons facility near Aiken, S.C., that is operated on a longstanding contract by E.I. du Pont de Nemours. Congressional investigators say that potentially serious reactor incidents have been occuring at the plant for years—though nearly all, to judge by the still unfolding investigative record, were kept secret by the Department of Energy. Stung by charges that critical safety reports written by its own engineers had been buried in the files and forgotten. Du Pont last week insisted that it had kept the Department of Energy fully informed about the Savannah River Plant's many problems. "We're the contractor here," said company spokesman Clifton Webb. "We do what they ask us to do. It's not appropriate for Du Pont to tell the Energy Department how to manage its internal documents." The company had already announced that it would not renew its operating agreement with the Energy Department when the current contract expires in 1989. Westinghouse Corp. will take over.

Complete halt: The Savannah River Plant is a telling example of the pitfalls of public-private enterprise. Du Pont has been a prime contractor on the U.S. nuclear-weapons program since the earliest days of the World War II Manhattan Project, and it serves the government on a cost-only basis. But the weapons plants—particularly the two huge plutonium-production facilities at Savannah River and Hanford, Wash.—are obsolescent and plagued by environmental and safety problems. Hanford's N reactor has been shut down, probably for good; the C, L and P reactors at Savannah River are shut down at least temporarily. As a result, U.S. plutonium and tritium production has come to a complete, though presumably temporary halt. (Experts say plutonium is still in plentiful supply. Tritium, which decays more quickly, may yet become a critical need.

None of these government reactors is shielded by a containment dome, as all commercial power reactors must be, and the Department of Energy is not regulated by the Nuclear Regulatory Commission. Now, after Three Mile Island and Chernobyl, the department is belatedly trying to raise its safety standards to those of private industry. But reforming the weapons program is likely to be a long and costly (up to $130 billion) struggle.

Item one in a long list of slip-ups and miscommunications between Du Pont and the Energy Department is the question of where G.C. Ridgely's safety report went astray. Ridgely, a Du Pont physicist, was one of 11 company supervisors who went to Savannah River in 1985 to review the plant's history of operating problems. He summarized 30 "incidents of greatest significance" dating back to 1957, including one incident in which a fuel-rod assembly melted in C reactor in December 1970. DOE officials insist their reactors are far less vulnerable to meltdowns than commercial reactors, partly because the government reactors operate at lower temperatures and pressures. Still, no nuclear expert regards even a partial meltdown as a minor event, and most agree that a large-scale meltdown at Savannah River could spread radioactive contamination over wide areas of South Carolina.

Former top government officials told The New York Times they had never been told of C reactor's fuel-rod melt-down when it happened. G.C. Ridgely's report, written 15 years after the event, also seems to have been lost. The Energy Department said Ridgely's report may have been short-stopped at the department's Savannah River office. Last week, however, a spokesman confirmed that some officials at DOE headquarters were aware of some but not all of the incidents. Who covered up the plant's problems, and why, is a question that may roil the bureaucracy for months.

The more urgent problem is to prod DOE to clean up its act. Energy Secretary John Herrington is pushing safety-consciousness by hiring additional safety experts, many from the Nuclear Regulatory Commission. Congress, which has historically been reluctant to get tough with the weapons program on national-security grounds, must appropriate the money to make the department's nuclear program safer. The House and Senate are ready to create a special oversight board to supervise reactor operations and ensure that new reactors are built from safer designs. But environmental cleanup is still a major problem, and safety experts are highly critical of the training of the department staff and plant operators. "Let's not kid ourselves, we're going to have more incidents," says Richard Starostecki, DOE's top safety official. "The real issue is training our people to cope with them so that they can probably handle them." The operative word, sad to say, is "probably."

[From Time magazine, Oct. 17, 1988]

Big Trouble at Savannah River

(By Dick Thompson)

The revelations were enough to curl the hair on the neck of the most seasoned nuclear engineer. Last April a reactor at the Federal Government's sprawling Savannah River Plant near Aiken, S.C., was shut down to upgrade safety systems—with partially irradiated tritium still in its core. In August technicians, oblivious to the decaying radioactive material inside, tried to restart the reactor but were unable to keep it going. The next day they tried again. Ignoring procedure, they set off an abnormal jump in nuclear fissions usually a sign of imminent trouble. Workers ignored the warning, forcing plant officials to intervene to shut down the reactor.

For decades, such incidents have been alarmingly frequent at the aging facility, which manufactures materials for nuclear bombs. Moreover, officials at the Department of Energy which oversees the plant, conceded last week that dozens of such near accidents and nuclear mishaps have gone largely unreported for more than 30 years. Admitted DOE safety chief Richard Starostecki: "If this had been a civilian plant, it would have been shut down."

Ever since it went on line in 1953, the Savannah River facility has operated behind a barrier of secrecy so impenetrable that officials in Washington were often in the dark. In recent months Government investigators have begun to turn up internal memos that are shattering the silence. The result: a congressional hearing that revealed a stunning list of nuclear incidents caused by a combination of primitive instrumentation, inadequately trained personnel and a management meltdown by both DOE and E.I. du Pont de Nemours, which runs the plant for the Federal Government. The impact on the environment is not yet fully known, but thousands of gallons of radioactive material have already leaked into the groundwater. The contamination, says a 1985 Du Pont memor, may exist "centuries or millennia into the future."

The pivotal facility is projected to consume 19% of the $8.1 billion DOE budget for weapons production next year. Some 17,900 people work on its 192,323-acre site, even though two of Savannah River's five reactors are shut down permanently, and the others are not allowed to run at full power in part because of deficiencies in their emergency cooling systems. Still, the plant is the sole supplier of plutonium and tritium, the flint and steel of nuclear warheads. While the nation probably has all the plutonium it needs, tritium, which enhances plutonium's yield, has a half-life of twelve years and must be continuously produced to maintain the nation's nuclear stockpile.

Shortly after his appointment in 1985, Secretary of Energy John Herrington established an internal DOE team, known as the "junkyard dogs," to look into safety problems at federal nuclear facilities. After the Soviet Union's Chernobyl disaster in 1986, Herrington turned to the National Academy of Sciences to assess the situation in South Carolina. An academy panel concluded last year that DOE was torn by the "conflicting responsibilities" of meeting production quotas while maintaining safety. Operation of the facilities, it said, had been left in the hands of "largely self-regulated contractors," while safety oversight was "ingrown and largely outside the scrutiny of the public."

Those conclusions were confirmed this year when congressional investigators began questioning Savannah River personnel about local press reports alleging that reactors had gone "out of control" during start-up operations. While the investigators found no evidence of disastrous accidents and only occasional danger to plant workers or the public, they were stunned by the management inadequacies. Among the most damaging evidence: a memo by Du Pont plant supervisor G.C. Ridgely that listed 30 "reactor incidents of greatest significance" between 1957 and 1985.

Another memo, prepared by Du Pont engineer Frederick Christensen when he retired in 1981, noted that one mishap in 1965 could have turned into a catastrophe when a foreman wanted to stop a coolant leak by closing off the flow of water to the reactor. The foreman was stopped by a senior supervisor who realized that the action would result in a steam buildup and a possible explosion in the reactor. Wrote Christensen: "One trained man stood between us and disaster."

Du Pont, for its part, is calling it quits at Savannah River. Early next year the company will turn over management of the facility to Westinghouse Electric. There will be plenty of work for the new operators. For starters, DOE wants to build a new reactor to make tritium. Also, Westinghouse will inherit 34 million gallons of highly radioactive liquid waste now kept in 51 aging storage tanks, which environmentalists fear may leak. "Making bombs is a dirty business," says South Carolina environmentalist Frances Close Hart. "People don't really know how to clean this stuff up." That job, according to DOE estimates, may cost as much as $1 billion over at least two decades.

Mr. EVANS. Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I request that further proceedings under the call of the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. Adams). The Senator from New York.

(The remarks of Mr. Moynihan pertaining to the introduction of legislation are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. Adams). The minority leader is recognized.

BICENTENNIAL MINUTE

Mr. DOLE. Mr. President, from time to time I have been focusing on what I refer to as a bicentennial minute. Today, I will speak about Representative Claude Pepper, who played an important role in rescuing Social Security, as the Senator from New York [Mr. Moynihan] knows.

NOVEMBER 4, 1936: CLAUDE PEPPER BECOMES A SENATOR

Mr. President, nearly 52 years ago, on November 4, 1936, Claude Pepper took his oath as a U.S. Senator. Born on an Alabama farm in 1900, he moved to Florida after graduating from Harvard Law School. As a young boy he once got into difficulty when he carved on the back of a closet door the statement that "one day Claude Pepper will be a U.S. Senator." From that time until this, he has been known as "Senator Pepper." He fulfilled that dream in 1936 by being elected to serve the remaining 2 years of an unexpired Senate term.

Claude Pepper emerged as the Senate's most outspoken supporter of President Franklin Roosevelt. In his 1938 primary campaign for election to a full term, he vigorously supported the President's minimum wage bill, which had been bottled up in Congress because it was considered unpopular in the South. His impressive victory demonstrated to the Nation the strength of the new deal in the South, and sparked passage of the Fair Labor Standards Act. Claude Pepper remained in the Senate until 1951. In 1960 he was elected to the House of Representatives, where he serves today with great distinction.

In 1939, on the occasion of the Senate's 150th anniversary, Claude Pepper penned the following classic description of the Senate's constitutional role:

> The varied and extraordinary functions and powers of the Senate make it, according to one's point of view, a hydraheaded monster or the citadel of constitutional and democractic liberties. Like democracy itself, the Senate is inefficient, unwieldy, inconsistent; it has its foibles, its vanities, its members who are great, the near great, and those who think they are great. But like de-

mocracy also, it is strong, it is sound at the core, it has survived many changes, it has saved the country many catastrophies, it is a safeguard against any form of tyranny, good or bad, which consciously or unconsciously might tend to remove the course of Government from persistent public scrutiny. In the last analysis, it is probably the price we in America have to pay for liberty.

TRIBUTE TO SENATOR PROXMIRE

Mr. CONRAD. Mr. President, with the conclusion of the 100th Congress, the Senate will see the departure of a number of distinguished leaders—people who have worked to make the Senate more accountable and more attuned to the American public. Among them is Senator William Proxmire.

Senator Proxmire has been part of a long Wisconsin tradition of high standards and devotion to public service. He is one in a long line of strong, progressive-minded Wisconsin leaders like Bob LaFollette, Sr., Bob LaFollette, Jr., and Gaylord Nelson, just to name a few.

When Bill Proxmire won the seat of the late Senator Joe McCarthy, he emerged immediately as a fiercely independent legislator. He did not hesitate to take on his senior colleagues or their sacred cows when he thought it necessary.

In my lifetime, I have met few people with such absolute integrity as Bill Proxmire. He is beholden to no one. He has the courage of his convictions and calls things as he sees them, no matter what his colleagues might think. Nobody questions his honesty. He has never embarrassed the institution. To the contrary, he has held us all to the highest of standards—expecting the utmost from himself and from his colleagues.

Senator Proxmire has longstanding interests in economic affairs, and few in the Senate can match the breadth of his knowledge about the economy. Not only has he been an ardent opponent of Reaganomics, but he understands why it should be opposed, and how the administration's policies are damaging our future. Through his assignment to the Joint Economic Committee, which he chaired during the 90th and 92d Congresses, he provided Congress with lucid interpretations of economic events, and much valuable insight on the economy's performance. And as chairman of the Senate Banking Committee from 1975 to 1980 and during the 100th Congress, he has exerted substantial influence over measures dealing with such areas as financial institution reform, and the loan guarantee measures which rescued Chrysler and New York City from bankruptcy.

Only last year, Bill Proxmire crafted and piloted through the Senate the Competitive Equality Banking Act to provide emergency assistance for the struggling FSLIC.

Bill Proxmire has consistently been on the side of the little guy. He was the father of truth in lending. He fought against red lining in housing. He relentlessly fought for civil rights.

One area in particular highlights the energy and persistence of Bill Proxmire—his passion for human rights. His more than 3,000 speeches urging ratification of the international genocide convention are a testament to his compassion. He spoke on this issue nearly every day the Senate was in session for 20 years, until he finally won the fight only 2 years ago. Without him, that treaty might never have been ratified.

And of course, Bill Proxmire has always fought vigorously against Government waste. Whether it was in the Pentagon, EPA, OMB, the Department of Education, the FAA, the Social Security Administration, the Congress, or any other area of the Federal Govenment, nothing was off limits to Bill Proxmire.

He took on the Nixon administration, the aerospace industry, and such powerful Senate colleagues as Scoop Jackson and Warren Magnuson in his 1971 move to kill the supersonic transport plane.

In 1969, the uncovering by his subcommittee of the massive $2 billion cost overrun in production of the C-5A jumbo cargo plane, led to accountng reforms that now help the Federal Government better estimate the costs of its defense programs.

And, of course, his Golden Fleece Awards, which have focused national attention on "the biggest or most ridiculous or most ironic example of Government waste," are now legendary.

The kind of staunch independence and integrity Bill Proxmire demonstrates is rare. As he leaves the U.S. Senate he carries with him a distinguished record of service to the State of Wisconsin and to this country. The Senator from Wisconsin will be sorely missed, but he has left his mark. And the Senate is a better place for him having been here.

I know the current occupant of the chair will join me in wishing Bill Proxmire a fond farewell.

I suspect that we will be hearing from Bill Proxmire again in the future, because Bill Proxmire is not one to sit silently by while policies are made with which he disagrees.

So, Mr. President, I just want to say that Bill Proxmire has been a gentleman. Bill Proxmire has been one of those colleagues who has gone out of his way to assist me in my first term in the U.S. Senate, and I will miss him dearly.

With that, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I might just add a remark on the end of the comments of the distinguished Senator from North Dakota.

I not only share those strong feelings of Bill Proxmire, but I am very proud to say that he and I are related. We call each other cousin. In fact, he has a son whose middle name is Rockefeller.

UNIFIED EUROPEAN MARKET

Mr. ROCKEFELLER. Mr. President, two Sundays ago, a former distinguished colleague of ours, and, more to the point for me, my father-in-law, Senator Charles Percy, coauthored, with Douglas McMinn, an article in the New York Times on the challenges that America will face in 1992 with the unified European market. Senator Percy points out that American business has been slow to recognize these challenges, although, fortunately, our industry is now rapidly becoming aware that "Europe 1992" as they call it, which will be a single, internal market with 320 million people, represents a profound change in the way the world will do business. Finally, he provides trenchant advice about the actions American companies should take.

One critically important suggestion that former Senator Percy makes is that "non-European companies must enlist their governments' help at the highest levels". I submit, Mr. President, that this should be a rule for dealing not only with the new prospect of Europe 1992 but it must, in fact, be our standard operating procedure all across the board, and, certainly, with the Pacific rim countries as well. The era when our Government could tell businessmen that they are on their own internationally should have ended long ago. We desperately need a cooperative partnership between government and business in this country, not an adversarial relationship.

Unfortunately, though, there are still far too many people at the highest levels of our Government who are wedded to an outmoded philosophy of laissez faire. They define cooperation between government and business as "industrial policy", or "picking winners and losers", or perhaps "interference in the marketplace". They are simply wrong, and for the purposes of international trade, dangerously wrong. Cooperation between government and business should be defined as "nurturing", or "providing an environment where government can help business when problems arise", or "aggressive efforts by government to assure our exporters open markets around the world". These are the principles underlying the trade bill that we passed into law this year, and they are a sine qua non to assure economic growth and prosperity in this country. We have given the executive branch, in the trade bill, many tools, and it is vital that they be used properly. There is strength in the trade bill. It is not just symbolic, but is there to be used in our national interest in Europe, in Japan, in the Asian NIC's, and in the developing world.

Mr. President, I hope that business and government will both follow Senator Percy's suggestions because I think they are precisely on target. I, for one, appreciate his advice and will do all I can to see that it becomes a reality.

I ask unanimous consent that this article of Senator Percy's entitled "How Companies Can Keep Europe Open" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 9, 1988]

HOW COMPANIES CAN KEEP EUROPE OPEN

(By Charles H. Percy and Douglas W. McMinn)

After a decade as the center of global trade attention, Japan has suddenly taken a back seat to the 12-nation European Community. As realization of a true European common market approaches, "Europe 1992" has become the new buzz phrase in Washington and other trade capitals.

Like their counterparts outside of Europe, American policy makers and corporate executives are scrambling to understand the process by which the community and its member governments will by 1992 eliminate internal barriers to trade, services, labor and capital flows. With a third of the directives for implementation already issued, European economic integration is rapidly taking form.

The 1992 stakes are enormous. A unified European market of more than 320 million consumers with $4 trillion of purchasing power will be the largest in the world. Non-Europeans are clearly worried that Commission directives issued during the runup to 1992 could result in a protectionist "Fortress Europe." But a second serious worry is that corporate Europe will emerge significantly strengthened from the integration process, better able to compete not only in Europe but around the globe.

Ranking American trade officials have recently fired well-publicized shots across the community's bow, warning that Europe's potential gains in 1992 must not come at the expense of American companies. But while American officials and their non-European government colleagues appear poised to tackle tough issues surrounding the community's integration, are their private sector constituencies doing enough to prepare for 1992?

Although some foreign companies have done their homework for 1992, many are just now grappling with the corporate challenges that economic integration poses. Of all the foreign competitors in Europe, American companies are probably least ready for 1992. One recent survey indicated that only about 36 percent of American business leaders were even aware of the community's economic integration plans.

But as Europe's economic integration has taken off this summer as the major international trade issue, so too has American corporate interest in and planning for 1992. Many American business leaders now grasp both the basic opportunities and dangers of the integration process. Most important, they understand that Commission directives promulgated over the next three years will shape their competitive position in Europe and in other markets.

Because the most important and controversial community rulings on 1992 have yet to be issued, non-Europeans still have time to influence the new look Europe will take. Just as European companies are working overtime to mold community directives in directions that enhance their competitiveness, non-European companies need to do likewise.

To contribute in a positive way to the 1992 process, non-community companies need to take action in three areas:

First, they must step up their strategic planning in Europe. They must determine how rulings could affect existing operations in the European, home, and third markets. Under an ideal scenario, Europe 1992 will expand market opportunities while operating costs fall; under a worst-case scenario, discriminatory barriers will be erected, reducing profitability and new commercial opportunities.

Second, business leaders outside Europe must recognize that there is strength in numbers. For maximum effectiveness, they must band together in coalitions to pursue a common European strategy.

Third, non-European companies must enlist their governments' help at the highest levels. Given the vigor with which community officials have historically pressed the bloc's interests, it is imperative for non-European multinationals to forge an alliance with their home governments. Corporations must communicate clear positions and priorities to their trade officials with access to the Commission. In turn, non-European governments need to work together to engage the community and member governments in a constructive policy dialogue. The earlier corporations and their governments plug into the directive process, the less acrimonious will be the disputes that surface after the 1992 framework is in place.

The last time the international spotlight was so prominently fixed on Europe was in 1974, when Secretary of State Henry A. Kissinger declared it "the year of Europe." After a 14-year false start, Europe has arrived at center stage. The role that the United States, Japan and other non-Europeans will carve out in "Europe 1992" is now the dominant international trade question.

Mr. ROCKEFELLER. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New York.

OUR DRUG CULTURE

Mr. D'AMATO. Mr. President, last night, two New York City police officers were shot and killed. These are just the latest examples of what drugs and drug-related crime have done to our society.

Undercover Police Officer Christopher Hoban—26 years old—was shot in the chest and killed last night while attempting to buy drugs from three drug pushers so he could arrest them during an undercover operation. One of the dealers suspected that Hoban might be an officer and started shooting. Young Chris Hoban was dead by the time he arrived at the hospital.

Later last night, 24-year-old Officer Michael Buczek was on duty in a drug infested area of Upper Manhattan. He responded to a call from a woman who had trouble breathing. When the officer and his partner arrived, the woman refused treatment.

As Officer Buczek and his partner were leaving the building they spotted two suspicious men. As they approached the men, they were fired upon, with semiautomatic weapons. Young Mike Buczek died shortly thereafter at Columbia-Prebyterian Hospital.

Mr. President, these are just the latest examples of how serious our drug epidemic has become. One has to ask the question: How many more officers must die? How many more children must fall prey to drugs? How many more addicts must there be before this Nation truly galvanizes and develops a real effort to deal with this epidemic?

Mr. President, I say to the familes of these two fallen heroes that we grieve for them. We grieve too often, too many times, and too many places in this country. Too many of our citizens, and especially, to many of our children are falling victim to the violence that surrounds drugs.

Mr. President, we are currently working staffs and Members, on legislation that will alleviate the drug problem. Some say it is historic because we begin to give greater emphasis to drug treatment and rehabilitation while increasing efforts as they relates to law enforcement: In addition, the dealth penaly for drug kingpins will be part of the package. Once finished, we can pat ourselves on the back and go home, as we will, and say: "Job well done."

Mr. President, I suggest that it is not a job well done. I would suggest that if we were going to grade the effort as it relates to this drug package, it certainly would not be an honors-class paper, or effort. It would certainly not merit and A. I do not think it would receive a B. Maybe, just maybe it would rate a C minus.

We talk about $2 billion plus and we face a tidal wave in our communities. We talk about education and prevention. What kind of education are we really going to undertake with the pittance that we have provided in this bill? The $2 billion is not real. We have not appropriated it. We would not vote to increase taxes to fund a real war. But we will go home and we will tell the people we have done a wonderful job.

Mr. President, I have to wonder about January of next year, how many of our colleagues are truly going to be committed to come up with the funding for this bill once the election pressure of 1988 is off them? Will our so-called war on drugs go into the deep-freeze until the next election in 1990? Will we be committed to galvanizing this country to undertake the tough test?

And talking about tests, what about testing? Should we believe Colombia is going to stop growing and exporting drugs? Why should they? Why should those people in remote areas of this world who can, in this way, support their economies stop producing drugs when we are willing to buy drugs and pay a king's ransom for them as they pillage our communities?

How so we bring about a reduction in demand? What about testing for first time drivers? What about testing for a whole area of occupations that are important as it relates to the safety, the health, and the well-being of our citizens? What about real, meaningful education and prevention programs? What about really getting into the area of dealing with rehabilitation, putting together the best team of minds so we can make rehabilitation work, as opposed to having a haphazard crazy quilt of treatment modalities, not knowing which of them offers the best hope and opportunity.

Mr. President, let me also suggest something else. There have been some who have characterized those of us who have pushed for the death penalty for the drug kingpins who order the assassination of someone, or the triggerman who actually commits the crime I have settled for that characterization.

If, indeed, these merchants of death who pour this poison into our society are really merchants of death, and we believe it, then there should be an appropriate punishment. Because surely, as they poison these young people who become addicted and they make this poison available, I believe that they are as guilty as those who shot down those two young men. We need not prove that they did it through the barrel of a gun, but the major traffickers of drugs should be held accountable and there should be a death penalty for them as well. I will seek exactly that kind of remedy when we come back into session in the 101st Congress, Mr. President.

In conclusion, I would like to say my heart goes out to the families of these young officers, these brave young men who have given their lives to make it possible for us to have some form of domestic tranquility. I know that the Nation grieves for their loss. Hopefully, when we come back the Senate can do the business of the people in a more responsible way. Because, to date, Mr. President, we have failed.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, there are just a few moments left before we turn to the business of the Senate. Since it will be necessary for me to fly to Seattle this evening, I may not have another opportunity before this Senate closes this session to say some things about an experience of the last 5½ years which has been, for me, one of the finest, one of the most interesting, and one of the most rewarding experiences of my life.

I have had the privilege, during that time, to serve as part of the majority and as part of the minority. I can say without any fear of contradiction that being in the majority is more fun.

I have also served under three majority leaders: Senator Howard Baker of Tennessee, Senator BOB DOLE of Kansas, Senator ROBERT BYRD of West Virginia. Each in their own way has provided this Senate with distinctive leadership. Each one different, all of them magnificent in their ability to guide this Senate, a group of 100 terribly individualistic people who guard ferociously their individual rights, and yet who ultimately, by the time the session comes to a close, as this one is about to do, ends up doing the Nation's business.

That job of leadership is terribly difficult. I am just grateful that I had the privilege in a little over 5 years to see three of them as leaders, understand their differences, and through each of them to learn a little bit more about the history and the tradition of this great body.

I came to the Senate first as an appointee after the tragic death of Senator Scoop Jackson from the State of Washington. I remember vividly being appointed to the Senate on September 8th, sworn in on the 12th, and expected during that short period of time of 60 days from that moment to run a special election, to create an office and to staff it, to attempt to understand all that was going on in the Senate during the critical budgetary times that come in September and early October.

I am grateful to many of my colleagues to whom I turned in those early, lonely days. They lent me staff to answer the letters that came in even on the very first days in my first appearance in Washington, DC. That staff stayed with us until we could build our own staff. Colleagues were quick to offer advice and help, and many on both sides of the aisle gave me sustenance during a time of real difficulty. I am grateful to all of them.

Mr. President, the walls of this Chamber and the walls of the Old Senate Chamber down the Hall are embedded somehow with the echoes of years of debate. Those speeches, some of them vital, some of them not so vital, all go into making up the history of this body and the traditions under which it operates.

I wish sometime we could press a button and have those walls disgorge some of the best of the speeches which are captured there. We cannot. But I do know that in the future we will be adding to those echoes. We will be adding through debate, some good, some bad, to the history and the tradition of this body.

I do not know what will come next in my own career but I do know that this might well be the close of 32 years of public service, that started the day I took office in January 1957, as a young State legislator in the State of Washington. I enjoyed very much the privileges I have had in the succeeding years, as a legislator, as a Governor, as a college president, and as a Senator.

Jim Dolliver, who was the chief of staff in my office during much of the time I was Governor, consulted with me, along with a number of others, when it came time to make a decision as to whether I would run for a fourth term as Governor after having served 12 years. I thought that I still had ideas. There were still things to do. It was a fascinating job and one which still had challenge left to it.

He said something very wise. He said that you will always have an unfinished agenda. Do not believe that you have to stay in office simply to finish an agenda which is in front of you. Four years from now there will be an unfinished agenda and 8 years from now there will be an unfinished agenda.

As I leave the Senate, I find that there is an unfinished agenda for me personally and, obviously, an unfinished agenda for the Senate and, most particularly, an unfinished agenda for the United States of America. Because that is the important story of America. There is always an unfinished agenda. We are always attempting to do something better. We are always crafting a freer society, hopefully a kinder society, one which will give better opportunities to our children than those we enjoy.

But let me for a moment speak in more direct terms about my own unfinished agenda, things which I hoped we would have done but did not have time to do. I trust that other colleagues, other Members, in the 101st Congress and in the Congresses beyond that, will attach themselves to some of these elements of an unfinished agenda.

A few weeks ago, I attempted to bring a study for pay equity in front of this body. Approximately 80 Members support the concept and, I believe, support the end result that would come from a true study of pay equity.

But in the true traditions of the Senate, sometimes it takes only a few who are devoted in opposition to a bill to keep it from passing. And that is in the true tradition of the Senate, to slow things down, to let us take another look.

But I am confident this is an issue whose time has come and I hope that in the 101st Congress we will take effective action on that bill.

I have served for the last 4 years on the Foreign Relations Committee, and I hope that with the new administration and with the new Congress we are able to join together and reconstitute the bipartisanship in foreign policy which has been the hallmark of every successful period of American foreign policy.

I hope, Mr. President, that we will quit our ideas on budgets, of posturing for the people, calling for balanced budgets without knowing really what a balanced budget means, and, instead, let us try to work seriously toward an honest assessment of our budgets, to realize that what is off budget and what is on budget is not just a game but it is a move toward a better and more realistic accounting system.

We need to have a capital budget which is inherent in virtually every State and in almost every private enterprise. We need to change our accounting system so we really know what we are talking about when we speak of a balanced budget.

And to achieve a balanced budget, it would help if we moved toward a 2-year budget plan which probably in a small way was responsible for the success we had this year in 13 separate appropriations bills.

Of course, it does not hurt for all of us and each of us to attempt to work more closely toward a quality of life in the Senate. The joy and the fevocity of debate is important. I just think that joy and ferocity of debate more often occurred with a full rather than an empty Senate because then the liveliness of debate would expand, the exchange of ideas would occur more frequently, and we might end up even with better legislation as a result.

One thing does disturb me, and at the risk of being something of a scold, I will say that debate is one thing, decorum is another. I would hope that at least in some small way this Senate does return to the decorum which calls for courtesy when one is speaking and others should be listening, the decorum of people in their seats rather than straggling in the aisles when debate is going on.

Let me refer to another time in the Senate through a short review of the Senate in 1796 when a visitor wrote these words about the Senate:

> Among the thirty senators of that day there was observed constantly during the debate the most delightful silence, the most beautiful order, gravity, and personal dignity of manner. They all appeared every morning full-powdered and dressed, as age or fancy might suggest, in the richest material. The very atmosphere of the place seemed to inspire wisdom, mildness, and condescension. Should any of them so far forget for a moment as to be the cause of a protracted whisper while another was addressing the Vice-President, three gentle taps with his silver pencil case upon the table by Mr. Adams immediately restored everything to repose and the most respectful attention, presenting in their courtesy a most striking contrast to the independent loquacity of the Representatives below stairs. . . .

Perhaps we are not quite ready to return to that level of decorum, Mr. President, but I hope that lively debate does not mean debate when no one is listening.

Finally, Mr. President, let me just thank in every way I can a staff which has been an extraordinary staff. They have worked hard and long. At times when the need was there they have even worked through the night without sleep on legislation and ideas that were important to this Senator and I hope to my State and occasionally even to the country. They have made me look good. There are no greater accolades to staff than that.

And, of course, my family, and particularly my wife Nancy, who never knows from one day to the next when or if I am coming home for dinner. She has been a true partner in everything I have done for most of those 32 years. I say most because I started my political career as a bachelor and Nancy married into politics, but not knowing just how far and how long this road would carry.

So I do leave with absolutely no regrets. As I get close to the end of the session with some deep feelings of not remorse but the fact that I will miss my colleagues, I will miss the Senate, while at the same time look forward with great expectation to whatever the next career might be.

Let me leave you with a short Latin phrase, Gaudeamus Igitur, which, for those of you who may be slightly rusty in your Latin, means let us then be joyful—it has ended.

Thank you.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. ADAMS. Will the Senator yield?

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. PROXMIRE. Mr. President, the majority leader has asked that we extend the morning business until 2:30.

The PRESIDING OFFICER. Without objection, morning business is extended until 2:30 p.m.

Mr. ADAMS. Mr. President, while the Senator from Washington is still on the floor, I wanted to take the opportunity to state to him and his family and the wonderful members of his staff the gratitude and appreciation which I personally, Betty my wife, and all the members of my staff and those of us associated in the State of Washington in the business of both politics and government, express as a feeling of congratulations and warmth to him as he leaves his Senate career. We have appreciated his great integrity, his willingness to work with us through the years, his many kindnesses, and, above all, the warmth and the dedication that he has given his job as United States Senator.

Our State, Mr. President, is the better for it. We shall miss him. We know we shall see him from time to time as he visists us.

So it is both with a personal wish and that of the people of the State of Washington that we want to bid DAN a bon voyage. We know he will be leaving here today, and we will be missing him. We wish him every good turn and may the wind be always at his back.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I thank my colleague from Washington for his remarks. We have been friends and colleagues for 35 years or more, starting together in the Seattle Chamber of Commerce. I appreciate deeply those remarks.

As I leave, I guess I can bequeath, by my leaving, to my colleague, the junior Senator of Washington, the title next January of the senior Senator from the State of Washington.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, the distinguished Republican leader and I have some work that we can do for a period of 10 minutes, some unanimous-consent items, and if our two friends, Senator PROXMIRE and Senator D'AMATO, would indulge us just for a few minutes, I would like to extend morning business not to exceed 15 minutes and get this other work done. Some of it has to go back to the House, probably. I thank both Senators.

Mr. President, I ask unanimous consent that morning business be extended for 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I am wondering if I might prevail upon the majority leader just to make maybe 3 or 4 minutes' worth of remarks or until the majority leader is ready.

Mr. BYRD. Yes, Sure. I yield the floor.

OPPOSITION TO S. 2653

Mr. D'AMATO. Mr. President, I ask for this opportunity, and I thank the majority leader, who has been so gracious, so that I might have an opportunity to put forth on the Record exactly why I have taken the position I have in opposition to the amendment of my good friend, Senator Proxmire. It is not certainly intended to thwart just for the sake of stopping progress but, rather, to protect a rather important feature this amendment fails to address.

No. 1, let me suggest that I think we do have important business, banking business, that should be attended to. We have a bill as it relates to insider trading that was passed overwhelmingly in the House of Representatives, 410 to 0. I think we should act on that legislation, but we should not use that legislation, as amended, to accomplish other goals. Let us have a good piece of insider trading legislation. This Senator is willing to work to accomplish that legislative passage. We should pass it today, now. It is a good bill. It accomplishes a very important thing. It increases criminal penalties to a maximum of 10 years, over a million dollars in fines an individual can be held to, $2.5 million for corporations. It provides for liability of a firm which controls a person who trades on insider information. It permits the Securities and Exchange Commission to pay a bounty for information of those people.

Now, that is what we should pass; I dare say we could pass that within a matter of minutes, but not a bill which has not been the product of hearings, and that is what the Senator from Wisconsin is proposing we do.

Let me also suggest that it is not the same bill that was passed overwhelmingly by the Senate. There are very important distinctions. Let me refer to the letter from the Securities and Exchange Commission—I ask the Senate to bear with me—of October 4, 1988 written to Senator William Proxmire, chairman, Senate Committee on Banking, written by David Ruder, Chairman of the SEC. He says:

> This letter confirms our conversation of yesterday in which I expesed my great concern about the proposal to incorporate certain provisions of S. 1886 into the Proxmire Financial Modernization Act of 1988 and H.R. 176, the Truth in Savings Act. The proposal as transmitted to me would exclude titles 3 and 4, the key provisions to protect securities investments.

It goes on to say—in the interest of time I am not going to read the rest of the letter—he opposes and the SEC opposes this legislation. I will tell you why. You give to banks securities power and the SEC has no regulatory authority whatsover.

Now, that is not the same bill that the Senator indicated, S. 1886, we had hearings on, and it is a radical departure and it is wrong. That is why this Senator will do everything necessary to prevent it from coming on to the floor for a vote. I serve notice again—I served it last night—we will stay here until 2 o'clock in the morning, we will stay here until tomorrow, we will stay here until the next day. I am prepared to vigorously assert what is an absolute obligation on the part of this Senator. I am going to tell you something. If my colleagues knew about this, they would be here in full support. This is a grievous departure from S. 1886.

I thank the majority leader and I yield the floor.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader if two Calendar Orders, No. 978 and 1134, have been cleared?

Mr. DOLE. They have been cleared on this side.

Mr. BYRD. Very well. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of those two measures en bloc and that if there are amendments shown either to the measures or to the preambles or titles they be agreed to; that the measures be agreed to; and the motion to reconsider en bloc laid on the table.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is ordered.

ADDITIONAL FUNDING FOR THE SELECT COMMITTEE ON INDIAN AFFAIRS

The resolution (S. Res. 473) to provide additional funding for the Select Committee on Indian Affairs Special Committee on Investigations, was considered, and agreed to; as follows:

S. Res. 473

Resolved, That S. Res. 381, One Hundredth Congress (agreed to February 26, 1988), is amended—

(a) in section 2(a), by striking out "$47,856,813" and inserting in lieu thereof "$47,964,813"; and

(b) in section 21(b), by striking out "$1,770,746" and inserting in lieu thereof "$1,878,746."

NATIONAL OCEAN POLLUTION PLANNING ACT AUTHORIZATION

The bill (H.R. 4211) to reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

MEASURES INDEFINITELY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that calendar orders numbered 960, 974, 1006, 1010, and 1038 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AWARDS TO FEDERAL EMPLOYEES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 4574 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4574) to provide awards to Federal employees for superior accomplishments or cost-saving disclosures, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3740

(Purpose: To amend title 5, United States Code, with respect to the expiration date of certain programs under which awards may be made to Federal employees for superior accomplishments or cost-savings disclosures, and for other purposes)

Mr. BYRD. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of Senators Glenn and Roth and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], for Mr. Glenn, for himself and Mr. Roth, proposes an amendment numbered 3740:

Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. EXPIRATION DATE OF PROGRAM.

(a) Section 4514 of title 5, United States Code, is amended to read as follows:

"§ 4514. Expiration of authority

"No award may be made under this subchapter after September 30, 1990.".

(b) The table of sections for chapter 45 of title 5, United States Code, is amended by amending the item relating to section 4514 to read as follows:

"4514. Expiration of authority.".

Mr. GLENN. Mr. President, I commend my colleagues' passage of the substitute amendment to H.R. 4574, which is being offered by Senator Roth and me on behalf of the Committee on Governmental Affairs.

H.R. 4574, a bill to amend title 5, United States Code, with respect to certain programs under which incentive awards may be made to Federal employees, was introduced on May 11, 1988, and referred to the Committee on Post Office and Civil Service. That committee held one hearing on the bill and received testimony from the General Accounting Office, the Office of Personnel Management, several inspectors general, and employees who had received awards under the programs. H.R. 4574 was called up by the House of Representatives on July 26 under suspension of the rules and adopted by voice vote. No report to accompany the bill was filed by the Committee on Post Office and Civil Service.

As passed by the House, H.R. 4574 seeks to revitalize two existing awards programs for Federal employees. One is the Awards for Cost Savings Disclosures Program, which authorizes inspectors general and the President to pay cash awards to employees who disclose fraud, waste, or mismanagement in the Government. This awards program, in existence since 1981, expired on September 30, 1988. According to a December 1987 GAO report (GGD-88-22), the Department of Defense has been the most frequent user of this program to recognize individuals who disclose waste, fraud, and mismanagement over the IG's hotline. The Department of Defense reported that it granted 25 cash awards totaling over $30,000 between May 1984 and March 1987. The 25 disclosures reportedly resulted in savings of $29 million and $14 million in cost avoidance.

In addition to permanently establishing the Cost Savings Disclosures Program, H.R. 4574 would expand the program, for example, by allowing inspectors general to make awards to Government contract employees and to former Federal employees and allowing awards for disclosures which are made indirectly to the IG via Congress or the GAO fraud hotline. The bill would also increase the amounts of monetary awards allowable under this program.

The second awards program for Federal employees is the Superior Accomplishments Awards Program, which authorizes agencies and the President to recognize and reward employees for their suggestions or achievements that contribute to the efficiency, economy, or improvement of Government operations. This permanently established program, in existence since 1954, would be strengthened under the bill by provisions intended to increase the allowable monetary awards and force greater utilization of the program by imposing a reporting requirement on each agency.

The Governmental Affairs Committee received the bill for consideration on August 2, 1988. At this late hour the committee has not had time to examine the merits of the proposed sweeping changes to the operations of both Federal employee incentive awards programs. In light of this situation, Senator ROTH and I, on behalf of the committee, propose a substitute amendment to H.R. 4574 which merely reauthorizes the temporary Cost Savings Disclosures Program for a 2-year period. This would allow the committee additional time to review the efficacy of this program under current law and to examine the wisdom of expanding it.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 3740) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4574), as amended, was passed.

LEASE OF CERTAIN REAL PROPERTY TO THE AMERICAN RED CROSS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2496.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2496) entitled "An Act to provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements", do pass with the following amendment:

Page 4, after line 2, insert:

SEC. 2. The General Services Administration is authorized to lease, on a long-term basis as determined by the Administrator of General Services, approximately 200,000 square feet of office space located in the area north of 96th Street in the County of New York, New York, at a lease rate not to exceed comparable rates for equivalent space in such area or comparable rates within the building to be occupied, subject to the approval of the Committee on Public Works and Transportation.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

SETTLEMENT OF CERTAIN INDIAN WATER RIGHTS CLAIMS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 795.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 795) entitled "An act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" mean the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890's and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) Purpose.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) Establishment of Fund.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) Authorization of Appropriations.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) Obligation to Arrange for Development of Water for Bands and Local Entities.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either through participation in the lining of the previously unlined portions of the All American Canal or through contract with the Metropolitan Water District of Southern California.

To accomplish the requirements of this section, the Secretary is authorized to enter into such agreements or contracts as are necessary for the construction, operation and funding of the works required to develop such supplemental water. Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) Authority to Utilize Existing Programs and Public Lands.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable:

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) Terms and Conditions of Water Deliveries.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) Cost of Developing and Delivering Water.—The cost of developing and delivering supplemental water pursuant to subsection (a)(1) of this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) Report to Congress.—Within nine months following enactment of this Act, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the Secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) Establishment of Indian Water Authority Approved and Recognized.—

(1) In general.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) Limitation on power to amend or modify ordinances.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) Status and General Powers of Indian Water Authority.—

(1) Status as Indian organization.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) Power to enter into agreements.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) Investment power.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided*, That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) Limitation on spending authority.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) Indian Water Authority Treated as Tribal Government for Certain Purposes.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the

United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The execution of the settlement agreement shall not be withheld or delayed for any reason associated with providing the supplemental water supply. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this Act.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) Power Facilities.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq., commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) Indian and Government Lands.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) Approval by Indian Bands; Compensation to Indian Owners.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) Eminent Domain.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) Status and Authority of Indian Water Authority.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is Now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon. . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and the Secretary has entered into water delivery contracts with public agencies in California.

(4) The available supply of Colorado River water in California is over-allocated because—

(A) under the terms of the decision and decree in *Arizona* v. *California*, 373 U.S. 546, and section 301(b) of the Colorado River Basin Project Act (43 U.S.C. 1521(b)), California is limited to a dependable supply of 4.4 million acre-feet of water per year,

(B) the California contractors' entitlement under their water delivery contracts with the Secretary is in excess of 4.4 million acre-feet per year, and

(C) actual use under these contracts has been considerably in excess of 4.4 million acre-feet per year for all but two years since 1964.

(5) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(6) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions of the United States Supreme Court.

(7) The Secretary has promulgated regulations pursuant to this authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(8) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617-617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractor.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) Canal Lining Authorized.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures to mitigate resulting impacts on fish and wildlife resources. Mitigation for fish and wildlife resource losses in or adjacent to the canals incurred as a result of the construction of the works shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with or prior to construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife mitigation purposes.

(b) Operation and Maintenance Determination.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) Construction and Funding Agreement.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or finding of all or a portion of the works authorized in subsection (a) of this section. Such agreement or agreements shall set forth, in a manner acceptable to the Secretary—

(1) the responsibilities of the parties to the agreement for finding and assisting with implementing all the duties of the Secretary

identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional cost identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirements for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation of impacts on fish and wildlife resources, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) Title to the Works.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights of the United States to the waters of the Colorado River, or would inhibit the Secretary's ability of fulfill his responsibility under the Project Act.

(e) Authorization of Appropriations

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsections (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) Secretarial Determination.—The Secretary shall determine the quantity of water conserved by the works and may revise each determination at reasonable intervals based on such information as the Secretary finds appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) Beneficial Use in California.

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractor other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

(a) Effective Date.—The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to * * *

* * * * *

various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) Public Review and Comment.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) Limitation on Initiation of Construction.—Prior to the initiation of construction, the Secretary shall make a finding, and publish such finding, that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implemenation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Wildlife Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which would be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) describe current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (P.L. 97-293, 96 Stat. 1263).

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment with an amendment on behalf of Senators Cranston and Wilson.

AMENDMENT NO. 3741

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], for Mr. Cranston, for himself and Mr. Wilson, proposes an amendment numbered 3741.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) Bands.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) Fund.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) Indian Water Authority.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, and

intertribal Indian entity established by the Bands.

(4) Local Entities.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) Settlement Agreement.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

(7) Supplemental Water.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) Findings.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) Purpose.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgements or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) Establishment of Fund.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) Authorization of Appropriations.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested from time to time by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) Obligation to Arrange for Development of Water For Bands and Local Entities.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside of the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either from water conserved by the works authorized in Title II of this Act, or through contract with the Metropolitan Water District of Southern California.

Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) Authority to Utilize Existing Programs and Public Lands.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable :

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) Terms and Conditions of Water Deliveries.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) Cost of Developing and Delivering Water.—The cost of developing and delivering supplemental water pursuant to this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) Report to Congress.—Notwithstanding the provisions of section 104, within nine months following enactment of this Act, the secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) Establishment of Indian Water Authority Approved and Recognized.—

(1) In general.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) Limitation on power to amend or modify ordinances.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval

may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided,* That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this title.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920, (16 U.S.C. 791a et seq.), commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon. . . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and in California the Secretary has entered into water delivery contracts with public agencies.

(4) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(5) The available supply of Colorado River water in California is insufficient to meet the priorities set forth in the Seven Party Agreement.

(6) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(7) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions and decrees of the United States Supreme Court.

(8) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617-617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures for the replacement of incidental fish and wildlife values adjacent to the canal foregone as a result of the lining of the canal or mitigation of resulting impacts on fish and wildlife resources from construction of a new canal, or a portion thereof. Such measures shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with construction of the works. The Secretary shall make available such public

lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife purposes.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this section. The Secretary shall ensure that such agreement or agreements include provisions setting forth—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirement for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation or replacement, as appropriate, of fish and wildlife resources or values, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and,

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights or obligations of the United States, or would inhibit the Secretary's ability to fulfill his responsibility under the Project Act or other applicable law.

(e) AUTHORIZATION OF APPROPRIATIONS.

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsection (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise such determination at reasonable intervals based on such information as the Secretary deems appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractors other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American Canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period or any extension thereto, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided,* That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall determine that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which could be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) described current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263).

Amend the amendment of the House to the title so as to read: "An Act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes."

Mr. CRANSTON. Mr. President, I rise in support of an amendment in the form of a substitute to S. 795, a bill to provide for the settlement of a longstanding dispute over Indian water rights on the San Luis Rey River in southern California.

As my colleagues will recall, the Senate passed S. 795 last December. The House recently passed an amended version of S. 795, returning the bill to the Senate.

The bill before us today differs from the earlier bill in several important ways. The water for the settlement will come from the lining of the All-American Canal or from a ground water recharge/recovery program in southern California, rather than from the Federal central valley project. In addition, the bill authorizes a $30 million trust fund to finance construction of water facilities on the Indian reservations, rather than permitting use of revenues from water sales for this purpose. Finally, it authorizes the relining of the All-American Canal in southern California at no cost to the Federal Government.

The amendment I am offering today makes technical corrections and resolves a number of inconsistencies in the House text. It reflects changes recommended by the Select Committee on Indian Affairs and the Energy and Natural Resources Committee.

Mr. President, I believe this is a good bill and a fair settlement for all the parties in the dispute. However, it is important that the Secretary of the Interior continue to fulfill his trust responsibility to the Mission Bands as the settlement is implemented. Particularly critical is the need to secure a permanent water supply for the Mission Bands and appropriations for the trust fund before the Indians' rights are released in the settlement agreement. I urge the Secretary to include the necessary appropriations for the trust fund in the administration's fiscal year 1989 budget request.

And I urge my colleagues to adopt this bill, with the amendment.

Mr. WILSON. Mr. President, I rise in support of what I consider to be the most important California water legislation for this Congress. S. 795 is a bill that will serve to resolve years of Indian water rights litigation on the San Luis Rey River in northern San Diego County and will also authorize the lining of the All-American Canal.

This latter provision is especially significant because it signals the arrival of a new era in our seemingly never-ending battle to provide for California's water needs. Instead of authorizing the construction of a new dam—something that has long been California's answer to water shortages—we are instead authorizing new conservation measures that will allow us to more efficiently use the water resources that have already been developed.

It is estimated that the lining of the All-American Canal will conserve approximately 100,000 acre-feet of water per year. In a State where we fight over the allocation of as little as 1,000 acre-feet, these savings are truly significant.

The All-American Canal was built early this century to divert Colorado River water to the fertile Imperial Valley. It is because of this canal that this valley has become one of the major agricultural areas of this Nation.

Back in the days when this canal was built, however, water was plentiful and canal construction was expensive. There was no need to conserve water then and no money to put concrete lining in what is really nothing more than a large dirt ditch.

Today is a different story. California continues to grow at a pace that is threatening to outstrip our efforts to maintain a quality of life that we have all become used to. If we don't continue to develop new water resources—or better yet, make better use of what water projects we already have—then California will soon be in trouble.

One aspect of this project that is especially appealing to me is that even though the All-American Canal is a Federal project, the lining of this canal will be financed by non-Federal interests. That is as it should be. After all, the benefits from this project in terms of water conserved will flow to southern California consumers, and they are the ones who will be footing the bill for this project.

I can only hope that the lining of this canal will set the precedent for future action by this body to assist in other worthwhile projects that have as their goal the conservation and efficient utilization of our scarce water resources.

The other part of the bill before us today relates to the settlement of the San Luis Rey River Indian water rights dispute. This provision has previously been approved by the Senate in an earlier form that has since been modified by the House.

I support the changes that the House has made and am informed that the parties to the underlying water rights litigation are satisfied with the manner in which this bill resolves their dispute.

This particular agreement has been a long time coming. I first introduced San Luis Rey legislation in the 99th Congress, and it is only now 4 years later that we have a bill ready to go to the President for his signature.

For any of my colleagues that know of the difficulties inherent in resolving water rights issues, you will understand the commendations that I have for all parties that have been involved in crafting this agreement.

In closing, Mr. President, I thank the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs, and the leadership shown by my senior colleague from California, Senator CRANSTON, for the hard work that has been required to successfully put this package together in time for consideration prior to adjournment. I think that we can all be justifiably proud of this important legislation.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

SSG CHARLES F. PREVEDEL FEDERAL BUILDING

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1476.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 1476) entitled "An Act to designate the Federal Record Center at 9700 Page Boulevard, Overland, Missouri, as the 'SSG Charles F. Prevedel Building' ", do pass the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. DESIGNATION.

The building under construction in Overland Missouri, known as the Federal Records Center Extension Building 109", shall be known and designated as the "Charles F. Prevedel Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Charles F. Prevedel Federal Building".

Amend the title so as to read: "An Act to designate the Federal Records Center Extension Building 109 under construction in Overland, Missouri, as the 'Charles F. Prevedel Federal Building'.".

Mr. DANFORTH. Mr. President, today the Congress is taking final action on a bill I introduced to name the Army Personnel and Record Center in Overland, MO after S. Sgt. Charles F. Prevedel.

Sergeant Prevedel, a native of Florissant, MO, fought valiantly for the United States during the Vietnam war. He never came home. On April 14, 1969, Sergeant Prevedel parachuted into a forest in Quang Nam Province, as a member of a reconnaissance patrol. He has not been seen since, save for a 1969 Christmas photo that made its way to the outside world from a prisoner of war camp.

Sergeant Prevedel is one of more than 2,400 servicemen who are listed officially as "missing in action" in Southeast Asia. In Missouri, as many as 51 people may be alive today in Vietnam. We must not forget these brave Americans. We must press for an accounting of their fate for as long as it takes to secure an accounting.

In the naming the Army Personnel and Record Center for Sergeant Prevedel, it is my hope to create a remembrance of the sacrifices made by the service members who are listed as missing in action.

Naming a building will not ease the pain of loss for Sergeant Prevedel's family. Nor will it affect the Government of Vietnam, from which a full accounting of MIA's is long past due.

Naming a building is an important symbol. It is a statement that we remember what a brave man from Florissant, MO, was willing to give for America, for freedom, and for the people of Southeast Asia. It is a statement that we will pursue an accounting of our people until an accounting is given.

A personal note: I am advised that Sergeant Prevedel's father, Charles, Sr., passed away recently. I am told he was proud of the prospect the Army center would be named for his son. I am proud the Senate is according to Mr. Prevedel's son the recognition that his bravery deserves.

America will be secure in her freedom as long as people like Sergeant Prevedel step forward to answer the Nation's call. I am proud to sponsor this legislation. I believe that all Missourians share my pride in Sergeant Prevedel's service to the United States, and share my appreciation of the Senate's action today.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments en bloc.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

LABELING OF HAZARDOUS ART MATERIALS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4847.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4847), to amend the Federal Hazardous Substances Act to require the labeling of chronically hazardous materials, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I am pleased today to support H.R. 4847, the art materials labeling bill, which will require the labeling of art materials that pose potential chronic hazards to consumers.

This legislation is the result of the arduous efforts of representatives from the art materials industry, consumer groups and professonal artists. As a result of their efforts, art materials now will be required to bear prominent, easily understandable labels disclosing chronic health hazards that may result if the product is not used in the appropriate manner and with the proper precautions.

This legislation would mandate that art and craft materials be labeled with the warning signals adopted by the American Society for Testing and Materials in a standard commonly known as ASTM D-4236. That standard was first issued in 1983 with the input of manufacturers, consumers, health professionals, and artists. Currently, more than half of the manufacturing industry complies voluntarily with the standard. With the enactment of this bill, compliance will be mandatory.

According to consumer representatives, enactment of this legislation will ensure that the public will receive the information they need to use art materials safely. This will benefit professional artists as well as hobbyists and school officials who are concerned about exposure to the materials covered by this legislation.

H.R. 4847 is truly a consensus measure. The bill is supported by the American Public Health Association, National Education Association, National Parents and Teachers Association, American Association of School Administrators, and the American Academy of Pediatrics. Much credit for this legislation goes to the Art Supplies Labeling Coalition composed of the Art and Craft Materials Institute, Inc.; Artists Equity; Hobby Industry Association of America; National Art Materials Trade Association, Inc.; Pencil Makers Association, Inc.; and Writing Instrument Manufacturers Association, Inc. The Public Interest Research Group likewise deserves much credit for its focus on the chronic health hazards issues and its meaningful input into the legislation.

I urge my colleagues to support the bill.

Mr. GORE. Mr. President, the bill now before the Senate, H.R. 4847, addresses the very real problem of potential harms caused by some art and craft materials.

Some commonly used art and craft products contain substances that are linked with chronic illnesses, which may not become apparent until months or years after exposure. For example, supplies such as solvents in cements and permanent markers, lead in paints, clay and glazes, and cadmium-containing silver solders can cause a variety of different illnesses. Cancer, lung, and kidney damage, and heart disease have been associated with exposure to these elements.

The Consumer Subcommittee has learned of tragic stories associated with the use of art products. Jon Glowacki was a young boy who enjoyed spending much of his free time engaging in art and craft activities. He died suddenly in February 1985 when he was 13 years old from using rubber cement. The medical examiner listed his cause of death as "sudden death associated with inhalation of volatile hydrocarbons." Judith Sinclair, a commercial artist and graphic designer, had to terminate her career after experiencing dizziness, nausea, chest and stomach pains and lack of coordination. Her symptoms were attributed to exposure to solvents in permanent markers, acetates, and various inks.

This exposure to harmful art products is occurring every day, at least in part because artists, hobbyists, educators and others do not know of their potential dangers or of the proper ways to use the products so as to avoid their harmful effects. It is important to note that children are particularly at risk. Exposure to the same amount of a substance as an adult results in a higher concentration in a child's body, because of the differences in body size. Also, children, have a higher metabolic rate and so they absorb toxic chemicals more quickly.

One possible solution to this situation is to require labeling of art supplies. Art material manufacturers, artists, government officials and scientists, in cooperation with the American Society for Testing and Materials [ASTM], have engaged in a process to develop a voluntary consensus standard for labeling of chronically toxic ingredients in art supplies. ASTM adopted this standard, number D-4236, in March 1983, and labels began to appear on art and craft products in 1985. The greatest problem with the voluntary standard is that not all manufacturers have agreed to utilize the standard, and there is even some suggestion that those who do not use the standard are being rewarded by higher sales because consumers often will choose a product that they think is safe because it does not contain a label rather than one which contains warnings about its harmful contents.

The use of chronically hazardous substances in the workplace is subject to Federal regulations that are enforced by the Occupational Safety and Health Administration. However, since these art supplies are consumer products, they do not come under these regulations. As consumer products, most art and craft materials are subject to the labeling requirements of the Federal Hazardous Substances Act [FHSA], and the CPSC could adopt regulations for their labeling. However, the CPSC has not conducted a regulatory proceeding to determine whether a specific art and craft material should be labeled or banned because it poses chronic hazards. It has, however, made hazards determinations for specific substances which may be contained in art products.

This bill would adopt the ASTM standard as if it had been developed in a rulemaking by the CPSC. It would require manufacturers of art and craft materials to submit to the CPSC criteria used to determine whether their products have the potential to cause chronic adverse health effects and to place labels on potentially harmful products. Further, the CPSC would be required to develop guidelines specifying criteria for determining when use of an art material can result in a chronic hazard, and to provide educational materials on art supplies. Finally, the CPSC would be given the authority to enjoin the purchase for use by children younger than those in grade 6 of any art supply that was required to be labeled.

This bill was worked out by representatives of consumer organizations and art supply manufacturers. It is supported by consumer, health and school organizations, and a coalition of national trade associations representing art materials manufacturers, dealers, health professionals and artists.

I am pleased that the Senate is considering this bill to set in place some protection for hobbyists, professional artists, educators, and children who are unwittingly exposed to harmful products every day.

Mr. McCAIN. Mr. President, I am pleased to support H.R. 4847, legislation to require the labeling of chronically hazardous art and craft materials.

Artists, hobbyists, schoolchildren, and retirees are some of the many people who make extensive use of art and craft supplies. Among hobbyists alone, a 1984 Harris poll found that 50 million Americans paint or draw as a hobby, 29 million make pottery or ceramics, and 15 million sculpt or work with clay.

Unfortunately, some commonly used art and craft products contain chemicals which can pose a hazard if handled improperly. Some of these chemical ingredients pose an acute hazard, meaning that a single incidence of misuse could have immediate harmful consequences such as burns, eye damage, skin irritation, or poisoning. Such hazards have been addressed through Federal labeling legislation.

Other chemicals contained in art and craft materials present a chronic health hazard, meaning that repeated exposure could be harmful. For example, miscarriage, heart attacks, nerve damage, and respiratory diseases have been associated with exposure to the solvents used in oil painting and silk screening. Solders used for working with stained glass have caused lead poisoning. Lead, which is also found in paints and ceramics, can also poison the renal and nervous systems. Some talcs and clays contain asbestos, which has been linked to lung cancer and mesothelioma. A 1981 study by the National Cancer Institute found that artists with long-term exposure to pigments and solvents have significantly elevated risks of contracting heart disease, leukemia, and cancers of the bladder, colon, rectum, kidney, and brain.

Most art and craft supplies, even those containing substances which present chronic health hazards, are safe when used properly. However, since consumers of art supplies are often not professionals but amateurs, a real danger exists that products will be used incorrectly. In addition, even some professional artists and art instructors are not fully aware of the chronic health hazards posed by the misuse of some products.

Studies conducted in 1986 and 1987 by the U.S. Public Interest Research Group USPIRG of art materials used in public schools in the Washington, DC area, illustrate one aspect of the problem—lack of knowledge about chronically hazardous products. The 1986 study found at least 47 hazardous art and craft supplies on the procurement lists of area schools. In addition, the study concluded that, in most area school districts, children were being routinely exposed to chronically hazardous substances. Many of these products were being used despite the existence of safe alternatives. The 1987 study, conducted in the wake of the publicity generated by the 1986 study, found that most of the area schools had eliminated the chronically hazardous art supplies from their procurement lists.

The problem of inadequate information about health hazards associated with art and craft supplies has not gone unnoticed, and several efforts have been made to correct the problem. However, none of these solutions are entirely adequate.

At the Federal level, the Federal Hazardous Substances Act [FHSA], administered by the Consumer Product Safety Commission CPSC, requires labeling on consumer products that pose acute hazards, that is, hazards that cause immediate adverse effects such as burns, eye damage or poisoning. The FHSA, however, does not require labeling on products that contain substances that pose "chronic" hazards, that is, substances whose dangerous effects are not apparent until years after exposure.

In 1983, an industry and artist task force, working under the auspices of the American Society for Testing and Materials, ASTM, developed a voluntary standard on chronic hazard labeling of art and craft materials. The standard, which has since been amended several times, establishes definitions of chronic hazard and art and craft material and suggests actual label wording. The standard also provides for a certification process involving product-by-product evaluation by a toxicologist.

Compliance with the ASTM standard is voluntary and although many companies producing art and craft materials have chosen to participate, some have not. Moreover, those companies producing art materials posing the most danger with regard to chronic health hazards seem to have the lowest levels of participation in the voluntary standard process. Such nonparticipation only exacerbates the problem of providing adequate and reliable information to consumers about art and craft materials. For example, a consumer will be more likely to purchase a product that does not contain a warning of a cancer hazard than a product with such a warning, thinking that the absence of a warning signifies no potential danger. However, the product without the warning may be as hazardous or more hazardous than a product with a label.

Responding to the voluntary nature of the industry labeling effort, laws mandating the labeling of chronic hazard art products have been enacted in California, Florida, Illinois, Oregon, Virginia, and Tennessee. With some differences and additional requirements, the laws provide for labeling similar to that required under the ASTM standard on all art and craft materials that cause chronic illness. The laws also provide that compliance with the ASTM standard will be deemed to be in compliance with the law, unless the commissioner of the enforcing agency determines that the label does not satisfy the purposes of the law.

As effective as these laws may be, they only apply to art and craft materials marketed within six States. In addition, they are not identical and the difference between them, as well as differences with the ASTM standard, create compliance difficulties for manufacturers of art and craft materials and may result in nonuniform warning labels.

As a result of problems with the FHSA, the ASTM standard, and the State laws, art and craft product manufacturers, represented by the Art Supplies Labeling Coalition, have expressed an interest in national labeling legislation. In addition, such national legislation has been endorsed by the U.S. Public Interest Research Group [USPIRG], the consumer group which has been most active in developing art materials labeling laws.

The legislation now before the Senate, H.R. 4847, is the result of the efforts of the Art Supplies Labeling Coalition and [USPIRG] and it has the support of both groups. H.R. 4847 requires the labeling of chronic hazard art supplies by deeming the ASTM standard developed by the art and craft industry to be a mandatory standard issued by the CPSC under the FHSA. The legislation permits the CPSC to make revisions in the standard if appropriate and it requires the CPSC to issue criteria for determining when use of an art material can result in a chronic hazard. Also, the CPSC is required to develop informational and educational materials about art and craft supplies.

Mr. President, I commend the art supplies industry and the consumer community for their expeditious and cooperative resolution of this problem. I hope their responsible approach to this issue will serve as a model for resolution of other consumer issues, and I encourage my colleagues to join with me in supporting H.R. 4847.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be advanced to third reading, passed and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4847) was passed.

THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the following measures—Senate Joint Resolution 344, House Joint Resolution 572, and House Joint Resolution 629; that the Senate proceed to the immediate consideration of the three measures en bloc; that they be advanced to third reading en bloc, passed en bloc, and the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL FAMILY WEEK

The joint resolution (S.J. Res. 344) was considered and passed, as follows:

S.J. RES. 344

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 20, 1988, through November 26, 1988, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

VOCATIONAL-TECHNICAL EDUCATION WEEK

The joint resolution (H.J. Res. 572) was considered and passed.

NATIONAL CHESTER F. CARLSON RECOGNITION DAY

The joint resolution (H.J. Res. 629) was considered and passed.

NATIONAL VOLUNTARY REUNION REGISTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of S. 2010 and that the Senate proceed to the immediate consideration of that bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2010) to establish a National Voluntary Reunion Registration Program.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3742

Mr. BYRD. Mr. President, on behalf of Mr. LEVIN, I send a substitute amendment to the desk, and I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The substitute amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is to provide for the establishment of a program which shall facilitate on a voluntary request basis, the reunion of birth parents and adopted persons, birth siblings or birth grandparents of adopted persons, through a centralized computer network.

SEC. 2. DUTIES OF THE SECRETARY.

(a) The Secretary of Health and Human Services (hereinafter referred to in this Act as the "Secretary") is authorized, in accordance with the provisions of this Act, to establish a National Voluntary Reunion Registry with the Department of Health and Human Services under the direction of a designee of the Secretary.

(b) The Secretary shall submit to Congress an annual report of all activities carried out under this Act. The report shall include the following:

(1) The total amount of fees collected.

(2) The number of applications submitted by birth parents, adopted parents, birth siblings, or other birth parents.

(3) The number of inquires ending in a successful match.

SEC. 3. VOLUNTARY REUNION REGISTRY.

(a) The National Voluntary Reunion Registry authorized under this Act shall provide centralized nationwide capacity, utilizing computer and data processing methods. Participation in the registry shall be voluntary by all parties involved.

(b)(1) The registry authorized under this Act shall provide that—

(A) a birth parent, or an adopted person over the age of 21 may initiate the matching process by submitting an application to the agency operating the system;

(B) a birth sibling or birth grandparents of an adopted person may also initiate the matching process whenever—

(i) the birth parent of an adopted person is deceased or his or her whereabouts is unknown;

(ii) the birth parent of an adopted person has consented in writing to the initiation of the matching process; or

(iii) under such other circumstances as the Secretary may determine to be appropriate after taking into consideration the privacy rights and interest of all parties who may be affected; and

(C) no attempt shall be made to facilitate a match unless both individuals involved in the match have initiated the process required to facilitate a reunion.

(2) The Secretary shall establish specific procedures for the purpose of, to the maximum extent feasible, protecting the confidentiality and privacy rights and interests of all parties participating in the program authorized by this Act. The Secretary shall establish procedures that provide that only information necessary to facilitate a match shall be contained in the registry, and the National Voluntary Reunion Registry shall not attempt to make contact for the purpose of facilitating a reunion, with any individual who is not entered into or participating in the registry program.

(3) Information pertaining to any individual which is maintained in connection with

any activity carried out under this Act shall be confidential and not be disclosed for any purpose without the prior written, informed consent of the individual with respect to whom such information applies or is maintained.

(4) Reasonable fees, established by taking into consideration the costs of services provided for individuals under this Act and the income of such individuals, shall be collected for all services provided under this Act.

(c) The National Voluntary Reunion Registry may include the operation of a similar statewide identification computer system in a State which chooses to participate in the voluntary reunion registry and agrees to provide—

(1) provide necessary coordination with the voluntary identification system provided for in subsection (a) of this section;

(2) provide such financial participation as the Secretary may prescribe by the State; and

(3) establish standards and procedures for the operation of the statewide system which are consistent with those provided for in this Act.

(d) Any individual or entity found to have disclosed or used confidential information in violation of the provisions of this section shall be subject to a fine of $5,000 and imprisonment for a period not to exceed 1 year, and the provisions of section 3571 of title 18, United States Code, shall not apply to such violations.

SEC. 4. COUNSELING SERVICES.

(a) The Secretary may promulgate regulations that require the National Voluntary Reunion Registry established under this Act to include referral to existing programs that provide counseling services.

(b) If the Secretary promulgates regulations under subsection (a), on application to the registry, an applicant shall receive a referral list of licensed agencies, professionals, and adoption triad support groups that provide counseling services. Such services may include adoption peer support groups, community social service agencies, health professionals, and agencies providing family counseling.

SEC. 5. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue interim regulations necessary to carry out the provisions of this Act. The Secretary shall issue final regulations not later than 180 days after the date of enactment of this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $300,000 for fiscal year 1989 and such sums as may be necessary for each of the final years 1990 and 1991.

Mr. LEVIN. Mr. President, after years of research, consultation, assessment, reassessment, recommendation, comments, and hearings, the Senate has cleared the way for the long-awaited passage of the national Voluntary Reunion Registry—legislation which will help reduce the anguish of birth relatives who are seeking one another.

The registry will facilitate voluntary, mutually requested reunions between adult adopted persons, their birth parents, and birth siblings separated by adoption. The bill authorizes the Secretary of Health and Human Services to establish the registry within the Department of Health and Human Services, authorizes funding, and requires the Secretary to report annually to Congress. The measure also contains specific provisions governing confidentiality and privacy interests, and specifically states that no match would be made unless both parties voluntarily applied to the registry to initiate the matching process.

An enormous amount of work has gone into this substitute proposal. A number of individuals, agencies, and organizations worked with me and my staff to achieve a consensus on this important legislation.

The discussions included meetings with the administration and with a number of my colleagues in both the House and Senate relative to my proposal. I have met with President Reagan, OMB Director Jim Miller, and HHS Secretary Otis Bowen who have indicated their support for a national registry. I am also most grateful to the continuing cosponsorship of longtime supporters of the National Voluntary Reunion Registry, Senators CRANSTON, COHEN, DODD, MOYNIHAN, and DURENBERGER. And, I would like to thank Senators DOLE, HATCH, and HUMPHREY for their input.

Most importantly, I would like to thank Ina Portney of Michigan, parent of an adopted son and daughter, who first sparked my interest in the idea of a National Voluntary Reunion Registry.

I also want to warmly commend the tremendous efforts of Michael Reagan. Without his great skill and leadership, this bill would not be before us today. In fact, at no time was I more convinced of the need for a national registry than when Michael shared his own personal story with me during a visit to my home in the spring of this year. I would like to share with my colleagues the letter I received from Michael prior to our meeting in April. It reads as follows:

DEAR SENATOR LEVIN: As you may know, I am an adoptee who has recently had the great privilege of meeting by birth brother and learning about the life-time of loving and caring by my deceased birth mother. You should also know that my adoptive father, Ronald Reagan, supported my desire for a reunion with my birth mother and helped me in my early efforts. When my father helped me, it was the greatest gift he ever gave me.

I believe wholeheartedly in your bill establishing a national registry for adoptees, birth parents and separated siblings. And I support your efforts to make this a reality. I would have used such a registry myself, and it has become apparent to me that my birth mother would have also.

I look forward to meeting you and actively assisting in your efforts to gain enactment of this compassionate legislation.

With all good wishes.

Sincerely,

MICHAEL E. REAGAN.

Had this legislation been signed into law, Michael Reagan might have met his birth mother before her death. A March 31, 1988, Washington Post article about Michael's recently published autobiography—"On the Outside Looking In"—revealed the efforts of Michael's birth mother to keep tabs on him.

According to the Washington Post article:

> It was through a meeting with Barry Lange, the birth brother he was previously unaware of that Michael Reagan realized the efforts his birth mother took to keep tabs on him. Barry "had brought along a photo album bulging with clips from magazines and newspapers. They were pictures of Michael—often with his father, Ronald Reagan—lovingly collected through the years by his birth mother. She had been tracing his steps throughout his life. Barry revealed that "my mother wanted to have contact with Michael, but she didn't want to initiate it. You don't go knocking on the door and say, "I'm the mother who gave you up for adoption. Aren't you going to invite me in to tea?" Michael Reagan's birth mother dies in 1985, never having met her first child.

Mr. President, there are other individuals and organizations, without whose compassion and tireless efforts this much-needed legislation would not have come this far. All expressed support for my unrestricted substitute proposal. Emma Mae Vilardi of ISRR in Carson City, NV, and Jean Paton, founder of Orphans Voyage of Cedaredge, CO, are two early supporters who have worked with my office continuously over the years on this issue. Others who have helped along the way are:

Kate Burke.

Charlotte Hood.

Laura Lewis, Adoptee and Birthmother.

Margaret Hutchison-Betts of Vermont.

Dawn Smith-Pliner of Vermont.

Patricia Martinez Dorner, M.A., LPC of Lutheran Social Service of Texas.

Linda Brown of Providence, Rhode Island.

Carol Cramer, Adoptee.

Susan Darke, Massachusetts Adoption Connection.

Betty Jean Lifton, Author.

Annette Baran, Social Worker and Author.

Libbi Campbell, CUB.

Kate Pijanowski of Houston, Texas.

Professor Thomas J. Bouchard, Jr., Director, Minnesota Study of Twins.

Edward Branca of New York.

Dr. Dirck Brown, family therapist and coauthor of Clinical Practice in Adoption.

Clyde Worley of Columbia, MO.

Mary Jo Rillera, TRIADOPTION, Westminster, CALIFORNMAI.

Penny Partridge of Pennsylvania.

Lee Cambell of New Hampshire.

John Ryan of NOBAR.

Linda Burgess of Cambridge, Massachusetts.

Amy Blanchard of PACER.

Alison Ward of Bound Brook, New Jersey.

Children's Home Society of Washington.

Washington Adoption Rights Movement.

Finders Keepers.

Florida United Methodist Children's Home.

American Adoption Congress, a national organization of adoption agencies, birth parents, adoptive parents, adoptees and adoption professionals. Membership includes:

International Soundex Reunion Registry, Concerned United Birthparents.
Adoptee-Birthparent Support Network.
Adoptees Seeking Kinfolk.
The Adoption Connection.
Grand Rapids Adoption Identity Movement.
Adoption Heritage Parenting Resources.
Orphan Voyage of Florida.
The Barker Foundation.
Roots and Reunions.
Expectant Adoptive Parent Class.
Adoption Information Exchange.
Adoption Circle.
Operation Identity.
Adoptive Parents for Open Records.
Catholic Charities.
Child Placement Services Inc.
Yesterday's Children.

Finally, I must also say a word about my legislative assistant, Jackie Parker. She stood steadfast in this cause, year after year. Tenacity is rewarded in this body. She is the embodiment of it. Nine years of effort now bears fruit. And, I would like to thank my legislative director, Chuck Cutolo, for his help in making sure that the bill did not die on the second yard line of the 100th Congress. Hopefully the House of Representatives will concur so that we may get on with recognizing the humanity of this straightforward effort to facilitate the mutual voluntary reunion of adults who seek, often desparately and poignantly, to find each other.

Mr. President, this proposal also enjoys the support of many adoptive parents, and adoptive parent support groups. As I reflect on the numerous meetings I have held, and letters of support I have received from adoptive parent groups on the issue of a national registry, there are a number that stand out vividly in my mind. One such letter comes from Carol F. Gustavson, founder of an adoptive families organization based in Long Valley, NJ. Her letter reads as follows:

Organization of Adoptive Families,
Long Valley, NJ, April 18, 1988.

Hon. Carl Levin,
U.S. Senate,
Washington, DC.

Dear Senator Levin: It is with utmost sincerity and urgency that I send you this letter in support of your bill to establish an unrestrictive National Voluntary Reunion Registry through the Department of Health and Human Services.

The organization of adoptive parents is a non-profit all volunteer organization of adoptive families who seek humane adoption reform. The organization networks with other reform groups on a national level and feel strongly that our sons and daughters deserve the dignity of their heritage. We acknowledge the birth-families of our children through the shared desire to support all efforts towards reconciliation between them and their original family, should they choose to meet.

Many years ago we pledged before the courts to love our children to the best of our ability. Over the years we sadly discovered we could not love away their special needs through adoption. They needed truth and reality beyond what we were capable of giving them.

We need to impress upon those making legal decisions for us the importance and value of our personal knowledge, having been directly involved in adoption. Birthparents and adoptive parents share a mutual love and concern for their children. We hear our sons and daughters speaking out. We support them in their efforts to be accepted as citizens sharing in the same rights so many take for granted. As parents, we resent being placed in the position of keeping our adult sons and daughters locked into needing our permission in making important personal decisions regarding the reality of their heritage. We reject any registry that demands our approval for reunion or access to information. We also reject any registry that would *in any way* restrict the reconciliation of the adopted person should only one birth parent enter into the registry. We have facilitated one parent reunions and have not experienced any problems with the second parent.

A well publicized unrestricted National Voluntary Reunion Registry through HHS can provide the opportunity for a healthier approach to the adoption experience.

We appreciate your continued efforts, and intend to actively participate in the efforts to gain enactment of your proposal.

Sincerely,

Carol F. Gustavson,
Founder.

A recent survey conducted by my staff revealed that more and more adoptive parents support efforts of adopted sons and daughters who seek to connect with their roots. The organization, Roots and Reunions in L'Anse, MI, recently reported that 75 percent of all requests for reunion assistance last year came from adoptive parents. Not only are these adoptive parents seeking to meet the needs of their sons and daughters, "Our adoptive parents want to set at ease the hearts of their childrens' birth mothers, but are unable to do so," says Mrs. J. A. Swanson, director of the organization.

According to Emma May Vilardi of the International Soundex Reunion Registry [ISRR], "20 percent of ISRR's registry applicants for adoptees under the age of 18 have been made by adoptive parents. Mrs. Vilardi says she has received application requests from prospective adoptive parents "who want to register their newly acquired children for future reunion with their birthparents."

Mr. President, a preliminary Los Angeles study determined that 89 percent of the birthparents they surveyed wanted reunion with their relinquished children when grown, if the offspring so desired. Many who have sought and succeeded in locating each other, find many troublesome events might have been avoided had their struggle been aided at an earlier time. One of the many such examples brought to my attention, by a birthmother from Michigan is outlined in the following letter:

I am a birthmother who surrendered to adoption in 1960. I was pleased and encouraged when Michigan instituted a mutual consent registry in 1980, but was disappointed that no effort was made to notify adoptive parties of its existence. After six years of searching, and the expenditure of over $3,000, I finally located my daughter shortly before her 24th birthday. Because she no longer lived in Michigan, she was unaware of the mutual consent registry, so had not filed. However, she had made a preliminary contact with a Detroit search and support group in 1981, taking the first steps toward finding me. She did not feel comfortable about conducting an all-out search for me at that time, because she feared my rejection of her. Had she attended a support group meeting, she might have learned about the Michigan registry, where I had filed a consent waiver years ago. My daughter was one of two adopted children raised in an unfortunate home situation.

The mother's alcoholism led to her death at the age of 52, leaving the two girls motherless at ages 12 and 14. My daughter left home without finishing high school at age 17, and was totally on her own thereafter. One year later, I had begun to search for her, yet we were kept apart by the current adoption system. Because of that system, I also lost my first grandchild to abortion. I have learned that, at age 20, my daughter became pregnant out of wedlock. Being her own sole means of support, and having no family to back her up, she saw abortion as the only realistic alternative open to her. It breaks my heart to realize that at the time she was going through this excruciating decisionmaking process, I was searching frantically for her. If only I could have found her in time, I could have offered her the loving support she needed to bring her child to term and parent it. You will be interested to know that at the present time I am helping a number of adoptive parents in search of their children's birthparents.

Sincerely,

Michigan Birthmother.

I would also like to bring to the attention of my colleagues excerpts from an August 21, 1985, Pittsburgh Press story, and a letter from Kate Pijanowski of Houston, TX.

I ask unanimous consent that they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Pittsburgh (PA) Press, Aug. 21, 1985]

She Finally Met Mom, But They Only Had 5 Hours

(By Douglas Heuck)

Put up for adoption moments after being born out of wedlock, Judy Van Ryn wanted to see her real mother just once:

"God, just give me five minutes of her time," she says she prayed time and time again. "Is that too much to ask?"

The 39-year-old McCandless woman received her wish. But instead of five minutes, fate allowed Mrs. Van Ryn and her mother five hours together before her mother died on the operating table during open heart surgery.

On July 31, Mrs. Van Ryn received word from an Amarillo, Texas, hospital that her biological mother, Mary Bergman, would undergo open heart surgery early the next morning.

Mrs. Van Ryn immediately drove from her McCandless home to the airport and found the last seat on the last jet with connections to Amarillo that night.

In her Amarillo hotel room that evening, Mrs. Van Ryn slowly began to realize that the long search for her mother would end in a few hours. She couldn't sleep.

"My brain was going a mile a minute. I got dressed, then changed my clothes again, I guess it was a little silly, but after 39 years, I was worried about looking good for my mother."

Mrs. Van Ryn and her twin brother, Jimmy, were adopted and raised together.

In the last letter she sent to her daughter, June 30, 1985, Mrs. Bergman, living alone, reminisced: "I got to see you and Jimmy twice, once when you were born and once on the day you left the home. I worked in the kitchen before and after you were born, and I was coming up from the kitchen one day when I saw a couple with two babies, one in blue, and one in pink.

"I remember going upstairs and finding your beds empty. I cried and cried, thinking I'd never see you again."

Although the possibility of a reunion was often present in the letters, the last letter suggested an unusual urgency. "We have so much to talk about, and I know we must meet face to face. Lately I have the feeling that it must be soon, as you never know what the future holds."

The future held an 11th-hour reunion.

When Judy walked into the hospital room at 7 a.m., her mother laughed and said "You don't look like anybody I'm related to."

Above all, Mrs. Van Ryn remembers "her eyes, I'll never forget them, real dark brown. She stared and stared, never blinking as she looked at me—and nobody had ever stared at me the way she did.

"I just let her stare," Judy recalled with a laugh "but it was driving me wild. She must have been soaking up those 39 years."

Mary Bergman was weak, and after a few sentences, she would fall asleep. Her daughter just waited for her to wake up, and conversation resumed.

By chance, the operation was postponed from 9 a.m. until 1 p.m. And by the time they wheeled Mary out of the room shortly after noon, Judy said the two "felt like we'd known each other for all those years."

After the operation, Mrs. Van Ryn walked down the hospital corridor toward the doctor and two nurses, still in their surgical gowns and gloves. But although she is a nurse of anaesthesiology at Allegheny General Hospital, she said she never expected to hear what the doctor told her:

"I'm sorry, but your Mama didn't make it offpass."

Judy listened and then cried.

"Even though I had just met her, I cried; but I wasn't crying because she died. I cried from the joy of the reunion. It meant a heaviness had left my heart.

"But for my mother, the reunion was even something more. For all those years, she lived with tremendous guilt. For her, the reunion meant inner peace at last—she died a healed woman."

Senator CARL LEVIN,
Russell Office Building,
Washington, DC 20510.

DEAR SENATOR LEVIN: My search for birth family began in 1962 when my oldest son was diagnosed with Rheumatoid arthritis and suffered a kidney condition (nephritis) from which he bled from the kidneys for three months. At the time I was pregnant with my third child and became alert to the importance of having genetic information. Doctor after doctor asked what our past family history was—"I don't know," I answered, "I'm adopted."

My search was unorganized. There were no support groups to help. I thought I was the only one who suffered these feelings of helplessness and lack of power over my own life—it seemed no one would help me or could help me.

In 1972 I was diagnosed as having cystic kidneys. My doctor suggested I write Canton Catholic Charities and try to get medical background. Catholic Charities said I needed a lawyer—I got a lawyer. They could not release anything to the lawyer, then they said my doctor would need to write—my doctor wrote. They were not too quick to produce any files to the doctor so I wrote again and pleaded that they send him the files out of Christian Charity. They finally sent what they had, which was not much.

Even if agencies do give out old files it is a given fact that birth families develop illnesses over the decades through the years. We need more than one generation of genetic information and we require updating. My third son has a ventricle heart prolapse condition, and my fourth son (also my firstborn son) have chronic upper respiratory bronchial conditions.

In January of 1985, after 23 years of searching, I found my brother, now named Pat Simon, a broadcaster for the past 25 years, living in Lynchburg, VA. Three months later I found our maternal family. I managed to contact my grandfather's second wife who was still living, and also found some cousins living in the Washington area . . . one cousin is Mary Starrs Brown who does P.R. work for Wolf Trap. Other than these few all my maternal relatives are dead.

We missed meeting our mother by a year and half. George Washington University released our mother's ashes late in 1985. I met my brother in Washington for our mother's funeral. I was literally her pallbearer. I carried her ashes to her grave. My brother, who became a minister in 1984, gave the funeral service and afterward we both took a shovel and literally buried our mother, committing her body to the earth. The death certificates I have managed to acquire of the maternal side show that a definite upper respiratory weakness runs through that branch of the Broderick family. Even though two of my sons suffer upper respiratory problems we are fortunate that the boys never smoked—this would have worsened their condition. What are the chances of having four boys and not having one pick up on smoking? This is genetic information that should have been passed on to us.

Our little granddaughter who is now three years old was diagnosed with rheumatoid arthritis before she took her first step. The story continues into the third generation.

Sincerely,

KATE PIJANOWSKI.

Mr. LEVIN. Mr. President, a CRS report touches upon the frustration felt by adopted persons, many of whom meet obstacle after obstacle in their pursuit of reunion with their blood relatives. According to the report:

To adoptees searching for their birth parents, the facts are simple and straightforward: they are being denied access to information on their backgrounds and identity which is readily available to the non-adopted. One adoptee recently appealed to a State legislature considering a right to access proposal to "give me the same right to know my roots that you give to those who are not adopted," adding, "How can you deny me my identity by locking away my heritage?" Another noted at the same hearing, "It's really very difficult to communicate to one who is not adopted what it is like to be without the same basic information that the rest of society takes for granted.

Mr. President, I would like to share the sentiments expressed by Lorraine Dusky, a young woman who relinquished her daughter at birth. The young woman's remarks are from an article which appeared in Newsweek magazine. Ms. Dusky is the author of "Birthmark" and is a member of the Adoptees' Liberty Movement Association. I quote:

Somewhere out there is a 13 year-old daughter of mine. Actually, she's another woman's daughter, too: I gave her up for adoption at birth. I must assume—and I underscore the word must for it is the only way I can live with some sort of equanimity—that she has a mother and a father who love her and give her all the things that daughters need. Now, many people imagine that what happens to the woman who gave away a child is that she has a rather gloomy existence, ashamed and alone in her hometown, where there's often a whisper after she leaves the room. Or she is well-adjusted and living in suburbia with 1.4 children and a husband who pitches in around the house. Or she left town and went to some big city like New York or L.A. or Chicago and drowned her sorrows in a career. In any event, she has gone on to make a new life and most probably doesn't think too often of her child, and most likely doesn't want to be reminded of that painful time in her life by a stranger come knocking on her door. Well, it doesn't work out that way. Yes, we do make new lives for ourselves, we work for the telephone company and we win beauty pageants. We write for magazines like this and we produce television shows. We teach school and we run for public office. We get married or we don't. We are ne'er-do-wells and we are the pillars of the community. There are approximately 5 million of us, and we are your neighbors. But we do not forget. And whatever we do with our lives, yesterday's children live in our hearts. I worry that the birth-control pills mistakenly prescribed for me during the first four months of pregnancy are somehow harmful to my child today. The American Cancer Society agrees.

Why did I do it? It's a familiar story. At 23, I was unmarried and terrified. I didn't see how I could give my child a good life. Adoption seemed like the best solution for both of us. I can hear some of you thinking—it's been said to my face and behind my back—I made my bed and now I must lie in it. Play with fire and you get burned. OK. You have a point there; I won't argue. But what do you say to my daughter if, when she's grown up—say 18 or so—she wants to find out who her natural parents are, what her story is, if she has brothers and sisters and grandparents other than the ones she grew up knowing?

Why can't my grown-up daughter decide for herself? Having spoken to a great many natural mothers over the last eight years, I believe that the desire to find out what happens to our children is universal, or nearly so. The available data bear this out. The bond of birth is in our genes. The decision I made was a painful one but I made it. If my daughter wants to know why, I owe her an explanation.

It seems that the psychological connection to one's roots is critical. That there is something missing from my life is beside the point. I was told I loved my daughter enough to give her up to two parents with an income better than my own; in fact, in 1966—when the world seemed quite a different place—I was practically congratulated for my generosity. I cannot change the past, I did what I did. But I imagine my grown-up daughter having questions without answers one day.

The least I can do is give her the right to decide whether she wants to know me.

Mr. President, let me also share the remarks of a young woman who wrote to me and whom my staff interviewed relative to the proposed National Voluntary Reunion Registry. She is a 49-year-old professor, formerly of a university in Connecticut, and she has been searching for her birth mother for 12 years:

Had I surrendered a child for adoption, I know I would always secretly wonder what had happened to her, if she were alive, if she were well, if she had found a good home. I would wonder what she looked like, what sort of person she had become. I would wonder if she wondered about me. Sociological research done over the last ten years indicates that my projections were not unfounded. The overwhelming majority of women who give up children for adoption are disturbed by these questions all their lives. Many are even haunted by guilt. This is a chapter in their lives that never has an ending. They can never put their thoughts to rest. If only I could speak to the woman who gave me life I could tell her how happy I am; I could tell her about the wonderful people who adopted me and the joy she brought into their lives. And for my part, I could see her, discover the secret of my origin, know the country from which my ancestors came, the story that is my history. I could reenter the bond of life that links all other people. I would see a blood relative—until my daughter was born. I could never discern my features in the face of another, and again and again since my son's birth people have asked me "who does he look like?" I want to know the answer. For twelve years I have been searching. Under our present laws, the search is difficult, frustrating and time consuming. It is often expensive, as well. I worked for two years with a young man searching for his biological parents and when he finally found them, learned that his birth mother and he had both gone to the same adoption agency for information within months of each other and were denied help. Each was assured that the other would not want to know and would suffer from knowledge or contact! We cannot but question why this myth is being perpetuated in the face of direct refutation, personally in this case or more broadly in the face of sociological studies of hundreds of involved parties.

I would also like to bring to the attention of our colleagues excerpts from a letter I received from Thomas J. Bouchard, Jr., professor of psychology, director, Minnesota Study of Twins Reared Apart:

Because of my work with twins reared apart conducted at the University of Minnesota, I have been contacted by parties interested in the passage of the national reunion registry proposed by Senator Levin.

I have, over the last 7 years, worked with a large number of twins who were separated early in life and who have experienced adult reunions. The vast majority of these reunions have been monumentally positive experiences for the individuals involved, and in no case has a pair of twins reported that they wish the reunion had not happened. This is not to say that there has never been any emotional turmoil; there has been in some cases. I should mention that my own experience with these twins has resulted in a dramatic change in attitude on my part regarding the ethics of facilitating such reunions. Prior to carrying out research, I would have, at best, been more neutral to the idea.

There is no doubt in my mind about the great value of this registry. As Senator Levin points out, a national registry operated by the Department of Health and Human Services would be far more effective and would be a sensible and humane solution to a difficult problem.

I strongly support the passage of this bill. It strikes me as just the kind of activity in which the federal government should participate. It involves an activity that neither individuals nor individual states can carry out in any effective manner. Participation in this activity is voluntary, and reasonable fees for the service should cover most of the expenses. In addition, such a registry would meet a real human need.

In closing, I would like to have printed in the RECORD the following letters which I received from Linda Cannon Burgess, former director of two District of Columbia adoption agencies; D.A. Hodgson, a birthfather from Gaithersburg, MD; John R. Ryan, president of the National Organization for Birthfathers and Adoption Reform; and Reuben Pannor, noted author, Clinician and Lecturer on Adoption. I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAY 23, 1988.

Senator CARL LEVIN,
Russell Building,
Washington, DC.

I support a National Volunteer Reunion Registry in which birth kin may be aided in reuniting. I am particularly concerned about the separation that comes through adoption.

During my active career as director of two adoption agencies in the District of Columbia (The Barker Foundation and The Peirce-Warwick adoption Service) I was responsible for over 900 adoptions. In the 1950s and 1960s, it was a time when the shame of having a baby out of wedlock was great, when raising a bastard child was inconceivable. I witnessed the anguish and sacrifice of these mothers in releasing their infants for adoption. These same mothers now seek their grown children. They do not ask for the privacy we think they want. Over 90% of them welcome the reunion of their adult offspring lost through adoption. Adopted adults, separated siblings, birthfathers and grandparents are also seeking each other.

Through my research in adoption I have recorded in two books, the "Art of Adoption" (1976 WW Norton) and "Adoption in Transition" about to be published the plight of adopted persons growing up without knowledge of genetic origins. I am convinced that as human beings and United States citizens, they are being denied their civil rights. A reunion registry makes it possible for these adopted adults to gain the knowledge they need, the genetic facts they must pass on to their children.

It is evident that state reunion registries cannot function effectively in our distinctly mobile society. Only a national registry can reach all searching persons. A National Volunteer Reunion Registry makes sense and and can act to humanize and reconstruct our broken family trees.

Respectfully submitted

LINDA CANNON BURGESS.

GAITHERSBURG, MD,
September 28, 1988.

Senator CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: I was extremely interested to read the Washington Post article regarding your bill to establish a voluntary national clearinghouse for adopted children and their natural parents. I would like to tell you my story and express my feelings as to why I think this is so very much needed.

In 1967, I was sent on an assignment to Vietnam and let me just say I could not be contacted. Unbeknownst to me, my close friend at the time was pregnant with my child. I really think she did not tell me because of the nature of my assignment. When I "came out", I learned I had a daughter. By the time I arrived back, the mother had done the best thing she thought possible and had her adopted. I do not blame the mother for she did what she thought was best for the child at the time, given the circumstances. While I tried to fight it, it was too late and the situation was compounded because I was single at the time.

I have agonized for years. While I would never want to interrupt my child's life, the question keeps coming back to me: "What if she ever wanted to find out who her daddy was?"

The best I have been able to accomplish is that I was able to talk with a very sympathetic social worker in the California Department of Social Services who was able to tell me my daughter was adopted by a fine family and that her case record is empty since the adoption—a sign there have been no problems. The social worker was also kind enough to allow me to place a letter from me to the now young lady in the file so that should she ever want to contact me, she will know she will be welcomed with open arms. Because I am licensed with the California Board of Medical Quality Assurance, this agency will always know my address.

This approach was rather unique but, out of desperation, it has been all I have been able to do. You don't know how troubled I have been at times. How much easier it would have been to have a national mechanism that was widely publicized such as your bill proposes.

I heartly endorse your bill and if there is anything I can do to support you, please do not hesitate to have Ms. Parker contact me.

Respectfully,

D.A. HODGSON, Ph.D.

Gaithersburg, MD,
December 1982.

My Beloved Daughter: I just wanted to let you know a few things about me should you ever wonder who I am and what you mean to me.

First of all, let me assure you that you were conceived and born of love. When you were born, I was in Vietnam and could not be reached because I was on a classified mission. Your mother made a decision which, under the circumstances, was probably best for you in the long run. I understand you are with a very loving family, and for this, I thank God.

When I returned, you were one month old and had been adopted. I tried desperately to stop the proceedings but lost the battle because I was single and lived in another state. Even your Grandmother in New Zealand wanted to raise you if she had the chance.

You are my first born—I have loved you all these years although I have not had the opportunity to lay my eyes upon you. I can't tell you how many times I have cried because I cannot know you.

Since you were born, I married and you have two beautiful brothers; John David and Michael. At the time of this writing, they are seven and eleven and unfortunately, they live in Seattle because their mother and I are divorced. She knows about you. As a matter of fact, while we were in Hawaii in 1970, we coincidentally met your mother. I introduced them to one another and we talked niceities. As we left, my wife said to me: "That is your daughter's mother—to which I proudly responded "yes."

Little one—let me get to the crux of the matter. I have tried for years to make some kind of contact with you. Recently, I received some assistance from the Department of Social Services. Current laws do not permit them to disclose your whereabouts—that is fair. They have been very helpful. This letter is being placed on file should you ever try to locate me.

Please remember—I have no wish to disrupt your life. I have every reason to believe your adoptive parents have given you a loving life. However, should you ever choose to seek me out—which means you get this letter—I can only assure you that you are my daughter and regardless of my personal situation at that time, my home is yours and you will be welcomed with open and loving arms.

If I move, you can always get my address from the Board of Medical Quality Assurance in Sacramento—my psychologist license is PN 003788.

Princess, it is somewhat strange. We hear all about how adopted children want to identify their mothers. I hope some day you may want to find your father. This is the reason for this letter.

Your loving father,
D.A. Hodgson, Ph.D.

National Organization for Birthfathers and Adoption Reform (NOBAR),
Rochester, NH, April 20, 1988.

Senator Carl Levin,
U.S. Senate, Russell 459, Washington, DC 20510.

Dear Senator Levin: I am writing to you on behalf of the National Organization for Birthfathers and Adoption Reform (NOBAR) to express the support of birthfathers all across the country for the Unrestricted Voluntary Reunion Registry. This Registry would allow birthmothers AND birthfathers to register for reunion with an adult son or daughter. I understand that the Registry will be administered by HHS. NOBAR supports this change to the status of the original bill in 1980.

Your sponsorship and support of this legislation is greatly appreciated by the many birthfathers, birthmothers, and adoptees in NOBAR.

NOBAR is a resource and advocacy organization for birthfathers—fathers who have been separated from their children by adoption. As a resource, we are involved with many birthfathers across the country who have come forward to acknowledge, search for, and reunite with their surrendered sons and daughters. NOBAR's advocacy work is to promote adoption social policies and laws that protect all involved parties.

In 1986, research was conducted with birthfathers who had been separated from their children at birth by adoption. The results of this first-ever research on birthfathers were published earlier this month in a paper titled "Fathers of Adopted Children: A Study of the Impact of Child Surrender on Birthfathers" (Amer. J. Orthopsychiat. 58(2), April 1988). Enclosed is a copy of this paper. I am one of the co-authors.

The results of this research indicate that, contrary to popular opinion, many birthfathers care deeply about their surrendered children. The loss of a child to adoption under a secret system often remains an unresolved issue for many birthfathers—many grieve as much as birthmothers. Most of the birthfathers in the study (96 percent) had considered searching for their children—the same percentage found in a similar study of birthmothers that was published four years ago. Actual searchers were started by 67 percent of the birthfathers who responded.

In my work with NOBAR, adoption agencies, mental health professionals, other adoption support/reform organizations, and the research study, I have interacted with hundreds of birthfathers. All the birthfathers whom I have met don't view contact with their children as a problem, but rather welcome it. These birthfathers have stated that they do not need to be protected from their grown son or daughter, especially 20 to 30 years later.

As birthfathers, we do not want restrictions on either birthparent who seeks a reunion. Please serve our best interests and enact this legislation.

Sincerely,
Jon R. Ryan,
President.

April 20, 1988.

Hon. Carl Levin,
U.S. Senate, Washington, DC.

Dear Senator Levin: I am in complete support of the Adoption Registry Bill you have introduced. It has the overwhelming support of adoption professionals, adoptees, and birth parents, as well as adoptive parents, who now realize that your bill is in the best interest of their adopted children.

I have been the director of a nationally recognized adoption agency in Los Angeles, California for 32 years. After years of experience with all the parties involved in adoption, I have no question but that a National Registry is necessary.

Professionals now recognize that reunions represent closure in adoption, that they bring together the missing pieces from the past for all the parties involved in the adoption, and most importantly that they end the distortions and fantasies that have plagued adoptions.

Finally, they prevent the pain and suffering that thousands of adoptees and birth parents are forced to endure in a search that is often fruitless.

The mental health profession strongly supports the need for the Levin Bill. The time is here for Congress to grant adoptees, birth parents, and adoptive parents the same rights enjoyed by those of us who are not adopted.

The time is now to humanize adoption.

Sincerely,
Reuben Pannor.

For Many, Search Hits a Dead End

(By Linda Hilbun)

Gladys House vividly remembers the day she, her two sisters and her brother were taken from their mother.

"They came and woke us up about 5 in the morning and took us to the jail," Mrs. House said. "I was screaming and kicking and crying. They just came and got us out of bed."

That was in 1941. Her mother was widowed and the family's sole source of income was the grandfather's government paycheck.

Welfare officials in Macon County, Tenn., separated the children from their mother and claimed the children were being neglected.

Mrs. House, now 48, has spent the last 30 years looking for her brothers and sisters.

"I've gone through every channel that I know of," she said.

Mrs. House, who lived in the Raleigh-Bartlett area, was 6 years old when her family was broken up. Her brother, Edward D. Crook, was 13 days old, and her two sisters, Lamon Elizabeth and Lorene Cora Crook, were 4 and 5. An older half-brother, Willard Coley Clanahan, was not removed from the home.

Mrs. House was placed in a foster home in McKenzie, Tenn., but that family never adopted her.

When she was 18, Mrs. House acted on the assumption that her mother and half-brother still lived in Middle Tennessee, in Macon County. She was correct. Her mother, Beadie Coley Crook, had no idea where her children were until Mrs. House found her in December 1954.

For the next 14 years, until her mother's death, Mrs. House and her mother searched for the other children. They found out all were adopted through the Tennessee Children's Home in Nashville.

In a letter from the children's home, written April 22, 1952, Mrs. House was told that her two sisters were adopted together and the younger brother separately. Edward's name had been changed to Jerry Lee and all were said to be in good health.

Although the Tennessee Legislature passed a new law in April allowing adoptees to obtain nonidentifiable information about their families, Mrs. House cannot get that information. The refusal is based on the legal point that her foster family never adopted her; so she is not considered an adoptee.

"Because I wasn't adopted, I can't find out," she said. "I've been told that the only other thing I can do is get a court order for the information. But you have to know the court of jurisdiction to do that, and they're not allowed to give that information out. So I'm barred again."

"They've barred me forever from finding out."

[From the Las Vegas Review-Journal, Nov. 27, 1987]

LONG-LOST SIBLINGS REUNITE FOR THANKSGIVING AFTER 58 YEARS

FREMONT, CALIF.—A Thanksgiving reunion that brought together five children who were put up for adoption 58 years ago was "at least an 11" on a scale of one to 10, according to one sibling, Ed Maddox.

But it was far from complete. Two brothers are dead, one sister is in a nursing home suffering from Alzheimer's disease and three others are still missing.

"It was nice to bring each other up to date about what's happened in our lives," Maddox said Thursday. "We hope next time, there will be three more with us."

Maddox, 62, of Sunland near Los Angeles, was put up for adoption along with his 10 siblings by their poverty-stricken parents, Agnus and Harry Bunan, in 1929.

The Bunans and their children had camped all summer on the bank of a creek in what is now Fremont, about 40 miles southeast of San Francisco, on the eve of the Great Depression.

Alameda County authorities at first refused to take responsibility for the children of transients. Unable to feed the youngsters, the couple gave 10 of them to well-wishers attracted by newspaper accounts of their plight.

The county later reconsidered, took custody and offered all the children for adoption. No one knows for sure what became of the elder Bunans, although it is believed they moved to Arizona.

Born Edward Birdsel Bunan, Maddox was adopted by an Oakland streetcar motorman and his wife.

When he decided to look into his past, The Associated Press was contacted. Less than three weeks after a story on his search appeared, seven of his 10 siblings had been accounted for.

The siblings found included:

Agnes Durand, 69, of Citrus Heights, Calif. She told Maddox their eldest sibling, Harry, died in 1972 at the age of 56.

Lillian Stong, 67, now lives in a Castro Valley nursing home and suffers from Alzheimer's disease. Her sister, Marie Peterson, lives in Minneapolis. From them, Maddox learned another brother, Ernest Bunan, died of appendicitis in 1931 at the age of 12.

Walter Berman, 65, of Hamilton, Ohio.

Lloyd Lindberg, 63, of Springfield, Mass.

Still missing are Marion Fenton, who was last known to be living in Petaluma, Calif., and had her name changed from Viola; Leonard Loftus Bunan, last seen in 1942 when he was 15 and was adopted by a family named Wilson; and Harold Bunan, adopted when he was 10 months old and his name changed to James.

A reunion was held at Holy Spirit Parish church hall in Fremont with Maddox, Berman, Lindberg, Durand, Peterson and about 44 other relatives from across the United States.

And they found they have more in common besides similar noses, mouths, smiles and eyes.

"The whole group likes jigsaw puzzles, reading and gardening," said Maddox, standing in a hall, surrounded by leftovers, half empty paper plates and a family tree on the wall.

"It was a marvelous day," said Peterson adding they were to visit their sister, Lillan, later in the day. "I didn't believe it would ever happen. It has and I'm so glad I was alive to be here."

About the three who are still missing, she said, "We hope they'll see this in the paper or television and get in touch with us."

Berman said he always thought he would see his family again. He said he was sure of it when a fellow Pentacostal minister told him he would someday minister side-by-side with a brother. Maddox is a Christian missionary.

"It was a wonderful time," he said. "We'll be keeping in touch."

Lindberg, sitting in a wheelchair, described the reunion as "breathtaking." He said that when he worked as a service manager for a clock company and traveled around the country, he would always look for the Bunan name.

[From the Rockland (NY) Journal-News, July 21, 1983]

TRIPLETS SEPARATED AT BIRTH REUNITED AFTER 57 YEARS

WICHITA, KS.—Nearly 40 years ago, John E. Jones discovered he strongly resembled a boy who worked in a nearby town. But it was many years before Jones found that the stranger was his brother—from a set of identical triplets.

The triplets, separated shortly after their birth in 1926, gathered for the first time Wednesday, a joyous meeting punctuated by jokes and wisecracks.

"I've seen enough," said James Hahn of Cape Girardeau, MO. "I got off the plane and saw these two jokers and they looked so much like me, I could hardly stand it."

"I feel like I've been in an electric chair all afternoon," cracked Jones, of Santa Pablo, Calif., after meeting Hahn and John Clay Burch of Warren, Ark. "I just kept getting shocked."

Aside from the jokes and gentle ribbing, the reunion raised other emotions among the brothers.

"I've had so many feelings that are so varied and mixed," said Jones, the security director for the University of California at Berkeley. "I don't know where to start thinking about our relationship and where it's going to lead. It's going to take some time for us to be together, to sit down and really start feeling that closeness that I think is bound to follow from this meeting."

The triplets were born Feb. 2, 1926. Abandoned by her husband and struggling financially, the mother gave her three babies to a St. Louis orphange shortly after their birth.

The mother kept her 5-year-old son, eventually remarried and had a daughter. She died in 1978 without seeing her triplets again.

None of the brothers was told by their adoptive parents they were triplets. All were raised by different families in different cities.

Once, Jones, who lived in Kennett, Mo., happened to walk into a drug store in Poplar Bluff, a Missouri town about 40 miles northwest of his home. The store's owner was struck by Jones' resemblance to a boy working for him.

Hahn, too, was surprised to find someone who looked just like him. The boys discovered they had the same birthday, but had no idea they were brothers. Thinking the resemblance was just a quirk, they never met again until Wednesday.

In 1971, Burch was reading some documents belonging to his father. He discovered at that time he was adopted, but didn't know until last year he was a triplet. The revelation came when he asked the Children's Home Society of Missouri for a birth certificate.

Burch found Hahn by using a phone number supplied by the orphanage. The brothers then found Jones by using clues provided by children's home officials who didn't have his address or phone number, but knew his adopted name and where he worked.

Two months ago they contacted each other by phone. After many long-distance calls, the brothers decided to meet in Wichita, the home of their older brother and half-sister.

"We just grabbed one another and put our arms around each other," Jones said.

[From the Daily News, June 15, 1986]

LOST MOM'S KIDNEY GIFT

BOSTON.—A 20-year-old woman given up for adoption at birth has received a lifesaving kidney transplant from her natural mother, who was tracked down by the woman's adoptive parents.

Alicia Sferrino met her mother, Ruth Foisy, 37, last week for the first time. The transplant operation was performed Thursday, said Martin Bander, a spokesman at Massachusetts General Hospital. Both women were reported in good condition.

Sferrino's adoptive parents wanted to donate a kidney, but tests ruled them out, Bander said. Efforts were then made to locate her natural mother.

Darlene MacDonald, Foisy's cousin, said Sferrino's adoptive parents wrote Foisy in Florida asking if she would consider the transplant.

"Right away she decided she would do it," said MacDonald. "Ruth was very nervous about seeing her daughter. After all, it had been 20 years. But they hit it off immediately. Alicia is not shy at all. She's a very bubbly, happy person. She hit Ruth on the arm and said, Hi, how've you been?"

AMENDMENT NO. 3743

Mr. DOLE. Mr. President, I send to the desk an amendment to the amendment, on behalf of Senator HUMPHREY, and ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike out lines 3 through 6 and insert in lieu thereof the following:

(A) the birth mother, or birth father (with the written consent of the birth mother), or an adoptee over the age of 21 may initiate the matching process by submitting an application to the agency operating the system;

On page 3, line 24, strike out ", to the maximum extent feasible,".

On page 5, at the end of the page, insert the following new sections:

SEC. 5. WAIVER AUTHORITY.

The Secretary may waive the requirements of section 3(b)(1)(A) under such circumstances as the Secretary may determine to be appropriate.

SEC. 6. CONSTRUCTION.

Nothing in this Act—

(1) authorizes the Secretary to initiate or participate in any legal or administrative action to open a closed or sealed adoption record, unamended birth certificate, or other sealed document; or

(2) invalidates or limits any law of a State or political subdivision of a State concerning adoption and the confidentiality of records with regard to a document referred to in paragraph (1).

On page 6, line 1, strike out "5" and insert in lieu thereof "7".

On page 6, strike out lines 7 through 11 and insert in lieu thereof the following new section:

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $300,000 for each of the fiscal years 1989, 1990, and 1991.

Mr. HUMPHREY. Mr. President, during a hearing last April, the Congressional Coalition on Adoption heard moving testimony from Faith Daniels, the coanchor of the CBS Morning News.

Daniels, who was adopted at 8 months, said the first thing people ask when they learn she is adopted is whether she knows who her real parents are. Miss Daniels answered:

> Of course I know who my real parents are. Why wouldn't I? They raised me. They were the ones who held my hand when I was scared, held my forehead when I was sick, held me in their arms when I was hurt. They brushed me off when I fell, cheered me from the sidelines when I needed support, and gave me a good swift kick when I needed that, as well. Can there be parents any more real?

As an adoptive parent I can tell you that parenting has little to do with the birth process. It has everything to do with love. Yet, for many, finding out about one's genealogical and medical history is more than idle curiosity. It is imperative. During the April adoption hearing we heard of one case where an adopted woman had strong suspicions that she was a carrier of hemophilia. After many months of administrative stonewalling, she decided to petition the court for release of her sealed medical records. The judge refused. S. 2010 is designed to help persons in just that situation as well as the thousands of others who are looking for each other.

The purpose of S. 2010 is to establish a National Reunion Registry Program to facilitate voluntary, mutually requested reunions between adult adoptees, their birth parents, and birth siblings and birth grandparents under certain limited circumstances. No reunion would be facilitated unless both parties voluntarily applied to the registry to initiate the matching process, and the registry would be forbidden from contacting any individual not already entered into or participating in the registry program.

Currently, 22 States operate adoption registries. While these State registries play an important role in facilitating reunions between birth relatives and adoptees, most agree that a Federal registry will be able to go a step further. A National Reunion Registry will assure that persons in all 50 States, not just the 22 that currently operate a registry, will have an opportunity to meet birth relatives who are also interested in having a reunion.

While I have always been supportive of the concept of voluntary reunions, I have not always been supportive of the Levin proposal. Frankly, I had significant reservations about this bill as originally constructed. Specifically, I had concerns about the constitutionality of certain provisions, especially with respect to ensuring the confidentiality of parties involved in adoptions. The Humphrey amendment is intended to address these concerns.

First, the amendment will guarantee that women who place their children for adoption and who expect their privacy to be protected will not become victims of unwarranted intrusion. A young woman with an unplanned pregnancy faces many obstacles. In choosing adoption, she will very likely seek assurances about anonymity and confidentiality. My amendment will require that the birth mother consent to the initiation of a reunion, thus protecting her right to confidentiality.

While insuring that the birth mother is afforded maximum protection, the amendment allows the Secretary flexibility to grant waivers where extenuating circumstances or emergencies exist. It is my intent that this waiver authority be used only in the most limited circumstances. For example, in cases where the birth mother is deceased the Secretary may waive the requirement that he secure the birthmother's written consent.

Second, I was concerned about how S. 2010 might affect State laws on adoption. Eighteen States have laws concerning confidentiality of records, 9 have search and consent procedures, and 21 already operate registries. I wanted to make absolutely sure that those States would not be forced to change their laws and procedures in order to participate in the Federal Registry.

Therefore, the amendment I am offering makes it clear that this legislation is confined to authorizing the creation of an agency within the Department of Health and Human Services. The amendment ensures continued deference to applicable State law regarding the maintenance and sealing of adoption records. I want to make clear that S. 2010, as amended, will not, in any way, override, replace, or affect any existing State laws.

Finally, I was concerned that those States which have closed adoption records be protected and the Secretary be forbidden to interfere with that legitimate exercise of State power. All but three States fall into this category. My amendment specifically prohibits the Secretary from either initiating or engaging in legal or administrative actions to open closed or sealed adoption records, unamended birth certificates, or other sealed documents.

Mr. President, I believe that my amendment will enhance the pending legislation. With the amendment, I believe S. 2010 will be a fair and compassionate response to a need experienced by hundreds of adoptees and their respective birth families. I urge its adoption.

Mr. LEVIN. Mr. President, Senator HUMPHREY has offered an amendment to my substitute bill which he feels further ensures the birthmother's privacy rights. Because he was willing to modify his amendment to include a provision allowing the Secretary waiver authority of that provision, and because I do not want to complicate passage of the bill, I will not oppose the amendment.

The amendment (No. 3743) was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the substitute amendment (No. 3742), as amended, be agreed to, that the bill be advanced to third reading, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2010), as amended, was passed, as follows:

S. 2010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to provide for the establishment of a program which shall facilitate on a voluntary mutual request basis, the reunion of birth parents and adopted persons, birth siblings or birth grandparents of adopted persons, through a centralized computer network.

SEC. 2. DUTIES OF THE SECRETARY.

(a) The Secretary of Health and Human Services (hereinafter referred to in this act as the "Secretary") is authorized, in accordance with the provisions of this Act, to establish a National Voluntary Reunion Registry within the Department of Health and Human Services under the direction of a designee of the Secretary.

(b) The Secretary shall submit to Congress an annual report of all activities carried out under this Act. The report shall include the following:

(1) The total amount of fees collected.

(2) The number of applications submitted by birth parents, adopted persons, birth siblings, or other birth grandparents.

(3) The number of inquiries ending in a successful match.

SEC. 3. VOLUNTARY REUNION REGISTRY.

(a) The National voluntary Reunion Registry authorized under this Act shall provide a centralized nationwide capacity, utilizing computer and data processing methods. Participation in the registry shall be voluntary by all parties involved.

(b)((1) The registry authorized under this Act shall provide that—

(A) the birth mother, or birth father (with the written consent of the birth mother), of an adoptee over the age of 21 may initiate the matching process by submitting an application to the agency operating the system;

(B) a birth sibling or birth grandparents of an adopted person may also initiate the matching process whenever—

(i) the birth parent of an adopted person is deceased or his or her whereabouts is unknown;

(ii) the birth parent of an adopted person has consented in writing to the initiation of the matching process; or

(iii) under such other circumstances as the Secretary may determine to be appropriate after taking into consideration the privacy rights and interest of all parties who may be affected; and

(C) no attempt shall be made to facilitate a match unless both individuals involved in the match have initiated the process required to facilitate a reunion.

(2) The Secretary shall establish specific procedures for the purpose of, protecting the confidentiality and privacy rights and interests of all parties participating in the program authorized by this Act. The Secretary shall establish procedures that provide that only information necessary to facilitate a match shall be contained in the registry, and the National Voluntary Reunion Registry shall not attempt to make contact for the purpose of facilitating a reunion, with any individual who is not entered into or participating in the registry program.

(3) Information pertaining to any individual which is maintained in connection with any activity carried out under this Act shall be confidential and not be disclosed for any purpose without the prior written, informed consent of the individual with respect to whom such information applies or is maintained.

(4) Reasonable fees, established by taking into consideration the costs of services provided for individuals under this Act and the income of such individuals, shall be collected for all services provided under this Act.

(c) The National Voluntary Reunion Registry may include the operation of a similar statewide identification computer system in a State which chooses to participate in the voluntary reunion registry and agrees to provide—

(1) provide necessary coordination with the voluntary identification system provided for in subsection (a) of this section;

(2) provide such financial participation as the Secretary may prescribe by the State; and

(3) establish standards and procedures for the operation of the statewide system which are consistent with those provided for in this Act.

(d) Any individual or entity found to have disclosed or used confidential information in violation of the provisions of this section shall be subject to a fine of $5,000 and imprisonment for a period not to exceed 1 year, and the provisions of section 3571 of title 18, United States Code, shall not apply to such violations.

SEC. 4. COUNSELING SERVICES.

(a) The Secretary may promulgate regulations that require the National Voluntary Reunion Registry established under this Act to include referral to existing programs that provide counseling services.

(b) If the Secretary promulgates regulations under subsection (a), on application to the registry, an applicant shall receive a referral list of licensed agencies, professionals, and adoption triad support groups that provide counseling services. Such services may include adoption peer support groups, community social service agencies, health professionals, and agencies providing family counseling.

SEC. 5. WAIVER AUTHORITY.

The Secretary may waive the requirements of section 3(b)(1)(A) under such circumstances as the Secretary may determine to be appropriate.

SEC. 6. CONSTRUCTION.

Nothing in this Act—

(1) authorizes the Secretary to initiate or participate in any legal or administrative action to open a closed or sealed adoption record, unamended birth certificate, or other sealed document; or

(2) invalidates or limits any law of a State or political subdivision of a State concerning adoption and the confidentiality of records with regard to a document referred to in paragraph (1).

SEC. 7. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue interim regulations necessary to carry out the provisions of this Act. The Secretary shall issue final regulations not later than 180 days after the date of enactment of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $300,000 for each of the fiscal years 1989, 1990, and 1991.

THE CALENDAR

Mr. BYRD. Mr President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of the following measures—House Concurrent Resolution 369, Senate Concurrent Resolution 131, and Senate Resolution 487; that the Senate proceed to the immediate consideration of the three measures en bloc; that they be passed; and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING DEPARTMENT OF STATE'S SCIENCE AND TECHNOLOGY OFFICERS

The concurrent resolution (H. Con. Res. 369) was considered and agreed to.

UNITED STATES DECADE FOR NATURAL DISASTER REDUCTION

The concurrent resolution (S. Con. Res. 131) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 131

Whereas the natural hazards of earthquakes, tsunamis, volcanoes, floods, hurricanes, typhoons, tornadoes, landslides, and wildfires have caused great loss of life, enormous property damage, and untold suffering in the United States and throughout the world;

Whereas the risk from natural hazards continues to increase due to increasing population concentration in urban areas, increasing capital investment projects worldwide, the interdependence of people in local, national, and global communities, and the existence of large numbers of unsafe buildings, vulnerable critical facilities, and fragile lifeline systems;

Whereas on December 11, 1987, the General Assembly of the United Nations established an International Decade for Natural Disaster Reduction beginning in 1990;

Whereas the goal of the International Decade for Natural Disaster Reduction is to promote cooperative efforts between nations to reduce the ravages of all types of natural hazards through the international exchange of data, the identification of gaps in knowledge, cooperative research projects, implementation of mitigation measures, preparedness planning and hazard awareness, and the timely and effective transfer of information and knowledge;

Whereas the International Decade for Natural Disaster Reduction requires the cooperation of all nations to successfully meet its goal;

Whereas the United States suffers from the destructive occurrences of earthquakes, tsunamis, volcanoes, floods, hurricanes, typhoons, tornadoes, landslides, and wildfires with attendant loss of life and property;

Whereas in 1977, Congress passed the Earthquake Hazards Reduction Act (Public Law 95-124) mandating the Federal Emergency Management Agency, United States Geological Survey, National Science Foundation, the National Bureau of Standards, and the other Federal agencies to develop a comprehensive national program to reduce the risks to and losses of life and property from future earthquakes and to contribute to earthquake hazards reduction through programs undertaken as part of the basic missions of these agencies; and

Whereas Congress, recognizing that natural and technological hazards may not be independent of one another in any given disaster and that planning for and responding to different hazards have certain common elements, establishing the Multihazard Research, Planning, and Mitigation Program, a program with goals similar to those of the International Decade for Natural Disaster Reduction, in the 1980 reauthorization of the Earthquake Hazards Reduction Act (Public Law 96-472): Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress strongly endorses the establishment of a United States Decade for Natural Disaster Reduction as a means of supporting the goal of the International Decade for Natural Disaster Reduction to enhance existing cooperative efforts and promote cooperative efforts to reduce the devastating impact of natural hazards in the United States and throughout the world.

LIMITING SALE OF ARMS TO NATIONS IN THE MIDEAST

The resolution (S. Res. 487) was considered and agreed to, as follows:

S. RES. 487

Resolved, That it is the sense of the Senate that the President be urged to undertake discussions and negotiations with other nations which are principal suppliers of arms in the Mideast for the purpose of limiting, to the maximum extent possible, the sale of arms to nations in the Mideast.

C. CLIFTON YOUNG FEDERAL BUILDING

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1827.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1827) entitled "An Act to designate the Federal Building located at 330 Booth Street in Reno, Nevada, as the 'C. Clifton Young Federal Building' ", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1: DESIGNATION.

The Federal building and United States courthouse located at 330 Booth Street in Reno, Nevada, shall be known and designated as the "C. Clifton Young Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "C. Clifton Young Federal Building and United States Courthouse".

Amend the title so as to read "An Act to designate the Federal building and United States courthouse located at 300 Booth Steet in Reno, Nevada, as the 'C. Clifton Young Federal Building and United States Courthouse'.".

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments en bloc.

The **PRESIDING OFFICER.** The question is on agreeing to the motion.

The motion was agreed to.

CONGRESSIONAL AWARD ACT AMENDMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 5315, that the Senate proceed to its immediate consideration.

The **PRESIDING OFFICER.** The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5315) to amend the Congressional Award Act to extend the congressional program.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GLENN. Mr. President, I would like to take a few moments to comment on H.R. 5315, the Congressional Award Act Amendments of 1988. This bill extends the reauthorization of the Congressional Award Program until November 15, 1989. The legislation also imposes strict operating conditions on this program, which, if met by the Congressional Award Board, will allow it to operate through September 30, 1990.

The Congressional Award Program represents the only award given by Congress to recognize the achievements of our Nation's youth in the areas of community service, personal development, and physical fitness. The program is administered on a national level by the Board which is responsible for promoting this program, developing new State and local councils and raising scholarships for the best student achievers.

In many respects, the success of the program is dependent upon the concerted efforts of the State and local volunteer councils which supervise and assist participating youth in these activities. By and large, these 48 councils have done an admirable job in encouraging our teenagers to strive not only to better themselves, but their communities as well.

Unfortunately, the national Board has not performed satisfactorily to date. It has been plagued by administrative, financial, and managerial difficulties. These organizational problems were recently documented in a report prepared by the General Accounting Office [GAO]. Indeed, due to these shortcomings, the Board last year was forced to seek help from Congress and the U.S. Treasury, in the form of a specific appropriation to keep it operational. This action was completely contrary to the program's authorizing legislation.

The Board has also fallen short in its mission to promote the Congressional Award Program and encourage the establishment of State and local district councils. The Board was created in 1979. Since then, some 48 councils in 22 States have been created. That is not an enviable track record for such a program.

Now, I will acknowledge there have been some positive changes on the national Board in recent months. It has new members who have pledged to make it an active, self-sustaining, and vigorous body. More program activities, including fundraising, have been initiated. And finally, a substantial portion of the program's outstanding debt has been forgiven, due in large part to the generosity of a former Board member.

In consideration of these encouraging signs on the national level, and in recognition of the success of the programs that have been established on the State and local levels, I have decided to support the measure before us. I do note that the House, wisely in my opinion, attached strict conditions to the Congressional Award Program's reauthorization.

The bill mandates strict accounting for the Board's expenditures and management by requiring that quarterly reports be submitted to Congress. The reports must include a description of fundraising activities, a financial balance statement, and a list of new councils established. The Board must also certify to Congress no later than September 30, 1939, that it has no outstanding debt and has met the requirements of the quarterly reports. GAO will verify the information contained in the reports and the certification.

If the Board complies with these requirements, its reauthorization, unless changed by Congress, will continue for another year, until September 30, 1990. However, should the Board fail to meet the prescribed conditions, the reauthorization will cease to exist 30 days after the date on which the report or certification was to have been made.

Let me be absolutely clear. I want to give the Board, and the program, a second chance to move forward. I hope it can be vigorous and viable. However, should the Board fail to meet these conditions, or otherwise gives evidence of stagnation, I will strongly oppose any additional authorizations of taxpayer money being used for bailout, as was done before. We should not forget that this organization uses the name and the seal of Congress, and we must ensure, therefore, that it operates in a manner befitting this institution. Most certainly, the participants and volunteers deserve nothing less than active, visible, and strong leadership on the national level.

So I will hope for the best, because I do feel this program has a great potential to do a fine job in encouraging the youth of our Nation—more potential than it has realized so far.

I can assure my colleagues that I will be closely monitoring the Board, its program activities, and its financial status.

Mr. HATFIELD. Mr. President, it is my pleasure to rise today to speak in favor of H.R. 5315, the Congressional Award Act Amendments of 1988. In this difficult time for our youth, where temptations of substance abuse and violence abound, this award recognizes and encourages the alternative of giving to one's community, developing individual goals and talents, and striving to become a physically and mentally healthful young person.

The Congressional Award was created by Congress in 1979 to recognize the efforts of youth ages 14 through 23 in three areas: voluntary public service, personal development, and physical fitness. The only award given to youth which bears the official imprimatur of the U.S. Congress, this program aims to inspire the setting of goals and the motivation of others by providing highly visible recognition to all socioeconomic classes of youth in this Nation.

Since the creation of the Award Program, over 2,200 Bronze, Silver, and Gold Awards have been earned and presented to young people in over 40 States. Requirements to earn a Congressional Award are defined in terms of hours of effort in three areas and age categories. Bronze Award recipients must be 14 years of age and have devoted over 200 hours to their goals in the three areas. Silver Award recipients must be over 16 or have earned the bronze medal, and have devoted 400 hours in the program. Gold Award recipients must be over 18 and have contributed over 800 hours. Many Gold Award recipients have previously achieved both the Bronze and Silver Awards.

This program, unlike the many others which glorify the highest achievers in our land, is noncompetitive and has the potential to reach any young person who sets and achieves goals in the three areas. Awards given each year are unlimited, dependent only upon the number of interested and qualified youth who apply. Furthermore, this legislation calls for no Federal dollars. This program was never intended to receive Federal funding, but was expected that the private sector would join Congress in supporting and encouraging the Nation's youth.

Another important component of this recognition vehicle is the many dedicated volunteers who are appointed by their Members of Congress to serve on State and local congressional award councils across the country. These individuals oversee the program's development, communicate directly with potential recipients, and raise funds in order to hold award ceremonies to recognize our youth. Congressional Members participate by awarding the Bronze, Silver, and Gold Award medals and by meeting with recipients to encourage the continuance of their efforts.

The Congressional Award clearly serves a beneficial purpose and vital role in my State. In Oregon, the response has been gratifying: Over 60 prominent leaders in the State's business and educational communities serve as active members of the Oregon Congressional Award Council, and over 65 young Oregonians have received Congressional Award medals since the council's inception in 1986. Based on the number of applications received to date, we expect a significant increase in the number of youth who will be eligible for recognition this year.

I had the unique opportunity last April to join my colleagues from Oregon in presenting 27 Congressional Award medals to young Oregonians. One particular example of the strength of this program remains in my mind. Fourteen-year-old Todd Nelson of North Bend, a young man in a wheelchair due to his lifetime affliction of muscular dystrophy, received a bronze medal for his activities in surveying for a handicapped parking lot in his hometown, serving on his school's student council and bowling in a junior league. Todd demonstrated to all attending the ceremony that he was committed to making a difference. He was eager to meet the challenges of his world and I know, the Congressional Award made an impact on his young life.

There are many reasons for the success of the Congressional Award in Oregon. My State was the first to create a statewide council incorporating membership from five congressional districts. With the active support of each member of Oregon's congressional delegation, the council has built a strong reputation for fiscal integrity and a strong commitment to the goals of the program as defined in the Congressional Award Act.

The legislation before us today reauthorizes this valuable program for an additional year. While, it encourages the national board of directors to maintain stringent control over their resources over the next year, it leaves intact the autonomy of the State and local councils. The legislation also maintains the public-private partnership originally intended, and serves as a strong enticement for those in the private sector who wish to join the Nation's effort to commend its youth.

The Congressional Award Act is worthy of reauthorization today. I am confident that its success in Oregon provides every indication that it will become a vital national force for the recognition and encouragement of the fine achievements of our youth. I look forward to continued involvement with the Congressional Award Program and urge my colleagues to support this legislation and to investigate the possibility of establishing congressional award councils in their States.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be advanced to third reading, passed, and a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5315) was passed.

PANAMA CANAL COMMISSION COMPENSATION FUND

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5287, that the title be considered as having been read, that the bill be advanced to third reading and passed, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5287) was passed.

OFFICE OF FEDERAL PROCUREMENT REAUTHORIZATION ACT

Mr. BYRD. Mr. President, is the Senate-passed bill S. 2215, the Office of Federal Procurement reauthorization bill, still at the desk?

The PRESIDING OFFICER. It is.

Mr. BYRD. I ask unanimous consent that the Senate's request for a conference on this bill be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I move that the Senate concur in the amendment of the House with the following amendment which I send to the desk on behalf of Senator CHILES.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD], for Mr. CHILES proposes an amendment No. 3744.

(The text of the amendment (No. 3744) is printed in today's RECORD under "Amendments Submitted.")

Mr. CHILES. Mr. President, I am delighted to announce my belief that the Senate and House will pass S. 2215, the Office of Federal Procurement Policy Act Amendments of 1988, before the session ends.

On August 11 of this year the Senate passed S. 2215 and sent the measure to the House. On September 13, the House substituted the language of H.R. 3345, their companion bill, and sent the measure back to the Senate. Since that action, an informal conference of representatives from both bodies has been working to come to an agreement on this legislation which both the Senate and the House can support.

On the Senate side, Chairman GLENN of the Committee on Governmental Affairs, Senators NUNN, ROTH, LEVIN, RUDMAN, COHEN, BINGAMAN, STEVENS, and myself have been represented in a working group with staff from Chairman BROOKS and Congressman HORTON of the House Government Operations Committee.

Success has been achieved. I am pleased to present the Senate with an amendment to S. 2215 which amounts to a substitute bill which reflects the agreement among Members from both Houses.

Mr. President, before I provide a summary of the bill and explanatory notes on the consensus amendment, permit me a couple of prefatory remarks.

This legislation to continue the Office of Federal Procurement Policy and further improve the Government's procurement practices will be the last major bill I sponsor here in the Senate. Back in 1974, during my first term, one of my first bills was the legislation which initially created this office, the Office of Federal Procurement Policy Act of 1974.

I am reminded of an essay by Ralph Waldo Emerson entitled "Circles." In this essay Emerson muses over the character of the universe and how much of a man's relationship to nature can be explained in terms of concentric circles that build upon one another. He begins by asserting that the circle is the " * * * highest emblem in the cipher of the world."; he observes that "life is a series of surprises."; and he concludes that, "The one thing we seek with insatiable desire, is to forget ourselves, to be surprised out of our propriety, to lose our sempiternal memory, and to do something without knowing how or why; in short, to draw a new circle."

I believe a lot of life is spent drawing those "circles" Emerson talked about. They must begin with enthusiasm and never really end. Certainly, as I look back at that first bill on procurement, I kind of believe procurement reform has been one of the "circles" of my time here in the Senate.

Scoop Jackson sponsored the Commission on Government Procurement when I first got here in 1970. Sam Ervin, the chairman of Governmental Affairs then asked me to sit on the Commission when Scoop got busy handling his new chairmanship of the Energy Committee. For over a year I banged my head trying to meet the people and learn the nuts and bolts of Government contracting.

Senator Ervin then created for me my first chairmanship of a subcommittee to carry out the Commissions recommendations. Federal procurement was then some $57.5 billion. Today it is some $200 billion. Governmentwide procurement policy has become a major and permanent item in the Committee on Governmental Affair's jurisdiction.

The first thing we did was put into law the Commission's first recommendation to create a strong central manager for procurement policy within the executive branch. Then we moved to consolidate the statutory base for procurement practices within the agencies, simplify the regulatory system with a single set of regulations, and encourage upfront competitive forces in Government contracting as the best answer to prevent waste and fraud in the Government's procurement programs.

There has been a lot of water over the dam since those days in the early and midseventies. The Office of Federal Procurement Policy was reauthorized in 1979 and 1983. A major policy circular, A-109, designed to change the way we buy major weapon systems took root; the Competition in Contracting Act was passed; and the Federal acquisition regulation was established. Just like todays' times, there were a number of investigations, like the military beef scandals, the Small Business Administration's 8(a) Program, and the General Services Administration's difficulties which highlighted the need to streamline and simplify the regulatory system and to encourage a competitive supply base and competitive selection procedures to prevent fraud, corruption, and waste.

While there has been progress, my firm conviction is the need to emphasize those principles that were focused upon by the Procurement Commission are as great or greater now than they were then. For example, the conclusions of the more recent Packard Commission are remarkably similar. Moreover, as I mentioned, Government procurement is now a $200 billion a year program.

The procurement scandals of today will reveal some of the same lessons that we have learned before. Sustained, high level management attention is a requisite to solve the problems associated with administering the Government's procurement system.

Many observers estimate that streamlining the procurement process and eliminating unnecessary paperwork and administrative costs could result in a 5-percent reduction in the overall costs of the present procurement system. That is an objective worth shooting for—it would amount to some $10 billion in savings.

The bill we will pass today once again recognizes the need for strong central leadership within the executive branch, responsive to the President, and responsive to the Congress. This bill builds on the understanding there needs to be a partnership between the Executive and Congress if the Government is to meet the goal of an effective and efficient procurement system which operates with integrity.

There is also the recognition that this legislation is designed and presented as an opportunity for the next administration, no matter which candidates win in the election. The relative success of the Office of Federal Procurement Policy has always depended on the attention, interest, and support of the President and the Director of the Office of Management and Budget. This bill represents an offer from the Congress that this office presents a strong mechanism to attack the procurement problems the country faces today. My fervent hope is that this opportunity will be exploited and not squandered.

Finally, Mr. President, I want to thank some of the folks who have made this legislation possible. Special thanks go to Chairman GLENN, Senators NUNN, ROTH, LEVIN, COHEN, and BINGAMAN who were the cosponsors to this bill.

I want to thank Chairman JACK BROOKS and Congressman HORTON. FRANK HORTON served on the Procurement Commission with me. And he and JACK BROOKS have been the House sponsors to a lot of the legislation I had the good fortune to author as a Senator—the Sunshine Act, the Grant and Cooperative Agreement Act, the several OFPP Reauthorization Acts, the Paperwork Reduction Act of 1980 and of 1986. We have done a lot of work together. This bill is a nice way to cross the "t" and dot the "i".

I want to particularly thank Chairman BROOKS. Now that he is moving on to a new chairmanship, I suspect this will be one of his last bills on procurement as well. He, too, will be drawing a new circle. I have enjoyed all the work I have done with JACK BROOKS. He is a good friend. I thank him for all his support. I think it should be said there would be no OFPP today if JACK BROOKS did not think it was good Government. I hope he will keep the flame lit when those other laws we worked on come up for congressional review.

There are a number of staff persons who should be thanked for the extra hours on this bill. I know how hard they worked and very much appreciate their efforts. Bill Jones and Jim Lewin of Chairman BROOKS, staff. I want to thank them for their efforts on more than just this bill. Steve Ryan of Chairman GLENN's staff. Mike Mitchell, Linda Gustitus, Peter Levine, Larry Uhlfelder, Jeff Landry, Sean McAvoy, and Rich Ashooh of the Governmental Affairs Committee staff. Andy Effron of Senator NUNN's staff. Thanks to all of you.

Last, I want to thank the former Administrators of OFPP and the present and former staff directors of my Subcommittee on Federal Spending. They all know.

I ask unanimous consent to have pertinent material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 2215 AS AMENDED—THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS OF 1988

Clarifies the role of the Administrator of OFPP to initiate government-wide procurement policy and prescribe regulations, procedures and forms relating to procurement.

Places authority with the Administrator of OFPP to rescind or deny promulgation of procurement regulations inconsistent with the policies of the Act.

Provides permanent authority for appropriations.

Establishes a Federal Acquisition Regulatory Council to help manage and coordinate a government-wide procurement regulation called the Federal Acquisition Regulation.

Reestablishes a 5 member Cost Accounting Standards Board which shall be chaired by the Administrator of OFPP and shall be responsible for promulgating and maintaining government-wide cost accounting standards.

Establishes certain prohibited behavior on the part of competing contractors and government officials to ensure "Procurement Integrity" for the procurement system. Contractural, administrative, civil, and criminal penalties are provided for if violations of prohibited behavior on the part of contractors or government officials occur. Certification and training requirements as well as unauthorized disclosure and revolving door prohibitions are established to further ensure integrity for the Government's procurement system.

Requires OFPP to conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by certain contractors.

Clarifies the definition of architectural and engineering services for the "Brooks Act".

Creates a Commercial Products Advocate position within OFPP.

Mandates the Administrator of OFPP shall study and submit to Congress a report on what improvements can be made to the Federal Procurement Data System.

Elevates the Administrator of OFPP, the Administrator of the Office of Information and Regulatory Affairs, the Deputy Director of OMB, and the Director of OMB one level in the executive schedule.

Clarifies that the term "contract" in section 24 of the OFPP Act which deals with allowable travel expenses, is not to be applied to federally sponsored research at state and nonprofit institutions. Federal regulations which do apply to federally sponsored research are set forth.

Corrects an oversight in the FERS technical corrections bill (P.L. 100-238) and restores health and life insurance and retirement benefits to certain individuals.

EXPLANATORY NOTES TO THE CONSENSUS AMENDMENT TO S. 2215

SECTION 1

Section 1 states the title of the Act, the "Office of Federal Procurement Policy Act Amendments of 1988."

SECTION 2

Section 2 makes one change to the Declaration of Policy section (41 U.S.C. 401) and one change to the Findings and Purpose section (41 U.S.C. 402) of the Office of Federal Procurement Policy Act. This language was contained in the House bill, (H.R. 3345, Report 100-911). The term "United States Government" replaces the term "the Congress" in the Declaration of Policy section, and the word "Government-wide" is inserted before the word "procurement" in the Findings and Purpose section of the Office of Federal Procurement Policy Act.

SECTION 3

Section 3(a) makes changes to section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405). The Senate language amending section 6(b) of the OFPP Act (41 U.S.C. 405 (b)) is agreed to. This language, which inserts the clause, "including any such regulations, procedures, and forms as are necessary to implement prescribed policy initiated by the Administrator under subsection (a)," after the term "timely matter" is intended to clarify the authority of the Administrator of OFPP to initiate policy and prescribe the needed regulations, procedures and forms if the Department of Defense, the National Aeronautics and Space Administration, and the General Services Administration are unable to agree on or fail to issue Government-wide regulations, procedures and forms in a timely manner.

Subsection 6(f) of the OFPP Act (41 U.S.C. 405(f)) is amended to allow the Administrator of OFPP, instead of the Director of the Office of Management and Budget (OMB), to deny the promulgation of or rescind regulations relating to procurement. The Administrator may assert this authority only with the concurrence of the Director of OMB and consultation with the head of the agency or agencies concerned.

Section 32(b) provides permanent authorization of appropriations for the Office of Federal Procurement Policy.

SECTION 4

Section 4 establishes a Federal Acquisition Regulatory Council, constitutes the membership of the Council, and declares what the functions and responsibilities of the Council and Council members will be.

The House language constituting the membership of the Council was agreed to. The Council shall consist of the Administrator of OFPP, the Secretary of Defense, the Administrator of National Aeronautics and Space, and the Administrator of General Services. Other than the Administrator of OFPP, these officials may designate to serve on the Council the official assigned by statute with the responsibility for acquisition policy or if no official is assigned by statute, the official designated pursuant to section 16(3) of the OFPP Act (41 U.S.C. 414(3)). No other official may be designated to serve on the Council.

The intent of establishing clearly who will serve on the Council is to pinpoint accountability for carrying out the responsibilities assigned to Council members by the provisions of Section 4. In the case of the Department of Defense, the Under Secretary of Defense for Acquisition is statutorily assigned responsibility for acquisition policy. By law, (Section 133a of Title 10), the Deputy Under Secretary of Defense for Acquisition is specifically assigned responsibility to ". . . assist the Under Secretary of Defense for Acquisition in the performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled." The Senate views this explicit statutory language detailing the duties of the Deputy Under Secretary as permitting the Deputy to assist the Under Secretary by serving on the Council. This is consistent with the intent of establishing clear accountability for carrying out the responsibilities assigned to Council members by Section 4.

The Senate language detailing what authorities were to be used in the joint issuance and maintenance of the Federal Acquisition Regulation was agreed to and is contained in section 25(c)(1) of the OFPP Act. Use of the Administrator of OFPP's authority under section 6 of the OFPP Act (41 U.S.C. 405) will not be required for the three other members of the Council to jointly issue a change to the Federal Acquisition Regulation. The intent is to maintain an appropriate balance between the authority of the OFPP Administrator to oversee and direct procurement policy and the authority and responsibility of the three line agencies who serve on the Council to exercise the primary responsibility for procurement policy. The Administrator of OFPP's role to initiate and stimulate procurement reform in further streamlining and maintaining the FAR without diminishing the authority of the three respective agencies is thereby affirmed.

Under "Functions" of the Council, section 25(c)(3) declares the Administrator, with appropriate consultation, is to ensure procurement regulations promulgated by the executive agencies are consistent with the FAR and policies set forth pursuant to the Act. Section 25(c)(4)-(6) establishes a procedural mechanism whereby interested parties either outside or within government may request the Administrator to review a regulation to determine whether it is consistent with the FAR or could be changed to improve compliance with the policies set forth pursuant to the Act. The Administrator is required to provide a written review of a reasonable request and is to take appropriate action to remove inconsistencies or improve compliance.

This procedural mechanism was agreed to in order to provide a way for interested parties to seek resolution of inconsistencies in procurement regulations with the FAR. The intent is to ensure that any issue of consistency between an agency rule and the FAR is a matter that will be resolved between the Administrator of OFPP and the respective agency, and not through litigation involving the underlying validity of agency rules.

In addition, the language agreed to in section 25(c)(4)-(6) is intended to ensure that actions undertaken by the Administrator to remove inconsistencies or improve compliance are prospective in effect, and do not affect the validity of any agency action taken under an otherwise authorized agency regulation.

This language further provides that the decisions of the Administrator in response to requests to review be in writing and publicly available. A listing of such decisions is to be provided in an annual report to Congress.

Section 25(d) of the OFPP Act sets forth "Additional Responsibilities of Membership" on the Council. A Council member is to approve or disapprove all future regulations relating to procurement promulgated or otherwise made effective by the member's agency before they are made effective in final form. This section is intended to cover regulations subject to section 22 of the OFPP Act (41 U.S.C.) which concerns public comment requirements for regulations relating to procurement.

Language was agreed to which allows a Council member to grant an interim approval, without review, for not more than 60 days in urgent and compelling circumstances. The intent is to establish a point of accountability for ensuring consistency with government-wide procurement regulations within the member agencies while permitting the needed flexibility to issue regulations for urgent and compelling circumstances. The member may authorize the issuance of such interim regulations without prior approval in each specific case.

In addition, language was agreed to which states the authority to review agency regulations may be delegated to a person within the office of the official who serves on the Council but may not be delegated outside that office.

SECTION 5

Section 5 reestablished a Cost Accounting Standards Board. It was agreed that the Board shall have the exclusive authority to make, promulgate, amend, and rescind cost accounting standards and interpretations designed to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to procurement contracts with the United States.

The Board established in Section 5 adopts the Senate approach of constituting 5 Board members, and the House approach to establishing the authority of the Board. The Administrator of OFPP is to chair the Board. The Secretary of Defense is to appoint a member; the Administrator of the General Services Administration is to appoint a member; and the Administrator is to appoint two members, one from industry and one who is particularly knowledgeable about cost accounting problems. The term of office for members other than the Administrator is to be four years.

The Board is to act by majority vote. The Administrator is to consult with the Board and prescribe rules and procedures governing actions of the Board no later than 180 days after enactment of the legislation. Among other considerations, an intent of this responsibility assigned to the Administrator is to enable the Administrator to take care that the Board properly consider its responsibilities under other applicable laws, such as the requirements of the Paperwork Reduction Act (44 U.S.C. 35), in promulgating cost accounting standards.

The Senate version of the CAS Board authorized the Board to establish procedures pursuant to which an agency head could waive CAS standards. The language adopted in the consensus amendment simply authorizes the CAS Board to establish procedures for the waiver of CAS standards. The Board itself shall determine appropriate procedures for waiver, including the appropriate officials for granting waivers. Waivers of "classes of contracts" may be granted only by the Board itself.

Section 26(h) declares that regulations promulgated by the Board shall be incorporated in the Federal Acquisition Regulation. The authority of the Administrator of OFPP to rescind, deny or take other appropriate action under section 6 of the OFPP Act is not restricted by the Board's authority.

SECTION 6

Section 6 is entitled the Procurement Integrity Section. Explanatory notes on this Section will be provided later in the record by the Government Affairs Committee.

SECTION 7

Section 7 mandates the Administrator of OFPP to conduct a profit methodology study. The House language "which executive agencies should use" was agreed to in lieu of the Senate language "may use". No substantive difference is intended. The Senate view of this Section can be found in the Senate Report accompanying S. 2215. (Senate Report 100-424)

SECTION 8

Section 8 concerns the definition of Architectural and engineering services. The Senate agreed to the House language which is explained in the House Report. (House Report 100-911)

SECTION 9

Section 9 establishes a Commercial Products Advocate. The Senate accepted the House language. Additional language mandating the Advocate to study the applicability of the requirements of the Procurement Integrity Section of the Act to the acquisition of commercial products was agreed to.

SECTION 10

Section 10 mandates a study by the Administrator of OFPP to assess needed improvements for the Federal Procurement Data System and report to the Congress.

SECTION 11

Section 11 concerns the elevation of Presidential appointees within the Office of Management and Budget. The Administrator of OFPP, the Administrator of the Office of Information and Regulatory Affairs, the Deputy Director, and the Director are all raised one level on the executive schedule. This becomes effective January 20, 1989.

SECTION 12

Section 12 clarifies the term "contract" as it is employed in section 24 of the OFPP Act. The term is not intended to cover "sponsored research" agreements to state or nonprofit institutions. The regulatory requirements appropriate to those entities for travel funded by federally sponsored research is set forth by the section.

SECTION 13

Section 13 concerns federal employee benefits for certain employees of Former Presidents and Vice Presidents. In January of this year, the Congress passed a FERS technical corrections bill (P.L. 100-238) which, among other things, terminated health and life insurance and retirement benefits for various non-federal boards, commissions, and other entities which had these benefits by virtue of authorizations in laws other than title 5 of the U.S. Code. Among the various groups that are affected by this blanket termination are new employees (hired after October 1, 1988) of Presidential transitions. The law also terminated health insurance benefits for new employees of Former Presidents.

This amendment contained in Section 13 would restore health and life insurance and retirement benefits for individuals appointed to the transition team of the outgoing Administration, only if such individuals were federal employees immediately prior to their appointment to the transition. In addition, the amendment would restore health insurance benefits for new employees of Former Presidents.

Mr. NUNN. Mr. President, this is the last major bill that will be managed by my good friend, Senator LAWTON CHILES. He has been an innovator and a leader in promoting simplification of the procurement process. His ability to develop a consensus bill reflecting diverse interests in the Senate is typical of the skill and leadership that he has brought to the legislative process throughout his career in the U.S. Senate.

This bill reaffirms the intent of Congress that the Office of Federal Procurement Policy serve as a major player in the procurement reform process. The bill makes it clear that the Administrator for Federal Procurement Policy can initiate Governmentwide procurement policy and issue implementing regulations if DOD, NASA, and GSA have failed to do so in a timely manner, but it does not detract from the primary responsibility of the procuring agencies to issue such rules. As we noted with regard to a similar provision in an earlier version of this bill:

> [T]he clarification of the Administrator's authority is not intended to relieve the procuring agencies of their responsibility to develop and implement policies and rules to improve the procurement process. The magnitude of governmental contracting activities is such that responsibility for procurement policy must be exercised primarily by the agencies. While OFPP can provide an effective stimulus to agency actions, the Committee looks to the individual agencies to initiate and execute meaningful procurement reform. (S. Rep. No. 100-424).

The legislation now before us maintains the balance we achieved in the earlier Senate bill. The responsibility for overall Governmentwide policy is vested in the Administrator for Federal Procurement Policy. The responsibility for developing and issuing rules rests with the three major procuring agencies, the Department of Defense, the National Aeronautics and Space Administration, and the General Services Administration.

To bridge the relationship between the Administrator and the three major agencies, this bill creates a Federal Acquisition Regulatory Council, consisting of the Administrator and the heads of the three agencies or their designees. Section 25(a) specifically provides that the Council is being established "to assist in the direction and coordination of Governmentwide procurement policy and Governmentwide procurement regulatory activities in the Federal Government." This will ensure that the Administrator, in exercising authority under section 6 of the act, will first consult with the Council to ensure that the Administrator's actions take into account the needs of the agencies.

At this point, I would like to comment on some of the more technical aspects of the bill. Section 4(4) of the current act defines the relationship between the Federal Acquisition Regulation and agency rules. This bill sets forth a similar provision in section 25(c) and makes a conforming change by deleting section 4(4). This provision does not make any substantive change in the law.

Section 25(b) governs service on the Federal Acquisition Regulatory Council. Under section 25(b)(2), either the Under Secretary of Defense for Acquisition or the Deputy Under Secretary of Defense for Acquisition may be designated to serve on the Council because they have statutory responsibilities that meet the criteria for service on the Council.

Under section 25(c) (4)-(6), members of the public can raise issues regarding alleged inconsistency between the FAR and agency rules. If the Administrator contemplates rescinding an agency rule in response to such an application, he must consult with the specific agency under subsection 6(f) before he takes any action to rescind an agency rule.

It is important to emphasize that section 25(c) (4)-(6) is intended solely to enhance the internal management of the Government's regulatory process, and it does not establish a mechanism for invalidating agency action under agency rules. In particular, a decision by the Administrator to rescind a rule will not constitute a determination that the agency's rule and action thereunder was unlawful. Action by the Administrator under this section is intended to be prospective only in its effect, and will not have the effect of invalidating any agency action.

Under section 25(d), subordinate component may issue interim rules in urgent and compelling circumstances for 60 days without review of the proposed rule by the designated agency official. The agency concerned may permit the agency to authorize subordinate components to issue such interim rules without case-by-case approval for issuance of each interim rule.

The agency concerned can authorize subordinate components to issue interim rules in urgent and compelling circumstances without case-by-case approval for such issuances, but all such rules must be reviewed and approved by the designated official within 60 days.

This legislation also establishes a Cost Accounting Standards Board. In Senate Report 100-424, on the earlier version of this bill, we said:

> In considering the functions and responsibilities of the Board, the Committee concluded that the agencies, rather than the Board, should be responsible for determining the allowability of specific costs.

The bill now before us embodies the same policy.

Section 26(f)(4)(B) authorizes the Board to establish waiver procedures. The Board should use this authority to permit agency waiver of the procedures when there are urgent and compelling circumstances requiring immediate agency action.

I want to again commend Senator CHILES for his thoughtful leadership on this issue, and I would like to express my appreciation to Bob Coakley and Steve Ryan of the staff of the Governmental Affairs Committee for their hard work on this bill. I am also grateful to Senator GLENN, the chairman of the Governmental Affairs Committee, and to Senators LEVIN, BINGAMAN, ROTH, RUDMAN, COHEN, and STEVENS for their important contributions to the development of this consensus bill.

Mr. LEVIN. Mr. President, I rise in support of this compromise bill reauthorizing the Office of Federal Procurement Policy. The negotiations with the House on this bill have been long and intense, because the issues the bill addresses are complicated and in the area of procurement integrity, ground breaking.

Let me salute, at this time, the father of the Office of Federal Procurement Policy, or OFPP as it is called, my good friend from Florida, Senator CHILES. He has been committed, during the course of his time in the Senate, to a strong, fair, and efficient procurement system, and he has been at the center of many of our major reforms in this area, including the creation and strengthening of OFPP. It is appropriate that in these last few days of Senator CHILES' service in this body, we are taking the step of permanently authorizing this office.

At the same time we are making OFPP a permanent office within OMB, we are also enhancing its authority as well as addressing a number of important Governmentwide procurement issues.

The bill creates a Federal Acquisition Regulatory Council for assisting in the coordination of Governmentwide procurement policy and regulation, reestablishes a Cost Accounting Standards Board, directs the OFPP Administrator to conduct a study on profit methodology and the usefulness of our Federal procurement data system, defines architectural and engineering services, and establishes an Advocate for the Acquisition of Commercial Products within OFPP. These are all provisions which I support and on which I believe productive compromises with the House were reached.

I would like to address in greater detail the section we call procurement integrity. The original Senate-passed OFPP bill did not include a procurement integrity section; the House bill contained extensive language. The Senate had to decide whether or not to accept any legislation in this area at this time, and if so, to what extent, given the absence of any legislative hearings or committee review of the House-passed provisions in the Senate. We ended up accepting some of what the House had proposed, but substantially redrafting those provisions. Given the seriousness of the offenses which we have created, I would have preferred to have extensive agency and public comment on the final language. But, we were not able to avail ourselves of such input, given the limited time constraints we faced in reauthorizing this office prior to our adjournment.

This section of the bill would prohibit any contractor—or contractor employee or agent—during the course of a procurement from knowingly making an offer of future employment or a gratuity to a procurement official or soliciting proprietary or source selection information from an agency official. It prohibits any procurement official during the course of a procurement from knowingly soliciting an offer for future employment or gratuity from a contractor employee or representative or disclosing proprietary or source selection information to unauthorized persons. It also prohibits anyone during the course of a procurement, who has received source selection or proprietary information from knowingly disclosing it to any unauthorized person.

The possible penalties for such conduct include contractual penalties against the contractor to be established by regulation, a personnel action against a Federal employee, possible suspension and debarment against the contractor, and a civil fine of up to $100,000 in the case of an individual and $1 million in the case of a contractor. A criminal penalty of up to 5 years in prison could be imposed on an individual who knowingly and willfully discloses proprietary or source selection information to a competing contractor—that is, a contractor who may be a bidder on a particular Federal procurement.

In addition to the penalties, the bill imposes a number of certification requirements on both contractor and agency employees in order to ensure compliance with the statute. Each contractor who is awarded a contract with the Federal Government in an amount in excess of $100,000, with certain exceptions, will be required to have the employee responsible for the offer or bid to either disclose any information that he or she may have relative to violations of this statute or to certify that he or she has no such knowledge of such violations. The agency contacting officer on each such contract will be required to disclose and certify in a similar manner.

The bill specifically authorizes Federal agencies to require additional certifications from both Federal and contractor employees during the conduct of the procurement. This does not give an agency authority to seek certifications directly from the employees of a competing contractor, however, as the original House bill would have permitted. The Senate rejected that proposal. It only restates existing law and is not intended to create any new or additional authority to demand certifications in any case where current law precludes the exercise of such authority.

The certifications are to be maintained in a file held by the contracting officer. In addition, the contracting officer will now be required to maintain a list of each person who has access to the proprietary and source selection information regarding each contract. The House has originally proposed that each contracting officer also maintain a list of each procurment official working on each contract, but that was wisely deleted as overly and unnecessarily burdensome.

The bill also establishes a Governmentwide revolving door ban for all Federal officials who have participated personally and substantially in a particular contract. The bill would bar these individuals from working on such contract for a competing contractor or a contractor who has been awarded the subject contract for 2 years. I think this is a reasonable approach to solving what remains to be a pressing appearance problem in the area of Government procurement, particularly with regard to the Department of Defense.

The certifications required in this bill by the employee of the contractor responsible for the offer or bid on a contract and the Federal contracting officer on the contract are limited to only the information that individual has at the time of such certification. There is no requirement imposed by this bill that such individual seek out additional information for purposes of the certification.

The certifications required by this bill in subsection (d)(1)(B) as to individual employees of Federal contractors are general certifications which can be made on a one-time basis at the beginning of an individual's employment with the contractor. They are not intended to be made on a contract-by-contract basis for each Federal contract. That is why we used the word "any" to modify "contract" in (ii).

In establishing the revolving door restriction, the bill uses the words "Government official," a term that is not defined in the bill. We intentionally did not use the term "procurement official" since to do so, by the definition of that term, would have included private persons hired as consultants and advisers by Federal agencies. Only Federal civilian and military employees or officials are covered by the 2-year postemployment ban and only those personally and substantially involved in a procurement. It does not include agency officials who merely have responsibility for reviewing or approving a procurement and do not actively participate in the procurement by attending meetings, discussing the procurement with subordinates or competing contractors or similar activities.

The bill requires Governmentwide regulations establishing clauses to be included in Federal contracts which provide for penalties for violations of subsection (a) of the bill. Caution must be exercised in carrying out this responsibility. While the bill seems to permit misconduct by one employee of a contractor to trigger a contractual penalty, such a result would in many cases be unwise and unfair. The penalty must fit the scope of the prohibited conduct, so that constructive or actual knowledge by the contractor itself should be required for the more serious penalties, such as termination for default or loss of profit. It is not intended by this section that a lone employee's misconduct can trigger a complete default on the contract.

In the section of the bill that addresses administrative sanctions, the option of "removal" is specifically mentioned as to Federal employees. We do not intend to in any way suggest that removal is a preferred sanction or even that it is an appropriate sanction in any given case. This is left to a case-by-case determination by the agency. The only purpose for mentioning removal is to give notice to employees that violations of the prohibitions of this section may carry serious consequences.

Also in the "administrative actions" section, the bill provides that the agency shall make a determination as to what action is appropriate. This is not intended to require a written finding or determination in each case. It is also not intended to create any new right of review that does not exist under current law.

The definition in the bill of "proprietary information" is limited to that information designated as proprietary by law or regulation. It is not any information a contractor or agency head or contracting officer chooses to deem "proprietary". In order to be included within the definition in this statute, information would have to be proprietary by law or regulation.

Mr. President, I am hopeful that this bill will be the final step we take to make the Office of Federal Procurement Policy a strong force in establishing a uniform—to the extent possible—and manageable Governmentwide procurement system. I hope the next administration will nominate a person with a strong background in procurement law and policy as well as one who can be a forceful advocate for reason and uniformity in the area of procurement.

In closing, Mr. President, I would be remiss if I did not thank and commend the persistent and hard-working staff people who spent countless hours hammering out the technical details of this bill. They did a solid job.

Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 2215, the Office of Federal Procurement Policy Act Amendments of 1988. This important Office has existed without a reauthorization for far too long, and I believe that this legislation includes a series of measures necessary to strengthen the Office of Federal Procurement Policy [OFPP] and to improve the management of the Federal procurement process.

In 1972, Congress established the Office of Federal Procurement Policy within the Office of Management and Budget for 5 years to provide overall direction and leadership in Federal procurement policymaking. Prior to that time, procurement policies and procedures were needlessly diverse; there was no central office in the executive branch prepared to provide the Congress with the recommendations for improving the procurement process, and there was no arbiter to reconcile agency disagreements on procurement policy.

For these reasons, the OFPP was established—independent of any agency having procurement responsibility, empowered with directive rather than merely advisory authority, responsive to Congress, and consisting of a small, highly competent cadre of seasoned procurement experts—to fill this void. The Administrator for Federal Procurement Policy, who is subject to Senate confirmation, was authorized under the 1974 act to prescribe policies, regulations, procedures, and forms which the executive agencies were required to follow. The OFPP was statutorily prohibited, however, from interfering in the daily management of an agency's procurement operations, which properly is the responsibility of an agency's procurement officials.

In 1979, the OFPP was reauthorized for an additional 4 years (Public Law 96-83). While Congress maintained the OFPP's fundamental responsibility to promote economy, efficiency, and effectiveness in the Federal procurement process, the authority which the Administrator had to discharge this responsibility was substantially weakened. Public Law 96-83 revoked the OFPP's regulatory authority, thereby restricting its authority to issue Governmentwide policy directives. As a supplement to this more limited authority, the Director of the OMB was authorized to deny the promulgation of or rescind any agency rule or regulation which was inconsistent with any OFPP policy directive.

In 1983, as chairman of the Subcommittee on the Oversight of Government Mangement, I sponsored S. 1001, which once again strengthened the authority of the Administrator for Federal Procurement Policy by restoring regulatory authority and by specifying a leadership role for the Administrator in the establishment, development, and maintenance of the Federal Acquisition Regulatory [FAR] System. By creating the Administrator's current modified regulatory authority, the 1983 bill created a balance whereby OFPP would not supercede the responsibility of the DOD, GSA, and NASA for promulgating and maintaining the soon to be enacted FAR. Rather, S. 1001 preserved the existing regulatory framework—with the DOD, GSA, and NASA directed by the President under Executive Order 12352 to continue their joint efforts to consolidate their common procurement regulations into a single, simplified FAR—while providing the OFPP with regulatory authority to be used in those situations when these agencies are unable to agree or fail to act.

The need for a central procurement policy office is even greater today than when the Commission on Government Procurement recommended that such an office be established over 15 years ago. The value of Government contracts has gone from $57.5 billion in fiscal 1972 to $158.9 billion in fiscal 1982, to roughly $200 billion today. The magnitude and budgetary significance of Government contracting, alone, mandate the existence of a strong procurement policy office.

Today, in considering S. 2215, we are faced with an analogous situation to that experienced in 1983. In short, although the FAR has not been established for 4 years, the effort to both simplify and consolidate the Federal-Government's procurement regulation remains ongoing. And once again there is the recognition that, although significant gains have been made, the OFPP in conjuction with DOD, NASA, and GSA have much left to accomplish.

This 1988 reauthorization represents our continued resolve to insure that strong, central leadership within the executive branch, embodied in the OFPP, is further refined and that the continuing and recurrent challenges of the Federal Government's procurement function are addresed in the most efficient and forthright manner possible. The OFPP remains emblematic of our recognition that both the legislative and executive branches must cooperate to ensure that the advances made in recent years are safeguarded and that the myriad of problems still extant in the procurement system are acknowledged and dealt with.

S. 2215 makes a number of important changes in the existing structure of the OFPP while reasserting the primacy of its basic mission to at once consolidate and simplify Governmentwide procurement regulations, encourage the efforts to promote competitive processes within the Government's procurement function and actively provide clear and consistent leadership that successfully defines the salient priorities of Governmentwide procurement policy.

Importantly, S. 2215 maintains the existing modified regulatory authority established for OFPP during the last reauthorization process in 1983. Indeed, the bill clarifies this authority and reiterates the current balance between the Administrator's oversight and directive function and the agencies' primary responsibility for procurement policy. The Administrator thus maintains the important authority to initiate and proscribe needed regulations when and if the DOD, NASA, and GSA are unable or unwilling to issue needed Governmentwide regulations in a timely manner. I believe that this authority, coupled with the provision to allow the Administrator of OFPP, instead of the Director of OMB, to deny promulgation of or rescind regulations relating to procurement, and the permanent reauthorization of the Office, contribute markedly to our shared goal of a vital and active OFPP.

This legislation, by creating a high level Federal Acquisition Regulatory Council, reviving the Cost Accounting Standards Board, and creating a series of initiatives designed to foster procurement integrity on a Governmentwide basis, goes a long way toward insuring our twin efforts to promote efficiency and honesty within the procurement system.

The Federal Acquisition Regulatory Council that will be established by this legislation will serve to assist the coordination and overall management of procurement regulations by creating a mechanism wherein the Administrator and the representatives of DOD, NASA, and GSA will be encouraged to work cooperatively with the intent that the efficiency of the FAR process be enhanced. I firmly believe that by focusing responsibility for maintenance and management of the FAR at the highest practicable levels of DOD, NASA, and GSA, this legislation makes an important contribution to the effort to foster consistency within the FAR while, at the same time, aiding attempts to address the problem of proliferating agency supplemental regulations.

Likewise, the final version of the procurement integrity section contained in this bill represents a measured response to perceived inadequacies in current law governing prohibited and unlawful practices in the procurement process. In light of the latest procurement scandal, the mechanisms of certification, training, and additional "revolving door" provisions contained in this bill will help restore and maintain the integrity of our purchasing system. I believe that the reforms promulgated by this legislation will help deter similar behavior in the future and I look forward to monitoring their effectiveness during the coming Congress.

In short, the bill before us represents the sum total of a number of dedicated individual's efforts over the course of not only this Congress but also, as illustrated above, dating back at least to the early 1970's. While there is, and I presume there will always be, a need for vigilance in this area, our efforts up to this point have, without doubt, created further opportunities for improvement in the future.

I would also like to take this opportunity to commend the original sponsor of this bill, Senator CHILES, both for producing a fine product in this regard and for his tireless dedication during his many years in the Senate to the problematic and at times thankless task of reforming procurement policy. This bill represents the culmination of that effort and is, I believe, a fitting milestone to mark both Senator CHILE's and this body's achievements in improving and refining the administration and management of the Federal Government's procurement function.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT OF 1988 AMENDMENTS

Mr. BYRD. Mr. President, on behalf of Mr. DODD, I call up a bill and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2915) to make certain minor and technical amendments to the Child Abuse Prevention, Adoption, and Family Services Act of 1988.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DODD. Mr. President, I ask for your consideration of this package consisting primarily of technical amendments to the Child Abuse Prevention, Adoption, and Family Services Act. As part of the reauthorization of this act passed earlier this year, a comprehensive revision of title I—child abuse prevention and treatment—was undertaken. As a result of this comprehensive revision of title I, it has been deemed appropriate to make the technical corrections contained in this package in order to be consistent with the intent of the original child abuse prevention statute.

Additionally, Mr. President, this package contains a clarification of the bipartisan agreement reached during conference on the child abuse reauthorization that priority should be given to discretionary research and demonstration projects which focus on identification and prevention of child abuse. The need for this priority on identification and prevention of child abuse is unfortunately dramatically called for in the face of the skyrocketing reports of abuse and neglect occurring all across this country over the past decade.

Finally, Mr. President, this package also contains a revision of the requirements for grants going to family violence shelters. The funding cap of $150,000 is being raised in order to give those States with a limited number of shelters the flexibility to continue funding those shelters rather than cut off Federal support. In States with limited family violence shelter capacity, the evidence available suggests that such services may have to be discontinued altogether if Federal support were to be cut off. Although the funding support through the family violence prevention and services program is also limited, we cannot sit by and give spouses and their children fleeing abusive home environments no place to turn in times of often life-threatening crises. We already know that even with the combined Federal, State, and local funding capacities, we are still only helping every other woman seeking shelter.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be advanced to third reading, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2915) was passed, as follows:

S. 2915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) Section 6(e)(1)(B) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 510(e)(1)(B)) (hereafter in this section referred to as the "Act") is amended by striking "the Office of Human Development Services" and inserting "the Office of the Assistant Secretary of the Department responsible for administration of the program under this Act".

(b) Section 7 of the Act (42 U.S.C. 5106) is amended—

(1) in the caption by striking "grants to" and inserting "grants to and contracts with";

(2) in paragraphs (1) through (6) of subsection (c), by striking the periods at the ends and inserting semicolons;

(3) in subsection (c)(2), by striking "Such other innovative programs and projects as the Secretary may approve, including programs" and inserting "Programs";

(4) in subsection (c)(6)(C) by striking "as determined as appropriate" and inserting "as determined to be appropriate"; and

(5) in subsection (c)(6)(D)(i), by striking "is in a combination with—" and inserting "proposes to provide services under a grant under this paragraph through formal arrangements with—".

(c) Section 8(b) of the Act (42 U.S.C. 5106a(b)) is amended—

(1) in paragraph (1)(B) by striking "provisions for immunity" and all that follows and inserting "provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;"; and

(2) in clause (E) of paragraph (3), by striking "such".

(d) Section 8(c) of the Act (42 U.S.C. 510a(c)) is amended to read as follows:

"(c) Waiver Extension.—Any State which on the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 had a waiver of requirements under subsection (b) (other than requirements under subsection (b)(10)) may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirements—

"(1) through the end of fiscal year 1988; or

"(2) in the case of a State the legislature of which meets biennially, through the end of fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.".

(e) Section 8(d) of the Act (42 U.S.C. 5106a(d)) is amended by striking "equal of the amount" and inserting "equal to the amount".

(f)(1) The caption of section 9 of the Act (42 U.S.C. 5106b) is amended to read as follows:

"SEC. 9. GRANTS AND TECHNICAL ASSISTANCE TO STATES FOR PROGRAMS FOR DISABLED INFANTS WITH LIFE-THREATENING CONDITIONS".

(2) Subsections (a) and (b) of section 9 are redesignated as subsection (b) and (c), respectively.

(3) Subsection (f) of section 8 of the Act (42 U.S.C. 5106a(f) is redesignated as subsection (a) of section 9 of the Act (42 U.S.C. 5106b(a)).

(4) Section 9(b) of the Act (42 U.S.C. 5106b(b)), as redesignated, is amended—

(A) in the caption, by inserting "and clearing-house" after "technical assistance"; and

(B) in paragraph (2)(A), by striking "phone" and inserting "telephone".

(5) Section 9(c) of the Act (42 U.S.C. 5106b(c)), as redesignated, is amended by striking "this section" and inserting "subsection (b)".

(6) The table of contents of the Act (42 U.S.C. 5101 [note]) is amended by striking "Sec. 9. Technical assistance to States for child abuse prevention and treatment programs." and inserting "Sec. 9. Grants and technical assistance to States for programs addressing need of disabled infants with life-threatening conditions.".

(g) Section 11(c) of the Act (42 U.S.C. 5106d(c)) is amended by striking "is available" through the period and inserting "for discretionary research and demonstration grants is available for activities related to the identification and prevention of child abuse and neglect.".

(h) Section 14 of the Act (42 U.S.C. 5106g) is amended—

(1) in paragraph (4), by inserting "(including any employee of a residential facility, or any staff person providing out-of-home care)" after "who is responsible for the child's welfare";

(2) by striking out paragraph (5) and redesignating paragraph (6) as paragraph (5); and

(3) by adding after paragraph (5) the following new paragraph:

"(6) the term 'Department' means the Department of Health and Human Services;".

(i) Section 15(a) of the Act (42 U.S.C. 5106h) is amended to read as follows:

"(a) In General.—There are authorized to be appropriated for purposes of carrying out this Act $48,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991. Of the funds appropriated for any fiscal year under this section, there shall be available in each such year, except as provided in the succeeding sentence—

"(1)(A) $11,000,000 for activities under sections 5, 6, and 7, and

"(B) $9,000,000 for activities under section 8(a) and 9(b) giving special consideration to continued funding of child abuse or neglect programs or projects (previously funded by the Department) of national or regional scope and demonstrated effectiveness,

"(2) $5,000,000 for grants and contracts under section 7(a) for identification, treatment, and prevention of sexual abuse, and

"(3) $5,000,000 for grants to states under section 9(a).

With respect to any fiscal year for which the total amount appropriated under this section is less than $30,000,000, no less than $20,000,000 of such funds appropriated in such fiscal year shall be available as provided in clause (1) in the preceding sentence, and of the remainder, one-half shall be available as provided for in clause (2) and one-half as provided for in clause (3) of such sentence.".

SEC. 2. EXTENSION OF TIME PERIOD FOR CERTAIN INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED TO SUBMIT PLANS OF CORRECTION OR REDUCTION.

(a) In General.—Section 1922 of the Social Security Act (42 U.S.C. 1396r-3) is amended—

(1) in the first sentence by striking "residents" and inserting in lieu thereof "residents (including failure to provide active treatment),";

(2) in subsection (c)(5) by inserting ", and to provide active treatment," after "safty of"; and

(3) in subsection (f) by striking "within 3 years" and all that follows through the period and by inserting in lieu thereof "by January 1, 1990".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act, and shall apply to any proceeding where there has not yet been a final determination by the Secretary (as defined for purposes of judicial review) as of the date of enactment of this Act.

SEC. 3. AMENDMENTS TO TITLE II OF THE CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978.

(a) Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.) (hereafter in this section referred to as the "Act") is amended by adding before section 201 the following new section:

"SHORT TITLE

"Sec. 200. This title may be cited as the 'Adoption Opportunities Act'.".

(b) Section 203(b)(8) of the Act (42 U.S.C. 5113(b)(8)), in the matter preceding subparagraph (A), is amended by striking "the provision of ".

(c) Section 203(c)(1) of the Act (42 U.S.C. 5113(c)(1)) is amended by striking out "the provision of".

SEC. 4. AMENDMENT TO THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

(a) Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking "$150,000" and inserting "$200,000."

(b) Section 311(b) of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended—

(1) by striking "(b)" and inserting "(b)(1)";

(2) in paragraph (2)(A)(i), in the matter preceding clause (I), by striking "spouse" and inserting "family member"; and

(3) in paragraph (2)(A)(II), by striking "phone" and inserting "telephone".

PRINTING OF A SENATE DOCUMENT

Mr. BYRD. Mr. President, I send to the desk a resolution authorizing the printing of additional copies of a Senate document and ask unanimous consent that the Senate resolution be agreed to and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 505) as agreed to, reads as follows:

S. RES. 505

Resolved, that there shall be printed as a Senate document "Accomplishments of the 100th Congress—Report by the Senate Democratic Policy Committee," and that an additional 500 copies be printed for distribution to the Members of the Senate as an official document.

AUTHORIZING THE PRINTING OF TRIBUTES TO SENATOR ROBERT C. BYRD

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 506) authorizing the printing of tributes to Senator Robert C. Byrd.

Resolved, That the statements of Senators appearing in the Congressional Record, as well as other related remarks, in tribute to Senator Robert C. Byrd upon his departure from the position of Majority Leader of the Senate to be printed as a Senate Document.

Sec. 2. Such document shall be such style, form, manner, and binding, and shall include such other related remarks as directed by the Secretary of the Senate.

SEC. 3. There shall be printed 300 copies for use of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for his graciousness and his courtesy, which is always so characteristic of him.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 506) was agreed to.

CHILDREN'S TELEVISION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3966, the children's television bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3966) to require the Federal Communications Commission to reinstate restrictions on advertising during children's television to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, we are about to achieve a milestone. For the first time since the Communications Act was passed in 1934, we are going to amend the statute to recognize that television broadcasters should give children special treatment. This has been a longtime coming. It is a goal that I along with the chairman of the Communications Subcommittee, Senator INOUYE, have long sought.

This legislation is especially important because the Federal Communications Commission has completely fallen down on the job. Until the early 1980's, the Commission had recognized that television broadcasters had special programming obligations for children. That just made common sense. But, the Commission of the 1980's relaxed these requirements believing that the free marketplace could meet children's programming needs. That is just nonsense. People vote in the marketplace by spending money, but everyone knows that children are incapable of this activity. And, while parents exercise some control over what children watch, this control is limited. Moreover, it is irrelevant if there are no decent children's programs to watch.

H.R. 3966 will not solve all the problems there are with the state of children's programming, but it is a good step forward. It will require television broadcasters to demonstrate that they have met the educational and informational needs of children in their overall programming. It also establishes ceilings on the duration of advertising on children's programs.

I want to congratulate the House for initiating this legislation. I want to especially thank Senator WIRTH for his efforts to improve this bill. It is well recognized that Senator WIRTH is a leader on these issues. As an effort to continue to improve children's programming, Senator WIRTH and I have agreed upon a future plan of action.

Next Congress, the Commerce Committee will initiate a series of hearings on a host of children's television issues. First, we will examine the advertising ceilings in this legislation to determine whether they can be improved through a closer examination of the costs and benefits. Second, we will explore related advertising issues that impinge upon the "separation principle" between children's programming and the accompanying advertisements. Third, the committee will determine how to increase the supply of children's programming available to broadcasters, commercial and public, and other program distributors. Finally, toward the end of 1990, the committee will conduct a study to determine whether the renewal standard contained in this legislation is having the intended effect of increasing the quality and quantity of children's programming. These comprehensive hearings will produce the record required to determine how we should next proceed to improve children's programming.

In closing, I want to thank everyone who has been involved with the legislation. Through a spirit of good faith and compromise, we have produced a measure that is important for this country's children. It deserves our support.

Mr. INOUYE. Mr. President, I rise in support of H.R. 3966, the Children's Television Act of 1988, which is designed to ensure that television programming aimed at our children is responsive to the needs and interest of the children in this country. Specifically, this legislation requires the Federal Communications Commission conduct a rulemaking and adopt standards establishing the maximum amount of commercial time permissible during children's programs. The FCC cannot permit more than 10.5 minutes of commercials during children's programs broadcast on the weekends and 12 minutes during the weekdays. In addition, prior to renewing the license of a television station, the FCC is required to ascertain whether the license has complied with the new commercial limitations and whether it has provided programming serving the educational and information needs of children.

For the past 2 years, the Communications Subcommittee, which I chair, has been working on legislation similar to H.R. 3966. S. 1277, the Broadcasting Improvements Act of 1987, included a provision which would have required the FCC to ascertain whether a television broadcaster's nonentertainment programming and programming directed toward children—was meritorious and responds to the interests and concerns of the local community before renewing its license. Hearings on this legislation were held on July 17 and 20, 1987. Several of the witnesses who testified at this hearing expressed strong support for the reimposition of regulations to ensure that the programming of television licensees is responsive to the needs of children and limiting the amount of time that can be devoted to commercials during children's programming.

There is no question that children under certain ages, unlike adults, are not capable of distinguishing programs from commercials. In addition, it is clear that television can be a very effective instructional tool. In view of the importance of educating our youth and the ever rising costs of education, it is imperative that we take advantage of every tool possible to expand the knowledge of our children. Television has proven to be a very effective instructional tool. It is important that we take advantage of every tool available to educate and inform the youth of this country.

This legislation takes a big step toward achieving this goal. The need for this legislation is the direct result of the FCC's decision to eliminate the commercial guidelines for children's programming in 1984 in its efforts to deregulate the broadcast industry. However, broadcast licenses are not like other commodities: they are given exclusive use of a limited public resource and they are not subject to full competition. Accordingly, they have an obligation to serve as public trustees to ensure that the larger interests of the American public can be served. After seeing the effects of deregulation, it is clear that there are problems. H.R. 3966 is designed to address one area where problems have resulted from deregulation.

Mr. METZENBAUM. Mr. President, as the sponsor of the Senate bill to limit commercials aired on children's television, I am pleased that the Senate is adopting the House-passed bill which includes a similar provision.

This legislation is necessary because children's television has become grossly overcommercialized.

The problem of overcommercialization was exacerbated in 1984 when the FCC threw out its guidelines limiting the amount of television advertising allowable per hour and included children's television in this decision.

The FCC's hands-off approach to children's television has created an intolerable situation. More commercials—hence more sales pitches—are being aired than before. And in something that is unprecedented in adult television, entire programs have been built around products simply to spur demand for these products in the marketplace.

All you have to do is flip the dial on your television set some early morning and you will find toys like Lady Lovely Locks, Teddy Ruxpin, Jem, and GI Joe starring in their own television shows.

These "characters" are sending children a not-so-subtle message. Buy me. Buy me.

Unlike my bill, the legislation we are about to pass today does not contain any provisions dealing with these program-length commercials.

However, it will limit the length of permissible commercials which can be aired during children's television programming. Advertisements will be limited to 10½ minutes per hour during children's prime time—Saturday and Sunday mornings—and to 12 minutes per hour on weekdays.

This bill is an important first step. It should send a strong message to broadcasters that children should not be bombarded with commercials or subjected to the "hard sell."

Let's make way for better programming—not more commercials. The bill before us, by also including a provision requiring the FCC to consider a television station's efforts to inform and educate children during the license renewal process, will move us closer to this important goal.

Television should entertain and enlighten children, not just push them to buy. I urge my colleagues to enact the bill before us. It is about time we did something to help improve the quality of children's television.

Mr. WIRTH. Mr. President, I think it is clear to just about every parent and thinking adult in this society that something is deeply wrong with the state of children's television in the United States.

I have been saying that ever since I was first elected to Congress in 1974. Back then, broadcasters' service to children was merely considered unsatisfactory. Today it it little short of a national disgrace. Our colleagues in the House of Representatives have recognized the growing seriousness of this problem and recently approved legislation, the Children's Television Act of 1988 (H.R. 3966).

I share the concern demonstrated in the House that television broadcasters, who are licensed to serve the public interest, have failed to meet that obligation as it pertains to children. I also share the belief that Congress must now do the job that the Federal Communications Commission [FCC] has refused to undertake, establishing policies to ensure that the unique needs of children are met by each television licensee.

Mr. President, what is wrong with the current state of children's television? First, there is virtually no programming offered to serve the educational or informational needs and interests of youngsters. Children spend more time watching television—an estimated 1,500 hours each year—than they do attending school or engaging in any single activity except sleeping. However, with the notable exception of some very good public broadcasting programs such as the now legendary "Sesame Street," the medium of broadcast television has largely failed to deliver any worthwhile educational content for youngsters. As a result of the FCC's neglect of this problem, a troublesome situation has grown much worse. Commercial stations today present less programming specifically designed for children than at any other point in the history of the medium.

The paucity of programming specifically designed for children has been documented in numerous studies and surveys, including one conducted during my tenure as chairman of the House Subcommittee on Telecommunications, Consumer Protection and Finance. This survey, conducted by the Congressional Research Service, found that the average commercial broadcast station provided less than 4½ hours each week of programs for children. This figure contrasts with the average level of children's viewing of about 4 hours a day. And of the programming that was provided, more than one-half was cartoons and less than a quarter was considered educational or informational. Things have not improved very much. The lastest trend in children's programming, which some have suggested adds new diversity to children's television, is the arrival of game shows in which child contestants who do not know the answer to a question can instead score points by sliding around in mountains of whipped cream.

Should we be satisfied with this weak attempt by broadcasters to fulfill their public service obligations to children? Can we afford to be? I think the answer is "No", and anyone who finds this level of service acceptable sells our Nation's youth short.

A second critical issue facing children's television stems from the preponderance of children's shows that are actually commercials masquerading as programs. The term the Federal Communications Commission uses to describe such content is a "program-length commercial." The FCC, pursuing its agenda of deregulation at any cost, rescinded its long-standing policy restricting program-length commercials for children in 1984. Since that time, with toy manufacturers often underwriting the costs of producing such shows, this format has quickly come to dominate the limited time periods allocated for children's programming. If children were sophisticated enough to recognize the commercial hucksterism that underlies such programs, they would quickly change the channel or shut the television set off.

Young children, however, by virtue of their limited cognitive development, cannot even recognize the commercial dimension of such programs. More importantly, their limited reasoning abilities make youngsters uniquely susceptible to the influence of these toy catalogs of the airwaves. That broadcasters also then count such programs as meeting their public interest commitment to the child audience, thereby displacing more worthwhile content, only compounds the adverse effects of program-length commercials.

Another major issue facing children's television today is not the programming itself, but the commercial interruptions. Sandwiched in between the program-length commercials and the handful of other child-oriented shows are the more traditional 30-second commercials, program promotions, and other non-program messages. A recent survey found that 22 percent of the time allocated to children's programs was actually devoted to these interruptions, many of which are designed to influence viewers too young to even recognize these messages' persuasive intent. This means that nearly one-quarter of each hour scheduled for children's programming is not actually devoted to a program at all, but to a wide array of messages designed to persuade child-viewers either to buy more toy products or to watch more shows.

Mr. President, these are the problems that plague children's television. Now, what are the solutions? There is no question that we as a society should ensure that broadcasters begin to provide some worthwhile programming for children. That is the very least they owe in return for the privilege of using the publicly owned airwaves.

The legislation passed by the House begins to address some of the problems in the area of children's television. The legislation would require broadcasters to serve the educational and informational needs of children through their overall programming efforts and also would reinstate advertising limits during children's programming.

As one who has followed the issue of children's television closely for more than a decade, however, I am concerned that the House measure's programming requirement does not explicitly require programming specifically designed for children. It simply states that the interests of children must be met through broadcasters overall programming efforts. Does this mean we will see more and better children's programming? Maybe yes and maybe no—I just do not know.

Indeed, over the course of the past few weeks I have heard a number of distinctly different interpretations of the programming requirement in the House legislation. Some have suggested the programming provision requires broadcasters to provide programming specifically designed for children—at least indirectly. Others have said that, while it does not require broadcast licensees to provide programming primarily for the child audience, some broadcasters would do it anyway. And still others, have said quite clearly that the legislation will not bring America's children more and better programming because it is not specifically required by the legislation.

If broadcasters want to, they certainly could argue that family-oriented shows such as the Cosby Show are of benefit to children and that such programming efforts would satisfy the requirements of this legislation. Without question these programs have some value for children, but the key problem that needs to be addressed is the lack of educational and informational programs specifically designed for kids. Children benefit most from programs specifically tailored to their limited information processing capabilities, but unfortunately there is little economic incentive for broadcasters to provide such content.

I wish the programming requirement in the House legislation could be made stronger and more explicit. In fact, I vigorously pursued efforts to amend this legislation to more clearly convey the goal it is intended to achieve: An increase in educational and informational programming for children. These efforts earned the strong support of a number of organizations such as the National Parent and Teachers Association, the National Education Association, the American Academy of Pediatrics, the American Psychological Association, the Consumer Federation of America, the National Association for Better Broadcasters among others. I thank these organizations for their hard work and support.

Regrettably, Mr. President, my efforts were blocked and did not succeed.

Nevertheless, the legislation before us today does begin to address an important issue that is long overdue for our attention. So in the interest of moving this very important debate forward, I sought to offer a modest amendment to the House legislation that would only require two studies: One to evaluate the legislation's programming requirement and the second a simple economic analysis to determine the amount of commercial advertising that is necessary to support children's programming. Unbelievably, even this very modest initiative was blocked. One can only wonder why these straight forward proposals were opposed.

Mr. SIMON. Mr. President, will my colleague yield?

Mr. WIRTH. I am happy to yield.

Mr. SIMON. Mr. President, listening to his experience has been interesting. I have been working on another problem that he has not touched upon. That is the violence on television. The most violent hour on television is when the most children watch, according to the University of Pennsylvania studies. I had the experience one evening in a motel, and all of us have spent a lot of nights in motels, of going in, turning on the television, and all of sudden in front of me in living color someone is being sawed in half by a chainsaw.

Mr. President, it bothered me. I thought, what happens when a 10- or 12-year-old sees that?

Then I discovered that there are about 85 studies all of which say that violence in television is hurting our children, including the Mental Health Institute, the American Academy of Pediatrics, and some others.

So I called the television people to my office and I said, I do not want to have censorship but I want to see that something is done and lo and behold they said—first they came up and said well, we have had a study by NBC showing that violence on television does not do any harm. And I said you remind me of the Tobacco Institute people who come in here and they have research showing that cigarettes do not do any harm.

Then they said, well, we cannot get together and establish any standards because it would violate the antitrust laws. So, finally I introduced legislation, cosponsored in the Judiciary Committee by everybody from Senator THURMOND to Senator METZENBAUM, saying let us have an exemption to the antitrust laws that simply permits the television industry to get together to establish voluntary standards.

It passed this body unanimously and I am sure you know the rest of the story. The broadcasting industry has been able to block it over in the House. Just that simple thing.

Somehow, we have to demand more of the television industry in this country.

Mr. WIRTH. I thank the distinguished Senator from Illinois for his comments. He has long been a protector of the interests of children, an advocate of the concerns of television, the concerns of children and education our society. The Senator is absolutely right.

It is extraordinary to me the lack of responsibility too often felt toward what everybody in their own common sense understands are things we ought not to do. Study after study, as you correctly point out, shows the pattern of violence in the behavior of kids afterward. Seeing various television programs, they get played out in various communities across the country the next day, next week, so on. So to suggest there is no correlation between violence on television and the behavior of youngsters is just simply preposterous.

Mr. SIMON. It is absurd. Yes.

Mr. WIRTH. It is important to explain what these studies would do. These are the studies I had asked for, Mr. President, for the purpose of just understanding what the economics of children's television would be, something as simple as that. Because I have every intention of pursuing the initiatives in the future. The first study was designed to evaluate effectiveness of the new programming requirement at actually generating more and better programming for children.

If we put this in the law, let us study it and see if it does any good. The broadcasters blocked that.

The programming study would be conducted during the first 2 years following the enactment of the legislation. If the study demonstrates clear improvements in children's programming, then the legislation will have served its purpose and no further action should be necessary. But if it proves too weak and does not meet the goal of improving the quality and quantity of television programs for children, then the study will make that clear and serve as a catalyst for us to revisit the issue.

In the advertising area, the House legislation is silent on the issue of program-length commercials, an important concern that also must be addressed, along with a number of other issues in the advertising arena. The legislation would, however, reestablish limits on the amount of commercials permitted during children's programming. There is no question that such limits must be reestablished. Since the FCC rescinded its protections in this area, advertising to children has been on the increase because there is no marketplace incentive to keep it down. Many youngsters cannot even recognize the difference between programs and commercials, so they obviously cannot react negatively to an overload of commercials as would an adult viewer. Broadcasters stand to profit from this situation by increasing commercial content during children's programs, a practice which has already been documented by research filed with the Commission.

My concern is that the House legislation appears to arbitrarily establish the limits on children's advertising without any reasoned analysis. When the FCC first established children's advertising limits in 1974, its policy goal was to restrict broadcasters to the lowest possible level of commercialization during children's programs. If that is our policy goal today, it cannot be accomplished simply by selecting ceiling figures that reflect the average level of commercial practices today.

What we need is a careful economic analysis comparing the revenues generated by commercial advertisements to the costs associated with the production and distribution of children's programming. That type of analysis was performed prior to the FCC's initial enactment of its limits in 1974 and needs to be repeated again to reach an informed decision in this area. It may well be the case that advertising to children can viably be restricted to levels substantially less than the 10½ and 12 minutes per hour incorporated in the House legislation.

The analysis called for under my amendment, and which I plan to pursue, would provide valuable information to the FCC and others to help ensure that the advertising limits are established at the appropriate levels.

Mr. President, in an ideal world, this legislation should be nothing short of an absolute guarantee that the educational needs of children will be served by broadcasters. In a reasonable world, this legislation would at least include an analysis of the extent to which its programming requirement actually generates more and better children's programs. But apparently, Mr. President, we live in neither of these worlds, as my attempts to accomplish both of these objectives have in turn been blocked by opponents.

The word I have received is "It's this or nothing" as far as any children's television legislation is concerned. That word deeply saddens me because I know our children deserve more. I also know that America's broadcast industry is capable of achieving more in terms of its service to the child audience. Just think for a moment, Mr. President, how children would profit if even one-quarter of the hours that they now spend watching Saturday morning cartoons was devoted instead to programming of the calibre of "Sesame Street."

Mr. President, even though I am saddened that this measure cannot accomplish more of the many improvements needed in television's service to children, I am encouraged that this important issue has finally captured the attention of Congress. The House legislation is a step in the right direction. And given the choice between enacting this legislation or sticking with the status quo, I believe the House proposal deserves a chance.

I will, however, intently pursue both of the studies I have mentioned here today. In fact, I have already held discussions with the chairman of the Senate Commerce Committee, my good friend and distinguished colleague, Mr. HOLLINGS. Chairman HOLLINGS has indicated that he plans to hold hearings early next Congress on many of these issues, and has agreed to have the Commerce Committee conduct a study along the lines articulated in my admendment of the programming requirement in the House legislation. I want to express my deep appreciation and gratitude to Senator HOLLINGS for his help and willingness to tackle these difficult but very important issues.

In closing, Mr. President, it is clear that the problems with children's television can no longer be ignored, as the FCC has tried so hard to do. Broadcasters remain public trustees and it is essential that children, our most valuable resource, be considered an integral part of any public service equation.

It is time we return to a responsible and commonsense approach to the regulation of children's television. By adopting this legislation, we have the opportunity to send a clear message that the interests of children are paramount.

Finally, Mr. President, I would like to make one further observation. A careful reading of the Federalist Papers reveals the deep commitment of the Founding Fathers to education. Madison and Jefferson, and their enlightened colleagues in Philadelphia and throughout the early days of the young republic, did not believe that our democracy would work without an educated electorate.

The commitment of the Founding Fathers to education has been reflected throughout our history: The Northwest Ordinance, the State and Land Grant University Program, Vocational Education, the National Defense Education Act, the Elementary and Secondary Education Act—the list is long, deep and impressive. As a country, we have believed in a fundamental doctrine of universal education available to all, and fundamental to the working of a democracy.

In recent years, a new force has joined family, church, and school, the traditional institutions through which we imparted values and education to our young. Television has become a force as great as the others, and perhaps greater. Study after study shows the enormous power of televsion in educating and socializing our children—and yet the tragic paradox is that the more we know about television and its capacity to teach our young, the less we use it.

Twenty-five years ago, Newton Minow spoke of television as the vast wasteland. Today, we could speak about commercial television as the vineyard of irrepressible avarice. With precious few exceptions, this wonderful force for education, gentleness, awareness and acculturation has been channeled into a lowest common denominator, and the public interest—which television broadcasters are licensed to serve and strengthen—is discarded to the scrap heap.

These same commercial broadcasters will provide a series of weak excuses:

"Let public broadcasters do it" when they know the power of their commercial fare; "We can't afford it" but they won't even agree to a review of their economics in this area; "the cable industry is not required to do it" but few efforts are made to reach for an industry wide effort, rather than the least common denominator; or "let parents turn off the television" a blithe denial of the fact that most children in this country grow up in single parent households or in homes in which both parents work.

We have an education crisis in this country, Mr. President, and we all know it. Twenty-five percent of our high school students drop out; our inner city schools are increasingly battlegrounds; Head Start works, but only 1 in 11 eligible children are funded; and there are more than 30 million adult illiterates in this country.

Madison and Jefferson would be alarmed. They would ask what happened to the ideal of an educated democracy. And they would wonder what had happened to the idea that each individual and group has a public responsibility.

The response from most broadcasters, I am afraid, would be a haunting silence.

Mr. President, I ask unanimous consent that two letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

American Psychological Association,
October 19, 1988.

Hon. Timothy Wirth,
U.S. Senate, 380 Russell Senate Office Building, Washington, DC. 20510

Dear Senator Wirth: The undersigned organizations wish to express our appreciation and gratitude for your efforts to strengthen various aspects of the children's television bill, H.R. 3966. We are pleased that this legislation will soon be enacted into law; it represents an important breakthrough. We also share your concern that this action not be seen as closing the door to further consideration of children's television programming and advertising policy.

We strongly urge Congress to carefully monitor the broadcast industry's response to this legislation. We were extremely disappointed in the broadcast industry's opposition to proposals you offered to study the effects of H.R. 3966 on programming and advertising practices. As you know, it is possible that this legislation could result in a net increase in the average number of minutes of advertising directed at children. Likewise, it is unclear what the precise effects will be of allowing the broadcasters to meet their public trust obligation to the child audience through their "overall programming."

Many issues remain unaddressed. Nothing in this legislation speaks to the matter of "program length commercials" or product-linked programming. Many problems remain with respect to the programming standard for license renewal. We recognize your appreciation of these issues and hope that we can work with you during the 101st Congress to further improve the quality of children's television programming.

Thank you again for your longstanding and unyielding interest in quality television and the welfare of the Nation's children.

American Academy of Pediatrics.
American Psychological Association.
Consumer Federal of America.
National Education Association.

University of California,
Santa Barbara,
Santa Barbara, CA, October 19, 1988.

Hon. Timothy Wirth,
U.S. Senate,
Washington, DC.

Dear Senator Wirth: We are from the same group of scholars who wrote to you back in June regarding the need for improvements in the Children's Television Education Act (H.R. 3966) that was passed by the House. We are aware of your repeated attempts to strengthen this legislation and wish to thank you for pursuing these efforts.

Like you, we are disappointed that a requirement could not be established that clearly stipulates the need for each broadcaster to present educational programs specifically designed for child audiences. The unregulated marketplace simply doesn't deliver this type of content that would so clearly be of benefit to the public. But we recognize that your attempts to alter the language of the House bill were blocked, and the choice came down to either adopting the House measure or continuing without any children's programming requirement at all. Though a difficult decision, we think you made the right choice in allowing the House legislation to move forward after your attempts to improve it were blocked.

We believe your efforts, like our original letter, have contributed to an increasing awareness that there is much more to be done to adequately reform television's service to children. Once again, you have demonstrated your leadership in this important area. We hope that you will continue to strive for the greater improvements so badly needed in the children's television realm.

Sincerely yours,

Dale Kunkel, Ph.D.,
Univ. of California,
Santa Barbara.
Bruce Watkins, Ph.D.,
Univ. of Michigan.
Ellen Wartella, Ph.D.,
Univ. of Illinois.

I would like to know from the chairman of the Commerce Committee, Senator Hollings, more about the renewal standard in this legislation and the type of programming required to meet it.

Mr. HOLLINGS. To meet the renewal standard in H.R. 3966, the broadcaster can rely upon general purpose programming which does in fact also serve the educational or informational needs of children (see, e.g. Children's Television Programming, 96 FCC2d 634, n39 (1984)). It would be arbitrary and against common sense to rule out appropriate reliance on such programming. At the same time, broadcasters must have some reasonable amount of programming specifically designed to serve educational or informational needs of children as well as to entertain them. Otherwise, the broadcasters would not be meeting their public service obligation as to an important segment of the child audience—the young child (e.g. the pre-schooler). For no matter how worthwhile and educational or informational a general purpose adult program may be for the older child, it is not suitable or indeed comprehensible to a pre-schooler. Hence, the broadcaster can rely upon overall programming but must also make some reasonable effort to meet the unique public service needs of the various segments of the child audience, including programming aimed at the young child. The mix is left to the discretion of the broadcaster. But the FCC will now have information before it at renewal, and we expect that the Commission, armed with such information, will ensure that the educational and informational needs of all segments of the child population are served by the commercial broadcaster, both in the ordinary and the comparative renewal situation (the former with a minimal and the latter with a substantial standard). See *Central Florida Enterprises, Inc.* vs. *FCC,* 683 F.2d 503, 507 (D.C. Cir 1982).

Mr. PRESSLER. Mr. President, in discussions I have had with proponents of the Children's Television Practices Act and industry representatives, it has become clear that they intend and expect the term "children's programming" to be defined in the traditional manner. Nevertheless, the legislation does not define "children's programming" and I believe this is the appropriate time to make clear that Congress intends to use the established FCC definition.

Since the FCC published its "Children's Television Report and Policy Statement" in 1974, the television broadcast industry has undergone many changes. Much of this change has been in the direction of increased specialization. Recognizing this, I suggest that we reaffirm the definition of children's programming as follows:

The term "children's programming" is intended to mean programming originally produced and designed for children aged 12 years old and under, as is described in the 1974 FCC Policy Statement on Children's Television.

Mr. HOLLINGS. I thank the distinguished Senator from South Dakota for addressing this matter. It has always been my intention that this legislation pertain to "children's programming" as defined in the 1974 FCC Policy Statement.

Mr. PRESSLER. I thank the distinguished chairman of the Commerce, Science, and Transportation Committee for his comments supporting the established FCC definition of "children's programming." This should help to avoid any potential uncertainty in the application of this law.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3966) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PRINT SENATE AMENDMENT TO H.R. 5210

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate amendment to H.R. 5210, the Omnibus Anti-Substance Abuse Act of 1988, be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that a motion to reconsider en bloc with respect to all of the actions that have just been taken by the Senate in connection with the foregoing measures be laid on the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader and I thank Senator PROXMIRE and Senator D'AMATO.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Morning business is closed.

NATIONAL COMMISSION ON THE THRIFT INDUSTRY

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

The motion to concur in the House amendment to S. 2653, to establish a national commission on the thrift industry, with an amendment.

The Senate resumed consideration of the motion to concur.

Pending:

(1) Proxmire Amendment No. 3737, in the nature of a substitute.

(2) Byrd Amendment No. 3738 (to Amendment No. 3737), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the distinguished Senator from New York said that we should act on insider trading legislation. He indicated and implied that I was holding it up.

Mr. President, I have no hold on the insider trading legislation, H.R. 5133. I agree we should pass it.

There is a hold on this legislation and the hold is on the Republican side. I have been trying to find out who has the hold, but the Republicans have not been able to tell me to date. They say they may let me know eventually. But I have no hold on it. I want to advance that insider trading legislation. I think it is desirable.

Mr. President, I might add that no other Democrat has a hold on that legislation.

Mr. President, let me further point out that when Chairman Ruder, of the SEC, called me, he said he was concerned that we would pass S. 1886, the Financial Modernization Act, without the security enforcement provisions on it. I pointed out to Mr. Ruder that we were going to put that on the so-called insider trading legislation, H.R. 5133, and he agreed that that was fine with him and if we did that, he would have absolutely no objection at all, none to S. 1886, the Financial Modernization or Bank Powers Act.

So, Mr. President, it was necessary for us to separate S. 1886 the way we did for a very obvious, simple reason.

When S. 1886 went to the House, the jurisdiction fell between two committees, one headed by Congressman ST GERMAIN and one headed by Congressman DINGELL.

There was a jurisdictional battle. That is the reason why that bill, which passed the Senate 94 to 2, did not pass. So what have we done? We have divided S. 1886 by putting the security enforcement provisions onto H.R. 5133 and we hope and pray it will go through.

I assured Mr. Ruder that if we could not get H.R. 5133 enacted I would not press the bank powers bill, S. 1886. This is the only way we can get action in the House. If we can pass these two bills then what happens is that the bank powers bills stripped of the security enforcement provisions will go to the Banking Committee, and it means that the insider trading bill with the security enforcement provisions added will go to the Dingell committee, Energy and Commerce Committee.

The jurisdiction will be cleared. They can both act. It will then be in order to pass it.

It seems to me to be a perfectly logical action to take.

The Senator from New York is an extraordinarily intelligent Senator. I am sure he understands this. And I would hope under those circumstances if that was his objection, that was his problem, that he would let us proceed.

As I say I am perfectly willing to act, and I want very much to act, and I have made a promise which I will keep to the Chairman of the Securities and Exchange Commission that I will do everything I possibly can to get H.R. 5133, the insider trading bill, passed but it was necessary in order to have the jurisdictional problem in the House resolved to separate it precisely the way I have described it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, as I reiterated, Chairman Ruder is in opposition to this provision as put forth in its present form. The reasons are clear. It absolutely changes regulation by function and it leaves the Security and Exchange Commission without authority to undertake its most important responsibility.

Now, I understand that Senator PROXMIRE has engaged in this exercise, specifically so as to avoid and deal with House jurisdictional problems. I would suggest to you that there are many Members in the other body who are absolutely opposed to this, who want to have an opportunity to look at this bill in the full context and not in this way piecemeal, and that is not the purpose of this body, particularly when we have the insider trading bill pending and we have no action on it.

So what a kettle of fish we would find ourselves in with passing one part of this bill giving these enormous powers, new and expanded as they are, as diverse as they are, and with absolutely no ability to see to it that the abuses that we have already seen take place would not have the SEC with its 50 years of experience in regulating securities there to supervise these new activities.

It is folly to grant the banks, the custodians of federally insured deposits, powers to underwrite commercial paper, asset-backed securities, municipal revenue bonds, without at the very least Securities and Exchange regulation. That is what we would be doing, and I would have to oppose that.

Mr. President, let me suggest that we could continue on this course but I wanted the record to be clear. I am going to do everything possible to get clearance for that insider trading bill and contact whatever of my colleagues, whomever they may be, on whichever side of the aisle, for the purpose of getting some disposition as it relates to the insider trading bill. Because we need that. People are entitled to that protection. Law enforcement officials are in favor of it. The SEC sometimes vacillates as it relates to various parts of it, but I am prepared to move for that.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. D'AMATO. No, I will not, because, Mr. President, at this time I move to postpone the pending legislation until Friday, October 21, at 11 a.m.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that there be no further action on the pending matter before the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, would the leader yield a moment?

Mr. BYRD. Yes.

Mr. ARMSTRONG. I have, certainly, no objection to the request. In fact, I think I share the view of the leaders that it is time for us to quit legislating and go home and do some other business. But let me say it is my intention to now leave town and return only upon the call of the Republican leader. But in the event it should be the desire of the leadership to turn again to the Thrift Commission bill I have asked the Senator from New York, Mr. D'Amato, to represent my interests. And let me just state publicly what those interests are. They are as follows:

First, though I do not object to the bill, I do not strongly favor it either way. That is a matter that I do not care about particularly. Nor do I personally care whether the FDIC is included within the scope of the bill or whether it is left out. But I must report, and I am going to ask Senator D'Amato to represent on behalf of Senator Garn that he very much desires that the FDIC be included if we pass such a bill. That would be on behalf of Senator Garn.

Third, if both are included, that is both the FDIC and the FSLIC, I believe it is absolutely imperative, for reasons that we have discussed previously, that the reporting date for the two be the same date.

And, finally, that that date be an early date. If we are going to do this at all, to postpone it to a date much beyond January 15 or January 20, I think, would be a mistake and a great mistake to postpone it long into the spring.

So I am going to leave that in the hands of others to handle. I do not know whether it will be the plan of the leaders to return to this, or the chairman of the committee. I would say I have mixed feelings about it. I favor the idea of a Commission. I am not sure whether it needs to be established by statute or whether or not it would be better established in some other way.

But it in any case, if you want to sandbag it, I wanted to express my interest in it.

Mr. PROXMIRE. Would the leader permit me to answer?

Mr. BYRD. I yield.

Mr. PROXMIRE. The distinguished Senator from Colorado is a very valuable member of our committee and is very familiar with these matters. Would he agree with the FSLIC situation? I understand Senator Garn would favor having a Thrift Commission proceed provided that we make only minor changes in what the House did and made no major changes of any kind.

Mr. ARMSTRONG. What sort of provisions of the House bill?

Mr. PROXMIRE. He wants minor changes in what the Senate did, not the House. It is minor changes in what the Senate provided.

Mr. ARMSTRONG. I hate to seem ill-informed after the chairman graciously stated I was well-informed. I have lost track of the situation. At the present time it is the Senate bill that contains both the FDIC and the FSLIC?

Mr. PROXMIRE. That is correct.

Mr. ARMSTRONG. With a common reporting date?

Mr. PROXMIRE. Six days.

Mr. ARMSTRONG. I do not agree with that. My concern is that they report the same day.

Mr. PROXMIRE. The proposal we are going to send back is for 30 days.

Mr. ARMSTRONG. I would have no problem—well, I really do have a problem. The truth of the matter is I think they ought to render a single report on a single day.

Mr. PROXMIRE. I just want to understand the position of the Senator. I certainly do not want to make any argument now.

Mr. ARMSTRONG. I thank the chairman. If there is some way I can be helpful, I would be pleased to stay. But it appears to me that the matters that are going to play out can be represented by someone else as well as I.

Mr. D'AMATO. If my distinguished colleague will yield, I want to say that this Senator has a great many problems with the whole Commission, its composition, the manner of the report. I am wondering really what that Commission can accomplish that a number of very distinguished groups would not be able to do—the Federal Reserve and others. I think my friend from Colorado is being far too generous. This is almost a boondoggle. We spend $500,000 and go out and make a group of people who are already lobbying members of a Commission. We have more lobbyists calling who want to get on this Commission, from the right, from the left, and from the center. I do not think we need it.

We are giving up these things like trick or treat. I think it will be exactly that. I am wondering what this Commission is really going to do and are there not better ways of coming up with the information, rather than one of these things put together as a political patronage boondoggle. That is what it is.

I am delighted to represent my good friend in his opposition because my opposition is going to go to the essence of this. I think there has been very little thought, very little input, from the administration as it relates to this effort. I think it is a political boondoggle, and I think maybe it should get one of those famous Golden Fleece Awards that my colleague from Wisconsin has handed out over the years. But I will not go into that today. When and if it comes up, I will raise an objection.

I would like to see something passed and go home. If we can get an insider trade legislation bill passed, let us do that. I will be delighted to represent the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, though our views are somewhat different, as usual, the Senator from New York has been very courteous and helpful by being willing to represent my interests. He enables me to meet some speaking engagements and some travel plans. I am not sure it is necessary, but in case there is a mad scramble with regard to members sitting on this Commission, I am happy to renounce my seat on this Commission. I believe it may be necessary because I believe what I hear tolling in the background are the bells of doom for this Commission for the time being.

I believe the Senator from New York has said no Commission. In any case, we will see how it works out.

I thank him and the chairman for their courtesy.

EXTENSION OF MORNING BUSINESS FOR 3 HOURS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue and that Members may speak therein, and that there be a time limitation on morning business of 3 hours.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

COMMENDING KENNETH A. McLEAN FOR HIS SERVICE TO THE SENATE

Mr. BYRD. Mr. President, Mr. Proxmire has two resolutions, both of which have been cleared on both sides. I believe the Republican leader has authorized our going ahead.

Mr. PROXMIRE. Mr. President, on behalf of Mr. Armstrong, Mr. Bond, Mr. Chafee, Mr. Cranston, Mr. Dixon, Mr. Dodd, Mr. Garn, Mr. Gramm, Mr. Graham, Mr. Hecht, Mr. Heinz, Mr. Karnes, Mr. Riegle, Mr. Sanford, Mr. Sarbanes, Mr. Sasser, Mr. Shelby, Mr. Wirth, and myself, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

> A resolution (S. Res. 503) commending Kenneth A. McLean for his service to the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

● Mr. SANFORD. Mr. President, I rise as an original cosponsor and supporter of the resolution commending Kenneth McLean, the staff director of the Senate Banking Committee. I certainly agree with our distinguished chairman, Senator PROXMIRE, that the Senate today is honoring a truly dedicated and extremely able staff member. As a member of the Banking Committee, I have had the pleasure of working with Ken and benefiting from his tremendous expertise, and his deep knowledge of banking, securities, and housing laws.

Since I have been on the committee, the committee has addressed a wide array of very complex issues, ranging from reforms to outdated banking laws, to examinations of the securities, options and futures markets following the market crash last October, to the problems facing the savings and loan industry, to much needed changes in the laws governing corporate takeovers, to the housing crisis and problems of homelessness plaguing the country. In each instance, Ken ably arranged very informative and helpful hearings and put before the committee sound legislative proposals to address the difficult issues facing the committee. He and our chairman, Senator PROXMIRE, has worked effectively and efficiently to bring much needed legislation to the floor.

I have enjoyed and benefited from the opportunity to work with Ken McLean and join today in this salute to his 21 years of fine service to the U.S. Senate.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 503) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 503

Whereas Kenneth A. McLean has ably and faithfully served the United States Senate since 1967;

Whereas Kenneth A. McLean has executed his duties as the Staff Director of the Senate Committee on Banking, Housing, and Urban Affairs with the utmost of integrity, perseverance, and personal dedication;

Whereas Kenneth A. McLean has clearly exemplified the honorable nature of an outstanding career in public service; and

Whereas Kenneth A. McLean has earned the highest respect of his colleagues and this institution: Now, therefore, be it

Resolved, That Kenneth A. McLean is hereby commended for his tireless and exemplary service to his country and to the United States Senate.

COMMENDING RONALD L. TAMMEN FOR HIS SERVICE TO THE U.S. SENATE

Mr. PROXMIRE. Mr. President, I send Senate Resolution 504 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 504) commending Ronald L. Tammen for his service to the United States Senate.

The PRESIDING OFFICER. Is there objection ot the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 504) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 504

Whereas Ronald L. Tammen has ably and faithfully served the United States Senate since 1972;

Whereas Ronald L. Tammen has executed his duties as Administrative Assistant to Senator William Proxmire with unparalleled integrity, intelligence, and dedication to the ideals of the United States Senate;

Whereas Ronald L. Tammen has consistently served the interests of the citizens of the State of Wisconsin;

Whereas Ronald L. Tammen has earned the utmost respect of his colleagues in this institution: Now, therefore, be it

Resolved, That Ronald L. Tammen is hereby commended for his unfailing and exemplary service to his country, the State of Wisconsin and to the United States Senate.

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader for his assistance. These two resolutions concern two remarkable staff members on the Senate Banking Committee who have served this Senator and the Senate so ably.

Mr. BYRD. I thank the Senator.

REFERRING S. 1964 TO THE CHIEF JUDGE OF THE U.S. CLAIMS COURT FOR A REPORT THEREON

Mr. BYRD. Mr. President, on behalf of Senators EXON and KARNES, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 507) to refer S. 1964 entitled "For the Relief of Nebraska Aluminum Casting, Inc., of Hastings, Nebraska" to the Chief Judge of the United States Claims Court for a report thereon.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 507) was agreed to, as follows:

S. RES. 507

Resolved, That the bill S. 1964 entitled "For the Relief of Nebraska Aluminum Casting, Inc., of Hastings, Nebraska" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any legally or equitably due to the claimant from the United States.

RESOLUTION AUTHORIZING CERTAIN APPOINTMENTS

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 508) authorizing certain appointments.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 508) was agreed to, as follows:

S. RES. 508

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may be permitted to speak in morning business for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from California.

SANCTIONS AGAINST THE REPUGNANT APARTHEID REGIME IN SOUTH AFRICA

Mr. CRANSTON. Mr. President, for the past several weeks a number of Democratic Senators have been pressing for action on S. 2756, the South Africa sanctions bill which I am sponsoring together with Senators KENNE-

DY, SIMON, BENTSEN, WEICKER, ADAMS, MOYNIHAN, BRADLEY, DODD, and LEVIN.

It has become clear that due to the refusal of virtually all members of the Republican side of the aisle to cooperate, we will not be able to achieve a bipartisan agreement to bring this bill to final passage.

I've counted this apartheid issue with great care. A clear majority of the Senate supports the bill—more than 50 Senators. But only two of the certain supporters are Republicans. All the rest are Democrats.

Unfortunately, there are only 54 Democratic Senators. An overwhelming majority of them support sanctions. But it takes 60 votes to stop a debate. So we could not end the debate without the help of a few more Republicans. We haven't had that help.

Given the certainty of a Republican filibuster that was certain to succeed because we lacked the 60 votes it takes to end debate by voting cloture, and given the press of other business—drugs and tax corrections, to cite two examples—the leadership quite properly concluded it would be pointless to bring up the measure. We'd already been frustrated by Republican filibusters against minimum wage, child care, and parental leave. The Republicans talked, talked, talked, and kept all three issues from coming to a vote.

I deeply regret that Republican Senators have blocked bipartisan support for action on this vital legislation.

As the principal sponsor of this measure, I regret that the Senate will not act on final passage this year.

But this is not the end of the battle. We'll be right back early in 1989. And then, relieved of the time pressures that closed in on us this year, we will do our utmost to bring the matter to a successful vote.

We will surely get a cloture vote. Senators will have to stand up on the issue and be counted publicly, as I have counted them privately.

Mr. President, this is by no means a new proposal. A version of this bill has been before the Senate Foreign Relations Committee for more than 16 months. Eight separate committees of the House and Senate have reviewed it. The full House has passed it. And in an historic Senate Foreign Relations Committee vote last month, that distinguished panel has endorsed the comprehensive sanctions bill. Progress, in many respects, has been remarkable.

Two years ago, the Foreign Relations Committee worked together in a bipartisan fashion to craft modest South Africa sanctions legislation.

The Senate made a pledge in passing that bill; we made a promise in adopting a mild compromise measure.

We made a solemn commitment in the 1986 legislation to revisit the issue 12 months later and to enact stronger sanctions if the situation had not improved.

The situation in South Africa has, in fact, grown far worse.

More than 30,000 people have been arrested for resisting apartheid in the last 2 years.

Thousands of children have been arrested.

Many of those children have been tortured by the regime's police.

And in recent weeks the machinery of the apartheid state has turned on the churches.

Virtually all groups opposed to apartheid have been outlawed.

A legal case is being prepared by the apartheid regime against Bishop Tutu.

And the offices of the South African Council of Churches have been devastated by bomb blasts.

The South African night is growing darker—and alternatives to violence and civil war are being extinguished daily.

We in this Chamber have a very limited ability to influence these grim developments.

But we have, I believe, a moral obligation to act, to use the modest power we have to help those who have none.

And we promised in 1986 that we would act again.

I therefore find unacceptable the position of virtually all Republican Senators that we do nothing. That is what the Republican Senators have said to us by refusing to work with us to craft a bipartisan bill: "Even though the situation has gotten worse, do nothing about apartheid."

The United States is not a pitiful, helpless giant. We can provide leadership, we can fulfill our commitments.

In the face of the horrors which have accelerated over the past few weeks in South Africa, we in the United States should not sit on our hands just because it is an election year at home.

I therefore regret the position taken by most Republican Members of this body.

We on the majority side have sought to be accommodating. We have sought to reach an agreement that would serve U.S. national interests and move this bill forward. It was in that spirit that I accepted the only modification proposed by any Republican Senator in the Foreign Relations Committee—to delete the provision of my bill governing access to future oil leases in the United States by firms involved in South Africa. So we have been responsive.

The United States have a vital interest in making clear our commitment to freedom for the people of South Africa. This is a moral obligation, to be sure. But it is a strategic imperative as well. For some day liberty will come to the oppressed millions in South Africa. It is in the interests of the United States to have stood with them in their struggle for freedom.

Mr. President, I am disappointed that my bill, S. 2756, has not received support from more Senators on the other side of the aisle. I believe the time has come for us to stand up and be counted on the question of doing business with the apartheid regime. I call upon all my colleagues to support sanctions legislation. And I pledge that I will afford them that opportunity anew by pressing antiapartheid legislation early in the new Congress. I hope that we will then enjoy bipartisan cooperation to end United States trade with South Africa and to withdraw American investments in the apartheid system.

Mr. President, I note that seated on the floor is a Senator who has been a leader in the battle against apartheid, the Senator from Illinois, PAUL SIMON, who recently went to South Africa because of his concern about what is happening there and about what is not happening here. I am delighted that he will now speak to the Senate on his first-hand observations in that beleagured, unfortunate country.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. First, I commend my colleague, Senator CRANSTON, for his leadership. I also commend Senator WEICKER and Senator KENNEDY for their leadership.

I did have, as Senator CRANSTON just mentioned, the experience just a few weeks ago of being in South Africa. South Africa is a time bomb. I cannot tell you whether that time bomb is going to explode 6 days from now or 6 months from now or 6 years from now. But explode it will. That explosion is going to be heard in a variety of ways all over the globe, in ways I cannot predict, nor can anyone else. Apartheid is going to go. The only question is whether it is going to go after massive violence or before massive violence. There will be meaningful negotiations between the white leadership of South Africa and the real black leadership. The only question is, does it come before massive violence or after massive violence. There is no guarantee the sanctions legislation is going to work, but there is a guarantee that if we simply mouth pious tirades and say "naughty-naughty," that is not going to work. That has been the history.

I remind everyone—and I do not need to remind the Senator from California, who is probably the only living American who was ever sued by Adolf Hitler because he wanted to get the original Mein Kampf printed in the United States—in the United States half a century ago, when Hitler was doing what he did to the Jews, we were saying, "Oh, this isn't right," but we were not putting any economic muscle to it.

Maybe—we cannot rerun history—if we had had some kind of economic sanctions against Germany at that time the German people would have changed; we would not have had the massive bloodshed we had. We cannot rerun that but we can learn from history.

I know there are some who say sanctions is not the answer. I had whites in South Africa tell me that. Incidentally, among the whites overwhelmingly they were opposed to sanctions; among the blacks, the leadership overwhelmingly for it. And to those who say, "Well, the blacks in South Africa are opposed to sanctions." I simply point out you basically have three major labor union groups where they have nonwhite leadership now, one of the signs of progress, and there are some signs of progress in South Africa. But those labor union leaders say we want sanctions.

Shortly before I was there, in the one group which met, 870 unions unanimously supported sanctions because they recognized sanctions are the alternative to violence.

I visited three of the black townships. Township is a kind of a pleasant-sounding name to what is there. We have townships in Illinois. You may have townships in West Virginia. I do not know. Townships in South Africa are racially segregated, restricted areas where people have to live, several hundred thousands of them, blacks living there, with no water, no sewers, miserable schools, and all the rest that you can imagine.

I remember particularly visiting with one man. When I said, "The leaders of your Government tell me that sanctions will hurt blacks," he said, "I am 50 years old. I have three children. I have been suffering for 50 years. If I can suffer a little more and get freedom for my three children, I am eager to do it."

That is frankly the attidude of the majority of blacks who are sensitive to this issue.

Chief Buthelezi, the head of Zulus, was out of the country. I had lunch with his deputy. They are opposed to sanctions. It has to be added that he occupies his position with the approval of the Government, and blacks in key positions who are there at the sufferance of the Government have taken the attitude that sanctions will not work.

There is debate here about the impact of sanctions. There is no debate in South Africa about the impact of sanctions. They feel it. They feel it very, very severely. They feel it in loss of trade. They feel it in interest rates in South Africa. That is a major way they are feeling it.

Some people say sanctions by the United States alone is not the answer, and they are correct. We need to have multilateral sanctions, and here let me say particularly to our friends in Japan, do not try to undercut the United States in its attempt to see that justice comes to South Africa by moving in and getting the trade. That, in the long run, is not going to help Japan, it is not going to help the United States, and it is not going to help South Africa.

We should be having a multilateral approach. We should be leading in the United Nations instead of vetoing the legislation there.

I cannot overstress the fact that this is a time bomb.

Let me give you one example. I visited a hostel. A hostel is a kind of pleasant-sounding word in the United States. It is not that in South Africa. Hostels are where men live who cannot bring their families to the places they work. Eight men live in tiny, little rooms.

I visited with one man who has a wife and five children. He visits his wife and five children once a year. Let me tell you that if somebody hands that man a stick of dynamite and says "Tomorrow we are going to rebel against this system," he is ready.

We have to show him that change can come about peacefully.

One of the discouraging signs is among the whites generally and obviously there are exceptions. When I talk about whites and blacks there are exceptions on both sides. But whites in general have viewed someone like Bishop Tutu as an extremist. Young blacks, the radical, young blacks, view him as an Uncle Tom, as someone who believes you can bring about change peacefully, and they do not believe him.

To the extent that the Government in South Africa resists any change, to that extent, they are inviting the very violence that they say they oppose.

There are signs of hope. One is that in the unions I mentioned there is progress. Another is more and more banks are going to the universities and in the universities clearly the students, white and black, understand the change that is going to have to be part of the future. And if we could wait 40 years that would evolve naturally, but we cannot wait 40 years.

A third sign of progress is on the religious front. The religious communities, the leadership, clearly are on the right side.

Archbishop Hurley, the Roman Catholic, Bishop Tutu I mentioned, Reverend Bosack who is with the Reform Church, the Council of Churches.

I had a marvelous visit with Professor Heyns. Professor Heyns is the former moderator of the Dutch Reform Church which is the big church in South Africa. He and some others have issued a document saying "Our previous scriptural defense of apartheid is wrong" and spelling out why it is wrong.

There are signs of progress. But in the Government there, there is a rigidity. There are those in Government who will whisper to you "We have to change." But they have not come forward. We need a Sadat frankly in South Africa.

I had some fine visits with leaders of Government, had a 1-hour meeting scheduled with Pik Botha, the Foreign Minister, which turned out to be 1 hour and 45-minute visit, a very good, frank exchange.

There are leaders in South Africa who if the right circumstances were there could move forward, but I think we have to create those circumstances here. We have to send a signal to the business community that change has to come.

Now there are business leaders who are moving in the right direction, including the two principal business leaders in South Africa.

But there is a temerity also and they are frightened by the Government. You have to remember this Government has more political prisoners perhaps than any government on the face of the Earth, certainly one of the top three. It just can take people arbitrarily and put them in prison. So there is some concern.

I am a little older than the Presiding Officer here, and I go back to the days of the civils rights struggle here. I was involved in that. I could remember when the Birmingham Chamber of Commerce adopted a resolution saying, "Let's do away with segregation in the South." It was like a church bell tolling at midnight. We knew the change was going to come.

That signal from the business community has to be there is South Africa.

There is a willingness on the part of the business community to go along. There is at this point not the leadership that there has to be, and that has to come.

We have to remember that blacks in South Africa cannot vote. There is no trial by jury. There is not a single black judge in all of South Africa.

I visited one trial where 18 members of the United Democratic Front were up for advocating change. There they were before the white judge—18 blacks. There was clearly not a felling on their part that they can get justice.

There is this feeling of hopelessness and despair on the part of the blacks, a feeling of fear on the part of whites, and an awesomely small amount of communication, real communication between the two.

We have to lead. There is no other government on the face of the Earth that has the power to lead that this Nation has. We are one-fifth of the world's economy. We have to use that power responsibly, and we do it not with a pious "we have solved all our problems," because we have not. You know that and I know that.

But we have also made great progress in this country. I do not mind saying I am proud to be an American, proud of the fact that we can now go no matter what your background, no matter what your race, you can go anywhere in the country, eat in a restaurant, stay in a motel, go to school.

That is great progress in my lifetime.

South Africa can make progress, too. South Africa has the potential to be the industrial center of all Africa, but South Africa has to get rid of this cancer of apartheid they have and we have to send the message. I hope in the next session of this Congress we do that.

I point out this system of apartheid requires repression on the part of the people there. While I was in South Africa, Newsweek magazine came out, and the Presiding Officer can see that and I do not know if anyone else can, but in every issue of Newsweek they had Nelson Mandela's picture. There someone in the Government took a long time to cut off Nelson Mandela's picture out of every Newsweek magazine.

That system has to change and to the South Africans who say, "Well, blacks cannot govern themselves," go right next door to Botswana, where there is a free system, greatest economic growth of any developing country on the face of the Earth, multiple-party system, complete freedom of the press and everything else.

South Africa can have the same. Whites, blacks, coloreds and Asians the divisions they have there, can work together to develop that country into a great country.

Mr. KENNEDY. Mr. President, I believe that it is time to call a halt to "business as usual" with South Africa. It is time for Americans to stop sending profits to aparthied, and it is time for American corporations to stop paying taxes to Pretoria. That is why I support S. 2756, and that is why I will work for its passage during the 101st Congress.

This year, this legislation was passed by the House of Representatives and approved, with minor modifications, by the Senate Foreign Relations Committee. Before the House took action on this legislation, we in the Senate worked long and hard to build the same kind of bipartisan coalition on South Africa that had been so successful in 1986. We were unsuccessful in that effort, and I fear that the politics of 1988 intruded. Whatever the reason, our counterparts on the other side of the aisle were unwilling to engage in the kind of dialog necessary to resurrect the partnership that had been so successful 2 years ago, and this legislation regrettably came to the floor of the Senate on the basis of party-line votes.

I believe that an effective American policy against aparthied can only be sustained if it has strong bipartisan support. For this reason, I plan to work closely with Senators on the other side of the aisle and with the new President to draft new legislation that will follow-up on and strengthen the landmark legislation of 1986.

Four years ago, I had lunch with Bishop Desmond Tutu and Reverend Allen Boesak in my office. The purpose of that meeting was to discuss the situation inside South Africa. They were concerned because the United States was in the midst of a Presidential campaign, but no one seemed concerned about United States policy toward South Africa. Bishop Tutu and Reverend Boesak told me about the brutality of the violence that was going on inside South Africa at that time, and they were unhappy about the fact that the Government of South Africa had been so successful in its efforts to persuade world opinion—including the Reagan administration—that aparthied was a thing of the past and that fundamental reform was underway inside South Africa. They were particularly concerned about the silence from America in the face of such violence against black people in South Africa. They told me that America's policy of "constructive engagement" was viewed as proapartheid by most South Africans and had prompted profound anti-Americanism among the majority of the people inside South Africa. It was four years ago that they invited me to come to South Africa to see for myself.

During that trip, I saw first-hand the suffering caused by apartheid, and I felt firsthand the anger and disappointment with America.

Since that lunch 4 years ago and since my trip to South Africa in January 1985, 2,500 people have been killed, 30,000 more have been detained, and countless thousands have been tortured and beaten in South African jails—many of them children. Today no one can deny the truth. Apartheid is alive and well in South Africa, and millions of people still live in bondage.

But, beginning in 1985, the American people rose up to demand a change in our policy toward South Africa. The Congress took action, first in 1985 then again in 1986, to make it absolutely clear where the American people stood on the issue of apartheid. And one of the reasons that Congress passed the sanctions legislation in 1986 was to reject "constructive engagement," to show all the people of South Africa that the American people were on the side of freedom in that country, and that we would no longer be passive or silent or complicitous in Pretoria's policy of apartheid.

But since we passed that legislation, this administration's policies have continued without interruption. Despite that legislation's demand that the American Government work with other countries to develop a cooperative and coordinated policy against apartheid, this administration has—on at least two occasions since 1986—vetoed antiapartheid resolutions in the Security Council. Despite that legislation's demand that the American Government recommend new sanctions if there has been no progress in dismantling apartheid inside South Africa, this administration continues its steadfast opposition to new sanctions. In fact, "constructive engagement" is alive and well in the halls of the White House and in the back rooms of the State Department.

Now it is time to send another message. Now it is time for the Congress to take action again. Now it is time for America to terminate its ties to apartheid.

With this legislation, we will say once again that America still cares. With this legislation, we will act once again to show that we are willing to lead. With this legislation, we will try once again to overcome.

There are those who say that sanctions do not work and will not work. I say that they have never been tried.

There are those who say that sanctions will hurt those who we are trying to help. I say that the South African people are willing to sacrifice because the suffering of apartheid is far worse than any suffering that will be caused by these sanctions.

There are those who say that the road to freedom in South Africa is through economic growth, and that "black empowerment" cannot be achieved by restricting black economic opportunity. I say that "black empowerment" has not been achieved despite 40 years of economic growth and will never be accomplished so long as the political chains of apartheid remain intact.

There are those who say that sanctions will only make matters worse inside South Africa, that there is a white backlash in that country which will only strengthen apartheid's hold on that land. I say that the backlash began long before America adopted sanctions, and that today America should respond to the pleas of the black majority, not to the appeals of would-be reformers. Apartheid must be eradicated, not reformed.

To the architects of apartheid in Pretoria, this legislation will say:

"America is still here. The American people still care. So long as you pursue the policy of apartheid, we will be your adversary—in every forum, in every country, on every continent of our common planet."

To those white and black South Africans who still work to end apartheid, this legislation will say:

"We are with you now as we have been with you in the past, as we will be with you in the future. Working together, we will one day prevail over racism and injustice in South Africa."

To our friends and allies throughout the world, this legislation will send a message:

"Join us in the struggle. You too have a stake in freedom for the people of South Africa. You too are involved. You too can make a difference. But we must work together if we are to succeed."

With this legislation, the Senate will end America's complicity with apartheid. With this legislation, the Senate will establish America's place in history as a real and proven champion of human freedom—not only in Europe, Asia and Latin America but in Africa as well. With this legislation, the Senate will inspire millions of freedom-loving people throughout the globe to carry on the struggle.

I pledge to do what I can to make certain that this legislation gets early consideration on the floor when the 101st Congress returns to Washington, DC, in January.

Mr. WEICKER. Mr. President, I rise today to express regret that time will not allow action on the Anti-Apartheid Act Amendments of 1988, S. 2756.

How little it costs us to speak out against apartheid. How great a price paid by the people of South Africa. Inconvenience on our part; imprisonment and death on theirs.

Two years ago, the United States ended long years of silent complicity which had masqueraded under a colossal misnomer: "constructive engagement." As we suspected all along, there was nothing constructive about it. Two years ago, we imposed sanctions on South Africa and, to a modest extent, our allies followed suit. We did so with the full understanding that those sanctions amounted to no more than a first step in dismantling apartheid. They were a foundation on which to build.

The time has long since come to add new brick and mortar to that foundation. A GAO study commissioned by Senator KENNEDY and myself found that South Africa has lost more than $400 million in trade with the United States because of sanctions. However, along with five of our major allies, we still accounted for 81 percent of South Africa's imports and 78 percent of its exports in 1987. And, while there are only half as many United States companies in South Africa today as in 1984, the value of United States direct investment has risen owing to reinvestment of earnings.

In August, the House of Representatives took the necessary next step by voting to put new restrictions on loans to and investment in South Africa and to widen our trade ban to include crude oil, other petroleum products, and most other commodities. In September similar legislation which I cosponsored was introduced in the Senate, but election-year politics, being what they are, killed it for this year.

Meanwhile, apartheid is alive and uglier than ever, if not as visible to the American people, owing to press censorship which worsens with each passing week. If there is one point on which supporters and opponents of sanctions agree, it is that the situation in South Africa is deteriorating. The two largest antiapartheid newspapers, the New Nation and South, have been shut down. Others have been threatened with like treatment. Some 30,000 individuals have been detained without charge. As many as 10,000 are children. These detentions routinely involve physical abuse and torture.

Almost all antiapartheid organizations, including the United Democratic Front, have been outlawed. Men in boots carrying banners with swastika-like emblems can freely march in the name of racism and repression, while peaceseekers in clerical robes are thrown in jail for speaking of liberty.

People of conscience, here in the United States as elsewhere, have an obligation to act, and to act now. Yes, it is an election year but that should be reason for speaking out even louder and demanding that candidates do the same.

In September the Senate took note of the fact that November 9 will mark the 50th anniversary of Kristallnacht, the Night of the Broken Glass. Acting on orders that stemmed from Hitler and his henchmen, storm troopers and other Nazi sympathizers staged spontaneous demonstrations against Jews all across Germany—bashing in the windows of homes, businesses, and synagogues, setting fire to them, and shooting men, women, and children as they tried to escape the flames. Thirty thousand men were rounded up and sent to Dachau, Buchenwald, and Sachsenhausen.

Many Senators spoke out against the atrocities committed that night in 1938. Would that as many were as vocal about the atrocities committed daily in South Africa, 1988.

It makes some people nervous, others indignant, when you mention Nazi Germany and South Africa in the same breath. But the parallels are there in fact, not merely in rhetoric. In South Africa as in Nazi Germany, the law is used to subjugate an entire category of human beings. After walking the streets of Soweto, Holocaust survivor Elie Wiesel wrote:

> Without comparing apartheid to Nazism and its "final solution"—for that defies all comparison—one cannot but assign the two systems, in their supposed legality, to the same camp.

We have a duty to denounce—and disassociate ourselves from—the dehumanizing practice of apartheid. All of us—Congress, the President, American business, and the American people. We must stop doing business with apartheid and, at the same time, do whatever we can to strengthen the frontline nations of southern Africa. They, too, have suffered because of Pretoria's policies.

Nelson Mandela must be freed. So must the many thousands whose names we do not know. Freedom of speech and of the press must be restored. And the race laws must go in favor, as the Freedom Charter of 1955 put it, of a "South Africa that belongs to all who live in it, black and white."

If we do not work toward these ends, then 5, 10, or 50 years from now, our children will look back on our generation as we look back on the era of the 1930's and ask: "How could you be silent? How could you stand by and do nothing?" The children of South Africa are asking these questions today.

"The struggle is my life," Nelson Mandela once wrote. We must put our political freedom to work, such that this struggle becomes the centerpiece of our South Africa policy. I am here to put my colleagues on notice that this struggle will continue in the Senate next year.

Mr. DODD. Mr. President, I rise to ally myself with the insightful comments of my friend and colleague from California.

I wholeheartedly agree with Senator CRANSTON that the critically important issue of working to end the racist apartheid regime in South Africa has been tragically lost in the politically motivated maneuverings of the Presidential season. As far as I understand, there are enough votes in this body—if we were to cast them today—to move S. 2756, the Anti-Apartheid Amendments of 1988, forward to final passage. As you well know, Mr. President, this legislation was reported favorably by the Senate Foreign Relations Committee on September 23 and was overwhelmingly passed by the House on August 11.

While my colleagues on the other side of the aisle dawdle about—decrying such precipitous action by the Senate, the situation in South Africa continues to deteriorate with the nationwide state of emergency still in brute forces, the media virtually blacked out and the courageous foes of apartheid in South Africa suffering under an unprecedented ban on their activity.

Mr. President, this legislation has been with us for over 16 months. In

June, the Foreign Relations Committee held 3 days of public hearings on United States policy options toward South Africa and the committee met for 2 days in early September to consider S. 2756. I join my friend from California in regretting—deeply regretting—that our colleagues on the other side of the aisle persist with a policy of "do nothing" and fail to stand up and be counted when it comes to taking a public stand against the horror of apartheid.

As the leading proponent of democracy in the world, the United States can no longer effectively condone apartheid by passively condemning it. We must take a lead in actively and aggressively ending apartheid—before it it too late. It saddens me that my colleagues on the other side of the aisle are preventing our Nation from sending a signal of action and resolve toward the Government in South Africa while sending a signal of hope and support to our bretheren struggling for their freedom.

Finally, Mr. President, I join Senator CRANSTON in his conviction to bring this legislation up again in the earliest days of the next Congress. Perhaps then, our Republican colleagues will join their Democratic colleagues and commend to the struggling men and women in South Africa not only words of solidarity, but acts of conviction that, at long last, will make our words unassailable.

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 1 HOUR

Mr. BYRD. Mr. President, while conferences are going on, I think it would be well for the Senate to recess. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 3:59 p.m., recessed until 4:59; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PRYOR).

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

ATTENTION ATTRACTED TO THE NEED FOR NUCLEAR MATERIALS

Mr. McCLURE. Mr. President, the headlines of the Sunday, October 9, New York Times sounds a warning, "Reactor Shutdown Could Impede Nuclear Deterrent". Suddenly the Nation and the media have become interested. Tuesday, October 11, every major newspaper and television news show made a front page story of what was, for far too long, an issue buried, if reported at all, in small type or with one camera shot.

The attention is appropriate. The Nation's defense complex, which produces the materials for our nuclear deterrent, is in deep trouble. The Sunday, New York Times article, by Keith Schneider, reports that

> If the two-month suspension at the Nation's only manufacturer of vital material for nuclear warheads continues for several months, the United States might be forced to start deactivating nuclear warheads to recover radioactive elements for use in higher priority weapons, according to senior Administrative officials.

This warning was given almost exactly a year ago, at a hearing before the Senate Energy and Natural Resources Committee. At that time, I had grave concerns about the safety problems found at the Savannah River reactors during the National Academy of Sciences review. I feared the threat to our nuclear deterrent if the reactors could not operate because of these problems. Dr. Robert Barker, Assistant to the Secretary of Defense for Atomic Energy, repeated to the New York Times, the ominous words he spoke at our hearing,

> To have these reactors not operational is tantamount to unilateral nuclear disarmament.

Mr. President, this warning is one that I and a few others—in Congress and at the Department of Energy and the Department of Defense—have been giving for almost a decade. Until recently, I've wondered, like that haunting phrase from the Broadway play, 1776, "Is anybody there? Does anybody care?"

However, during the past few months, the number of people who do care have been joining the chorus and slowly the critical state of the plants that provide the Nation's sole source of tritium and plutonium has begun to receive the attention it should have had years ago.

At last.

But it took so much to get that attention. It took three aging reactors being shut down for an extensive period of time for safety reasons. It took operating errors and obvious evidence that, in spite of 30-some years of operating, too little was known about these reactors. It took the discovery that there had been 30 significant incidents at the reactors over the years, and more than 500 forced outages. It took DOE safety experts reporting that a "*Challenger* type of attitude prevailed at these reactors."

Mr. President, it has taken too much to get this attention. Tuesday, October 11, Secretary Herrington reported that none of the production reactors will be restarted this year because of unresolved safety issues. Deputy Secretary, Joe Salgado has said the delay in restart will not have an effect on the Nation's nuclear deterrent. Barker, in the New York Times article makes it clear that there reactors must be restored to safe operation soon. "If we don't, there will be very serious consequences for our ability to maintain our nuclear deterrent."

These serious consequences—facing a possible shortage of tritium in the next decade—require us to look at options. Last year at our hearing, the Senate Energy Committee explored these options with DOE and DOD. None are attractive. They include the possible use of civilian reactors to produce tritium, which will require much research to determine how and if this can be done; a crash effort to convert two reactors, the FFTF and the N reactor, at the Hanford reservation—one of which is too small and would be terribly expensive and the other would take 4 years and have a very limited operating life—and buying tritium from our allies.

It is very, very possible that, in spite of DOE's stated commitment not to operate an unsafe reactor, a shortage of tritium may demand the President of the United States order the Department to do just that.

DOE has developed a plan that the agency hopes will prevent this from happening, now and in the future. To correct the problems at the Savannah River Plant so that these reactors can be operated the next 10 years, a series of upgraded standards and proscriptive procedures with milestones and reviews at appropriate times will be established. These must be met before any of the reactors will be restarted. There will also be a formal training process for workers, increased management, and oversight at all levels.

This plan does not meet with unanimous support. The October 12, Washington Post quotes Richard E. Heckert, chairman of R.I. du Pont de Nemours & Co., contractor at Savannah River, as insisting—

> Things are fine down there if the Government will let us go on with our business. These facilities are quite adequate to serve the country's needs quite safely. * * * The impression that the Nation is in trouble at Savannah River * * * is nonsense.

The Washington Post article reports that Salgado responded. "This putting our heads in the sand has got to stop."

At last.

This Nation has had its head in the sand, has refused to face the facts about the reactors safety, their operating life, and our impending need for tritium. Mercifully, it did not take a serious accident at one of these reactors to get the Nation's attention I believe that in noting the problems at the Savannah River Plant, we must also note that it was DOE's own safety group that discovered the problems and the attitudes at the plant. It was DOE that acted, finally, to prevent any *Challenger*-type accident. I only hope that the present flurry of attention will be sufficient to keep all of our heads out of the sand, our noses pressed up to reality.

I find reason to hope in DOE's recent actions and statements. There appears to be a commitment within the Department, not only to safe operation of these plants, but to seriously prepare for the future with the construction of two reactors to replace the three aging ones now operating; two reactors, concurrently constructed, at two sites using two technologies.

Mr. President, I urge my colleagues to support the two-reactor strategy proposed by DOE. There are concerns that we can not afford two. Events have proven that we can't afford not to build two. To do otherwise could well force a future President to have to make a choice we find abhorrent—a choice between safety and production. Our national security demands that we give the two-reactor plan our support, our attention now.

Mr. President, I ask unanimous consent that the October 9, 1988, New York Times article "Reactor Shutdown Could Impede Nuclear Deterrent, Officials Say," and the October 12, 1988, Washington Post article, "Weapons Reactors to Remain Closed Over Safety Concerns," be included in full in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Oct. 12, 1988]

Weapons Reactors to Remain Closed Over Safety Concerns—New Savannah River Procedures Planned

(By Cass Peterson)

The Energy Department announced yesterday that because of unresolved safety issues its three weapons-production nuclear reactors in South Carolina will remain shut down until new operating procedures have been introduced.

The delay is the latest setback to DOE's struggle to maintain production of bomb materials in its aging weapons complex in Aiken, which has been under intense scrutiny since the Soviets' 1986 nuclear disaster at Chernobyl. Since then, the department has been forced to close one major production reactor and temporarily suspend operations in dozens of other reactors and processing plants because of allegations about lax safety practices and management deficiencies.

In recent months there has been renewed concern over the safety of the Savannah River Plant's three reactors, which produce all the tritium and plutonium in the U.S. nuclear arsenal. Congressional investigators disclosed that more than 30 potentially serious accidents had occurred there since the early 1950s. The disclosure came weeks after Savannah River operators, restarting the "P reactor" after a long shutdown, tried to force power levels up despite erratic behavior in the reactor core.

The three reactors at Savannah—P, K and L—have been out of operation for months for routine maintenance and safety modifications. The P reactor was restarted in August but was ordered shut down again days later, after DOE safety officials learned that it had experienced unexplained difficulties during startup.

The department had hoped to restart by late this month at least one reactor. But at a news conference yesterday, Undersecretary Joseph F. Salgado said that none of the massive plants will resume operations before late this year.

"We have a moral obligation to rectify past sins," Salgado said.

Meanwhile, E.I. du Pont de Nemours & Co. Chairman Richard E. Heckert angrily defended his company's record as operator of the Savannah River Plant and said that the reactors are safe to operate now.

"Things are fine down there if the government will let us go on with our business," Heckert said yesterday in a meeting with Washington Post editors and reporters. "These facilities are quite adequate to serve the country's needs quite safely."

Du Pont, which has operated Savannah River under government contract for 38 years, announced last year that it was dropping the contract, in part out of concern about potential liability for accidents. The Westinghouse Co. will take over Savannah River in April.

Two weeks ago, congressional investigators released a 1985 memorandum disclosing that more than 30 potentially serious incidents had occurred at Savannah River since the early 1950s. The memo, which included a description of a partial meltdown of some fuel rods, was prepared by Du Point officials.

Heckert denied that there was any effort to withhold information about the incidents from DOE officials, and said he believed his company was caught in "a political crossfire" between the Energy Department and its critics in Congress.

"These facilities are aging," he said, "but they have been modernized and they can be operated safely. The impression that the nation is in trouble at Savannah River . . . is nonsense."

In a telephone interview, Salgado disagreed. "This putting our head in the sand has got to stop," he said. "We're burning out our opportunities to prove we can operate these facilities safely . . . I don't find any political motivation to it. I really don't."

Salgado said the delay in restarting Savannah River's reactors will have no effect on the nation's nuclear deterrent. Of the reactor's output, tritium is the most critical because it decays rapidly and must be replenished in the existing nuclear stockpile.

Of most concern to DOE officials is Du Pont's handling of the August restart of the P reactor, which along with the K reactor produces tritium. Operators continued to increase reactor power levels even though they were having difficulty sustaining a nuclear reaction. Engineers later determined that they had miscalculated the amount of decay products in the core, which were suppressing the reaction.

A few days later, the reactor experienced an unexplained "power spike"—or abrupt increase in temperture and pressure—during a second restart attempt. Du Pont, under pressure form DOE officials, later ordered the reactor shut down again.

DOE's new schedule does not envision restarting the P reactor again until next summer. Instead, it intends to restart in December the K reactor, which has been shut down for safety upgrades, including seismic bracing that has not been completed.

Salgado said the seismic work was expected to be done by December, and the reactor would not be restarted unless it was.

[From the New York Times, Oct. 9, 1988]

Reactor Shutdown Could Impede Nuclear Deterrent, Officials Say

(By Keith Schneider with Michael R. Gordon)

Washington, Oct. 8—Nuclear reactors at the Savannah River Plant, which have been shut down since August for safety reasons, may be out of service so long that the United States will be unable to maintain all its nuclear weapons in a state of operational readiness, Administration officials said today.

If the two-month suspension at the nation's only manufacturer of a vital material for nuclear warheads continues for several months, the United States might be forced to start deactivating nuclear warheads to recover radioactive elements for use in higher priority weapons, according to senior Administration officials.

PRIMARY CONCERN IS TRITIUM

"It is very important that we restore the reactors to safe operation soon," said Robert B. Barker, the top Pentagon official for atomic energy matters. "If we don't, there will be very serious consequences for our ability to maintain our nuclear deterrent."

The primary concern, say Administration officials, is the production of tritium, a radioactive gas that boosts the explosive power of nuclear weapons and has enabled weapons designers to shrink the size of warheads.

But tritium, like slowly melting ice, decays at the rate of 5.5 percent annually. At some point—exactly when is secret—enough tritium decays to render the weapon inoperative.

Thus, the Government maintains a program to replace tritium in warheads. The Savannah River Plant is the only plant in the nation that manufactures tritium.

The Government maintains a reserve of the gas. But three officials, who declined to be identified, said that if the reactors at the Savannah River Plant are not activated soon, the reserve of tritium would soon be exhausted by next summer.

It is not currently known how long the three reactors at the Savannah River Plant will be out of service. Troy E. Wade, Acting Assistant Secretary of Energy for Defense Programs, said he would like to restart one of the reactors within 30 days to 45 days, but those plans are under "intensive review." He declined to comment on plans for restarting two other reactors, which are needed to meet the military's requirement for tritium.

Other officials said political pressure and a new Energy Department emphasis on safety could delay the restart of the reactors for a much longer period.

The White House has said that safety would take precedence over production in any decision to restart the reactors. In addition, the transfer in the management of the plant is scheduled for April 1, and that could bring additional delay, according to Energy Department officials. E.I. du Pont de Nemours & Company, which has operated the plant for the Government since 1952, is turning over control of the plant to the Westinghouse Electric Corporation.

Government officials and critics differ over whether the shortage of tritium represents an immediate threat to national security. Senior Pentagon officials said the United States needs all the weapons in its arsenal to meet military contingencies.

Mr. Barker, Assistant to the Secretary of Defense for Atomic Energy, added, "To have these reactors not operational is tantamount to unilateral nuclear disarmament."

But other arms control experts say the United States does not need all the weapons in the stockpile. They assert, for example, that the United States has developed a neutron bomb, a tritium-rich weapon that has never been deployed and can be dismantled so that its tritium can be recovered for use in other weapons.

But solving the immediate need for tritium does not ease the long-term problem of making sure there is a reliable supply of the radioactive material. Producing adequate amounts of tritium in the old and brittle reactors at the Savannah River Plant will remain a severe problem until after the turn of the century, when the Government hopes to complete new tritium production reactors at the Savannah River Plant and at the Idaho National Engineering Laboratory near Idaho Falls, according to Energy Department officials.

"In the current spotlight, it is going to be difficult to keep the old Savannah River reactors going for a decade, even if we don't run into any life-limiting problems," Mr. Wade said, referring to possible technical problems that could permanently close the reactors. "That worries the hell out of me, but we don't know how to beat it."

U.S. CONSIDERING OPTIONS

In the face of the possible shortage of tritium in the next decade, the Energy Department is considering a number of options:

Researching the use of civilian reactors to produce tritium for military ends, a step that would require repeal of the Congressional prohibition on the use of civilian reactors for such purposes.

A crash effort to convert two reactors at the Government's Hanford Reservation in Washington State to produce tritium. One reactor, the Energy Department's Fast Flux Test Facility, is used to develop fuel for liquid metal reactors. But Mr. Wade said that modifying the reactor to make tritium "would be terribly expensive" and would not be "something that we can turn on tomorrow and have tritium come out the next day." Moreover, it would only produce a relatively small supply of tritium.

Another possibility would be to modify and restart the N-Reactor at the Hanford Reservation, which is closed for safety reasons. But Mr. Wade said there are no plans to do this soon. Even if the decision to start the N reactor was made today, it would take at least four years before the reactor could be operated and supply tritium, engineers who manage the plant say.

Buying tritium from such American allies as Canada, Britain or France. But this approach is not regarded by officials as an attractive option for either the immediate future or the long term. They say that allies have not yet been contacted. "If I was chairman of the Joint Chiefs, I do not think that I would feel terribly comfortable about relying on Canada for an assured supply," Mr. Wade said.

Taking advantage of the emerging treaty to reduce long-range nuclear arms. But this approach would not be of any immediate help, because such a treaty is far from complete, and would also be subject to a thorough review by the Senate. One Administration official estimated that under the treaty's proposed provisions, 3,000 to 4,000 American weapons would be eliminated over seven years. This official estimated that the total amount of tritium recovered from these weapons might only provide the United States with the equivalent of a two- to three-year supply.

Whatever the possible long-range solution to the tritium shortage, Congressional leaders say the United States is facing a dilemma over the shutdown at the Savannah River Plant. "It's not overstating that we've gotten to a situation where the President has to make a decision," said Senator John Glenn, a Democrat of Ohio who has been investigating conditions at Energy Department weapon plants since 1984. "Do we operate a perfect plant or do we accept a little less than perfect plant that is probably safe to produce tritium. That's a pretty hard decision."

On Thursday, in a statement concerning the complex near Aiken, S.C., Marlin Fitzwater, President Reagan's spokesman, said the Administration policy is that "safety is the first consideration when it comes to operating these plants. Production is the second priority."

Since August, the three reactors at the plant have been shut down because of concerns about the safety of equipment, the adequacy of operating procedures, and the qualifications of technicians and supervisors. The suspension is the longest period the nation has gone without being able to operate its weapon production reactors since 1944.

Within the Energy Department, a conflict has been brewing for months about when to restart the reactors. Mr. Wade, who manages the agency's weapon programs, hopes at least one of the reactors at the Savannah River Plant can be restarted before the end of the year.

But the Department's chief safety officer, Richard W. Starostecki, said that virtually every aspect of the operation, management, and maintenance needs to be overhauled and upgraded before he will be satisfied that running the reactors can be done safely. The restructuring of the operations of the reactors could take "one month. Four months. Six months. Longer. I don't know," he said.

The Savannah River Plant is one of the 17 facilities and laboratories in 12 states that make up the core of the wholly-owned Government industry to develop and manufacture nuclear weapons. Two of the five reactors built at the plant in the early 1950's have been permanently shut down. One of those, the C reactor, was retired in 1985 after cracks were discovered in the reactor vessel.

Three reactors, the P, K and L reactors, have been temporarily shut down. If the Energy Department plans to restore all three reactors to half power are carried out, the three reactors would meet 100 percent of the stated goal for tritium production, officials say.

The size of the United States nuclear stockpile is classified. But according to an estimate by the authors of the Nuclear Weapons Databook, a comprehensive reference work describing the design and manufacture of weapons, the United States has 22,000 warheads in its arsenal of deployed and stored weapons that use about 100 kilograms of tritium—or an average of slightly more than 4 grams per warhead. It also has older warheads that do not contain tritium.

But it is known that tritium degrades at a rate of 5.5 percent a year, which means the United States would be forced to retire about 1,200 warheads a year if supplies of the material were exhausted. Government officials declined to say how many warheads the United States would deactivate. But one Government expert said that the estimate was roughly accurate.

But whether the Savannah River production can be restored soon is unclear. "As of Saturday, the 8th of October, the intent is still to restart the P reactor within 30 to 45 days," said Mr. Wade, who manages the Energy Department's weapons production programs.

Energy Department officials concede that important technical difficulties and political problems must be overcome before the reactors are restarted and tritium production resumes in South Carolina.

Since last August, when operating errors at the P reactor led to a power surge and other potentially dangerous incidents, the Energy Department has made public memorandums and reports that severely criticize the capabilities of reactor operators and their superiors at the plant and in the department.

Mr. Starostecki, the Deputy Assistant Secretary for Safety, Health and Quality Assurance, has prepared a sweeping plan to reorganize the operations at the reactors. The plan calls for retraining operators, supervisors, technicians and maintenance employees.

Yet even if Mr. Starostecki's retraining program is completed within months, the Energy Department faces another key technical hurdle.

In 1986, Du Pont inspectors found unexplained marks and other abnormalities on vessels of two of the three reactors. Du Pont believes the marks are harmless surface corrosion rather than more serious indications of cracking. The Energy Department agreed. "There is no indication of cracks in the reactor vessels," said C. Anson Franklin, the department's chief spokesman. "There is no indication of safety concerns related to cracks."

But these marks are similar to those found on the C reactor before the marks were confirmed to be stress cracks that forced the Energy Department to shut down the reactor, according to the General Accounting Office, the investigative arm of Congress.

Because the marks appear to be similar, the G.A.O. has called on the Energy Department to test the vessels to determine if there are cracks before the reactors are started.

But the Energy Department said it wants to proceed with restarting the reactors before completing the tests, which require sophisticated equipment that the Energy Department still needs to develop. The Department says the machinery will not be available until June 1989 or later.

Because of a lack of options, Administration officials said, the United States would be forced to use its arsenal as a source of tritium if confronted with a shortage next year. The tritium would be removed from some weapons, effectively disabling them and put into higher priority weapons.

Pentagon officials say that retiring weapons from the American arsenal would an extremely worrisome development. They assert that the nuclear stockpile needs to be maintained at its current size to meet all possible military contingencies.

But some critics say that the Pentagon can take tritium from some weapons without endangering national security.

IN THE NAME OF GOD, GO

Mr. McCLURE. Mr. President, many of us have been watching and waiting with bated breath the end of this session of the Congress. We were told early in the year that the end of September would be our target date for adjournment. That was revised some months later to say the first week in October. It was revised sometime later to be the second week in October. And without revision or announcement we keep on meeting.

I guess there is only one real way to make comment and that is to refer to an utterance made by Oliver Cromwell in 1653, as accurate then as it is today, or perhaps I should say as accurate today as it was in 1653, to end the 20-year-long Parliament.

He said these words:

> You have sat too long here for any good you have been doing. Depart, I say, and let us have done with you. In the name of God, go.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

DUKAKIS ON DEFENSE

Mr. GORE. Mr. President, the American people will soon make a choice which will affect them and the rest of the world in a very profound way. Ideally, they should make this choice on the basis of clear judgment, knowing the candidates as they really are and their policies as they really are. I believe that such a choice will be made but that it will come in spite of the campaign of Vice President GEORGE BUSH and its tactics which aim to create a caricature of Mike Dukakis based on character assassination, ridicule, and grotesque distortions of fact. Just in the last 24 hours, for example, the Bush campaign has begun a new television advertisement which includes all of those features—ridicule, character assassination, and grotesque distortions of fact.

I would like to address one of those distortions now—namely, the Bush campaign's repeated assertion, most recently in this television advertisement, that Mike Dukakis is opposed to "virtually every new defense system."

I would like to tell you, Mr. President, and this body something about the facts. I fought Mike Dukakis for the Democratic nomination. I know that he and I differ on some things about defense, but I know what Mike Dukakis' approach to defense is down to the last syllable, and this Bush charge would be a joke if it were not a hoax.

Mike Dukakis knows full well the Nation's security is the first responsibility of a President. But unlike GEORGE BUSH, Mike Dukakis also knows that we cannot buy the Pentagon's entire wish list. He knows that we have already thrown $13 billion at SDI and received virtually nothing from it except paper. He knows that if GEORGE BUSH is elected, the next installment will be $65 billion and that this will buy us nothing but an obligation to spend literally hundreds of billions of dollars more. He does not want to buy into such a bad deal.

Mike Dukakis knows that after spending a trillion dollars on defense, this administration still believes that the Soviet Union and its allies could steamroll NATO unless we and our allies decide to use nuclear weapons within a matter of days. He also knows that if GEORGE BUSH is elected President, these weaknesses will get worse, not better, because GEORGE BUSH will hollow out our conventional defenses in order to pay for SDI. He does not want to buy into that deal either.

We already have critical shortages in our conventional weaponry, in our supplies of ammunition, and the idea that we can spend a virtually unlimited amount of money on what is called star wars and not continue the neglect of conventional forces is an idea that is simply not realistic.

So let me tell you what I know Mike Dukakis supports. He supports the Trident II. He supports nuclear modernization. He supports the B-2 stealth bomber and the advance cruise missile. Now, how in the world can the campaign on the other side put out such a grossly misleading statement as the one contained in the television advertisement which Americans saw last evening and which they are seeing now, when the record is so clear about the systems that Mike Dukakis supports very strongly.

Second, Mike Dukakis will strengthen our conventional defenses. He supports the M-1 tank, the AH-64 Apache helicopter. He supports more spare parts and advanced conventional munitions. These measures, Mr. President, are critical if we are going to set the stage for the reductions in strategic nuclear weapons that we hope can be negotiated in a START agreement.

The Dukakis team will fight to develop and deploy new effective light antitank weapons because he knows that America's light antitank weapons at the present time cannot stop modern Soviet tanks.

Next, Mike Dukakis will protect America's lead in tactical aircraft like the F-15, the F-14, and the F/A-18. He supports the advanced tactical fighter, America's next generation fighter plane, and the C-1 military transport. Again, how do you square those facts with the grossly misleading charge of the Bush campaign?

Fifth, Mike Dukakis supports a strong and balanced Navy. He will go forward with the new SSN-21 Seawolf attack submarine and the DDG-51 *Arleigh Burke*-class destroyer and direct the Navy to build more minesweepers, support ships, and fast sealift ships.

Sixth, Mike Dukakis will insist that American forces be at a high level of readiness. He will not skimp on the maintenance of tanks, airplanes, and warships. And again, Mr. President, how do you square those facts with the grossly misleading charge of the Bush campaign?

Mr. President, the Reagan-Bush administration came to office with a strong mandate from the public to strengthen our defenses. Republicans and Democrats alike in this Chamber know full well that that mandate has been shattered. The public, with justification, thinks that this administration let the Defense Department go on a spending binge, wasting billions and billions of dollars, from which it will take us many, many years to recover.

GEORGE BUSH was there, applauding and cheerleading when it happened. Unlike other prominent members of this administration who waited until they were fired to tell the truth to the American people, GEORGE BUSH is trying hard not to return to private life. He cannot dare tell us the truth about our circumstances and about the difficult choices that lie directly ahead. Instead, he can only try to mislead the public about the nominee of the Democratic Party, Mike Dukakis.

The fact is that we have had a stalemate that has been created by this administration. If we are going to move forward with the strengthening of our conventional defenses and our strategic forces in order to negotiate a START agreement from a position of strength, we will have to rebuild the public mandate and we will have to recognize that in a democracy, consensus is itself a strategic asset. That consensus, whether it is on modernization of our nuclear forces or on strengthening our conventional forces, has been destroyed by the Reagan-Bush administration.

Mike Dukakis knows how to work with Congress. He has balanced 10 budgets in a row, and he understands that America's strength in the world will depend on our ability to build a strong economy, to reduce the budget deficit, and to deal with the most massive procurement scandal in the Pentagon in the history of this Republic. This administration has done it. Mike Dukakis will do it.

The choice, I believe, is clear; and I think it is most unfortunate that we would see from the other side the kind of misleading and distorted message that we are seeing now from the Bush campaign.

THE SERVICE OF SENATOR BOB BYRD AS MAJORITY LEADER

Mr. DOMENICI. Mr President, an historic moment will occur soon in the U.S. Senate. The majority leader, our friend, Senator Bob Byrd, will step aside, passing the mantle of leadership to someone else.

We are familiar with Senator Byrd's record of achievement. Yet I think it bears repeating because it is so extraordinary.

Elected to the West Virginia House of Delegates in 1946, elected to the State senate 4 years later, elected to the U.S. House of Representatives in 1952, elected to the U.S. Senate 6 years later.

Since that time, Senator Byrd has risen steadily through hard work and dedicated service. He became Secretary of the Democratic Conference in 1967, then moved up to become majority whip in January 1971. When our dear friend, Senator Mansfield retired, Senator Byrd was elected majority leader in 1977, serving in that post during both the 95th and 96th Congresses.

During the 6 years of Republican leadership of the Senate, Bob Byrd was an effective minority leader. Actually, he was too effective from my point of view.

I don't need to tell you of the great respect each of us has for Senator Byrd. He has left an imprint that will linger long into the next century, when he might well be serving the people of West Virginia in the U.S. Senate.

As a member of the Committee on Appropriations, I wish to express to him my very best wishes, and, should the election next month turn out badly, I also want to say: "Welcome, Mr. Chairman."

LEADERSHIP OF SENATOR DOLE

Mr. DOMENICI. Mr. President, I wish to express a few words of thanks for the untiring and effective leadership of Senator Bob Dole during the 100th Congress.

There is no harder job in America than the one he has held during this Congress. He has the responsibility of leadership, while serving in the minority. He has had to serve us, his colleagues, while helping to make certain that the Senate runs well.

As always, he has achieved that with grace and effectiveness.

The accomplishments of this Congress—the Economic Summit last year, passage of the appropriations bills without the need of a continuing resolution, the drug bill, and so many, many more—have been in large measure due to his effectiveness.

We all know that this was a year of disappointment for Bob Dole. Yet he never allowed that to interfere with his service to his colleagues and, more importantly, his service to the American people.

Mr. President, I look forward to a 101st Congress under the leadership of Bob Dole, a Congress when he will once again demonstrate that he is one of the great Senators of this century.

SENATOR LAWTON CHILES

Mr. KENNEDY. Mr. President, it is an honor to pay tribute to our friend from Florida, Senator Lawton Chiles, whose retirement at the end of this session marks the end of 18 years of outstanding public service to the Senate and the Nation.

The campaign style that first brought Lawton Chiles to the Senate in 1970 has served him well in the years since then. I have often felt that Lawton Chiles was one Senator who would always walk the extra mile to fully understand an issue and fairly resolve a controversy. But there must have been times during his tenure on the Senate Budget Committee when he felt that logging all those miles across Florida was much easier than logging all those hours on the budget.

As chairman of the Budget Committee at a time of record budget deficits, Senator Chiles has perhaps the most thankless task in the Senate. Yet he performed it with uncommon wisdom and ability—not to mention the modesty and grace that so impressed and charmed us all and that unfailingly shed the light of reason on even the darkest and angriest days of our debates.

Setting Federal spending priorities is never an easy job, particularly in these times of fiscal crisis. But no one could have been more caring for the people that we serve—or more conscious of the constraints imposed by the need for a responsible budget than Senator Lawton Chiles.

Under Reaganomics, the Federal budget has a great fall. All the President's horses and all the President's men couldn't put it back together again. But Senator Lawton Chiles could—and did.

Another of his important and lasting contributions has come in recent years, during his service as Chairman of the National Commission to Prevent Infant Mortality. In the years ahead, literally millions of children now unborn will be in Lawton Chiles' debt for pioneering effective ways to reduce the shamefully high rates of infant mortality that exist in too many areas of the country.

I also want to express my appreciation to Senator Chiles for his distinguished work on the Appropriations Subcommittee on Labor, Health and Human Services. Year after year, he has consistently given his expert attention and compassionate understanding to the essential and complex programs in his jurisdiction. Because of his leadership, the Senate was able to meet the spending limits imposed by the budget summit agreement, while maintaining, to a degree many of us thought impossible, the Nation's commitment to helping those who need our help the most.

With skill and understanding, he fought successfully for increased funds for health and education, for child immunization, for AIDS research, and for many other priorities that the administration was reluctant to acknowledge but that America had to meet.

Above all, Senator Chiles was our field marshal and point man in the great Social Security shootouts of recent years. In large part because of his leadership, elderly Americans kept their retirement benefits—and Senate Democrats won their majority back.

In battles like these, Senator Chiles has always been in the forefront of the struggle, dealing effectively with issues central to the future of our Nation. Through thick and thin, he has held the standard high. The Senate is a better institution because of Lawton Chiles, and America is a better country. It has been a privilege and an honor to serve with him and to have him as a friend.

RETIREMENT OF SENATOR BOB STAFFORD

Mr. DOMENICI. Mr. President, Senator Robert Stafford is, by choice, leaving us this year. During my initial 14 years in the Senate, I had the great honor to serve with Bob Stafford on the Committee on Environment and Public Works. During 6 of those years, Bob Stafford was my chairman on that committee.

Over that span—and the time since then—I have found Senator Stafford about as fine a Senator has we have had in this body. He is fair, he is generous, and he is always helpful.

We are familiar with his record: attorney general of Vermont, Governor, Member of the House, and Member of the Senate—a record of more than three decades of public service. "Public service." An important phrase, and, as the Washington Post noted last year, Senator Stafford has never "lost sight of what that term means."

When some Members of the Senate let environmental concerns slide, Bob Stafford has made certain that we confronted those hard issues, and worked to protect the environment.

When some wanted to cut education programs, Bob Stafford made sure that did not happen.

Historians who look back on America in the latter years of this century will see the importance of Bob Stafford, particularly in his unfailing efforts on behalf of environmental improvement and educational excellence.

I salute you, Bob Stafford. We thank you and wish you well.

SENATOR ROBERT STAFFORD

Mr. KENNEDY. Mr. President, I want to take this opportunity to pay tribute to our distinguished Republican colleague who is retiring at the end of this Congress, Senator Robert Stafford of Vermont.

Senator Stafford has had a long and distinguished career in public service. He was Vermont's attorney general until being elected Governor in 1958. He was first elected to Congress in 1960 and served in the House of Representatives until 1971, when he was appointed to the Senate.

In this Chamber, he has been a highly respected member of both the Labor Committee and the Public Works Committee. As the chairman of the Public Works Committee from 1981 through 1986, he was Mr. Environment, compiling a brilliant record of leadership on environmental concerns, including toxic waste cleanup, expansion of the Superfund, clean water, and the removal of asbestos in public schools.

My closest association with Senator Stafford has been on the Labor Committee. We have served together for 17 productive years, and he has always been an effective, dedicated member of the committee. He has left a lasting imprint on many of the bills that the committee has approved in critical areas such as health care, education, assistance to the elderly, civil rights, and support for the needy in our society.

Senator Stafford has been an exceptionally strong supporter of Federal aid to education. He had made a difference—often, all the difference—on student aid, education of the handicapped, and vocational education. In particular, he deserves great credit over the past 8 years for rising above partisanship, rejecting unfair budget cuts, and working diligently to meet the Nation's true priorities in education and on many other issues.

Without Senator Stafford's patient guidance, ability, and determination, some of our most important Federal programs for the needy would have been drastically cut back or completely eliminated. The sound measures we have today and the bipartisan support they enjoy are a tribute to Robert Stafford's leadership. Again and again, he has been a profile in courage on these issues, and I commend him for his achievements.

Earlier this year, Congress voted to name the Guaranteed Student Loan Program after Senator Stafford, in recognition of the many essential contributions he has made on these challenges over the past two decades.

When I think of Bob Stafford, I think of wise leadership, sound judgment, and remarkable integrity. He is a tremendous resource for Vermont and the Nation, and he will be greatly missed in the Senate as a leader, friend, and colleague. Few Senators, I suspect, have ever enjoyed as much respect and affection on both sides of the aisle as Bob Stafford. He has earned a long and happy retirement, and I wish him well in the years ahead.

RETIREMENT OF SENATOR DAN EVANS

Mr. DOMENICI. Mr. President, when Senator Dan Evans leaves the Senate, 99 of us will lose a valued colleague. I will also lose a good neighbor.

Dan Evans is something quite unusual in this body. He is a trained engineer, the closest thing we have in the Senate, aside from our good friend from Ohio [Mr. Glenn], to a scientist.

Not long ago, I examined the background of the Members of this body. What I found was that 66 of us, including this Senator, were trained in the law.

Personally, I am convinced that we need a far greater understanding of science in this age of accelerating scientific revolution. And for that reason, as well as so many personal reasons, I regret greatly that Dan Evans will be leaving us.

I think most of us are familiar with his great record of accomplishment:

Governor of Washington from 1965 until 1977, the only person to serve in that post for three terms; keynote speaker at the Republican National Convention in 1968; president of Evergreen State College from the time he left the governorship until he was appointed to fill the seat of the late Senator Henry Jackson in September 1983.

It has been a great personal honor for me to serve with Dan Evans on the Energy Committee, to witness how well and how effectively he serves the people of Washington and the United States.

Senator Evans, we will miss you greatly.

RETIREMENT OF SENATOR PROXMIRE

Mr. DOMENICI. Mr. President, the Senate is about to lose a legend, Senator Bill Proxmire.

He has served in this body since 1957—more than 30 years—and during that span, he has developed a position among us that can only be termed unique.

We all are familiar with his unbelievable record of having not missed a single rollcall vote since April 1966, more than 10,000 votes in a row. And, I am told, that he missed that 1966 vote only because he was misinformed by the leadership one evening that no more votes would be held.

Anyone who has served here, or worked around this building, knows that such a record is simply not possible, not possible except for Bill Proxmire.

But there are lots of things about Senator Proxmire that are impossible. In his past two reelection campaigns, he spent a total of $322.83, about 1 day's worth of bumper stickers in many Senate races.

What I would like to do is to mention his leadership in one area, an area that I believe has been important to America.

When I came to the Senate, what we sometimes term the pork barrel was overflowing. There was little rationale to many of the projects that became "the law of the land." A rare dissenter was Bill Proxmire.

When I was running for reelection the first time in 1978, Bill Proxmire stood on this floor to prevent the passage of a major water projects bill, one stuffed with projects selected on such an ad hoc basis.

It was that act of courage that helped to create the atmosphere that led 8 years later to enactment of an entirely new water projects law, a change that nearly everyone agrees today was necessary and important.

Mr. President, a lot of people in this city may be pleased that Bill Proxmire is leaving the Senate. But not this Senator. I shall miss him, and I salute him for his courage and leadership.

RETIREMENT OF SENATOR JOHN STENNIS

Mr. DOMENICI. Mr. President, I really don't quite know where to start in expressing a few words of affection for John Stennis.

We all know that no Member of this body is held in higher regard than John Stennis. Maybe no Member ever has been. And each of us can recite examples of his decency, his honesty, his dedication.

Senator Stennis entered the Senate when I entered high school. He has the second longest span of service to this body of any Member in our history. In fact, John Stennis has been a Senator for 20 percent of the history of our Republic.

But what is so special about John Stennis is summed up in a comment of his that I came across a while back:

"I never wake up in the morning and say, 'I wish I didn't have to go to work this morning.' I'm ready to get up, ready to see what's going to happen."

It is that sense of optimism, that excitement with the world that is so very special about the gentleman from Missisippi.

How many of us, after lying in a hospital bed for 3 months recovering from a gunshot wound would have carried on as he had carried on? How many of us, with the other medical problems JOHN STENNIS has faced, would still have carried his optimism?

He is a very special man, who came to serve when America needed a special man.

His magnificent record is known to all: President pro tempore, chairman of the Appropriations Committee, chairman for a dozen years of the Armed Services Committee, author of the Senate's first code of ethics.

I haven't always agreed with JOHN STENNIS. For example, we have squabbled in the past over policies affecting water projects, and issues like the Tennessee-Tombigbee Waterway. But not once, no matter what the issue, did JOHN STENNIS fail to act with the very highest degree of integrity—and, given his successes in winning on his issues, his great effectiveness.

Mr. President, many people who are not Members of this body may tire of hearing us say that the retirement of JOHN STENNIS marks the passage of an era. But if they knew the man as we do, they would realize that it is absolutely true.

Senator STENNIS, we may miss you, but we will never forget you.

RETIREMENT OF SENATOR PAUL TRIBLE

Mr. DOMENICI. Mr. President, I wish to say a few words to express my great regrets over the retirement of my good friend, Senator PAUL TRIBLE.

It has been a great honor to work with PAUL TRIBLE throughout his 6 years in this body. I respect him greatly as a spokesman for the people of Virginia and as a leader for America.

Senator TRIBLE's service on the select committee investigating the Iranian arms sale demonstrated his outstanding grasp of key issues. We all are in his debt for his work on that committee, as well as his service on his three standing committees: Foreign Relations, Commerce, and Governmental Affairs.

I know that his decision to leave the Senate was both a difficult one and an easy one. It was difficult because he had such a bright future in this body.

But it was also an easy decision because of his great love for his wife, Rosemary, and his children, Mary Katherine and Paul III.

I am delighted that Senator TRIBLE has announced that he plans to reenter public life by running for the governorship of Virginia. We need men like PAUL TRIBLE, and certainly the people of Virginia need men like PAUL TRIBLE.

I will miss PAUL TRIBLE in the Senate. I will miss him as a friend and as a leader.

SENATOR PAUL TRIBLE

Mr. KENNEDY. Mr. President, I want to take this opportunity to pay tribute to my colleague from across the aisle, Senator PAUL TRIBLE of Virginia, who is retiring from the Senate at the end of the 100th Congress.

Senator TRIBLE has accomplished a great deal at a young age in his career so far in public life, having served as assistant U.S. attorney and Commonwealth's Attorney in Virginia, three terms in the House of Representatives, and the past 6 years in the U.S. Senate.

As a member of the Iran-Contra Committee, Senator TRIBLE was an effective leader in the effort to uncover the truth behind that reckless and illegal scheme. He won distinction for his work in defending the prerogatives of the Congress and the rule of law, and I commend him for his efforts.

Although we have not always agreed on questions before the Senate, I have come to respect Senator TRIBLE's ability on the issues, his commitment to public service, his dedication to the people of Virginia, and his dedication to his family.

It is never easy for any of us in public service to balance our time-consuming official responsibilities with the private needs of our families. I sympathize with Senator TRIBLE's concern to spend more time with his wife and young children, and I hope that as reforms in the operation of the Senate are developed for the next session, we will do a better job of accommodating Senate business with these quality-of-life concerns.

The Senate, the Commonwealth of Virginia and the Republican Party will miss PAUL TRIBLE's dedication and talent, and I wish him well in the years ahead.

TRIBUTE TO SENATOR PROXMIRE

Mr. BOREN. Mr. President, I rise to join many of my colleagues in giving tribute to the senior Senator from Wisconsin, WILLIAM PROXMIRE. As everyone in this Chamber knows, Senator PROXMIRE is retiring at the close of the 100th Congress after over 31 years of service to the people of his State.

I did not have the honor of serving under Senator PROXMIRE during his leadership of the Banking Committee or with him on the Appropriations and Joint Economic Committees. However, he and I have worked together on a wide range of issues, the most recent of which has been reforming our corrupt campaign finance system. I am happy to say BILL PROXMIRE was one of the first cosponsors of my reform legislation in the 100th Congress. He and I are two of only three Senators who do not take PAC money. His record of spending only the money needed for returning unsolicited campaign contributions during his reelection races is a model for all of us in the Senate. I certainly hope the days of the hundred dollar Senate campaign do not end with the retirement of BILL PROXMIRE, but I am afraid they could well be over.

How can someone in these times, with multimedia million dollar campaigns, win race after race without spending more than a few hundred dollars? Well, Senator PROXMIRE won five Senate races because he went out to talk with his constituents, listened to their concerns, and represented them very, very well here in this body. I'm told he was even out at the Wisconsin State Fair this past summer, in the near-100 degree weather, shaking hands and talking to his fellow Wiconsinites. This from a man who wasn't running for reelection. It is representative of his deep commitment to democracy and public service.

His dedication to clean government is well known. Time after time Mr. PROXMIRE fought waste in Government spending and Federal procurement. There isn't a Federal agency that has not felt the effect of his Golden Fleece Award. His strong-willed and deep-seated belief in a responsive government has lead him to bump heads with regulators and even with some of his colleagues here in the Senate. But when he has won fights, and he has won more than a fair share in the Senate, they have been well deserved victories.

BILL PROXMIRE has fought in committee and on this floor for what he felt was right, but he has not prevented the Senate from working its will. If he disagreed with legislation, he made his case to the rest of his colleagues and voted his conscience.

Morning after morning he has spoken to this body on a whole host of issues. A retiring Senator 90 years ago said that "the Senate is a school. The world's history is its textbook. No man well made up can be there long, if he will but listen, without himself becoming wiser and better." All of us here have learned much and become all the wiser from listening to the Senator from Wisconsin.

His near perfect voting record, his reelection campaigns, his persistence all show the work of a real public servant who has served his State and his country very well. I am sorry to see him go.

SENATOR LAWTON CHILES

Mr. BOREN. Mr. President, when the 101st Congress meets next January, the absence of Senator LAWTON CHILES will be felt by all who have had the honor to work with him during his long and energetic career. Of his three decades of public service, 18 years have been dedicated to serving the people of Florida in the U.S. Senate. Before coming to this office in 1971, he served in the Florida State Legislature. In his 1970 campaign for the Senate, he was up against three experienced statewide political leaders. But through his legendary march across Florida and other grass roots campaign methods, Senator CHILES won that election and has been popular in his State ever since. I first met LAWTON CHILES when I was making my first statewide race for Governor of Oklahoma. He was kind enough to share with me parts of the diaries which he kept while walking across Florida. From them I learned a lot about his sincere concern of people in all walks of life and his commitment to help them solve problems which they were confronting. He has always listened to his constituents with respect and understanding. From that time in 1974 when I just came to know Senator CHILES, his friendship has greatly enriched my life.

His accomplishments are numerous and reflect his intelligence, capabilities, and experience. His hard work and persistence have been felt both in his home State as well as throughout the Nation in many public policy areas, particularly in health care, education, and environmental protection. Perhaps his wisdom and insight have been appreciated through his chairmanship of the Senate Budget Committee. Senator CHILES has served with distinction in one of the Senate's most difficult and demanding jobs for the past 6 years. His diligence in striving for sound economics and his dedication to fiscal responsibility are to be commended. His personal integrity and moral courage to take difficult positions on tough issues are well known to all of us.

Members of the Senate as well as citizens of Florida will miss his leadership and talent in the U.S. Senate. I wish Senator CHILES and his wife, Rhea, a safe return to Florida. He is truly an example for all to follow.

TRIBUTE TO SENATOR ROBERT T. STAFFORD

Mr. BOREN. Mr. President, when this 100th Congress adjourns, Senator ROBERT T. STAFFORD will retire from the Senate. I will miss him and his leadership very much.

Senator STAFFORD started representing Vermont in Washington 27 years ago in the House of Representatives. After 10 years of service in that body, he was appointed Senator by the Governor of Vermont upon the death of Senator Prouty in 1971. Nearly two decades of hard work and true sense of public service have made Senator STAFFORD a respected Member of the Senate. I will remember him for his dedication to progress in the fields of environment and education: he served as chairman of the Environment and Public Works Committee for 6 years, and he was chairman of the Education Subcommittee of the Labor and Human Resources Committee. Holding those two positions, Senator STAFFORD often found ways to help the less fortunate in our world; whether they were handicapped children, youth who could not afford a decent education, or endangered species of our wildlife. On these issues, Senator STAFFORD frequently crossed the line of demarcation which exists between the two sides of this Chamber, and worked in a bipartisan manner with a patience and efficiency rarely matched by any Member of the Senate.

Senator BOB STAFFORD's 27 years in Congress have left their mark, and in my mind I will always think of him as not belonging to any political camp in particular, but rather to the group of gentlemen who put the well-being of their Nation above all other priorities. His efforts exemplify the fact that subtle perseverance often overcomes heated expressions of emotions in times of difficulty. I wish Senator STAFFORD and his wife, Helen, the best of luck as they leave for the peace and quiet of beautiful Vermont, and extend my gratitude and admiration for his work over the years.

TRIBUTE TO SENATOR DANIEL J. EVANS

Mr. BOREN. Mr. President, I wish to compliment Senator EVANS on his performance as a Member of this body these past few years. He will be missed next year when it convenes for the 101st Congress. Senator EVANS has served both his State and country well: He defended America in wartime, he was a representative in Washington's State Legislature, he was president of Evergreen State College, he was Governor of Washington for 12 years, coming to the Senate in 1983, when he was elected to succeed the late Senator Henry Jackson. I first knew him when I became a freshman Governor in 1975. He was the leader of the National Governors Conference and conducted a school for new governors which was immediately helpful to all of us. He was known as the "governors' governor." The title was a mark of respect for his ability and above all for his bipartisan statesmanship and absolute personal integrity. He brought those same qualities with him to the Senate.

In the few years that Senator EVANS has been here, he has accomplished much—the citizens of Washington are fortunate to have been represented by this outstanding man. He has admirably and successfully defended the interests of his State throughout the years on energy policies, trade, and the environment. He has been an ardent supporter of promoting pay equity for women and minorities. In addition, Senator EVANS has brought into Congress what might be called a strong work ethic, striving to remedy the inefficiencies of the Senate as an institution.

I do not believe that this is the last the State of Washington or this Nation will see of DAN EVANS. I wish him well in his future endeavors.

TRIBUTE TO SENATOR JOHN C. STENNIS

Mr. PRYOR. Mr. President, when the 100th Congress adjourns we will bid adieu to one of the most distinguished individuals to have served in this body. JOHN STENNIS, the second-longest serving Senator in the history of our country, will end his tenure of 41 years and 2 months.

It will be hard for a number of us to imagine a Senate without JOHN STENNIS. His steadiness and unfailing character and integrity will be sorely missed.

Probably the last of the "old school," JOHN STENNIS has taught this Senator much about the legislative process. His personal resolve amidst medical problems, the loss of a limb, and of his beloved wife are a credit to JOHN STENNIS' strength.

I hope that when the annals of history record any legacy that I might leave following tenure in the Senate, I will have even a fraction of the legislative accomplishments that JOHN STENNIS has accumulated.

The old adage is that "good things often come in small packages." JOHN STENNIS is such a powerful package.

I wish him good health in his retirement. The people of Mississippi have been superbly represented by his unselfish years of service.

TRIBUTE TO SENATOR DANIEL J. EVANS

Mr. CONRAD. Mr. President, I rise today to pay tribute to Senator DAN EVANS on the occasion of his retirement from the Senate.

I have had the privilege of serving with DAN on the Energy and Natural Resources Committee since I came to the Senate 2 years ago. DAN's thoughtful, deliberative approach to the issues confronting the committee has been an example to me; and I will always be impressed with his knowledge of details and dedication to protecting our resources and environment for our children and grandchildren.

In April of this year, my wife, Lucy, and I had the pleasure of traveling to the Soviet Union with a group including DAN and his wife, Nancy. The trip provided a unique opportunity to get to know them both better, and share a remarkable experience with them. Lucy and I will long remember the Winter Palace, the Kremlin, the food, and the churches. As a member of the Foreign Relations Committee, DAN was keenly aware of Soviet human rights policies, and aptly demonstrated this knowledge in our meetings with Soviet dissidents and Jewish refuseniks.

DAN has been a strong advocate of women's rights since his days in the Washington Legislature and 12 years as Governor of that fine State. In the Senate, he has been a vocal, effective spokesman for equal opportunity for women and minorities.

Among the many equal opportunity measures that he has supported, DAN worked tirelessly for the Pay Equity Act. I was pleased to cosponsor this measure, which mandated a study of the Federal job classification system to determine whether current wage disparities are caused by discrimination against women and minorities. I share DAN's belief in the need for this type of study as a step toward identifying the extent of employment discrimination against women and minorities. In this area, the Federal Government should set an example and demonstrate its commitment to providing equal employment opportunity. I regret that this measure was not approved by this body, but we should strive to continue our colleague's work in the 101st Congress.

DAN's persistent efforts to eliminate discrimination against women have been an inspiration to many. His voice in this area will be greatly missed.

It is hard to believe that DAN has been in the Senate for only 5 years. His accomplishments, and his rational, farsighted approach to legislating are marks of a long and distinguished career in public service. I will miss DAN in the Energy Committee and on the floor, but wish him the best of luck and success in his future endeavors.

TRIBUTE TO SENATOR PAUL TRIBLE

Mr. CONRAD. Mr. President, I rise today to express my appreciation to Senator PAUL TRIBLE for his friendship and distinguished service in the Senate.

First elected to Congress in 1976, PAUL served three terms in the House and 6 years in the Senate. As we are about the same age, it is sobering for me—as a recently elected Senator—to see him leave this body for new and greater challenges. I am glad that we had the chance to serve together for 2 years, and got the chance to know each other.

In April of this year, my wife, Lucy, and I traveled to the Soviet Union with a group that included PAUL and his wife, Rosemary. This was a fascinating and most informative trip, and we had many memorable experiences. As a member of the Senate Foreign Relations Committee, PAUL had interesting observations on the changes taking place in the Soviet Union. He has thought a great deal about the problems of that country, and about relations between our two nations.

Besides his assignment to the prestigious Foreign Relations Committee, PAUL has served on the Government Affairs Committee and the Commerce Committee. Through the Government Affairs Committee, he could take an active role on issues of vital importance to Federal Government workers, clearly a major constituency in his State of Virginia. On the Commerce Committee, in the 99th Congress, he led the successful push for legislation transferring National and Dulles airports to a regional authority, which will undertake an ambitious program of improvements at both airports. Virginia's economy should benefit greatly from the development fostered by these airport expansions—and passengers should find the service and accessibility of these airports markedly improved.

I will miss PAUL as he retires from the Senate. In announcing his plans more than a year ago, PAUL said: "I want to be better able to shape my day, set the agenda, and do more for my family and for Virginia." As this Congress heads toward adjournment, that's a message we all can readily appreciate. I know PAUL will welcome the chance to spend more time with his family, and fully expect he will remain active in Virginia politics and public life.

TRIBUTE TO SENATOR ROBERT STAFFORD

Mr. CONRAD. Mr. President, I rise to express my appreciation to Senator ROBERT STAFFORD for his leadership and wisdom during his 28 years in the U.S. Congress, and for his leadership and counsel during my first 2 years in the U.S. Senate.

Senator STAFFORD will be remembered by his colleagues as an articulate and effective spokesman on issues affecting the environment. He knows, better than anyone else perhaps, that we are stewards of our environment for future generations, not pirates of our resources for expedient gains. He knows that reasonable steps to protect our environment now will preempt drastic and costly measures to save our resources later.

As chairman of the Committee on Environment and Public Works for 6 years, Senator STAFFORD prevented attempts to weaken the Clean Air Act, while he pressed hard for legislation to reduce acid rain. He championed an expanded version of the Superfund legislation, and as ranking minority member of the Environment Committee during the last 2 years, he has played a major role in attempts to strengthen the Clean Air Act.

Senator STAFFORD's accomplishments are not limited to environmental issues, however. As a member of the Labor and Human Resources Committee, he has been a quiet but strong voice of reason and compassion for America's working men and women. His commitment to education is second to none. He has continually fought proposed cuts in education, and it is befitting that the Elementary and Secondary School Improvement Amendments of 1988 and the Guaranteed Student Loan Program now bear his name.

I will remember Senator STAFFORD as a wise, thoughtful and courteous Member of this body, who combined reasonable approaches to problems with a determined desire to solve them. In an era when political rhetoric often exceeds substantive accomplishments, it is noteworthy that Senator STAFFORD's self-effacing manner masks his remarkable achievements. As the Washington Post stated in an editorial dated December 4, 1987, he is a Senator who is "substantive, unassuming, patient and effective."

Senator STAFFORD has represented the State of Vermont well, and he has served the Nation admirably. He has gained the respect of his colleagues, and he has earned the gratitude of his country. He is, in the words of a popular expression, "a class act." We will miss his presence in the U.S. Senate, but we are fortunate to have had him among us.

I wish him good luck and Godspeed.

H.R. 4432

Mr. INOUYE. Mr. President, I wish to offer my support for H.R. 4432, a bill to direct the U.S. Bureau of the Census to obtain detailed tabulations of nine Asian American and Pacific Islander ethnic groups in the 1990 decennial census.

I am very concerned about the Census Bureau's plans to collect data on Asian/Pacific Islander residents as one single racial category, with a write-in section for specific ethnic populations. This proposal is a serious departure from the 1980 census in which nine ethnic groups were listed under the Asian/Pacific Islander category. At that time, these racial groups comprised at least 95 percent of the national Asian/Pacific Islander population. Respondents in these subgroups marked the appropriate category in the race question; the Census Bureau electronically tabulated their responses on a 100-percent basis.

Between 1970 and 1980, the Asian/Pacific Islander community increased by 141 percent, from 1.5 million to 3.7 million. This population is anticipated to grow another 88 percent to almost 7 million by 1990.

The Census Bureau maintains that the write-in method will yield more accurate information. However, it is my belief that the Bureau's approach will complicate efforts to analyze data regarding Asian/Pacific Islander populations.

Although only 6 percent of the total U.S. population in 1980 was foreign, 59 percent of the Asian/Pacific Islander population was born in a foreign country. Many new immigrants lack formal education and, thus, the ability to correctly follow directions. For example, sample questionnaires were distributed which directed respondents to write in their ethnic groups, "Chinese, Japanese, Filipino, * * *, et cetera". When immigrants did not locate their appropriate race in the list of examples, they described themselves as et cetera." Others only marked the general Asian/Pacific Islander category, without providing a more specific written response.

The accuracy of the census, or the inaccuracy thereof, will significantly influence the Nation's understanding of the socioeconomic needs and problems of the nearly 7 million Asians and Pacific Islanders. The write-in format lends itself to a significant undercounting of ethnic groups. Consequently, State and private organizations will lack the information necessary to address emerging issues, obtain funding, and provide appropriate assistance. A diverse and rapidly changing population cannot be lumped into one category; fourth generation Japanese-Americans are distinctly different from recent Laotian immigrants, although both are deemed Asian/Pacific Islanders.

I therefore lend my full support to this bill and urge my colleagues to give it their serious and timely consideration.

Mr. SIMON. Mr. President, I wish to join with my colleagues, Senator INOUYE and Senator MATSUNAGA in support of a bill which will require the Bureau of the Census to provide a detailed tabulation of the Asian and Pacific Islander populations in the 1990 census.

The Census Bureau has proposed to change its 1990 census format from the checkoff system used in the 1980 census, which included a list of nine separate Asian and Pacific ethnic subgroups, to a system which would require the census respondents to write in their ethnic subgroups on a blank.

The proposed change ignores the fact that Asian- and Pacific-American populations are composed of multiethnic communities with vast differences in social, economic, and educational standings. I am very concerned that the write-in system, which can be very confusing to people whose English language ability is limited, will result in a gross undercount of Asian ethnic groups. Consequently, the change will hamper our ability to collect necessary data to formulate intelligent policy decisions, and to provide needed social services for Americans of Asian ancestry.

In my home State, Illinois, the Asian American population numbers over 250,000 and ranks fourth in the Nation. The ethnic groups range from the older Chinese and Japanese communities to the new arrivals from Vietnam, Laos, and Cambodia. It is a population so rich and diverse that we would be doing these people a great disservice to lump them into one homogeneous group.

On the national scene, I have had many Asian organizations such as the National Democratic Council of Asian and Pacific Americans, the Japanese American Citizens League, and the Organization of Chinese Americans, expressing strong concerns over the proposed change.

The bill I am supporting today is a companion bill to legislation I cosponsored with Senator MATSUNAGA. It will require the Census Bureau to collect data on Asian-Americans in the same manner that was used in 1980. Asian-Americans are one of the fastest growing minority groups in America. An accurate census count will ensure that they will receive their proper share of representation and services.

I urge my colleagues to support this important legislation.

TRIBUTE TO HENRY M. HERLONG, SR.

Mr. THURMOND. Mr. President, last week, Edgefield, SC, lost a devoted public servant and a fine man with the death of Henry M. Herlong, Sr. Mr. Herlong, a lifetime resident of Edgefield County, brought distinction to the county and to the State in his various positions in public service.

After graduating from Clemson College in 1931, Mr. Herlong returned to Edgefield County to serve as superintendent of schools. During his tenure, he was responsible for the operation of about 50 schools across the county. Although constrained by a limited budget, Mr. Herlong led the school system in both a creative and distinctive manner. At one time, he went door to door asking citizens to approve a tax increase to finance the construction of a gymnasium, which today remains in use at Strom Thurmond High School in Edgefield.

At the outbreak of the Second World War in 1941, Mr. Herlong enlisted in the armed services. Mr. Herlong was a proud member of the military, retiring with the rank of lieutenant colonel. Mr. Herlong returned to Edgefield County once again after completing his military service.

The list of Mr. Herlong's various public offices and community activities is long and distinguished. Upon his return to Edgefield after World War II, Mr. Herlong ran successfully and subsequently served as county treasurer for one term. Mr. Herlong was a member of the Edgefield County Council from 1972 to 1978. During his time on the council, the county was awarded the J. Mitch Graham Award for the most outstanding public service in the State of South Carolina. Mr. Herlong's efforts greatly facilitated the achievement of this award.

In addition to these many duties, Mr. Herlong also served as president of the Edgefield Industrial Development Corp. and as a leader in the Edgefield County Farm Bureau, State Forestry Board, the American Legion, the Clemson University Board of Visitors, and the Edgefield Senior Citizens Council, which he helped to organize.

As a church leader, Mr. Herlong also served in a dedicated fashion. He was a member of Harmony United Methodist Church, where he performed the duties of Sunday school teacher, member of the official board and church treasurer. The many ways in which Mr. Herlong contributed to the Edgefield community are truly remarkable.

On a personal note, Mr. Herlong was a man of utmost integrity and honesty. Whether as superintendent of schools, county council member or county treasurer, Mr. Herlong's primary role was as a teacher of the strong values of family and community. Mr. Herlong's gifts to the Edgefield community were many, and his memory will live on into the future in Edgefield County.

My wife Nancy joins me in extending our deepest sympathies to Mrs. Josie Blocker Herlong, the lovely wife of Mr. Herlong, and to his able son, Judge Henry M. Herlong, Jr.; his devoted daughter, Mrs. Mary Jo Herlong Spiers; his sister, Mrs. Mary Whitaker of Lake Junaluska, NC; and his brothers Robert H., Frank W. and D.C. Herlong, all of Johnston, SC.

Mr. President, I ask unanimous consent that the following articles concerning Mr. Herlong be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Edgefield (SC) Citizen News, Oct. 6, 1988]

LT. COL. HENRY M. HERLONG, EX-EDGEFIELD COUNTY OFFICIAL

Retired Army Lt. Col. Henry Michael Herlong Sr., 78, of Columbia Road, Edgefield, died Wednesday, September 28, 1988, at his residence.

Born in Edgefield County, he was a son of the late Henry Hancock and Mrs. Nettie Rankin Herlong. He was a former businessman and farmer and a graduate of Clemson University, where he was a former member of the board of visitors. He served as Edgefield County treasurer and as Edgefield County superintendent of education and was a former member of the Edgefield County Council.

He was a World War II Army veteran, retiring as a lieutenant colonel, and was a former president of the Edgefield Lions Club. He was a Mason and past Master of the Harmony Grange. He was a member of Harmony United Methodist Church and the official board, serving as a Sunday school teacher and church treasurer. He was a member of S.C. Development Board and Longtime President Edgefield Co. Industrial Development Corp.

Surviving are his wife, Mrs. Josie Blocker Herlong; a son, Henry M. Herlong Jr. of Columbia; a daughter, Mrs. William J. (Mary Jo) Spieres Jr. of Cameron; a sister, Mrs. Mary Whitaker of Lake Junaluska, N.C.; and brothers, Robert H., Frank W. and D.C. Herlong, all of Johnston.

Services were held Friday, September 30, at Harmony United Methodist Church with the Rev. Wayne Horne officiating. Burial was in the church cemetery.

Pallbearers were John Herlong, Thomas Herlong, Jan Younginer, Joe Younginer, Joe Ben Herlong and Billy Herlong.

Memorials may be made to Harmony United Methodist Church.

Edgefield Mercantile Funeral Home was in charge.

[From the Edgefield (SC) Citizen News, Oct. 6, 1988]

HENRY M. HERLONG, SR.

Edgefield County lost a solid citizen, a dedicated public servant and a valued friend last week with the death of Henry M. Herlong, Sr. Mr. Herlong was a native of the Harmony Section of the County and a member of one of the oldest and most distinguished families of the county.

After graduating from Clemson University, Mr. Herlong returned to Edgefield County where he served in various public offices and worked in various community organizations for over half a century.

In 1931 he became Superintendent of Schools for Edgefield County where he served during the difficult period of the Great Depression. From this experience he derived a strong sense of the value of education. Throughout his life, Mr. Herlong continued to be a strong supporter of education in the county, whether in his capacity as interested citizen, Sunday School teacher, County Treasurer, County Councilman or as the husband of Josie, who was one of the county's best teachers for many years.

During World War II Mr. Herlong served in the U.S. Army where he distinguished himself by rising to the rank of Lieutenant Colonel. He was one of five sons of Mr. and Mrs. Henry Hancock Herlong to serve in the war, a circumstance which was the subject of broad publicity across the nation.

Mr. Herlong later went back into public service when he was elected County Treasurer. His traits of high integrity and careful conservatism served him well in this post.

However, farming was in his blood and that is what he returned to for the balance of his working life. He raised poultry, cattle and timber. He and his wife Josie developed their beautiful home on Columbia Road in Edgefield where they became noted for their prize-winning roses and their gracious hospitality.

In 1972 Mr. Herlong returned to public service when he was elected to County Council. This was a period of much change in Edgefield County and Mr. Herlong's guidance and advice was invaluable to the County. When he retired from this post in 1978 he was replaced by his son, Henry, Jr.

Henry Herlong was the kind of solid citizen that it takes to make a community. He was intensely practical, very hard-working, firmly committed to what he believed in and deeply devoted to his family and to his community. He will be missed, but his example lives on to guide future generations of our County.

The Citizens News join all of Edgefield County in extending its deepest sympathy to Mrs. Herlong and the rest of the family.

[From the Edgefield (SC) Citizen News, Oct. 6, 1988]

HENRY HERLONG REMEMBERED AS PUBLIC SERVANT, FRIEND

Henry Michael Herlong Sr., a respected community leader who helped set direction in Edgefield County for more than half a decade, died Sept. 28, 1988, at his home.

He was 78.

Mr. Herlong was an active public servant for the county.

"His philosophy was to serve other people," said his wife of 49 years, Mrs. Josie Blocker Herlong. "He loved other people so."

Area residents remember Mr. Herlong for many of his attributes: He was an accomplished farmer, gardner (including vegetables, fruits and especially roses), cook, fisherman, hunter and friend. He also spent much of his time helping his church, Harmony United Methodist Church. But the greatest part of his life was spent in public service to help better Edgefield County.

"He never said no to anybody," Mrs. Herlong said.

He and his wife enjoyed "air streaming" with friends, especially on their trips to Palmetto Cove Trailer Park, a private campground facility located in Cleveland, S.C., that the two went to almost every month for 15 years.

His son, Henry Herlong Jr., said his father taught by example.

"The example I got from him . . . was that he worked hard and was extremely fair to people. He was honest and he liked people. Family was important to him."

He added that he learned a great deal from his father while the two were out on fishing trips.

Mr. Herlong was born in Edgefield County, the son of the late Henry Hancock and Mrs. Nettie Rankin Herlong.

He graduated from Clemson University in 1931 and lettered in football. He came back to Edgefield County to become superintendent of schools. He was tapped to fill the unexpired term of Strom Thurmond, who had been elected to the state Senate. Mr. Herlong later was elected to the post, serving about 4½ years.

During his tenure as superintendent, he headed some 50 schools across the district on a limited budget.

At one time, he, along with others, went around from door to door in the county asking citizens to approve a millage increase to help fund the building of a gymnasium. That gym now stands at Strom Thurmond High School.

After his tenure at the school district helm, he worked for the Internal Revenue Service for five years.

When World War II broke out in 1942, he was called to serve his country. He spent his military time in the Army, from 1942 to 1947. During that time, he served in the Pentagon in the adjutant general's office. He retired a lieutenant colonel. He was one of five brothers who served in the Army during this time.

While in the Army, he came up with the first working model of a withholding tax system that was first put into place in the Army. The IRS later adopted the model to withhold taxes from all taxpayers' pay checks.

After his stint in the Army, he came home to Edgefield County and ran for county treasurer. He won the post and served in that position for one term.

In about 1950, he turned to one of his real loves—farming. He was a self-employed farmer who raised poultry, cattle and some timber. During this time he and his wife built a home on Columbia Road in Edgefield.

He retired from his farming interest in 1970.

From 1972 to 1978, he served on the Edgefield County Council. While on the council, the county won the J. Mitch Graham Award, an award given to Edgefield County because the county was judged to be the most outstanding county in the state in terms of accomplishments and services to the people of county. Mr. Herlong's services greatly contributed to the achievement of this outstanding recognition.

In addition to his other duties, Mr. Herlong has served as longtime president of the Edgefield Industrial Development Corp., and was a leader in the Edgefield County Farm Bureau, Masons, Edgefield Lions Club, Edgefield Senior Citizens Council (which he helped organize), State Forestry Board and the American Legion, Forty and Eight, as well as master of the Harmony Grange and member of the Clemson University Board of Visitors.

At Harmony United Methodist Church, he taught youth and adult classes, served as Sunday School superintendent, church treasurer, chairman of the board of stewards and lay representative to the Methodist Annual Conference.

Surviving are his wife, Mrs. Josie Blocker Herlong, a son, Henry M. Herlong, Sr. of Columbia, who is a U.S. Magistrate in Columbia; a daughter, Mrs. William J. (Mary Jo) Spiers of Cameron; a sister, Mrs. Mary Whitaker of Lake Junaluska, N.C.; and brothers Robert H., Frank W. and D.C. Herlong, all of Johnston.

Mr. Herlong also had four grandchildren: Bill Spiers, 22, pro baseball short-stop with the Milwaukee Brewers; Michael Spiers, 20, a junior at Clemson University; Faris Herlong, a 10th grader at Brooklyn-Cayce High School; and Michael Herlong, an 8th grader at Northside Middle School, West Columbia. He also had two step-grandchildren, Bram Collins and Samuel Collins.

Funeral services were held Friday, Sept. 30, at Harmony United Methodist Church with the Rev. Wayne Horne officiating. Burial was in the church cemetery.

Pall bearers were John Herlong, Thomas Herlong, Jan Younginer, Joe Younginer, Joe Ben Herlong and Billy Herlong.

Memorials may be made to Harmony United Methodist Church.

Edgefield Mercantile Funeral Home was in charge.

A TRIBUTE TO EUGENE O'NEILL

Mr. DODD. Mr. President, I rise today to pay tribute to an adopted son of New London, CT, who rose to international prominence as the only American dramatist ever to have won the Nobel Prize for literature, and who is, with William Shakespeare and George Bernard Shaw, among the most widely translated and produced playwrights in the English language: Eugene O'Neill.

O'Neill, who would have marked his 100th birthday on October 16, is commonly recognized as no less than the greatest playwright this Nation has ever produced. Although misunderstood by many in this country during his life, his stature as an artist has been secure for decades—and is growing still. I ask that we take a moment to join the thousands of people across the Nation, around the world, and in Connecticut, who gather this week to celebrate the 100th anniversary of the birth of this great man—a four-time winner of the Pulitzer Prize.

Eugene O'Neill expanded America's literary horizons with innovations such as the incorporation of ancient mythology in modern drama, as in the play "Mourning Becomes Electra." His "Strange Interludes" made skillful use of soliloquy, and the play "All God's Chillun' Got Wings" broke ground by ignoring the stereotypes of blacks which then prevailed in literature.

O'Neill influences were many. The philosophies of writers and thinkers such as Dostoevsky, Freud, and Nietzsche are displayed in the expressionism of O'Neill works and in the intense studies of the American psyche seen in his characters. Yeats, Synge, and especially Strindberg, were playwrights with profound impact on O'Neill's writing. Perhaps it is not surprising, then, that O'Neill's works were accepted and acclaimed in Ireland and Sweden long before his greatness was recognized here in America.

I take a special pride in the fact that Eugene O'Neill called New London his home. Throughout much of his youth, O'Neill's family followed his actor father from performance to performance in city after city. The only permanent home O'Neill knew was Monte Cristo Cottage, a beautiful Victorian house overlooking New London Harbor and Long Island Sound, where O'Neill spent summers with his family. But despite the beauty of the setting, O'Neill led a troubled life. His mother was secretly addicted to morphine, and this courteous and private man was an alcoholic.

O'Neill's writing career was closely tied to his New London experiences. Among his first published writings were poems that appeared periodically in a New London newspaper. The city, which was nearing the end of its days as a great whaling port when O'Neill was young, served as fertile ground for his imaginings. Ship crews appear as characters in a number of his early plays, which tell tales of hunts for whale oil, obsessed captains, and weary sailors.

Several of O'Neill's most brilliant plays are set in New London. "Ah, Wilderness!" and "A Long Day's Journey Into Night," two of the best-known works in American drama, take place in Monte Cristo Cottage. The stage directions for "A Long Day's Journey Into Night" fit perfectly in Monte Cristo's living room. Literary tours of New London point out the boarding house where O'Neill first began to write, the beach mentioned in "Moon for the Misbegotten," and the lighthouse to which the family in "Ah, Wilderness" takes a drive.

Mr. President, I take great pride in acclaiming O'Neill's brilliant writing and unique vision. I ask unanimous consent that the following articles from the New London Day and the New York Times, which commemorate O'Neill's 100th birthday, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, October 17, 1988]

O'NEILL STATUE UNVEILED IN CONNECTICUT

NEW LONDON, CT., October 16.—This harbor city celebrated the centennial of the birth of Eugene O'Neill today by unveiling a bronze statue of the playwright as a boy at the foot of City Pier, near where he had played.

More than 500 people attended the unveiling, which culminated a year of observances celebrating O'Neill, who spent summers in New London from 1889 to 1915, at Monte Cristo Cottage. Two of his plays, "Ah, Wilderness!" and "Long Day's Journey Into Night," are set in the cottage.

In the statue, O'Neill, who wrote about four dozen plays and won four Pulitzer Prizes and the Nobel Prize in Literature, is shown as a 7-year-old, sketching birds and boats on the shore of the Thames River. It was sculptured by Norman Legassie of nearby Old Lyme.

Among those who participated in the unveiling were Gov. William A. O'Neill and George C. White, the president of the Eugene O'Neill Theater Center in Waterford, Conn.

A letter from President Reagan was read to the crowd as well, in which the President observed, "All of New London can take great pride in the role your city played in the formative years of someone who many consider to be America's greatest playwright."

A 62-member committee formed six months ago raised money for the statue and the celebration, and organized such events as a cocktail party and gala ball at the theater center on Saturday and a parade, a United States Coast Guard band concert and the unveiling of the statue today. Gerald P. Ceniglio, the chairman of the committee, said $28,000 was obtained from a local charitable trust and $2,000 from the State Commission on the Arts to commission the statue.

The statue, based on a photograph of the young O'Neill, shows a gawky boy sitting on the grass with his legs stretched out in front of him, sketch pad in his lap and a cap pulled down over his forehead, and an intent look on his face.

[From the New London Day, Oct. 14, 1988]

EUGENE O'NEILL, AMERICA'S PREMIER PLAYWRIGHT, NEW LONDON'S ADOPTED SON

This weekend New London celebrates the centennial of the birth of Eugene O'Neill, America's greatest playwright and the city's own adopted son. New London gave O'Neill a sense of place, a mooring from which to launch his literary career. The city, its people and the sea remained at the forefront of his consciousness and his creative energy throughout his life—no matter how far away he went.

Eugene O'Neill deserves the attention the world has given him. He deserves more respect from his own country. It is no small measure of the ambivalence some of this nation's academic and critical communities feel about the playwright when, 25 years after his death, critics and scholars still equivocate about the measure of the man's talent.

Was he really great, or was he simply important because he was the first to give legitimacy to a native drama, uniquely American and fresh? Only a few of his plays are great, we hear. Many were mediocre.

The effort to deride O'Neill seems to know no limits. American intellectual snobbery seems determined not to give the great playwright his due.

Part of that ambivalence flows from the sheer solemnity of his themes. His heaviness sometimes cries out for relief. But while the tone is repetitively somber, the dimensions of his creativity must be recognized. What O'Neill did in his steadfastness to artistic integrity and a new American theater made it possible for Tennessee Williams, Arthur Miller and others to have an easier time later.

O'Neill is, in every sense, America's premier dramatist, appreciated around the world for his brilliance and his integrity. Not once did he consider cheapening his efforts to create bold new works, to move the theater beyond easy commercialism and proven formulas.

He remained throughout his life committed to breaking new ground, to achieving drama that rivaled the majesty of the Greek tradition. Some make too much of his failures. Those who do often fail to apply similar standards to other artists who produced equally unsuccessful works.

Perhaps this is because of O'Neill's personality, aloof and ponderous. He was no self promoter. Though he could write comedy, as his only such work, "Ah, Wilderness!" proves, Eugene O'Neill's creative passion was great tragedy.

As every artist dedicated to creating breakthroughs in his field knows, the push to move beyond the conventional often means failure. Only through experimentation and boldness can something different and unique emerge.

Eugene O'Neill dared to take risks. He cared more about bringing to a modern perspective the soaring spirit of the tradition of Greek tragedy than he did to worry about the dangers to his artistic reputation such risk-taking created.

Eugene O'Neill dealt with the largest, most troubling and difficult of themes affecting the human condition. He lay bare the rawest human emotions, and he wove into his plays a sense of grandeur that is missing in some other playwrights whose significance has been compared to that of O'Neill.

In short, America is strangely self-conscious about O'Neill. The country has yet to move beyond accepting the value of more than four or five plays to explore the range of his talent. He started it all for the American drama. He did that with integrity, with commitment and with an unflinching ability to withstand the pain of his early family life, his alcoholism, his stormy personal problems, his illness.

He moved beyond the rejections of his early writing. He wrote prolifically. He wrote from the depths of his soul with a personal passion and brilliance that earned him a Nobel Prize and four Pulitzer Prizes.

The world admires the work of Eugene Gladstone O'Neill. New London feels especially honored as the setting for several of his plays, and Waterford has become home for the Eugene O'Neill Theater Center, founded and headed by George C. White.

It is a pity so few in America understand the personal sacrifices playwright Eugene O'Neill endured to carve out for himself and for America a place in the theaters of the world. It is utterly shameful he is not honored and showcased regularly in public schools as our native playwright.

His truly was genius.

TRIBUTE TO PHILLIP C. McGUIRE

Mr. THURMOND. Mr. President, I rise today to pay tribute to an outstanding Federal law enforcement officer, Phillip C. McGuire, Deputy Director of the Bureau of Alcohol, Tobacco and Firearms. Mr. McGuire is planning to retire on December 2, 1988, after 26 years of exemplary service.

Mr. McGuire's career as a law enforcement officer began as a criminal investigator for the Treasury Department on May 7, 1962, in Aiken, SC. His other assignments have included criminal investigator positions in Greenville and Anderson, SC, as well as other investigative positions in North Carolina and Georgia. Mr. McGuire has also held positions as a regional analyst in California and Ohio.

In Washington, Mr. McGuire rose to the position of Deputy Director of the Bureau of Alcohol, Tobacco and Firearms, after serving in several other positions within that Bureau. He began as Chief of the National Firearms Act Branch, and later served as Special Agent in Charge of the Firearms Enforcement Branch, Chief of the Special Investigations Division, and as Associate Director of Law Enforcement at the Bureau.

Throughout the last 26 years, Mr. McGuire has served diligently in his various capacities and has brought about many innovative and progressive changes in law enforcement strategy. His strong leadership and commonsense approach to the many complex problems and challenges that face today's law enforcement officer have served as an encouragement to his friends and coworkers. He has instilled an enduring sense of pride in those who have had the opportunity to work with him during his tenure with the Bureau of Alcohol, Tobacco and Firearms.

I commend Mr. McGuire for his fine efforts in the law enforcement area and wish him the best in his retirement.

UNITED STATES LOAN TO MEXICO: MORE FOREIGN AID

Mr. HELMS. Mr. President, 2 weeks ago, in the waning hours of the fiscal year, the Congress debated and passed appropriations bills for the coming fiscal year. Included among those bills was a foreign aid appropriations bill, Mr. President, one which underwent considerable scrutiny and which survived only because of immense pressure from the administration. But survive it did.

That was 18 days ago, Mr. President. But now the administration, on its own, has decided to initiate a major lending program of its own, without consulting Congress, much less getting Congress' approval.

Yes, Mr. President, yesterday all of us awoke to the news that the U.S. Treasury Department, without consulting the House, the Senate, or any of the relevant committees, has written its own foreign aid bill, for one country, without any provisions for supervision, prudent management, congressional oversight, and other safeguards normally built into the foreign aid process.

Not only that, Mr. President, but the sum involved is greater than any single item in the foreign aid bill we passed just 2 weeks ago. In fact, it amounts to $3½ billion.

Of course, the Treasury Department does not call it foreign aid, Mr. President. But that is what it really is, even though in normal usage a loan is something that will be paid back. In the shell game of modern international finance the word "loan" translates into taking the "payback" out of another pocket later, rolling over the debt, in effect, the net sum outstanding remains the same. So we can assume that Mexico, already over $100 billion in debt, is now $3.5 billion more in debt.

Yes, Mr. President, yesterday morning's New York Times features the following headline at the top of its front page, and I quote: "Mexico To Receive Up to $3.5 Billion as Loan From U.S."

The newspaper goes on to report that this so-called short-term loan is intended to "tide over Mexico * * * until it can get longer loans of similar magnitude from the big multilateral lending agencies, the World Bank and the International Monetary Fund."

During the consideration of the foreign operations appropriation bill, Mr. President, I questioned the wisdom of going hog wild with billions of U.S. taxpayers' money through international lending institutions which have only a minority of U.S. control and even less success in their lending programs.

But what confronts us today is not such irresponsible acts of unaccountable multilateral institutions, Mr. President. We have become accustomed to the lack of respect with which those bodies treat the American taxpayer, who foots the bill for the tax-free salaries, the million-dollar golden handshakes, and the development disasters wrought on the poor and unsuspecting peoples of the Third World by these institutions.

No, Mr. President, this latest dismal chapter in international chicanery confronts us as a fait accompli, without so much as a please or a thank you, as the result of negotiations between the Treasury Department, the Federal Reserve Bank, and the Government of Mexico.

I have to mention, Mr. President, that we have come to expect this kind of sleight of hand from the Fed. One major U.S. banker recently recounted how Paul Volcker, then Chairman of the Federal Reserve Board, called him in 1986 and pleaded with him to participate in that year's bailout of Mexico, which was being orchestrated by Volcker. Mr. Volcker and the heads of the regional Feds were hounding hundreds of bankers, across the United States, to participate in these very dubious loans. But this particular banker, a man of more than passing substance, refused.

"No, Mr. Volcker," this banker reported to me, "my bank has been careful to avoid this type of bad loan in the past, and we will not begin now. Our portfolio is very sound."

"Well," said Mr. Volcker, "I'd hate to have to send in our examiners tomorrow and find something amiss in those portfolios."

"Well, Mr. Volcker," replied the bank chairman, "I'd hate to have to print the contents of this conversation verbatim in a full-page ad in tomorrow's Wall Street Journal."

End of conversation, Mr. President. End of conversation.

But it did not mean the end of the shell game that the Fed and the Department of the Treasury have conducted.

Mr. President, the fait accompli presented to us by the Department of the Treasury compounds the problems our Nation faces in the treacherous course of international finance in the coming months. Imagine, Mr. President, how our representatives on the World Bank and IMF loan boards will feel when they examine prospective loans from those institutions to Mexico. These U.S. representatives will know that, no matter how bad those loans might be, even though those loan agreements might contain no provisions for progress toward economic freedom, the approval of those loans might provide the only way our U.S. taxpayer can be let off the hook, the very hook onto which this recent U.S. Treasury action has placed him. For without those multilateral loans, the Treasury's new $3.5 billion bridge loan might never be paid back.

Thus, Mr. President, the U.S. representatives to the multilateral institutions will no longer be able to demand serious conditions as a part of their support for such loans. The debtor nations will know that our representatives have effectively had their hands tied—by our own Treasury Department.

In effect, Mr. President, we have been blackmailed by our own Treasury Department. And the payment, $3.5 billion, is coming straight out of the pockets of the U.S. taxpayers, whose elected representatives were intentionally kept in the dark about this issue until the whole dirty business was consummated.

In fact, Mr. President, the timing of this announcement suggests that the Treasury Department expected the U.S. Congress to be out of session by now—indeed, Mr. President, I wish it were—and so the Treasury Department anticipated no Senate session in which Senators might suggest a more responsive consultation process.

Now, we will no doubt be told that tough demands were made before this money was committed. Oh, yes, Mr. President, we will no doubt hear claims of reform in Mexico, and we have come to expect them. Time and again, Mexico promises future improvements on human rights, on drugs, on civil rights, on free elections, on economic reform, on support of Communist regimes. And time and again, Mr. President, Mexico fails to deliver.

Mr. President, how can the Department of the Treasury tell us that there has been reform in Mexico when the leading party just rigged another Presidential election there? In 1986, when the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Relations held a series of hearings on Mexico, the media attacked me, as the then subcommittee chairman, because I wanted to discuss the charges of human rights abuses, bogus elections, and drug operations conducted by government officials in Mexico.

In 1988, however, the major media all agree that Mexico's elections were rigged, that the Mexican Government is rife with corruption, and that it has yet to cooperate with the United States on basic, elemental implementation of the war on drugs.

Mr. President, I am hopeful that our subcommittee's 1986 hearings contributed to that widespread understanding of Mexico's problems today. But I am also mindful, Mr. President, that during those 1986 hearings our subcommittee was assured by a certain Treasury Department official—out of charity I will not name him—that the Department was carrying on no negotiations with Mexico for a United States taxpayer-financed bailout, while at that very moment the Chairman of the Federal Reserve Board was in Mexico carrying on such negotiations with the full knowledge and support of the Department of the Treasury.

Mr. President, that official came to me some time later to apologize—privately—and assured me that it would "never happen again."

As Ronald Reagan used to say, Mr. President, "There they go again."

Moreover, Mr. President, the last paragraph of the last column of the last page of the New York Times story tells the tale: It informs us that, and I quote,

> Some people in Washington were baffled by the size of the loan announced today and the air of urgency because Mexico, unlike some debtor countries, has ample reserves of gold and foreign currencies to draw upon.

What the Treasury really has in mind, Mr. President, and what the Mexican Government no doubt fervently hopes for, is reflected in a story appearing just below the Wall Street Journal's announcement of the loan. That story, and undoubtedly the ultimate fate of the $3.5 billion of U.S. taxpayer money so cavalierly volunteered by our Treasury officials, is nicely summed up in the headline of that story: "U.N. Chief Urges Write-Off of Some Third-World Debt."

That headline says it all, Mr. President. The Government of Mexico will get this money, one way or the other. They might spend it on paying off the opposition parties, who claim that they won July's Presidential election, so that the inauguration of the so-called winner of that election will come off smoothly in December. They might convert it to capital flight, funnelling it to large dollar accounts in foreign countries for the thousands of Mexican Government officials who will be retiring when President De La Madrid's term ends 2 months from now. Some of it might even find its way into the drug enterprises which the United States Bureau of Customs has identified in Mexico that are owned, managed, and protected by Mexican Government officials.

Two things are sure, Mr. President: The people of Mexico will never see any of this money, and neither will the United States taxpayer, who provided it so generously. But the American people have a right to know what is done with their money, and so does the U.S. Congress.

U.S. CUSTOMS SERVICE: ANOTHER SIGNIFICANT SUCCESS

Mr. HELMS. Mr. President, included in the drug bill passed by the Senate last week was a section commending the U.S. Customs Service for Operation C-Chase, a 2-year investigation of the Bank of Credit and Commerce International and its top managers.

As a result of this operation, 39 suspected international drug and money laundering kingpins were arrested. Included among the arrested was Ajmad Awan—General Noriega's personal banker.

This operation is just another in a string of successes recently achieved by the U.S. Customs Service under the leadership of Commissioner William von Raab.

For example, just a few months ago, the Customs Service successfully completed an undercover investigation in which it stopped the attempted export of sensitive military material to Egypt. This operation underscores another of the many important roles the Customs Service plays in defending our Nation. At the same time, it serves as a warning about the dangerous sitaution developing in the Middle East as countries there scramble to obtain ballistic missiles.

Since its inception in 1789, as America's first law enforcement agency, the U.S. Customs Service has served a dual function: By policing our ports of entry it has guarded against the importation of contraband, and by levying duties it has raised money for our National Treasury. In this latter capacity, the Customs Service not only was able to pay off the entire debt from the American Revolution, but also was America's sole source of revenue for the first 125 years of the Republic.

Under the leadership of William von Raab, the Customs Service has instituted a variety of innovative programs to protect our country from illegal trade. Mr. von Raab has been one of the most efficient and most effective appointments in the Reagan administration. I salute his dedication and his loyalty.

In 1981, the Customs Service embarked upon an ambitious threefold program code named "operation exodus." The objective of this program is to interdict the unlawful exportation of high technology. To achieve this end, Mr. von Raab's people established relationships with manufacturers, who, with the aid of a new sophisticated computer system enabled agents to track the soon-to-be-exported merchandise.

For example, the filing of charges against five individuals for their attempted export to Egypt of carbon-carbon, a critical material in ballistic missiles, is one of von Raab's latest successes.

As presented in the indictment, the story of this success is as follows:

> On March 10, 1988, Kaiser Aerotech shipped 54 pounds of carbon-carbon to Abdelkader Helmy at his home in California. Carbon-carbon is included on the United States Munitions Control List and cannot be exported without a license from the Office of Munitions Control, within the State Department. Mr. Helmy is an Egyptian with American citizenship and is a recognized specialist in the field of rocket propulsion.
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> In March, 1988, according to the indictment, Fuad Algamal traveled to California from Cairo. Algamal was traveling under a diplomatic visa in the name of Fouad Mohamed Mohamed. On March 23, 1988, Helmy and Algamal flew to Washington with two boxes weighing close to 200 pounds.
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> The contents are not known with certainty, but the package was allegedly addressed to a building in Washington that is used by the Egyptian military attache. At the airport, the boxes were reportedly placed in a car with Egyptian diplomatic license plates. In addition, according to the indictment, between December, 1987, and March, 1988, more than $1 million was wired to Helmy from a bank account in Switzerland.
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> On May 25, 1988, a court-ordered wiretap was placed on Helmy's work and home telephones. As a result of the wiretaps, it was learned that Helmy spoke often with Egyptian Colonel Hussam Yossef about shipments to Egypt. The indictment charges that Colonel Yossef directed the operation from Austria. Helmy also spoke frequently with James Huffman about the operation. Huffman is the mid-west marketing representative for Teledyne, McCormick, Selph, a defense aerospace company in California.
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> On June 14, 1988, 430 pounds of carbon-carbon were delivered to an Ohio warehouse for shipment to Baltimore. The shipment was allegedly purchased by Huffman at the direction of Helmy.
>
> On June 24, 1988, it was apparently planned that an Egyptian military C-130 would leave Baltimore with the carbon-carbon material on board in a box market "Air Force Club." The Customs Service seized the box, which contained all 430 pounds of the carbon-carbon material. The only shipment that is thought to have made it through to Egypt was the first with the 54 pounds of carbon-carbon.
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> On June 24, 1988, Lt. Col. Mohammed Abdella Mohammed, also known as Colonel Shousa, was arrested on a charge of willfully attempting to export defense articles from the United States without a license. He was released after he claimed diplomatic immunity. The complaint also charges Colonel Hussam Yossef of Austria. Colonel Yossef was not apprehended because of his location.
>
> Mr. Helmy, and Mr. Huffman were arrested and charged with numerous counts of attempting to export defense articles without the proper licenses. All three now await judicial proceedings on charges of conspiracy to violate U.S. export laws.

Mr. President, it is in operations such as this that we are able to see the difference Commissioner von Raab has made as head of the Customs Service.

While Americans should be proud of the Customs Service's work in this case, we should not ignore the implications for our relationship with Egypt. Many questions remain unanswered at this point—questions, Mr. President, about the involvement of Egyptian officials which need to be answered. There is reason to believe that the carbon-carbon was intended for the development of the Condor II intermediate range ballistic missile.

But while questions remain, it is important to remember that Egypt is an important ally of the United States. I have a great deal of respect for President Mubarak and an appreciation for Egypt's Representative in Washington, Ambassador El Reedy. I am encouraged with Egypt's willingness to share with the United States all information from their investigation.

While this incident is serious, it is vital that our Nation not lose sight of the underlying problem; specifically, the missile race in the Middle East, ignited by China and the Soviet Union.

The development of the Condor II is another chapter in the missile race in the Middle East, a race which threatens America's interest in a safe and secure Israel, and in a peaceful and stable Middle East.

News reports suggest Syria is planning to purchase Chinese missiles that can hit anywhere in Israel. Saudi Arabia has already acquired from China nuclear capable missiles with a range of 2,200 miles. Kuwait is reported to be negotiating with Beijing for missiles with a range of 720 miles which would encompass Israel.

Iraq has used their Russian-built Scud B missiles against Iran. Iran also has used missiles in the gulf war. The Condor II, the missile Egypt is allegedly developing, will have the range of an INF missile, and it has been reported that Brazil will sell Libya missiles with a range of 600 miles.

Mr. President, the United States must make every effort to stop the proliferation of missiles in the Middle East. Commissioner Von Raab and his agents at the Customs Service have done their part. Unfortunately, a great opportunity was lost when the House rejected my amendment to the foreign operations appropriations bill prohibiting assistance to the Chinese missile program until the Chinese agree not to provide missiles to Iran, Iraq, Syria, Libya, and Saudi Arabia.

DEFENSE AUTHORIZATION AMENDMENTS AND BASE CLOSURE AND REALIGNMENT ACT

Mr. WARNER. Mr. President, S. 2749, the Defense Authorization Amendments and Base Closure and Realignment Act, could possibly save the taxpayers between $2 billion and $5 billion dollars annually beginning in the early 1990 timeframe.

The source of these savings is the closure or realignment of military installations that are no longer cost effective to operate or no longer serve our national defense requirements.

Today, the United States maintains 3,800 bases and installations in the 50 States and territories.

When Japan surrendered on August 15, 1945, the United States had more than 12 million personnel under arms, manning 95 aircraft carriers and 90 Army divisions. Astonishingly, this peak base structure has not declined as our forces have been reduced to today's level of approximately 2 million men and women in uniform.

Today, the Navy maintains 14 deployable aircraft carriers, the Army mans 18 active divisions, and the Air Force mans about one-tenth of the aircraft manned in 1945.

Additionally, U.S. military strategy since World War II has been based on forward deployments, as reflected by our principle force structure commitments to the North Atlantic Treaty Organization. Bringing "our troops home"—a popular call—would be in conflict with this proven strategy.

The result of our post-war strategy has been the continuance of a military base structure that does not reflect the national security policies of today.

Closing military installations that are not needed has always been difficult. As a former Secretary of the Navy, I remember well a struggle of over 3 years with Congress before the antiquated Boston Naval Shipyard could finally be closed.

About 60 percent of all congressional districts contain a military base or border one. No Senators or Congressmen want to see jobs lost in their States or districts.

Earlier, I indicated that $2 to $5 billion could be saved through base closures. Those figures come from the Grace Commission study on the Federal Government. Additionally, the Office of Management and Budget completed a study on military bases in 1981 that indicated $4 billion could be saved by closing 138 installations.

In an effort to determine how much base structure is necessary to support our miltiary forces, Secretary Carlucci established a bipartisan Base Closure and Realignment Commission.

Secretary Carlucci requested that Congress enact legislation to remove the various impediments in law that prevent timely closure of military bases. Every Secretary of Defense from the beginning of the Department of Defense in 1947 has wanted this authority now confirmed by Congress in this bill, which passed with overwhelming support in the House, 370 to 31, and by 82 to 7 in the Senate.

Under section 201 of S. 2749, the Commission is required to submit its findings to the Secretary of Defense not later than December 31, 1988.

Section 202 gives the Secretary of Defense until January 16, 1989, to accept the Commission's findings. He is prohibited by law from exempting bases from the list or adding bases to the list not recommended by the Commission.

Section 208 concerns congressional review of the Commission's findings. Beginning March 1, 1989, the Congress will have 45 session days to act to stop all closure proceedings through a joint resolution of disapproval. The President, however, could veto such a resolution and, in the absence of a congressional veto override, closures would take effect.

Mr. President, if the closures are approved, no action to reduce or close a base will begin until January 1990. This is to allow the Secretary of Defense time to consult with Governors and affected communities to plan an effective strategy for re-use of the installations.

Mr. President, I feel that S. 2749 is the most fair and objective way that we can proceed with what has historically been a very political problem.

In the final analysis, we were all elected to serve the best interests of the Nation. If we are ever to remove waste and inefficiency from the Defense budget, this is an essential place to start.

I am very proud that my fellow colleagues from Virginia, Senator TRIBLE and Congressmen WOLF, PARRIS, BOUCHER, BLILEY, SISISKY, SLAUGHTER, OLIN, PAYNE, and PICKETT have joined me in this unique opportunity that will save billions of taxpayer dollars and is most certainly in the best interest of our great Nation.

Thank you, Mr. President.

UNIVERSAL TELECOMMUNICATIONS SERVICE

Mr. PRESSLER. Mr. President, in these days of rapid technological change in the communications field, it is increasingly important for us to ensure that all areas of the Nation participate in and profit from the emerging information age. I recently wrote a law review article on this subject with my chief of staff, Kevin V. Schieffer.

In that article, I argued that the established goal of universal telephone service needs to be expanded to include information services. I ask unanimous consent that portions of that article be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

A PROPOSAL FOR UNIVERSAL TELECOMMUNICATIONS SERVICE

(By Senator Larry Pressler and Kevin V. Schieffer)

INTRODUCTION

We are entering the Information Age. Driven by computer technology and telecommunications capabilities, the creation and distribution of information around the globe has opened new horizons in business, education, government, and a host of other areas. Our "global village" is indeed becoming smaller and smaller.

We risk, however, excluding a large segment of our society from this village—namely, rural and small town America. Left entirely to itself, the communications industry will focus its energies, resources, and innovation on the more profitable population centers. The sparsely populated areas of the country will receive far less attention than has been mandated by public policy.

Although rural America will be a residual benefactor of advances wrought by urban-tailored innovation, in a relative sense, it will be the big loser. Rural America will be at a severe economic disadvantage if relegated to a secondary position of months, years, or even decades behind the technology curve. Human and natural resources necessary to compete in any high technology or information-related business will be increasingly attracted to the population centers, and to the extent that any technology might be transferred to rural settings, its cost would be much higher than in its urban birthplace. In fact, this is true today. Rural America is not an equal partner in sharing the benefits of many of our communications miracles.

The past few decades have produced dramatic changes in the field of communications, and telecommunications policy in the United States is currently at a crossroads. A series of administrative and judicial decisions gradually eroded AT&T's total dominance in several telecommunications markets, and ultimately led to AT&T's breakup in 1984. Legislators and administrators alike have since developed a variety of proposals which fundamentally affect the constitution and future direction of the telecommunications industry. Throughout the relatively brief history of the telecommunications industry, the policy pendulum has swung back and forth between "competition" and "public utility regulation"—in varying degrees of extremity—remarkably often. The current trend is toward the former, but its direction is by no means certain.

There is virtually unanimous agreement among policymakers that "universal service" is, and should remain, a guiding principle in directing U.S. national telecommunications policy. The idea of universal service grew out of the concern that many rural areas and smaller communities would be cut off from access to communications services because of prohibitively high rates. Advocated by AT&T's Theodore Vail as early as 1908, the concept of universal service was adopted quickly by state regulators and the goal of providing universal service throughout the entire country was embraced by Congress in the Communications Act of 1934. Stated broadly, the purpose of the Act is to regulate "interstate and foreign commerce in communication . . . so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and worldwide . . . communication service with adequate facilities at reasonable charges, . . . for the purpose of promoting safety of life and property through the use of . . . communication."

This congressional articulation of universal service has been the touchstone for virtually all major telecommunications policy discussions in subsequent decades. Yet, while there is general unanimity in reverence to the concept of universal service, there is substantial disagreement over its definition and its relation to other, sometimes conflicting, national policies. The policy language of what has come to be known as universal service is expressly qualified, the substance of which will be considered in detail below.

In recent years, competitive concerns have taken great significance in policy debates. Over the last three decades, the desire for increased competition has influenced major court and FCC decisions, which in turn have had a profound impact on the industry and on the direction of telecommunications policy.

Congress has yet to resolve the fundamental public policy questions which must be addressed in order to provide the stable environment necessary for long-range planning. Instead, it has been content to leave telecommunications policymaking to the FCC and the courts without articulating clear guidelines or policy priorities. As a result, the future of the telecommunications industry is shrouded in uncertainty.

A widely publicized and controversial article written by Mark Fowler, then Chairman of the FCC, outlines a proposal for a clearer national telecommunications policy, including a three-year trial of total deregulation of telecommunications. Perhaps the most important and enduring contribution of the article, however, is that it better defines the parameters of an extremely important national debate. The purpose of this Article is to discuss and analyze the key issues which need to be addressed and resolved in order to develop a more plausible and coherent national telecommunications policy.

This Article will attempt: (1) to address the irreconcilable conflict between the twin policy goals of competition and universal service; and (2) to suggest that the latter must prevail in most contests between the two if the United States is to maintain a truly national communications policy. Toward these ends, this Article will first review the history of telecommunications regulation and policy development in the U.S., identifying and discussing the outstanding issues which must be addressed in any policy proposal. The Article will then evaluate regulators' responsibilities under the Communications Act of 1934 and introduce a new proposal for the telecommunications industry.

* * * *

III. A PROPOSAL FOR UNIVERSAL TELECOMMUNICATIONS SERVICE

Congress's failure to comprehensively address the unresolved policy issues that developed in the wake of the AT&T breakup has left the future direction of the telecommunications industry uncertain at best. More disturbing is the possibility of large price increases for local ratepayers seriously jeopardizing the universal service policy by encouraging large telecommunications users to leave the network, thus taking with them the revenues necessary to subsidize universal service. There remain very real incentives for major users to build grossly inefficient and duplicative facilities for the sole purpose of bypassing an existing telecommunications network.

The BOCs argue that they will be able to hold down costs attributable to local users by expanding their ratebase, and that they are seeking to enter the long distance market along with other "lines of business" banned by the *Modified Final Judgment.* Several bills have been introduced in Congress to shift the responsibility for administering, enforcing, and modifying the *Modified Final Judgment* from the courts to the FCC. The terms of the legislative language allow for the simple transfer of jurisdiction over the decree to the FCC, with varying degrees of congressional policy guidance. It is widely understood, however, that one of the primary purposes of this type of legislation is to ease the "line of business" restrictions placed on the BOCs.

Because of the substantial amount of time, resources, and institutional expertise required to oversee these regulated monopolies, jurisdiction over the decree should be transferred to the FCC. However, the transfer should not be permitted to threaten the continued viability of the *Modified Final Judgment,* particularly as it relates to the antitrust policies which encourage healthy competition. Specifically, Congress should retain the "line of business' restrictions unless it can be shown—using the test set forth by the court—that "there is no substantial possibility" that lifting them could impede competition in the relevant areas. In essence, Congress should include in the transfer bill language which retains the structural separation of the competitive and noncompetitive elements. As demonstrated by the long history of telecommunications regulation, it is impossible to "enforce" competition through regulation.

However, with the structural separation comes a need to protect local ratepayers in service areas where the cost of providing telecommunications remains relatively high. Both the court-ordered divestiture plan and the present legislative transfer proposals fail to consider this factor. As intended, the structural separation of monopoly and competitive services has resulted in a substantial increase in competition. While competition has increased pressure to raise local rates, the best response to that problem is to require the long distance suppliers to continue "subsidizing" local rates.

Subsidization may be done efficiently and without undue market distortion if the subsidy is mandated as a component of the existing pro rata pooling process or as an additional payment into the universal service fund. Either of these options could be implemented and administered without an elaborate bureaucratic mechanism. The existing universal service fund and the pooling arrangement are each able to provide an implementation mechanism. Further, either method would require only a slight increase in the percentage that long distance providers now contribute toward non-traffic sensitive (NTS) costs.

Implementation of this proposal would not result in substantial market distortions, as each long distance provider would contribute in direct proportion to use; the current NTS costs pooling arrangement provides an excellent model. Resulting higher long distance charges will inevitably reduce demand for that service in some areas. However, this is the trade-off for realizing the universal service goal. In addition, from a public policy perspective, economic inefficiency will prevent the development of an "information elite," a serious congressional concern.

The most troublesome problem presented by this approach is the incentive it creates for inefficent bypass of the local exchange. If long distance costs are driven too high, large users eventually will find it more economical to build private point-to-point systems, eliminating the need for the distribution function of the local exchange. This creates a "Catch 22" of sorts: long distance prices are increased to hold down local rates, but because long distance rates are artifically high, the largest users bypass the network. These consequences reduce the ratebase available to offset local rates, thereby forcing them to levels higher than before. For the stated proposal to be operative, this vicious cycle must be ended.

Escaping from the cycle requires preventing inefficient bypass of the network. To accomplish this goal, Congress must enact legislation which will effectively discourage bypass—most plausibly, through an outright prohibition, or through the imposition of what would amount to a penalty tax proportionate to the subsidy. Either of these alternatives would eliminate any incentive which may now exist or develop in the future to bypass the system. An added advantage of the proportionate "penalty tax" alternative is that it would retain the right of private users to bypass the system for other reasons, such as security.

CONCLUSION

The proposed approach would further the goal of universal telecommunications service while retaining most of the competitive benefits of the divestiture. These public policy goals, however, cannot be achieved without a cost. Some inefficiency will result from the economically unjustified subsidy of local rates. Yet, this trade-off is not new to regulatory regimes in this country and the consequences are no less efficient than any previously suggested alternatives.

Under the approach suggested here, "information services" would be made available on the same kind of qualified universal basis as basis telephone service. It would be especially imprudent to forsake traditional universal service goals, for there remains a real danger of excluding a large segment of our society from the benefits of the Information Age, thereby creating an information elite.

Developing a strategy whereby the twin objectives of preserving universal service and promoting competition can be achieved successfully and simultaneously is the challenge which will face telecommunications policymakers in the next decade. Telecommunications, combined with computer capabilities, is producing increasingly more sophisticated applications. It is in the public's interest to make this new technology reasonably available on as broad a basis as possible.

INTERIM RESTRAINT IN STRATEGIC WEAPONS

Mr. BUMPERS. Mr. President, when we considered the DOD appropriations conference report, the senior Senator from North Carolina offered an amendment to halt the inactivation of two old Poseidon submarines until the Soviets dismantle their radar at Krasnoyarsk. In support of his amendment, he produced an unclassified statement from the administration that said the Soviets are exceeding the 1,200 SALT II limit on ICBM and SLBM launchers.

Of course, even after we dismantle 2 submarines, the United States will still be 45 over the SALT II limit of 1,320 on all MIRV'd systems, more than twice the margin of 22 by which he alleged the Soviets were in excess of the 1,200 sublimit.

In the interests of balance and usefulness, I sought a further explanation of the Soviet compliance situation and recently received the following information from the Senate Intelligence Committee. According to this information, "Recent Soviet actions leave them below the 820 MIRV'd ICBM launcher subceiling, as well as the 1,320 MIRV'd ICBM/SLBM/ALCM heavy bomber subceiling."

In addition, "the information provided also appears to put the Soviets slightly above the 1,200 MIRV'd ICBM/SLBM subceiling. The Soviets have, on occasion, temporarily exceeded this sublimit since mid-1987."

It is important to keep in mind that the United States has exceeded the overall 1,320 subceiling on MIRV'd systems since November 1986. The information goes on to say that "it is quite possible that the Soviets will exceed some of these limits in the future as the United States continues to remain above the 1,320 subceiling."

I have been saying on the floor of the Senate since 1984 that if we violated the SALT II subceilings we should certainly expect the Soviets to do the same, and that is precisely what has happened. This administration trashed the SALT II Treaty in 1986, and we are just very lucky that Gorbachev rather than Brezhnev or Chernenko is in power, and that the Soviets have only slightly exceeded one subceiling, and not the overall subceiling as we have.

What this points out is the critical need for a policy of mutual restraint until we get a new start agreement. It doesn't have to be SALT II, but it should be something. The chairman of the Armed Services Committee, Mr. NUNN, has spoken several times of the importance of interim restraint, and that has been what my 5-year battle on this has been about.

There are still a number of difficult, unresolved issues remaining in start, including mobile missiles, sea-launched cruise missiles, verification, cruise missile counting rules, strategic defenses, and others. It will be a while before we get a new agreement, probably a couple of years.

Whoever enters the Oval Office in January will need to address this issue on a priority basis, and so will Congress. I intend to pursue this matter next year to ensure that we don't leave ourselves vulnerable to a wide-open arms race.

As the German Foreign Minister, Hans Dietrich Genscher, said a while ago, "because it is very difficult to make new agreements in arms control, it is all the more important to most carefully preserve existing treaties and adhere to them."

I ask unanimous consent that a copy of the statement I received from the Intelligence Committee be placed in the RECORD at the end of my remarks, and I thank the Chair.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT FROM SENATE INTELLIGENCE COMMITTEE

According to information provided to us through the Intelligence Committee, recent Soviet actions leave them below the 820 MIRVed ICBM launcher subceiling, as well as below the 1,320 MIRVed ICBM/SLBM/ALCM heavy bomber subceiling. The information provided also appears to put the Soviets slightly above the 1,200 MIRVed ICBM/SLBM subceiling. The Soviets have, on occasion, temporarily exceeded this sublimit since mid-1987. It is quite possible that the Soviets will exceed some of these limits in the future as the United States continues to remain above the 1,320 subceiling.

TRIBUTE TO LAWTON CHILES

Mr. CRANSTON. Mr. President, at the end of this historic 100th Congress, my dear friend and colleague, LAWTON CHILES, will leave the Senate after 18 years of distinguished service. I know I speak for all who know him when I say that LAWTON and his wife, Rhea, will be greatly missed in Washington.

Mr. President, LAWTON'S distinguished career in public service began 30 years ago in the Florida State legislature. In 1970, after literally walking 1,000 miles across the State of Florida, earning him the admiration and respect of Floridians throughout the State, as well as the nickname "WALKIN' LAWTON," LAWTON won his bid to represent Florida in the U.S. Senate. When LAWTON arrived in Washington, he brought with him a unique and genuine understanding of the diverse concerns and needs of the individuals he met and spoke with during his campaign. He has never lost touch with the individuals he represents, which is why he has been such an effective Senator.

Mr. President, the ability to listen, compromise, and work with others even in the most adverse circumstances and situations are essential qualities for a Senator—especially for a chairman of the Budget Committee. As the chairman of that committee for the past 2 years and as its ranking minority member for the 4 years prior to that, LAWTON'S patience and skills were put to the test. Senator CHILES has been faced with making very difficult and complex decisions in a largely thankless task—working to reduce the tremendous budget deficits and to apply sound and reasonable budget principles to the Government budgeting process. He has handled that task with great determination, integrity, and strength, and I believe that each and every citizen of this Nation owes him a debt of gratitude for the work he has done in this area.

Under his leadership, the Budget Committee has stressed a cooperative, not a confrontational or combative, role in its relationships with other committees of the Senate. I think that is a very important and productive hallmark of LAWTON CHILES' approach to problem solving.

He has also been willing to make the tough budget choices and to try to lead, nudge, push, and occasionally shove the Senate in the direction of doing so as well. He has set a very high standard for his successors to emulate.

As chairman of the Veterans' Affairs Committee, I have seen firsthand LAWTON'S devotion to the principles of maintaining budgetary discipline while protecting programs that provide well-earned benefits to our Nation's veterans. Despite inadequate funding requests from the administration, my good friend from Florida [Mr. CHILES] has done his best to see to it that veterans' programs were treated fairly in the budget process.

I also would like to note what I consider to be one of the most far reaching improvements in maintaining our democracy, the Government in the Sunshine Act which Senator CHILES authored. Through his efforts as a member of the Governmental Affairs Committee, Federal Government meetings must be open to the public, thus allowing greater citizen participation in and knowledge of the workings of their Government.

Mr. President, LAWTON also has done yeoman's work during the 100th Congress as chairman of the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies that provides funding to programs directly affecting the health and welfare of our Nation.

As chairman of the subcommittee, LAWTON has overseen increases in appropriations for research, prevention, and public health activities to combat AIDS and was a moving force behind the AIDS mailing that went to every American household a few month ago. He has also been a strong advocate for programs to improve services for individuals who are elderly or disabled and for America's young biotechnology industry.

LAWTON has been deeply concerned about the high rate of infant mortality in this country—particularly in the South. He helped champion efforts to provide Medicaid coverage to indigent pregnant women for prenatal, delivery, and infant care and has devoted many hours of time and energy as the Chairman of the National Commission to Prevent Infant Mortality.

Finally, as the Senate and the House are meeting to finish the Omnibus Anti-Substance Abuse Act of 1988, I want to pay special tribute to LAWTON'S unwavering crusade against drugs. He has been fighting for programs to combat this menace for more than 10 years and has contributed greatly to the legislation the Senate recently passed. Senator CHILES has authored numerous laws to improve our interdiction and law enforcement efforts against drugs. But, LAWTON also recognizes that our best weapons against drugs are prevention, education, and treatment for addicts and that we will never solve the drug problem until we slow down the demand for drugs here at home. He was a strong and forceful advocate for those programs during our negotiations on the current drug bill.

Mr. President, I would like at this time also to recognize the great work which has been done over many years by Rick Brandon, staff director for Senator CHILES on the Budget Committee. Like his boss, Rick has done a tremendous job of balancing competing concerns for limited resources, and has done so with great grace and aplomb. His expertise in the budget area is unmatched—except by Senator CHILES himself. In my Veterans' Affairs Committee role, the staff and I have been privileged to work also with Alan Cohen and Kathy Deignan on the budget staff during this period. They have done a fine job as well.

Mr. President, we will all miss LAWTON in the 101st Congress and I wish him the very best for the years to come.

RETIREMENT OF ADM. KINNAIRD R. McKEE, USN

Mr. NUNN. Mr. President, on November 1, Adm. Kinnaird R. McKee, Director of Naval Nuclear Propulsion, will retire from active duty.

During 41 years of naval service, Admiral McKee played a key role in the Nation's defense. He has been all that a military officer ought to be—bright, brave, dedicated, determined, thoughtful, inspiring, and honorable—a fine example for all who will follow.

Admiral McKee became a legend in the submarine service, Mr. President, long before he reached flag rank. As skipper of the *Dace,* he and his ship opened new frontiers in special operations of great importance to this Nation—accomplishments for which Admiral McKee and his ship were highly decorated.

Admiral McKee has left his mark on the Navy in a variety of jobs from warfare specialist to fleet commander—not only in an operational sense, but also in terms of the people he inspired and of his ability to identify their work with the Navy's long-term goals.

Admiral McKee did an excellent job as Superintendent of the Naval Academy, where he helped shape the minds and professionalism of a multitude of young officers, brought women into the Naval Academy, and substantially strengthened the technical curriculum there.

Because of his wealth of experience in warfare training and in technical matters, Admiral McKee was the perfect choice to succeed Admiral Rickover as Director of Naval Nuclear Propulsion in February 1982—a job that many considered the most difficult in the Navy. It is to his great credit, Mr. President, that Admiral McKee not only kept this talented organization intact, but moved ahead to bring the Navy's new attack submarine, the SSN-21, from an idea to lead-ship authorization. More importantly, he has continued the tradition of technical excellence, safety, and readiness which has always been the hallmark of the nuclear propulsion program and which is so important to the continued viability of the 40 percent of naval combatants that are nuclear powered.

I want to congratulate Admiral McKee on the completion of an outstanding and exemplary career of service to his country. I want to thank him for his cooperation with the Congress and for his willingness to provide us with the objective information we needed. He retires from the Navy with our thanks for a job well done. I wish Admiral McKee and his wife, Betty, every success in their future endeavors.

ON UTE SETTLEMENT ACT

Mr. BRADLEY. Mr. President, today the House has adopted Senate Concurrent Resolution 162 which concerned the Ute Indian Settlement Act. This resolution, which the Senate passed last Friday, ensures that H.R. 2642, the Ute Settlement Act, will include important protections for Indian water rights. The incorporation of these basic changes was critical before I was willing to permit this legislation to proceed.

Mr. President, the sponsors of this legislation—notably Mr. WIRTH in the Senate and Mr. CAMPBELL in the House—labored long and hard on this settlement. As their original bill put them at odds with numerous States that share the Colorado River, their negotiations were especially arduous. They surmounted seemingly impossible roadblocks with imagination and flexibility.

Nevertheless, I want to make clear that I still have important problems with the Animas-La Plata project, on which this Settlement Act depends. These problems are significant enough that I voted against the act in committee and, had these been a rollcall vote on final passage, I would have voted against it on the floor. My concerns are broad. I am troubled by some of the environmental implications of the construction of the Animas-La Plata project, I am likewise concerned about the cost-sharing provisions, certain waivers of reclamation law and the reasonableness of a $500 million commitment of Federal funding. I am not yet convinced that the U.S. taxpayers would be well served by the project. Notwithstanding passage of the Ute Settlement Act, these concerns remain today and I intend to address them in legislation next year before taxpayer dollars are actually appropriated for this project.

Specifically, I will seek to make sure the State officials make good on assurances that any phase beyond phase I of the project will be built solely with non-Federal funds. The most appropriate way to do that appears to be a deauthorization of the subsequent phase as a Federal project. I will also seek legislation to insure that water from this project does not assist the production of surplus crops. I will further direct my Subcommittee on Water and Power to examine closely the implications of project construction. If the project does not merit today's standards for environmental quality or economic efficiency, I will work for its modification.

Mr. President, I have worked closely with the Ute Settlement Act's sponsors to achieve the compromise embodied in the Senate resolution. The sponsors know of my broader concerns. They have pledged their help to make the Animas project the best it can be and I look forward to their assistance in the next Congress.

A BIASED NEWSPAPER IS TRAPPED INTO PRINTING THE TRUTH, FOR A CHANGE

Mr. HELMS. Mr. President, one of the few embarrassments to be found in the State of North Carolina is the newspaper monopoly in the State capital. The Raleigh News and Observer, once considered a sort of bible to the residents of eastern North Carolina, is now scarcely more than a petulantly biased political adjunct of the far-left movement in general, and the zany policies of the most leftward elements of the Democratic Party in particular.

No Republican nor any conservative need apply to Raleigh's morning paper for fair-play or objectivity. It is an apologist for the homosexual movement, an advocate of socialized government, a bitter critic of all business—except its own lucrative enterprise—and totally scornful of the free enterprise system.

Its owners are rich, but piously pretentious in its feigned concern for the poor. Its editors are arrogant in the exercise of power. Increasingly, its readers are resentful of what has been done to a newspaper founded long ago by Josephus Daniels, who served this Nation as Secretary of the Navy and as U.S. Ambassador to Mexico. Josephus Daniels was partisan, but he was fair. There is no sense of fairness today in the newspaper founded by Josephus Daniels.

Mr. President, I mention all of this as a prelude to a surprise column that appeared yesterday in the News and Observer. A prominent Raleigh attorney, Thomas D. Bunn, challenged the News and Observer to print the truth about the American Civil Liberties Union. Since Mr. Bunn is a prominent and respected Democrat, and no doubt fearing that Mr. Bunn would make known the fact that his challenge was rejected, the newspaper's management directed the editor to suggest to Mr. Bunn that he write a rebuttal—hopeful, of course, that Mr. Bunn would decline.

To the newspaper's chagrin, Mr. Bunn did no such thing. He promptly accepted, and prepared an excellent analysis of the ACLU. The newspaper was left no alternative: It had to publish Mr. Bunn's article.

So yesterday morning's Raleigh News and Observer, caught in a trap, published the Bunn article under the headline, "ACLU Policies Cast 'Mainstream' Claim in Doubt." It appeared on the page opposite the News and Observer's editorial page.

Mr. President, I believe Senators and others may be interested in Mr. Bunn's assessment of the ACLU, and in a moment, I shall ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks. But before I make that request, I would emphasize that Mr. Bunn, and his father before him, Mr. J. Wilbur Bunn, earned the respect and admiration of the Democratic Party. But that was in the old days before the party was taken over by the far-left. Thomas D. Bunn served with distinction in the North Carolina General Assembly. And before I was elected to the Senate, I was a Sunday school teacher for a class named for J. Wilbur Bunn at Hayes Barton Baptist Church in Raleigh.

Mr. President, I now propound the unanimous-consent request to which I alluded a moment ago.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ACLU POLICIES CAST "MAINSTREAM" CLAIM IN DOUBT

(By Thomas D. Bunn)

We tend to toss the terms liberal, conservative, left, right, moderate, middle of the road around flippantly and with little meaning except as to what votes the terms might engender. Seemingly, no one wants to be labeled "liberal," not even the American Civil Liberties Union, according to its president, Norman Dorsen, who defended its position as "mainstream" in the wake of the recent presidential debates and George Bush's criticism of Michael Dukakis' membership in the ACLU.

On Oct. 3, The Wall Street Journal gave a sampling of the position and world views of the ACLU from its 1986 "Policy Guides." You decide whether the ACLU views are mainstream or lack common sense according to The Journal: 1) Drugs should not be prohibited by law. 2) School discipline must be strictly limited. 3) Few crimes should be punished by jail. 4) The Constitution mandates increased welfare spending, which translates into taxpayer or third-party obligation and invalidates reforms encouraging an end to welfare dependency. 5) Equal pay for equal work is not enough. 6) No more rescue attempts for American hostages or secret operations against terrorists. 7) There can be no military draft, even in war time. 8) The First Amendment protects all pornography, including child pornography. 9) Rating movies is an unconstitutional prior restraint. 10) Prostitution should be legal. 11) Homosexuals can be foster parents.

The Wall Street Journal noted, "It is perfectly fine for the ACLU to argue these positions. . . . But others are entitled to criticize these positions as having little to do with the Constitution or, for that matter, with common sense." Author Francis A. Schaeffer, in "The Christian Manifesto," stated that the ACLU "has shown that it is the reverse of a Civil Liberty Union."

The beliefs and actions of the ACLU are generally unbelievable. They hold extreme positions on most moral issues. In the face of an epidemic, they alarm even the liberals in their stance against AIDS tests. They took a stance against minors advising their parents before abortion.

The ACLU opposes laws prohibiting public drunkenness, saying, "The introduction of substances into one's own body or the use of any drugs should be exempt from criminal prosecution." It opposes the use of metal detectors in airports for terrorists' weapons on the grounds that the practice is unwarranted search and seizure.

Dr. William A. Donohue, Bradley Resident Scholar at the Heritage Foundation and author of "The Politics of the American Civil Liberties Union," stated that the ACLU strongly supports the legality of homosexual marriages, complete legal equality for lesbians and gay men, all rights and benefits and responsibilities of married couples. According to Dr. Donohue, "There is virtually no form of moral depravity which one could commit that the ACLU will not find acceptable as long as the parties involved are consenting adults."

Chapters of the ACLU have, as fund-raising events, auctioned off an abortion and shown two hardcore pornographic films, "Deep Throat" and "Behind the Green Door," according to Citizen magazine in its March 1988 issue.

The ACLU even intervened in the international situation where the 12-year-old Walter Polovchak fought to stay in the United States rather than return to his Soviet parents. The ACLU argued that he should be forced to go back against his will to the country he hates. This shocked Allen Dershowitz, a liberal law professor and attorney for Penthouse magazine, who wrote, "The ACLU's different positions can be understood only if the issues are defined politically—a preference for abortion, an alliance with lesbianism and an unwillingness to criticize communism."

The ACLU is well-financed from known organizations such as the Rockefeller and Playboy foundations. Hugh Hefner's daughter, Christie Hefner, has served on the ACLU's Board of Directors. Dr. Donohue said he was not surprised at the close relationship of Playboy and the ACLU because they are "fanatical in their defense of pornography."

Probably the single most revealing segment of the ACLU's alleged defense of the First Amendment of the Constitution is that in its original formation, the ACLU gave as its objectives every component and segment of the First Amendment except freedom of religion. Quoting from the Citizen, "A truly non-partisan organization in service to civil liberties would have had to make freedom of religion one of its primary goals."

A horse can label itself a "cow," but it is still a horse. As for the ACLU labeling itself "mainstream," you be the judge.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President Officer laid before the Senate messages from the President of the United States submitting a nomination, which was referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 4210) to authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, to establish the National Oceans Policy Commission, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5408. An act to make a correction in the Education and Training for a Competitive America Act of 1988.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 59. An act entitled the "National Forest and Public Lands Nevada Enhancement Act of 1988";

S. 136. An act to improve the health status of Native Hawaiians, and for other purposes;

S. 437. An act to authorize the refinancing of certain small business debentures, and for other purposes;

S. 1727. An act to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders;

H.R. 1275. An act for the relief of Joyce G. McFarland;

H.R. 3515. An act to amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to promulgate regulations on the management of infectious waste;

H.R. 3621. An act to declare that certain lands located on California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and to declare such lands to be part of the reservation with which they are contiguous;

H.R. 3757. An act to amend title 5, United States Code, to permit voluntary transfers of leave by Federal employees where needed because of a medical or other emergency situation;

H.R. 4410. An act to designate the Federal Building at Spring and High Streets in Columbus, Ohio, as the "John W. Bricker Federal Building";

H.R. 4818. An act to establish the National Park of American Samoa;

H.R. 4939. An act to amend the Safe Drinking Water Act to control lead in drinking water;

H.R. 5052. An act to amend title 31 of the United States Code to provide for a transfer of control of the General Accounting Office Building and to improve the administration of the General Accounting Office;

H.R. 5199. An act to make nonmailable any plant, fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests, and for other purposes;

H.R. 5389. An act to concerning disaster assistance for Bangladesh;

H.R. 5442. An act to provide the Environmental Protection Agency and the public with additional information about asbestos products; and

H.R. 5471. An act to amend the Public Health Service Act to revise the authority for the regulation of clinical laboratories.

The enrolled bills, except S. 1727, were subsequently signed by the Acting President pro tempore (Mr. DASCHLE).

At 5 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 1490. An act for the relief of Jean DeYoung; and

H.R. 2802. An act for the relief of Fleurette Seidman.

The message also announced that the House agrees to the amendments of the Senate to each of the following bills:

H.R. 1133. An act for the relief of Thomas Nelson Flanagan; and

H.R. 1388. An act for the relief of David Butler, Aldo Cirone, Richard Denisi, Warren Fallon, Charles Hotton, Harold Johnson, Jean Lavoie, Vincent Maloney, Austin Mortensen, Kurt Olofsson, and Jon Jenks.

The message further announced that the House has passed the bill (S.

1842) for the relief of Mr. Wilhelm Jahn Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo David Schlechter; with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5408. An act to make a correction in the Education and Training for a Competitive America Act of 1988; to the Committee on Labor and Human Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 19, 1988, he had presented to the President of the United States the following enrolled bills:

S. 59. An act entitled the "National Forest and Public Lands Nevada Enhancement Act of 1988";

S. 136. An act to improve the health status of Native Hawaiians, and for other purposes; and

S. 437. An act to authorize the refinancing of certain small business debentures, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4004. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals; pursuant to the order of January 30, 1975, as amended on April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Finance, the Committee on Foreign Relations, the Committee on Energy and Natural Resources, and the Committee on the Judiciary.

EC-4005. A communication from the Acting Director of the Congressional Budget Office, transmitting, pursuant to law, the Final Sequestration Report for Fiscal Year 1989; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986; referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs, and the Select Committee on Intelligence.

EC-4006. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on two requirements on the Secretary of Defense; to the Committee on Armed Services.

EC-4007. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting pursuant to law, a proposed letter of offer to the Thailand for defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-4008. A communication from the Director (Administration and Management), Department of Defense, transmitting, pursuant to law, the intention of the Department of the Navy to exercise the authority to exclude a clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-4009. A communication from the Attorney General of the United States, transmittting, pursuant to law, notice that the United States will not appeal the judgment of the court of appeals in Verba v. Ohio Casualty Ins. Co.; to the Committee on the Judiciary.

EC-4010. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "The Effect of Airline Deregulation on the Level of Air Safety"; to the Committee on Commerce, Science, and Transportation.

EC-4011. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Federal Coal Management Report for the fiscal year 1987; to the Committee on Energy and Natural Resources.

EC-4012. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Tennessee Valley Authority's financial statements for 1987; to the Committee on Enviroment and Public Works.

EC-4013. A communication from the General Counsel of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, notice of suspension of deportation of certain aliens under sections 244(a)(1) and 244(a)(2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4014. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a draft of proposed legislation to improve the compensation for members of the Senior Executive Service; to the Committee on Governmental Affairs.

EC-4015. A communication from the Director (Administration and Management) Department of Defense, transmitting, pursuant to law, an altered record system submitted by the Department of the Navy; to the Committee on Governmental Affairs.

EC-4016. A communication from the Director of Financial Management, General Accounting Office, transmitting, pursuant to law, the 1986 and 1987 annual reports of the Comptroller General's Retirement System; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the resolution (S. Res. 187) to refer the bill (S. 966) for the relief of Frederick Paul to the Chief Judge of the United States Claims Court (Rept. No. 100-598).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 2914. A bill to exclude the receipts of Social Security trust funds from the deficit calculation, and to establish an independent agency, governed by a bipartisan board, to administer the Old-Age, Survivors, and Disability Insurance Program under title II of the Social Security Act, the Supplemental Security Income Program under title XVI of such act, and the Medicare Program under title XVIII of such act; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977.

By Mr. BYRD (for Mr. DODD):

S. 2915. A bill to provide certain minor and technical amendments to the Child Abuse Prevention, Adoption, and Family Services Act of 1988; considered and passed.

By Mr. GLENN:

S. 2916. A bill to establish the congressional scholarships for science, mathematics, and engineering, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORE (for himself and Mr. BREAUX):

S. 2917. A bill to implement the recommendations of the Interagency Committee and the Technical Study Group on Cigarette and Little Cigar Fire Safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GORE:

S. 2918. A bill to provide for a national plan and coordinated Federal research program to ensure continued U.S. leadership in high-performance computing; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PROXMIRE (for himself, Mr. ARMSTRONG, Mr. BOND, Mr. CHAFEE, Mr. CRANSTON, Mr. DIXON, Mr. DODD, Mr. GARN, Mr. GRAHAM, Mr. GRAMM, Mr. HECHT, Mr. HEINZ, Mr. KARNES, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, and Mr. WIRTH):

S. Res. 503. Resolution commending Kenneth A. Mclean for his service to the Senate; considered and agreed to.

By Mr. PROXMIRE:

S. Res. 504. Resolution commending Ronald L. Tammen for his service to the U.S. Senate; considered and agreed to.

By Mr. BYRD:

S. Res. 505. Resolution to authorize printing of additional copies of a Senate document; considered and agreed to.

By Mr. DOLE:

S. Res. 506. Resolution authorizing the printing of tributes to Senator ROBERT C. BYRD; considered and agreed to.

By Mr. BYRD (for Mr. EXON) (for himself and Mr. KARNES):

S. Res. 507. Resolution to refer S. 1964 entitled "For the Relief of Nebraska Aluminum Casting, Inc. of Hastings, Nebraska" to the chief judge of the U.S. Claims Court for a report thereon; considered and agreed to.

By Mr. BYRD:

S. Res. 508. Resolution authorizing certain appointments; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 2914. A bill to exclude the receipts of Social Security trust funds from the deficit calculation, and to establish an independent agency, governed by a bipartisan board, to administer the Old-Age, Survivors, and Disability Insurance Program under title II of the Social Security Act, the Supplemental Security Income Program under title XVI of such act, and the Medicare Program under title XVIII of such act; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

SOCIAL SECURITY SANCTITY ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation that will provide important safeguards for the Social Security system.

The legislation, titled the Social Security Sanctity Act, would accomplish two important goals.

First, it would exclude the receipts of the Social Security trust funds from the calculation of the deficit under the Gramm-Rudman-Hollings law. This change would make explicit the actual operating budget deficit of the Federal Government, and will not permit an administration to use the Social Security surpluses to mask the true magnitude of the deficit.

This was done in this fiscal year, as was done in the last fiscal year, and as will be done in the next fiscal year unless we enact this legislation. Obviously, we are not going to do it in the remaining hours of the 100th Congress, but we can get to it promptly in the 101st Congress, and it would apply to the fiscal year that begins October 1, 1989.

In the current year, the Gramm-Rudman-Hollings deficit goal of $146 billion is nominally achieved, but that comes about by using $52 billion of the trust fund reserve.

The $200 billion deficit, as far as the eye can see, to use Mr. David Stockman's term, is still structurally in place. The fact is that the debt service is beginning to eat us alive. The deficit this year will be smaller than the interest on the debt. In this country today, it takes 23 percent of the revenue of personal income tax to pay the interest on the money we have borrowed in the last 8 years.

Having put in place a secure trust fund reserve, a stream of revenue of some $3 trillion over the next 30 years, it seems to me that it is urgent that we save it for the baby boomers when they retire, that we not use this money for current consumption and having nothing to show when the time comes when we need it.

Second, the Social Security Sanctity Act includes legislation to establish the Social Security Administration as an independent agency. I have previously introduced this legislation as a separate bill. I believe that the sanctity of the Social Security system requires the establishment of this independent agency.

I do not have to tell the distinguished Presiding Officer that the Social Security Administration began as an independent agency, and only after a generation was it brought into the Department of Health and Human Services, which was previously the Department of Health, Education, and Welfare.

Since the 1983 Social Security Commission agreed on a plan to restore the stability of the funding, very much having in mind the need to establish public confidence in this most essential element of all public programs, an independent agency, with its own trustees and its own clear status, as something set apart from the budget and from the Government and the politics of the day and the politics of Congress or the administration, is needed.

I remind the Senate that in a survey done by Daniel Yankelovich not too long ago, for the 50th anniversary of the Social Security system, it was established that two-thirds of the nonretired adults in the United States do not believe they will receive Social Security when they retire or do not believe they will receive that portion of it to which they currently are entitled.

It is worth reminding that in the past, in this decade, we have seen extraordinary efforts to declare the system unstable. The largest bankruptcy in history, Mr. Stockman told us, was happening. I very much admire Sylvia Porter for describing such a scare campaign of vicious proportions. I equally admire the distinguished Republican leader for his unwillingness to be associated with it. On the contrary, Senator DOLE and a small group of others restored the stability of the Social Security trust funds in 1983. It would be very small reward for their efforts, with which I must say I was associated, if we do not reserve that flow of revenue, $3 trillion in 30 years, and instead simply use it for current consumption, use it to disguise the real state of the deficit and spend it, so that nothing will be there when we do need it.

In 1970, the U.S. birth rate fell below the reproduction level, and that means the day will come, starting around the year 2030, when there are only two persons in the work force for every retired person in this country. We had better have a pretty good work force if we are going to maintain what we have every reason to expect to be the level of benefits now assumed and forecast and which are entirely manageable if we save this reserve. That can be done. It is not being done.

So the first thing to do is to establish the fact that it is there, and I do not know of any better way to do that than to take it out of the Gramm-Rudman-Hollings calculations and to establish the Social Security Administration as an independent body, able to speak for itself and defend its interests, which, after all, are our interests.

Mr. President, I ask that the bill be referred to the Committee on Finance, which I believe it will be.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Sanctity Act".

TITLE I—EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS

SEC. 101. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

TITLE II—SOCIAL SECURITY ADMINISTRATION REORGANIZATION ACT

SEC. 301. SHORT TITLE AND TABLE OF CONTENTS.

This title, with the following table of contents, may be cited as the "Social Security Administrative Reorganization Act".

TABLE OF CONTENTS

Sec. 301. Short title and table of contents.
Sec. 302. Establishment of an independent Social Security Agency; Social Security Board.

Sec. 303. Commissioner of Social Security.
Sec. 304. Transfer of functions.
Sec. 305. Transitional rules.
Sec. 306. Budgetary and fiscal affairs of the Social Security Agency.
Sec. 307. Technical and conforming amendments; rules of construction.
Sec. 308. Reports assessing organizational changes.
Sec. 309. Effective date and interim rules.

SEC. 302. ESTABLISHMENT OF AN INDEPENDENT SOCIAL SECURITY AGENCY; SOCIAL SECURITY BOARD

(a) Section 701 of the Social Security Act is amended to read as follows:

"SOCIAL SECURITY AGENCY; SOCIAL SECURITY BOARD

"SEC. 701. (a) There is hereby established, as an independent agency of the executive branch of the Government, a Social Security Agency (hereafter in this title referred to as the 'Agency').

"(b)(1) The Agency shall be headed by a Social Security Board (hereafter in this title referred to as the 'Board').

"(2)(A) Except as provided in subparagraph (B), the Board shall be composed of five members appointed by the President, by and with the advice and consent of the Senate.

"(B) For the period ending January 31, 1989, the Board shall be composed of three members appointed by the President, by and with the advice and consent of the Senate.

"(C) The members shall be chosen, on the basis of integrity, impartiality, and good judgment, from among individuals who, by reason of education, experience, and attainment, are exceptionally qualified to serve on the Board.

"(3)(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of fifteen years. A member of the Board may be removed only pursuant to a finding by the President of neglect of duty or malfeasance in office. The President shall transmit any such finding to the Speaker of the House of Representatives and the Majority Leader of the Senate not later than five days after the date on which such finding is made.

"(B) Of the members first appointed—

"(i) one shall be appointed for a term ending October 1, 1989,

"(ii) one shall be appointed for a term ending October 1, 1992,

"(iii) one shall be appointed for a term ending October 1, 1995,

"(iv) one shall be appointed for a term beginning February 1, 1989, and ending October 1, 1998, and

"(v) one shall be appointed for a term beginning February 1, 1989, and ending October 1, 2001,

as designated by the President at the time of appointment. Such members shall be appointed after active consideration of recommendations made by the Chairman of the Committee on Ways and Means of the House of Representatives and of recommendations made by the Chairman of the Committee on Finance of the Senate.

"(C) Any member appointed for a term after the commencement of such term shall be appointed only for the remainder of such term. A member may, with the approval of the President, serve for not more than one year after the expiration of his or her term until his or her successor has taken office.

"(4)(A) Except as provided in subparagraph (B), not more than three members of the Board shall be of the same political party.

"(B) For the period ending January 31, 1989, not more than two members of the Board shall be of the same political party.

"(5) A member of the Board may not, during his or her term as member, otherwise serve as an officer or employee of any government. If any member of the Board becomes an officer or employee of any government, he or she may continue to serve as a member of the Board not more than 30 days after the date he or she becomes an officer or employee of such government.

"(6)(A) Except as provided in subparagraph (B), three members of the Board shall constitute a quorum.

"(B) For the period ending January 31, 1989, two members of the Board shall constitute a quorum.

"(C) A lesser number may hold hearings.

"(7) A member of the Board shall be designated from time to time by the President to serve as Chairperson of the Board.

"(8) The Board shall meet at the call of the Chairperson or a majority of its members.

"(c) The Board shall—

"(1) govern by regulation the old-age, survivors, and disability insurance program under title II, the supplemental security income program under title XVI, and the medicare program under title XVIII,

"(2) appoint a Commissioner of Social Security, as described in section 702, to act for the Board as the chief operating officer of the Agency responsible for administering such programs,

"(3) make annual budgetary recommendations relating to the Agency and defend such recommendations before the appropriate committees of each House of the Congress,

"(4) make recommendations to the Congress and the President as to the most effective methods of providing economic security through social insurance, and, in consultation with the Commissioner of Social Security, as to legislation and matters of administrative policy concerning such programs,

"(5) provide the Congress and the President with the ongoing actuarial and other analysis undertaken by the Agency with respect to such programs and any other information relating to such programs, and

"(6) conduct policy analysis and research relating to such programs.

"(d)(1) The Office of the Board shall include an Office of the Actuary, to be headed by a Chief Actuary appointed by the Board. To the extent provided by the Board, the Office of the Actuary shall assist the Board in carrying out its actuarial functions.

"(2) The Office of the Board shall include an Office of Policy and Legislation, to be headed by a Director of Policy and Legislation appointed by the Board. To the extent provided by the Board, the Office of Policy and Legislation shall assist the Board in carrying out its functions relating to policy analysis, research, and legislation.

"(3) The Office of the Board shall include an Office of General Counsel, to be headed by a General Counsel appointed by the Board. The General Counsel shall serve as the principal legal counsel in the Agency and shall provide necessary legal advice and services to the Board and the Commissioner.

"(4) The Office of the Board shall include an Ombudsman, to be appointed by the Board. The Ombudsman shall represent the concerns of the public, including beneficiaries, with respect to the old-age, survivors, and disability insurance program under title II, the supplemental security income program under title XVI, and the medicare program under title XVIII, to the Board and the Commissioner.

"(5)(A) The Board shall appoint such additional attorneys, actuaries, and other employees as it considers necessary to carry out its functions.

"(B) The Board may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such technical or professional employees as the Board considers appropriate, and such employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) The Board may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(D) Notwithstanding section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Agency a total number of Senior Executive Service positions equal to 150 percent of the number of such positions existing in the Social Security Administration of the Department of Health and Human Services on the day before the date of the enactment of the Social Security Administrative Reorganization Act, and the total number of such positions authorized for the Agency pursuant to such section 3133 shall not at any subsequent time be less than such number.

"(E) In addition to the positions of the Agency in the Executive Schedule specified in subchapter II of chapter 53 of title 5, United States Code, the Board may establish additional positions at levels IV and V of the Executive Schedule.

"(d)(1) The Board may establish, alter, consolidate, or discontinue such organizational units or components within the Agency as the Board considers necessary or appropriate to carry out its functions, except that this paragraph shall not apply with respect to any unit or component established by this Act.

"(2) The Board may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, with respect to the functions of the Board under this section. Within the limitations of such delegations, redelegations, or assignments to officers or employees of the Agency, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Board.

"(e) There shall be in the Agency an Office of the Inspector General, to be headed by an Inspector General appointed in accordance with the Inspector General Act of 1978.

"(f)(1) The Board, the Secretary, and the Secretary of the Treasury shall consult with each other and shall develop rules, regulations, practices, and forms which, to the extent appropriate for the efficient administration of titles II, XVI, and XVIII and the other provisions of this Act and the applicable provisions of the Internal Revenue Code of 1954, are designed to reduce duplication of effort, duplication of reporting, conflicting or overlapping requirements, and the burden on beneficiaries and other persons of compliance with the provisions of this Act.

"(2) In order to avoid unnecessary expense and duplication of functions, the Board, the Secretary, and the Secretary of the Treasury may make such arrangements or agreements for cooperation or mutual assistance in the performance of their functions under titles II, XVI, and XVIII and the other provisions of this Act and the applicable provisions of the Internal Revenue Code of 1954 as they find to be practicable and consistent with law.".

(b)(1) Section 5313 of title 5, United States Code (relating to level II of the Executive Schedule), is amended by adding at the end thereof the following new item:

"Chairperson of the Social Security Board, Social Security Agency.".

(2) Section 5314 of such title (relating to level III of the Executive Schedule) is amended by adding at the end thereof the following new item:

"Members of the Social Security Board, Social Security Agency (4).".

(3) Section 5315 of such title (relating to level IV of the Executive Schedule) is amended by adding at the end thereof the following new items:

"Inspector General, Social Security Agency.

"Chief Actuary, Social Security Agency.

"Director of Policy Analysis and Legislation, Social Security Agency.

"General Counsel, Social Security Agency.

"Ombudsman, Social Security Agency.".

SEC. 303. COMMISSIONER OF SOCIAL SECURITY.

(a) Section 702 of the Social Security Act is amended to read as follows:

"COMMISSIONER OF SOCIAL SECURITY

"SEC. 702. (a) There shall be in the Agency an Office of the Commissioner, to be headed by a Commissioner of Social Security (hereinafter in this title referred to as the 'Commissioner') appointed by the Board. The Commissioner shall be chosen from among individuals who are, by reason of experience and attainment, especially qualified to manage a large-scale organization of the Government.

"(b)(1) The Commissioner shall be appointed for a term of five years, except that—

"(A) an individual appointed Commissioner for a term after the commencement of such term shall be appointed only for the remainder of such term,

"(B) an individual may, with the approval of the Chairperson of the Board, serve as Commissioner after the expiration of his or her term for not more than one year until his or her successor has taken office, and

"(C) the individual first appointed to the Office of Commissioner shall serve for a term ending January 31, 1989.

An individual may be appointed as Commissioner for successive terms, and

"(2) An individual may be removed from the office of Commissioner before completion of his or her term only upon the vote of a majority of the full membership of the Board, pursuant to a finding by the Board of neglect of duty or malfeasance in office. The Board shall transmit any such finding to the Speaker of the House of Representatives and the Majority Leader of the Senate not later than five days after the date on which such finding is made.

"(3) Except as provided in paragraph (6) of subsection (c), an individual serving as Commissioner may not, during his or her term as Commissioner, otherwise serve as an officer or employee of any government. If an individual serving as Commissioner becomes an employee of any government, he or she may continue to serve as Commissioner not more than 30 days after the date on which he or she becomes an officer or employee of such government.

"(c) The Commissioner shall—

"(1) constitute the chief operating officer of the Agency, responsible for administering, in accordance with applicable statutes and regulations, the old-age, survivors, and disability insurance program under title II, the supplemental security income program under title XVI, and the medicare program under title XVIII,

"(2) establish and maintain an efficient and effective operational structure for the Agency,

"(3) devise and implement long-term plans to promote and maintain the effective implementation of such programs,

"(4) make annual budgetary recommendations of the Agency for the ongoing administrative costs of the Agency and defend such recommendations before the Board and before the appropriate Committees of each House of the Congress,

"(5) advise the Board and the Congress of the effect on the administration of such programs of proposed legislative changes in such programs,

"(6) serve as Secretary of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund, and

"(7) report in December of each year to the Board and the Congress concerning the administrative endeavors and accomplishments of the Agency.

"(d)(1) The Commissioner may establish, alter, consolidate, or discontinue such organizational units or components within the Office of the Commissioner as the Commissioner considers necessary or appropriate to carry out his or her functions.

"(2) The Commissioner may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, with respect to the administration of the old-age, survivors, and disability insurance program under title II, the supplemental security income program under title XVI, and the medicare program under title XVIII to such officers and employees as the Commissioner may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Commissioner.

"(3)(A) The Commissioner shall appoint such additional employees as he or she considers necessary to carry out his or her functions.

"(B) The Commissioner may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such technical or professional employees as the Commissioner considers appropriate, and such employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) The Commissioner may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(D) The Commissioner may delegate such powers of appointment and procurement to any of the employees in the Office of the Commissioner as he or she determines appropriate.

"(4) To the extent requested by the Commissioner, the Director of the Office of Personnel Management shall delegate to the Commissioner, pursuant to section 1104 of title 5, United States Code, and subject to applicable limitations under such title relating to delegations under such section, functions relating to—

"(A) recruitment and examination programs for entry level employees, and

"(B) classification and standards development systems and pay ranges for those job categories identified by the Commissioner in assuming such delegation.

The Director of the Office of Personnel Management shall provide any assistance requested by the Commissioner in assuming any such delegation.".

(b)(1) Section 5313 of title 5, United States Code (relating to level II of the Executive Schedule) is further amended by adding at the end thereof the following new item:

"Commissioner of Social Security, Social Security Agency.".

(2) Section 5315 of such title is amended by striking out the following item:

"Commissioner of Social Security, Department of Health and Human Services.".

SEC. 304. TRANSFER OF FUNCTIONS.

(a) There are transferred to the Social Security Agency all functions carried out by the Secretary of Health and Human Services with respect to the programs and activities the administration of which is vested in the Social Security Agency by reason of this title and the amendments made thereby. The Social Security Board shall prescribe such regulations as are necessary to allocate such functions in accordance with sections 701 and 702 of the Social Security Act (as amended by this title).

(b)(1) There are transferred from the Department of Health and Human Services to the Social Security Board, for appropriate allocation by the Board by regulation in the Social Security Agency—

(A) the personnel employed in connection with the functions transferred by this title and the amendments made thereby, and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) The position of Commissioner of Social Security in the Department of Health and Human Services is abolished.

SEC. 305. TRANSITIONAL RULES.

(a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or his delegate), and (B) which relate to functions which, by reason of this title, the amendments made thereby, and regulations prescribed thereunder, are vested in the Social Security Board or the Commissioner of Social Security (as the case may be), and

(2) which are in effect at the time this title takes effect,

shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Board or Commissioner (as the case may be).

(b) The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending at the time this title takes effect before the Secretary of Health and Human Services with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Social Security Board or the Commissioner of Social Security, except that such proceedings, to the extent that they relate to such functions, shall continue before such Board or Commissioner (as the case may be). Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Board or Commissioner (as the case may be), by a court of competent jurisdiction, or by operation of law.

(c) Except as provided in this subsection—

(1) the provisions of this title shall not affect suits commenced prior to the date this title takes effect; and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States and the Social Security Agency, or such official of such Agency as may be appropriate, and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(d) This title shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) is vested in the Social Security Board or the Commissioner of Social Security.

(e) Orders and actions of the Social Security Board and the Commissioner of Social Security in the exercise of functions vested in such Board or Commissioner (as the case may be) under this title (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately preceding the effective date of this title. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Board or Commissioner shall continue to apply to the exercise of such function by such Board or Commissioner (as the case may be).

(f) In the exercise of the functions vested in the Social Security Board or the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Board or Commissioner (as the case may be) shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of the same in such Board or Commissioner, and actions of such Board or Commissioner shall have the same force and effect as when exercised by such Secretary.

SEC. 306. BUDGETARY AND FISCAL AFFAIRS OF THE SOCIAL SECURITY AGENCY.

Section 703 of the Social Security Act is amended to read as follows:

"BUDGETARY AND FISCAL AFFAIRS OF THE SOCIAL SECURITY AGENCY

"SEC. 703. (a) Appropriations requests of the Social Security Agency for staffing and personnel shall be based upon comprehensive work force plans. The entire amount of appropriations provided for the administrative costs of the Social Security Agency shall be apportioned in the time period provided in title 31, United States Code, for apportionment and shall be apportioned for the entire period of availability without restriction or deduction by the apportioning officer or employee of the Office of Management and Budget or any other entity within the executive branch of the Federal Government, except as otherwise provided in this section.

"(b)(1) Authority of the Social Security Agency for automated data processing procurement and facilities construction shall be provided in the form of contract authority covering the total costs of such acquisitions, to be available until expended.

"(2) Amounts necessary for the liquidation of contract authority provided pursuant to this section are hereby made available from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, Federal Hospital Insurance Trust Fund, and the Federal Supplemental Medical Insurance Trust Fund to the extent that the Social Security Board, with the concurrence of the Secretary of the Treasury, determines that any of such amounts to be provided from such Trust Fund are not necessary to meet the current obligations for benefit payments from such Trust Fund.

"(3) Funds appropriated for the Social Security Agency to be available on a contingency basis shall be apportioned only upon the occurrence of the stipulated contingency, as determined by the Social Security Board and reported to each House of the Congress.

"(c)(1) To the extent requested by the Commissioner, the Commissioner shall have—

"(A) all authorities permitted to be delegated under the provisions of Federal law codified under title 40 of the United States Code, that the Commissioner considers are necessary for the acquiring, operating, and maintaining of the facilities needed for the administration of programs for which the Commissioner is given responsibility under this Act,

"(B) all authorities permitted to be delegated under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), relating to the lease, purchase, or maintenance of automated data processing equipment, and

"(C) the authority to contract for any automated data processing equipment or services which the Commissioner considers necessary for the efficient and effective operation of such programs.

"(2) The Administrator of the General Services Administration shall provide any assistance requested by the Commissioner in assuming the delegations required under paragraph (1).".

SEC. 307. TECHNICAL AND CONFORMING AMENDMENTS; RULES OF CONSTRUCTION.

(a) Title II (other than subsections (a), (b), and (c) of section 201), part B of title XI, title XVI (relating to supplemental security income for the aged, blind, and disabled), and title XVIII (other than subsection (b) of section 1817 and subsection (b) of section 1841) of the Social Security Act are each amended—

(1) by striking out, wherever it appears therein, "Secretary of Health and Human Services" or "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Commissioner",

(2) by striking out, wherever it appears therein, "Department of Health and Human Services" or "Department of Health, Education, and Welfare" and inserting in lieu thereof "Social Security Agency",

(3) by striking out, wherever it appears therein, "Department" (but only if it is used in reference to the Department of Health and Human Services or the Department of Health, Education, and Welfare) and inserting in lieu thereof "Social Security Agency", and

(4) by striking out, wherever it appears therein, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services or to the Secretary of Health, Education, and Welfare): "Secretary", "Secretary's", "his", "him", and "he", and inserting in lieu thereof (in the case of the word "Secretary") "Commissioner", (in the case of the word "Secretary's") "Commissioner's", (in the case of the word "his") "the Commissioner's", (in the case of the word "him") "the Commissioner", and (in the case of the word "he") "the Commissioner".

(b)(1) Subsections (a) and (b) of section 201 of such Act are each amended—

(A) by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Commissioner of Social Security", and

(B) by striking out "such Secretary" each place it appears and inserting in lieu thereof "the Commissioner of Social Security".

(2) Section 201(c) of such Act is amended—

(A) in the first sentence, by striking out "shall be composed of" and all that follows through "ex officio" and inserting in lieu thereof the following: "shall be composed of the Chairperson of the Social Security Board, and the Secretary of the Treasury, ex officio"; and

(B) by striking out "Social Security Administration" in the fourth sentence and inserting in lieu thereof "Social Security Agency".

(c)(1) Section 402 of such Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary".

(2) Section 411 of such Act is amended—

(A) in subsection (a), by striking out "Secretary" and inserting in lieu thereof "Commissioner, at the request of the Secretary,", and by striking out "Social Security Administration" and inserting in lieu thereof "Social Security Agency"; and

(B) in subsection (b), by striking out "Secretary" each place it appears and inserting in lieu thereof "Commissioner".

(d)(1) Section 704 of such Act is amended—

(A) by inserting "and the Commissioner" after "Secretary" the first place it appears;

(B) by inserting "each" after "shall";

(C) by striking out "the functions with which he is charged" and inserting in lieu thereof "his or her functions"; and

(D) by striking out "of such" each place it appears and inserting in lieu thereof "of each such".

(2) Section 709(b)(2) of such Act is amended by striking out "(as estimated by the Secretary)" and inserting in lieu thereof "(as estimated by the Commissioner)".

(3) Title VII of such Act is further amended by adding at the end thereof the following new section:

"DUTIES OF SECRETARY

"SEC. 713. The Secretary shall perform the duties imposed upon him by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security and as to legislation and matters of administrative policy concerning the programs administered by the Secretary and related subjects; except that nothing in this section shall be construed to require the Secretary to make studies or recommendations with respect to programs administered by the Social Security Agency.".

(e)(1) Section 1101(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(10) The term 'Commissioner' means the Commissioner of Social Security.".

(2) Section 1102 of such Act is amended by striking out "and the Secretary of Health, Education and Welfare" and inserting in lieu thereof "the Secretary of Health and Human Services, and the Commissioner of Social Security".

(3) Section 1106(a) of such Act is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking out "Federal Security Agency" and inserting in lieu thereof "applicable agency";

(C) by striking out "Administrator" and inserting in lieu thereof "head of the applicable agency"; and

(D) by adding at the end thereof the following new paragraph:

"(2) For purposes of this subsection and subsection (b)—

"(A) the term 'applicable agency' means—

"(i) the Social Security Agency, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Agency,

"(ii) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department, or

"(iii) the Department of Labor, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department, and

"(B) the term 'head of the applicable agency' means, in the case of the Social Security Agency, the Commissioner of Social Security.".

(4) Section 1106(b) of such Act is amended—

(A) by striking out "Secretary" and inserting in lieu thereof "head of the applicable agency"; and

(B) by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "applicable agency".

(5) Section 1106(c) of such Act is amended—

(A) by striking out "the Secretary" the first place it appears and inserting in lieu thereof "the Commissioner or the Secretary"; and

(B) by striking out "the Secretary" each subsequent place it appears and inserting in lieu thereof "such Commissioner or Secretary".

(6) Section 1106(d) of such Act is amended by inserting "the Commissioner and" after "this section".

(7) Section 1106(e) of such Act is amended—

(A) by striking out "by the Secretary" and inserting in lieu thereof "by the Commissioner, the Secretary,"; and

(B) by inserting "or the Commissioner" after "Secretary" the second and third places it appears.

(8) Section 1107(b) of such Act is amended by striking out "the Secretary of Health, Education, and Welfare" and inserting in lieu thereof "the Commissioner or the Secretary".

(9) Section 1110 of such Act is amended—

(A) by striking out "Secretary" each place it appears and inserting in lieu thereof "Commissioner";

(B) by striking out "he", "his", and "him" each place they appear and inserting in lieu thereof "the Commissioner", "the Commissioner's", and "the Commissioner", respectively; and

(C) by striking out "or makes them himself", in subsection (b)(1), and inserting in lieu thereof "or the Commissioner makes them".

(10)(A) Subsections (a), (b), and (i) of section 1122 of such Act are each amended by inserting "Commissioner and the" before "Secretary" each place it appears.

(B) Subsections (c), (d), (e), and (f) of such section are each amended—

(i) by striking out "the Secretary" each place it appears and inserting in lieu thereof "the Commissioner or the Secretary (as the case may be)"; and

(ii) by striking out "titles XVIII and XIX" each place it appears and inserting in lieu thereof "title XVIII or title XIX (as the case may be)".

(C) Subsection (j) of such section is amended by striking out "the Secretary" and inserting in lieu thereof "the Commissioner".

(11) Section 1123 of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Commissioner".

(12)(A) Section 1124(a)(1) of such Act is amended—

(i) by inserting "(or, with respect to programs established under title XVIII, the Commissioner)" after "the Secretary";

(ii) by inserting ", the Commissioner," after "the Secretary" the first and second places it appears; and

(iii) by striking out "Secretary in" and inserting in lieu thereof "Secretary or the Commissioner, as the case may be, in".

(B) Section 1124(b) of such Act is amended by inserting "or the Commissioner, as the case may be" after "Secretary".

(13) Section 1126 of such Act is amended—

(A) by inserting ", the Commissioner," after "Secretary" each place it appears;

(B) by striking out "in the Department of Health, Education, and Welfare" and inserting in lieu thereof "in the Department of Health and Human Services, or the Inspector General in the Social Security Agency, as the case may be,"; and

(C) by striking out "notify the" and inserting in lieu thereof "notify such".

(14) Section 1127 of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Commissioner".

(15)(A) Subsections (a) and (b) of section 1128 of such Act are each amended—

(i) by inserting "(or, with respect to title XVIII, the Commissioner)" after "Whenever the Secretary",

(ii) by striking out ", the Secretary";

(iii) by inserting "the Commissioner" after "(1)";

(iv) by inserting "the Secretary or the Commissioner (as the case may be)" after "(2)(A)";

(v) by inserting "the Secretary" before "may" in paragraph (2)(A);

(vi) by inserting "the Secretary" after "(B)"; and

(vii) in paragraph (3) of subsection (a) only, by inserting "the Secretary or the Commissioner (as the case may be)" after "(3)".

(B) Subsection (c) of such section is amended by inserting "or the Commissioner, as the case may be," after "Secretary" each place it appears.

(C) Subsection (d) of such section is amended—

(i) by inserting "or the Commissioners, as the case may be," after "Secretary" each place it appears; and

(ii) by striking out "Secretary's final decision" and inserting in lieu thereof "the final decision of the Secretary or the Commissioner, as the case may be,".

(16)(A) Subsection (a) of section 1128A of such Act is amended—

(i) in paragraph (1) by inserting "(or, with respect to claims under title XVIII, the Commissioner)" after "that the Secretary",

(ii) in paragraph (1)(B) by inserting "or the Commissioner" after "Secretary" the first place it appears, and

(iii) in paragraph (1)(B) by striking out "Secretary" the second and third places it appears and inserting in lieu thereof "Commissioner".

(B) Subsections (b) and (c) of such section are each amended by inserting "(or, with respect to claims under title XVIII, the Commissioner)" after "Secretary" each place it appears.

(C) Subsection (d) of such section is amended—

(i) by inserting "or the Commissioner" after "Secretary" each place it appears, and

(ii) by inserting "or the Commissioner's" after "Secretary's".

(D) Subsection (e) of such section is amended—

(i) by inserting "or the Commissioner (as the case may be)" after "the Secretary" the first place it appears, and

(ii) by inserting "or the Commissioner" after "Secretary" the second and third places it appears.

(E) Subsection (f) of such section is amended by inserting "or the Commissioner" after "Secretary" each place it appears.

(F) Subsection (g) of such section is amended by inserting "or the Commissioner's" after "Secretary's".

(17)(A) Section 1129 of such Act is amended by inserting "(in consultation with the Social Security Administration)" after "Secretary" in the second sentence of subsection (a) and in subsection (b)(1).

(B) Section 1129(b)(2) of such Act is amended by striking out "title XVIII or XIX" and inserting in lieu thereof "title XIX and the Commissioner may waive such requirements of title XVIII".

(18)(A) Section 1131 of such Act is amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Commissioner".

(B)(i) Subsections (d) and (f) of section 6057 of the Internal Revenue Code of 1954 are each amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Commissioner of Social Security".

(ii) The caption of section 6057(d) of such Code is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Commissioner of Social Security".

(f) Section 1817(b) of such Act is amended—

(1) by striking out "shall be composed of" and all that follows through "ex officio" and inserting in lieu thereof "shall be composed of the Chairperson of the Social Security Board and the Secretary of the Treasury, ex officio";

(2) by striking out "Administrator of the Health Care Financing Administration" and inserting in lieu thereof "Commissioner of Social Security"; and

(3) by striking out "Chief Actuarial Officer of the Health Care Financing Administration" and inserting in lieu thereof "Chief Actuary of the Social Security Agency".

(g) Section 1841(b) of such Act is amended—

(1) by striking out "shall be composed of" and all that follows through "ex officio" and inserting in lieu thereof "shall be composed of the Chairperson of the Social Security Board and the Secretary of the Treasury, ex officio";

(2) by striking out "Administrator of the Health Care Financing Administration" and inserting in lieu thereof "Commissioner of Social Security"; and

(3) by striking out "Chief Actuarial Officer of the Health Care Financing Administration" and inserting in lieu thereof "Chief Actuary of the Social Security Agency".

(h) The Inspector General Act of 1978 is amended—

(1) in section 2(1), by striking out "and the Veterans' Administration" and inserting in lieu thereof "the Veterans' Administration, and the Social Security Agency";

(2) in section 9(a)(1), by striking out "and" at the end of subparagraph (M), and by adding at the end thereof the following new subparagraph:

"(O) of the Social Security Agency, to the extent provided in the Social Security Administrative Reorganization Act, the functions of the Inspector General of the Department of Health and Human Services relating to the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act, the supplemental security income program under title XVI of such Act, and the medicare program under title XVIII of such Act; and";

(3) in section 11(1), by striking out "or" after "Transportation" and inserting in lieu thereof a comma, and by inserting after "Affairs," the following: "or the Commissioner of Social Security of the Social Security Agency,"; and

(4) in section 11(2), by striking out "or" after "Transportation", and by inserting after "Veterans' Administration," the following: "or the Social Security Agency,".

(i)(1) Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act, the supplemental security income program under title XVI of such Act, or the medicare program under title XVIII of such Act, such reference shall be considered a reference to the Social Security Agency.

(2) Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under such programs, such reference shall be considered a reference to—

(A) the Social Security Board, with respect to functions described in section 701 of the Social Security Act (as amended by this title), and

(B) the Commissioner of Social Security, with respect to functions described in section 702 of the Social Security Act (as amended by this title).

(3) Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under such programs, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Agency.

SEC. 308. REPORTS ASSESSING ORGANIZATIONAL CHANGES.

(a) Five years after the date of the enactment of this title, the Social Security Board, the Comptroller General of the United States, and the Secretary of Health and Human Services shall each submit to each House of the Congress a report setting forth in detail an assessment of the organizational changes made by this title and the amendments made by this title.

(b) Not later than one year after the date of the enactment of this title, the Social Security Board, the Comptroller General of the United States, and the Secretary of Health and Human Services shall submit to each House of the Congress their recommendations for further technical and conforming amendments necessary to effectively and efficiently carry out the purposes of this title.

SEC. 309. EFFECTIVE DATE AND INTERIM RULES.

(a)(1) Sections 302, 303, 304, 305, and 307 of this title shall take effect one year after the date of enactment of this title.

(2) Notwithstanding the effective date set forth in paragraph (1), effective on the date of the enactment of this title—

(A) the initial members of the Social Security Board may be appointed before such effective date, after the date of the enactment of this title, and the Commissioner of Social Security, the Inspector General, the Chief Actuary, the Director of Policy Analysis and Legislation, and the General Counsel of the Social Security Agency may be appointed by such Board at any time after such initial members of the Social Security Board have been appointed,

(B) the persons appointed under subparagraph (A) shall be compensated from the date they first take office, at the rates provided for in the amendments to title 5, United States Code, made by sections 302(b) and 303(b) of this title,

(C) such compensation and related expenses of such persons shall be paid from funds available in the Department of Health and Human Services for the functions vested in the Social Security Agency by this title and the amendments made thereby, and

(D) the Social Security Board and the Commissioner of Social Security may each utilize, as appropriate, the services of such officers, employees, and other personnel of the Department of Health and Human Services, and funds appropriated to the functions of such Department to be transferred by this title and the amendments made thereby, for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

(b) The amendment made by section 306 of this title shall apply with respect to fiscal years beginning one year after the date of enactment of this title.

By Mr. GLENN:

S. 2916. A bill to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes; referred to the Committee on Labor and Human Resources.

CONGRESSIONAL SCHOLARSHIPS FOR SCIENCE, MATHEMATICS, AND ENGINEERING ACT

● Mr. GLENN. Mr. President, I rise today to introduce the Congressional Scholarship for Science, Mathematics, and Engineering Act of 1988. This bill will help strengthen the science base of the United States by encouraging more high school students to pursue careers in science, mathematics, and engineering. These future scientists will play a vital part in determining whether the American economy will be a winner or loser in an increasingly technology-driven global economy. Looking at it on a more practical level, whether we have enough good jobs for all of our citizens in the years ahead will depend largely on the scientific minds working in America's university labs, manufacturing plants, and corporate research and development centers.

This proposal, first advanced in H.R. 5518 by Congressman DOUG WALGREN, is remarkably simple. The bill would direct the National Science Foundation to award college scholarships of up to $5,000 to one female and one male high school senior from each congressional district to study science, mathematics, and engineering at the college of their choice. Modeled in part on congressional appointments to our military academies, these 4-year scholarships represent the Federal Government's parallel interest in assuring that the Nation's science base is well staffed.

Americans still find it difficult to understand and accept that the United States competes in a global economy. Our unchallenged leadership position after World War II and our vast natural resources allowed us the luxury of easily-won gains in our standard of living. For many American businesses, postwar prosperity was achieved without much challenge from our trading partners, many of which were rebuilding their war-damaged economies. Today, however, imports and exports represent twice as large a portion of our gross national product as they did two decades ago. More than 70 percent of the goods manufactured right here in the United States now compete with merchandise made somewhere overseas. Moreover, our trade deficits are another sorry reminder that there is no longer a truly domestic U.S. economy.

Perhaps most important to America's future economic prosperity is technology. Consider the conclusion of the President's Commission on Industrial Competitiveness—which is often called the Young Commission:

> Technology propels our economy forward. * * * Innovation has created whole new industries and the renewal of existing ones. State-of-the-art products have commanded premium prices in world markets, and technological advances have spurred productivity gains. Thus America owes much of its standard of living to U.S. preeminence in technology.

There exists, however, on the horizon a demographic development that poses a direct threat to American preeminence in technology, and necessarily, a threat to our economic prosperity. This country simply does not produce enough scientists, mathematicians, and engineers.

Of the 4 million high school seniors who graduated in 1979, only 15 percent of them were considering a career in the natural sciences or engineering. By the time this senior class graduated from college 4 years later, only 1.5 percent of them earned bachelor degrees in the natural sciences or engineering. Worse yet, only 9,700 members of the high school class of 1979 earned Ph.D.'s, a meager 0.2 percent of the class.

The figures for engineering are not better. The United States and Japan, the two greatest trading nations in the world, both produce about 70,000 engineers every year. But Japan's labor force is half the size of ours. And the Soviet Union turns out more than 300,000 engineers a year. Consider also that 5 years ago the American Electronics Association projected that 200,000 new positions for electrical engineers and computer sciences would be created by 1987. This figure is twice the number our universities graduated during that time.

This bill will not close the scientist gap, but it is a good start. The winners of these 4-year congressional scholarships for science and engineering would serve as highly visible role models for high school students in every congressional district in the Nation—especially if the awards come to symbolize our Nation's stake in science and engineering.

The scholarships will be awarded on the basis of merit and through a competitive selection process administered by a committee of local educators, scientists, mathematicians, and engineers. The National Science Foundation would be entirely responsible for its implementation.

The initial cost of the program would be about $5.5 million, growing to about $18 million when the program is fully operational. The bill authorizes 870 4-year scholarships worth as much as $5,000 per year. Given the importance of technology to our future prosperity, the cost of this program is well within our means.

It is my intent that these scholarships not collect dust on some guidance counselor's book shelf. I envision the National Science Foundation, in cooperation with the schools, making a strong effort to bring this scholarship to the attention of the Nation's school children, using, for example, slick marketing devices such as posters and public service radio and television announcements. The announcement of winners will come with great fanfare and publicity, designed to heighten the community's awareness of the awards themselves and the purpose behind them. The scholars will be role models in the same way that service academy appointees are.

Mr. President, I ask that a copy of this legislation be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Scholarships for Science, Mathematics, and Engineering Act".

SEC. 2. PURPOSES.

It is the purpose of this Act—

(1) to strengthen the United States science, mathematics, and engineering base by offering opportunities to pursue postsecondary education in science, mathematics, and engineering;

(2) to encourage role models in scientific, mathematics, and engineering fields for young people; and

(3) to strengthen the United States scientific, mathematics, and engineering potential by encouraging equal participation of women with men in scientific, mathematics, and engineering fields.

SEC. 3. CONGRESSIONAL SCHOLARSHIPS FOR SCIENCE, MATHEMATICS, AND ENGINEERING.

(a) ESTABLISHMENT OF PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall establish and implement a competitive, merit-based program for selecting one male and one female from each congressional district of the United States each year to receive a four-year Congressional Scholarship for Science, Mathematics, and Engineering.

(b) NOTIFICATION OF SECONDARY SCHOOLS.—The Director shall notify all public and private secondary schools and all institutions of higher education in the United States annually of the availability of scholarships under this Act.

(c) NOMINATING COMMITTEES.—The Director shall establish for each congressional district, or, to the extent a contiguous group of congressional districts reflects a geographic region similar in demographics, geography, and economic status and activity, for each such group of congressional districts, a broad-based committee of educators, scientists, mathematicians, and engineers who shall submit to the Director nominations of one male and one female from each congressional district for scholarships under this Act. The membership of each committee shall reflect geographic distribution within its area.

(d) ELIGIBILITY.—Only individuals who—

(1)(A) are citizens or nationals of the United States, or

(B) are aliens lawfully admitted to the United States for permanent residence; and

(2) have either applied or been accepted for admission to an institution of higher education in the United States that is accredited by a nationally recognized accrediting Agency or association,

shall be eligible for scholarships under this Act.

(e) CRITERIA FOR NOMINATION AND SELECTION.—Individuals shall be nominated and selected for scholarships under this Act on the basis of potential to successfully complete a postsecondary program in science, mathematics, or engineering, and on the basis of motivation to pursue a career in science, mathematics, or engineering. The Director shall determine the criteria for measuring the potential and motivation of nominees.

(f) NATURE AND AMOUNT OF SCHOLARSHIPS.—Scholarships awarded under this Act may be used only for tuition, fees, and room and board expenses. Such scholarships shall be limited to a maximum of $5,000 per year, except as necessary to accommodate a recipient completing a four-year academic program in less than four years.

(g) MAINTAINING ELIGIBILITY.—(1) In order to maintain eligibility to receive funds pursuant to a scholarship awarded under this Act, a student must—

(A) be enrolled at an institution of higher education in the United States that is currently accredited by a nationally recognized accrediting agency or association;

(B) major in any field of science, mathematics, or engineering;

(C) maintain academic performance in good standing, as determined by such institution; and

(D) except as provided in paragraph (2), carry a full-time academic work load, as determined by the institution in which the student is enrolled under standards applicable to all students enrolled in that student's program.

(2) The Director shall make exceptions to the requirement under paragraph (1)(D) in the case of—

(A) active duty as a member of the armed services;

(B) disability certified by a qualified physician; or

(C) exceptional personal circumstances or emergencies, as determined by the Director.

(h) MONITORING IMPLEMENTATION AND COMPLIANCE.—The Director shall monitor the implementation of and compliance of the nominating committees with this Act.

SEC. 4. NONDISCRIMINATION.

(a) SOLICITATION, NOMINATION, AND SELECTION OF STUDENTS.—The Director shall ensure that the solicitation, nomination, and selection of students for the program established by this Act shall be carried out without discrimination on the basis of race, age, handicap, religion, ethnic background, economic status, marital status, parental status, or sexual preference.

(b) Selection of Nominating Committees.—The Director shall ensure that the selection of nominating committees under section 3(a) shall be carried out without discrimination on the basis of race, age, handicap, religion, ethnic background, economic status, sex, marital status, parental status, or sexual preference.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the National Science Foundation for the purpose of carrying out this Act $5,500,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.●

By Mr. GORE (for himself and Mr. Breaux):

S. 2917 A bill to implement the recommendations of the Interagency Committee and the technical study group on cigarette and little cigar fire safety, and for other purposes; referred to the Committee on Commerce, Science, and Transportation.

FIRE SAFE CIGARETTE IMPLEMENTATION ACT

● Mr. GORE. Mr. President, I rise today to introduce a new legislative initiative. Today I am submitting legislation, along with my distinguished colleague, Senator Breaux of Louisiana, to implement the findings of the Interagency Committee on Cigarette and Little Cigar Fire Safety, created to study the feasibility of introducing a more fire safe cigarette.

Mr. President, every year thousands of fires are started through the careless handling of cigarettes and little cigars. To address this problem, Congress authorized the formation of the Interagency Committee on Cigarette and Little Cigar Fire Safety in 1984.

The Interagency Committee was directed to study fire safety with regard to cigarette composition. The goal of the study was to determine two things: First, the possibility of developing a cigarette that would have a significantly reduced propensity to ignite materials with which it came in contact and, second, the commercial feasibility of marketing such a cigarette.

The Interagency Committee reported the results of its study in December 1987. It found that it is technically feasible to develop a less fire-prone cigarette. This can be done through four cigarette modifications; a smaller circumference, lower density tobacco, less porous paper and a reduction of the citrate addition to cigarette paper. However, in consideration of the marketability of such a cigarette, the Interagency Committee determined that further testing and study are needed.

Additionally, researchers found that as many as 1,500 deaths, 7,000 serious burn injuries and nearly $500 million in property losses could be prevented each year in the United States if a less fire-prone cigarette could be developed and marketed. Finally, the committee found that further study is needed to determine the health effects of the modified cigarette.

Mr. President, the bill I am introducing today would implement the recommendations of the Interagency Committee. This legislation would establish an advisory committee to continue the study begun in 1984. The advisory committee would be directed to report its findings to Congress within 18 months of its authorization. If the committee determined that still more time was needed to complete the study, an additional 18 months would be allotted.

Mr. President, this is literally a life and death matter. The issue of fire safety should be treated with the utmost seriousness. It is appropriate that we complete this research, as recommended by the Interagency Committee. As chairman of the Consumer Subcommittee, I am concerned that we are doing everything possible to minimize the risk of cigarette-related fires. To this end, one thing we can do is establish minimum fire safety standards for cigarettes. I believe the results of this study will be invaluable in the consideration of reasonable cigarette modifications. Toward that end, I anticipate that when the study is completed, the Consumer Product Safety Commission or the Food and Drug Administration or some other body will be prepared to implement standards.

I urge my colleagues to join Senator Breaux and me in supporting this bill to complete the unfinished research on cigarette fire safety. I ask that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) Short Title.—This Act may be cited as the "Fire Safe Cigarette Implementation Act of 1988".

(b) Findings.—The Congress finds that—

(1) the Interagency Committee and the Technical Study Group on Cigarette and Little Cigar Fire Safety have submitted reports to the Congress, as required by the Cigarette Safety Act of 1984, on the technical and commercial feasibility, economic impact, and other consequences of developing cigarettes and little cigars having a minimum propensity to ignite upholstered furniture and mattresses,

(2) those reports indicate that the Technical Study Group, during the period specified by the Congress, made substantial progress in its work and urge that the Federal effort with respect to cigarette and little cigar fire safety be continued in certain specified areas, and

(3) there is a need for Federal legislation to complete the work mandated by the Cigarette Safety Act of 1984, implement the recommendations of the Technical Study Group, and address other issues.

SEC. 2. INTERAGENCY COMMITTEE AND IMPLEMENTATION TASK FORCE.

(a) Interagency Committee.—The Interagency Committee on Cigarette and Little Cigar Fire Safety (hereinafter referred to as the "Interagency Committee"), created by the Cigarette Safety Act of 1984, is reestablished for the purpose of overseeing and reviewing the work of the Implementation Task Force (hereinafter referred to as the "Task Force") established under subsection (b). The Interagency Committee may request the head of any Federal department or agency to assist the Interagency Committee or the Task Force, or both, in carrying out their responsibilities. The Interagency Committee also may retain or contract with such consultants as may be deemed necessary without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) and the Act of June 10, 1936 (known as the Walsh-Healey Act) (41 U.S.C. 35-45). The authority of the Interagency Committee to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(b) Implementation Task Force.—There is established an Implementation Task Force which shall consist of—

(1) 2 scientists having expertise in the development of a valid and reliable method for testing the ignition propensity of cigarettes and little cigars, one of whom shall be appointed by the Chairman of the Consumer Product Safety Commission from among the employees of the Commission and the other of whom shall be appointed by the Director of the Center for Fire Research of the National Bureau of Standards from among the employees of the National Bureau of Standards,

(2) 2 scientists having expertise concerning the possible consequences for smokers of any cigarette or little cigar modification, one of whom shall be appointed by the Director of the National Institutes of Health from among the employees of the National Institutes of Health and the other of whom shall be appointed by the Chairman of the Interagency Committee, with the advice and consent of the Interagency Committee, from a list of individuals submitted by the American Health Foundation,

(3) 2 scientists having expertise in the chemistry and physics of combustion to be appointed by the Chairman of the Interagency Committee, with the advice and consent of the Interagency Committee, from lists of individuals submitted by the International Association of Fire Chiefs and the International Association of Fire Fighters,

(4) 2 scientists having expertise in the content and characteristics of soft furnishings and fabrics to be appointed by the Chairman of the Interagency Committee, with the advice and consent of the Interagency Committee, from lists of individuals submitted by the American Furniture Manufacturers Association and the Business and Institutional Furniture Manufacturers Association, and

(5) 5 scientists having expertise in the manufacture and design of cigarettes and little cigars to be appointed by the Chairman of the Interagency Committee, with the advice and consent of the Interagency Committee, from a list of individuals submitted by The Tobacco Institute.

The persons appointed to serve on the Task Force may designate, with the advice and consent of the Interagency Committee, from among their number such persons to serve as team leaders, coordinators, or chairpersons as they deem necessary or appropriate to carry out the Task Force's functions under section 3.

SEC. 3. RESPONSIBILITIES, REPORTING.

(a) TASK FORCE RESPONSIBILITIES.—The Task Force, subject to oversight and review by the Interagency Committee, shall continue the work specified by the Cigarette Safety Act of 1984, including implementing the recommendations contained in the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety. Such activities shall include—

(1) developing a validated test method to determine the ignition propensity of cigarettes and little cigars when in contact with upholstered furniture or mattresses,

(2) developing representative performance data for current market cigarettes, using the validated test method decribed in paragraph (1), to serve as a baseline to compare future cigarette performance,

(3) continuing laboratory studies on, and computer modeling of, ignition physics relating to cigarettes, little cigars, soft furnishings, and fabrics,

(4) designing and implementing a study or studies to collect baseline and follow-up data about the characteristics of cigarettes and little cigars, products ignited, and smokers involved in cigarette and little cigar fires,

(5) developing systematic knowledge (from existing or new sources as appropriate) on changes in the composition of smoke of modified cigarettes and little cigars and societal costs of injuries stemming from fires involving cigarettes of little cigars, and

(6) assessing the commercial feasibility and economic impact of manufacturing and marketing cigarettes and little cigars with reduced ignition propensity.

(b) HEARINGS.—For purposes of carrying out the functions described in subsection (a), the Interagency Committee and the Task Force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Interagency Committee or the Task Force deems appropriate.

(c) CONFIDENTIALITY.—

(1) Any information provided to the Interagency Committee or to the Task Force under subsection (a) that is designated as trade secret or confidential information shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and shall not be revealed except as provided by paragraph (2). No member of the Interagency Committee or Task Force, and no person assigned to or consulting with such entities, shall disclose any such information to any person who is not a member of, assigned to, or consulting with the Interagency Committee or Task Force unless the person submitting such information specifically and in writing authorizes such disclosure.

(2) Paragraph (1) does not authorize the withholding of any information from any duly authorized committee or subcommittee of the Congress, except that if a committee or subcommittee of the Congress requests access to confidential information that has been submitted to the Interagency Committee or the Task Force, the Chairman of the Interagency Committee shall promptly notify the person who provided the information of the request and shall not disclose the information until ten days have elapsed from such person's receipt of written notice that the information is to be disclosed.

(3) The Interagency Committee shall adopt, on a vote of a majority of its members, reasonable procedures to protect the confidentiality of trade secret and confidential information as defined in this subsection and shall be responsible for ensuring that the Task Force follows such procedures in its handling of trade secret and confidential information.

SEC. 4. DEFINITIONS.

As used in this Act, the terms "cigarettes" and "little cigars" shall have the meanings given such terms by section 3 of the Federal Cigarette Labeling and Advertising Act.

SEC. 5. REPORTS, TERMINATION.

The Interagency Committee shall submit to the Congress 18 months after the date of enactment and funding of this Act a report prepared by the Task Force describing the Task Force's progress in carrying out the work described in section 3. The Interagency Committee shall submit to the Congress no later than 18 months thereafter a final study report prepared by the Task Force. The Interagency Committee shall provide to the Congress, within 60 days after the submission by the Interagency Committee of the Task Force's final report, any policy recommendations the Interagency Committee may deem appropriate. The Interagency Committee and Task Force shall terminate one month after the submission of such policy recommendations.●

By Mr. GORE:

S. 2918. A bill to provide for a national plan and coordinated Federal research program to ensure continued United States leadership in high-performance computing; referred to the Committee on Governmental Affairs.

NATIONAL HIGH-PERFORMANCE COMPUTER TECHNOLOGY ACT

● Mr. GORE. Mr. President, I rise today to introduce the National High-Performance Computer Technology Act of 1988, a bill to help address the economic and technological challenge of ensuring America's leadership in advanced computing. Advanced computers—supercomputers—are not just useful inventions. The supercomputer will be the locomotive of the information age just as the steam engine drove the Industrial Revolution.

Properly harnessed and directed, massive computing power can change the way America does business and conducts research. Supercomputers will allow us to create more accurate models of global climate change, to test new molecules for medical value, to design more efficient automobile engines, to analyze computer chip performance, and to enhance oil recovery, just to list a few examples. With high-speed computer networks, a surgeon in Nashville can send a CAT scan picture to a colleague at the Mayo Clinic and get a second opinion instantly. A particle physicist in California can check on an experiment being run at Fermilab in Illinois without having to leave his office.

However, in computer technology, the development of the hardware typically outpaces the development of the software, and the software outpaces public policy. We have been slow to react to the pace of progress in this field, and we cannot afford to delay. Even as we are just starting to realize the productivity gains the computer revolution can provide, we must take advantage of our computing technology and to cope with problems like computer security, software copyrights, and network development.

This legislation takes the first critical steps to address thoroughly the Federal Government's role in promoting high-performance computing. Over the next several months, we can refine this legislation. But we must act. The United States has maybe a 1-year lead over our closest competitors in the high-performance computing field. We cannot afford to hesitate in crafting a blueprint to ensure that lead for the next dozen years of this century and to position ourselves for the next century. Representatives from industry, academia, and Federal agencies should discuss what needs to be done, using this bill as a framework for action.

The National High-Performance Computer Technology Act of 1988 would expand and improve Federal support for research, development, and the application of high-performance computer technology. Specifically, this act would establish a high-capacity national research computer network, develop and distribute software, develop artificial intelligence programs, stimulate the development of hardware, and invest in basic research and education.

The act would define the Federal Government's role in high-performance computing. The act would provide for a 3-gigabit-per-second national network, develop Federal standards, take into account user views, examine telecommunications policy, build an information infrastructure composed of data bases and knowledge banks, create a national software corporation to develop important software programs, establish a clearinghouse to validate and distribute software, promote artificial intelligence data bases, increase research and development projects, study export controls affecting computers, review procurement policies to stimulate the computer industry, and enhance computer science education programs. It also clearly defines agency missions and responsibilities with respect to high-performance computing.

Finally, this bill would authorize funding to carry out the purposes of the act. Mr. President, I feel strongly that we cannot afford not to invest in computer technology. According to the proposed authorization, the National Science Foundation [NSF] would receive $50 million for fiscal year 1990 for its work on the national network. The NSF would receive an additional $350 million through fiscal year 1994, enough money to establish the 3-gigabit-per-second national network. Furthermore, the act would authorize $150 million over 5 years for a national software corporation, $750 million over 5 years for a high-performance computer software developer, $450 million over 5 years for high-performance computer technology, and $150 million for basic research and education in universities to improve the training of scientists and engineers in computer science and computational science. Clearly, in this time of fiscal restraint, we must scrutinize additional funding. However, the return on this investment would be immense, and I believe it is essential.

I want to discuss further some of the elements of this bill. We must create a high-capacity, national fiber optic network to link supercomputer centers throughout the United States. We talk about infrastructure, referring to highways, bridges, and sewers. While we need those things, we must also recognize that the infrastructure we will need in the 21st century goes beyond traditional public works projects. I envision a national computer network linking academic researchers and industry, clustering research centers and businesses around network interchanges, and using the Nation's vast data banks as the raw material for increasing industrial productivity and creating new products. The High-Performance Computer Technology Act addresses the broad range of network concerns and speeds up the linking of the United States.

We must address the bottlenecks in computer software development. To alleviate that problem, one title of this act emphasizes the research, development, and application of high priority software projects, creating a corporation to provide seed money for critical projects. In addition, the bill would create a clearinghouse to validate and distribute federally funded software and other software in the public domain, including federally funded educational and training software.

The bill would support hardware development by such means as investment in R&D programs. Furthermore, the bill would promote adequate funding for research and development across the board. Finally, the bill recognizes and emphasizes education; we must educate and train our youth, giving students the skills and talents that will help us participate in the information revolution.

There are other possibilities. I see the Federal Government as a catalyst, of the nexus of industry, university, users, and manufacturers. Another idea we could explore within the framework of the bill includes naming a super-advisory board composed of the widest possible range of interested parties to advise the Congress, the Office of Science and Technology Policy, and the National Science Foundation.

High-performance computing promises to enhance the flexibility of U.S. industry. It promises unimagined breakthroughs in virtually all scientific disciplines. But we must realize that these benefits spring from the use of supercomputers.

Computational science represents a new field of scientific inquiry. The National High-Performance Computer Technology Act is an attempt to develop a long-term strategy to take full advantage of the possibilities computers offer us. I urge my colleagues to join with me to promote advanced computing and to set out clearly our role in this vital field.

I ask consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National High-Performance Computer Technology Act of 1988".

SEC. 2. Congress finds and declares the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national security, and scientific advancement.

(2) The United States currently leads the world in development and use of high-performance computer technology for national security, industrial productivity, and science and engineering, but that lead is being challenged by foreign competitors.

(3) Further research and improved computer research networks are necessary to maintain United States leadership in the field of high-performance computing.

(4) In order to strengthen America's computer industry and to assist the entire manufacturing sector, the Federal Government must provide leadership in the development and application of high-performance computer technology. In particular, the Federal Government should support the development of a high-capacity, national research computer network; facilitate the development of software for research, education, and industrial applications; continue to fund basic research into the development and application of high performance computer technology; and provide for the training of computer scientists and computational scientists.

(5) Several Federal agencies have ongoing high performance computer technology programs. Improved interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

(6) A recent report by the Office of Science and Technology Policy outlining a research and development strategy for high-performance computing provides a framework for a multiagency computer technology program.

SEC. 3(a) The overall purpose of this Act is to ensure America's leadership in high-performance computer technology. This Act expands

Federal support for research, development, and application of high performance computing technology and improves the planning and coordination of Federal research and development on high-performance computing.

(b) The specific purposes of the Act are—

(1) to establish a high-capacity national research computer network.

(2) to develop and distribute software.

(3) to develop artificial intelligence programs.

(4) to stimulate the development of hardware.

(5) to invest in basic research and education.

TITLE I—NATIONAL HIGH-PERFORMANCE COMPUTER TECHNOLOGY PLAN

SEC. 101. (a)(1) The President, through the Office of Science and Technology Policy shall develop and implement a National High-Performance Computer Technology Plan (hereafter in this title referred to as the 'Plan') in accordance with the provisions, findings, and purpose of this title. Consistent with the responsibilities set forth under this section, the Plan shall contain recommendations for a 5-year national effort, to be submitted to Congress within 1 year after the date of enactment of this title and to be revised at least once every 2 years thereafter.

(2) The Plan shall—

(A) establish the goals and priorities for a Federal high-performance computer technology program for the fiscal year in which the plan (or revised plan) is submitted and the succeeding 4 fiscal years;

(B) set forth the role of each Federal agency and department in implementing the Plan;

(C) describe the levels of Federal funding and specific activities, including research activities, hardware and software development, operating expenses for computers and computer networks, and education, required to achieve such goals and priorities; and

(D) consider and use, as appropriate, reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities.

(3) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments—

(A) the National Science Foundation;

(B) the Department of Commerce, particularly the National Institute of Standards and Technology;

(C) the National Aeronautics and Space Administration;

(D) the Department of Defense, particularly the Defense Advanced Research Projects Agency, the Office of Naval Research, and, as appropriate, the National Security Agency;

(E) the Department of Energy;

(F) the Department of Health and Human Services, particularly the National Institutes of Health; and

(G) such other agencies and departments as the President or the Chairman of the Council considers appropriate.

(b) The Council shall—

(1) serve as lead entity responsible for development and implementation of the Plan;

(2) coordinate the high-performance computing research and development activities of Federal agencies and departments and report at least annually to the President, through the Chairman of the Council, on any recommended changes in agency or departmental roles that are needed to better implement the Plan;

(3) prior to the President's submission to Congress of the annual budget estimate, review each agency budget estimate in the context of the Plan and make the results of that review available to each agency and to the appropriate elements of the Executive Office of the President, particularly the Office of Management and Budget;

(4) work with Federal agencies, with the National Research Council and with academic, State, and other groups conducting research on high-performance computing; and

(5) consult with actual and potential users of such research;

(c) The Plan shall set forth activities to carry the purposes of each title of this Act and shall ensure coordination among these various activities and agency programs.

(d)(1) The Plan shall take into consideration, but not be limited to, the following agency missions and responsibilities—

(A) The National Science Foundation shall continue to be responsible for basic research in all areas of computer science, materials science, and computational science. The Foundation shall continue to solicit grant proposals and award grants by merit review for research in universities, nonprofit research institutions, and industry. The National Science Foundation shall also be responsible for providing researchers with access to supercomputers and establishing, by 1994, a 3 gigabit per second national computer network. Additional responsibilities include development of an information infrastructure of data bases connected to the network, facilitating the validation and distribution of software over the national research network, and promoting science and engineering education.

(B) The National Institute of Standards and Technology shall be responsible for ensuring interoperability between computer networks run by different agencies of the Federal Government and for establishing, in conjunction with industry, benchmark tests and standards for higher-performance computers and software. Pursuant to the Computer Security Act of 1987 (Public Law 100-235), the National Institute of Standards and Technology shall continue to be responsible for developing standards and guidelines for Federal computer systems, including responsibility for developing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(C) The National Aeronautics and Space Administration shall continue to conduct basic and applied research in high-performance computing, particularly in the field of computational science.

(D) The Department of Defense, through the Defense Advanced Research Projects Agency, the Office of Naval Research, and other agencies, shall continue to conduct basic and applied research in high-performance computing, particularly in computer networking, semiconductor technology, and large-scale parallel processors. Pursuant to the Stevenson-Wydler Technology Innovation Act of 1980, as amended, the Department shall ensure that nonclassified computer technology research is readily available for American industry. The National Security Agency, pursuant to the Computer Security Act of 1987, shall continue to provide, where appropriate, technical advice and assistance to the National Institute of Standards and Technology for the development of standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(E) The Department of Energy shall continue to conduct basic and applied research in high-performance computing, particularly in software development and multiprocessor supercomputers. Pursuant to the Stevenson-Wydler Technology Innovation Act of 1980, as amended, and other appropriate statutes, the Department shall ensure that nonclassified computer technology research is readily available for American industry.

(2) The Plan shall reflect the need for collaboration among agencies with respect to—

(A) ensuring interoperability between computer networks run by the agencies;

(B) distributing software among the agencies; and.

(C) distributing federally-funded, nonclassified software to industry and universities.

(e)(1) Each Federal agency and department involved in high-performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report identifying each element of its high-performance computing activities, which—

(A) specifies whether each such element (i) contributes primarily to the implementation of the Plan or (ii) contributes primarily to the achievement of other objectives but aids Plan implementation in important ways; and

(B) states the portion of its request for appropriations that is allocated to each such element.

(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency responsibilities set forth in the Plan, and shall include, in the President's annual budget estimate, a statement of the portion of each agency or department's annual budget estimate that is allocated to each element of such agency or department's high-performance computing activities. The Office of Management and Budget shall ensure that a copy of the President's annual budget estimate is transmitted to the Chairman of the Council at the same time as such budget estimate is submitted to Congress.

SEC. 102. The Chairman of the Council shall prepare and submit to the President and the Congress, not later than January 31 of each year, an annual report on the activities conducted pursuant to this title during the preceding fiscal year, including—

(1) a summary of the achievements of Federal high-performance computing research and development efforts during that preceding fiscal year;

(2) an analysis of the progress made toward achieving the goals and objectives of the Plan;

(3) a copy or summary of the Plan and any changes made in such Plan;

(4) a summary of agency budgets for high-performance computing activities for that preceding fiscal year; and

(5) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.

TITLE II—NATIONAL RESEARCH COMPUTER NETWORK

(1) The National Science Foundation shall work for the research, development, and implementation of a 3 gigabit per second national research computer network. This national network shall—

(A) link government, industry, and higher education communities;

(B) be developed in close cooperation with the computer and telecommunications industry;

(C) be designed and developed with the advice of potential users in government, industry, and higher education;

(D) be phased out when commercial computer networks meet the networking needs of American researchers.

(2) the National Science Foundation will convene an advisory committee to advise on network user needs.

(3) the National Telecommunications and Information Administration shall determine to what extent current Federal telecommunications regulations hinder or facilitate private industry participation in the data transmission field. Within a year of the enactment of this Act, the NTIA shall report to Congress its findings.

(4) the National Institute of Standards and Technology will develop, in cooperation with the National Security Agency and other relevant agencies, a common set of standards for network activities to provide inter-operability, common user interfaces to systems, and enhanced security.

(5) the National Science Foundation, in cooperation with the Office of Science and Technology Policy, will, within one year, determine the most efficient mechanism to provide operating funds for the long-term maintenance and use of the national research computer network. The proposed funding mechanism should consider user fees, industry support, and continued federal investment.

In addition to such sums as may be authorized to be appropriated to the National Science Foundation by other Acts, there are authorized to be appropriated to the National Science Foundation for the research, development, and implementation of the national information infrstructure, including the national research computer network referred to in this Title, in accordance with the purposes of this Act, $50,000,000 for fiscal year 1990, $50,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, $100,000,000 for fiscal year 1993, and $100,000,000 for fiscal year 1994.

TITLE III. NATIONAL INFORMATION INFRASTRUCTURE

Under the direction of the Office of Science and Technology Policy, and in cooperation with the National Science Foundation, DoD, and other relevant agencis, there shall be developed an information infrastructure of services, data bases, and knowledge banks accessible through the research computer network. Such an infrastructure shall include—

a directory of network users;

improved access to unclassified Federal scientific data bases, including weather data, census data and remote sensing satellite data;

provision for rapid prototype of computer chips and other devices using centralized facilities connected to the network, and

data bases and knowledge banks for use by artificial intelligence programs.

TITLE IV. SOFTWARE

PART A

There is established within the executive branch of the Federal government a National Software Corporation.

ESTABLISHMENT OF CORORATION

SEC.   . (a) There is established within the executive branch of the Federal Government a National Software Corporation (hereafter in this act referred to as the "Corporation").

(b) The Corporation shall be operated under the general direction and supervision of a board of directors which shall consist of—

(1) the Director of the National Science Foundation, and the Director of the Office of Science and Technology Policy, or their designees; and

(2) twelve individuals appointed by the President with the advice and consent of the Senate:

A vacancy in the board shall be filled in the manner in which the original appointment was made. Members of the board may be removed by the President for good cause.

(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, those members of the board of directors appointed pursuant to subsection (b)(2) of this section shall be appointed for terms of six years.

(2) Of the members first appointed pursuant to such subsection—

(A) three shall be appointed for a term of six years;

(B) three shall be appointed for a term of five years;

(C) three shall be appointed for a term of four years; and

(D) three shall be appointed for a term of three years.

(3) Any member of the board of directors appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiraiton of his term until his successor has taken office.

(e) The President shall appoint the Chairman of the board of directors.

(f) The board of directors shall meet at the call of the Chairman or a majority of its members. Ten members of the board shall constitute a quorum. A majority vote of the board shall be necessary to approve the actions of the Corporation under this Act. Members of the board may vote by written proxy or written assignment of proxy.

(g) The board of directors shall appoint an executive director who shall be responsible for the management and administration of the Corporation.

(h) Members of the board of directors appointed by the President shall each be paid at a daily rate equal to the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule and shall be entitled to travel expenses and a per diem in lieu of subsistence in accordance with subchapter I of chapter 57 of title 5, United States Code.

(i) Members of the board of directors who are full-time officers or employees of the Federal Government shall receive no additional pay by reason of their service on the board.

PRINCIPAL FUNCTIONS OF THE CORPORATION

SEC. . Subject to the availability of appropriations therefor, the Corporation shall—

(1) develop corporation participation criteria for the selection of high-quality computer software for high-performance computing.

(2) secure investment capital for projects, selected by the Corporation as warranting its assistance, to develop such software;

(3) make appropriate and reasonable investments in projects for the development of such software, subject to the limitations contained in this Act.

(4) enter into contracts and make grants to assist in the development of such software and

(5) engage in such other operations and activities as the board of directors determines to be necessary and appropriate to encourage the development and use of such software.

GENERAL AUTHORITIES OF THE CORPORATION

SEC. 5. In carrying out its functions under section 4, the Corporation is authorized—

(1) to adopt and use a corporate seal, which shall be judicially noticed;

(2) to sue and be sued in its corporate name;

(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

(4) to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate;

(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their corporation activities.

(7) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities);

(8) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

(9) to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates;

(10) to determine the character of and the necessity for its obligation and expenditures, and the manner in which such obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; and

(11) to take such sections as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

PROVISIONS CONCERNING INVESTMENTS BY THE CORPORATIONS

SEC. 6. (a) Any investment made by the Corporation under section 4(3) in a project for the development of high-quality, classified software for high-perfect computer must be based on a finding by the board of directors that—

(1) the proceeds of the investment will be used only to cover the initial capital needs of the project, except as otherwise specified in this Act;

(2) the project has a reasonable chance of success;

(3) the Corporation's investment is necessary to the success of the project because funding for the project is unavailable in the traditional or venture capital markets, or because funding has been offered on terms that would substantialy hinder the success of the project; and

(4) there is a reasonable possibility that the Corporation will recoup at least its initial investment.

(b) No investment shall be made by the Corporation unless the board of directors determines that a reasonable good faith effort has been made to secure a professional investor, in lieu of the Corporation, to make an adequate investment in the project, and that such effort was unsuccessful. Subject to the requirements of this Act, nothing shall prohibit the Corporation from making an investment in a project as a coventure with professional investors if the Corporation determines that such investment is appropriate to the success of the project.

(c) The Corporation shall not make any investment by which it exercises or has the power to exercise any voting rights under an equity security.

(d) For purposes of this section, the term "professional investor" means any bank, bank holding company, savings institution, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer, licensee under the Small Business Investment Act of 1958, or any person, partnership, or other entity of whose resources a substantial amount is dedicated to investing in securities or debt instruments and whose net worth exceeds $250,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There is authorized to be appropriated to carry out this Act $30,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994.

PART B

This title establishes a clearinghouse to validate and distribute unclassified federally-funded software and other software in the public domain, including federally-funded educational and training software. This clearinghouse will work in conjunction with the National Software Corporation for the distribution of the software, and with the National Science Foundation supercomputer centers and the National Institute of Science and Technology to validate and evaluate software.

PART C

The National Institute of Standards and Technology will develop standards for software programs purchased by the Federal government.

PART D

The Office of Science and Technology Policy, as indicated in the Plan, will oversee the cooperative efforts of Federal departments and agencies in the research and development of high-performance computer software. Among the applications these projects could include would be programs focused on astrophysics, engineering, materials, plasma physics, and weather and climate forecasting.

PART E

There are authorized to be appropriated to the Office of Science and Technology Policy for distribution to the National Science Foundation, Department of Defense, Department of Energy, National Aeronautics and Space Administration, and other relevant agencies the research and development of high-performance computer software, in accordance wtih the purposes of this Title, $50,000,000 for fiscal year 1990, $100,000,000 for fiscal year 1991, $150,000,000 for fiscal year 1992, $200,000,000 for fiscal year 1993, and $250,000,000 for fiscal year 1994.

TITLE V. ARTIFICIAL INTELLIGENCE

For the purposes of this title, "artificial intelligence" shall be defined as the development of software and hardware which can be used for computer systems that learn, exhibit knowledge of itself and its environment, display creativity, or mimic other aspects of human intelligence. Artificial intelligence includes, but is not limited to expert systems, neural networks, natural language processing programs, translation programs, and higher-level programming languages.

Not less than ten percent of the funds authorized to be appropriated for high-performance computer software research and development in title IV shall be allocated to research and development of artificial intelligence and for joint research programs among government, industry, and the higher education community to develop artificial intelligence applications.

As described in title III, there shall be an information infrastructure which shall include data bases and knowledge banks for use by artificial intelligence programs.

This title establishes, through the National Science Foundation, ten regional university demonstration programs to increase the development and use of artificial intelligence applications. The university programs shall be training programs for industry, established in cooperation with industry.

TITLE VI. HARDWARE

The National Science Foundation shall continue to fund a national supercomputer centers program to provide researchers access to supercomputers.

Where appropriate, Federal agencies shall procure prototype or early production models of new high-performance computers to stimulate hardware and software development in the American supercomputer industry.

The Department of Commerce shall review export controls that hinder the development of foreign markets for American manufacturers of supercomputers and other high-performance computer technology.

The Federal government shall invest in research and development programs to develop high-performance computer technology. There are authorized to be appropriated, in accordance with the purposes of this title, $30,000,000 for fiscal year 1990, $60,000,000 for fiscal year 1991, $90,000,000 for fiscal year 1992, $120,000,000 for fiscal year 1993, and $150,000,000 for fiscal year 1994. These funds shall be distributed by the Office of Science and Technology Policy to individual agencies.

TITLE VII. RESEARCH AND DEVELOPMENT AND EDUCATION

The Office of Science and Technology Policy shall work with relevant departments to create technology transfer mechanisms to ensure that the results of basic research are readily available to American industry.

To support basic research and education in universities and to improve training of scientists and engineers in computer science and computational science, there are authorized to be appropriated to the National Science Foundation for education in high-performance computer technology, $10,000,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, $30,000,000 for fiscal year 1992, $40,000,000 for fiscal year 1993, and $50,000,000 for fiscal year 1994.●

ADDITIONAL COSPONSORS

S. 708

At the request of Mr. Proxmire, the name of the Senator from Wisconsin [Mr. Kasten] was added as a cosponsor of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

SENATE JOINT RESOLUTION 344

At the request of Mr. Burdick, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of Senate Joint Resolution 344, a bill to designate the week of November 20 through November 26, 1988, as "National Family Week."

SENATE JOINT RESOLUTION 372

At the request of Mr. Hatch, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of Senate Joint Resolution 372, a joint resolution to designate the week beginning November 21, 1988, through November 27, 1988, as "National Adoption Week."

SENATE JOINT RESOLUTION 381

At the request of Mr. Bond, the names of the Senator from Alabama [Mr. Heflin], the Senator form Wyoming [Mr. Wallop], the Senator from Pennsylvania [Mr. Specter], and the Senator from South Dakota [Mr. Daschle] were added as cosponsors of Senate Joint Resolution 381, a joint resolution to designate October 30, 1988, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery".

SENATE JOINT RESOLUTION 393

At the request of Mr. Lautenberg, the names of the Senator from New Jersey [Mr. Bradley], the Senator from Hawaii [Mr. Inouye], and the Senator from Arkansas [Mr. Bumpers] were added as cosponsors of Senate Joint Resolution 393, a joint resolution to designate December 7, 1988, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. Wilson, the names of the Senator from Nebraska [Mr. Exon] and the Senator from Connecticut [Mr. Dodd] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

SENATE RESOLUTION 492

At the request of Mr. Nickles, his name was added as a cosponsor of Senate Resolution 492, a resolution to express concern about the Soviet bloc governments.

SENATE RESOLUTION 503—COMMENDING KENNETH A. McLEAN FOR HIS SERVICE TO THE SENATE

Mr. PROXMIRE (for himself, Mr. Armstrong, Mr. Bond, Mr. Chafee, Mr. Cranston, Mr. Dixon, Mr. Dodd, Mr. Garn, Mr. Graham, Mr. Gramm, Mr. Hecht, Mr. Heinz, Mr. Karnes, Mr. Riegle, Mr. Sanford, Mr. Sarbanes, Mr. Sasser, Mr. Shelby, and Mr. Wirth) submitted the following resolution; which was considered and agreed to:

S. Res. 503

Whereas Kenneth A. McLean has ably and faithfully served the United States Senate since 1967;

Whereas Kenneth A. McLean has executed his duties as the Staff Director of the Senate Committee on Banking, Housing and Urban Affairs with the utmost of integrity, perseverance, and personal dedication;

Whereas Kenneth A. McLean has clearly exemplified the honorable nature of an outstanding career in public service; and

Whereas Kenneth A. McLean has earned the highest respect of his colleagues and this institution: Now therefore be it

Resolved, That Kenneth A. McLean is hereby commended for his tireless and exemplary service to his country and to the United States Senate.

SENATE RESOLUTION 504—COMMENDING RONALD L. TAMMEN FOR HIS SERVICE TO THE SENATE

Mr. PROXMIRE submitted the following resolution; which was considered and agreed to:

S. Res. 504

Whereas Ronald L Tammen has ably and faithfully served the United States Senate since 1972;

Whereas Ronald L. Tammen has executed his duties as Administrative Assistant to Senator William Proxmire with unparalleled integrity, intelligence, and dedication to the ideals of the United States Senate;

Whereas Ronald L. Tammen has consistently served the interests of the citizens of the State of Wisconsin;

Whereas Ronald L. Tammen has earned the utmost respect of his colleagues in this institution: Now therefore be it

Resolved, That Ronald L. Tammen is hereby commended for his unfailing and exemplary service to his country, the State of Wisconsin and to the United States Senate.

SENATE RESOLUTION 505—AUTHORIZING PRINTING OF ADDITIONAL COPIES OF A SENATE DOCUMENT

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. Res. 505

Resolved, that there shall be printed as a Senate document "Accomplishments of the 100th Congress—Report by the Senate Democratic Policy Committee," and that an additional 500 copies be printed for distribution to the Members of the Senate as an official document.

SENATE RESOLUTION 506—AUTHORIZING PRINTING OF REMARKS RELATING TO SENATOR ROBERT C. BYRD

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 506

Resolved, That the statements of Senators appearing in the Congressional Record, as well as other related remarks, in tribute to Senator Robert C. Byrd upon his departure from the position of Majority Leader of the Senate be printed as a Senate Document.

SEC. 2. Such document shall be such style, form, manner, and binding, and shall include such other related remarks as directed by the Secretary of the Senate.

SEC. 3. There shall be printed 300 copies for use of the Senate.

SENATE RESOLUTION 507—TO REFER S. 1964 TO THE CHIEF JUDGE OF THE U.S. CLAIMS COURT FOR A REPORT

Mr. BYRD (for Mr. EXON and Mr. KARNES) submitted the following resolution; which was considered and agreed to:

S. RES. 507

Resolved, That the bill S. 1964 entitled "For the Relief of Nebraska Aluminum Casting, Inc., of Hastings, Nebraska" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to the claimant from the United States.

SENATE RESOLUTION 508—AUTHORIZING CERTAIN APPOINTMENTS

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 508

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

AMENDMENTS SUBMITTED

NATIONAL MUSEUM OF THE AMERICAN INDIAN

INOUYE AMENDMENT NO. 3739

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill (S. 1722) to authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes; as follows:

That this Act may be cited as the "National American Indian Museum and Memorial Act".

SEC. 102. The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas, specifically Indians, Eskimos, and Aleuts:

(2) although the Smithsonian Institution employs 5,500 people, operates 19 museums, galleries, and major research facilities, and sponsors extensive American Indian programs, none of its museums are devoted specifically to Native American art and history;

(3) the Museum of the American Indian, Heye Foundation, located in New York City, has an unequalled assemblage of over 1,000,000 Native American art objects and artifacts and is one of the largest such collections in the world;

(4) the library of the Museum of the American Indian, Heye Foundation, houses 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(5) the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens, and books is inadequatley housed in 3 separate facilities with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library;

(6) the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers;

(7) access to the collections of the Museum of the American Indian, Heye Foundation, the Native American collection of the U.S. Department of the Interior, and the Native American collection of the Smithsonian Institution would—

(A) create opportunities for all Americans to learn of the cultural legacy and historic grandeur of Native American people; and

(B) provide—

(i) meeting places for scholars,

(ii) significant national facilities for the exhibition of American Indian art and artifacts,

(iii) stages for the performing arts,

(iv) curation and other learning opportunities for American Indian people, and

(v) traveling exhibitions to other areas of the country;

(8) skeletal remains of American Indians were collected from battlefields and burial grounds and sent to the Army Medical Museum by order of the Surgeon General of the United States Army and were later transferred to the Smithsonian Institution where they are still stored;

(9) the Smithsonian Institution has acquired a vast collection of Native American skeletal remains through—

(A) archaeological excavations,

(B) transfers from the United States Army Medical Museum of specimens collected during the era of the Indian wars, and

(C) donations from individuals and museums;

(10) the collection is estimated to contain the remains of approximately 18,000 American Indians, Eskimos, and Aleuts, and has concerned many Indian tribes and bands and Alaska Native villages who are determined to provide an appropriate resting place for their ancestors;

(11) a national memorial should be constructed in a suitable location on the National Mall in the District of Columbia for the purposes of—

(A) commemorating and memorializing those Indian nations that have disappeared in the process of European settlement on this continent, and

(B) recognizing American Indian and Alaska Native people and the Indian tribes and nations that live on their ancestral lands within the United States and acknowledging their historical contribution to American society;

(1) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for the construction of a suitable building in which to house the National Museum of the American Indian; and

(13) within the National Museum of the American Indian there should be a memorial to the American Indian and Alaska Native people as the First Americans.

SEC. 103. (a) There is established within the Smithsonian Institution a living memorial to Native American people and their traditions which shall be known as the "National Museum of the American Indian" (hereinafter referred to in the Act as the "Museum") which shall provide for—

(1) the advancement of the study of Native peoples of the Americas and the study of their languages, literature, history, art, and life;

(2) for the collection, preservation, and exhibition of objects of artistic, historic, literary, and scientific interest related thereto; and

(3) programs of research and study.

(b) The area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, in the District of Columbia, is hereby appropriated to the Board of Regents of the Smithsonian Institution as the permanent site of the Museum.

(c) The Board of Regents of the Smithsonian Institution is authorized—

(1) to accept for the Museum all assets of the Museum of the American Indian, Heye Foundation, established under the foundation deed executed and delivered by George Gustav Heye on May 10, 1916 in the city of New York;

(2) to access the Native American collection of the United States Department of the Interior for purposes of research, exhibition and display in the Museum;

(3) to access the Native American collection of the National Museum of Natural History for purposes of research, exhibition and display in the Museum;

(4) to prepare architectural and engineering designs, plans, and specifications, and to construct or otherwise acquire—

(A) a free standing public museum building at the site specified in subsection (b) of this section,

(B) a building suitable for the care, conservation and study of the Museum's collection and other collections to which the Museum has access at the Museum Support Center of the Smithsonian Institution in Suitland, Maryland, and

(C) an extension of the Museum in the Old U.S. Custom House at One Bowling Green in New York City, New York (hereinafter referred to in the Act as the Custom House), all of which together shall aggregate not less than 400,000 square feet;

(5) to designate the building authorized to be constructed pursuant to subsection (c)(4)(A) of this section at the site specified in subsection (b) of this section as the "National Museum of the American Indian";

(6) to designate the building acquired pursuant to section 109(a)(1) as the "National Museum of the American Indian, George Gustav Heye Center";

(7) to enter into affiliation agreements with the Department of the Interior museums and other public and private museums for the establishment of regional facilities of the Museum, and for the exhibition and display in such regional facilities, the Museum's collection or other collections to which the Museum has access;

(8) to prepare a plan for the exhibition in the Museum of the Heye collection and the other collections to which the Museum has access; and

(9) to exercise all other powers incident to the administration, maintenance, operation, and preservation of the Museum.

SEC. 104. (a) The identity of the collection of the Museum of the American Indian, Heye Foundation, shall at all times be retained and preserved, and the nature, objects and purposes of the trust established under the foundation deed executed and delivered by George Gustav Heye on May 10, 1916 in the City of New York as set forth in section 109(a)(1) shall be preserved in perpetuity.

(b) Subject to limitations expressly provided by law, and in the case of a gift, subject to applicable restrictions under the terms of such gift and provided that such gift is made upon terms and conditions that are in harmony with the purposes of the Heye Foundation deed, the proceeds from the sale of any property acquired pursuant to section 103(c)(1) shall be maintained for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution.

(c) All endowments for the benefits of the Museum of the American Indian, Heye Foundation in existence at the time of the transfer authorized pursuant to section 103(c)(1) shall be maintained for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution.

SEC. 105. The Secretary of the United States Department of the Interior is authorized to—

(a) prepare an inventory of all items in the Native American collection of the Department;

(b) transmit a report on the inventory conducted pursuant to subsection (a) of this section to the Secretary of the Smithsonian Institution;

(c) enter into an agreement with the Secretary of the Smithsonian Institution for the access by the Museum to the Department's Native American collection; and

(d) enter into an agreement with the Secretary of the Smithsonian Institution to provide for exhibition of the Museum's collections in the regional museum facilities of the Department of the Interior.

SEC. 106. (a) There is established within the Smithsonian Institution a Board of Trustees to be known as the Board of Trustees of the National Museum of the American Indian (hereinafter referred to in the Act as the "Board of Trustees"). The Board of Trustees—

(1) shall recommend annual operating budgets and provide advice and assistance to the Board of Regents of the Smithsonian Institution on all matters relating to the administration, maintenance, operation, and preservation of the Museum; and

(2) subject to general policy established by the Board of Regents of the Smithsonian Institution, shall have authority to—

(A) approve expenditures from the Museum's endowment or of income generated therefrom;

(B) raise funds for the Museum and determine the purpose to which those funds shall be applied;

(C) loan, exchange, sell or otherwise dispose of any part of the Museum's collection, provided that funds generated by any disposition shall be used only for acquisitions for the Museum's collections or additions to the Museum's endowment;

(D) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the Museum's collections;

(E) recommend policy with respect to the utilization and method of display of the Museum's collections;

(F) recommend policy with respect to the restoration, preservation, and maintenance of the Museum's collections; and

(G) consult with and advise the Director of the Museum on annual operating budgets to be recommended to the Board of Regents of the Smithsonian Institution and otherwise consult with, advise, and support the Director in the operation of the Museum.

(b) The Board of Trusteees shall—

(1) adopt bylaws to carry out its functions;

(2) designate a chairman from among its members, and such other officers as may be provided for in the bylaws; and

(3) report annually to the Board of Regents on the acquisition, disposition, and display of artifacts and on other matters within its discretion.

(c) The Board of Trustees shall consist of twenty-four members as follows:

(1) The Secretary of the Smithsonian and an Assistant Secretary, and the Secretary of the Interior, who shall serve as ex officio members;

(2) fifteen members of the Board of Trustees of the Museum of the American Indian, Heye Foundation who are serving as of the date of the transfer authorized in section 103(c)(1) and are willing to serve as Trustees of the National Museum of the American Indian; and

(3) six other members appointed by the Board of Regents of the Smithsonian Institution.

Those members of the Board of Trustees serving under the authority of subsections (c)(2) and (c)(3) of this section shall serve terms of three years.

(d) the successor members for the Board of Trustees serving under subsections (c)(2) and (c)(3) of this section shall be appointed by the Board of Regents of the Smithsonian Institution from a slate nominated by the initial Board of Trustees which shall include in its nominations, American Indians and Alaska Natives and scholars in the fields of American Indian history and culture. Of the successor members of the Board of Trustees, at least seven members shall be of American Indian or Alaska Native ancestry.

(e) Following the expiration of the term of the initial Board of Trustees, the terms of office of successor members of the Board of Trustees shall be designated by the Board of Regents at the time of appointment on recommendation by the Board of Trustees, and shall expire one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years.

(f) Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(g) A majority of the members of the Board of Trustees, not including ex officio members, shall constitute a quorum and any vacancy in the Board of Trustees shall not affect its power to function.

(h) Members of the Board of Trustees shall be reimbursed for travel, subsistance, and other necessary expenses incurred by them in the performance of their duties.

SEC. 107. (a) The Secretary of the Smithsonian Institution may appoint and fix the compensation and duties of the Director, in consultation with the Board of Trustees, and of such other officers and employees of the Museum as may be necessary for the efficient administration, maintenance, operation, and preservation of the Museum.

(b) The Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of the United States Code.

(c) All of the employees of the Museum of the American Indian, Heye Foundation, who are serving on the date of the transfer authorized pursuant to section 103(c)(1) shall be offered employment by the Smithsonian Institution under its usual terms of employment and may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of the United States Code.

SEC. 108. The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of collections acquired by the Board of Regents of the Smithsonian Institution and the Board of Trustees of the Museum, so that the Museum shall at all times be properly maintained and collections contained therein shall be exhibited regularly to the general public.

SEC. 109. (a) The Administrator of the General Services Administration shall—

(1) make the Old U.S. Custom House at One Bowling Green, New York City, New York available to the Board of Regents of the Smithsonian Institution for use of the National Museum of the American Indian, George Gustav Heye Center, for the purpose of providing the means in the State of New York for carrying out the nature, objects, and purposes of the Heye Foundation Deed, executed and delivered by George Gustav Heye on May 10, 1916 in the City of New York, for—

(A) the advancement of the study of the native peoples of the Americas and the study of their languages, literature, history, art and life;

(B) the collection, preservation, study, research, and exhibition of all things connected with the native peoples of the Americas; and

(C) programs of research and study;

(2) be responsible for the maintenance and security of the Old U.S. Custom House, and such other functions as may be mutual-

ly agreed to by the Administrator and the Board of Regents of the Smithsonian Institution;

(3) consistent with the study and plan conducted by the Board of Regents of the Smithsonian Institution pursuant to section 103(c)(8), administer for Federal purposes such other portions of the Customs House that are not required for the use of the National Museum of the American Indian, George Gustav Heye Center; and

(4) consistent with the study and plan conducted by the Board of Regents of the Smithsonian Institution pursuant to section 103(c)(8), accept payment from the City of New York and the State of New York of not less than one-half of the capital costs associated with the repairs and alterations of the Custom House for use of the National Museum of the American Indian, George Gustav Heye Center.

(b) Upon final approval from the courts of New York of the plan submitted to the courts of New York by the Board of Trustees of the Museum of the American Indian, Heye Foundation pursuant to section 111, the City of New York and the State of New York shall each make payments to the Administrator of the General Services Administration of not less than one-half of the capital costs associated with the repairs and alterations of the Custom House for use of the National Museum of the American Indian, George Gustav Heye Center;

SEC. 110. (a) Effective October 1, 1988, there is authorized to be appropriated to the Smithsonian Institution the sum of $3,000,000, and such sums as may be necessary for the succeeding fiscal years to carry out the purposes of this title;

(b) Effective October 1, 1988, there is authorized to be appropriated to the Department of the Interior the sum of $1,000,000, and such sums as may be necessary for the succeeding fiscal years to carry out the purposes of this title;

(c) Any sums appropriated to carry out the purposes of this title may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and to take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

SEC. 111. The provisions of this title shall become effective when—

(a) The Board of Regents of the Smithsonian Institution—

(1) prepares a plan for the preservation, study, research, exhibition, curation and storage of the collection of the Museum of the American Indian, Heye Foundation which provides the means for carrying out the nature, objects, and purposes as set forth in section 109(a)(1);

(2) within ninety days of enactment of the Act, submits the plan developed pursuant to section 111(a)(1) to the Board of Trustees of the Museum of the American Indian, Heye Foundation for submission to the courts of New York; and

(b) The Board of Trustees of the Museum of the American Indian, Heye Foundation, has received final approval from the courts of New York to carry out the transfer authorized in section 103(c)(1).

SEC. 112. For purposes of this Act—

(1) The term "Indian" means a person who is a member of an Indian tribe, including any individual who is an Alaska Native.

(2) The term "Alaska Native" means any Eskimo, Aleut, Alaska Indian, Inuit, or Inupiat.

(3) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act) which—

(A) is recognized by the Federal government as eligible for special programs and services provided to Indians because of their status as Indians, or

(B) was terminated by Federal law after 1940.

(4) The term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian.

(5) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(6) The term "Custom House" means the Old United States Custom House, located at One Bowling Green in New York City, New York.

TITLE II

SEC. 201. Before the close of the fifth fiscal year following the date of enactment of the National American Indian Museum and Memorial Act, the Smithsonian Institution shall—

(a) identify to the fullest extent possible, the geographic and tribal origin of all human skeletal remains of American Indians and Alaska Natives in its possession; and

(b) submit to the Congress a report on the identity of those remains.

SEC. 202. There is authorized to be appropriated to the Smithsonian Institution, $1,000,000 annually for five fiscal years to carry out the purposes of this title.

AWARDS FOR COST SAVINGS DISCLOSURES

GLENN (AND ROTH) AMENDMENT NO. 3740

Mr. BYRD (for Mr. GLENN, for himself and Mr. ROTH) proposed an amendment to the bill (H.R. 4574) to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. EXPIRATION DATE OF PROGRAM.

(a) Section 4514 of title 5, United States Code, is amended to read as follows:

"§ 4514. Expiration of authority

"No award may be made under this subchapter after September 30, 1990.".

(b) The table of sections for chapter 45 of title 5, United States Code, is amended by amending the item relating to section 4514 to read as follows:

"4514. Expiration of authority.".

SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

CRANSTON (AND WILSON) AMENDMENT NO. 3741

Mr. BYRD (for Mr. CRANSTON, for himself and Mr. WILSON) proposed an amendment to the amendment of the House to the bill (S. 795) to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, and intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act as a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested from time to time by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside of the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either from water conserved by the works authorized in Title II of this Act, or through contract with the Metropolitan Water District of Southern California.

Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable :

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjuction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the deliver of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Notwithstanding the provisions of section 104, within nine months following enactment of this Act, the secretary shall report to the Committee on Interior and Insular Affairs of the House of Reprsentatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided*, That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considerd to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this title.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920, (16 U.S.C. 791a et seq.), commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon. . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and in California the Secretary has entered into water delivery contracts with public agencies.

(4) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(5) The available supply of Colorado River water in California is insufficient to meet the priorities set forth in the Seven Party Agreement.

(6) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(7) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions and decrees of the United States Supreme Court.

(8) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617–617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures for the replacement of incidental fish and wildlife values adjacent to the canal foregone as a result of the lining of the canal or mitigation of resulting impacts on fish and wildlife resources from construction of a new canal, or a portion thereof. Such measures shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife purposes.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this section. The Secretary shall ensure that such agreement or agreements include provisions setting forth—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirement for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation or replacement, as appropriate, of fish and wildlife resources or values, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the

conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights or obligations of the United States, or would inhibit the Secretary's ability to fulfill his responsibility under the Project Act or other applicable law.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsection (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise such determination at reasonable intervals based on such information as the Secretary deems appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.—

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractors other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American Canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period or any extension thereto, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided*, That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall determine that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which could be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) described current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263).

Amend the amendment of the House to the title so as to read: "An Act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes."

NATIONAL VOLUNTARY REUNION REGISTRY DEMONSTRATION PROGRAM

LEVIN AMENDMENT NO. 3742

Mr. BYRD (for Mr. LEVIN) proposed an amendment to the bill (S. 2010) to establish a National Voluntary Reunion Registry Demonstration Program; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is to provide for the establishment of a program which shall facilitate on a voluntary request basis, the reunion of birth parents and adopted persons, birth siblings or birth grandparents of adopted persons, through a centralized computer network.

SEC. 2. DUTIES OF THE SECRETARY.

(a) The Secretary of Health and Human Services (hereinafter referred to in this Act as the "Secretary") is authorized, in accordance with the provisions of this Act, to establish a National Voluntary Reunion Registry with the Department of Health and Human Services under the direction of a designee of the Secretary.

(b) The Secretary shall submit to Congress an annual report of all activities carried out under this Act. The report shall include the following:

(1) The total amount of fees collected.

(2) The number of applications submitted by birth parents, adopted parents, birth siblings, or other birth parents.

(3) The number of inquires ending in a successful match.

SEC. 3. VOLUNTARY REUNION REGISTRY.

(a) The National Voluntary Reunion Registry authorized under this Act shall provide centralized nationwide capacity, utilizing computer and data processing methods. Participation in the registry shall be voluntary by all parties involved.

(b)(1) The registry authorized under this Act shall provide that—

(A) a birth parent, or an adopted person over the age of 21 may initiate the matching process by submitting an application to the agency operating the system;

(B) a birth sibling or birth grandparents of an adopted person may also initiate the matching process whenever—

(i) the birth parent of an adopted person is deceased or his or her whereabouts is unknown;

(ii) the birth parent of an adopted person has consented in writing to the initiation of the matching process; or

(iii) under such other circumstances as the Secretary may determine to be appropriate after taking into consideration the privacy rights and interest of all parties who may be affected; and

(C) no attempt shall be made to facilitate a match unless both individuals involved in the match have initiated the process required to facilitate a reunion.

(2) The Secretary shall establish specific procedures for the purpose of, to the maximum extent feasible, protecting the confidentiality and privacy rights and interests of all parties participating in the program authorized by this Act. The Secretary shall establish procedures that provide that only information necessary to facilitate a match shall be contained in the registry, and the National Voluntary Reunion Registry shall not attempt to make contact for the purpose of facilitating a reunion, with any individual who is not entered into or participating in the registry program.

(3) Information pertaining to any individual which is maintained in connection with any activity carried out under this Act shall be confidential and not be disclosed for any purpose without the prior written, informed consent of the individual with respect to whom such information applies or is maintained.

(4) Reasonable fees, established by taking into consideration the costs of services provided for individuals under this Act and the income of such individuals, shall be collected for all services provided under this Act.

(c) The National Voluntary Reunion Registry may include the operation of a similar statewide identification computer system in a State which chooses to participate in the voluntary reunion registry and agrees to provide—

(1) provide necessary coordination with the voluntary identification system provided for in subsection (a) of this section;

(2) provide such financial participation as the Secretary may prescribe by the State; and

(3) establish standards and procedures for the operation of the statewide system which are consistent with those provided for in this Act.

(d) Any individual or entity found to have disclosed or used confidential information in violation of the provisions of this section shall be subject to a fine of $5,000 and imprisonment for a period not to exceed 1 year, and the provisions of section 3571 of title 18, United States Code, shall not apply to such violations.

SEC. 4. COUNSELING SERVICES.

(a) The Secretary may promulgate regulations that require the National Voluntary Reunion Registry established under this Act to include referral to existing programs that provide counseling services.

(b) If the Secretary promulgates regulations under subsection (a), on application to the registry, an applicant shall receive a referral list of licensed agencies, professionals, and adoption triad support groups that provide counseling services. Such services may include adoption peer support groups, community social service agencies, health professionals, and agencies providing family counseling.

SEC. 5. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue interim regulations necessary to carry out the provisions of this Act. The Secretary shall issue final regulations not later than 180 days after the date of enactment of this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $300,000 for fiscal year 1989 and such sums as may be necessary for each of the final years 1990 and 1991.

HUMPHREY AMENDMENT NO. 3743

Mr. DOLE (for Mr. HUMPHREY) proposed an amendment to the bill S. 2010, supra; as follows:

On page 3, strike out lines 3 through 6 and insert in lieu thereof the following:

(A) the birth mother, or birth father (with the written consent of the birth mother) or an adoptee over the age of 21 may initiate the matching process by submitting an application to the agency operatign the system;

On page 3, line 24, strike out ", to the maximum extent feasible,".

On page 5, at the end of the page, insert the following new sections:

SEC. 5. WAIVER AUTHORITY.

The Secretary may waive the requirements of section 3(b)(1)(A) under such circumstances as the Secretary may determine to be appropriate.

SEC. 6. CONSTRUCTION.

Nothing in this Act—

(1) authorizes the Secretary to initiate or participate in any legal or administrative action to open a closed or sealed adoption record, unamended birth certificate, or other sealed document; or

(2) invalidates or limits any law of a State or political subdivision of a State concerning adoption and the confidentiality of records with regard to a document referred to in paragraph (1).

On page 6, line 1, strike out "5" and insert in lieu thereof "7".

On page 6, strike out lines 7 through 11 and insert in lieu thereof the following new section:

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $300,000 for each of the fiscal years 1989, 1990, and 1991.

OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS

CHILES AMENDMENT NO. 3744

Mr. BYRD (for Mr. CHILES) proposed an amendment to the amendments of the House to the bill (S. 2215) to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional 4 years, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the amendment of the House, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Federal Procurement Policy Act Amendments of 1988".

SEC. 2. POLICY; FINDINGS AND PURPOSE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended by striking out "the Congress" and inserting "the United States Government".

(b) FINDINGS AND PURPOSE.—Section 3 of the Office of Federal Procurement Policy Act (41 U.S.C. 402) is amended in subsection (a) by inserting "Government-wide" before "procurement policies".

SEC. 3. AUTHORITY AND FUNCTIONS OF THE OFPP ADMINISTRATOR.

(a) IN GENERAL.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended—

(1) in subsection (a), by striking out "which shall be implemented in the single system of Government-wide procurement regulations and shall be" and inserting a period and the following: "These policies shall be implemented in a single Government-wide procurement regulation called the Federal Acquisition Regulation and shall be";

(2) in subsection (b)—

(A) by inserting after "timely manner" the following: ", including any such regulations, procedures, and forms as are necessary to implement prescribed policy initiated by the Administrator under subsection (a),"; and

(B) by striking out "may" and inserting "shall";

(3) in subsection (d) by striking out paragraphs (4) and (5) and inserting the following:

"(4)(A) providing for and directing the activities of the computer-based Federal Procurement Data System (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to adequately collect, develop, and disseminate procurement data; and

"(B) ensuring executive agency compliance with the record requirements of section 19;

"(5) providing for and directing the activities of the Federal Acquisition Institute (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to—

"(A) foster and promote Government-wide career management programs for a professional procurement work force; and

"(B) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to procurement by the executive agencies;"; and

(4) in subsection (f) by striking out "The Director of the Office of Management and Budget" and inserting "The Administrator, with the concurrence of the Director of the Office of Management and Budget, and with consultation with the head of the agency or agencies concerned,".

(b) Reauthorization.—Section 11 of such Act (41 U.S.C. 410) is amended by striking out "for each of the three succeeding fiscal years" and inserting "such sums as may be necessary for each succeeding fiscal year".

(c) Conforming Amendment.—Section 4 of such Act is amended by striking out paragraph (4) and redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively.

SEC. 4. FEDERAL ACQUISITION REGULATORY COUNCIL.

The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATORY COUNCIL

"Sec. 25. (a) Establishment.—There is established a Federal Acquisition Regulatory Council (hereinafter in this section referred to as the 'Council') to assist in the direction and coordination of Government-wide procurement policy and Government-wide procurement regulatory activities in the Federal Government.

"(b) Membership.—(1) The Council shall consist of the Administrator for Federal Procurement Policy and—

"(A) the Secretary of Defense,

"(B) the Administrator of National Aeronautics and Space; and

"(C) the Administrator of General Services.

"(2) Notwithstanding section 205(d) of the Federal Property and Administrative Services Act of 1949, the officials specified in subparagraphs (A), (B), and (C) of paragraph (1) may designate to serve on and attend meetings of the Council in place of that official (A) the official assigned by statute with the responsibility for acquisition policy in each of their respective agencies; or (B) if no official of such agency is assigned by statute with the responsibility for acquisition policy for that agency, the official designated pursuant to section 16(3) of this Act. No other official or employee may be designated to serve on the Council.

"(c) Functions.—(1) Subject to the provisions of section 6 of this Act, the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration, pursuant to their respective authorities under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), chapters 4 and 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451, et seq.), shall jointly issue and maintain in accordance with subsection (f) of this section a single Government-wide procurement regulation, to be known as the 'Federal Acquisition Regulation'.

"(2) Any other regulations relating to procurement issued by an executive agency shall be limited to (A) regulations essential to implement Government-wide policies and procedures within the agency, and (B) additional policies and procedures required to satisfy the specific and unique needs of the agency.

"(3) The Administrator, in consultation with the Council, shall ensure that procurement regulations promulgated by executive agencies are consistent with the Federal Acquisition Regulation and in accordance with the policies set forth in in section 2 of this Act or any policies issued pursuant to section 6(a) of this Act.

"(4)(A) Under procedures established by the Administrator, a person may request the Administrator to review any regulation relating to procurement on the basis that such regulation is inconsistent with the Federal Acquisition Regulation.

"(B) Unless the request is frivolous or does not, on its face, state a valid basis for such review, the Administrator shall complete such a review not later than 60 days after receiving the request. The time for completion of the review may be extended if the Administrator determines that an additional period of review is required. The Administrator shall advise the requester of the reasons for the extension and the date by which the review will be completed.

"(5) If the Administrator determines that a regulation relating to procurement is inconsistent with the Federal Acquisition Regulation or that the regulation should otherwise be revised to remove an inconsistency with any policies issued under section 6(a) of this Act or the policies set forth in section 2 of this Act, the Administrator shall rescind or deny the promulgation of the regulation or take such other action authorized under section 6 as may be necessary to remove the inconsistency. If the Administrator determines that such a regulation, although not inconsistent with the Federal Acquisition Regulation or such policies, should be revised to improve compliance with such Regulation or policies, the Administrator shall take such action authorized under section 6 as may be necessary and appropriate.

"(6) The decisions of the Administrator shall be in writing and made publicly available. The Administrator shall provide a listing of such decisions in the annual report to Congress required by section 8 of this Act.

"(d) Additional Responsibilities of Membership.—Subject to the authority, direction, and control of the head of the agency concerned, each official who represents an agency on the Council pursuant to subsection (b) shall—

"(1) approve or disapprove all regulations that are, after 60 days after the date of enactment of this section, proposed for public comment, promulgated in final form, or otherwise made effective by such agency relating to procurement before such regulation may be promulgated in final form, or otherwise made effective, except that such official may grant an interim approval, without review, for not more than 60 days for a procurement regulation in urgent and compelling circumstances;

"(2) carry out the responsibilities of such agency set forth in chapter 35 of title 44, United States Code, for each information collection request (as that term is defined in section 3502(11) of title 44, United States Code) that relates to procurement rules or regulations; and

"(3) eliminate or reduce (A) any redundant or unnecessary levels of review and approval, in the procurement system of such agency, and (B) redundant or unnecessary procurement regulations which are unique to that agency.

The authority to review and approve or disapprove regulations under paragraph (1) of this subsection may not be delegated to any person outside the office of the official who represents the agency on the Council pursuant to subsection (b).

"(e) Governing Policies.—All actions of the Council and of members of the Council shall be in accordance with and furtherance of the policies of section 2 and the policies prescribed under section 6(a) of this Act.

"(f) General Authority With Respect to FAR.—Subject to section 6(b), the Council shall manage, coordinate, control, and monitor the maintenance of, and issuance of and changes in, the Federal Acquisition Regulation.

"(g) Reports.—The Administrator for Federal Procurement Policy shall—

"(1) publish a report within 6 months after the date of enactment of this section and every 6 months thereafter relating to the development of procurement regulations to be issued in accordance with subsection (c) of this section;

"(2) include in each report published under paragraph (1)—

"(A) the status of each such regulation;

"(B) a description of those regulations which are required by statute;

"(C) a description of the methods by which public comment was sought with regard to each proposed regulation in accordance with section 22 of this Act, and to the extent appropriate, sections 3504(h) and 3507 of title 44, United States Code;

"(D) regulatory activities completed and initiated since the last report;

"(E) regulations, policies, procedures, practices, and forms that are under consideration or review by the Office of Federal Procurement Policy;

"(F) whether the regulations have paperwork requirements;

"(G) the progress made in promulgating and implementing the Federal Acquisition Regulation; and

"(H) such other matters as the Administrator determines would be useful; and

"(3) report to Congress within 180 days after the date of the enactment of this section, in consultation with the Administrator of the Office of Information and Regulatory Affairs, regarding—

"(A) the extent of the paperwork burden created by the Federal procurement process, and

"(B) the extent to which the Federal procurement system can be streamlined to reduce unnecessary paperwork while at the same time maintaining recordkeeping and reporting requirements necessary to ensure the integrity and accountability of the system.".

SEC. 5. COST ACCOUNTING STANDARDS BOARD.

(a) Amendment.—The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"COST ACCOUNTING STANDARDS BOARD

"Sec. 26. (a) Establishment; Membership; Terms.—(1) There is established within the Office of Federal Procurement Policy an independent board to be known as the 'Cost Accounting Standards Board' (hereinafter referred to as the 'Board'). The Board shall consist of 5 members, including the Administrator, who shall serve as Chairman, and 4 members, all of whom shall have experience in Government contract cost accounting, and who shall be appointed as follows:

"(A) two representatives of the Federal Government—

"(i) one of whom shall be a representative of the Department of Defense and be appointed by the Secretary of Defense; and

"(ii) one of whom shall be an officer or employee of the General Services Administration appointed by the Administrator of General Services; and

"(B) two individuals from the private sector, each of whom shall be appointed by the Administrator and—

"(i) one of whom shall be a representative of industry; and

"(ii) one of whom shall be particularly knowledgeable about cost accounting problems and systems.

"(2)(A) The term of office of each of the members of the Board, other than the Administrator for Federal Procurement Policy, shall be 4 years, except that—

"(i) of the initial members, two shall be appointed for terms of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years;

"(ii) any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed; and

"(iii) no individual who is appointed under paragraph (1)(A) of this subsection shall continue to serve after ceasing to be an officer or employee of the agency from which he or she was appointed.

"(B) A vacancy on the Board shall be filled in the same manner in which the original appointment was made.

"(C) The initial members of the Board shall be appointed within 120 days after the date of enactment of this section.

"(b) Senior Staff.—The Administrator, after consultation with the Board, may appoint an executive secretary and two additional staff members without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"(c) Other Staff.—The Administrator may appoint, fix the compensation, and remove additional employees of the Board under the applicable provisions of title 5, United States Code.

"(d) Detailed and Temporary Personnel.—(1) The Board may use, without reimbursement, any personnel of a Federal agency (with the consent of the head of the agency concerned) to serve on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

"(2) The Administrator, after consultation with the Board, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, of personnel for the purpose of serving on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

"(e) Compensation.—Except as otherwise provided in subsection (a), the members of the Board who are officers or employees of the Federal Government, and officers and employees of other agencies of the Federal Government who are used under subsection (d)(1), shall receive no additional compensation for services, but shall continue to be compensated by the employing Department or agency of such officer or employee. Each member of the Board appointed from private life shall receive compensation at a rate not to exceed the daily equivalent of the rate prescribed for level IV of the Executive Schedule for each day (including travel time) in which the Member is engaged in the actual performance of duties vested in the Board. Individuals hired under subsection (d)(2) may receive compensation at rates fixed by the Administrator, but not to exceed the daily equivalent of the rate prescribed for level V of the Federal Executive Salary Schedule under section 5316 of title 5, United States Code, for each day (including travel time) in which such appointees are properly engaged in the actual performance of duties under this section. While serving away from homes or the regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

"(f) Cost Accounting Standards Authority.—(1) The Board shall have the exclusive authority to make, promulgate, amend, and rescind cost accounting standards and interpretations thereof designed to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts with the United States.

"(2) Cost accounting standards promulgated under this section shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the United States in excess of $500,000, other than contracts or subcontracts where the price negotiated is based on (A) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (B) prices set by law or regulation.

"(3) Not later than 180 days after the date of enactment of this section, the Administrator, after consultation with the Board, shall prescribe rules and procedures governing actions of the Board under this section. Such rules and procedures shall require that any cost accounting standard promulgated, amended, or rescinded (and interpretations thereof) shall be adopted by majority vote of the Board members.

"(4) The Board is authorized—

"(A) to exempt classes or categories of contractors and subcontractors from the requirements of this section; and

"(B) to establish procedures for the waiver of the requirements of this section with respect to individual contracts and subcontracts.

"(g) Requirements for Standards.—(1) Prior to the promulgation under this section of cost accounting standards and interpretations thereof, the Board shall—

"(A) take into account, after consultation and discussions with the Comptroller General and professional accounting organizations, contractors, and other interested parties—

"(i) the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

"(ii) the advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contracts; and

"(iii) the scope of, and alternatives available to, the action proposed to be taken;

"(B) prepare and publish a report in the Federal Register on the issues reviewed under paragraph (1)(A);

"(C)(i) publish an advanced notice of proposed rulemaking in the Federal Register in order to solicit comments on the report prepared pursuant to subparagraph (B);

"(ii) provide all parties affected a period of not less than 60 days after such publication to submit their views and comments; and

"(iii) during this 60-day period, consult with the Comptroller General and consider any recommendation the Comptroller General may make; and

"(D) publish a notice of such proposed rulemaking in the Federal Register and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments.

"(2) Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall have the full force and effect of law, and shall become effective within 120 days after publication in the Federal Register in final form, unless the Board determines a longer period is necessary. Implementation dates for contractors and subcontractors shall be determined by the Board, but in no event shall such dates be later than the beginning of the second fiscal year of the contractor or subcontractor after the standard becomes effective. Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall be accompanied by prefatory comments and by illustrations, if necessary.

"(3) The functions exercised under this section are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

"(h) Implementing Regulations.—(1) The Board shall promulgate rules and regulations for the implementation of cost accounting standards promulgated or interpreted under subsection (f). Such regulations shall be incorporated into the Federal Acquisition Regulation and shall require contractors and subcontractors as a condition of contracting with the United States to—

"(A) disclose in writing their cost accounting practices, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs; and

"(B) agree to a contract price adjustment, with interest, for any increased costs paid to such contractor or subcontractor by the United States by reason of a change in the contractor's or subcontractor's cost accounting practices or by reason of a failure by the contractor or subcontractor to comply with applicable cost accounting standards.

"(2) If the United States and a contractor or subcontractor fail to agree on a contract price adjustment, including whether the contractor or subcontractor has complied with the applicable cost accounting standards, the disagreement will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

"(3) Any contract price adjustment undertaken pursuant to paragraph (1)(B) shall be made, where applicable, on relevant contracts between the United States and the contractor that are subject to the cost accounting standards so as to protect the United States from payment, in the aggregate, of increased costs (as defined by the Board). In no case shall the Government recover costs greater than the increased cost (as defined by the Board) to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of the price negotiation and which it failed to disclose to the Government.

"(4) The interest rate applicable to any contract price adjustment shall be the annual rate of interest established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) for such period. Such interest shall accrue from the time payments of the increased costs were made to the contractor or subcontractor to the time the United States receives full compensation for the price adjustment.

"(i) REPORTS TO CONGRESS.—The Board shall report to the Congress not later than one year after the date of enactment of this section, and annually thereafter, with respect to the activities and operations of the Board under this section, together with such recommendations as it considers appropriate.

"(j) EFFECT ON OTHER STANDARDS AND REGULATIONS.—(1) All cost accounting standards, waivers, exemptions, interpretations, modifications, rules, and regulations promulgated by the Cost Accounting Standards Board under section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall remain in effect unless and until amended, superseded, or rescinded by the Board pursuant to this section.

"(2) Existing cost accounting standards referred to in paragraph (1) shall be subject to the provisions of this Act in the same manner as if promulgated by the Board under this Act.

"(3) The Administrator, under the authority set forth in section 6 of this Act, shall ensure that no regulation or proposed regulation of an executive agency is inconsistent with a cost accounting standard promulgated or amended under this section by rescinding or denying the promulgation of any such inconsistent regulation or proposed regulation and taking such other action authorized under section 6 as may be appropriate.

"(4) Costs which are the subject of cost accounting standards promulgated under this section shall not be subject to regulations that are established by another executive agency that differ from such standards with respect to the measurement, assignment, and allocation of such costs.

"(k) EXAMINATIONS.—For the purpose of determining whether a contractor or subcontractor has complied with cost accounting standards promulgated under this section and has followed consistently the contractor's or subcontractor's disclosed cost accounting practices, any authorized representative of the head of the agency concerned, of the offices of inspector general established pursuant to the Inspector General Act of 1978, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost accounting standards.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

(b) CONFORMING AMENDMENT.—Section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) is repealed.

SEC. 6. PROCUREMENT INTEGRITY.

(a) AMENDMENT.—The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"PROCUREMENT INTEGRITY

"SEC. 27. (a) PROHIBITED CONDUCT BY COMPETING CONTRACTORS.—During the conduct of any Federal agency procurement of property or services, no competing contractor or any officer, employee, representative, agent, or consultant of any competing contractor shall knowingly—

"(1) make, directly or indirectly, any offer or promise of future employment or business opportunity to, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any procurement official of such agency;

"(2) offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of such agency; or

"(3) solicit or obtain, directly or indirectly, from any officer or employee of such agency, prior to the award of a contract any proprietary or source selection information regarding such procurement.

"(b) PROHIBITED CONDUCT BY PROCUREMENT OFFICIALS.—During the conduct of any Federal agency procurement of property or services, no procurement official of such agency shall knowingly—

"(1) solicit or accept, directly or indirectly, any promise of future employment or business opportunity from, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any officer, employee, representative, agent, or consultant of a competing contractor;

"(2) ask for, demand, exact, solicit, seek, accept, receive, or agree to receive, directly or indirectly, any money, gratuity, or other thing of value from any officer, employee, representative, agent, or consultant of any competing contractor for such procurement; or

"(3) disclose any proprietary or source selection information regarding such procurement directly or indirectly to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(c) DISCLOSURE TO UNAUTHORIZED PERSONS.—During the conduct of any Federal agency procurement of property or services, no person who is given authorized or unauthorized access to proprietary or source selection information regarding such procurement, shall knowingly disclose such information, directly or indirectly, to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(d) CERTIFICATION AND ENFORCEMENT MATTERS.—(1) A Federal agency may not award a contract for the procurement of property or services to any competing contractor, or agree to any modification or extension of a contract, unless the officer or employee of such contractor responsible for the offer or bid for such contract, or the modification or extension of such contract, as the case may be—

"(A)(i) certifies in writing to the contracting officer responsible for such contract that such officer or employee of the competing contractor has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(ii) discloses to such contracting officer any and all such information and certifies in writing to such contracting officer that any and all such information has been disclosed; and

"(B) certifies in writing to such contracting officer that each officer, employee, agent, representative, and consultant of such competing contractor who has participated personally and substantially in the preparation or submission of such bid or offer, or in such modification or extension of such contract, as the case may be, has certified to such competing contractor that he or she—

"(i) is familiar with, and will comply with, the requirements of subsection (a) and applicable implementing regulations; and

"(ii) will report immediately to the officer or employee of the competing contractor responsible for the offer or bid for any contract or the modification or extension of such contract, as the case may be, any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or such applicable implementing regulations, pertaining to such procurement.

"(2) A Federal agency may not award a contract for the procurement of property or services, or agree to any modification or extension of any such contract, unless the contracting officer responsible for such procurement—

"(A) certifies in writing to the head of such agency that the contracting officer has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) discloses to the head of such agency any and all such information and certifies in writing that any and all such information has been disclosed.

"(3) The head of a Federal agency may require any procurement official or any competing contractor, at any time during the conduct of any Federal agency procurement of property or services—

"(A) to certify in writing to the head of such agency that such procurement official or the officer or employee of the competing contractor responsible for the offer or bid for such contract or the modification or extension of such contract, as the case may be, has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) to disclose to the head of such agency any and all such information and to certify in writing that any and all such information has been disclosed.

"(4) If a procurement official leaves the Government during the conduct of such a procurement, such official shall certify that he or she understands the continuing obligation not to disclose proprietary or source selection information.

"(5) For the purposes of enforcing the requirements of this section, the contracting officer responsible for the conduct of a procurement shall maintain, as part of the procurement file—

"(A) all certifications made by procurement officials and competing contractors with regard to such procurement, as required by this subsection; and

"(B) a record of all persons who have been authorized by the head of the agency or the contracting officer to have access to proprietary or source selection information regarding such procurement.

"(6) Any person making a certification required by this subsection shall be notified of the applicability of section 1001 of title 18, United States Code, to false, fictitious, or fraudulent statements in such certification.

"(7)(A) This subsection applies only to contracts, extensions, and modifications in excess of $100,000.

"(B) This subsection need not be applied to a contract—

"(i) with a foreign government or an international organization that is not required to be awarded using competitive procedures pursuant to section 303(c)(4) of the Federal Property and Administrative Services Act of 1949 or section 2304(c)(4) of title 10, United States Code; or

"(ii) in an exceptional case, when the head of the Federal agency concerned determines in writing that this subsection should be waived pursuant to procedures and criteria established in implementing regulations issued pursuant to subsection (m) and notifies the Congress in writing of such determination.

The authority to make determinations under clause (ii) of this subparagraph may not be delegated.

"(e) Restrictions on Government Officials and Employees.—No Government official or employee, civilian, or military, who has participated personally and substantially in the conduct of any Federal agency procurement or who has personally reviewed and approved the award, modification, or extension of any contract for such procurement shall—

"(1) participate in any manner, as an officer, employee, agent, or representative of a competing contractor, in any negotiations leading to the award, modification, or extension of a contract for such procurement, or

"(2) participate personally and substantially on behalf of the competing contractor in the performance of such contract,

during the period ending 2 years after the last date such individual participated personally and substantially in the conduct of such procurement or personally reviewed and approved the award, modification, or extension of any contract for such procurement.

"(f) Contractual Penalties.—(1) Regulations issued pursuant to subsection (m) shall require that each contract awarded by a Federal agency contain a clause specified in such regulation that provides appropriate contractual penalties for conduct of any competing contractor prohibited by subsection (a) and for any such conduct of any officer, employee, agent, representative, or consultant of such contractor.

"(2) The following remedies are authorized to be included in, and shall be considered in the development of, such regulations:

"(A) Denial of payment of all or any portion of the profit component of amounts otherwise payable to the contractor by the Federal agency under the contract and recovery of all or any portion of the profit component of amounts paid to the contractor by the Federal agency under the contract.

"(B) Termination of the contract for default.

"(C) Any other appropriate penalty.

"(g) Administrative Actions.—(1) If an agency receives a disclosure of information pursuant to subsection (d) or otherwise receives or obtains information providing a reasonable basis to believe that an officer, employee, agent, representative, or consultant of a competing contractor has knowingly violated the requirements of this section—

"(A) in the case of a procurement in which a contract has not been awarded, the agency shall determine whether to terminate the procurement or take other appropriate actions;

"(B) in the case of a procurement with respect to which a contract has been awarded, the agency shall determine whether to void or rescind the contract, to terminate the contract for default, to impose sanctions upon the contractor, or to permit the contractor to continue to perform the contract, subject to review in accordance with, and to the extent provided in, the Contract Disputes Act of 1978, or to take other appropriate actions; and

"(C) if the agency determines that such a knowing violation has occurred, the agency, pursuant to procedures specified in the Federal Acquisition Regulation—

"(i) may impose an immediate suspension, and

"(ii) shall determine whether to initiate a debarment proceeding,

against the competing contractor or other person who committed such violation.

"(2) Any procurement official of a Federal agency who engages in conduct prohibited by subsection (b) or (c) shall be subject to removal or other appropriate adverse personnel action pursuant to the procedures specified in chapter 75 of title 5, United States Code, or other applicable law or regulation.

"(3) The actions taken under paragraph (1) or (2) may be suspended by the agency head upon the request of the Attorney General pending the disposition of any civil or criminal actions pursuant to subsections (h) and (i).

"(h) Civil Penalties.—Any person who engages in conduct prohibited by subsection (a), (b), (c), or (e) shall be subject to the imposition of a civil fine in a civil action brought by the United States in an appropriate district court of the United States. The amount of any such civil fine for such violation may not exceed—

"(1) $100,000 in the case of an individual; or

"(2) $1,000,000 in the case of a competing contractor (other than an individual).

"(i) Criminal Penalties.—Whoever, during the conduct of a Federal agency procurement of property or services—

"(1) being a competing contractor or an officer, employee, representative, agent, or consultant of a competing contractor, knowingly and willfully solicits or obtains, directly or indirectly, from any officer or employee of such agency any proprietary or source selection information (as such terms are defined in subsection (n) and in regulations prescribed pursuant to subsection (m)), or

"(2) being an officer or employee of such agency, knowingly and willfully discloses or promises to disclose, directly or indirectly, to any competing contractor or any officer, employee, representative, agent, or consultant of a competing contractor any proprietary or source selection information,

shall be imprisoned for not more than 5 years, or fined in accordance with title 18, United States Code, or both.

"(j) Training.—The head of each Federal agency shall establish a procurement ethics program for its procurement officials. The program shall, at a minimum—

"(1) provide for the distribution of written explanations of the provisions of subsection (b) to such procurement officials; and

"(2) require each such procurement official, as a condition of serving as a procurement official, to certify that he or she is familiar with the provisions of subsection (b), and will not engage in any conduct prohibited by such subsection, and will report immediately to the contracting officer any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations.

"(k) Remedies Not Exclusive.—Nothing in this subsection shall be construed to limit the applicability of the requirements, sanctions, contract penalties, and remedies established under any other law, but no agency shall be relieved of the obligation to carry out the requirements of this section because such agency has also applied such other requirements, sanctions, contract penalties, or remedies.

"(l) No Authority To Withhold Information.—Nothing in this section shall be construed to authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an Inspector General of a Federal agency.

"(m) Implementing Regulations and Guidelines.—Government-wide regulations and guidelines deemed appropriate to carry out this section shall be issued in the Federal Acquisition Regulation within 180 days after the date of enactment of this section.

"(n) Definitions.—As used in this section:

"(1) The term 'during the conduct of any Federal agency procurement of property or services' means the period beginning with the development, preparation, and issuance of a procurement solicitation, and concluding with the award, modification, or extension of a contract, and includes the evaluation of bids or proposals, selection of sources, and conduct of negotiations.

"(2) The term 'competing contractor', with respect to any procurement (including any procurement using procedures other than competitive procedures) of property or services, means any entity that is, or is reasonably likely to become, a competitor for or recipient of a contract or subcontract under such procurement, and includes any other person acting on behalf of such an entity.

"(3)(A) The term 'procurement official means any civilian or military official or employee of an agency who has participated personally and substantially in the conduct of the agency procurement concerned, including all officials and employees who are responsible for reviewing or approving the procurement, as further defined by applicable implementing regulations.

"(B) For purposes of subparagraph (A), the term 'employee of an agency' includes a contractor, subcontractor, consultant, expert, or adviser (other than a competing contractor) acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned.

"(4) The term 'contracting officer' means any official or employee of a Federal agency who has been authorized by the agency head or his or her designee to enter into, administer, or terminate contracts and make related determinations and findings.

"(5) The term 'Federal agency' has the meaning provided by section 3(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(b)).

"(6) The term 'proprietary information' means—

"(A) information contained in a bid or proposal;

"(B) cost or pricing data; or

"(C) any other information submitted to the Government by a contractor and designated as proprietary, in accordance with law or regulation, by the contractor, the head of the agency, or the contracting officer.

"(7) The term 'source selection information' means information determined by the head of the agency or the contracting officer to be information—

"(A) the disclosure of which to a competing contractor would jeopardize the integrity or successful completion of the procurement concerned; and

"(B) which is required by statute, regulation, or order to be secured in a source selection file or other restricted facility to prevent such disclosure;

as further defined by regulations issued pursuant to subsection (m) of this section.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 7. PROFIT METHODOLOGY STUDY.

(a) In General.—The Administrator shall conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by government contractors on procurements, other than procurements where the price is based on adequate price competition or on established catalog or market prices of commercial items sold in substantial quantities to the general public.

(b) Contractors' Financial Data.—The methodology developed under subsection (a) shall include adequate procedures for verifying and maintaining the confidentiality of contractors' financial data.

SEC. 8. DEFINITION OF ARCHITECTURAL AND ENGINEERING SERVICES.

Section 901 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541) is amended by striking out paragraph (3) and inserting the following:

"(3) The term 'architectural and engineering services' means—

"(A) professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph;

"(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

"(C) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.".

SEC. 9. ESTABLISHMENT OF THE COMMERCIAL PRODUCTS ADVOCATE.

The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"ADVOCATE FOR THE ACQUISITION OF COMMERCIAL PRODUCTS

"Sec. 28. There is established in the Office of Federal Procurement Policy the position of Advocate for the Acquisition of Commercial Products. The Advocate shall report directly to the Administrator. The Advocate for Acquisition of Commercial Products shall—

"(1) review all proposed procurement regulations and report to the Administrator as to whether such regulations will encourage or discourage the acquisition of commercial products by Federal agencies;

"(2) provide recommendations to the Administrator as to which procurement regulations should be rescinded or modified to encourage the acquisition of commercial products; and

"(3) provide recommendations to the Administrator as to methods of simplifying procurement regulations governing acquisition of commercial products, including the most efficient method to apply, modify, or waive the certification requirements of section 27 of this Act with respect to contracts for such products.".

SEC. 10. STUDY AND REPORT BY THE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.

No later than April 1, 1989, the Administrator for Federal Procurement Policy, in consultation with the Comptroller General, shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives—

(1) on the extent to which the data collected by the Federal Procurement Data System is adequate for the management, oversight, and evaluation of Federal procurement; and

(2) which shall include any appropriate recommendations for improvements of such system.

SEC. 11. ELEVATION OF PRESIDENTIAL APPOINTEES WITHIN THE OFFICE OF MANAGEMENT AND BUDGET.

(a) Executive Schedule, Level I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Office of Management and Budget.".

(b) Executive Schedule, Level II.—Section 5313 of title 5, United States Code, is amended—

(1) by adding at the end thereof the following:

"Deputy Director of the Office of Management and Budget."; and

(2) by striking out "Director of the Office of Management and Budget.".

(c) Executive Schedule, Level III.—Section 5314 of title 5, United States Code, is amended—

(1) by adding at the end thereof the following:

"Administrator for Federal Procurement Policy. "Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget."; and

(2) by striking out "Deputy Director of the Office of Management and Budget.".

(d) Executive Schedule, Level IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator for Federal Procurement Policy."; and

(2) by striking out "Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.".

(e) Effective Date.—The amendments made by this section shall be effective on January 20, 1989.

SEC. 12. TRAVEL EXPENSES UNDER CERTAIN GOVERNMENT CONTRACTS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is amended—

(1) by redesignating such section as subsection (a) of section 24; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The provisions of subsection (a) shall not apply to any agreement between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose for conducting federally sponsored research and related activities.

"(2) Under any agreement described under paragraph (1), costs incurred by personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent that such costs do not exceed—

"(A) charges normally allowed by the respective institution in its regular operations as a result of an institutional policy; and

"(B) the limits and principles as are provided for by government-wide regulation of such costs established by the Director of the Office of Management and Budget.

"(3) The regulation under paragraph (2)(B) shall specifically provide that in the absence of an institutional policy regarding travel costs, the rates and amounts established under subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provisions of such subchapter shall apply to agreements between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose of conducting federally sponsored research and related activities.".

SEC. 13. FEDERAL EMPLOYEE BENEFITS FOR CERTAIN EMPLOYEES OF FORMER PRESIDENTS AND VICE PRESIDENTS.

(a) Retirement Benefits.—(1) Section 8331(1) of title 5, United States Code, is amended by—

(A) striking out "and" at the end of subparagraph (I);

(B) by inserting "and" after the semicolon at the end of subparagraph (J); and

(C) inserting after subparagraph (J) the following new subparagraph:

"(K) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph;".

(2) Section 8401(11) of title 5, United States Code, is amended by striking out "or (J)" and inserting in lieu thereof "(J), or (K)".

(b) Life Insurance.—Section 8701(a) of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (8);

(2) by inserting "and" after the semicolon at the end of paragraph (9); and

(3) inserting after paragraph (9) the following new paragraph:

"(10) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other paragraph of this subsection;".

(c) Health Benefits.—Section 8901(1) of title 5, United States Code, is amended by—

(1) striking out "and" at the end of subparagraph (F); and

(2) inserting after subparagraph (G) the following new subparagraphs:

"(H) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

"(I) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph;".

HAZARDOUS WASTE REDUCTION ACT

LAUTENBERG AMENDMENT NO. 3745

(Ordered referred to the Committee on Environment and Public Works.)

Mr. LAUTENBERG (for himself and Mr. Baucus) submitted an amendment intended to be proposed by him to the bill (S. 1429) to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Waste Reduction Act of 1988".

TABLE OF CONTENTS

SEC. 1. Short title and table of contents.
SEC. 2. Findings and policy.
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SEC. 11. Authorization of appropriations.
SEC. 12. Implementation.
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SEC. 14. Conforming amendments.

SEC. 2. FINDINGS AND POLICY.

(a) Findings.—The Congress finds that:

(1) The United States of America annually produces millions of tons of toxic chemical waste and spends tens of billions of dollars per year controlling this pollution.

(2) There are significant opportunities for industry to reduce the generation of waste at the source through cost-effective changes in production, operation, and raw materials use. Such changes offer industry substantial savings in reduced raw materials, waste management, and liability costs as well as help to protect the environment and reduce risks to worker health and safety.

(3) The opportunities for source reduction are often not realized because existing regulations, and the industrial resources they require for compliance, focus upon treatment and disposal, rather than source reduction; existing regulations do not emphasize multimedia management of waste; and businesses need information and technical assistance to overcome institutional barriers to the adoption of source reduction practices.

(b) National Policy.—The Congress hereby declares it to be the national policy of the United States, that wherever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "agency" means the Environmental Protection Agency.

(3) The term "toxic chemical" means any toxic chemical on the list described in section 313(c) of the Superfund Amendments and Reauthorization Act of 1986.

(4) The term "release" has the same meaning as provided by section 329(8) of the Superfund Amendments and Reauthorization Act of 1986.

(5) The term "multi-media" means air, water, and land.

SEC. 4. EPA ACTIVITIES.

(a) Authorities.—The administrator shall establish in the Environmental Protection Agency an office to carry out the functions of the Administrator under this Act. The office shall be independent of the Agency's single-medium program offices but shall have the authority to review and advise such offices on their activities to promote a multi-media approach to source reduction. The office shall be under the direction of such officer of the Environmental Protection Agency as the Administrator shall designate.

(b) Functions.—The Administrator is authorized to carry out a source reduction and recycling demonstration program to carry out the following functions:

(1) The Administrator shall ensure that the Environmental Protection Agency considers the effect of its existing and proposed programs on source reduction efforts and shall review proposed regulations of the Environmental Protection Agency to determine their effect on source reduction.

(2) The Administrator shall coordinate source reduction activities in each Environmental Protection Agency Office.

(3) The Administrator shall investigate methods of coordinating and streamlining data collection requirements under existing environmental statutes. The Administrator shall develop an inventory of existing data, consider developing common nomenclature, consistent reporting formats, and compatible data storage and retrieval systems.

(4) The Administrator shall determine what capabilities the Environmental Protection Agency should have to measure waste generation and management practices in the United States. The Administrator shall determine what, if any, changes are needed in existing agency practices with respect to the collection and handling of data regarding the generation and management of waste.

(5) The Administrator shall facilitate the adoption of source reduction techniques by businesses. This strategy shall include the use of the Source Reduction Clearinghouse and State matching grants provided in this Act to foster the exchange of information regarding source reduction techniques, the dissemination of such information to businesses, and the provision of technical assistance to businesses. The strategy shall also consider the capabilities of various businesses to make use of source reduction techniques.

(8) The Administrator shall establish a senior level liaison group with industry, public interest groups, and State source reduction program officials to provide guidance to the Administrator, to provide outreach to the industrial community, and to provide a liaison group for the educational community to promote the introduction of source reduction principles into engineering and management curricula.

(7) The Administrator shall establish an advisory panel of technical experts comprised of representatives from industry, the States, and public interest groups, to advise the Administrator on ways to imporve collection and dissemination of data.

SEC. 5. GRANTS TO STATES FOR STATE TECHNICAL ASSISTANCE PROGRAMS.

(a) General Authority.—The Administrator shall make matching grants to States for programs to promote the use of source reduction techniques by businesses.

(b) Criteria.—When evaluating the requests for grants under this section, the Administrator shall consider, among other things, whether the proposed State program would accomplish the following.

(1) Make specific technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice to businesses seeking assistance.

(2) Target assistance to businesses for whom lack of information is an impediment to source reduction.

(3) Provide training in source reduction techniques. Such training may be provided through local engineering schools or any other appropriate means.

(c) Matching Funds.—Federal funds used in any State program under this section shall provide no more than 50 percent of the funds made available to a State in each year of that State's participation in the program.

(d) Effectiveness.—The Administrator shall establish appropriate means for measuring the effectiveness of the State grants made under this section in promoting the use of the source reduction techniques by businesses.

(e) Information.—States receiving grants under this section shall make information generated under the grants available to the Administrator.

SEC. 6. SOURCE REDUCTION CLEARINGHOUSE.

(a) AUTHORITY.—The Administrator shall establish a Source Reduction Clearinghouse to compile information generated by States receiving grants on management, technical, and operational approaches to source reduction. The Administrator shall use the clearinghouse to—

(1) serve as a center for source reduction technology transfer;

(2) mount active outreach and education programs by the States to further the adoption of source reduction technologies; and

(3) collect and compile information reported by States receiving grants under section 5 on the operation of success of State source reduction programs.

(b) PUBLIC AVAILABILITY.—The Administrator shall make available to the public such information on source reduction as is gathered pursuant to this Act and such other pertinent information and analysis regarding source reduction as the Administrator deems appropriate, on a cost reimbursable basis. It shall be within the Administrator's discretion to determine the most feasible method for making such information available, including the use of computers.

SEC. 7. SOURCE REDUCTION AND RECYCLING DATA COLLECTION.

(a) REPORTING REQUIREMENTS.—Each owner or operator of a facility required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986 ("SARA") for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceding calendar year if such facility is within one of the 5 two-digit SIC Code classifications producing the highest quantity of toxic chemical releases, or having the highest volume of toxic chemicals entering waste stream, or both. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual toxic chemical release form filed by the owner or operator under sectin 313(c) of that Act. This section shall take effect with the annual report filed under sectin 313 for the first full calendar year beginning after the enactment of this Act.

(b) ITEMS INCLUDED IN REPORT.—The source reduction and recycling report required under subsection (a) shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

(1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The report filed for any facility which produces only a single product and for which reporting the quantity of chemical entering the waste stream would cause public disclosure of a proprietary process may, at the option of the owner or operator, report only the percentage change from the previous year. When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made based on best engineering judgment.

(2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year and the percentage change from the previous year.

(3) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate:

(A) Equipment, technology, process, or procedure modifications.

(B) Reformulation or redesign of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(4) The amount expected to be reported under paragraphs (1) and (2) for the 2 calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).

(5) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. It shall not be necessary to indicate the units on which the ratio is based. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical.

(6) The techniques which were used to identify source reduction and recycling opportunities. Techniques listed should include, but are not limited to employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction and recycling listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c) SARA PROVISIONS.—The provisions of section 322, 325(c), and 326 of the Superfund Amendments and Reauthorization Act of 1986 shall apply to the reporting requirements of this section in the same manner as to the reports required under section 313 of that Act. The Administrator may modify the form required for purposes of reporting information under section 313 of that Act to the extent he deems necessary to include the additional information required under this section.

(d) ADDITIONAL OPTIONAL INFORMATION.—Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other waste management techniques in earlier years.

(e) AVAILABILITY OF DATA.—Subject to section 322 of the Superfund Amendments and Reauthorization Act of 1986, the Administrator shall make data collected under this section publicly available, on a cost reimbursable basis.

SEC. 8 WASTE STREAM SURVEY.

(a) WASTE STREAM SURVEY.—The Administrator shall collect the following information from a representative sample of facilities of at least 6000 facilities, required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986. The sample shall be drawn from the five two-digit SIC code classifications producing the highest quantity of toxic releases, or having the highest volume of toxic chemicals entering the waste stream, or both.

(1) For each waste stream each facility selected for the facility shall report for the last full calendar year and the percentage change from the previous year—

(A) the volume of the waste generated after source reduction but prior to recycling and treatment.

(B) the volume of the waste after recycling but prior to treatment.

Any facility which produces only a single product and for which reporting the quantity of waste entering the waste stream would cause public disclosure of a proprietary process may, at the option of the owner or operator, report only the percentage change from the previous year.

(2) The cost and effectiveness of the source reduction, recycling and treatment practices being used or being considered at each facility selected for the survey. The effectiveness should be evaluated in terms of the ability to reduce the volume of waste, and the ability to reduce or eliminate chemicals from the waste stream. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate:

(A) Equipment, technology, process, or procedure modifications.

(B) Reformation or redesigns of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(3) A ratio of production in the reporting year to production in the previous year.

(4) The technical, institutional, statutory, regulatory, and economic obstacles to source reduction, recycling and treatment at each facility selected for the survey.

(5) Other information that the Administrator determines is needed to estimate the amount of source reduction, recycling and treatment that firms are currently able to achieve, and how much can firms reasonably be expected to achieve.

SEC. 9. EPA REPORT.

(a) EPA shall report to Congress on information collected under section 7 and section 8 within 30 months of the date of enactment of this Act. EPA shall include in its report at a minimum the following.

(1) An analysis of the data collected under section 7 and section 8 on an industry-by-industry basis, including an evaluation of trends in source reduction and recycling by industry, firm size, product and other useful measures.

(2) An evaluation of regulations and laws that may inhibit source reduction recycling and treatment and of opportunities within existing programs.

(3) An evaluation of priority industries and pollutants that require assistance in multi-media source reduction, recycling and treatment.

(4) Recommendations as to incentives needed to encourage investment and research and development in source reduction, recycling and treatment.

(5) An evaluation of the cost and technical feasibility by industry and processes of source reduction, recycling and treatment opportunities and current activities.

(6) Recommendations as to permanent reporting on source reduction, recycling and treatment.

SEC. 10. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to modify or interfere with the implementation of title III of the Superfund Amendments and Reauthorization Act of 1986.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator $4,000,000 for each of the 3 fiscal years beginning after the enactment of this Act for functions carried out under this Act (other than State grants) and $8,000,000 for each of the three fiscal years after enactment of this Act for the State grant program.

SEC. 12. IMPLEMENTATION.

The Administrator is authorized to issue such rules, regulations, and orders as may be necessary to carry out the provisions of this Act.

SEC. 13. SUNSET PROVISION.

This Act shall be repealed on the date 30 months after the date of enactment of this Act. Nothing in the repeal of this Act shall affect any authorities or obligations of the Administrator with respect to any matter under any other provision of law and nothing in the repeal of this Act shall affect or impair the authority under other provisions of law of any office established within the Environmental Protection Agency before the enactment of this Act.

SEC. 14. CONFORMING AMENDMENTS.

(a) The requirement for minimization of waste under this act shall be in addition to those imposed by section 1003(b), 3002(b), 3005(h), and 8002(r), of the Resource Conservation and Recovery Act.

(b) Nothing contained in this act shall be construed, interpreted or applied to supplant, displace, preempt or otherwise diminish the responsibilities and liabilities under other State or Federal law, whether statutory or common.

ADDITIONAL STATEMENTS

FOREIGN EXCHANGE VISITOR PROGRAM PROBLEMS NEEDED TO BE ADDRESSED BY U.S. INFORMATION AGENCY

● Mr. DIXON. Mr. President, today I rise to call my colleagues' attention to a series of problems which have come to my attention recently regarding the U.S. Information Agency's administering of the Foreign Exchange Visitor Program; specifically, I am concerned about that Agency's policies for waiving the 2-year foreign residency requirement.

My colleagues may recall that this summer I worked to resolve the immigration case of Margarida Magalhaes Silverman, a Portuguese doctor who had married a United States Citizen in Illinois. At the time of her original admission to the United States, Margarida agreed that after completing her medical training in the United States, she would return to her home country and take back those skills she gained in the United States for a minimum of 2 years. However, during her years of medical study, she met and married her U.S. citizen husband. She naturally wanted to remain together with her husband, and he had no desire to move to Portugual and divide his family.

After applying for a waiver of the 2-year rule, Margarida and her husband were stunned to learn that the U.S. Information Agency denied their request, citing foreign policy considerations. This didn't make sense to me, Mr. President, since Margarida's own Portuguese Government had issued a letter stating they had no objection to Margarida remaining in the United States with her husband. Only after intense media pressure and the personal intervention of President Ronald Reagan did USIA reverse its decision and agree to waive Margarida's foreign residency requirement.

Since the successful resolution of Margarida's case, I have been contacted by dozens of individuals across the country with problems similar to Margarida's. For example, Amarjit Singh, a native of India, married a United States citizen several years ago and has since had two United States citizen children. He is a productive member of our society, working as an emergency room physician at St. Bernard Hospital in Chicago. His wife, Rebecca manages the CAT scan department at Loyola University Medical Center. And even though Dr. Singh also had a letter of no objection from the Government of India, the USIA denied his request. Mr. President, this just does not make sense to me.

Mr. President, this case has begun to receive media attention like the Silverman case did. I call your attention to a Chicago Tribune article from October 10, and I ask that it be printed in the RECORD at the conclusion of my remarks. Perhaps given this attention, the Singh case will also be favorably resolved. However, I think it is unfair to the many families in a similar situation, who have been unable to have a newspaper write a story about them. If the large number of such cases that have been brought to my attention are any indication of the magnitude of the problem, I believe that the USIA must review their procedures for considering these cases in the first place.

I have therefore sent a letter to Charles Wick, Director of the USIA, asking for a review of both this case in particular and the entire waiver process as a whole. I want to know why the Agency is denying waivers to aliens who have an immediate relationship to a U.S. citizen and a letter of no objection from their home government. It seems to this Senator that a waiver should be routinely granted in such cases, and I look forward to receiving an early reply from the USIA.

The article follows:

[From the Chicago Tribune, Oct. 10, 1988]

DOCTOR FACES DEPORTATION

(By Patricia M. Szymozak)

Like a prisoner seeking a reprieve, Amarjit Singh waits. He waits for lawyers, for government bureaucrats, for someone to commute a sentence that would send him back to his native India, separating him from his wife and two children.

"Every six months it's another gut-wrencher," said Singh, an emergency room physician at St. Bernard Hospital, 326 W. 64th St. "I'm miserable. My wife is miserable. The kids don't know what's going on."

Singh, who lives in Lombard, had been threatened with deportation if he didn't leave the United States voluntarily by Oct. 22. But last week, after U.S. Sen. Alan Dixon intervened with the U.S. Immigration and Naturalization Service, he got a six-month reprieve pending the appeal of a case his lawyers have before the 7th U.S. Circuit Court of Appeals in Chicago.

Singh's lawyers compare his situation to that of Margarida Magalhaes, a Portugese physician who entered the United States on the same J-1 visa program as Singh, and like Singh, met and married a U.S. citizen and decided to stay.

A J-1 visa requires a foreign national to return home for two years after finishing professional training in the United States. The person can apply for permanent residency in the U.S., but only after having spent the two years back home.

And, from the viewpoint of the United States Information Agency (USIA), which administers the J-1 program, marrying an American doesn't change things.

Magalhaes and her husband, Dr. William Silverman, found that out when their request for a waiver of the two years was turned down repeatedly. Magalhaes eventually won a waiver, but only after President Reagan intervened when the case got national media attention.

"USIA is not doing an adequate job of reviewing these cases," said Dixon, who also intervened in Magalhaes' case. "I've been involved in 10 of these cases this year alone."

Singh hasn't been as lucky as his Portuguese counterpart, though his lawyer, Stanley Horn, who also represented Magalhaes, thinks Singh's is the better case.

"It's a similar situation," Horn said. "But the Silvermans didn't have children. Singh has two children, and his wife made a good faith attempt to live in India." That was in 1985 when, after repeated rebuffs from the U.S. government for a waiver, Mrs. Singh decided to try to make a home in India with her husband.

Five months' preganant at the time, she said she and her 2-year-old son went to live with her husband's family in New Delhi. "I got sick. My son got sick. I was afraid I would lose the baby," said Mrs. Singh, who lived in India two months.

Morevoer, Singh is a Sikh, a religious group involved in frequently violent clashes with the Hindu majority in India.

The Indian Consulate in Chicago and the Indian government denied Mrs. Singh permission to enter Punjab, the national state of the Sikhs where Singh feels he could live most safely, during her 1985 stay, according to a motion filed by Jan M. Pederson, a Washington, D.C., attorney who asked the USIA to reconsider the Singh case.

Horn's appeal argues that the federal court can review a case if the USIA has abused its powers of discretion and that there was abuse in the Singh case because the agency wouldn't consider developments such as the birth of children or the wife's attempt to move to India.

After marrying Singh, Mrs. Singh said she filed with the Immigration Service to sponsor her husband for citizenship. She also said that her husband will be granted permanent resident status, but only after his two-year-return to India.

"I've threatened to go to the Russian Embassy. They'd love the story," Mrs. Singh said. "The President talks a lot about human rights in Russia, but we don't see what's happening in our own country."●

OMNIBUS ANTI-SUBSTANCE ABUSE ACT OF 1988

● Mr. DODD. Mr. President, over the past several days, House and Senate Members have been working to iron out differences in the Omnibus Anti-Substance Abuse Act of 1988, which the Senate passed on Friday. I believe their efforts will produce a bill that can be placed on the President's desk before the week is out.

Only a week ago, many in this Chamber doubted we would reach this point. However, although there were and are strong differences on a number of issues related to this bill, the vast majority of us in this body believed those differences were outweighed by the need to pass a strong, core bill directed at one of the most serious threats to this country's children and families and to our long-term health as a nation.

The drug threat knows no classes and no boundaries. It threatens all of us. From our wealthiest families to our poorest, from professionals to the least educated members of our society, from our factories to our public transportation systems, from our schoolyards to our jails, the drug threat is pervasive and unrelenting. Families are destroyed, individuals are killed or crippled, our citizens are intimidated, and our industrial competitiveness declines as the efforts and talents of promising young minds are lost to criminal activity.

I believe this legislation will make a difference. Without it, our war on drugs will continue to be disorganized, uneven and ineffective. With it, we will have a coordinated national drug policy under a Director for National Drug Control Policy. The legislation authorizes major new resources for drug interdiction and law enforcement, and major penalties for drug dealers and for those who commit murder while engaging in drug trafficking. Perhaps more important, it authorizes 60 percent of funds to the "demand" side, providing increased education and treatment to prevent our children from being lured into drug use, and to provide support for those who seek to free themselves from drug addiction. It also provides new civil penalties for drug uses.

While there was wide agreement on the core issues, there were tough choices on the margin. This body revisited an issue we debated last June—whether to impose a Federal death penalty for drug-related killings. There is no question that this issue posed the most wrenching decision for many of us in this body. But I believed it was important, in this bill, to demonstrate a toughness and resolve to use the most severe criminal penalties at our disposal against drug profiteers who commit murder in the course of their illicit activities. Because of the enormous amounts of money involved, these criminals have engaged in cold-blooded, premeditated murders of law enforcement officers. In many cases, these are efforts by drug kingpins to intimitate those brave and dedicated officers we ask to do battle in the streets and at our borders each day.

I supported Senator SIMON's amendment, which acknowledged that the murder of a law enforcement officer is the most reprehensible kind of crime. I also supported Senator KENNEDY's amendment on racial justice, which would have ensured further safeguards against discriminatory application of capital punishment. However, in view of the many other safeguards provided in the original bill, I concluded the capital punishment provision should be retained, so that it remains available for those murders that are especially heinous.

Certain other provisions are problematic, for example, Senator GRAMM's amendment on Federal benefits, as we discussed in the debate last Friday, and Senator WILSON's testing amendment. I believed these provisions needed more work. It is important that we maintain the strongest public support for our efforts in our war against drugs, and we undermine that support with overly broad penalties that are potentially unfair and inconsistent in their application.

But this legislation, overall, deserves the strong support it received from this body. It not only addresses the sale and use of illegal substances, but in a number of provisions addresses alcohol abuse—in many ways a more pervasive health problem for this Nation's children and families than drug addiction. I was very pleased that the leadership accepted my amendment to authorize innovative alcohol abuse education programs for children of alcoholics. In addition, the leadership accepted my amendment giving States greater flexibility in the way they spend Federal dollars under the Alcohol, Drug Abuse, and Mental Health Administration block grant program for mental health services.

I applaud the leadership and the managers on both sides for their work, and I am confident their continued efforts this week will produce a final package which will be signed by the President. Just as important, I believe all of us recognize that this is a first step in what must be a renewed national effort on the part of all of us to attack the scourge of drug trafficking and drug addiction and return our streets, schoolyards and communities to law-abiding and productive citizens.●

THE GENOCIDE CONVENTION

● Mr. DODD. Mr. President, last Friday the Senate finally completed the process of our country's accession to the Genocide Convention. Although we gave advice and consent to the ratification of the Convention in 1986, it was accompanied by the proviso that the President cannot complete the ratification process until implementing legislation has been enacted. With the passing of S. 1851 the Senate has now discharged all its responsibilities with respect to the Convention.

Mr. President, I spoke on the Genocide Convention many times on the floor and in the Foreign Relations Committee and now, that the task is completed, I do not want to repeat myself. I want to take this opportunity, however, to pay special tribute to two individuals whose contributions were crucial in what we finally accomplished.

It was a superb gesture to name the implementing legislation the Proxmire Act. The tenacity of BILL PROXMIRE in fighting for this Convention is one of the lasting legends of the Senate of our era. He set a standard in principled selfless statesmanship.

I also want to pay tribute to a friend and a great moral leader of our country, Elie Wiesel. Without his splendid self-imposed mission of keeping the memory and the lessons of the Holocaust alive we would be much less able to grasp and articulate the importance of joining the other nations of the civilized world in adhering to the Genocide Convention. We are all indebted to him for his inspirational leadership.

Mr. President, I ask that the statement Elie Wiesel made before the Foreign Relations Committee at the March 5, 1985, hearing on the Genocide Convention be printed at this place in the RECORD.

The statement follows:

STATEMENT OF HON. ELIE WIESEL, PROFESSOR, BOSTON UNIVERSITY

Mr. WIESEL. Mr. Chairman, Senator Boschwitz, Senator Dodd, I thank you very much not only for what you said so graciously about me and my work, but for inviting me to appear before your committee today to give testimony on an issue that seems to me of vital importance to our generation and to the world today.

I speak to you not as a professor of law—I am not a professor of law—nor as a professor of political science—I am not a professor of political science. I am a professor in the humanities, and I would like to speak to you, Mr. Chairman and my friends, in the name of humanity. And it is in the name of humanity that I humbly urge you to approve this treaty.

I speak to you as an American. I came here, like the Senator, as a refugee, stateless person, without passport, and it is in this country that I found haven and hope and all the possibilities offered a young man, to work and to try to justify his work for the sake of his contemporaries in this nation and outside of this nation.

As a Jew, I grew up believing in justice and carrying with me memories of fire and anguish and trying to do something with those memories of fire and anguish in order to reduce fire and to curtail anguish.

But above all, Mr. Chairman, I speak as a witness. I speak as someone who has seen genocide at work. Of all my predecessors here at this table who have the privilege to speak to you and before you, I think I am the only one who has seen the results and the workings of genocide. I have seen it recently in Cambodia where I went to see what was happening. I have seen in a way the Miskito Indians and their suffering. But above all, what I have seen from 40-odd years ago should not be seen nor endured by anyone alive ever.

And this is why I came to be with you today.

It happened some 40-odd years ago, Mr. Chairman. In Bibical terms, as surely you know, 40 years mark a generation. So a generation ago hundreds and hundreds of communities were wiped out in a tempest of blood and steel and reduced to ashes. When the Jews of my town arrived at the place unknown to us then, Auschwitz, the death factories annihilated 10,000 human beings a day. At times their success was so great that the figure was much higher, 17,000; and once they recorded for their history 22,000 a day.

Mr. Chairman, I have seen the flames. I have seen the flames rising to nocturnal heavens; I have seen parents and children, teachers and their disciples, dreamers and their dreams, and woe unto me, I have seen children thrown alive in the flames. I have seen all of them vanish in the night as part of a plan, of a program conceived and executed by criminal minds that have corrupted the law and poisoned the hearts in their own land and the lands that they had criminally occupied.

Then it was called the final solution. Today it is called genocide.

Mr. Chairman, it is the honor of our country to have lead the war, and what a heroic and noble war, against those who practiced genocide. Tens of thousands of young Americans have given their lives to defeat Nazis, and their war, our war, was not a political war. It was a moral war. And therefore, it is still being glorified and extolled by all of us with justified pride.

I submit to you, Mr. Chairman, friends, that my plea today is also morally inspired and not politically. I am governed by moral considerations only. Though a consequence of political and economic machinations, genocide transcends them all and becomes as a reminder and warning, a powerful call to conscience, and therefore, I urge you to ratify the convention against genocide. In doing so you will declare for all to hear, yes, crimes against entire people did indeed occur.

I insist on that, Mr. Chairman, because we live now in a time where morally perturbed minds all over the world, even in our own country, to our embarrassment and shame, dare to claim that it did not occur, that Jewish people did not die in gas chambers. And what really do they think? We are still here. What happened to our people? But what happened to our parents? What happened to the 15,000 Jews of my city? And what happened to the 10,000 cities in Eastern Europe? Yet they place us in an untenable position that we have to defend our own testimony and say yes, it happened.

We don't do it with pleasure. We do not like to open wounds in public.

So to accept this convention. Mr. Chairman, and friends, would serve a warning, yes, what we say, what we witnesses say is true, we are true witnesses, and this would be an act of morality, Mr. Chairman, that all of us would appreciate fully and totally.

Furthermore, in adopting this convention you will say that yes, it occurred, but it must never occur again, ever. By evoking the past, you will protect not only the memory of humankind but also its future. You will protect our children and their children from further shame and death.

Naturally, although I am a humanist, I am not excessively naive, not to the point of assuming that laws, however, lofty, could stop planned mass murder, but I am certain that the absence of such laws would encourge mass murder as it has in the past.

Do I need to remind you, who know so much of history, that Hitler and Himmler and Eichmann and their acolytes were convinced that what they were doing was decent, legal, and even beneficial to society? In his diaries, Goebbels, the arch propagandist for Hitler, mentioned his conviction that the Allies were pleased, he said it, that the Allies were pleased with the final solution's theoreticians and practitioners for doing the dirty work for them.

The fact that the killers could kill and go on killing, without protest or interference from the outside world was interpreted in Berlin as tacit consent to their policies.

Well, that doesn't mean that if the law were to be accepted and ratified, as I am sure it will, a law on genocide would stop future attempts to commit genocide against other people. But at least we, as a moral Nation whose memories are alive, must make the statement that we are against genocide, that we cannot tolerate a world in which genocide is being perpetrated, and whoever engages in genocide, wherever that is, places himself outside the human community.

Now, why has this convention not been ratified by the United States? I told you, I am not a political scientist; I don't know. But I can tell you as a witness in all sincerity, Mr. Chairman and friends, this question, why not, has been a permanent trouble to us, to me. Our attitude is being questioned both at home, in schools and abroad, wherever I go.

I teach in other universities, in France, and in Scandinavia. After all, that is my vocation. I am a passionate teacher. I believe that what we have received we must communicate. And I am proud to appear everywhere as a teacher from an American university who is involved in our political life and who believes in our system and in our ideals. But when they ask me why, explain to me why hasn't the United States ratified the convention, what could I say? And in my own schools here in the United States, when my students ask me, you who preach humanism, and you who glorify the moral asset, the moral conviction of our Nation, how do you explain that we have not ratified for 19 years something which is so simple and urgent and vital. I, their teacher, find it difficult to come up with a logical answer.

Therefore, I urge you to give me that answer, the right answer, and reaffirm our common belief that we have been and remain a nation governed by moral principles. When those principles were jeopardized, we had the courage to defend them. Now I am asking you, isn't genocide the greatest threat to those principles? Isn't genocide the greatest peril to civilization's ideals and visions of peace and compassion?

A French philosopher, Jean Rostand, once remarked, and I quote him, "Kill a man and you are an assassin. Kill a town and you are a conquerer. Kill a people and you are a god."

Now, isn't it our obligation to stand up to those who wish to become gods by murdering people?

Mr. Chairman and distinguished Senators, murder is evil. We all know that. But genocide is absolute evil, and therefore, we have no choice there; we as citizens of this country and teachers to our generation, both in the field of politics, of statesmanship and education, we must tell the young people today, yes, we are against absolute evil, and we are absolutely against that evil.

To outlaw genocide means to justify our faith in faith. We owe it to our children, and we must tell them that we shall do whatever to our children, and we must tell them that we shall do whatever we can to see to it that they will never be confronted by the darkness that is piercing our light and by the wounds that plague our nightmares.

I know the Genocide Convention will not bring back the dead. Mr. Chairman, friends, I know that. The dead, it is too late for the dead. But at least in signing such a convention we could remember the dead without shame. Not to remember them would mean to betray them and betray ourselves.

If we do not remember them, we, too, shall be forgotten.

In conclusion, Mr. Chairman, and in thanking you for your graciousness and kindness for listening to me this afternoon, I urge you that the Genocide Convention, when ratified, would become not only an act of justice, but above all, a solemn and noble act of remembering.

I thank you.●

JUSTICE DENIED: THE CASE OF JOSEPH DOHERTY

● Mr. DODD. Mr. President, in July 1986 I registered my strong objections to the supplementary extradition agreement with the United Kingdom. The primary purpose of that agreement was to undermine the political offense exception doctrine and to replace it with what the National Law Journal called the dangers of a court-administered system of "uneven and politically motivated justice." In opposing the 1986 agreement, the editors of the National Law Journal argued persuasively along the following lines:

> In foreign policy, no one expects government to treat friends and foes alike. But American courts, in the exercise of the police power over individuals, should not be enlisted into administering uneven and politically motivated justice. They should, instead, continue to neutrally administer the objective principles of a uniform political-offense doctrine that is well-grounded in this country's revolutionary past.

Mr. President, these concerns are not hypothetical. They cannot be dismissed as theoretical or academic. Quite the contrary. These concerns are very real, and they affect real people. Just think about the case of Joseph Doherty.

Mr. Doherty's mailing address is the Metropolitan Correctional Center in New York City. He has been at that address for more than 5 years, interrupted only by two stints of something called nonpunitive solitary confinement, the most recent one for 71 days, at Otisville Federal Correctional Institute in upstate New York.

With over 5 years at the Metropolitan Correctional Center, Mr. Doherty has earned a place in the Guinness Book of World Records. No other prisoner, in the entire history of that facility, has ever been incarcerated there for such an extended period of time. In theory at least, it is a facility designed exclusively for short-term, pretrial confinement. So much for the theory.

Now, if you think that is curious, consider this: Throughout the entire period of Doherty's confinement, he has never been charged with any criminal offense, not even a misdemeanor—let alone, convicted of anything. No; Joe Doherty is charged with nothing more than having entered the United States illegally. For that reason and that reason alone, he was arrested in June 1983 in New York City. He has been behind bars ever since.

Mr. President, the truth of the matter is that Joseph Patrick Thomas Doherty is the victim of "uneven and politically motivated justice," thanks in very large part to the former Attorney General and like-minded colleagues in this administration. Concern for individual liberties, due process of law, and other constitutional guarantees has never been very high on their agenda. The Doherty case proves that beyond a shadow of a doubt.

Time after time over the past 5 years, Joe Doherty has gone to court. Time after time our courts and immigration authorities have found in his favor. And time after time the Department of Justice has found a way to subvert those decisions and to thwart the intent of our judicial processes. When Doherty's extradition to the United Kingdom was denied, administration officials negotiated new ground rules with the Thatcher government. When Doherty's request to be deported to the Republic of Ireland was approved, administration officials unsuccessfully appealed those rulings.

In the aftermath of the normal appeal process, the case was then referred to the Attorney General for his personal review. For 13 months, Ed Meese let the matter sit. In the meantime, Joseph Doherty remained in his cell and entered his fifth consecutive year of confinement. When the Attorney General finally ruled, he ordered—contrary to every other decision previously rendered—that Mr. Doherty be returned to the United Kingdom.

Insofar as the Doherty case is concerned, Mr. President, this administration has made it clear that it is fully prepared to act as surrogate judge and jury for the British Government, while willfully disregarding any questions about the protection of individual rights and basic constitutional safeguards.

From the administration's standpoint, like that of the Thatcher government, the central fact is that Doherty served in the Irish Republican Army and killed a British Army captain in a shootout in Belfast in 1980. Nothing else matters in this case. Accordingly, the administration has turned a blind eye and a deaf ear to the behavior of the Royal Ulster Constabulary, as well as Britain's own security forces involved in the Northern Ireland issue. As the Stalker investigation made abundantly clear, however, those forces at least since 1982 have employed a "shoot to kill" policy with respect to IRA suspects.

Just recently, in March of this year, we had a vivid reminder of that policy. British Special Air Services commandos, members of the same elite unit Joseph Doherty confronted in Belfast, gunned down three IRA suspects in broad daylight on the streets of Gibraltar. The three—who by all accounts did not resist arrest and who were unarmed—died in a hail of bullets fired at near pointblank range.

Mr. President, incidents such as the Gibraltar shooting should serve as a strong reminder that between the operations of the Irish Republican Army and those of the security forces of the United Kingdom, there is no moral high ground left to claim when it comes to the conflict in Northern Ireland. The rights and wrongs of that conflict, however, are not before us. What Joe Doherty did in 1980 on Belfast's Antrim Road, or what British commando forces did earlier this year in Gibraltar, are not issues in this case.

What is at issue, Mr. President, is the question of fundamental rights and basic guarantees. But because this administration is determined to take sides in the political violence that besets Northern Ireland, it continues to deny those rights and guarantees to Joe Doherty. Through the Department of Justice, it continues to administer "uneven and politically motivated justice," and it continues in its endeavors to intimidate the courts and administrative legal authorities in an effort to get them to do the same thing. In short, the Justice Department continues to violate the spirit of the law, if not the letter of it as well.

Mr. President, for more than 5 long years our courts and our immigration authorities have consistently ruled against the ongoing exercise of the police power in the case of Joseph Doherty. And because of those rulings, he continues to harbor the hope that the constitutional rights and guarantees which we proudly display as our beacon of freedom to the rest of the world will yet be accorded to him.

The rule of law, Mr. President, demands that Joseph Doherty should have to wait no longer. Any real commitment to fundamental fairness and equity requires that either he be awarded political asylum, or that, alternatively, he be allowed to return to the country of his choice. We owe it to ourselves, if not to Joe Doherty, to fulfill that commitment.●

EASTERN STAR

● Mr. LUGAR. Mr. President, it is my pleasure to commend the Indiana chapter, Order of the Eastern Star for their outstanding charitable work.

In the fall of 1884, Rev. William Davidson of Oxford, OH, formed the Leah Court, the first Eastern Star Chapter in Indiana.

During the grand session in South Bend, IN, in 1908, a resolution was passed to purchase a home for its indigent members and orphans. Subsequently 43 acres of farm land was purchased in Grand County near Marion, IN. Although the home no longer stands, a small lake, pavillion, and picnic area still exist.

The Indiana chapters of the Order of the Eastern Star have maintained a long history of providing aid to the less fortunate, providing scholarships to students and are actively engaged in numerous community and civic involvements.

I want to take this opportunity to urge my colleagues to salute a great institution as they celebrate their centennial on the 29th of October in the Indiana Convention Center.●

ADMINISTRATION UNDERMINING WHALE CONSERVATION EFFORTS

● Mr. BIDEN. Mr. President, an extraordinary effort is underway to free three California gray whales trapped in the ice near Point Barrow, AK. A 185-ton barge, with assistance from a heavy-lift helicopter, is being sent to break a 7-mile exit route through the ice pack. An unlikely alliance of the oil industry, environmentalists, the Defense Department, and Eskimo whalers are all contributing to the effort.

Even those involved with the mission have a tough time explaining why they are going to such lengths for so few whales. Whatever the reason, this most improbable mission to save just three of these endangered mammals has caught the public's attention and support. A cost-benefit analysis would completely miss the justification for trying.

Mr. President, we all hope the mission succeeds against the long odds, it is facing. But I cannot help but note the regrettable and stark contrast between the extraordinary efforts of private individuals underway in Alaska and the less than exemplary efforts of public officials in Washington to save other endangered whales.

A whaling moratorium declared by the International Whaling Commission [IWC] was to have started 2 years ago. The United States supported the moratorium and has a crucial role in giving teeth to the IWC efforts since the Commission has no enforcement powers of its own. Unfortunately, this administration has failed to meet the challenge and has been too willing to allow other countries to continue their whaling under the thinnest of pretexts.

The most glaring excuse accepted by the administration in some countries' claim that they are performing research on the whales. The IWC allows member countries to write their own special permits for scientific research on whales, but while this may be a legitimate option at times, it is a loophole that is subject to increasing abuse.

Iceland, Norway, and Japan have all continued their whaling operations since the moratorium was to have started. In response, the administration has gone through great contortions to avoid imposing tough sanctions on these countries, even though their actions reduce the effectiveness of the IWC's conservation efforts. Once with Japan and once with Iceland, the administration has reached a bilateral agreement that allowed the whaling to continue. In the case of Iceland, the agreement blocked the imposition of sanctions as called for by the Pelly amendment.

Steps have been taken outside the executive branch to improve the flexibility and effectiveness of the U.S. response. Provisions in the Marine Mammal Protection Act, which recently passed the Senate, expand the scope of sanctions that can be imposed on countries that continue to whale. In addition, a coalition of environmental groups have filed suit against the Secretaries of Commerce and State to require certification of countries that act to weaken the International Whale Conservation Program.

Mr. President, Iceland has reportedly completed its whaling season. The damage of the bilateral agreement is done. But proposals by Japan and Norway to continue whaling under various disguises are possible and Iceland may return with another research hunt. Icelandic fishermen have killed more than 75 whales under that pretext this year. Japan has asserted that it should be able to kill up to 875 whales per year for research. Norway claims its research required killing about 30 whales in 1988, but may have to be expanded in the years ahead.

The IWC's Scientific Committee has rejected the proposed research hunts of the three countries as making no contribution to science. But the willingness or ability of the next administration to continue the practice of bilateral agreements which preclude sanctions remains. The United States cannot, on one hand, continue to abdicate its role as a leading force in protecting endangered whale species and, on the other, expect. to see improvements in their numbers. Bilateral agreements that remove any cost for countries that hunt whales in violation of the IWC moratorium should not be pursued.

There may be an attitude change on the part of the next administration in using the bilateral agreements to circumvent the Pelly amendment. If there is not, I intend to review legislative options that will eliminate this end run on international conservation efforts. I am of the growing belief that the repeated use of bilateral agreements on whaling issues is taking on such importance that congressional review of the agreements may be proper.

The commitment of the scientists, conservationists, Eskimos, oil industry employees, and others in battling to save the three whales in subzero weather conditions is outstanding. I believe that commitment is shared by many Americans.

I hope we can soon celebrate the release of the whales from their icy trap, but I also hope we can soon release hundreds of other endangered whales from certain death by restoring American leadership in support of an effective, international moratorium on whaling.●

SENATOR MOYNIHAN DISCUSSES CHILDREN IN POVERTY

● Mr. GLENN. Mr. President, our colleague, Daniel Patrick Moynihan, has written about our children in an article recently published in the New York Times. Senator Moynihan describes for us a startling situation. One of four children is born poor, one of three children will sometime be on welfare, and one of two children will live in a single-parent, female-headed household.

During this Congress, with the leadership of Senator Moynihan, we have taken a step in the right direction through the passage of the Family Welfare Reform Act of 1987. As we end the 100th Congress, Senator Moynihan reminds us of the serious work ahead.

Mr. President, I commend this article to my colleagues. I ask that the text of the article by Senator Moynihan from the September 25, 1988, edition of the New York Times be printed in the Congressional Record at the conclusion of my remarks.

The article follows:

Half the Nation's Children: Born Without a Fair Chance—An Issue for the No-Issue Campaign

(By Daniel Patrick Moynihan)

Washington.—To talk about the condition of children is by definition to talk about the families in which they live. That is why we are going to have to learn to talk about two kinds of children, because—of a sudden, in a flash—we have become a society divided into two kinds of families.

Call it a dual family system.

In this dual family system, roughly half our children, somewhat randomly, but inexorably, are born without a fair chance. We know precious little about what to do about it.

In a society with more than enough to go around, poverty is a form of bad luck. Children have the most of it. About 10 years ago, we became the first nation in history in which the poorest group in the population was the children. This is intensifying. Today, the poorest children are the youngest children.

To say again, and it needs to be said again and *again:* This is new.

At any given moment about one child in four is born poor. Over time upward of one in three will be on welfare at some point. One in two will live in a single-parent, female-headed household. The "normal" family is no longer normal. The Bureau of Census projects that only 39 percent of children born in 1987 will live with both natural parents until age 18.

We may be entering an era in which this dual family system defines the gradations of social class in America. Years ago, the social scientist William Graham Sumner observed that social class breaks down into people with habits. These include the habit of having money, which is beginning to define social class as never before.

We make a great fuss over regular income—partly because we measure it precisely (thanks to the income tax) and partly because it is what most of us live on. In reality, regular income is a sometime thing. It bounces around, especially at lower levels. Wealth—real estate, stocks, bonds and capital assets—endures.

Wealth produces assets that live on, independent of the individual. It can be used to nurture children for whatever success is said to require, be it tuition or orthodontia. Wealth is an insurance policy that gives not only physical but psychological comfort to a developing child.

We appear to be a country in which wealth is accumulating mightily in the upper reaches. The top 10 percent of the population owns 65 percent of all net worth, the bottom half a mere 4 percent.

Families are the means by which wealth is passed from one generation to another. Families that remain intact accumulate wealth. By contrast, single-parent families seem to accumulate little or no wealth. When last measured, black female heads of households with income under $11,000 had a median net worth of minus $18.

Some such families start poor. A quarter of female-headed families commence with a "premarital birth." An old misfortune. But new and central to the dual family system is the devastation that awaits divorced women.

The Urban Institute, a nonprofit research organization, reports that in the year following a divorce, the living standard of children and women typically falls to about two-thirds of its former level.

We simply do not know how much life styles pass from one generation to another. Single-parent families can be as good or better than the alternative. But researchers such as Irv Garfinkel and Sarah McLanahan, of the Institute for Research on Poverty, find patterns—educational, economic and what might be called ecological—that are clearly negative.

Among whites, for example, daughters of single parents are 53 percent more likely to marry as teen-agers, 111 percent more likely to have children as teenagers, 164 percent more likely to have a premarital birth and 92 percent more likely to divorce than daughters of two-parent families.

Upward of half our children run into the troubles that go with a single parent, low-income family life. Many overcome this; some seem hardly to notice. In each cohort, many individuals will move up into the "stable" regions of our new social class structure—but many will move down. Yet at any given time, half our children are surely better off than the other half.

If you first get these things straight, it is a little easier to rough out a policy response. Some things you surely don't do. Unhappily, one of the things you surely don't do we have just done.

We've trashed the nation's finances—not so much by the tax cuts of the Reagan Administration but by the borrowing that followed. Interest is beginning to eat us alive: Debt service next year will be greater than the deficit. For the foreseeable future, it will require one-quarter of each citizen's personal income tax to pay the interest on money borrowed during the past eight years. This is elementally a transfer of wealth from working single parents in the Bronx to holders of long-term Treasury bonds living in Palm Beach.

In such ways, Government policy intensifies the social structures that work against giving all youngsters a fair chance in life.

For all this, welfare is the greatest obstacle. The present system began as a temporary widows' pension. The typical recipient was represented as a West Virginia miner's widow. No question of alimony or child support payments arose; the father of the family was dead. No question of employment arose; women did not work in coal mines. A half century later the same arrangements support a wholly different population.

Today's typical welfare recipients head families where the male parent is simply absent, not dead, and the female parent is fully employable, if helped into the labor market. In New York City, for example, there are 64,000 adult welfare recipients who have never had one day's work. Forty-five percent of the children in New York City schools are on welfare (less than Hartford, Conn., and greater than Minneapolis, but many cities now are in this range.) We have let the median state's welfare payment drop by one-third since 1970.

In the next two weeks in Congress, we could secure the first real change in welfare since the program began. Both houses have enacted measures that respond to the new dual family system. We would take the present maintenance system and turn it into an employment program, with child support from absent fathers, transitional child care and health benefits for mothers leaving welfare and unprecedented automatic funding for education and training.

A mother cannot work without child care. A mother cannot work without skills. The cost of providing these is manageable: $3 billion to $4 cost of not doing it is far greater and unacceptabe: Every other American child will be born into a single-parent family, born to bad luck; every third American child will be doomed to spend part of his childhood on welfare, in poverty. In less than 20 years, these children will have children of their own. And so forth.

From almost the moment the dual family system appeared, successive Congresses and Presidents have tried to respond, with welfare the central symbol of the problem. Often we have come close but, so far, always we have failed. The central reason for this is that we have only slowly come to recognize and accept the new social reality we are dealing with.

The present welfare legislation addresses the present reality. Success or failure will be a form of reality testing. If we fail this time—a millimeter from victory—I would be inclined to think this is something American society can't handle. Which means we will have spoiled the next century.●

PAYING TRIBUTE WITH ACTION

● Mr. SIMON. Mr. President, more than 42,000 Americans have died of AIDS. Another 32,000 are living with the disease. The AIDS quilt recently on display on the Ellipse was a moving tribute to all those who have died—a reminder that behind every statistic was a human being who was loved and cherished. On a more personal note, a young man who spent a year working on my staff recently died of AIDS. I wrote a column about his life and death although his parents asked that I not use his name. I ask to have it printed in the Record.

The column follows:

Paying Tribute With Action

Statistics about diseases lack much meaning until they hit someone you know.

The other day I received the following letter:

"I wanted to inform you that my close friend and your former colleague John Jones (not his real name) died this morning (Sunday) after several months of his final battle with his illness.

"On Friday morning, his last lucid day, I was discussing funeral arrangements with John and he dictated the following to you:

"Dear Senator, "I feel it very pretentious of me on the one hand; on the other hand I felt close to you during the time I worked in the Senate. As currently planned, my funeral will be held in Washington and the burial in Chicago. I hope you would do me the high honor of lending your presence to either event. With warm regards and many thanks, John."

The letter was signed by this friend.

I was at the funeral, but that is only part of the story.

In June, my wife and I attended a meeting at which I spoke. In the audience was John Jones, an employee of a federal agency who had taken a one-year leave about three years ago to do some specialized work for my office.

He did excellent work, but I had not seen him since he left our office.

I asked him how he was doing, one of those general questions we routinely ask each other, not expecting anything substantial by way of reply. When I asked, he replied, "Not too well, I have AIDS."

I was stunned.

I knew nothing about his private life other than seeing him in the office, or at an office picnic or party. A little shy, but well-liked by everyone in the office, he showed great ability on tasks assigned to him.

He was 38 when he died.

It is one thing to know that more than 42,000 Americans have died of AIDS. That is tragic, but it remains a statistic until suddenly someone you know and respect meets an untimely end because of this dread killer.

Forty-four people die each day in this country from AIDS.

Next year we'll spend more to test nuclear weapons than to find a cure for AIDS.

Conquering AIDS and cancer and arthritis and heart disease and a host of other health problems that kill people takes resources.

And those resources will be available when we make a priority of using them for these causes. The question is one of national will.

John is dead. I regret that I did not see him from the June day he told me he had AIDS until his death in October.

But the best way of paying tribute to him is not with pleasant words, but with action so that others do not die needlessly.●

THE DEPARTMENT OF VETERANS' AFFAIRS ACT OF 1988

● Mr. DECONCINI. Mr. President, I rise in complete support for the conference report on H.R. 3471, the Department of Veterans' Affairs Act of 1988. I would like to commend the chairmen and ranking members from the Senate Committees on Governmental Affairs and Veterans' Affairs for their fine leadership and hard work on this bill, especially during the conference. The elevation of this Agency to Cabinet status is long overdue.

I would also like to commend the distinguished senior Senator from South Carolina for his persistence on this very important issue. I am proud to have been an original cosponsor of each of his efforts over the past several years.

Mr. President, perhaps no other piece of substantive legislation has more support than Senator Thurmond's VA Cabinet status bill. And well it should. I knew of no opposition to his bill, and am glad that the House conferees accepted most of its provisions. The establishment of the Veterans' Administration to a Cabinet status department is simply the right thing to do.

Since the Administration was created in 1930, the Administration has grown to become the third largest employer in the Federal Government, today employing over a quarter of a million Americans. After 13 Administrators, it is time to have a Secretary of Veterans' Affairs to take charge over the largest health care system in the free world, the fifth largest life insurance program in the United States, and the other vital services which in some manner directly affects over a third of all Americans.

Size alone does not dictate that the VA should become a Cabinet-level position. If that were true, then we might not have a Secretary of Education or Transportation today. In short, the foundation for raising this Agency to a Cabinet post lies in its particular mission, and its need to improve management efficiency for such an important agency that serves over 28 million veterans, and nearly one-third of all Americans.

Mr. President, what is at stake is the direct access to the President unfettered by control by other Federal agencies, most recently by the Office of Management and Budget. Without this bill, the line of authority of the Administrator will continue to be unclear and subject to the political whims of agencies less familiar with needs of our veterans.

Therefore, I urge my colleagues to vote for this most important legislation for those who have borne the battle in defense of our liberty.●

IMPLEMENTING THE GENOCIDE CONVENTION

● Mr. WILSON. Mr. President, last week, the Senate gave its overwhelming approval to S. 1851, a bill that would make genocide a crime under U.S. law, and the House should be taking similar action before the end of this week.

This legislation, which will implement the provisions of the International Convention on the Prevention and Punishment of Genocide, has enjoyed wide support from groups including the American Jewish Committee, the Armenian Assembly of America, Amnesty International, B'nai B'rith International, and the American Bar Association.

Although the Genocide Convention and this implementing legislation cannot correct the wrongs of the past, it will serve as a powerful tool to prevent the repetition of genocide in the future and punish those who attempt to commit such acts.

In addition, our past failure to become a signatory to the Genocide Convention has allowed the Soviets to distort America's human rights record and undermine our negotiating power through propaganda campaigns conducted in advance of summits and other bilateral meetings. In recent testimony before the Senate Judiciary Committee, Ambassador Richard Schifter, Assistant Secretary of State for Human Rights and Humanitarian Affairs, said that the "human rights violators have persistently levied unfair charges of hypocrisy or insincerity against the United States" for its failure to sign the Genocide Convention. "For our adversaries, and those who believe that human rights are merely hollow words, S. 1851 will eliminate a criticism that is now used to deflect attention from legitimate concerns over their own human rights abuses," Schifter said.

Congressional approval of S. 1851 will permanently take that topic off the Soviet agenda and strenghten the human rights stance of the United States in future talks with the Soviets.

And so now we have a moment of celebration. With the passage of the Genocide Convention Implementation Instruments, the Congress of the United States has declared that the martyred millions of yesteryear—those brave men and women who were felled simply because of what they believed or the cultures into which they were born—did not die in vain. With this legislation, Congress nobly keeps alive the hope that agony suffered by the just may yet bring triumph.●

WHISTLEBLOWER PROTECTION ACT

● Mr. LEVIN. Mr. President, on October 7, 1988, the Senate passed the final version of S. 508, the Whistleblower Protection Act of 1988. The House has since passed that bill as well, and it is now on the President's desk, awaiting his signature.

At the time the Senate acted, I said in my floor statement that I was including in the RECORD a copy of a letter sent to me by Congresswoman PAT SCHROEDER regarding ex parte contacts by the special counsel. The copy of that letter was mistakenly left out of the RECORD at that time. I, therefore, ask that the October 5, 1988, letter from Congresswoman SCHROEDER be placed in the RECORD in full at this time.

The letter follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, October 5, 1988.

Senator CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Since House passage of S. 508, the whistleblower legislation, a question has been raised about certain language in the Joint Explanatory Statement which we prepared.

Specifically, at the end of item 3 concerning Special Counsel intervention in adverse action and independent right of action cases, the Joint Explanatory Statement states that the Special Counsel may not engage in ex parte contacts. Obviously, this prohibition is applicable as well to item 4, concerning Special Counsel release of information about investigations.

If you agree with this view, I request that you place this letter in Congressional Record during Senate consideration of S. 508.

With kind regards,
Sincerely yours,
PAT SCHROEDER,
Chairwoman.●

INFORMED CONSENT: WEST VIRGINIA

● Mr. HUMPHREY. Mr. President, today I would like to have printed in the RECORD two letters sent to my office in support of my informed consent legislation, S. 272 and S. 273. Today's letters come from the State of West Virginia.

The letters are as follows:

WESTOVER, WV,
March 2, 1987.

DEAR SENATOR HUMPHREY: It has recently come to my attention that you are trying to introduce a federal Informed Consent bill. May I applaud you for undertaking this action.

I would also like to tell you of my abortion experience in the hopes that it will help other women not go into this "option" blindly.

In April 1973 I found out I was pregnant. Abortion had just been legal a few months so maybe the counseling would be different today, but I will tell you only what I know. Actually, I remember going to a place where the woman was a Methodist minister and, feeling at the time that there was no other option, I also felt that if this minister was saying it was ok then it must be ok!

Never once was I shown a picture of a developing baby growing inside of me that only needed time to be like me.

Never once was I told about the helpless feelings, nightmares, or of hearing babies cry.

Five years after my abortion I gave birth to my daughter. She is a healthy eight year old now but never once was I told that there was a chance I might never have another child or be able to carry it to term.

Now I don't know about anyone else, Senator Humphrey, but I would never undergo an operation without knowing all the facts. But somehow the Supreme Court has decided that women are under enough stress already in a crisis pregnancy situation, and that they can't handle the facts. That's incredulous to me. That's when they need the facts more if you ask me.

I have recently started volunteering at a local crisis pregnancy center so that I can tell these girls what to expect. At least they can make their decision with their eyes open and knowing all the facts.

If you need anyone to testify for a Senate Committee I would be glad to help you in any way I can.

Sincerely,
JO BETH WYLIE.

PARKERSBURG, WV.

DEAR MR. HUMPHREY: I was 24 yrs. old; 1975 when I found out I was pregnant, after two divorces, I felt like I had really hit rock bottom. I had just met a wonderful guy, the nicest I'd ever met. I was pregnant before I met him and didn't know it, til a few weeks after we met.

When I found out I was pregnant the 3rd time my situation was as follows:

I wasn't married, I made very little money to live on and support my children, I had very little self-worth, and no knowledge at all about abortions.

I only knew I couldn't afford another baby. I saw a phone number in a newspaper ad about abortions, so I called and got the financial details and made an appointment. I really thought it was the only option I had.

It was the scariest thing I ever went through. I had mixed feelings as I sat in line waiting my turn to go in that awful room. I was talking to two other girls who were just as scared as I was. They didn't know what to expect either. We were all told it was not painful and that it was just tissue. When I got on the table, I wanted to back out and the nurse took hold of my hand and said it wouldn't hurt and it would be over soon. I know I dug my fingernails in her hand! It hurt bad, and I got nothing for pain. I did get a small injection of valium that seemed to only last about a minute, my nerves were really on edge. I heard that awful suction that I'll never forget. Soon it was over.

I was put in another room for ten minutes to lie down, eat a pretzel, drink a cup of pop, get a shot, and then rushed out so someone else could have the bed. It was so cold in that place, (not temperature wise).

I was home about two weeks and started bleeding bad, and I had to be put in the hospital for a D and C.

Today, since I've become born again, I can't even imagine how I ever did it! It was another person and not me Thank Jesus for that!

In 1979 I gave birth to another beautiful and healthy baby boy. The birth was difficult, I had to have a "C" Section after 17 and a half hours of labor. I almost died, and was in critical condition for a couple of days, and also had to have a blood transfusion.

Now all is well and Jesus has changed our lives for him. I am a Christian Contemporary singer, and my husband is a minister. "What a mighty God we serve."

Yours in Christ Jesus,

DONNA L. CRISPEN.●

CHICAGO CITY COUNCIL RESOLUTION HONORING CARL AND MARGUERITE STOCKHOLM

Mr. SIMON. Mr. President, I rise to bring to the Senate's attention an honor accorded to Mr. and Mrs. Carl Stockholm, constituents of mine who reside in River Forest, IL. On October 14th, at a session of the Chicago City Council, Mayor Eugene Sawyer presented Carl and Marguerite Stockholm with a resolution honoring them for their service of Veterans organizations, the city of Chicago and various other charitable groups. Carl Stockholm was also cited for his outstanding service record in both World War I and World War II. Mr. and Mrs. Stockholm are celebrating their 54th wedding anniversary this year, and Carl's 92d birthday, I extend my congratulations to them, and ask that the resolution sponsored by Alderman George J. Hagopian and members of the Chicago City Council be printed in the RECORD.

The city council resolution follows:

RESOLUTION ON CARL AND MARGUERITE STOCKHOLM

(Presented by Alderman George J. Hagopian)

Whereas, Carl Stockholm, was born on March 4, 1897, and dedicated to the City, State and Nation, he loves; and

Whereas, Carl Stockholm, the proud son of Mr. & Mrs. Stockholm, at a tender young age, determined thru the love of his parents, to establish respect to the name of "Stockholm", in the world of sports and to serve the country he loves; and

Whereas, Carl Stockholm married his gracious wife, Marguerite Stockholm and are the proud parents of two sons and two daughters, Ray, Jon, Gail and Nancy, each distinguishing themselves in the business world and the field of law; and

Whereas, Carl Stockholm, distinguished himself during World Wars I and II in the United States Navy, and as a Commander, Co-service with his "Pacific—Fleet Security Command", life long priceless friend the late distinguished "George S. Halas", founder of the "Chicago Bears" football team, and whom he had the honor of serving with; and

Whereas, Carl Stockholm, with his inherited desire to serve his country and due to his honorable illustrious government service, characterized by integrity in his war service security experience was prevailed by his government to return to serve in World War Two, with additional service, "Over and beyond the call of duty" with the famous Illinois 133rd Infantry, 33rd Division, wounded in defense of his nation, recipient of "Purple Heart", Honorariums and "Badges" and decorations; and

Whereas, Irv Kupcient in his recent Chicago Sun-Times "Kup's Column" paid tribute to "Carl Stockholm," for these awards; and

Whereas, Carl Stockholm, young bicycle rider set all records in his athletic field was honored as "State of Illinois-Outstanding Athlete"; and

Whereas, Carl Stockholm, with his lovely wife, Marguerite, have a consistent desire to help those in need, give of their time, talents and social courtesies and civilities always extended by a perfect host with respect and esteem shown to all that come in contact with them; such as their service in creating, assisting and answering the call of the late Mayor to establish and serve the "Chicago Servicemen's Centers", to promote "Chicago" as their home away from home; and

Whereas, Carl Stockholm honored by two Assistant Secretary's of the United States Navy, Secretary Gates and Secretary Thomas by receiving two (2) "Navy Distinguished Service Awards", for service to his country. Carl Stockholm served as National President of "Navy League of the United States", still serving on the National Board of Directors; and

Whereas, Carl Stockholm assisted by his gracious wife Marguerite, returned home, after serving his country in two World Wars, became a prominent businessman with an untarnished reputation, still serving at age 92; now be it further

Resolved, That this long over-due public acknowledgement is hereby confirmed upon Carl Stockholm, and that we, the Mayor and members of the City Council assembled on the 14th day of October, 1988; do now therefore be it finally

Resolved, That a suitable copy of this resolution be made available to the distinguished Carl Stockholm and his gracious wife Marguerite, and we extend our warmest best wishes to them as they celebrated their recent wedding anniversary the proud great grand parents of Ashly Powers and the award of the "Purple Heart", as well as two Navy decorations, "70 years late", but "70 years deserving."●

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not the following calendar items on the Executive Calendar have been agreed upon on his side: Calendar Orders No. 953 and 954 under Department of Health and Human Services on page 6; Calendar Orders No. 955 and 956 under Department of Treasury on page 6.

Mr. DOLE. Mr. President, each of those have been cleared on this side.

Mr. BYRD. Mr. President, I thank the leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned calendar items en bloc, that they be confirmed en bloc, the motion to reconsider en bloc laid on the table, the President be immediately notified of the confirmation of the nominees, and that the Senate return to legislative session.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The nominations considered en bloc and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mary T. Goedde, of Ohio, to be an Assistant Secretary of Health and Human Services, vice Ronald F. Docksai, resigned.

Malcolm M. B. Sterrett, of Maryland, to be General Counsel of the Department of Health and Human Services, vice Ronald E. Robertson, resigned.

DEPARTMENT OF THE TREASURY

Charles H. Dallara, of Virginia, to be an Assistant Secretary of the Treasury, vice Alfred Hugh Kingon.

Edith E. Holiday, of Georgia, to be an Assistant Secretary of the Treasury, vice Margaret DeBardeleben Tutwiler, resigned.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, we are about ready to go out until tomorrow. The distinguished Republican leader, Mr. DOLE, Senator CRANSTON, and I have met with the Speaker and the leadership on the other side to discuss how we can make the best progress on the drug bill and on the tax technical corrections bill.

We had a good meeting, and I think we have made progress.

There will be meetings continuing into the evening. There will be various small meetings of what I refer to now as the bicameral leadership group.

We will have two Senators, one Republican, one Democrat; the House will have a small number of Members. And that group, in consultation with other Members, Republican and Democratic, on both sides of the Hill, will proceed to narrow the issues and make the final decisions, as I say, in consultation with other Members. Staff will be small. It is our hope that by noon tomorrow or early afternoon a final package can be agreed upon by the bicameral joint leadership group.

I understand it will take about 24 hours for the legislative counsel to put into form the agreed-upon package. I would hope that if we can achieve that goal by tomorrow, then that will give us 24 hours after which the two Houses would then, hopefully, act finally upon the drug bill.

In the meantime, it is hoped that the tax technical corrections bill, which is also a very important bill, can be moved along to final action.

I also understand that the differences in connection with that bill have been narrowed considerably and that it is possible to have that bill also ready for action.

This would see us complete our action on tomorrow. This is a rather healthy hope, but just as the Little Engine said, "I think I can do it; I think I can do it; I think I can, I think I can, I think I can," that is the attitude we are taking and the Little Engine, as you know, finally did it.

So, we hope we can do it.

There will not be any rollcall votes as far as I can see tomorrow. It may very well be we can finalize these packages and act on them with a voice vote.

But we cannot rule out a rollcall vote in the end. I hope it will not come to that. But I believe we could safely say that, unless the Republican leader would feel we ought to keep open the possibility that we could even finish it tomorrow evening in which case if there is a rollcall vote then we have to have it.

But Senators will, I am sure, keep in mind that if there is a rollcall vote, this means getting our colleagues back and that might not be too easy to do. It might take a little longer for us to have a final judgment on the bill.

But I think if we leave it like that, Senators will not be disappointed if we can finalize this measure and do it by voice vote.

Mr. DOLE. If the leader will yield, I think the important thing is there is a determination by the joint leadership, House and Senate, to get the drug bill done, hopefully, by Friday.

Mr. BYRD. Yes.

Mr. DOLE. So that is an indication that the leadership on both sides of the aisle are serious about it, both sides of the Capitol are serious about it, and though there was not much focus on the technical corrections bill, I think that there was an indication we have from now until, hopefully, Friday and that puts pressure on the Ways and Means conferees and the Finance Committee conferees.

So I am encouraged and meetings will start again at 6 tonight with Members. There will be Senator Rudman on this side, with a limited number of staff, and they will be in consultation with other Members. So there will not be anybody ignored in the process.

But I think the structure the majority leader recommended here earlier worked quite well, with a core group on both sides, total bipartisanship.

Again, I cannot think of what we might have a rollcall vote on tomorrow. I talked to staff and I think there is a lot of drafting to be done.

Mr. BYRD. So it could not possibly be ready for final action tomorrow.

That being the case, I think I should just say there will not be any rollcall votes tomorrow.

I should add a postscript: I wandered into one of the rooms. On the premises was quite a group of Members, Republicans and Democrats, and it was a bicameral meeting. They were making great progress on some of the more thorny issues that remain to be decided.

I have been greatly encouraged by the progress that that group is making.

Mr. President, I thank the Republican leader.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 98-399, as amended by Public Law 99-284, appoints the Senator from Missouri [Mr. Danforth] to the Martin Luther King, Jr., Federal Holiday Commission, with the appointment to be effective as of June 27, 1988.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, is it agreeable with the leader of the Senate on the other side of the aisle to go out until, say, noon tomorrow, or even later tomorrow?

Mr. DOLE. One.

Mr. BYRD. Mr. President, the Republican leader has suggested 1 o'clock tomorrow.

ORDER FOR RECESS UNTIL 1 P.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 1 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 1 P.M.

Mr. BYRD. Mr. President, if the Republican leader has nothing further, I move in accordance with the order just entered that the Senate stand in recess until the hour of 1 p.m. tomorrow.

The motion was agreed to; and at 5:39 p.m., the Senate recessed until Thursday, October 20, 1988, at 1 p.m.

NOMINATIONS

Executive nomination received by the Senate October 19, 1988:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DONALD W. JONES, xxx-xx-xxxx U.S. ARMY

CONFIRMATIONS

Executive nominations confirmed by the Senate October 19, 1988:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARY T. GOEDDE, OF OHIO, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

MALCOLM M. B. STERRETT, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF THE TREASURY

CHARLES H. DALLARA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

EDITH E. HOLIDAY, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, October 19, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O loving God, that in our lives of great activity, we will recall the plight of those for whom freedom is only a word, whose lives of captivity we cannot fathom. We remember in this our prayer, the hostages from every land, the prisoners held without opportunity to see family or home, those for whom liberty is only a dream. We pray for them and their families that Your Spirit will give them the assurance of hope and peace. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Would the gentleman from South Carolina [Mr. DERRICK] please come forward and lead the Members in the Pledge of Allegiance.

Mr. DERRICK. Mr. Speaker, I ask our visitors to join with us in the Pledge of Allegiance.

Mr. DERRICK led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3911. An Act to amend title 18, United States Code, to provide increased penalties for certain major frauds against the United States;

H.R. 3917. An Act for the relief of Rajani Lal;

H.R. 4146. An Act to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes;

H.R. 4432. An Act to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population;

H.R. 4741. An Act to amend title 38, United States Code, to increase the rates of compensation and dependency and indemnity compensation [DIC] payable to veterans with service-connected disabilities and their survivors, and for other purposes; and

H.R. 5043. An Act to amend section 207 of title 18, United States Code, relating to restrictions on postemployment activities.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 11) "An act to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration, and for other purposes," with an amendment.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1081) "An act to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2030) "An act to amend the Marine Protection, Research, and Sanctuaries Act."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1807) "An act to amend the Small Business Act to reform the Capital Ownership Development Program, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3471) "An act to establish the Veterans' Administration as an executive department."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1867. An act to amend title 28, United States Code, to make certain improvements with respect to the Federal court interpreter program, and for other purposes;

S. 2165. An act to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Service Complex in the State of Washington, and for other purposes;

S. 2361. An act to amend title 18, United States Code, to preserve personal privacy with respect to the rental, purchase, or delivery of video tapes or similar audio visual materials;

S. 2751. An act to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes; and

S. Con. Res. 165. Concurrent resolution correcting the enrollment of H.R. 3146.

PRIVATE CALENDAR

The SPEAKER. Pursuant to the order of the House of Tuesday, October 18, 1988, this is the day for the call of the Private Calendar.

The Clerk will call the first individual bill on the Private Calendar.

HILARIO R., ARMIJO, ET AL.

The Clerk called the bill (H.R. 2682) for the relief of Hilario R. Armijo, Timothy W. Armijo, Allen M. Baca, Vincent A. Chavez, David G. Chinana, Victor Chinana, Ivan T. Gachupin, Michael J. Gachupin, Frank Magdalena, Jr., Dennis P. Magdalena, Anthony M. Pecos, Lawrence A. Seonia, Jose R. Toledo, Roberta P. Toledo, Nathaniel G. Tosa, Allen L. Toya, Jr., Andrew V. Waquie, and Benjamin P. Waquie.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. McCOLLUM. Mr. Speaker, I object.

The SPEAKER. Are there other objections?

If there is no further objection, the bill is not recommitted and is passed over without prejudice.

LYNETTE J. PARKER

The Clerk called the bill (H.R. 3247) for the relief of Lynette J. Parker.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ROSWITHA STARINS

The Clerk called the bill (S. 1329) for the relief of Roswitha Starins.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

WILHELM JAHN SCHLECHTER, ET AL

The Clerk called the Senate bill (S. 1842) for the relief of Wilhelm Jahn Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo David Schlechter.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1842

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Mr. Wilhelm Jahn Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo David Schlechter shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year of the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

At the end of page 2, line 9, strike "." and insert in lieu thereof "," and add the following:

Provided, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of such Act.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JEAN DEYOUNG

Mr. FRANK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1490) for the relief of Jean DeYoung, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 6, strike out "$2,932.02" and insert "$2,725.48".

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. Speaker, we have a situation here that is the result of the work schedule of the other body. We passed, in a timely fashion, several private bills. Several of them went to the Senate pursuant to the rule and rather late in the session the Senate decided to make some rather small amendments.

I am very grateful to the gentleman from Wisconsin [Mr. SENSENBRENNER] who does for the House this rather difficult task of working on the private bills, because he agreed to a procedure after the Consent Calendar was done to accommodate those of our Members who have private bills who might otherwise have lost them because of the Senate amendment.

What we have are bills that we have already passed out of the House. The Senate has added some rather relatively minor amendments, four of them, and I believe by unanimous consent we can agree to all four bills and concur in the Senate amendments. That is the procedure that was worked out for the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, it is my understanding that the bills to which the gentleman from Massachusetts [Mr. FRANK] is asking unanimous consent to take from the Speaker's table and to concur in the Senate amendment, in all of these instances they are claims bills and that the amendment reduces the amount that is appropriated from the amount in the bill as it left the House.

Am I correct in that?

Mr. FRANK. If the gentleman will yield further, the gentleman is absolutely correct. There were some recomputations, some minor errors, arithmetic errors and in all cases these are bills previously agreed to by unanimous consent here and the Senate has asked to lower the amounts by relatively smaller amounts.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I understand that some private legislation has caught nongermane Senate amendments including appropriations and changes in public law. The bills that the gentleman from Massachusetts is requesting to take up and to concur in the Senate amendment does not contain any such public law nongermane amendments or unrelated issues, does it?

Mr. FRANK. If the gentleman will yield further to me, the answer is no. Let me say to the gentleman that he and I agree, it could go the other way too. There is no public law on these private bills and we do not intend to accept any private bills that the Senate sticks on public laws because they have been inclined to do both.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

FLEURETTE SEIDMAN

Mr. FRANK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2802) for the relief of Fleurette Seidman, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 1, line 7, strike out "$8,043.57" and insert "$5,500.00".

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I understand that the same situation occurs in this bill as we previously discussed.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, this would cut in half the furniture allowance.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

DAVID BUTLER, ET AL

Mr. FRANK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1388) for the relief of David Butler, Aldo Cirone, Richard Denisi, Warren Fallon, Charles Hotton, Harold Johnson, Jean Lavoie, Vincent Maloney, Austin Mortensen, Kurt Olofsson, and John Jenks, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 5, strike out "$37,855.64" and insert "$101,622.00".

Page 2, line 12, strike out "$4,055.95" and insert "$5,459.09".

Page 2, line 13, strike out "$4,457.47" and insert "$14,531.48".

Page 2, line 14, strike out "$1,126.87" and insert "$4,143.07".

Page 2, line 15, strike out "$8,333.25" and insert "$17,447.82".

Page 2, line 16, strike out "$1,848.11" and insert "$7,273.20".

Page 2, line 17, strike out "$4,724.54" and insert "$13,280.68".

Page 2, line 18, strike out "$2,096.58" and insert "$8,516.86".

Page 2, line 19, strike out "$3,435.99" and insert "$8,677.43".

Page 2, line 20, strike out "$1,911.38" and insert "$6,627.43".

Page 2, line 21, strike out "$2,971.77" and insert "$5,812.55".

Page 2, line 22, strike out "$2,923.73" and insert "$9,852.39".

Page 3, after line 14, insert:

SEC. 4. RETURN OF OVERPAYMENT.

The payments made pursuant to the provisions of section 2 of this Act reflect payments authorized with interest calculated through December 1988. If payments are made to the individuals listed in such section prior to January 1, 1989, such payments shall be recomputed to such earlier date and the difference between such amount and the payment authorized by this Act shall be returned to the Treasury of the United States.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There is no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I do so merely to ask the gentleman from Massachusetts [Mr. FRANK] if the same situation pertains to this bill as we discussed previously?

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. SPEAKER, it does; and I very much appreciate the gentleman's forbearance in letting us work this out.

The answer to the question is yes.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

Mr. SPEAKER. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

THOMAS NELSON FLANAGAN

Mr. FRANK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1133) for the relief of Thomas Nelson Flanagan, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 10, after "[redacted]" insert ", or any of his heirs,".

Page 1, line 1, strike out all after "lost" down to and including "suffering" in line 12, and insert "government wages and lost government benefits".

Page 1, line 12, strike out "he" and insert "Thomas Nelson Flanagan".

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. Is there objection to the intial request of the gentleman from Massachusetts?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from Massachusetts if the same situation applies here.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, the answer is yes. There has been a death here. This does continue the right of a suit in an heir but it reduces the causes of action so that we would now only be dealing with lost wages and benefits; because of the death and substitution of the plaintiff, there is a reduction in the causes of action under this bill.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

VETERANS' ADMINISTRATION ADJUDICATION PROCEDURE AND JUDICIAL REVIEW ACT

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 11) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration, and for other purposes, with a Senate amendment to the House amendments thereto to recede from the House amendment to the title of the bill, and to concur in the Senate amendment to the House amendments with amendments.

The Clerk read the title of the Senate bill.

The text of the Senate amendment to the House amendments is as follows:

Resolved, That the House recede from its amendment to the title of the bill (S. 11) entitled "An Act to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration, and for other purposes.".

The Clerk read the House amendments to the Senate amendment to the House amendments, as follows:

In the Senate amendment to the House amendment to the text of the bill—

(1) insert the following heading before section 1:

Division A—Veterans' Judicial Review

(2) in sections 1(a) and 401(a), strike out "Act" and insert in lieu thereof "division"; and

(3) add the following at the end:

Division B—Veterans' Benefits Improvements

SEC. 1001. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This division may be cited as the "Veterans' Benefits Improvement Act of 1988".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 1002. DEFINITION OF ADMINISTRATOR.

For purposes of this division, the term "Administrator" means the Administrator of Veterans' Affairs.

TITLE XI—COMPENSATION RATE INCREASES

SEC. 1101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$71" in subsection (a) and inserting in lieu thereof "$73";

(2) by striking out "$133" in subsection (b) and inserting in lieu thereof "$138";

(3) by striking out "$202" in subsection (c) and inserting in lieu thereof "$210";

(4) by striking out "$289" in subsection (d) and inserting in lieu thereof "$300";

(5) by striking out "$410" in subsection (e) and inserting in lieu thereof "$426";

(6) by striking out "$516" in subsection (f) and inserting in lieu thereof "$537";

(7) by striking out "$652" in subsection (g) and inserting in lieu thereof "$678";

(8) by striking out "$754" in subsection (h) and inserting in lieu thereof "$784";

(9) by striking out "$849" in subsection (i) and inserting in lieu thereof "$883";

(10) by striking out "$1,411" in subsection (j) and inserting in lieu thereof "$1,468";

(11) by striking out "$1,754" and "$2,459" in subsection (k) and inserting in lieu thereof "$1,825" and "$2,559", respectively;

(12) by striking out "$1,754" in subsection (l) and inserting in lieu thereof "$1,825";

(13) by striking out "$1,933" in subsection (m) and inserting in lieu thereof "$2,012";

(14) by striking out "$2,199" in subsection (n) and inserting in lieu thereof "$2,289";

(15) by striking out "$2,459" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,559";

(16) by striking out "$1,055" and "$1,572" in subsection (r) and inserting in lieu thereof "$1,098" and "$1,636", respectively; and

(17) by striking out "$1,579" in subsection (s) and inserting in lieu thereof "$1,643".

(b) Special Rule.—The Administrator may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 1102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$85" in clause (A) and inserting in lieu thereof "$88";

(2) by striking out "$143" and "$45" in clause (B) and inserting in lieu thereof "$148" and "$46", respectively;

(3) by striking out "$59" and "$45" in clause (C) and inserting in lieu thereof "$61" and "$46", respectively;

(4) by striking out "$69" in clause (D) and inserting in lieu thereof "$71";

(5) by striking out "$155" in clause (E) and inserting in lieu thereof "$161"; and

(6) by striking out "$131" in clause (F) and inserting in lieu thereof "$136".

SEC. 1103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$380" and inserting in lieu thereof "$395".

SEC. 1104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$539	W-4	$773
E-2	555	0-1	682
E-3	570	0-2	704
E-4	606	0-3	754
E-5	622	0-4	797
E-6	636	0-5	879
E-7	667	0-6	991
E-8	704	0-7	1,071
E-9	[1] 735	0-8	1,174
W-1	682	0-9	1,259
W-2	709	0-10	[2] 1,381
W-3	730		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $794.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,480.";

(2) by striking out "$60" in subsection (b) and inserting in lieu thereof "$62";

(3) by striking out "$155" in subsection (c) and inserting in lieu thereof "$161"; and

(4) by striking out "$76" in subsection (d) and inserting in lieu thereof "$79".

SEC. 1105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC for Orphan Children.—Section 413(a) is amended—

(1) by striking out "$261" in clause (1) and inserting in lieu thereof "$271";

(2) by striking out "$376" in clause (2) and inserting in lieu thereof "$391";

(3) by striking out "$486" in clause (3) and inserting in lieu thereof "$505"; and

(4) by striking out "$486" and "$97" in clause (4) and inserting in lieu thereof "$505" and "$100", respectively.

(b) Supplemental DIC for Disabled Adult Children.—Section 414 is amended—

(1) by striking out "$155" in subsection (a) and inserting in lieu thereof "$161";

(2) by striking out "$261" in subsection (b) and inserting in lieu thereof "$271"; and

(3) by striking out "$133" in subsection (c) and inserting in lieu thereof "$138".

SEC. 1106. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this title shall take effect on December 1, 1988.

TITLE XII—AGENT ORANGE AND RELATED PROVISIONS

SEC. 1201. FUNDING FOR AGENT ORANGE BLOOD TESTING.

Funds appropriated to the Veterans' Administration in Public Law 98-81 for medical and prosthetic research and obligated through the Centers for Disease Control for a contract for the conduct of an epidemiological study relating to exposure of veterans to the herbicide known as Agent Orange shall, upon the cancellation of that contract, be available for obligation until September 30, 1989, in the amounts of—

(1) $3,000,000 for payment of expenses of the Department of the Air Force in connection with blood tests of individuals who, while serving in the Air Force, participated in the spraying of Agent Orange in Vietnam during the Vietnam era; and

(2) $1,000,000 for payment of expenses of a survey of scientific evidence, studies, and literature relating to health effects of possible exposure to toxic chemicals contained in herbicides used in the Republic of Vietnam during the Vietnam era, which survey shall be conducted by an independent scientific entity under contract to the Veterans Administration pursuant to a law enacted after the date of the enactment of this Act.

SEC. 1202. EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR IONIZING RADIATION EXPOSURE.

Section 610(e)(3) is amended by striking out "September 30, 1989" and inserting in lieu thereof "December 31, 1990".

SEC. 1203. TREATMENT FOR NEEDS-BASED BENEFITS PURPOSES OF AMOUNTS RECEIVED UNDER AGENT ORANGE LITIGATION SETTLEMENT.

Any payment received by any person pursuant to the settlement in the case of *In re Agent Orange Product Liability Litigation* in the United States District Court for the Eastern District of New York (MDL No. 381) shall be treated for purposes of laws administered by the Veterans' Administration as reimbursement for prior unreimbursed medical expenses, and no such payment shall be countable as income for any such purpose.

SEC. 1204. OUTREACH SERVICES.

(a) Ongoing Outreach Program.—The Administrator shall conduct an active, continuous outreach program for furnishing to veterans of active military, naval, or air service who served in the Republic of Vietnam during the Vietnam era information relating to—

(1) the health risks (if any) resulting from exposure during that service to dioxin or any other toxic agent in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, as such information on health risks becomes known; and

(2) services and benefits available to such veterans with respect to such health risks.

(b) Information in Agent Orange Registry.—The Administrator shall take reasonable actions to organize and update the information contained in the Veterans' Administration Agent Orange Registry in a manner that enables the Administrator promptly to notify a veteran of any increased health risk for such veteran resulting from exposure of such veteran to dioxin or any other toxic agent referred to in subsection (a) during Vietnam-era service in the Republic of Vietnam whenever the Administrator determines, on the basis of physical examination or other pertinent information, that such veteran is subject to such an increased health risk.

SEC. 1205. RANCH HAND STUDY.

(a) Advisory Committee Personnel and Support.—(1) After February 28, 1989, not less than one-third of the total number of members of the Ranch Hand Advisory Committee shall be individuals selected by the Secretary of Health and Human Services from among scientists who are recommended by veterans' organizations for membership on the committee and are determined by the Secretary to be qualified for service on the committee.

(2) A scientist shall be considered to be qualified for service on the Ranch Hand Advisory Committee if (A) the scientist has earned a doctor of medicine degree or a doctorate or other advanced degree from an institution of higher education in a field relevant to the responsibilities of the Advisory Committee and has written one or more articles relevant to those responsibilities which have appeared in scientific publications following a peer-review process, or (B) the scientist has qualifications equivalent to those set forth in clause (A).

(b) Chairman.—After February 28, 1989, the Chairman of the Ranch Hand Advisory Committee may be an officer or employee of the Federal Government (other than by reason of service as a member of the Advisory Committee) only if the Secretary of Health and Human Services determines, after affirmatively seeking to recruit a chairman who is not an officer or employee of the Federal Government, that there is no individual qualified and available to serve as Chairman who is not an officer or employee of the Federal Government. The Secretary shall report any such determination to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(c) Schedule of Reports.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Veterans' Affairs and the Committees on Armed Services of the Senate and the House of Representatives a schedule of reports to be prepared by the Secretary of the Air Force or the Secretary of Defense on the progress and findings of the Ranch Hand Study.

(2) Each report referred to in paragraph (1) shall include the following:

(A) A discussion of the progress made in the Ranch Hand Study during the period covered by the report.

(B) A summary of the scientific activities conducted during that period and the findings resulting from those activities, to be prepared by the scientists conducting those activities.

(3) Such a report need not contain (A) a discussion of progress discussed in any other report prepared by the Department of Defense (under this section or otherwise) regarding the Ranch Hand Study, or (B) a scientific summary included in any other such report, unless modification of such discussion or summary is appropriate for completeness, accuracy, and currency.

(4) The Secretary of Defense shall submit to the committees referred to in paragraph (1) a copy of each report referred to that paragraph.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Ranch Hand Advisory Committee" means the committee known as the "Advisory Committee on Special Studies Relating to the Possible Long-term Health Effects of Phenoxy Herbicides and Contaminants" established by the Secretary of Defense to monitor the conduct of the Ranch Hand Study.

(2) The term "Ranch Hand Study" means the special study conducted by the Secretary of the Air Force relating to the possible long-term health effects of phenoxy herbicides and contaminants on Air Force personnel who participated in Operation Ranch Hand in the Republic of Vietnam during the Vietnam era.

TITLE XIII—REHABILITATION PROVISIONS

SEC. 1301. TEMPORARY PROGRAMS OF TRIAL WORK PERIODS AND VOCATIONAL-REHABILITATION EVALUATIONS.

(a) THREE-YEAR EXTENSION.—Subsection (a)(2)(B) of section 363 is amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992".

(b) VOLUNTARY PARTICIPATION.—Subsection (c) of such section is amended—

(1) by striking out paragraphs (2), (3), and (4);

(2) by striking out "(1)(A) Except as provided in paragraph (4) of this subsection, in" and inserting in lieu thereof "(1) In"; and

(3) in paragraph (1)—

(A) by redesignating clauses (i), (ii), and (iii) as clauses (A), (B), and (C), respectively; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(2) After providing the notice required under paragraph (1) of this subsection, the Administrator shall offer the veteran the opportunity for an evaluation under section 1506(a) of this title.".

SEC. 1302. FUNDING OF EDUCATIONAL AND VOCATIONAL COUNSELING SERVICES.

(a) IN GENERAL.—Subchapter II of chapter 36 is amended by adding at the end the following new section:

"1797. Funding of contract educational and vocational counseling

"(a) Subject to subsection (b) of this section, educational or vocational counseling services obtained by the Veterans' Administration by contract and provided to an individual applying for or receiving benefits under section 524 or chapters 30, 32, 34, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Veterans' Administration for payment of readjustment benefits.

"(b) Payments under this section shall not exceed $5,000,000 in any fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 36 is amended by inserting after the item relating to section 1796 the following new item:

"1797. Funding of contract educational and vocational counseling.".

SEC. 1303. VOCATIONAL TRAINING FOR PENSION RECIPIENTS.

(a) ELIGIBILITY.—Subsection (a)(2) of section 524 is amended by striking out "who is awarded pension during the program period" and inserting in lieu thereof "is awarded pension during the program period, or a veteran who was awarded pension before the beginning of the program period,".

(b) EXTENSION OF PROGRAM PERIOD.—Subsections (a)(4) and (b)(4)(A) of such section are each amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992".

(c) HEALTH-CARE ELIGIBILITY.—Section 525(b)(2) is amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992".

TITLE XIV—MISCELLANEOUS BENEFIT PROVISIONS

SEC. 1401. LIFE INSURANCE PROGRAMS.

(a) AUTHORITY FOR PAYMENT OF INTEREST ON INSURANCE SETTLEMENTS.—(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

"728. Authority for payment of interest on settlements

"(a) Subject to subsection (b) of this section, the Administrator may pay interest on the proceeds of a participating National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

"(b)(1) The Administrator may pay interest under subsection (a) of this section only if the Administrator determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

"(2) Interest paid under subsection (a) of this section shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts under the insurance program involved.".

(2) Subchapter II of chapter 19 is amended by adding at the end the following new section:

"763. Authority for payment of interest on settlements

"(a) Subject to subsection (b) of this section, the Administrator may pay interest on the proceeds of a United States Government Life Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

"(b)(1) The Administrator may pay interest under subsection (a) of this section only if the Administrator determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

"(2) Interest paid under subsection (a) shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts.".

(3) The amendments made by this subsection shall take effect with respect to insurance policies maturing after the date of the enactment of this Act.

(b) AUTHORITY TO ADJUST DISCOUNT RATES FOR ADVANCE PAYMENT OF PREMIUMS.—(1) Subchapter I of chapter 19, as amended by subsection (a)(1), is further amended by adding at the end the following new section:

"729. Authority to adjust premium discount rates

"(a) Notwithstanding sections 702, 723, and 725 of this title and subject to subsection (b) of this section, the Administrator may from time to time adjust the discount rates for premiums paid in advance on National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance.

"(b)(1) In adjusting a discount rate pursuant to subsection (a) of this section, the Administrator may not set such rate at a rate lower than the rate authorized for the program of insurance involved under section 702, 723, or 725 of this title.

"(2) The Administrator may make an adjustment under subsection (a) of this section only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance involved.".

(2) The amendment made by paragraph (1) shall take effect with respect to premiums paid after the date of the enactment of this Act.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 19 is amended—

(1) by inserting after the item relating to section 727 the following new items:

"728. Authority for payment of interest on settlements.

"729. Authority to adjust premium discount rates.";

and

(2) by inserting after the item relating to section 762 the following new item:

"763. Authority for payment of interest on settlements.".

SEC. 1402. INCOME EXCLUSION FOR CASUALTY LOSS REIMBURSEMENTS.

(a) PARENTS DIC.—Clause (I) of section 415(f)(1) is amended to read as follows:

"(I) reimbursements of any kind for any casualty loss (as defined in regulations which the Administrator shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or the reasonable replacement value of the property involved at the time immediately preceding the loss;".

(b) PENSION.—Clause (5) of section 503(a) is amended to read as follows:

"(5) reimbursements of any kind for any casualty loss (as defined in regulations which the Administrator shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediately preceding the loss;".

SEC. 1403. RECODIFICATION OF PROVISIONS RELATING TO CERTAIN BENEFITS FOR SURVIVORS OF CERTAIN VETERANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 13 is amended by adding at the end the following new section:

"418. Benefits for survivors of certain veterans rated totally disabled at time of death

"(a) The Administrator shall pay benefits under this chapter to the surviving spouse and to the children of a deceased veteran described in subsection (b) of this section in the same manner as if the veteran's death were service connected.

"(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either—

"(1) was continuously rated totally disabling for a period of 10 or more years immediately preceding death; or

"(2) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty.

"(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

"(1) the surviving spouse was married to the veteran for two years or more immediately preceding the veteran's death; or

"(2) a child was born of the marriage or was born to them before the marriage.

"(d) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in subsection (a) of this section, benefits under this chapter payable to such surviving spouse or child by virtue of this section shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

"(e) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this section shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.".

(2) The table of sections at the beginning of chapter 13 is amended by inserting after the item relating to section 417 the following new item:

"418. Benefits for survivors of certain veterans rated totally disabled at time of death.".

(b) Conforming Amendments.—Section 410 is amended by striking out subsection (b) and redesignating subsection (c) as subsection (b).

TITLE XV—HEALTH CARE

SEC. 1501. READJUSTMENT COUNSELING FACILITIES.

(a) Relocations for Circumstances Beyond Control of Veterans' Administration.—Section 612A(g)(1) is amended—

(1) in subparagraph (A), by striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (C) of this paragraph, the"; and

(2) by adding at the end the following new subparagraph:

"(C) The Administrator may relocate a center in existence on January 1, 1988, without regard to the national plan (including any revision to such plan) if such relocation is to a new location away from a Veterans' Administration general health-care facility when such relocation is necessitated by circumstances beyond the control of the Veterans' Administration. Such a relocation may be carried out only after the end of the 30-day period beginning on the date on which the Administrator notifies the Committees on Veterans' Affairs of the Senate and the House of Representatives of the proposed relocation, of the circumstances making it necessary, and of the reason for the selection of the new site for the center.".

(b) Authorization for Relocation of Certain Facilities.—The requirements of section 612A(g)(1) of title 38, United States Code, shall not apply with respect to the relocation of 17 Veterans' Administration Readjustment Counseling Service Vet Centers from their locations away from general Veterans' Administration health-care facilities to other such locations, as described in letters dated July 25, 1988, from the Chief Medical Director of the Veterans' Administration to the Chairmen of the Committees on Veterans' Affairs of the Senate and the House of Representatives.

SEC. 1502. CONTRACTS AND GRANTS FOR MEDICAL CARE FOR VETERANS IN THE PHILIPPINES.

(a) One-Year Extension.—Subsections (a) and (b)(1) of section 632 are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) Increase in Annual Authorization.—Subsection (b)(1) of such section is further amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000,".

(c) Reports.—(1) Not later than February 1, 1989, and not later than February 1, 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing detailed information describing the use of funds provided to the Republic of the Philippines under section 632(b) of title 38, United States Code, during the preceding fiscal year.

(2) Not later than May 1, 1989, the Administrator shall submit to those committees a report with respect to the furnishing of health-care services to United States veterans in the Republic of the Philippines. That report shall include the following:

(A) Information for each of fiscal years 1986, 1987, and 1988 (shown in total and separately for veterans being furnished care or treatment for service-connected disabilities and veterans being furnished care or treatment for non-service-connected disabilities) as to—

(i) the number of United States veterans furnished care at Veterans' Administration expense pursuant to sections 624 and 632(a) of title 38, United States Code;

(ii) the numbers of inpatient days of care and outpatient visits so furnished for United States veterans; and

(iii) the amounts of such care and visits so furnished at the Veterans Memorial Medical Center or at other facilities in the Republic of the Philippines.

(B) An analysis comparing (i) the cost-effectiveness of furnishing care and treatment to such veterans through the Veterans Memorial Medical Center or other facilities in the Republic of the Philippines, and (ii) the quality of care available at the Center and such other facilities.

(C) A projection of the needs for care and treatment of United States veterans in the Republic of the Philippines during each of fiscal years 1990, 1991, 1992, and 1993.

(D) A projection of the needs of the Veterans Memorial Medical Center for each of those fiscal years for the replacement and upgrading of equipment and the rehabilitation of the physical plant and facilities in order to maintain the provision of an appropriate quality of care for United States veterans at the Veterans Memorial Medical Center.

(E) The plans of the Veterans' Administration for meeting the needs for care and treatment of United States veterans residing in the Philippines.

(F) Any planned administrative action, and any recommendation for legislation, that the Administrator considers appropriate.

(3) The report under paragraph (2) shall include any comment the Secretary of State may wish to make on the contents of the report.

SEC. 1503. TECHNICAL CORRECTIONS.

(a) Corrections Necessitated by Amendments Made by Public Law 100-322.—(1) Section 603(a)(2)(B) is amended—

(A) by striking out "612(a)(4)" and inserting in lieu thereof "paragraphs (2), (3), or (4) of section 612(a)"; and

(B) by striking out "612(a)(5)" and inserting in lieu thereof "612(a)(5)(B)".

(2) Section 4114(a) is amended—

(A) in paragraph (1)—

(i) in clause (A), by inserting "pharmacists, occupational therapists," after "vocational nurses,"; and

(ii) in clause (B), by inserting "pharmacists and occupational therapists," after "vocational nurses,"; and

(B) in paragraph (3)(D), by striking out "the category" and all that follows through "vocational nurses" and inserting in lieu thereof "a category of personnel described in such section 4104(3)".

(3) Subsections (c) and (d) of section 4323 are each amended by striking out "section 4322(f)" and inserting in lieu thereof "section 4322(e)".

(4) Section 4324 is amended—

(A) in subsection (a)(2)—

(i) by striking out "completion" and all that follows through "quarter" and inserting in lieu thereof "participation in the program";

(ii) by inserting "or is payable" after "paid"; and

(iii) by inserting before the period at the end the following: ", reduced by the proportion that the number of days served for completion of the service obligation bears to the total number of days in the participant's period of obligated service"; and

(B) in subsection (b)—

(i) by striking out paragraph (1); and

(ii) by striking out "(2)".

(b) Effective Date.—The amendments made by subsection (a)(1) shall apply with respect to the furnishing of medical services by contract to veterans who apply to the Veterans' Administration for medical services after June 30, 1988.

(c) Ratification.—Any action of the Administrator in contracting with facilities other than Veterans' Administration facilities for the furnishing of medical services (as defined in section 601(6) of title 38, United States Code), for the purpose described in section 612(a)(5)(B) of such title, to an individual described in paragraph (2) or (3) of section 612 of title 38, United States Code, who applied to the Veterans' Administration for such services during the period beginning on July 1, 1988, and ending on the date of enactment of this Act is hereby ratified.

SEC. 1504. LAND TRANSFER, RUTHERFORD, TENNESSEE.

(a) Authority.—Subject to subsections (b) and (c) and any conditions required by the Administrator under subsection (d), the Administrator shall transfer all right, title, and interest of the United States in and to a tract of land consisting of (not to exceed) seven acres, together with improvements thereon, in the Southeast corner of the

Alvin C. York Veterans' Administration Medical Center in Rutherford County, Tennessee. Such transfer shall be made without consideration. Such transfer shall be made without regard to section 5022(a)(2)(A) of title 38, United States Code.

(b) Permitted Use.—The transfer under subsection (a) may be made only if it is subject to the condition that the property transferred be used by the State of Tennessee for a nursing care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of title 38, United States Code, and that if such property is used at any time for any other purpose, all right, title, and interest in the property shall revert to the United States.

(c) Availability of Resources.—The transfer under subsection (a) may be made only if the Administrator has determined that the State of Tennessee has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of title 38, United States Code and section 641 of such title) necessary to construct and operate a State home nursing facility.

(d) Additional Conditions.—The transfer under subsection (a) shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

SEC. 1505. TRANSFERS OF EXCESS PROPERTIES FOR STATE HOME FACILITY USES.

Section 5022(a) is amended—

(1) in paragraph (2)(A), by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B) of this paragraph, the Administrator may, without regard to paragraph (2) of this subsection or any other provision of law relating to the disposition of real property by the United States, transfer to a State for use as the site of a State home nursing-home or domiciliary facility real property described in subparagraph (E) of the paragraph which the Administrator determines to be excess to the needs of the Veterans' Administration.

"(B) A transfer of real property may not be made under this paragraph unless—

"(i) the Administrator has determined that the State has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of this title and section 641 of this title) necessary to construct and operate a State home nursing or domiciliary care facility; and

"(ii) the transfer is made subject to the conditions (I) that the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of this title, and (II) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States.

"(C) A transfer of real property may not be made under this paragraph until—

"(i) the Administrator submits to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than June 1 of the year in which the transfer is proposed to be made (or the year preceding that year), a report providing notice of the proposed transfer; and

"(ii) a period of 90 consecutive days elapses after the report is received by those committees.

"(D) A transfer under this paragraph shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

"(E) Real property described in this subparagraph is real property that is owned by the United States and administered by the Veterans' Administration.".

SEC. 1506. CONVERSION OF NON-PHYSICIAN MEDICAL CENTER DIRECTORS TO SENIOR EXECUTIVE SERVICE.

(a) Conversion.—Section 4101(e) is amended by striking out "and persons appointed under section 4103(a)(8) of this title".

(b) Conforming Amendments.—(1) Section 4103(a) is amended—

(A) by striking out paragraph (8); and

(B) by redesignating paragraph (9) as paragraph (8).

(2) Section 4107(c) is amended to read as follows:

"(c) Notwithstanding the provisions of section 4101(e) of this title, any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title shall be deemed to be a career appointee for the purposes of sections 4507 and 5384 of title 5.".

(c) Applicability to Current Directors.—(1) Except as provided in paragraph (2), each person who, on the day before the date of enactment of this Act, holds an appointment as a director under section 4103(a)(8) of title 38, United States Code, shall, on such date of enactment, become a career appointee in the Senior Executive Service established pursuant to chapter 31 of title 5, United States Code. The preceding sentence applies without regard to the provisions of subsections (b), (c), and (e) of section 3393 of title 5, United States Code, or any other provision of law. The provisions of section 3393(d) of such title shall not apply to a director who becomes a career appointee pursuant to this paragraph.

(2) Any person who, on the day before the date of the enactment of this Act, holds an appointment as such a director may, not later than 60 days after such enactment date, elect to retain the terms and conditions of that appointment for as long as that person continues to serve as such a director.

(d) Preservation of Pay.—This section and the amendments made by this section shall not result in a reduction in the rate of pay payable to any person.

SEC. 1507. PROCUREMENT THROUGH LOCAL CONTRACTS.

(a) Effective Dates of Provisions Enacted in Public Law 100-322.—Section 403(b)(1) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 545) is amended by striking out "Subsection (b)(1)" and inserting in lieu thereof "Subsections (a), (b)(1), and (b)(2)".

(b) Transition To Certain Report Requirements.—Section 5025(d) is amended—

(1) in paragraph (1), by inserting "(beginning in 1992)" after "of each year";

(2) in paragraph (2), by inserting "(beginning in 1993)" after "of each year"; and

(3) by adding at the end the following new paragraph:

"(3) Not later than February 1 of each year from 1989 through 1992, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year. The first such report shall contain information showing the percentage (measured by cost) of the total of all health-care items procured by the Veterans' Administration during fiscal year 1988 that were procured through local contracts. The other reports under this paragraph shall contain information showing the percentage (measured by cost) of the total of all health-care items procured by the Veterans' Administration, and by each Veterans' Administration medical center, during the fiscal year covered by the report that were purchased through local contracts and, in the case of each medical center at which the percentage was greater than 20 percent, an explanation of the reasons why that occurred.".

(c) Definition of Health-Care Item.—Section 5025(e)(1) is amended—

(1) by striking out "65, 66, or 73" and inserting in lieu thereof "65 or 66"; and

(2) by inserting after the first sentence the following new sentence: "Effective December 1, 1992, such term also includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 73.".

SEC. 1508. STANDARDIZATION OF COVERAGE OF MEDICAL AND PHARMACEUTICAL ITEMS.

Section 402 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 543) is amended in the first sentence by striking out "medical and pharmaceutical items" and inserting in lieu thereof "health-care items (as defined in section 5025(e)(1) of title 38, United States Code)".

SEC. 1509. TECHNICAL CLARIFICATION OF PERIOD OF CLINICAL EVALUATION OF ALCOHOL AND DRUG ABUSE PROGRAM.

Section 620A(f)(1) (as amended by section 502 of the Veterans' Benefits and Programs Improvement Act of 1988) is amended by striking out "before October 1, 1997" and inserting in lieu thereof "during the period beginning on December 1, 1988, and ending on October 1, 1997".

TITLE XVI—CEMETERY AND MEMORIAL PROVISIONS

SEC. 1601. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR STATE CEMETERY GRANT PROGRAM.

Paragraph (2) of section 1008(a) is amended by striking out "four" the second place it appears and inserting in lieu thereof "nine".

SEC. 1602. PACIFIC WAR MEMORIAL AND OTHER HISTORICAL AND MEMORIAL SITES ON CORREGIDOR IN THE REPUBLIC OF THE PHILIPPINES.

(a) Operation by ABMC.—Subject to subsection (b) and to the agreement referred to in such subsection, the American Battle Monuments Commission shall restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines.

(b) Condition.—The Commission may carry out this section only after an agreement has been entered into between the Republic of the Philippines and the United States with respect to the restoration, operation, and maintenance of the Memorial and other historical and memorial sites referred to in subsection (a).

(c) PERSONNEL.—The Commission may employ personnel as may be necessary to carry out this section.

(d) USE OF OTHER AGENCIES.—Departments, agencies, and other instrumentalities of the United States are authorized to assist the Commission, on a reimbursable basis, in carrying out this section.

(e) FUNDING.—The American Battle Monuments Commission shall carry out this section with private funds except to the extent funds are appropriated pursuant to subsection (h).

(f) AUTHORITY TO SOLICIT FUNDS.—For the purpose of carrying out this section, the Commission may solicit and accept private contributions and shall deposit such contributions in the fund established by subsection (g).

(g) FUND.—(1) There is hereby established in the Treasury a fund which shall be available to the American Battle Monuments Commission only for carrying out this section. The fund shall consist of—

(A) amounts deposited into, and interest and proceeds credited to, the fund under paragraph (2); and

(B) obligations obtained under paragraph (3).

(2) The Chairman of the Commission shall deposit into the fund the amounts that are accepted under subsection (f). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(3) The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

(4) Amounts in the fund that are in excess of the costs of carrying out this section, as determined by the Chairman of the Commission, shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (h).

(h) AUTHORIZATION OF FUNDING.—There are hereby authorized to be appropriated—

(1) $6,000,000 for site preparation, design, planning, construction, and associated administrative costs for the restoration of the Memorial and other historical and memorial sites referred to in subsection (a); and

(2) such sums as may be necessary for the operation and maintenance of such Memorial and other historical and memorial sites.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent the House amendments to the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Mississippi?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I will not object but I take this time to yield to the gentleman from Mississippi for an explanation.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, the proposed House amendments to the Senate amendment to the House amendments to S. 11 contains agreements reached with the other body on judicial review of Veterans' Administration [VA] decisions on veterans' claims, cost-of-living increases in the rates of compensation and dependency and indemnity compensation (DIC) for service-connected disabled veterans and eligible dependents, and a variety of other issues relating to health care and other veteran benefit programs. The agreement reflected in the proposed House amendments were the result of many hours of negotiations with the other body and I urge my colleagues to support the measure.

JUDICIAL REVIEW

The proposed amendments contain many of the features which were included in the House bill (H.R. 5288), introduced by myself and the ranking minority member of our committee, Mr. SOLOMON, and rejects many of the more objectionable features contained in S. 11 as passed by the Senate on July 11 of this year. For the benefit of my colleagues, I will include, following my remarks, a detailed explanation of the original Senate measure, the House amendment, and the agreement reached with the other body which passed the Senate last evening, and which is before us today.

As my colleagues know, I have never been a strong advocate of judicial review of veterans' claims, nor have I been enthusiastic about allowing attorneys to charge for representation of veterans before the VA. Nevertheless, I believe the Montgomery-Solomon bill (H.R. 5288) which our committee ordered reported, and which passed the House by a vote of 400 to 0, would have served the veterans well. It was a very reasonable compromise on this very complex issue. But the Senate passed an entirely different bill and based on the wishes of many members of our committee and the House, we worked diligently with the leadership of the Senate Veterans' Affairs Committee, and the House Judiciary Committee in working out a very good compromise. I believe the compromise is better than the bills orginally passed by both bodies.

Mr. Speaker, the goal of any system which must adjudicate as many claims as the VA does is simple; the decisions must be fair, and must always give the benefit of doubt to the veteran. In addition, we believe that veterans derive a great deal of benefit from the existing VA system because it is informal, generous, and relatively efficient. All of this makes the system fair to veterans, and I do not want any of my colleagues to think otherwise. Nevertheless, to satisfy those who do not share this view, we have crafted a compromise bill which will allow an independent review by a court of the VA's decision on a veteran's claim, will allow judicial review of VA regulations and legal interpretations, and will allow veterans to pay attorneys to represent them before the court. At the same time, we think we have preserved as much of the informal and generous nature of the existing system as possible. We believe that the following provisions are important in this regard. Let me briefly summarize the compromise we have worked out with the Senate.

1. Attorneys would be prohibited from charging any fee for representation before the Veterans' Administration or the Board of Veterans' Appeals until the initial decision of the Board has been made. What we have basically done is to adopt the House provision, but because the BVA is retained in the compromise agreement, we have extended the coverage of the attorney fee provision contained in the House bill to proceedings before the BVA. If the BVA disallows an appeal and the veteran then retains an attorney who attempts to have the claim reopened or reconsidered by the BVA, a fee may be charged. Otherwise, no fee can be charged for representation of the veteran while the case is pending before the VA.

2. The new Court of Veterans Appeals (CVA) established by the compromise agreement would not be burdened with matters which often require a district court to delay a decision in a case. The sole function of this court is to decide, on the record, whether the VA and the BVA decided a matter correctly; the court will develop expertise on such matters and its decisions will be uniform.

3. Review of the CVA's decisions would not take place in 94 district courts or 12 circuit courts of appeals. The review would be exclusively in the Court of Appeals for the Federal Circuit (CAFC), with appeals to the Supreme Court on certiorari. This will also promote uniformity, and the development of familiarity on the part of the CAFC with veterans matters generally.

4. The compromise would require the Administrator to decide all questions of law and fact necessary to a decision in a matter presented to the agency. This would encourage the agency to consider whether new developments in the law require it to change its procedure, and to be in a position where it could decide the best means of implementing any change which it finds to be necessary.

5. This agreement centralizes a process for deciding challenges to the validity of VA administrative issuances and statutes affecting the provision of benefits to veterans. All of these challenges must be brought in the CAFC,

so that the VA will not be required to change its policy in one part of the country but not in another by inconsistent or conflicting court decisions.

Mr. Speaker, the compromise we have reached with the other body includes language taken from the House bill that would preclude the Court of Appeals for the Federal Circuit (CAFC) from reviewing mixed questions of law and fact. This language is perhaps as significant as any language in the compromise, so I would like to explain this provision in some detail so there can be no doubt as to Congress' intent.

Under the proposed compromise, the CAFC would be prohibited from reviewing factual determinations made by the Veterans' Administration (VA). The VA would make a finding of fact at the regional office level. If there is disagreement as to the factual determination, a veteran could request the VA to review it. In addition, a hearing may be requested, which would involve a review by someone other than the original decision maker. If the factual dispute is not resolved, the VA must issue a statement of the case, and notify the veteran of his or her right to appeal the determination to the Board of Veterans' Appeals (BVA). The BVA would be authorized to review the VA's determination de novo and to affirm, modify, or reverse the VA's factual determination. The BVA need not give any deference to the original factual determination made by VA.

Following the BVA decision, a veteran may request reconsideration of the BVA decision by an enlarged panel. He or she would be authorized to appeal the factual determination to the Court of Veterans' Appeals (CVA), which in turn could overturn any factual determination that it finds to be clearly erroneous. While the CVA must give some deference to the factual determination of the BVA, it can still review the entire record for serious factual errors. Thus, when a case reaches the CAFC, it has been reviewed by at least three persons on the rating board at the VA regional office, with additional review at the request of the veteran, three persons at the Board of Veterans' Appeals, and at least one judge of the CVA. In our opinion, this is an adequate review to ensure accuracy of the decision, especially since the veteran can reopen his claim for benefits at any time that new and material evidence is presented. I think it is a very fair procedure.

Having made the policy determination to preclude review of factual determinations by the CAFC, we have recognized that the court might be tempted to review factual determinations under the guise of reviewing "mixed questions of law and fact". This is the origin of the language contained in the bill passed by the House (H.R. 5288) and the amended language contained in the compromise agreement. The language would preclude the Court of Veterans' Appeals from reviewing a challenge to a law or regulation as applied to the facts of a particular case. In providing for judicial review of veterans claims, it is not our intent to encourage litigation between veterans and the VA, nor is it our intent that the courts play any role in determining VA policy. Policy decisions concerning veterans benefits are made by the Congress. Our Committee on Veterans' Affairs does a reasonably good job in keeping itself informed as to how the VA system is working through annual oversight subcommittee hearings. While we can't make judgments based on the outcome in a particular case, over time it is our impression that the current informal system works reasonably well.

What we envision is that occasionally, legitimate disputes about a VA regulation may arise. These disputes may arise out of an individual case, but it is clear from the language we have adopted that the courts cannot hold that a regulation is valid generally but is invalid as applied to the facts of a particular case. We want to give special deference to the VA's case-by-case adjudications, and to avoid the Federal Circuit's becoming "inextricably involved in review of the merits of individual claims for * * * benefits", *Carter* v. *Cleland,* 643 F. 2d 1, 9 (D.C. Cir. 1980), under the guise of considering mixed questions of law and fact.

I think the following example will further illustrate my point. Assume a veteran asks the Court of Appeals for the Federal Circuit (CAFC) to review the decision of the CVA in his case; the veteran does not argue that the factual determination as affirmed by CVA is incorrect; the veteran does not challenge the general validity of the regulation that controlled the decision in his or her case. Instead, the veteran alleges that the regulation as applied to the particular facts in his or her case produced a result that should be overturned. If this type of complaint is presented to the CAFC, it must deny the request for relief. The CAFC has no jurisdiction to review such a challenge, and must decline to review the appeal.

This limitation on the CAFC's jurisdiction is to be strictly construed. As I said previously, the procedure allows for several layers of review of factual determinations, and we don't believe that additional review of factual determinations is warranted or desirable. The CVA has jurisdiction to consider whether the VA's application of law to fact was proper, and because of its special focus, is in a far better position to assess whether the BVA properly understood its statutory obligation and acted correctly. Further, the CVA would make this decision with a full understanding of the informal and generous nature of the VA's adjudication system and of the responsibilities assigned to the VA by the Congress.

CONTENT OF VA DECISIONS

Mr. Speaker, the compromise includes a number of revisions to VA adjudication procedures. Many of these changes to existing law simply codify the VA's existing practices, which provide veterans with unlimited opportunity to submit additional evidence to have a previously disallowed claim reconsidered. The addition of language codifying the existing VA practice of reopening a claim at the regional office level whenever a veteran submits new and material evidence is an example of revising the law to conform with VA practice. Similarly, the changes in the required elements of a decision rendered by the BVA, which must include "reasons and bases" for its findings and conclusions, do not necessarily require any change in existing BVA decisions.

ROLE OF THE VETERANS SERVICE ORGANIZATIONS

Mr. Speaker, this bill includes a unique provision concerning representation of veterans who appeal decisions to the Court of Veterans' Appeals. As many of my colleagues know, the major service organizations such as the American Legion, the DAV, the VFW, and others provide trained representatives to assist veterans in obtaining benefits from the VA. This assistance is provided without charge to the veteran, and is an invaluable contribution to assuring that deserving veterans obtain the benefits which Congress intended.

The revision to the limitations on the attorney fees contained in this legislation are intended to preserve the existing system which encourages veterans to utilize the services of these trained representatives until the claim is resolved to the veteran's satisfaction by the VA. The bill also allows the Court of Veterans' Appeals to admit nonlawyers to practice before it, and provides that persons need not be members of the bar in order to be admitted to practice. We envision that a large number of the national service organization representatives who appear before the Board of Veterans' Appeals will be admitted to practice before the CVA. Their existing knowledge of VA laws, regulations, and procedures make them uniquely qualified to be among the first nonlawyers to be admitted to practice before the court. Further, we envision that a new alliance of cooperation and mutual trust will be formed between the national service organization representatives and lawyers admitted to practice before this court. This is an instance where nonlawyers who presently practice before the the BVA have a far greater knowledge about how a veteran's case should be presented than an attorney who is a general practitioner and is not familiar with the policies and procedures of the VA.

We are very proud of the help that veterans service organizations provide to veterans throughout the country. We want them to continue to have the predominant role in helping veterans obtain the benefits they deserve, and we believe that this legislation is designed to permit them to continue to fulfill that role.

CHANGES AT THE BOARD OF VETERANS' APPEALS

Mr. Speaker, as part of the compromise on this legislation, we have accepted some proposals contained in the Senate bill which may affect existing members of BVA. I want to make it clear that it is not the intent of the House committee that any particular personnel changes result from the enactment of this bill. We did agree that the new Chairman of the BVA should be a Presidential appointment, subject to the advice and consent of the Senate. However, we expect that the next President will submit the name of the existing Chairman, who has spent much of his professional life in service to our Nation's veterans. Ken Eaton first came to Washington to work on the Board in 1962 as an attorney adviser. He became Chairman of the Board in 1982, and was awarded the Presidential Rank Award in 1985 for his outstanding performance. He is known by the representatives of all of the major service organizations who regularly appear before the Board as one of the fairest men in Washington.

The Chairman of the Board has a very tough job; he must ensure that BVA reaches an accurate and fair result, but he must also consider how many veterans are waiting to have their appeals heard and decided. I am reassured by Mr. Eaton's reputation as a man who thinks fairness is the most important function of the Board, and by the confidence in his abilities expressed by the veterans service organizations and the President.

The compromise agreement also requires that members of the Board be appointed by the Administrator to a position as a Board member for a term of years. I expect that most current Board members who are presently serving will be reappointed to their existing position. The work of the Board is important and requires extensive training which only Board members and senior attorneys employed to advise the Board possess.

GENERAL COUNSEL OPINIONS

Mr. Speaker, this legislation requires the Administrator to ensure agency compliance with certain provisions of the Freedom of Information Act, 5 U.S.C. 552, particularly with respect to opinions and interpretations of the General Counsel. In pertinent part, that act requires that "statements of general policy or interpretations of general applicability formulated and adopted by the agency" be published in the Federal Register. A failure to do this means that the agency opinion may not be relied on, used, or cited as precedent by the agency against a party to an agency proceeding. This requirement is merely a restatement of the existing law and is not intended to impose new duties on the agency; it is intended to ensure agency compliance with that law. We note that the VA is developing regulations under which the General Counsel would designate certain legal opinions issued by the Office of General Counsel as precedent opinions. The VA's proposal has been published for public notice and comment, and I advised the agency that it was my belief that the agency had a responsibility to publish precedent opinions for the guidance and benefit of the public. It is further anticipated that the final regulations will provide for publication of other General Counsel opinions concerning claims for benefits under laws administered by the Veterans' Administration which are conclusive as to the matter at issue but without precedential effect in the future.

Mr. Speaker, a joint explanatory statement which explains in detail the provisions contained in the compromise agreement on judicial review follows:

EXPLANATORY STATEMENT ON DIVISION A OF THE COMPROMISE AGREEMENT ON S. 11 AS AMENDED, THE "VETERANS' JUDICIAL REVIEW ACT"

This document explains the provisions of S. 11, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act", as passed by the Senate on July 11, 1988; H.R. 5288, the proposed "Veterans' Judicial Review Act", as passed by the House of Representatives on October 3, 1988, as a substitute amendment for the text of S. 11 (hereinafter referred to as the "House amendment"); and the provisions of a compromise agreement between the Senate and House Committees on Veterans' Affairs on those provisions, which will be offered as a proposed Senate amendment to the House amendment to S. 11 as so amended and passed by the Senate. The compromise agreement is designated Division A of S. 11 by the further amendments made by the House on October 19, 1988. The differences between these various measures and the provisions of the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

TITLE I—ADJUDICATIVE AND RULEMAKING AUTHORITY OF THE VETERANS' ADMINISTRATION

Decisions by Administrator

Senate bill: The Senate bill (section 301) would amend section 211(a) of title 38, relating to decisions of the Administrator, to expand the present categories of exceptions to the general preclusion of judicial review of such decisions by referencing new subchapter II of chapter 71, the new judicial review subchapter added by title III of the Senate bill.

House amendment: The House amendment (section 2) would amend section 211 to—

(a)(1) specify that the Administrator must resolve all questions of law and fact—not only those arising under laws administered by the VA as under present section 211(a)—that are necessary to a decision under a law affecting the provision of benefits to veterans and the dependents and survivors of veterans, and (2) to expand the general preclusion of judicial review to the same extent;

(b) expand the present categories of exceptions to the general preclusions by making reference to section 223 of title 38 (as proposed to be added by section 3 of the House bill, discussed below), regarding rulemaking, and to matters covered by new chapter 71, the new judicial review subchapter added by title III of the bill;

(c) specify that the Attorney General, upon request, is to provide the Administrator with advice regarding any question of law arising under either the Constitution or any law other than a law providing benefits for veterans and the survivors and dependents of veterans.

Compromise agreement: The compromise agreement (section 101) contains the House provision with amendments (a) to clarify that the requirement to make decisions and the general preclusion of judicial review apply only to a decision by the Administrator under a law that affects the provision of benefits by the Administrator; and (b) to delete the amendment relating to the Attorney General's opinions.

Veterans' Administrative rulemaking

Senate bill: The Senate bill (section 201) would amend subchapter II of chapter 3 of title 38 to add a new section 223, relating to agency rulemaking, which would—

(a) define "regulation" to include (1) statements of general policy, instructions, and guidance, and (2) interpretations of general applicability issued or adopted by the Administrator;

(b) define "rule" as having the meaning set forth in section 551(4) of title 5;

(c) require application of the rulemaking provisions of the Administrative Procedure Act (APA) (5 U.S.C. 553) to all VA rulemaking matters other than those involving agency management, personnel, public property or contracts; and

(d) provide that rules and regulations issued or adopted by the Administrator shall be subject to judicial review.

House amendment: The House amendment (section 3) would add a new section 223, relating to agency rulemaking, which would—

(a) require that, in the application to the VA of section 552(a)(1) of title 5, requiring the publication of certain information in the Federal Register, the Administrator must take care to ensure that subparagraphs (C) and (D) of that section, relating to rules of procedure, forms, and substantive rules of general applicability, are complied with, particularly with respect to opinions and interpretations of the General Counsel;

(b) require application of the rulemaking provisions of the APA to any matter relating to loans, grants, or benefits under the jurisdiction of the Administrator;

(c) provide that an action of the Administrator to which either section 552(a)(1) or 553 of title 5 (or both) applies, other than an action relating to the adoption or revision of the schedule of ratings for disabilities under section 355 of title 38, shall be subject to judicial review, generally in accordance with chapter 7 of title 5 and only in the U.S. Court of Appeals for the Federal

Circuit (hereinafter referred to as the "CAFC"); and

(d) require that, if judicial review of such an action is sought in connection with an appeal under the provisions of chapter 71 of title 38, as amended by the House amendment, the provisions of chapter 71 would apply rather than chapter 7 of title 5.

Compromise agreement: The compromise agreement (section 102) contains the House provision with an amendment requiring compliance with subparagraph (E) of section 552(a)(1) of title 5, relating to amendments to the material covered in subparagraphs (C) and (D). Additionally, it contains a freestanding provision requiring the Administrator to submit to the Committees, not later than May 1, 1989, a report as to how the Administrator will comply with (a), above.

The Committees note that under this provision the CAFC would be authorized to review agency records which underlie challenges to rules and regulations.

Veterans' Administration adjudication procedures

Requirements Relating to Proof of Claims

Senate bill and the House amendment. The Senate bill (section 101) and the House amendment (section 6) would amend chapter 51 of title 38 to add a section which would codify the burden of proof and reasonable doubt standards in VA claims adjudication proceedings currently provided for by regulation (38 CFR 3.102 and 3.103). The House amendment would also require the Administrator, in assisting a claimant develop his or her case, to request information described in section 3006 of title 38, relating to furnishing of information by other agencies.

Senate bill: The Senate bill (section 105) would, as discussed more fully below under the heading "Reopening of Disallowed Claims", require the Board to reopen a claim when new and material evidence is presented and allow reopening upon the showing of good cause.

House amendment: The House amendment (section 6) would further allow the Administrator, upon the presentation of new and material evidence, to review any previous determination of the Administrator with respect to benefits under laws administered by the VA.

Compromise agreement: The compromise agreement (section 103) contains these provisions with an amendment deleting the discretionary reopening provision in the Senate bill.

Service of Subpenas

Senate bill: The Senate bill (section 102) would specify procedures for the service of subpenas authorized under section 3311 of title 38, including procedures for personal service or service by mail.

House amendment: No provision.

Compromise agreement: No provision.

Attorneys' Fees

Senate bill: The Senate bill (section 401) would amend section 3404 of title 38, which sets a limitation of $10 on the amount a claimant may pay an attorney in connection with a VA claim. The bill would authorize reasonable attorneys' fees, within certain limits, for representation of individuals before the VA after the Board of Veterans' Appeals first renders a final decision. Fees would also be authorized for representation in a case appealed to court under the judicial review provisions proposed to be added by title III of the Senate bill, with a specified limitation in cases in which the matter is resolved in a manner unfavorable to the claimant. Specifically, the Senate bill would—

(a) eliminate the $10 limitation on the amount an attorney may receive for services rendered after the first final BVA decision;

(b) permit the Administrator, and the Chairman of the BVA as to representation in connection with matters before the Board, to approve a reasonable attorney's fee for representation within the VA after a BVA decision, up to a maximum of either $500 or, if the claimant and attorney have entered into a contingency-fee agreement, not more than 25 percent of any past-due benefits awarded the claimant. This amount could be approved where, for example, a case remains before the VA for reconsideration or for reopening on the basis of "new and material evidence";

(c) authorize the Administrator and the Chairman to increase the $500 maximum limitation in future years to reflect changed economic conditions;

(d) authorize the Chairman to approve a fee higher than the $500 limitation in an individual case involving extraordinary circumstances warranting a higher fee;

(e) allow a reviewing court to approve a reasonable attorney's fee and specify that (1) for cases not resolved in a manner favorable to a claimant, the court must ensure that the claimant pay no more than $750, and (2) for cases resolved in a manner favorable to a claimant, the court may approve a reasonable fee, or, if a claimant and an attorney had entered into a contingent-fee agreement, not exceeding 25 percent of the total amount of past-due benefits;

(f) authorize the VA to make payment to an attorney from past-due benefits, but preclude payments from benefits payable for a period following the date of the decision entitling the veteran to benefits;

(g) limit the applicability of the attorneys' fees provisions to cases involving claims for benefits;

(h) for the purpose of attorneys' fees provisions, define a claim as being "resolved in a manner favorable to the claimant" when any or all of the relief sought is granted;

(i) authorize a court to award to a prevailing party, other than the Administrator, reasonable attorneys' fees and costs in accordance with the provisions of the Equal Access to Justice Act (section 2412(d) of title 28) under which such an award may be made unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust; and

(j) amend section 3405 of title 38 to provide criminal penalties for willfully and intentionally defrauding a VA claimant.

House amendment: The House amendment (sections 4 and 5) would amend section 3404 to—

(a) revise the present limitation in order to—

(1) prohibit an attorney or agent from receiving any fee for services rendered prior to the rendering of a statement of the case by a Regional Office under section 4005(d)(1);

(2) authorize reasonable attorneys' fees for representation of individuals before the VA after a statement of the case is issued;

(3) require the filing of a copy of any fee agreement between the agent or attorney and the claimant with the VA, with respect to proceedings before the VA, at such time as may be specified by the Administrator;

(4) authorize the Administrator to review such a fee arrangement and order a reduction in the fee if the Administrator finds the fee to be excessive or unreasonable, with such an order under this section reviewable in the Court of Veterans Appeals;

(5) authorize payment of a reasonable fee for services with respect to representation before the Court of Veterans Appeals (as provided for in section 5 of the House amendment); and to require the filing with the Court of Veterans Appeals of a copy of any fee agreement between the agent or attorney and the claimant;

(6) authorize the Court to review such a fee arrangement and to order a reduction in the fee if it finds the fee is excessive or unreasonable; and

(7) provide that such an order would not be reviewable in any other court; and

(b) amend section 3405 to modify the penalties for violation of the restrictions in section 3404, relating generally to VA claims, or section 784, relating to suits on VA-administered insurance claims, to specify that a violation of those provisions is a misdemeanor.

Compromise agreement: The Compromise agreement (section 104) contains the House provisions with amendments that authorize the Board to review fee agreements for reasonableness in those instances where a charge for representation before the VA or the Board is authorized. It also provides that (a) no fee may be charged until after the BVA first renders a final decision; (b) a reasonable fee may be charged for representation before the VA only if the attorney is retained within one year from the date of the first final BVA decision; (c) the claimant and the attorney, pursuant to a contingency agreement, may agree to have the Administrator pay the attorney's fee out of past-due benefits, but the fee under such an agreement cannot exceed 20 percent of the past-due benefits awarded; (d) the Board, not the Administrator, would decide whether a fee is reasonable; and (e) decisions by the Board as to the reasonableness of fees would be reviewable in the U.S. Court of Veterans Appeals, but not by any other court. In addition, the compromise agreement adopts the Senate provision in (h), above, relating to the definition of a favorable resolution.

TITLE II—BOARD OF VETERANS APPEALS

Independence of the Chairman

Senate bill: The Senate bill (section 103) would amend present section 4001(a) of title 38, relating to the composition of the BVA, to delete the provision making the Chairman of the Board directly responsible to the Administrator.

House amendment: No comparable provision. The House amendment would abolish the BVA, replacing it with a 65-member Court of Veterans' Appeals as described under title III, below.

Compromise agreement: No provision.

Timeliness of dispositions

Senate bill: The Senate bill (section 103) would further amend section 4001(a) to specify that the Board is to employ sufficient numbers of support personnel to enable it to dispose of appeals before it in a timely manner.

House amendment: No comparable provision. The House amendment (section 5) contains a provision requiring the Court of Veterans' Appeals established by section 5 of the House amendment to dispose of cases "as quickly as practicable."

Compromise agreement: The compromise agreement (section 202(b)) contains the Senate provisions made applicable to BVA members as well as support personnel.

Appointment and removal of the Chairman and members

Senate bill: The Senate bill (section 103 of the Senate bill and section 503 of S. 2011, the proposed "Veterans' Benefits and Programs Improvement Act of 1988" as passed by the Senate on October 18, 1988, as a substitute amendment for the text of H.R. 4741) would amend present section 4001(b), relating to the appointment of members of the Board, to—

(a) require the President, by and with the advice and consent of the Senate, to appoint the Chairman for a term of five years; provide that an individual may serve as Chairman for no more than three complete terms; and (only in S. 2011) provide that the Chairman may be removed by the President after notice and hearing, for inefficiency, neglect of duty, or malfeasance in office;

(b) require the Chairman (after one is appointed with advice and consent) to appoint Board members for a term of nine years; provide that a member appointed to fill a vacancy, whether caused by resignation, death, or removal, would serve for the remaining unexpired term; and allow Board members to be removed by the Chairman for good cause, subject to the due process protections in title 5 relating to adverse personnel actions against Administrative Law Judges;

(c) require the President to appoint the Chairman not later than one year after the date of enactment and allow the serving Chairman to continue until a successor is appointed;

(d) allow the individual serving as Chairman on the date of enactment to continue serving until a successor is appointed and provide that, if that individual is appointed, none of the time served prior to the appointment would count in calculating the term he or she may serve; and

(e) provide that, of the first Board members appointed, 21 would be appointed for a three-year term, 22 for a six-year term, and 22 for a nine-year term; and that an individual who is serving as a member of the Board may continue to serve until the earlier of the date on which the individual's successor is appointed or the expiration of the 180-day period after the Chairman is appointed.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 201) contains the Senate provision with amendments to provide that (a) the term of the chairman would be six years, with no limit on successive terms; (b) removal of the chairman would be by the President, after notice and an opportunity for hearing, on grounds of misconduct, inefficiency, neglect of duty, engaging in the practice of law, or physical or mental disabilities which in the President's opinion prevent proper execution of the duties of the office; (c) 65 Board members (in addition to the Vice Chairman) would be appointed by the Administrator upon the recommendation of the Chairman, with the approval of the President; and (d) the effective date (section 401) for the nomination of the Chairman would be February 1, 1989.

The Committees note that the Administrator, with the approval of the President, is expected to designate the incumbent member to be replaced (if an incumbent is not reappointed) at the time of the appointment of each member to his or her term. The Committees intend the nomination for Chairman to be submitted before any of the new Presidential appointments (other than the Secretary, Deputy Secretary, and Inspector General) authorized in H.R. 3471, the Department of Veterans Affairs Act.

Salary of the Chairman

Senate bill: The Senate bill (section 103) would require the Chairman to be paid at Executive Level IV.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 201) contains this provision.

Annual report on Board activities and resources

Senate bill: The Senate bill (section 103) would require the BVA Chairman to report to the Committees on Veterans' Affairs annually on the Board's current and future workload and its ability, based on then current and projected staffing, to dispose of appeals in a timely manner.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 208) contains this provision with an amendment to require submission of the report as part of the agency's budget justification documents.

Awarding performance incentives to Board members

Senate bill: The Senate bill (section 103(c)) would preclude the payment of any direct or indirect bonuses (in addition to salary) relating to service on the Board for Board members and temporary members.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 209) would further amend section 4001 of title 38 by providing that a performance incentive authorized by law may be awarded upon a determination by the Chairman that a member should be awarded that incentive. In making that determination, the Chairman would be required to take into consideration the quality of performance of the Board member.

Determinations by the Board

Senate bill: The Senate bill (section 104) would amend section 4003, relating to determinations by the Board, to—

(a) specify that a majority vote is sufficient for an allowance, but a unanimous vote is needed for a denial;

(b) provide that the Board may reach a contrary conclusion upon additional information after notice to the claimant and an opportunity for the claimant to be heard;

(c) preclude a temporary member, appointed pursuant to section 4001(c)(1), or an acting member, appointed pursuant to 4002(a)(2)(A)(ii) of title 38, from casting a vote in any case where the votes of the two regular members are split and require the Chairman to expand the section by at least two members in the event of such a split; and

(d) codify current Board practice (as set forth in 38 CFR 19.181) under which the Chairman may either vote with the majority or expand the section when there is disagreement among the members of a section in any case in which unanimity is required for a final determination.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 202(a)) would (a) provide for decisions, for either an allowance or a denial, to be by a majority vote; (b) provide that such a decision is final unless the Board orders a reconsideration; and (c) require that, if the Board orders a reconsideration, the Chairman must expand the panel.

The Committees note that they would prefer that any expansion of a panel upon reconsideration be carried out utilizing only permanent Board members (rather than temporary or acting members). The Committees further note that the language deleted from current section 4003, authorizing the BVA, after it has made a final decision in a case, to "reach a contrary conclusion upon the basis of additional information from the department of the Secretary concerned" does not reflect current agency practice in that such action generally occurs at the Regional Office level and need not be premised only on additional information from the military department concerned but can be from any source. The Committees do not intend any claimant to be disadvantaged by the deletion of this language.

Decisions of the Board

Senate bill: The Senate bill (section 105(1)) would amend section 4004(a), relating to decisions of the Board, to specify that the Board's decision is to be made after giving the claimant an opportunity for a hearing and must be made exclusively on the evidence and material of record in the proceeding and on applicable provisions of law.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 203) contains this provision with an amendment providing that, although the decision must be based on the entire record and upon consideration of the matters specified in the Senate bill, it need not be based exclusively on material in the record, thereby affording opportunity for the Board to take notice (as courts are able to take judicial notice) of matters not on the record.

Reopening of disallowed claims

Senate bill: The Senate bill (section 105(2)) would amend section 4004(b), relating to the Board's reopening of disallowed claims, to—

(a) require the Board (directly or through the agency of original jurisdiction) to reopen a claim when new and material evidence is presented or secured to review the Board's former decision and make a technical correction in the description of the BVA's authority to reopen a claim by deleting (as inconsistent with present practice) the present requirement that new and material evidence sufficient to reopen a claim be in the form of an official report from the proper service department;

(b) allow reopening upon the showing of good cause; and

(c) specify that a court decision upholding denial of a claim under title III of the bill (relating to judicial review) would not diminish the Board's discretionary authority to reopen a claim.

House amendment: As discussed above under the heading "Requirements Relating to Proof of Claims," the House amendment (section 6) would allow the Administrator, upon the presentation of new and material evidence, to review any previous determination of the Administrator with respect to benefits under laws administered by the VA.

Compromise agreement: As noted previously, the compromise agreement (section 103) contains item (a) of the Senate bill and the House amendment.

These provisions were included as amendments to chapter 51, relating to proceedings before the VA generally, to reflect the current practice in which claims are reopened at the Regional Office level, not the Board. The Committees do not intend that any claimant be disadvantaged by the redrafting of this section.

The Committees note that the reopening would be required without regard to whether a disallowance was by the Administrator or the BVA and whether the disallowance was upheld, in whole or in part, by a court.

Notice and content of decisions

Senate bill: The Senate bill (section 105(3)) would amend section 4004(d), relating to the content of Board decisions, to—

(a) require the BVA to mail a detailed statement of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and such representative; and

(b) expand the present requirement that BVA decisions be in writing and contain findings of fact and conclusions of law separately stated, to require that such decisions include findings and conclusions and reasons and bases therefor, on all material issues of fact, law, and matters of discretion, as well as an order granting or denying relief.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 205) contains this provision.

Prohibition against presumption of agreement with statement of the case findings

Senate bill: The Senate bill (section 106) would amend section 4005(d)(4), relating to the presumption that an appellant agrees with any statement of fact in the Statement of the Case to which no exception is taken, so as to codify current Board practice under which a claimant is not presumed to agree with any statement of fact or law contained in a Statement of the Case.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 206) contains this provision with an amendment deleting "or law," since there is no current law presumption regarding conclusions of law in the Statement of the Case.

Medical opinions

Senate bill: The Senate bill (section 107) would amend section 4009, relating to independent medical expert (IME) opinions, to—

(a) expressly provide a claimant before the Board with—

(i) the right, upon request, to have the Board acquire an independent medical opinion when there is a substantial disagreement between the substantiated findings or opinions of two physicians on an issue material to the outcome of the case; and

(ii) the right to appeal a denial of a request to the Chairman;

(b) require that notice of any Board decision to deny such a request, the basis for such denial, and the right to appeal a denial to the Chairman be provided to the claimant and the claimant's representative but provide that the decision would not be subject to judicial review; and

(c) require notice to a claimant of any consultation by a Board member with a physician, other than the physician on the Board section deciding the case, along with the results of that consultation and provide 60 days in which the claimant may respond to the opinion. The information gained through this process would be required to be included in the discussion of evidence in the final decision.

House amendment: The House amendment (section 6) revises the current law provisions regarding IME opinions to allow the Administrator to obtain such opinions during Regional Office proceedings.

Compromise agreement: The compromise agreement (section 103) contains the House provision with an amendment, derived from the Senate provision in (c), above, providing as to IME opinions at both the Board and Regional Office levels, that the claimant be notified of a request for an IME opinion and provided a copy as soon as it is received.

The Committees intend that, if the Board or Administrator establishes a mechanism for a claimant to appeal a denial of a claimant's request for an IME opinion, the notice procedures described above in (b) be followed. The Committees also note with approval the current practice of obtaining IME opinions through the Department of Medicine and Surgery.

Adjudication procedures

Senate bill: The Senate bill (section 108) would add a new section, 4010, to the chapter concerning BVA adjudication procedures entitled "Adjudication procedures," which would—

(a) authorize the Administrator and the BVA to administer oaths and affirmations, examine witnesses, and receive evidence in VA claims adjudication proceedings;

(b) provide for the admission, even if inadmissible under the rules of evidence applicable in court, of all evidence submitted in VA claims adjudication proceedings, subject only to such provisions as the Administrator or Chairman, depending upon the forum, may impose through regulations for the exclusion of irrelevant, immaterial, or unduly repetitious evidence;

(c) provide that, in the course of hearings on a claim for VA benefits following initial denial of the claim, the claimant (or other party) shall have the right to—

(1) review and, on the payment of a fee (waivable by the Chairman of the Board pursuant to regulations that the Administrator must prescribe on the basis of inability to pay or for good cause shown pursuant to regulations that the Administrator must prescribe) limited to the costs of duplication, to obtain copies of the case files and all materials to be used by the VA at the hearing;

(2) present witnesses and evidence including medical opinions and rebuttal evidence;

(3) make argument and submit written contentions; and

(4) submit to any person written interrogatories which must be answered unless written objections thereto are filed;

(d) provide that—

(1) if the person served with interrogatories files an objection thereto, the Chairman of the Board must, pursuant to regulations that the Chairman must prescribe, evaluate the objection and issue an order directing that answers be given or stating that they need not be given; and

(2) if the person served with interrogatories fails to comply with such an order or, in the absence of an objection, to answer the interrogatories, the party who served the interrogatories would have the right, upon a statement or showing of good cause, to have the Chairman issue a subpoena (enforceable in Federal district court) for the witness' attendance at a deposition at which the unanswered interrogatories would be asked;

(e) provide that, a claimant may request a hearing before a traveling section of the Board with scheduling of such hearings to be on a first-come, first-served basis;

(f) provide that, if a claimant requests a hearing before a traveling section of the Board but is unable to receive such a hearing due to the limited number of hearings available the Board must afford the claimant an opportunity for a hearing conducted by telephone or closed circuit television before a Board panel or in a videotaped hearing before VA adjudication personnel at the Regional Office;

(g) allow, in the course of any claims proceeding, any VA employee to disqualify himself or herself on the basis of personal bias or other cause and a party to challenge such an employee on such bases;

(h) specify the materials that must be included in the record of VA claims adjudication proceedings and provide that the record shall be available for a claimant's inspection and shall be copied for a claimant upon the payment of a fee (waivable by the Chairman, pursuant to regulations that the Chairman must prescribe, on the basis of the claimant's inability to pay or for other good cause shown) limited to the cost of duplication; and

(i) specify that the adjudication rights contained in title 38 and prescribed thereunder by the Administrator or Chairman are exclusive.

House amendment: No provision.

Compromise agreement: The compromise agreement (section 103) would provide that a claimant may request a hearing before a traveling section of the Board and that the scheduling of such cases will be in the order in which the requests are received by the VA as to each Regional Office.

This section is not intended to require an increase in such hearings, since traveling sections are scheduled as resources permit. In the event that a claimant indicates a desire for a hearing before a traveling section, but cannot be scheduled for the next visit by a traveling section to the nearest Regional Office, the claimant should be advised that he or she will be afforded a hearing as soon as a slot becomes available at that office.

The Committees note that they do not believe it is necessary to codify in law the current Board process as prescribed in the Senate bill. The Committees intend that those informal procedures be continued and that the title 5 procedures relating to adjudications continue to be inapplicable. The Committees encourage the Board to develop alternatives to hearings before traveling Board sections.

Notice of procedures

Senate bill: The Senate bill (section 108) would require the Administrator and the Chairman, at each stage of claims adjudication proceedings before the VA and the BVA, to provide the claimant with detailed notice, in easily understandable language, of the claimant's procedural rights. The required notice must include:

(a) descriptions of all subsequent procedural stages provided for by statute, regulation, or Veterans' Administration policy;

(b) descriptions of all rights of the claimant expressly provided for in or pursuant to chapter 71 of title 38, of the claimant's rights to a hearing, to reconsideration, to appeal, and to representation; and of any specific procedures necessary to obtain the various forms of review available for consideration of the claim;

(c) in the case of an appeal to the Board, notice of the opportunity for a hearing before a traveling section of the Board; and

(d) such other information as the Administrator or the Chairman of the Board, respectively, as a matter of discretion, determines would be useful and practical to assist the claimant in obtaining full consideration of the claim.

House amendment: No provision.

Compromise agreement: No provision.

The Committees note that they do not believe it is necessary to codify the requirements of notice in the Senate bill because the Committees believe these requirements are a fundamental part of due process rights.

Study of alternative methods

Senate bill: The Senate bill (section 109) would authorize the Administrator and the Chairman of the Board to study alternative methods of ensuring the prompt and efficient resolution of claims and affording claimants the opportunity for a timely and convenient hearing or review by a disinterested authority.

House amendment: No provision.

Compromise agreement: No provision.

Effective date of awards in reopened cases

Senate bill: The Senate bill (section 110) would permit retroactive awards for claims reopened and allowed on the basis of new and material evidence in the form of service records.

House amendment: No provision.

Compromise agreement: No provision.

The Committees note that they do not intend that any claimant be disadvantaged by the noninclusion of the Senate provision.

TITLE III—UNITED STATES COURT OF VETERANS APPEALS

Senate bill: The Senate bill (section 302) would amend chapter 71 of title 38, relating to the BVA, to redesignate the existing provision as subchapter I of chapter 71 and to add a new subchapter II providing for limited judicial review, in the U.S. Courts of Appeals, of (a) final decisions of the BVA denying claims for VA benefits, and (b) VA rules and regulations.

House amendment: The House amendment (section 5) would repeal the existing provisions of chapter 71, thereby eliminating the BVA, and replace them with provisions establishing a Court of Veterans' Appeals (CVA) with not more than 65 members, generally having jurisdiction over all questions involving benefits under laws administered by the VA (but utilizing the Regional Office record of the case in individual claims decisions), with limited appellate review of CVA decisions in the U.S. Court of Appeals for the Federal Circuit (CAFC).

Compromise agreement: The compromise agreement (section 301) would add a new chapter 72 providing for judicial review of BVA decisions on the record, and of VA rules and regulations challenged in the course of a case, by a new Article I court to be known as the United States Court of Veterans Appeals, with limited appellate review in the CAFC. Review of VA rules and regulations on their face, and the process by which they were issued, would be available in the CAFC under the new chapter as well as through direct appeal to the CAFC under new section 223, discussed above under the heading *"Veterans' Administration Rulemaking"*.

SUBCHAPTER I—ORGANIZATION AND JURISDICTION

Status

Senate bill: No provision. As noted above, judicial review under the Senate bill would be in the U.S. Courts of Appeals.

House amendment: The House amendment (new section 4001 of title 38) would establish an Article I court of record to be known as the United States Court of Veterans Appeals.

Compromise agreement: The compromise agreement (new section 4051 of title 38) contains this provision.

Jurisdiction and finality of decisions

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4002 of title 38) would provide for the Court of Veterans Appeals to have exclusive jurisdiction to consider all questions involving benefits under laws administered by the VA, except for review of the schedule of ratings for disabilities under section 355 of title 38 or any action of the Administrator in adopting or revising that schedule. In individual benefits cases, review would be based on the record of proceedings before the VA Regional Office. Decisions of the Court would be subject to appellate review as provided for in the House amendment, except that no other court would be permitted to review a determination by the Court of a factual matter.

Compromise agreement: The compromise agreement (new section 4052 of title 18) contains this provision with an amendment which (a) provides that the Court shall have the power to affirm, modify, or reverse a decision of the Board, or remand the matter, as appropriate; (b) reflects the retention of the BVA; and (c) provides that the Administrator may not appeal to the Court.

The committees note that review in the Court will be on the record created at Regional Offices and at the BVA.

Composition

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4003 of title 38) would—

(a) require the Court to be composed of a chief judge, two deputy chief judges, and not more than 62 associate judges;

(b) require that the judges be members of the bar of a Federal court or of the highest court of a State and be appointed by the President, by and with the advice and consent of the Senate, on the grounds of fitness to perform the duties of the office;

(c) require that the chief judge be the head of the Court;

(d) provide that the term of the chief judge be 15 years and the terms of the associate judges be 10 years;

(e) set the salaries for the chief judge and the two deputy chief judges at the rate for district court judges and the salaries for associate judges at the Executive Schedule Level IV rate; and

(f) provide (1) that the President may remove a judge from office, after notice and an opportunity for a hearing, on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability which, in the opinion of the President, prevents the judge from executing his or her duties, and (2) that, once a judge is removed for a reason other than physical disability, he or she would not be permitted to practice before the Court.

Compromise agreement: The compromise agreement (new section 4053 of title 38) contains the House provision with amendments providing that (a) the Court would be composed of a chief judge and not more than 6 nor less than 2 associate judges, with each to serve a term of 15 years; (b) the chief judge would receive the salary paid a judge for the U.S. Court of Appeals; (c) the associate judges would receive the salary paid U.S. District Court judges; and (d) not more than a bare majority (*e.g.,* not more than two out of three or four out of seven) of the judges on the Court may be of the same political party. The provision prohibiting judges removed from office from practicing before the Court, (f)(2) above, is not included.

Organization

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4004 of title 38) would—

(a) provide for the Court to have a judicially noticed seal;

(b) allow judges to hear cases alone or sitting in panels of at least three judges;

(c) require the chief judge to designate the chief of each panel;

(d) provide that a majority of judges would constitute a quorum for the transaction of business of the Court and that a majority of a panel would constitute a quorum for the transaction of the business of a panel; and

(e) provide that a vacancy in the court or a panel would not impair the powers or affect the duties of the Court or a panel or the remaining judges of the Court or of a panel.

Compromise agreement: The compromise agreement (new section 4054 of title 38) contains this provision with amendments to require the Court to establish procedures to assign judges to panels and determine whether a case is to be heard by a single judge or a panel.

Offices

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4005 of title 38) would provide that the Court shall have its principal office in the District of Columbia but may sit any place within the United States.

Compromise agreement: The compromise agreement (new section 4055 of title 38) contains this provision with an amendment adding a freestanding provision (section 303) to require that the principal office of the Court be located initially, if practicable, in an existing facility that, in the judgment of the Administrative Office of the United States Courts (AOUSC), would maximize efficiency and economy in the operation of the Court. In making this determination the AOUSC is to take into consideration the convenience of the location to needed library resources, support equipment, personnel and other needed resources.

Times and places of sessions

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4006 of title 38) would provide that the chief judge shall prescribe the times and places of sessions of the Court, with a view to securing reasonable opportunity to petitioners to appear before the Court with as little inconvenience and expense to petitioners as practicable.

Compromise agreement: The compromise agreement (new section 4056 of title 38) contains this provision with an amendment deleting the reasonable-opportunity clause.

The deleted clause was intended to encourage the Court to hear cases throughout the United States. The Committees do not believe this should be encouraged for a seven-member court, and note that the BVA is authorized to hear cases throughout the country.

SUBCHAPTER II—PROCEDURE

Scope of review

Senate bill: The Senate bill (proposed new section 4026 of title 38) would require a reviewing court, to the extent necessary to its decision and when presented—

(a) to decide all relevant questions of law; to interpret constitutional, statutory, and regulatory provisions; to determine the meaning or applicability of the terms of actions of the Administrator, compel action of the Administrator unlawfully withheld; and to hold unlawful and set aside decisions, findings (other than findings described at item (b), below), conclusions, rules and regulations of the Administrator or the BVA or its Chairman found to be—

(1) arbitrary, capricious, an abuse of discretion, or not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitation, or in violation of a statutory right;

(4) without observance of procedure required by law; or

(b) in the case of a finding of material fact made in reaching a decision on a claim for VA benefits, hold the finding unlawful and set it aside when it is so utterly lacking in a rational evidentiary basis that a manifest and grievous injustice would result if the finding were not set aside;

(c) require a reviewing court, before setting aside a BVA finding of fact, to specify where it finds the record deficient and remand the matter a single time to the Board for further action within a reasonable, specified period of time;

(d) allow the court to review the whole record relating to a BVA-denied claim and require the court to review those parts cited by a party and take account of the rule of prejudicial error;

(e) provide that in no event shall findings of fact made by the Administrator or the Board be subject to trial de novo by the court; and

(f) when a final decision of the Board is adverse to a party and the sole stated basis for such a decision is the failure of such party to comply with any applicable regulation, restrict the court to reviewing only the questions raised as to compliance with and the validity of the regulation.

The reviewing Court would not be authorized to modify the disability rating schedule.

House amendment: The House amendment (proposed new section 4042 of title 38) would require the Court of Veterans Appeals to base its decision on the entire record, but would provide the VA and the petitioner with an opportunity for a hearing, and contains various provisions for the presentation of evidence. Further review (discussed in detail below under the heading "Review by Court of Appeals for the Federal Circuit") would be in the Court of Appeals for the Federal Circuit (CAFC), which would be directed to hold unlawful and set aside any statute or regulation or interpretation thereof, other than a determination as to a factual matter, that the CAFC finds to be—

(a) contrary to constitutional right, power, privilege, or imunity;

(b) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

(c) without observance of procedure required by law;

(d) resting upon a policy judgment, reasoning, or factual premise so unacceptable as to render the matter arbitrary or capricious.

The CAFC would be precluded from reviewing the application of any law or regulation to the facts of the appeal unless a constitutional issue is presented.

Compromise agreement: The compromise agreement (new section 4061 of title 38) makes the Senate provisions applicable to the Court of Veterans Appeals with amendments (a) providing that review of a factual determination shall be in accordance with the "clearly erroneous" standard; (b) deleting the remand requirement (item (c) in the description of the Senate bill); and (c) deleting the provision specifically requiring review of the cited parts of the record.

The Committees note that the "clearly erroneous" standard for review of Board findings of fact is markedly wider than the standard specified in the Senate bill.

Fee for Filing Petition

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4011 of title 38) would allow the Court to impose a fee, not to exceed $50, for the filing of any petition with the Court. Any fee imposed could be waived by the Court upon a demonstration that it would impose a hardship, and a decision on the waiver would not be reviewable in any other court.

Compromise agreement: The compromise agreement (new section 4062 of title 38) contains this provision with an amendment allowing the Court to raise the filing fee periodically, taking into account inflation and the fees charged by other Article I courts.

Representation of Parties; Fee Agreements

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4012 of title 38) would—

(a) provide that the Administrator would be represented before the Court by the General Counsel of the VA and that petitioners would be represented in accordance with the rules of practice prescribed by the Court, although a qualified person could not be denied admission by reason of failure to be a member of any profession or calling; and

(b) require a person representing a petitioner before the Court to file a copy of any fee agreement with the Court at the time the petition is filed and authorize the Court to review the fee arrangement and order a reduction in the fee if the Court finds the fee to be excessive or unreasonable. Such an order would be final and not reviewable by any other court.

Compromise agreement: The compromise agreement (new section 4063 of title 38) contains this provision with amendments providing that those admitted to a bar or others who meet the criteria established by the court regarding standards for proficiency may represent appellants before the Court and that the Court may review the fee agreement (for representation in the Court or before the BVA or VA) upon a motion by a party or upon the Court's own motion.

The Committees note that appellants may represent themselves before the Court.

Rules of Practice and Procedure

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4013 of title 38) would provide for the Court to prescribe its own rules of practice, procedure, and evidence and provide that the mailing of a pleading, decision, process, or other document relating to proceedings before the Court by certified or registered mail properly addressed to the petitioner would be sufficient service.

Compromise agreement: The compromise agreement (new section 4064 of title 38) contains this provision with an amendment deleting the reference to rules of evidence and deleting the requirement for certified or registered mail.

Contempt Authority; Assistance to the Court

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4014 of title 38) would—

(a) authorize the Court—

(1) to administer oaths, to examine witnesses, and to issue subpoenas requiring the attendance and testimony of witnesses, or the production of necessary documents, or requiring a person to give a deposition;

(2) upon a showing of good cause, to subpoena a VA employee to testify at a hearing or give a deposition; and

(3) to punish certain behaviors it finds to be in contempt of court; and

(b)(1) provide for the Court to have the assistance in carrying out its writ, process, order, rule, decree, or command as is available to a Federal court, and (2) require the U.S. marshal for a district in which the court is sitting, upon the request the Court's chief judge, to attend any session of the Court.

Compromise agreement: The compromise agreement (new section 4065 of title 38) contains this provision with an amendment deleting (a) (1) and (2), above.

Notice of Appeal

Senate bill: The Senate bill (proposed new section 4025(b) of title 38) would provide for judicial review of final decisions of the BVA to be instituted by a civil action brought within 180 days after the mailing by the VA of notice of such a decision.

House amendment: The House amendment (proposed new section 4015 of title 38) prescribes a procedure, substantively similar to current section 4005 of title 38, relating to appeals to the BVA, for the filing of a notice of disagreement with a VA decision and an appeal to the Court, allowing 90 days from the mailing of the statement of the case for the filing of the notice of the appeal.

Compromise agreement: The compromise agreement (new section 4066 of title 38) contains a provision which would authorize judicial review by the Court of a final BVA decision which is adverse to the claimant upon the filing of a notice of appeal within 120 days after the BVA's mailing of notice of the final decision. A copy would also be required to be furnished to the Administrator.

Witness Fees

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4016 of title 38) would require that, where a witness is summoned or a witness's deposition is taken pursuant to a subpoena, the witness be paid the same fee and mileage as a witness in another court of the United States by the party who requested the witness to appear.

Compromise agreement: No provision.

Hearings

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4017 of title 38) would—

(a) require that notice and an opportunity to be heard upon a proceeding being instituted before the Court be given to the petitioner and the Administrator;

(b) authorize the Court in its discretion to close a hearing to the public;

(c) require that the testimony and argument at a hearing be stenographically reported; and

(d) authorize the Court to designate employees of the Court to conduct hearings relating to a case and to make recommendations to the Court with respect to the case.

Compromise agreement: No provision.

Decisions

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4018 of title 38) would—

(a) require that the Court make a decision on a petition as quickly as practicable;

(b) in cases heard by a panel, provide that a majority vote would decide the case;

(c) provide that a decision of a judge or panel would become final 30 days after the date of the report of the decision unless, upon the motion of a party, the request of the judge or panel, or the chief judge's initiative, the chief judge directs that a panel or expanded panel review the case; and

(d) require that each decision state findings of fact and conclusions of law, but allow, subject to conditions prescribed by the Court, the findings and conclusions to be stated orally and transcribed; and

(e) require the Court to designate in its decision any Government records on which it relied and require the VA to preserve records so designated for not less than the period designated by the Administrator of the National Archives and Records Administration.

Compromise agreement: The compromise agreement (new section 4067 of title 38) contains this provision with an amendment deleting the provision in (d), above, authorizing oral decisions, and revising the provision in (c), above, so as to provide for review of the decision by a panel, expanded panel, or the Court en banc, when the Court so directs upon the motion of a party or its own initiative.

Availability of proceedings

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4019 of title 38) would provide that—

(a) all decisions of the Court and evidence received by the Court, including transcripts of its hearings, would be public records open for inspection, except when the Court determines it is necessary to protect such records to prevent the disclosure of confidential information; and

(b) after a decision becomes final, the Court must permit a party to reclaim original documents and other exhibits introduced into evidence or may make such other disposition as it considers advisable.

Compromise agreement: The compromise agreement (new section 4068 of title 38) contains this provision with the reference to "evidence" deleted.

Publication of Decisions

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4020 of title 38) would—

(a) require the chief judge to designate those decisions of the Court which shall have value as precedent;

(b) require the Court to provide for the publication of decisions so designated in such form and manner as may be best adapted for public information and use;

(c) provide that such authorized publication would be competent evidence of the reports of the Court in all courts of the United States and of the several States without further authentication; and

(d) require the reports to be subject to sale in the same manner and on the same terms as other public documents.

Compromise agreement: The compromise agreement (new section 4069 of title 38) contains these provisions with amendments deleting the provision described at (a), above, and authorizing the Court to provide for itself or the chief judge to make appropriate exceptions to the general requirement of publication.

The Committees note that it is up to the Court to decide what is to be published based on this standard. There is no requirement for publication of all its decisions.

Subchapter III—Miscellaneous Provisions

Employees

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4031 of title 38) would authorize the Court—

(a) to appoint and pay such employees, in accordance with title 5 competitive service and pay provisions, as are necessary to execute the functions vested in the court, including specifically, physicians and other health professionals to provide it with expert medical advice; and

(b) to classify positions based upon the classification of comparable positions in the judicial branch.

Compromise agreement: The compromise agreement (new section 4081 of title 38) contains this provision with an amendment deleting the specific authority to employ physicians and other health care professionals.

The Committees note that under the general employment authority the Court would have the authority to hire physicians and other health professionals if it so desires and that, therefore, it is not necessary to provide such authority expressly.

Budget and Expenditures

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4032) would authorize the Court to make such expenditures as may be necessary to execute efficiently the functions vested in the Court, with the expenditures to be paid out of appropriated funds (except funds collected as practice fees, which would be used for the purpose of employing independent counsel to pursue disciplinary matters) upon the presentation of itemized vouchers signed by the certifying officer designated by the chief judge.

Compromise agreement: The compromise agreement (new section 4082 of title 38) contains this provision with an amendment that requires the President to submit the budget estimates submitted by the Court without further review in the Executive Branch.

The Committees intend that appropriations be provided directly to the Court.

Disposition of Fees

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4033 of title 38) would require that all fees received by the Court, except fees paid by persons admitted to practice before the Court be deposited into the Treasury as miscellaneous receipts.

Compromise agreement: The compromise agreement (new section 4083 of title 38) contains this provision.

Fee for Transcript of Record

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4034 of title 38) would authorize the Court to fix a fee, not to exceed that charged by district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any other papers and the comparison and certification thereof.

Compromise agreement: The compromise agreement (new section 4084 of title 38) contains this provision.

Practice Fee

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4035 of title 38) would—

(a) authorize the Court, in its discretion, to impose a periodic registration fee, not to exceed $30 per year, on persons admitted to practice before the court; and

(b) provide that such fees be available to the Court for the purpose of employing independent counsel to pursue disciplinary matters.

Compromise agreement: The compromise agreement (new section 4085 of title 38) includes this provision with an amendment permitting the Court to use such collected fees for the purpose described above and to offset administrative costs of implementing its standards of proficiency for practitioners before the Court.

Subchapter IV—Decisions and Review

Date When Court of Veterans Appeals Decision Becomes Final

Senate bill: No provision.

House amendment: The House amendment (proposed new section 4041 of title 38) would specify when a decision of the Court would become final. Under these provisions, the Court's decision would become final when one of the following occurs:

(a) The time for filing an appeal to the CAFC has expired without an appeal being filed.

(b) The CAFC affirms the decision of the Court or dismisses the appeal and either (1) the time for filing a petition for certiorari to the Supreme Court of the United States has expired without a petition being filed, or (2) a petition for certiorari is denied.

(c) The Supreme Court directs that the decision of the Court be affirmed or the appeal to the CAFC be dismissed and 30 days have expired after the date of the mandate of the Supreme Court.

(d) The Supreme Court orders the decision of the Court to be modified or reversed and either (1) after the Court renders a decision pursuant to the Supreme Court's mandate, 30 days have expired without the petitioner or the Administrator instituting proceedings to have the Court's decision corrected to accord with the Supreme Court's mandate, or (2) either the Administrator or the petitioner institutes such proceedings within that 30 days and the decision is corrected.

(e) The CAFC modifies or reverses the decision of the Court and either (1) the time for filing a petition for *certiorari* with the Supreme Court has expired without a petition being filed, or (2) a petition for certiorari is denied.

(f) The CAFC modifies or reverses the decision of the Court, the Supreme Court affirms the CAFC's decision, and either (1) after the Court renders a decision pursuant to the CAFC's mandate, 30 days have expired without either the petitioner or the Administrator instituting proceedings to have the Court's decision corrected to accord with the Supreme Court's mandate, or (2) either the Administrator or the petitioner has instituted such proceedings within that 30 days and the decision is corrected.

If either (1) the Supreme Court orders a rehearing, or (2)(A) the CAFC remands the case to the Court for a rehearing, and (B) the time for filing a petition for certiorari has expired without a petition having been filed, such a petition has been denied, or the CAFC's decision has been affirmed by the Supreme Court, the decision of the Court would become final in the same manner as it would if no prior decision of the Court had been rendered.

Compromise agreement: The compromise agreement (new section 4091 of title 38) contains this provision.

Review by Court of Appeals for the Federal Circuit

Senate bill: The Senate bill (proposed new section 4092 of title 38) would—

(a) authorize judicial review of a final decision of the BVA and of a rule or regulation issued or adopted by the Administrator when review thereof is requested by a claimant either in connection with an individual case or in an action brought only for the purpose of obtaining review of such rule or regulation;

(b) prohibit a court from directing or otherwise ordering that any disability rating schedule issued or adopted by the Administrator be modified;

(c) provide that review shall be in the U.S. Court of Appeals for the circuit in which the plaintiff resides or in which the plaintiff's principal place of business is located or in the United States Court of Appeals for the District of Columbia Circuit utilizing the scope of review described above under the heading of "Scope of Review";

(d) require that a claimant must commence a civil action for such review within 180 days after notice of a final BVA decision;

(e) require that the complaint contain sufficient information to permit the Administrator to identify and locate the plaintiff's records, and require the Administrator to file with the court pertinent documents or, if that is too burdensome, an index of those documents;

(f) specify that the court has the power to enter judgment or remand the case;

(g) provide a "sunset" for these provisions; and

(h) prohibit actions under these provisions with respect to chapter 19, relating to insurance and chapter 37, relating to housing and small business loans.

House amendment: The House amendment (proposed new section 4042 of title 38) would provide that—

(a) any party to a decision of the Court may obtain a review of the decision with respect to the validity of any statute or regulation relied on by the Court in making the decision (other than the schedule of ratings for disabilities under section 355 of title 38) and other than a factual determination (utilizing the scope of review discussed above under the heading of "Scope of Review") and that such a review would be obtained by filing a notice of appeal within such time after the notice of such decision is mailed to the petitioner as may be prescribed by the Supreme Court under section 2072 of title 28;

(b) the CAFC would have exclusive jurisdiction of the review described above, and the decision of the CAFC would be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28;

(c) under certain circumstances, an interlocutory appeal may be taken to the CAFC to resolve a controlling question of law if the ultimate determination of the case may be materially advanced by the immediate consideration of the question;

(d) the CAFC would have power to affirm, modify, reverse, or remand the decision of the Court of Veterans Appeals;

(e) rules for review of decisions of the Court of Veterans Appeals would be those prescribed by the Supreme Court under section 2072 of title 28; and

(f) that the CAFC and the Supreme Court may impose fines when a decision of the Court is affirmed and it appears that the notice of appeal was filed merely for delay.

Compromise agreement: The compromise agreement (new section 4092 of title 38) contains the House provision with amendments (a) providing that a notice of appeal must be filed within the time and in the manner prescribed for appeals to the U.S. Courts of Appeals from U.S. District Courts; (b) utilizing the Senate bill's scope of review for regulations, as discussed above under the heading "Scope of Review"; (c) clarifying that the only CVA decisions relating to the schedule of rulings that the CAFC would be precluded from reviewing would be decisions refusing to review issues relating to the schedule; and (d) providing that, except to the extent that an appeal under this chapter presents a Constitutional issue, the CAFC may not review a challenge to a factual determination or a challenge to a law or regulation as applied to the facts of a particular case.

With respect to the revisions in the House language with respect to the scope of review, the Committees note that (except where a challenge is based on Constitutional grounds) the CAFC would not have jurisdiction to review a challenge to a regulation as applied, but only a challenge to a regulation on its face, and could not reach a different conclusions on the facts from that reached below, but must accept the facts as found below.

Transfer of Personnel and Assets of BVA

Senate bill: No provision.

House amendment: The House amendment (section 7) would require the personnel, assets, liabilities, property and unexpended appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to or to be made available in connection with functions and offices of the BVA to be transferred to the BVA.

Compromise agreement: No provision.

Initial Appointment of Judges to Court of Veterans Appeals

Senate bill: No provision.

House amendment: The House amendment (section 8) would provide that the President may not appoint an individual to be a deputy chief judge or associate judge of the Court until the chief judge has been appointed, which must be done no later than April 1, 1989.

Compromise agreement: The compromise agreement (section 302) contains this provision with amendments deleting the reference to a deputy chief judge, changing the reference from deputy associate judges to associate judges, and providing that judges may be appointed after February 1, 1989.

TITLE IV—EFFECTIVE DATES AND APPLICABILITY

Effective dates

Senate bill: The Senate bill (sections 501 and 502) would provide for the Act to take effect on the first day of the first month beginning not less than 180 days after the date of enactment and provide that a civil action for judicial review—as authorized in subchapter II of chapter 71 as amended by the Senate bill— would be authorized to be instituted to review decisions of the BVA rendered on or after April 1, 1987.

House amendment: The House amendment (section 9) would provide for the Act to take effect on June 1, 1989; provide that the provisions of the Act would apply in the case of a petitioner who files a notice of disagreement with the VA on or after the date of enactment and that the BVA could not hear or decide such a case; and provide that the attorneys' fees provisions would apply to services rendered after June 1, 1989.

Compromise agreement: The compromise agreement (section 401, 402, and 403) would establish a general effective date of September 1, 1989, and provide for exceptions as follows:

(a) The following provision would take effect on the date of enactment:

(1) Section 201(b), (c), and (d), relating to setting up the new Board of Veterans' Appeals (BVA).

(2) Section 208, relating to the annual report on the BVA.

(3) Section 209, setting limitations on the awarding of performance incentives to BVA members.

(4) Sections 302 and 303, relating to setting up the Court of Veterans Appeals.

(b) Sections 202 through 207, relating to BVA adjudications, would take effect on January 1, 1989.

(c) Section 201(a), relating to the appointment and removal of the Chairman and members of the BVA, would take effect on February 1, 1989.

(d) The amendments made by the compromise agreement with respect to the establishment of judicial review would apply with respect to cases in which a notice of disagreement is filed under section 4005 of title 38 on or after the date of enactment.

(e) Section 104(a), relating to attorneys' fees, would take effect with respect to cases in which a notice of disagreement with a Regional Office decision is filed on or after the date of enactment.

COMPENSATION COST-OF-LIVING ADJUSTMENT AND MISCELLANEOUS PROVISIONS

Mr. Speaker, on July 26 we passed H.R. 4741 that which would have provided a 4.2 percent cost-of-living adjustment [COLA] for our service-disabled veterans and their dependents or survivors. It was only yesterday that the other body acted on its compensation COLA bill. Because of this, we had very little time to work out our differences. However, I believe we have come up with a good compromise measure. The amendments we offer today call for a 4.1-percent COLA, effective December 1, which reflects our best estimate at this time of what will be needed to offset the eroding effects of inflation on these income maintenance benefits.

Should the proposed 4.1-percent rate increase be enacted, the changes in compensation and DIC rates, effective December 1, would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE DEC. 1, 1988

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$71	$73
(b) 20 percent	133	138
(c) 30 percent	202	210
(d) 40 percent	289	300
(e) 50 percent	410	426
(f) 60 percent	516	537
(g) 70 percent	762	678
(h) 80 percent	754	784
(i) 90 percent	849	883
(j) 100 percent	1,411	1,468
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one of more creative organs, both buttocks, organic aphonis (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	63	63
(2) Limit for veterans receiving payment under (a) to (j) above	1,754	1,825
(3) Limit for veterans receiving benefits under (l) to (n) below	2,459	2,559
(l) Anatomical loss of loss of use of both feet, one foot and one hand, blindness in both eyes (5/200) visual acuity or less), permanently bedridden or so helpless as to require aid and attendance	1,754	1,825
(m) Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light preception only or rendering veteran so helpless as to require aid and attendance	1,933	2,012
Percentage of disability or subsection under which payment is authorized:		
(n) Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis	2,199	2,289
(o) Disability under conditions entitling veterans to two or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the should as to prevent use of prosthesis		
(p) (1) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in case may compensation exceed	2,459	2,559
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabiling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of one ear or service-connected loss or loss of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed	2,459	2,559
(3) Blindness with only light perception or less with bilateral deafness (hearing imnpairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling, the next intermediate rate is payable, but in no event may compensation exceed.	2,459	2,559
(4) Anatomical loss or loss of use of three extremities, the next higher rate in paragraphs (1) to (n) but in no event in excess of	2,459	2,559
(q) This subsection repealed by Public Law 90–493		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	1,055	1,098
(2) If the veteran, in addition to need for regular aid and attendance is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	1,572	1,636
(s) Disability rate as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	1,579	1,643
(t) This subsection repealed by Public Law 99–576		

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80 or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From	To
If and while veteran is rated totally disabled and—		
Has a spouse	$85	$88
Has a spouse and child	143	148
Has no spouse, 1 child	59	61
For each additional child	45	46
For each dependent parent	59	61
For each child age 18–22 attending school	131	136
Has a spouse in nursing home or severely disabled	155	161

The following increases are provided for surviving spouses of deceased veterans whose deaths are service-connected and who are receiving dependency and indemnity compensation (DIC) payments.

	Increase (monthly rate)	
	From	To
Pay grade:		
E–1	$518	$539
E–2	534	555
E–3	548	570
E–4	583	606
E–5	598	622
E–6	611	636
E–7	641	667
E–8	677	704
E–9	[1] 707	[1] 735
W–1	656	682
W–2	682	709
W–3	702	730
W–4	743	773
0–1	656	682
0–2	677	704
0–3	725	754
0–4	766	797
0–5	845	879
0–6	952	991
0–7	1,029	1,071
0–8	1,128	1,174
0–9	1,210	1,259
0–10	[2] 1,327	[2] 1,381

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $794.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,480.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows:

	Increase (monthly rate)	
	From	To
One child	$261	$271
Two children	376	391
Three children	486	505
Each additional child	97	100

Under the amendments, the Administrator of the VA would be authorized to provide discounts on annual premiums that are paid in advance for GI insurance policies and to begin paying interest on matured insurance policies from the date of a veteran's death until the policy proceeds are paid to a beneficiary. Both practices are common in the private sector and should be equally applied to Government insurance policies.

The compromise contains a recodification and liberalization of provisions governing the payment of certain death benefits payable at DIC rates to survivors of veterans who have been rated totally disabled for at least 10 years prior to their deaths. Under current law, death benefits may be paid to the surviving spouse of such a veteran only if he or she was married to the veteran for not less than 2 years immediately preceding the veteran's death. H.R. 4741 as passed by the House included an amendment that would have conformed the marriage requirements to those applicable to surviving spouses of veterans whose deaths are service connected, that is, the marriage must have existed for not less than 1 year or for no stated period if the marriage occurred within 15 years after the veteran's discharge from service or if a child was born of the marriage. I regret to say that the other body would not accept our provision in its entirety; however, the compromise would liberalize and modify criteria to the extent that no minimum length of marriage would apply if a child was born of the marriage, but retain the general 2-year requirement.

The measure would also extend for 3 years two temporary programs affecting certain compensation and pension recipients. These are known as the trial work period for veterans rated totally disabled due to individual unemployability and the program of vocational training for pension recipients. Participation in vocational evaluations under the trial work program would be made wholly voluntary and eligibility under the pension vocational rehabilitation program would be expanded to permit individuals who were awarded pensions prior to February 1, 1985, to participate in the program on a voluntary basis.

The amendments would also clarify existing law to ensure that monies received as reimbursements for casualty losses would be excluded from income for purposes of the VA pension and parents' DIC. Current law provides that proceeds received from fire insurance policies are excluded; however this provision has been narrowly interpreted by the VA. This amendment is being made to reflect a more broad approach to the manner in which casualty loss reimbursements are treated.

AGENT ORANGE PROVISIONS

Mr. Speaker, the compromise agreement would also make improvements in certain health care programs, memorial affairs programs, and rehabilitation programs of the veterans Administration. There are five provisions in this bill related to the issue of agent orange: Funding for blood tests that would make it possible to link previously gathered health information about Ranch Handers to actual exposure information; an extension of the special eligibility for VA health care for veterans who believe that their illness or disability is related to exposure to agent orange; an exemption for payments received as a result of the settlement of the agent orange product liability suit from being counted as income for purposes of VA pension benefits; modifications to outreach efforts of the VA with regard to agent orange; and some changes to the Ranch Hand Study Advisory Committee.

First, this bill would permit $4 million in funds appropriated in fiscal year 1984 for the agent orange epidemiological study to remain available until September 30, 1989. Of this amount, $3 million would be transferred to the Department of the Air Force for costs of conducting blood tests of individuals participating in the Ranch Hand epidemiological study. The remaining $1 million would be used for a review of the scientific literature pertaining to health effects of exposure to dioxin.

Mr. Speaker, the history of attempts to identify any links between exposure to dioxin, the contaminant in agent orange, has been long and complicated. Ever since Public Law 96-151 required a study of the relationship between exposure to agent orange and the health of Vietnam veterans, the best of our scientists have been unable to complete a definitive study. Public Law 97-72 expanded the original requirement to include a study of other factors in the Vietnam experience, and the Centers for Disease Control has been able to complete and publish that far-ranging scientific effort. However, the questions that pertain to agent orange and its direct health effects have not been answered because no scientifically valid and reliable way has been found to distinguish veterans who had been exposed from those who had not.

Fortunately, new technology in the form of a blood assay technique that measures dioxin residuals in human blood provides us a way to make that critical distinction. This new technique can be used together, with some already gathered health information in the Air Force Ranch Hand study, as a unique opportunity to conduct a comprehensive and epidemiologically sound study. The health information that is directly available is from the Air Force's longitudinal study of Ranch Hand personnel, those who participated in or directly supported the spraying missions in Vietnam.

The Congress has authorized and appropriated about $19 million for the CDC agent orange study that will revert to the Treasury if some action is not taken by the Congress this session. The funds were appropriated in the Supplemental Appropriations Act of 1984 (Public Law 98-181). Mr. Speaker, this is an opportunity to contribute greatly to solving the question of the health effects of agent orange and to do it in a cost-effective way.

Second, Mr. Speaker, this agreement would extend, from September 30, 1989 to December 31, 1990, the authority to provide basic VA health-care services for veterans' disabilities if it is found that the veteran, during active duty, may have been exposed in Vietnam to any toxic substance in a herbicide or defoliant, or to ionizing radiation from the testing of a nuclear device following World War II.

Public Law 97-72 provided this eligibility for health care for any disability except for a disability found to have resulted from some cause other than exposure to dioxin—or ionizing radiation—without requiring a determination of an association between that exposure and such disabilities. The intent of that legislation was to provide, in the context of scientific uncertainty, health care for health problems that might be determined at some later date to be associated with one of these exposures. Since the findings from the Centers for Disease Control study of selected cancers that may be associated with exposure to dioxin is still in process, and since the opportunity exists to investigate directly the link between exposure and health in Ranch Hand personnel, we believe that this extension is warranted.

Third, the agreement also includes a provision that states that amounts received as part of the settlement of the agent orange product liability litigation will not be considered as income for purposes of any of the needs-based programs administered by the VA, including nonservice-connected VA pension. I would like to acknowledge the fine efforts of the gentleman from New York, Hon. GEORGE HOCHBRUECKNER, in introducing and pursuing passage of similar legislation embodied in H.R. 4479.

Fourth, the proposed amendments would require the VA to conduct an outreach program to Vietnam veterans oriented to notifying them of health risks, if any, resulting from exposure to herbicides in Vietnam, as information on such health risks becomes known. In order to facilitate such an outreach effort, the bill would require the VA to take reasonable actions to organize and update the information contained in the VA's agent orange registry, particularly the addresses of veterans listed in the registry.

Last, the amendments would require some changes in the composition of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants which was established by the Secretary of Defense to monitor the conduct of the study of Ranch Handers, those Air Force personnel who participated in spraying missions in Vietnam during the Vietnam era.

It is with reluctance that I recommend the acceptance of this last provision. First, it interferes in the scientific process. Second, it might be interpreted by some as indicating that scientists who are employed by the Federal Government are not impartial and highly qualified.

Let there be no mistake about the reason for this provision. The intent is to strengthen the dedication to high quality science and, just as importantly, to the perception of high quality science. The provision sets qualifications for members of the advisory committee recommended by veterans organizations and specifically for the chairman. There is no question in my mind about the Ranch Hand study effort. It has been reviewed by a number of nationally respected scientists. However, there are some who question anything undertaken by the government that has to do with agent orange. This provision addresses that skepticism.

VETERANS MEMORIAL MEDICAL CENTER IN THE PHILIPPINES

Mr. Speaker, the amendments would extend the authority for the VA to make grants to the Veterans' Memorial Medical Center [VMMC] in the Philippines, through September 30, 1990. The policy underlying this program has been in existence since 1948 when the Congress enacted legislation to construct the VMMC and to provide contract care to the veterans in the Philippines who served in components of the U.S. armed services. This provision would also authorize an increase from $500,000 to $1 million in the amount of the grant in order to address the rising costs of construction materials and increased maintenance needed on the 34-year old hospital. In addition, the amendments would require reports due February 1, 1989 and February 1, 1990 describing the use of grant funds during the preceding fiscal years and a third report due May 1, 1989 containing information about the type, cost effectiveness, and quality of care furnished under this program.

OTHER PROVISIONS

Mr. Speaker, the agreement does not contain a provision that was in the original House bill and that was similar to a provision in the original Senate bill. That provision would have allowed the VA to appoint, without regard to civil service competitive examination and register procedures established by title 5 of the United States Code, individuals with degrees or certificates in health care from accredited institutions who have successfully completed a VA-affiliated clinical education program.

The reason that this provision is not in the bill that is before us today is that the other body would not agree to a provision which would insure that the current law making ineligible for employment certain applicants who knowingly and willfully fail to comply with a requirement to register under the Military Selective Service Act applied to these appointees. The other body did agree to retain a feature of the House bill that would have required veterans' preference to be applied in the direct-hiring, but would not agree to the Selective Service feature. I regret we had to drop this provision, despite the beneficial effect it would have had on the VA's ability to hire health care employees.

Mr. Speaker, testimony in hearings before the committee and in the two recent reports of site visits and of a nationwide survey of VA medical centers document the staff shortages being experienced in certain allied health-care professions whose appointments to VA employment are governed by title 5. Such allied health professions include pharmacology, occupational therapy, psychology, social work, audiology, speech pathology, dietetics and recreational therapy. Over 50,000 of these professionals are trained each year in VA hospitals, yet a 1982 report to the Congress showed that highly motivated allied health-care employees who might consider employment with the VA become frustrated by the length and complexity of title 5 civil service procedures and 94 percent of them accept employment offers elsewhere. I sincerely regret that we could not reach agreement on this provision.

Mr. Speaker, the agreement before us would convert to the Senior Executive Service [SES] Directors of VA medical facilities who are not physicians. Currently, such nonphysician directors are excluded from the SES, an exclusion that was based on a concern about the impact of the SES program on the medical care system and it was consistent with the VA's special appointment and pay authority for health care personnel.

However, certain anomalies have resulted from this exclusion. First, nonphysician directors are not treated in the same way as physician directors for the purpose of receiving performance awards. Second, pay disparities exist between some Directors appointed under title 38 and comparable VA executives such as the Department of Veterans' Benefits Regional Office Directors who are appointed under SES. Third, Associate Directors at the medical facility level and VA medical Regional Directors are appointed under title 5, while facility directors are appointed under title 38, creating an incoherence in career paths for nonphysicians.

The agreement would permit the VA to relocate Veterans' Readjustment Counseling Centers—known as vet centers—in existence on January 1, 1988 without regard to the national plan for vet centers if the relocation is away from a VA facility and the relocation is the result of circumstances beyond the control of the VA. Such a relocation may take place only after the end of the 30-day period on the date on which the VA notifies the Congress of the proposed relocation. In addition, the agent would authorize the movement of 17 vet centers from their current locations to other facilities away from a VA facility which were described in a July 25, 1988 letter from the VA's Chief Medical Director to the Committees on Veterans' Affairs of the House and Senate.

While there is no provision in the agreement, there is language in the explanatory statement recommending increasing staffing and improved services at the Veterans' Outpatient Clinic in Toledo, OH. Legislation was introduced in both the 99th and 100th Congresses after years of negotiations with the Veterans' Administration failed to resolve problems with the Toledo clinic which were first highlighted in a 1983 survey of that facility by the American Legion. That report concluded that "veterans are not being provided with the quality, quantity, and timeliness of health care one should expect at a VA facility."

The Toledo clinic has had three different administrators during the last 6 years. The Ann Arbor VA Medical Center has repeatedly delayed implementation of specialty services to meet an increasing caseload demand at the Toledo clinic. Furthermore, the medical center has frequently reduced or shifted staff and services at the clinic without any advance notification of such action. In addition, there is a very heavy demand for services at the Toledo clinic which is growing faster that anticipated. This clinic was expected to achieve 43,000 outpatient visits by fiscal year 1990. However, in fiscal year 1987, the clinic experienced 42,622 outpatient visits, 3 years ahead of the anticipated 1990 workload. The ratio of annual visits to staff at the Toledo clinic is 818 to 1, whereas the national data indicate that the ratio of annual visits to staff is 595 to 1.

The language in the explanatory statement accompanying this bill would direct the Veterans' Administration to add, above the present level of 61 FTEE's assigned to the clinic, a physician director, a full-time physician, and a patient representative. The physician director's position will be specifically directed to handle medical care and overall health policy management for the clinic including outreach to other health care providers and contract health services of the VA, especially psychiatric care, as well as outreach to homeless veterans.

In addition, the VA is directed to expand the affiliation between the clinic and the Medical College of Ohio including geriatric care, rehabilitative services, cardiology, and urology services.

Finally, the VA is encouraged to pursue an agreement under the authority of the VA/DOD Sharing Act.

MEMORIAL AFFAIRS AND CORREGIDOR

Mr. Speaker, with regard to memorial affairs, the agreement would extend the authority for the VA's State Cemetery Grant Program for 5 years.

Mr. Speaker, many important improvements have been made in the National Cemetery System since the enactment of Public Law 93-43, which transferred jurisdiction of all federally owned cemeteries, except Arlington National Cemetery, from the Department of the Army to the Veterans' Administration.

Public Law 95-657 authorized the establishment of the State Cemetery Grant Program. This Federal Grant Program is administered by the VA Department of Memorial Affairs to aid States in the establishment, expansion, and improvement of veterans' cemeteries.

The State Cemeteries Grant Program is intended to complement the VA National Cemetery System so that gravesites for veterans may be provided in those areas where national cemeteries cannot fully satisfy the burial needs of veterans. The VA provides up to 50 percent of the costs associated with the development, expansion, or improvement thereof.

Thus far, 12 States, including the territory of Guam, have been awarded grants totaling $10.5 million for Federal assistance in the cost of establishing, expanding, or improving State veterans' cemeteries. In total, 18 States have submitted 38 applications for assistance in acquiring land for improving facilities at 27 cemeteries totaling $24.2 million.

An additional 30 States have expressed an interest in the program and this measure would extend the State grant authority for an additional 5 years—through fiscal year 1994.

The proposed House amendments also contain a provision that would direct the American Battle Monuments Commission [ABMC] to restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines.

For this purpose, the bill would authorize an appropriation of $6 million for the projected cost of site preparation, design, planning, construction, and associated administrative costs for the restoration, as well as such sums as may be necessary for the future operation and maintenance of this memorial. The ABMC would have the authority to employ personnel as may be necessary, solicit private and corporate contributions, and work with other departments and agencies. The amendments also establish a fund in the Treasury for the purposes of carrying out this act. Funds collected in excess of the authorized amount would revert to the U.S. Treasury.

Mr. Speaker, in a mutual desire to consecrate the island as a memorial site to honor the thousands of American and Philippine servicemen who lost their lives in the Pacific area during World War II, a formal agreement between the United States and the Republic of the Philippines was signed at Manila and entered into force December 22, 1965. This agreement resulted in the construction of the Pacific War Memorial as a coordinated effort between the Corregidor-Bataan Memorial Commission of the United States and the Philippine National Shrines Commission.

Over the years, however, the committee has received many complaints about the deterioration of the Pacific War Memorial, the old barracks, gun emplacements and other memorial sites on the island. Therefore, upon the publication of an article which appeared in the July 1986 issue of National Geographic which depicted neglect and vandalism, I led a delegation to inspect this memorial and met with Philippine Government officials to discuss ways in which our two governments could work together to restore the Pacific War Memorial and other historic sites on the island.

Leaders of the Disabled American Veterans accompanied us on this trip; and during our visit, the organization committed $100,000 toward the restoration. The DAV later presented the Navy with an initial $34,000 of that commitment for materials and supplies to be used by the Navy Seabees for preliminary repairs on the memorial and adjacent museum and grounds. That work has now been completed.

The Secretary of State and Mrs. Shultz have also visited Corregidor. I wish to emphasize that the Secretary supports our efforts to restore Corregidor and the State Department is currently working to secure final agreement with the Philippine Government that would allow the American Battle Monuments Commission to complete the restoration. The ABMC oversees U.S. military monuments and burial grounds worldwide.

We understand the final agreement is expected in the very near future.

Mr. Speaker, there were about 15,000 Americans and Filipinos on Corregidor and three small fortresses in Manila Bay. More than 3,000 Americans and Filipinos lost their lives before the island was liberated from the Japanese in March 1945.

Corregidor must not be allowed to deteriorate further. It must be saved to honor the thousands of American and Philippine servicemen who lost their lives in that part of the world in order to preserve freedom.

There follows a detailed explanation of the House bills, the Senate amendment, and the compromise agreement on these provisions.

EXPLANATORY STATEMENT ON THE COMPROMISE AGREEMENT ON DIVISION B OF S. 11 AS AMENDED, THE VETERANS' BENEFITS IMPROVEMENT ACT OF 1988

This document explains provisions of various measures (listed below) passed by the Senate and House of Representatives and the provisions of a compromise agreement between the Senate and House Committees on Veterans' Affairs on those provisions, which will be offered as a proposed House amendment to S. 11 as amended and passed by the Senate on October 18, 1988. The differences between these various measures and the provisions of the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

The measures referred to above are as follow:

H.R. 4861, a bill to extend the authorization of appropriations for grants for State veterans' cemeteries as passed by the House on July 12, 1988 (hereinafter referred to as "H.R. 4861").

H.R. 4741, the proposed "Veterans' Compensation Act of 1988", as passed by the House on July 26, 1988 (hereinafter referred to as "H.R. 4741").

H.R. 4948, the proposed "Bill to Direct the American Battle Monuments Commission to Restore, Operate, and Maintain the Pacific War Memorial and other Historic Memorial Sites on Corregidor in the Republic of the Philippines", as passed by the House on September 20, 1988 (hereinafter referred to as "H.R. 4948").

The provisions (other than section 201 (a)) of H.R. 5114, the proposed "Veterans' Health-Care Programs Amendments of 1988", as passed by the House on September 22, 1988 (hereinafter referred to as "H.R. 5114").

The provisions (other than sections 301 and 302, part B of title III, and sections 606 and 702) of S. 2011, the proposed "Veterans' Benefits and Programs Improvement Act of 1988", the text of which was agreed to by the Senate on October 18, 1988, as an amendment to H.R. 4741 (hereinafter referred to as "S. 2011").

TITLE XI—COMPENSATION RATE INCREASES

Disability compensation and dependency and indemnity compensation (COLA)

House bill: The House bill (sections 2 through 7 of H.R. 4741) would provide for a 4.2-percent COLA, effective December 1, 1988, in the rates of VA disability compensation and DIC.

Senate amendment: The Senate amendment (section 101) would provide for the rates to be increased by the same percentage as the December 1, 1988, Social Security/VA pension COLA—currently estimated by the Office of Management and Budget to be 3.9 percent and informally estimated by the Congressional Budget Office to be 3.9 to 4.0 percent—effective on the same date.

Compromise agreement: The compromise agreement (sections 110-1106) provides for a 4.1-percent COLA, effective December 1, 1988.

TITLE XII—AGENT ORANGE AND RELATED PROVISIONS

Funding for agent orange blood testing

House bill: The House bill (section 306 of H.R. 4741) would provide, from the unexpended funds provided to conduct the Agent Orange epidemiological study mandated under Public Law 96-151, that $3 million be available for testing the blood dioxin levels of those individuals (so-called "Ranch Hand personnel") who are participating in an ongoing U.S. Air Force study of their health status.

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1201) contains this provision with amendments to increase the authorized amount to $4 million, with $3 million to be available for the Ranch Hand blood testing and $1 million to be available to fund a survey—to be conducted by an independent scientific entity under contract to the VA pursuant to a law enacted after enactment of the compromise agreement—of the scientific evidence, studies, and literature on the health effects of possible exposure to toxic chemicals contained in herbicides used in Vietnam during the Vietnam era.

The Committees note that the $4 million in question here is offset by $5 million in additional savings to be realized from the compromise agreement in section 103 of S. 2049 establishing a 7-month open period for the Montgomery GI Bill.

Extension of health-care eligibility based on agent orange or ionizing radiation exposure

House bill: No provision.

Senate amendment: The Senate amendment (section 220) would amend section 610(e)(3) of title 38 to extend, by 15 months, from September 30, 1989, to December 31, 1990, VA health-care eligibility for Vietnam veterans who may have been exposed to dioxin (and certain veterans exposed to ionizing radiation).

Compromise agreement: The compromise agreement (section 1202) contains this provision.

Treatment for Needs-Based Benefits Purposes of Amounts Received Under Agent Orange Litigation Settlement

House bill: No provision.

Senate amendment: The Senate amendment (section 221) would amend sections 415(f)(1) and 503(a) of title 38 to exclude from computation of income for purposes of VA needs-based pensions, parents' DIC, and health-care based on financial status, payments received in settlement of or as the result of a judgment in litigation based on injuries or disabilities alleged to have been incurred as a result of events that occurred during the active-duty service of a veteran—as long as the annual amount of such payments does not exceed the annual income limits set for pension benefits for a veteran with the same marital status and number of dependents. In a freestanding provision, payments received in settlement of *In re Agent Orange Product Liability Litigation,* MDL 381 (E.D.N.Y.), would be excluded from computation of income for purposes of all Federal needs-based benefits other than such VA benefits.

Compromise agreement: The compromise agreement (section 1203) includes a free standing provision which provides that payments received in connection with settlement of the *Agent Orange Litigation* are to be treated as reimbursement for prior unreimbursed medical expenses and shall not be counted as income for purposes of laws administered by the VA.

The House Committee notes that it has jurisdiction only over matters concerning VA benefits.

Ranch Hand Study Advisory Committee

House bill: No provision.

Senate amendment: The Senate amendment (section 232) would (a) require, effective March 1, 1989, that at least one-third of the Ranch Hand Study advisory committee (Advisory Committee) be composed of qualified scientists nominated by veterans' organizations; (b) provide that a scientist would be deemed "qualified" if he has received an appropriate advanced degree in a relevant field and has published relevant scientific articles, or has equivalent qualifications; (c) require, effective March 1, 1989, that the chairman of the Advisory Committee cannot be a Government scientist unless the Secretary of HHS makes determination, which the Secretary would be required to report to the Committees, and that a qualified non-Government scientist is not available; and (d) require the Secretary of HHS to furnish financial and logistical support to the Advisory Committee Chairman. The Senate amendment (section 234) would also require the Secretary of Defense to submit to the Committees a schedule of annual progress reports and a final report for the Ranch Hand study, which reports would then also be required to be submitted to the Committees.

Compromise agreement: The compromise agreement (section 1205) contains the provisions relating to the Advisory Committee membership, Chairman, and progress reports.

Agent Orange Outreach Services

House bill: No provision.

Senate amendment: The Senate amendment (section 218) would require the VA to (a) conduct an outreach program to keep Vietnam veterans informed of (1) new developments regarding the health effects of service in Vietnam, including annually providing updates on any such health risks, and (2) veterans' benefits and services available to such veterans; (b) reorganize the Agent Orange registry and keep it updated; and (c) take reasonable actions to organize the information in the registry so that it can be used by the VA to notify veterans promptly of any increased health risk from exposure to dioxin (or other toxic agent). In addition, the VA would be required to furnish to the Committees any information provided to veterans in (a)-(c), above

Compromise agreement: The compromise agreement (section 1204) contains this provision, with amendments providing that updates on any health risks be provided as information on such risks becomes known, rather than annually and deleting the requirement that information furnished to veterans be provided to the Committees as well.

TITLE XIII—REHABILITATION PROVISIONS

Temporary Programs of Trail Work Periods and Vocational-Rehabilitation Evaluations

House bill: No provision.

Senate amendment: The Senate amendment (section 303) would amend section 363 of title 38 and section 111(c) of Public Law 98-543 to (a) extend for three years, through January 31, 1992, the temporary programs of trial work periods and vocational-rehabilitation evaluations for service-connected-disabled veterans rated totally disabled based on a determination of individual employability, and (b) remove the requirement that these veterans undergo vocational rehabilitation evaluations to determine their rehabilitation potential.

Compromise agreement: The compromise agreement (section 1301) contains this provision.

Funding of educational and vocational counseling services

House bill: No provision.

Senate amendment: The Senate amendment (section 332) would amend chapter 36 of title 38 to add a new section 1797 to require that, subject to a $5 million limitation in any fiscal year, VA contracts for the educational and vocational counseling services provided to individuals applying for or receiving benefits under (a) the temporary program of vocational training under section 524 of title 38 for certain non-service-disabled veterans newly awarded need-based VA pension, or (b) any VA-administered program of educational assistance be paid for out of the VA's Readjustment Benefits account.

Compromise agreement: The compromise agreement (section 1302) contains this provision.

Vocational training for pension recipients

A. Extension of Program Period; Protection of Health-Care Eligibility

House bill: The House bill (section 9(b) of H.R. 4741) would amend sections 524 and 525 of title 38 to extend for three years, from January 31, 1989, until January 31, 1992, the temporary programs (a) of vocational training of certain non-service-disabled veterans newly awarded need-based pension, and (b) of three-year protection of veterans-pensioners' VA health-care eligibility if they lose pension entitlement as a result of work income.

Senate amendment: The Senate amendment (section 341) contains a substantively identical provision except that it extends the program for one year, from January 31, 1989, until January 31, 1990.

Compromise agreement: The compromise agreement (section 1303) contains the House provision.

B. Program Expansion

House bill: The House bill (section 9(a) of H.R. 4741) would amend section 524(a) of title 38 (a) to expand the program to permit veterans who were awarded pension prior to February 1, 1985, to apply for evaluations as whether their achievement of a vocational goal is feasible and, if so, to participate in vocational training, and (b) to remove the restriction providing that, under this program, not more than 3,500 veterans may be evaluated during any 12-month period beginning on February 1 on their potential to achieve a vocational goal.

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1303) contains the House provision described in (a), above.

TITLE XIV—MISCELLANEOUS BENEFIT PROVISIONS

Life insurance programs

A. Authority for Payment of Interest on Insurance Settlements

House bill: No provision.

Senate amendment: The Senate amendment (section 401) would, with respect to insurance policies maturing after the date of enactment, amend subchapters I and II of chapter 19 of title 38 to authorize the Administrator, where it is administratively and actuarially sound to do so, to pay interest on the proceeds of National Service Life Insurance (NSLI), Veterans' Special Life Insurance (VSLI), Veterans Reopened Insurance (VRI), and United States Government Life Insurance policies from the date the policy matures to the date the proceeds are paid.

Compromise agreement: The compromise agreement (section 1401(a)) contains this provision.

B. Authority to Adjust Discount Rates for Advance Payment of Premiums

House bill: No provision.

Senate amendment: The Senate amendment (section 402) would, with respect to premiums paid after the date of enactment, amend subchapter I to chapter 19 of title 38 to authorize the Administrator, where it is administratively and actuarially sound to do so, to adjust the discount rates for premiums paid in advance on NSLI, VSLI, and VRI policies, although no adjustments could be made below the discount rates currently authorized for each program—3 percent, 2.5 percent, and 3.5 percent, respectively.

Compromise agreement: The compromise agreement (section 1401(b)) contains this provision.

Income exclusion for casualty loss reimbursements

Senate amendment: The Senate amendment (section 709) would amend sections 503(a)(5) and 415(f)(1)(I) of title 38 to exclude reimbursement—in an amount not to exceed the fair market value or reasonable replacement value, whichever is greater—from any source for property loss, from the beneficiary's income used by the VA for purposes of determining eligibility for, and rates of, pension and parents' DIC.

House bill: No provision.

Compromise agreement: The compromise agreement (section 1402) contains this provision.

The Committees believe that the VA General Counsel has taken too restrictive a view of the authority provided under current law with respect to casualty loss reimbursements.

Recodification of provisions relating to certain benefits for survivors of certain veterans

House bill: House bill (section 8 of H.R. 4741) would (a) recodify, in a new section of title 38, provisions contained in section 410(b) of title 38, relating to DIC-equivalent benefits for survivors of certain veterans rated totally disabled at the time of death, and (b) in that new section, reduce from 2 years to 1 year the marriage-duration requirement for purposes of such DIC-equivalent benefits and establish, as alternatives to the duration-of-marriage criterion, the same alternatives that apply under section 404 of title 38 to DIC, *i.e.,* marriage within 15 years after service or a child born to the survivor and veteran.

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1403) contains this provision with an amendment deleting the provisions that would reduce the general marriage-duration requirement and require no specific marriage duration if the marriage occurs within 15 years after service.

TITLE XV—HEALTH CARE

Readjustment counseling facilities

House bill: No provision.

Senate amendment: The Senate amendment (section 607) would amend section 612A(g)(1), relating to the process by which community-based Vietnam-era veteran readjustment counseling centers (Vet Centers) in existence on January 1, 1988, may be moved, to authorize the VA to move such a Vet Center from one community location to another with 30 days notice, but without regard to the limitations enacted in Public Law 100-322, in cases in which the move is necessitated by "conditions beyond the VA's control" (*e.g.*, the landlord raises the rent to a level beyond what the agency is authorized to pay or the property is damaged or destroyed). This provision would also specifically authorize the movement, for reasons beyond the VA's control, of 17 Vet Centers to another community location, as proposed by the VA's Chief Medical Director in a July 25, 1988, letter to the Committees.

Compromise agreement: The compromise agreement (section 1501) contains this provision.

Contracts and grants for medical care for veterans in the Philippines

House bill: The House bill (section 201(b) of H.R. 5114) would—

(a) amend section 632(a) of title 38, relating to contracts for the furnishing of hospital care and medical services of United States veterans in the Philippines, to provide for a 3-year extension, through September 30, 1992, of the authority to enter into contracts with the Veterans Memorial Medical Center (VMMC) for the furnishing of such care and services; and

(b) amend section 632(b)(1) of title 38, relating to grants for the VMMC, to authorize the appropriation of $1,000,000 for fiscal years 1990 through 1992 for grants to assist the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such center.

Senate amendment: The Senate amendment (section 612) would—

(a) extend the contract authority for one year, fiscal year 1990, and authorize the appropriation of $500,000 for the grants for that year;

(b) require the Administrator of Veterans' Affairs to submit to the Senate and House Committees on Veterans' Affairs—

(1) February 1, 1989, and February 1, 1990, reports describing the use of grants funds during the preceding fiscal years; and

(2) a May 1, 1989, report containing:

(A) Information on the care furnished United States veterans in the Philippines in fiscal years 1986, 1987, and 1988, broken down by care for service-connected and non-service-connected disabilities, with respect to (i) the number of United States veterans furnished care at Veterans' Administration expense; (ii) the number of inpatient days of care and outpatient visits; and (iii) the amount of care and visits furnished at the VMMC or at other facilities.

(B) An analysis comparing the cost-effectiveness and quality of care furnished veterans through the VMMC and other facilities.

(C) A projection of the needs of United States veterans for care in the Philippines during fiscal years 1990 through 1993.

(D) A projection of the needs for the replacement and upgrading of the plant and facilities at the VMMC for fiscal years 1990 through 1993.

(E) The VA's plan for meeting the needs for care of United States veterans in the Philippines.

(F) Any planned actions and legislative recommendations of the Administrator.

(G) Any comments that the Secretary of State wishes to make on the contents of the report.

Compromise agreement: The compromise agreement (section 1502) contains the Senate provision with an amendment to authorize the appropriation of $1,000,000 for grants to the VMMC for FY 1990.

Technical corrections

A. Outpatient-Care Technical Amendments

House bill: No provision.

Senate amendment: The Senate amendment (section 710(a)(1)) would, effective retroactively to May 20, 1988, the date of the enactment of Public Law 100-322, amend section 603(a)(2)(B) of title 38 to correct technical errors in amendments made by that public law. Thus, this provision would correct provisions of section 603(a)(2)(B) which, contrary to the intent of the Conferees on that measure, (a) failed to make outpatient contract care authority available for veterans with service-connected disabilities rated at 30 or 40 percent, who have incomes at or below the VA pension standard, who are former prisoners of war (POWs), who are World War I veterans, or who are in receipt of compensation or pension aid-and-attendance or housebound benefits, and (b) made pre-hospital and obviate contract care authority available for certain veterans with incomes above the pension aid-and-attendance level. The provision would also ratify actions of the VA taken pursuant to the provision as corrected during the period beginning May 20, 1988, through the date of enactment.

Compromise agreement: The compromise agreement (section 1503) contains this provision.

B. Health-Care Personnel Technical Amendments

House bill: No provision.

Senate amendment: The Senate amendment (section 710(a)(2)) would amend section 4114(a) of title 38, relating to temporary full-time, part-time, and without-compensation appointments, to correct technical errors in amendments made by Public Law 100-322. Thus, this provision would authorize the Administrator to employ pharmacists and occupational therapists—occupations which were shifted into the so-called title 5/title 38 hybrid personnel category by Public Law 100-322—in such less-than-permanent-full-time appointments.

Compromise agreement: The compromise agreement (section 1503) contains this provision.

C. Health Personnel Tuition-Reimbursement Program Technical Amendment

House bill: No provision.

Senate amendment: The Senate amendment (section 709(a)(3) and (4)) would amend section 4324 of title 38, relating to the liability of a participant in the VA's health-care personnel tuition-reimbursement program to make repayments for breach of the service-obligation agreement, to—

(a) delete the requirement for tuition-reimbursement recipients to pay treble damages in instances where the recipient fails to complete the period of obligated service and, instead, require repayment of only those sums actually expended, prorated to reflect the time remaining in the agreement; and

(b) require that participants who fail to maintain VA employment while pursuing a course being paid for by the VA be held liable for the amount which has been paid or is payable by the VA on their behalf, rather than only amounts that have been paid.

Compromise agreement: The compromise agreement (section 1503) contains these provisions.

Land transfer, Rutherford, Tennessee

House bill: The House bill (section 308 of H.R. 5114) would (a) require that the Administrator of Veterans' Affairs transfer to the State of Tennessee all right, title, and interest of the United States in and to a tract of land consisting of not to exceed seven acres, together with improvements, at the Alvin C. York Veterans' Administration Medical Center in Tennessee. Any such transfer would have to be subject to (a) the conditions (1) that the property transferred be used by the State for a nursing care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of title 38 and (2) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property would revert to the United States, and (b) such additional terms and conditions as the Administrator considered appropriate to protect the interests of the United States.

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1504) contains the House provision with a Senate amendment that (a) that transfer shall be made without regard to section 5022(a)(2)(A) of title 38, United States Code, and (b) the transfer may be made only if the Administrator has determined that the State of Tennessee has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of title 38, United States Code and section 641 of such title) necessary to construct and operate a State home nursing facility.

Transfers of excess properties for State home facility uses

House bill: No provision.

Senate amendment: The Senate amendment (section 707) would amend section 5022(a) of title 38, relating to disposing of VA property, to authorize the VA to transfer real property, which is excess to the VA's needs, to a State for use as the site of a State veterans' home nursing-home or domiciliary care facility without regard to section 5022(a)(2) of title 38, which requires advance Congressional notice of transfers and receipt of fair market value for the property, or any other provision of law relating to the disposition of real property by the United States. The provision would require that such a transfer may be made only under the conditions that (a) the Administrator determines that the State has provided sufficient assurance that it has the resources—including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of title 38 (construction grants) and section 641 of that title (per diem payments)—to construct and operate such a facility; (b) the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of title 38, and if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States. In addition, the transfer would be made under additional terms and conditions as the Administrator considers appropriate to the interests of the United States.

Compromise agreement: The compromise agreement (section 1505) contains this provision with amendment that a transfer of property for this purpose may not be made unless the Administrator submits to the Committees on Veterans' Affairs of the Senate and the House of Representatives, before June 1 of the year in which the transfer is proposed to be made or of the preceding year, a report providing notice of the proposed transfer and a period of 90 consecutive days elapses after the report is received.

Conversion of non-physician medical center directors to senior executive service

House bill: The House bill (section 105 of H.R. 5114) would—

(a) amend sections 4101(e), 4103(a), and 4107(c), relating to the appointment and pay of employees hired pursuant to title 38, and establish a freestanding provision to provide for the conversion of non-physician VA hospital directors from appointment under title 38 to appointment under the Senior Executive Service authority in title 5; and

(b) provide that no individual would have a reduction in pay as a result of this provision.

Senate amendment: The Senate amendment (section 626) is substantively identical to the House bill and, in addition, includes a provision to allow any current director to elect, within 60 days of the date of enactment, to remain under the title 38 appointment authority for as long as the individual continued to serve as a director.

Compromise agreement: The compromise agreement (section 506) contains the Senate amendment.

Procurement through local contracts

House bill: No provision.

Senate amendment: The Senate amendment (section 704) would amend section 5025 of title 38, relating to procurement of health-care items through local contracts, to (a) postpone for four years, until December 1, 1992, the requirements that VA medical centers annually submit December 1 reports to the Administrator (containing lists indicating the quantity of each health-care item procured at each medical center under a local contract and the total amount paid for the item) and that the Administrator annually submit to the House and Senate Committees on Veterans' Affairs February 1 reports on the experience under section 5025 during the previous fiscal year; and (b) make a conforming change postponing until May 20, 1989, certain restrictions on procuring health-care items under local contracts. In lieu of the foregoing reports, the Administrator would be required to submit to the Committees by February 1, 1989, a report showing the percentages of the total of all health-care items procured by the VA in fiscal year 1988 through local contracts and follow-up reports, on February 1, 1990, 1991, and 1992, showing the percentages of the total of all health-care items procured by the VA and by each VA medical center in the prior fiscal year that were purchased through local contracts. In the case of each medical center where the percentage was greater than 20 percent, the Administrator would be required to provide an explanation for such level. Finally, this provision would amend (until December 1, 1992) the definition of the term "health-care item" in current section 5025 so that the definition would not include any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 73 (which includes food delivery items such as eating utensils, ladles, spatulas, and trays).

Compromise agreement: The compromise agreement (section 507) contains this provision.

Standardization of coverage of medical and pharmaceutical items

House bill: No provision.

Senate amendment: The Senate amendment (section 704) would amend section 402 of the Veterans' Benefits and Services Act of 1988, Public Law 100-322 (38 U.S.C. 5025), to require that the Administrator shall develop and fully implement an agency-wide plan for the cost-effective standardization of "health-care items as defined in section 5025(e)(1) of title 38, United States Code", procured by the VA. Current law requires such a plan for "medical and pharmaceutical items".

Compromise agreement: The compromise agreement (section 1508) contains this provision.

Technical clarification of period of clinical evaluation of alcohol and drug abuse program

House bill: No provision.

Senate bill: No provision.

Compromise agreement: The compromise agreement (section 1509) would make a technical amendment to a provision (section 620A(8)(1) of title 38) expected to be enacted in the Veterans' Benefits and Programs Improvement Act of 1989 (S. 2049 as passed by the House on October 12, 1988, with a substitute compromise amendment) requiring the conduct of a longitudinal clinical evaluation of certain alcohol and drug treatment programs. The amendment would specify that December 1, 1988, is the beginning date of the period during which the evaluation is to be conducted.

TITLE XVI—CEMETERY AND MEMORIAL PROVISIONS

Extension of authorization of appropriations for State cemetery construction grants

House bill: The House bill (section 1 of H.R. 4861) would amend section 1008(a)(2) of title 38, relating to construction grants for State cemeteries for veterans, to (a) specify that the fiscal year 1989 appropriation authorization for this program would be $9 million, and (b) extend for four years, through fiscal year 1993, the authorization of appropriations of "such as may be necessary".

Senate amendment: The Senate amendment (section 411) would amend section 1008(a)(2) to extend for five years, through fiscal year 1994, the authorization of appropriations for the program at the "such sums" level.

Compromise agreement: The compromise agreement (section 1601) contains the Senate amendment.

Pacific war memorials and other historical and memorial sites on Corregidor in the Republic of the Philippines

House bill: The House bill (H.R. 4948) would (a) authorize the appropriation of $6 million for the construction, and of such other sums as are necessary for the operation of, the Pacific War Memorial and other historical and memorial sites on Corregidor; and (b) require the American Battle Monuments Commission to restore, operate, and maintain the memorial (using only funds specifically so appropriated and private contributions).

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1602) contains this provision.

Provisions not included

In addition to the provisions discussed below, the House- and Senate-passed legislation, H.R. 5114 and S. 2011, respectively, included a number of provisions on which agreement could not be reached and which, therefore, are not included in the compromise agreement. Descriptions of the House provisions can be found in the report accompanying H.R. 5114 (H. Rept. No. 100-937) and descriptions of the Senate provisions, in the report accompanying S. 2011 (S. Rept. 100-439). Descriptions of provisions in the floor amendment to S. 2011 can be found on pages S16560 to S16575 of the CONGRESSIONAL RECORD for October 18, 1988.

A. House Provisions

Toledo, Ohio, outpatient clinic

House bill: The House bill (section 307 of H.R. 5114) would require the Administrator to upgrade the Toledo, Ohio, VA satellite outpatient clinic to an independent clinic effective October 1, 1988, and ensure that it has adequate funding in any fiscal year to continue in that status.

Senate amendment: No provision.

Compromise agreement: No provision.

The Committees direct that, within 90 days after enactment, 2 FTEE be added to the current FTEE complement for the following purposes: 1 physician from a medical school, affiliated or otherwise, to be assigned as clinic director and 1 full-time patient representative. The Committees also direct the VA to expand the affiliation with the Medical College of Ohio to include, where the College has particular expertise, clinical specialties in high demand by veterans as to which veterans visiting the Ann Arbor VA medical center are experiencing long waiting times for appointments. The Committees also encourage the development of agreements to share medical resources under the authority of the VA/DOD Sharing Act.

B. Senate Provisions

Clothing allowance

House bill: No provision.

Senate amendment: The Senate amendment (section 102) would expand the clothing allowance authorized under section 362 of title 38—currently payable to a veteran who, because of service-connected disability, uses a prosthetic or orthopedic appliance (including a wheelchair) which tends to wear out or tear the veteran's clothing—to include cases in which the Administrator determines that the veteran uses medication prescribed for a service-connected skin condition that stains or otherwise damages the veteran's clothing.

Compromise agreement: No provision.

Expansion of multiyear procurement authority to include non-medical items

House bill: No provision.

Senate amendment: The Senate amendment (section 705) would amend section 114 of title 38, relating to the VA's authority to make multiyear procurements of certain medical items, to (a) expand that authority to include non-medical items, and (b) make a technical correction in section 114(e)(2) so as to delete an unnecessary and faulty definition of the terms "cancel" and "cancellation".

Compromise agreement: No provision.

Home loan debt waiver

House bill: No provision.

Senate amendment: The Senate amendment (section 421) would amend section 3102(b) of title 38 to clarify that home-loan debt waivers are available to active-duty service personnel.

Compromise agreement: No provision.

Definition of Vietnam era

House bill: No provision.

Senate amendment: The Senate amendment (section 7010 would amend section 101(29) of title 38 to modify the definition of "Vietnam era" for general title 38 purposes to change the starting date to include, in the case of those who served in the Republic of Vietnam, the period beginning February 28, 1961, and ending August 4, 1964 (the day before the starting date in current law).

Compromise agreement: No provision.

Mr. Speaker, I'm grateful to the distinguished ranking minority member of the committee [Mr. SOLOMON] and the very able ranking minority member of our Subcommittee on Hospitals and Health Care [Mr. HAMMERSCHMIDT] for the leadership they have provided in putting this compromise together.

I appreciate the work of the gentleman from Ohio [Mr. APPLEGATE], chairman of our Subcommittee on Compensation, Pension and Insurance, and the gentlelady from Ohio [Miss KAPTUR], chairwoman of the Subcommittee on Housing and Memorial Affairs.

I want to thank the gentleman from Ohio [Mr. McEWEN], the ranking minority member of the Subcommittee on Compensation, Pension and Insurance, and the gentleman from Indiana [Mr. BURTON], the ranking minority member of the Subcommittee on Housing and Memorial Affairs. I'm especially grateful to my good friend and colleague, Mr. EDWARDS of California, for his leadership in resolving the differences on judicial review.

I want to thank a number of distinguished members in the other body for their work on this legislation: the gentleman from California [Mr. CRANSTON], chairman of the Committee on Veterans' Affairs; the gentleman from Alaska [Mr. MURKOWSKI], the ranking minority member of the committee; and two very able members of the committee [Mr. THURMOND and Mr. SIMPSON].

I urge the adoption of the proposed House amendments.

Mr. SOLOMON. I thank the gentleman for the explanation.

Mr. Speaker, continuing my reservation, I would just like to again thank SONNY MONTGOMERY for his outstanding leadership on the COLA issue and the judicial review issue.

Mr. Speaker, while we are at it, talking about cooperation, this vital piece of legislation could never have come about unless we had had the cooperation of the gentleman from California, Mr. DON EDWARDS, the gentleman from Illinois, Mr. LANE EVANS, the gentleman from Michigan, Mr. DAVID BONIOR, and the gentleman from California, TONY COELHO, the majority whip in your party, Mr. Speaker, and you, Mr. Speaker, for your cooperation because these are two vital pieces of legislation.

The COLA, itself, will take effect December 1. And of course, judicial review, which has been something that we all have been interested in for so long will now become law.

Mr. Speaker, I would at this time continue my reservation and yield to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of S. 11, as amended, to provide for an improved system of review of the decisions of the Veterans' Administration with respect to claims for veterans' benefits.

This is indeed a historical event. For a number of years, the Congress has grappled with the issue of judicial review for veterans. Today, we are about to give final approval to legislation which will, once and for all, give America's veterans their day in court.

Mr. Speaker, all of the major veterans' organizations support this legislation.

These service organizations include the American Legion, Veterans of Foreign Wars, Disabled American Veterans, and AMVETS. They represent veterans who served in World Wars I and II, Korea, and Vietnam.

The law now states that when there is the same amount of evidence for and against a veteran's case, the veteran, not the Government, is given the benefit of the doubt. This balance, which rightly favors America's veterans, will be preserved.

However, veterans will also be able to appeal their case in a court of law.

Chairman MONTGOMERY, and our distinguished ranking member, JERRY SOLOMON, along with Senators CRANSTON and MURKOWSKI, have forged a compromise bill which guarantees veterans a day in court without creating an adversarial method of decisionmaking at the VA. Our committee has a long history of consideration of court review of VA decisionmaking.

We have continually examined the procedure and substance of VA decisionmaking in order to determine whether the goals of timeliness, accuracy, and fairness were being met, and when appropriate, have reported legislation designed to increase the VA's ability to achieve these goals.

This bill is a continuation of that long tradition, and I strongly request my colleagues to add their voices in support of the compromise on judicial review.

Mr. Speaker, this legislation has now also been amended to incorporate H.R. 4741, the Veterans' Benefits Improvement Act of 1988.

This includes a 4.1-percent cost-of-living increase for over 2½ million veterans and their survivors who receive disability benefits. This cost-of-living increase will take effect December 1, 1988.

This legislation contains meaningful agent orange provisions which include the continuation of intensive research and new authorities to survey existing scientific evidence on the health effects of possible exposure to agent orange.

The bill will also extend, by 15 months, VA health care eligibility for Vietnam veterans who may have been exposed to agent orange.

This measure contains needed health care personnel recruitment provisions, the Montgomery Corregidor provision, and numerous technical corrections.

H.R. 4741 provides essential and lasting benefits to America's veterans and I urge my colleagues to support the bill.

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Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, I rise in support of S. 11, the Veterans' Judicial Review Act, and I sincerely compliment the distinguished chairman of the Veterans' Affairs Committee, Mr. MONTGOMERY, and the ranking minority member, Mr. SOLOMON, for their commitment to working this difficult issue out in a manner that I am confident will benefit veterans.

I would also like to commend LANE EVANS, a distinguished member of the Committee on Veterans' Affairs, for his steadfastness in working for due process for our Nation's veterans. I know that we would not have this bill before us today were it not for the efforts over many years of the gentleman from Illinois.

S. 11 makes significant and important changes by allowing veterans to have judicial review of VA rules and decisions, to have assistance of legal counsel, and by making important improvements in the operation of the Board of Veterans Appeals. I applaud those changes and improvements.

As a supporter of the legislation, I want to focus on several important points.

With regard to assistance of attorneys, the legislation provides that a veteran, once he or she has received an initial BVA decision and has sought an attorney's assistance to appeal that decision, is able to seek further BVA review with the assistance of counsel before going to court.

Thus, the bill permits an attorney representing a veteran to seek directly to reopen a BVA decision before the regional office.

The new U.S. Court of Veterans Appeals, as a judicial tribunal, has the authority to establish its own rules of practice and procedure. I would expect the court to exercise such rulemaking through an open and public process, along the lines set out in rule 83 of the Federal Rules of Civil Procedure for the U.S. district courts.

The new court has full judicial standing, including authority to issue and enforce its judicial decrees and writs—see *Noyd* v. *Bond*, 395 U.S. 683 (1969) in which the Supreme Court recognized "all writ" authority in the court of military appeals, an article I court.

Thus, one of the powers that this new article I court, like any other U.S. court, would have is the power to issue whatever writs are necessary to conduct its business. Section 1651 of title 28, United States Code, provides:

> The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

I would expect the court to utilize this power when it was determined to be necessary for it to do so in order for justice to prevail.

The U.S. Court of Veterans Appeals is given exclusive jurisdiction of cases involving decisions by the Administrator under a law that affects the provision of benefits by the Veterans' Administration. However, the establishment of the new court does not affect an individual's ability to bring any other type of challenge—such as a challenge to the lawfulness or constitutionality of VA action or procedure not involving a VA rule or regulation, or a challenge under the Freedom of Information Act or the Privacy Act, or an equal opportunity challenge, to name a few—through any judicial forum or process currently available to an aggrieved party.

Matters involving VA decisions or actions could be reviewed in a variety of ways. For example, in an individual claim for benefits, when there is no associated challenge to a VA rule or regulation, the claimant would be able to appeal a final BVA decision to the court of veterans appeals, which would conduct a full review of the decision based on the BVA record—a trial de novo would be prohibited. If the court were to find that, on the BVA record, the BVA's factual determinations were "clearly erroneous," the court would be able to modify or reverse the BVA decision or remand it for further proceedings at the BVA. No further review beyond the new court of such a purely factual matter on the merits of a benefits matter as determined by the BVA would be authorized in any other court.

On the other hand, if a claimant is making a challenge to either a VA rule or a VA regulation, there would be a choice of forums. The claimant could make the challenge to the rule or regulation directly to the U.S. Court of Appeals for the Federal Circuit under new section 223, to be added to title XXXVIII by section 102 of this legislation. That court would then use the Administrative Procedure Act [APA] standards, as set forth in chapter 7 of title 5, to review the challenge. Procedures for review of agency rules and regulations which are otherwise available in the U.S. court of appeals would be available in such cases.

Alternatively, if the claimant brought the challenge to a rule or regulation as part of a benefits case—presenting either a facial challenge or one to the rule or regulation as applied to the facts in a particular case—an appeal from the BVA's decision against the claimant would have to be brought in the new court of veterans appeals.

In such a case, the BVA, by law, would have had to follow VA rules and regulations and interpretations thereof, so the claimant's challenge to the rule or regulation would have to be made in the court of veterans appeals. There, the court would conduct a review on the record made at the BVA with respect to the fact of the individual's case or on the agency record underlying the rule or regulation, utilizing the standards for review which are codified in this legislation.

Under new section 4092(d)(2) of title XXXVIII, the U.S. Court of Appeals for the Federal Circuit would not be authorized, except to the extent that the appeal presented a constitutional issue, to review a challenge to a factual determination or a challenge to a law or regulation as applied to the facts of the claimant's case. Otherwise, the court is authorized to decide all relevant questions of law—with one exception relating to the disability rating schedule—including interpreting constitutional and statutory provisions.

There has been much debate over the scope of review for factual matters decided by the BVA. The standard for factual review in the U.S. Court of Veterans Appeals in this legislation is the "clearly erroneous" standard, which is far broader than the standards articulated in previous Senate legislation, and is expected to permit the court to engage in a full and fair review of BVA decisions on factual issues.

"Clearly erroneous" is the standard used by U.S. courts of appeals when they review factual determinations made in U.S. district court trials and by U.S. courts of appeals when they review decisions of the U.S. Tax Court, also an article I court.

Despite the relatively significant amount of both case law and commentary on this standard, the full extent of the "clearly erroneous" standard is not totally clear, but there is no question that it is not a particularly restrictive standard of review.

In establishing this as the standard for review by the new court of factual determinations made by the BVA, we were influenced by the analysis made by Kenneth Culp Davis, perhaps the leading commentator or administrative law matters, in his Administrative Law Treatise, Second Edition, 1984, Vol. 5, in which he discusses the state of the law relating to various standards of review including "clearly erroneous," "substantial evidence," "Clear error of judgment," and "arbitrary and capricious."

Mr. Speaker, I ask unanimous consent that the relevant portion of that analysis be printed in the RECORD at this point.

ADMINISTRATIVE LAW TREATISE

§ 29:5. THE STANDARDS OF "SUBSTANTIAL EVIDENCE," "CLEARLY ERRONEOUS," AND "CLEAR ERROR OF JUDGMENT"

Believe it or not, Supreme Court opinions put "clearly erroneous" on one side of "substantial evidence" and they put "clear error of judgment" on the other side, and the whole structure of the standards for review seems to break down.

An understanding of what has happened has to begin with the law of review of findings of judges and juries, from which the law of review of administrative action grew. During the 19th century, the practice developed of reviewing jury verdicts less intensively than findings of judges without juries, and early in the 20th century the difference was crystallized. Equity cases differed from law cases, but the Supreme Court in 1938 adopted Rule 52(a) of the Federal Rules of Civil Procedure, which still provides: "In all actions tried upon the facts without a jury . . . findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses." The "clearly erroneous" test thus became deeply established.

Review of jury verdicts developed over the centuries in England and America, but throughout the 20th century review has been limited to the determination of whether the verdict is supported by "substantial evidence." At an early time the courts treated the Interstate Commerce Commission with more respect than they gave to the Federal Trade Commission, but soon the law settled down to reviewing administrative findings in accordance with the standard of substantial evidence. The standard came from the courts, not from Congress. In a 1913 case, the Supreme Court said it should "examine the record with a view to determining whether there was substantial evidence to support the order." ICC v. Louisville & N.R.R., 227 U.S. 88, 94 (1913). The Court had spoken of "mixed questions of law and fact" in ICC v. Union Pac. R. Co., 222 U.S. 541, 547 (1912). The Federal Trade Commission Act of 1914 provided: "Findings of fact, if supported by substantial evidence, shall be conclusive." 38 Stat. 717 (1914), 15 U.S.C. § 41. The law that was thus established has not changed in the ensuing three-quarters of a century.

The judicial tendency toward the substantial evidence rule for review of administrative action became so strong that it was often followed even when a statute prescribed a different scope of review. For instance, although the Immigration Act of 1917 provided that the administrative determination "shall be final," the review was often guided by the standard of substantial evidence; see the full statement in Kessler v. Strecker, 307 U.S. 22, 34 (1939).

During the 1930s, Congress followed the courts' leadership by prescribing substantial evidence as the guide for judicial review under the Securities Act, National Labor Relations Act, Federal Power Act, Fair Labor Standards Act, and other statutes.

The Supreme Court has often lumped together the review of jury verdicts and of administrative findings. "Substantial evidence is more than a scintilla, and must do more than create suspicion of the existence of the fact to be established. 'It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion,' . . . and it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury." NLRB v. Columbian E. & S. Co, 306 U.S. 292, 300 (1939). Both the jury and the agency determine credibility of witnesses and draw the inferences. Gunning v. Cooley, 281 W.S. 90, 93 (1930); FTC v. Pacific States Paper Trade Ass'n, 273 U.S. 52, 63 (1927); NLRB v. Nevada Consolidated Copper Corp., 316 U.S. 105 (1942). On that base, the idea gradually grew that the test was whether the administrative determination had "warrant in the record" and "a reasonable basis in law." E.g., NLRB v. Hearst Publications, Inc. 322 U.S. 111, 131 (1944).

Judges' findings, which were mainly in equity cases, were reviewed de novo by appellate courts when they were based on interrogatories and depositions, but after adoption of the 1912 Federal Equity Rules, appellate courts refrained from substituting judgment for trial judges who had heard the witnesses testify. Findings were accepted unless they were found to be "clearly erroneous."

The classical study comparing "substantial evidence" with "clearly erroneous" is Stern, Review of Findings of Administrators, Judges and Juries: A Comparative Analysis, 58 Harv. L. Rev. 70 (1944). He states "reasons why a trial judge's findings should not be accorded the same deference as those of a jury or an administrator—why 'clearly erroneous' permits a broader review than "substantial evidence.'" Id. at 84. Under "substantial evidence" the test is whether a reasonable person could draw the conclusion reached, and a finding can be clearly wrong without being unreasonable. Stern says that policy and history join in demonstrating that the two standards differ. The Supreme Court in District of Columbia v. Pace, 320 U.S. 698 (1944), held that a statute conflicted with itself in providing for review in the same manner as administrative determinations, findings of fact by an equity court and verdicts of juries. The Court said that "findings of fact by an equity court and the verdict of a jury have from time immemorial been subject to different rules of finality," that findings in equity "are to be undisturbed unless clearly wrong," but review of a jury verdict "is much more restricted." Id. at 701, 702. No later law has changed any of the words quoted from the Pace opinion. The D.C. Circuit has stated that "under the 'clearly erroneous' review a court may substitute its judgment for that of the trial court and upset findings that are not unreasonable." Ethyl Corp. v. EPA, 541 F.2d 1, 35, n. 74 (D.C. Cir. 1976). The Stern article contains additional reasons, which need not be restated here, and concludes: "Policy, authority and history all thus show that the 'clearly erroneous' rule gives the reviewing court broader powers than the 'substantial evidence' formula." 58 Harv. L. Rev. at 88–89. No significant law to the contrary has been found.

Even when a district judge finds an "ultimate fact," a court of appeals is in error when it makes its own finding, for the "clearly erroneous" standard under Rule 52(a) applies to all findings, including findings of ultimate facts. Pullman-Standard v. Swint, 456 U.S. 273 (1982). The court of appeals had reversed what it "thought was an erroneous finding as to whether the differential impact of the senority system reflected an intent to discriminate on account of race. That question, as we see it, is a pure question of fact, subject to Rule 52(a)'s clearly erroneous standard. It is not a question of law and not a mixed question of law and fact." Id. at 287–88. Two Justices dissented on other grounds.

The distinction between "erroneous" and "clearly erroneous" is a refined one that is often hard to draw. In United States v. United States Gypsum Co., 333 U.S. 364, 395 (1948), the Court said that a finding of fact is clearly erroneous if "the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." That test has been consistently applied and has been quite satisfactory.

The Court held in Inwood Laboratories v. Ives Laboratories, 456 U.S. 844, 856 (1982): "By rejecting the District Court's findings simply because it would have given more weight to evidence of mislabeling than did the trial court, the Court of Appeals clearly erred. Determining the weight and credibility of the evidence is the special province of the trier of fact. Because the trial court's findings concerning the significance of the instances of mislabeling were not clearly erroneous, they should not have been disturbed." Justice Rehnquist, concurring in the result, said: "I disagree, however, with the Court's determining for itself that the findings of the District Court were not clearly erroneous." Id. at 864.

The law has thus been deeply established that "clearly erroneous" involves broader review than "substantial evidence." The courts have been confused on the question whether the standards of "substantial evidence" and "arbitrary or capricious" are the same or differ; see § 29:7. But the Supreme Court firmly said in Abbott Laboratories, Inc. v. Gardner, 387 U.S. 136, 143 (1967), that "a 'substantial evidence' test" afforded "a considerably more generous judicial review than the 'arbitrary and capricious' test . . ."

On that background, one can readily see that the whole structure of established law about scope of review of juries, judges, and agencies was largely destroyed by the Supreme Court's casual remark in *Citizens to Preserve Overton Park* v. *Volpe,* 401 U.S. 402, 416 (1971) that under the "arbitrary and capricious" standard a court "must consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment." That remark put "clear error of judgment" on the opposite side of "substantial evidence" from "clearly erroneous." The previous law had been settled ever since District of *Columbia* v. *Pace,* 320 U.S. 698 (1944), that review (of a jury finding or an agency's finding) under the "substantial evidence" standard "is much more restricted," id. at 702, than review of a judge's finding under the "clearly erroneous" standard.

The effect of the Overton Park remark was to subject an agency's finding to the broader review under the "clear error of judgment" test, even though an agency's finding had previously had narrower review under the "substantial evidence" standard. Before Overton Park "substantial evidence" review was narrower than "clearly erroneous" review, but according to Overton Park review under the "arbitrary or capricious" standard was "clear error in judgment"—a standard that seems verbally indistinguishable from "clearly erroneous."

Another way to state the effect of Overton Park: The "clearly erroneous test" had long been on one side of "substantial evidence," but the Overton Park language put "clear error in judgment" on the opposite side of the "substantial evidence" test.

A rational reader of the Supreme Court's Pace, Abbott, and Overton Park opinions is forced to throw up his hands and conclude that "clear error" cannot be on both sides of "substantial evidence" at the same time. That is one reason, along with many other reasons, for concluding that the refinements about the formulas for scope of review have become more harmful than helpful. All the arrows point to the conclusion that a broad formulation, such as the italicized proposition in the first paragraph of § 29.1, is better.

I am confident that utilization of the clearly erroneous standard by the court of Veterans Appeals will permit that Court to carry out a more complete analysis of factual matters than would be appropriate under an arbitrary and capricious standard, another review standard that had been suggested, and certainly a far more complete analysis than under the original S. 11 standard. I agree with Professor Davis' suggestion that the clearly erroneous standard should result in more fact review than if the substantial evidence standard in the Administrative Procedure Act were adopted here.

Mr. Speaker, a question has been raised as to how the changes made in this legislation might affect cases currently pending in Federal or State court. I note that, as a general principle of law, once jurisdiction attaches in a case, a court continues to have jurisdiction over the matter until a decision has been reached. Accordingly, no pending case would be adversely affected by the compromise agreement.

On a final note, it is clear that the Equal Access to Justice Act (28 U.S.C. 2412(d)) is applicable to VA benefit cases determined in Federal Court. That act states: "Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses * * * in any civil action * * * in any court having jurisdiction of that action." It is applicable on its face to VA benefit determinations made by either the Court of Veterans Appeals or the U.S. Court of Appeals for the Federal Circuit.

Mr. Speaker, I believe that S. 11 is a significant step forward for veterans, and I urge our colleagues to support it. Again, I compliment Congressman MONTGOMERY and Congressman SOLOMON, as well as the members of the Veterans' Affairs Committee. I especially compliment Congressman LANE EVANS, who never waivered in his commitment to judicial review for veterans.

Much credit is due to the staff who worked so diligently on this issue—Mack Fleming, Pat Ryan, John Brizzi, Rufus Wilson, and Kingston Smith on the House side, and Jon Steinberg, Bill Brew, Ed Scott, Elizabeth Buechler, Deborah Leon, Charlotte Hughes, Sharon Blackman, Tom Roberts, and Al Ptak on the Senate side. It was quite a team effort, and happily a successful one. I compliment each of them for a job well done.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from California for his remarks.

Mr. Speaker, this just shows us what reasonable man can accomplish when they get together and go about it.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the chairman of the committee.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding.

I do not want to talk too long, because I dont want to get to the point where reasonable men might change their minds.

Certainly, there should be compliments paid to many today, Mr. Speaker. This is landmark legislation, and thanks should go to the gentleman from New York [Mr. SOLOMON], the gentleman from Michigan [Mr. BONIOR], and the gentleman from California [Mr. COELHO], all members of our leadership, as well as to the gentleman from Illinois [Mr. EVANS]. And especially we should pay our thanks to the gentleman from California [Mr. EDWARDS], because when it looked like this was going to fall apart, he came in and pulled us back together. And on the Senate side, both Senator CRANSTON and Senator MURKOWSKI were certainly helpful.

Mr. Speaker, this has been a wonderful day for veterans, and I appreciate the cooperation of the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, just before I withdraw my reservation of objection, let me also take off my hat to the gentleman from Mississippi [Mr. MONTGOMERY] for his efforts.

Yesterday, Mr. Speaker, the Senate, finally acting responsibly, as this House had done many months before, passed the Cabinet-level legislation which creates a Department of Veterans' Affairs. Ronald Reagan will sign that legislation next week, and this is a great day for the veterans of this Nation.

Mr. Speaker, I withdraw my reservation of objection.

Mr. BURTON of Indiana. Mr. Speaker, I wish to add my voice in strong support of the bill, S. 11 as amended. This historic measure is a clear victory for veterans and an important achievement for veterans rights.

Judicial review has been debated and discussed for about a decade now. There have been disagreements, some of them bitter. But a consensus has emerged that improvements were needed in the adjudication process. The prime concern and motivation was the best interest of our Nation's veterans—those who gave of themselves that our Nation might preserve its freedom.

I have received numerous letters from concerned veterans in my district, and I am sure that my fellow Members of this body can report the same. As I told my own constituents, even one veteran falling through the cracks of justice, is one veteran too many.

Thanks to the leadership of our distinguished chairman, SONNY MONTGOMERY, and of our esteemed ranking member, the one and only JERRY SOLOMON, we have come up with a judicial review bill which is a great credit to its authors and a great accomplishment for all veterans.

The specialty court will be an independent, impartial body, and the benefit of the doubt will be given to the veterans, as it should. The Veterans Committee was determined to achieve the best possible adjudication solution, and I commend all of my colleagues on the committee for this momentous achievement. Our work is not completed. We need to keep striving to give our veterans the best that we can. But we have definitely taken a positive step forward.

I also note that the bill contains a 4.1 percent cost-of-living increase for disability compensation, as well as for dependency and indemnity compensation. This is a well-deserved necessity for our honored vets that will insure that they will not lose ground economically. I applaud it heartily.

I urge my colleagues to support the bill.

Mr. JEFFORDS. Mr. Speaker, I'm pleased that we in the House finally passed the Veterans' Administration Adjudication and Judicial Review Act. It is encouraging that the compromise agreement between the House and the Senate did iron out some of the concerns I expressed when the judicial review bill originally passed the House.

This compromise provides for the establishment of the Court of Veterans Appeals in addition to the present Board of Veterans Appeals. I believe that this truly does afford veterans the right to due process that they should have had long ago.

However, I am distressed by a very serious omission in the bill. It seems that, behind closed doors, some of my "esteemed" colleagues decided to drop provisions unanimously endorsed by the Senate to provide interim compensation to those veterans exposed to agent orange for non-Hodgkin's lymphoma and soft-tissue sarcoma.

Veterans have been trying for many years to get Congress to acknowledge service connection for the numerous medical problems they experience. I really felt as though we were on the right track with this legislation but suddenly it seems that we will have to start all over again.

Unfortunately, all this Congress has to offer these veterans is yet another study. The vets in my State feel as though this issue has been studied enough. They want their Government to take some responsibility for its actions. I don't blame them for being upset. Congress has just slapped them in the face again.

Mr. Speaker, let me make it clear that my commitment to these agent orange vets will continue. I am encouraged that Members of the Senate, led by Senator DASCHLE, provided such overwhelming support for the legislation. I only hope that in the next Congress, the House will follow suit and let these vets know that we will put our money where our mouths are and compensate them for all of their service-related disabilities—even those resulting from exposure to agent orange.

The SPEAKER. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the legislation just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

HOME EQUITY LOANS: BUYER BEWARE

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, while lenders, regulated and unregulated, are tripping over each other to offer the "hottest consumer product in America today"—home equity loans—these same lenders often fail to tell the consumer that he can lose his home in the process. Few slick ads or hard-sell campaigns warn consumers that the lender will foreclose on their home if they don't pay up. With the possibility of an economic downturn being discussed by many—despite what our Vice President says—the consumer needs to be concerned. You can't pay back your loan if things suddenly turn bad for you.

These are not small loans. The 1986 tax revision bill allows consumers to deduct the interest on home equity loans up to $100,000. And, these loans are gaining in appeal because the tax law called for the phaseout of other forms of credit interest deductions.

For this reason it is essential that the consumer be provided all the necessary information before deciding to contract for a home equity loan and be protected from unilateral change in the contract.

That's why we need to enact the home equity disclosure legislation before we adjourn. The House passed the bill—H.R. 3011—on June 20, and I am hopeful that the Senate will act today.

Home equity loans can become ticking economic time bombs unless consumers are careful and fully informed.

THE OCEAN DUMPING BAN ACT OF 1988

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SAXTON. Mr. Speaker, I wish to take this opportunity to bring to the attention of the Members something that will occur in the House later today, the passage of the conference report on S. 2030, the Ocean Dumping Ban Act of 1988.

Today as never before, the public understands the need to protect the ocean environment for the benefit of the wildlife in the sea as well as the benefit of people from the worldwide community.

Congratulations on a job well done to the other cosponsors of the bill, Mr. Hughes of New Jersey, Miss Schneider of Rhode Island, and Mr. Carper of Delaware.

CLOSED CAPTIONING FOR THE HEARING-IMPAIRED

(Mr. SWIFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, for many of us, one of the most rewarding things about public service is reaching out and helping people whose problems are real but are often overlooked in the wake of issues that make the headlines and get the attention of the world.

Our colleague, Don Bonker, has this admirable characteristic of finding time amidst the so-called "big issues" to take on the matters that sometimes get left by the wayside. For example, while Don is one of the acknowledged experts on trade—currently a major international issue—he has also had time to take up an important issue for people who are hard of hearing.

Don has worked with the National Captioning Institute in developing a bill (H.R. 5178), that he introduced this August that would require Federal institutions and private organizations which receive Federal financial assistance to make available television services capable of displaying closed-captioning to ensure the best possible dissemination of useful and necessary information. The statistics are compelling: More than 24 million Americans are deaf or hearing impaired; 38 percent of our Nation's elderly suffer from some loss in hearing; and captioned television can prove a significant help to hearing-impaired children, improve literacy skills among adults, and assist the reading skills of those to whom English is a second language.

One section of this bill particular can—and should—have an immediate implementation. Section 5 of H.R. 5178 states that, "Each public service announcement which is sponsored by or funded in whole or in part by the Federal Government shall be closed-captioned." I am informed by Mr. Bonker's staff that the one-time cost of close-captioning a public service ad would be between $300 and $325 each. Given the national scope and utility of federally sponsored public service announcements, this is a bargain. I would like to urge the FCC, the NTIA and the broadcast community to consider in particular this useful, practical idea of our colleague, Don Bonker.

CONFUSION ABOUNDS IN CAMPAIGN RHETORIC OVER NUCLEAR WASTE DISPOSAL SITING

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I would like to point out an apparent contradiction between what Governor Dukakis has said about the high-level nuclear waste dump in Nevada, and his new attitude, unveiled recently in Minnesota, and at a predebate interview in Los Angeles.

In a press conference called by former Nevada Governor Grant Sawyer on September 8, in Las Vegas, Governor Dukakis was praised for favoring reopening the siting process for a nuclear waste repository. A Dukakis position paper, stating his support for initiating "a new nuclear waste disposal site selection process," was distributed there for the press. It was just what Nevadans wanted to hear, but, apparently, a much less popular campaign promise in Minnesota.

Suddenly, we hear late last week, Governor Dukakis now favors the "Target Nevada" approach taken by Congress in December 1987. In his interview last Thursday, he now says he has always favored that approach. Good news for some Minnesotans, perhaps, but a betrayal of his followers in my State.

Former Governor Sawyer, a Democrat and a respected man on nuclear issues, has noted that he cleared all his statements through the Dukakis campaign headquarters in Boston before going public with them. What a shame that Governor Dukakis wasn't informed, when he approved the release of his position papers last month, of the views which he now says he's always held.

I wonder, Mr. Speaker, which Governor Dukakis are we to believe? It seems he is willing to embarrass and coldly sacrifice his followers in Nevada for a few electoral votes elsewhere. Minnesotans should beware of Governor Dukakis' new-found views on the high-level waste dump; they could change with the next set of polls.

HUMAN RIGHTS VIOLATIONS CONTINUE ON THE WEST BANK

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is evident that the Israelis are using cannons against Palestinian slingshots. Yesterday two Palestinian boys, ages 5 and 14, were killed by Israeli troops firing plastic bullets. Almost 300 Palestinians have been killed on the West Bank, 5,000 have been wounded, and over 18,000 have been arrested. Many are being held without charge, according to international monitors.

Mr. Speaker, this is not right. Congress cannot remain silent on this issue when we have spoken out for human rights issues all over the world. The Palestinian people are also God's children. I think Congress should support, and I applaud, our State Department for standing up and urging Israel to end abuses in the occupied territories.

Mr. Speaker, it is time for Palestinians to recognize the State of Israel, and it is time for Israel to afford human rights and dignity to the Palestinian people.

PROPOSED CHANGES IN THE EXCLUSIONARY RULE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, imagine you are a police officer who makes a legal stop of an automobile and in the course of questioning the people in the car and following the procedures then provided by the Supreme Court, you come upon a large amount of illegal drugs; later when a trial ensues, the defense attorneys bring an application to suppress the evidence as a result of the exclusionary rule, and 2 years later, after you have made the arrest, you find that the court now says the evidence cannot be used against people who illegally had these drugs, drugs that have been brought in and put into the veins of our children because it was not done pursuant to new rules established by the Court a year after you made the original arrest.

That is nonsense. How does that police the police? How does that protect the innocent? It is an extension of the exclusionary rule that does not make any sense.

In the drug bill we sent over to the other body, we had a good faith exception to the exclusionary rule that would allow the police officer, acting in good faith, following the rules in good faith as he understands them or she understands them, to have that evidence entered into court to decide the guilt or innocence of people involved in drug cases. Unfortunately, it has been stripped out on the Senate side.

Let us hope that we remain firm and insist on an exclusionary rule exception that makes sense in drug cases, because the fact of convicting those who would poison our children is more important than an extreme extension of the rule.

FAMILY POLICY GOOD FOR BUSINESS, IBM RECOGNIZES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, IBM, the third largest employer in the United States, recognizes that good family policy is good for business. They are listening to the needs of their employees and finding that meeting those needs is good for IBM.

IBM announced yesterday that they are instituting a formal unpaid leave policy and a new flextime program.

Contrast IBM's actions with the inaction of the U.S. Congress. We won't even allow a vote on family policy.

In more chilling news, the Wall Street Journal reminds us this morning that the United States has the highest infant mortality rate in the industrial world. Forty thousand newborns die every year in the United States before their first birthday.

The major reason? Lack of prenatal care among poor mothers. And it is getting worse.

GEORGE BUSH has had great fun demagoging the death penalty issue during this campaign. Forty thousand babies face the death penalty every year for lack of prenatal care. "We're going backwards from what's already a primitive state," said one nurse.

What do we get from the Republicans? Flags and electric chairs.

H.R. 4333, MISCELLANEOUS REVENUE ACT OF 1988

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, I rise today concerned that the historic 100th Congress may not "clean its place" before adjourning later this week.

We have all heard the rumors and press reports that we may return home without finalizing work on the Miscellaneous Revenue Act of 1988, H.R. 4333. A number of provisions contained in the bill are of particular importance to my constituents in Nebraska, and I urge the conferees to successfully complete their work on the tax corrections bill.

While no piece of legislation of this magnitude is ever perfect, H.R. 4333 goes a long way by including a repeal of the collection of diesel fuel excise taxes from farmers and ranchers. This repeal is included in both House- and Senate-passed versions of H.R. 4333. It should not get caught in the "politics" of this tax bill. It neither raises taxes nor is a major revenue loser.

Earlier this year, my legislation was one of the first bills calling for repeal of the 15-cents-a-gallon tax on diesel fuel for agricultural users. This additional upfront payment required from farmers adds thousands of dollars in unnecessary compliance and administrative costs to tax-exempt, off-road users of diesel fuel.

H.R. 4333 also repeals the so-called "heifer tax." The tax, in its zeal to eliminate tax sheltering, has gone overboard. It is estimated that the requirement that farmers and ranchers capitalize preproductive expenses will cost an additional $50 to $100 for every replacement heifer raised.

These are beneficial changes needed to address the unique circumstances and problems farmers and ranchers experience. Congress has an opportunity to correct these past mistakes. Let us not let the chance slip away.

□ 1230

AN EDUCATION VICE PRESIDENT—DAN QUAYLE IS ANYTHING BUT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, GEORGE BUSH says he wants to be "the education President."

His running mate, Senator DAN QUAYLE, says that if he had to assume the Office of the Presidency he would continue the policies of GEORGE BUSH.

But Senator QUAYLE's voting record in the Senate during the past two Congresses shows he would be anything but "the education President".

Last year Senator QUAYLE voted to reduce the fiscal year 1988 education appropriation by $400 million.

The year before Senator QUAYLE opposed increased funding for Federal education programs in the 1987 budget.

In 1985 Senator QUAYLE voted against higher funding for Head Start, developmental disability, and education for the handicapped.

That same year Senator QUAYLE also voted against restoring funding for the School Lunch Program.

GEORGE BUSH says he chose DAN QUAYLE to be his running mate because Senator QUAYLE represents the future.

But Senator QUAYLE, himself a child of privilege and unlimited educational opportunity, when it comes to the education of other less fortunate children—represents the deep, dark, distant past.

THE CLEAN AIR ACT

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, the quality of the air we breathe determines in many ways the quality of our lives. We have received sufficient scientific evidence that depletion of the upper ozone layer can cause increased cancers, that ground-level pollution can foul the lungs, that acid rain can destroy waterways and vegetation. It is for those reasons that the 101st Congress must make reauthorization of the Clean Air Act one of its top priorities when it convenes in January.

On August 31, the 8-month extension of the Clean Air Act expired. That deadline was the date by which States were to meet the ozone or carbon monoxide requirements of the Clean Air Act. As a result of Congress' failure to legislate new clean air legislation by that date, the Environmental Protection Agency may now impose construction bans on major new pollution sources in noncomplying cities.

It is imperative that the 101st Congress amend the Clean Air Act immediately, so that States and cities that have not achieved clean air standards may re-evaluate their situations and, with the help of the EPA, develop new plans to help them achieve clean air standards.

The Clean Air Act was amended last in 1977. That was 11 years ago, and, since then, we have learned a great deal more about how we are changing our environment. It is now time to face the realities of ozone depletion, global warming, acid rain, and other airborne chemicals. It is time to reduce the dangers to the public health.

URGING PASSAGE OF REVOLVING DOOR LOBBYING BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I urge the leadership of the House on both sides of the aisle to call up the bill and pass the Senate version of the revolving door lobbying bill. The Members of the House, I would like to bring to their attention the good work that the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Kansas [Mr. GLICKMAN] have done on this bill when it was in our Committee on the Judiciary, and I was a proud sponsor and supporter of it. At that time I thought it could be tightened and made better, but I was certainly proud to see the bill go out of our committee and through the House and to the Senate.

I think now the Senate's compromise version is even better than our version and ought to be taken by this body and passed before the end of the session.

As my colleagues will recall, under the House version former Members of the House are able to lobby Members of the other body, not Members of this body. The bill provided by the Senate would continue the ban on both Members of this body as well as the other. We would be prohibited from lobbying for 1 year.

Mr. Speaker, it also extends a ban on senior staff, those making in excess of $70,000 a year. It would prohibit their coming back within a 1-year period of time to lobby their former employers and, as well, their former colleagues.

I think that the Senate version is an improvement, Mr. Speaker, and I hope that we, before we end this historic 100th Congress, can pass this historic legislation.

LONG-TERM HEALTH CARE COSTS

(Mr. JEFFORDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Speaker, earlier this year, we enacted Medicare catastrophic illness protection that, though significant, left unfinished the task of protecting senior citizens from the fear of ruinous medical bills.

We are now at the end of the 100th Congress, and we have not resolved this issue. I urge my colleagues to do so next year and to make this a priority.

We've had some proposals for long-term health care that should be reviewed carefully. Among them is one I am suggesting, the details of which you can find in the CONGRESSIONAL RECORD of Friday, October 14.

I offered the proposal largely because I'm concerned that others tend to put the financial burden for long-term care on a dwindling work force. And that just won't work. The reality is, there are far, far more baby boomers who will be retiring in the next few decades than there are younger generations still in the work force to support long-term health benefits for them. Given the "graying of America," it is unfair, unrealistic, and unworkable to expect one small segment of society to pay the benefits for a much larger segment.

We need a long-term health care policy that begins to ensure that each generation pays for its own health care. And we need one that combines both public and private efforts.

I again urge my colleagues to make this a priority in the next Congress. We have to, if we are to alleviate those very real fears of ruinous medical bills.

ACCOMPLISHMENTS OF THE 100TH CONGRESS

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, as the 100th Congress nears adjournment, I congratulate you for your leadership these past 2 years. This historic Congress has passed some truly important and noteworthy legislation.

We can return to our districts knowing that the House has accomplished much. However, we also realize that the 101st Congress will face equally formidable problems. I am confident that the 101st Congress will be even more productive and successful in meeting these challenges.

As a member of the Banking Committee, I also applaud the outstanding work of Chairman ST GERMAIN and his staff. Because of them, and because of Congressman GONZALEZ, the chairman of the Housing Subcommittee, the 100th Congress produced the first reauthorization of our Nation's housing programs since 1980.

In addition, this Congress passed the Competitive Equality Banking Act, legislation addressing the severe problem threatening the integrity of our savings and loan system. Particularly important was the "recapitalization" of the Federal Savings and Loan Insurance Corporation, which has taken a tremendous pounding because of an unprecedented series of bank failures.

Clearly, these are examples of congressional successes. But we recognize there is still much work to be done. FSLIC recap is only a temporary expedient and the problems of affordable housing, for low- and middle-income Americans, for young families, and for others, are increasing in scope.

Mr. Speaker, obviously we cannot rest on our laurels. But, congratulations are in order for your good work the past 2 years.

WRIGHT'S WRONGS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, I regret this morning that I have to take this 1 minute.

Take a look, Mr. Speaker, at how the Communist press in Nicaragua is thrilled with your recent pro-Sandinista propaganda blitz.

I believe the Speaker has helped to destroy any hope the democratic resistance had in bringing freedom to Nicaragua.

Now by branding the Nicaraguan internal opposition as CIA puppets, he has allowed the Sandinistas to crush those fighting for freedom under the steel boot of communism.

Some internal opposition leaders are calling the Speaker the "10th commandante."

I believe by his statements, many of which were classified, the Speaker has threatened American security interests in our hemisphere and placed at risk thousands of innocent Nicaraguans.

This past Saturday, Daniel Ortega accused Cardinal Obando y Bravo and his fellow Catholic bishops of being "instruments of Ronald Reagan's politics of death." This must be true. Just ask the man who is two heartbeats away from the Presidency.

CLEAN AIR ACT MUST BE A TOP PRIORITY FOR THE 101ST CONGRESS

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, another Congress has come and going, going, almost gone without taking any action on the problem of air pollution, the reauthorization of a strong, new Clean Air Act. We have failed to act in this threat to our health, the economy, and the environment.

Mr. Speaker, how long will the Congress and the new administration sing the tired song of procrastination and delay?

Last year, the gentleman from New York [Mr. GREEN] and I circulated a letter calling for action on a strong, comprehensive Clean Air Act. A bipartisan majority of the House signed the letter and expressed their desire to vote on revamping the Clean Air Act. Unfortunately, the House never had that chance or opportunity.

Certainly we must make the passage of a strong Clean Air Act the top priority of the next Congress. We must end the foot dragging and the litany of excuses, and we must take steps to reduce acid rain, urban smog, and airborne toxics.

While a legislative solution to this problem may not be easy, the failure to act will be much more costly and has had a profound effect, of course, on our global climate as evidenced by the particular weather this summer of 1988.

Mr. Speaker, we must deliver on the promise of clean, healthy air. The American people will not settle for less; neither should we.

LOOKING BACK ON BLACK MONDAY

(Mr. CONTE, asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, a year ago today, a sense of panic rippled through the financial world. It started in Toyko, then London, and the ripple swelled to a tidal wave of hysteria when it reached Wall Street.

It was "Black Monday," and the financial markets sent the Congress and the President a strong and clear message to get the budget process and the deficit under control. Looking back and considering the progress made this year, it's safe to say that our response to the crisis worked. Because of the budget summit agreement, the deficit was reduced by $76 billion, and the appropriations process actually worked for the first time in recent memory.

Those 22 days of table pounding and arm twisting produced a 2-year agreement, setting revenue goals, spending targets and scorekeeping boundaries. And the summit process involved the executive branch from the beginning.

More importantly, the appropriations process was not strangled by an overbearing, overstaffed, unwieldy budget process that in previous years forced the Congress into governing by CR. These principles ought to be institutionalized so that passing appropriations bills on time will become the rule and not the exception.

Mr. Speaker, the summit process worked. Let's not wait for another Black Monday. The price for all may be too high.

ETHICS IN LOBBYING LEGISLATION

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, it is my hope that before we adjourn later this week, we can count as one of our accomplishments the passage of ethics in lobbying legislation to tighten the law restricting lobbyists.

In 1985—99th Congress—Congressman HOWARD WOLPE and I first introduced legislation to ban high level government officials from leaving public service and then lobbying directly the U.S. Government on behalf of foreign interests about matters over which they held responsibility while in Government service.

At the close of this 100th Congress, we have a unique opportunity to pass an ethics in lobbying bill that applies both to the executive and legislative branches in an effort to slow the revolving door.

Governor Dukakis has pledged that one-time foreign lobbyists will not be among the advisers in a Dukakis administration. Nor will a Dukakis administration permit its high ranking officials to leave government service and then return to lobby on behalf of foreign interests before the U.S. Government. I'd like to hear the same pledge from Vice President GEORGE BUSH. By passing H.R. 5043, the Post Employment Restrictions Act, Congress will be strongly pledging its own support for integrity and ethics at the highest levels of our government.

URGING COLLEAGUES TO CLEAN UP THE TAX REFORM

(Mr. GILMAN asked and was given permission to address the House for 1 minute.)

Mr. GILMAN. Mr. Speaker, despite the headline of a recent article appearing in the Congressional Quarterly, "Negotiators Find Tax-Bill Compromise Elusive," I rise to express a view shared by many of my colleagues and thousands of our constituents throughout the Nation: Let us fix the Tax Code by reporting out a technical corrections compromise. And let us do it now.

Let us clean up the Tax Reform Act of 1986. The new Tax Code is rife with errors and the unanticipated consequences of hasty judgment and last-minute decisionmaking. Buoyed by the high expectations brought about by promises for simplicity and fairness, many were betrayed by the adverse result of tax reform. The Congress is responsible for having created this boondoggle. It is now incumbent upon the Congress to clean up this mess before we go home.

Accordingly, I urge my colleagues on both sides of the Capitol to resolve their differences and report out a compromise technical corrections bill which we all can support.

Though this task is not easy, and there is a long list of constituent interests with well-justified cries for relief, we must take care of the many farmers, creative professionals, public sector employees, and others who are severely impacted by the tax reform. Mr. Speaker, please heed these pleas to remove the detrimental imposition of this unwarranted Government taxation. Report the Technical Corrections Act, and let us approve it now.

PROGRESS ON HEALTH CARE, BUT MORE ACTION NEEDED

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, the 100th Congress has been a productive one in health care.

Medicare was improved for the elderly. Medicaid will now be available to poor pregnant women and infants. The Welfare Reform Act extends Medicaid benefits to working-poor families.

But a glaring health-care problem still demands our attention. Today, 37 million Americans do not have health insurance.

We can no longer delay addressing this American tragedy. Our hopes of doing that are brighter because Governor Dukakis has recognized this problem.

Mike Dukakis recognizes that we do not have to throw out the current system of private insurance, Medicare and Medicaid. He knows that we do have to build on the system. We have to fill in its gaping holes.

With the election of the Dukakis-Bentsen team we can move swifty to ensure that all working Americans have the coverage they deserve. Taking that important step will help improve the health and quality of life for millions of Americans.

□ 1245

HALLOWEEN AND DUKAKIS: A PERFECT MATCH

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, as Halloween approaches, we may want to look at Governor Dukakis as the perfect match for that particular holiday. Governor Dukakis is, to the best of my knowledge, the only Governor ever to appoint a State witch, and I want to quote from an article on that:

DUKAKIS NAMES OFFICIAL SALEM WITCH

Gov. Michael Dukakis says Salem, Massachusetts, has an official witch. Former Mayor Jean Levesque says Salem does not have an official witch.

However, in April 1977, Gov. Dukakis, acting in his official capacity as Massachusetts' chief executive, issued a special proclamation recognizing and honoring a witch who practices Egyptian Isis witchcraft.

The document bears the Great Seal of Massachusetts. Over Dukakis' signature are the words: "I do hereby proclaim Miss Laurie Cabot Official Witch of Salem."

"I don't think he realized what kind of controversy he was causing, especially at the time," said Cabot, the Anaheim, California born, former nightclub dancer. "[But] the governor knows a witch when he sees one."

The controversy arose because the Salem City Council had already denied Cabot such recognition in 1975 and 1977, when she requested that title from the city. The city has never recognized Gov. Dukakis's action.

In 1977, after the second attempt, the City Council passed an ordinance that stated the city would not officially acknowledge any person or spirit as "Witch of Salem," and that ordinance was later sent to Dukakis.

A SALUTE TO THE 100TH CONGRESS

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I rise to salute the 100th Congress and its accomplishments. I would like to especially salute them as the Speaker's representative on the U.S. Commission for the celebration of the bicentennial of the Constitution, and to say that this Congress has indeed extended the Constitution to its full verity within this generation. In the extension of the Voting Rights Act and the restoration of the Civil Rights Act, in the Fair Housing Act and in the Education Act that recognizes that we have to start with illiteracy among our youngest citizens.

I also would like to salute this Congress for preparing for our own bicentennial celebration next year, not only by the kinds of legislation that we are going to pass, but by improving the physical aspects of this Congress, of this Capitol building and its grounds.

It has been a great and wonderful 100th Congress that will take us into the next century.

STRONGER FEDERAL LEGISLATION NEEDED TO CONTROL AIR POLLUTION

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, I have always cared strongly about the quality of our environment. This is why I joined my colleagues in calling for the consideration of the Clean Air Act in this Congress. Yet, the leadership chose to ignore this important piece of legislation and to forgo its consideration.

It is alarming that 43 U.S. cities have already had more days of ozone readings above the Federal health standard than the Environmental Protection Agency was expecting for the entire year. In my home State of Wisconsin, I am especially concerned about high ozone readings in Milwaukee and Kewaunee County. Although Wisconsin has enacted its own legislation to decrease air pollution, a lot of the ozone has drifted up from Chicago and Gary.

It is quite disturbing that Wisconsin's neighbors have not developed plans to cut back on their air pollution, when Wisconsin is working so hard on its own problem.

This is a clear example of the need for stronger Federal legislation to control air pollution. We should have enacted it in this Congress. I strongly urge my colleagues to consider the Clean Air Act very early in the 101st Congress.

WE NEED CLEAN AIR

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, I would like to be standing here today congratulating the Congress on working together to protect our Nation's health and the environment from the ravages of air pollution. The 100th Congress has done so much in controlling other forms of pollution. Unfortunately, despite again extending the deadline for complying with the 1970 act, the Congress has failed to produce legislation to strengthen the Clean Air Act.

Several urban areas in Wisconsin, including my district of Milwaukee, suffered severe smog pollution this summer. Across the Nation, millions of Americans are suffering from the respiratory ailments caused by this air pollution.

Lake Michigan, a priceless natural treasure in our region—one shared with our neighbors in Canada—is being plagued by toxic air pollution. More than half of the toxins polluting the lake now come from the atmosphere. Yet over the last 18 years, the EPA has regulated only seven out of the hundreds of toxic air pollutants endangering the Great Lakes. We need to do more.

Mr. Speaker, we must act to control this lethal pollution harming people—their lungs, their respiratory systems—as well as trees, animals, and other forms of life. Next year we must have action on clean air.

MASSACHUSETTS MURDERER TO VOTE FOR DUKAKIS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the last few days have been kind of rough ones for the Dukakis campaign as millions of Americans have indicated that they are not going to support the Massachusetts Governor for President; however, they may or may not be pleased with one endorsement that they got in USA Today yesterday. The convicted killer freed on Massachusetts' Prison Furlough Program during Michael Dukakis' term as Governor, then jailed for rape and kidnaping in Maryland, made his opinion known about Presidential selections. He says, when asked the question about who he would pick for President, in USA Today yesterday, Willie Horton says, "Obviously, I am for Dukakis."

Now, the thing is if he was still in Massachusetts he might still be able to cast that as a vote; but since he is in the much tougher Maryland prison system, at least he will not be able to vote on election day.

ALTERNATIVE MOTOR FUELS ACT OF 1988 BECAME LAW LAST FRIDAY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I rise to announce that the Alternative Motor Fuels Act of 1988 became law last Friday, a law which we will look back upon in the 100th Congress as possibly the most important act that we passed in domestic legislation.

It offers the prospect of creating new markets for farmers, for natural gas and coal industries, for cleaning the air by providing a cleaner fuel, by reducing the trade and budget deficits, by making America more energy independent.

Mr. Speaker, I offer my thanks to our Speaker, the gentleman from Texas [Mr. WRIGHT], for his enduring and abiding support which contributed to this legislation becoming law.

INTO EACH LIFE SOME SULFUR DIOXIDE MUST FALL

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, if the great Massachusetts poet Henry Wadsworth Longfellow were alive today, one of his best-known poems would read "Into each life some sulphur dioxide must fall."

In Massachusetts, a new study shows that 64 percent of our surface waters are vulnerable to acid deposition—and 5.5 percent have already been acidified to the extent that all aquatic life has been lost; 17 percent of the sugar maple lots surveyed are in poor conditions—a sizable number of historical bronze and marble statues and tombstones are corroding—and almost three-fourths of municipal drinking water supplies are acidic enough to corrode pipes, leading to dangerous levels of lead.

Even if we were to assume a moderate margin of error for all of these statistics, their impact is startling. The fact is that something is causing streams to acidify, fish and trees to die, and pipes to corrode. The evidence is solid enough to force the conclusion that acid rain is substantially responsible, and that we must do something to control it.

I hope we can use the opening days of the 101st Congress to finally enact strong acid rain legislation as part of a tough new Clean Air Act.

A NEW BEGINNING FOR THE DUKAKIS CAMPAIGN

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, Mike Dukakis was in Michigan yesterday. What a day. There were two highly enthusiastic rallies and the crowd joined in.

The New York Times had it correctly in its report today:

> The difference between GEORGE BUSH and me boils down to this, the Massachusetts Governor said, and before he could finish, a woman's voice pierced the pause. "You're real and he's not," she shouted, and the hall rocked with cheers.

In fact, that meeting took on the feeling of a political revival meeting. Voters yesterday in Michigan made it very clear. The Presidential race is far from over. Indeed, in Michigan yesterday, the campaign of Mike Dukakis had the feel of a new beginning.

INTRODUCTION OF H.R. 5534, MORATORIUM ON GENETIC RESEARCH IN HUMAN IMMUNODEFICIENCY VIRUS

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. GONZALEZ. Mr. Speaker, today I have just introduced what will be known as H.R. 5534, and in the words of the bill, I am asking for a moratorium, that for a period of 1 year from the date of enactment there shall be no experimental efforts to manipulate genes involving the human immunodeficiency virus.

The reason for this is that we have preeminent Nobel laureates, biophysicists, and others, such as the Australiam F. MacFarland Burnet, who has said that he would stop all experimental efforts to manipulate the genes of viruses, that is human. The danger, he said, is the inadvertent creation in the laboratory of devastating virus subspecies against which humans would have no immunological defenses. This is already happening, in my opinion.

Mr. Speaker, I include the bill, as follows:

H.R. 5534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MORATORIUM.

That for a period of one year from the date of enactment there shall be no experimental efforts to manipulate genes involving the human immunodeficiency virus.

SEC. 2. STUDY.

The Office of Technology Assessment shall conduct a study of the need for and safety of genetic research involving the human deficiency virus which causes acquired immune deficiency syndrome.

DECLARING THAT CERTAIN LANDS BE HELD IN TRUST FOR QUINAULT INDIAN NATION

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 587, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 587

Resolved, That any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2752) to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule, each section shall be considered as having been read, and all points of order against the bill for failure to comply with the provisions of section 302(f) of the Congressional Budget Act of 1974 (Public Law 93-344, as amended by Public Law 99-177) and clause 5(a) of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. SWIFT). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes for purposes of debate only to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 587 is the rule providing for consideration of S. 2752, to declare that certain lands be held in trust for the Quinault Indian Nation. This is an open rule, providing for 1 hour of general debate.

The rule waives section 302(f) of the Congressional Budget Act, which prohibits consideration of measures that would cause the appropriate subcommittee level, or program level, ceilings to be breached. This waiver is needed because the bill would result in the loss of about $375,000 in revenues annually to the U.S. Treasury, due to a change in the way certain timber receipts are distributed; however, the Congressional Budget Office estimates that by the early 1990s the Bureau of Indian Affairs would realize a savings in administrative expenses of about $300,000 annually because of changes provided by this bill. Thus, the net cost of this bill, about $75,000 annually, is negligible.

The rule also waives clause 5 of rule XXI, which prohibits appropriations in a legislative bill. This waiver is needed because the bill provides for the Secretary of the Interior to spend certain timber receipts on the administration of timber sales, the mitigation of any adverse environmental impacts from timber sales, reforestation, and the purchase of lands within the Quinault Indian boundaries by the Quinault Indians.

Finally, the rule provides for one motion to recommit.

Mr. Speaker, H.R. 2752, the bill for which the Rules Committee has recommended this rule, would transfer nearly 12,000 acres of national forest lands in the State of Washington to the Secretary of Interior to hold in trust for the Quinault Indian Nation. This bill would settle a longstanding dispute over the boundary of the Quinault Indian Reservation caused by an erroneous land survey back in 1892.

Mr. Speaker, I urge the adoption of House Resolution 587, so that the House can proceed to consideration of this bill.

☐ 1300

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the House considered the Quinault Indian bill under suspension it failed to receive the two-thirds vote necessary for passage. The vote was 223 yeas to 195 nays.

Since a majority supported the bill. An identical Senate bill was taken to the Rules Committee where it was given the rule which is before the House today.

Mr. Speaker, this open rule should permit the House to make any necessary improvements in the bill.

Mr. Speaker, it is late in the session to be taking up new legislation. If this bill is amended, the differences with the Senate will still have to be worked out. However, Mr. Speaker, the vote on this rule will give Members the opportunity to decide whether they want to proceed with this legislation under such circumstances.

I supported the bill when it was up before, and I support the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think we do need to focus on this particular rule and the waivers that it grants. This is a bill that was defeated on the Suspension Calendar because there were concerns about what we were doing.

They have now gone and gotten a rule. They have come back with a rule and, guess what, we find out that in order to enact this bill we have to waive the Budget Act and we have to waive clause 5(a) of rule XXI. That all sounds pretty jargonistic, and it does not sound like it is that much of a problem.

Mr. Speaker, let us understand just exactly what we are waiving here. It is not just numbers in the rules book. In the case of the Budget Act, we are waiving the provision prohibiting consideration of any measure that would cause the appropriate subcommittee level, in other words, the program level ceiling, to be exceeded, so this is a real budget-buster. When we say that we ought to waive the Budget Act in the case of this particular rule, we are in fact saying that we are willing to exceed the ceilings that we have set for ourselves in this fiscal year.

Mr. Speaker, I would suggest that this is not the place that we want to make the first transgression against the Budget Act. This does not seem to me to be a bill that we ought to be using as a vehicle to bust the budget.

Second, we also, by waiving clause 5(a) of rule XXI, say that we ought to go ahead and appropriate money in a legislative bill, because that is the portion of our rules that says that we cannot appropriate in a legislative bill.

We are doing two things here, not only are we exceeding the budget, not only are we budget-busting, but also we are appropriating the money under this particular rule. That does not seem to me to be a proper course of action to take. I think that we ought to be against busting the budget, and I think we ought to be against appropriating money.

Essentially what we have here is a supplemental appropriation bill, and I do not think we ought to be doing those two things. We ought to kill this rule and, with it, kill the bill.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I say to the gentleman that I disagree with his basic premise from beginning almost to end, but I would point out that while it did not pass on suspension, it did receive more votes in favor than against, just because, of course, in the process here on the Suspension Calendar it is that we have to have a resounding victory.

Mr. WALKER. Mr. Speaker, reclaiming my time, that is absolutely right, barely it did. It got about 25 votes more than what it needed.

I would point out to the gentleman that I do not think many people when they were voting at that point knew that we had a budget-buster on our hands. We knew we had a bill, but we did not know we had a budget-buster.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, would the gentleman believe that the Members of the House and Senate would feel that a potential liability of $50,000 to $70,000 is a budget-buster? Is that the argument the gentleman is making to the people here today?

Mr. WALKER. Mr. Speaker, reclaiming my time, I will say to the gentleman that $50,000 to $70,000 is a lot of money in my district. The people regard that as being a substantial sum of money, and if that is the amount of money that we are using, if that is what takes us over that first breach of the wall of the budget, yes, that is too much money, because we have set budget ceiling levels. We set them for a reason. If this is not needed, if this budget waiver is not needed, why get it? Why do we have to have it in the rule? Why did the committee go and testify that we needed to have the budget waiver put in the rule? Why are we appropriating in a legislative bill? Why are we not following the regular processes here?

All I can assume is it is money that Members think they cannot get any other way, that they have to appropriate in a legislative bill in order to get the money.

I would suggest that even if it is $50,000 to $70,000, that is too much money. We ought to be aware that many American people work all year long and do not make half that much money.

Mr. GEJDENSON. Mr. Speaker, if the gentleman will yield, that is a great speech, but I think the gentleman understands what we are trying to do is rectify some wrongs that were made to the American Indians, an error in survey, and that while the time that we are in the final days of this session does make it difficult to fix some of these wrongs, this is an important issue, especially for the Indians who had the whole country at one time, and it was taken away from them. We are trying to rectify a small part of that wrong, and that while what we are dealing here today is a significant amount of money, it is by no question something that we ought to do on the merits of the bill for every reason, and it ought to pass.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I appreciate that the gentleman wants to bust the budget and appropriate in a legislative bill. He does not care that there is a significant sum of money involved, $50,000 to $70,000. I appreciate the gentleman's position.

Mr. Speaker, I think he is wrong. I think he is wrong on the facts, and he is wrong with regard to the bill. I think that we ought to turn down this rule. If the committee wants to come back with an open rule without these budget waivers in it and allow us the chance to knock it out on points of order, fine, we ought not approve a budget waiver in this particular rule.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SWIFT). The question is on the resolution.

The question was taken; and the Speaker pro tempore, announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 115, not voting 86, as follows:

[Roll No. 449]

YEAS—230

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Barnard
Bates
Beilenson
Bennett
Berman
Bilbray
Boggs
Boland
Bonior
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Collins
Conte
Cooper
Costello
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dixon
Donnelly
Dorgan (ND)
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Evans
Fascell
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Frank
Frost
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hochbrueckner
Houghton
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
LaFalce
Lancaster
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Lujan
Luken, Thomas
Manton
Markey
Martin (NY)
Martinez
Mazzoli
McCloskey
McHugh
McMillen (MD)
Mfume
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Packard
Pashayan
Patterson
Pease
Penny
Perkins
Pickett
Pickle
Price
Quillen
Rahall
Rangel
Ravenel
Richardson
Rinaldo
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Torres
Torricelli
Traficant
Valentine
Vento
Visclosky
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Yates
Young (AK)

NAYS—115

Archer
Armey
Badham
Ballenger
Bartlett
Bateman
Bereuter
Bliley
Boehlert
Buechner
Bunning
Burton
Callahan
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Daub
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Green
Gunderson
Hammerschmidt
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Huckaby
Hunter
Hyde
Ireland
Jeffords
Johnson (CT)
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Lukens, Donald
Lungren
Madigan
McCandless
McCollum
McCrery
McDade
McMillan (NC)
Meyers
Michel
Molinari
Moorhead
Myers
Nielson
Parris
Petri
Porter
Pursell
Ray
Regula
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schuette
Sensenbrenner
Shays
Shumway
Shuster
Slaughter (VA)
Smith (NE)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stenholm
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf

NOT VOTING—86

Barton
Bentley
Bevill
Bilirakis
Bonker
Bosco
Boulter
Broomfield
Brown (CO)
Bustamante
Byron
Chandler
Clay
Conyers
Crane
Dannemeyer
Davis (IL)
DeLay
Dingell
Dowdy
Durbin
Espy
Fazio
Feighan
Foley
Ford (TN)
Garcia
Gaydos
Glickman
Gradison
Gregg
Hansen
Hertel
Hiler
Horton
Inhofe
Jenkins
Jones (NC)
Kasich
Kemp
Kolter
Konnyu
Kostmayer
Lantos
Latta
Leland
Livingston
Lloyd
Lott
Mack
MacKay
Marlenee
Martin (IL)
Matsui
Mavroules
McCurdy
McEwen
McGrath
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mrazek
Ortiz
Oxley
Panetta
Payne
Pelosi
Pepper
Ritter
Rose
Savage
Skelton
Smith, Denny (OR)
Stokes
Sweeney
Taylor
Thomas (GA)
Towns
Traxler
Udall
Volkmer
Whittaker
Wylie
Yatron
Young (FL)

□ 1328

The Clerk announced the following pairs:

On this vote:

Mr. Dingell for, with Mr. Oxley against.
Mr. Leland for, with Mr. DeLay against.
Mr. Towns for, with Mr. Boulter against.

Mr. RIDGE, Mrs. JOHNSON of Connecticut, and Mr. ROWLAND of Connecticut changed their vote from "yea" to "nay."

Mr. ROWLAND of Georgia changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 587 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 2752.

□ 1330

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 2752) to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes, with Mr. LEVIN of Michigan in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 30 minutes, and the gentleman from Washington [Mr. MORRISON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, S. 2752 passed the Senate on Friday, October 7. H.R. 5203, an identical bill sponsored by my colleague, the Honorable AL SWIFT, failed to receive the necessary two-thirds to pass the House under suspension. The vote was taken before the Departments of Interior and Agriculture removed ther objections to the bill.

Mr. Chairman, under the bill, some 11,905 acres of land would be transferred to the Secretary of Interior to hold in trust for the Quinault Indian Nation. The land is currently administered by the U.S. Forest Service.

An additional 5,460 acres of land would continue to be administered by the Forest Service, but 45 percent of all proceeds received from the sale of timber on this land would be paid to the State of Washington and 45 percent of such proceeds would be held by the Secretary in trust for the Quinault Indian Nation. The remaining 10 percent would be given to the Secretary of Agriculture to defray his administrative expenses in managing such land.

Mr. Chairman, this legislation is needed to give this tribe an adequate land base in order to provide for the welfare of the tribal members. Although the Quinaults were originally promised a large reservation, an 1892 surveyor's error improperly excluded 15,000 acres from the reservation. In addition, the reservation was allotted and today, less than 10 percent of the original 190,000 acre reservation belongs to the tribe.

Mr. Chairman, I urge passage of this bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, as sponsor of H.R. 5203, the companion bill of S. 2752, I would like to explain the background and purposes of this bill and to clear up some misunderstandings some of my colleagues may have about this bill to expand the Quinault Indian Reservation. As you may recall, this body voted on H.R. 5203 under the Suspension Calender, and while it received a majority vote it failed to obtain the necessary two-thirds vote.

When we voted on H.R. 5203, there was an administration policy memorandum being distributed stating that the Departments of Agriculture, Interior and Justice, and the Office of Management and Budget intended to recommend a veto on this bill. This memorandum was disturbing because it was my understanding that the Departments of Agriculture and Interior had positively responded to the amendment in the nature of a substitute bill and were supporting this "new" bill. We have since received written confirmation that these two departments do in fact support this bill. These supporting letters can be found in yesterday's CONGRESSIONAL RECORD. Further, I understand that both Justice and OMB are in the process of reconsidering their positions.

S. 2752 offers a unique and creative opportunity to this Congress and the Quinault Indian Nation to respond to the failed Federal policies created by the Dawes Act of 1887 which continue to haunt the Quinault Reservation today. Congress has long recognized the problems created by the allotment process, discontinuing the process of many reservations with the passage of the Indian Reorganization Act of 1934.

For the Quinault Reservation it was too late. The reservation has been totally allotted, leaving the tribe without any tribal land base or resources so necessary for economic development and the provision of essential Government services. By 1934, the Quinault Indian Reservation consisted of over 2,300 individuals' trust allotments. Today, 1,980 allotments remain in trust status which have been fractionated into over 26,000 undivided ownership interests held by 2,800 individuals.

The type of ownership which presently exists on the reservation is astounding in its own right. The fractionated ownerships of the individual allotments make the legal and administrative costs to the Federal Government excessive and diminishes the value and utility of the land to the owners. For example, one allotment, allotment No. 45, has 226 ownership interests held by 176 individuals. For this allotment there are at least five individuals whose ownership interests are less than 1/100,000th or .00001, and the largest ownership interest in this allotment is a 1/18 interest.

This problem will get geometrically worse with the passage of each generation, and it has been projected that by the year 2000, the number of ownership interests will increase from 26,000 to over 43,000 unless something is done to resolve the land tenure problems on this reservation. We can also assume the legal and administrative costs to the Federal Government will increase proportionately. Thus, failure to respond to the land tenure problems at Quinault could result in an additional 17,000 ownership units and an increase in administrative costs to the Federal Government of $800,000 annually by the year 2000.

2. 2752 will do something for the land tenure problem and the increasing costs to the Federal Government. Today, the Quinault Nation owns about 8,000 acres of the reservation and is purchasing another 10,000 acres relying on a BIA loan guaranty which represents less than 10 percent of the 200,000-acre Quinault Reservation. Since the early 1970's, the Quinault Nation has recognized their economic future and well-being rests with the resources within their limited financial resources. S. 2752 offers them hope and opportunities to reduce their dependence on the Federal Government and to make their own economic decisions. This is what self determination and economic self sufficiency should be about.

S. 2752, by transferring close to 12,000 acres from the Olympic National Forest to the United States in trust for the Quinault Indian Nation and assigning a portion of the forest receipts from another 5,400 acres adjacent to the reservation, will provide the tribe with an income which can be used for a tribal land consolidation program. In fact, the income from these lands may only be used for reforestation, administration of the timber lands, mitigation of adverse environmental impacts from timber harvests, and the purchase of land within the boundaries of the reservation on a willing seller basis. The Quinault Indian Nation obviously has an inherent interest in resolving the land tenure problem caused by fractionated ownership interests on their reservation. S. 2752 provides a mechanism which can reverse and reduce these problems and still protects the property rights of the individual trust land owners.

While the lands involved in the land transfer are similar to a portion of those lands involved in the historic north boundary dispute of the Quinault Reservation, that issue is perhaps only significant to the members of the Quinault Indian Nation who feel they were wrongly denied use and benefits of land which should have been included in the reservation. This issue has been litigated before the Court of Claims but provided neither land nor money to the Quinaults. The purpose of this legislation is to provide a tribal land base which can be used to resolve problems caused by the allotment of the entire reservation.

S. 2752 represents an innovative and efficient approach to these problems. According to the Congressional Budget Office, the Federal Budget will suffer an annual loss of no more than $375,000 per year in forest receipts; but the revenue loss will be offset by administrative cost savings of nearly $300,000 by the mid 1990's. And, these projections do not include the increased administrative costs which will result if nothing is done to consolidate land ownerships on the Quinault Indian Reservation.

Mr. MORRISON of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of S. 2752, a bill which would transfer some 12,000 acres of national forest lands to the Quinault Indian Nation, and provide for a special use area in the national forest adjoining the Quinault Reservation.

The administration voiced several concerns about the bill, as introduced. The Committee on Interior worked with the U.S. Forest Service, the tribe, the Washington State congressional delegation, and with the Agriculture Committee—on which I serve—to come up with this compromise. It is my understanding that the Secretaries of Agriculture and of the Interior now have no objection to the bill.

There is a proven need on behalf of the tribe for use of these lands for economic development, and I urge my colleagues to support S. 2752.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to this bill. This bill is the one where we just waived the Budget Act a minute ago in order to take it up. We also decided a minute ago to have the money appropriated despite the fact that it exceeds the subcommittee's levels.

I think we ought to focus on the bill that we are doing this for. This is money going to a tribe where the courts have already ruled that they are not entitled to the money.

So understand what we are doing here: We are saying that we are willing to waive the Budget Act and appropriate the money to give the money to a tribe that has already been told by the courts that they are not eligible for the money.

Now I would suggest that that is not one of the things we ought to be doing at the end of the Congress. It does not matter whether it is $20,000, $40,000, $50,000, it is taxpayers' money going to people who the courts say are not entitled to that money.

We are busting the budget in order to do it.

I suggest that this is not an appropriate course of action. I would hope that Members who have some sense of conscience about budget matters would see fit to vote "no" on this particular bill.

Mr. MORRISON of Washington. Mr. Chairman, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Chairman, before yielding to my good friend the gentleman from Washington [Mr. Swift] for a response to that, I point out that the gentleman from Pennsylvania's Record statements probably cost more than this piece of legislation will cost the taxpayers.

Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. Swift].

Mr. SWIFT. I thank the gentleman for yielding.

Let me address the point that has been raised just now by the gentleman from Pennsylvania who suggests that this is a budget-buster.

The fact is it is not a budget-buster. It does not even bend the budget. All in the world we do by waiving section 302(f) is to alter the allocations of budget authority between the various committees.

It in no way violates section 311, which is the overall budget cap. And the only reason this provision is in this bill at all is because it was recommended to us by the administration, by the Department of Agriculture. So it is not a budget-buster. That is pure nonsense. We do away with, waive section 302(f) all the time around here. This is not first, it is not new, it is not starting anything and it does not violate the basic budget which is contained in section 311, not section 302(f).

The gentleman is simply wrong.

Mr. MORRISON of Washington. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. I thank the gentleman for yielding.

I would always point out to people that when the other side figures that they have to personalize an issue in order to try to win, it is probably because they have a weak argument.

Second, I would suggest that the one reason we have $150 billion deficits is because we do break section 302(f) and other portions of the Budget Act regularly around here. The gentleman from Washington is absolutely correct. We bust the budget around here all the time. And we have got $150 billion a year deficits in order to show it.

I would suggest here that we do not need to waive the Budget Act if there is no Budget Act to waive. In this case we had to waive the Budget Act.

Mr. MORRISON of Washington. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Washington [Mr. Swift].

Mr. SWIFT. I thank the gentleman for yielding.

I just want to repeat to clarify the error of what was just said when he said we violate the Budget Act around here all the time. This bill does not violate the Budget Act. It waives section 302(f) which has to do with the allocation of the budget between committees. But it does not violate the overall budget total which is contained in an entirely different section and which is not waived.

Mr. GEJDENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. Lowry].

Mr. LOWRY of Washington. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this legislation and rise to inform the body that the entire Washington State delegation unanimously, bipartisanly supports this legislation as does the State of Washington strongly support it.

The Quinault Indian Nation has been making tremendous headway in developing their economic capabilities. This legislation will be very important to that. It will be important to the State of Washington and our region economically. It is very good legislation and I urge its passage.

Mr. MORRISION of Washington. Mr. Chairman, I rise only to again say that I do support this measure. It is a realistic settlement of a dispute.

Mr. de la GARZA. Mr. Chairman, I rise in support of S. 2752, a bill to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes. This bill is identical to H.R. 5203 which was previously considered by the House under suspension of the rules. Although a majority of the Members voted to pass the bill, it did not receive the required two-thirds vote under suspension of the rules, and failed to pass at that time. I am confident, however, that the House will give its endorsement to the measure today.

Mr. Chairman, I want to clarify one provision in the Senate bill. It is our intent that the Forest Service should continue to administer the so-called section 2 lands established by this bill in accordance with existing law and as provided by the final land and resource management plan for the Olympic National Forest. It is not the committee's intent that the establishment of the Quinalt Special Management Area should create any additional liability or fiduciary duty of the Department of Agriculture, nor should the receipt-sharing provisions of section 4 cause any changes in the Forest Service's timber sale program for the area, beyond that provided for in the land and resource management plan.

With that clarification, I urge my colleagues to support S. 2752.

Mr. UDALL. Mr. Chairman, I want to emphasize that the transfer of this Forest Service land to the Quinault Indian Nation is not intended in any way to reflect on the merits of the case styled *Helen Mitchell, et al.* v. *United States,* Nos. 772-71 through 775-71, in the U.S. Claims Court, in which certain Quinault allottees and the tribe have brought a breach of trust action claiming mismanagement of their timber resources by the United States. The United States in that litigation has expressly denied the substance of those claims. Neither is it intended to reflect negatively on the manner in which the Bureau of Indian Affairs has generally executed its statutory duties toward Indian timber resources.

This bill does not represent the settlement of any legal claims the Quinault Indian Nation may have against the United States. To my knowledge, the committee received no evidence that the Quinault Indian Nation had such legal claims and this legislation is not intended to settle or affect in any way such legal claims, if any. It is also not the intent of this bill to prejudice any property rights which may exist on the Quinault Indian Reservation.

Mr. MORRISON of Washington. Mr. Chairman, I yield back the balance of my time.

□ 1345

Mr. GEJDENSON. Mr. Chairman, I urge the passage of the bill, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, each section is considered as having been read for amendment under the 5-minute rule.

The Clerk will designate section 1.

The text of section 1 is as follows:

S. 2752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF QUINAULT INDIAN RESERVATION.

The Quinault Indian Reservation is hereby expanded to include those lands consisting of more or less eleven thousand nine hundred and five acres and generally depicted on the map entitled, "North boundary expansion, Quinault Indian Nation," numbered 88-S2752-1 and dated, September 23, 1988, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and of the Assistant Secretary for Indian Affairs, Department of the Interior, and of the tribal offices of the Quinault Indian Nation. The boundary of the Olympic National Forest is hereby modified as depicted on the map referred to in this section.

Mr. GEJDENSON. Mr. Chairman, I ask unanimous consent that the remainder of the Senate bill be printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The text of the remainder of the Senate bill is as follows:

SEC. 2. QUINAULT SPECIAL MANAGEMENT AREA.

The Secretary of Agriculture shall—

(a) manage those Federal lands within the boundaries of the Olympic National Forest consisting of more or less five thousand four hundred and sixty acres and generally depicted on the map entitled "Quinault Special Management Area" numbered 88-S2752-2 and dated, September 23, 1988, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and of the Assistant Secretary for Indian Affairs, Department of the Interior, and of the tribal offices of the Quinault Indian Nation in a manner consistent with section 3; and

(b) shall distribute the proceeds from the sale of forest products on lands referred to in subsection (a) as provided in section 4.

SEC. 3. ADMINISTRATION OF LANDS.

(a) All right, title, and interest in lands owned by the United States and administered by the United States Forest Service and referred to in section 1, shall hereafter—

(1) be administered by the Secretary of the Interior; and

(2) be held in trust by the United States for the Quinault Indian Nation and to be part of the Quinault Indian Reservation.

(b) All right, title, and interest in lands which are owned by the United States and administered by the United States Forest Service which are referred to in section 2 shall remain in the United States and, except as provided in section 4, shall continue to be administered by the United States Forest Service in accordance with all laws, rules and regulations applicable to the National forests.

(c) The rights of the Quinault Indian Nation to revenues under subsection (b) of section 4 shall not affect the management of these lands nor create a trust or fiduciary duty on the Secretary of Agriculture with respect to such management beyond that which the Secretary may have under existing law.

SEC. 4. RECEIPTS FROM NATIONAL FOREST SYSTEM LANDS.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, without further appropriations, receive from the gross proceeds from the sale of forest products from lands referred to in section 2 a reasonable fee not to exceed ten percent for preparation and administration of timber sales from such lands.

(b) Notwithstanding the requirements of the Act of March 4, 1907 (16 U.S.C. 499), concerning moneys received from revenues generated from the national forests into the Treasury of the United States, moneys received from the lands referred to in section 2 shall be distributed in the following manner:

(1) 45 per centum of all moneys received during any fiscal year from said land shall be paid into the account referred to in section 8; and

(2) 45 per centum of all moneys received during any fiscal year from said lands shall be paid to the State of Washington pursuant to the Act of May 23, 1908 (C. 192, 35 Stat. 251 as amended; 16 U.S.C. 500).

SEC. 5. LIMITATIONS ON TIMBER HARVEST.

(a) The Secretary of the Interior shall not approve any sale of unprocessed timber from lands referred to in section 1 which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: Provided, That this limitation shall not apply to specific quantities of grades and species of timber which the Secretary determines are surplus to domestic lumber and plywood manufacturing needs.

(b) In addition to restrictions referred to in subsection (a), the Secretary of the Interior shall—

(1) limit the sale of timber from the lands referred to in section 1 to a quantity equal to or less than a quantity which can be removed from such lands annually in perpetuity on a long term sustained-yield basis: Provided, That in order to meet overall multiple-use objectives, the Secretary may establish an allowable quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established. In addition, within any decade, the Secretary may sell a quantity in excess of the annual allowable sale quantity established pursuant to this section so long as the average sale quantity of timber over the decade covered does not exceed such quantity limitation; and

(2) administer all timber and forest products sold from the lands referred to in section 1 in accordance with the conditions of the Policy Statement for the Grays Harbor sustained yield unit as defined and administered by the Secretary of Agriculture as long as such policy statement remains in effect.

SEC. 6. EXISTING RIGHTS-OF-WAY AND OTHER INTERESTS.

The Secretary of Agriculture shall reserve permanent easements for the purpose of continuing access, including public access, to National Forest Systems lands on Forest Service roads numbered 21, 2110, 2120, 2130, 2140, 2190, 2191, and all numbered extensions or segments thereof. Such easements shall be in a form acceptable to the Secretary of Agriculture, including provisions for cooperative maintenance.

SEC. 7. ACCESS TO LANDS.

(a) The Secretary of the Interior shall allow such additional rights-of-way through lands referred to in section 1 as the Secretary of Agriculture, in consultation with the Secretary of the Interior and the Quinault Indian Nation, considers necessary to provide access to and management of National Forest System lands, including public access. Such rights-of-way shall be located in such manner as the Secretary of the Interior, in consultation with the Secretary of Agriculture and the Quinault Indian Nation, determines to be appropriate.

(b) The Secretary of Agriculture shall allow such rights-of-way through National Forest System lands as the Secretary of the Interior, in consultation with the Secretary of Agriculture and the Quinault Indian Nation, considers necessary to provide access to lands referred to in section 1. Such rights-of-way shall be located in such a manner as the Secretary of Agriculture, in consultation with the Secretary of the Interior and the Quinault Indian Nation determines to be appropriate.

SEC. 8. USE OF TIMBER SALE PROCEEDS.

The Secretary of the Interior shall maintain a segregated account and shall deposit in such account all funds derived from the sale of unprocessed timber from the lands referred to in section 1. The Secretary shall make such funds available only for—

(a) costs incurred by the Quinault Indian Nation for the preparation and administration of timber sales, including road construction and maintenance on such lands;

(b) the mitigation of any adverse environmental impacts from timber harvest activities on such lands;

(c) reforestation of any lands referred to in section 1 or any other lands within the external boundaries of the Quinault Indian Reservation: Provided, That nothing herein shall allow the Secretary of the Interior to substitute these funds for other appropriated funds or for forest management deductions, funds presently available for reforestation; or

(d) for the purchase from willing sellers by the Quinault Indian Nation of any lands or interests in lands within the external boundaries of the Quinault Indian Reservation and any costs incurred by the Quinault Indian Nation incident thereto.

SEC. 9. SAVINGS PROVISIONS.

Nothing in this Act is intended to affect or modify—

(a) the proportional distribution shares of the respective counties of receipts from the sale of timber in the remaining lands of the Olympic National Forest;

(b) any property rights which may exist within the exterior boundaries of the Quinault Indian Reservation as it existed prior to enactment of this Act; and

(c) any valid existing rights-of-way, leases or permits of the Secretary of Agriculture or any person or entity in any of the lands referred to in section 1.".

The CHAIRMAN. Are there any amendments to the Senate bill?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. LEVIN of Michigan, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill [S. 2752] to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes, pursuant to House Resolution 587, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 130, not voting 67, as follows:

[Roll No. 450]

YEAS—234

Ackerman
Akaka
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Bates
Beilenson
Bennett
Berman
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Callahan
Campbell
Cardin

Carper
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Courter
Coyne
Crockett
Darden
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dixon
Donnelly
Dorgan (ND)
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Evans
Fascell
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hochbrueckner
Horton

Houghton
Hoyer
Hubbard
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
LaFalce
Lancaster
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Lujan
Luken, Thomas
Manton
Markey
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McDade
McHugh
McMillen (MD)
Meyers
Mfume
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Owens (NY)
Owens (UT)
Patterson
Pease
Penny
Pepper
Perkins
Pickle

Porter
Price
Quillen
Rahall
Rangel
Ravenel
Richardson
Rinaldo
Robinson
Rodino
Roe
Rostenkowski
Roth
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sikorski
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (TX)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Udall
Valentine
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Yates
Yatron
Young (AK)

NAYS—130

Alexander
Andrews
Archer
Armey
Badham
Ballenger
Barnard
Bartlett
Bateman
Bereuter
Bliley
Boehlert
Buechner
Bunning
Burton
Byron
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Craig
Daub

DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
English
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Goodling
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hastert
Henry
Herger
Holloway

Hopkins
Huckaby
Hughes
Ireland
Johnson (CT)
Johnson (SD)
Kolbe
Konnyu
Kyl
Lagomarsino
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Lukens, Donald
Lungren
Madigan
Martin (NY)
McCollum
McCrery
McCurdy

McGrath
McMillan (NC)
Michel
Molinari
Moorhead
Nielson
Olin
Packard
Parris
Pashayan
Payne
Petri
Pickett
Pursell
Ray
Regula
Rhodes
Ridge
Roberts

Rogers
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schuette
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sisisky
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith, Robert (NH)

Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Swindall
Tallon
Upton
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weldon
Wolf

NOT VOTING—67

Barton
Bentley
Bevill
Bilirakis
Bosco
Boulter
Broomfield
Brown (CO)
Bustamante
Chandler
Clay
Crane
Dannemeyer
Davis (IL)
de la Garza
DeLay
Dingell
Dowdy
Durbin
Espy
Fazio
Ford (TN)
Gingrich

Gradison
Gregg
Hansen
Hertel
Hiler
Inhofe
Jenkins
Jones (NC)
Kasich
Kemp
Kolter
Kostmayer
Lantos
Latta
Leland
Livingston
Lott
Mack
MacKay
Marlenee
Martin (IL)
Matsui
McEwen

Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mrazek
Ortiz
Oxley
Panetta
Pelosi
Ritter
Rose
Sharp
Smith, Denny (OR)
Sweeney
Taylor
Towns
Traxler
Volkmer
Whittaker
Wylie
Young (FL)

☐ 1405

The Clerk announced the following pairs:

On this vote:

Mr. Dingel for, with Mr. Oxley against.

Mr. Leland for, with Mr. Bilirakis against.

Mr. Towns for, with Mr. Delay against.

Mr. Jones of North Carolina for, with Mr. Boulter against.

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today or tomorrow after debate has been concluded on all motions to suspend the rules.

STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 4352) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

(For conference report and statement see proceedings of the House of Thursday, October 13, 1988, at page 30564.)

The SPEAKER pro tempore. The gentleman from Rhode Island [Mr. ST GERMAIN] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Rhode Island [Mr. ST GERMAIN].

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report was the product of the efforts of the Committees on Banking, Finance and Urban Affairs; Energy and Commerce; Education and Labor; Government Operations, Veterans' Affairs, and Ways and Means. I commend the chairmen and the ranking minority members of all these committees for their cooperation and splendid efforts in concluding this wide-ranging conference on the vitally needed McKinney Homeless Authorization Act.

Mr. Speaker, the House passed this bill on August 3, 1988, by a vote of 333 to 80 and the Senate passed its version of our bill on September 28. The issues involved in this conference were wide-ranging and in some cases very difficult to resolve. The Senate was unhappy with a number of the House provisions, while the House in a number of areas was opposed to the directions the Senate was taking. The authorization levels were quickly agreed upon and the conference report authorizes a total authorization level of $634 million for fiscal year 1989 and $683 million for fiscal year 1990. In most instances we have split the differences in the various programs reauthorized in this bill.

The Banking Committee's responsibility in H.R. 4352, is related to the Federal Emergency Management Agency's Emergency Food and Shelter

Program and the HUD housing and shelter programs.

We have sought to make the HUD Emergency Shelter Grant and supportive housing programs more flexible in response to testimony from local governments and nonprofit service providers who felt that changes were necessary to make these programs more adaptable to local circumstances. The conference report continues the excellent health care programs that were enacted in last year's McKinney Act, provides for a continuation of veterans homeless programs and makes changes in the use of AFDC funds for homeless families.

Finally, Mr. Speaker, this conference report resolves a number of differences that the House and Senate have had with the administration relating to last year's Housing and Community Development Act and includes clarifying amendments to encourage the preservation of low income housing, assist in the administration of rural housing programs of the Farmers Home Administration, and facilitate the operation in the number of assisted housing programs. Mr. Speaker, before concluding, I wish to commend the distinguished chairman of the Housing and Community Development Subcommittee, Mr. Gonzalez, for his efforts in pushing the successful conclusion of this conference and for his stalwart efforts in addressing the needs of homeless people, and I would also like to commend the distinguished ranking minority member of the Banking Committee, Mr. Wylie, for his strong assistance in working out our differences with the Senate and with the administration.

I also want to commend the gentlewoman from New Jersey [Mrs. Roukema] for her efforts, her herculean efforts, in this regard.

Mr. Speaker, I urge prompt approval of this conference report.

Short Summary—Conference Report to H.R. 4352: The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (House Conference Report 100-1089)

The conference report (House Report 100-1089) to H.R. 4352, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, was filed Thursday, October 13, 1988. H.R. 4352 reauthorizes a total of $633.8 million for FY 1989 and $682.8 million for FY 1990 for homeless programs which are under the jurisdiction of the Committees on Banking, Finance and Urban Affairs; Government Operations; Energy and Commerce; Education and Labor; Veterans Affairs; and Ways and Means. The following is a short summary of the major provisions contained in the ten titles of the conference report.

TITLES I-III—GENERAL PROVISIONS/INTERAGENCY COUNCIL ON THE HOMELESS/FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Title I contains a Budget compliance provision and requires the General Accounting Office to submit an annual summary to Congress of the homeless programs authorized in the McKinney Act.

Title II authorizes to be appropriated $1.1 million for FY 1989 and $1.2 million for FY 1990 for the Interagency Council on the Homeless; extends the Council through FY 1990; requires the Council to distribute a bimonthly bulletin on federal resources available under the McKinney Act; provides professional and technical assistance to coordinate the Council's activities within the 10 standard federal regions; establishes program timetables for federal agencies for program funding availability and application deadlines; and encourages State involvement by requiring States to designate State homeless contact persons.

Title III authorizes $129 million to be appropriated for FY 1989 and $134 million to be appropriated for FY 1990 for the FEMA Emergency Food and Shelter programs, and requires the National Board to develop alternative formulas in legislation for distribution of program funds which takes into account the number of long-term unemployed workers in each State.

TITLE IV—HOMELESS HOUSING ASSISTANCE

Title IV requires annual submission of Comprehensive Homeless Assistance Plans (CHAPs); requires States and metropolitan cities or urban counties to submit their CHAPs to each other; requires CHAPs to describe how facilities and services will be used to meet homeless needs; requires the inclusion of contact persons and homeless coordinators; requires federal agencies to provide information to State contact persons; requires a good faith assurance that recipients will administer a policy to ensure their homeless facility is free of illegal use, possession or distribution of drugs or alcohol; and requires entities to respond to HUD recommendations.

Title IV authorizes $120 million for FY 1989 and $125 million to be appropriated for FY 1990 for the Emergency Shelter Grants (ESGs) program; allows States to directly distribute ESGs to private nonprofit organizations with local government certification; increases the essential services limitation from 15 percent to 20 percent; includes homelessness prevention activities as eligible within the 20 percent essential services cap; requires GAO to report on federal, State and local homelessness prevention programs; and requires a building to be used as a shelter for the full period during which program assistance is provided for projects which receive funding for essential services, maintenance or operation.

Title IV further authorizes $100 million for FY 1989 and $105 million for FY 1990 for the Supportive Housing Demonstration program; allows program funds to be used for operating and technical assistance for new structures; permits public housing authorities to become project sponsors under the Permanent Homeless Handicapped program; allows approval by a State official, instead of the Governor or Chief Executive Official, for permanent handicapped homeless projects; allows the length of stay in transitional projects to be 24 months or such period as the Secretary determines; allows HUD to waive the 8 person limit in the Permanent Handicapped Homeless program under certain circumstances; allows program advances to be used to repay existing mortgage debt service if projects have not been used previously as supportive housing; allows Supportive Housing funds for operating costs of permanent handicapped homeless projects but limits assistance to 50 percent and 25 precent, respectively, in the first and second years; allows Supportive Housing funds to establish and operate an employment assistance program for transitional residents; increases the limit from $200,000 to $400,000 on program advances for projects in areas of high acquisition and rehabilitation costs; requires project sponsors to reasonably assure project site control within 6 months and obtain site control within 12 months; applies flood plain restrictions contained in Presidential Executive Order 11988 to Supportive Housing projects; defines the non-federal funds which can be used as matching funds; requires a report on the Supportive Housing program; and allows HUD to reallocate Supportive Housing Demonstration program funds among each type of program category after the final funding round for specified categories.

Title IV authorizes $10 million for FY 1989 and $11 million for FY 1990 for the Supplemental Assistance program; clarifies that program funds can be used for both supportive services and operating expenses; requires project sponsors to reasonably assure project site control within 6 months and obtain site control within 12 months; allows a final site to be different from the original site if the proposed Supplemental Assistance project is within the same jurisdiction; increases by $50 million for each fiscal year 1989 and 1990 the funds authorized for Sec. 8 Moderate Rehabilitation for Single Room Occupancy (SRO) dwellings; allows SRO assistance to be used by public housing authorities to rehabilitate efficiency units if the owners agree to pay the additional costs of rehabilitating and operating the units; defines the term "major spaces" for the SRO program; requires the SRO per unit cost limit to be increased annually based on increases in construction costs; permits program recipients under the Homeless Housing Assistance programs to use the expedited process for environmental review and historic preservation compliance under the 1974 Housing Act; requires HUD to report to Congress on the effect of rent control on homelessness and the development, supply, availability, and affordability on housing in areas which have rent controls; requires HUD to report to Congress on an alternative system of distributing McKinney Housing Assistance based on allocating funds to communities that have the greatest need for homeless assistance; and requires HUD, or other federal entities involved, to issue program requirements within 60 days of the enactment date and regulations within 12 months of the enactment date for Titles I-IV and Sec. 501(2)(B) of the conference report.

TITLE V—IDENTIFICATION AND USE OF SURPLUS PROPERTY

Title V amends Section 501 of the McKinney Act to clarify, extend, and strengthen the existing law, as well as to speed up the pace of its implementation by federal agencies. The Secretary of HUD is required to make his identification of unutilized or underutilized federal-agency properties as suitable for assisting the homeless within a 2-month time frame. The amendment also adds the word "unutilized" to existing law to correct an apparent GSA misinterpretation that limited the scope of the word "underutilized" in a way disadvantageous to the Act's purpose.

Title V directs agencies holding property identified as suitable to make it available for homeless assistance or give reasons for not doing so; and it extends the method of making the property available to include interim use permits in addition to the existing method of leasing property determined to be surplus pursuant to the Federal Property and Administrative Services Act of 1949, which provides a procedure for public-benefit transfers of excess property that has been declared surplus.

Title V also assures that *all* identified property that is determined surplus may be leased for a public health purpose under the Federal Property Act.

The statement of managers in the conference report re-emphasizes that GSA, HUD, and other agencies controlling identified property should fully recognize the special urgency of the need to assist the homeless and give priority of consideration to the necessary disposals, whether by lease or by interim use permit.

TITLE VI—REVISION AND EXTENSION OF PROGRAMS OF HEALTH CARE FOR THE HOMELESS

Title VI extends for three fiscal years, 1989-1991, the authorization of appropriations for expiring primary care, substance abuse, and mental health provisions of the McKinney Act.

Primary Health Care and Substance Abuse Grants—Title VI extends the primary care/substance abuse categorical grant programs authorized under Section 340 of the Public Health Service (PHS) Act. Under this program the Secretary of Health and Human Services is authorized to make grants directly to public and private nonprofit entities to deliver health care, including primary care and substance abuse services to the homeless. Title VI authorizes the appropriation of $61.2 million for fiscal year 1989, $63.6 million for fiscal year 1990, and $66.2 million for fiscal year 1991 for this grant program. Title VI raises the local matching requirement from 25 to 33⅓ percent for grantees in their second or subsequent year of funding. Title VI extends the Secretary's authority to waive this matching requirement in exceptional circumstances with respect to all nonprofit private entities, not just those receiving Section 330 funds. Title VI further clarifies that homeless individuals eligible for services under the Section 340 grant program include residents of transitional housing, and makes clear that Section 340 grantees may continue to provide health services to an individual for up to a year after the individual has become a resident in permanent housing and is no longer homeless.

Mental Health Services Block Grant—Title VI extends for three fiscal years the authorization of appropriations for the State Mental Health Services for the Homeless Block Grant. Title VI authorizes the program at $35 million for fiscal years 1989 through 1990 and such funds as may be necessary for 1991. Title VI provides that if the amounts appropriated in any fiscal year are insufficient to provide each State with an allotment of $150,000, the Secretary will be required to make grants to the States on a competitive basis for the purposes of providing mental health services to the homeless.

Demonstration Projects—Title VI extends for three fiscal years the Community Mental Health Services Demonstration programs of the National Institute of Mental Health and the Alcohol and Drug Abuse Community Demonstration Projects of the National Institute of Alcohol Abuse and Alcoholism. Title VI authorizes $11 million for fiscal year 1989, $11.5 million for fiscal year 1990, and such funds as are necessary for fiscal year 1991 for mental health demonstration projects. Title VI also authorizes $14 million in fiscal year 1989, $17 million in fiscal year 1990 and such funds as necessary for fiscal year 1991 for alcohol and drug abuse demonstration projects.

TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Title VII authorizes $10 million for each fiscal years 1989 and 1990 to carry out programs for adult education for the homeless; contains several minor amendments regarding data gathering and reports; authorizes $5 million for each fiscal year 1989 and 1990 for grants to educate homeless children and youth; authorizes $2.5 million for each fiscal years 1989 and 1990 to support exemplary grants and information dissemination; and defines "State" for all homeless programs in this title to include the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands; authorizes $13 million for each fiscal year 1989 and 1990 for job training for the homeless, of which $2.2 million is set aside for homeless veterans' reintergration projects, and makes minor changes in the ratable reduction requirement in Section 739; authorizes activities for homelessness prevention and provides that not more than 25% of these funds appropriated to carry out Emergency Community Services Homeless Grant program shall be available to support these activities; requires states to award allocated funds to community action agencies within 60 days of receiving their allocations and authorizes $42 million for each fiscal year 1989 and 1990 to carry out the Emergency Community Services Homeless Grant program and provides technical amendments to the Older Americans Act of 1965.

Title VI amends the Job Training Partnership Act (JTPA) by establishing an incentive bonus program which rewards States which successfully train and place in unsubsidized employment long-term welfare recipients and other hard-to-serve individuals. Title VI provides for "such sums" authorization to fund the JEDI program which may begin during program year 1990. Title VI requires that no funds shall be appropriated for this incentive program unless the funding for Title II-A of JTPA, the basic training services for disadvantaged adults and youth, exceeds any change in the consumer price index from the previous year's appropriations.

Title VI provides that incentive bonuses amounting to 75% (in excess of 1987 placements) for 3 consecutive years be awarded to participating States and local service delivery areas under JTPA and provides that up to $5 million in start-up money will be available to assist participating jurisdictions. Title VI provides several programmatic improvements and requires the Secretary of Labor, no later than January 1, 1995, to evaluate the types of training provided as well as the relative effectiveness of this new program.

TITLE VIII—VETERANS PROGRAMS

Title VIII authorizes the appropriation of $30 million for the Veterans' Administration for each fiscal year 1989 and 1990 for the following purposes: fifty percent of the total annual appropriation each fiscal year is to be used for Veterans' Administration conversion and operation of underutilized space in VA facilities for domiciliary-care beds for use by homeless veterans; and fifty percent of the total annual appropriation each fiscal year is to be used by the Veterans' Administration to furnish care for chronically mentally ill homeless veterans.

TITLE IX—AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) AND UNEMPLOYMENT COMPENSATION

Title IX extends the moratorium on any regulations under the Aid to Families With Dependent Children (AFDC) program which restrict special needs payments or the AFDC emergency assistance program. Title IX directs the Department of Health and Human Services to study current policy and recommend changes designed to improve the ability of the AFDC program to respond to emergency needs of homeless families and eliminate the use of AFDC funds for shelter costs in so-called "welfare hotels."

Title IX also includes a provision authorizing at least 2 but not more than 3 demonstration projects designed to reduce the number of homeless AFDC families living in hotels by encouraging the rehabilitation or construction of transitional facilities. Title IX authorizes $20 million to be available until expended beginning in fiscal year 1990 for these demonstration projects.

Title IX permits the Secretary of Housing and Urban Development or a public housing agency to request wage and unemployment compensation data from State unemployment agencies for the purpose of verifying tenant eligibility. Title IX limits this authorization to 5 years and prohibits data from being released to private owners.

TITLE X—HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS

Housing Assistance—The conference report requires HUD to establish a self-executing percentage for each HUD program for eligibility of families between 50-80 percent of median income and clarifies that owners (including PHAs that establish an income mix in projects) may not skip over persons on the waiting list to house persons with higher income; requires HUD, subject to Appropriations approval for FY 1989 only, to restore any Section 8 rents for projects involving new construction, substantial rehabilitation or moderate rehabilitation rents that were reduced between April 15, 1987, and February 5, 1988, and provides any rent increase will be considered a new floor; provides that project-based Section 8 existing assistance may be renewed by a PHA for up to a total of 15 years and may be used in a newly constructed project; clarifies that voucher assistance shall be adjusted annually; permits HUD to provide counseling services for owners of single family homes guaranteed or insured by the Veterans' Administration; authorizes a 10 percent exception to the preference requirements applicable to lower housing eligibility to accommodate local preferences, permits HUD to increase the 10 percent for good cause and requires HUD to allocate sufficient Section 8 certificates and vouchers to avoid economic displacement from rental rehabilitation projects; imposes preservation requirements on unsubsidized projects in FHA-held inventory whether mortgage is assigned before or after February 5, 1988, and requires that Section 8 assistance must be provided at sale for those units (a) owned by HUD that are occupied by lower income or vacant at the time of assignment or sale whichever is greater or (b) held by HUD that are occupied by lower income families; requires the Secretary to provide local governments and State agencies a right of first refusal to purchase a HUD-owned property prior to offering the project for sale to other entities; clarifies for multifamily disposition that an "assisted project" for purposes of project sale limitations must have

50 percent or more of its units assisted; clarifies that an "assisted project" covers loan management, property disposition but not Section 8 certificates or vouchers, and projects with any units assisted must continue regulatory agreements; and requires HUD to use not less than the lesser of $30 million or 40 percent of flexible subsidy funds for capital improvement loans to the extent that approvable applications are received.

Preservation of Low Income Housing—The conference report clarifies that incentives are provided to projects facing the end of low income restrictions only when low-income restrictions are extended through the term of the mortgage or, in the case of a prepayment through a similar time period; sets a limitation on the amount of rent increases that can be established in the plan of action; clarifies that prepayment limitations apply to State-insured federally assisted Section 236 projects; requires the establishment or criteria for selecting a purchaser for a FmHA project subject to the prepayment restrictions; and clarifies that when Section 8 LMSA expires, HUD must offer to extend the LMSA or offer new project-based LMSA contracts, not vouchers or certificates.

Rural Housing—The conference report deletes a provision regarding use of comparability in computation of rent increases in Section 515 Low-Income Rural Rental Housing Program; provides flexibility for the rental by low-income families of Section 514 Farm Labor Housing when housing is not needed by farm workers; permits FmHA, Justice Department or, where it is cost-effective, private attorneys to handle FmHA foreclosures and permits the FmHA Rural Rental Rehabilitation Program to be used in States where HUD administers the Rental Rehabilitation Grant Program.

Mortgage Insurance and Secondary Mortgage Market Programs—Permits investors to refinance an insured mortgage if monthly mortgage payments are reduced and does not limit new mortgage to 75 percent of value of the property; clarifies FHA assumption policy reference to "date mortgage is executed" not "date of endorsement for insurance" and clarifies the effective date for applicability of new assumption requirements; deletes the requirement that a mortgage under the Home Equity Conversion Demonstration Program be secured by a dwelling that has a value on greater than the FHA single family mortgage limits, and retains the provision that the home equity conversion mortgage cannot be greater than the maximum allowed under FHA single family; clarifies reciprocity regarding FHA acceptance of Veterans Administration Certificates of Reasonable Value (CRV), requires HUD to report to Congress on the subdivision approval policies and practices of HUD, Farmers Home Administration and the Veterans' Administration; and extends authority for the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC) to purchase multifamily second mortgages.

Community Development and Miscellaneous Programs—The conference report requires HUD to use current data, not 1980 census data, in determining the loss of entitlement status for metropolitan cities and urban counties; clarifies the certification requirements for non-entitlement communities; clarifies that the Home Mortgage Disclosure Act provisions in the 1987 Housing Act apply beginning with calendar year 1988; requires FEMA to revise flood elevation requirements for Sacramento and Planada, California.

The conference report contains a number of changes to the 1987 amendments to the Lead-Based Paint Poisoning Prevention Act of 1971 to ensure that the testing and abatement of lead-based paint in public housing proceeds in accordance with the most reliable, safe and effective techniques currently available as well as to clarify the confusion and misunderstandings caused by the promulgation of the June, 1988, HUD regulations.

The conference report reaffirms the intent of Section 430 of the Housing and Community Development Act of 1987 that the DeWilde funds—when released—should be utilized for any existing 236 project within a recipient State. The conference report contains a provision that requires the Department of Housing and Urban Development to carry out a study that will lead to a policy to deal with radon in assisted multifamily housing.

CONFERENCE REPORT ON H.R. 4352, STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

[Budget Authority [BA], dollars in millions]

	Fiscal year 1989		Fiscal year 1990		Fiscal year 1991		Conference report		
	House	Senate	House	Senate	House	Senate	Fiscal year 1989	Fiscal year 1990	Fiscal year 1991
Banking Committee:									
HUD emergency shelter grants	125	129	(¹)	120			120	125	
Supportive housing demonstration	105	100	(¹)	100			100	105	
Transitional housing (families)	(20)	(20)	(¹)	(20)			(20)	(20)	
Handicapped housing grants	(15)	(15)	(¹)	(15)			(15)	(15)	
Supplemental assistance	27	10	(¹)	10			10	11	
Section 8 10-yr. Mod. Rehab. for SRO's	40	50	(¹)	50			50	50	
Housing subtotal	297	280	(¹)	280			280	291	
FEMA emergency food and shelter ¹	129	129	(¹)	134			129	134	
Interagency Homeless Council ²	.8	1.2	(¹)	1.2			1.1	1.2	
Banking subtotal	426.8	410.2	(¹)	415.2			410.1	426.2	
Energy and Commerce:									
Health services categorical grants	61.2	61.2	63.6	63.6	66.2	66.2	61.2	63.6	66.2
Mental health services block grant	35	35	36	35	38	35	35	35	(¹)
Mental health services demonstration projects	10	11	11	11.5	12	(¹)	11	11.5	(¹)
Alcohol and drug abuse demonstration project	10	20	11	25	12	(¹)	14	17	(¹)
Energy and Commerce subtotal	116.2	127.2	121.6	135.1	128.2	101.2	121.2	127.1	66.2
Education and Labor Committee:									
Adult education	11	10	11	10			10	10	
Homeless children education grants	6	5	6	5			5	5	
Exemplary grants	2.5	2.5	2.5	2.5			2.5	2.5	
Job training	13	12	13	12			³13	³13	
Emergency comm. services (CSBG)	42	40	42	40			42	42	
JEDI ⁴		4		5			0	⁵7	
Transitional living grants		5		5					
Education and Labor subtotal	74.5	78.5	84.5	79.5			72.5	79.5	
Veterans Committee:									
Domiciliary care	15	12	1%	12			15	15	
Chronically mentally ill	10	18	10	18			15	15	
Veterans subtotal	25	30	25	30			30	30	
Ways and Means Committee: Homeless AFDC demonstration projects	0		0				0	20	
Total	642.5	645.9	221.1	659.8	128.2	101.2	633.8	682.8	66.2

[1] Such sums.

[2] Senate Governmental Affairs has jurisdiction over the FEMA Emergency Food and Shelter Program and the Interagency Homeless Commission.

[3] $13 million authorization includes $2.2 million for the Homeless Veterans' Job training Program.

[4] Jobs for employable dependent individuals [JEDI].

[5] CBO estimates budget authority impact of $7 million in fiscal year 1990 which assumes funding of this JEDI provision through appropriations.

Mr. GONZALEZ. Mr. Speaker, I rise in support of the conference report to H.R. 4352, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, which is an emergency effort to assist the homeless in our country. This legislation represents the continuing commitment by Congress to assist the homeless which now number in excess of 3 million persons in the United States. This conference report represents the bipartisan efforts and hard work of Members on both sides of the aisle in both the House and Senate. The House and Senate each had programmatic and perfecting amendments, included in their versions of H.R. 4352, to the existing McKinney Act which was first enacted into Public Law 100-77, July 22, 1987. This conference report represents the Congress' continued efforts to make these existing McKinney Act homeless programs more flexible in order to serve the needs of the homeless in our country.

I must emphasize that this bill is an emergency effort to assist the homeless. We have developed this legislation in order to address the emergency and acute needs of the homeless. This bill does not make the McKinney programs permanent. Rather it only reauthorizes the McKinney programs for 2 more years, fiscal years 1989 and 1990. This bill does not focus on the cause—the lack of affordable available housing to lower income Americans. The answer is clearly more permanent housing which is affordable and available to lower income persons. The Housing Subcommittee will soon consider much broader approaches to provide permanent housing for the 1990's.

Last year we were successful in authorizing the McKinney Act programs and today we continue our efforts by reauthorizing and perfecting the homeless programs contained in the Stewart B. McKinney Act. This conference report provides emergency assistance to the homeless and is not the cure-all for the homeless. Rather it expands upon and perfects the initial McKinney Act which we enacted last year and which has been operating over the last 9 months.

Today we are reauthorizing the vitally needed homeless programs contained in the McKinney Act for fiscal years 1989 and 1990. This conference report represents a joint bipartisan effort by both the majority and minority. The funding levels authorized in the bill do not exceed the levels assumed in the fiscal year 1989 concurrent budget resolution. The bill reauthorizes the McKinney programs and provides a number of programmatic changes which are based on the hearings conducted by the Housing Subcommittee on January 26, 1988, and based on subsequent meetings with advocates for the homeless, service providers, and State and local officials. I believe that the provisions contained in this conference report will make the program that we designed in the McKinney Act more workable in many communities throughout our country.

The conference report contains 10 titles, of which the Banking Committee has jurisdiction over five titles, titles I through IV, and title X. Titles I through IV deal with the HUD and FEMA McKinney homeless programs and title X deals with technical and conforming amendments to the 1987 Housing and Community Development Act—Public Law 100-242.

The conference report authorizes a total of $633.8 million for fiscal year 1989, and $682.8 for fiscal year 1990, of which $410.1 and $426.2 million is authorized in each respective fiscal year for the HUD and FEMA homeless programs under the Banking Committee's jurisdiction. These authorizations for the HUD/FEMA programs for each respective fiscal year 1989 and 1990 are allocated as follows: $120 and $125 million for the Emergency Shelter Grants Program; $100 and $105 million for supportive housing demonstration programs—including transitional housing and permanent housing for handicapped homeless programs; $10 and $11 million for the supplemental assistance for facilities to assist the homeless program; $50 million in each fiscal year for section 8 10-year moderate rehabilitation for single room occupancy [SRO] dwellings; $129 and $134 million for the FEMA Emergency Food and Shelter Program; and $1.1 and $1.2 million for the Interagency Homeless Council.

This conference report contains a budget compliance provision and requires the General Accounting Office to submit an annual summary of all McKinney homeless programs to Congress. The conference report also extends the Interagency Council for 3 years and strengthens the communication and distribution of information about the Federal resources available under the McKinney Act through a bimonthly bulletin and by requiring that States designate a State homeless contact person. The conference report also requires the National FEMA Emergency Food and Shelter Board to develop alternative formulas of distributing program assistance based on data on long-term unemployed workers in each State.

The conference report also contains technical and programmatic provisions which clarify and strengthen the HUD homeless programs to better assist the homeless. Changes are made the comprehensive homeless assistance plan [CHAP], which is submitted by local governments and States, which strengthens communication and information about the McKinney homeless programs and includes a requirement that a good faith assurance that recipients will administer a policy to ensure that their homeless facility is free of illegal use, possession, or distribution of drugs or alcohol. Numerous provisions are included to perfect the existing McKinney programs and allow greater participation in all HUD McKinney programs.

In addition to the changes in the McKinney Act, we have added provisions in this legislation that make a number of technical and conforming changes to the 1987 housing authorization bill that the President signed on February 5, 1988, as well as correcting some erroneous interpretations that HUD has taken with regard to certain provisions in the 1987 housing authorization bill. These technical changes to the 1987 authorization bill reflect what the Congress had in mind in developing last year's housing and community development authorization bill.

Finally, four issues raised by the conference report should be clarified. First, the lease and grievance rules issued by HUD raised such serious issues about fair grievance procedures and the inequity of families, including the elderly, losing housing assistance because a family member is accused—mind you, not even convicted—of criminal activities far from their home, that the chairman of the Select Committee on Aging and others requested that hearings be held early next year. Those hearings will take place. We expect HUD meanwhile will review the regulations during the interim rule comment period to address the concerns expressed in the conference report.

Second, the conference report language indicating that section 262 and the other preservation provisions of the Housing and Community Development Act of 1987 were not intended to prevent HUD from extending section 8 contracts for terms less than 5 years and directed HUD to permit shorter than 5-year extensions applies to all types of section 8 contracts, including those which were originally entered into on newly constructed and substantially rehabilitated projects and without regard to the source of the project's mortgage financing.

Third, with regard to the provision requiring HUD to restore section 8 rents that were reduced between April 15, 1987, and February 5, 1988, and to reimburse owners for lost payments the conferees had to subject this requirement to approval in an appropriations act for fiscal year 1989 in order to avoid a point of order that could otherwise be made in the other body. However, on October 1, 1989, owners would have a right to such restoration and payments.

It has come to the attention of the conferees that some meritworthy applicants for grants under the Supportive Housing Demonstration Program have been denied for technical reasons relating to certification of their status as nonprofit entities under section 501(c)(3) of the Internal Revenue Code. Some of those applicants will find the resources they need to fund projects that will help people through the cold winter months ahead, but a technical reading of the conference report may lead officials at HUD to deny funding in the next round of grant applications because these projects will no longer be in the "start-up" stage. One very strong applicant from Cambridge, MA, was denied funding as a result of a misunderstanding regarding nonprofit status, and it may lose its eligibility for the next round of applications if it proceeds with temporary funding from other sources.

The conferees would expect that any grant applicant refused for technical reasons on this year's round of applications would not be precluded from receiving a grant in the next round, nor should such an applicant be precluded from receiving approval if additional funds become available in the interim period before the next formal round of applications. These grants are not intended to supplant State and local funding for ongoing services, but the conferees feel strongly that a meritworthy applicant should not be denied eligibility for this type of grant simply because the applicant is able to find temporary funding to begin serving the needs of homeless people this winter.

Finally, during the course of the conference the issue of clarifying the Department of Housing and Urban Development's authority over mortgage-backed securities issued by the Federal National Mortgage Association was discussed. Subsequently the Department decided to grant permanent authority to FNMA to issue real estate mortgage investment conduits [REMICs]. While the conferees concur in that decision we wish to point out that FNMA's competitors, FHLMC, is still subject to limited REMIC authority by its Board of Directors, the Federal Home Loan Bank Board. We want to make clear that it is imperative that competitive parity be maintained between FNMA and FHLMC and that we would expect no restrictions would be placed on the operations of FHLMC that would in any way limit the positive competitive role that exists between FNMA and FHLMC as procedures of affordable mortgage credit to American homebuyers.

Mr. Speaker, I urge the adoption of this conference report.

□ 1415

Mr. ST GERMAIN. Mr. Speaker, I urge prompt approval of this conference report that is the product of the labors of so many dedicated people.

Mr. Speaker, due to another meeting, I ask unanimous consent to yield the balance of my time to the gentleman from Texas [Mr. GONZALEZ] to act as manager.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report accompanying H.R. 4352, legislation reauthorizing the McKinney Homeless Assistance Act.

This conference report has two basic thrusts:

First, it reauthorizes the homeless assistance programs we first enacted last year. It is a 2-year authorization for fiscal years 1989 and 1990.

Second, it makes several "technical" changes and corrections in the 1987 housing authorization bill which was signed into law in February of this year.

HOMELESS PROGRAMS

The homeless programs, which are so important as we face a relatively new and growing problem, are continued with almost no changes. As the Members will recall, when this bill came to the floor in early August, the gentleman from Pennsylvania [Mr. RIDGE] and I offered an amendment which would have combined three of the categorical programs into one block grant. We contended that that approach would have given States and localities greater flexibility and would have served the homeless of America more effectively. Unfortunately, our amendment lost by a very narrow margin on a recorded vote. I would hope, however, that, when we return to homeless issues in the next Congress, we will reconsider the matter of a homeless block grant. It is a proposal with substantial merit, and I would hope that the majority and minority on the committee might be able to work together to produce such a structure in our next bill.

In the meantime, we definitely need to move ahead with this bill. There is a critical need out there, and we cannot ignore it.

CHANGES IN THE 1987 ACT

We have also made several changes in the 1987 Housing Authorization Act. Many of these proposals were contentious, but I am pleased to report to the House that we have worked matters out sufficiently in the conference committee so that all House Minority Conferees have signed the conference report. We support the bill. And we have resolved the issues about which the administration had any serious reservations.

LEAD-BASED PAINT PROVISIONS

When the House approved the bill in August, we included no changes in the lead-based paint provisions of the 1987 Act. The Senate, however, made several changes, many of them improvements.

For example, the conference report eliminates the public housing vacancy provision, which would have required testing and abatement whenever a unit became vacant and which probably would have been impractical. We also authorize abatement after a random sampling of units, and we make clear that AAS (atomic absorption spectroscopy) may be used for testing and that a PHA may abate to a more stringent standard than that laid out in the 1987 Act.

I should make clear at this point that the conferees intend that the lead paint provisions of this conference report apply equally to public and Indian housing.

I do want to emphasize now a point which we have also stressed in our Statement of Managers. The HUD-Independent Agencies appropriations bill directed HUD to cooperate with the National Institute of Building Sciences [NIBS] to develop standards and guidelines for testing and abatement within 6 months. In testimony before the Housing Subcommittee last month, officials involved in this effort assured us that these standards and guidelines would be produced by February 1989. We expect this deadline to be met, and this Member will have a very difficult time accepting any delay. Let there be no confusion on that point.

My final comment on lead paint is that it is clear that EPA must take a greater responsibility for dealing with this matter. EPA possesses the expertise in toxic health issues, and we are going to have to rely more heavily on that expertise.

LEASE AND GRIEVANCE PROCEDURES

HUD recently published regulations implementing new "lease and grievance" procedures. These are important procedures to enable PHA's to fight illegal drugs and other crime in their facilities. We resisted efforts to overturn these procedures altogether. The conference report recognizes that there is controversy surrounding these procedures and, therefore, allows the regulations to go into effect, but also provides an additional 60 days for further public comment.

LMSA

Finally, we addressed the issue of renewal of Loan Management Set-Aside contracts. The House-passed bill provided for 15-year LMSA. Because of administration concerns, we have changed this to 5-year LMSA. Thus, we eliminate any budget impact to the provision. I should also note that there are no other "direct spending" provisions in the conference report.

SUMMARY

In summary, Mr. Speaker, this is a very reasonable bill which addresses a severe and mounting problem. This conference report merits our support, and I urge my colleagues to vote in its favor.

Finally, I want to note the work performed on this bill by our committee's ranking minority member, the gentleman from Ohio [Mr. WYLIE], who, because of other business, cannot be on the floor at this time.

Mr. WYLIE. Mr. Speaker, as one of the original cosponsors of aid to the homeless legislation introduced in the 100th Congress, I rise in support of the conference report.

Mr. Speaker, the chairman of our subcommittee, Mr. GONZALEZ, deserves special praise for his leadership on the conference report before us today. Along with our chairman, I would like to single out other important Members and my colleagues on the Banking Committee, Mrs. ROUKEMA, the ranking Republican on the subcommittee and Mr. VENTO. They have all provided strong leadership contributions in designing and improving the basic homeless assistance programs, enacted in the first session of the 100th Congress for today's conference report.

The Banking Committee's portion of the conference report provides only modest increased funding in fiscal years 1989 and 1990 for the three existing programs for the homeless, FEMA Emergency Food and Shelter Program, Emergency Shelter Grant Program, and the Transitional Housing Demonstration Program, as well as additional funding for the section 8 Moderate Rehabilitation for Single Room Occupancy Program. A total of $410.1 million is authorized for fiscal year 1989 and $426.2 million for fiscal year 1990 for these homeless assistance programs under the Banking Committee's jurisdiction.

The conference report contains several policy changes which are designed to improve the efficiency in delivering much needed homeless aid to State, local, and private nonprofit organizations, such as encouragement for more technical assistance and improved coordination of information by State agencies. Greater flexibility has been provided by increasing from 15 percent to 20 percent the amounts of funds under the Emergency Shelter Grant which may be used to provide essential services. Despite these positive changes, still greater flexibility and local determination in my judgment, is needed, before the homeless assistance programs will truly reach their most effective potential. Homelessness is a diverse and essentially localized problem and the solutions, therefore, must be designed to provide such local discretion. We would have preferred to see the acceptance of the Ridge/Roukema block grant approach which was narrowly defeated by the House on August 3, which would have created maximum local flexibility for local communities in administering the McKinney Act programs through a block grant system. Notwithstanding these reservations, I believe that the conference report under consideration is on the right track and should receive our support.

Mr. Speaker, this conference report also makes some modifications, not directly related to homelessness, which were necessary to provide technical and other clarifications to the Housing and Community Development Act of 1987. While these provisions, at first appeared to be controversial with the administration, I am now satisfied that the budgetary concerns expressed relating to changes in the section 8 program used in conjunction with HUD's Loan Management Program, have been significantly improved and their cost impact moderated sufficient to at least soften some of the administration's opposition.

Mr. Speaker, this legislation is strongly supported by the United Way, the Salvation Army, the National Council of Jewish Federations, the American Red Cross, the National Conference of Catholic Charities, the National Council of Churches, and by such organizations as the National Mental Health Association, the Association for Retarded Citizens, United Cerebral Palsy, and the Easter Seal Society.

These organizations represent only a few of the people who are in the front lines in our battle to end homelessness, and I believe that they will make excellent use of the funds provided in the McKinney Act.

Mr. Speaker, while title V of this act is not under the jurisdiction of the Banking Committee, how section 501 is interpreted is a matter of great importance to our committee. Whether or not title V is interpreted as including single family properties in the FHA's inventory has major implications for the solvency of the FHA insurance funds.

Section 501 of the McKinney Act requires Federal agencies to survey their buildings and real property to determine which are underutilized and might be available for the temporary shelter of the homeless. Nothing in section 501 or its legislative history in any way indicates that it was intended to apply to FHA single family properties. As I understand it, the conference agreement contains language intended to ensure more rapid and effective use of unutilized and underutilized Federal buildings. However, the conference agreement does not expand the universe of covered properties to include those in the FHA's inventory of single family homes. For this I commend the conferees.

As a recent U.S. District Court case has already shown, an erroneous interpretation of title V can result in a freeze in FHA's $3 billion annual sales program would place the insurance fund in jeopardy or force its dependence on appropriations. While we must do all we can directly to assist the homeless, we must be careful not to change unintentionally the basic nature of the FHA's vital insurance programs, which have provided home ownership opportunities to 17 million American families.

Mr. Speaker, I believe this conference report is worthy of all Members support and I urge its adoption.

Mr. GONZALEZ. Mr. Speaker, I yield myself 1 minute.

This, Mr. Speaker, represents what was an emergency bill, the Homeless Emergency Assistance Program. Need I say more? Of course, I support it. I ask solid support for it.

Mr. Speaker, I express my thanks to the distinguished minority ranking member of the subcommittee, the gentlewoman from New Jersey [Mrs. ROUKEMA] for her hard work and indispensable cooperation.

The rest has been said. I just want to remind everybody that it is supposed to be an emergency. It was introduced that way in January and this is October, the waning period of this session. Therefore, enough said, we need action.

Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Illinois [Mrs. COLLINS], a distinguished member of the Committee on Government Operations.

Remember, this is the result of not one but five different committees, and one of the most important components, if not the most important, outside of the housing sector, relates to the contribution of the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as one of the conferees with particular concern for title V of the McKinney Act, I would like to take this opportunity to add to the record some important points concerning the use of unutilized, underutilized, excess and surplus Federal properties to assist the homeless. The sole purpose of the amendments to section 501 of the McKinney Act is to expedite the use of those real properties suitable for facilities for the homeless into the hands of State and local governments and nonprofit organizations providing services to them. We thought that we had made our intent abundantly clear in 1987, when the McKinney Act was passed, but this administration has used every opportunity possible to keep Federal real property out of the hands of the homeless.

The failure of Federal agencies—specifically that of HUD and GSA—to carry out their mandate under the McKinney Act recently resulted in an injunction against the disposal of almost all Federal property until these agencies carry out the law. In a hearing that the GAT Subcommittee held last week, GSA's legal and bureaucratic maneuvers to keep excess and surplus property out of the hands of the homeless were painfully clear.

In fact, GSA's Acting Administrator, Mr. Austin admitted that his people had overlooked the purpose of the McKinney Act. Congress does not intend that GSA overlook the McKinney Act again.

The presumption in title V is—and always has been—that these real properties will go to the homeless with a minimum of delay. In order to do so, we expect GSA and the other agencies to flag underutilized, unutilized, excess and surplus properties deemed suitable for housing those without homes immediately after that designation and to take all necessary steps to provide for their use by the homeless. As recognized by regulation—41 CFR 101-47.203-5—GSA can waive Federal screening for any excess property because of extenuating circumstances. It is our intent that the waiver will be utilized for property deemed suitable for the homeless. It is as appropriate to waive for the purpose of meeting the needs of the homeless as it is to waive when excess property is necessary to eliminate a local water pollution problem. The human crisis resulting from the condition of being homeless is no less significant than the human crisis resulting from an improperly functioning sewage plant.

We also expect that GSA, HHS, HUD, and the Interagency Council on the Homeless will immediatley institute an outreach program to insure that State and local governments and nonprofit groups know of each available piece of property in their localities and how to proceed to obtain it. My subcommittee received testimony from one group that spent 4 days just attempting to physically locate property listed by GSA as surplus.

I intend, as chairman of the GAT Subcommittee, to continue oversight of the implementation of title V of the McKinney Act. The subcommittee will look very carefully at the ultimate disposition of each piece of Federal property deemed suitable for the homeless. If we determine that the agencies are once again dragging their feet, we fully intend to propose further amendments to the act in the next Congress.

Mrs. ROUKEMA. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I want first of all to commend the gentlewoman from New Jersey for her leadership with respect to this legislation.

Mr. Speaker, I rise in support of H.R. 4352, the Omnibus McKinney Homeless Assistance Act. This reauthorization legislation provides a comprehensive package for the homeless which includes emergency food and shelter, a comprehensive housing assistance plan, a reauthorization of the Interagency Commission on Homelessness, and health care services. These programs and services do much to address the plight of the homeless. I urge my colleagues to support this legislation.

Mr. Speaker, I would also like to take this opportunity to discuss those provisions of the conference report within the jurisdiction of the Energy and Commerce Committee that pertain to programs for health care for the homeless. The conference report revises and extends authority for four programs that were initiated under Public Law 100-77, the Stewart McKinney Homeless Assistance Act:

The health care for the homeless grant programs;

The mental health block grant for services to the chronically mentally ill homeless;

Demonstration projects for community mental health services to the homeless; and

Demonstration projects for alcohol and drug abuse treatment for the homeless.

In particular, I would like to highlight the fine work of the grants program for the health care for the homeless. Since this program has been in existence, the Department of Health and Human Services has provided $44.5 million to 109 grantees in 43 States. It is anticipated that by the end of the current grant period these projects will have delivered health services to approximately 395,000 homeless men, women, and children.

I think this program has been effective. I believe that experience with the matching funding requirements for grantees to contribute to the costs of providing health care services from non-Federal funds demonstrates the success of the partnership between the public and private sectors in trying to address the problem of homelessness. I am pleased that this bill increases this matching requirement to one-third of costs. I think this is a responsible step. State and local governments as well as the private sector must also contribute to the solution of the homelessness problem.

I believe this legislation is balanced and fair. I urge my colleagues to join me in supporting it.

□ 1430

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware [Mr. CARPER], one of our very young and very strong, stalwart members of the Subcommittee on Housing and Community Development, who has pioneered in this question of lead paint removal from public edifices, schools, and public housing.

Mr. CARPER. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank him for his kind remarks.

Mr. Speaker, it is no secret that the Federal support for housing assistance has been reduced significantly during the past 7 years. In part as a result of these reductions, homeownership is declining, while homelessness is rising in America today. The legislation before us today is not a cure-all for our Nation's housing problems, but its adoption will make a difference, a positive difference.

I want to talk this afternoon about one aspect of this bill—the section that I have worked on for 3 years. My goal has been to reduce fraud in public housing and to better insure that taxpayers' dollars spent on housing assistance go to families genuinely in need of help.

Currently, when people apply for housing assistance, they are required to disclose their income fully. If they ultimately qualify for and receive assistance, they must update their reported income periodically. Most of these people tell the truth about their income. Almost one in five does not. The current system is essentially an honor system. My legislation changes that.

With its adoption, HUD and our Nation's public housing authorities will be able to certify independently that income voluntarily disclosed by program applicants and participants actually agrees with the incomes paid them by their employers. How? By authorizing HUD to compare wage data reported by employers in each State with income voluntarily reported by persons applying for or using housing assistance. The system will be highly automated, using computer matching and Social Security numbers. In addition, safeguards are included in the legislation to protect the privacy of program applicants and participants, and the confidentiality of their income data.

I believe the implementation of this measure will accomplish three major objectives. One, it will shorten the time that families truly spend on waiting lists. Two, it will better ensure that the people who receive a helping hand from American taxpayers, through HUD, merit that help and pay a fair share of their income for a decent place to live. And, three, with the elimination of much fraud in public housing that this bill will make possible, I hope we can begin to rebuild needed support for housing assistance in this country.

HUD reports that every year at least $200 million is paid to tenants who either falsify their eligibility or fail to report all income in order to gain a larger assistance payment. HUD also reports that the adoption of this measure will enable 30,000 needy American families to move off of waiting lists and into a decent place to live.

Over 250 House Members—a majority of both parties—have cosponsored H.R. 1028, my bill which is incorporated in these amendments to the McKinney Homeless Assistance Act. I want to thank each of my colleagues for their support of my efforts. I especially want to thank my chairman, Mr. GONZALEZ, and Mr. DOWNEY for their cooperation, without which the enactment of my proposal could not have occurred. I also want to acknowledge the strong support of Mr. DREIER for this initiative he cosponsored with me. In addition, I want to express my sincere appreciation to the Public Housing Authorities Director's Association for their very effective lobbying efforts on behalf of my legislation. Finally, let me thank both HUD and the U.S. Department of Labor for helping me to refine and improve an original Grace Commission idea into a legislative proposal which today enjoys overwhelming bipartisan support in the House of Representatives.

Mr. GONZALEZ. Mr. Speaker, I have indications that the representatives from the other committees to whom was sequentially referred this legislation, the Committee on Public Works and Transportation, the Committee on Energy and Commerce, and the Committee on Education and Labor do not seek any time.

Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. VENTO], also a very distinguished and most active member of the Subcommittee on Housing and Community Development.

Mr. VENTO. Mr. Speaker, of course, I want to commend the gentleman from Texas [Mr. GONZALEZ] for his leadership in this matter for the past 4 or 5 years, and my ranking member, the gentlewoman from New Jersey [Mrs. ROUKEMA], of course, and the gentleman from Ohio [Mr. WYLIE], and, of course, finally someone who is not here, and that is Stu McKinney.

Mr. Speaker, this is a day I think we have worked long and hard to see arrive where we can begin to authorize and have the type of promises made that will authorize and place the money into these programs.

Mr. Speaker, I rise in strong support for the conference report on the McKinney Homeless Assistance Act. One does not need to look far to see why this legislation is needed. There are an estimated 2 to 3 million homeless men, women, and children in our Nation.

The word homeless has been used so often that people are becoming immune to what it really means. Take a minute to think about what life would be like without a decent place to live. Without shelter we would see the disintegration of our families, our jobs, and eventually our entire lives would fall apart. Shelter is an essential ingredient in providing the social glue that holds our families and communities together.

Shelter provides much more than a roof over our heads. It provides the stability needed to live a normal life. So the millions of homeless individuals and families are not just without shelter, they are without the stable base needed to pull themselves out of despair.

Without shelter, they are unable to take advantage of opportunities such as education and employment—traditional means of getting ahead in our society.

Without shelter, they are driven to such desperation that they will take any work they can find; even when it may endanger their lives—like the homeless in San Francisco who worked "scrapers" removing cancer-causing asbestos without proper protective clothing.

Allowing our fellow citizens to remain homeless and vulnerable is devastating to the individual and devastating to society as a whole.

For the individual, decent shelter provides a basis for dignity and self-respect and a boost out of their despair. This legislation will restore some of the lost hope and dignity back into the lives of hundreds or thousands of homeless nationwide.

The American public recognizes and sympathizes with the plight of the homeless. Sixty-eight percent of American voters support increased funding for Federal aid to the homeless. No other economic, military, or social program has such support, yet, almost all other Federal programs receive vastly more funding.

The American public's concern is the reason that we were able to gain the support of more than 90 Members of Congress as cosponsors. Even George Bush and Dan Quayle have come around to realizing the need for this legislation. They both referred to the McKinney Act in their nationally televised debates; unfortunately they've been noticeably absent from the national administration and congressional debate.

I hope George Bush's new-found support for homeless assistance programs will not vanish like a "thousand points of light".

It is noteworthy that six congressional committees united in order to bring this conference report to the floor. It looked like an impossible task early this spring when I introduced the legislation with components which spanned the jurisdiction of so many committees. The spirit of cooperation between these committees signifies the urgency and severity of the homeless crisis.

I want to especially thank Speaker Jim Wright, majority leader Tom Foley, and majority whip Tony Coehlo for their early endorsement and strong support for this legislation and new law. I also thank Chairman St Germain, Subcommittee Chairman Gonzalez, and ranking members Chalmers Wylie and Marge Roukema of the Banking Committee for their support. Of course, I also want to thank my colleague and friend Congressman Mike Lowry who has been fighting this battle with me since the beginning back in 1982.

The homeless are not a homogeneous group. They are a diverse population with diverse needs. For example:

Homeless families unable to find affordable housing;

Working poor unable to earn enough in minimum wage jobs to meet rent payments;

Homeless individuals with health problems and no insurance;

Those with alcohol or drug abuse problems in need of rehabilitation;

Displaced workers in need of job training;

Mentally ill individuals in need of assistance.

The needs of the homeless are complex and call for diverse programs to address those needs. The McKinney Act recognizes that fact and provides: Emergency shelter, supportive housing, and single-room occupancy housing through the Banking Committee; health care, drug and alcohol treatment through Energy and Commerce; job training and special education grants for homeless children through Education and Labor and other provisions through Ways and Means, Government Operations, and Veterans' Affairs Committees.

The homeless are certainly a diverse population, but they all have one thing in common. They all need a place to live. The overriding long-term need of the homeless is the need for decent affordable housing. After all, we promised it to them nearly 40 years ago in the 1949 Housing Act.

The McKinney Act will help tide them over until our Nation can fulfill its promise of decent affordable housing for all Americans.

Once the McKinney Act has been enacted, we must focus our energy on turning around the devastating housing policy path this Nation has been on for the last 8 years. I have already taken steps in that direction by introducing two pieces of legislation to help meet the long-term housing needs of the homeless. With the support of several Members who are recognized leaders on housing legislation, I introduced the Permanent Housing for Homeless Americans Act and the Neighborhood Housing Services Act, measures that effectively address this national shelter problem on a long-term basis.

Mrs. ROUKEMA. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. Jeffords], the ranking member of the Committee on Education and Labor.

Mr. JEFFORDS. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in support of the overall conference report for H.R. 4352, the Steward B. McKinney Homeless Assistance Act. There are some particular issues which came under the jurisdiction of the Education and Labor Committee that I would have preferred not to see included in this legislation, but a provision included by the House will assure that the program being amended will not suffer fiscally by the inclusion of the Senate language.

None of us can deny that the plight of the homeless has become a major national issue—the magnitude of which is still uncertain. Increasingly though, we are becoming more aware that the homeless population includes more than older, single men. It includes battered women, elderly poor, runaways, veterans and unemployed individuals and their families. In fact, lack of jobs has been cited as one of the main causes of homelessness.

My remarks will focus most on those issues in this conference report that come under the jurisdiction of the Education and Labor Committee. This conference report contains provisions to extend the education and job training portions originally contained in the McKinney Act of 1987. The education provisions, which have been strengthened, are included to aid in eliminating the barriers that homeless children have in receiving public education. The job training language continues a demonstration grant program in which the Secretary of Labor awards moneys to State and local public agencies, private nonprofit organizations and businesses to provide basic skills instruction, remedial education activities, basic literacy instruction, job search activities, job counseling and job preparatory training. In addition, the eligible uses of funds available under the Community Services Block Grant (CSBG) program for services to the homeless has been expanded.

These provisions build upon programs which have just started under the authority of the Stewart McKinney Homeless Assistance Act. Without the assistance that can be provided through human resource investment programs, we do not have an effective response to the problems of the homeless.

I am concered though, that we have included in this conference report the authority to operate a bonus incentive award program under the Job Training Partnership Act (JTPA) for placement of welfare recipients in jobs. On the surface this incentive program sounds quite reasonable. It is, however, an untested program. I was hopeful that we could establish a controlled demonstration program with sufficient testing and evaluation, in order to determine the viability and workability of such incentives. Without this information and data, I am not convinced that the program is administratively workable. Further I believe that it can be costly and unnecessary in light of the recent welfare reform legislation that we have enacted this Congress.

My deeper concern is that in order to fund this program we would have had to reach into a program that has not received additional funding over its base level since its inception in 1982. Fortunately, my colleague STEVE GUNDERSON was able to hold an amendment that he offered to the House bill which was considered in committee, but never reported to the floor. This amendment assures that if the basic grant, title II-A under JTPA, does not receive at least an inflationary increase in appropriations, then the incentive bonus program cannot be funded. The funding for the basic program under JTPA, which has improved its performance over time, must not be eroded in order to fund a program which would achieve questionable results and is not supported by the professionals in the employment and training field or the adminstration. I regret that I cannot be more supportive of this program. I think that it may have potential, but I am not hopeful of its success in its current form.

Despite the inclusion of this incentive bonus program, I urge my colleagues to support this conference report. Stewart B. McKinney was a man dedicated to improving the plight of those less fortunate than we are. He devoted his energies to easing the problems of the homeless. It is fitting that a bill which attempts to address these issues be named in his honor.

Mrs. ROUKEMA. Mr. Speaker, I yield 1 minuute to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, once again I should like to state the conditions under which I lend my support to a provision contained in the McKinney Homeless Assistance Act. The provision to which I refer extends for 1 year a moratorium on a proposed cutoff of Federal funds that are used for stays of longer than 30 days by homeless families in emergency facilities.

On August 3 when we were considering the McKinney reauthorization bill, I made a statement here in support of extending the moratorium because New York City had announced at a hearing held on August 1 in New York City by me and my distinguished colleague from New York, Mr. RANGEL, that it would end its reliance on welfare hotels for housing homeless families in 2 years, instead of 5 years as originally proposed. At that hearing the city acknowledged that the threat of a cutoff of Federal funds provided the incentive to accelerate its plan to move families out of the welfare hotels. The city then began a concerted effort to relocate the residents of the Martinique Hotel, the largest welfare hotel in the city.

This is good news, because the welfare hotels are an obviously unsuitable environment in which to raise a family. I believe that an extension of the moratorium is appropriate in view of the city's renewed efforts to end its reliance on welfare hotels. I do want to emphasize, however, that my support for the moratorium is just one part of the equation; it is conditioned on the commitment made by New York City to stick to its schedule to move families out of the welfare hotels by 1990. As we approach the end of the next moratorium, I shall once again ask the city to provide substantial evidence that it is meeting the goals of its 2 year plan.

Mrs. ROUKEMA. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. PARRIS], a member of the Subcommittee on Housing and Community Development.

Mr. PARRIS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise to address title X, subtitle D, which is a measure which I was fairly active in the resolution of the problem in the previous legislation, and that requires the reciprocity of subdivision approval procedures between FHA and VA for 1 year.

I am delighted to report to my colleagues that this conference report does contain that provision which requires that reciprocity. It is an important benefit to providing housing in our Nation.

I strongly support the inclusion of that provision in the report and extend my congratulations to those who are responsible for the inclusion.

Mrs. ROUKEMA. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in support of this conference report. This bill will reauthorize programs already in place which are meeting the needs of some of the most vulnerable members of our society.

Our esteemed colleague, Stew McKinney, was one of the most caring men to ever serve in this body. He did not give mere lipservice to helping the poor, but by his actions showed us how to address the problem. Without Stew's compassionate example and diligent pursuit, homeless legislation may never have materialized. It is appropriate that this bill should bear his name.

Mr. Speaker, we would also be remiss if we did not recognize some of the others who have been in the forefront of this effort. I particularly want to commend the sponsor of the bill, Mr. VENTO, as well as the distinguished chairman of the Banking Committee, Mr. ST GERMAIN, and the distinguished chairman of the Housing Subcommittee, Mr. GONZALES. And from this side of the aisle, the distinguished ranking member, Mr. WYLIE, and the gentlelady from New Jersey, Mrs. ROUKEMA. They, and others who have led in this area, deserve our appreciation for the efforts put forth to make this conference report possible.

The conference report will reauthorize almost $1.3 billion for programs that meet the special needs of the homeless. While the great bulk of this would go for housing assistance, provisions are included for feeding the hungry, and for helping the homeless overcome the situations which entrap them. The reauthorization of programs dealing with health care, job training and drug abuse counseling is commendable.

It is no secret that the authorization levels contained in this bill are substantially lower than the appropriations which have already been passed. This is disturbing because, though the numbers are somewhat elusive, it appears that the number of homeless people is rising. As many as 3 million persons—or more—have no shelter from the elements, no privacy and no place to live in safety and decency. During the appropriations process, I supported attempts to redirect some of our limited funds to these homeless programs. This is necessary because we have not yet begun to solve this considerable problem.

Yet, I believe that it would be a great tragedy if we were, by our efforts, to somehow institutionalize the homeless in their condition. We must not fail in our long-term goal of eliminating the causes of homelessness. We must redouble our efforts to uncover and identify those causes. This should provide additional impetus to better target the programs in place, and to maximize their flexibility by stressing local control and local choice.

And most importantly of all, we must seek to continue the present economic expansion, and find ways to share it with the homeless. The best cure for the tragedy of homelessness will be a good job and the self-esteem that comes with being in control of one's own life.

The challenge for the future is great, not least of all because we do not have the economic resources to do the things we want to. But we cannot put off for tomorrow this crucial task. The bill before us addresses the emergency nature of homelessness by attacking the most crucial aspects of the issue. It deserves strong support.

□ 1445

Mrs. ROUKEMA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER], a member of the Subcommittee on Housing and Community Development.

Mr. DREIER of California. Mr. Speaker, I thank the gentlewoman from New Jersey for yielding me this time.

Mr. Speaker, the homeless situation is a serious public policy concern, and there is no question that the Federal Government should, in some way, respond to the problem. Unfortunately, I believe the response outlined in H.R. 4352 takes the wrong approach. Therefore, I plan to vote against it.

Over the past 3 years, Congress has appropriated over $1 billion on programs authorized under the McKinney Act. This does not include funding for a variety of other Federal programs in which the homeless are eligible to receive assistance. At the same time, State and local governments, nonprofit charities, and community service organizations have expended billions of dollars and other resources to address the problem.

In spite of this commitment, there is little to suggest that the situation has improved. In fact, there's evidence to suggest that the Federal response may actually be part of the problem. The emphasis on emergency shelters has helped to create a permanent population of shelter-bound people. I don't see how you can effectively deal with the problem by simply warehousing the homeless.

Unfortunately, as with many well intentioned measures, this legislation is duplicative, and overly bureaucratic. Many eligible recipient organizations cannot obtain funds for important needs such as transitional housing, mental health services and alcohol and drug rehabilitation. They find that Federal programs are fragmented and uncoordinated and, when applying for assistance, they face unrealistic deadlines, and burdensome paperwork and reporting requirements.

Of course, H.R. 4352 is not without its good features. It includes a provision which I sponsored with my colleague from Delaware, TOM CARPER, to limit fraud and abuse in HUD programs. It is not uncommon for applicants of Federal housing assistance to understate their income, and receive more money from the Federal Government than they are entitled. HUD estimates that it pays over $200 million per year to individuals who underreport income in order to receive higher housing benefits, and 15 percent of the 4 million households who currently receive HUD assistance cheat to some degree to get higher benefits.

The verification provisions adopted in this legislation will allow HUD to verify the income statements of housing assistance applicants. Important safeguards are included to protect the privacy of applicants. But most important, it will ensure that housing assistance gets into the hands of those who are legitimately eligible and in greatest need.

While I applaud the conferees for adopting the verification provisions, it is not reason enough to support H.R. 4352. This bill is not based on a realistic assessment of the homeless problem. It merely seeks to manage the problem, rather than deal with the basic causes of homelessness. The goals are laudable, but I see no reason to spend $1.3 billion on programs that do not work. I urge my colleagues to vote against this legislation.

Mrs. ROUKEMA. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. Mr. Speaker, it is fitting tribute to our late friend and colleague, Steward McKinney, that we consider legislation today which will positively deal with the problem of homelessness in America.

The plight of the homeless is one of the most shameful pages in our history. How can we claim to be the richest, most powerful nation on Earth when visitors to our Nation's Capital see people sleeping on steam grates in front of the White House? As a member of the House Armed Services Committee and the Veterans' Affairs Committee, it pains me to know that a number of these homeless people are veterans of our Armed Forces who bravely served their country during wartime.

I urge my colleagues to approve this conference report which provides $646 million next year for emergency food and shelter, building rehabilitation, education, job training and a variety of health care services for homeless Americans, including $30 million for homeless veterans.

Mrs. ROUKEMA. Mr. Speaker, in conclusion, I would like to say that I have been informed by OMB that they do support the bill and will recommend that the President sign the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I think this is a very important bill. It certainly is not, as much as we would like, but it is, in fact, the precedent that we should have done many, many years ago.

I want to congratulate Chairman GONZALEZ and others who have been responsible for this bill. One of the features in the bill that I think is very, very important, even though it is on a pilot project basis, is the fact that we are not only concerned in the bill about putting a roof over a homeless person's head, in this bill there is a congregate view of offering services. I am extremely concerned about, for example, the mentally deinstitutionalized who are without health care and without job training who are homeless but have no access to these other services. In this bill was do have job training, health care, we have emergency housing, we also have something that is very, very important, and that is transitional housing.

This is the first step in the direction of getting homeless people into leading productive lives, and I am very, very pleased that the various committees could work with our committee in assuring that this congregate approach to homelessness took place.

Mr. GONZALEZ. Mr. Speaker, I yield our final 1 minute to a very distinguished member of the subcommittee, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the chairman for yielding me this time and for his leadership on this.

Ladies and gentlemen, this bill is a start. This is a noble start. It is a bipartisan start, but it is only a start, and let us not forget that.

First, with the services that are offered within the McKinney legislation we will not be able to cover even close to all the homeless men and women and children that dot America's landscape.

Second, and just as important, until we start increasing the amount of permanent housing, permanent assistance for subsidized housing that is built in this country, we will not be able to really significantly alleviate the homeless problem. The reason we have homeless is that we have stopped building homes for people who cannot afford them. While this measure is certainly a very much needed band-aid, it does not cure the disease.

I urge my colleagues, in the bipartisan way in which we have worked, to move on from this bill to next year, doing something real about building permanent housing in America.

Mr. FAZIO. Mr. Speaker, I am very pleased by the passage of the conference report. We're in the home stretch of putting this provision into law; I fully expect the President will sign the bill.

Senator CRANSTON deserves our special thanks for his support. Senator CRANSTON'S efforts to get our provision attached to the homeless assistance bill was key to ensuring that our provision got through the Congress this year. If Senator CRANSTON had not been so willing to help, much of Sacramento would be fast on its way to being declared a flood zone.

The delay in the FEMA construction moratorium and flood insurance requirements will provide the community with the time to make a rational decision on flood control.

In order to keep flood protection on track, the community needs to make some key decisions about the level of flood protection we're going to have, and then get behind a single plan to provide it. The community has time to review all of our options, but we can't fail to move ahead on flood control. We don't want to continue our search for water and power users if it means a delay in meaningful progress on flood protection.

Mr. GRADISON. Mr. Speaker, I join my colleagues in support of H.R. 4352, the conference report to reauthorize the Stewart B. McKinney Homeless Assistance Act.

As a conferee on a part of the bill, I did not sign the conference agreement due to the inclusion of an unwarranted new program. Specifically, section 903 of H.R. 4352 authorizes not less than two and not more than three States to conduct demonstration projects to determine whether the number of aid to families with dependent children recipients living in welfare hotels can be reduced by expanding the availability of transitional housing.

I would like to point out that, under the original McKinney Act, a transitional housing program already exists. Every State is eligible for this grant program and it has the administration's support. Funding for this program was requested by the President in his budget request for fiscal years 1987, 1988, and 1989. The Congress appropriated $85 million in 1987, $64 million in 1988, and $80 million in 1989 for this purpose.

The demonstration program in the conference agreement is to be administered by the Department of Health and Human Services. This is a mistake. HHS has enough to do without becoming entangled in what is properly the jurisdiction of HUD. The original McKinney Act recognized that—HUD administers the current program of transitional housing.

I also oppose this housing demonstration program because it creates a permanent housing program financed through the AFDC entitlement program. Current law permits AFDC funds to be used to obtain rental housing for families in crisis. It was never the intent of Congress to construct or renovate housing through a cash welfare program and we should not do so now.

Despite the serious short-comings of this provision, I support the bill because, on balance, it addresses the Nation's homeless problem in a reasonable way. I am particularly pleased that the conference agreement contains a provision to help HUD detect fraud and abuse within its housing programs. Through the release of wage and unemployment compensation data to HUD and public housing authorities, tenants who falsify their eligibility or fail to report their income would be exposed. Weeding out fraud according to the Inspector General of HUD would allow HUD to provide service to approximately 33,000 additional families that truly need this assistance.

In recent years, Congress has responded with legislation to address the problem faced by homeless Americans. Efforts to expand assistance to the homeless were among the first items on the agenda for the 100th Congress. As this Congress moves toward adjournment, I urge my colleagues to continue to address this national problem by voting for this compromise which, in spite of its flaws, is a step in the right direction.

Mr. KLECZKA. Mr. Speaker, I rise in strong support of the conference report on the omnibus McKinney homeless assistance bill.

The conference report includes a provision added to the House bill, with my strong support, which would allow HUD to pay the difference between the fair market value received by a homeowner upon the sale of a home and the actual amount owed to the lender if proceeds from the sale are not sufficient to repay the amount owed. This early payment provision will save many homeowners the needless heartache of a foreclosure while limiting FHA outlays.

I am especially pleased that the conference report includes several preforeclosure payment consumer protection recommendations added at my request. Specifically, the conferees urge HUD to ensure that a mortgagor be at least 3 months delinquent before a preforeclosure sale is initiated. In addition, the conference report quite correctly asks HUD to ensure that the homeowner involved is aware of the HUD mortgage assignment program and that a determination be made that the homeowner has decided not to apply for assistance or is not eligible to participate. Finally, HUD is advised not to permit a preforeclosure sale for less than 75 percent of the outstanding balance, so as not to create a fire sale atmosphere.

Preventing needless foreclosures by allowing relatively modest preforeclosure payments by HUD is good for both distressed mortgagors and for the FHA. Without adequate protections for the mortgagor, however, a well-intentioned change in the law could provide a new avenue of abuse in the FHA program. I commend the conferees for their recognition of this possibility, and urge adoption of the conference report.

Mr. GUNDERSON. Mr. Speaker, I rise in strong support of the conference report on H.R. 4352, the "Stewart B. McKinney Homeless Assistance Act," however I do so with one reservation. During the Senate's consideration of H.R. 4352, a provision was added to the bill—known as the JEDI proposal—which creates a new title under the Job Training Partnership Act to establish a bonus system under JTPA for the successful job placement of program participants who are recipients of certain public assistance programs. While I was a conferee on this issue, and we did work out an agreement on this provision, I continue to hold concerns over its inclusion as a part of the homeless bill and its feasibility overall.

I, like most other interested individuals strongly support the concept behind the JEDI proposal—that of expanding employment and training opportunities under JTPA for hard to serve public assistance recipients. Everyone agrees that we need to do much more to serve this population. However also like others I am concerned over the implementation realities of this legislation and would have preferred that we consider it much more fully through regular channels—in the House Education and Labor Committee and on the floor of the House—which we did not. Instead we were forced to deal with this important issue in a conference with the Senate and we did not even have a comparable House provision. But most importantly, I continue to hold concerns that the new JEDI Program could very well result in moneys being taken from existing education and job training programs.

While the argument has been made that this program is revenue-neutral because the bonuses to States are expected to come from savings in the welfare program, we all know that its funding will have to be appropriated out of the same account—Function 500—that JTPA and our other education and training programs come from. Even if savings really were to result from this program it is very doubtful that these savings in welfare will be attributed to our Function 500 discretionary accounts. The fact is that JEDI would not be an entitlement as is welfare—its funding must come from somewhere every year.

Because of this concern I offered an amendment at the subcommittee level during our committee's consideration of this legislation. Happily this provision was held in our conference with the Senate which simply says that no funds may be appropriated in any fiscal year for this new activity, unless appropriations for JTPA's Title II-A program—for disadvantaged adults and youth—reaches the "current services" level of funding in that fiscal year. In other words our subcommittee and later conferees sent a message to the Appropriations Committees that we see the funding of the Title II-A program as a priority over funding of any new activities as authorized under JEDI, and that if we do not see funding set at high enough levels to maintain current participation levels under the II-A program, we think that any additional funds should be put into that program before funding any new activities tied to the II-A program. However this offers funding protection to the Title II-A program only.

While I am of course very pleased that this funding provision was included in the Conference Agreement on the JEDI provision, and I did sign the conference agreement based on the fact that it was included, I would be remiss if I were not to express my continued concern over the inclusion of the JEDI proposal in this Homeless Act. I feel that we circumvented the appropriate House process of considering this measure in committee and on the House floor. There is also the legitimate concern that JEDI is not germane to the homeless bill.

Again, I understand and support the concepts behind the JEDI initiative. I do however hope that in the future we will not be forced to consider such important legislation such as this in such a manner.

Mr. BONKER. Mr. Speaker, I am pleased to speak today in strong support of H.R. 4352, which reauthorizes the Stewart B. McKinney Homelessness Assistance Act. On July 22, 1987, the original McKinney Act was signed into law to provide a diverse group of programs to assist homeless Americans. I am proud to have supported that legislation and this reauthorization. However, with these bills alone, we will not reach our noble goals. And, we must not forget, once we have passed this bill, about the many hardships which homeless men, women, and children face daily.

Mr. Speaker, I will not take the time of my colleagues to outline the many important programs that this legislation contains. Suffice it to say, this bill reflects the efforts and expertise of a number of the House's distinguished committees with jurisdiction over programs for the homeless. The programs we are reauthorizing provide many services including: shelter and housing; health and mental health; community services; education; food and nutrition; and services for special groups such as veterans. This is an important reauthorization and if we provide the necessary funding levels, these programs will improve the quality of life for millions of our poorest citizens.

Despite its limitations, the McKinney Act works for many homeless Americans. I would like to bring to the attention of my colleagues some examples of success stories in the State of Washington, which are the result of the McKinney Act. At the same time, it is important to note that as I have learned of these successes, I have also learned more and more about the huge unmet need for assistance with which our constituents must live.

Mr. Speaker, I will start with a couple examples of how the emergency shelter grants [ESG] were utilized to help the homeless in my State. These grants provide States, counties, and cities with moneys to renovate, rehabilitate, and convert buildings for use as emergency shelters. They also provide funding for some services and operating expenses. In the State of Washington, the degree to which the ESG awards provide valuable assistance to meet the needs of the homeless varies from jurisdiction to jurisdiction, and from year to year. In 1987, ESG grants totaling $850,000 were awarded to the State, the entitled cities of Seattle, Spokane, and Tacoma, and the entitled counties of Clark, King, Pierce, and Snohomish. But in 1988, ESG awards totaled only $72,000. This dramatic decrease in Washington State appropriations parallel an increase in needed services. My comments to follow will reflect the 1987 appropriations.

In Stevens County, the Northeast Washington Rural Resources Development Organization [NWRRDO] used $10,000 of the State's ESG award to lease two apartments to use for homeless individuals in the community. This increased their total number of available apartments from three to five, and allowed them to perform minor renovations in all five apartments. These apartments serve both families and single homeless persons. On an average night, the apartments shelter five persons. I am informed that more units are needed in this rural area, but that resources are simply not available. This is a good example of how a community directly addressed their homeless problem with a small amount of money; every dollar was appreciated and put to use. Similar modest but beneficial use of funds occurred in the counties of Ferry and Pend Oreille.

On the other side of the State, in Skagit County, the Community Action Agency received an ESG award of $28,855. Of that award, $24,000 is being used to lease and rehabilitate a former American Legion hall for housing for the homeless. Many of this county's homeless families became homeless because the head of the household lost his or her job. The units created by this conversion will help to house such families and individuals.

In Yakima County, the YMCA Family Crisis Center received $24,715 and has purchased a badly needed new roof for their five bedroom emergency shelter for battered women with children. These funds also have been used to correct the shelter's electrical system and to improve kitchen areas. In the center's program for homeless men, ESG funds were used to purchase beds and food storage cupboards. Without such assistance, this shelter would not have been safe and future repairs would have been even more costly.

In Seattle, our largest city and the area with the most homeless persons, the YMCA received an ESG award of $51,308. This money was used for a number of important projects including: liability insurance for a shelter for homeless women with children; an employment program for the shelter's resident; a rehabilitation project at a shelter in South King County; and a portion of the grant was used to purchase housing vouchers for homeless persons. These are examples of a shelter's many and diverse needs for funding, which would go unmet without Federal assistance.

Seattle received moneys from other programs including the Supplemental Assistance for Facilities to Assist the Homeless Program. The majority of these funds have been used to provide essential services such as a meals program, health and social service personnel, and security personnel for a new permanent housing program for elderly homeless men located in the old Westlake Hotel.

Last, I will mention the use of these important McKinney Act funds in Spokane County. Under the 1987 appropriations for the Supportive Housing Demonstration Program [SHD], one human services provider in Spokane County received $421,300 to serve homeless men with alcohol and drug addictions. The Spokane Alcoholism Care Services, Inc., will use these funds to build a 10 bedroom addition on its current housing facility. The grant will also pay for operating costs for 5 years, including food services. This grant obviously goes a long way toward helping this organization pursue its mission.

Mr. Speaker, the homelessness problem which these dollars have begun to address is found across the State of Washington. It is not just an urban problem; it is everywhere in varying degrees including rural communities. I have presented some examples of successful uses of McKinney Act funds in the State of Washington. However, such examples are not present in every community. Because of inadequate funding, many cities and counties in Washington and other States are unable to establish similar, and much needed programs. Moreover, based on the situations I have described, the impact of a reduction in ESG funds for Washington State of $850,000 to $72,000 for fiscal year 1988 is evident.

In June, our distinguished colleague from New York, Mr. SCHUMER, offered an amendment on the House floor to the HUD-Independent Agencies appropriations bill, which I cosponsored. The amendment would have provided additional moneys for several important programs, including over $80 million for the homeless and $40 million for elderly and handicapped housing. Unfortunately, that amendment was defeated and with it the hopes of many homeless persons living in our streets and parks across the country.

Mr. Speaker, my point is simply this: I challenge my colleagues to put our resources where our authorization levels are when it comes to programs for the homeless. This legislation is very important and we should be proud of it, but unless we follow passage of this bill with full funding of these McKinney Act programs, we will not have really accomplished our goal of serving the homeless and helping them to become a part of the mainstream of society. I urge my colleagues to continue their support for this excellent legislation and provide the necessary funds for it through supplemental appropriations during the 101st Congress.

Mr. CONTE. Mr. Speaker, the plight of the homeless is a human tragedy. Past reductions in Federal funds and commitment combined with the increasing numbers of homeless individuals and families have overtaxed our resources set up to deal with homelessness. It took the efforts of committed people like the late Stu McKinney to make helping the homeless a national priority. I am proud to stand in support of reauthorizing the McKinney Act to continue his good work.

It takes a comprehensive approach to solve the problems of the homeless. The McKinney Act reauthorization outlines such an approach. It is an overall commitment to providing jobs, education, medical care, training, and opportunity as well as the basic necessities of food and shelter. In this way we can fight the root causes of homelessness while we address the actual needs of the homeless.

On the Appropriations Committee I have sought to fund the McKinney Act programs to the maximum extent possible. With the tough budgetary pressures we face as a result of the budget deficit, finding and increasing funding for vital programs has been difficult. But despite the difficulty, we appropriated $378 million for the various programs reauthorized through this conference report. I will be working hard in 1989 to continue our commitment to these programs.

Homelessness is not just a Federal problem. All levels of our society are affected, and all must seek solutions. Federal, State, and local government must be involved, as must every community and business, if we are truly to effect a positive change. I really believe that the fundamental worth of a society can be measured by its treatment of its least fortunate members. That is why I am so encouraged by our focus on the homeless, and by community efforts to help. Just a week and a half ago my hometown of Pittsfield held a benefit concert to raise awareness and funds for the homeless. That is the kind of community support and spirit which will ultimately enable us to implement effective solutions to homelessness. I am hopeful that this reauthorization will continue to unite our whole society to help the homeless.

The SPEAKER pro tempore. (Mr. MURTHA). The question is on the motion offered by the gentleman from

Texas [Mr. Gonzalez] that the House suspend the rules and agree to the conference report on the bill, H.R. 4352.

The question was taken.

Mr. BARTLETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clasue 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CORRECTING ENROLLMENT OF H.R. 4174, SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND ADMENDMENT ACT OF 1988

Mr. LaFalce. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 159) to make corrections in the enrollment of the bill H.R. 4174.

The Clerk read as follows:

S. Con. Res. 159

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (H.R. 4174), the clerk of the House of Representatives shall make the following corrections:

(1) at the end of subparagraph (b)(3) of section 132, strike out 'conference,"; and' and insert "conference."

(2) at the end of subparagraph (b)(2) of section 132, strike out the semi-colon and insert "; and".

(3) in section 132, stike out subparagraph (b)(4).

The SPEAKER pro tempore. Pursuant to the rule, a second is not requried on his motion.

The gentleman from New York [Mr. LaFalce] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. Conte] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LaFalce].

Mr. LaFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the Senate resolution is to strike from the conference report a provision which would limit to $10 registration fees for seminars sponsored jointly by the Small Business Administration [SBA] and businesses. Instead, existing law would continue which limits these fees to a minimal amount.

Mr. Speaker, the White House Conference on Small Business in 1977 awakened the Nation's businesses, particularly big businesses, to a vast market place open to them: the Nation's small business community. These companies offered their expertise on a volunteer basis; in return, it was their hope that they could obtain new small business customers and clients.

Several years later, that offer of cooperation was extended to SBA seminars and training sessions. Congress, at SBA's request, subsequently passed legislation to permit SBA and profit-making companies to enter these joint ventures. SBA would use its data base listings of small businesses and notify them of conferences or seminars and the big business partner would provide its expertise to conduct the sessions.

Mr. Speaker, this cooperation between the SBA and businesses can provide many benefits to small businesses. It also carries with it, however, the danger of abuse. We certainly should be very careful not to permit SBA's cosponsorship to be misconstrued as an endorsement of the firm's product or service.

We must also be careful to restrict the fees charged to participants. A principal benefit of cosponsored events is that small business receives basically "free" counseling and training from experts employed by profit-making firms. If the fees become more than nominal, if they actually cover the "cost" of the conference, if they are a substitute for a governmental contribution and a substitute for the previous contribution from the business partner, then the Government would be intruding into improper areas. There are firms which do offer seminars and training and make a profit doing it. We must be careful not to permit the Government, through SBA or any other agency, to compete against these firms.

Mr. Speaker, subsequent to the filing of the conference report on the authorization bill, SBA's Administrator called me. He expressed his opinion that if the fees at these conferences were limited to $10, plus the cost of all meals provided, it would severely limit the number of conferences which could be cosponsored. We do not want to do this. Administrator Abdnor has promised to closely monitor these conferences and ensure that there will be no abuses. In fact, SBA has already begun the process by imposing a moratorium on the scheduling of conferences, other than by officials in Washington, until administrative safeguards can be drafted and implemented. This administrative action will give the Small Business Committees and the Congress time to review the entire situation and consider, early next year, any additional legislative safeguards deemed necessary.

I urge approval of the resolution and I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 159 to correct the enrollment of the conference report on H.R. 4174. The SBA Reauthorization and Amendment Act of 1988. The conference report passed this body on October 5.

This amendment would modify the conference report by eliminating the $10 registration FEE for events and seminars cosponsored by private sector companies and the U.S. Small Business Administration.

This change will permit the continuation of these seminars that are of benefit to emerging and existing small business.

I urge the adoption of the resolution.

Mr. CONYERS. Mr. Speaker, I rise in support of H.R. 4174, the Small Business Administration Reauthorization Act. This is the first reauthorization bill the Small Business Committee has produced in some time, and I would like to thank Chairman LaFalce for his diligence and leadership on this legislation, and those Members who played an important role in bringing this legislative proposal to fruition.

Unfortunately, due to some procedural tactics used at the 11th hour, one Senator, the senior Senator from North Carolina, forced this resolution to delete my amendment, which would have denied SBA benefits to any firm doing business with the Government of South Africa, or with businesses located in South Africa.

Because this provision amended the Small Business Act only, no jurisdictional concerns were raised by the Foreign Affairs Committee or the Subcommittee on Africa. The chairmen of the House and Senate Small Business Committees supported this amendment. The House and Senate conferees accepted this amendment in the reauthorization's conference report. The entire House adopted this amendment, and also the comprehensive sanctions contained in H.R. 1580, sponsored by my colleague from California. Clearly, Congress supports sanctions; yet one Senator was able to block the will of Congress, and deny our challenge to apartheid, by abusing unanimous consent procedures in the final days of this session.

I believe that the real basis for challenging this amendment was one Senator's view that sanctions should not be applied against the apartheid regime in South Africa. Predictably, that Senator ignored the fact that the United States has imposed sanctions on seven other countries, like Nicaragua and Cuba. And that Senator ignored the positive impact sanctions can have on South African foreign policy. The sanctions imposed in 1986, and the threat of comprehensive sanctions this year, have helped to turn the South African Government into instant diplomats in Mozambique and Angola. If we are truly opposed to the last Jim Crow laws left in the world, we should continue to tighten the screws on the South African economy.

The reprehensible situation in South Africa remains unabated: massive jailings without charges, censorship of the press, the disenfranchisement of millions of South Africans and a stiffening racial caste system. The United States can no longer continue to support apartheid in South Africa; morality and sound international policy demand us to come to the aid of the oppressed majority in South

Africa by refusing to help apartheid in any way.

Even though this restriction would be no panacea to the racial division and strife that plagues South Africa, it would have been part of a larger effort to have the United States take the morally and politically sound position of ending our financial support of apartheid.

Because the terror continues in South Africa, and because Congress and the American people continue to express their vehement opposition to apartheid, I will offer this amendment again in the next Congress.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LaFalce] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 159).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LaFALCE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the Senate concurrent resolution (S. Con. Res. 159), just occured in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5031

Mr. PARRIS. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 5031.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

MAKING A CHANGE IN THE ENROLLMENT OF H.R. 4174, SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1988

Mr. LaFALCE. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 163) to make a change in the enrollment of the bill H.R. 4174.

The Clerk read as follows:

S. Con. Res. 163

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 4174) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, the Clerk of the House of Representatives shall make the following changes:

(1) Strike all after section 123 up to section 125.

(2) Renumber sections 125 through 138 as sections 124 through 137, respectively.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. LaFalce] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. Conte] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LaFalce].

Mr. LaFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the Senate resolution is to strike a provision prohibiting SBA assistance from being provided to small firms which do business with South Africa. This provision was included in the conference report as section 124.

After the filing of the conference report, and its approval by the House, one of the Members of the other body voiced his strenuous objection to that provision. Due to the parliamentary situation in the other body, that one Member has effectively blocked consideration of the authorization bill (H.R. 4174).

In essence, the bill is being held hostage, and the ransom for its release is removal of section 124. I find it highly objectionable that one Member, in either body and regardless of whether he is right or wrong, should be able to dictate his will on any individual matter.

Nonetheless, the clock has run out on this Congress and ajournment is at hand. Thus with great reluctance I find it necessary to agree to concur in the Senate resolution stripping the bill of this provision. I urge my colleagues to do likewise.

I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 163 to change the enrollment of the conference report on H.R. 4174, the SBA Reauthorization and Amendment Act of 1988.

This resolution would delete the provision contained in the conference report relating to South Africa. Specifically, that provision prohibited SBA from providing assistance of any kind to any firm engaged in trade with South Africa. I personally support sanctions against South Africa and intend to continue this struggle next year.

However, for now I reluctantly support the adoption of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LaFalce] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 163).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LaFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution (S. Con. Res. 163), just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, FISCAL YEAR 1988

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2209) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes, as amended.

The Clerk read as follows:

S. 2209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989".

TITLE I—NATIONAL AERONAUTICS AND SPACE CAPITAL DEVELOPMENT PROGRAM

FINDINGS

Sec. 101. Congress finds that—

(1) in accordance with section 106 of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147), a space station, hereafter referred to as the United States International Space Station, shall be constructed in order to establish a permanent presence for man in space for the following purposes—

(A) the conduct of scientific experiments, applications experiments, and engineering experiments;

(B) the servicing, rehabilitation, and construction of satellites and space vehicles;

(C) the development and demonstration of commercial products and processes; and

(D) the establishment of a space base for other civilian and commercial space activities including an outpost for further exploration of the solar system;

(2) expendable launch vehicles should be used to launch those payloads that do not require the presence of man;

(3) the space shuttle launches should be used to fulfill the Nation's needs for manned access to space;

(4) preeminence in space and aeronautics is key to the national security and economic well being of the United States;

(5) United States space policy needs long-range goals and direction in order to provide understanding for near-term space projects and programs;

(6) over the next five years the National Aeronautics and Space Administration, hereafter referred to as the "Administration", should pursue leadership in science through an aggressive set of major and moderate missions while maintaining a robust series of cost effective missions that can provide frequent flight opportunities to the scientific community;

(7) over the next five years the Administration should prepare for the transition to the United States International Space Station of those science and technology programs that can be most efficiently and effectively conducted on that facility;

(8) the Administration should encourage the United States private sector investment in space and, to the maximum extent practicable provide frequent flight opportunities for the development of technologies, processes and products that benefit from the space environment;

(9) the Administration should enhance the existing space transportation capability through a robust mixed fleet of manned and unmanned vehicles in order to increase the reliability, productivity, and efficiency and reduce the cost of the Nation's access to space;

(10) the United States faces an increasingly successful foreign challenge to its traditional preeminent position in aeronautics which is rapidly reducing its lead in both civil and military aircraft;

(11) NASA's personnel are an integral component and resource for the Nation's space program, and an innovative personnel system should be developed;

(12) the establishment of a permanent presence in space leading ultimately to space settlements is fully consistent with the goals of the National Aeronautics and Space Act of 1958;

(13) the United States civil space activities should contribute significantly to enhancing the Nation's scientific and technological leadership, economy, pride, and sense of well-being, as well as United States world prestige and leadership;

(14) civil sector activities should be comprised of a balanced strategy of research, development, operations, and technology for science, exploration, and appropriate applications;

(15) assured access to space, sufficient to achieve all United States space goals, is an essential element of United States space policy, and the United States space transportation systems must provide a balanced, robust, and flexible capability with sufficient resiliency to allow continued operation despite failures in any single system;

(16) the goals of the United States space transportation system are—

(A) to achieve and maintain safe and reliable access to, transportation in, and return from, space;

(B) to exploit the unique attributes of manned and unmanned launch and recovery systems;

(C) to encourage, to the maximum extent feasible, the development and use of United States private sector space transportation capabilities; and

(D) to reduce the costs of space transportation and related services;

(17) recognizing that communications advancements are critical to all United States space activities, the Administration should continue research and development efforts for future advances in space communications technologies;

(18) the goal of aeronautical research and technology development and validation activities should be to contribute to a national technology base that will enhance United States preeminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system; and

(19) aeronautical research and technology development and validation activities should—

(A) emphasize emerging technologies with potential for breakthrough advances;

(B) consist of—

(i) fundamental research in all aeronautical disciplines, aimed at greater understanding of aeronautical phenomena and development of new aeronautical concepts; and

(ii) technology development and validation activities aimed at laboratory-scale development and proof-of-concept demonstration of selected concepts with high payoff potential;

(C) assure maintenance of robust aeronautical laboratories, including a first-rate technical staff and modern national facilities for the conduct of research and testing activities;

(D) be conducted with the close, active participation of the United States aircraft industry so as to accelerate the transfer of research results to aviation products;

(E) include providing technical assistance and facility support to other government agencies and United States industry;

(F) include conducting joint projects with other government agencies where such projects contribute materially to the goals set forth in this section;

(G) assure strong participation of United States universities both in carrying out aeronautical research and training future aeronautical research personnel; and

(H) be conducted, where practical, so that United States industry receives research results before foreign competitors.

REPORT ON LONG-RANGE SPACE CAPITAL DEVELOPMENT PROGRAM PLAN

Sec. 102. In consideration of Senate Report No. 100-429 and House of Representatives Report No. 100-650, the Administrator shall, by March 15, 1989, submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a 5-year Capital Development Plan including, but not limited to, the following:

(1) Economic assumptions and budgetary requirements for fulfilling the objectives of such plan.

(2) Estimates of total expenditures needed to maintain the operation of the national launch systems, related tracking and data services, civil service requirements, and all other current services.

(3) A detailed operating plan for fiscal year 1989 and program plans for fiscal years 1990 through 1993 setting forth specific program priorities, objectives, schedules, and milestones.

(4) Estimates of total projected investments in space hardware, facilities, and other capital improvements needed to fulfill the objectives of such plan.

BUDGET INCREASE

Sec. 103. It is the sense of the House of Representatives that the budget for the National Aeronautics and Space Administration should increase substantially over the five years following the date of enactment of this Act with a goal of at least 15 percent growth per annum in order to—

(1) rededicate the United States space program to the goal of leadership in critical areas of space science, space technology, space exploration, aeronautics, space applications, and space commercialization;

(2) reverse the dramatic decline in real spending for such program since the achievements of the Apollo program;

(3) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and recognizes the mutually reinforcing benefits of both;

(4) continue with the development and deployment of a permanently manned space station; and

(5) enhance United States preeminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system.

BUDGET REQUEST

Sec. 104. Commencing in fiscal year 1990 and every year thereafter, the President shall submit to Congress a budget request for the National Aeronautics and Space Administration for the immediate fiscal year and the following fiscal year, and include budget estimates for the third fiscal year.

TITLE II—FISCAL YEAR 1989 NASA AND MULTIYEAR SPACE STATION AUTHORIZATION

AUTHORIZATION

Sec. 201. (a) There is hereby authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 1989, except as otherwise stated:

(1) For "Research and development" for the following programs:

(A) United States International Space Station, $900,000,000 for fiscal year 1989, $2,130,200,000 for fiscal year 1990, and $2,912,500,000 for fiscal year 1991.

(B)(i) Space transportation capability development, $606,600,000.

(ii) In addition to the funds authorized pursuant to this section, there are authorized to be appropriated for space transportation capability development any additional funds transferred to the Administration from any other agency pursuant to a fiscal year 1989 appropriations Act.

(C) Physics and astronomy, $761,600,000.

(D) Life sciences, $91,700,000.

(E) Planetary exploration, $410,300,000.

(F) Space applications, $628,300,000.

(G) Technology utilization, $19,100,000; provided, however, that the Administrator shall contract for implementation of the Industrial Applications Center located in Oklahoma through the National Aeronautics and Space Administration's Rural Technology Applications Team.

(H) Commercial use of space, $38,800,000.

(I) Aeronautical research and technology, $404,200,000.

(J) Transatmospheric research and technology, $69,400,000.

(K) Space research and technology, $350,900,000.

(L) Safety, reliability, and quality assurance, $22,400,000.

(M) Tracking and data advanced systems, $18,800,000.

(2) For "Space flight, control and data communications" for the following programs:

(A) Space shuttle production and operational capability, $1,335,500,000, of which $51,000,000 is provided for the advanced solid rocket motor program.

(B)(i) Space transportation operations, $2,365,400,000, including such funds as may be necessary to ensure the availability of ammonium perchlorate for the production of solid rocket motors.

(ii) In addition to the funds authorized pursuant to this section, there are authorized to be appropriated for space transportation operations any additional funds transferred to the National Aeronautics and Space Administration from any other agency pursuant to a fiscal year 1989 appropriations Act.

(C) Space and ground network communications and data systems, $985,300,000.

(3) For "Construction of facilities", including land acquisition as follows:

(A) Modifications to processing Technology Facility for Space Station, Marshall Space Flight Center, $3,700,000.

(B) Construction of Addition for Space Systems Automated Integration and Assembly Facility, Johnson Space Center, $9,200,000.

(C) Replacement of High Pressure Gas Storage Vessels, National Space Technology Laboratory, $3,500,000.

(D) Increase Chiller Capacity, LC-39 Utility Annex, Kennedy Space Center, $2,300,000.

(E) Rehabilitation of PAD A, L-C 39, Kennedy Space Center, $4,600,000.

(F) Refurbish Atmospheric Reentry Materials and Structures Evaluation Facility, Johnson Space Center, $4,900,000.

(G) Modification for Advanced Engine Development, Test Stand 116, Marshall Space Flight Center, $13,500,000.

(H) Modifications to Orbiter Modification and Refurbishment Facility (OMRF) for Safing and Deservicing, Kennedy Space Center, $2,800,000.

(I) Modification to the X-Ray Calibration Facility (XRCF), Marshall Space Flight Center, $11,400,000.

(J) Construction of Auxiliary Chiller Facility, Johnson Space Center, $7,800,000.

(K) Modernization of Space Environment Simulator, Goddard Space Flight Center, $2,800,000.

(L) Modifications for Utility Reliability, Goddard Space Flight Center, $3,100,000.

(M) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $12,000,000.

(N) Repair and Modifications of 12-Foot Pressure Wind Tunnel, Ames Research Center, $36,500,000.

(O) Rehabilitation and Modifications to 10x10 Supersonic Wind Tunnel, Lewis Research Center, $14,500,000.

(P) Refurbishment to Hypersonic Facilities Complex, Langley Research Center, $12,800,000.

(Q) Refurbishment of Electric Power Laboratory, Lewis Research Center, $6,100,000.

(R) Construction of National Resource Protection at various locations, $2,600,000.

(S) Repair of facilities at various locations, not in excess of $750,000 per project, $27,000,000.

(T) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $34,000,000.

(U) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $9,000,000.

(V) Environmental compliance and restoration, $26,000,000.

(W) Facility planning and design not otherwise provided for, $20,000,000.

(X) Construction of an advanced solid rocket motor facility, $27,000,000.

Of the amounts authorized pursuant to subparagraphs (S) through (W), the Administrator may obligate up to $5,600,000 in order to expand the Launch Complex-39 Operation Support Building at the Kennedy Space Center. Notwithstanding subparagraphs (A) through (X), the total amount authorized by this paragraph shall not exceed $290,100,000.

(4) For "Research and program management", $1,915,000,000.

(b) Notwithstanding the provisions of subsection (e), appropriations authorized in this title for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereafter in this title referred to as the 'Administrator') determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this title may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(c) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(d) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultation or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(e)(1) Funds appropriated pursuant to subsection (a)(1), (2), and (4) may be used for the construction of new facilities and additions to, repair, rehabilitation, or modification of existing facilities, provided the cost of each such project, including collateral equipment, does not exceed $100,000.

(2) Funds appropriated pursuant to subsection (a) (1) and (2) may be used for unforeseen programmatic facility project needs, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

(3) Funds appropriated pursuant to subsection (a)(4) may be used for such work on facilities controlled by the General Services Administration, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

(f) Of the amounts authorized pursuant to subsection (a) (1) through (4), up to $8,000,000 may be made available for the National Space Grant College and Fellowship program established under the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147).

CONSTRUCTION OF FACILITIES REPROGRAMMING

SEC. 202. Authorization is hereby granted whereby any of the amounts prescribed in section 201(a)(3) (A) through (X)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of the amounts specified in section 201(a)(3) (A) through (X).

SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES

SEC. 203. Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed ½ of 1 percent of the funds appropriated pursuant to section 201(a) (1) or (2) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 201(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.

LIMITATIONS ON AUTHORITY

SEC. 204. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science, Space, and Technology or the Senate Committee on Commerce, Science, and Transportation;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 201(a) (1), (2), and (4); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee, of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

GEOGRAPHICAL DISTRIBUTION OF RESEARCH FUNDS

SEC. 205. It is the sense of the Congress that it is in the national interest that consideration be given to the widest geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

ARREST AUTHORITY

SEC. 206. Section 304 of the National Aeronautics and Space Act of 1958 is amended by adding at the end the following new subsection:

"(f) Under regulations to be prescribed by the Administrator and approved by the Attorney General of the United States, those employees of the Administration and of its contractors and subcontractors authorized to carry firearms under subsection (e) may arrest without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Persons granted authority to make arrests by this subsection may exercise that authority only while guarding and protecting property owned or leased by, or under the control of, the United States under the administration and control of the Administration or one of its contractors or subcontractors, at facilities owned by or contracted to the Administration.".

ADVANCED SOLID ROCKET MOTOR AUTHORITY

SEC. 207. If, after evaluation of proposals received in response to the request for proposals for an advanced solid rocket motor required by section 121(b) of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147; 101 Stat. 868), the Administrator determines that it is in the best interests of the United States to select a proposal offering a privately financed and non-Government-owned production facility to be constructed on a Government or non-Government site, funds otherwise authorized in section 201(a)(3)(X) of this Act for the construction of a Government-owned production facility on a Government-owned site shall be available, without fiscal year limitation, for that purpose.

STUDIES ON MICROGRAVITY RESEARCH CAPABILITY

SEC. 208. (a) The Administrator shall contract with the National Academy of Sciences to undertake a review of the Nation's microgravity research capability and issue a report addressing—

(1) the scientific and commercial value to the Nation of achieving a man-tended capability through a Commercially Developed Space Facility (CDSF) prior to man-tended operations of the space station;

(2) the technical characteristics of a CDSF that would enable its optimum use;

(3) the anticipated microgravity research and manufacturing requirements of commercial users and the Government;

(4) the extent to which existing and proposed facilities could support these requirements;

(5) the likelihood that a CDSF would become commercially self-sustaining and an estimate of when that could occur;

(6) the state of space automation technology and its relevance to the capabilities required for a CDSF;

(7) how a decision by the Government to lease facilities on a CDSF might affect the viability of other proposed commercial microgravity research facilities; and

(8) the effect a commitment to the CDSF would have on the current space transportation system launch schedule.

(b) The Administrator shall contract with the National Academy of Public Administration to—

(1) estimate the developmental, operational, and other costs to the Government associated with a CDSF;

(2) consider the practicability of various financial options by which the Government could participate in a CDSF, including leasing, lease-purchase, and purchase;

(3) consider, as regards the lease option, instead of providing for a flat level of lease obligations, the practicability of reducing on a yearly basis the level of Government lease operations during the years of operation of a CDSF; and

(4) consider, as regards the lease option, the practicability of making the minimum levels of Government lease obligations in the years of operation of a CDSF contingent on the attachment, by the CDSF operator, of certain minimum levels of irrevocable contract commitments with entities other than the United States Government.

(c) Based on the above reports, the Administrator shall provide a report to the House Committee on Science, Space, and Technology and the Senate Committee on Commerce, Science, and Transportation with policy options related to a CDSF and microgravity facilities, to be delivered no later than May 15, 1989.

BUY AMERICAN

SEC. 209. (a) The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is organized under the laws of the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

INTERNATIONAL SPACE DOCKING CAPABILITY

SEC. 210. (a) It is the sense of Congress that the Administrator should establish a multilateral working group of representatives from the space agencies of appropriate spacefaring nations, including the Union of Soviet Socialist Republics, and from appropriate international entities, to explore the technological and procedural principles that would be necessary to achieve an international space docking capability, and the establishment of international docking interface standards for addressing requirements for compatible interfaces for docking, communications, and life support systems, and also space rescue missions which could particularly benefit from the use of such a capability.

(b) Within 6 months after the date of the enactment of this Act, the Administrator shall advise the Congress on the status of establishing an International Space Docking Working Group as recommended in subsection (a).

JOHN C. STENNIS SPACE CENTER

SEC. 211. The National Space Technology Laboratories of the National Aeronautics and Space Administration located in Bay St. Louis, Mississippi, is named and designated as the "John C. Stennis Space Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such center shall be held to be a reference to the "John C. Stennis Space Center".

OUTER SOLAR SYSTEM EXPLORATION

SEC. 212. The Administrator, in coordination with the Secretary of Energy, for the purpose of outer solar system exploration, may request and receive such quantities of nuclear fuel as are necessary only for the specific mission, on terms and at costs as may be agreed upon. Nothing in this section authorizes the providing of such nuclear fuel on those terms for any other purpose or its diversion for any other use.

COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION

SEC. 213. Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $3,827,000 for fiscal year 1989.".

NATIONAL AERONAUTICS AND SPACE ACT OF 1958 AMENDMENT

SEC. 214. Section 102(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(c)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) The preservation of the United States preeminent position in aeronautics and space through research and technology development related to associated manufacturing processes.".

DRUG-FREE WORKPLACE

SEC. 215. (a) No funds authorized to be appropriated under this Act, or under any other Act authorizing appropriations for fiscal year 1989 through 1993 for the Administration, shall be obligated or expended unless the Administration has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Administration.

(b) No funds authorized to be appropriated to the Administration for fiscal years 1989 through 1993 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by the board of directors or other government authority of such recipient, contractor, or party, satisfactory to the Administrator of the Administration, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

(c) The provisions of this section, and the provisions of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988, the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989, the National Science Foundation Authorization Act for Fiscal Years 1989 and 1990, and the National Nutrition Monitoring and Related Research Act of 1988, relating to a drug-free workplace, shall not be effective until January 16, 1989.

OHIO CENTER FOR AEROSPACE

SEC. 216. (a) The Administrator may, without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), and on such terms as the Administrator may deem to be appropriate, lease, for a term not to exceed 99 years, real property located at the Lewis Research Center in Cuyahoga County, to the State of Ohio, or a subdivision or agent thereof, or to a corporation or foundation organized exclusively for educational or scientific purposes which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to any other not-for-profit entity, for the purpose of the construction and operation thereon of an Institute whose purpose is the conduct of aeronautical and space research, the education and training of aeronautical and space engineers, and the transfer of aeronautical and space technology between the United States public and private sectors. This lease shall be renewable for additional periods in the discretion of the Administrator.

(b) Subject to the availability of appropriations therefor, the Administrator may enter into agreements, on such terms as the Administrator may deem to be appropriate, with the State of Ohio, or a subdivision or agent therefor, or with a corporation or foundation organized exclusively for educational or scientific purposes which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to any other not-for-profit entity, pursuant to which the Administration may provide administrative, maintenance, instructional, and other appropriate support, with or without reimbursement, to an Institute whose purpose is the conduct of aeronautical and space research, the education and training of aeronautical and space engineers, and the transfer of aeronautical and space technology between the United States public and private sectors.

(c) The Administrator may redelegate the authority conferred in subsections (a) and (b), to such subordinate officers and employees as the Administrator may designate.

SPACE SETTLEMENTS

SEC. 217. (a) The Congress declares that the extension of human life beyond Earth's atmosphere, leading ultimately to the establishment of space settlements, will fulfill the purposes of advancing science, exploration, and development and will enhance the general welfare.

(b) In pursuit of the establishment of an International Space Year in 1992 pursuant to Public Law 99-170, the United States shall exercise leadership and mobilize the international community in furtherance of increasing mankind's knowledge and exploration of the solar system.

(c) Once every 2 years after the date of the enactment of this Act, the National Aeronautics and Space Administration shall submit a report to the President and to the Congress which—

(1) provides a review of all activities undertaken under this section including an analysis of the focused research and development activities on the Space Station, Moon, and other outposts that are necessary to accomplish a manned mission to Mars;

(2) analyzes ways in which current science and technology can be applied in the establishment of space settlements;

(3) identifies scientific and technological capacity for establishing space settlements, including a description of what steps must be taken to develop such capacity;

(4) examines alternative space settlement locations and architectures;

(5) examines the status of technologies necessary for extraterrestrial resource development and use and energy production;

(6) reviews the ways in which the existence of space settlements would enhance science, exploration, and development;

(7) reviews mechanisms and institutional options which could foster a broad-based plan for international cooperation in establishing space settlements;

(8) analyzes the economics of financing space settlements, especially with respect to private sector and international participation;

(9) discusses sociological factors involved in space settlement such as psychology, political science, and legal issues; and

(10) addresses such other topics as the National Aeronautics and Space Administration considers appropriate.

PEACEFUL USE OF SPACE STATION

SEC. 218. No civil space station authorized under section 201(a)(1)(A) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

COMMERCIAL SPACE PROGRAMS

SEC. 219. Section 201 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 is amended by adding at the end the following new subsection:

"(f) COMMERCIAL SPACE PROGRAMS.—Nothing in this section authorizes the Department to establish an Office of Commercial Space Programs or to place such an office into the Technology Administration without prior authorization of the Congress.".

TITLE III—TEN YEAR STRATEGIC PLAN

AERONAUTICS AND SPACE STRATEGIC PLAN

SEC. 301. The Administrator should develop an aggressive and balanced plan of science and applications including but not limited to—

(1) the robotic exploration of other solar system bodies;

(2) the study and observation of other celestial bodies and phenomena at spectral wave lengths and resolutions that will enhance our understanding of the universe;

(3) the enhanced study and monitoring of Earth as an interacting system;

(4) the development of a full understanding of the behavior of biological systems in the space environment; and

(5) the development of a full understanding of physics and chemistry of the macroscopic behavior of materials in the microgravity environment.

SPACE RESEARCH AND TECHNOLOGY STRATEGIC PLAN

SEC. 302. The Administrator should develop an aggressive and balanced plan of space research and technology including but not limited to—

(1) fundamental and innovative research as the seedbed for enabling technologies for future civil space missions;

(2) focused technology programs keyed to long range, high priority civil space missions;

(3) technology research and demonstrations, extending laboratory activities from Earth to space-based facilities such as the Space Shuttle, Space Station, orbital platforms, and eventually the Moon and other planetary bodies; and

(4) cooperation with, and service to, other space program sectors with advanced technology and use of ground and space-based facilities.

SPACE EXPLORATION STRATEGIC PLAN

SEC. 303. The Administrator should develop a plan in pursuit of the continued manned exploration of the solar system and low-Earth orbit, including but not limited to—

(1) the establishment of an operational United States International Space Station that shall be permanently manned; and

(2) the development of those technologies and systems required for manned exploration of space beyond earth orbit.

SPACE TRANSPORTATION STRATEGIC PLAN

SEC. 304. The Administrator should develop a plan to improve the manned and unmanned space transportation system including—

(1) the continued enhancement of the space shuttle and its ground system in order to increase safety and efficiency and reduce costs;

(2) the completion of the development of a heavy-lift expendable launch vehicle if consistent with mission requirements of the

Administration, the Department of Defense, and other Federal agencies; and

(3) the initiation of preliminary design activities for the next generation of a manned space launch system beyond the space shuttle.

AERONAUTICAL RESEARCH AND TECHNOLOGY DEVELOPMENT AND VALIDATION LONG-RANGE PLAN

SEC. 305. The Administrator should develop a plan in pursuit of—

(1) a vigorous program in aeronautics research and technology development and validation, emphasizing emerging technologies with the potential for breakthrough advances to enhance United States preeminence in civil and military aviation; and

(2) in cooperation with the Department of Defense, [a technology development program (with an option for a flight demonstration] in 1995) to prove the feasibility of an air-breathing hypersonic aerospaceplane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 401. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research duties of the National Weather Service under law, $279,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1974, and any other law involving such duties. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

SEC. 402. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its public warning and forecast systems duties under law, $98,500,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such duties. Such duties include the development, acquisition, and implementation of major public warning and forecast systems.

(b) In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce (hereafter in this title referred to as the "Secretary") may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts.

SEC. 403. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research duties under law, $51,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such duties. Such duties include the interannual and seasonal climate research long-term climate and air quality research, and the National Climate Program.

(b) Of the sums authorized under subsection (a) of this section $3,238,000 for fiscal year 1989 are authorized to be appropriated for the activities under the National Climate Program Act (15 U.S.C. 2901 et seq.).

(c) Of the sums authorized under subsection (a) of this section, $12,000,000 for fiscal year 1989 are authorized to be appropriated to establish a program for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmosphere processes, and climate prediction and diagnostics.

SEC. 404. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research duties under law, $44,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to atmospheric research specified by the Act of 1890 and by any other law involving such duties. Such duties include research for developing improved production capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SEC. 405. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems duties under law, $383,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act of 1890 and by any other law involving such duties. Such duties include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(b) The authorization provided for under subsection (a) of this section shall be in addition to moneys authorized under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) for the purpose of carrying out such duties relating to satellite observing systems.

SEC. 406. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services duties under law, $25,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act of 1890 and by any other law involving such duties. Such duties include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

SEC. 407. (a) The Secretary shall prepare and submit to the Congress, not later than 90 days after the date of enactment of this Act, a 10-year strategic plan for the comprehensive modernization of the National Weather Service. The strategic plan shall set forth basic service improvement objectives of the modernization as well as the critical new technological components and the associated operational changes necessary to fulfill the objectives of weather and flood warning service improvements.

(b) The Secretary shall prepare and submit to the Congress, by the beginning of the fiscal year immediately following the fiscal year in which the strategic plan required by subsection (a) of this section is submitted, a National Implementation Plan for modernization of the National Weather Service. The National Implementation Plan shall set forth the schedules for necessary actions to accomplish the objectives described in the strategic plan, and the National Implementation Plan shall include—

(1) detailed requirements for new technologies, facilities, staffing levels, and funding, for each of the two fiscal years immediately following the fiscal year in which such National Implementation Plan is submitted, in accordance with the overall schedule for modernization;

(2) special measures to test, evaluate, and demonstrate key elements of the Modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of all components of the modernization in an integrated manner for a sustained period; and

(3) detailed plans and funding for meteorological research to be accomplished under this title to assure that new techniques in forecasting will be developed to utilize the new technologies being implemented in the modernization.

(c) The Secretary shall submit a revised National Implementation Plan to the Congress at the beginning of each successive fiscal year after the fiscal year in which the initial National Implementation Plan is submitted.

(d) In reviewing and revising the National Implementation Plan, the Secretary shall consult, as appropriate, with other Federal and public agencies responsible for providing or utilizing weather services.

SEC. 408. (a) The Secretary shall not close, consolidate, automate, or relocate any Weather Service Office or Weather Service Forecast Office pursuant to the implementation of the strategic plan required by section 407, except in accordance with this section.

(b) The Secretary may not close, consolidate, automate, or relocate any such office unless the Secretary has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives that such action will not result in any degradation of weather services provided to the affected area. Such certification shall include—

(1) a detailed comparison of the services provided to the affected area and the services to be provided after such action;

(2) any recent or expected modernization of National Weather Service operations which will enhance services in the affected area; and

(3) evidence, based upon operational demonstration of modernized National Weather Service operations, which supports the conclusion that no degradation in services will result from such action.

SEC. 409. (a) Except as otherwise provided in this section, the Secretary is authorized to assess fees, based on fair market value, for access to environmental data archived by the National Environmental Satellite, Data, and Information Service of the National Oceanic and Atmospheric Administration.

(b)(1) The Secretary shall provide data described in subsection (a) to Federal, State, and local government agencies, to universities, and to other nonprofit institutions at the cost of reproduction and transmission, if such data is to be used for research and not for commercial purposes.

(2) The Secretary shall waive the assessment of fees under subsection (a) as necessary to continue to provide data to foreign governments and international organizations on a data exchange basis or as otherwise provided by international agreement.

(c) The initial schedule of any fees assessed under this section, and any subsequent amendment to such schedule, shall be published by the Secretary in the Federal Register at least 30 days before such fees will take effect. The initial schedule shall remain in effect without amendment for the three-year period beginning on the date that fees under the schedule take effect.

(d) Any assessment of fees under this section shall meet the following requirements:

(1) No fees shall be assessed under this section until after September 30, 1989.

(2) With respect to the first one-year period during which the initial fee schedule is in effect, fees shall be assessed at no more than one-third of the fair market value specified in subsection (a).

(3) With respect to the second one-year period during which the initial fee schedule is in effect, fees shall be assessed at not more than two-thirds of such fair market value.

(4) With respect to the third one-year period during which the initial fee schedule is in effect, and with respect to any period thereafter, fees shall be assessed at no more than the full amount of such fair market value.

(e) Fees collected under this section shall be available to the National Environmental Satellite, Data, and Information Service for expenses incurred in the operation of its data archive centers.

(f) The Secretary shall, not later than 90 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report which sets forth—

(1) any plan of the Secretary for assessing fees under this section, including the methodology and bases by which the amount of such fees shall be determined, and the estimated revenues therefrom; and

(2) any plan of the Secretary for using revenues generated from such fees, as well as other resources, to improve the capability of the National Environmental Satellite, Data, and Information Service to collect, manage, process, archive, and disseminate the increasing amounts of data generated from satellites, radars, and other technologies.

(g) The authority of the Secretary to assess fees under this section shall be in addition to, and shall not be construed to limit, the authority under any other law to assess fees relating to the environmental data activities of the National Oceanic and Atmospheric Administration.

Sec. 410. The Secretary, in consultation with the Secretary of State, the Administrator of the National Aeronautics and Space Administration, and appropriate non-Federal organizations, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan to construct and operate a worldwide system of ground-based remote sensors to monitor the stratospheric levels of chemicals which can affect the level of ozone in the stratosphere and to use these results to improve our understanding of the possible changes in stratospheric ozone that are the consequence of human activities. The plan shall include time lines for construction and operation of the system, a description of the roles of the National Oceanic and Atmospheric Administration and the National Aeronautics and Space Administration, non-Federal organizations, other nations, and international organizations in constructing and operating the system, and estimates of the costs to construct and operate the system. The plan shall be submitted not later than July 1, 1989.

Sec. 411. It is the sense of the Congress that the global change program represents a significant opportunity for international cooperation and that it is in the best interest of the United States to maintain a separate civilian polar meteorological satellite program to facilitate data sharing with foreign participants in the global change program.

Sec. 412. None of the funds authorized under this title shall be used to move from Kansas City, Missouri, the National Weather Service Training Center currently located at Kansas City, nor to close such Center, nor to contract out any function or activity performed by Federal employees as of the date of enactment of this Act.

Sec. 413. For the purposes of this title, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

Sec. 414. (a)(1) The National Weather Service of the National Oceanic and Atmospheric Administration shall maintain an updated data base describing the acid content in precipitation in the United States, using information from Federal acid precipitation monitoring sites.

(2) Such data shall be available to interested parties by Weather Service Forecast Offices in the National Weather Service, or through such other facilities or means as the Assistant Administrator for Weather Services, National Oceanic and Atmospheric Administration, shall direct, for those areas of the United States where and at such time as such information is presently available, within 120 days after the date of the enactment of this Act.

(3) Where other Federal agencies collect such data in the course of carrying out their statutory missions, the heads of those agencies and the Administrator of the National Oceanic and Atmospheric Administration shall arrange for the transfer of such data to the National Weather Service.

(b) Nothing in this section shall be construed to require any Federal agency to establish any new acid precipitation monitoring site.

TITLE V—NATIONAL SPACE COUNCIL

NATIONAL SPACE COUNCIL

Sec. 501. (a) Effective February 1, 1989, there is established in the Executive Office of the President the National Space Council, which shall be chaired by the Vice President.

(b) By March 1, 1989, the President shall submit to the Congress a report that outlines the composition and functions of the National Space Council.

(c) The Council may employ a staff of not more than seven persons, which is to be headed by a civilian executive secretary, who shall be appointed by the President.

TITLE VI—AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH

Sec. 601. Findings.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

Sec. 602. Study on Increased Automation.—

(1) In general.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) Content.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods of improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying individuals possessing those attributes and aptitudes.

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) Report.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

Sec. 603. Agreement With Administrator of NASA.—

(1) In general.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Ad-

ministration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) Content.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decisionmaking on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

Sec. 604. Authorization of Appropriations.—For conducting research under the title there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. Roe] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. Lujan] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2209, the NASA authorization bill, represents the hard work of many of my colleagues both in the House and in the other body. I would like to thank Mr. Lujan of New Mexico, ranking Republican in the full committee, Mr. Nelson of Florida, chairman of the Subcommittee on Space Science and Applications, Mr. Walker of Pennsylvania, ranking Republican on that subcommittee, Mr. McCurdy of Oklahoma, chairman of the Subcommittee on Transportation, Aviation and Materials, and Mr. Lewis of Florida, ranking Republican on that subcommittee. I would also like to recognize the efforts and fine cooperation we have received from Senator Hollings of South Carolina, chairman of the Committee on Commerce, Science and Transportation, Senator Danforth of Missouri, ranking Republican of that committee, Senator Riegle of Michigan, chairman of the Subcommittee on Science, Technology and Space, and Senator Pressler of South Dakota, ranking Republican on that subcommittee.

Mr. Speaker, on June 2 the House overwhelmingly approved H.R. 4561, the multiyear NASA authorization bill. On August 9 the other body passed its version of the NASA authorization bill, S. 2209. Over the intervening period we have worked with our counterpart committee in the other body to resolve the differences between these two bills.

The amendment which I am offering today to S. 2209 represents the results of these discussions. Like H.R. 4561, this bill contains full, multiyear funding for the U.S. International Space Station. It also retains many of the other principal policy features of the House passed bill.

Mr. Speaker, this bill will be crucial to regaining momentum for our civilian space effort. On September 29, the space shuttle *Discovery* launched America back into space initiating a new beginning for us all. This bill, S. 2209, will provide a much needed long-range focus for our Nation's space and aeronautics program. It retains the basic findings that the shuttle, the space station, and our expendable launch vehicles constitute a core space program that must be fully developed if we are to maintain our lead in space. This bill establishes goals and guidelines for the development of a 5-year capital development program that will strengthen our space and aeronautics infrastructure.

This bill also maintains a vigorous space science program with full funding for our major science start, the advanced x-ray astrophysics facility. It also retains funding for the advanced communications technology satellite which has been an important congressional initiative that will help the United States retain its technological edge in the future communications market.

Finally, the amendment will maintain the overall growth the space program needs to establish a balanced and progressive space effort over the next 5 years. We have set general budgetary goals that I believe will accomplish the desired objectives.

We have also retained a long-range 10-year strategic plan that will guide NASA over the next decade. Mr. Speaker, I am confident that, with this bill, the next decade in space and aeronautics will build upon our investments over the past 30 years and will represent a period in which we begin to reap the benefits of these investments.

In the aggregate, this bill authorizes $11.213 billion for fiscal year 1989 and represents a compromise between the original House-passed figure of $11.488 billion and the Senate figures of $11.1 billion. This represents a reasonable balance between the priorities of the House- and Senate-passed bills. I have attached a chart to my written statement detailing the specific funding changes that have been made in the bill.

I would now like to outline some of the major langauge differences that are contained in this amendment as compared to the House-passed bill:

We have deleted specific program authorizations for fiscal year 1990 and 1991 except for the space station. In lieu of these specific authorizations we have added a section expressing the sense of the House that the NASA budget will need to increase by at least 15 percent per year in order to undertake aggressive initiatives such as lunar colonies or missions to Mars.

Also we have request budget authority for 2 years plus a budget estimate for a 3d year. This also meets with the concurrence of our Senate counterpart committee. Our objective is to begin planning our space budget on a multiyear basis. Our intent is that the 2d and 3d year submissions contained ongoing program budgets plus funding requests for new programs that are to begin in those years.

We have included funding for the space grant college in the amount of $8 million as recommended by the Senate. We have provided ample authority for NASA to reprogram money from any other budgetary line items to fund this requirement. We expect, however, that the specific budgetary transfers will be submitted to Congress for approval in the form of a budget operation plan.

We have included a Senate recommendation that provides special authority to NASA to solicit bids for privately financed facilities for the advanced solid rocket motor production. Although the Senate has also recommended that we provide NASA the authority to pay for counterpart liability in the event that the Government cancels the contract for its own convenience we have not accepted this provision. We may consider it at some later time.

We have retained the substance of the Buy American provision that was included in the House passed bill. We intend that NASA will report to the committee on specific contracts affected by this provision, and we will address this as part of our oversight function.

We have combined several sections of the House passed bill dealing with international space docking and rescue with complementary sections recommended by the Senate. We expect that any international standards for docking interfaces will explicitly consider metric measurements. Although other existing legislation provides exemptions for aerospace products from metrification, docking standards and other international hardware programs represent unique cases where metrification may make sense.

We have included a Senate recommendation renaming the National Space Technology Laboratories in Mississippi the Stennis Space Center.

We have also included a Senate recommendation allowing NASA to purchase nuclear fuel from the Department of Energy at direct costs for planetary deep space missions.

We have increased funding for the Department of Transportation's Office of Commercial Space Transportation from $3.5 million to $3.827 million.

We have included a recommendation by the Senate providing for an Ohio Aerospace Institute that will be located at Lewis Research Center. This will provide a facility where academic, industry and Government researchers can work together to address critical technology needs. This will be of great value in regaining our technological competitiveness.

We have included a recommendation from the Senate prohibiting nuclear weapons as weapons of mass destruction on the space station. This has been included in three of the past authorization bills.

We have included authorizing legislation for the National Oceanic and Atmospheric Administration as recommended by the Senate.

We have included a provision recommended by the Senate which conditions the approval of an Office of Commercial Space Programs within the Department of Commerce on a specific authorization from Congress.

Finally we have included language that would establish the National Space Council for which both Presidential candidates have their desire.

Mr. Speaker, this concludes my statement. I believe that this amendment to S. 2209 will be of great benefit to our Nation's space program and I urge its speedy adoption.

NASA FISCAL YEAR 1989 SPREAD SHEET

	Fiscal year 1988 appropriations	Fiscal year 1989 request	Fiscal year 1989 appropriations		House authorization		Senate authorization		Amendment To S. 2209	
Research and development	$3,294.5	$4,446.7	$4,191.7	(−255.0)	4,446.7		$4,278.2	(−168.5)	$4,322.1	(−124.6)
Space station	392.3	967.4	900.0	(−67.4)	967.4		867.4	(−100.0)	900.0	(−67.4)
Space Trans. Cap. Dev	609.8	631.1	606.1	(−25.0)	644.1	(+13.0)	606.6	(−24.5)	606.6	(−24.5)
Physics and astronomy	610.8	791.6	735.6	(−56.0)	791.6		61.6	(−30.0)	761.6	(−30.0)
Life sciences	69.5	101.7	76.7	(−25.0)	101.7		791.7	(−10.0)	91.7	(−10.0)
Planetary exploration	329.2	404.0	394.0	(−10.0)	404.0		399.0	(−5.0)	410.3	(+6.3)
Space applications	566.3	562.3	618.3	(+56.0)	638.3	(+76.0)	628.3	(+66.0)	628.3	(+66.0)
Technology utilization	17.7	19.1	16.5	(−2.6)	19.1		19.1		19.1	
Commercial use of space	56.0	38.8	33.8	(−5.0)	38.8		38.8		38.8	
Aeronautical Research and Technology	334.8	414.2	404.2	(−10.0)	414.2		404.2	(−10.0)	404.2	(−10.0)
Space research and technology	223.6	390.9	295.9	(−95.0)	390.9		350.9	(−40.0)	350.9	(−40.0)
Transatmospheric Research and Technology	52.5	84.4	69.4	(−15.0)	84.4		69.4	(−15.0)	69.4	(−15.0)
Safety, reliability and quality assurance	14.1	22.4	22.4		22.4		22.4		22.4	
Tracking and data advance system	17.9	18.8	18.8		18.8		18.8		18.8	
(General reduction)					(−89.0)	(−89.0)				
Space flight, control and data command	3,810.7	4,841.2	4,364.2	(−477.0)	4,841.2		4,686.2	(−155.0)	4,686.2	(−155.0)
Shuttle Production and Operations Capacity	1,088.3	1,400.5	1,378.5	(−22.0)	1,400.5		1,335.5	(−65.0)	1,335.5	(−65.0)
Space Transportation Operations	1,838.0	2,405.4	2,295.4	(−110.0)	2,405.4		2,365.4	(−40.0)	2,365.4	(−40.0)
Space and ground net./Com./Data System	884.4	1,035.3	945.3	(−90.0)	1,035.3		985.3	(−50.0)	985.3	(−50.0)
(General reduction)			(−255.0)	(−255.0)						
Research and program management	1,743.0	1,915.0	1,855.0	(−60.0)	1,915.0		1,880.0	(−35.0)	1,915.0	
Construction of facilities	178.3	285.1	290.1	(+5.0)	285.1		260.1	(−25.0)	290.1	(+5.0)
Total NASA	9,026.5	11,488.0	10.701.0	(−787.0)	11,488.0		11,104.5	(−383.5)	11,213.4	(−274.6)

□ 1500

Mr. Speaker, I reserve the balance of my time.

Mr. LUGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2209 as amended. Although bills appropriating funds for NASA and NOAA for fiscal year 1989 have already passed both Houses for Congress and have been signed into law, the legislation we are considering here today is still very important. I believe the effort that went into reaching the compromise presented here was justified, and the bill deserves our support. I especially want to commend the chairman of the Science, Space, and Technology Committee, the gentleman from New Jersey [Mr. ROE], for his hard work and perseverance in bringing this legislation to the floor.

One very significant feature in this bill is the long-range vision and guidance that is provided, and the recognition that both a plan and a commitment to fund that plan are required if this Nation is to maintain its position as the world leader in aeronautics and space.

After the loss of the *Challenger*, critics began asking about NASA's goals, and whether NASA even had any long-range plans. Comparisons were made with the Apollo days and critics complained that NASA had somehow lost its sense of direction and purpose. Well, this legislation attempts to respond to those doubts and criticisms. This legislation leaves no doubt that NASA's primary mission should be the exploration and exploitation of the solar system leading ultimately to manned missions to other plants, and eventually the establishment of space settlements.

Much work needs to be done before we can embark on a trip to Mars. We need to develop a whole host of technologies—in advanced launch systems, manned transportation, energy and power systems, and life sciences—such as closed loop life support systems—to name just a few.

In the near term, we need to assure our access to space and we need to go forward with the space station. The space station is an essential element in our plans to explore the solar system. We need the station not only as a laboratory for microgravity experiments, but also to enable us to learn how to live and work in space. This bill provides a 3-year authorization for this vital program.

This legislation also recognizes the growing role the private sector must play in developing and exploiting space. The Government should not have to do it all. However, we must accept the fact that we will still have to commit more Government resources to these programs. This bill declares that it is the sense of the House that the NASA budget will have to grow substantially—as much as 15 percent each year—if we hope to accomplish the goals we have established for ourselves.

This legislation also includes authorization of fiscal year 1989 appropriations for certain programs of the National Oceanic and Atmospheric Administration [NOAA], specifically, the operations and research activities of the National Weather Service, and the atmospheric research and satellite programs of NOAA. Similar legislation passed the House last year as part of a 2-year authorization. I support the compromise provisions contained in this NOAA legislation, and I want to commend the gentleman from New

Hampshire [Mr. Smith] for his amendment which requires the National Weather Service of NOAA to maintain an updated data base describing the acid content in precipitation in the United States, and to make this information available to the public.

Mr. Speaker, this bill contains many other important provisions which the gentleman from New Jersey has so eloquently described—so I will not go into them again. I simply want to say again that this is an important bill; it lays out a path for the future, and it also provides NASA and NOAA with the needed authority to carry out their missions. I think the bill deserves our support, Mr. Speaker, and I urge my colleagues to join me in adopting this legislation.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. Nelson], chairman of our Subcommittee on Space, Science and Applications.

Mr. NELSON of Florida. Mr. Speaker and my colleagues, with the success of the space shuttle mission of *Discovery* having lifted the spirits of all America, it allows us to come in a much different atmosphere to talk about the specifics of funding the Nation's civilian space program, an atmosphere that is a lot more confortable, I might say, than the atmosphere of what we have been through in the last 3 years with the tragedy.

Now, over the interim I have, as people naturally have a tendency to compare the American program with the Soviet program, people will come to me and say "Bill, what is it that gives the Soviets where they have an advantage," and they have some success over us and we have some leading positions over them, but they say, "What is it that gives them that advantage?" And it boils down to the fact that the Soviets have had that consistent funding increase over the years in a consistent pattern whereas the American program, much a reflection of us as a democracy, has had the fits and starts.

It is this legislation, under the leadership of our chairman, the gentleman from New Jersey [Mr. Roe], that has started to correct those fits and starts, for this NASA authorization bill gives us a 3-year authorization for the space station and will require, next year, when NASA comes to us with an overall budget request of a 2-year authorization, with a suggested third-year authorization and therefore we are starting to eliminate the fits and starts and get that consistent level of funding that is so needed in a high technology, R&D program that the Nation's civilian space program is. And we, the American people, are going to be the beneficiaries of it.

Mr. LUJAN. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, the legislation before the House is a classic example of the problems that confront the American taxpayer and the Congress in the closing hours of a session.

In many ways this is one of the best NASA authorization bills I have ever been associated with. As the Republican vice chairman of the Subcommittee on Space Science and Applications, I have been particularly close to the efforts within NASA and their contractors to return the Space Shuttle to flight. Just as NASA has overcome a mountain of problems leading up to the successful launch of *Discovery* 3 weeks ago, the Congress has overcome 30 years of tradition to draft a NASA authorization that, in general, is one that we can be proud of.

This is a bill which will finally recognize that our space program is a dynamic, ongoing undertaking. This bill calls for a multiyear commitment to the Space Station Freedom, and to the remainder of the civil space program. For the first time this bill calls for a 5-year plan for NASA activities. This plan should lead to an orderly budget process which will allow the Congress to track NASA's progress toward space goals and accurately measure their performance.

This bill also calls on the President to make substantial increases in the NASA budget over the next 5 years. All of the studies, by the National Commission on Space, by the Congressional Budget Office, and by Astronaut Sally Ride, have called for major increases if we are to maintain a credible civil space program.

There is one major problem with this bill—one which should not occur in the NASA authorization—and that is that the Congress cannot resist the temptation in the closing hours of a Congress to turn every possible legislative vehicle into a pork barrel. In this case it is the Ohio Center for Aerospace. This smells like pork, looks like pork, and sounds like pork, and I assure you, that it is pork.

We have here a proposal to create a new center that will last for 99 years; 99 years. NASA itself has just celebrated their 30th anniversary this month and this bill will set up an institute that will last more than three times as long as NASA has already existed.

And what are the costs? Well, we just don't know. There have been no hearings. There is no request. There is no record. But let us make an informed guess.

We are talking about 10 acres or so at about $50,000 per acre and that is an immediate hit to NASA of $500,000. On top of that we are looking at an annual subsidy of some $50,000 to $200,000. Over 99 years that could be as much as $20 million over the life of the institute. But the truth is that when you set up an institute on Federal property, and support it with Federal contracts, then you soon find that its continued life is dependent on Federal contracts. In the NASA system it is not unreasonable to expect NASA to contract with the Institute for an average of $50 to $100 million, or more, a year. That would mean that the real cost to NASA for this "minor" program may be well over $10 billion. And where will that money come from? Out of NASA's hide, of course.

Some of you may remember the late Senator Everett McKinley Dirksen. He used to say, "A billion here, a billion there, pretty soon you are talking about real money." Well in the context of the NASA budget, a billion is very real money. And when the conferees decide to raid the Treasury, they don't care what the consequences might be. Will this money come from the Space Station Freedom? Will it come from manned space flight? Who will suffer?

Mr. Speaker, let me say that there may well be substantial merit to undertakings of this type. We just don't know the facts. This proposal is just one more example of pork barrel politics avoiding the normal process of peer review and congressional approval. If there is real merit to any public works project it should be able to stand up to open competition and compete for available dollars within the established process. Proposals should go through the appropriate agency review process and stand up to rigid scrutiny. They should go before OMB where they are balanced against similar requests across the Government. And finally, they should come before the Congress in a way in which the appropriate committees of the Congress have the opportunity to examine the proposal, weigh the merits, take testimony, and finally, hear the arguments of witnesses, both pro and con, before making a decision.

In the bill before us we have a proposal that has had the benefit of none of the procedural review that these projects should have. Mr. Speaker, we are involved in the serious business of spending the taxpayers' dollars here. If this decision is ratified, then your great-great-grandchildren will still be paying on this program in the year 2087. Can anyone here say that there is any evidence before this House, let alone clear and convincing evidence, that we should spend one single cent on this project?

Mr. Speaker, this bill is a perfect example of the process in the closing days of a Congress that gives some of us so much trouble. We start out with legislation that has a lot of merit. In fact, I have said that the NASA authorization bill passed by the House earlier this year was the best NASA authorization I have ever worked on.

But since the bill passed the House the process has run amok. The other body accepts amendments that potentially have ruinous effect on NASA programs with little, if any discussion, and no evidence, and then the legislation goes into that black hole of end of session negotiations between the chairmen of the committees involved. There are many Members of the House who had provisions in the House passed bill that are lost and gone forever. Where did they go? How hard did the House fight to preserve our position? Can any Member say that he fully participated in these negotiations? Why is it that members of the committee who are in leadership positions, and members of the committee who have a proprietary interest in certain provisions have no part in these final decisions?

Mr. Speaker, I think I have made my point. As a senior member of the committee of jurisdiction I want to be supportive of my chairman. As a member of the leadership of the committee I want to be able to come to the floor and present a strong bipartisan front on our legislation. I think that the issues of science, space, and technology are far too important to this Nation to become partisan. There is no Republican position on space, just as there is no Democratic position on science. On these issues we should be able to join ranks and support an American position that will preserve American predominance in these fields. And I think that is easily achieveable if the process is opened up so that we are all included in the development of committee positions. And let us hope that those positions can move us forward in policy matters while cutting out the pork.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Ohio [Mr. Regula].

Mr. REGULA. I thank the gentleman for yielding.

Mr. Speaker, the gentleman has quoted a lot of figures on the value of the land and the cost of maps and so on.

I cannot find any of these numbers.

Mr. WALKER. Let me say to the gentleman, the $50,000 comes directly out of NASA. The $50,000 to $100,000 figure comes as a estimate of cost from NASA as to what it will cost to provide the services to them.

The figure I must say is an extrapolated figure as to how much it will cost to have that center operating with some NASA fundings going into it. It is not unreasonable, given the mission of the center, to think that we could get as high as $50 to $100 million given the mission of the center. So that is where the figures came from. Two of the figures came directly from NASA.

Mr. REGULA. Mr. Speaker, the gentleman said there were no hearings. If there were no hearings how did the gentleman get them?

Mr. WALKER. Because I asked for them, because I asked for them when I found out the provision was in here.

Mr. REGULA. Is there a record?

Mr. WALKER. We have not had any kind of discussion on this. If I had not asked for them, I do not suppose we would have any figures out here to look at. So I bothered to ask for the figures because I thought it was important to try to find out what this doggoned thing was going to cost. It looks like it could be anywhere from $20 million to $10 billion. That is a pretty good range. I think we ought to hold hearings on it.

□ 1515

Mr. REGULA. Or possibly it may cost nothing.

Mr. WALKER. Anyway we ought to hold hearings on it.

Mr. REGULA. It may possibly cost nothing, because it gives discretion to the Administrator.

Mr. WALKER. No. We know it is going to cost at least the $500,000 for the land, and we know it is going to cost $50,000 to $200,000 in annual moneys for upkeep, and so on. So we know we have at least that $20 million worth of cost tied to the program, and it may be far more than that.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, the gentleman puzzles me a little bit. We are talking about a 99-year lease, and we are talking $20 million. I hope the Lord preserves you and me long enough to guide us through over that 99-year period.

The SPEAKER pro tempore (Mr. Murtha). The time of the gentleman from Pennsylvania [Mr. Walker] has expired.

Mr. ROE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. Walker].

Mr. Speaker, we have a similar situation in Mississippi with the program—and I do not say this unkindly because I have the highest regard and personal respect for the gentleman—where we helped out to put in a similar institute——

Mr. WALKER. And let me say to the gentleman that——

Mr. ROE. Mr. Speaker, I have not yielded to the gentleman. It is my 2 minutes

Mr. WALKER. No, if the gentleman yielded to me, it is my time. Let me reclaim my time.

Mr. ROE. Mr. Speaker, who has the time?

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. Roe] controls the time.

Mr. WALKER. No, he yielded to me, I thought.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. Roe] yielded to the gentleman from Pennsylvania [Mr. Walker].

Mr. ROE. And I have my 2 minutes back now.

The SPEAKER pro tempore. By unanimous consent only.

Mr. WALKER. Mr. Speaker, the only thing I wanted to point out to the gentleman is that when we did it in Mississippi, we took it through the whole hearing process.

Mr. ROE. I know.

Mr. WALKER. We took it to the subcommittee, we took it to the committee, and that was the bill that was examined all the way through the process. That is why I was suggesting that is what should have been done here.

Mr. ROE. Will the gentleman yield to me now?

Mr. WALKER. Sure, I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, the gentleman from Pennsylvania is going to be the ranking member of the Committee on Science, Space, and Technology next year, and that is making a pronouncement on the success of the gentleman's election which has not been held yet.

I will assure the gentleman that we will monitor this most, most carefully, and I assure him that the only expenditures we are talking about here will be expended without further hearings, and, therefore, we are not going to be spending $20 million. We are not going to spend any more than that. This is important to the country, and I believe the gentleman agrees with me. It is important to provide science, space, and technology education, particularly technology education and space education.

Mr. WALKER. Mr. Speaker, I agree thoroughly with the gentleman, and I think because of that, it is very important that we do it in the right way, and that as we develop priorities, they are weighed with all the rest of the priorities. I would be very happy to consider this as part of the process of looking at this issue, but I do not like to see it being added in a conference committee without our committee ever having had a look at it.

Mr. ROE. Mr. Speaker, will the gentleman yield to me once again for just about 30 seconds?

Mr. WALKER. Sure, I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, the other body does have some prerogatives, as the gentleman well knows, in this programming. The Senate had added this, and it was one of their important points that they wanted to hold. So I think we will have a better coordination between ourselves and the Senate in due course.

Mr. WALKER. Mr. Speaker, I thank the gentleman, but let me remind him that here are NASA's university programs and the education things we are doing already, and we are spending millions and millions of dollars on this. These have been prioritized by this committee and by NASA, and I think we have to be very, very careful of how we set these priorities, because it ultimately comes out of the hide of the program that both the gentleman and I feel is absolutely essential to the future of our country.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

The time is now controlled by the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I thank the chairman of the committee for yielding this time to me.

Mr. Speaker, I would like to commend the chairman of the committee, the Honorable ROBERT A. ROE of New Jersey for bringing this bill to the floor today. I would also like to commend the ranking Republican of the full committee, the Honorable MANUEL LUJAN, and the Honorable CLAUDINE SCHNEIDER, the ranking Republican of the Subcommittee on Natural Resources, Agriculture Research and Environment.

Mr. Speaker, I would like to address my remarks to the provisions in the bill authorizing the satellite and atmospheric programs of the National Oceanic and Atmospheric Administration for fiscal year 1989.

Mr. Speaker, few agencies touch the day-to-day lives of Americans as much as NOAA.

Hurricane and tornado warnings; regional weather forecasts; flash flood warnings; seasonal climate forecasts; air quality research; global climate change research; and satellite imagery of the Earth are all services and responsibilities of the National Oceanic and Atmospheric Administration [NOAA].

Through weather warnings and forecasts provided by the National Weather Service, Americans are receiving a vital service that directly impacts not only the safety of millions of Americans, but also our long-term national security.

Through the satellite information provided through NOAA, we are not only able to make more accurate short-term weather forecasts, but also better able to monitor crop production, and to aid in planning for agriculture, fishing, and water management.

Through the ocean research conducted by NOAA, we have a better understanding of ocean warming events which cause major changes in our weather such as the storms that caused the mud slides and beach erosion in California in the winter of 1982, and the extremely cold winter experienced in the Eastern United States during the winter of 1986.

Due in large part to NOAA's observations of the Antarctic ozone hole, the nations of the world have agreed on a plan to reduce worldwide consumption of chloroflurocarbons that are destroying the Earth's protective ozone shield.

Through the advances in doppler radar technology developed jointly by NOAA and other agencies, airports will soon be able to warn aircraft of hazardous wind shear at airports, preventing accidents such as the one that occurred at the Dallas-Forth Worth Airport in the summer of 1985, at the cost of 135 lives.

Mr. Speaker, I urge my colleagues to support this important legislation.

Mr. LUJAN. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, both the House and Senate committees have agreed that it is the intent of language in this bill that the Weather Service should respond to requests for acid precipitation information in a timely fashion, and that in the ordinary course of business the response should be within 24 hours.

The bill also requires the Weather Service to maintain an updated data base, and that such data should be updated, where feasible, on a weekly basis.

Mr. ROE. Mr. Speaker, will the gentleman yield to me?

Mr. SMITH of New Hampshire. I yield to the gentleman from New Jersey.

Mr. ROE. I agree with the gentleman's interpretation of section 414 which was worked out with the Senate Committee on Commerce, Science, and Transportation.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of the NASA authorization bill and to commend Chairman ROE for his dedication and fine work on this important legislation. The advancement of our space and science programs are vitally important to the future of this country. Chairmen ROE and NELSON and the rest of the committee have worked very hard to ensure that America retains its competitive edge in the development and application of advanced technologies.

A new age in global competition has dawned—the United States is no longer the world leader in scientific and engineering fields. The Europeans, Soviets, Japanese, and Chinese have all entered the space arena with a vengeance and threaten to overtake us. Less than half of all graduate students in this country in math, science, or engineering degrees are American—the rest foreign nationals. In short we need to bolster our support for programs which will provide incentives for our young people to pursue careers in technology oriented fields.

Chairman ROE has consistently supported those programs which advance the cause of scientific learning in this country. Many of our NASA centers have become starting points for public-private partnerships involving academia, private industry, and Government. The Stennis Center in Mississippi has the Mississippi Technology Transfer Center, Marshall Space Center in Alabama has the Space Camp and Space Museum, and Ames Research Center in Mountain View, CA has proposed the California Air and Space Center.

All of these programs leverage a minimal investment into a substantial benefit for this country in terms of technology transfer and higher education. NASA Lewis Research Center in Cleveland, OH is about to embark on a path which will distribute the wealth of knowledge available in its world class facilities throughout the State of Ohio and indeed the country.

The Ohio Aerospace Institute will provide the infrastructure needed to address the National Aerospace Research Agenda. Universities, Government laboratories and industry working together to provide an advanced training center which will augment existing graduate programs. In short, the establishment of centers like the Ohio Aerospace Institute will assure the availability of a highly trained work force and indeed get the most out of those Government dollars already invested in our NASA facilities.

The Ohio Aerospace Institute is in the final planning stages. The State has committed funds in its biennial budget, the Ohio Board of Regents and various universities have all recommended that the project proceed immediately. There are 12 engineering schools in Ohio with over 5,500 graduate students—students who will be able to take advantage of the advanced facilities available at Lewis Research Center.

Reservations have been raised from the other side of the aisle over the Ohio Aerospace Institute. I ask why? No appropriation on allocation is requested, only congressional permission for NASA to enter into a long-term lease with the State—so that the State may build the institute on land adjacent to Lewis.

These are the types of public-private partnerships which we should be fostering—low cost, high return programs furthering education in the badly needed areas of engineering and science. I suggest that any objections to this provision are based solely on partisan politics, not real concern for the Federal budget or the people of this country. These programs have been put into place with great success in other parts of the country, including a very similar center in Mississippi which enjoyed the authorship of Representative Walker and Representative Lott and bipartisan support.

Mr. Speaker, I certainly hope that those who have raised objections to the Ohio Aerospace Institute rethink their position. We are at a critical juncture in this Nation. We must support programs which invest in the future while using our present assets to better advantage. The Ohio Aerospace Institute is such a program.

Mr. LUJAN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. Lewis].

Mr. LEWIS of Florida. Mr. Speaker, I rise in strong support of the NASA authorization compromise before us today. I am especially pleased with the support for the NASA aeronautics research programs contained in this bill.

The chairman, Mr. Roe and the ranking minority member, Mr. Lujan, deserve our thanks for the tireless work and leadership that lead to this bipartisan compromise. I also want to complement Mr. McCurdy, Mr. Nelson, and Mr. Walker for their significant contributions to this important legislation.

As many of my colleagues may know, the aerospace industry has the largest positive balance of trade of any U.S. industry. In 1987 it was over $17 billion. The NASA research programs make significant contributions to the technological growth of the industry, especially in areas that require long-term, high risk research. In order for the United States to maintain its leadership in the aerospace industry, it is important that the basic scientific research continue at NASA.

This legislation before us today, will ensure a long-term policy that will continue NASA's strong aeronautics research programs. The bill includes funding for wind tunnels, which is necessary for the proof of the technological developments and support for the national aerospace plane.

Congress is often faulted for not having the long-term vision necessary to support basic scientific research. This legislation proves the inaccuracy of that statement. The national aerospace plane policy is extended through 1995 by the bill. The civil and military applications of this research project both in technology and advancement of knowledge are enormous and in the end will benefit all Americans one way or another.

I urge my colleagues to support this important legislation.

Mr. ROE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Oklahoma [Mr. McCurdy], chairman of our Subcommittee on Transportation, Aviation and Materials.

Mr. McCURDY. Mr. Speaker, I rise in support of S. 2209, the NASA Authorization Act for fiscal year 1989. I particularly want to acknowledge the leadership of the full committee chairman, Mr. Roe, in persevering through many discussions with the other body so that we could arrive at a compromise bill to authorize this important national effort. I would also commend Mr. Lujan, Ranking Republican on the full committee, for his efforts in bringing the bill to the House. Finally, I want to thank Mr. Lewis, ranking Republican on the Transportation, Aviation and Materials Subcommittee, for his cooperation, expertise and dedication to keeping America first in aviation.

The authorization in the bill for aeronautical research is small—$404.2 million—but the payoff is very large. This is true because NASA emphasizes the high-risk, long-term research and technology that industry is financially unable or unwilling to undertake. Such efforts provide the foundation for future aircraft and engines which return many times their initial cost to our economy. In a very real sense, NASA's aeronautical R&D is an investment in our country's future. For example, in 1987, the United States suffered an all-time record foreign trade deficit of $171.2 billion. And yet, as bad as this was, it would have been $17 billion worse, had it not been for the favorable contribution of aerospace products, the bulk of which were civil aircraft.

U.S. suppliers have built the vast majority of the free world's civil air fleet by dollar value. Our airlines are our best ambassadors, offering superior quality, safety, comfort and reliability, at economical costs. They speak well of America, to operator and user alike.

Of course, these results did not just happen. They came because we have consistently had the best products. And one of the big reasons for that has been the long-standing partnership between Government and industry in developing new aeronautical technology.

Because of this, the Committee on Science, Space, and Technology has repeatedly urged the administration and the Congress to increase the resources devoted to aeronautical R&D. We have pointed to the many long-term benefits of such investment, which are reflected in billions of dollars in sales of U.S. aircraft both here and abroad, and in millions of jobs for Americans.

Yet, in spite of its proven cost benefits, the NASA aeronautics program has not kept pace with the relentless pressure from our competitors, both military and commercial. In fact, NASA budgets for aeronautics in this decade have not even kept up with inflation. There aren't many Government programs that can make that claim.

Furthermore, anyone familiar with the dramatic increases in both the cost an complexity of new technology in the last few years knows that a level budget won't produce the same results as it once did. It simply costs more today to achieve each increment of improvement in fuel efficiency or safety or performance.

Of course, none of this would cause alarm if the Europeans, Japanese, and South Americans had not begun to pose a serious competitive threat. But they have. For example, despite decades in which American companies dominated the world jet transport market, our share of that market fell to 65 percent last year—down from 84 percent during the 1970's. Clearly, if this becomes a trend, we will have lost another industry, one of our few remaining winners.

Because of this, I believe the authorization contained in this bill is at the low end of what is actually needed. In my view, international conditions call for expanding NASA's aeronautical program, not curtailing it.

The bill also contains funding—$63.8 million—to begin a long-overdue rehabilitation of certain aging wind tunnels. These facilities have served our country well for years, giving our aeronautical scientists the tools to keep the United States out front in aviation. But many are old and are badly in need of repairs to restore them to productive use and safe condition.

Finally, in the aviation area, the bill contains funds for Transatmospheric Research and Technology—$69.4 million. This is NASA's contribution to the joint NASA/DOD National Aerospaceplane Program, an effort to advance and prove the technology for high-speed, hypersonic flight. If successful, this program could lead the way to several attractive applications, including a single-stage-to-orbit space transportation system and several important national security applications.

The committee feels it is necessary to continue with this program so that the technology will be ready in the mid-1990's, when we will need it to support the successful commercial development of space.

Furthermore, we feel it is vital for NASA to be involved fully in this program to assure the technology is developed with the important civil applications in mind.

Mr. Speaker, I urge adoption of the bill.

□ 1530

Mr. LUJAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Rhode Island [Miss SCHNEIDER].

Miss SCHNEIDER. Mr. Speaker, I want to commend my colleagues who serve on the Committee on Science, Space, and Technology with me for the fine work completed on the NOAA authorization for fiscal year 1989, including my subcommittee chairman, the gentleman from New York [Mr. SCHEUER] for his hard work; my chairman, the gentleman from New Jersey [Mr. ROE] for his leadership, and especially our ranking minority member, the gentleman from New Mexico [Mr. LUJAN] for his counsel and his steady hand. He will be greatly missed.

Mr. Speaker, the authorization for NOAA is vital because of this agency's important mission in protecting the oceans and the atmosphere and improving our knowledge of the global environment especially through its satellite program. I would like to praise particularly two provisions of special interest to me.

First, Mr. Speaker, the bill includes a system for monitoring stratospheric ozone. Increasingly it has been realized that the stratospheric ozone layer that protects us is being depleted at an alarming rate, and, as a consequence, there may be thousands of unnecessary cases of skin cancer occurring every year. The problem is so severe that the U.S. is supporting the Montreal protocol international treaty to curtail CFC production. Needless to say, the Environmental Protection Agency must move forward on reducing CFC's in the atmosphere. The NOAA monitoring system, by helping to determine the state of the ozone layer, it will help us to establish what additional measures are needed.

Second, the bill includes the collection of fees to pay for the use of data from the NESDIS satellite system. This provision would have NOAA set fees at a fair market value for the use of satellite data from the NESDIS system by the private sector. Currently the agency only collects a fee that covers the cost. Charging the fair market value could bring in significant revenue over the life of these satellite systems, potentially saving the taxpayer millions of dollars.

Mr. Speaker, I again commend my colleagues on the Committee on Science, Space, and Technology, and I urge my fellow House Members to support this bill.

Mr. LUJAN. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Speaker, I rise in strong support of the NASA authorization bill. I want to express my deep appreciation and thanks to the Chairman of the Science, Space, and Technology Committee, Mr. ROE. I know that negotiations with the other body have been long and difficult and even now some uncertainty exists over the fate of this bill.

But this legislation contains a host of badly needed provisions that will further enhance our space agency in light of the successful flight of the space shuttle *Discovery.* The bill also contains a provision which I authored and which passed the House last month. The provision will allow for NASA and the Federal Aviation Administration to conduct research into the effects of automation of the air traffic control system. Such research is essential to a smooth transition to a more automated air traffic control environment.

Again, I want to commend the chairman of the Science, Space, and Technology Committee, Mr. ROE and the minority ranking member, Mr. LUJAN for bringing this very important bill to the floor and I urge all my colleagues to support this legislation.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. BUECHNER. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, I certainly want to commend the gentleman from Missouri [Mr. BUECHNER] particularly for his extraordinary contribution to this bill in the areas that he almost single-handedly worked on which have added a great deal to the legislation and improved on what we are doing in the whole NASA program. I thank the gentleman for that effort.

Mr. LUJAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, during our long committee discussions over the past 2 years over funding for NASA, one of the most significant decisions that was made was not over a specific program, type of launching vehicle, or even regarding which of the priorities set forth in the Ride report should be supported. It was to give NASA the multiyear funding it needs to get programs researched, developed, and implemented in an orderly, cost conscious method.

I feel certain that in the next few months we will see a consensus developing in support of a great many NASA programs—both for their advancement in science and technology, and for their contribution to the commercial use of space.

I cannot let this opportunity go by, however, without giving one more plea for passage of the Commercial Space Launch Act Amendments of 1988. We badly need this bill to facilitate commercial access to space, and we know that it is strongly supported by House Members.

Mr. Speaker, I appreciate this opportunity to express my support for the NASA reauthorization bill. I would also like to sincerely commend and thank the House and Senate leadership for bringing it to the House before the 100th Congress adjourns. Let us all give it a 100-percent vote of approval.

Mr. LUJAN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I thank the gentleman from New Mexico [Mr. LUJAN] for yielding this time to me, and I rise in strong support of this conference report and commend the leadership of the committee for their efforts.

Language in the conference report authorizes Lewis Research Center to lease land to the State of Ohio for $1.

The land would be for the use of the Ohio Aerospace Institute—a consortium of Ohio universities, Government laboratories, and industry working together to provide the infrastructure needed to meet the national aerospace research agenda.

The Ohio Aerospace Institute would provide an advanced training center for Ohio engineers and scientists in the technologies involved in future aerospace activities, increase interaction and rate of interchange between engineers in the university, industry, and Government research centers. It would work with NASA's Lewis Research Center and the Air Force Wright Aeronautical Laboratories in Dayton.

The development of programs such as this one, at no cost to the Federal Government, will allow the United States to remain competitive in the aerospace industry.

Mr. Speaker, additionally, I do want to address a couple of the concerns raised by the gentleman from Pennsylvania about the package involving the State of Ohio. I quote directly from the law.

It says,

> The administrator may lease, may lease for a term not to exceed 99 years, for purposes exclusively for educational or scientific purposes.

The language further says,

> Subject to the availability of appropriations therefor, the administrator may enter into agreements on such terms as the administrator may deem to be appropriate for support, maintenance and so on.

The point is that it leaves the discretion with the Administrator, or, in any event, with NASA, and it leaves this body responsible for whatever is expended because appropriations are on an annual basis, therefore it would require an appropriation to be passed through each year to support this program.

Mr. Speaker, I think it is an important step, and I commend the committee for doing this in the conference because what it is is a partnership between the Federal Government and the State of Ohio along with the universities and colleges in our State. Historically we have tried to establish a policy of working with local educational institutions and working with the States in achieving the goals that we set forth for this Nation, in this case for the development of space. The State of Ohio is putting in $500,000 appropriated by the legislature to support this joint partnership effort.

Mr. Speaker, it seems to me that, if we could do more of this in the development of Federal programs, we would have less of a budget deficit, and we would involve to a greater extent the talent and the resources that are available throughout this Nation. So, I believe that this is a good provision, and I urge the support of this body.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from New Mexico [Mr. LUJAN] has expired.

Mr. ROE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the Senate bill, S. 2209, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2209, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FEDERAL EMPLOYEES HEALTH BENEFITS AMENDMENTS ACT OF 1988

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 5102) to amend the provisions of title 5, United States Code, relating to the health benefits program for Federal employees and certain other individuals.

The Clerk read as follows:

Senate amendment:

Page 24, after line 10, insert:

TITLE III—HEALTH INSURANCE COVERAGE FOR TEMPORARY EMPLOYEES

SEC. 301. HEALTH INSURANCE COVERAGE FOR TEMPORARY EMPLOYEES.

(a) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by inserting after section 8906 the following new section:

"§ 8906a. Temporary employees

"(a)(1) The Office of Personnel Management shall prescribe regulations to provide for offering health benefits plans to temporary employees (who meet the requirements of paragraph (2)) under the provisions of this chapter.

"(2) To be eligible to participate in a health benefits plan offered under this section a temporary employee shall have completed 1 year of current continuous employment, excluding any break in service of 5 days or less.

"(b) Notwithstanding the provisions of section 8906—

"(1) any temporary employee enrolled in a health benefits plan under this section shall have an amount withheld from the pay of such employee, as determined by the Office of Personnel Management, equal to—

"(A) the amount withheld from the pay of an employee under the provisions of section 8906; and

"(B) the amount of the Government contribution for an employee under section 8906; and

"(2) the employing agency of any such temporary employee shall not pay the Government contribution under the provisions of section 8906.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8906 the following:

"8906a. Temporary employees.".

(c) REGULATIONS.—Section 8913(b) of title 5, United States Code, is amended—

(1) in paragraph (2) by striking out "or" at the end thereof;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(4) an employee who is employed on a temporary basis and is eligible under section 8906a(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective 120 days after the date of enactment of this section.

TITLE IV—PROVISIONS RELATING TO CONTRIBUTIONS BY JUSTICES AND JUDGES TO THE THRIFT SAVINGS FUND

SEC. 401. CONTRIBUTIONS BY JUSTICES AND JUDGES TO THE THRIFT SAVINGS FUND.

(a) IN GENERAL.—Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8440a. Justices and judges

"(a)(1) A justice or judge of the United States as defined by section 451 of title 28 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund. Basic pay does not include an annuity or salary received by a justice or judge who has retired under section 371 (a) or (b) or section 372(a) of title 28, United States Code.

"(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) for individuals subject to chapter 84 of this title: provided, however, that a justice or judge may make the first such election within 60 days of the effective date of this section.

"(b)(1) Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of this title shall apply with respect to justices and judges making contributions to the Thrift Savings Fund.

"(2) The amount contributed by a justice or judge shall not exceed 5 percent of basic pay.

"(3) No contributions shall be made for the benefit of a justice or judge under section 8432(c) of this title.

"(4) Section 8433(b) of this title applies with respect to elections available to any justice or judge who retires under section 371 (a) or (b) of section 372(a) of title 28. Retirement under section 371 (a) or (b) or section 372(a) of title 28 is a separation from service for the purposes of subchapters III and VII of chapter 84 of this title.

"(5) Section 8433(d) of this title applies to any justice or judge who resigns without having met the age and service requirements set forth in section 317(c) of title 28.

"(6) Sums contributed under this section and earnings attributable to such sums may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title.

"(7) The provisions of section 8351(b)(7) of this title shall govern the rights of spouses of justices or judges contributing to the Thrift Savings Fund under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8440 the following:

"8440.a. Justices and Judges.".

SEC. 402. DESIGNATION OF LEWIS E. MOORE, SR., POST OFFICE BUILDING

The United States Post Office Building located at 525 Royal Parkway in Nashville, Tennessee, is designated as the "Lewis E. Moore, Sr., Post Office Building". Any reference to such building in a law, rule, map, document, record, of other paper of the United States shall be considered to be a reference to the "Lewis E. Moore, Sr., Post Office Building".

The SPEAKER pro tempore. Is a second demanded?

Mrs. MORELLA. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. ACKERMAN) will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter on the bill, H.R. 5102.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on September 16, the House passed H.R. 5102 by voice vote and on October 14 the Senate also passed the legislation by voice vote. However, the Senate added two amendments to the bill.

The first amendment would provide Federal workers who are employed on a temporary basis with Federal Employee's Health Benefits Program coverage. These employees must have completed 1 year of current continuous employment to be eligible for FEHBP coverage. In addition, the amendment provides that the employee would have to pay both the agency and the employee portion of the insurance premium.

The second amendment would provide Federal judges holding office under article 3 of the Constitution with the same right to participate in the Thrift Savings Fund as other Federal employees.

In addition, the amendment would designate the post office located at 525 Royal Parkway in Nashville, TN, as the "Lewis E. Moore, Sr., Post Office Building".

Mr. Speaker, I ask the House to agree to the Senate amendments to H.R. 5102.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 5102, the Federal Employees' Health Benefits Act Amendments of 1988, as amended by the Senate. I understand that the Senate amendments are noncontroversial.

I want to again thank the gentleman from New York and chairman of the Subcommittee on Compensation and Employee Benefits for his leadership on this bill. H.R. 5102 incorporates H.R. 4829, my bill to extend health continuation benefits to Federal employees, as well as the gentleman's important provisions to address fraud and abuse by health care providers in the Federal Employee Health Benefits Program.

H.R. 4829, which has over 50 cosponsors, would allow Federal employees and their families to continue to receive health insurance benefits at the group rate for a limited period of time if they leave or lose their jobs. Employees who participate in the Federal Employee Health Benefits Program would have the option of continued group coverage, but would pay both the employer and the employee share of the costs.

The extended health coverage would also be available to surviving spouses, divorced spouses, and dependent children, who do not currently meet the eligibility standards established for continuous coverage under the Federal Employee Health Benefits Program. The former employees, whether they left voluntarily or were subject to a reduction in force, could continue to receive coverage for up to 18 months; the others could continue to receive coverage for up to 3 years.

This legislation provides the option to continue benefits in a manner consistent with the option provided by law to private sector employees under title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA]. While COBRA covered all State and local governments and private companies with at least 20 employees, it exempted the Federal Government. The Congressional Budget Office has indicated that the bill is cost neutral.

Because beneficiaries must pay both the employee and employer portion of their plan's premium, most Federal employees who move on to a job outside the Government will terminate their FEHBP coverage as soon as possible. However, this benefit will enable parents who leave jobs to care for children to continue their health coverage in the interim. In addition, many companies have waiting periods before their group health plans begin coverage for new employees. Federal employees should be provided with this important benefit which has been available to employees in the private sector since 1986.

H.R. 5102 also includes very important provisions to address fraud and abuse by health care providers in the Federal Employee Health Benefits Program. The bill would provide that a civil monetary penalty of up to $10,000 could be levied against any health care provider who has been convicted of fraud or corruption under Federal or State law, or has been convicted for patient neglect or abuse, or other criminal offenses. A fraudulent provider could also be barred from participating in the Federal Employee Health Benefits Program for such criminal offenses. This bill is desperately needed to maintain the integrity of the FEHBP.

Mr. Speaker, this bill is an important, but noncontroversial measure, and I urge my colleagues to support this bill. I commend the distinguished chairman for his efforts and commitment to the continued improvement of the Federal Employee Health Benefits Program.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

□ 1545

Mr. ACKERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. Murtha). The question is on the motion offered by the gentleman from New York [Mr. Ackerman] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 5102.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

ROBERT T. STAFFORD U.S. COURTHOUSE AND POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2835) to designate the U.S. Post Office and Courthouse located at 151 West Street in Rutland, VT, as the "Robert T. Stafford United States Courthouse and Post Office," as amended.

The Clerk read as follows:

S. 2835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Courthouse located at 151 West Street in Rutland, Vermont, shall be known and designated as the "Robert T. Stafford United States Courthouse and Post Office".

Sec. 2. Legal References to Building.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Robert T. Stafford United States Courthouse and Post Office".

Sec. 3. Effective Date.—The provisions of this Act shall be effective on January 4, 1989.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCloskey] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. Morella] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCloskey].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of S. 2835.

S. 2835 will designate the U.S. Post Office and Courthouse located at 151 West Street in Rutland, VT, as the "Robert T. Stafford United States Courthouse and Post Office." Mr. Speaker, this will be a most fitting tribute to our colleague in the other body who is retiring at the end of this Congress.

Mr. Speaker, we are all very familiar with Senator Stafford's outstanding record as chairman of the Senate Environment and Public Works Committee during the 97th, 98th, and 99th Congresses, and with his significant contributions to environmental legislation over the years.

But perhaps not all of my colleagues are familiar with Senator Stafford's very long, varied, and distinguished record of public service. Senator Stafford has served his home State of Vermont in numerous elected positions. In 1954, he was elected state attorney general; in 1956, Lieutenant Governor; and in 1958, Governor.

Then in 1960, he was elected to the House of Representatives and reelected in 1962, 1964, 1966, 1968, and 1970. In 1971 he was appointed to the U.S. Senate to fill the vacancy created by the death of U.S. Senator Winston L. Prouty. He was then elected to the Senate in a special election held on January 1, 1972, and was reelected in 1976 and 1982.

Senator Stafford is only the 27th American since 1900 to be elected by a State as Governor, Member of the House of Representatives, and U.S. Senator.

In addition to his leadership position on the Environment and Public Works Committee, he is the ranking member on the Senate Subcommittee on Education, Arts, and Humanities, and sponsored the Higher Education Act which provides grants and loans to thousands of college students. As a member of the full Labor and Human Resources Committee, he also serves on the Labor and Handicapped Subcommittees. He is also a member of the Veterans' Affairs Committee.

Mr. Speaker, Senator Stafford has served well. The Congress and the country will greatly miss having him in the Senate. I urge my colleagues to join me in voting for S. 2835, a fitting tribute to the Senator from Vermont.

Mr. MORELLA. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont [Mr. Jeffords].

Mr. JEFFORDS. Mr. Speaker, it is with great privilege and pride that I rise in support of S. 2835, a bill that will rename the Rutland Post Office in my home State of Vermont after Senator Bob Stafford, Vermont's senior Senator. And I deeply appreciate this opportunity to commend Senator Stafford.

As you know, Bob Stafford is retiring at the end of this year after long and distinguished congressional service not only in the U.S. Senate but, before that, in the House here.

Rutland, VT, is the hometown of both Bob Stafford and I. It is a city in which the sense of independence, of civic duty and pride, of respect and tolerance for others runs deep and true. And those are qualities that Bob Stafford has exemplified in all the years of his public life, whether as Lieutenant Governor and Governor of Vermont, or as Vermont's representative here in the Halls of Congress.

Vermont as a whole is also a State that has fostered deep respect for the concept of public service. And Bob Stafford is a true citizen of that heritage. Long before he entered politics on the national level, he was serving locally as Rutland city's prosecutor and later as Rutland County States attorney, putting his law degree and experience to good use serving the people of his county.

He then put that law degree to good use for the State, serving as Vermont's deputy attorney general, as attorney general, and later as Vermont Lieutenant Governor and Governor before beginning his long service for Vermont in Congress in 1961. Bob served as Vermont's lone Congressman until 1971, when he was first appointed and then elected as one of the State's two members in the U.S. Senate. He also served with distinction in both World War II and the Korean war, later attaining the rank of captain in the Naval Reserves.

Throughout all his years in public office, he has been a public official known for his statesmanship, his honesty and his real dedication to doing what is right.

As many of you know, Bob also is known for his great sense of humor—a trait he shared with his friend my late father, Olin Jeffords—not infrequently at each other's expense. My father used to love to recount an incident that occurred when he was serving as chief justice of the Vermont Supreme Court and Bob Stafford as attorney general. Bob had come before the court and found himself vigorously arguing a losing cause. Finally conceding that, he told my father, "I can see that I'm not getting anywhere here, so I might as well quit beating my head against a stone wall." To which my father observed from the bench: "Mr. Attorney General, I don't know of anyone who could do so more forcefully with less threat to their personal health!"

Because of Bob Stafford's tireless efforts, Vermont and this Nation have better, strong education programs. We have laws that foster care for the handicapped and disadvantaged. And we have an environment that would be far less beautiful and far more wasted were it not for the years that Bob Stafford has championed the cause of environmental preservation.

During his years in this House, Bob Stafford also influenced another area: the military draft system. Before our All-Volunteer military emerged, he was the key author of a book advocating the elimination of the draft. And later, when President Nixon did abolish the draft, many of the book's recommendations influenced the creation of the new volunteer force.

Bob Stafford is one of the only Members to serve in the leadership of both House and Senate, clearly influencing both bodies. Only recently, in fact, we honored him by renaming the National Student Loan Program, on which he has worked so hard to preserve, in his honor. Students hoping for a college education will now get one with help from Stafford loans.

Far from easing quietly toward retirement, Bob also has been actively working to address a number of other issues, including that of global warming and atmospheric contamination. This has been in addition to his many years of leadership in the fight to enact effective legislation to curb the destruction caused by airborne pollutants. Unfortunately, not all Members of Congress have recognized the urgency of this issue.

Bob is the author of the Global Environmental Protection Act of 1988, which proposes comprehensive solutions to the contamination of our atmosphere. Most recently, he has taken to the floor of the Senate to give a series of lectures on atmospheric contamination.

He proposes establishing an international agency to coordinate efforts between all nations of the world to correct our destructive tendencies. This effort would include reduction of atmospheric pollution, stopping deforestation and desertation, and instigating an ambiguous reforestation plan.

The Stafford bill would set as a national goal that we generate 100 percent of our power from nonpolluting energy sources by the year 2050—a goal I hope we will achieve.

The Stafford legacy will live for future generations because of his tireless efforts on issues such as this. His work, his suggestions, his warnings all provide a framework from which future policies can be formed, and Members of Congress and citizens of the Nation would do well to heed his call.

On a more personal level, Bob also has set an example for all of us engaged in the pressures of public life. He always has insisted that his most loyal and helpful wife, Helen, be at his side whenever possible. Their devotion to each other is a model for all of us to follow.

Certainly we all wish them the very best in retirement, although I know we can continue to count on Bob for sound guidance. And I deeply appreciate the efforts of the committee in bringing forth this piece of legislation as a credit to him for all the years he has sacrificed and worked for his city, his State, and his Nation.

Thank you.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from Vermont for his very eloquent statement and tribute to Senator Stafford.

Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. Mr. Speaker, there are probably not a lot of Members of the House who served with Senator Stafford when he represented Vermont in this body. Prior to that, he had held a lower ranking job and of course now he does, but there was for a few years of greatness a Representative, Bob Stafford, in these Halls who did his people proud by his service. Bob was one of the first Members of

Congress that I met after I was sworn in. He served in the Republican leadership in this body and served honorably and with distinction.

So I am very proud to congratulate this subcommittee for bringing this bill out in his honor. It is probably something that he did not seek. Vermonters are given to the laconic style of speech and given to a certain degree of modesty; nevertheless, as one who hopes for no such similar monument, unless a sewer ditch is to be named after me, I would say that here is someone who has probably really earned it.

I congratulate the committee. I congratulate Senator STAFFORD for the service that earned him this prominence.

Mrs. MORELLA. Mr. Speaker, I associate myself with the remarks of the gentleman from Minnesota [Mr. FRENZEL].

I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the Senate bill, S. 2835, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on S. 2835, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REQUIRING CERTAIN DETAILED TABULATIONS RELATING TO ASIAN-AMERICANS AND PACIFIC ISLANDERS IN THE DECENNIAL CENSUSES OF POPULATION

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 4432) to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population.

The Clerk read as follows:

Senate amendments:

Page 2, strike out lines 1 to 12, and insert:

"(A) shall include, in a checkoff format, each group identified in question 4 of the short form used in the 1980 decennial census of population; and

"(B) shall include a means to write in the name of any group not specified under subparagraph (A).".

Page 3, after line 13, insert:

SEC. 2. QUESTIONS RELATING TO HOUSING.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "Secretary" means the Secretary of Commerce; and

(2) the term "census of population" has the meaning given such term under section 141 of title 13, United States Code.

(b) QUESTIONS FOR INCLUSION.—The Secretary shall take appropriate measures to censure that—

(1) each short form and each long form used in the 1990 decennial census of population shall include 1 or more questions relating to plumbing facilities in the respondent's housing unit; and

(2) each long form used in the 1990 decennial census of population shall include (and and each short form used in such census may include) 1 or more questions relating to the heating or cooling of the respondent's housing unit, including at least 1 question relating to the type of equipment used in such heating or cooling, with heating questions receiving preference in the event of difficulty with available resources.

(c) CONSTRUCTION.—Nothing in this section shall, with respect to the forms used in the 1990 decennial census of population, be considered to limit the Secretary's discretion to include questions in addition to any questions permitted or required to be included under the preceding provision of this section.

The SPEAKER pro tempore. Is a second demanded?

Mrs. MORELLA. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes, and the gentlewoman for Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the Senate amendments to H.R. 4432, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4432, sponsored by Congressman MATSUI of California, passed the House by voice vote several weeks ago.

The bill provides for a method to collect more accurate information in the census on Asian Americans and Pacific Islandes, by requiring that nine Asian and Pacific Island ethnic groups will be listed as part of the "race" question on the census questionnaires. The responsent will simply be asked to check off his or her subgroup, instead of being asked to write the subgroup in a box, as the Census Bureau had originally proposed.

The version of H.R. 4432 which passed the House also contained a provision requiring that two additional Asian or Pacific Island subgroups be listed on the questionnaire, along with the nine groups listed in 1980. The House bill provided that one of these two additional groups would be "Taiwanese".

The Senate amendments to H.R. 4432 eliminate the requriement that two additional subgroups be listed on the form, as well as the requirement that one of the two groups be "Taiwanese".

For Asian or Pacific Island groups not listed on the questionnaire, respondents can check off the listing of "Other Asian/Pacific Islander" and write their ethnic group in the box marked "Other Race".

Mr. Speaker, the final Senate amendment to H.R. 4432 also concerns the content of the census questionnaires.

The amendment requires that a question on whether a housing unit has complete plumbing facilities be asked on the short form sent to every household. A question concerning the type of cooling or heating equipment used in a housing unit must be placed on the long form, which is sent to a sample of households.

These questions originally were planned by the Census Bureau, but were moved or eliminated by the Office of Management and Budget. This amendment is important because they are the only questions which help determine the existence of substandard housing units, particularly in rural areas.

Let me remind my colleagues that the House already passed, by voice vote, legislation containing a requirement on these housing-related questions. H.R. 4550 was sponsored by my distinguished colleague, Mr. BONKER of Washington, and I commend him for his diligent efforts to ensure accurate and useful information on housing in the census.

Mr. Speaker, I have no objections to the amendments adopted by the Senate and I urge the House to concur in the Senate amendments.

Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the bill, H.R. 4432, as amended by the Senate, and commend Chairman DYMALLY, the members of the Post Office and Civil Service Committee, my colleagues Representatives MATSUI and MINETA, and the many others in both bodies who have rallied behind the Asian and Pacific Islander population on this most important measure.

With time ticking quickly away on the Census Bureau's preparation clock, it is appropriate that the 100th Congress go on record as opposing, indeed restricting, the bureau's proposed Asian and Pacific Islander data tabulation and publication plans. It has been a long and difficult fight from the introduction of this bill to its final consideration. We've faced a great deal of opposition from forces unwilling to recognize the serious, legitimate claims of our Asian and Pacific Islander populations. But, with the help of equally adamant supporters, we have fought back. And, today, with the help of the Members of this body, we will prevail.

Let us send the President our strong signal of support and pass this measure.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

The minority has no objection to the amendments by the Senate to H.R. 4432.

These amendments would eliminate the requirement that an additional two groups be added to the check-off provision of the "race question" in the 1990 decennial questionnaire.

Mr. Speaker, nine subgroups will be listed under the Asian or Pacific Islander subsection on the census form. A block will be provided (designated "other race"), for those who are not specifically listed, to write in their race.

Additionally, the Senate amendments require that the census form include a housing question on the short form—sent to every household—which would ask whether the housing unit has complete plumbing facilities. Another question regarding heating and cooling equipment will be placed on the long form which goes to one in six households.

Mr. Speaker, I am personally pleased that these questions are back on the census form because the plumbing and heating/cooling questions are critical in determining whether the quality of housing is up to standard, particularly in the rural areas. It also will help to determine housing conditions for the elderly and poor. I would like to commend the gentleman from Washington [Mr. BONKER], who is chairman of the Subcommittee on Housing and Consumer Interests, of the Select Committee on Aging, who has worked hard to include these questions on the census forms.

Having no objections to the amendments to H.R. 4432 I urge this House to concur in the Senate amendments.

Mr. MINETA. Mr. Speaker, I rise with a question for my colleagues. Is the Census a foreign policy issue?

The administration, particularly the State Department, seems to think so.

When the U.S. Census Bureau decided to change the way Americans of Asian and Pacific Island ancestry were to be counted in the 1990 Census, this bill became necessary. In 1980, the Census questionnaire asked Asian Americans and Pacific Islanders to record their ethnic background by checking off one of several subgroups. Nine different subgroups were listed. This information was tabulated by the Census Bureau and relatively complete statistics for those groups were obtained.

In the 1980 Census, the Bureau proposed that Asian Americans and Pacific Islanders check off whether they are of Asian ancestry, and then write in their subgroup.

This was clearly a step backward. The result would be that less accurate data would have been available to allocate services needed by the Asian American community.

H.R. 4432 requires that the 1980 Census format be kept, adding two additional groups within the category of Asian-American and Pacific Islander. One of the additional categories was to be "Taiwanese." A major objection to the bill in the Senate was the specific inclusion of "Taiwanese" as one of the two additional categories.

The proposed "Taiwanese" category is controversial—but to whom?

It was certainly controversial as far as the Taiwanese Government was concerned. But do we want to let a foreign government influence the United States Census?

The administration opposes the "Taiwanese" category as a foreign policy issue. But the inclusion of this category in the 1990 Census is not a foreign policy issue. The issue is how to most accurately tally the heterogeneous group of Americans who happen to be of Asian ancestry.

I oppose the Senate amendment that removes the clause requiring at least two additional groups within the categories of Asian-American or Pacific Islander. This amendment is a response to the requirement that there be a "Taiwanese" category. The amendment does not recognize the importance that the Census distinguish between the diverse groups which are collectively known as Asian-American.

Hundreds of thousands of immigrants come to this country. Detailed information about individual communities must be available to make specific decisions and provide necessary services at State and local levels. An estimated 20,000 from Taiwan have immigrated every year since 1981.

The category "Taiwanese" represents a large ethnic population in the United States. It is most important that the data of the 1990 Census reflect the recent immigrant groups in this country.

I have been contacted by many constituents who call themselves Taiwanese-Americans not for political reasons, but reasons of personal identity. Whether or not this Nation supports a "Two China Policy" overseas, we should not let foreign policy concerns blind us to domestic realities in the 1990 Census. The Census is domestic policy and not foreign policy.

The Census Bureau has indicated that it will adopt the checkoff format—which we have been advocating—even before this bill is passed. I commend the Census Bureau for recognizing the importance of ancestry. I will continue to pursue this issue to ensure that the Bureau keeps its commitment.

However, it is important to note that only nine groups within the categories of Asian-American and Pacific Islander are to be used. This reflects the 1980 form exactly.

I am very pleased with this decision, and I want to thank my good friend and colleague BOB MATSUI for the introduction of this bill and Chairman MERVYN DYMALLY for his leadership on this issue. This meaningful legislation caused the Census Bureau to realize the significance of the proposed changes.

Vigilance and hard work has achieved a more accurate 1990 census than the Bureau proposed. Everyone who worked on this legislation should be proud of this accomplishment.

Mr. MATSUI. Mr. Speaker, we have before us the final opportunity to provide the American people with a fair and accurate census. Thanks to the efforts of many dedicated individuals in both public and private life, legislation to tabulate Asian Americans in a fair and equitable manner has also become a reality. It is up to the members of this body to ensure that this does occur.

As you know, the 1980 census listed nine Asian American subgroups such as Chinese, Vietnamese, and Japanese, and asked that respondents check off their appropriate category. If none of the subgroups were applicable, respondents were asked to fill in the blank labeled "other." For the 1990 tabulation however, the Census Bureau had indicated they would omit the check-off section, and require all Asians to write in their subgroup.

As I have said before, I have grave concerns with this proposed change. The language barrier faced by many Asians new to our country would make a fill in the blank format impossible. Written responses can be illegible, ambiguous, and interpreted incorrectly. This written format would simply introduce far too many potential sources for error. Mr. Bob Suzuki, vice president for academic affairs at California State University at Northridge, determined in his 68-page study that a write-in format "could create great confusion because many respondents may only check their general category, but not provide a written response regarding their specific ethnic identities."

Mr. Speaker, the census is taken every 10 years. It determines reapportionment, which is critical from a political point of view, but more importantly, it determines where the resources of the Federal Government should be allocated. By giving our approval to a census which could significantly undercount any ethnic group, we are giving our tacit approval of a policy which would lead to a critical loss of social services, educational, and language programs to minorities across the country. I truly believe that we are obligated as elected officials to ensure a fair and accurate census for all Americans.

Mr. Speaker, before I conclude my statement, I would like to add this thought. The other body, which passed this bill last night, amended the legislation to eliminate the two additional subgroups which was stipulated in the House bill. Specifically, Taiwanese as a subgroup was particularly opposed to by our colleagues. I believe it is most unfortunate that these additional groups were deleted. I feel that all citizens of the United States have the basic right to be represented regardless of the political concerns of our present administration. However, in the interests of passing this crucial legislation, I must, regrettably, accept these amendments.

Mr. Speaker, we can offer to the American people an inalienable right as mandated by the United States Constitution: a fair and accurate census. For this reason I urge my colleagues to vote in favor of this bill.

□ 1600

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MURTHA). The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 4432.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONGRESSIONAL DELEGATION IN CEREMONIES FOR THE 200TH ANNIVERSARY OF THE U.S. CONSTITUTION

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the concurrent resolution (H. Con. Res. 115) providing for participation by delegations of Members of both Houses of Congress in ceremonies to be held in April 1989 in New York City marking the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the inauguration of President George Washington, and the proposal of the Bill of Rights as the first 10 amendments to the Constitution.

The Clerk read as follows:

Senate amendments: Strike out all after the resolving clause and insert: That (a) the Speaker of the House of Representatives and the President pro tempore of the Senate, in consultation with the Minority Leaders and the Bicentennial Committee Chairmen of their respective Houses, are authorized and directed to appoint members of their respective Houses to serve on a delegation of members of the Congress which will take part in ceremonies to be held in New York City in April 1989 commemorating the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the convening of the first Congress, the inauguration of George Washington as the first President of the United States, and the proposal of the Bill of Rights as the first ten amendments to be Constitution, and shall invite the President to join this delegation in participating in these ceremonies.

(b) The specific planning of the ceremonies described in subsection (a) shall be coordinated directly with the Historian of the Senate, under the jurisdiction of the Secretary of the Senate, and the Historian of the House of Representatives, under the jurisdiction of the Speaker of the House of Representatives.

Amend the third clause of the preamble by striking out "April" and inserting "March".

The SPEAKER pro tempore. Is a second demanded?

Mrs. MORELLA. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 115, sponsored by Congressman SCHEUER on behalf of the entire New York congressional delegation, passed the House by a unanimous recorded vote on October 4.

The resolution provides for the leadership of the House and Senate to authorize a congressional delegation to attend ceremonies in New York in April 1989, marking the 200th anniversary of the inauguration of President Washington, the convening of the first Congress in New York City, the adoption of the Constitution as the official form of government, and the proposing of the Bill of Rights.

Mr. Speaker, the amendment offered by Senator BYRD and adopted by the Senate will provide for the inclusion of the bicentennial committee chairmen of both Houses of Congress in the appointment of Representatives and Senators to serve on the delegation.

In addition, the amendment provides that the Historian of the Senate and the Historian of the House shall be involved in the planning of the ceremonies in New York.

Mr. Speaker, I have no objection to the amendment adopted by the Senate and I urge the House to concur in the Senate amendments.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority has no objection to the Senate amendments to House Concurrent Resolution 115 which would provide inclusion of the bicentennial committee chairmen from both the House and Senate to appoint Members of Congress to serve on the delegation which will attend the ceremonies in New York in April 1989 to commemorate the 200th anniversary of the inauguration of the first President of our country, the convening of the First Congress, the adoption of the Constitution and the proposing of the Bill of Rights.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I urge passage of House Concurrent Resolution 115, which provides for congressional participation in a bicentennial celebration in New York City next spring.

This celebration commemorates the inauguration of George Washington, the convening of the First Congress in New York City and the sending out of the Bill of Rights.

The only change in this resolution from when it previously passed the House is specific language providing that the appointment of the delegation should be coordinated with the Bicentennial Committee for the House and the events should be coordinated with the House historian.

I am sure that my colleagues all look forward to participating in this historical celebration.

Accordingly, I urge my colleagues to support this legislation.

Mr. ACKERMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and concur in the Senate amendments to the concurrent resolution, House Concurrent Resolution 115.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments to the concurrent resolution were concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces additional suspensions as follows:

S. Con. Res. 165. To correct enrollment of H.R. 3146—Charity Games Advertising Clarification Act of 1988;

S. 2885. Food stamps technical corrections bill; and

S. 2215. Office of Federal Procurement Policy Act Amendments of 1988—Concur in Senate amendments with amendments.

INCREASING THE NUMBER OF TRUSTEES OF THE FREDERICK DOUGLASS MEMORIAL AND HISTORICAL ASSOCIATION

Mr. DELLUMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4236) to amend the act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association.

The Clerk read as follows:

H.R. 4236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. BOARD OF TRUSTEES OF THE FREDERICK DOUGLASS MEMORIAL AND HISTORICAL ASSOCIATION

(a) Number.—Section 4 of the Act of June 6, 1900 (ch. 806; 31 Stat. 662), is amended by striking out "not less than five members nor more than nine" and inserting in lieu thereof "not less than 9 members nor more than 19 members".

(b) Effective Date.—The amendment made by subsection (a) shall take effect upon the election of additional members of the board of trustees of the Frederick Douglass Memorial and Historical Association (pursuant to the amendment made by subsection (a)) at a regular or special meeting of the board called for the purpose of such an election.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from California [Mr. Dellums] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. Parris] is recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Dellums].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is a very straightforward piece of legislation. It really is, in effect, in the nature of a technical amendment. It merely seeks to amend the Federal statute to allow for additional members to serve on the board of trustees of the Frederick Douglass Historical Association.

The association, a nonprofit corporation in the District of Columbia, has maintained a partnership with the National Park Service over the years to provide support and resources for the Frederick Douglass Home, which is situated in the Anacostia section of the District of Columbia.

The current board of trustees of the association is composed of nine members who have rendered a tremendous service to the National Park Service, local residents and visitors, providing them the opportunity to visit the Nation's Capital. Among the many activities are the formation of a housing corporation which provides 152 units of housing on a portion of the Douglas estate.

The ever-increasing activities of the board caused the need for the additional trustees. Further and very briefly, Mr. Speaker, the language of H.R. 4236 strikes certain language of the Federal statutes which created the Board and substitutes new language. That statute was enacted June 6, 1900, and Mr. Speaker, specifically the phrase "not less than five members nor more than nine" is deleted and in its place the language "not less than 9 members nor more than 19" is substituted. Mr. Speaker, the bill does nothing more.

The committee is pleased to report that the chairperson of the Subcommittee on Libraries and Memorials, the gentlewoman from Ohio [Ms. Oakar] has agreed to cosponsor this bill. A letter from her indicating support accompanies this report.

Also accompanying our report are letters of support from the Mayor's office, Chairman Clark's office, the president of the board of trustees of the Frederick Douglass Memorial and Historial Association, and the committee is also pleased, Mr. Speaker, to report that Mr. William Penn Mott, Jr., Director of the National Park Service, has personally given committee staff verbal assurances that the National Park Service does not oppose this legislation, and a letter to that effect is, indeed, forthcoming.

Finally, I would simply quote very briefly from a letter that I received from Mr. James Blum, Acting Director of the Congressional Budget Office, U.S. Congress, which states in part, "This bill will not result in costs or savings to the Federal Government and would not affect the budgets of State or local governments. The bill would increase the number of trustees of the Frederick Douglass Memorial and Historical Association. The association receives no Federal funds and, thus, does not affect the budget."

Mr. Speaker, I reserve the balance of my time.

Mr. PARRIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority has no objection to this legislation.

Mr. FAUNTROY. Mr. Speaker, I rise in support of the bill, H.R. 4236, which seeks to amend a nearly century old Federal statute to allow for the increase in the number of trustees of the Frederick Douglass Memorial and Historical Association.

I want to thank the distinguished chairman of the Committee on the District of Columbia, Mr. Dellums, for taking the time to bring this measure to the floor. I know that there are many things which claim his time and attention during these last few days of the Congress, and I appreciate his support of the bill. I also want to thank the ranking minority member of the committee, Mr. Parris, for the spirit of cooperation he has shown in connection with this matter.

This bill is straightforward. All it seeks to do is to amend a Federal statute to allow for additional members to serve on the board of trustees of the Frederick Douglass Historical Association. As the chairman indicated, the association, a nonprofit corporation in the District of Columbia, has maintained a partnership with the National Park Service over the years to provide support and recources for the Frederick Douglass home which is situated in the Anacostia section of Washington, DC.

The current board of trustees of the association is composed of nine members who have rendered a tremendous service to the National Park Service, local residents and visitors to the Nation's Capital. Among its many activities is the formation of a housing corporation which provides 152 units of housing on a portion of the Douglass estate. The ever-increasing activities of the broad causes the need for additional trustees.

The language of H.R. 4236 mererly strikes certain language of the Federal statute which created the board, and substitutes new language. specifically, the phrase, "not less than five members nor more than nine" is deleted and in its place the language, "not less than 9 members nor more than 19 members" is substituted. The bill does nothing more.

I am pleased to report that the chairperson of the Subcommittee on Libraries and Memorials, Congresswomen Mary Rose Oakar, is a cosponsor of this bill. I am also pleased to note that the committee received letters of support from the mayor's office, Chairman Clarke's office and the president of the board of trustees of the Frederick Douglass Memorial and Historical Association. Moreover, I can report that Mr. William Penn Mott, Jr., Director of the National Park Service has personally given my staff verbal assurances that the National Park Service does not oppose this legislation, and a letter to that effect is forthcoming.

For these reasons, Mr. Speaker, I would urge passage of this bill.

Mr. PARRIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Dellums] that the House suspend the rules and pass the bill, H.R. 4236.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4236, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BANKRUPTCY JUDGES ACT OF 1988

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 4064) to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges,

The Clerk read as follows:

Senate amendments:

Page 2, line 2, strike out "and" the second time it appears

Page 2, line 4, strike out "2". and insert: "2",

Page 2, after line 4, insert:

(6) in the item relating to the western district of Texas, by striking "3" and inserting "4", and

(7) in the item relating to the district of Arizona, by striking "4" and inserting "5".

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4064, as amended, authorizes additional bankruptcy judgeships in Federal judicial districts where an emergency situation exists. It was passed by the House on September 13, 1988, with five new judgeships, in the districts of eastern Texas, Colorado, Kansas, Alaska, and eastern Kentucky. The other body amended the legislation by adding two additional judgeships, in Western Texas and Arizona.

The Committee on the Judiciary believes that an emergency situation exists in the bankruptcy courts in the districts included in the legislation. For instance, in the Eastern District of Texas, part of which is represented by my colleague on the Judiciary Committee [Mr. BROOKS], the number of chapter 11 reorganization cases filed per judge—and these are the most time-consuming cases—was over 4½ times greater than the national average for calendar year 1987. Total pending cases per judge in 1987 was over 50 percent higher than the average. The one hard-working bankruptcy judge in the eastern district badly needs help, as do the judges in the other districts included in the legislation.

I urge my colleagues to support H.R. 4064 with the Senate amendment in order to maintain the efficient workings of the bankruptcy system.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4064, in the form passed by this body last month, authorized five additional bankruptcy judgeships—one for each of the Federal Judicial Districts of Alaska, Colorado, Kansas, Eastern Kentucky, and Eastern Texas. The September 13 floor debate on H.R. 4064 documented the need for these new positions.

Last week, the other body passed an amended version of H.R. 4064 that authorized seven bankruptcy judgeships—the five included in our version of this legislation plus a new position for Arizona and a new position for western Texas.

Bankruptcy caseload statistics lend support to the action of the other body in adding the two judgeships. Total Bankruptcy Code petitions filed per authorized judgeship for the 12-month period ending June 30, 1988, reached 3,184 in Arizona and 3,369 in western Texas compared with a nationwide average of 2,093 cases. Both districts faced large numbers of total business petition filings per judge for the last statistical year—421 in Arizona and 631 in western Texas—figures substantially in excess of the nationwide average of 241. Chapter 11 filings—the time-consuming reorganization cases—totaled 169 per judge in Arizona and 244 per judge in western Texas compared with a nationwide per judgeship figure of 67.

Mr. Speaker, we need the bankruptcy judgeships included in H.R. 4064, as amended by the other body. I urge my colleagues to support this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 4064.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to H.R. 4064, just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDING THE BANKRUPTCY LAW TO PROVIDE FOR SPECIAL REVENUE BONDS

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1863) to amend the bankruptcy law to provide for special revenue bonds, and for other purposes, as amended.

The Clerk read as follows:

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. DEFINITION OF MUNICIPALITY.

Section 101(31) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "and a municipality" after "partnership"; and

(B) in clause (ii) by striking "and" at the end;

(2) in subparagraph (B)(ii) by adding "and" at the end; and

(3) by adding at the end the following:

"(C) with reference to a municipality, financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of bona fide disputes; or

"(ii) unable to pay its debts as they become due;".

SEC. 2. WHO MAY BE A DEBTOR.

Section 109(c)(3) of title 11, United States Code, is amended by striking "or unable to meet such entity's debts as such debts mature".

SEC. 3. APPLICABILITY OF SECTIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1129(a)(6)," after "1129(a)(3),".

SEC. 4. DEFINITION OF SPECIAL REVENUES.

Section 902 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) 'special revenues' means—

"(A) receipts derived from the ownership, operation, or disposition of projects or systems of the debtor that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems;

"(B) special excise taxes imposed on particular activities or transactions;

"(C) incremental tax recipients from the benefited area in the case of tax-increment financing;

"(D) other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions; or

"(E) taxes specifically levied to finance one or more projects or systems, excluding receipts from general property, sales, or income taxes (other than tax-increment financing) levied to finance the general purposes of the debtor;".

SEC. 5. AUTOMATIC STAY.

Section 922 of title 11, United States Code, is amended by adding at the end the following:

"(c) If the debtor provides, under section 362, 364, or 922 of this title, adequate protection of the interest of the holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection such creditor has a claim arising from the stay of action against such property under section 362 or 922 of this title or from the granting of a lien under section 364(d) of this title, then such claim shall be allowable as an administrative expense under section 503(b) of this title.

"(d) Notwithstanding section 362 of this title and subsection (a) of this section, a petition filed under this chapter does not operate as a stay of application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.".

SEC. 6. AVOIDING POWERS.

Section 926 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "If"; and

(2) by adding at the end the following:

"(b) A transfer of property of the debtor to or for the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.".

SEC. 7. CLAIMS PAYABLE SOLELY FROM SPECIAL REVENUES.

Chapter 9 of title 11, United States Code, is amended—

(1) by redesignating section 927 as section 930; and

(2) by inserting after section 926 the following:

"§ 927. Limitation on recourse

"The holder of a claim payable solely from special revenues of the debtor under applicable nonbankruptcy law shall not be treated as having recourse against the debtor on account of such claim pursuant to section 1111(b) of this title.".

SEC. 8. POST PETITION EFFECT OF SECURITY INTEREST.

Title 11 of the United States Code is amended by inserting after section 927, as added by section 7, the following:

"§ 928. Post petition effect of security interest

"(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, special revenues acquired by the debtor after the commencement of the case shall remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

"(b) Any such lien on special revenues, other than municipal betterment assessments, derived from a project or system shall be subject to the necessary operating expenses of such project or system, as the case may be.".

SEC. 9. MUNICPAL LEASES.

Title 11 of the United States Code is amended by inserting after section 928, as added by section 8, the following:

"§ 929. Municipal leases

"A lease to a municipality shall not be treated as an executory contract or unexpired lease for the purposes of section 365 or 502(b)(6) of this title solely by reason of its being subject to termination in the event the debtor fails to appropriate rent.".

SEC. 10. CONFIRMATION.

Section 943(b) of title 11, United States Code, is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and".

SEC. 11. TECHNICAL AMENDMENT.

The table of sections of chapter 9 of title 11, United States Code, is amended by striking the item relating to section 927 and inserting the following:

"927. Limitation on recourse.
"928. Post petition effect of security interest.
"929. Municipal leases.
"930. Dismissal.".

SEC. 12. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are taking up S. 1863, a bill dealing with the bankruptcy laws as they affect municipalities, with an amendment in the nature of a substitute. The amendment strikes the Senate language and inserts instead the text of H.R. 5347, similar legislation that has already passed the House by a 413 to 1 recorded vote on October 4, 1988. H.R. 5347 is legislation I introduced to amend the bankruptcy laws so they will be in conformance with principles of municipal finance.

The substantive difference between S. 1863 as passed by the other body and S. 1863 as amended with the House-passed language of H.R. 5347 is in the effective date of the legislation. Unlike the Senate bill, the House language reflects the longstanding policy of the Judiciary Committee that the bankruptcy laws not be amended retroactively.

Chapter 9 of the Bankruptcy Code, the primary portion of the Code affected by this legislation, is a special part of the bankruptcy laws designed to keep municipalities in existence. A municipality can be a city, a town, or some other public agency. Since many residents depend upon a municipality for their protection, their education, and other necessities of life, a municipality cannot simply be permitted to "go out of business."

It was brought to my attention by members of both the bankruptcy and the municipal finance communities that the current state of the chapter 9 bankruptcy provisions may make it hard for some municipalities to obtain additional financing from lenders. For instance, great concern was expressed about the possibility that a lien held by revenue bondholders could be extinguished if the municipality filed bankruptcy.

S. 1863 as amended eliminates this possibility, and provides the assurances that the chapter 9 bankruptcy laws will treat lenders in a manner consistent with applicable principles of municipal finance. The bill is supported by bankruptcy groups, municipal finance experts, and the municipalities themselves.

Mr. Speaker, I urge my colleagues to pass S. 1863, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, allow me to clarify the record as to why the Judiciary Committee is on the House floor again—ostensibly to deal with clarifications in the Bankruptcy Code with respect to municipalities.

Two weeks ago, the House of Representatives passed legislation (H.R. 5347) designed to amend the Bankruptcy Code so that the provisions governing municipal bankruptcy would more realistically reflect the fundamental differences between municipal finance and commercial finance. That bill passed under suspension of the rules by the overwhelming vote of 413 to 1. I supported that action of the House and still strongly support the enactment of these important, needed changes to the bankruptcy law.

The reason we are here today, in fact, has nothing to do with substantive differences between this House and the other body on the municipal bankruptcy legislation. Rather, this bill is being brought to the House floor a second time, as a result of a series of parliamentary maneuvers and counter-maneuvers concerning a proposed amendment to the Federal antitrust laws dealing with intellectual property licensing.

The bill to which I refer is the "Intellectual Property Antitrust Protection Act"—legislation I initially introduced in the 99th Congress (H.R. 4070) and, reintroduced (as H.R. 557) in the current, 100th Congress. Senator PATRICK LEAHY has joined with me in this effort and is the author of the companion bill (S. 438). Senator LEAHY, as the chairman of the Senate

Subcommittee on Technology and the Law, has demonstrated outstanding leadership on this issue. It was primarily through his efforts, and those of his excellent staff on the Technology Subcommittee, that this legislation has received unanimous consent approval in the other Chamber.

The purpose of the "Leahy-Fish" bill is to clarify and reform antitrust treatment of intellectual property licenses—that is, agreements to convey rights in patents, copyrights, and mask works. The policy aim is to encourage and facilitate the transfer of new technology and innovative products. That policy aim would be achieved simply by eliminating a misdirected, court-created presumption that market power automatically exists, in an antitrust sense, merely because a particular product may have patent or copyright protection. Our bill has received strong bipartisan support in both Houses of Congress. On the House side, for example, H.R. 557 was cosponsored by Congressman MOORHEAD, Congressman SYNAR, Congressman HYDE, Congressman FRANK, Congressman SENSENBRENNER, Congressman FEIGHAN, Congressman LUNGREN, and Congressman DANNEMEYER.

Subsequent to its initial introduction in the House, I sought for over a year to obtain hearings on the intellectual property licensing bill in the subcommittee on Monopolies and Commercial Law. Finally, a hearing on H.R. 557 was agreed to and held on April 30, 1987. Overall, that subcommittee hearing record reflects the fact that this legislation has broad support. Specifically, the "Leahy-Fish" bill was endorsed by the Antitrust Division of the Department of Justice, the Department of Commerce, the American Intellectual Property Law Association, the Intellectual Property Owners, Inc. and the American Bar Association. In addition, favorable testimony was heard from witnesses representing such respected high-technolgoy companies as Digital Equipment and Data General Corp.; favorable testimony from the National Association of Manufacturers and the Business Roundtable was also made part of the subcommittee record. But, despite the fact that this measure received broad-based support, efforts to bring about action on the important issues raised by H.R. 557 through the normal legislative process have been unsuccessful.

Our colleagues on the Senate side, however, have been able to work out an acceptable substitute version. As mentioned earlier, Senator LEAHY and his excellent staff on the Subcommittee on Technology and the Law deserve high praise for their efforts in developing the Senate compromise. That revised version of the "Intellectual Property Antiturst Protection Act of 1988" (S. 438), passed the Senate without opposition on October 4. This latest modification reflects a sincere attempt by all of us involved with this legislation to respond to certain concerns raised by Chairman RODINO and others during the House subcommittee hearing, particularly about the breadth of the original bill. Specifically, the amended version of S. 438 contains no detrebling provisions and does not statutorily require the application of the rule of reason to intellectual property licensing arrangements. Furthermore, the bill would in no way sanction tying arrangements involving an attempt to maintain a particular retail price.

Instead, the current proposal is comparatively modest. It simply would eliminate the much criticized market power presumption in antitrust cases involving the license or transfer of intellectual property. Second, as passed by the Senate, the bill makes it clear that a patent owner would not be guilty of patent misuse, unless those licensing practices are deemed to violate the antitrust laws. At this stage, the Leahy-Fish bill is a very precise and focused clarification accurately reflecting the recommendations of a large number of antitrust scholars and commentators.

Mr. Speaker, it is indeed unfortunate that we have not been able to process the intellectual property licensing bill through the normal legislative process. This is true, even though there have been repeated attempts to achieve this by the principal sponsors in both this House and the other Body.

Mr. Speaker, I do not intend to oppose the municipal bankruptcy amendments. However, I did want to take this opportunity to clarify the parliamentary situation and explain why it has developed. The "non-germane" amendment added to the municipal bankruptcy bill in the other body, reflects the frustration that many of us feel due to the inability to obtain action on the antitrust licensing legislation in this Congress.

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I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the Senate bill, S. 1863, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1863, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

VIDEO PRIVACY PROTECTION ACT OF 1988

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2361) to amend title 18, United States Code, to preserve personal privacy with respect to the rental, purchase, or delivery of video tapes or similar audio visual materials.

The Clerk read as follows:

S. 2361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Video Privacy Protection Act of 1988".

SEC. 2. CHAPTER 121 AMENDMENT.

(a) IN GENERAL.—Chapter 121 of title 18, United States Code, is amended—

(1) by redesignating section 2710 as section 2711; and

(2) by inserting after section 2709 the following:

"§ 2710. Wrongful disclosure of video tape rental or sale records

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'consumer' means any renter, purchaser, or subscriber of goods or services from a video tape service provider;

"(2) the term 'ordinary course of business' means only debt collection activities, order fulfillment, request processing, and the transfer of ownership;

"(3) the term 'personally identifiable information' includes information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider; and

"(4) the term 'video tape service provider' means any person, engaged in interstate or foreign commerce in or affecting the business of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual materials, or any person or other entity to whom a disclosure is made under subparagraph (D) or (E) of subsection (b)(2), but only with respect to the information contained in the disclosure.

"(b) VIDEO TAPE RENTAL AND SALE RECORDS.—(1) A video tape service provider who knowingly discloses, to any person, personally identifiable information concerning any consumer of such provider shall be liable to the aggrieved person for the relief provided in subsection (d).

"(2) A video tape service provider may disclose personally identifiable information concerning any consumer—

"(A) to the consumer;

"(B) to any person with the informed, written consent of the consumer given at the time the disclosure is sought;

"(C) to a law enforcement agency pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a grand jury subpoena, or a court order;

"(D) to any person if the disclosure is solely of the names and addresses of consumers and if—

"(i) the video tape service provider has provided the consumer with the opportunity, in a clear and conspicuous manner, to prohibit such disclosure; and

"(ii) the disclosure does not identify the title, description, or subject matter of any video tapes or other audio visual material; however, the subject matter of such materials may be disclosed if the disclosure is for the exclusive use of marketing goods and services directly to the consumer;

"(E) to any person if the disclosure is incident to the ordinary course of business of the video tape service provider; or

"(F) pursuant to a court order, in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by any other means, if—

"(i) the consumer is given reasonable notice, by the person seeking the disclosure, of the court proceeding relevant to the issuance of the court order; and

"(ii) the consumer is afforded the opportunity to appear and contest the claim of the person seeking the disclosure.

If an order is granted pursuant to subparagraph (C) or (F), the court shall impose appropriate safeguards against unauthorized disclosure.

"(3) Court orders authorizing disclosure under subparagraph (C) shall issue only with prior notice to the consumer and only if the law enforcement agency shows that there is probable cause to believe that the records or other information sought are relevant to a legitimate law enforcement inquiry. In the case of a State government authority, such a court order shall not issue if prohibitied by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the video tape service provider, may quash or modify such order if the information or records requested are unreasonably voluminous in nature or if compliance with such order otherwise would cause an unreasonable burden on such provider.

"(c) CIVIL ACTION.—(1) Any person aggrieved by any act of a person in violation of this section may bring a civil action in a United States district court.

"(2) The court may award—

"(A) actual damages buy not less than liquidated damages in an amount of $2,500;

"(B) punitive damages;

"(C) reasonable attorneys' fees and other litigation costs reasonably incurred; and

"(D) such other preliminary and equitable relief as the court determines to be appropriate.

"(3) No action may be brought under this subsection unless such action is begun within 2 years from the date of the act complained of or the date of discovery.

"(4) No liability shall result from lawful disclosure permitted by this section.

"(d) PERSONALLY IDENTIFIABLE INFORMATION.—Personally identifiable information obtained in any manner other than as provided in this section shall not be received in evidence in any trial, hearing, arbitration, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision of a State.

"(e) DESTRUCTION OF OLD RECORDS.—A person subject to this section shall destroy personally identifiable information as soon as practicable, but no later than one year from the date the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsections (b)(2) or (c)(2) or pursuant to a court order.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended—

(1) in the item relating to section 2710, by striking out "2710" and inserting "2711" in lieu thereof; and

(2) by inserting after the item relating to section 2709 the following new item:

"2710. Wrongful disclosure of video tape rental or sale records.".

"(f) PREEMPTION.—The provisions of this section preempt only the provisions of State or local law that require disclosure prohibited by this section.":

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER.]

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to bring to the House for its consideration the Video Privacy Protection Act of 1988. This bill, which I cosponsored with my colleague, AL MCCANDLESS, protects the privacy of people who buy or rent video tapes. Its introduction was motivated by the incident involving Judge Robert Bork last year, during the hearings on his nomination to the Supreme Court. Many of my colleagues will recall that during those hearings, a reporter went to Judge Bork's video store and obtained the records of movies he had rented over the years. Those records were then published in the newspaper.

Judge Bork was outraged about the invasion of his privacy, and he had every right to be. His outrage was shared by people all across the country, and by many Members of Congress. Bills were immediately introduced in both bodies to prevent future invasion of privacy.

Over the years, the Congress has statutorily extended the right to privacy, beginning in 1970 with the Fair Credit Reporting Act, and culminating in the last Congress in the passage of the landmark Electronic Communications Privacy Act, which I was privileged to sponsor along with the junior Senator from Vermont, PAT LEAHY. These are statutory protections of our rights to privacy, and often they carry out the recommendations of the important and persuasive Federal Privacy Commission, but they stem from the constitutional and historical right to be left alone.

S. 2361 follows in the footsteps of these efforts. Judge Bork is not the only victim of the invasions of privacy this law will prevent. During our hearings, which were held jointly with the Senate Subcommittee on Law and Technology, we learned that there are virtually daily attempts, across the country, to obtain video records and to use them for all sorts of improper purposes.

This bill therefore prohibits the disclosure of video records except in certain narrowly defined circumstances. They may be disclosed to the customer, or with the customer's permission. They may be disclosed to law enforcement agencies who use the appropriate procedures to obtain them. They may be disclosed in civil court cases, but only pursuant to court order.

This legislation has wide support. It is supported by video dealers across the country, and I would particularly like to thank Erol's, our local video store chain, for its valuable assistance and for its persuasive efforts on behalf of the bill. It is supported by the Direct Marketing Association, which has also worked vigorously for passage. It is supported by a wide and bipartisan coalition of Members of Congress, and I am grateful to my colleague from California, AL MCCANDLESS, and his counsel, Brian Lockwood, who have worked tirelessly to see this bill become law, and to the ranking minority member of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, CARLOS MOORHEAD, and his counsel, Joe Wolfe, who have supported our efforts to bring this bill to the House for consideration today. Finally, but not least, I thank Chairman PAT LEAHY for his unceasing efforts to shepherd this bill through the Senate.

I believe that this bill is a logical and important extension of our previous work to protect the privacy rights that are among the foundations of our society. I urge you to send a message to our citizens that the U.S. Congress is continuing its vigilance in this area. I urge you to vote in favor of S. 2361.

SECTION-BY-SECTION ANALYSIS

Section 1

This bill, when enacted, may be cited as the "Video Privacy Protection Act of 1988."

Section 2

This section amends chapter 121 of title 18 of the United States Code by redesignating section 2710 as section 2711 and inserting after section 2709 a new section 2710.

Section 2710(a) sets out the definitions for the terms used in the Act. The term "consumer" means any renter, purchaser, or subscriber of goods or services from a video tape service provider. The term "ordinary course of business" means only debt collection activities, order fulfillment, request processing, and the transfer of ownership.

The term "personally identifiable information" includes information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider. Unlike the other definitions in this subsection, subsection (a)(3) uses the word "includes" to establish a minimum, but not exclusive, definition of personally identifiable information. The definition of personally identifiable information includes the term "video" to make clear that simply because a business is engaged in the sale or rental of video materials or services does not mean that all of its products or services are within the scope of the bill.

This change clarifies that personally identifiable information is transaction-oriented; it is information that identifies a particular person as having engaged in a specific transaction with a video tape service provider. The bill does not restrict the disclosure of information other than personally identifiable information. Thus, for example, a video tape service provider is not prohibited from responding to a law enforcement agent's inquiry as to whether a person patronized a video tape service provider at a particular time or on a particular date.

The term "video tape service provider" means any person engaged in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassete tapes or similar audio visual materials, or any person or other entity to whom a disclosure is made under subparagraphs (D) or (E) of subsection (b)(2), but only with respect to the information contained in the disclosure.

Section 2710(b)(1) establishes a statutory presumption that the disclosure of personally identifiable information is a violation of this section unless a permissible exception, as defined in section 2710(b)(2), applies.

Section 2710(b)(2) sets out the six circumstances under which a video tape service provider may disclose personally identifiable information.

Under paragraph (2)(A), personally identifiable information may be disclosed directly to the consumer who is the subject of the information. This provision is in accord with a primary tenet of the 1974 Privacy Act that the subject of the record should be able to inspect such information held by third parties.

Under paragraph (2)(B), personally identifiable information may be disclosed to any person with the informed written consent of the consumer given at the time the disclosure is sought.

Under paragraph (2)(C), personally identifiable information may be disclosed to a law enforcement agency pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent state warrant, a grand jury subpoena, or a court order. Paragraph (3) makes clear that court orders authorizing disclosure under paragraph (2)(C) shall issue only with prior notice to the consumer and only if the law enforcement agency shows that there is probable cause to believe that the records or other information sought are relevant to a legitimate law enforcement inquiry. In the case of a State government authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the video tape service provider, may quash or modify such order if the information or records requested are unreasonably voluminous in nature or if compliance with such order otherwise would cause an unreasonable burden on such provider.

If personally identifiable information is disclosed, pursuant to paragraph (2)(C), the court shall impose appropriate safeguards against unauthorized disclosure.

Under paragraph (2)(D), personally identifiable information may be disclosed to any person if the disclosure is solely of the names and addresses of consumers and if the video tape service provider has provided the consumer with the opportunity, in a clear and conspicuous manner, to prohibit such disclosure. Pursuant to this paragraph, the video tape service provider may not disclose the title or description of any video tapes or other audio visual material. The subject matter of such materials may be disclosed only if the disclosure is for the exclusive use of marketing goods and services directly to the consumer, and if the consumer has been provided, in a clear and conspicuous manner, with the opportunity to prohibit such disclosure. Those who receive such a disclosure are themselves subject to the restrictions of the bill. *See* discussion of section 2710(a)(4) above.

The phrase "clear and conspicuous manner" should be given its common sense meaning and may not be interpreted to allow "fine-print" notice on the obverse side of a business form, or other notice that a consumer is unlikely to see. Video tape service providers are encouraged to provide other kinds of notice that may help inform the consumer of his or her right to limit disclosure, such as a placard near a cash register for point-of-sale transactions or an additional notice for a direct mail solicitation.

This subsection carries forward the current market practice commonly known as a "negative option." It limits disclosure to the names and addresses of consumers, where those consumers have been given the opportunity to prohibit any disclosure. The video tape service provider, prior to disclosure and in a time frame that makes such notice meaningful, must provide an opportunity for the consumer to prohibit any disclosure. While the types of negative options currently used by video tape distributors may vary, it is Congress's intent that the notice must be clear and conspicuous and must be given prior to disclosure being made.

In addition, subsection (b)(2)(D)(ii) provides that for the exclusive use of marketing goods and services directly to the consumer, the video tape service provider may include in its disclosure of its customer lists the subject matter of the material bought or rented by those customers. Disclosure of subject matter may be made only in instances where communications are sent directly to the consumer. Because some video tape service providers sell limited types of videos—a golf shop may rent or sell golf videos; a continuity club might rent or sell only Star Trek videos—the disclosure of the customer lists of those providers would indirectly disclose the subject matter of the video. Similarly, some video tape service providers market their video tapes in subject matter categories such as action, romance, science fiction and the like. These practices must be balanced against the consumer's right to privacy, and they continue to be limited by the consumer's prerogative to prohibit disclosure through the negative option procedures set forth above. Disclosure of subject matter may only be made for the purpose of sending communications directly to the consumer, and then only for marketing goods and services directly to that consumer from the marketer or the marketer's agent.

Under paragraph (2)(E), personally identifiable information may be disclosed if the disclosure is incident to the ordinary course of business of the video tape service provider. The circumstances that constitute the "ordinary course of business" are explicitly set out in subsection 2710(a)(2), and are limited to debt collection activities, order fulfillment, request processing, and the transfer of ownership.

This subsection takes into account that video tape service providers may use third parties in their business operations. For example, debt collection is often conducted by third parties, with disclosure of credit histories made to third party credit bureaus. Debt collection is subject to other Federal laws; disclosures for that purpose continue to be governed by those laws.

This subsection also allows disclosure for purposes of "order fulfillment" and "request processing," to permit video tape service providers to use mailing houses, warehouses, computer services, and similar companies for marketing to their customers. In addition, when a business is sold, its customer list is often its most valuable asset. Recipients of information under subsection (b)(2)(E) will be responsible under the statute for maintaining the confidentiality of the information as if they themselves were video tape service providers.

Under paragraph (2)(F), personally identifiable information may be disclosed pursuant to a court order in a civil proceeding, upon a showing of compelling need for the information that cannot be accommodated by any other means, and if (i) the consumer is given reasonable notice, by the person seeking the disclosure, of the court proceeding relevant to the issuance of the court order; and (ii) the consumer is afforded the opportunity to appear and contest the claim of the person seeking the disclosure.

If personally identifiable information is disclosed, pursuant to paragraph (2)(F), the courts shall impose appropriate safeguards against unauthorized disclosure.

Section 2710(c) imposes liability where an individual, in violation of the Act, knowingly discloses personally identifiable information concerning any consumer. Under generally applicable principles of tort law, the action of an employee is generally imputed to the employer when the employee is found to have acted within the scope of his or her employment.

In making that determination, the court or jury, as the trier of fact, should consider all relevant facts, and the context in which they arise. For example, it may be relevant that the video tape service provider has an explicit store policy that requires compliance with this Act.

To ensure compliance with the law, video tape service providers are urged to explain the Federal law and the store's policy of compliance with it; warn their employees that disclosure of personal information by anyone not designated to do so on behalf of the business is grounds for dismissal; and post conspicuous notice of the law and store policy in plain view of all employees (such as at the customer counter and by the telephone).

This bill does not change current law with regard to the liability of employees for acts committed within the scope of their employment. For example, a clearly defined policy will not serve to exculpate an employer from liability for the acts of its employees when the policy is not in fact enforced.

Section 2710(d) is intended to apply to the situation where a private individual obtains personally identifiable information in violation of the Act. It is not intended to apply to any Federal, State, or local governmental official. It states that such information shall not be received in evidence in any trial, hearing, arbitration, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision of a State.

Section 2710(e) requires the destruction of personally identifiable information as soon as practicable, but no later than one year from the date the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsections (b)(2) or (c)(2) or pursuant to a court order. The purpose of this provision is to reduce the chances that an individual's privacy will be invaded, by requiring the destruction of information in an expeditious fashion, appropriate to the circumstances and to the policies protected by this Act.

Under this subsection, the phrase the "purpose for which it was collected" must be narrowly construed. It may include activities that are for the exclusive use of marketing goods and services to the consumer. It may not, however, include activities that violate the intent of the statute, which is to protect personally identifiable information from disclosure.

Section 2710(f) explicitly preserves the rights of consumers to seek redress under State laws that may provide a greater degree of protection than is afforded by the Federal statute. The bill does not preempt State laws that provide greater privacy protection for video users.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2361, the Video Privacy Protection Act of 1988. This legislation stems from the incident last summer when a newspaper reporter found out from a video store what video films Judge Bork had rented and published a story about his preference.

The immediate reaction to the Bork episode was a strong bipartisan response. Both the Democrats and the Republicans deciding upon Judge Bork's judgeship became outraged and called for legislation. This bill is the result with Senators LEAHY and SIMON joined by Senator GRASSLEY sponsoring on the Senate side and the gentleman from California, Mr. McCANDLESS, and the gentleman from Wisconsin, Mr. KASTENMEIER, sponsoring on the House side. I would like to commend all of these individuals for taking the initiative on this important issue.

This bill prohibits the disclosure of video records except in certain narrowly defined circumstances. Such an approach will protect the privacy rights of video tape users while ensuring that those who need access to the information, such as law enforcement officials, will be able to obtain it.

The Courts Subcommittee during its hearings and deliberations on the legislation has received the cooperation and constructive input of Erol's, the Video Software Dealer's Association, the Direct Marketing Association, the ACLU, the FBI, and the Department of Justice. In many ways the legislation will codify existing practices put in place by Erol's and the Direct Marketing Association to provide information privacy protection for their customers. Mr. Speaker, the legislation which is without opposition will provide valuable privacy protection for the customers of video stores and I urge my colleagues' support for it.

Mr. McCANDLESS. Mr. Speaker, as the one who first introduced video privacy legislation, I want to thank my colleagues, Mr. KASTENMEIER and Mr. MOORHEAD. Their supreme efforts as chairman and ranking Republican of the Courts Subcommittee have made it possible to bring this legislation to the floor.

There were many hurdles that had to be overcome. Mr. KASTENMEIER and I rewrote and reintroduced the legislation. Mr. MOORHEAD added some key concepts. Sometimes the light at the end of the tunnel got pretty dark. But my friends from Wisconsin and California persevered, shepherding the concept along its way.

As a result, we have a product that all affected parties are supporting. More importantly, we have a product that will protect people from invasion of their privacy.

Every day, people are asked to disclose information about themselves that someone then squirrels away in a computer. Every time we provide such information, we're giving a piece of ourselves to someone else. The Video Privacy Protection Act of 1988 ensures that video service providers will respect the privacy of that with which we have entrusted them.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the Senate bill, S. 2361.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2361, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TRADEMARK LAW REVISION ACT OF 1988

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1883) to amend the Trademark Act of 1946 to make certain revisions relating to the registration of trademarks, and for other purposes, as amended.

The Clerk read as follows:

S. 1883

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TRADEMARK LAW REVISION

SEC. 101. SHORT TITLE.

This title may be cited as the "Trademark Law Revision Act of 1988".

SEC. 102. REFERENCE TO THE TRADEMARK ACT OF 1946.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946").

SEC. 103. APPLICATION TO REGISTER TRADEMARKS.

Section 1 (15 U.S.C. 1051) is amended—

(1) in the matter before subsection (a), by striking out "may register his" and inserting in lieu thereof "may apply to register his or her";

(2) by redesignating paragraphs (1), (2), and (3) of subsection (a) as subparagraphs (A), (B), and (C), respectively;

(3) by redesignating subsections (a), (b), and (c) as paragraphs (1), (2), and (3), respectively;

(4) by inserting "(a)" after "SECTION 1.";

(5) in subsection (a)(1)(A), as redesignated by this section—

(A) by striking out "applied to" and inserting in lieu thereof "used on or in connection with"; and

(B) by striking out "goods in connection" and inserting in lieu thereof "goods on or in connection";

(6) in subsection (a)(1)(C), as redesignated by this section, by striking out "actually";

(7) in subsection (a)(2), as redesignated by this section, by striking out "filing" and inserting in lieu thereof "prescribed";

(8) by redesignating subsection (d) as subsection (e); and

(9) by inserting before subsection (e), as redesignated by paragraph (8) of this section, the following:

"(b) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may apply to register the trademark under this Act on the principal register hereby established:

"(1) By filing in the Patent and Trademark Office—

"(A) a written application, in such form as may be prescribed by the Commissioner, verified by the applicant, or by a member of the firm or an officer of the corporation or association applying, specifying applicant's domicile and citizenship, applicant's bona fide intention to use the mark in commerce, the goods on or in connection with which the applicant has a bona fide intention to use the mark and the mode or manner in which the mark is intended to be used on or in connection with such goods, including a statement to the effect that the person making the verification believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the verification, to be entitled to use the mark in commerce, and that no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, however, except for applications filed pursuant to section 44, no mark shall be registered until the applicant has met the requirements of subsection (d) of this section; and

"(B) a drawing of the mark.

"(2) By paying in the Patent and Trademark Office the prescribed fee.

"(3) By complying with such rules or regulations, not inconsistent with law, as may be prescribed by the Commissioner.

"(c) At any time during examination of an application filed under subsection (b), an applicant who has made use of the mark in commerce may claim the benefits of such use for purposes of this Act, by amending his or her application to bring it into conformity with the requirements of subsection (a).

"(d)(1) Within six months after the date on which the notice of allowance with respect to a mark is issued under section 13(b)(2) to an applicant under subsection (b) of this section, the applicant shall file in the Patent and Trademark Office, together with such number of specimens or facsimiles of the mark as used in commerce as may be required by the Commissioner and payment of the prescribed fee, a verified statement that the mark is in use in commerce and specifying the date of the applicant's first use of the mark in commerce, those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce, and the mode or manner in which the mark is used on or in connection with such goods or services. Subject to examination and acceptance of the statement of use, the mark shall be registered in the Patent and Trademark Office, a certificate of registration shall be issued for those goods or services recited in the statement of use for which the mark is entitled to registration, and notice of registration shall be published in the Official Gazette of the Patent and Trademark Office. Such examination may include an examination of the factors set forth in subsections (a) through (e) of section 2. The notice of registration shall specify the goods or services for which the mark is registered.

"(2) The Commission shall extend, for one additional 6-mohth period, the time for filing the statement of use under paragraph (1), upon written request of the applicant before the expiration of the 6-month period provided in paragraph (1). In addition to an extension under the preceding sentence, the Commissioner may, upon a showing of good cause by the applicant, further extend the time for filing the statement of use under paragraph (1) for periods aggregating not more than 24 months, pursuant to written request of the applicant made before the expiration of the last extension granted under this paragraph. Any request for an extension under this paragraph shall be accompanied by a verified statement that the applicant has a continued bona fide intention to use the mark in commerce and specifying those goods or services identified in the notice of allowance on or in connection with which the applicant has a continued bona fide intention to use the mark in commerce. Any request for an extension under this paragraph shall be accompanied by payment of the prescribed fee. The Commissioner shall issue regulations setting forth guidelines for determining what constitutes good cause for purposes of this paragraph.

"(3) The Commissioner shall notify any applicant who files a statement of use of the acceptance or refusal thereof and, if the statement of use is refused, the reasons for the refusal. An applicant may amend the statement of use.

"(4) The failure to timely file a verified statement of use under this subsection shall result in abandonment of the application.".

SEC. 104. TRADEMARKS REGISTRABLE ON PRINCIPAL REGISTER.

Section 2 (15 U.S.C. 1052) is amended—

(1) by amending subsection (d) to read as follows:

"(d) Consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive: *Provided*, That if the Commissioner determines that confusion, mistake, or deception is not likely to result form the continued use by more than one person of the same or similar marks under conditions and limitations as to the mode or place of use of the marks or the goods on or in connection with which such marks are used, concurrent registrations may be issued to such persons when they have become entitled to use such marks as a result of their concurrent lawful use in commerce prior to (1) the earliest of the filing dates of the applications pending or of any registration issued under this Act; (2) July 5, 1947, in the case of registrations previously issued under the Act of March 3, 1881, or February 20, 1905, and continuing in full force and effect on that date; or (3) July 5, 1947, in the case of applications filed under the Act of February 20, 1905, and registered after July 5, 1947. Use prior to the filing date of any pending application or a registration shall not be required when the owner of such application or registration consents to the grant of a concurrent registration to the applicant. Concurrent registrations may also be issued by the Commissioner when a court of competent jurisdiction has finally determined that more than one person is entitled to use the same or similar marks in commerce. In issuing concurrent registrations, the Commissioner shall prescribe conditions and limitations as to the mode or place of use of the mark or the goods on or in connection with which such mark is registered to the respective persons.";

(2) in subsection (e) by striking out "applied to" each place it appears and inserting in lieu thereof "used on or in connection with"; and

(3) in subsection (f)—

(A) by striking out "applied to" and inserting in lieu thereof "used on or in connection with"; and

(B) by striking out "five years" and all that follows through the end of the subsection and inserting in lieu thereof "five years before the date on which the claim of distinctiveness is made.".

SEC. 105. SERVICE MARKS REGISTRABLE.

Section 3 (15 U.S.C. 1053) is amended—

(1) in the first sentence—

(A) by striking out "used in commerce"; and

(B) by striking out ", except when" and all that follows through "mark is used"; and

(2) by striking out the second sentence.

SEC. 106. COLLECTIVE AND CERTIFICATION MARKS REGISTRABLE.

Section 4 (15 U.S.C. 1054) is amended—

(1) in the first sentence—

(A) by striking out "origin used in commerce," and inserting in lieu thereof "origin,"; and

(B) by striking out "except when" and inserting in lieu thereof "except in the case of certification marks when"; and

(2) by striking out the second sentence.

SEC. 107. USE BE RELATED COMPANIES.

Section 5 (15 U.S.C. 1055) is amended by adding at the end thereof the following: "If first use of a mark by a person is controlled by the registrant or applicant for registration of the mark with respect to the nature and quality of the goods or services, such first use shall inure to the benefit of the registrant or applicant, as the case may be.".

SEC. 108. DISCLAIMER OF UNREGISTRABLE MATTER.

Section 6(b) (15 U.S.C. 1056(b)) is amended by striking out "paragraph (d)" and inserting in lieu thereof "subsection (e)".

SEC. 109. CERTIFICATE OF REGISTRATION ON THE PRINCIPAL REGISTER.

Section 7 (15 U.S.C. 1057) is amended—

(1) by amending subsection (b) to read as follows:

"(b) A certificate of registration of a mark upon the principal register provided by this Act shall be prima facie evidence of the validity of the registered mark and of the registration of the mark, of the registrant's ownership of the mark, and of the registrant's exclusive right to use the registered mark in commerce on or in connection with the goods or services specified in the certificate, subject to any conditions or limitations stated in the certificate.";

(2) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(3) by inserting after subsection (b) the following:

"(c) Contingent on the registration of a mark on the principal register provided by this Act, the filing of the application to register such mark shall constitute constructive use of the mark, conferring a right of priority, nationwide in effect, on or in connection with the goods or services specified in the registration against any other person except for a person whose mark has not been abandoned and who, prior to such filing—

"(1) has used the mark;

"(2) has filed an application to register the mark which is pending or has resulted in registration of the mark; or

"(3) has filed a foreign application to register the mark on the basis of which he or she has acquired a right of priority, and timely files an application under section 44(d) to register the mark which is pending or has resulted in registration of the mark.";

(4) in subsection (d), as redesignated by paragraph (2) of this section, by striking out "fee herein provided" and inserting in lieu thereof "prescribed fee";

(5) in subsection (f), as redesignated by paragraph (2) of this section, by striking out

"fee required by law" and inserting in lieu thereof "prescribed fee"; and

(6) in subsection (h), as redesignated by paragraph (2) of this section, by striking out "required fee" and inserting in lieu thereof "prescribed fee".

SEC. 110. DURATION OF REGISTRATION.

Section 8(a) (15 U.S.C. 1058(a)) is amended—

(1) by striking out "twenty" and inserting in lieu thereof "ten"; and

(2) by striking out "showing that said mark is in use in commerce or showing that its" and inserting in lieu thereof "setting forth those goods or services recited in the registration on or in connection with which the mark is in use in commerce and attaching to the affidavit a specimen or facsimile showing current use of the mark, or showing that any".

SEC. 111. RENEWAL OF REGISTRATION.

Section 9 (15 U.S.C. 1059) is amended—

(1) in subsection (a) by striking out "twenty" and inserting in lieu thereof "ten"; and

(2) in subsection (c) by striking out "1(d) hereof" and inserting in lieu thereof "1(e) of this Act".

SEC. 112. ASSIGNMENT.

Section 10 (15 U.S.C. 1060) is amended—

(1) in the first sentence by striking out "and in any such assignment" and inserting in lieu thereof the following: ". However, no application to register a mark under section 1(b) shall be assignable prior to the filing of the verified statement of use under section 1(d), except to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. In any assignment authorized by this section"; and

(2) in the last paragraph by striking out "1(d) hereof" and inserting in lieu thereof "1(e) of this Act".

SEC. 113. EXAMINATION OF APPLICATION.

Section 12(a) (15 U.S.C. 1062(a)) is amended—

(1) by striking out "fee herein provided" and inserting in lieu thereof "prescribed fee"; and

(2) by striking out "to registration, the" and inserting in lieu thereof "to registration, or would be entitled to registration upon the acceptance of the statement of use required by section 1(d) of this Act, the".

SEC. 114. OPPOSITION TO MARKS.

Section 13 (15 U.S.C. 1063) is amended—

(1) by inserting "(a)" before "Any person";

(2) by striking out "required fee" and inserting in lieu thereof "prescribed fee"; and

(3) by adding at the end thereof the following:

"(b) Unless registration is successfully opposed—

"(1) a mark entitled to registration on the principal register based on an application filed under section 1(a) or pursuant to section 44 shall be registered in the Patent and Trademark Office, a certificate of registration shall be issued, and notice of the registration shall be published in the Official Gazette of the Patent and Trademark Office; or

"(2) a notice of allowance shall be issued to the applicant if the applicant applied for registration under section 1(b).".

SEC. 115. CANCELLATION OF REGISTRATIONS.

Section 14 (15 U.S.C. 1064) is amended—

(1) in the matter preceding subsection (a)—

(A) by inserting "as follows" after "be filed"; and

(B) by striking out "1905-" and inserting in lieu thereof "1905:";

(2) in subsection (a)—

(A) by striking out "(a) within" and inserting in lieu thereof "(1) Within"; and

(B) by striking out "; or" and inserting in lieu thereof a period;

(3) in subsection (b)—

(A) by striking out "(b) within" and inserting in lieu thereof "(2) Within"; and

(B) by striking out "; or" and inserting in lieu thereof a period;

(4) by amending subsection (c) to read as follows:

"(3) At any time if the registered mark becomes the generic name for the goods or services, or a portion thereof, for which it is registered, or has been abandoned, or its registration was obtained fraudulently or contrary to the provisions of section 4 or of subsection (a), (b), or (c) of section 2 for a registration under this Act, or contrary to similar prohibitory provisions of such prior Acts for a registration under such Acts, or if the registered mark is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used. If the registered mark becomes the generic name for less than all of the goods or services for which it is registered, a petition to cancel the registration for only those goods or services may be filed. A registered mark shall not be deemed to be the generic name of goods or services solely because such mark is also used as a name of or to identify a unique product or service. The primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the generic name of goods or services on or in connection with which it has been used.";

(5) in subsection (d)—

(A) by striking out "(d) at" and inserting in lieu thereof "(4) At"; and

(B) by striking out "; or" and inserting in lieu thereof a period;

(6) in subsection (e)—

(A) by striking out "(e) at" and inserting in lieu thereof "(5) At" ; and

(B) by striking out "(1)", "(2)", "(3)", and "(4)" and inserting in lieu thereof "(A)", "(B)", "(C)" , and "(D)", respectively; and

(7) in the proviso at the end of the section by striking out "subsections (c) and (e)" and inserting in lieu thereof "paragraphs (3) and (5)".

SEC. 116. INCONTESTABILITY OF RIGHT TO USE MARK.

Section 15 (15 U.S.C. 1065) is amended—

(1) by striking out "subsections (c) and (e)" and inserting in lieu thereof "paragraphs (3) and (5)";

(2) in paragraph (3) by striking out "subsections (1) and (2) hereof" and inserting in lieu thereof "paragraphs (1) and (2) of this section"; and

(3) in paragraph (4) by striking out "the common descriptive name of any article or substance, patented or otherwise" and inserting in lieu thereof "the generic name for the goods or services or a portion thereof, for which it is registered".

SEC. 117. INTERFERENCE.

Section 16 (15 U.S.C. 1066) is amended by striking out "applied to the goods or when used in connection with the services" and inserting in lieu thereof "used on or in connection with the goods or services".

SEC. 118. ACTION OF COMMISSIONER IN PROCEEDINGS.

Section 18 (15 U.S.C. 1068) is amended—

(1) by striking out "or restrict" and inserting in lieu thereof "the registration, in whole or in part, may modify the application or registration by limiting the goods or services specified therein, may otherwise restrict or rectify with respect to the register";

(2) by striking out "or may refuse" and inserting in lieu thereof "may refuse"; and

(3) adding at the end thereof the following: "However, no final judgment shall be entered in favor of an applicant under section 1(b) before the mark is registered, if such applicant cannot prevail without establishing constructive use pursuant to section 7(c).".

SEC. 119. APPLICATION OF EQUITABLE PRINCIPLES.

Section 19 (15 U.S.C. 1069) is amended by striking out the second sentence.

SEC. 120. APPEALS.

Section 21 (15 U.S.C. 1071) is amended—

(1) in subsection (a)(1)—

(A) by striking out "section 21(b) hereof" each place it appears and inserting in lieu thereof "subsection (b) of this section";

(B) by striking out "section 21(a)(2) hereof" and inserting in lieu thereof "paragraph (2) of this subsection"; and

(C) by striking out "said section 21(b)" and inserting in lieu thereof "subsection (b) of this section";

(2) in subsection (a)(4), by adding at the end thereof the following: "However, no final judgment shall be entered in favor of an applicant under section 1(b) before the mark is registered, if such applicant cannot prevail without establishing constructive use pursuant to section 7(c).";

(3) in subsection (b)(1)—

(A) by striking out "section 21(a) hereof" and inserting in lieu thereof "subsection (a) of this section";

(B) by striking out "section 21(a)" and inserting in lieu thereof "subsection (a) of this section"; and

(C) by adding at the end thereof the following: "However, no final judgment shall be entered in favor of an applicant under section 1(b) before the mark is registered, if such applicant cannot prevail without establishing constructive use pursuant to section 7(c)."; and

(4) in subsection (b)(3), by striking out "(3)" and all that follows through the end of the first sentence and inserting in lieu thereof the following:

"(3) In any case where there is no adverse party, a copy of the complaint shall be served on the Commissioner, and, unless the court finds the expense to be unreasonable, all the expenses of the proceeding shall be paid by the party bringing the case, whether the final decision is in favor of such party or not.".

SEC. 121. SUPPLEMENTAL REGISTER.

Section 23 (15 U.S.C. 1091) is amended—

(1) by inserting "(a)" before "In addition" in the first paragraph;

(2) by inserting "(b)" before "Upon the " in the second paragraph;

(3) by inserting "(c)" before "For the purposes" in the third paragraph;

(4) in subsection (a), as designated by paragraph (1) of this section—

(A) by striking out "paragraphs (a)," and inserting in lieu thereof "subsections (a),";

(B) by striking out "have been in lawful use in commerce by the proprietor thereof, upon" and inserting in lieu thereof "are in lawful use in commerce by the owner thereof, on";

(C) by striking out "for the year preceding the filing of the application"; and

(D) by inserting before "section 1" the following: "subsections (a) and (e) of";

(5) in subsection (b), as designated by paragraph (2) of this section, by striking out "fee herein provided" and inserting in lieu thereof "prescribed fee"; and

(6) by striking out the last paragraph.

SEC. 122. CANCELLATION ON SUPPLEMENTAL REGISTER.

Section 24 (15 U.S.C. 1092) is amended—

(1) by striking out "verified" in the second sentence;

(2) by striking out "was not entitled to register the mark at the time of his application for registration thereof," and inserting in lieu thereof "is not entitled to registration,";

(3) by striking out "is not used by the registrant or"; and

(4) by adding at the end thereof the following: "However, no final judgment shall be entered in favor of an applicant under section 1(b) before the mark is registered, if such applicant cannot prevail without establishing constructive use pursuant to section 7(c).".

SEC. 123. PROVISIONS OF ACT APPLICABLE TO SUPPLEMENTAL REGISTER.

Section 26 (15 U.S.C. 1094) is amended—

(1) by inserting "1(b)," after "sections"; and

(2) by inserting "7(c)," after "7(b)".

SEC. 124. REGISTRATION ON PRINCIPAL REGISTER NOT PRECLUDED.

Section 27 (15 U.S.C. 1095) is amended by adding at the end thereof the following: "Registration of a mark on the supplemental register shall not constitute an admission that the mark has not acquired distinctiveness.".

SEC. 125. NOTICE OF REGISTRATION.

Section 29 (15 U.S.C. 1111) is amended by striking out "as used".

SEC. 126. CLASSIFICATION OF GOODS AND SERVICES.

Section 30 (15 U.S.C. 1112) is amended—

(1) by inserting "or registrant's" after "applicant's";

(2) by striking out "may file an application" and inserting in lieu thereof "may apply";

(3) by striking out "goods and services upon or in connection with which he is actually using the mark:" and inserting in lieu thereof "goods or services on or in connection with which he or she is using or has a bona fide intention to use the mark in commerce:"; and

(4) by amending the proviso to read as follows: "*Provided,* That if the Commissioner by regulation permits the filing of an application for the registration of a mark for goods or services which fall within a plurality of classes, a fee equaling the sum of the fees for filing an application in each class shall be paid, and the Commissioner may issue a single certificate of registration for such mark.".

SEC. 127. INNOCENT INFRINGEMENT AND VIOLATIONS OF SECTION 43(a).

Section 32(2) (15 U.S.C. 1114(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of this Act, the remedies given to the owner of a right infringed under this Act or to a person bringing an action under section 43(a) shall be limited as follows:

"(A) Where an infringer or violator is engaged solely in the business of printing the mark or violating matter for others and establishes that he or she was an innocent infringer or innocent violator, the owner of the right infringed or person bringing the action under section 43(a) shall be entitled as against such infringer or violator only to an injunction against future printing.

"(B) Where the infringement or violation complained of is contained in or is part of paid advertising matter in a newspaper, magazine, or other similar periodical or in an electronic communication as defined in section 2510(12) of title 18, United States Code, the remedies of the owner of the right infringed or person bringing the action under section 43(a) as against the publisher or distributor of such newspaper, magazine, or other similar periodical or electronic communication shall be limited to an injunction against the presentation of such advertising matter in future issues of such newspapers, magazines, or other similar periodicals or in future transmissions of such electronic communications. The limitations of this subparagraph shall apply only to innocent infringers and innocent violators.

"(C) Injunctive relief shall not be available to the owner of the right infringed or person bringing the action under section 43(a) with respect to an issue of a newspaper, magazine, or other similar periodical or an electronic communication containing infringing matter or violation matter where restraining the dissemination of such infringing matter or violating matter in any particular issue of such periodical or in an electronic communication would delay the delivery of such issue on transmission of such electronic communication after the regular time for such delivery or transmission, and such delay would be due to the method by which publication and distribution of such periodical or transmission of such electronic communication is customarily conducted in accordance with sound business practice, and not due to any method or device adopted to evade this section or to prevent or delay the issuance of an injunction or restraining order with respect to such infringing matter or violating matter.

"(D) As used in this paragraph—

"(i) the term 'violator' means a person who violates section 43(a); and

"(ii) the term 'violating matter' means matter that is the subject of a violation under section 43(a).".

SEC. 128. REMEDIES.

(a) Prima Facie Evidence of Exclusive Right To Use Mark.—Section 33(a) (15 U.S.C. 1115(a)) is amended—

(1) by inserting "the validity of the registered mark and of the registration of the mark, of the registrant's ownership of the mark, and of the" after "prima facie evidence of";

(2) by inserting "or in connection with" after "in commerce on";

(3) by striking out "an opposing party" and inserting in lieu thereof "another person"; and

(4) by inserting ", including those set forth in subsecton (b)," after "or defect".

(b) Conclusive Evidence of Exclusive Right To Use Mark.—Section 33(b) (15 U.S.C. 1115(b)) is amended—

(1) in subsection (b) by amending the matter before paragraph (1) to read as follows:

"(b) To the extent that the right to use the registered mark has become incontestable under section 15, the registration shall be conclusive evidence of the validity of the registered mark and of the registration of the mark, of the registrant's ownership of the mark, and of the registrant's exclusive right to use the registered mark in commerce. Such conclusive evidence shall relate to the exclusive right to use the mark on or in connection with the goods or services specified in the affidavit filed under the provisions of section 15, or in the renewal application filed under the provisions of section 9 if the goods or services specified in the renewal are fewer in number, subject to any conditions or limitations in the registration or in such affidavit or renewal application. Such conclusive evidence of the right to use the registered mark shall be subject to proof of infringement as defined in section 32, and shall be subject to the following defenses or defects:";

(2) in paragraph (3) by inserting "on or" after "goods or services";

(3) in paragraph (4)—

(A) by striking out "trade or service"; and

(B) by striking out "to users";

(4) in paragraph (5) by striking out "registration of the mark under this Act or" and inserting in lieu thereof "(A) the date of the constructive use of the mark established pursuant to section 7(c), (B) the registration of the mark under this Act if the application for registration is filed before the effective date of the Trademark Law Revision Act of 1988, or (C)";

(5) in paragraph (7) by striking out the period and inserting in lieu thereof "; or"; and

(6) by adding at the end of the subsection the following:

"(8) That equitable principles, including laches, estoppel, and acquiescence, are applicable.".

(c) Injunctions.—Section 34(a) (15 U.S.C. 1116(a)) is amended in the first sentence by inserting "or to prevent a violation under section 43(a)" after "Office".

(d) Notice of Suit to Commissioner.—Section 34(c) (15 U.S.C. 116(c)) is amended—

(1) by striking out "proceeding arising" and inserting in lieu thereof "proceeding involving a mark registered"; and

(2) by striking out "decision is rendered, appeal taken or a decree issued" and inserting in lieu thereof "judgment is entered or an appeal is taken".

(e) Civil Actions Arising From Use of Counterfeit Marks.—Section 34(d)(1)(B) (15 U.S.C. 1116(d)(1)(B)) is amended by inserting "on or" after "designation used".

SEC. 129. RECOVERY FOR VIOLATION OF RIGHTS.

Section 35(a) (15 U.S.C. 1117(a)) is amended in the first sentence by inserting ", or a violation under section 43(a)," after "Office".

SEC. 130. DESTRUCTION OF INFRINGING ARTICLES.

Section 36 (15 U.S.C. 1118) is amended in the first sentence—

(1) by inserting ", or a violation under section 43(a)," after "Office"; and

(2) by inserting after "registered mark" the following: "or, in the case of a violation of section 43(a), the word, term, name, symbol, device, combination thereof, designation, description, or representation that is the subject of the violation,".

SEC. 131. JURISDICTION

(a) Jurisdiction of Courts.—Section 39 (15 U.S.C. 1121) is amended by inserting "(a)" after Sec. 39.".

(b) Certain Actions by States Precluded.—Section 39a (15 U.S.C. 1121a) is amended—

(1) by striking out "Sec. 39a." and inserting in lieu thereof "(b)"; and

(2) by striking out "servicemarks" each place it appears and inserting in lieu thereof "service marks".

SEC. 132. UNREGISTERED MARKS, DESCRIPTIONS, AND REPRESENTATIONS.

Section 43(a) (15 U.S.C. 1125(a)) is amended to read as follows:

"(a) Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which—

"(1) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or

"(2) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities,

shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.".

SEC. 133. INTERNATIONAL MATTERS.

Section 44 (15 U.S.C. 1126) is amended—

(1) in subsections (c), (d), (f), (g), and (h) by striking out "paragraph (b)" each place it appears and inserting in lieu thereof "subsection (b)";

(2) in subsection (a) by striking out "herein prescribed" and inserting in lieu thereof "required in this Act";

(3) in subsection (d) by striking out "sections 1, 2, 3, 4, or 23" and inserting in lieu thereof "section 1, 3, 4, 23, or 44(e)";

(4) in subsection (d)(2) by striking out "but use in commerce need not be alleged" and inserting in lieu thereof "including a statement that the applicant has a bona fide intention to use the mark in commerce";

(5) in subsection (d)(3) by striking out "foreing" and inserting in lieu thereof "foreign";

(6) in subsection (e) by adding at the end thereof the following: "The application must state the applicant's bona fide intention to use the mark in commerce, but use in commerce shall not be required prior to registration.";

(7) in subsection (f) by striking out "paragraphs (c), (d)," and inserting in lieu thereof "subsections (c), (d),"; and

(8) in subsection (i) by striking out "paragraph (b) hereof" and inserting in lieu thereof "subsection (b) of this section".

SEC. 134. CONSTRUCTION AND DEFINITIONS.

Section 45 (15 U.S.C. 1127) is amended—

(1) by amending the paragraph defining "related company" to read as follows:

"The term 'related company' means any person whose use of a mark is controlled by the owner of the mark with respect to the nature and quality of the goods or services on or in connection with which the mark is used.";

(2) by amending the paragraph defining "trade name" and "commercial name" to read as follows:

"The terms 'trade name' and 'commercial name' mean any name used by a person to identify his or her business or vocation.";

(3) by amending the paragraph defining "trademark" to read as follows:

"The term 'trademark' includes any word, name, symbol, or device, or any combination thereof—

"(1) used by a person, or

"(2) which a person has a bona fide intention to use in commerce and applies to register on the principal register established by this Act,

to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source or the goods, even if that source is unknown.";

(4) by amending the paragraph defining "service mark" to read as follows:

"The term 'service mark' means any word, name, symbol, or device, or any combination thereof—

"(1) used by a person, or

"(2) which a person has a bona fide intention to use in commerce and applies to register on the principal register established by this Act,

to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.";

(5) by amending the paragraph defining "certification mark" to read as follows:

"The term 'certification mark' means any word, name, symbol, or device, or any combination thereof—

"(1) used by a person other than its owner, or

"(2) which its owner has a bona fide intention to permit a person other than the owner to use in commerce and files an application to register on the principal register established by this Act,

to certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of such person's goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.";

(6) by amending the paragraph defining "collective mark" to read as follows:

"The term 'collective mark' means a trademark or service mark—

"(1) used by the members of a cooperative, an association, or other collective group or organization, or

"(2) which such cooperative, association, or other collective group or organization has a bona fide intention to use in commerce and applies to register on the principal register established by this Act,

and includes marks indicating membership in a union, an association, or other organization.";

(7) by amending the paragraph defining "mark" to read as follows:

"The term 'mark' includes any trademark, service mark, collective mark, or certification mark.";

(8) by amending the matter which appears between the paragraph defining "mark", and the paragraph defining "colorable imitation" to read as follows:

"The term 'use in commerce' means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For purposes of this Act, a mark shall be deemed to be in use in commerce—

"(1) on goods when—

"(A) it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and

"(B) the goods are sold or transported in commerce, and

"(2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in commerce, or the services are rendered in more than one State or in the United States and a foreign country and the person rendering the services is engaged in commerce in connection with the services.

"A mark shall be deemed to be 'abandoned' when either of the following occurs:

"(1) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two consecutive years shall be prima facie evidence of abandonment. 'Use' of a mark means the bona fide use of that mark made in the ordinary course of trade, and not made merely to reserve a right in a mark.

"(2) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to become the generic name for the goods or services on or in connection with which it is used or otherwise to lose its significance as a mark. Purchaser motivation shall not be a test for determining abandonment under this paragraph.".

SEC. 135. PENDING APPLICATIONS.

The Trademark Act of 1946 is amended by adding at the end thereof the following:

"SEC. 51. All certificates of registration based upon applications for registration pending in the Patent and Trademark Office on the effection date of the Trademark Law Revision Act of 1988 shall remain in force for a period of 10 years.".

SEC. 136. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date which is one year after the date of enactment of this Act.

TITLE II—SATELLITE HOME VIEWER ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "Satellite Home Viewer Act of 1988".

SEC. 202. AMENDMENTS TO TITLE 17, UNITED STATES CODE.

Title 17, United States Code, is amended as follows:

(1) Section 111 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (3) by striking "or" at the end;

(ii) by redesignating paragraph (4) as paragraph (5); and

(iii) by inserting the following after paragraph (3):

"(4) the secondary transmission is made by a satellite carrier for private home viewing pursuant to a statutory license under section 119; or"; and

(B) in subsection (d)(1)(A) by inserting before "Such statement" the following:

"In determining the total number of subscribers and the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, the system shall not include subscribers and amounts collected from subscribers receiving transmissions for private home viewing pursuant to section 119.".

(2) Chapter 1 of title 17, United States Code, is amended by adding at the end the following new section:

"§ 119. Limitations on exclusive rights: Secondary transmissions of superstations and network stations for private home viewing

"(a) Secondary Transmissions by Satellite Carriers.—

"(1) Superstations.—Subject to provisions of paragraphs (3), (4), and (6) of this subsection, transmissions of a primary transmission made by a superstation and embodying a performance or display of a work shall be subject to statutory licensing under this section if the secondary transmission is made by a satellite carrier to the public for private home viewing, and the carrier makes a direct or indirect charge for each retransmission service to each household receiving the secondary transmission or to a distributor that has contracted with the carrier for direct or indirect delivery of the secondary transmission to the public for private home viewing.

"(2) Network stations.—

"(A) In general.—Subject to the provisions of subparagraphs (B) and (C) of this paragraph and paragraphs (3), (4), (5), and (6) of this subsection, secondary transmissions of programming contained in a primary transmission made by a network station and embodying a performance or display of a work shall be subject to statutory licensing under this section if the secondary transmission is made by a satellite carrier to the public for private home viewing, and the carrier makes a direct or indirect charge for such retransmission service to each subscriber receiving the secondary transmission.

"(B) Secondary transmissions to unserved households.—The statutory license provided for in subparagraph (A) shall be limited to secondary transmissions to persons who reside in unserved households.

"(C) Submission of subscriber lists to Networks.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, 90 days after the effective date of the Satellite Home Viewer Act of 1988, or 90 days after commencing such secondary transmissions, whichever is later, submit to the network that owns or is affiliated with the network station a list identifying (by street address, including county and zip code) all subscribers to which the satellite carrier currently makes secondary transmissions of that primary transmission. Thereafter, on the 15th of each month, the satellite carrier shall submit to the network a list identifying (by street address, including county and zip code) any persons who have been added or dropped as such subscribers since the last submission under this subparagraph. Such subscriber information submitted by a satellite carrier may be used only for purposes of monitoring compliance by the satellite carrier with this subsection. The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to whom the submissions are to be made places on file with the Register of Copyrights, on or after the effective date of the Satellite Home Viewer Act of 1988, a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.

"(3) Noncompliance with reporting and payment requirements.—Notwithstanding the provisions of paragraphs (1) and (2), the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a superstation or a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, where the satellite carrier has not deposited the statement of account and royalty fee required by subsection (b), or has failed to make the submissions to networks required by paragraph (2)(C).

"(4) Willful alterations.—Notwithstanding the provisions of paragraphs (1) and (2), the secondary transmission to the public by a satellite carrier of a primary transmission made by a superstation or a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 thorugh 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal.

"(5) Violation of territorial restrictions on statutory license for network stations.—

"(A) Individual violations.—The willful or repeated secondary transmission by a satellite carrier of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who does not reside in an unserved household is actionable as an act of infringment under section 501 and is fully subject to the remedies provided by sections 502 through 506 and 509, except that—

"(i) no damages shall be awarded for such act of infringement if the satellite carrier took corrective action by promptly withdrawing service from the ineligible subscriber, and

"(ii) any statutory damages shall not exceed $5 for such subscriber for each month during which the violation occurred.

"(B) Pattern of violations.—If a satellite carrier engages in a willful or repeated pattern or practice of delivering a primary transmission made by a network station and embodying a performance or display of a work to subscribers who do not reside in unserved households, then in addition to the remedies set forth in subparagraph (A)—

"(i) if the pattern or practice has been carried out on a substantially nationwide basis, the court shall order a permanent injunction barring the secondary transmission by the satellite carrier, for private home viewing, of the primary transmissions of any primary network station affiliated with the same network, and the court may order statutory damages of not to exceed $250,000 for each 6-month period during which the pattern or practice was carried out; and

"(ii) if the pattern or practice has been carried out on a local or regional basis, the court shall order a permanent injunction barring the secondary transmission, for private home viewing in that locality or region, by the satellite carrier of the primary transmissions of any primary network station affiliated with the same network, and the court may order statutory damages of not to exceed $250,000 for each 6-month period during which the pattern or practice was carried out.

"(C) Previous subscribers excluded.—Subparagraphs (A) and (B) do not apply to secondary transmissions by a satellite carrier to persons who subscribed to receive such secondary transmissions from the satellite carrier or a distributor before the date of the enactment of the Satellite Home Viewer Act of 1988.

"(6) Discrimination by a satellite carrier.—Notwithstanding the provisions of paragraph (1), the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a superstation or a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the satellite carrier unlawfully discriminates against distributor.

"(7) Geographic limitation on secondary transmissions.—The statutory license created by this section shall apply only to secondary transmissions to households located in the United States.

"(b) Statutory License for Secondary Transmissions for Private Home Viewing.—

"(1) Deposits with the register of copyrights.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Tribunal, prescribe by regulation—

"(A) a statement of account, covering the preceding 6-month period, specifying the names and locations of all superstations and network stations whose signals were transmitted, at any time during that period, to subscribers for private home viewing as described in subsections (a)(1) and (a)(2), the total number of subscribers that received such transmissions, and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal, from time to time prescribe by regulation; and

"(B) a royalty fee for that 6-month period, computed by—

"(i) multiplying the total number of subscribers receiving each secondary transmission of a superstation during each calendar month by 12 cents;

"(ii) multiplying the number of subscribers receiving each secondary transmission of a network station during each calendar month by 3 cents; and

"(iii) adding together the totals computed under clauses (i) and (ii).

"(2) Investment of fees.—The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section (other than the costs deducted under paragraph (4)), shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing securities of the United States for later distribution with interest by the Copyright Royalty Tribunal as provided by this title.

"(3) Persons to whom fees are distributed.—The royalty fees deposited under paragraph (2) shall, in accordance with the procedures provided by paragraph (4), be distributed to those copyright owners whose works were included in a secondary transmission for private home viewing made by a satellite carrier during the applicable 6-month accounting period and who file a claim with the Copyright Royalty Tribunal under paragraph (4).

"(4) PROCEDURES FOR DISTRIBUTION.—The royalty fees deposited under paragraph (2) shall be distributed in accordance with the following procedures:

"(A) FILING OF CLAIMS FOR FEES.—During the month of July in each year, each person claiming to be entitled to statutory license fees for secondary transmissions for private home viewing shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. For purposes of this paragraph, any claimants may agree among themselves as to the proportionate division of statutory license fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

"(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that no such controversy exists, the Tribunal shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Tribunal finds the existence of a controversy, the Tribunal shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

"(c) DETERMINATION OF ROYALTY FEES.—

"(1) APPLICABILITY AND DETERMINATION OF ROYALTY FEES.—The rate of the royalty fee payable under subsection (b)(1)(B) shall be effective until December 31, 1992, unless a royalty fee is established under paragraph (2), (3), or (4) of this subsection. After that date, the fee shall be determined either in accordance with the voluntary negotiation procedure specified in paragraph (2) or in accordance with the compulsory arbitration procedure specified in paragraphs (3) and (4).

"(2) FEE SET BY VOLUNTARY NEGOTIATION.—

"(A) NOTICE OF INITIATION OF PROCEEDINGS.—On or before July 1, 1991, the Copyright Royalty Tribunal shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining the royalty fee to be paid by satellite carriers under subsection (b)(1)(B).

"(B) NEGOTIATIONS.—Satellite carriers, distributors, and copyright owners entitled to royalty fees under this section shall negotiate in good faith in an effort to reach a voluntary agreement or voluntary agreements for the payment of royalty fees. Any such satellite carriers, distributors, and copyright owners may at any time negotiate and agree to the royalty fee, and may designate common agents to negotiate, agree to, or pay such fees. If the parties fail to identify common agents, the Copyright Royalty Tribunal shall do so, after requesting recommendations from the parties to the negotiation proceeding. The parties to each negotiation proceeding shall bear the entire cost thereof.

"(C) AGREEMENTS BINDING ON PARTIES; FILING OF AGREEMENTS.—Voluntary agreements negotiated at any time in accordance with this paragraph shall be binding upon all satellite carriers, distributors, and copyright owners that are parties thereto. Copies of such agreements shall be filed with the Copyright Office within 30 days after execution in accordance with regulations that the Register of Copyrights shall prescribe.

"(D) PERIOD AGREEMENT IS IN EFFECT.—The obligation to pay the royalty fees established under a voluntary agreement which has been filed with the Copyright Office in accordance with this paragraph shall become effective on the date specified in the agreement, and shall remain in effect until December 31, 1994.

"(3) FEE SET BY COMPULSORY ARBITRATION.—

"(A) NOTICE OF INITIATION OF PROCEEDINGS.—On or before December 31, 1991, the Copyright Royalty Tribunal shall cause notice to be published in the Federal Register of the initiation of arbitration proceedings for the purpose of determining a reasonable royalty fee to be paid under subsection (b)(1)(B) by satellite carriers who are not parties to a voluntary agreement filed with the Copyright Office in accordance with paragraph (2). Such notice shall include the names and qualifications of potential arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Tribunal shall select.

"(B) SELECTION OF ARBITRATION PANEL.—Not later than 10 days after publication of the notice initiating an arbitration proceeding, and in accordance with procedures to be specified by the Copyright Royalty Tribunal, one arbitrator shall be selected from the published list by copyright owners who claim to be entitled to royalty fees under subsection (b)(4) and who are not party to a voluntary agreement filed with the Copyright Office in accordance with paragraph (2), and one arbitrator shall be selected from the published list by satellite carriers and distributors who are not parties to such a voluntary agreement. The two arbitrators so selected shall, within 10 days after their selection, choose a third arbitrator from the same list, who shall serve as chairperson of the arbitrators. If either group fail to agree upon the selection of an arbitrator, or if the arbitrators selected by such groups fail to agree upon the selection of a chairperson, the Copyright Royalty Tribunal shall promptly select the arbitrator or chairperson, respectively. The arbitrators selected under this subparagraph shall constitute an Arbitration Panel.

"(C) ARBITRATION PROCEEDING.—The Arbitration Panel shall conduct an arbitration proceeding in accordance with such procedures as it may adopt. The Panel shall act on the basis of a fully documented written record. Any copyright owner who claims to be entitled to royalty fees under subsection (b)(4), any satellite carrier, and any distributor, who is not party to a voluntary agreement filed with the Copyright Office in accordance with paragraph (2), may submit relevant information and proposals to the Panel. The parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Panel shall direct.

"(D) FACTORS FOR DETERMINING ROYALTY FEES.—In determining royalty fees under this paragraph, the Arbitration Panel shall consider the approximate average cost to a cable system for the right to secondarily transmit to the public a primary transmission made by a broadcast station, the fee established under any voluntary agreement filed with the Copyright Office in accordance with paragraph (2), and the last fee proposed by the parties, before proceedings under this paragraph, for the secondary transmission of superstations or network stations for private home viewing. The fee shall also be calculated to achieve the following objectives:

"(i) To maximize the availability of creative works to the public.

"(ii) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

"(iii) to reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

"(iv) to minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

"(E) REPORT TO COPYRIGHT ROYALTY TRIBUNAL.—Not later than 60 days after publication of the notice initiating an arbitration proceeding, the Arbitration Panel shall report to the Copyright Royalty Tribunal its determination concerning the royalty fee. Such report shall be accompanied by the written record, and shall set forth the facts that the Panel found relevant to its determination and the reasons why its determination is consistent with the criteria set forth in subparagraph (D).

"(F) ACTION BY COPYRIGHT ROYALTY TRIBUNAL.—Within 60 days after receiving the report of the Arbitration Panel under subparagraph (E), the Copyright Royalty Tribunal shall adopt or reject the determination of the Panel. The Tribunal shall adopt the determination of the Panel unless the Tribunal finds that the determination is clearly inconsistent with the criteria set forth in subparagraph (D). If the Tribunal rejects the determination of the Panel, the Tribunal shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order, consistent with the criteria set forth in subparagraph (D), setting the royalty fee under this paragraph. The Tribunal shall cause to be published in the Federal Register the determination of the Panel, and the decision of the Tribunal with respect to the determination (including any order issued under the preceding sentence). The Tribunal shall also publicize such determination and decision in such other manner as the Tribunal considers appropriate. The Tribunal shall also make the report of the Arbitration Panel and the accompanying record available for public inspection and copying.

"(G) PERIOD DURING WHICH DECISION OF PANEL OR ORDER OF THE TRIBUNAL EFFECTIVE.—The obligation to pay the royalty fee established under a determination of the Arbitration Panel which is confirmed by the Copyright Royalty Tribunal in accordance with this paragraph, or established by any order issued under subparagraph (F), shall become effective on the date when the decision of the Tribunal is published in the Federal Register under subparagraph (F), and shall remain in effect until modified in accordance with paragraph (4), or until December 31, 1994.

"(H) PERSONS SUBJECT TO ROYALTY FEE.—The royalty fee adopted or ordered under subparagraph (F) shall be binding of all satellite carriers, distributors, and copyright owners, who are not party to a voluntary agreement filed with the Copyright Office under paragraph (2).

"(4) JUDICIAL REVIEW.—Any decision of the Copyright Royalty Tribunal under paragraph (3) with respect to a determination of the Arbitration Panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. The pendency of an appeal under this paragraph shall not relieve satellite carriers of the obligation under subsection (b)(1) to deposit the statement of account and royalty fees specified in that subsection. The court shall have jurisdiction to modify or vacate a decision of the Tribunal only if it finds, on the basis of the record before the Tribunal and the statutory criteria set forth in paragraph (3)(D), that the Arbitration Panel or the Tribunal acted in an arbitrary manner. If the court modifies the decision of the Tribunal, the court shall have jurisdiction to enter its own determination with respect to royalty fees, to order the repayment of any excess fees deposited under subsection (b)(1)(B), and to order the payment of any unpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. The court may further vacate the decision of the Tribunal and remand the case for arbitration proceedings in accordance with paragraph (3).

"(d) DEFINITIONS.—As used in this section—

"(1) DISTRIBUTOR.—The term 'distributor' means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers for private home viewing or indirectly through other program distribution entities.

"(2) NETWORK STATION.—The term 'network station' has the meaning given that term in section 111(f) of this title, and includes any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station.

"(3) PRIMARY NETWORK STATION.—The term 'primary network station' means a network station that broadcasts or rebroadcasts the basic programming service of a particular national network.

"(4) PRIMARY TRANSMISSION.—The term 'primary transmission' has the meaning given that term in section 111(f) of this title.

"(5) PRIVATE HOME VIEWING.—The term 'private home viewing' means the viewing, for private use in a household by means of satellite reception equipment which is operated by an individual in that household and which serves only such household, of a secondary transmission delivered by a satellite carrier of a primary transmission of a television station licensed by the Federal Communications Commission.

"(6) SATELLITE CARRIER.—The term 'satellite carrier' means an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.

"(7) SECONDARY TRANSMISSION.—The term 'secondary transmission' has the meaning given that term in section 111(f) of this title.

"(8) SUBSCRIBER.—The term 'subscriber' means an individual who receives a secondary transmission service for private home viewing by means of a secondary transmission from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

"(9) SUPERSTATION.—The term 'superstation' means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier.

"(10) UNSERVED HOUSEHOLD.—The term 'unserved household', with respect to a particular television network, means a household that—

"(A) cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity (as defined by the Federal Communications Commission) of a primary network station affiliated with that network, and

"(B) has not, within 90 days before the date on which that household subscribes, either initially or on renewal, to receive secondary transmissions by a satellite carrier of a network station affiliated with that network subscribed to a cable system that provides the signal of a primary network station affiliated with that network.

"(e) EXCLUSIVITY OF THIS SECTION WITH RESPECT TO SECONDARY TRANSMISSIONS OF BROADCAST STATIONS BY SATELLITE TO MEMBERS OF THE PUBLIC.—No provision of section 111 of this title or any other law (other than this section) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carrier for private home viewing of programming contained in a primary transmission made by a superstation or a network station may be made without obtaining the consent of the copyright owner.".

(3) Section 501 of title 17, United States Code, is amended by adding at the end the following:

"(e) With respect to any secondary transmission that is made by a satellite carrier of a primary transmission embodying the performance or display of a work and is actionable as an act of infringement under section 119(a)(5), a network station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that station.".

(4) Section 801(b)(3) of title 17, United States Code, is amended by striking "and 116" and inserting ", 116, and 119(b)".

(5) Section 804(d) of title 17, United States Code, is amended by striking "sections 111 or 116" and inserting "section 111, 116, or 119".

(6) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by adding at the end the following new item:

"119. Limitations on exclusive rights: Secondary transmissions of superstations and network stations for private home viewing.".

SEC. 203. SYNDICATED EXCLUSIVITY; REPORT ON DISCRIMINATION.

Title VII of The Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following:

"SYNDICATED EXCLUSIVITY

"SEC. 712. (a) The Federal Communications Commission shall, within 120 days after the effective date of the Satellite Home Viewer Act of 1988, initiate a combined inquiry and rulemaking proceeding for the purpose of—

"(1) determining the feasibility of imposing syndicated exclusivity rules with respect to the delivery of syndicated programming (as defined by the Commission) for private home viewing of secondary transmissions by satellite of broadcast station signals similar to the rules issued by the Commission with respect to syndicated exclusivity and cable television; and

"(2) adopting such rules if the Commission considers the imposition of such rules to be feasible.

"(b) In the event that the Commission adopts such rules, any willful and repeated secondary transmission made by a statellite carrier to the public of a primary transmission embodying the performance or display of a work which violates such Commission rules shall be subject to the remedies, sanctions, and penalties provided by title V and section 705 of this Act.

"DISCRIMINATION

"SEC. 713. The Federal Communication shall, within 1 year after the effective date of the Satellite Home Viewer Act of 1988, prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on whether, and the extent to which, there exists discrimination described in section 119(a)(6) of title 17, United States Code.".

SEC. 204. INQUIRY ON ENCRYPTION STANDARD.

Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended by adding at the end thereof the following:

"(f) Within 6 months after the date of enactment of the Satellite Home Viewer Act of 1988, the Federal Communications Commission shall initiate an inquiry concerning the need for a universal encryption standard that permits decryption of satellite cable programming intended for private viewing. In conducting such inquiry, the Commission shall take into account—

"(1) consumer costs and benefits of any such standard, including consumer investment in equipment in operation;

"(2) incorporation of technological enhancements, including advanced television formats;

"(3) whether any such standard would effectively prevent present and future unauthorized decryption of satellite cable programming;

"(4) the costs and benefits of any such standard on other authorized users of encrypted satellite cable programming, including cable systems and satellite master antenna television systems;

"(5) the effect of any such standard on competition in the manufacture of decryption equipment; and

"(6) the impact of the time delay associated with the Commission procedures necessary for establishment of such standards.

"(g) If the Commission finds, based on the information gathered from the inquiry required by subsection (f), that a universal encryption standard is necessary and in the public interest, the Commission shall initiate a rulemaking to establish such a standard.”.

SEC. 205. PIRACY OF SATELLITE CABLE PROGRAMMING.

Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) in subsection (c)—

(A) by striking “and” at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting “; and”; and

(C) by adding at the end the following:

“(6) the term ‘any person aggrieved’ shall include any person with proprietary rights in the intercepted communication by wire or radio, including wholesale or retail distributors of satellite cable programming, and, in the case of a violation of paragraph (4) of subsection (d), shall also include any person engaged in the lawful manufacture, distribution, or sale of equipment necessary to authorize or receive satellite cable programming.”;

(2) in subsection (d)(1), by striking “$1,000” and inserting “$2,000”;

(3) in paragraph (2) of subsection (d), by striking “$25,000” and all that follows through the end of that paragraph and inserting “$50,000 or imprisoned for not more than 2 years, or both, for the first such conviction and shall be fined not more than $100,000 or imprisoned for not more than 5 years, or both, for any subsequent conviction.”;

(4) in subsection (d)(3)(A), by inserting “or paragraph (4) of subsection (d)” immediately after “subsection (a)”;

(5) in subsection (d)(3)(B) by striking “may” the first time it appears;

(6) in subsection (d)(3)(B)(i), by inserting “may” immediately before “grant”;

(7) in subsection (d)(3)(B)(ii), by inserting “may” immediately before “award”;

(8) in subsection (d)(3)(B)(iii), by inserting “shall” immediately before “direct”;

(9) in subsection (d)(3)(C)(i)(II)—

(A) by inserting “of subsection (a)” immediately after “violation”;

(B) by striking “$250” and inserting “$1,000”; and

(C) by inserting immediately before the period the following: “, and for each violation of paragraph (4) of this subsection involved in the action an aggrieved party may recover statutory damages in a sum not less than $10,000, or more than $100,000, as the court considers just”;

(10) in subsection (d)(3)(C)(ii), by striking “$50,000” and inserting “$100,000 for each violation of subsection (a)”;

(11) in subsection (d)(3)(C)(iii), by striking “$100” and inserting “$250”; and

(12) by striking paragraph (4) of subsection (d) and inserting the following:

“(4) Any person who manufactures, assembles, modifies, imports, exports, sells, or distributes any electronic, mechanical, or other device or equipment, knowing or having reason to know that the device or equipment is primarily of assistance in the unauthorized decryption of satellite cable programming, or is intended for any other activity prohibited by subsection (a), shall be fined not more than $500,000 for each violation, or imprisoned for not more than 5 years for each violation, or both. For purposes of all penalties and remedies established for violations of this paragraph, the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.”.

SEC. 206. EFFECTIVE DATE.

This title and the amendments made by this title take effect on January 1, 1989, except that the authority of the Register of Copyrights to issue regulations pursuant to section 119(b)(1) of title 17, United States Code, as added by section 202 of this Act, takes effect on the date of the enactment of this Act.

SEC. 207. TERMINATION.

This title and the amendments made by this title (other than the amendments made by section 205) cease to be effective on December 31, 1994.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

I am pleased today to bring before the House today S. 1883, the Trademark Law Revision Act of 1988. This bill provides a comprehensive revision of the Lanham Act, which is the Federal trademark law. S. 1883 revises the trademark laws so that they will conform with current day market practices. The bill before you today is the product of extensive negotiations and compromises between both Houses of Congress, and has been agreed upon by all interested parties.

I wish to congratulate my colleague and ranking minority member of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, CARLOS MOORHEAD, for his tireless efforts on behalf of this legislation. I extend congratulations as well to the senior Senator from Arizona, DENNIS DECONCINI, who also provided early and unceasing support for this bill.

Trademarks are important for both consumers and businesses. Trademarks allow consumers to identify and intelligently pick and choose among products. Businesses can and should be assured that their products will not be confused with other products, and that consumers will know that the products they want to buy are in fact the ones that they are buying. For consumers, trademarks provide can provide assurances of quality and services. For businesses, trademarks are a kind of badge of honor, and it is important that their investments in those marks be protected.

Because the trademark laws in essence permit businesses to monopolize their marks, those laws often raise difficult questions about freedom of speech. During the course of our consideration of this legislation, those difficult issues were raised and sometimes hotly contested. I am pleased to say that this bill resolves those issues satisfactorily, and that our important constitutional freedoms have been preserved. The provisions on dilution, material omissions, and tarnishment and disparagement that were originally proposed have been deleted from this legislation. The provision revising section 43(a) to prohibit a kind of commercial defamation has been carefully limited to commercial advertising and promotion. Therefore, consumer reporting, editorial comment, political advertising, and other constitutionally protected material is not covered by this provision. I wish to extend special thanks to all of those who so ardently spoke out about their concerns about these issues.

S. 1883 makes major changes in the Lanham Act. For example, it revises the registration to permit applications based on an applicant's intention to use the mark. This is something the trademark community has advocated for many years. It reduces the registration term from 20 to 10 years, which will free up otherwise unavailable marks. It revises the Lanham Act in the many instances where it is out of date and inconsistent with current market practices.

It is true that S. 1883 does not satisfy all parties in all respects. I believe it is fair to say that the trademark community wanted more protection for trademarks. Some of the provisions they sought have been deleted from the legislation because of the serious first amendment issues those provisions raised. I also believe, however, that the trademark community should and must be satisfied with this legislation, since it provides the comprehensive revision it sought, and that no new trademark laws will be required in the immediate future.

Consumer interests have also been the subject of compromise in this legislation. As reported by the House Committee on the Judiciary, the bill would have explicitly acknowledged that consumers have standing to sue for violations of section 43(a), which provides a cause of action for unfair competitive acts such as false and misleading advertising. The agreement, however, deleted this provision from the bill. While I support the deletion as part of the necessary compromise on this bill, it is unfortunate in the long run. I continue to believe that consumers already have standing to sue under current law, and that the provision that was deleted only clarified that law.

In sum, S. 1883 is not only an important modernization of the trademark laws, but it also protects our impor-

tant first amendment rights. I believe that it is a bill worthy of your support.

S. 1883, as considered by the House today, makes important changes in the language approved by the Committee on the Judiciary. It also carries forward several critical decisions made by the committee. The following is an explanation of those changes and decisions:

Section 1

S. 1883 adds to subsection (b) the language "under circumstances showing the good faith of such person." This addition strengthens the congressional intention that the circumstances surrounding the application show that the applicant's intention to use the mark ultimately, and within the specified time limits, is in fact bona fide. Courts should consider these circumstances, or the lack of them, when issues surrounding the validity of the application are raised.

Pursuant to Section 1(d)(1), the initial period in which to file the statement of use is 6 months. It may be automatically extended for another 6 months. Section 1(d)(2) provides that any further extensions may be granted only if the applicant shows "good cause" for the extension. The extensions for good cause may not exceed periods aggregating a maximum of 24 months. In other words, applicants must show that there was good cause for their failure to use their marks within the initial one year period. This requirement is in addition to, and supplements, the requirement that the applicants must have a continued bona fide intention to use the mark. The Commissioner of Patents and Trademarks should promulgate guidelines for potential registrants so that it is clear what may constitute "good cause."

Section 1(d)(1) makes clear that, in reviewing the statements submitted by the applicant pursuant to this section, the Patent and Trademark Office has the discretion to examine the effect, if any, of those statements on the application with respect to the factors set forth in subsections (a) through (e) of section 2, relating to what trademarks are not registrable. See House Report 100-1028 at 9.

Section 7(b)

This section clarifies the evidentiary benefits given to a registration on the principal register. It conforms to the same provision in section 33(a).

Section 8(a)

This section provides that a registrant filing the affidavit of use required during the sixth year of registration must supply the same information that is required for renewing a registration.

Section 10

S. 1883 prohibits the assignment of "intent to use" applications, except in certain narrowly prescribed circumstances. Although language in proposed section 7(d) regarding restrictions on the issuance of a certificate of registration under circumstances evidencing an intention to evade the law's proscription has been deleted, courts must, when appropriate, examine the circumstances surrounding use of a mark and the issuance of a certificate of registration. If the evidence shows that the relevant parties have improperly evaded the prohibition on assignments, the certificate of registration has been improperly issued and should be voided. Section 10 carries forward the Committee's decision not to include in the bill certain proposals relating to the recording of security interests in a trademark at the Patent and Trademark Office.

Section 18

The section currently provides that in proceedings before the Trademark Trial and Appeal Board, certain actions may be taken with regard to pending applications and to registrations. A proposed addition makes clear that certain final judgments involving "intent to use" applicants may not be issued until use is made and the mark is registered. This provision applies only in the context of this administrative proceeding, and not to any lawsuits in the courts.

Section 21

Language added in subsection (a)(4) is identical to that added in section 18. It relates to the suspension of certain final judgments by the United States Court of Appeals for the Federal Circuit when a decision of the Patent and Trademark Office is appealed.

Similar language is also added to subsection (b)(1), relating to appeals from the decision of the Commissioner or Trademark Trial and Appeal Board.

As in section 18, these suspensions of final judgments relate only to administrative proceedings, and not to actions initiated in the courts.

Section 24

Language similar to that in sections 18 and 21 is added here, delaying final judgment for an "intent to use" applicant in certain instances. Again, this language relates only to administrative proceedings, and not actions initiated in the courts.

Section 27

The added language, relating to registration on the supplemental register, simply carries forward the holding in *California Cooler, Inc.* v. *Loretto Winery, Ltd.*, 774 F.2d 1451 (9th Cir. 1985).

Section 32(2)

This section differs from current law in two important respects. First, it is updated to include electronic media, incorporating the definition set forth in the Electronic Communications Privacy Act, codified at 18 U.S.C. 2510 (12).

Second, the revision sets forth critical constitutional protections that underlie changes made in section 43(a). It exempts from liability "innocent" disseminators of offending material, whether that material constitutes a violation of section 32(1), relating to infringement, or of proposed Section 43(a), relating to false and misleading commercial advertising. Most prominently, the change protects newspapers, magazines, broadcasters, and other media from liability for the innocent dissemination of commercial false advertising, including promotional material. The word "innocent" is intended to encompass the constitutional standards set forth in *New York Times* v. *Sullivan*, 376 U.S. 254 (1964) and its progeny. *See also, Bose* v. *Consumers Union*, 466 U.S. 485 (1984), which assumed the application of the *New York Times* v. *Sullivan* standard to a state product disparagement action. *Cf. Hustler Magazine* v. *Falwell*, —— U.S. ——, 108 S.Ct. 876 (1988) (applying the *New York Times* standard in an invasion of privacy action).

Section 33(a)

This provision simply makes the language in Section 33(a) consistent with that in section 7(b). It also provides that defenses available in suits involving an incontestable registration are also available in suits involving a non-incontestable registration.

Section 33(b)

This section clarifies the evidentiary benefits given to a registration on the principal register which has become incontestable. It also provides that equitable principles may be applied in suits involving incontestable registrations.

Section 34

Subsection (a) provides that injunctions are available to prevent a violation arising under Section 43(a). For a detailed discussion of the remedies now being made applicable to Section 43(a) violations, see the discussion of section 43(a) below.

S. 1883 reflects the House Committee on the Judiciary's decision not to include certain proposed language amending subsection (b) to suspend a final judgment in favor of an "intent to use" applicant. This language would have applied to proceedings in the courts, and has been deleted for the reasons discussed in House Report 100-1028 at page 4.

Section 35

This section provides that damages may be available to a party bringing an action under section 43(a). For a detailed discussion of the remedies now being made applicable to section 43(a) violations, *see* the discussion of section 43(a) below.

Section 36

This section provides that a court may order the destruction of labels and similar material in cases involving a violation of section 43(a). For a detailed discussion of the remedies now being made applicable to Section 43(a) violations, *see* discussion of section 43(a) below.

Section 43

Subsection (a) currently covers false designations of origin and false descriptions or representations with regard to a person's own products. It has been held, however, that Section 43(a) does not cover such statements with regard to the products of another. *Bernard Food Industries* v. *Dietene Co.*, 415 F.2d 1279 (7th Cir. 1969), *cert denied*, 397 U.S. 912 (1970). To rectify this situation, it was proposed to add the words "or another person's" to section 43(a).

The proposal thus raised the issue of commercial defamation in the context of section 43(a) and, as a result, a host of constitutional problems. The proposal was not limited to commercial speech, and appeared to apply to private citizens, the news media, and business competitors alike. No scienter was required. In addition, the subsection appeared to cover false statements of opinion as well as of fact.

To avoid legitimate constitutional challenge, it was necessary to carefully limit the reach of the subsection. Because section 43(a) will now provide a kind of commercial defamation action, the reach of the section specifically extends only to false and misleading speech that is encompassed within the "commercial speech" doctrine developed by the United States Supreme Court. *See, e.g., Central Hudson Gas & Electric Corp.* v. *Public Service Commission of New York*, 447 U.S. 557 (1980); *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumers Council, Inc.*, 425 U.S. 748 (1976). In addition, subsection (a) will extend only to false and misleading statements of *fact. Gertz* v. *Robert Welch, Inc.* 418 U.S. 323, 339-40 (1974). As noted in the discussion of section 32(2), critical constitutional protections modify the changes made in section 43(a), and certain "innocent" disseminators of material that constitutes a violation of subsection (a) are protected from liability. Thus, through section 32(2), innocent dissemination and communication of false and misleading advertising, including promotional material, by the media are excluded from the reach of section 43(a). For a defendant who is a member of the media to be found liable under section 43(a), the plaintiff must show that the defendant was not "innocent" under section 32(2) and, as noted, that state of mind must encompass the *New York Times* v. *Sullivan* standard.

S. 1883 is limited in another important sense. It uses the word "commercial" to describe advertising or promotion for business purposes, whether conducted by for-profit or non-profit organizations or individuals. Political advertising and promotion is political speech, and therefore not encompassed by the term "commercial." This is true whether what is being promoted is an individual candidacy for public office, or a particular political issue or point of view. It is true regardless of whether the promoter is an individual or a for profit entity. However, if a political or other similar organization engages in business conduct incidental to its political functions, then the business conduct would be considered "commercial" and would fall within the confines of this section.

Sections 34, 35, and 36 specifically provide that the remedies set forth in those sections will now apply, in appropriate form, to violations of section 43(a). Obviously, these remedies will not apply to those who are protected under section 32(2).

As Jerome Gilson, the noted trademark commentator, has written about USTA's proposal to limit the proposed change in section 43(a) to commercial speech:

"Under this proposed change *only* false or misleading "advertising or promotion" would be actionable, whether it pertained to the advertiser itself or another party. The change would exclude all other misrepresentations from section 43(a) coverage. These others are the type which raise free speech concerns, such as a Consumer Report which reviews and may disparage the quality of stereo speakers or other products, misrepresentations made by interested groups which may arguably disparage a company and its products because of the company's failure to divest its South African holdings, and disparaging statements made by commentators concerning corporate product liability and injuries to the public (e.g., A.H. Robins and the Dalkon shield cases, or the Manville Corporation asbestos cases). All of these would be judged by first amendment law (including New York Times v. Sullivan) and not section 43(a) law . . . Product disparagement based on false representations would be actionable only if they were made in the context of advertising or promotion, not in connection with Consumer Report publications." [emphasis in original] [1]

As Mr. Gilson correctly notes, the proposed change in section 43(a) should not be read in any way to limit political speech, consumer or editorial comment, parodies, satires, or other constitutionally protected material. Nor should it be read to change the standards in current law with respect to comparative advertising, which assists consumers in choosing among various competing products. The section is narrowly drafted to encompass only clearly false and misleading commercial speech.

The provision in section 43(a) granting consumers standing to sue has been deleted from the bill. This provision would have clarified that consumers have standing to sue under section 43(a). The plain meaning of the statute already includes consumers, since it grants any "person" the right to sue. See discussion in House Report 100-1028 at 13-15.

The committee's decision not to include proposed provisions relating to dilution, material omissions, and tarnishment and disparagement in section 43 is carried forward. By this decision, current law remains in effect.

Sections 34, 35, and 36 of the Lanham Act now apply only to the enforcement of rights relating to a registered mark. Section 43(a), relating to the enforcement of rights by the owner of a unregistered mark or a person otherwise adjudicating rights under that section, does not provide for any remedies.

A majority of Federal courts have already held that Section 35(a) applies to cases brought under Section 43(a) even though those cases do not involve the enforcement of rights in registered marks.[2] This result is somewhat surprising in light of Section 35's clear limitation to violations of a right in a registered mark.[3]

To clarify the situation, S. 1883 authorizes, but does not require,[4] the application of all of the remedies set forth in sections 34, 35, and 36 to the violation of rights involving unregistered marks. The bill specifically incorporates section 35's language limiting the court's remedial power pursuant to the principles of equity. Courts must, on a case-by-case basis, assess the exact nature of the circumstances presented by the plaintiff.[5]

Historically, courts have rarely assessed damages or awarded lost profits in trademark cases unless the defendant has engaged in counterfeiting.[6] Injunctions have been the usual form of relief. According to the Second Circuit in a recent opinion:

> [S]ection 35's phrase "subject to the principles of equity [should be construed] to preclude any monetary relief 'where an injunction will satisfy the equities of the case' and where there has been no showing of fraud or palming of" [citations omitted].[7]

Courts have assessed enhanced damages even more rarely.[8]

Section 29 of the Lanham Act currently requires that a plaintiff who has registered a mark is precluded from recovering damages and profits unless he or she has provided either statutory or actual notice of registration to the defendant. S. 1883 does not specifically require a plaintiff proceeding under Section 43(a), and who does not have a registered mark, to provide such notice before recovering damages or profits. However, as part of the equitable balancing process in a Section 43(a) case, the courts should examine the extent of knowledge that the defendant had of the plaintiff's rights. By not requiring notice in a section 43(a) action, it may initially appear that S. 1883 creates an unfair discrepancy between actions involving registered marks and those involving unregistered marks. However, as noted above, damages are rarely awarded in the vast majority of section 43(a) actions. Where damages are awarded, it is because the defendant has acted with obvious awareness of the plaintiff's rights, engaging in deliberate, willful conduct such as "passing off." Thus, the discrepancy is more apparent than real.

Section 35 currently, and as now extended to section 43(a), clearly precludes the courts from assessing punitive damages.[9] In addition, section 35 authorizes the assessment of attorneys' fees only in "exceptional circumstances." The language, in conjunction with judicial decisions, permits the assessment of attorneys' fees only upon a showing of bad faith or similar intentional conduct.[10] Such fees may be awarded to either the plaintiff or the defendant, depending on the conduct of the parties that gave rise to the litigation.

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[1] Letter to Tara McMahon, Majority Counsel, Senate Committee on the Judiciary Subcommittee on Patents, Copyrights and Trademarks, October 10, 1988.

[2] *Centaur Communications Ltd.* v. *A/S/M Communications, Inc.* 830 F.2d 1217, 1229 (2d Cir. 1987); *WSM, Inc.* v. *Wheeler Media Services, Inc.*, 810 F.2d 113, 116 (6th Cir. 1987); *U-Haul Int'l, Inc.* v. *Jar Tran Inc.*, 793 F.2d 1034, 1041-42 (9th Cir. 1986); *Richard* v. *Auto Publishers, Inc.*, 735 F.2d 450, 453-58 (11th Cir. 1984); *Metric & Multi-Standard Components Corp.* v. *Metric's Inc.*, 635 F.2d 710, 715 (8th Cir. 1980). *Compare Blau Plumbling, Inc.* v. *S.O.S. Fix-it, Inc.*, 781 F.2d 604, 612 (7th Cir. 1986); *Standard Terry Mills, Inc.* v. *Shen Mfg. Co.*, 803 F.2d 778, 782 (3d Cir. 1986).

[3] In construing the Lanham Act, the United States Supreme Court has noted that "[s]tatutory construction must begin with the language employed by Congress and the assumption that language accurately expresses the legislative purpose." *Park 'N Fly, Inc.* v. *Dollar Park and Fly, Inc.*, 469 U.S. 189, 194 (1985).

[4] 2 J.T. McCarthy, Trademarks and Unfair Competition section 30:28 ("[T]he federal courts have held that [section] 35 of the Lanham Act does not mean that a successful plaintiff is entitled in all cases to a monetary award in addition to injunctive relief.") and section 30:25 (2d ed. 1984).

[5] 2 R. Callman, Unfair Competition Trademarks and Monopolies section 9.20 (L. Altman 4th ed. 1982); 1 J. Gilson, Trademark Protection and Practice, section 8.08[1], at 8-173 to 8-174 (1988) ("Generally . . . the more aggravated, willful and fraudulent the defendant's conduct, the greater will be the judicial propensity to grant monetary relief."). The Second Circuit, in *Getty Petroleum Corp.* v. *Bartco Petroleum Corp.*, No. 87-7668 (2d Cir. Sept. 22, 1988), correctly concluded that the remedies available under section 35 do not include the assessment of punitive damages.

[6] *See, e.g., Polo Fashions, Inc.* v. *Magic Trimmings, Inc.*, 603 F. Supp. 13, 19 (S.D. Fla. 1982) (where the defendant acted willfully to perpetuate a fraud).

[7] *Getty Petroleum Corp.* v. *Bartco Petroleum Corp., supra* note 5. *See also, Reader's Digest* v. *Conservative Digest, Inc.*, 821 F.2d 800, 807 (D.C. Cir. 1987) (profits should be awarded only when a defendant's infringement is "willful" or in "bad faith"); *Nalpac Ltd.* v. *Corning Glass Works*, 784 F.2d 752, 755 (6th Cir. 1986) (to obtain damages the plaintiff must show that the defendant acted deliberately); *Frisch's Restaurant, Inc.* v. *Elby's Big Boy*, 661 F. Supp. 971, 989 (S.D. Ohio 1987) (no damages will be awarded unless there is a showing of fraud or passing off); 2 J.T. McCarthy, Trademarks and Unfair Competition section 30:25 (2d ed. 1984).

[8] *See e.g., Ford Motor Co.* v. *B&H Supply Inc., 646 F. Supp. 975, 998 (D. Minn. 1986) (where the court denied increased damages despite a finding of willfulness).*

[9] *Getty Petroleum Corp.* v. *Bartco Petroleum Corp., supra* note 5; 1 J. GILSON, TRADEMARK PROTECTION AND PRACTICE section 8.08[2], at 8-178 to 8-179 (1988) (commenting that by including the phrase "not as a penalty," Congress meant to preclude the assessment of punitive damages.)

[10] *Noxell Corp,* v. *Firehouse No. 1 Bar-B-Que Restaurant*, 771 F.2d 521 (D.C. Cir. 1985); 2 J.T. McCarthy, Trademarks and Unfair Competition section 30:30 (2d ed. 1984).

Section 34 currently authorizes the courts to issue injunctions in Lanham Act cases.[11] Under the proposed revision, Section 34 would be extended to Section 43(a) violations. As in current law, courts must follow the general rules set forth in the Federal Rules of Civil Procedure.[12] The most important prerequisite to the issuance of a final injunction is the absence of an adequate legal remedy.[13] The party seeking a preliminary injunction must also prove the likelihood of irreparable injury viewed in the context of the threat of potential harm, the probability of success on the merits, that the balance of hardships tips in favor of the moving party, and that issuance of an injunction is in the public interest.[14]

Mr. Speaker, I have some brief thoughts about title II of the bill, which is identical to H.R. 2848, passed by the House 2 weeks ago.

H.R. 2848—the Satellite Home Viewer Act of 1988—was made a part of S. 1883 to accommodate several key Members in the other body.

As you know, the Earth station/copyright legislation that you and I started working on several years ago has become a very popular piece of legislation. We improved it in the House Judiciary Committee. The Committee on Energy and Commerce, with its sequential referral, improved it more. The bill has garnered so much support in both the House and the other body, and among interested parties—spanning consumer interests, copyright proprietors, and others in the telecommunications industry—that its passage by the Senate, without referral to committee, was made possible. Specifically, several key Senators—including the chairman of the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights [Mr. DeConcini], the chairman of the Senate Judiciary Subcommittee on Law and Technology [Mr. Leahy], and Senator Hatch made a proposal to the House. If we could accommodate the Senate on one of its priorities—the Trademark Law Revision Act—we could link the bills and send them to the President in the same package. Senator DeConcini's subcommittee would forego hearings on the Satellite Home Viewer Act and the Senate would defer to the House entirely on the issue.

Following up on this proposal, my subcommittee and Senator DeConcini's subcommittee, with valuable input from the minority, engaged in extensive negotiations to achieve a compromise on the trademark law revisions. We achieved such a compromise, that was not only agreeable to the subcommittees but also to the administration and the U.S. Trademark Association as well.

To bring title II to the House floor again has required a bipartisan effort spanning two House committees. I thank the ranking minority member [Mr. Moorhead] for his efforts. I would also like to reiterate the efforts of three other subcommittee members who have worked very hard on the legislation. They are Mr. Boucher, Mr. Synar, and Mr. Bryant. All of these Members are on the House Committee on Energy and Commerce, and assisted in ensuring forward movement of the Earth station bill. In addition, I very much appreciate the efforts of the chairman of our sister Commerce Committee subcommittee, Mr. Markey. The Earth station bill would not have initially passed and would not be before us today if it were not for the close working relationship of our two subcommittees and the respect that we have for each other's work. Last, and certainly not least, I would like to thank the chairman of the Committee on Energy and Commerce, Mr. Dingell, for his cooperation and support.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1883 and would like to ask the gentleman from Wisconsin [Mr. Kastenmeier], a question regarding the amendment to the bill incorporating title II.

I believe that title II—entitled the "Satellite Home Viewer Act of 1988"—is exactly the same as the text of H.R. 2848, previously passed by the House by voice vote on October 5, 1988. Could the gentleman briefly explain the title II amendment and indicate why it is made a part of S. 1883?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, the gentleman is completely correct about contents of title II, identical to H.R. 2848, passed by the House 2 weeks ago.

The Satellite Home Viewer Act of 1988 was made a part of this bill essentially as an accommodation to several key Members in the other body. I have been assured after we pass the bill before us, it will be acceptable to the other body and will be passed without amendment and sent directly to the President for his signature.

With the trademark compromise in hand, all we need to do is link the two pieces of the puzzle together and the result is a two-title bill before us today.

One further thought, in order to provide a clear legislative history for Earth station legislation, I must make reference to the House Report, No. 100-887, parts I and II compiled by the House Committee on the Judiciary and the House Committee on Energy and Commerce. I refer back to the debate that occurred on the House floor on October 5, 1988, when we first passed the Satellite Home Viewer Act of 1988. These legislative materials will remain an integral part of the bill's legislative history.

Mr. MOORHEAD. I agree with the explanation of the gentleman from Wisconsin. I would like to add the name of the ranking minority member of the Subcommittee on Telecommunications and Finance, the gentleman from New Jersey [Mr. Rinaldo], to the list of members we thank.

Last, I would reiterate to the other body that this is a package that we have put together to accommodate the key Senators. Once it arrives in the Senate, the two-part package cannot be amended with nongermane amendments and then sent back to the House for further consideration. The bill will die if this occurs.

The version of trademark law revision now before us, is dramatically different from the version of the bill considered by the House Judiciary Committee, H.R. 5372. Unlike that bill, this legislation more closely reflects the comprehensive approach to trademark law revision envisioned by S. 1883, which passed the other body last May, and H.R. 4156, the bill I introduced in the House. The legislation before us reflects a compromise and I believe that it enjoys the wide consensus of support that developed around the legislation I introduced. The legislation contains an intent-to-use application system which responds to the needs of American businesses. It balances their need for greater certainty in the marketplace with significant safeguards against abuse. It is consistent with our obligations under the Paris Convention, and at the same time, it eliminates the advantage foreign companies enjoy in applying for U.S. trademark rights. It also replaces the commercial "sham" of token use with a reasonable, workable alternative that preserves the integrity of U.S. trademark law.

A second major element of this legislation is its modernization of section 43(a) of the Lanham Act. Over the past 42 years, section 43(a) has evolved into a Federal law of unfair competition and now serves as a valuable tool for dealing with false advertising. This legislation codifies what the courts are now interpreting section 45(a) to mean and logically extends it to provide that false advertising statements a person makes about another person's goods or services are as actionable as false statements a person makes about his or here own products or services. I would like to make clear that sec. 43(a) should not be construed to preempt State unfair competition laws.

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[11] Kane, Trademark Law: A Practitioner's Guide 251-52 (1987).

[12] Fed. R. Civ. Pro. 65. *See generally* 11 C. Wright and A. Miller, Federal Practice and Procedure section 2941 *et seq.* (1973) (hereinafter cited as Wright and Miller).

[13] Wright and Miller at section 2942.

[14] Wright and Miller at section 2947. *See also, Imperial Chemical, Ltd.* v. *National Distillers and Chemical Corp.* 354 F. 2d 459 (2d Cir. 1965).

It also assures that appropriate remedies are available under the section by amending the statute to specifically provide that the remedies of injunctive relief, monetary awards and destruction orders are available in actions brought under section 43(a). Here again, this is not an expansion of the law, but merely a codification of what the courts are now doing. For example, seven circuits now hold that monetary relief is available in certain circumstances.

A third element of this legislation is its revisions to the Lanham Act which eliminate "deadwood" trademarks from the register. It reduces the term of registration from 20 to 10 years, it increases the requirements trademark owners must meet in order to maintain their rights and it strengthens the Lanham Act's definition of use in commerce.

The legislation contains many other worthwhile provisions as well and none have sparked any controversy.

There are two major provisions not contained in this legislation which I would like to briefly comment on. Unlike the bill I introduced and the Senate-passed bill, this version of S. 1883 does not include a provision protecting famous distinctive marks from uses by others which will dilute these famous mark's distinctive value and it does not include a provision for a centralized system governing the creation and enforcement of security interests in trademarks.

In conclusion, the version of S. 1883 now before us accomplishes most of what we set out to do when we undertook consideration of trademark law revision earlier this year. Its enactment will represent a major achievement of the 101st Congress, and I urge its adoption.

□ 1630

Mr. KASTENMEIER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR] who has been both a great help on the trademark bill, and particularly on the Satellite Home Viewer Act of 1988, played a crucial role in the Committee on Energy and Commerce and the Committee on the Judiciary, making sure that that met the test and passed the House.

Mr. SYNAR. Mr. Speaker, let me join in this chorus of approval for this bill which we have before us today. I am particularly interested in title II of S. 1883, because it is also a product of 3 years of negotiation and compromises with a variety of groups, including the cable and movie industries, the backyard dishowners, program distributors, networks and their affiliates, as well as independent stations.

None of these organizations now oppose the bill. As the chairman pointed out, this passed the Committee on Energy and Commerce on which I serve, as well as the Committee on the Judiciary, by voice vote.

Title II of this bill will put dishowners on the same footing as the cable subscribers for the receipt of superstation signals.

A recent court decision has suggested it may be in violation of our copyright laws in this country for satellite carriers to retransmit those signals to home dishowners. The bill creates a temporary compulsory license that expires in 6 years. After 4 years the statutory rate expires and the royalty rate is established by binding arbitration.

It insures the network signals will be available to dishowners in so-called "white areas." The Federal Communications Commission is given the authority to impose syndicated exclusivity on independent signals if it is feasible.

Mr. Speaker, I want to thank the chairman of the subcommittee, the gentleman from Wisconsin [Mr. KASTENMEIER], the gentleman from Virginia [Mr. BOUCHER], the gentleman from Massachusetts [Mr. MARKEY], and the gentleman from Louisiana [Mr. TAUZIN] for their outstanding service in this area, particularly my dear friend, the gentleman from California, [Mr. MOORHEAD] who has assisted us as this title has journeyed through both the Committee on Energy and Commerce and the Committee on the Judiciary.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, as an original cosponsor of the Trademark Law Revision Act, as introduced by the gentleman from California [Mr. MOORHEAD], I am very pleased with the revised version of S. 1883 that the gentleman from Wisconsin [Mr. KASTENMEIER] has brought to the floor. I was very disappointed by the version of this legislation reported by the subcommittee and this revised bill is a substantial improvement. It retains most of the essential elements found in H.R. 4156 as introduced and should therefore be very well received by the trademark community and by trademark practitioners.

The list of organizations that have gone on record in support of the Trademark Law Revision Act, as introduced and as passed by the Senate is one of the most impressive I have seen in many years and therefore, submit that list for inclusion in the RECORD. In addition, although the administration opposed the reported version of H.R. 5372, I am confident that it will be able to support the revised bill. I believe it will also gain the acceptance of the other body.

I would like to comment on one provision which was taken out of H.R. 5372 which was reported by the Judiciary Committee and which is not found in this compromise. It would have provided consumers with standing to sue under section 43(a) of the Lanham Act. This provision, which had not been studied or evaluated by anyone for its long-term effects on Federal unfair competition law, would have radically altered the nature of the Lanham Act and would have had the likely effect of turning the Federal courts into a small claims court.

I urge a favorable vote for S. 1883.

SUPPORTERS OF THE TRADEMARK LAW REVISION ACT (S. 1883; H.R. 4156)

(This list is based on correspondence received by the United States Trademark Association; it does not purport to be complete)

INDUSTRY, TRADE, AND LABOR ORGANIZATIONS

Chamber of Commerce of the United States, Chemical Manufacturers Association, Intellectual Property Owners, Inc., International Ladies' Garment Workers' Union, International Franchise Association, International Union, UAW.

National Association of Manufacturers Association, Union Label & Service Trade Department AFL-CIO, The United States Trademark Association.

BAR ASSOCIATIONS

American Bar Association—PTC Law Section, American Intellectual Property Law Association, Austin Patent Law Association, California Bar Association, Chicago Bar Association, Colorado Bar Association.

Connecticut Patent Law Association, Licensing Executives Society USA/Canada, Association of the Bar of New York City, New York County Lawyers' Association, The New York Patent, Trademark and Copywright Law Association, Philadelphia Patent Law Association, Utah State Bar.

GOVERNMENT

U.S. Department of Commerce, U.S. Patent and Trademark Office.

CORPORATIONS

Air Products and Chemicals, Inc.; Alcon Laboratories, Inc.; American Cyanamid Company; Amoco Corporation; Apple Computer, Inc.; Ashland Petroleum Company; Becton Dickinson and Company; BP America Inc.; Calvin Klein Cosmetics Corporation; Chevron Corporation.

Control Data Corporation; The Walt Disney Company; The Dow Chemical Company; Dr Pepper Company; Eastman Kodak Company; Eaton Corporation; Eli Lilly and Company; Exxon Corporation; Frito-Lay, Inc.; GameTime.

General Electric Company; Hasbro, Inc.; H.J. Heinz Company; Hewlett-Packard Company; Hillenbrand Industries, Inc.; Hilton Hotels Corporation; Jockey International, Inc.; Kenner Products; Kimberly-Clark Corporation; Kentucky Fried Chicken Corporation.

Kraft, Inc.; McDonnell Douglas Corporation; McIlhenny Inc.; Mack Trucks, Inc.; Mars Incorporated; Miles Laboratories, Inc.; Mrs. Fields Inc.; National Gypsum Company; Nestle Foods Corporation; Ocean Spray Cranberries, Inc.

Opryland USA, Inc.; Owens-Corning Fiberglas Corporation; PepsiCo, Inc.; Phillips Petroleum Company; Pioneer Hi-Bred International Inc.; Pitney Bowes; Pizza Hut, Inc.; Playtex, Inc.; PPG Industries, Inc.; A.H. Robins Company.

Scott Paper Company; Selame Design; The ServiceMaster Company; The Seven-Up Company; Schering-Plough Corporation; SmithKline Beckman Corporation; Sterling Drug Inc.; Taco Bell; Thomson and Thomson, Inc.; Weight Watchers International; United Technologies; White Consolidated Industries, Inc.; Xerox Corporation.

INDIVIDUALS AND LAW FIRMS

Miles J. Alexander (Kilpatrick & Cody); Louis Altman (Laff, Whitesel, Conte & Saret); Andrew Belansky (Christie, Parker & Hale); Birch, Stewart, Kolasch & Birch (Law Offices); Donald W. Canady, Esq.; Charles S. Cotropia, Esq. (Richards, Harris, Medlock & Andrews); Foley & Lardner; Alvin Fross, Esq. (Weiss Dawid Fross Zelnick & Lehrman, P.C.)

Michael A. Grow (Ward Lazarus & Grow); Hamilton, Brook, Smith & Reynolds; Thomas M.S. Hemnes (Foley Hoag & Eliot); Donald O. Jackson, Esq.; Jones, Day, Reavis & Pogue; Sheldon H. Klein (Ward Lazarus & Grow); Ladas & Perry; Laff, Whitesel, Conte, Saret.

John T. Lanahan (Ward Lazarus & Grow); George L. Little, Jr. (Petree Stockton & Robinson); Philip Mallinckrodt (Mallinckrodt & Mallinckrodt); Alfred M. Marks, Esq. (Brumbaugh, Graves, Donohue & Raymond); Mason Mason & Associates; Malcolm McCaleb, Jr., Esq.; James A. Mitchell (Price, Heneveld, Cooper, DeWitt & Litton); George B. Newitt, Esq. (Allegretti & Witcoff, Ltd.)

Vincent N. Pallidino, Esq. (Fish & Neave); Matthew H. Patton (Kilpatrick & Cody); Beverly W. Pattishall (Pattishall, McAuliffe, Newbury, Hilliard & Geraldson); Eve W. Paul (Planned Parenthood Federation of America, Inc.); Sydelle Pittas (Gaston & Snow); Albert Robin (Robin Blecker & Daley); Bruce A. Tassan, Esq. (Dickinson, Wright, Moon, Van Dusen & Freeman); Townsend & Townsend; Ross, Howison, Clapp & Korn; Richard Wallen (Harris, Kern, Wallen & Tinsley); H. Ross Workman (Workman, Nydegger & Jensen).

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, originally the administration had some problems with this legislation but nothing that they had problems with still remains in the bill. I know of no opposition to the legislation. I urge a strong "aye"vote.

Mr. KASTENMEIER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I rise in strong support of S. 1883, as amended. S. 1883 incorporates provisions contained in H.R. 2848, the Satellite Home Viewer Act and clarifies the legal status of satellite retransmission of broadcast television signals to home satellite dish owners. The legislation would create an interim statutory license under the Copyright Act of 1976 for the secondary retransmission of superstations and television network stations for private home viewing.

S. 1883 also addresses what has been identified as potentially the greatest threat to a viable home satellite dish industry—piracy. By clarifying the definition of and strengthening the proscriptions against piracy in the Communications Act, S. 1883 will give law enforcement authorities greater ability to stem the growing problem of theft of satellite delivered programing.

Many Members worked tirelessly to craft this consensus legislation. In particular, I want to commend Mr. DINGELL, chairman of the Energy and Commerce Committee, and Mr. KASTENMEIER, chairman of the Courts Subcommittee, for their outstanding leadership of this issue. I also want to commend Mr. TAUZIN, Mr. SYNAR, Mr. BOUCHER, Mr. RINALDO and Mr. MOORHEAD for their leadership on this important issue and for their dedication to increasing programing options for rural Americans.

S. 1883 enjoys the strong support of consumers and affected industries alike. I urge my colleagues to vote for this important legislation.

Mr. Speaker, I would like to include in the RECORD at this point portions of the Energy and Commerce Committee report on H.R. 2848.

REPORT ON H.R. 2848

PURPOSE OF THE LEGISLATION

H.R. 2848, "the Satellite Home Viewer Act", as amended and reported by the Committee, amends the Communications Act of 1934 and the Copyright Act of 1976 for the purpose of ensuring availability of satellite-delivered video programming to home satellite antenna owners. This legislation creates an interim statutory license in the Copyright Act for satellite carriers to retransmit television broadcast signals of superstations and network stations to earth station owners for private home viewing.

H.R. 2848 directs the Federal Communications Commission to institute a proceeding to determine the feasibility of imposing syndicated exclusivity rules for satellite carriage of broadcast signals. The legislation clarifies that violations of any such rules, if enacted by the Commission, are violations of the Communications Act and should be subject to such sanctions and penalties as are contained in the Communications Act. The legislation also clarifies and strengthens current law concerning unauthorized descrambling or interception of satellite-delivered cable programming. Finally, this legislation requires the Commission to initiate an inquiry into the need for a universal decryption standard for home satellite antenna users.

BACKGROUND AND NEED FOR LEGISLATION

History of the Satellite Cable Programming Industry

Reception of television signals via backyard satellite dishes began in 1976, one year after Home Box Office Inc. (HBO) began delivering its movies to cable television operators by satellite. At that time, however, reception of such signals by owners of backyard satellite dishes was not authorized by law.

The former Section 605 of the Communications Act of 1934 (amended and redesignated as section 705 by the Cable Communications Policy Act of 1984) made it illegal to receive radio communications without authorization. In a number of cases in the early 1980's, the courts ruled that the unauthorized reception of pay television signals, including signals intended for use by cable systems, constituted a prohibited "use" of the signal under Section 605 of the Communications Act. (See, e.g., *Chartwell Communications Group* v. *Westbrook*, 637 F. 2d 459 (6th Cir., 1980.)) The FCC took the view that home satellite dish owners receiving satellite signals without authorization were involved in an illegal practice.

Congress conferred full legal status on the television receive-only (TVRO) industry in the Cable Communications Policy Act of 1984 (Cable Act) (P.L. 98-549). The Cable Act expressly legalized the sale and use of backyard dishes. It allowed backyard dish owners to receive satellite-relayed cable programming free-of-charge if the programming is not encrypted, or "scrambled," or if a marketing system authorizing private viewing had not been established. The Cable Act substantially increased penalties for unauthorized signal reception—including reception of scrambled signals. Although the legislation did not require scrambled signals to be sold to backyard dish owners, programmers have an incentive to market scrambled signals to backyard dish owners. During the debate on the legislation, Congress noted an expectation that increased penalties for unauthorized reception of cable services would allow cable programmers to obtain payment for their programming more easily.

Since the passage of the Cable Act, the backyard satellite dish industry has experienced explosive growth, particularly in the South and Midwest. The number of backyard satellite earth stations in operation in the United States has increased from an estimated 5,000 in 1980 to over 2 million today. Complete home receiving systems, which once sold for as much as $36,000, now are advertised for as little as $1,000 or less. In addition, technology has reduced the size of the backyard dish significantly—from the 30-foot-wide dishes of several years ago to dishes approximately six to ten feet in diameter today.

"Scrambling" of Satellite Cable Programming

The technological development of home earth station equipment enabled home dish owners to intercept satellite delivered signals that originally were intended to be distributed only to cable systems. Cable systems pay satellite carriers a per subscriber fee for delivering to the system a broadcast signal; the systems then send out the signal over the wire to their subscribers. Dish owners, on the other hand, initially paid no fee to the carriers for the signals they received. In order to impede this unauthorized reception of their satellite-delivered signals, most resale satellite carriers and certain copyright holders in satellite delivered signals decided to encode, or scramble, their signals and to provide descrambling capacity only to paying subscribers.

Many home dish owners have stated objections to the scrambling and current marketing practices of satellite delivered video programming because they believe that they have a right to receive satellite programming at a price comparable to that paid by cable system subscribers to the same programming. Some consumers have expressed concern about the cost of descrambling devices; price discrimination for programming services available to dish owners, and access to the programming available to cable subscribers. The satellite dish industry and most dish owners, however, have consistently agreed that copyright holders deserve to be fairly compensated by viewers of their programming.

In recent years the three major television networks have begun to scramble their satellite feeds to their owned and affiliated stations, and several companies have begun to retransmit, scramble and sell network station and superstation signals to home satellite antenna owners. This practice raises several questions under the Copyright Act of 1976 (Copyright Act.)

The Copyright Act provides that the owner of the copyright has the exclusive right to reproduce, distribute copies of, and publicly perform and display the copyrighted work. (17 U.S.C. Section 106.) A copyright holder generally has the exclusive right to decide who shall make use of his or her work and persons desiring to reproduce, distribute or publicly perform or display the copyrighted work must obtain the copyright holder's consent.

The Copyright Act, however, does contain a limited exception from copyright liability. Currently, under Section 111(a)(3) "passive carriers" are provided an exemption from liability for secondary transmissions of copyrighted works where the carrier "has no direct or indirect control over the content or selection of the primary transmission, or over the particular recipients of the secondary transmission. . ." A carrier's activities with regard to a secondary transmission must "consist solely of providing wires, cables or other communications channels for the use of others." Since most satellite carriers of broadcast station signals scramble the signals and market decoding devices and packages of programming to home dish owners, there is continuing uncertainty about whether or not such carriers are liable under the Copyright Act.

Some analysts of the copyright laws assert that by selling, renting, or relicensing descrambling devices to subscribing earth station owners, a carrier exercises direct control over which individual members of the public receive the signals they transmit. Moreover, it has been claimed that the activities of satellite carriers, which almost always include the scrambling of a broadcast signal, represent a far more sophisticated and active involvement in selling signals to the public than does an act of merely providing "wires, cables, or other communications channels.'

In a March 17, 1986 letter to Representative Robert W. Kastenmeier, Chairman of the Judiciary Committee's Courts, Civil Liberties and Administration of Justice Subcommittee, Mr. Ralph Oman, Registrar of Copyrights, set forth his "preliminary judgment" that the sale or licensing of descrambling devices to satellite earth station owners by common carriers falls outside the purview of the copyright exemption granted "passive carriers" for secondary transmission of copyrighted works, particulary when the carrier itself scrambles the signal. "The exemption failing" Mr. Oman concluded, "The resale carrier requires the consent of the copyright owner of the underlying programming."

Similarly, in testimony before the Telecommunications Subcommittee in 1986, once common carrier, Southern Satellite, which delivers WTBS, stated its belief that the section 111(a)(3) exemption was not available to the carriers of satellite delivered broadcasting programming. Southern Satellite stated:

"[I]f Southern Satellite delivered WTBS to the backyard dish user, there is no provision in the law for a copyright royalty payment to the copyright owner. Although it could be argued that since Southern Satellite is a common carrier and since the TVRO dish owner uses the signal for purely private viewing, there is no copyright liability. However, that position runs directly contrary to the philosophy (section 111) of the Copyright Act and as a result we believe that it is a very tenuous position."

The Cable Compulsory License

During the early years of the cable industry, there was continuing controversy over the legal status of cable carriage of broadcast signals. In 1968, the Supreme Court ruled in *Fortnightly Corp.* v. *United Artists Television*, 392 U.S. 390, that cable retransmission of broadcast signals did not constitute infringement of the property rights protected by the Copyright Act of 1909. The Court determined that with regard to the "local signal" question presented in the particular case, cable operated more as a viewer than as a broadcaster, and therefore did not incur copyright liability for retransmitting local signals to its subscribers.

In *Teleprompter Corp.* v. *Columbia Broadcasting System*, 415 U.S. 394 (1974), the Supreme Court reaffirmed its 1968 decision. Further, the Court held that the act of retransmitting distant as well as local signals without permission of the program copyright owner or the broadcast operator did not violate the Copyright Act of 1909. The decision clarified the long standing question whether the Copyright Act of 1909 protected programs transmitted on broadcast signals from being retransmitted by cable operators. Critics of the Court's ruling maintained that the two decisions attenuated programming property rights, which rights, they argued, are a necessary precondition for the successful operation of market forces.

In the 1976 Copyright Act, Congress extended copyright protection to cable retransmissions of broadcast programs. Cable systems were, however, not made fully liable for the use of others' programming, but instead were granted a "compulsory license." The compulsory license gives cable television operators guaranteed access to copyrighted programming carried by television stations in exchange for payment of a specified percentage of the cable system's gross receipts to the Copyright Royalty Tribunal (CRT). This statutory royalty fee is then distributed, based on filings made with the CRT, to the copyright owners whose works are being retransmitted on cable. The net effect of the compulsory license is to allow cable systems, by paying the predetermined fee to the CRT, to retransmit copyrighted programs without purchasing rights in the open marketplace.

Over the past several years, some satellite carriers have contended that the compulsory license covers secondary transmissions of broadcast signals by new technologies such as satellites. At least one court, however, has expressly rejected that contention. In *Pacific & Southern Co., Inc.* v. *Satellite Broadcast Network, Inc.* (D.Ga., 1988, Slip Opinion), the Court held that the cable compulsory copyright license does not cover Satellite Broadcast Network's (SBN) satellite retransmission of broadcast signals to backyard dish owners. In making his ruling, the Judge stated that "The clear statutory definition of 'cable system' contained in the Copyright Act indicates that SBN is not a cable system entitled to a compulsory license to retransmit broadcast signals free from copyright liability."

As a result of the *SBN* decision, it has become increasingly clear that satellite retransmission of broadcast signals for sale to home earth station owners is probably not exempt from copyright liability under present law. The Committee believes that the public interest best will be served by creating an interim statutory solution that will allow carriers of broadcast signals to serve home satellite antenna users until marketplace solutions to this problem can be developed.

Piracy of Satellite-Delivered Cable Programming

In general, "piracy" refers to the decoding or decryption of scrambled programming without the authorization of the programmer nor payment for the programming. This theft of service is accomplished by altering legitimate decoders, such as the VideoCipher II, with illicit decoder technology. For example, legitimate chips which decode the services are cloned and placed in decoder boxes to which access is restricted. The Satellite Broadcasting and Communications Association has indicated that there are approximately 350,000-400,000 pirated descrambler boxes, compared with about 400,000 untampered boxes.

During the 100th Congress, the Subcommittee on Telecommunications and Finance held two hearings during which the testimony on the problem of piracy was reviewed (July 1, 1987 and June 15, 1988). Testimony at the hearing demonstrated that piracy has become an increasingly distressing problem to the satellite industry and seriously threatens to undermine the industry's survival. According to the testimony submitted to the Subcommittee, piracy most seriously threatens legitimate satellite dealers and satellite programmers, who otherwise would be receiving payment for their programming or descrambling devices.

According to testimony from one satellite dish dealer, "the dealer who sells a chipped [unauthorized] decoder sells it at an average profit of $1000 or more, and usually sells legitimate satellite equipment at his own cost, making all profits on the illegal chips. It is impossible for an honest dealer to compete against this type of price structure."

General Instrument Corp. (GI) the makers of VideoCipher II, has taken several measuers to combat the piracy problem. GI recently announced the introduction of VideoCipher II-Plus System in June 1989, includes, among other things, integrated module, that may be distributed directly to consumers and selected dealers. To descramble signals, consumers will have to insert the cards into their integrated receiver/descramblers. In a further effort to reduce piracy, GI recently announced a plan to monitor more closely the distribution of decoders. Additionally, other industry representatives, including the Satellite Broadcasting and Communications Association, the Motion Picture Association of America, and the National Cable Television Association have increased efforts and resources toward combating the problem.

In response to the piracy problem, the Federal Communications Commission has increased enforcement efforts under Section 705(a) of the Communications Act and Title 18 U.S. Code Section 2511(1), each of which prohibit the unauthorized interception and use of satellite and other radio communications. In a recent report, the Commission recommended that the Congress raise the civil and criminal penalties in Section 705(a) to emphasize the importance of stopping piracy and enhance the ability of law enforcement authorities and aggrieved private parties to deter piracy.

Need for Legislation

Despite the explosion in recent years of new technologies and outlets delivering video programming, millions of Americans are not sharing in the programming bounty available from broadcasters or over cable systems. Presently, as many as one to six million households are in areas where the reception of off-air network signals is not possible or is of unacceptable quality. A number of these households are not presently served, and likely never will be served, by cable systems.

The Satellite Broadcasting and Communications Association testified before the Telecommunications Subcommittee that approximately 500,000 of the 2 million households with satellite television antennas subscribe to satellite delivered television networks or independent superstations or both. Each month approximately 10,000 to 15,000 new subscribers are added. Many of these consumers live in rural areas and are dependent upon satellite antenna systems for the delivery of any video programming.

The legality of satellite delivered broadcast signals to home satellite antenna owners is unsettled. For many years, there have been questions about the legality of such carriage under the passive carriage exemption provided under Section 111(a) of the Copyright Act of 1976. In light of the recent *SBN* decision in which a District Court held that the cable compulsory copyright license does not apply to satellite carriers, there is no clearly legal method by which to provide retransmitted broadcast programming to home satellite antenna owners. It is therefore appropriate for the Committee to address this exceedingly important issue. H.R. 2848 resolves the legal issues surrounding provision of broadcast signals to rural America by creating an interim statutory license under the Copyright Act of 1976 for the secondary retransmission of superstations and television network stations for private home viewing.

As a general rule, the Committee does not favor interference with workable marketplace relationships for the transfer of exhibition rights in programming. In the instant case, however, the Committee perceived a need to address an existing problem that may serve to deny millions of American households access to satellite delivered broadcast television signals. This problem has been addressed narrowly, by endorsing a temporary, transitional statutory license to bridge the gap until the marketplace can function effectively.

In establishing a six year sunset on the statutory license, the Committee expects that the marketplace and competition will eventually serve the needs of home satellite dish owners. It is the Committee's expectation that during the pendency of this legislation the home satellite antenna marketplace will grow and develop so that marketplace forces will satisfy the programming needs and demands of home satellite antenna owners in the years to come, eliminating and further need for government intervention.

H.R. 2848 also addresses what has been identified as potentially the greatest threat to a viable home satellite antenna industry, which is the unauthorized decryption or interception of satellite cable programming. Affected industries, consumers, and the Federal Communications Commission all have stated the need for clearer and more stringent penalties for piracy of video signals. The Committee believes that the piracy provision contained in H.R. 2848 provides law enforcement authorities greater ability to stem the growing problem of theft of satellite delivered programming.

HEARINGS

During the 100th Congress, the Committee's Subcommittee on Telecommunications and Finance has held a series of hearings focusing on the public policy implications of the scrambling of satellite-delivered video programming. On July 1, 1987 and June 13, 1988 the Subcommittee held hearings on H.R. 1885, legislation designed, among other purposes, to ensure the continued availability of satellite-delivered video programming. Witnesses at those hearings included: the Honorable Dennis R. Patrick, Chairman, Federal Communications Commission; the Honorable Alfred Sikes, Assistant Secretary for Communications and Information Policy, National Telecommunications and Information Administration; Mr. Larry Carlson, Senior Vice President for Cinemax and New Business Development, Home Box Office; Mr. Ronald Lightstone, Senior Vice President, VIACOM International, Inc.; Mr. James P. Mooney, President and Chief Executive Officer, National Cable Television Association; Mr. B.R. Phillips, II, Chief Executive Officer, National Rural Telecommunications Cooperative; Mr. David G. Wolford, Chief Executive Officer, Home Satellite Services; Mr. Marty Lafferty, Vice President, Direct Broadcast Sales, Turner Broadcasting Systems; Mr. Frederick W. Finn, Esq., Brown and Finn; Mr. Charles C. Hewitt, President, Satellite Broadcasting and Communications Association; Mr. Larry Dunham, VideoCipher Division, General Instruments Corporation; Mr. Donald Berg, Vice President Sales and Marketing, Channel Master; Ms. Millie Fontenot, Owner, Satellite Earth Stations East, Inc.; Mr. George Kocian, Owner Tiverton Dish Farm; Mr. Michael J. Fuchs, Chairman and Chief Executive Officer, Home Box Office, Inc.; Mr. Michael Hobbs, Senior Vice President for Policy and Planning, Public Broadcasting Service; Mr. Winston H. Cox, Chairman and Chief Executive Officer, Showtime/The Movie channel; Mr. Robert L. Schmidt, President, Wireless Cable Association; Mr. Timothy Robertson, President, Christian Broadcasting Network; and Mr. Sid Swartz, President, West, Inc.

The Subcommittee on Telecommunications and Finance held a hearing on H.R. 2848 on Friday, September 23, 1988. Testimony was received from Mr. Preston R. Padden, President, Association of Independent Television Stations, Inc.; Mr. Mark C. Ellison, Vice President, Government Affairs & General Counsel, Satellite Broadcasting and Communications Association; Mr. Timothy A. Boggs, Vice President Public Affairs, Warner Communications Inc.; and Mr. Steven Effros, President, Community Antenna Television Association.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The short title of the proposed legislation is the "Satellite Home Viewer Act of 1988".

SECTION 2. AMENDMENTS TO TITLE 17, UNITED STATES CODE

Section 2 of the proposed legislation contains amendments to the Copyright Act of 1976: a new section 119 is added to the Act, creating an interim statutory license for the secondary transmission by satellite carriers of superstations and network stations for private home viewing; only necessary technical and cross-referencing amendments are made to section 111 of the Act, regarding the cable television compulsory license.

Amendments to section 111(a): Cross-references to the cable television compulsory license

The bill amends section 111(a) by inserting a new clause (4) to clarify that, notwithstanding the carrier exemption to the cable compulsory licensing provisions in section 111(a)(3), a satellite carrier that retransmits superstations and network stations for private home viewing by earth station owners is exempted from copyright liability for such retransmission only if it secures a statutory license under section 119. Section 111(a)(3) remains in effect to exempt from copyright liability passive common carriers that retransmit broadcast signals to cable systems.

Amendment to section 111(d)(2)(A): Relationship between the cable compulsory license and the statutory license for satellite carriers

The bill amends section 111(d)(2)(A) to clarify the obligations of both the satellite carrier and the cable system in instances in which a cable system engages in such distributorship activities on behalf of a satellite carrier. In such cases, the satellite carrier has the responsibility for filing statements of account and paying royalties for publicly performing copyrighted programming under the new section 119 statutory license. Under this scheme, a cable system/distributor would segregate the subscription fees collected on behalf of the satellite carrier from those collected from cable subscribers pursuant to the section 111 cable compulsory license. The cable system would only report in its section 111 statements of account the number of cable subscribers served and the amount of gross receipts collected pursuant to section 111, and would pay royalties to section 111.

New section 119. The interim statutory license for satellite carriers

Section 119(a). The scope of the license.—Sections 119(a) (1) and (2) establish a statutory license for satellite carriers generally. A license is available where a secondary transmission of the signal of a superstation or a network station is made available by a satellite carrier to the public for private home viewing, and the carrier makes a direct change for such retransmission service from each subscriber receiving the secondary transmission, or from a distributor (such as a cable system) that has contracted with the carrier to deliver the retransmission directly or indirectly to the viewing public.

The bill contains special provisions in sections 119(a) (2) and (5) relating to network stations in recognition of the fact that a small percentage of television households cannot now receive clear signals of the three national television networks. The bill confines the license to the so-called "white areas," that is, households not capable of receiving the signal of a particular network by conventional rooftop antennas, and which have not subscribed, within the 90 days preceding the date on which they subscribe to the satellite carrier's service, to a cable system that provides the signal of a primary network station affiliated with that network.

Utilizing the existing definition in Section 111(f), the new statutory license for retransmission of network stations applies, at the present time, exclusively to those stations owned by or affiliated with the three major commercial networks (ABC, CBS, and NBC) and the stations associated with the Public Broadcasting Service. This distinction is based upon the testimony and written materials supplied by the three commercial networks, which assert that their stations continue to occupy a special role in the television industry.

Under the bill, satellite carriers are provided a limited interim compulsory license for the sole purpose of facilitating the transmission of each network's programming to "white areas" which are unserved by that network. The Committee believes that this approach will satisfy the public interest in making available network programming in these (typically rural) areas, while also respecting the public interest in protecting the network-affiliate distribution system.

This television network-affiliate distribution system involves a unique combination of national and local elements, which has evolved over a period of decades. The network provides the advantages of program acquisition or production and the sale of advertising on a national scale, as well as the special advantages flowing from the fact that its service covers a wide range of programs throughout the broadcast day, which can be scheduled so as to maximize the attractiveness of the overall product. But while the network is typically the largest single supplier of nationally produced programming for its affiliates, the affiliate also decides which network programs are locally broadcast; produces local news and other programs of special interest to its local audience, and creates and overall program schedule containing network, local and syndicated programming.

The Committee believes that historically and currently the network-affiliate partnership serves the broad public interest. It combines the efficiencies of national production, distribution and selling with a significant decentralization of control over the ultimate service to the public. It also provides a highly effective means whereby the special strength of national and local program service support each other. This method of reconciling the values served by both centralization and decentralization in television broadcast service has served the country well.

The networks and their affiliates contend that the exclusivity provided an affiliate as the outlet for its network in its own market is an essential element of the overall system. They assert that by enhancing the economic value of the network service to the affiliate, exclusivity increases the affiliate's resources and incentive to support and promote the network in its competition with the other broadcast networks and the other nationally distributed broadcast and nonbroadcast program services.

The Committee intends by this provision to satisfy both aspects of the public interest—bringing network programming to unserved areas while preserving the exclusivity that is an integral part of today's network-affiliate relationship.

Section 119 requires the satellite carrier to notify the network of the retransmission of its signal by submitting to the network a list identifying the names and addresses of all subscribers to that service. In addition, on the 15th of each month the satellite carriers must submit to the network a list identifying the names and addresses of the subscribers added or dropped since the last report. These notifications are only required if the network has filed information with the Copyright Office concerning the name and address of the person who shall receive the notification. Special penalties are provided for violations by service outside the "white areas." Willful or repeated individual violations of the "white area" restrictions are subject to ordinary remedies for copyright infringement, except that no damages may be awarded if the satellite carrier took corrective action by promptly withdrawing service from ineligible subscribers, and statutory damages are limited to a maximum of $5.00 per month for each ineligible subscriber.

If the satellite carrier engages in a willful or repeated pattern or practice of violations, the court shall issue a permanent injunction barring the secondary transmission by the satellite carrier of the primary transmission of any network station affiliated with the same network. The injunction would be applicable within the geographical area within which the violation took place—whether local, regional, or national. If the satellite carrier engages in a pattern of violations, the statutory damages maximum is $250,000 for each six month period, but only with regard to persons who subscribed on or after July 7, 1988.

By amendment of section 501 of title 17, United States Code, a network station holding a license to perform a particular version of a work is treated as a legal or beneficial owner of the work if the secondary transmission by satellite carrier occurs within the local service area of the station, for purposes of infringement under section 119(a)(5).

Noncompliance with Reporting and Payment Requirements. Section 119(a)(3) provides that a satellite carrier is also subject to full copyright liability if the carrier does not deposit the statement of account or pay the royalty required by subsection (b) or has failed to make the submissions to the networks required by paragraph 2(c).

Discrimination by a satellite carrier. Section 119(a)(6) provides a cause of action against a satellite carrier's "willful or repeated" retransmission of the signals of superstations and network stations to the public for private home viewing (under sections 502 through 506 and 509 of the Copyright Act) if the satellite carrier unlawfully discriminates against any distributor.

This section is intended primarily to protect against misconduct by a satellite carrier exercising the statutory license granted by the Act. The Committee wishes to stress that this subsection, along with subsections 119(a)(3) and 119(a)(4), establish limitations on the scope of the license granted by this Act. In each case, copyright infringement remedies are provided as recourse against abuse of the license by a satellite carrier.

The Committee agrees with the assessment of the Judiciary Committee, expressed in its report on H.R. 2848, that the regulatory status under the Communications Act of the sale of superstations or network stations for private home viewing by dish owners is largely unresolved.

Some of the superstation signals will be provided under the statutory license granted by this Act by certain resale carriers that were licensed by the FCC under Title II of the Communications Act. The Commission licensed these carriers to provide common carrier transmission service of these stations to cable headends for their retransmission to cable subscribers.

These transmissions are common carrier services to Title II of the Communications Act and the passive carrier exemption of the Copyright Act. The situation changes, however, when these carriers engage in the sale of the programming they transmit. The Commission's current rules do not address the regulatory status of these carriers when they sell the programming directly to the public.

The matter is further complicated by the fact that deregulatory initiatives over the last several years at the Commission have led to a situation in which there in unlicensed, open entry for what amounts to a C-Band direct broadcast satellite service. Some entities, such as Netlink, have entered the market as an unregulated service providers, not as common carriers. They are not licensed under Title II of the Communications Act, but they will qualify for the statutory license under this Act and will provide superstation and network stations in the same home earth station market as their competitors, the Title II carriers.

The resolution of these issues must rest with the Commission. The Committee does not wish to prejudge or direct the FCC's resolution of these questions with the enactment of this legislation. However, the Committee is aware that neither the Communications Act nor the FCC's current rules currently bar discrimination against distributors of superstation or network station signals for private viewing.

Nothing in this Act affects the authority of the Commission to promulgate rules to address such discrimination and, in fact, this legislation amends the Communications Act with a new Section 713 directing the FCC to examine whether and to what extent such discrimination actually occurs. If the Commission finds regulations on discrimination against distributors of superstations and network stations to home stations to be necessary and in the public interest, it may establish such rules.

The Committee notes that the term "discrimination" as it is used in section 119(a)(6) of the Copyright Act is expressly limited to discrimination within the jurisdiction of the Commission pursuant to the Communications Act. The purpose of section 119(a)(6) is to make certain discriminatory acts involving particular parties actionable under the Copyright Act. In adopting this language, the Committee does not intend the Commission to address issues and concerns that are outside its jurisdiction and expertise.

Geographic limitation. Section 119(a)(7) provides that the statutory license created in section 119 applies only to secondary transmissions to households located in the United States, or any of its territories, trust possessions, or possessions. This section parallels section 111(F) or title 17, United States Code, which applies to cable television.

Section 119(b) Operation of the statutory license for satellite carriers.

Requirements for a license. The statutory license provided for in section 119(a) is contingent upon fulfillment of the administrative requirements set forth in section 119(b)(1). That provision directs satellite carriers whose retransmissions are subject to licensing under section 119(a) to deposit with the Register of Copyrights a semiannual statement of account and royalty fee payment. The dates for filing such statements of account and royalty fee payments and the six-month period which they are to cover are to be determined by the Register of Copyrights.

The statutory royalty fees set forth in section 119(b)(1)(B) are twelve cents per subscriber per superstation signal retransmitted and three cents for each subscriber for each network station retransmitted. These fees approximate the same royalty fees paid by cable households for receipt of similar copyrighted signals and are modeled on those contained in the 1976 Copyright Act. Royalty fees for retransmission of a network station would be ¼ those of an independent station, since "the viewing of nonnetwork programs on network stations is considered to approximate 25 percent." H. Rept. 94-1476, 94th Congress, 2d Session (1976). The copyright owners of these nonnetwork programs would be entitled to receive compensation for the retransmission of the programs to "white areas". Owners of copyright in network programs would not be entitled to compensations for such retransmissions, since those copyright owners are compensated for national distribution by the networks when the programming is acquired. The statutory fees set forth in this section apply only in the limited circumstances described in section 119(c).

Collection and distribution of royalty fees. Section 119(b)(2) provides that royalty fees paid by satellite carriers under the statutory license shall be received by the Register of Copyrights and, after the Register deducts the reasonable cost incurred by the Copyright Office in administering the license, deposited in the Treasury of the United States. The fees are distributed subsequently, pursuant to the determination of the Copyright Royalty Tribunal under chapter 8 of the Copyright Act of 1976.

Persons to whom fees are distributed. The copyright owners entitled to participate in the distribution of the royalty fees paid by satellite carriers under the license are specified in section 119(b)(3).

Procedures for distribution. Section 119(c)(4) sets forth the procedure for the distribution of the royalty fees paid by satellite carriers, which parallels the distribution procedure under the section 111 cable compulsory license. During the month of July of each year, every person claiming to be entitled to license fees must file a claim with the Copyright Royalty Tribunal, in accordance with such provisions as the Tribunal shall establish. The claimants may agree among themselves as to the division and distribution of such fees.

After the first day of August of each year, the Copyright Royalty Tribunal shall determine whether a controversy exists concerning the distribution of royalty fees. If no controversy exists, the Tribunal—after deducting reasonable administrative costs—shall distribute the fees to the copyright owners entitled or their agents. If the Tribunal finds the existence of a controversy, it shall, pursuant to the provisions of chapter 8, conduct a proceeding to determine the distribution of royalty fees.

The bill does not include specific provisions to guide the Copyright Royalty Tribunal in determining the appropriate division among competing copyright owners of the royalty fees collected from satellite carriers under section 119.

Section 199(c)—Alternative methods for determining royalty fees applicable during two phases of the statutory license for satellite carriers. The bill establishes a four-year phase and a two-year phase for the statutory license for satellite carriers; in each phase the royalty fee is determined in a different manner. In the first (four year) phase, pursuant to section 119(c)(1), the statutory fees established in section 119(b)(1)(B) (twelve cents per subscriber per superstation signal retransmitted and three cents per subscriber per network signal retransmitted) shall apply. The first phase shall be in effect from January 1, 1989, until December 31, 1992. In the second phase, the fee shall be set by the voluntary negotiation or compulsory arbitration procedures established in sections 119(c)(2) and 119(c)(3).

Section 119(c)(2) requires the Copyright Royalty Tribunal to initiate voluntary negotiation proceedings between satellite carriers, distributors, and copyright owners, eighteen months before the bill's first phase runs out, to encourage the parties to negotiate a fee for the second phase before the statutory fee expires. The parties may designate common agents to negotiate, agree to, or pay the relevant fees; if the parties fail to do so, the Coypright Royalty Tribunal shall do so, after requesting recommendations from the parties. The costs of the negotiation proceeding shall be paid by the parties. If the parties reach a voluntary agreement, copies of the agreement must be filed in a timely manner with the Copyright Office, and the negotiated fee will remain in effect from the date specified in the agreement until December 31, 1994.

If some or all of the parties have not voluntarily negotiated a fee for the second phase by December 31, 1991, twelve months before the expiration of the first phase, section 119(c)(3) provides that the Copyright Royalty Tribunal shall initiate a compulsory arbitration proceeding for the purpose of determining a reasonable royalty fee to be paid under section 119 for the second phase. The Tribunal shall publish notice of the initiation of the proceeding as well as a list of potential arbitrators. Within ten days of the publication of this notice, one arbitrator must be chosen by the copyright owners and one by the satellite carriers and their distributors. The two arbitrators must choose a third arbitrator from the list within ten days.

The three arbitrators (Arbitration Panel) shall have sixty days from the publication of the initial notice to conduct an arbitration proceeding and to determine a royalty fee, using guidelines specified in the bill. All costs involved in this proceeding must be paid for by the parties. The Arbitration Panel shall submit its determination in the form of a report, along with the written record, to the Copyright Royalty Tribunal. The Tribunal shall have sixty days to review the report and either accept or reject the Panel's determination and publish the action in the Federal Register. If the Tribunal rejects the determination, the Tribunal shall, within the same sixty day period, issue an order setting the royalty fee. Thus, within 120 days of the publication of the initial notice, a new royalty fee shall be determined through a compulsory arbitration procedure, to be effective from January 1, 1993, until December 31, 1994, or until modified by the United States Court of Appeals for the District of Columbia Circuit pursuant to section 199(c)(4). The fee shall apply to all copyright owners, satellite carriers, and distributors not party to a voluntary agreement.

Section 119(c)(3)(D) provides guidelines by which the Arbitration Panel shall determine royalty fees. In particular, the Panel must consider the approximate average cost to a cable system for the right to secondarily transmit to the public a primary transmission made by a broadcast station.

Section 119(c)(4) provides that the rate adopted or determined by the Copyright Royalty Tribunal pursuant to the compulsory arbitration proceeding may be appealed to the District of Columbia Circuit Court of Appeals within thirty days of publication. However, while appeal of the rate is pending, satellite carriers would still be required to deposit statements of account and royalties and to pay royalty fees calculated under the rate that is at issue on appeal. The bill gives the court jurisdiction to enter its own determination with respect to the royalty rate, to order the repayment of any excess fees deposited under section 119(b)(1)(B), and to order the payment of any underpaid fees with interest, in accordance with its final judgment. The court may also vacate the Tribunal's decision and remand the case for further arbitration proceedings.

Section 119(d)—Definitions. A "distributor" is defined as any entity which contracts with a carrier to distribute secondary transmissions received from the carrier either as a single channel, or in a package with other programming, to individual subscribers for a private home viewing, either directly or indirectly through other program distribution entities.

The terms "primary transmission" and "secondary transmission" are defined so as to have the same meaning under section 119 as they have under section 111.

The term "private home viewing" is defined as viewing, for private use in an individual's household by means of equipment which is operated by such individual and which serves only such individual's household, of a secondary transmission delivered by satellite of a primary transmission of a television broadcast station licensed by the FCC.

A "satellite carrier" is broadly defined as an entity that uses the facilities of a domestic service licensed by the FCC and that owns or leases a capacity or service on a satellite in order to provide the point-to-multipoint relay of television station signals to numerous receive-only earth stations, except to the extent the entity provides such distribution pursuant to tariff that is not restricted to private home viewing.

The term "network station" has the same meaning as that term in section 111(f) and includes a translator station or terrestrial satellite station that rebroadcasts the network station.

A "primary network station" is a network station that broadcasts the basic programming service of one particular national network.

The term "subscriber" is defined as an individual who receives a secondary transmission service for private home viewing by means of a satellite transmission under section 119, and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

A "superstation" is defined as a television broadcast station, other than a network station, that is licensed by the Federal Communications Commission and that is retransmitted by a satellite carrier.

The term "unserved household" means a household that with respect to a particular television network, (A) cannot receive, through use of a conventional outdoor antenna, a signal of Grade B intensity (as defined by the FCC, currently in 47 C.F.R. section 73.683(a)) of a primary network station affiliated with that network, and (B) has not, within 90 days before the date on which the household subscribes (initially or upon renewal) to receive by satellite a network station affiliated with that network subscribed to a cable system that provides the signal of a primary network station affiliated with that network.

Because the household must be able to receive the signal of a "primary" network station to fall outside the definition of unserved household, a household that is able to receive only the signal of a secondary network station, which would be defined as "unserved" if it is a station affiliated with two or more networks that does not broadcast or rebroadcast the basic programming service of any single national network.

Section 119(e)—Exclusivity of the statutory license. The bill explicitly provides that neither the cable compulsory license, nor the exemptions of section 111 (such as the passive carrier exemption) can be construed during the six-year statutory license period to apply to secondary transmissions by satellite carrier for private home viewing of programming contained in a superstation or network station transmission. Unless the statutory license of section 119 is obtained, during the six-year interim period the secondary transmission by satellite carrier for private home viewing can take place only with consent of the copyright owner.

SECTION 3. SYNDICATED EXCLUSIVITY; REPORT ON DISCRIMINATION

Section 3 amends Title VII of the Comunications Act by adding several new sections as follows:

Section 712(1) Syndicated Exclusivity

The bill directs the Federal Communications Commission (FCC), within 120 days after the date of enactment, to undertake a combined inquiry and rulemaking proceeding regarding the feasibility of imposing syndicated exclusivity rules for private home viewing. The Committee believes strongly that it is necessary and appropriate that the Commission undertake this Inquiry pursuant to its authority under the Communications Act. The FCC has had sole responsibility for addressing and administering the syndicated exclusivity rules in the past, and will continue to have sole responsibility under this legislation.

Free local over-the-air television stations continue to play an important role in providing the American people information and entertainment. The Committee is concerned that changes in technology, and accompanying changes in law and regulation, do not undermine the base of free local television service upon which the American people continue to rely. The Committee is concerned that retransmissions of broadcast television programming to home earth stations could violate the exclusive program contracts that have been purchased by local television stations. Depriving local stations of the ability to enforce their program contracts could cause an erosion of audiences for such local stations because their programming would no longer be unique and distinctive.

Accordingly, the Committee directs the Federal Communications Commission to consider the feasibility of imposing syndicated exclusivity rules with respect to satellite retransmission of television broadcast programming. In the Committee's view, it is reasonable to premise a grant of a statutory license on the existence of appropriate safeguards to protect the rights of other parties who might be affected by the grant of such statutory licenses.

The Committee also believes that while some adjustments may be necessary or appropriate to reflect the differences between cable and satellite technologies, the cable television syndicated exclusivity rules could serve as a model for rules governing the satellite industry.

The Committee directs the Commission to undertake a comprehensive assessment of the feasibility of imposing syndicated exclusivity. The Inquiry should be broadbased and balanced. The mere fact that imposition of, or compliance with, syndicated exclusivity rules might be incrementally more costly for satellite carriers shall not be deemed to render such rules as not "feasible" as that term is used in this section.

Section 712(2)

In the event the Commission adopts rules imposing syndicated exclusivity for private home viewing, the bill provides that violations of such rules shall be subject to the remedies, sanctions and penalties under Title V and Section 705 of the Communications Act.

The Committee amendment clarifies that violations of the syndicated exclusivity rules are to be enforced by the sanctions and penalties provided in the Communications Act.

Section 713 Discrimination

The bill directs the FCC within a year of the enactment of this Act, to prepare and submit a report to the Senate Committee on Commerce, Science and Transportation and the House Committee on Energy and Commerce on whether, and the extent to which, there exists unlawful discrimination against distributors of secondary transmissions from satellite carriers.

The Committee notes that the term "discrimination" as it is used in new Section 713 of the Communications Act and new Section 119(a)(6) of the Copyright Act is expressly limited to discrimination within the jurisdiction of the Commission pursuant to the Communications Act. The purpose of Section 119(a)(6) is to make certain discriminatory acts involving particular parties actionable under the Copyright Act. In adopting this language, the Committee does not intend the Commission to address issues and concerns that are outside its jurisdiction and expertise.

SECTION 4. INQUIRY ON ENCRYPTION STANDARD

This section amends section 705 of the Communications Act to require the FCC, within six months after the date of enactment of this legislation, to initiate an inquiry concerning the need for a universal encryption standard that permits the decryption of satellite cable programming intended for private viewing by home satellite antenna users.

The FCC currently has no such standards. To date, this situation has not created a significant problem because, to the Committee's knowledge, all satellite cable programming networks that have scrambled have done so using the VideoCipher II technology developed by General Instrument Corp. Any home satellite earth station owner presently need only purchase a single descrambling unit, either as a stand-alone module or built into their satellite systems, in order to descramble any programming service they might wish to purchase.

Recently, however, technological and market developments raise the possibility that this situation may change. Manufacturers are developing new decryption technologies for the market. General Instrument Corp. and other companies are working on decryption systems that may provide programmers with greater signal security and home earth station owners with greater descrambling capacity.

The Committee believes that more information is needed to determine whether a universal, decryption standard is needed or would be helpful. Accordingly, the Commission is instructed to begin an Inquiry that will take into account consumer costs and benefits; the incorporation of technological enhancements, including advanced television formats; whether such standard would be effective in preventing present and future unauthorized decryption of satellite programming; the costs and benefits of such standard on other authorized users of encrypted satellite cable programming, including cable and Satellite Master Antenna Television (SMATV) systems; the impact of any market disruption that would occur because of the time delays necessary for the establishment of such standard by the Commission; and the effect of such standard on competition in the manufacture of decryption equipment.

If the Commission finds, as a result of the information gathered from the Inquiry and from other information before the Commission, that a universal encryption standard is in the public interest, the Committee intends for the Commission to move immediately to initiate a rulemaking to establish such a standard.

SECTION 5. PIRACY OF SATELLITE CABLE PROGRAMMING

Section 5 of the Act amends Section 705 of the Communications Act pertaining to the piracy of satellite cable programming. The Committee's amendment is intended to deter piracy practices by (1) stiffening applicable civil and criminal penalties, (2) expanding standing to sue, and (3) making the manufacture, sale, modification, importation, exportation, sale or distribution of devices or equipment with knowledge that its primary purpose is to assist in unauthorized decryption of satellite cable programming expressly actionable as a criminal act.

The Committee believes these changes are essential to preserve the long-term viability of the TVRO industry. It has been estimated that more than one-third of the one million VideoCipher II descramblers (the industry's *de facto* standard) sold by manufacturer General Instrument have been compromised by black market decoding chips. Unquestionably, piracy is costing those who hold rights in satellite-delivered cable programming tens of millions of dollars in revenues.

The piracy problem is rampant both among commercial users of the VideoCipher II (hotels, lounges, and other establishments) and among private home users. The depth of the problem is such that there has been a steady increase in the number of new prosecutions and civil suits brought against alleged "pirates."

The Committee wants to give both prosecutors and civil plaintiffs the legal tools they need to bring piracy under control. The Committee commends and encourages inter-industry efforts to deal with piracy, and believes the new remedies and increased penalties adopted through this provision will contribute to these important efforts.

The Committee has noted reports that the Federal Bureau of Investigation has notified FBI field offices, through its Manual of Investigative and Operational Guidelines (MIOG), that investigating satellite signal theft is "not a top priority." The Committee admonishes relevant authorities and government entities, including the FBI, to expend the resources necessary to attack massive and increasing levels of piracy.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I had been asked by the gentleman from New Jersey [Mr. RINALDO], the ranking Republican on the Subcommittee on Telecommunications to note that the amendment to this bill is identical to the bill H.R. 2848 which the House passed earlier this month on the suspension calendar, which he understands the amendment is necessary to insure Senate passage of the provisions of H.R. 2848; and the Republican members of the Committee on Energy and Commerce are aware of the amendment and have no objections to it; only their desire to see that the network and superstation programming is made available to dish owners.

Since the amendment will accomplish that goal, they support it wholeheartedly.

Mr. Speaker, I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I rise today in strong support of the Fair Credit and Charge Card Disclosure Act of 1988. The issue of adequate credit card disclosure for consumers has long been of concern to me. In 1987, I introduced the Consumer Services Bank Act of 1987 (H.R. 3209), which included credit card disclosure requirements similar to those contained in the bill we are now considering. Providing adequate disclosure to the consumer is a fundamental element in the proper functioning of our financial system and is the best means of ensuring that the market offers consumers quality services at competitive prices.

In passing the Fair Credit and Charge Card Disclosure Act of 1988, the House of Representatives has today endorsed significant and long-awaited legislation which will ensure that consumers have the information they need concerning credit card costs. The disclosures required by this bill must be contained in the application for a credit card, thereby giving the consumer the opportunity to compare the costs of credit cards offered by several different institutions before making a choice. I believe that this type of prior disclosure is an essential element of any meaningful disclosure law. The consumer must be given the information necessary to make an informed choice.

Currently, the Truth in Lending Act requires disclosure of credit card pricing information prior to the first transaction on the card. By that time, however, many consumers have already received their cards and paid the annual membership fee, precluding their option to reconsider. The bill we have just passed would make information concerning the terms of various credit card plans available to the consumer when he needs it, rather than merely informing him after the fact.

The Fair Credit and Charge Card Disclosure Act of 1988 would amend the Truth in Lending Act to require that six specific credit card terms be disclosed in tabular format on credit card applications and solicitations. These terms are: First, the annual percentage rate [APR], and if the rate is variable, the current rate and how the rate is determined; second, any annual, periodic or membership fee imposed for the issuance of a credit card; third, any minimum finance charge or fixed finance charge; fourth, any transaction charge for use of the card; fifth, the "grace" period—the period within which any credit extended must be repaid to avoid incurring a finance charge; and sixth, the name of the balance calculation method used to determine the balance on which the finance charge is applied.

In addition to requiring these six terms disclosed in tabular form, the bill requires each credit or charge card application or solicitation to clearly disclose three additional fees that may apply to some credit card plans: First, any cash advance fee; second any late fee; third any over-the-limit fee—a fee imposed when an extention of credit is in excess of the amount of credit authorized to be extended under the account.

Another provision in the bill would require that whenever a credit card issuer offering credit card insurance proposes to change the person providing that insurance, he must notify each insured cardholder in writing of the proposed change in insurer not less than 30 days prior to the change. Also, if any increase in the rate or substantial decrease in coverage would result from the change in insurer, the consumer must be given notice.

The bill would also require card issuers to disclose to present accountholders the terms that will apply during the next membership period at least 30 days prior to the scheduled renewal date of the account.

Furthermore, the bill would give the Federal Reserve Board the authority to add or modify any information required to be disclosed on any credit or charge card application or solicition if it determines it necessary to carry out the law. This is an important element of the bill, and is in response to the fact that the bill would preempt state credit card disclosure laws. For example, if the Board finds that additional disclosures—such as any that could be required in the two States—Wisconsin and Illinois—that may require additional disclosures than does the Federal law—are necessary to carry out the purpose of the law, the Board has the authority to add these disclosures to the Federal law.

This legislation is the result of much time and effort on the part of both houses of the Congress, and with its passage we can be confident that the American consumer will benefit from enhanced credit card disclosure.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the Senate bill, S. 1883, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1883 the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on the motion to suspend the rules on which further proceedings were postponed, and then on the conference report on H.R. 515, on which further proceedings were postponed Thursday, October 13, 1988, and on Tuesday, October 18, 1988.

Votes will be taken in the following order: The conference report on H.R. 4352 de novo; and the conference report on H.R. 515, de novo.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the conference report on the bill, H.R. 4352.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island [Mr. ST GERMAIN] that the House suspend the rules and agree to the conference report on the bill, H.R. 4352.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 515, FAIR CREDIT AND CHARGE CARD DISCLOSURE ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question de novo of agreeing to the conference report on the bill, H.R. 515, on which further proceedings were postponed on Thursday, October 13, 1988, and on Tuesday, October 18, 1988.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

JUDICIAL IMPROVEMENTS AND ACCESS TO JUSTICE ACT

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4807) to amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Improvements and Access to Justice Act".

SEC. 2. REFERENCE TO TITLE 28, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

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TITLE I—FEDERAL COURTS STUDY COMMITTEE

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Courts Study Act".

SEC. 102. ESTABLISHMENT AND PURPOSES.

(a) ESTABLISHMENT.—There is hereby established within the Judicial Conference of the United States, a Federal Courts Study Committee on the future of the Federal Judiciary (hereafter referred to as the "Committee").

(b) PURPOSES.—The purposes of the Committee are to—

(1) examine problems and issues currently facing the courts of the United States;

(2) develop a long-range plan for the future of the Federal Judiciary, including assessments involving—

(A) alternative methods of dispute resolution;

(B) the structure and administration of the Federal court system;

(C) methods of resolving intracircuit and intercircuit conflicts in the courts of appeals; and

(D) the types of disputes resolved by the Federal courts; and

(3) report to the Judicial Conference of the United States, the President, the Congress, the Conference of Chief Justices, and the State Justice Institute on the revisions, if any, in the laws of the United States which the Committee, based on its study and evaluation, deems advisable.

SEC. 103. MEMBERSHIP OF THE COMMITTEE.

(a) APPOINTMENTS.—The Committee shall be composed of fifteen members to be appointed by the Chief Justice of the United States, within ten days after the effective date of this title.

(b) SELECTION.—The membership of the Committee shall be selected in such a manner as to be representative of the various interests, needs and concerns which may be affected by the jurisdiction of the Federal courts. The Chief Justice shall designate one of the members of the Committee to serve as Chairman.

(c) TERM OF OFFICE.—The Committee members shall serve at the pleasure of the Chief Justice.

(d) RULES OF PROCEDURE.—Rules of procedure shall be promulgated by vote of a majority of the Committee.

SEC. 104. POWERS OF THE COMMITTEE.

(a) HEARINGS.—The Committee or, on the authorization of the Committee, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, as the Committee or any such subcommittee may deem advisable.

(b) INFORMATION AND ASSISTANCE.—The Administrative Office of the United States Courts, the Federal Judicial Center, and each department, agency, and instrumentality of the executive branch of the Government, including the National Institute of Justice and independent agencies, shall furnish to the Committee, upon request made by the Chairman, such information and assistance as the Committee may reasonably deem necessary to carry out its functions under this title, consistent with other applicable provisions of law governing the release of such information.

(c) PERSONNEL.—(1) Subject to such rules and regulations as may be adopted by the

Committee, the Director of the Administrative Office shall furnish to the Committee necessary staff and technical assistance in response to needs specified.

(2) Section 5108(c)(1) of title 5, United States Code, is amended by striking out "15" and inserting in lieu thereof "17".

(d) ADVISORY PANELS.—The Committee is authorized, for the purpose of carrying out its functions and duties pursuant to the provisions of this title, to establish advisory panels consisting of Committee members or members of the public. Such panels shall be established to provide expertise and assistance in specific areas, as the Committee deems necessary.

SEC. 105. FUNCTIONS AND DUTIES.

The Committee shall—

(1) make a complete study of the courts of the United States and of the several States and transmit a report to the President, the Chief Justice of the United States, the Congress, the Judicial Conference of the United States, the Conference of Chief Justices, and the State Justice Institute on such study, within fifteen months after the effective date of this title;

(2) recommend revisions to be made to laws of the United States as the Committee, on the basis of such study, deems advisable;

(3) develop a long-range plan for the judicial system; and

(4) make such other recommendations and conclusions it deems advisable.

SEC. 106. COMPENSATION OF MEMBERS.

(a) EMPLOYEES OF THE GOVERNMENT.—A member of the Committee who is an officer or full-time employee of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Committee, not to exceed the maximum amounts authorized under section 456 of title 28.

(b) PRIVATE SECTOR.—A member of the Committee who is from the private sector shall receive $200 per diem for each day (including travel time) during which he or she is engaged in the actual performance of duties vested in the Committee, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, not to exceed the maximum amounts authorized under section 456 of title 28.

SEC. 107. EXPIRATION OF THE COMMITTEE.

The Committee shall cease to exist on the date 60 days after it transmits the report pursuant to section 105.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this title there are authorized to be appropriated $300,000 for each of the fiscal years 1989 and 1990.

SEC. 109. EFFECTIVE DATE.

This title shall become effective on January 1, 1989.

TITLE II—FEDERAL JURISDICTION—DIVERSITY REFORM

SEC. 201. AMOUNT IN CONTROVERSY IN DIVERSITY CASES.

(a) INCREASE IN AMOUNT IN CONTROVERSY TO $50,000.—Subsections (a) and (b) of section 1332 are each amended by striking out "$10,000" and inserting in lieu thereof "$50,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the 180th day after the date of enactment of this title.

SEC. 202. DIVERSITY IN CASES INVOLVING MULTI-STATE CORPORATIONS OR REPRESENTATIVE PARTIES.

(a) IN GENERAL.—Section 1332(c) is amended to read as follows:

"(c) For the purposes of this section and section 1441 of this title—

"(1) a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business; and

"(2) the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any civil action commenced in or removed to a United States district court on or after the 180th day after the date of enactment of this title.

SEC. 203. CITIZENSHIP OF PERMANENT RESIDENT ALIEN.

(a) PERMANENT RESIDENT ALIEN CITIZENSHIP FOR DIVERSITY PURPOSES.—Section 1332(a) is amended by adding at the end thereof the following: "For the purposes of this section, section 1335, and section 1441, an alien admitted to the United States for permanent residence shall be deemed a citizen of the State in which such alien is domiciled.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to claims in civil actions commenced in or removed to the United States district courts on or after the 180th day after the date of enactment of this title.

TITLE III—FEDERAL JUDICIAL CENTER

SEC. 301. FEDERAL JUDICIAL CENTER FOUNDATION.

(a) ESTABLISHMENT.—Chapter 42 is amended by adding at the end the following new section:

"§ 629. Federal Judicial Center Foundation

"(a) There is established a private nonprofit corporation which shall be known as the Federal Judicial Center Foundation (hereafter in this section referred to as the 'Foundation') and which shall be incorporated in the District of Columbia. The purpose of the Foundation shall be to have sole authority to accept and receive gifts of real and personal property and services made for the purpose of aiding or facilitating the work of the Federal Judicial Center. The Foundation shall not accept conditional or otherwise restricted gifts, except gifts that are designated for the support of specific projects previously approved by the Board of the Center may be accepted. The Foundation shall have no authority to administer or otherwise determine the use of gifts accepted under this section.

"(b) The business of the Foundation shall be conducted by a Board that shall have seven members, including a chairman. Three members, including the chairman, shall be appointed by the Chief Justice of the United States, two by the President Pro Tempore of the Senate, and two by the Speaker of the House of Representatives. The term of office of each member of the Board shall be 5 years, except that the initial terms shall be 5 years for the chairman, one member appointed by the President Pro Tempore and one member appointed by the Speaker, 3 years for the other member appointed by the President Pro Tempore and the other member appointed by the Speaker, and two years for the two other members appointed by the Chief Justice. Members of the Board shall serve without compensation but, upon authorization of the Director of the Center, shall be reimbursed by the Federal Judicial Center for actual and necessary expenses incurred in the performance of their official duties. No person who is a Federal or State judge in regular active service or otherwise eligible to perform judicial duties shall be eligible for membership on the Board. The Center shall provide all administrative support and facilities necessary for the operation of the Board.

"(c) The Federal Judicial Center is authorized to administer and use gifts received by the Foundation under this section. The gifts shall be used to further the goals of the Center as determined by the Board of the Center.

"(d) Gifts of money and proceeds from sales of other property received as gifts shall be deposited in a separate fund in the Treasury of the United States and disbursed on the order of the Director of the Center, in accordance with policies established by the Board of the Center.

"(e) The Board of the Foundation shall, not later than October 1 of each year, submit to the Committees on the Judiciary of the United States Senate and House of Representatives a report with respect to gifts received under this section during the preceding 12-month period, including the source of each such gift, the amount of each gift of cash or cash equivalent, and a description of any other gift. The Center shall include in its annual report of the activities of the Center under section 623(a)(3) a description of the purposes for which gifts were used during the year covered by the report.

"(f) For the purpose of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to or for the use of the United States.".

(b) CONFORMING AMENDMENT.—The item relating to section 629 in the table of sections for chapter 42, is amended to read as follows:

"629. Federal Judicial Center Foundation.".

SEC. 302. AUTHORITY TO IMPLEMENT HISTORY PROGRAM.

Section 623(a) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) conduct, coordinate, and encourage programs relating to the history of the judicial branch of the United States Government.".

SEC. 303. AUTHORITY TO PROVIDE FOR TRAINING FOR PERSONS OUTSIDE THE JUDICIAL BRANCH.

Section 620(b)(3) is amended to read as follows:

"(3) to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government and other persons whose

participation in such programs would improve the operation of the judicial branch, including, but not limited to, judges, United States magistrates, clerks of court, probation officers, and persons serving as mediators and arbitrators;".

SEC. 304. APPOINTMENT AND COMPENSATION OF THE DEPUTY DIRECTOR OF THE CENTER.

(a) APPOINTMENT BY THE BOARD.—Section 624(1) is amended by inserting "and the Deputy Director" after "Director".

(b) COMPENSATION.—

(1) Section 626 is amended—

(A) by adding at the end the following new sentence: "The compensation of the Deputy Director of the Federal Judicial Center shall be the same as that of the Deputy Director of the Administrative Office of the United States Courts."; and

(B) by amending the section heading to read as follows:

"§ 626. Compensation of the Director and Deputy Director".

(2) The item relating to section 626 in the table of sections for chapter 42 is amended to read as follows:

"626. Compensation of the Director and Deputy Director.".

(c) BUDGET ACT COMPLIANCE.—The amendment made by subsection (b) shall be effective for fiscal years beginning on or after October 1, 1988.

TITLE IV—RULES ENABLING ACT

SEC. 401. RULES ENABLING ACT AMENDMENTS.

(a) IN GENERAL.—Chapter 131 is amended by striking out section 2072 and inserting in lieu thereof the following:

"§ 2072. Rules of procedure and evidence; power to prescribe

"(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrates thereof) and courts of appeals.

"(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

"§ 2073. Rules of procedure and evidence; method of prescribing

"(a)(1) The Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section.

"(2) The Judicial Conference may authorize the appointment of committees to assist the Conference by recommending rules to be prescribed under section 2072 of this title. Each such committee shall consist of members of the bench and the professional bar, and trial and appellate judges.

"(b) The Judicial Conference shall authorize the appointment of a standing committee on rules of practice, procedure, and evidence under subsection (a) of this section. Such standing committee shall review each recommendation of any other committees so appointed and recommend to the Judicial Conference rules of practice, procedure, and evidence and such changes in rules proposed by a committee appointed under subsection (a)(2) of this section as may be necessary to maintain consistency and otherwise promote the interest of justice.

"(c)(1) Each meeting for the transaction of business under this chapter by any committee appointed under this section shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public, and states the reason for so closing the meeting. Minutes of each meeting for the transaction of business under this chapter shall be maintained by the committee and made available to the public, except that any portion of such minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting.

"(2) Any meeting for the transaction of business under this chapter, by a committee appointed under this section, shall be preceded by sufficient notice to enable all interested persons to attend.

"(d) In making a recommendation under this section or under section 2072, the body making that recommendation shall provide a proposed rule, an explanatory note on the rule, and a written report explaining the body's action, including any minority or other separate views.

"(e) Failure to comply with this section does not invalidate a rule prescribed under section 2072 of this title.

"§ 2074. Rules of procedure and evidence; submission to Congress; effective date

"(a) The Supreme Court shall transmit to the Congress not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective a copy of the proposed rule. Such rule shall take effect no earlier than December 1 of the year in which such rule is so transmitted unless otherwise provided by law. The Supreme Court may fix the extent such rule shall apply to proceedings then pending, except that the Supreme Court shall not require the application of such rule to further proceedings then pending to the extent that, in the opinion of the court in which such proceedings are pending, the application of such rule in such proceedings would not be feasible or would work injustice, in which event the former rule applies.

"(b) Any such rule creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress.".

(b) ADVISORY COMMITTEES FOR COURTS.—Section 2077(b) is amended—

(1) by striking out "of appeals" the first place it appears and inserting in lieu thereof ", except the Supreme Court, that is authorized to prescribe rules of the conduct of such court's business under section 2071 of this title"; and

(2) by striking out "the court of appeals" and inserting in lieu thereof "such court".

(c) REPEALER.—Section 2076 is repealed.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 is amended by striking out the item relating to section 2072 and all that follows through the item relating to section 2076 and inserting in lieu thereof the following:

"2072. Rules of procedure and evidence; power to prescribe.

"2073. Rules of procedure and evidence; method of prescribing.

"2074. Rules of procedure and evidence; submission to Congress; effective date.

"2075. Bankruptcy rules.".

SEC. 402. COMPILATION AND REVIEW OF LOCAL RULES.

(a) COMPILATION.—Section 604(a) is amended—

(1) by redesignating paragraph (18) as paragraph (23); and

(2) by inserting after paragraph (18) the following:

"(19) Periodically compile—

"(A) the rules which are prescribed under section 2071 of this title by courts other than the Supreme Court;

"(B) the rules which are prescribed under section 372(c)(11) of this title; and

"(C) the orders which are required to be publicly available under section 372(c)(15) of this title;

so as to provide a current record of such rules and orders;".

(b) REVIEW.—Section 331 is amended by inserting after the fifth paragraph the following:

"The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review.".

SEC. 403. RULES BY CERTAIN COURTS AND ORDERS BY CIRCUIT JUDICIAL COUNCILS AND THE JUDICIAL CONFERENCE.

(a) RULES BY CERTAIN COURTS.—(1) Section 2071 is amended—

(A) by inserting "(a)" before "The";

(B) by striking out "by the Supreme Court" and inserting in lieu thereof "under section 2072 of this title"; and

(C) by adding at the end the following:

"(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

"(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

"(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

"(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

"(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

"(f) No rule may be prescribed by a district court other than under this section.".

(2) Section 332(d) is amended by adding at the end the following new paragraph:

"(4) Each judicial council shall periodically review the rules which are prescribed under section 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.".

(b) ORDERS BY CIRCUIT JUDICIAL COUNCILS.—Section 332(d)(1) is amended by inserting after the first sentence the following new sentence: "Any general order relating to *practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.".*

(c) RULES BY JUDICIAL CONFERENCE AND CIRCUIT JUDICIAL COUNCILS.—Section 372(c)(11) is amended by inserting before "Any rule promulgated" the following new sentence: "Any such rule shall be made or amended only after giving appropriate public notice and an opportunity for comment.".

SEC. 404. CONFORMING AND OTHER TECHNICAL AMENDMENTS.

(a) CONFORMING REPEAL OF CRIMINAL RULES ENABLING PROVISIONS.—(1) Chapter 237 of title 18, United States Code, and the item relating to chapter 237 in the table of chapters for part II of such title, are repealed.

(b) CONFORMING AMENDMENTS RELATING TO MAGISTRATES.—(1) Section 636(d) is amended by striking out "section 3402 of title 18, United States Code" and inserting in lieu thereof "section 2072 of this title".

(2) Section 3402 of title 18, United States Code, is amended by striking out the second paragraph.

(c) CROSS REFERENCE TECHNICAL AMENDMENT.—Section 9 of the Act entitled "An Act to provide an adequate basis for the administration of the Lake Mead National Recreation Area, Arizona and Nevada, and for other purposes" approved October 8, 1964 (Public Law 88-639; 16 U.S.C. 460n-8) is amended by striking out the sentence beginning "The provisions of title 18, section 3402".

SEC. 405. TAX COURT RULE MAKING NOT AFFECTED.

The amendments made by this title shall not affect the authority of the Tax Court to prescribe rules under section 7453 of the Internal Revenue Code of 1986.

SEC. 406. SAVINGS PROVISION.

The rules prescribed in accordance with law before the effective date of this title and in effect on the date of such effective date shall remain in force until changed pursuant to the law as amended by this title.

SEC. 407. EFFECTIVE DATE.

This title shall take effect on December 1, 1988.

TITLE V—JURISDICTION OF THE FEDERAL CIRCUIT

SEC. 501. INTERLOCUTORY APPEALS.

Section 1292(d) is amended by adding at the end the following new paragraph:

"(4)(A) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of an appeal from an interlocutory order of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, granting or denying, in whole or in part, a motion to transfer an action to the United States Claims Court under section 1631 of this title.

"(B) When a motion to transfer an action to the Claims Court is filed in a district court, no further proceedings shall be taken in the district court until 60 days after the court has ruled upon the motion. If an appeal is taken from the district court's grant or denial of the motion, proceedings shall be further stayed until the appeal has been decided by the Court of Appeals for the Federal Circuit. The stay of proceedings in the district court shall not bar the granting of preliminary or injunctive relief, where appropriate and where expedition is reasonably necessary. However, during the period in which proceedings are stayed as provided in this subparagraph, no transfer to the Claims Court pursuant to the motion shall be carried out.".

SEC. 502. EFFECTIVE DATE.

The amendment made by section 501 shall apply to any action commenced in the district court on or after the date of enactment of this title.

TITLE VI—STATE JUSTICE INSTITUTE AMENDMENTS

SEC. 601. RULE MAKING.

Section 203(f) of the State Justice Institute Act of 1984 (42 U.S.C. 10702(f)) is amended—

(1) by striking out ", at least thirty days prior to their effective date,"; and

(2) by adding at the end the following: "The publication of a substantive rule shall be made not less than 30 days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.".

SEC. 602. CIVIL SERVICE RETIREMENT.

Section 205(d)(2) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended by striking out "chapter 83" and inserting in lieu thereof "chapters 83 and 84".

SEC. 603. USE OF FUNDS UNDER GRANTS AND CONTRACTS.

Section 206(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)) is amended—

(1) in paragraph (3) by inserting "judicial and" after "using";

(2) by striking out paragraph (4); and

(3) by redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

SEC. 604. UNIT OF STATE OR LOCAL GOVERNMENT MATCHING FUNDS.

Section 206(d) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(d)) is amended by striking out "judicial system" and inserting in lieu thereof "court (or other unit of State or local government)".

SEC. 605. INTERIM FUNDING.

Section 207(a) of the State Justice Institute Act of 1984 (42 U.S.C. 10706(a)) is amended—

(1) in paragraph (1)(B) by adding "and" after the semicolon;

(2) in paragraph (2) by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

SEC. 606. PROCEDURES FOR SUSPENSION OF FUNDING; RESTRICTIONS ON DISCLOSURE OF INFORMATION.

Section 209 of the State Justice Institute Act of 1984 (42 U.S.C. 10708) is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

"SEC. 209. (a) The Institute shall prescribe procedures to ensure that financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken.

"(b) Except as provided by Federal law other than this title, no officer or employee of the Institute, and no recipient of assistance under this title, may use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.".

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $15,000,000 for each of the fiscal years 1989 and 1990. Amounts appropriated under this section may remain available until expended.".

TITLE VII—COURT INTERPRETERS AMENDMENTS

SEC. 701. SHORT TITLE.

This title may be cited as the "Court Interpreter Amendments Act of 1988".

SEC. 702. AUTHORITY OF THE DIRECTOR.

Section 1827(a) is amended to read as follows:

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.".

SEC. 703. CERTIFICATION OF INTERPRETERS; OTHER QUALIFIED INTERPRETERS.

Section 1827(b) is amended to read as follows:

"(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of a circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Judicial Improvements and Access to Justice Act.

"(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

"(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall

report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and in doing so shall consider the prevailing rate of compensation for comparable service in other governmental entities.".

SEC. 704. LISTS OF INTERPRETERS; RESPONSIBILITY FOR SECURING SERVICES OF INTERPRETERS.

Section 1827(c) is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceeding available upon request.

"(2) The clerk of the court, or other court employee designated by the chief judge, shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.".

SEC. 705. SOUND RECORDINGS.

Section 1827(d) is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) inserting "(1)" after "(d)"; and

(3) adding at the end thereof the following:

"(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters, and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.".

SEC. 706. AUTHORIZATION OF APPROPRIATIONS; PAYMENT FOR SERVICES OF INTERPRETERS.

Section 1827(g) is amended—

(a) by amending paragraphs (1), (2), and (3) to read as follows:

"(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this section and the Judicial Improvements and Access to Justice Act, except as provided in paragraph (3).

"(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

"(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.";

(b) by redesignating paragraph (4) as paragraph (5) and by inserting between paragraph (3) and paragraph (5), the following:

"(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of the court, or other court employee designated by the chief judge, upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.".

SEC. 707. APPROVAL OF COMPENSATION AND EXPENSES.

Section 1827(h) is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director under subsection (b)(3).".

SEC. 708. DEFINITIONS.

Subsections (i) and (j) of section 1827 are amended to read as follows:

"(i) The term 'presiding judicial officer' as used in this section refers to any judge of a United States district court, including a bankruptcy judge, a United States magistrate, and in the case of grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.

"(j) The term 'judicial proceedings instituted by the United States' as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator) conducted in, or pursuant to the lawful authority and jurisdiction of a United States district court. The term 'United States district court' as used in this subsection includes any court which is created by an Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title.".

SEC. 709. SIMULTANEOUS INTERPRETATION.

Section 1827(k) is amended to read as follows:

"(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer, on such officer's motion or on the motion of a party, may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.".

SEC. 710. TECHNICAL AMENDMENTS.

(a) Section 1827(d) is amended—

(1) by striking out "competent" and inserting in lieu thereof "qualified";

(2) by striking out "any criminal" and all that follows through "relator)" and inserting in lieu thereof "judicial proceedings instituted by the United States"; and

(3) by striking out "such action" and inserting in lieu thereof "such judicial proceedings".

(b) Section 1827(e)(2) is amended by striking out "criminal or civil action in a United States district court" and inserting in lieu thereof "judicial proceedings instituted by the United States".

SEC. 711. IMPACT ON EXISTING PROGRAMS.

Nothing in this title shall be construed to terminate or diminish existing programs for the certification of interpreters.

SEC. 712. EFFECTIVE DATE.

This title shall become effective upon the date of enactment.

TITLE VIII—JURY SELECTION AND SERVICE

SEC. 801. EXCUSE OF JURORS.

Section 1866(c)(1) is amended to read as follows: "(1) excused by the court, or by the clerk under supervision of the court if the court's jury selection plan so authorizes, upon a showing of undue hardship or extreme inconvenience, for such period as the court deems necessary, at the conclusion of which such person either shall be summoned again for jury service under subsections (b) and (c) of this section or, if the court's jury selection plan so provides, the name of such person shall be reinserted into the qualified jury wheel for selection pursuant to subsection (a) of this section, or".

SEC. 802. JURY SELECTION PLAN.

(a) CLERK DEFINED FOR PURPOSES OF FUNCTIONS UNDER PLAN.—Section 1869(a) is amended to read as follows:

"(a) 'clerk' and 'clerk of the court' shall mean the clerk of the district court of the United States, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of functions under this chapter;".

(b) OPTIONAL JURY SERVICE BY VOLUNTEER PUBLIC SAFETY PERSONNEL.—Paragraph (5) of section 1863(b)(5) is amended—

(1) by inserting "(A) except as provided in subparagraph (B)," after "(5)", and

(2) by adding at the end the following:

"(B) specify that volunteer safety personnel, upon individual request, shall be excused from jury service. For purposes of this subparagraph, the term 'volunteer safety personnel' means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.".

(c) PERSONS EXEMPTED FROM JURY SERVICE.—Paragraph (6) of section 1863(b) is amended to read as follows:

"(6) specify that the following persons are barred from jury service on the ground that they are exempt: (A) members in active service in the Armed Forces of the United States; (B) members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; (C) public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.".

SEC. 803. MASTER JURY WHEEL.

(a) ALPHABETICAL LIST NOT MANDATORY.—Strike out the second sentence of section 1864(a) and insert the following: "The clerk or jury commission may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so prepared shall not be disclosed to any person except pursuant to the district court plan or pursuant to section 1867 or 1868 of this title.".

(b) CONFORMING AMENDMENT.—The second sentence of section 1865(a) is amended by striking out "the alphabetical" and inserting in lieu thereof "in any alphabetical".

SEC. 804. TECHNICAL AMENDMENT.

Section 1869(f) is amended to read as follows:

"(f) 'district court of the United States', 'district court', and 'court' shall mean any district court established by chapter 5 of this title, and any court which is created by Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title;".

SEC. 805. EXPERIMENTAL USE OF NEW JURY SELECTION PROCEDURES.

(a) SECTION 1878.—Chapter 121 is amended by adding at the end thereof the following:

"§ 1878. Experimental use of a one-step summoning and qualification procedure

"(a) The Judicial Conference of the United States is hereby authorized to develop and conduct an experiment in which jurors serving in a limited number of United States district courts shall be qualified and summoned in a single procedure, in lieu of the two separate procedures otherwise provided for by this chapter. The Judicial Conference shall designate the district courts to participate in this experiment, but in no event shall the number of courts participating exceed ten. An experiment may be conducted pursuant to this section for a period not to exceed 2 years. The Judicial Conference shall ensure that an experiment conducted pursuant to this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title, and shall terminate the experiment immediately if it determines that these policies and objectives are being violated or whenever in its judgment good cause for such termination exists.

"(b) Jury selection conducted pursuant to this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with an experiment conducted pursuant to this section.".

(b) TECHNICAL.—The table of sections for chapter 121 is amended by adding at the end thereof the following new item:

"1878. Experimental use of a one-step summoning and qualification procedure.".

TITLE IX—ARBITRATION

SEC. 901. ARBITRATION AUTHORIZATION BY DISTRICT COURTS.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting after chapter 43 the following new chapter:

"CHAPTER 44—ARBITRATION

"Sec.
"651. Authorization of arbitration.
"652. Jurisdiction.
"653. Powers of arbitrator; arbitration hearing.
"654. Arbitration award and judgment.
"655. Trial de novo.
"656. Certification of arbitrators.
"657. Compensation of arbitrators.
"658. District courts that may authorize arbitration.

"§ 651. Authorization of arbitration

"(a) AUTHORITY OF CERTAIN DISTRICT COURTS.—Each United States district court described in section 658 may authorize by local rule the use of arbitration in any civil action, including an adversary proceeding in bankruptcy. A district court described in section 658(1) may refer any such action to arbitration as set forth in section 652(a). A district court described in section 658(2) may refer only such actions to arbitration as are set forth in section 652(a)(1)(A).

"(b) TITLE 9 NOT AFFECTED.—This chapter shall not affect title 9.

"§ 652. Jurisdiction

"(a) ACTIONS THAT MAY BE REFERRED TO ARBITRATION.—(1) Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c) of this section, and section 901(c) of the Judicial Improvements and Access to Justice Act, a district court that authorizes arbitration under section 651 may—

"(A) allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it if the parties consent to arbitration, and

"(B) require the referral to arbitration of any civil action pending before it if the relief sought consists only of money damages not in excess of $100,000 or such lesser amount as the district court may set, exclusive of interest and costs.

"(2) For purposes of paragraph (1)(B), a district court may presume damages are not in excess of $100,000 unless counsel certifies that damages exceed such amount.

"(b) ACTIONS THAT MAY NOT BE REFERRED WITHOUT CONSENT OF PARTIES.—Referral to arbitration under subsection (a)(1)(B) may not be made—

"(1) of an action based on an alleged violation of a right secured by the Constitution of the United States, or

"(2) if jurisdiction is based in whole or in part on section 1343 of this title.

"(c) EXCEPTIONS FROM ARBITRATION.—Each district court shall establish by local rule procedures for exempting, sua sponte or on motion of a party, any case from arbitration in which the objectives of arbitration would not be realized—

"(1) because the case involves complex or novel legal issues,

"(2) because legal issues predominate over factual issues, or

"(3) for other good cause.

"(d) SAFEGUARDS IN CONSENT CASES.—In any civil action in which arbitration by consent is allowed under subsection (a)(1)(A), the district court shall by local rule establish procedures to ensure that—

"(1) consent to arbitration is freely and knowingly obtained, and

"(2) no party or attorney is prejudiced for refusing to participate in arbitration.

"§ 653. Powers of arbitrator; arbitration hearing

"(a) POWERS.—An arbitrator to whom an action is referred under section 652 shall have, within the judicial district of the district court which referred the action to arbitration, the power—

"(1) to conduct arbitration hearings,

"(2) to administer oaths and affirmations, and

"(3) to make awards.

"(b) TIME FOR BEGINNING ARBITRATION HEARING.—An arbitration hearing under this chapter shall begin within a time period specified by the district court, but in no event later than 180 days after the filing of an answer, except that the arbitration proceeding shall not, in the absence of the consent of the parties, commence until 30 days after the disposition by the district court of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment, if the motion was filed during a time period specified by the district court. The 180-day and 30-day periods specified in the preceding sentence may be modified by the court for good cause shown.

"(c) SUBPOENAS.—Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

"§ 654. Arbitration award and judgment

"(a) FILING AND EFFECT OF ARBITRATION AWARD.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall, promptly after the arbitration hearing is concluded, be filed with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo under section 655. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

"(b) SEALING OF ARBITRATION AWARD.—The district court shall provide by local rule that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case—

"(1) except as necessary for the court to determine whether to assess costs or attorney fees under section 655,

"(2) until the district court has entered final judgment in the action or the action has been otherwise terminated, or

"(3) except for purposes of preparing the report required by section 903(b) of the Judicial Improvements and Access to Justice Act.

"(c) TAXATION OF COSTS.—The district court may by rule allow for the inclusion of costs as provided in section 1920 of this title as a part of the arbitration award.

"§ 655. Trial de novo

"(a) TIME FOR DEMAND.—Within 30 days after the filing of an arbitration award with a district court under section 654, any party may file a written demand for a trial de novo in the district court.

"(b) RESTORATION TO COURT DOCKET.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration. In such a case, any right of trial by jury that a party otherwise would have had, as well as any place on the court calendar which is no later than that which a party otherwise would have had, are preserved.

"(c) LIMITATION ON ADMISSION OF EVIDENCE.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

"(1) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence, or

"(2) the parties have otherwise stipulated.

"(d) TAXATION OF ARBITRATOR FEES AS COST.—(1)(A) A district court may provide by rule that, in any trial de novo under this section, arbitrator fees paid under section 657 may be taxed as costs against the party demanding the trial de novo.

"(B) Such rule may provide that a party demanding a trial de novo under subsection (a), other than the United States or its agencies or officers, shall deposit a sum equal to such arbitrator fees as advanced payment of such costs, unless the party is permitted to proceed in forma pauperis.

"(2) Arbitrator fees shall not be taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) shall be returned to the party demanding the trial de novo, if—

"(A) the party demanding the trial de novo obtains a final judgment more favorable than the arbitration award, or

"(B) the court determines that the demand for the trial de novo was made for good cause.

"(3) Any arbitrator fees taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) that is not returned to the party demanding the trial de novo, shall be paid to the Treasury of the United States.

"(4) Any rule under this subsection shall provide that no penalty for demanding a trial de novo, other than that provided in this subsection, shall be assessed by the court.

"(e) ASSESSMENT OF COSTS AND ATTORNEY FEES.—In any trial de novo demanded under subsection (a) in which arbitration was done by consent of the parties, a district court may assess costs, as provided in section 1920 of this title, and reasonable attorney fees against the party demanding the trial de novo if—

"(1) such party fails to obtain a judgment, exclusive of interest and costs, in the court which is substantially more favorable to such party than the arbitration award, and

"(2) the court determines that the party's conduct in seeking a trial de novo was in bad faith.

"§ 656. Certification of arbitrators

"(a) STANDARDS FOR CERTIFICATION.—Each district court listed in section 658 shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

"(1) shall take the oath or affirmation described in section 453, and

"(2) shall be subject to the disqualification rules of section 455.

"(b) TREATMENT OF ARBITRATOR AS INDEPENDENT CONTRACTOR AND SPECIAL GOVERNMENT EMPLOYEE.—An arbitrator is an independent contractor and is subject to the provisions of sections 201 through 211 of title 18 to the same extent as such provisions apply to a special Government employee of the executive branch. A person may not be barred from the practice of law because such person is an arbitrator.

"§ 657. Compensation of arbitrators

"(a) COMPENSATION.—The district court may, subject to limits set by the Judicial Conference of the United States, establish and pay the amount of compensation, if any, that each arbitrator shall receive for services rendered in each case.

"(b) TRANSPORTATION ALLOWANCES.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred in the performance of duties under this chapter.

"§ 658. District courts that may authorize arbitration

"The district courts for the following judicial districts may authorize the use of arbitration under this chapter:

"(1) Northern District of California, Middle District of Florida, Western District of Michigan, Western District of Missouri, District of New Jersey, Eastern District of New York, Middle District of North Carolina, Western District of Oklahoma, Eastern District of Pennsylvania, and Western District of Texas.

"(2) Ten additional judicial districts, which shall be approved by the Judicial Conference of the United States. The Judicial Conference shall give notice of the 10 districts approved under this paragraph to the Federal Judicial Center and to the public.".

(b) CONFORMING AMENDMENT.—The table of chapters at the beginning of part III is amended by inserting after the item relating to chapter 43 the following new item:

"44. Arbitration.. 651".

(c) EXCEPTION TO LIMITATION ON MONEY DAMAGES.—Notwithstanding section 652 (as added by subsection (a) of this section), establishing a limitation of $100,000 in money damages with respect to cases referred to arbitration, a district court listed in section 658 (as added by subsection (a) of this section), whose local rule on the date of the enactment of this Act provides for a limitation on money damages, with respect to such cases, of not more than $150,000, may continue to apply the higher limitation.

SEC. 902. MODEL PROCEDURES.

The Judicial Conference of the United States may develop model rules relating to procedures for arbitration under chapter 44, as added by section 901 of this Act. No model rule may supersede any provision of such chapter 44, this title, or any law of the United States.

SEC. 903. REPORTS.

(a) ANNUAL REPORT BY DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall include in the annual report of the activities of the Administrative Office required under section 604(a)(3), statistical information about the implementation of chapter 44, as added by section 901 of this Act.

(b) REPORT BY FEDERAL JUDICIAL CENTER.—Not later than 5 years after the date of enactment of this Act, the Federal Judicial Center, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Congress a report on the implementation of chapter 44, as added by section 901 of this Act, which shall include the following:

(1) A description of the arbitration programs authorized by such chapter, as conceived and as implemented in the judicial districts in which such programs are authorized.

(2) A determination of the level of satisfaction with the arbitration programs in those judicial districts by a sampling of court personnel, attorneys, and litigants whose cases have been referred to arbitration.

(3) A summary of those program features that can be identified as being related to program acceptance both within and across judicial districts.

(4) A description of the levels of satisfaction relative to the cost per hearing of each program.

(5) Recommendations to the Congress on whether to terminate or continue chapter 44, or, alternatively, to enact an arbitration provision in title 28, United States Code, authorizing arbitration in all Federal district courts.

SEC. 904. EFFECT ON JUDICIAL RULE MAKING POWERS.

Nothing in this title, or in chapter 44, as added by section 901 of this Act, is intended to abridge, modify, or enlarge the rule making powers of the Federal judiciary.

SEC. 905. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1989, and for each of the succeeding 4 fiscal years, to the judicial branch such sums as may be necessary to carry out the purposes of chapter 44, as added by section 901 of this Act. Funds appropriated under this section shall be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center. The funds so appropriated are authorized to remain available until expended, except that such funds may not be expended for the arbitration of actions referred to arbitration after the date of repeal set forth in section 906 of this Act.

SEC. 906. REPEAL.

Effective 5 years after the date of the enactment of this Act, chapter 44, as added by section 901 of this Act, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, are repealed, except that the provisions of that chapter shall continue to apply through final disposition of all actions in which referral to arbitration was made before the date of repeal.

SEC. 907. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. DIVISIONAL VENUE IN CIVIL CASES.

(a) REPEAL.—Section 1393, relating to divisional venue in civil cases, and the item relating to section 1393 in the table of sections at the beginning of chapter 87, are repealed.

(b) EFFECTIVE DATE.—The amendments made by this section take effect 90 days after the date of enactment of this Act.

SEC. 1002. REGISTRATION OF FOREIGN JUDGMENTS.

(a) JUDGMENTS OF DISTRICT COURTS AND COURT OF INTERNATIONAL TRADE.—Section 1963 is amended by amending the first sentence to read as follows: "A judgment in an action for the recovery of money or property entered in any district court or in the Court of International Trade may be registered by filing a certified copy of such judgment in any other district or, with respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown.".

(b) CONFORMING AMENDMENTS.—(1) The section caption for section 1963 is amended to read as follows:

"§ 1963. Registration of judgments of the district courts and the Court of International Trade".

(2) Section 1963A is repealed.

(3)(A) The item relating to section 1963 in the table of sections at the beginning of chapter 125 is amended to read as follows:

"1963. Registration of judgments of the district courts and the Court of International Trade.".

(B) The table of sections at the beginning of chapter 125 is amended by repealing the item relating to section 1963A.

(c) EFFECTIVE DATE.—The amendments made by this section take effect 90 days after the date of enactment of this title.

SEC. 1003. BANKRUPTCY JUDGE, MAGISTRATE AND LAW CLERK EXEMPTION FROM FEDERAL LEAVE ACT.

(a) AMENDMENTS TO SECTIONS 153, 156, 631, 634, 712, 752, AND 794.—

(1) Section 153 is amended by adding at the end thereof the following:

"(d) A bankruptcy judge appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.";

(2) Section 631 is amended by adding at the end thereof the following:

"(l) A United States magistrate appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.";

(3) Sections 156(a), 712, 752, and 794 are each amended by adding at the end thereof the following:

"A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.".

(4) Section 634(c) is amended by adding at the end thereof the following: "A legal assistant appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.".

(b) TRANSITION PROVISIONS.—(1) If an individual who is exempted from the Leave Act by operation of amendments under this section and who was previously subject to the provisions of subchapter I of chapter 63 of title 5, United States Code, without a break in service, again becomes subject to this subchapter on completion of his service as an exempted officer, the unused annual leave and sick leave standing to his credit when he was exempted from this subchapter is deemed to have remained to his credit.

(2) In computing an annuity under section 8339 of title 5, United States Code, the total service of a person specified in paragraph (1) of this subsection who retired on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of section 8339 of title 5, United States Code, the days of unused sick leave standing to his credit when he was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

SEC. 1004. COST-OF-LIVING ADJUSTMENT OF ANNUITIES PAYABLE UNDER SECTIONS 611 AND 627.

(a) AMENDMENTS TO SECTIONS 611 AND 627.—Sections 611 and 627 are amended by adding at the end thereof a new paragraph denominated as subsection (e) of section 611 and subsection (f) of section 627, to read as follows:

"Each annuity payable under this section shall be increased by the same percentage amount and effective on the same date as annuities payable under chapter 83 of title 5, are increased as provided by section 8340 of title 5.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to cost-of-living increases that go into effect on or after the date of enactment of this title with respect to any annuity being paid or becoming payable on or after such date.

SEC. 1005. MILITARY RETIREMENT PAY FOR SENIOR OR RETIRED JUDGES.

(a) AMENDMENTS TO SECTION 371.—Section 371 is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (c) of section 5532 of title 5, if a regular or reserve member or former member of a uniformed service who is receiving retired or retainer pay becomes employed as a justice or judge of the United States, as defined by section 451, or becomes eligible therefor while so employed, such retired or retainer pay shall not be paid during regular active service as a justice or judge, but shall be resumed or commenced without reduction upon retirement from the judicial office or from regular active service (into senior status) as such justice or judge.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to a justice or judge who retires, or has retired, from the judicial office or from regular active service (into senior status) as such justice or judge of the United States on or after the effective date of section 5532(c) of title 5, and to whom section 5532(c) would otherwise be applicable.

SEC. 1006. AMENDMENTS TO CONFORM SECTIONS 611 AND 627 TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986.

(a) AMENDMENTS TO SECTIONS 611 AND 627.—

(1) Section 611(a) is amended to read as follows:

"(a) The Director may, by written election filed with the Chief Justice of the United States within 6 months after the date on which he takes office, waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retirement System) or chapter 84 of title 5, (the Federal Employees' Retirement System), whichever is applicable, and bring himself within the purview of this section. A Director who elects coverage under this section shall be deemed an 'employee' for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84. Waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director, upon separation from service other than by retirement, such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5."; and

(2) Section 627(b) is amended, following the words "Provided, however,", to read as follows:

"That the Director, upon written notice filed with the Director of the Administrative Office of the United States Courts within 6 months after the date on which he takes office, may waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retirement System) or chapter 84 of title 5 (the Federal Employees' Retirement System), whichever is applicable, and elect coverage under the retirement and disability provisions of this section. A Director who elects coverage under this section shall be deemed an 'employee' for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84: And provided further, That upon his nonretirement separation from the Federal Judicial Center, waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to persons holding the offices of Director of the Administrative Office of the United States Courts, Director of the Federal Judicial Center, and Administrative Assistant to the Chief Justice on the date of enactment of this title.

SEC. 1007. JUDICIAL DISQUALIFICATION AMENDMENT.

Section 455 is amended by adding at the end thereof the following:

"(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.".

SEC. 1008. INCENTIVE AWARDS.

Section 604(a), as amended by this Act, is further amended—

(1) by redesignating the second paragraph (14) through paragraph (19) as paragraphs (15) through (20); and

(2) by inserting after paragraph (20) the following:

"(21) Establish a program of incentive awards for employees of the judicial branch of the United States Government, other than any judge who is entitled to hold office during good behavior;".

SEC. 1009. WAIVER OF CLAIMS FOR OVERPAYMENT OF JUDICIAL PAY AND ALLOWANCES.

(a) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Section 5584 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(3) the Director of the Administrative Office of the United States Courts when the claim is in an amount aggregating not more than $10,000 and involves an officer or employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or any of the courts set forth in section 610 of title 28."; and

(2) in subsection (g)—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) the Administrative Office of the United States Courts, the Federal Judicial Center, and any of the courts set forth in section 610 of title 28.

For purposes of this section, the Director of the Administrative Office of the United States Courts shall be the head of the agency in the case of those entities set forth in paragraph (6) of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any claim arising before the date of the enactment of this Act which is pending on such date, and to any claim which arises on or after such date of enactment.

SEC. 1010. COURT SECURITY.

Section 604(a) is further amended by inserting the following new paragraph before paragraph (23), as redesignated by this Act:

"(22) Receive and expend, either directly or by transfer to the United States Marshals Service or other Government agency, funds appropriated for the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress/egress control, inspection of packages, directed security patrols, and other similar activities;".

SEC. 1011. TRAVEL REIMBURSEMENT.

Section 604(a)(7) is amended by inserting a comma in lieu of the semicolon at the end thereof and adding thereafter the following: "without regard to the per diem allowances and amounts for reimbursement of actual and necessary expenses established by the Administrator of General Services under section 5702 of title 5: Provided, That the reimbursement of subsistence expenses may not exceed that authorized by the Director for judges of the United States under section 456 of this title;".

SEC. 1012. CLAIMS COURT FEES.

(a) INCREASE IN CLAIMS COURT FILING FEES.—(1) Section 2520 is amended by striking out "$60" and inserting in lieu thereof "$120".

(2) The amendment made by this subsection shall take effect 30 days after the date of enactment of this title.

(b) REPORT ON OTHER FEES.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit a report to the Congress on the actual costs of filing actions in the district courts of the United States.

SEC. 1013. CORPORATE VENUE.

(a) IN GENERAL.—Section 1391(c) is amended to read as follows:

"(c) For purposes of venue under this chapter, a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced. In a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect 90 days after the date of enactment of this title.

SEC. 1014. METHOD OF RECORDING.

Paragraph (7) of section 636(c) is amended to read as follows:

"(7) The magistrate shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.".

SEC. 1015. LOCATION OF CHAMBERS OF CIRCUIT JUDGES.

Section 462(c) is amended by striking out "where Federal facilities are available" and inserting in lieu thereof "within the circuit other than where regular sessions of court are authorized by law to be held,".

SEC. 1016. IMPROVEMENTS IN REMOVAL PROCEDURE.

(a) ACTIONS REMOVABLE GENERALLY.—Section 1441(a) is amended by adding at the end thereof the following new sentence: "For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.".

(b) PROCEDURE FOR REMOVAL.—Section 1446 is amended—

(1) by amending subsection (a) to read as follows:

"(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.";

(2) in subsection (b)—

(A) by striking out "petition for removal" each place it appears and inserting in lieu thereof "notice of removal"; and

(B) in the second paragraph by striking out the period at the end thereof and inserting in lieu thereof ", except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action."; and

(3) by striking out subsection (d) and redesignating subsections (e) and (f) as subsection (d) and (e), respectively.

(c) PROCEDURE AFTER REMOVAL GENERALLY.—Section 1447 is amended—

(1) by amending subsection (c) to read as follows:

"(c) A motion to remand the case on the basis of any defect in removal procedure must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case."; and

(2) by adding at the end thereof the following new subsection:

"(e) If after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.".

SEC. 1017. COST-OF-LIVING ADJUSTMENTS FOR JUDICIAL SURVIVORS' ANNUITIES.

(a) IN GENERAL.—Section 376(m) is amended to read as follows:

"(m) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, each annuity payable from the Judicial Survivors' Annuities Fund shall be increased at the same time by the same percentage by which annuities are increased under that section.".

(b) INCREASE FOR EXISTING ANNUITANTS.—Each annuity payable from the Judicial Survivors' Annuities Fund under section 376 of title 28, United States Code, on the date of the enactment of this title shall be increased by 10 percent, effective on such date of enactment.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to increases in annuities which are made under section 8340(b) of title 5, United States Code, on or after the date of enactment of this title.

SEC. 1018. ELIMINATION OF CIRCUIT EXECUTIVE BOARD OF CERTIFICATION PROCEDURE.

Section 332 is amended—

(1) in subsection (e) by striking out "executive from among persons who shall be certified by the Board of Certification." and inserting in lieu thereof "executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training."; and

(2) in subsection (f) by striking out the first paragraph and by designating the remaining paragraphs as paragraphs (1), (2), (3), and (4), respectively.

SEC. 1019. APPEALS UNDER TITLE 9, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Appeals

"(a) An appeal may be taken from—

"(1) an order—

"(A) refusing a stay of any action under section 3 of this title,

"(B) denying a petition under section 4 of this title to order arbitration to proceed,

"(C) denying an application under section 206 of this title to compel arbitration,

"(D) confirming or denying confirmation of an award or partial award, or

"(E) modifying, correcting, or vacating an award;

"(2) an interlocutory order granting, continuing, or modifying an injunction against an arbitration that is subject to this title; or

"(3) a final decision with respect to an arbitration that is subject to this title.

"(b) Except as otherwise provided in section 1292(b) of title 28, an appeal may not be taken from an interlocutory order—

"(1) granting a stay of any action under section 3 of this title;

"(2) directing arbitration to proceed under section 4 of this title;

"(3) compelling arbitration under section 206 of this title; or

"(4) refusing to enjoin an arbitration that is subject to this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"15. Appeals.".

SEC. 1020. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 28.—

(1) Section 332(c) is amended by striking out "semiannually" and inserting in lieu thereof "semiannual".

(2) Section 604(a)(2) is amended by striking out "quarterly" and inserting in lieu thereof "semiannually".

(3) Section 1295(a)(1) is amended by inserting ", exclusive rights in mask works," after "copyrights".

(4)(A) Section 1338 is amended by adding at the end the following:

"(c) Subsections (a) and (b) apply to exclusive rights in mask works under chapter 9 of title 17 to the same extent as such subsections apply to copyrights.".

(B) The section heading for section 1338 is amended to read as follows:

"§ 1338. Patents, plant variety protection, copyrights, mask works, trade-marks, and unfair competition".

(5) Section 1400(a) is amended by inserting "or exclusive rights in mask works" after "copyrights".

(6) Section 1498 is amended by adding at the end the following:

"(e) Subsections (b) and (c) of this section apply to exclusive rights in mask works under chapter 9 of title 17 to the same extent as such subsections apply to copyrights.".

(7) The table of sections at the beginning of chapter 85 is amended—

(A) in the item relating to section 1330 by striking out "Action" and inserting in lieu thereof "Actions";

(B) in the item relating to section 1331 by inserting a period after "question";

(C) by amending the item relating to section 1338 to read as follows:

"1338. Patents, plant variety protection, copyrights, mask works, trademarks, and unfair competition";

and

(D) by amending the item relating to section 1343 to read as follows:

"1343. Civil rights and elective franchise.".

(8) The item relating to section 1914 in the table of sections at the beginning of chapter 123 is amended by striking out "courts" and inserting in lieu thereof "court".

(9) The table of sections for chapter 17 is amended by amending the item relating to section 376 to read as follows:

"376. Annuities for survivors of certain judicial officials of the United States.".

(b) OTHER AMENDMENTS.—Section 912 of title 17, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 1021. CONFIGURATION OF FLORIDA DISTRICTS.

(a) MIDDLE AND SOUTHERN DISTRICTS.—Section 89 is amended—

(1) in subsection (b)—

(A) by inserting "Collier," after "Clay,";

(B) by inserting "Glades," after "Flagler,"; and

(C) by inserting "Hendry," after "Hardee,"; and

(2) in subsection (c) by striking "Collier," "Glades," and "Hendry,".

(b) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect 90 days after the date of enactment of this title.

(2) The amendments made by subsection (a) shall apply to any action commenced in the United States District Court for the Middle District of Florida, or in the United States District Court for the Southern District of Florida, on or after the effective date of this title, and shall not affect any action pending in either such court on such effective date.

(c) JURIES.—The amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving on the effective date of this title.

SEC. 1022. SERVICE OF ARTICLE III JUDGES ON TERRITORIAL COURTS.

Chapter 13 is amended by—

(1) adding at the end thereof the following:

"§ 297. Assignment of judges to courts of the freely associated compact states

"(a) The Chief Justice or the chief judge of the United States Court of Appeals for the Ninth Circuit may assign any circuit or district judge of the Ninth Circuit, with the consent of the judge so assigned, to serve temporarily as a judge of any duly constituted court of the freely associated compact states whenever an official duly authorized by the laws of the respective compact state requests such assignment and such assignment is necessary for the proper dispatch of the business of the respective court.

"(b) The Congress consents to the acceptance and retention by any judge so authorized of reimbursement from the countries referred to in subsection (a) of all necessary travel expenses, including transportation, and of subsistence, or of a reasonable per diem allowance in lieu of subsistence. The judge shall report to the Administrative Office of the United States Courts any amount received pursuant to this subsection."; and

(2) amending the table of sections by adding at the end thereof the following:

"297. Assignment of judges to courts of the freely associated compact states.".

SEC. 1023. SALARIES OF UNITED STATES CLAIMS COURT JUDGES.

Section 172(b) is amended to read as follows:

"(b) Each judge shall receive a salary at the rate of pay, and in the same manner, as judges of the district courts of the United States.".

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, I am pleased to bring before the House of Representatives the Senate amendment to H.R. 4807, the Judicial Improvements and Access to Justice Act. The Senate passed the bill last week, on October 14, 1988. In large part, the Senate adopted the major provisions of the bill that the House passed on September 13, 1988, under suspension of the rules by voice vote.

Enactment of court reform legislation is similar to creating a quilt. The entire fabric of our system of justice is woven piece by piece through the use of State and Federal courts, traditional litigation and alternative dispute resolution mechanisms. This bill solidifies the tapestry of American justice by strengthening the Federal and State court systems and by encouraging the use of alternative dispute resolution mechanisms. I urge my colleagues to support the bill.

Enactment of this bill will be the second major court reform measure of the 100th Congress. Earlier this year, the Congress passed and the President signed legislation to virtually eliminate the mandatory appellate jurisdiction of the Supreme Court (Public Law 100-352). Enactment of a third important piece of legislation—bankruptcy judges and magistrates' retirement—is imminent.

H.R. 4807, as amended by the Senate, addresses the entire spectrum of justice system reform issues. The breadth of this bill has not been achieved in the court reform arena since enactment of the Federal Courts Improvement Act of 1982 (Public Law 97-164).

H.R. 4807 is the product of several years of work by my subcommittee—the Subcommittee on Courts, Civil Liberties and the Administration of Justice. The bill has reached the final stages of the legislative process only through a long and sustained commitment to judicial reform that has been manifested by a number of Members. My subcommittee's ranking member—Mr. MOORHEAD—deserves significant credit for this bill. I should also note the contributions of my full committee chairman—Mr. RODINO—who has worked so hard over the years to provide a fair and expeditious justice system to all the people in this country. Several other Members, including Mr. FISH, Mr. BERMAN, Mr. HYDE, Mr. MORRISON, Mr. GLICKMAN, Mr. CARDIN, Mr. MAZZOLI, Mr. HOCKBRUECKNER, and Mr. LEWIS all contributed pieces to the bill.

Special recognition should also be extended to several Members in the other body, Senator HOWELL HEFLIN, my counterpart subcommittee chairman, has provided excellent leadership. As former chief justice of the supreme court of Alabama, it is Senator HEFLIN's skill that has guided this product through the Senate. And it has been his expertise that has contributed to the substance of this bill.

I should also note the constructive role that Chairman BIDEN, Senator SIMON, Senator THURMOND, Senator GRASSLEY and Senator HATCH have played on the bill. Specifically, without the fine work of Senator GRASSLEY on the arbitration title of this bill, we would not be here today. Senator SIMON deserves commendation for his diligence and insight into the problems of court interpretation.

The drafting of this bill has been an exercise in interbranch cooperation. Many of the provisions were suggested by the Judicial Conference of the United States. The Department of Justice—through the Office of Legal Policy—has provided valuable assistance and expertise. Several titles of the bill, including those relating to the Federal rulemaking process and arbitration, originated in the Congress. Throughout the process, each and every provision was scrutinized by representatives of the executive and judicial branches. Whenever appropriate, drafting improvements were made in the House and Senate. When necessary, controversial sections were deleted and put off until a future day.

The Senate amendment to H.R. 4807 sets forth a 10-title bill covering a wide array of judicial reform items. I will not give an exhaustive description of the provisions of the bill insofar as they are identical with the provisions of the House-passed bill. I refer interested Members to House Report 100-889 for more extensive discussion of the titles. Suffice it to say, that the provisions of the Senate amendment represent a compromise between the contents of H.R. 4807, as passed by the House, and S. 1482, as reported by Senator HEFLIN's subcommittee.

Members should know that the Senate amendment relates to the following topics: First, a Federal Court Study Committee within the judicial branch; second, reform of diversity of citizenship jurisdiction; third, amendments relating to the Federal Judicial Center charter; fourth, reform of the method of promulgating rules of practice and procedure for use in the Federal courts; fifth, modifications to the appellate jurisdiction of the Court of Appeals for the Federal Circuit; sixth, amendments to the charter of the State Justice Institute; seventh reform of the court interpreters program; eighth, amendments relating to jury selection and service; ninth, amendments relating to court-annexed arbitration; and tenth, numerous other miscellaneous matters.

The Senate amendment to H.R. 4807 contains the following changes from the House-passed bill.

First, the Senate has included a Federal Court Study Committee of temporary duration within the Judicial Conference of the United States. The task of this committee is similar to the one that would have been assigned to a more permanent, three-branch Federal Court Study Commission. The committee is provided authority to evaluate and recommend changes in the operation of the Federal court system, alternative methods of dispute resolution, methods of resolving intracircuit and intercircuit conflicts. The committee is to submit a report and recommendations to the Judicial Conference of the United States, the President, the Congress, and appropriate other bodies. The final report is to be submitted within 15 months. Under the terms of the Senate amendment, appropriations are authorized for up to $300,000 for the fiscal years 1989 and 1990.

The committee is to consist of 15 members appointed by the Chief Justice of the United States. This committee is not an advisory committee within the meaning of the Federal Advisory Committee Act, 5 U.S.C. Appendix. The committee is neither charged with responsibility to review the jurisdiction of the Federal courts or in any manner evaluate methods of depriving Federal courts of their core jurisdiction, nor is it authorized to recommend any constitutional amendments. Finally, because the committee will operate within an existing structure, with the cooperation of existing Federal agencies, there is no potential for the duplication of effort.

Second, the Senate included in the title on diversity reform two suggestions of the Judicial Conference of the United States with respect to representative parties and citizenship of resident aliens. These provisions had been originally included in my original proposal (H.R. 3152), but were inadvertently omitted from the bill in the committee. These provisions are noncontroversial and were supported by all the witnesses who submitted comments on them.

Third, the Senate amendment sets the authorization level for the State Justice Institute at 2 years rather than the 1 year contained in the House bill. The Senate also added a minor provision relating to matching funds.

Fourth, the Senate deleted from the House-passed bill provisions relating to multiparty/multidistrict litigation. The Senate committed to conduct hearings on this important topic early next Congress. Hopefully, upon further reflection this meritorious proposal will be acted upon favorably. The essence of the proposal—to permit the consolidation and trial of complex mass disaster cases—should be unobjectionable. By providing economies in adjudication, more resources should be available to resolve cases on the merits.

Fifth, I am compelled to note for my colleagues that the Senate has declined to adopt the single most important reform contained in the House-passed bill, H.R. 4807, the repeal of the supersession clause in Federal rulemaking. Except for cases under title 11 of the United States Code, under current law, rules promulgated by the Court can "trump" or supersede existing acts of Congress under certain circumstances. This authority to abrogate congressional prerogatives is, in my view, unwise and potentially unconstitutional.[1] I am disappointed that the Senate has chosen to perpetuate a conflict between the branches that is unnecessary. The House position—as enunciated in the passage of bills on this subject four times over the past two Congresses—is also supported by both the administration, through the Department of Justice, and the Judicial Conference of the United States. Hopefully, the Judicial Conference and the Supreme Court will avoid potential conflicts by taking special care to avoid promulgated rules on substantive matters. In addition, the Judicial Conference can limit the number of inadvertent supersessions by indicating in the advisory committee notes that accompany proposed rules what laws, if any, are being superseded by the proposed rule.

As noted above the Senate included the Rules Enabling Act reforms contained in the House bill, with two exceptions. The Senate deleted the reform of the supersession clause for rules of civil, criminal and appellate procedure and evidence. But existing section 28 U.S.C. 2075, the enabling act for bankruptcy rules (28 U.S.C. 2075, as amended in 1978 by Pub. L. 95-598) that has been in effect since the enactment of the Bankruptcy Code (Title 11, U.S.C.) in 1978, is retained unchanged. A bankruptcy rule of practice or procedure cannot "abridge, enlarge or modify any substantive right" of law. Additionally, under no circumstances can the Supreme Court prescribe a bankruptcy rule of practice or procedure that supersedes any provision of the bankruptcy law.

In addition, the Senate made a technical amendment relating to the composition of the advisory committees.

Sixth, as relates to arbitration, the Senate amendment basically tracks the House-passed bill. The Senate adopted the idea of continuing the current arbitration programs in 10 pilot districts with authority to require parties to submit to arbitration in certain types of cases and also to permit consensual arbitration. However, the Senate amendment clarifies that in the 10 additional districts—to be selected by the Judicial Conference—arbitration can only be consensual.

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[1] House Report 99-422, at 22-23; see also Letter from Congressman ROBERT W. KASTENMEIER to Senator HOWELL HEFLIN, April 25, 1988, Letter from Chief Justice William H. Rehnquist to ROBERT W. KASTENMEIER, April 12, 1988; Prepared Statement of Professor Stephen B. Burbank, Professor of Law, University of Pennsylvania, Before the Subcommittee on Courts and Administrative Practice, Committee on the Judiciary, U.S. Senate on the Rules Enabling Acts, May 25, 1988.

Since adversary proceedings in bankruptcy can, in certain instances, be subject to arbitration, bankruptcy judges should be included on the committees that promulgate the district court's local rules for arbitration under new 28 U.S.C. added by the bill.

Seventh, the Senate adopted an amendment to the title relating to jury selection that permits the Judicial Conference to authorize a limited set of experiments within the confines of the existing statutory structure.

Eighth, the Senate made several changes to the House-passed title relating to court interpreters, improving the text of that provision. The amendment authorizes the judicial councils of the circuits to survey the language needs of their district courts and to request interpreters for designated languages. With the approval of the Judicial Conference, the Director of the Administrative Office of the U.S. Courts is directed to certify interpreters for the designated language. the councils are close to the courts of the circuit, have the authority to make orders and are able to designate local needs. By decentralizing the authority to identify local language priorities, with the endorsement of the Judicial Conference—which normally defers to the councils on matters within the councils' authority—the court interpreters' program should be dramatically improved.

H.R. 4807 expands the availability of court interpreters to grand jury proceedings. And the Senate amendment provides that, on the motion of the accused, the court shall require the recording of parts of a grand jury proceeding in which an interpreter is used. Nowhere in the American system of justice is there more potential to destroy a person's reputation than through a poorly founded indictment. There is at least one significant case, involving a Japanese citizen—Takeru Kamiyama—that may have turned on an error in interpretation. Through the use of electronic recording in grand juries, we have the technological means available to identify and correct errors.

I am very pleased by the reception that the court interpreters' reform has received in several countries overseas, particularly Japan. Several members of the committee and key staff were visited last year by Members of the Japanese Diet, who are not only monitoring the progress of this legislation but are thinking of ways to establish reciprocity in court interpretation programs as well.

Ninth, the Senate adopted a number of miscellaneous technical amendments including an exemption from the Federal Leave Act for bankruptcy judges, magistrates, and law clerks; authorization for cost-of-living adjustments to annuities payable under 28 U.S.C. sections 611 and 627; technical amendments relating to military retirement pay for senior or retired judges; technical amendments to conform sections 611 and 627 to the Federal Employees' Retirement System Act of 1986; permission for the Chief Justice or the chief judge of the ninth circuit to authorize the service of article III judges on the territorial courts; a technical amendment to limit the application of incentive payment authorization to nonarticle III judges; authorization for travel reimbursement; an increase in the salary of judges on the claims court to a level equal to that of a district court judge. Finally, the Senate deleted from the miscellaneous provisions of the House-passed bill a provision that would have permitted circuit judicial conferences to occur less frequently than every year.

When H.R. 4807 was initially considered by the House of Representatives—on September 13, 1988—I read from a letter sent to me by Chief Justice William H. Rehnquist: "This bill is probably the most significant measure affecting the operation and administration of the Federal Judiciary to be considered by the Congress in over a decade." I agree with the Chief Justice's statement and would further note that the bill is much needed. Given the constantly burgeoning caseloads of the Federal courts, the growing complexity of the cases, increasing Federal intervention in the war against drugs, and the need to attract qualified personnel to work in the judicial branch, the bill substantially will assist the judiciary to meet its statutory and constitutional mandates.

In other words, the judicial quilt is strong and resilient but it needs our constant care and attention. This bill provides that care and attention.

In conclusion, I urge an "aye" vote. Let us send this bill to the President for his signature.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4807, the Judicial Improvements and Access to Justice Act is very similar to the bill that recently passed the House under suspension of the rules. It was passed without opposition. The Senate amendment adopts virtually all of the House-passed bill.

The Chief Justice, in a recent letter, pointed out that the bill is the most significant measure affecting the operation and administration of the Federal judiciary to be considered by the Congress in over a decade. The legislation is strongly supported by the adminsitration and the Judicial Conference.

The Congressional Budget Office estimates that there will be a net savings to the Federal Government as a result of this bill, and I urge my colleagues to support it.

I wish to commend the gentleman from Wisconsin, [Mr. Kastenmeier] for his outstanding work and tireless effort on this legislation and also the gentleman from Alabama, Senator Heflin, for his strong leadership on this bill.

As we approach the end of the calendar for the subcommittee, I want to commend the gentleman from Wisconsin for leading our subcommittee so well this past 2-year period as he has for many years before.

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Mr. Speaker, we have put out a large amount of very excellent legislation during this 2-year period, and I think the administration of the courts and especially the patent and trademark laws of the country, and those laws in many other areas that we are responsible for, have been greatly assisted through his tireless efforts and through his leadership. I wish to commend him, especially at this time, for that massive effort he has put forth in the 100th Congress.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague for his most generous statement. I compliment him for his role in the legislation to which he referred.

I think we ought to note also that the staffs of the subcommittee, both majority and minority staff, have made enormous contributions to enable us to achieve this record over the last 2 years.

Mr. Speaker, in conclusion, I would like to submit for the Record a letter dated today, October 19, 1988, from the Chief Justice of the United States, William H. Rehnquist, on the question of supersession and interpretation of the Rules Enabling Act with reference to the Congress, which I think will be useful for the legislative history of this bill and how in the future the Rules Enabling Act will be administered with reference to the Congress. The text of the letter is as follows:

Supreme Court of the United States,
Washington, DC, October 19, 1988.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

Dear Mr. Chairman: During our conversation yesterday, you expressed concern about those provisions of H.R. 4807 that leave intact present law relating to the various Rules Enabling Acts which permit these rules to supersede inconsistent procedural statutes enacted by Congress. While I sympathize with your objectives, I am informed that under no circumstances will the Senate accept an amendment repealing the "supersession" clause. Because of the great importance to the Judiciary of H.R. 4807, I am going to take the liberty of suggesting a possible way out of the impasse that is jeopardizing this bill.

The Judicial Conference and its committees on rules have participated in the rules promulgation process for over a half century. During this time they have always been keenly aware of the special responsibility they have in the rules process and the duty incumbent upon them not to overreach their charter. The advisory committees should undertake to be circumspect in superseding procedural statutes. At the very least, we will undertake to identify such situations when they arise so that the Congress will have every opportunity to examine these instances on the merits as part of your review. This is generally the approach we have undertaken in the past and I assure you that it will continue to be the standard operating procedure of the Standing Committee on Rules of Practice and Procedure and its advisory committees on rules.

To reiterate, Mr. Chairman, while the Judiciary does not object to elimination of the supersession clause, its repeal does not seem feasible at this time. It would be keenly disappointing to the Judiciary if a much needed and widely supported bill such as H.R. 4807 were to falter over this issue.

Sincerely,

WILLIAM H. REHNQUIST.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4807.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to H.R. 4807 just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENOCIDE CONVENTION IMPLEMENTATION ACT OF 1987 (THE PROXMIRE ACT)

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1851) to implement the International Convention on the Prevention and Punishment of Genocide.

The Clerk read as follows:

S. 1851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Genocide Convention Implementation Act of 1987 (the Proxmire Act)".

SEC. 2. TITLE 18 AMENDMENTS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 50 the following:

"CHAPTER 50A—GENOCIDE

"Sec.

1091. Genocide.

1092. Exclusive remedies.

1093. Definitions.

"§ 1091. Genocide

"(a) BASIC OFFENSE.—Whoever, whether in time of peace or in time of war, in a circumstance described in subsection (d) and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such—

"(1) kills members of that group;

"(2) causes serious bodily injury to members of that group;

"(3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;

"(4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;

"(5) imposes measures intended to prevent births within the groups; or

"(6) transfers by force children of the group to another group;

or attempts to do, shall be punished as provided in subsection (b).

"(b) PUNISHMENT FOR BASIC OFFENSE.—The punishment for an offense under subsection (a) is—

"(1) in the case of an offense under subsection (a)(1), a fine of not more than $1,000,000 and imprisonment for life; and

"(2) a fine of not more than $1,000,000 or imprisonment for not more than twenty years, or both, in any other case.

"(c) INCITEMENT OFFENSE.—Whoever in a circumstance described in subsection (d) directly and publicly incites another to violate subsection (a) shall be fined not more than $500,000 or imprisoned not more than five years, or both.

"(d) REQUIRED CIRCUMSTANCE FOR OFFENSES.—The circumstance referred to in subsection (a) and (c) is that—

"(1) the offense is committed within the United States; or

"(2) the alleged offender is a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

"(e) NON-APPLICABILITY OF CERTAIN LIMITATIONS.—Notwithstanding section 3282 of this title, in the case of an offense under subsection (a)(1), an indictment may be found, or an information instituted, at any time without limitation.

"§ 1092. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws to the conduct proscribed by this chapter, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any proceeding.

"§ 1093. Definitions

"As used in this chapter—

"(1) the term 'children' means the plural and means individuals who have not attained the age of eighteen years;

"(2) the term 'ethnic group' means a set of individuals whose identity as such as distinctive in terms of common cultural traditions or heritage;

"(3) the term 'incites' means urges another to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct;

"(4) the term 'members' means the plural;

"(5) the term 'national group' means a set of individuals whose identity as such is distinctive in terms of nationality or national origins;

"(6) the term 'racial group' means a set of individuals whose identity as such is distinctive in terms of physical characteristics or biological descent;

"(7) the term 'religious group' means a set of individuals whose identity as such is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals; and

"(8) the term 'substantial part' means a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.".

"(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 50 the following new item:

"50A. Genocide .... 1091".

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, S. 1851, the Genocide Convention Implementation Act of 1988, is a bill of monumental historic significance.

My colleagues are aware of the long and difficult history of the international instrument whose ratification has led to this bill, namely the U.S. Convention on the Prevention and Punishment of the Crime of Genocide. The Genocide Convention was signed by President Truman in 1948, and was submitted to the Senate for its advice and consent to ratification in 1949, there to languish for 37 years before that advice and consent was given.

Every day for 19 of those years the indefatigable Senator from Wisconsin, Mr. PROXMIRE, delivered a statement on the Senate floor imploring his colleagues to bring the convention to the floor for a vote. His daily imprecations ceased only when, on February 19, 1986, the Senate gave its advice and consent by a vote of 83 to 11.

The Senate's advice and consent, however, did not come without strings attached. The eighth and final Senate proviso to the convention established, as a condition precedent to final ratification, that domestic legislation criminalizing the act of genocide be enacted into law.

Therefore on January 28, 1987, Chairman Rodino introduced the Genocide Convention Implementation Act. On March 16, 1988 the bill became the subject of a hearing conducted by my Subcommittee on Immigration, Refugees and International Law. The subcommittee received testimony from the Departments of State and Justice, as well as from representatives of a number of concerned groups. On March 23, 1988, the subcommittee marked up H.R. 807 and, after adopting an amendment in the nature of a substitute, ordered a clean bill favorably reported to the full committee. That clean bill, H.R. 4243, was introduced by Chairman Rodino on March 23, 1988 and passed the House on April 25.

Following this expeditious action by the House, Senator Biden, with the cosponsorship of Senators Proxmire and Metzenbaum, introduced a companion bill in the Senate, S. 1851. This is the bill before us today.

In most particulars, S. 1851 is identical H.R. 4243. The bills were crafted carefully to conform closely to the Genocide Convention. Like the convention, they seek to protect those groups of people distinguishable by their race, religion, nationality or ethnic background. To be convicted of genocide, it must be shown that the person committed a specified act of violence with the specific intent to destroy, in whole or part, one of those four protected groups. The penalties range from 5 years imprisonment or a $500,000 fine, to life imprisonment a $1 million fine, depending upon the specific actions of the offending party.

I would note that the Senate bill before us differs in some respects from the House bill. The most significant of these differences is that the Senate bill requires that before a perpetrator can be convicted of a genocidal act, he or she must harm more than one person. For the Record, I believe the House version, providing that the perpetrator need only harm one individual to be convicted, would be a more reasonable approach, since the key element of the crime of genocide is an act committed with genocidal intent.

In addition, there are several minor differences between the original House bill and the Senate bill now before us, many of which are of a technical nature.

Mr. Speaker, in spite of these differences in the Senate bill, which has been submitted to the House for approval in the last days of this Congress, I strongly support the measure, and I urge my colleagues to do likewise. The substance of this legislation is far too important, and ratification of the Genocide Convention has waited far too long, to stall that process now.

When the House passes this bill the conditions for ratification of the Genocide Convention will finally be met, after 40 years of effort. When we pass this bill the United States will at last be able to join the list of 96 other nations that have ratified the Genocide Convention. Finally, when we pass this bill an important chapter in the history of the continuing international effort to prevent the abominable phenomenon of genocide will at last come to a close.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us today, S. 1851, the Genocide Convention Implementation Act of 1988. The House passed similar legislation (H.R. 4243) earlier this year. Passage of this legislation will be the final step toward ratification of this international treaty approved in 1948 by the United Nations.

Immediately following World War II, the United States convened with the intent that future atrocities like those committed by the Nazi regime against European Jews must never be repeated. At the Genocide Convention, all member countries pledged to outlaw acts of genocide and to punish their perpetrators. The convention was submitted by President Truman to the Senate for its "advise and consent" in 1949.

During the nearly 40 years of debate that followed, some lawmakers feared treaty implementation would undermine U.S. sovereignty. Finally in 1986, the Senate approved the Genocide Convention incorporating provisions to accommodate the various concerns raised in these debates. The legislation now before us to implement this convention into U.S. law defines the crime of genocide—an attempt to destroy a national ethnic, racial or religious group—and sets appropriate punishments for anyone found guilty of this crime. To date, the United States has no law governing genocide.

Mr. Speaker, it is a fact that the world today continues to look to the United States for moral leadership in human rights. Therefore, the U.S. implementation of the Genocide Convention is important to those throughout the world who look to this country for leadership and strength in the area of human rights.

It is also important for our adversaries who have criticized us. For failure to complete ratification of this convention in a variety of international discussions, such as the U.N. General Assembly, the U.N. Human Rights Commission, and the human rights discussions of the Conference on Security and Cooperation in Europe—followup to the Helsinki accords—and other international conferences.

Mr. Speaker, both the Department of State and the Department of Justice support this legislation. This legislation passed unanimously in the House Judiciary Committee. This is the final step to implement this treaty before its signature by the President.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I yield myself 2 minutes to make a few closing remarks.

Mr. Speaker, I would like to thank my friend, the gentleman from New York [Mr. Fish], our distinguished ranking member of our full committee. He has been a member of the subcommittee which I chair for all of the 8 years I have chaired it. I want to thank him for his strong efforts. We have enjoyed working together.

I would also, Mr. Speaker, like to thank the members of our staffs. This may be the last time we will have an opportunity to do it. I would like to extend my thanks to Gene Pugliese, who is the head of our subcommittee staff, Ed Kelley, Bonnie Maguire, Peter Regis, and all the members of our clerical staff for a job well done. I also want to thank Margaret Webber and all the members of the minority staff for the job that they do in pulling all of these strings together and tying them into a bow.

Mr. GILMAN. Mr. Speaker, I rise in strong support of S. 1851, legislation implementing the Genocide Convention. Ratification of the Genocide Convention not long ago was a landmark event. However, implementing legislation was required by the other body prior to its taking effect both internationally and domestically. As a result, this final leg of a long journey, spanning decades, is now taking place.

The measure before us would establish penalties of $1 million and a term of life imprisonment for anyone convicted of killing a member of a national, ethnic, racial or religious group with the intent of eliminating the group in whole or substantial part. Additionally, S. 1851 would establish a penalty of $1 million and 20 years in prison for conviction involving one or more of five specific provisions, namely: first, causing serious bodily harm to members of the group; second, causing permanent mental impairment through torture, drugs, or similar technique; third, taking other actions intended to cause physical destruction of the group; fourth, imposing measures to prevent births; fifth, forcibly removing children from the group. A $500,000 penalty and imprisonment for up to 5 years could be imposed for incitement to commit genocide.

Mr. Speaker, over 90 nations have ratified the historic Genocide treaty. It was conceived after the horrors of the Nazi holocaust were revealed to the world. In the decades since then, selected nations have endeavored to uphold the rights of the individual, while others have committed flagrant violations. The legislation before us today places the United States more firmly and formally among those who cherish dignity and human rights, and accordingly, I urge its swift adoption by our colleagues.

Mr. Speaker, I include a letter, dated June 30, 1988, from Vice President BUSH, in support of this measure, to be inserted at this point in the RECORD:

JUNE 30, 1988.

Hon. BENJAMIN A. GILMAN,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR BEN: I am pleased to learn of your interest in the Genocide Convention Implementation Act and want you to know that I fully support a prompt favorable vote in Congress this year on legislation to put the Genocide Convention into effect.

As you know, on April 25, 1988, the House by voice vote passed the Genocide Convention Implementation Act of 1988, H.R. 4243. In the Senate, the Judiciary Committee on May 9, 1988, reported the Proxmire Act, S. 1851, with a Senate floor vote to be scheduled soon.

It has been almost 40 years since the United States signed the Genocide Convention, on December 11, 1984, signifying its agreement with the Convention and its intention of ratifying it. In 1984 Ronald Reagan and I supported the Senate's approval of the Treaty. It is now appropriate to pass the necessary implementing legislation.

This country should go on record in saying "Never Again" to the dehumanizing crime of Genocide. More than that, we must actively oppose any attempt by any government at any place to destroy a people because of their racial, religious, or ethnic group. Our society and our government are founded on the moral values that this Convention seeks to protect: the dignity of every individual person and the sanctity of human life. Moreover, we should not allow the Soviets or others to excuse their own conduct by reference to the lack of our name on this convention.

Finally, we must consciously and conscientiously recognize the genocides of the past—the enormous tragedies that have darkened this century and that haunt us still. We must not only commemorate the courage of the victims and of their survivors, but we must also remind ourselves that civilization cannot be taken for granted. It was a great American philosopher, George Santayana, who taught us that those who forget the past are condemned to relive it.

We must all be vigilant against this most henious crime against humanity.

Sincerely,

GEORGE BUSH.

Mr. LANTOS. Mr. Speaker, I rise in strong support of the adoption of S. 1851, the Genocide Convention Implementation Act.

It has been 40 years since the International Convention on the Prevention of Genocide was adopted by the United Nations. For 40 years this treaty has awaited ratification by the U.S. Government. I join my colleagues today in paying high tribute to those who fought for the adoption of this treaty through the years. In particular, I recognize our distinguished colleague in the U.S. Senate, Mr. PROXMIRE, for his perseverance in urging Senate approval of that treaty.

It is appropriately symbolic, Mr. Speaker, that our action to ratify and implement this treaty is being taken at the very time we are marking the 50th anniversary of the beginning of those tragic events that led to the Holocaust. In just a few days we commemorate one of the most infamous dates in history—Kristallnacht, the night of shattered glass, November 9, 1938. On this night, Adolph Hitler's Nazi henchmen began in earnest to implement their vicious anti-Semitism. Storm troopers across Germany and Austria launched a coordinated attack against Jews and anything Jewish. Synagogues were burned, windows smashed, shops looted, and homes ransacked. Jews were rounded up, beaten and killed.

As we join in marking this infamous anniversary of the beginning of the horrible nightmare of the Holocaust, it is most appropriate that we here in the Congress are adopting this legislation to implement the International Convention on the Prevention of Genocide.

Mr. Speaker, in yesterday's New York Times, my friend A.M. Rosenthal paid tribute to Raphael Lemkin, the distinguished Polish-Jewish law professor who drafted the genocide treaty. Although Professor Lemkin did not live to see the United States ratify the treaty, it is most appropriate today for us to recognize his role in this international convention. I am submitting Mr. Rosenthal's column for the record.

A MAN CALLED LEMKIN

The story in the paper reported that after 40 years of consideration the United States Senate had voted to make it a Federal offense to commit genocide. That is the crime of acting with intent to destroy a national, ethnic, racial or religious group.

The story did not mention a man called Lemkin.

Raphael Lemkin pokes his head into a newspaper office in the headquarters of the United Nations in the village of Lake Success on Long Island.

"Here is that pest, that Lemkin," he says. "I have a genocide story for you."

Everybody groans; Oh, Lemkin again? He makes a funny face, folds his hands in begging gestures. The reporters gather around for a few minutes. He gets his little story about the genocide convention, usually tucked away in the paper on a Sunday.

Raphael Lemkin was a Polish professor of law, a distinguished academician who spoke nine languages. He was a Jew. During the Holocaust the Germans murdered 49 members of his family; see how few words it takes to tell the whole story.

He escaped to Sweden, reached the United States, found good positions at Duke and Yale. He left them and gave himself over to his life's work.

His work was to convince the nations of the world that they must make it a crime to plan or carry out another Holocaust of any people. He coined "genocide" from the Greek word for race and the Latin for killing. He wrote a convention, a treaty for the nations to sign.

Then he walked the corridors of the U.N. He stopped journalists, took junior delegates by the arm and hung on until they listened, at least a moment. To see an ambassador, he would plan and plot for weeks and sit for days in reception rooms.

He had no money, no office, no assistants. He had no U.N. status or papers, but the guards always let him pass. He carried a black briefcase stuffed with documents and his daily sandwich.

He knew that when he opened the door people would say: What, Lemkin, you here again? Sometimes it was said affectionately, sometimes with distaste. Then he would pretend he did not care. But there were many days when he sat slumped in the cafeteria over a cup of coffee, barely able to lift it for the weariness in him and the rebuff.

But if he had to wheedle and plead he did. If he met an arrogant delegate who had influence, he made himself small and fawned. Then he would turn away and make the small smacking noises of a man trying to get a bad taste out of his mouth.

He would bluff a little sometimes about pulling political levers, but he had none. All he had was himself, his briefcase and the conviction burning in him. We would say to him: Lemkin, what good will it do to write mass murder down as a crime; will a piece of paper stop a new Hitler or Stalin?

Then he put aside cajolery and his face stiffened.

"Only man has law. Law must be built, do you understand me? You must build the law!"

He walked the halls every day from the spring of 1946 until Dec. 9, 1948, when the General Assembly, in Paris, adopted a resolution approving his convention. That day reporters went looking for him to rejoice in his triumph. But we could not find him until, hours later, we thought to look into the darkened Assembly hall. He sat there weeping as if his heart would break. He asked please to be left in solitude.

Then this Lemkin came back to the corridors for years, pleading with delegation after delegation to follow through on the U.N. resolution by getting their countries to sign the treaty. There was a time when he was considered for the Nobel Peace Prize; Winston Churchill backed him.

But he died alone on Aug. 38, 1959, without medals or prizes, in a hotel in New York. There were seven people at the gravesite when Raphael Lemkin was buried.

In his lifetime, and for long after, the country that gave him succor never signed the treaty, although almost 100 others did. For almost 40 years lawyers fought it on technical grounds. Senate racists fought it out of fear that blacks might use it. Some senators worried that making mass murder a Federal crime would diminish state rights.

The Senate gave its consent to the treaty in 1986. But it took two more years to push through the legislation needed to make genocide a crime in the Federal code.

Jacob Javits fought for it all his senatorial years. And at every Sente session for 19 years, Senator William Proxmire rose in outrage to plead for the convention—3,000 speeches, each different. Raphael Lemkin and the Senator from Wisconsin never met. But they would have understood each other at once.

Mr. RODINO. Mr. Speaker, I rise in support of S. 1851, the Genocide Convention Implementation Act of 1988. S. 1851 is modeled after a bill I introduced in January of last year, and which was reported out of the Judiciary Committee with the cosponsorship of the distinguished gentleman from Kentucky [Mr. MAZZOLI]. The House passed that bill in its amended form as H.R. 4243, on April 25 of this year.

The bill before us, S. 1851, passed the Senate on October 14, and makes only a few changes from the text of the House bill. While I would have preferred the House version, I support S. 1851 as the last step in a seemingly interminable process that should have been completed long ago.

Mr. Speaker, S. 1851 is designed to implement into U.S. domestic law the United Nations Treaty for the Prevention and Punishment of the Crime of Genocide. In so doing our Nation would join together with other nations around the world to help prevent the appalling phenomenon of genocide from ever again disgracing the annals of human history.

While our Nation was instrumental in drafting the Genocide Convention, the world has watched and waited for 40 years for the United States to ratify that convention. President Harry Truman signed the convention in 1948 and submitted it to the U.S. Senate for advice and consent at that time. The Senate finally gave its advice and consent to ratification 38 years later, in 1986—but with the proviso that implementing legislation be passed before the President is authorized to deposit the ratifying documents at the United Nations. Such implementing legislation is now before us.

Mr. Speaker, it would be a disservice to survivors of genocide in our century—and the memory of those who did not survive but who met their untimely deaths at the hands of unbridled tyranny—to delay any further the legislative action necessary for final U.S. ratification of the Genocide Convention.

Furthermore, the U.S. delay in ratifying the convention over the course of the last 38 years has provided foreign nations, less vigorous than the United States in their support of human rights, with an opportunity to publicly question our Nation's human rights record. I am very pleased to see this bill before the House today so that we may put all such questions to rest.

Finally, Mr. Speaker, I would like to acknowledge the efforts of Senator PROXMIRE, whose speeches before the Senate every day for 19 years finally resulted in the Senate's advice and consent, and ultimately led to House consideration of my bill in April of this year, and of S. 1851 today. I urge my colleagues to join me in supporting this bill, as they supported my bill in April, so that we may take one more step in consigning genocide forever to the past.

Mr. COELHO. Mr. Speaker, today the House will consider S. 1851, a bill to implement the International Convention on the Prevention and Punishment of the Crime of Genocide. This legislation will serve to complete U.S. ratification of the Genocide Convention by making the crime of genocide a Federal offense. By passing this bill, the Congress will allow our Nation to join with all the other civilized countries who have previously ratified the convention in formally denouncing this heinous crime and pledging to cooperate against future perpetrators of genocide.

The tragic deaths of 6 million Jews at the hands of the Nazis during World War II, and the inability of codified international law at the time to appropriately deal with a crime of this magnitude, led the United States to propose the Genocide Convention to the United Nations General Assembly after the war. The treaty was passed by acclaim in that body in 1948, and although the United States was one of the first signatories, it was only in 1986 that the Senate gave its advice and consent to the convention's ratification. Now, 40 years after we first proposed this treaty, the United States can finally become a full party to the convention by enacting ratification through the passage of S. 1851.

The crime of genocide, the premeditated destruction of an entire ethnic, racial, or religious group, is certainly one of the most terrible crimes known to man. Among the most appalling instances of genocide in this century must be counted the brutal extermination of 1.5 million Armenians by the Ottoman Turks between 1915 and 1923. The enduring tragedy of this particular instance of genocide is that to this day the government of the modern Turkish state and our own government refuse to acknowledge that this crime ever took place. The historical evidence surrounding this instance of genocide, however, is as clear and compelling as the evidence surrounding the Jewish Holocaust.

Mr. Speaker, it is in memory of the 1.5 million Armenians who were killed by the Ottoman Turks, the 6 million Jews who perished at the hands of the Nazi Germans, and all the countless other victims of genocide throughout history that the United States must finally become a full party to the Genocide Convention through passage of S. 1851. But this alone is not enough—the next administration must reverse President Reagan's nonrecognition of the Armenian genocide and also urge the Government of Turkey to acknowledge their predecessor's atrocities. Only through these actions will the United States be able to reclaim its rightful place at the forefront of the international community as the defender of justice and human rights for all people throughout the world.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the Senate bill, S. 1851.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CHARITY GAMES ADVERTISING CLARIFICATION ACT OF 1988

Mr. FRANK. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3146) to clarify certain restrictions on distribution of advertisements and other information concerning lotteries and similar activities.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charity Games Advertising Clarification Act of 1988".

SEC. 2. AMENDMENTS RELATING TO THE MAILING AND BROADCAST OF ADVERTISEMENTS FOR LEGAL LOTTERIES AND SIMILAR ENTERPRISES.

(a) STATE-CONDUCTED LOTTERIES UNDER TITLE 18.—Subsection (a) of section 1307 of title 18, United States Code, is amended to read as follows:

"(a) The provisions of sections 1301, 1302, 1303, and 1304 shall not apply to—

"(1) an advertisement, list of prizes, or other information concerning a lottery conducted by a State acting under the authority of State law which is—

"(A) contained in a publication published in that State or in a State which conducts such a lottery; or

"(B) broadcast by a radio or television station licensed to a location in that State or a State which conducts such a lottery; or

"(2) an advertisement, list of prizes, or other informaiton concerning a lottery, gift enterprise, or similar scheme, other than one described in paragraph (1), that is authorized or not otherwise prohibited by the State in which it is conducted and which is—

"(A) conducted by a not-for-profit organization or a governmental Organization; or

"(B) conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization.".

"(b) DEFINITION OF NOT-FOR-PROFIT ORGANIZATION.—Subsection (d) of section 1307 of title 18, United States Code, is amended by adding at the end thereof "For purposes of this section, the term a 'not-for-profit organization' means any organization that would qualify as tax exempt under section 501 (c)(3) of the Internal Revenue Code of 1986.".

(c) POSTAL SERVICE REGULATION OF LOTTERIES.—Paragraph (1) of section 3005(d) of title 39, United States Code, is amended to read as follows: "(1) publications containing advertisements, lists of prizes, or information concerning a lottery, which are exempt, pursuant to section 1307 of title 18 of the United States Code, from the provisions of sections 1301, 1302, 1303, and 1304 of title 18 of the United States Code,".

SEC. 3. TECHNICAL AMENDMENTS.

"(a) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—Chapter 61 of title 18, United States Code, is amended as follows:

"(1) The section heading of section 1307 is amended to read as follows:

"§ 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries".

"(2) The item relating to section 1307 in the table of sections at the beginning of chapter 61 is amended to read as follows:

"Sec. 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries.".

"(3) Subsection (d) of section 1307 is amended by inserting after "purposes of" the following: "subsection (b) of".

"(4) The first sentence of section 1304 is amended by inserting after "radio" the following: "or television".

SEC. 4. SEVERABILTY.

If any provision of this Act or the amendments made by this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect 18 months after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. COBLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. COBLE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was tempted at this point on the microphone to ask unanimous consent for my constitutional amendment to make the U.S. Congress a unicameral body, but I will defer that until a later date and instead discuss the lottery bill.

This is a bill which passed the House before. There is an anomaly in the current law which says State-run lotteries can advertise freely on the broadcast media and advertisements can be mailed across State lines, but lotteries conducted by churches, by veterans' groups, and by profitmaking organizations cannot be carried on the broadcast media or across state lines. This monopoly for socialist gambling, as opposed to private enterprise gambling, has never seemed to me to make a great deal of sense.

We have worked out a compromise version in the House. We sent it over to the Senate, and after a process with which I am not entirely familiar, they sent it back to us in substantially the same form, and I am moving now that we concur in it.

What this bill says is that you may advertise on the broadcast media as long as it is not against the law of that State. This has reference to lotteries and gambling that are legal in the State where they are conducted and where they are conducted by a nonprofit group. The Members of the body will remember that the gentleman from Virginia objected to unrestricted advertising by gambling casinos. We have allowed only this exception for private enterprise: Some entities will from time to time run a legal lottery as part of their business; an automobile dealership will raffle off a car or a travel agency will give a trip as a prize. So we have language in there that says you may advertise such lotteries through the mail or on television, again always assuming they are legal within the State where they are conducted if the activity is clearly occasional and ancillary to your business. That is, a casino could not operate full gambling activities and advertise here. I do not think that is important because they advertise other things and deal with their customers in that way.

But this would allow a legally conducted occasional lottery, a promotional entity for an automobile dealer or a travel agent or somebody else to be put forward.

This has been worked out by all parties. I believe it is noncontroversial.

There is one other aspect that I should mention now. I know the Members will find this hard to believe, but I ask them for a minute to suspend their incredulity. When the Senate passed this bill, the Senate made a mistake. I know the Members will say, "Oh, no, that could not have happened." But it did, because sometimes these things happen even in the best of institutions. So after we pass this bill, we are going to have to pass another bill to correct the mistake the Senate made, the mistake that, to their credit, they were willing to admit they made.

Mr. Speaker, I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank the gentleman from North Carolina [Mr. COBLE] for yielding his time to me.

I will be very brief, Mr. Speaker. I just did want to recognize and support H.R. 3146, and I congratulate the chairman and ranking members of the subcommittees because this would expand the exemption in current law to allow the advertising in interstate commerce of certain legal lotteries, gift enterprises and similar activities.

H.R. 3146 would expand the exemptions in current law to allow the advertising in interstate of certain legal lotteries, gift enterprises, and similar activities. The bill removes only Federal restrictions on the advertising of lawful lotteries and gaming activities in interstate commerce, whether conducted by public, private, or charitable interests. If lawful under State law, media may be utilized to advertise. Nonprofit organizations particularly, will benefit. The measure is strongly supported by broadcasters:

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3146. As the ranking member of the Judiciary Subcommittee on Administrative Law and Governmental Relations, wherein this measure was initially considered in the House, I am familiar with this legislation. You may recall some months ago when this bill was originally passed by the House, there was considerable debate about a provision to exclude gambling casinos from the exceptions created under this bill. That issue was resolved by this body and the legislation has been considered by the other body and some further compromises have been agreed to.

I believe this is a good compromise and that it reflects the concerns of the Members of this body. I urge my colleagues to support the bill.

□ 1700

Mr. COBLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3146.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this piece of legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills, Joint Resolutions, and a Concurrent Resolution of the House of the following titles:

H.R. 3966. An act to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audiences, and for other purposes;

H.R. 4211. An act to reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes;

H.R. 4847. An act to amend the Federal Hazardous Substances Act to require the labeling of chronically hazardous art materials and for other purposes;

H.R. 5287. An act to establish the Panama Canal Commission Compensation Fund to provide for the accumulation of funds to meet the Panama Canal Commission's obligations under chapter 81 of title 5, United States Code, and for other purposes.

H.R. 5315. An act to amend the Congressional Award Act to extend the Congressional Award program;

H.J. Res. 572. Joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week";

H.J. Res. 629. Joint resolution designating October 22, 1988, as "National Chester F. Carlson Recognition Day"; and

H. Con. Res. 369. Concurrent resolution to commend the Department of State's Science and Technology Officers on their outstanding performance and to recognize the importance of their work to the Congress and to the Nation.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4574. An act to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 795) "An Act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in the San Diego County, California, and for other purposes", with amendments.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1476) "An Act to designate the Federal Record Center at 9700 Page Boulevard, Overland, Missouri, as the 'SSG Charles F. Prevedel Building'."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1827) "An Act to designate the Federal Building located at 330 Booth Street in Reno, Nevada, as the "C. Clifton Young Federal Building'."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2215) entitled "An Act to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional four years, and for other purposes", with an amendment.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2496) "An Act to provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements".

The message also announced that the Senate had passed bills, a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2915. An act to make certain minor and technical amendments to the Child Abuse Prevention, Adoption, and Family Services Act of 1988;

S. 2010. An act to establish a National Voluntary Reunion Registry demonstration program;

S.J. Res. 344. Joint resolution to designate the week of November 20 through November 26, 1988, as "National Family Week"; and

S. Con. Res. 131. Concurrent resolution supporting the International Decade for Natural Disaster Reduction by endorsing the establishment of a United States Decade for Natural Disaster Reduction.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 3146, LOTTERY ADVERTISING CLARIFICATION ACT OF 1987

Mr. **FRANK**. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 165) authorizing the Clerk of the House to make corrections in the enrollment of, H.R. 3146.

The Clerk read as follows:

S. Con. Res. 165

Resolved by the Senate (the House of Representatves concurring), That in the enrollment of the bill (H.R. 3146), the Clerk of the House of Representatives shall make the following correction:

(1) In subsection (b) of Section 2, strike "(c)(3)".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **COBLE**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Massachusetts [Mr. Frank] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. Coble] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Frank].

Mr. **FRANK**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in passing this version of the bill the Senate made a mistake, and this is a correction of the Senate's mistake. I wish we could do more in that general direction, but let us do what we can when we can.

Mr. **COBLE**. Mr. Speaker, I have no requests for time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. Frank] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 165.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PUBLIC TELECOMMUNCATIONS ACT OF 1988

Mr. **MARKEY**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4118) to amend and extend the authorization of appropriations for public broadcasting, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Public Telecommunications Act of 1988".

PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATIONS

Sec. 2. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking "and" after "1987,"; and

(2) by inserting "$36,000,000 for fiscal year 1989, $39,000,000 for fiscal year 1990, and $42,000,000 for fiscal year 1991," immediately after "1988,".

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATIONS

Sec. 3. Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993";

(2) by striking "50 percent" and inserting in lieu thereof "40 percent";

(3) by striking "and" after "fiscal year 1989,"; and

(4) by inserting before the period at the end thereof the following: ", $245,000,000 for fiscal year 1991, $265,000,000 for fiscal year 1992, and $285,000,000 for fiscal year 1993".

PUBLIC BROADCASTING SATELLITE INTERCONNECTION FUND

Sec. 4(a). Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end thereof the following new paragraph:

"(10)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Satellite Interconnection Fund (hereinafter in this subsection referred to as the 'Satellite Interconnection Fund'), to be administered by the Secretary of the Treasury.

"(B) There is authorized to be appropriated to the Satellite Interconnection Fund, for fiscal year 1991, the amount of $200,000,000. If such amount is not appropriated in full for fiscal year 1991, the portion of such amount not yet appropriated is authorized to be appropriated for fiscal years 1992 and 1993. Funds appropriated to the Satellite Interconnection Fund shall remain available until expended.

"(C) The Secretary of the Treasury shall make available and disburse to the Corporation, at the beginning of fiscal year 1991 and of each succeeding fiscal year thereafter, such funds as have been appropriated to the Satellite Interconnection Fund for the fiscal year in which such disbursement is to be made.

"(D) Notwithstanding any other provision of this subsection except paragraphs (4), (5), (8), and (9), all funds appropriated to the Satellite Interconnection Fund and interest thereon—

"(i) shall be distributed by the Corporation to the licensees and permittees of noncommercial educational television broadcast stations providing public telecommunications services or the national entity they designate for satellite interconnection purposes and to those public telecommunications entities participating in the public radio satellite interconnection system or the national entity they designate for satellite interconnection purposes, exclusively for the capital costs of the replacement, refurbishment, or upgrading of their national satellite interconnection systems and associated maintenance of such systems; and

"(ii) shall not be used for the administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.".

(b) On or before March 1, 1990, the Corporation for Public Broadcasting, on behalf of the public radio and public television licensees and permittees (or their designated representatives), shall submit to Congress a report by such licensees or permittees (or their representatives) detailing the satellite replacement needs of public radio and public television, the difference in cost between leasing satellite transponder capacity and buying such capacity, and the availability of private sector rather than Federal financing.

FINDING WITH RESPECT TO CERTAIN PROGRAMMING

SEC. 5. Section 396(a) of the Communications Act of 1934 (47 U.S.C. 386(a)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting immediately after paragraph (5) the following new paragraph:

"(6) it is in the public interest to encourage the development of programming that involves creative risks and that addresses the needs of unserved and underserved audiences, particularly children and minorities;".

EXERCISE OF BUSINESS JUDGMENT BY CORPORATION

SEC. 6. Section 396(g)(2)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(g)(2)(B)(ii) is amended by striking "contract or".

ALLOCATION OF CORPORATION FUNDING

SEC. 7(a). Section 396(k)(3)(A)(i) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)) is amended—

(1) by amending subclause (I) to read as follows:

"(I) $10,200,000 shall be available for the administrative expenses of the Corporation for fiscal year 1989, and for each succeeding fiscal year the amount which shall be available for such administrative expenses shall be the sum of the amount made available to the Corporation under this subclause for such expenses in the preceding fiscal year plus the greater of 4 percent of such amount or a percentage of such amount equal to the percentage change in the Consumer Price Index, except that none of the amounts allocated under subclauses (II), (III), and (IV), and clause (v) shall be used for any administrative expenses of the Corporation and not more than 5 percent of all the amounts appropriated into the Fund available for allocation for any fiscal year shall be available for such administrative expenses;";

(2) Subclause (II) is amended to read as follows:

"(II) 6 percent of such amounts shall be available for expenses incurred by the Corporation for capital costs relating to telecommunications satellites, the payment of programming royalties and other fees, the costs of interconnection facilities and operations (as provided in clause (iv)(I)), and grants which the Corporation may make for assistance to stations that broadcast programs in languages other than English, and if the available funding level permits, for projects and activities that will enhance public broadcasting;"; and

(3) in subclause (III), by striking "clause (ii)(I)" and inserting in lieu thereof "clause (ii)".

"(b) Section 396(k)(3)(A)(ii)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(ii)(II)) is amended by striking "for public" and inserting in lieu, thereof the following: ", and in accordance with any plan implemented under paragraph (6)(A), for national public".

(c) Clause (iii) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 296(k)(3)(A)) is amended to read as follows:

"(iii) Of the amounts allocated under clause (i)(IV) for any fiscal year—

"(I) 70 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B);

"(II) 7 percent of such amounts shall be available for distribution under subparagraph (B)(i) for public radio programming; and

"(III) 23 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B), solely to be used for acquiring or producing programming that is to be distributed nationally and is designed to serve the needs of a national audience.".

(d) Clause (v) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

"(v) Of the interest on the amounts appropriated into the Fund which is available for allocation for any fiscal year—

"(I) 75 percent shall be available for distribution for the purposes referred to in clause (ii)(II); and

"(II) 25 percent shall be available for distribution for the purposes referred to in clauses (iii) (II) and (III).".

(e) Section 396(k)(3)(A)(iv)(I) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(iv)(I)) is amended by striking "Subject to the provisions of clause (v)," and inserting in lieu thereof the following: "From the amount provided pursuant to clause (i)(II),".

(f) Subparagraph (B)(i) of section 396(k)(3) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)) is amended to read as follows:

"(B)(i) The Corporation shall utilize the funds allocated pursuant to subparagraph (A)(ii)(II) and subparagraph (A)(iii)(II) to make grants for production of public television or radio programs by independent producers and production entities and public telecommunications entities, producers of national children's educational programming, and producers of programs addressing the needs and interests of minorities, and for acquisition of such programs by public telecommunications entities. The Corporation may make grants to public telecommunications entities and producers for the production of programs in languages other than English. Of the funds utilized pursuant to this clause, a substantial amount shall be distributed to independent producers and production entities, producers of national children's educational programming, and producers of programming addressing the needs and interests of minorities for the production of programs.".

(g) Section 396(k)(3) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)) is amended by striking subparagraphs (C) and (D).

(h) Paragraph (6)(A) of section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended to read as follows:

"(6)(A) The Corporation shall conduct a study and prepare a plan, in consultation with public television licensees (or designated representatives of those licensees) and the Public Broadcasting Service, on how funds available to the Corporation under paragraph (3)(A)(ii)(II) can be best allocated to meet the objectives of this Act with regard to national public television programming. The plan, which shall be based on the conclusions resulting from the study, shall be submitted by the Corporation to the Congress not later than January 31, 1990. Unless directed otherwise by an Act of Congress, the Corporation shall implement the plan during the first fiscal year beginning after the fiscal year in which the plan is submitted to Congress.".

(i) Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended by inserting immediately after the first sentence the following new sentence: "The Corporation shall assist radio stations to maintain and improve their service where public radio is the only broadcast service available.".

(j) Section 396(k)(7) of the Communications Act of 1934 (47 U.S.C. 396(k)(7)) is amended by inserting "(ii)(I) and (iii)(I)" immediately after "paragraph (3)(A)".

INDEPENDENT PRODUCTION

SEC. 8. Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)) is amended by adding at the end the following new clause:

"(iii)(I) For fiscal year 1990 and succeeding fiscal years, the Corporation shall, in carrying out its obligations under clause (i) with respect to public television programming, provide adequate funds for an independent production service.

"(II) Such independent production service shall be separate from the Corporation and shall be incorporated under the laws of the District of Columbia for the purpose of contracting with the Corporation for the expenditure of funds for the production of public television programs by independent producers and independent production entities.

"(III) The Corporation shall work with organizations or associations of independent producers or independent production entities to develop a plan and budget for the operation of such service that is acceptable to the Corporation.

"(IV) The Corporation shall ensure that the funds provided to such independent production service shall be used exclusively in pursuit of the Corporation's obligation to expand the diversity and innovativeness of programming available to public broadcasting.

"(V) The Corporation shall report annually to Congress regarding the activities and expenditures of the independent production service. At the end of fiscal year 1992, the Corporation shall submit a report to Congress evaluating the performance of the independent production service in light of its mission to expand the diversity and innovativeness of programming available to public broadcasting.".

NEEDS OF MINORITIES AND OTHER GROUPS

SEC. 9. (a) Section 396 of the Communications Act of 1934 (47 U.S.C. 396) is amended by adding at the end the following new subsection:

"(m)(1) Prior to July 1, 1989, and every three years thereafter, the Corporation shall compile an assessment of the needs of minority and diverse audiences, the plans of public broadcasting entities and public telecommunications entities to address such needs, the ways radio and television can be used to help these underrepresented groups, and projections concerning minority employment by public broadcasting entities and public telecommunications entities. Such assessment shall address the needs of racial and ethnic minorities, new immigrant populations, people for whom English is a second language, and adults who lack basic reading skills.

"(2) Commencing July 1, 1989, the Corporation shall prepare an annual report on the provision by public broadcasting entities and public telecommunications entities of service to the audiences described in paragraph (1). Such report shall address programming (including that which is produced by minority producers), training, minority employment, and efforts by the Corporation to increase the number of minority public radio and television stations eligible for financial support from the Corporation.

"(3) As soon as they have been prepared, each assessment and annual report required under paragraphs (1) and (2) shall be submitted to Congress.".

(b) Section 398(b)(1) of the Communications Act of 1934 (47 U.S.C. 398(b)(1)) is amended by inserting, immediately after "recipients'),", the following: "in accordance with the equal employment opportunity regulations of the Commission,".

PROHIBITION AGAINST EDITORIALIZING

SEC. 10(a). Section 399 of the Communications Act of 1934 (47 U.S.C. 399) is amended by striking the first sentence.

(b) The heading of such section is amended by striking "EDITORIALIZING AND".

SCRAMBLING OF PUBLIC BROADCASTING SERVICE PROGRAMMING

SEC. 11. Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No person shall encrypt or continue to encrypt satellite delivered programs included in the National Program Service of the Public Broadcasting Service and intended for public viewing by retransmission by television broadcst stations; except that as long as at least one unencrypted satellite transmission of any program subject to this subsection is provided, this subsection shall not prohibit additional encrypted satellite transmission of the same program.".

EFFECTIVE DATES

SEC. 12. This date and the amendments made by this Act are effective on the date of enactment of this Act, except that the amendments made by section 5 and 7(d) are effective on October 1, 1989.

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what we are talking about here at this point late in the afternoon is the authorization bill for the Corporation for Public Broadcasting. We now have a public broadcast system in place in this country which provides a very important service to all Americans, and it is something which I think has come to be recognized on a bipartisan basis as a very important part of the fabric of the American communications system.

Mr. Speaker, what we have before us today is the authorization bill from 1991 to 1993, and in it what we do is we provide to them a level of funding which I believe is going to be adequate to provide on a continuing basis those services to the American people.

At the same time we also provide for them funding for a new satellite capacity which they are going to need in the 1990's in order to move forward with the technological revolution which we are seeing in the telecommunications broadcast area.

As well what we have done here is we have also provided that there be a larger role for independent producers which will be insured in the coming years so that they are fully represented in the overall mix of people who are able to construct programming for the public broadcast service.

Mr. Speaker, it is a good bill, and it is a bipartisan bill. It is a bill which we worked together with the minority led by the gentleman from New Jersey [Mr. RINALDO] in constructing. It has the imprimatur of the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the gentleman from New York [Mr. LENT], the ranking minority member. It is also the product of a lot of hard work on the part of the subcommittee members, the gentlewoman from Illinois [Mrs. COLLINS], the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Texas [Mr. LELAND], the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Washington [Mr. SWIFT] and others who worked very hard to construct the package here which makes, I think, a lot of sense and has the support of both sides of the aisle.

I would like once again to compliment the gentleman from New Jersey [Mr. RINALDO] because I think that what we have here is a real compromise, and the compromise is illustrated, as much as anything by the work of the gentleman from Ohio [Mr. OXLEY] who came to this process with the intention of trying to find some resolution to some very difficult questions, and I think that this bill incorporates the products of a lot of those discussions.

Mr. Speaker, I yield back the balance of my time as I once again recognize the good work of the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

The amount of authorized funding for the Corporation for Public Broadcasting has been of great concern to me in the past. For many years, Congress approved funding levels that were completely out of proportion to the money actually appropriated. This year's house version of this legislation contains funding levels that are $65 million over the amount we actually appropriated for fiscal 1991. These kinds of pie-in-the-sky numbers are a fantasy that will never become a reality.

The reality is that public broadcasting has never been in better financial shape. According to CPB, the total private non-Federal income of the public broadcasting system grew by 11 percent to over $1 billion in 1987. In this healthy financial climate and in view of the Federal budget deficit, we should approve only necessary increases in authorized funding.

I am pleased that the substitute before us today does just that. This legislation will actually decrease the amount of money authorized for public broadcasting for the fisrt time in many years. There will be a $10 million decrease in authorized funding for fiscal year 1991, which will bring CPB's funding ceiling to only $2 million over the $243 million already appropriated for that year. The authorization levels for fiscal 1992 and 1993 then would be raised by only $20 million per year.

At the same time, the "matching fund" ratio, which determines how much private money must be raised by stations to qualify for public funds, will be tightened to reflect the healthy status of public stations. We will require CPB to explore whether it is more efficient to lease satellite space than to purchase a new satellite. Finally, CPB must seek private funds for the satellite to supplement or replace some of the $200 million we have authorized for that purpose.

These are great improvements to the legislation that have been accomplished by the hard work of many Members of both bodies from both sides of the aisle—particularly my good friend, the gentleman from Ohio [Mr. OXLEY]. These provisions already have been passed by the Senate, and OMB has stated that if they are sent to the President, OMB will not recommend a veto. Thus, the House has a great opportunity to pass, and have enacted, the first authorizing legislation for CPB in the 1980's.

I commend the committee chairman, the gentleman from Michigan [Mr. DINGELL], and the Telecommunications Subcommittee chairman, the gentleman from Massachusetts [Mr. MARKEY], and the ranking minority member of the full committee, the gentleman from New York [Mr. LENT] for their support and their willingness to accommodate changes to the legislation to make its passage—and its enactment—a reality.

The legislation before us authorizes realistic, responsible funding levels that reflect the importance of public broadcasting to our citizens. It does not promise the Moon, because we acknowledge the Moon can not be delivered. I support this legislation, and urge all Members of the House to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LENT. Mr. Speaker, when the Energy and Commerce Committee filed its report earlier this year on the Corporation for Public Broadcasting [CPB] authorization bill (Rept. No. 100-825), many members of the committee expressed dismay over the grossly inflated funding levels that were authorized. It was difficult to believe that the committee, which approved only 1½ to 3 percent funding increases for a variety of important health programs, would approve approximately 20 percent yearly increases in CPB's funding ceilings and would authorize for fiscal year 1991 nearly twice as much money as CPB received 6 years before. It was even more difficult to believe that either the House or the Senate would routinely approve the authorized funding levels proposed in their original bills, especially when CPB's actual appropriated amount for fiscal year 1991 was nearly $60 million less than the proposed authorization.

Many Members of both bodies wanted to approve a CPB authorization bill with more realistic funding numbers that would not be vetoed by the President. After extensive discussions among the administration and House and Senate Members, a compromise package was assembled that is contained in the substitute before the House. This package has already been approved by the Senate. If the House approves it as well, the Office of Management and Budget has agreed not to recommend a Presidential veto. Thus, the House has a historic opportunity to approve and to have enacted the first CPB authorizing legislation in this decade; legislation that will mandate prudent funding levels and increased reliance by public broadcasting stations on non-Federal sources of funding.

First and foremost, H.R. 4118, as amended by this substitute, will drastically reduce the funding ceilings proposed in the original House and Senate authorization bills. Three examples will illustrate just how significant those cuts are. First, the new authorization level for fiscal 1991—$245 million—will be only $2 million over the approximately $243 million already appropriated by Congress, nearly $10 million less than the existing fiscal 1990 authorization of $254 million, and nearly $60 million less than the $304 million originally proposed. Second, the new fiscal year 1993 funding level—$285 million—will be about $20 million less than the $404 million originally proposed, and even about $20 million less than the funds originally proposed by this legislation for fiscal 1991—$304 million. Third, the authorized funding increases are only $20 million for each of the 3 years, as opposed to $50 million originally.

This legislation also requires public broadcasting stations to rely more heavily on private instead of Federal funding. Now, for every $2 privately raised by public broadcasting stations, $1 can be received from the Federal Government. This is termed the "2-to-1" or "50 percent" matching fund. H.R. 4118 changes the matching fund ratio to require public stations to raise $2.50 in private funds before they could receive $1 from CPB. This new "2½-to-1" or "40 percent" matching fund is a return to the ratio contained originally in the Public Broadcasting Act of 1967. It also reflects the fact that public broadcasting has never been in better financial health. According to a CPB report, the total income of public broadcasting in fiscal year 1987 grew 14 percent, to about $1.30 billion. The same report states that private funding increased by nearly 11 percent, to over $1 billion. Given the financial health of the public system, adjustment of the matching fund ratio should be actively considered as part of each CPB authorization process. We hope this adjustment serves as the starting point of a debate about the proper ratio of private-to-Federal funding support should be as public broadcasting moves into the 21st century.

Finally, this bill mandates greater accountability over the extra $200 million authorized for the "Satellite Interconnection Fund." Specifically, CPB and the public stations must report to Congress in 1990 on the final satellite system selected; whether it would be more cost-effective to lease transponder capacity rather than to purchase a new satellite; and whether private funds are available to public broadcasting that could be used instead of the public money authorized through this legislation. We applaud this amendment. CPB is authorized nearly $1 billion between fiscal years 1991 and 1993 through this bill. In return, CPB should at least be required to exhaust every possible avenue to use non-Federal funds, and attempt to lighten the burden on the taxpayers as much as possible. This provision is not a new or radical concept in public broadcasting. It is only an extension of the partnership of public and private funding embodied in all public broadcasting funding through devices like the "matching fund," which are designed to give public stations the incentive to rely on non-Federal funds.

For years, Congress engaged in a sleight of hand game with public broadcasting funding that should be the envy of card sharps everywhere. With one hand, we authorized great sums of money for public broadcasting; with the other hand, we appropriated only a small sum more than the previous year. By now, the game is old hat, and a comfortable fiction of all concerned. Unfortunately, the game has done real harm to the public broadcasting system, because it kept public broadcasting's mission and funding locked in the past, instead of moving toward the future.

These disproportionate authorizations only delayed responsible debate on how the public broadcasting system can grow without further infusions of taxpayer dollars. In the Gramm-Rudman-Hollings era, when many more essential programs are frozen or limited to small increases, both sides know that any significant expansion in Federal funding for public broadcasting is not possible. The Public Broadcasting Act described Federal funding of public broadcasting programming as "seed money" that was necessary because sufficient Federal funds were not available. It is clear that those seeds have borne fruit, and that requests for increased authorizations should be evaluated much more carefully. Yet, the authorization game continued, and appeared to be nearly impossible to stop.

Now, at long last, the game appears to be over. H.R. 4118, and the hard work and discussions that went into the provisions of the substitute offered today, should mark the beginning of a greatly needed debate about how public broadcasting's mission should grow and change as it moves into the 21st century. When the Public Broadcasting Act was passed over 20 years ago, public radio and TV was the only alternative to the commercial TV and radio networks. Now, it is only one of many alternatives. Both the radio and TV landscapes have changed dramatically: in television alone, over 60 cable TV channels are accessible by 80 percent of the TV households in the Nation. There is also a huge catalog of widely available videocassette programming. These new sources provide a great deal of programming that duplicates or invades territory once thought to be exclusively within public broadcasting's domain. In light of that change, which proponents of the Public Broadcasting Act could not have anticipated, it is reasonable and necessary to question how the mission and funding for public broadcasting should change. To their credit, public broadcasters are beginning to address these questions. We believe that a renewed and expanded commitment to the educational and informational programming that once was the backbone of public broadcasting is the most appropriate way to maintain the unique nature of the system.

It is our hope that this legislation, and the closer working relationships that have developed throughout its consideration, will result in efforts by Congress and public broadcasters alike to creatively assess and adjust public broadcasting's mission in the vastly changed landscape. We commend the efforts of all in

Congress and elsewhere who have contributed to its provisions.

Mr. OXLEY. Mr. Speaker, I rise in support of this legislation, as amended by the substitute.

For many years, Congress has played a game of sleight of hand with public broadcasting that should be the envy of card players everywhere. With one hand, we authorize great sums of money to express our support for the corporation for public broadcasting and the lofty goals that it, and other associated organizations, set for public broadcasting in this Nation. With the other hand, however, Congress actually appropriates the money. In reality, public broadcasting is given only small increases in funding from year to year—only about $10 million per year at the most.

By now, this game is old hat to all who participate. Congress passes exorbitant, meaningless authorization levels, but prudent, stable appropriations. Public broadcasting knows and expects the dream numbers of the authorization bills, but never dreams of actually having those sums appropriated. And the game goes on, year after year.

The administration and many Republicans in the House and Senate have criticized the excessive, inflated funding levels that Congress has authorized for the Corporation for Public Broadcasting. Many Members urged both bodies to adopt lower numbers that accurately reflect what the country can afford, not what we wish we could afford. The President even vetoed CPB authorization bills in an effort to stop this game.

Now, I hope the game is finally over.

This bill contains the five sensible authorized funding levels for the Corporation for Public Broadcasting that have been laid before this House in many years. This legislation contains three major changes: in funding levels, in the "matching fund" ratio of public-to-private funds, and in CPB's accountability for the separate funding for satellite replacement. These improvements are important enough that if they are sent to the President, the Office of Management and Budget has agreed that it will not recommend a veto. That means we could have a CPB authorization bill enacted for the first time in this administration. Therefore, the changes made by this legislation will be highly significant for the future of public broadcasting.

First, let's look briefly at the funding differences. Under the original House and Senate bills, CPB would be authorized at $304 million for fiscal year 1991. This is about $60 million, or 25 percent, over the appropriated amount of $243 million. Permissible funding would have increased to an amazing $404 million in 1993. Clearly, CPB will not be appropriated anything near that amount in the future.

To their credit, this substitute brings the funding numbers much closer to reality. In fiscal year 1991, the first year of the authorization, the bill actually decreases CPB's authorized funding level to $245 million, only $2 million over the amount we just appropriated last month. Then, it authorizes funding increases by only $20 million in each of the next 2 years. This results in an authorization in fiscal 1993 of $285 million. Not only is that figure over $100 million less than the $404 million which the House bill proposed originally for fiscal 1993; it is even significantly less than the $304 million which the House bill would have authorized for fiscal 1991.

This legislation also makes a crucial adjustment to the "matching fund" ratio, which is the amount of private money that public broadcasting stations must raise to obtain public funds. Currently, stations must raise $2 privately to get $1 of public money. This legislation changes that formula to a 2½-to-1 ratio, so public stations will have to work harder to obtain private funding before they become entitled to public support.

This adjustment will not harm public broadcasting stations: In 1987, public stations received over $1 billion in private funds, more than 4½ times the public funds available. But changing the "matching fund" ratio will serve as a reminder to the system that Federal support of public broadcasting comes at a price, and must be kept to a minimum. I hope—and expect—that this significant change will serve as the starting point of a debate about the true and appropriate ratio of public to private support for public broadcasting.

Finally, CPB will be more accountable for the extra $200 million which is authorized for satellite replacement. This legislation requires it to analyze alternative means of replacing its satellite capability—specifically, whether it is less expensive to lease satellite capacity rather than purchasing a satellite. CPB also must seek private funds to supplement the Federal funds for the satellite, in order to lighten the taxpayer burden as much as possible. This not only ensures that CPB makes every dollar count—but than non-Federal funds will do the job if available. This is an extension of the partnership of public and private funding which is embodied in the "matching fund" I spoke of earlier.

We have changed the language for this section from that of the Senate bill in a minor way. However, its intent remains the same: To require CPB to solicit private funding for satellite interconnection, and to report to Congress by March 1, 1990 on the efforts it has made. I will be watching CPB's progress closely, as will many other Members in both bodies.

In conclusion, the House should realize that authorizing prudent, realistic funding levels and requiring greater reliance on non-Federal sources for public broadcasting are important, but not just for budgetary purposes. Vast changes in the video world have taken place in the last 20 years. Public broadcasting was originally the only alternative to the commercial networks. Now, it is one of many, with over 60 cable channels and huge catalogue of videocassettes available to most viewers. With that in mind, it is reasonable, and necessary, to ask how the mission and the funding for public broadcasting should change. Putting an end to the fantasy funding levels we have approved in the past makes it possible for Congress and public broadcasters to begin a responsible debate over how public broadcasting's mission should grow and change to serve the Nation into the 21st century. It is my hope that this bill marks the beginning of that debate. For all these reasons, I urge my colleagues to approve this legislation.

I would like to thank the chairman of the full committee, the gentleman from Michigan, [Mr. DINGELL] and the Telecommunications Subcommittee chairman, the gentleman from Massachusetts [Mr. MARKEY]. They have worked in a bipartisan manner to ensure that this House can consider and approve a public broadcasting bill with responsible funding levels. I also thank the ranking Republican on the full committee, the gentleman from New York [Mr. LENT] and the ranking member of the subcommittee, the gentleman from New Jersey [Mr. RINALDO]. Their assistance and support was invaluable in reaching this compromise.

Mr. MARKEY. Mr. Speaker, today we will consider an amendment in the nature of a substitute to H.R. 4118, the Public Telecommunications Act of 1988. This legislation authorizes funding for the Corporation for Public Broadcasting [CPB] for fiscal years 1991 through 1993 and for the Public Telecommunications Facilities Program [PTFP] for fiscal years 1989 through 1991. The legislation also authorizes funds for replacement of the public broadcasting system's satellite interconnection system.

H.R. 4118 would create an Independent Production Service [IPS], for the purpose of funding the production of television programs by independent producers and production entities. The act would require the Corporation to monitor and report to the House and Senate Commerce Committees on public broadcasting initiatives and programmatic efforts to meet the needs of minority and diverse audiences, and to review minority employment policies. In an effort to further insulate Federal funds from political influence, the act would direct the public broadcasting community and the Corporation to work together to develop a plan to restructure the allocation of television program funds. Finally, the legislation would ensure that the interest derived from allocations be used to fund national programming and would conform administrative and system support allocations with current CPB spending practices.

The substitute authorizes $245 million for fiscal year 1991, $265 million for fiscal year 1992, and $285 million for fiscal year 1993. Although H.R. 4118, as introduced, proposed substantially higher funding levels the authorization levels contained in this substitute reflect an agreement with OMB, whereby OMB will recommend the President not veto this legislation. The committee notes that appropriations for previous years have fallen short of the amounts requested and authorized, thereby imposing a significant burden on the ability of the public broadcasting system to sustain the current quality of the system, much less allow it to continue as an innovator and leader in the electronic media industry. As such, the committee expects that the actual appropriations will reflect more closely the levels contained in the substitute than has been the case in recent years.

The amendment in the nature of a substitute constitutes a recognition of the legitimacy of continued Federal support for the Nation's public telecommunications system. Although the substitute raises the matching funds provision from 2-1 non-Federal to Federal funds to 2.5-1 non-Federal to Federal funds, the provision will not result in any decrease in the Federal funds received by the public broadcasting community because non-Federal funds currently raised substantially exceed the 2.5-1 ratio.

The legislation authorizes $36 million for fiscal year 1989, $39 million for fiscal year 1990, and $42 million for fiscal year 1991 for the Public Telecommunications Facilities Program [PTFP]. This program provides funds for the construction of new stations and upgrading of existing stations. The program matches Federal dollars with local support primarily for the construction, repair, and replacement of broadcast facilities. In this way, the program helps extend public television and radio service to unserved areas, and upgrade and preseve services offered by existing stations.

In fiscal year 1988, public broadcasting stations submitted 304 applications totaling $68 million in requests for matching funds from a total appropriation of $19.6 million. With only $19.6 million in total available grant funds this year, over 75 percent of this year's PTFP applications were not or will not be funded leaving unsuccessful applicants with failing or aging equipment for at least another year; and 91 of those 304 applications were reactivated from the previous year. Additionally, the cost of transmission equipment and other necessary facilities has increased between 8 and 25 percent in the last 5 years. The Congress believes increases in funding are necessary to overcome the effects of inflation, while permitting a small increase in the number of stations assisted. The Congress further believes increases are necessary to ensure the program's continuation and success.

The legislation authorizes $200 million to be used over a 3-year period to replace the satellite interconnection system. By mid-1991, the satellite on which public broadcasting's transponders are located, will run out of fuel and be retired. Replacement transponder capacity will have to be obtained if public television and radio are to continue nationwide service to the American people. Further changes in the existing ground facilities will be required to correspond to changes in satellite facilities. This one-time authorization should be sufficient for replacement of the system. The legislation clearly prohibits the CPB from using any of the funds allocated to satellite replacement for administrative expenses. CPB must ensure that the funds are spent appropriately, but CPB is not expected to duplicate the work or analysis being undertaken by the Senate Appropriations Committee or entities working with or at the behest of the committee, such as the Office of Technology Assessment.

Funding for replacement of the satellite interconnection system is essential to ensure continued high quality service and must be authorized this fiscal year to permit PBS and NPR to make commitments to vendors for the replacement system as early as 1989. Replacement of the interconnection facilities potentially could support increases in program offerings and related services, more specialized programming, and expansion of service areas.

The new satellite interconnection system should be designed with sufficient flexibility to be capable of adapting to future developments in television technology, including advanced or high definition television, interactive video, and digital data distribution. Advanced and/or high definition television promise to offer many new uses for the television medium in addition to enhanced home entertainment services. This advanced technology will have critical applications in fields such as medicine, microbiology, education, and engineering. It is critical that the public broadcasting system be able to take advantage of such technologies.

In order to ensure that the satellite replacement funds are used appropriately, CPB shall submit a report prepared by public radio and television stations—or their representatives—to the House and Senate Commerce Committees and or before March 1, 1990, detailing the satellite needs of public television and radio and the cost differential between leasing and purchasing the transponders to be acquired. This report also shall include an analysis of the availability of private funding to defray the costs of replacement of the satellite interconnection system. To the extent that the report concludes that private funds are available, CPB may utilize such funds to defray the costs of replacement of the satellite interconnection system.

The Senate Communications Subcommittee and the House Telecommunications Subcommittee have held numerous hearings during the 100th Congress on public broadcasting issues. During those hearings, Members and witnesses alike expressed concerns that CPB's funding decisions are not sufficiently insulated from political influence and that excessive Federal funding is spent on administrative expenses. The substitute is intended to address these concerns and to direct the Corporation of Public Broadcasting to focus its efforts on bringing quality national programming from diverse sources intended to serve a national audience. Funds provided to public radio and television should be used for the production or acquisition of quality national programming. This money is intended to include programming designed for large segments of the population or specific national communities of interest.

CODIFICATION OF RADIO FUNDING DISTRIBUTION SCHEME

Over the past 20 years the public broadcasting system has grown and matured. Public broadcasters are able to develop and share their programming, increasing the diversity of programming to the public. Public broadcast stations currently aggregate funds to support existing national programming and develop new national programming. Recognizing maturation in the system, Congress and the CPB have been shifting increasingly large portions of the Federal support to the stations. In the early 1970's the CPB began distributing a substantial percentage of its funds to stations in the form of grants—now called community service grants [CSG's]—to be used as the stations deemed appropriate. In 1981, Congress codified the CPB's practice of giving stations unrestricted CSG's. In 1986, the CPB began issuing grants to public radio stations for national programming—called national program production grants [NPPAG's].

Today, 93 percent of the Federal funds earmarked for radio are given directly to the stations in the form of CPB's and NPPAG's. The substitute codifies the current division of CPB radio funding; 70 percent for radio community service grants [CSG's]; 23 percent for radio NPPAG's; and 7 percent for the radio program fund. This distribution formula was adopted by the public radio system over a period of 2 years. By codifying this formula, the Congress in no way intends to diminish the obligation of both the stations and the CPB to devote a substantial amount of national program funds to independent productions.

TELEVISION PROGRAM FUND

During consideration of this legislation, members of the Telecommunications Subcommittee and the full Energy and Commerce Committee have expressed concerns about CPB programming decisions being inadequately insulated from political influence and about and insufficient portion of Federal funds directed toward actual programming. The perception of political influence is inherent in CPB's structure since its board consists of political appointees and its most visible activity is financing programming. The challenge confronting both the CPB and the Congress is to ensure the continued growth and development of public broadcasting while protecting individual programming decisions from political influence.

In an effort to address concerns over political influence and insufficient funding of national programming, the amendment in the nature of a substitute proposes a reaggregation of Federal funding between CSG's and the television program fund. The substitute directs CPB and the public television community to undertake a process resulting in a plan to guarantee the continuation of quality national programming that the public broadcasting audience has come to expect. The establishment of the national program grants for radio has been successful, and a similar scheme for television may best serve the public interest. While there is no intention to mandate the outcome of the negotiation process, the CPB seriously should consider including the establishment of national program grants for television along the lines of the original Senate proposal in S. 2114.

Regardless of what programming is funded by CPB, ultimately, the stations determine what is aired. Therefore, it is critically important that the plan include provisions that guarantee that these funds are reaggregated and expended on underwriting new national programs. Such requirements would ensure that stations use Federal funds toward increasing the quantity of new national programming.

While this plan should be developed jointly by the public television stations and the CPB, the CPB will be responsible for its implementation and shall have responsibility for disbursement of all funds distributed pursuant to the plan. To the extent that the plan calls for the distribution of funds without CPB involvement, the plan also must contain provisions that will result in accountability. In their stewardship of Federal funds, both CPB and the stations have an obligation to account for these funds and demonstrate that they have been expended in a responsible manner. The plan must recognize this obligation, and facilitate appropriate oversight by responsible Government officials.

In addition the CPB, in consultation and cooperation with the public television stations and their representatives shall establish criteria that stations must meet in order to receive national program grants. The CPB on behalf of itself and the public television community shall submit this report to the Senate Committee on Commerce, Science, and Transportation and the House Energy and Commerce Committee by January 31, 1990. While the committee expects the plan to be implemented on or before January 31,1991, in no event shall the plan be implemented prior to April 31, 1990. This timeframe will give the public television community the necessary time to develop a plan that meets the objectives outlined in the House and Senate reports accompanying S. 2114 and H.R. 4118 and avoid the disruption of its national program schedule.

TELEVISION AND RADIO PROGRAM FUNDS

The substitute also requires that the CPB distribution of allocations to its program fund for both radio and television be provided in the form of grants, not contracts. Further, a substantial amount of such funding shall go to independent producers, producers of national children's educational programming, and programming addressing the needs of minorities. In addition, a new provision is added to the declaration of policy stating that the goal of the act is to encourage programming that involves creative risks and addresses the needs of underserved and unserved audiences, including children and minorities. The substitute clarifies that the CPB has the ability to provide grants to stations and to producers of programming in languages other than English.

ADMINISTRATIVE EXPENSES

During hearings held by the Telecommunications Subcommittee, members expressed concern that excessive Federal funds are being used to sustain CPB's bureaucratic structure and to fund station administrative costs. Both the House Energy and Commerce Committee and the Senate Commerce, Science, and Transportation Committee found that the current allocation scheme no longer is consistent with CPB's operational costs. Although statutorily, CPB may spend up to 5 percent of the appropriated funds on administrative expenses, in recent years, the percentage of Federal allocations devoted to administrative costs has dropped from 5 to 4.2 percent. Clearly, administrative costs need not increase in proportion to appropriations. Therefore, there is no need to continue to authorize more funds for administrative costs than CPB actually spends. Accordingly, the substitute allocates $10.2 million for CPB administrative expenses for fiscal year 1989, and limits increases in subsequent years to 104 percent or the increase in the Consumer Price Index [CPI], whichever is greater, of the previous year's budget.

Although this funding level provides CPB with an increase over what it had budgeted for 1989, concerns remains about the level at which CPB's expenses are rising. The increases in CPB's overall authorization levels are intended to increase the amount of programming produced and acquired for public broadcasting, not increase CPB's overhead. CPB's primary concern should be to direct every dollar possible to programming. The Congress has been freezing or limiting increases to 1 percent for other Federal agencies. Thus, the provision permitting CPB's administrative expenses to keep pace with the CPI is to be considered a ceiling. Further, the substitute would prohibit administrative expenses from exceeding the original level of 5 percent of total allocation. The CPB should continually reevaluate its administrative expenses and plan future budgets with an eye toward reducing those expenses where ever possible. For example, travel expenses of the CPB Board members raises serious concerns. While some travel is expected, questions have been raised whether some Board members are traveling excessively at the CPB's expense.

The substitute also reflects concerns about the duplication of services, programs, and activities by the CPB and other public broadcasting and telecommunications entities. The CPB should evaluate whether or if it is necessary for it to duplicate services provided by other entities. Later this year or early next year the General Accounting Office will be requested to undertake a review of the CPB's administrative allocation and report to Congress on its findings.

During oversight hearings held by the Telecommunications and Finance Subcommittee, members expressed concern that community service grants, over which stations have full discretion, too often are used for station administrative, rather than programming costs. According to CPB figures, in fiscal year 1988, CSG's represented 64.3 percent of CPB funds. In 1986—the last year for which CPB has complete data—67 percent were used to provide promotional services and 17 percent were used for station administration. In fiscal year 1986, 62 percent of radio CSG funds were used for programming, 16 percent were used for promotional services and 20 percent were used for radio station administration. CPB is directed to report on an annual basis to the Committee on Energy and Commerce on efforts to ensure that Federal funds are utilized by CPB and other public broadcasting entities for programming purposes to the maximum extent possible.

In an additional effort to decrease CPB administrative expenses, the Substitute directs the CPB to allocate all interest income to the national programming accounts for radio and television; 75 percent of the interest income shall go to public television national programming and 25 percent to public radio national programming. Of the 25 percent allocated to public radio, 75 percent shall go to the national program production grants pool and 25 percent to the program fund. A similar division of interest income for public television shall be determined after a plan is implemented distributing public television national program dollars. Until that time, the interest income allocated to television programming shall go to the television program fund.

SYSTEM SUPPORT

The substitute raises the statutory limit on system support costs to 6 percent of allocated funds. It should be noted that the statute provides that the CPB pays for 50 percent of the satellite interconnection costs of public stations. Public radio stations have entered an agreement with the CPB whereby the CPB does not pay any of the radio satellite interconnection costs; public television stations should consider a similar arrangement. Once the television satellite system has been replaced, the stations should take responsibility for the full amount of their ongoing interconnection costs. this would provide over $5 million in the system support allocation that could be devoted to programming or other program related activities.

The substitute also would permit CPB to provide grants for technical assistance to stations with foreign language programming. These grants, inter alia, would provide additional funds to stations for monitoring or translating foreign language programming to ensure that their broadcasts are in compliance with the FCC rules and regulations.

INDEPENDENT PRODUCTIONS

For almost as long as public broadcasting has existed, there have been two major concerns among the independent production community: the lack of funding for independent productions and a perceived inaccessibility of the system to independent producers.

Both the House Telecommunications and Finance Subcommittee and the Senate Commerce Committee heard testimony from independent producers and from representatives of the public broadcasting community regarding their views on the sufficiency of use of independent productions by the public broadcasting system. Independent producers' concerns largely are based on the perception of an increasingly "closed system" structure of public broadcasting, in which the CPB and the stations control access to the public airwaves.

Although the Corporation has testified that approximately half of its television program funds are allocated to the work of independent producers, representatives of the independent production community suggest that funds to independent productions are significantly less. The substitute reflects a concern that the Corporation has not allocated sufficient funds to smaller individual producers working independently of stations or station consortia. Greater effort is required to fulfill the congressional intent and achieve the statutory objective of promoting greater innovations and diversity of opportunity and expression in the programming supported by the Corporation.

To address this ongoing problem the substitute establishes an Independent Productions Service [IPS], an entity developed for the sole purpose of funding independent productions, to provide producers increased access to the public television system, foster an improved, cooperative working relationship between the independent production community and the public broadcasting system and bring innovative programming to the American people. Despite the advent of IPS, the public broadcasting community is directed to continue to utilize or increase utilization of independent producers or independent productions throughout the structure of public broadcasting, including the station program cooperative, the program fund, and other program selection and funding processes. Neither the creation of the IPS, nor its funding is intended to exhaust the Corporation's statutory obligation to provide a substantial portion of its programming fund to independent producers and productions.

An aggregate initial amount of at least $6 million shall be provided by the CPB for IPS for each of the first three years of service to be utilized for production costs. Overhead and promotional costs of the service shall not be paid from this initial annual funding of $6 million. The IPS should be in full service by fall of 1989, and CPB has agreed to provide startup costs of the installation of the service this year. While the suggested $6 million funding level for production costs shall come from allocations available for television national programming, the startup costs shall not be paid out of funds allocated for television programming.

The substitute also provides that the IPS shall be separate from the Corporation and will be incorporated under the laws of the District of Columbia for the purposes of contracting with the Corporation. We intend that the structure and composition of the Service's governing board will be acceptable to the CPB.

The substitute also provides that the Corporation will work with independent producers and production entities to develop and plan an acceptable budget for the operation of the IPS. Personnel from public television stations as well as independent producers should be involved in the planning of the advisory board and an appropriate number of such personnel should serve on the advisory council and governing board. The advisory board will provide added input to the decisionmaking governing board. Participation in this service shall be open and present or past association with public television stations shall not automatically exclude a particular producer from participation. The determination of who is eligible for funding by the IPS shall be made by the governing board or the advisory council.

The substitute ensures that funds provided by the CPB to the IPS will be used exclusively to ensure the Corporation's obligation to "expand the diversity and innovativeness of programming available to public broadcasting."

It also is recommended that the Corporation ensure that the IPS make a special commitment and effort to produce programs by and about minorities in addition to continuing its support of the minority consortia. Minority programming is an essential foundation of public broadcasting. The existing minority consortia which represent the United States largest and fastest growing ethnic and racial minority communities, have been an effective vehicle despite a very minimal funding level of only $800,000. The Corporation should continue and expand its work and commitment to the minority communities in creative ways in order to improve integration of minority programming and producers into the system and to help cultivate and further increase the participation of ethnic and racial audiences in public broadcasting. The substitute does not mandate any specific level of funding for the minority consortia. In an effort to ensure support for culturally diverse programming, however, the CPB is directed to allocate sufficient funds for the minority consortia. An annual allocation level of an additional $3 million is recommended.

Finally, the substitute requires that the Corporation report to Congress each year on the activities and expenditures of the IPS. At the end of fiscal year 1992, the Corporation must submit to the Telecommunications Subcommittee and the Commerce Committee a report evaluating the performance of the IPS. This report shall examine the IPS with regard to its mission to "expand the diversity and innovativeness of programming available to public broadcasting." The IPS is expected and intended to contribute to public television's historical and traditional commitment to children's television. Innovative and diverse programming geared to the child, as well as the adult, audience should be the goal of IPS. The performance of IPS in this area will be monitored closely.

MINORITY PROGRAMMING AND EQUAL EMPLOYMENT OPPORTUNITY

Historically, the Congress has expressed concern that only a minimal amount of minority and culturally diverse programming is available on public television. The 1978 legislation addressed some of the concerns of minority organizations and public interest groups by expanding station responsibilities to include open board meetings, added accountability, and reporting requirements plus mandated increased opportunities for women and minorities. Concerns remain, however, that minorities and women have not had adequate access to funding for program production or in employment and management in public broadcast stations.

Overall, public broadcasting has made progress in matters affecting minorities since 1977 when the first study of minority participation was released. However, there is growing and shifting diversity of minority needs as seen in the significant numbers of new immigrant groups from the Caribbean, Africa, Southeast Asia, Central America, the Middle East and eastern European communities, for example, who post new and difficult challenges for local public television and radio stations.

Last year, the CPB awarded $800,000 to the five minority consortia. The CPB and public television stations devoted a combined total of approximately $3 million to programs addressing the needs of minorities for both new and continuing programming. This is inadequate. There are 29 million blacks and 18 million Hispanics in the United States. Those two groups alone constitute approximately 20 percent of our Nation's population. This figure does not take into account other ethnic and racial minority groups. Further, this percentage is increasing at a rapid rate. Thus, the need for programming addressing those audiences, including foreign language programming, should be a primary concern of public radio and television stations and the CPB.

While much progress may have been made toward increasing minority participation in public broadcasting in the last decade, there still is a need for increased minority and ethnic participation in all aspects of mass media, particularly programming. Although all broadcasters, commercial and noncommercial, are subject to the same FCC equal employment requirements, the employment record of public broadcasters, and for that matter, production entities involved with public broadcasting, should be a model for the broadcasting community. The substitute reflects an expectation that increased monitoring and reporting of minority employment and programming service to minority audiences will foster a greater diversity of programming.

Under the substitute, the CPB shall review the hiring and employment practices of the Corporation, entities within the public broadcasting system and those entities who do not fall under FCC guidelines, but who are responsible for development, selection or production of selecting programming which airs on public television and radio.

The CPB has provided leadership and assistance to interested persons and public broadcasting licensees in the area of minority services. The CPB already collects and analyzes data on minority and women's employment, and on minority programming within public broadcasting. At this time, the record of the public broadcasting system compares favorably to other broadcaster and cable entities in the employment of minorities. There is, however, considerable room for improvement in the record of the public broadcasting system, and particularly at the member station level with regard to service to minority communities and employment of women and minorities. Station employment practices are most noticeably deficient in upper four job category positions. The CPB is directed to work with public broadcasting stations to address this continuing and longstanding problem in an expeditious fashion. The Subcommittee on Telecommunications and Finance will closely monitor performance in this area.

The requirement that the CPB report to Congress on stations' plans and efforts to address the needs of minorities and diverse communities is not intended to permit the CPB to engage in program content analysis or to permit the CPB to use this authority to influence or determine program content. The CPB can, of course, review programming to determine to whom the programming was targeted.

The amendment to section 398 of the Communications Act requires public telecommunications entities to comply with the equal employment opportunity requirements set forth in section 73.2080 of the FCC regulations. This requirement is included to ensure that telecommunications entities, such as National Public Radio and the Public Broadcasting System, that are integral parts of the Public Broadcasting System and receive Federal funds are equal opportunity employers.

PUBLIC RADIO EXPANSION

Although the public radio system has met the challenge presented by Congress 20 years ago to bring quality, alternative programming to the American people, public radio should examine how to provide service to those unserved and underserved audiences—people who are acutely disadvantaged and whose needs are not being met adequately by either commercial or noncommercial radio.

Many Americans, including the elderly, ethnic minorities and children, can be served by public radio if we can increase substantially the number of CPB qualified stations. There are many noncommercial educational stations that are not CPB qualified, but that are providing important services in the local communities. CPB should consider methods to support those stations, and where possible, to upgrade those stations to CPB-CSG qualification standards. In addition, CPB should help such stations become interconnected to the public radio satellite system. This effort should be an ongoing activity that tracks old and new stations to identify localities and communities that are not being adequately serviced. Interconnection services will enable those stations to draw from public radio's extensive and growing repertory or national programming; and share their special brand of local programming with a wider national audience. The Substitute requires the CPB to provide assistance to public radio stations which constitute the only broadcast service available to a community. While this provision will affect only a small number of stations throughout this country, these stations provide an essential community service.

SCRAMBLING OF SATELLITE-BROADCASTING SIGNALS

The substitute contains a provision permitting the Public Broadcasting Service to encode or "scramble" its satellite-delivered programs included in the National Program Service only if it leaves one clear, unencrypted transmission of such programming available for reception without decoders by home satellite dish owners. PBS encodes signals in order to provide stereo sound to local stations at a lower cost. While these encoded stereo feeds are available to home dish owners at no charge if they have a decoder, the purpose of this provision is to ensure that all satellite dish owners have access to the national programming of PBS.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 4118, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **MARKEY**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1988

Mr. **MARKEY**. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1048) to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes, as amended.

The Clerk read as follows:

S. 1048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Communications Commission Authorization Act of 1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscriminatory costs, for each of the fiscal years 1988 and 1989.".

(b) The amendment made by subsection (a) of this section shall apply with respect to fiscal years beginning after September 30, 1987.

TRAVEL REIMBURSEMENT PROGRAM

SEC. 3. Section 4(g)(2)(D) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)(D)) is amended by striking "1987" and inserting in lieu thereof "1989".

ANNUAL MANAGEMENT REPORT

SEC. 4. Subsection (g) of section 5 of the Communications Act of 1934 (47 U.S.C. 155) is repealed.

FEE SCHEDULE

SEC. 5. Section 8(b)(1) of the Communications Act (47 U.S.C. 158(b)(1) is amended by striking "the date of enactment of this section" the first time it appears and inserting in lieu thereof "April 1, 1987,".

OLDER AMERICANS PROGRAM

SEC. 6. (a) During fiscal years 1988 and 1989, the Federal Communications Commission is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Commission (and consistent with such provisions of law) in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the regulations of the Commission.

(b) Prior to awarding any grant or entering into any agreement under subsection (a), the Office of the Managing Director of the Commission shall certify to the Commission that such grant or agreement will not—

(1) result in the displacement of individuals currently employed by the Commission;

(2) result in the employment of any individual when any other individual is on layoff status from the same or a substantially equivalent job within the jurisdiction of the Commission;

(3) result in filling a position prior to (A) publicly announcing the availability of such position, and (B) attempting to fill such position in accordance with regular employment procedures; or

(4) affect existing contracts for services.

(c) Participants in any program under a grant or comparative agreement pursuant to this section shall—

(1) execute a signed statement with the Commission in which such participants certify that they will adhere to the standards of conduct prescribed for regular employees of the Commission, as set forth in part 19 of title 47, Code of Federal Regulations; and

(2) execute a confidential statement of employment and financial interest (Federal Communications Commission Form A-54) prior to commencement of work under the program.

Failure to comply with the terms of the signed statement described in paragraph (1) shall result in termination of the individual under the grant or agreement.

(d) Nothing in this section shall be construed to permit employment of any such participant in any decisionmaking or policy-making position.

(e) Grants or agreements under this section shall be subject to prior appropriation Acts.

CONGRESSIONAL COMMUNICATIONS

SEC. 7. (a) The prohibition in section 1.1203(a) of title 47, Code of Federal Regulations, shall not apply to any of the types of presentations listed in section 11.1204(b) of such title nor to any presentation made by a member or officer of Congress, or a staff person of any such member or officer, acting in his or her official capacity, in—

(1) any non-restricted proceeding under section 1.1206(b) of such title;

(2) any exempt proceeding under section 1.1204(a)(2) of such title not involving the allotment of a channel in the radio broadcast or television broadcast services; or

(3) any exempt proceeding under section 1.1204 (a)(4) through (a)(6) of such title.

(b) Each reference in subsection (a) of this section to a provision of title 47, Code of Federal Regulations, applies to such provision as in effect on the date of enactment of this Act. No subsequent amendment of the rules or regulations in such title shall have the effect of prohibiting any presentation of the kind that would be permitted under subsection (a) of this section on the date of enactment of this Act.

TARIFF REVIEW

SEC. 8. (a) Section 5(c)(1) of the Communications Act of 1934 (47 U.S.C. 155(c)(1)) is amended, in the first sentence, by inserting immediately after "this subsection" the following: "and except any action referred to in sections 204(a)(2), 208(b), and 405(b)".

(b) Section 204(a) of the Communications Act of 1934 (47 U.S.C. 204(a)) is amended—

(1) by inserting "(1)" immediately before "Whenever"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the Commission shall, with respect to any hearing under this section, issue an order concluding such hearing within 12 months after the date that the charge, classification, regulation, or practice subject to the hearing becomes effective, or within 15 months after such date if the hearing raises questions of fact of such extraordinary complexity that the questions cannot be resolved within 12 months.

"(B) The Commission shall, with respect to any such hearing initiated prior to the date of enactment of this paragraph, issue an order concluding the hearing not later than 12 months after such date of enactment.

"(C) Any order concluding a hearing under this section shall be a final order and may be appealed under section 402(a).".

(c) Section 208 of the Communications Act of 1934 (47 U.S.C. 208) is amended—

(1) by redesignating the existing test as subsection (a); and

(2) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), the Commission shall, with respect to any investigation under this section of the lawfulness of a charge, classification, regulation, or practice, issue an order concluding such investigation within 12 months after the date on which the complaint was filed, or within 15 months after such date if the investigation raises questions of fact of such extraordinary complexity that the questions cannot be resolved within 12 months.

"(2) The Commission shall, with respect to any such investigation initiated prior to the date of enactment of this subsection, issue an order concluding the investigation not later than 12 months after such date of enactment.

"(3) Any order concluding an investigation under paragraph (1) or (2) shall be a final order and may be appealed under section 402(a).".

(d) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended—

(1) by redesignating the existing text as subsection (a);

(2) in subsection (a), as so redesignated, by striking "section 5(d)(1)" each place it appears and inserting in lieu thereof "section 5(c)(1)"; and

(3) by adding at the end the following new subsection:

"(b)(1) Within 90 days after receiving a petition for reconsideration of an order concluding a hearing under section 204(a) or concluding an investigation under section 208(b), the Commission shall issue an order granting or denying such petition.

"(2) Any order issued under paragraph (1) shall be a final order and may be appealed under section 402(a).".

HAWAII MONITORING STATION

Sec. 9(a). The Federal Communications Commission is authorized to expend such funds as may be required in fiscal years 1989 and 1990, out of its appropriations for such fiscal years, to relocate within the State of Hawaii the Hawaii Monitoring Station presently located in Honolulu (Waipahu), including all necessary expenses for—

(1) acquisition of real property;

(2) options to purchase real property;

(3) architectural and engineering services;

(4) construction of a facility at the new location;

(5) transportation of equipment and personnel;

(6) lease-back of real property and related personal property at the present location of the Monitoring Station pending acquisition of real property and construction of a facility at a new location; and

(7) the re-establishment, if warranted by the circumstances, of a downtown office to serve the residents of Honolulu.

(b) The Federal Communications Commission shall declare as surplus property, for disposition by the General Services Administration, the real property (including the structures and fixtures) and related personal property which are at the present location of the Hawaii Monitoring Station and which will not be relocated. Notwithstanding sections 203 and 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484 and 485), the General Services Administration shall sell such real and related personal property on an expedited basis, including provisions for lease-back as required, and shall reimburse the Commission from the net proceeds of the sale for all of the expenditures of the Commission associated with such relocation of the Monitoring Station. Any such reimbursed funds received by the Commission shall remain available until expended.

(c) The net proceeds of the sale of such real and related personal property, less any funds reimbursed to the Federal Communications Commission pursuant to subsection (b), and less normal and reasonable charges by the General Services Administration for costs associated with such sale, shall be deposited in the general fund of the Treasury.

(d) The Hawaii Monitoring Station shall continue its full operations at its present location until a new facility has been built and is fully operational at a new location.

(e) The Federal Communications Commission and the General Services Administration shall not take any action under this section committing any funds disposing of any property in connection with the relocation of the Hawaii Monitoring Station until—

(1) the Chairman of the Commission and the Administrator of General Services have jointly prepared and submitted, to the Committee on Appropriations, the Committee on Commerce, Science, and Transportation, and the Committee on Governmental Affairs of the Senate, and the Committee on Appropriations, the Committee on Energy and Commerce, and the Committee on Government Operations of the House of Representatives, a letter or other document setting forth in detail the plan and procedures for such relocation which will reasonably carry out, in an expeditious manner, the provisions of this section but will not disrupt or defer any programs or regulatory activities of the Commission or adversely affect any employee of the Commission (other than those at the Monitoring Station who may be required to transfer to another location) through the use of appropriations for the Commission, in fiscal years 1989 and 1990; and

(2) at least 30 calendar days have passed since the receipt of such document by such Committees.

SENSE OF CONGRESS

Sec. 10(a). The Congress finds that—

(1) more than four hundred and thirty-five thousand four hundred radio amateurs in the United States are licensed by the Federal Communications Commission upon examination in radio regulations, technical principles, and the international Morse code;

(2) by international treaty and the Federal Communications Commission regulation, the amateur is authorized to operate his or her station in a radio service of intercommunications and technical investigations solely with a personal aim and without pecuniary interest;

(3) among the basic purposes for the Amateur Radio Service is the provision of voluntary, noncommercial radio service, particularly emergency communications; and

(4) volunteer amateur radio emergency communications services have consistently and reliably been provided before, during, and after floods, tornadoes, forest fires, earthquakes, blizzards, train wrecks, chemical spills, and other disasters.

(b) It is the sense of the Congress that—

(1) it strongly encourages and supports the Amateur Radio Service and its emergency communications efforts; and

(2) Government agencies shall take into account the valuable contributions made by amateur radio operators when considering actions affecting the Amateur Radio Service.

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to ask my colleagues to support the bill S. 1048, authorization of appropriations for the Federal Communications Commission [FCC]. The bill, which previously passed the House as H.R. 2961, authorizes $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989 and would account for required nondiscretionary cost increases.

Since the House passed H.R. 2961, Members from the House and Senate have worked on a cooperative, nonpartisan basis to fashion this legislation, which resolves three issues that developed since the House took action. On October 7, 1988 the Senate passed an amended version of H.R. 2961, S. 1048. This legislation is wholly consistent with the intent of H.R. 2961 and reflects the concerns of both House and Senate Members.

The most significant amendment to S. 1048 addresses Congress' concerns with the FCC's tariff review procedures. The provision amends the Communications Act by establishing time deadlines for FCC tariff investigations, whether they have been initiated by the Commission or through the complaint process. The Subcommittee on Telecommunications and Finance has developed a substantial record which shows that many tariff investigations lack accountability. This has resulted in two problems. First, consumers are being charged potentially unlawful rates for an interminable period. Second, a petitioner's due process right of judicial review often faces extensive delays, since most courts will not review any commission or agency investigation until all administrative reviews are exhausted.

This legislation attempts to rectify both problems. It amends the Communications Act of 1934, specifically, section 204(a), which authorizes the Commission to investigate the lawfulness of any tariff and section 208, which permits any person to file a complaint seeking an investigation into the lawfulness of a tariff. The amendment requires that the investigation be complete in 12 months, or 15 months in extraordinarily complex cases, after the tariff has taken effect. The legislation also establishes that any order concludes an investigation concerning the lawfulness of a tariff, whether conducted under section 204(a) or under section 208, and is considered a final order and is reviewable by the courts.

In addition, the Senate language amends section 405 of the Communications Act by requiring the FCC to issue an order granting or denying a petition within 90 days after receiving a petition for reconsideration. Frequently, the courts will not take up a case when a petition for reconsideration is pending with the Commission. Thus, this amendment will ensure that the FCC will complete the reconsideration process and permit the petitioners to seek judicial review in a timely manner.

These important provisions are consistent with congressional and judicial intent that allows the FCC to hold a hearing and develop a record before the courts must review the agency's decision, and protect the petitioner's due process right to judicial review. I believe the deadline protects consumers and competitors and, at the same time, provides the FCC with enough time to reach a proper decision on a tariff proceeding.

I am placing the statement of Senator DANIEL INOUYE concerning the FCC's tariff review process, which cites specific examples of this problem and provides a detailed legislative history, in the RECORD at this point.

STATEMENT OF HON. DANIEL INOUYE ON THE PASSAGE OF S. 1048

Since both bills were reported from committee, many Members have expressed concern about about the lack of accountability for Commission actions on common carrier tariffs. The substitute contains a provision to address this problem.

Under its current procedures, the FCC often allows telephone companies' tariffs to become effective without issuing an order finding the tariff to be lawful. As a result, the FCC will allow telephone rates to go up or down, but, because the FCC issues no formal opinion on the legality of the new rates, the public cannot seek judicial review of the decision to allow the rates to take effect. This provision of the FCC authorization bill corrects this problem by requiring the Commission to issue a decision on the lawfulness of a tariff within a certain number of months after the tariff takes effect. It also establishes that the FCC's decision concluding such investigation shall be reviewable by the courts. The provision will protect the right of consumers and competitors to ensure that the FCC's actions are reasonable and consistent with its mandate to protect the public interest under the Communications Act of 1934.

A general principle of the due process clause is that members of the public may challenge decisions of Federal Government agencies in court. This right is founded upon the rationale that Federal agencies must be held accountable for their actions under a standard of reasonableness. This right is reaffirmed in the Administrative Procedures Act, which lays out specific rules for seeking judicial review. Judicial review is an essential right of the public to protect itself from arbitrary government action.

The FCC has not been held accountable for its actions because of two related problems. First, the FCC often fails to reach a decision completing a tariff investigation in a reasonable amount of time. Current FCC records show that of the 21 pending tariff investigations, 12 of these are over 1 year old. Two of these have been pending since 1981. This administrative delay in a nontrial proceeding would be troublesome in any context. It is especially troublesome in this case because the new rates are in effect pending the completion of the investigation. Under the Communications Act, the Commission may suspend the operation of any tariff for a maximum period of 5 months after the tariff is scheduled to take effect. After this 5-month period, the tariffs take effect unless the Commission rules that they are unlawful. As a result, potentially unlawful tariffs can be in effect for several years pending the outcome of the FCC's investigation.

Second, even when an order concluding an investigation is issued, that order may not be reviewable in court. These orders are often issued by the Common Carrier Bureau on delegated authority. Under section 5(c)(7) of the act, (47 U.S.C. 155(c)(7)), the filing of an application for review to the full Commission of a decision on delegated authority is a condition precedent to obtaining judicial review. Thus, even when the Bureau issues an order concluding an investigation, the petitioner must go through the additional hurdle of filing an application for review. Further, once the Commission rules on such an application, that decision may be subject to reconsideration under section 405. Although a decision on reconsideration is not technically a condition precedent to appealing the decision in court, in practice, the courts often await the resolution of a reconsideration before permitting that judicial process to go forward. Petitioners who challenge a tariff decision should not have to face this many procedural obstacles before being allowed to get to court. This cumbersome procedure imposes too great a delay on the administrative process.

This legislation attempts to rectify both problems. First, it establishes time deadlines on any tariff investigation undertaken by the Commission. Second, it establishes that any order concluding an investigation concerning the lawfulness of a tariff, whether conducted under section 204(a) or under section 208, shall be issued by the Commission and shall be reviewable by the courts. I believe that these provisions satisfy the intent of the courts that the FCC be given an opportunity to hold a hearing and develop a record before the courts must review the agency's decision, without requiring the petitioners to hurdle an unreasonable number of regulatory barriers prior to obtaining the right to judicial review.

In establishing a deadline, I have kept in mind that any deadline must balance the need to give the FCC enough flexibility to reach a proper decision with the need to protect consumers and competitors from unlawful rates that are in effect while the investigation is continuing. I do not wish to constrain the FCC's ability to conduct thorough and proper investigations. On the other hand, an argument can be made that no new rates should be allowed to take effect until they are found to be lawful. While we could consider extending the time period for suspensions, this could work too great a burden on the carriers. In this regard, I would remind the Commission that in 1976 Congress set the maximum period for suspension at 5 months and exhorted the Commission to complete all its tariff investigations within that time.

After discussing this matter with the FCC, it appears to me that a period of 12 months strikes the best balance between these two conflicting goals. Although many tariff investigation orders could be completed within 6 months after the tariff, some unusually complicated tariff investigations could take more time. A period of 12 months should give the FCC more than enough time to complete an investigation without imposing too great a burden upon consumers and competitors. This amount of time should avoid constraining the FCC to such a degree that it is forced to issue a rushed, and possibly improper, decision.

To provide the FCC with an additional flexibility for those tariffs that present such extraordinarily difficult problems that the FCC absolutely must have more time to complete its investigation, this provision provides that the FCC shall have an additional 3 months after the effective date of the tariff in which to complete its investigation in those instances. Once again, this will ensure that the FCC is able to conduct its investigation properly without overburdening the public. The FCC should not make use of this additional time period in other than the most unusual and complex cases involving a detailed analysis of facts.

A similar deadline is imposed on complaint investigations that challenge the lawfulness of a tariff. This provision is necessary for those cases where the FCC refuses to initiate an investigation and allows the tariff into effect. Several cases have determined that the FCC's decision simply to allow a tariff into effect is a nonfinal order that is not subject to judicial review. See *Southern Railway Co.* v. *Seabord Allied Milling Corp.,* 442 U.S. 444 (1979); *Papago Tribal Utility Authority* v. *FERC,* 628 F.2d 235 (D.C. Cir.), cert. denied, 449 U.S. 1061 (1980); *Aeronautical Radio, Inc.* v. *FCC,* 642 F.2d 1221 (D.C. Cir. 1980) cert. denied, 451 U.S. 920 (1981). In declining to review an FCC decision to accept a tariff without an investigation, the Aeronautical Radio court held that: "The Papago and Southern Railway cases require us to hold that the availability of a statutory compliant procedure renders the FCC's acceptance decision in this case nonfinal." Id., at 1235. From these cases, it is clear that, if the Commission refuses to investigate a tariff, a petitioner must then file a complaint prior to obtaining judicial review. If all petitioners are to have equal right to judicial review, identifical procedures must be imposed on the compliant process as on the tariff investigation process.

These provisions do not apply to all complaints. Complaint investigations that do not concern the lawfulness of a tariff, as when a member of the public complains that a carrier has not complied with the terms of its tariffs, are not required to be completed within the 12 month deadline. Nevertheless, it is expected that all complaints will be resolved within 12 months.

The provision also imposes a 3 month time limit on petitions for reconsideration. The 3 month period will run from the time that a petition is filed. A short period for reconsideration is necessary because, even though the initial investigation order can be taken directly to court, the courts often will await the decision on reconsideration before proceeding with the judicial process. As with the initial investigation, the 3 month deadline will apply only to petitioners for reconsideration of an order completing a tariff investigation under section 204(a) or new section 208(b).

The FCC is given 12 months after the enactment of this amendment to issue an order concluding pending investigations under section 204(a) or new section 208(b).

In setting a 12 month limit, it is not intended that the FCC take the full 12 months to complete every investigation. The Commission should conclude every investigation as soon as it is possible to do so. The reason for giving the Commission as much as 12 months is that some tariff investigations require the collection and analysis of detailed factual information. The resolution of legal or policy issues should take no more than a few months. For instance, the most recently initiated investigation of customer-specific tariffs should be concluded within 6 months of the enactment of this act. The Commission has already indicated to the Committee that it would issue an order concluding its investigation of AT&T's Tariff No. 12 before the end of this calendar year, and the Commission has indicated to the appeals court that it will conclude its investigation of strategic pricing by the local telephone companies in October of this year. As the statute declares, every order issued after the date of enactment of this bill concluding a tariff investigation shall be an order of the Commission. Similarly, every petition for reconsideration of an order concluding a tariff investigation under 204(a) or 208(b), filed after the date of enactment of this bill, shall be subject to the 3 month deadline.

Even though this amendment establishes deadlines, the FCC retains some flexibility to lengthen the time period for conducting these investigations. If the Commission suspends the proposed tariff for the statutory maximum period of 5 months, it may use that time to work on its investigation without starting the 12 month clock. This is because the 12 months begins to run when the tariff actually takes effect, not when it is scheduled to take effect. The Commission also has the option of extending the notice period before which filed tariffs may take effect from 45 days back to 90 days. The FCC could use this additional 45 days to examine the issues required for investigation without starting the 12 month clock.

This legislation does not change the judicial standard for review of Commission tariff decisions. The standard for reviewing an FCC decision as set by relevant case law remains just as it was prior to this law. Neither does this bill attempt to make any policy judgment as to the merits of any particular tariff. This provision applies equally to all investigations of the lawfulness of the tariffs of any carrier. The only change in the current law made by this bill is procedural. From now on, a decision concluding a tariff investigation shall be a final administrative order subject to judicial review under the appropriate standards governing review of agency decisions.

The sole purpose for proposing this legislation is to hold the FCC as accountable for its tariff decisions as for its rulemaking decisions. We expect that the FCC will comply with the time deadlines imposed by this amendment and that the Court of Appeals for the D.C. Circuit will grant petitions for mandamus in short order should the FCC fail to comply.

Mr. Speaker, a second provision in the Senate substitute provides for the relocation of the Hawaii monitoring station. Currently, the FCC operates 14 monitoring facilities throughout the United States. The facility in Hawaii was established in 1948 at Waipahu, Oahu, which is approximately 11 miles from Honolulu. For many years, the FCC has required all broadcast facilities to locate in the city of Honolulu so that they will not interfere with the monitoring station. However, since 1948, the city of Honolulu has grown enormously and with that growth have come many broadcasting facilities which interfere with the monitoring station. Recently, the city adopted land use regulations which eventually will force all broadcast facilities out of the city, thus further hindering the monitoring station. The Waipahu station needs to be relocated so that it can continue to monitor without interference. The Senate provision allows the FCC to move the facility to a more suitable location. The Senate record states that the relocation of the station should not cost the Government any money, and may, in fact, make money for the Government because the property value at the Waipahu station area has appreciated significantly.

The final provision in the Senate version of the legislation expresses Congress' recognition of the significant contributions of the amateur radio service to this Nation. The amendment is similar to House Concurrent Resolution 317 which has 97 cosponsors. Recently, I received a letter from a representative of the American Radio Relay League, which represents the over 435,400 licensed amateur radio operators in the United States. They support this legislation and asked that the House pass the Senate bill as amended.

The communication skills of amateur radio operators have been extremely valuable to this Nation in many emergency situations. They have consistently volunteered to help with emergency communications during floods, tornadoes, forest fires, earthquakes and blizzards. This amendment recognizes Congress' appreciation for the help of the amateur radio operators, however, it does not intend to influence the frequency allocation process.

I appreciate and commend the work of Chairman DINGELL of the Energy and Commerce Committee, as well as the ranking minority member of the committee, Mr. LENT, and the ranking minority member of the subcommittee, Mr. RINALDO. I also want to thank Chairmen HOLLINGS and INOUYE and the ranking minority members on the Senate committees, Mr. PACKWOOD and Mr. DANFORTH for all their work on this legislation.

This legislation resolves important outstanding issues at the Commission. I believe that the Senate substitute is another step toward ensuring that the Commission's activities are carried out expeditiously and fairly. For that reason, I urge my colleagues to support S. 1048.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is substantially the same as H.R. 2961, which passed the House last year. It retains our statutory language, including a provision that encourages the FCC to hire older Americans in part-time positions. That section was added by my good friend, the gentleman from Texas, Mr. FIELDS. However, the Senate bill contains two different provisions that are not controversial. We have worked with the other body in crafting them. I urge the House to accept them.

First, the bill contains a provision to make the FCC more accountable in its review of common carrier tariffs. These investigations now stretch on for years in many cases. If violations are finally found, ratepayers may get refunds: but they will have been overcharged for years. This situation should be corrected. The Senate amendment requires the Commission to conclude tariff investigations by a date certain, generally 12 months after the tariff is filed. I believe this provision gives the Commission ample time to make a decision, and protects the rights of ratepayers and telephone companies to a decision on the lawfulness of a tariff within a reasonable time.

This bill also contains a provision expressing the sense of Congress in support of amateur radio. Specifically, the amendment states that Government agencies should take into account the valuable contributions made by amateurs when considering actions affecting that service.

I could not agree more. Amateur radio operations are much more than hobbyists—they are frequently the first line of help in natural disasters. Without their services during events like the Air Florida crash a few years ago, or in the forest fires ravaging our national forests in the West, many more lives would be lost and much more property would be damaged beyond repair. As the radio spectrum becomes more crowded, there may be increasing pressure to convert amateur frequencies to other uses. That is why recognizing the importance of amateurs in this way is so important. I note that this provision is general in nature. It is not directed to any particular proceeding before any Federal or State agency, and is not intended to affect existing standards or policies of any agency. It is intended to recognize the services of our true radio pioneers—amateur radio operators.

The other body had added improvements to the FCC authorization with which I agree fully. I urge the House to support S. 1048.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I appreciate the gentleman from Massachusetts [Mr. MARKEY], the distinguished subcommittee chairman, for yielding this time to me, and I would like to thank him for his leadership on telecommunications issues.

Mr. Speaker, as he pointed out, the ham radio operators of the United States are very much in support of this bill. There is a provision in it that tries to take care of some of their concerns. It is difficult to allocate the spectrum fairly, but this bill makes an effort to encourage all Federal agencies to take into account the valuable contributions that have been made by the 435,000 amateur radio operators across the country.

So, Mr. Speaker, I appreciate the chairman's leadership in this area, and I look forward to the passage of the bill.

Mr. MARKEY. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I would just like to thank the gentleman from New Jersey [Mr. RINALDO] for his work and also Senators HOLLINGS and INOUYE along with Senators PACKWOOD and DANFORTH who worked very closely with us in the construction of this package, and I would also note the work of the gentleman from Michigan [Mr. DINGELL], who is not here at this moment, and the gentleman from New York [Mr. LENT], who also contributed to this package.

Mr. FIELDS. Mr. Speaker, I would like to take a moment to point out that S. 1048 includes a provision which I offered originally to the companion House bill H.R. 2961. This provision grants the Federal Communications Commission the authority to hire older Americans on a part-time basis outside the civil service system. The FCC program will be patterned after a highly successful older Americans' program at the Environmental Protection Agency.

In brief, the FCC will contract with nonprofit, senior citizen groups which will recruit older Americans to fill critical vacancies at the Commission. This program will be especially helpful in filling short-term vacancies and in filling positions where chronic shortages occur, such as clerks, engineers, accounting technicians, and so forth. The program will contain safeguards to ensure that older Americans will not displace current civil service employees or fill vacancies when civil service applicants are available.

Roughly 50 million Americans are 55 years of age or older. Our older population continues to increase, and their life expectancy continues to improve. I am convinced that both government and the private sector must better address the needs of our senior citizens.

Many older Americans, though retired, would benefit from the opportunity to work on a part-time basis. We should not ignore the tremendous skills of our senior citizens. We must find better ways to utilize the skills and experience our seniors have to offer.

I wish to thank the full committee chairman, the gentleman from Michigan [Mr. DINGELL], the Telecommunications Subcommittee chairman, the gentleman from Massachusetts [Mr. MARKEY], the ranking Republican member of the committee, the gentleman from New Jersey [Mr. RINALDO], for their assistance in working with me on this amendment.

I also wish to thank those in the other body who saw the need and usefulness of this approach. This amendment may be a small step, but I believe it is an important one.

Mr. DORNAN of California. Mr. Speaker, I rise today in support of the Federal Communications Commission reauthorization bill. S. 1048, and to talk about one particularly important provision regarding amateur radio operators.

As you may know, Mr. Speaker, back in June I sponsored House Concurrent Resolution 317, which expresses the sense of the Congress that: the Amateur Radio Service should be supported in its emergency communications efforts in every way possible; and Government agencies shall avoid action which would reduce amateur radio frequency allocations used for such purposes. As of today, House Concurrent Resolution 317 has 107 cosponsors and enjoys tremendous bipartisan support.

Senator PETE WILSON, of my home State of California, introduced similar language in the other body, Senate Concurrent Resolution 127. The Wilson resolution expresses the sense of the Congress that: it strongly encourages and supports the Amateur Radio Service and its emergency communications efforts; and Government agencies shall take into account the valuable contributions made by amateur radio operators when considering action affecting the Amateur Radio Service. Senator WILSON'S resolution had the support of 41 cosponsors, 21 of which were Democrats, again indicating there is broad bipartisan support on this issue.

During Senate consideration of S. 1048, Senator WILSON offered his resolution as an amendment to that legislation. The amendment was agreed to and is part of the bill we are now considering.

I therefore want to ask my colleagues to join me in supporting this important legislation. There are over 435,000 amateur radio operators nationwide and they form an indispensable communications network during emergencies. Public and private emergency service organizations throughout the United States rely on them when ordinary communication networks are unavailable. In fact, FCC regulations describe emergency communications as one of the basic purposes of the amateur radio service. Whether it is an earthquake, tornado, flood, blizzard, hurricane, forest fire, train wreck, or other disaster situation, the amateur radio service can be counted on to provide important communications services to stricken areas.

Just recently we have seen the impact amateur radio operators can have in assisting emergency relief efforts. During Hurricane Gilbert, which devastated several island nations in the Caribbean as well as Mexican communities along the coast, amateur radio operator provided a vital communications link between the United States and the devastated areas. During efforts to fight forest fires throughout California and in Yellowstone National Park, amateur radio volunteers provided communications assistance that helped speed relief to ravaged areas.

Mr. Speaker, this language will give the amateur radio operators some long overdue recognition. It is not a contentious issue. It is simply a way to let Congress show its strong support for the vital role played by the amateur radio community. It also recognizes that Government agencies, such as the FCC, should carefully consider the tremendous service performed by the amateur radio service, provided at no cost when making decisions that will affect that service. Amateur radio is a valuable national asset. We should do all we can to preserve and support it. I again urge my colleagues to support this language.

At this time, Mr. Speaker, I would also like to submit for the RECORD those Members who have cosponsored House Concurrent Resolution 317. Their contribution to this effort to recognize amateur radio operators has been indispensable.

LIST OF COSPONSORS FOR HOUSE CONCURRENT RESOLUTION 317

Nancy Johnson, John Rowland, Amory Houghton, Edolphus Towns, Delbert Latta, George Hochbrueckner, Dennis Hastert, Bill Schuette, Robert Roe, Frank Horton.

Bob Smith (NH), Clay Shaw, Peter DeFazio, Earl Hutto, Bob Traxler, Helen Bentley, Jerry Lewis, Tom Robinson, Pat Roberts, Jack Davis.

Manuel Lujan, Ben Campbell, Dan Coats, Lynn Martin, Bill Clinger, James Florio, Bill Emerson, Charlie Rose, Bob Lagomarsino, Vin Weber.

Andy Jacobs, Jack Buechner, Bill Dannemeyer, Mike Synar, Bob McHugh, Bill McCollum, Charlie Wilson, Robin Tallon, Dave Dreier, Chris Shays.

Jim Bates, Jim Jeffords, Sam Gejdensen, Jim Moody, Sonny Montgomery, Dan Burton, Julian Dixon, Bob Wise, Barbara Boxer, Carlos Moorhead.

John Kasich, Constance Morella, Tim Penny, Peter Kostmayer, John Murtha, J.P. Hammerschmidt, Andy Ireland, Pat Swindall, Elton Gallegly, Bill Thomas.

Tom DeLay, Barney Frank, Jim Bilbray, Tom Lantos, John Hiler, Pete Stark, Paul Henry, Fred Upton, Frank Wolf, Bob Clement.

Chip Pashayan, Beau Boulter, Mike DeWine, Barbara Kennelly, Jim Jontz, Ron Marlenee, Jim Sensenbrenner, Lamar Smith, Chet Atkins, Judd Gregg.

Barbara Vucanovich, Jerry Solomon, Mel Levine, Ernie Konnyu, F. St Germain, Norm Shumway, Guy Vander Jagt, Carroll Hubbard, Wally Herger, Bill Grant.

Herb Bateman, Dick Cheney, Hamilton Fish, Lindy Boggs, Ron Wyden, Marvin Leath, David Bonior, Frank Guarini.

Floyd Spence, Joe Brennan, Bob Matsui, John Spratt, Dennis Eckart, Bob Davis, Paul Kanjorski, Larry Craig, and Harold Rogers.

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Mr. RINALDO. Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Murtha). The question is on the motion offered by the gentleman from Massachusetts [Mr. Markey] that the House suspend the rules and pass the Senate bill, S. 1048, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore. (Mr. Murtha). The Chair would like to repeat his previous announcement that all suspension votes will be held over until tomorrow.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AUTHORIZATION

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2472) to provide authorization of appropriations for activities of the National Telecommunications and Information Administration.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert: That there are authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.

Sec. 2. (a) The Administrator of the National Telecommunications and Information Administration (hereinafter referred to as the "Administrator") shall establish semiannual goals for recruiting and hiring minority members and women to the staff of the Administration. Such goals shall be published in the Federal Register not later than thirty days after the date of enactment of this Act.

(b) The Administrator shall, not later than September 30, 1988, March 31, 1989, and September 30, 1989, submit a report on the success of the Administration in achieving the goals established under subsection (a) of this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

Sec. 3. The Administrator shall enter into discussions with the Federal Communications Commission for the purposes of determining the feasibility of awarding public telecommunications facilities program grants for low-power television stations and television translator stations on a conditional basis pending the award by the Commission licenses for such stations. The Administrator shall also work with the Commission to establish a schedule for the expedited and coordinated consideration, on a regular basis, of future grant requests and license applications for low-power television stations and television translator stations. The Administrator shall, within ninety days after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the progress made in carrying out the requirements of this section.

Sec. 4. (a) The Congress finds that—

(1) the Pacific Ocean region is of strategic importance to the United States, and other nations are seeking to establish their influence in this region;

(2) the Pacific Basin communities are important economically to the United States, and have sought a close relationship with the United States;

(3) because the Pacific Basin communities are geographically isolated and because many of such communities are relatively poor, they are in great need of quality, low cost communications services to maintain contact among themselves and with other countries; and

(4) since August 1985, the Pacific Basin communities have been without a vital communications service because the ATS-1 satellite of the National Aeronautics and Space Administration ceased operation.

(b) It is the purpose of this section to assist in the acquisition of satellite communications services until commercially viable alternatives are available and to provide initial funding in order that the Pan-Pacific Educational and Cultural Experiments by Satellite Program again serves the educational, medical, and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate and acquire satellite space segment capacity for communications services for the Pacific Ocean region for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

(2)(A) Such satellite space segment capacity may, for a period of three years from the time it is acquired, operate in those portions of the UHF frequency band (225-400 Megahertz) assigned to the Department of the Navy, unless the President finds that the use of such spectrum solely by the Department of Defense is essential to the national security of the United States.

(B) The Secretary of the Navy shall join with the Secretary of Commerce in the negotiation and acquisition of satellite space segment capacity under this section in any case where the capacity to be used is the capacity specified in subparagraph (A) of this paragraph.

(3)(A) The Secretary of Commerce shall provide to the managers of the Pan-Pacific Educational and Cultural Experiments by Satellite Program such funds as the Secretary of Commerce considers necessary to manage the operation of satellite communications services acquired under this subsection.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph.

(d) There are authorized to be appropriated $1,700,000 for each of the fiscal years 1988 and 1989 for use by the Secretary of Commerce in the development, including the acquisition, of satellite communications services under subsection (c) of this section. Sums appropriated pursuant to this section may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the Pan-Pacific Educational and Cultural Experiments by Satellite Program, and other affected parties regarding the development of a long-term commercial solution to the communications needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation.

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Markey] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. Rinaldo] will be recognized for 20 minutes.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support of H.R. 2472, which authorizes $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989 together with the sums necessary for nondiscretionary costs for each fiscal year for the National Telecommunications and Information Administration.

On August 4, 1988, the Senate passed H.R. 2472 by voice vote with an amendment. The Senate amendment authorizes $1.7 million in funding for each of the next 2 years for the acquisition of satellite services in order to reestablish the Pan-Pacific Educational and Cultural Experiments by Satellite Program, which provided public communications service for individuals in the Pacific region. This amount has already been appropriated for fiscal year 1988; therefore, the amendment does not effect the level of appropriations. This program provided the only means by which residents in the Pacific islands could communicate with the developed world. Until the program was decommissioned in 1985, Pacific islands inhabitants were able to receive educational programs, medical treatment and advice, and cultural programs through the Pan-Pacific Educational and Cultural Experiments by Satellite Program. This funding authorization provides what is necessary to get this program back off the ground. The amendment directs the Secretary of Commerce, in cooperation with the Secretary of the Navy, to explore long-term commercial solutions to the communications needs of the Pacific islands.

Because of the timing of the passage of this legislation, the Senate amendment changes the deadline for NTIA to report on the success of the administration in achieving the goals for recruiting and hiring minority members and women within NTIA.

The amendment is consistent with the intent and objectives of the bill passed by this body.

I strongly recommend that this language be accepted and urge my colleagues to pass H.R. 2472.

Mr. Speaker, I also join with the committee chairman, the gentleman from Michigan [Mr. DINGELL], Senator HOLLINGS, and the gentleman from New Jersey [Mr. RINALDO] in a commitment to preserve and enhance the stature and visibility of telecommunications policymaking in the executive branch.

Mr. DINGELL. Mr. Speaker, as the subcommittee chairman, Mr. MARKEY, has so ably spelled out, The committee is extremely concerned that NTIA remain an independent entity with direct access to the Secretary of Commerce. As the entity within the executive branch responsible for the formulation and presentation of domestic and international telecommunications policy, NTIA plays an important role that should not be diminished.

Pursuant to legislation that was signed into law earlier this month, the Department of Commerce will soon name a new Under Secretary for Technology, It would be a mistake to interject this new official in between the Assistant Secretary for Communications and the Secretary of Commerce. Part of NTIA's visibility and stature is due to the direct access that the Assistant Secretary has to the Secretary. Injecting additional links into that chain of command will have the effect of reducing NTIA's stature and visibility at a time when it should be increased.

I am also concerned that an effort to bury NTIA in a larger bureaucracy will have the effect of diminishing the importance of telecommunications trade. NTIA is uniquely qualified to play a central role in developing and implementing our telecommunication trade policy. Because it is an independent agency within the Commerce Department, it has the flexibility to become involved in ITA activities without concerns about turf battles and bureaucratic politics. That would all change if NTIA gets absorbed by a new bureaucracy. Instead of having the flexibility to assist ITA and the Department's Trade activities, NTIA would have to obtain the permission of a Under Secretary whose mission is unrelated to trade.

I have raised these issues with Senator HOLLINGS, who chairs both the Senate Commerce Committee and the State, Justice, and Commerce Appropriations Subcommittee. He agrees that NTIA should remain independent of any other bureaucracy within the Commerce Department. In fact, we discussed the possibility of working together early next year to increase the stature and importance of telecommunications within the executive branch.

I am confident that as Secretary Verity moves ahead with his reorganization, he will recognize that an independent NTIA is important to the Commerce Department, to the telecommunication industry, and, ultimately, to the Congress. If it is reorganized, I will feel an added sense of urgency to address NTIA's mission and status early in the next Congress, an effort which will have bipartisan support that is both broad and deep.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation, which reauthorizes the National Telecommunications and Information Administration for fiscal years 1988 and 1989. The funding levels in this bill do not exceed the President's request.

This legislation is very similar to the version which passed the House last year. The other body has amended our language to include a new authorization for the "peace-sat" program, which provides satellite-delivered programming to the Pacific rim. This provision is noncontroversial, and I commend the other body for the authorization of this worthy program.

It has been rumored that in the future, the Commerce Department will reorganize and NTIA will be swallowed up, perhaps into a larger "technology administration." I believe NTIA should continue as a distinct entity within the Commerce Department, and that it retains the responsibility for telecommunications policy in the executive branch.

We do not want to tie the hands of the Secretary of Commerce in any manner with respect to how his Department is organized. However, telecommunications is a uniquely important industry in this Nation. In the "Information Age", it is getting more important every day. Telecommunications is much more than just broadcasting and telephones; it has a great impact on foreign trade generally, since it is increasingly the means through which international trade flows.

NTIA has performed a valuable service for the last 10 years. It provides clear, informative policy analyses, always with an eye to the broad future of telecommunications in this Nation. The Commerce Department should maintain the Agency responsible for developing telecommunications policy at the highest level possible. I will be watching any reorganization of NTIA closely to ensure that the Agency's mission is not degraded in any way.

I urge the House to support H.R. 2472, as amended.

Mr. MARKEY. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, passage of this authorization again demonstrates the commitment of both branches of Congress to a strong, independent NTIA that can serve as a vital participant in the development of our Nation's telecommunications policy and a visible and forceful advocate for the U.S. telecommunications interests throughout the world.

When NTIA was formed in 1978, Congress fought to ensure that NTIA had independent status within the Department of Commerce and that the Administrator of NTIA would be an Assistant Secretary with direct reporting line to the Secretary of Commerce. An independent NTIA sent a clear signal to our domestic industries and to the world that telecommunications is a priority for the U.S. Government.

This is even more important today since telecommunications is now the backbone of our information/service-based economy. Sound public policy to promote the growth of the telecommunications industry is essential to ensure a vibrant U.S. economy.

It is for this reason that many of my colleagues and I are nonplussed by an incipient proposal that is circulating at the Department of Commerce to eliminate NTIA's independent status and the direct line of authority that presently exists between the Administrator of NTIA and the Secretary of Commerce. The proposal would merge NTIA into a newly formed Office of Technology with departments of the National Bureau of Standards. This proposed reorganization will downgrade the status of NTIA and trivialize the importance of the telecommunications industry.

In the trade bill, Congress included a specific section devoted to the telecommunications sector. Through this provision, Congress was making an emphatic statement to the world about the importance of telecommunications not only to our economy but to the global economy. In dealing with PTT's and multinational telecommunications corporations on trade issues, NTIA must be perceived as a powerful independent representative of the U.S. Government and our telecommunications industry. NTIA must remain an independent branch of the Department of Commerce to effectively carry out this mission. We cannot allow for any reorganization which will undermine NTIA's status and position within the Department of Commerce. NTIA must continue as a leader for this Nation's telecommunications policy and as a powerful proponent of our Nation's telecommunications interests throughout the world.

I join with Chairman DINGELL, Senator HOLLINGS, and Mr. RINALDO in a commitment to preserve and enhance the stature and visibility of telecommunications policymaking in the executive branch.

Mr. RINALDO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I believe this is probably the last bill that our subcommittee will be moving this year. I want to put into the RECORD some very sincere comments about the chairman of the Telecommunications Subcommittee. I speak not only for myself, but I am certain for the members of the minority when I say that the chairman has been fair. He has worked consistently with us to achieve a consensus on very, very important legislation. He has taken into consideration the views, the desires, and viewpoints of the minority, and I think the gentleman deserves to be commended for the way he has worked to achieve this kind of bipartisan relationship, and it has been reflected in the legislation that has been passed.

In many cases bills in the past that heretofore we were not able to agree on, have been handled in a bipartisan manner, and I look forward to working with the gentleman next year and I am sure in this next session we will be able to have even a more productive year.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, in the same way that Pennsylvania Avenue is a two-way street, so, too, it is absolutely a prerequisite to the construction of legislation such as we have this year in so many bills in a bipartisan fashion necessary to have that kind of communication between the minority and the majority. I consider myself fortunate to have had the gentleman from New Jersey as the ranking minority member, because that is the only way in which all of this has been made possible, that kind of open-minded cooperative attitude that produces bills on a nonideological basis on a whole range of issues, and I have enjoyed the opportunity to work with the gentleman.

Mr. RINALDO. Well, Mr. Speaker, I want to thank the gentleman from Massachusetts for his kind remarks and thank the good Lord that we were not on nuclear issues.

Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2472.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to the bill, H.R. 2472.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

URANIUM MILL TAILINGS REMEDIAL ACTION AMENDMENTS ACT OF 1988

Mr. CAMPBELL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1991) entitled "Uranium Mill Tailings Remedial Action Amendments Act of 1988".

The Clerk read as follows:

S. 1991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uranium Mill Tailings Remedial Action Amendments Act of 1988".

SEC. 2. Section 106 of the Uranium Mill Tailing Radiation Control Act of 1978 (42 U.S.C. 7916) ("UMTRCA") is amended by striking paragraph (2) and all that follows and inserting in their place:

"(2) the Secretary of the Interior may transfer permanently to the Secretary to carry out the purposes of this Act, public lands under the jurisdiction of the Bureau of Land Management in the vicinity of processing sites in the following counties:

"(A) Apache County in the State of Arizona;

"(B) Mesa, Gunnison, Moffat, Montrose, Garfield, and San Miguel Counties in the State of Colorado;

"(C) Boise County in the State of Idaho;

"(D) Billings and Bowman Counties in the State of North Dakota;

"(E) Grand and San Juan Counties in the State of Utah;

"(F) Converse and Fremont Counties in the State of Wyoming; and

"(G) Any other county in the vicinity of a processing site, if no site in the county in which a processing site is located is suitable. Any permanent transfer of lands under the jurisdiction of the Bureau of Land Management by the Secretary of the Interior to the Secretary shall not take place until the Secretary complies with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) with respect to the selection of a site for the permanent disposition and stabilization of residual radioactive materials. Section 204 of the Federal Land Policy and Management Act (43 U.S.C. 1714) shall not apply to this transfer of jurisdiction. Prior to acquisition of land under paragraph (1) or (2) of this subsection in any State, the Secretary shall consult with the Governor of such State. No lands may be acquired under such paragraph (1) or (2) in any State in which there is no (1) processing site designated under this title or (2) active uranium mill operation, unless the Secretary has obtained the consent of the Governor of such State. No lands controlled by any Federal agency may be transferred to the Secretary to carry out the purposes of this Act without the concurrence of the chief administrative officer of such agency.".

SEC. 3. Section 112(a) of UMTRCA (42 U.S.C. 7922(a)) is amended to read as follows:

"(a) The authority of the Secretary to perform remedial action under this title shall terminate on September 30, 1994, except that the authority of the Secretary to perform groundwater restoration activities under this title is without limitation.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Colorado [Mr. CAMPBELL] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. CAMPBELL].

GENERAL LEAVE

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1991 the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. CAMPBELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am the sponsor of the House companion to S. 1991 which seeks to extend the Uranium Mill Tailings Radiation and Control Act of 1987 [UMTRA] for an additional 4 years.

The act, which expires in 1990, authorizes the cleanup of radioactive tailings at 24 sites around the country. The act must be extended because budget limitations have caused work to proceed more slowly than anticipated. In addition, technical problems are preventing the completion of licensing procedures by the Nuclear Regulatory Commission [NRC]. An extension must be granted soon so that cleanup currently in progress will not be stopped.

The Department of Energy (DOE) says the 4-year extension will provide enough time to complete the program and will cost no more than was originally planned; spending will simply be spread out over a longer period.

The UMTRA project is particularly important for Colorado. Our State legislature showed its support by appropriating $3.1 million for cleanup in fiscal year 1988.

Colorado's contributions have been matched by a Federal commitment of over $112 million through 1988. In addition to making towns on Colorado's western slope healthier places to live and work, the employment and economic benefits of the UMTRA project are important. When the remedial action is completed in the 1990's, over 9,500 man-years of employment will have been created through the project and the Colorado economy will have received a direct, net, benefit of $160 million.

The UMTRA project is an example of a significant "bridge economy" for western Colorado. For the next several years, hundreds of jobs will be created in local communities and State-local revenues will be generated.

The benefits of the program are shared in each State that has an identified UMTRA site. By passing this legislation, we will not only be helping to protect the health and safety of our constituents, but making our areas' economy healthier as well.

I hope my colleagues will support the bill's passage.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge my colleagues to approve this legislation.

The purpose of the bill is environmental. Under the Uranium Mill Tailings Radiation and Control Act of 1978, the Federal Government carries out a program of cleaning abandoned uranium mill sites of toxic and radioactive wastes. Authority for this important task expires in 1990.

Unfortunately, it is not fair that more time is needed to complete this cleanup. This bill would extend the deadline for this program until September 30, 1994, when the cleanup work should be completed.

I wish to thank the chairman of the Subcommittee on Energy and Power, the gentleman from Indiana [Mr. SHARP] for his efforts in bringing this bill to the floor in expeditious fashion.

Also I wish to congratulate the gentleman from Colorado.

I wish to acknowledge also the efforts of the Senator from Colorado [Mr. ARMSTRONG] for initially introducing this bill in the Senate.

Mr. Speaker, I think we have a good bill here and I ask for unanimous approval of the legislation.

Mr. CAMPBELL. Mr. Speaker, I thank the gentleman for his kind comments.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I rise in strong support of this legislation.

Our subcommittee has also examined it and certainly I want to join in praising the efforts of the gentleman from Colorado [Mr. CAMPBELL].

It is an important program and we should get about the business of cleaning up these mill tailings for the folks that live in the areas, for the protection of water supply and other environmental concerns.

I want to of course thank our colleague, the gentleman from California [Mr. MOORHEAD] who has always been willing to work positively to try to solve these kinds of problems.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass S. 1991, the Uranium Mill Tailings Remedial Action Amendments Act of 1988.

The legislation is not controversial, but it is very important. The main provision extends the deadline for the Government's program to clean up uranium mill tailings under title I of the Uranium Mill Tailings Radiation and Control Act of 1978.

Under that law, the Federal Government took on the responsibility of cleaning up mill tailings at abandoned uranium mill sites. These sites came into being with Federal Government support to provide uranium to the Government's weapons programs.

When the law was enacted, there were no clear authorities to require cleanup of these toxic and radioactive wastes, so the Federal Government assumed responsibility.

The work at these sites has proved more complex and time consuming than originally anticipated in 1978. Moreover, budget constraints often resulted in fewer dollars being allocated to the program than was necessary.

As a result, the Department of Energy believes that it cannot accomplish its cleanup task by 1990 as originally estimated. The administration has, therefore, requested this legislation to permit it to continue the work until September 30, 1994.

Passage of this legislation will enable the Department to continue its activities without interruption, and save money accordingly. Most importantly, particularly for the residents of our Mountain States, an important program to improve the environment and protect the public health and safety will continue.

Mr. UDALL. Mr. Speaker, S. 1991 extends the Department of Energy's authority to clean up uranium mill tailings wastes and authorizes the Secretary of the Interior to withdraw public lands where these wastes are buried.

Uranium mill tailings are the sand-like wastes remaining after uranium has been extracted from uranium ore. They contain low concentrations of naturally occurring radioactive materials and they emit radon gas.

Ten years ago, we set up a program to clean up over 25 million tons of these wastes that had been left lying on the open ground, exposed to wind and rain, at 24 sites in 10 States. Under that law—the Uranium Mill Tailings Radiation Control Act of 1978—the Secretary of Energy was to finish cleaning up these sites by March 6, 1990, when his authority expires.

Progress is being made under this program but not at the pace we envisioned 10 years ago. The Department will not complete work at all sites by the statutory deadline.

S. 1991 amends the 1978 law by extending DOE's authority to clean up the 24 sites from March 6, 1990 to September 30, 1994. In addition, the bill extends DOE's authority to restore ground water at the sites permanently. A permanent extension of the ground-water restoration authority is necessary because the Environmental Protection Agency still has not issued the final environmental standards for ground water that the 1978 law requires DOE to meet.

S. 1991 also authorizes the Secretary of the Interior to transfer lands under the jurisdiction of the Bureau of Land Management in the vicinity of the sites to DOE for stabilization or burial of the wastes.

Mr. Speaker, the purpose of this bill is very narrow. It is only intended to make a few midcourse corrections to an important existing program. It is not intended to solve all of the problems of the domestic uranium mining industry or DOE's uranium enrichment enterprise. Both the Interior Committee and the Energy and Commerce Committee have been looking into those other problems and I intended to continue working with my colleagues to find appropriate solutions to them in the next Congress.

Our inability to find a consensus on those other issues should not delay our taking action in this one area where a solution is at hand and a consensus already exists. Enactment of S. 1991 is needed now to ensure that the important work of cleaning up these potentially hazardous sites goes forward. Both the Department of Energy and the Department of the Interior have urged enactment of this bill, and I will include their letters in the RECORD.

Mr. Speaker, I would like to single out my colleague from Colorado, BEN NIGHTHORSE CAMPBELL, for his initiative in introducing the House counterpart to S. 1991 and his efforts in helping move this bill.

I urge my colleagues to support this bill.

U. S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC.

HON. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on section 2 of H.R. 4591, the "Uranium Mill Tailings Remedial Action Amendments of 1988."

We support enactment of section 2 of H.R. 4591.

Section 2 of H.R. 4591 would amend section 106 of the Uranium Mill Tailing Radiation Control Act of 1978 to authorize the Secretary of the Interior to transfer lands under the jurisdiction of the Bureau of Land Management (BLM) in the vicinity of processing sites in certain enumerated counties to the Secretary of Energy to carry out the purposes of the Uranium Mill Tailing Radiation Control Act. The Secretary of the Interior also would have the authority to transfer lands in any county in the vicinity of a processing site if no site in the county in which a processing site is located is determined to be suitable. No lands could be transferred for permanent disposition and stabilization of residual radioactive materials until the Secretary of Energy has complied with the requirements of the National Environmental Policy Act of 1969 with respect to selection of a site for such purposes. No lands acquired under subsection (a)(2) would be subject to section 204 of the Federal Land Policy and Management Act. Prior to acquisition of land in any State, the Secretary of Energy would be required to consult with the Governor of that State and no lands could be acquired under subsection (a) in any State where there is no processing site or active uranium mill operation unless the Governor of such State gives his consent. No land controlled by a Federal agency could be transferred under subsection (a) without the concurrence of the chief administrative officer of that agency.

Section 106(2) of the Uranium Mill Tailings Radiation Control Act of 1978 currently allows the Secretary of the Interior to make available public lands administered by him in accordance with other applicable provisions of law. This includes section 204 of the Federal Land Policy and Management Act of 1976 (FLPMA). Section 204 of FLPMA imposes a time limit on certain withdrawals. Except for withdrawals aggregating less than 5,000 acres for a resource use, FLPMA imposes a 20-year limit on the life term of the withdrawal. At that time the withdrawal may be renewed but only for a period not to exceed the original term. Section 2 of H.R. 4591 would remove the time constraints imposed by FLPMA and allow the expeditious and permanent transfer of jurisdiction over lands to the Department of Energy.

Under current law, if lands were transferred to the Department of Energy, and the transfer expired and was not renewed, such lands could revert back to BLM. The Department of Energy, not BLM, has the expertise to deal with radioactive wastes, tailings, or other such materials, and for this reason we believe that such lands should be transferred in perpetuity to the Department of Energy.

We believe that section 2 of H.R. 4591, which would allow a number of sites to be transferred, is more cost effective than having each site transferred by a separate public law. Furthermore, it would save the costs that would be necessary if an Environmental Impact Statement was required to be performed for each individual site to be transferred. Finally, protection for BLM programs and resources is provided in the bill through the Secretary's discretionary authority to determine the suitability for transfer of a proposed site. Therefore, we support enactment of section 2 of H.R. 4591.

We would note that the San Juan County, New Mexico, tailing site is in need of remedial action. Therefore, we suggest that this site be added to the list of processing sites to be transferred to the Department of Energy in section 2 of H.R. 4591.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JAMES E. CASON,
Deputy Assistant Secretary,
Land and Minerals Management.

DEPARTMENT OF ENERGY,
Washington, DC, August 17, 1988.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you to underscore the importance of bringing H.R. 4591, an amendment to extend the uranium mill tailings cleanup authorization, to a markup as soon as practicable. As you know, this legislation has been before your Committee since October 1987, and hearings related to the mill tailings have been held to discuss issues associated with this effort.

This legislation is proposed at a crucial time for the Uranium Mill Tailings Remedial Action (UMTRA) Program since the extension to 1994 is necessary for the completion of planned work for this large and complex program. Further complicating this cleanup effort is the potentially significant and lengthy requirements of proposed Environmental Protection Agency ground water regulations. It is expected that these new regulations will impose major responsibilities which could necessitate substantially greater time and effort than the balance of the currently planned program. Therefore, the proposed legislation incorporates an unlimited time extension in authority to perform ground water restoration activities at the affected UMTRA sites.

Underscoring further the importance of this legislation, it would authorize the Secretary of the Interior to transfer lands under the jurisdiction of the Bureau of Land Management in the vicinity of inactive uranium processing sites to the Department for permanent surveillance and maintenance. Without this authority, construction cannot proceed at several of our most important sites.

Due to the crucial nature of this legislation to the success of the UMTRA Program, your attention to this matter in the very near future is needed. We are available to brief you, or any member of your staff or Committee staff, at any time. We look forward to working with you on this effort.

Sincerely,

THEODORE J. GARRISH,
Assistant Secretary for Nuclear Energy.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. CAMPBELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. CAMPBELL] that the House suspend the rules and pass the Senate bill, S. 1991.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTION IN ENROLLMENT OF H.R. 2642, COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988

Mr. CAMPBELL. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 162) authorizing the Clerk to make corrections in enrollment of the bill (H.R. 2642) to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes.

The Clerk read as follows:

S. Con. Res. 162

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the Act (H.R. 2642) to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

Strike out paragraph (1) of section 5(c) and insert in lieu thereof the following:

"(1) The use of the rights referred to in subsection (a) within the State of Colorado shall be governed solely as provided in the Agreement as modified pursuant to section 11 of this Act and this subsection. The Agreement is hereby modified to provide that a Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Agreement and final consent decree off its reservation. If either the Southern Ute Indian Tribe or the Ute Mountain Ute Indian Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a Colorado State water right, but be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.".

At the end of subsection (b) of section 11, add the following: "This Act is the result of a voluntary compromise agreement between the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the State of Colorado, local water districts and municipalities, and the United States. Accordingly, no provision of this Act, the Agreement, or the final consent decree shall be construed as altering or affecting the determination of any questions relating to the reserved water rights belonging to other Indian tribes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. CAMPBELL] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. CAMPBELL].

GENERAL LEAVE

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 162, the Senate concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. CAMPBELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this Senate resolution embodies several amendments intended to clarify the Indian water rights language with respect to H.R. 2642, the Ute Indian Water Settlement Act of 1987, which passed the House earlier this month.

The first part of the resolution emphasizes that the Southern Ute Tribe and the Ute Mountain Ute Tribe have agreed to the provisions in section 5 of the House passed bill, H.R. 2642. The two tribes are voluntarily converting their water right to a State water right if they choose to use it off reservation.

The resolution guarantees that the tribes may continue to hold their water rights on their reservations, subject to the terms of the agreement. The amendment was offered in order to alleviate the concerns of other tribes that section 5(c)(1) of H.R. 2642 might somehow subject Indian reserved water rights to the principles of abandonment and forteiture contained in State law.

Put more simply, this resolution is consistent with the intent of H.R. 2642. The Indians' water rights only become State water rights when used off reservation, and only if the tribes elect to use the water off reservation.

The resolution also ensures that H.R. 2642 is not viewed as a precedent for future settlement or judicial decisions involving the issue of off-reservation leasing of Indian reserved water rights.

This has been accomplished by elaborating on the existing provisions of section 11(b) of H.R. 2642. This was done to eliminate any use of H.R. 2542 as a precedent in other settlements or in litigation. This has been done by stating that, "this act is intended solely to permit settlement of existing and prospective litigation among the signatory parties to the agreement."

This language was originally developed to protect the lower basin States. It applies, however, to any party who was not a signatory to the agreement. This includes other Indian tribes and States. The resolution further highlights the unique nature of this settlement by stating that "Congress does not view this settlement as altering or affecting the termination of any questions relating to the reserve water rights belonging to other tribes."

These amendments are not intended to alter or modify the impact of this legislation on the two tribes or any other parties to the agreement. Instead, the intent of the resolution is to make absolutely certain that the principles and concepts contained in this settlement are not viewed as a precedent for future settlements or litigation in the area of Indian reserved water rights.

The parties to the settlement never intended to do anything other than resolve the difficult issues confronting the Ute Tribes and non-Indian water users in a practical, straightforward fashion. These amendments are acceptable to them and to me.

Under different circumstances this resolution would be considered under unanimous consent, so I urge my colleagues to vote for its adoption.

□ 1730

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 162, which corrects the enrollment of H.R. 2642, the Colorado Ute Indian Water Settlement.

The resolution technically corrects the nature of the tribes' water while on reservation, and it further clarifies that this settlement is not applicable to other reservations. All the parties to the settlement agree with the resolution.

Mr. Speaker, I urge my colleagues to support Senate Concurrent Resolution 162.

Mr. UDALL. Mr. Speaker, I rise in support of Senate Concurrent Resolution 162.

This resolution directs the Clerk of the House to make certain corrections in H.R. 2642, the Colorado Ute Indian water rights settlement, which has been passed by the House and the other body.

As is often the case with settlements of this kind, final agreement by all parties on bill language can be elusive. Accordingly, the Senate also passed the resolution now before us, which makes two changes in the text of H.R. 2642.

The first change is an amendment to the language of section 5(c)(1) to make clear that the Colorado Ute tribes have complete discretion to decide whether they wish to use any existing reserved water rights they may have off their respective reservations pursuant to the modified settlement agreement and thereby to convert those rights to Colorado State water rights while they are used off the reservations.

The second change adds a paragraph to section 11 of the bill to reinforce the present language of sections 11 and 5(d)(3) which states the intent of Congress that this legislation not either (1) affect the rights of any Indian or non-Indian persons or entities not signatory to the Colorado Ute settlement agreement or (2) express any view as to whether existing law permits off reservation use of Indian reserved water rights, including those claimed by the Colorado Ute tribes.

Mr. Speaker, these changes are noncontroversial. All parties to the settlement agree they improve the legislation. I urge the House to concur.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CAMPBELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from colorado [Mr. CAMPBELL] that the House suspend the rules and concur in the Senate concurrent resolution. Senate Concurrent Resolution 162.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

EXTENDING ELIGIBILITY FOR THE INDIAN CLAIMS COMMISSION EXPERT WITNESS LOAN FUND

Mr. GEJDENSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2691) to extend eligibility for the Indian Claims Commission Expert Witness Loan Fund, and for other purposes, as amended.

The Clerk read as follows:

S. 2691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 1 of the Act of November 4, 1963 (Public Law 88-168, 77 Stat. 301), as amended, is further amended—

(a) by striking "$2,700,000" and inserting in lieu thereof "$4,000,000"; and

(b) by adding at the end thereof "or the United States Claims Court".

SEC. 2. The Act entitled "An Act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987)" (H.R. 2677, 100th Congress) is amended—

(1) in section 203 by striking out "shall take effect upon enactment of this Act" and inserting in lieu thereof "shall take effect upon enactment of this Act if it has not already taken effect";

(2) in subsection (a) of section 212 by striking out "section 201" and inserting in lieu there of "section 206";

(3) in subsection (b) of section 212 by striking out "section 100" and inserting in lieu thereof "section 110" and by striking out "section 201" and inserting in lieu thereof "section 206";

(4) in subsection (c) of section 212 by striking out "section 201" and inserting in lieu thereof "section 206"; and

(5) in section 213 by striking out "Subsection (c) of the Act of August 31, 1964 (Public Law 88-540; 78 Stat. 747, 25 U.S.C. 608(c))" and inserting in lieu thereof "Subsection (c) of the first section of the Act of July 28, 1955 (69 Stat. 392) as amended (25 U.S.C. 608(c))".

SEC. 3. There is hereby created an Office of Indian Self-Determination within the Department of the Interior's Bureau of Indian Affairs and an Office of Indian Self-Determination within the Department of Health and Human Services' Indian Health Service. Each such Office shall be headed by an official who shall have the responsibility of planning, conducting, and coordinating activities mandated under the Indian Self-Determination Act and shall be charged with the duty to further the purposes of such

Act. Such officials shall be paid at a rate that is no less than that of GS-14 of the General Schedule under section 5332 of title 5, United States Code.

SEC. 4. The Indian Self-Determination Act (88 Stat. 2203; 25 U.S.C. 450 et seq.) is amended—

(1) in subsection (m) of section 104, as added by section 203 of Public Law 100-472, by striking out "an Indian" and inserting in lieu thereof "an Indian (as defined in section 19 of the Act of June 18, 1934 (25 U.S.C. 479))"; and

(2) in subsection (i) of section 106, as added by section 205 of Public Law 100-472, by striking out "agency personnel" and inserting in lieu thereof "agency personnel (area personnel in the Navajo Area and in the case of tribes not served by an agency)".

SEC. 5. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enroll the following named individuals as natives under the Alaska native Claims Settlement Act (Public Law 92-203): Marilyn Jean (Waren) Sanchez, Theresa A. (Warren) Forbes, Linda Graham, Carol Graham, Debra (Sellers) Page, Glen Sellers, David P. Schmalzried, Odman H. Schmalzried, Carol Guzialek, Corbin Kooly, Charmane I. (Warren) Forbes, John A. Warren, Jr., Phillip Graham, Sharon Graham, Wanda (Sellers) Clancy, Georgia A. (Schmalzried) Flood, Rhonda S. (Schmalzried) Kolski, Paula Guzialek, Pamela Kooly, and Darrell Kooly. Each individual is entitled to receive 100 shares of stock in the Kenai Native Association, and Cook Inlet Region, Inc. and such other benefits as the boards of Directors of those corporations may approve.

SEC. 6. Notwithstanding any other provision of law, Public Law 100-556, the Department of the Interior and Related Agencies Appropriations Act, 1989, is amended under the heading "Miscellaneous Payments to Indians" by inserting "100-383", after the words "Public Laws".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2691, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2691 is a bill to extend the eligibility for the Indian Claims Commission Expert Witness Loan Fund.

Under this loan fund loans are made to Indian tribes so that they can hire expert witnesses when bringing certain claims in the Court of Claims. Upon the award of a judgment, the loan is immediately repaid to the BIA because the money is automatically deducted from the tribe's award.

The previous amount authorized for this fund was $2.7 million. This bill strikes this amount and insert in lieu the sum of $4 million.

Mr. Speaker, the bill also contains other miscellaneous and technical amendments.

One of these amendments establishes an Office of Indian Self-Determination within the Bureau of Indian Affairs and another such office within the Indian Health Service.

It is not the purpose of this amendment to create an office which would have full responsibility for the implementation of all aspects of the Indian Self-Determination Act or would be involved with contract negotiations or tasks which are currently assumed by the area offices. However, such Indian Self Determination offices would at least assume the primary responsibility for the planning and coordination of tasks mandated under the act. Such offices would also be free to assume other tasks as assigned by the Assistant Secretary for Indian Affairs or the Director of the Indian Health Service.

Mr. Speaker this is a simple noncontroversial bill and I urge its passage by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of S. 2691, a bill to extend eligibility for the Indian Claims Commission Expert Witness Loan Fund.

To this worthy bill an amendment has been added to benefit a group of people in Alaska known as the Kenai 20. The amendment would enroll these named 20 persons under the Alaska Native Claims Settlement Act (ANCSA). We know of no other people who have the unique status of their denial, and we do not anticipate further legislation to enroll others.

These Native people were originally denied enrollment because of a lack of evidence to their native blood quantum. However, ANCSA allows that in the absence of adequate proof concerning their Native status, they are eligible if their Native community accepts them as Native. The regional solicitor for the Department of the Interior agreed with this interpretation. The Kenai Village Corp. and the Cook Inlet Region, Inc. support their enrollment under ANCSA. The Bureau of Indian Affairs has refused to accept the regional solicitor's decision. Currently, lawsuits have been filed. This amendment would prevent this costly litigation, and finally enroll these Natives.

Again, Mr. Speaker, we believe this is a unique situation. The Kenai 20, because of the actions of the Department are denied the opportunity presented in the 1991 legislation; and this legislation is needed to enroll the only people who have been determined by the Department to be eligible who have not been enrolled.

Mr. Speaker, I ask my colleagues to support S. 2691.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2691, a bill to extend eligibility for the Indian Claims Commission Expert Witness Loan Fund.

This bill would assist the clearing of overdue Indian claims pending before the U.S. Claims Court by raising the amount of funds available to loan for expert witnesses in these pending cases.

Additionally, the bill before contains several noncontroversial technical amendments, correcting errors made in enrolling of bills or in reporting of bills this Congress.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEJDENSON. Mr. speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the Senate bill, S. 2691, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

FOR THE RELIEF OF CERTAIN PERSONS IN RIVERSIDE COUNTY, CALIFORNIA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 4050) for the relief of certain persons in Riverside County, CA, who purchased land in good faith reliance on an existing private land survey.

The Clerk read as follows:

Senate amendment:

Page 1, line 3, strike out "[That]" and insert:

SECTION 1.

Page 2, after line 5, insert:

SEC. 2. Notwithstanding any other provision of law, the Secretary of the Interior shall, within six months of the enactment of this Act, complete the state indemnity application CA 16096 for land in Inyo County, California as submitted to the

State Director, Bureau of Land Management, California State Office, Sacramento, California and shall convey the lands described therein to the State of California.

The SPEAKER pro tempore. Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to H.R. 4050 now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed H.R. 4050 in June of this year, after it was favorably reported by the Interior Committee.

The House bill would resolve problems of some 170 landowners in Riverside County, CA, title to whose properties are clouded because of serious errors made by a surveyor acting under a contract with the United States. The bill was not controversial and passed without opposition.

The Senate has now returned the bill to the House with an amendment that would direct the Secretary of the Interior to transfer to the California State Lands Commission a 20-acre parcel of land in Inyo County, CA. This tract would be transferred in partial fulfillment of the State of California's entitlement for indemnity lands. The Department of the Interior evidently takes the position that the transfer is now blocked because of an injunction that has been issued in pending litigation, in which the National Wildlife Federation and I are plaintiffs.

The Senate amendment would make it clear that this transfer can go ahead regardless of the injunction, which in many cases the administration has read much more broadly than seems necessary.

I believe that the Senate amendment is meritorious, and without controversy, and I urge the House to accept it and thus clear the bill for the President's signature.

Mr. Speaker, I reserve the balance of my time.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of H.R. 4050 before us today. This legislation resolves title problems for approximately 170 private landowners in Riverside, CA created by an erroneous Government survey in 1880. A subsequent private survey in 1955, which relied on the original 1880 survey, was used by private landowners as the area was settled and developed. The error was discovered in 1982 when the Bureau of Land Management [BLM] resurveyed the area and developed a corrected map. Because of the discrepancies, several landowners are technical encroaching on Federal land in the Cleveland National Forest. Therefore, the new map has cast a cloud on their titles and resulted in numerous problems.

H.R. 4050 would rectify this situation by deeming the erroneous 1955 title as the legal boundary survey and as representative of the true location of the legal description. Although this type of treatment of private surveys is an unusual procedure, as was pointed out when the House passed the bill in June, there are strong equitable considerations favoring such action, particularly since the original survey errors were made by a Government contractor.

As amended by the Senate, H.R. 4050 also directs the Secretary of the Interior to convey within 6 months to the California State Lands Commission a 20-acre land parcel in Inyo County, CA. The conveyance would be part of the State's indemnity selection, but unfortunately cannot be completed administratively due to the injunction in National Wildlife Federation versus Burford. This provision would resolve the issue and has been agreed to by the BLM, the State of California, and the National Wildlife Federation.

I would like to commend the sponsor of H.R. 4050, the gentleman from California [Mr. McCANDLESS], for his hard work in resolving the Riverside survey problem. He and his staff have invested a great deal of time and effort in this legislation and have done an excellent job in representing his constituents, particularly the affected landowners.

Mr. Speaker, H.R. 4050 is a good bill to provide equitable relief for several private landowners and to provide for a California State Lands Commission indemnity selection. In addition, it enjoys broad-based, bipartisan support, including that of the administration. Therefore, I urge my colleagues to approve H.R. 4050 and send it to the President for signature.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 4050.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING A STUDY OF THE HANFORD REACH OF THE COLUMBIA RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3614) to authorize a study of the Hanford Reach of the Columbia River, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. COMPREHENSIVE RIVER CONSERVATION STUDY.

The Secretary of the Interior ("Secretary"), in consultation with the Secretary of Energy, shall prepare a comprehensive river conservation study for the segment of the Columbia River extending from one mile below Priest Rapids Dam downstream approximately 51 miles to the McNary pool north of Richland, Washington, as generally depicted on the map entitled "Proposed Columbia River Wild and Scenic River Boundary" dated May 17, 1988, hereinafter referred to as the "study area" which is on file with the United States Department of the Interior. The study shall identify and evaluate the outstanding features of the study area and its immediate environment, including fish and wildlife, geologic, scenic, recreational, natural, historical, and cultural values, and examine alternatives for their preservation. In examining alternative means for the preservation of such values, the Secretary shall, among other things, consider the potential addition of all or a portion of the study area to the national wild and scenic rivers system, and recommend a preferred alternative for the protection and preservation of the values identified. The Secretary shall cooperate and consult with the State and political subdivisions thereof, local, and tribal governments, and other interested entities in preparation of such a study and provide for public comment. The study shall be completed and presented to Congress within three years after the date of enactment of this Act.

SEC. 2. INTERIM PROTECTION.

(a) For a period of eight years after the enactment of this Act, within the study area identified in section 1 of this Act:

(1) No Federal agency may construct any dam, channel, or navigation project.

(2) All other new Federal and non-Federal projects and activities shall, to the greatest extent practicable:

(A) be planned, designed, located and constructed to minimize direct and adverse effects on the values for which the river is under study, and

(B) utilize existing structures and facilities including, but not limited to, pipes, pipelines, transmission towers, water conduits, powerhouses, and reservoirs to accomplish the purposes of the project or activity.

(3) Federal and non-Federal entities planning new projects or activities in the study area shall consult and coordinate with the Secretary to minimize and provide mitigation for any direct and adverse effects on the values for which the river is under study.

(4) Upon receiving notice from the entity planning the new project or activity, the Secretary shall, no later than ninety days after receiving such notice and consulting with the entity:

(A) review the proposed project or activity and make a determination as to whether there will be a direct and adverse effect on the values for which the river segment is under study; and

(B) review proposals to mitigate such effects and make such recommendations for mitigation as he deems necessary.

(5) If the Secretary determines that there will be a direct and adverse effect that has not been adequately mitigated, he shall notify the sponsoring entity and the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his determination and any proposed recommendations.

(b) During the eight year interim protection period, provided by this section, all existing projects that affect the study area shall be operated and maintained to minimize any directed and adverse effects on the values for which the river is under study, taking into account any existing and relevant license, permit, or agreement effecting the project.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not more than $150,000 for the purpose of conducting the study pursuant to section 1 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to H.R. 3614 now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3614 provides for a comprehensive river conservation study for 51 miles of the Hanford Reach of the Columbia River in the State of Washington. The legislation originally passed the House on September 20, 1988. Subsequently, the Senate considered the measure of October 12, 1988 and has now returned the bill to the House with an amendment.

The Hanford Reach is the last free-flowing segment of the Columbia River. Several previous studies have noted the significant natural, cultural, and fisheries resource values to be found in this river segment. Within this backdrop, it is appropriate to undertake a wide-ranging and comprehensive river conservation study that will address the issues of preservation and utilization of the significant resources found within this river segment.

The Senate amendment before the House today provides specific directives that are to be undertaken during the period of study and review. These directives are a further delineation of the study and interim protection provisions contained in the House passed bill and are complementary to the purposes of the act. The legislation has the support of the Washington delegation. Additionally, Federal, State and local entities and groups that are directly involved or who have an interest in the river's protection and use have been consulted in developing this proposal.

Mr. Speaker, the Senate amendment to H.R. 3614 is in keeping with the purposes for which the legislation was introduced. H.R. 3614, as amended is a worthy river conservation initiative and I urge concurrence by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of H.R. 3614 before us today. This legislation authorizes the Secretary of the Interior, in consultation with the Secretary of Energy, to conduct a comprehensive river conservation study of the 51-mile Hanford Reach segment of the Columbia River.

The House passed H.R. 3614 in late September. However, the Senate revised the bill to tighten up the language concerning the projects and activities which can be undertaken on the river during the study period and the 8-year interim protection period following completion of the study. These revisions address the Department of Energy's concerns regarding the effect of the study and interim protection provisions on projects and activities at the Hanford Nuclear Reservation located along the river segment.

Mr. Speaker, I believe this is a good bill which has been fine-tuned through the legislative process and currently enjoys broad-based, bipartisan support. The significant values of the Hanford Reach segment deserve study to determine appropriate methods for their protection. Therefore, I urge my colleagues to approve H.R. 3614.

Mr. Speaker, I yield such time as he might consumer to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 3614, a bill to authorize a study of the 51-mile stretch of the Columbia River known as the Hanford Reach to determine the values of this segment and to explore and develop available options for future protection and/or preservation. I would like to thank Senator EVANS and his staff for their efforts to work with the interested parties to address the serious concerns raised throughout this process. Additionally, I would like to recognize the cooperation and guidance provided by Chairman VENTO and the staff of the Subcommittee on National Parks and Public Lands.

Mr. Speaker, H.R. 3614 passed the House on September 28, 1988. The measure that is before us today is a Senate-passed substitute that has been modified to address Senator EVANS' concern for strong protection of the Hanford Reach during the study and interim protection periods. It is important to remember that the measure we have before the House has been approved, with reservation, by the Department of Energy and the Bonneville Power Authority, and is endorsed by the primary environmental interests. The Washington Public Power Supply System still has significant concerns with the impact this measure may have on its operations and future plans at the Hanford Reservation, and I hope these concerns will be afforded a fair and reasonable hearing during the study process. However, H.R. 3614, as passed by the Senate is certainly an acceptable compromise and should be passed by this Congress.

The need to protect the Hanford Reach from damaging dredging or damming of the river remains the primary purpose of H.R. 3614. The Hanford Reach is the last free flowing stretch of the Columbia River in the United States. The reach provides habitat for a diverse range of animals and birds, as well as a variety of plants, including some that have been proposed for protection by State and Federal agencies. In recent years, the Hanford Reach has provided important spawning sites that have contributed to the dramatic increase in the salmon runs of the Columbia River.

All the parties involved in this legislative initiative recognize and accept the urgent need to prevent the destruction of these spawning sites. In that regard, we have accomplished our goal of protecting the river.

This legislation, however, also addresses the compatibility between operations at the Hanford Nuclear Reservation, which comprises almost all the river's western border, and the management of the river should it be recommended for protection. I believe it is important to clarify that the study of the river, as defined in H.R. 3614 is not intended to detrimentally impact the existing operations or facilities at Hanford. Rather, this legislation directs the current activities on the reservation continue as long as efforts are made to minimize any direct and adverse effects on the values for which the river is being studies. The Department of Energy has a 40-year history of operating Hanford in a responsible manner and has pledged to continue to do so.

Another key ingredient in this legislation is the status of new projects performed at the reservation. Again, we have worked together to ensure that we do not needlessly jeopardize jobs or missions at the reservation, while simultaneously striving to bring to the river most reasonable protection possible. Under the Senate-passed version of H.R. 3614, all new projects shall, to the greatest extent practicable, be planned, designed and projects, even to the point of utilizing existing structures and facilities, are to minimize any adverse effects on the river. Utilization of existing structures and facilities should be studied under this bill, but it is my belief that such utilization should not be interpreted as a binding requirement.

Another important feature of H.R. 3614, as amended, is the role of the Secretary of the Interior in the study process. The Secretary shall conduct the study, but this office also has several other significant responsibilities. Under this measure, the Secretary must be consulted regarding all new projects and activities. Additionally, any planning and implementation of new projects must be coordinated with the Secretary of the Interior and it is his responsibility to ensure that any adverse effects are taken into account, minimized, and mitigated. The Secretary also has the important duty to review mitigation plans and to comment upon them. Last, the Secretary is called upon to notify Congress in the event that he determines that there is a direct and adverse effect that has not been adequately mitigated.

There are many points in favor of the Secretary having so many responsibilities regarding activities near the Hanford Reach. It is my earnest desire to see all parties promote and encourage a fair and complete study of this rivers' outstanding features. However, this legislative mandate afforded the Secretary should in no way be used as a springboard by any interested party to hinder, delay or inhibit the important energy or national defense work at Hanford other than those activities directly related to the river. The Secretary should work within the mandate authorized to study the river, not to mesh the interests of the study with policy and decisions regarding Hanford activities that are the province of the Secretary of Energy.

H.R. 3614, somewhat redundantly, also prescribes that any entities planning new projects or activities provide for mitigation for any adverse effects on the values of the river or the river itself. It is important to note that current permit, licensing, and relicensing procedures already provide for most, if not all, of the mitigation necessary to protect the river. it was the desire of some, I believe, however, to reinforce existing safeguards with explicit language. I am not totally convinced that this language is required, and hope that those performing the study, as well as future Congresses, recognize and consider the efforts that have been made, and will continue to be made, by the affected parties in mitigating the effects of their operations on the river. Furthermore, I hope the Secretary will take into account the nature and importance of these activities when determining acceptable levels of mitigation.

It is generally accepted that there are projects that will benefit the river segment, and I wish to mention them at this time. One such project is the Vernita Bridge boat ramp. Construction of the boat ramp will begin shortly and is designed to eliminate the growing practice of launching off the river bank from the brim of the road near the Vernita Bridge. This project should go forward to protect the river bank from further wear and erosion, as well as eliminating a source of siltation of the river.

Another project that has come to my attention is the Grant County PUD No. 2 fish hatchery and spawning facility. I understand that while the hatchery is near the 1 mile mark below the Preist Rapids Dam, the spawning channel and an entry channel, some 2 to 5 miles below the dam, will fall within the boundary of the study. Conservationists with whom I have spoken, and who have been a driving force behind this legislation, have indicated that such beneficial projects should not be inhibited and there are indications that all parties will work toward encouraging these projects completion and mentioning them during the study period.

Mr. Speaker, at this time, I would like to discuss the designation aspects of this measure. I introduced this measure primarily to protect the river from damming and dredging, but also because I believe that we should study all possible river protection designations. While a wild and scenic designation may be the final disposition for the river segment, I do not agree with some that this should be a foregone conclusion or, necessarily, the ultimate outcome. This bill calls for a study, no more, no less. Some may wish to prejudice the study by prematurely or preemptively indicating what the outcome should be. It is my belief that the course of the study will yield the best and most suitable alternative for future Congresses to evaluate and act upon.

In summary, I urge the adoption of this legislation. I am grateful that all the interested parties on the Hanford Reservation, the Department of Energy, the Bonneville Power Administration, and the Washington Public Power Supply System seek to protect this important stretch of the Columbia River. I also appreciate the recognition by the Nature Conservancy, the Audubon Society, and the American Rivers of the necessity of maintaining and not jeopardizing the activities, both current and future, at the Hanford Reservation. I would like to thank the members of the Columbia River Conservation League for their dedicaton and perseverance in working toward a fair and equitable compromise on this study bill. This last organization, comprised almost entirely of residents from communities around the Hanford Reach, has provided valuable assistance in the formulation of this legislation. Finally, I would like to mention the contribution of Nick Paglieri, of the Mid-Columbia Archeological Society. Nick passed away recently without seeing this measure enacted, but his contribution and assistance will not be forgotten.

In conclusion, I urge all members to support H.R. 3614. This measure provides for a necessary and comprehensive study, ensures protection of the river from the primary threat of dredging, and compels all future development to be pursued in a safe and responsible fashion.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe that this is a good bill which has been fine-tuned through the legislative process. It currently enjoys broad-based bipartisan support.

This Hanford Reach segment deserves study to determine methods for protection. Therefore, I urge my colleagues to support H.R. 3614.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3614.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 2751, DESIGNATING CERTAIN LANDS IN MONTANA AS WILDERNESS

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-1095) on the resolution (H. Res. 591) providing for the consideration of the bill (S. 2751) to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 2840, PROVIDING FOR DESIGNATION AND CONSERVATION OF CERTAIN LANDS IN ARIZONA AND IDAHO

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-1096) on the resolution (H. Res. 592) providing for the consideration of the bill (S. 2840) to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979 AMENDMENTS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 4068) to amend the Archaeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that act, and for other purposes.

The Clerk read as follows:

Senate Amendment:

Page 1, strike out lines 5, 6, and 7.

Page 2, line 1, strike out "[(b)]" and insert: "(a)".

Page 2, line 3, strike out "[(c)]" and insert: "(b)".

Page 2, line 6, strike out "[(d)]" and insert: "(c)".

Page 2, line 8, strike out "[(e)]" and insert: "(d)".

The SPEAKER pro tempore. Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to H.R. 4068 now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There is no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our Nation's archeological heritage is being plundered for the profit of a few people. In the process, we are losing much information about our past and about those peoples who lived on this continent before us. In their search for a few commercially valuable pots, looters destroy home sites, burial sites and all the scientific evidence that could be used to gain greater understanding of how these people lived.

The destruction of archeological resources goes back many decades. A few years ago, the Archeological Resources Protection Act established various penalties against such destruction. Now, we recognize that the Archeological Resources Protection Act needs to be modified to provide for increased latitude in prosecuting such cases. On July 26, the House passed H.R. 4068 to strengthen the enforcement penalties of the Archeological Resources Protection Act by lowering the felony threshold from $5,000 to $500, by making "attempts" criminal actions. As amended, H.R. 4068 also deletes the test "of archeological interts" and adds a provision directing agencies to establish programs to increase public awareness of the significance of archeological resources located on public lands.

Since then, the Senate amended H.R. 4068, by deleting section 1(a). We reluctantly concur in the Senate's amendment. We heard testimony that the phrase "of archeological interest" has confused juries. Too often, they have understood it to mean "of interest to archeologists." For that reason, we deleted it. The Senate's amendment would reinstate that phrase. I want to be very clear that "of archeological interest" refers to all products and evidence of human activity. The 1984 regulations for the Archeological Resources Protection Act defines "of archeological interest" to include all of the material remains of our predecessors' lives that can provide scientific or humanistic understanding of their lives. The test is not whether archeologists find something of interest but whether such evidence is useful in understanding past human activity. After all, many of us interested in, and concerned about, archeological resources are not archeologists. These resources are part of all of our heritage, and so should be treated. H.R. 4068 will ensure better protection for our Nation's archeological heritage and so I urge its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, as the sponsor of H.R. 4068, I am proud to rise in support of its passage today by the House. I would also like to engage in a brief colloquy with Representative VENTO, the chairman of the National Parks and Public Lands Subcommittee, at the conclusion of my statement.

I would first like to thank Chairman VENTO for his assistance in moving this legislation forward. I would also like to thank Chairman UDALL for his strong support for the bill.

Mr. Speaker, the need for this legislation has been demonstrated in testimony before the Subcommittee on General Oversight and Investigations, which I chair. Archeological resources on public lands, which belong to all Americans, are being systematically looted for personal profit. Thousands of years of native-American history, as well as the history of more recent societies, have been carted off for sale in high-price art galleries in our Nation's largest cities.

This illegal activity diminishes our ability to understand and interpret the history of native Americans as well as American history in general. It takes archeological resources out of their original setting, or out of the hands of professional archeologists, and into the homes of wealthy collectors.

In fact, 90 percent of the archeological sites on Federal lands in the Southwest have been looted and vandalized. While Congress passed the Archeological Resources Protection Act [ARPA] in 1979 to protect these resources, the law has only been used once to convict a looter.

H.R. 4068 will strengthen ARPA and allow prosecutors to go after archeological site looters with the full force of the law. By lowering the felony threshold from $5,000 to $500, and by making attempt to loot a site a felony, many more looters will be brought to justice.

Unfortunately, the other body removed a provision of H.R. 4068 which struck the requirement in current law that an archeological resource must be "of archeological interest" in order to be covered by the law. It was my concern that this phrase could allow defense lawyers to try to convince juries of their clients' innocence due to a resource's significance. I am disappointed with the Senate's action. However, I feel that the 1984 regulations implementing ARPA, combined with statements made on the House floor today, will clearly establish the intent of Congress that the phrase "of archeological interest" never be used to justify lenient treatment of looters.

I concur with Chairman VENTO's statement that "of archeological interest" refers to all products and evidence of human activity. The 1984 regulations implementing the phrase "of archeological interest" clearly include all of the material remains of human lives.

Mr. Speaker, I would like to engage the gentleman from Minnesota, Mr. VENTO, chairman of the Subcommittee on National Parks and Public Lands, in a colloquy on provisions of H.R. 4068.

As long as the Federal land manager with jurisdiction over a particular resource or a State historic preservation officer believes that an archeological resource can potentially provide scientific or humanistic understanding of past human behavior, cultural adaption or related topics, is it the committee's intention that the discovery be declared "of archeological interest?"

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, yes, it is.

Mr. GEJDENSON. I would ask the chairman, is it the committee's interpretation of ARPA that the phrase "of archeological interest" is not contingent upon whether archeologists find an archeological resource of academic interest or the prevalence of a certain type of archeological resource?

Mr. VENTO. Yes, it is.

Mr. GEJDENSON. Once Federal land managers have begun the implementation of the public awareness provisions of this legislation, is it the committee's intention that prosecutors can assume that the public and Federal land managers are aware of the significance and interest of archeological resources within the jurisdiction of each Federal land manager?

Mr. VENTO. Yes, that is the committee's intention.

Mr. GEJDENSON. Mr. Speaker, I again thank Chairman VENTO and Chairman UDALL for moving this legislation forward. I would also urge my colleagues to approve this legislation today in order to put teeth into efforts to protect America's quickly diminishing archeological resources.

Mr. VENTO. Mr. Speaker, I reserve the balance of my time.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of H.R. 4068 before us today. The bill is virtually identical to legislation which passed this body in July, except that it removes the provision revising the definition of archeological resources under the Archaeological Resources Protection Act of 1979 [ARPA]. The effect of this change is to leave in place the requirement that artifacts must be of "archeological interest" in order to meet the definition of an archeological resource. Although this definition has proven troublesome in the past, the alternative may have resulted in similar problems. In any event, this is one issue which Congress may have to revisit in a more comprehensive fashion at some point in the future.

During House committee action on H.R. 4068, I, along with several of my colleagues, expressed concern regarding the change in the age, from 100 years to 50 years, at which resources would become eligible for protection under ARPA. I am pleased that this legislation retains the current 100-year age limitation which I believe is appropriate.

Mr. Speaker, I believe the amendments embodied in H.R. 4068 will serve to strengthen the enforcement of the Archeological Resources Protection Act. Therefore, it is an important step forward as we continue our efforts to protect our Nation's significant archeological resources and preserve our Nation's heritage.

I urge my colleagues to approve H.R. 4068 today and send it to the President for his signature.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 4068.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

DELAWARE AND LEHIGH NAVIGATION CANAL NATIONAL HERITAGE CORRIDOR ACT OF 1988

Mr. VENTO. Mr. Speaker, I move to suspend the rules and agree to Senate amendments Nos. 1 through 4 and disagree to Senate amendment No. 5 to the bill (H.R. 3957) to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania.

The Clerk read as follows:

Senate amendments:

Page 4, line 20, strike out all after "individuals" down to and including "Secretary" in line 21 and insert "appointed by the Secretary, after receiving recommendations from the Governor".

Page 5, line 4, strike all after "Commonwealth" down to and including "Secretary" in line 5, and insert "appointed by the Secretary, after receiving recommendations from the Governor".

Page 5, line 10, strike out all after "Commonwealth" down to and including "retary" in line 12, and insert "appointed by the Secretary, after receiving recommendations from the Governor".

Page 13, strike out lines 21 and 22, and insert "(3) the Secretary approves such extension.".

Page 17, after line 8, insert:

TITLE I—COMMEMORATION OF STATEHOOD ANNIVERSARIES

SEC. 101. SHORT TITLE.

This title may be cited as the "Statehood Centennial Commemorative Coin Act of 1989".

SEC. 102. SPECIFICATIONS OF COINS.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue five-dollar coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming.

(b) ISSUANCE.—The Secretary shall mint and issue not more than 350,000 five-dollar coins each of which shall—

(1) weigh 31.103 grams;

(2) have a diameter of 1.500 inches; and

(3) be composed of 90 percent palladium and 10 percent alloy.

(c) DESIGN.—The design of the five-dollar coin, in accordance with this section, shall contain an engraving of the Centennial State' regional logo on one side; and on the other side, busts of Thomas Jefferson, and Lewis and Clark over-looking the Missouri River. Each coin shall bear a designation of the value of the coin, the year 1989, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". The reverse may also contain the words "Northwest Centennial" and "Statehood 1889-1890". Modifications to these designs may be made, if necessary, by the Secretary upon consultation with a duly authorized representative of the 6 States' Centennial Commissions.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 103. SOURCES OF BULLION.

The Secretary shall obtain palladium for the coins referred to in this title by purchase of palladium mined from natural deposits in the United States within one year after the month in which the ore from which it is derived was mined and by purchase of palladium refined in the United States. The Secretary shall pay not more than the average world price for the palladium. In the absence of available supplies of such palladium at the average world price, the Secretary shall purchase supplies of palladium pursuant to the authority of the Secretary under existing laws. The Secretary shall issue such regulations as may be necessary to carry out this provision.

SEC. 104. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The coins minted under this title may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike each quality.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this title beginning January 1, 1989.

(c) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1990.

SEC. 105. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the secretary shall sell the coins minted under this title at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this title at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this title shall include a surcharge of $20 per coin.

SEC. 106. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this—will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 107. REDUCTION OF NATIONAL DEBT.

An amount equal to $1,500,000 of all surcharges received by the Secretary from the sale of coins minted under this title shall be provided to the "Documents West" exhibition program and administered by the Idaho Centennial Foundation. These funds shall be used for the sole purpose of promoting the exhibition of historical and educational artifacts pertaining to the six Centennial States. The remaining amount of surcharges that are received by the Secretary from the sale of coins minted under this title shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 108. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Idaho Centennial Foundation as may be related to the expenditure of amounts paid under section——.

SEC. 109. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee.

TITLE III—DESIGN OF COINS

SEC. 1. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 2. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the 200th anniversary of the United States Constitution for a period of two years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 3. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollars, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 4. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this Act shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over six years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the United States Commission of Fine Arts.

SEC. 5. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of Section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, H.R. 3957 would designate the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania. The legislation originally passed the House on September 13, 1988. Subsequently, the Senate considered the measure on October 14, 1988, and has now returned the bill to the House with amendments. This is the handiwork of our able colleague, PETER KOSTMAYER, who has long worked on this important legislation.

The Senate has attached one germane and two nongermane amendments to the bill. The germane amendment responds to a concern raised by the administration to the appointment of Commission members and the extension of the Commission's term. As amended by the Senate, such appointments will be made by the Secretary of the Interior from the recommendations, rather than the nominations of the Governor of Pennsylvania. Second, the amendment provides that approval of a 5-year extension of the Commission's term requires the concurrence only of the Secretary of the Interior. Frankly, these changes are not necessary. Other legislation signed into law, as well as a legal opinion of the Congressional Research Service, uphold the validity of the original appointment language. In the interest of expediting the legislation though, I am willing to accept this particular Senate amendment. As I noted earlier, the other two Senate amendments are not germane to this bill and in fact deal with matters that are not within the jurisdiction of the Committee on Interior and Insular Affairs. These two extraneous matters are not appropriate to this bill and should be removed so that we can deal with substance of the legislation before us.

I would be remiss if I didn't single out the yeoman's effort put forth by our colleague from Pennsylvania, PETER KOSTMAYER, on H.R. 3957. He has demonstrated leadership and perseverance in bringing his legislative proposal to fruition. Along with Representative RITTER, who represents the other congressional district which the corridor follows, he has formed a unique alliance of National, State, and local interests for the preservation and interpretation of the significant natural, historical, and cultural resources of the region.

The amendments proposed to be made by the House today to H.R. 3957 are necessary to return the bill to its proper focus. I support these amendments and urge their adoption by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOSTMAYER], the cosponser of this legislation.

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman for yielding to me.

I rise briefly only to thank the chairman of the Subcommittee on National Parks and Public Lands, Mr. VENTO of Minnesota, for his help with this bill, a measure which I introduced along with my friend from Pennsylvania, Mr. RITTER, from Lehigh Valley, on February 17 of this year. The bill passed the House and Senate and returned to us today with nongermane amendments which we have disagreed to and we returned to the Senate and hope for their speedy approval and send to the White House where we hope President Reagan will sign it shortly.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of H.R. 3957 before us today, to establish the Delaware and Lehigh "Navigation Canal National Heritage Corridor" in Pennsylvania. The bill concurs with amendments adopted by the other body to address concerns raised by the Department of Justice. Specifically, these amendments remove the nomination authorities of the Governor of Pennsylvania under the appointments provisions for the Corridor Commission. The effect of this change is to allow the Governor to recommend, but not nominate members for the commission. In addition, the amendments remove the requirement that the Governor must approve an extension of the commission beyond 10 years. This change requires that such an extension be approved by the Secretary of the Interior only.

The amended bill also disagrees with the Senate amendment requiring the minting of U.S. commemorative coins for the statehood centennials of several Midwestern and Western States in 1989-90, and the amendment requiring design changes for certain coins currently in circulation. It is our understanding that these nongermane amendments are not acceptable to the House Banking Committee. I have introduced H.R. 4962 which would authorize the minting of silver centennial coins and will reintroduce this legislation early in the next Congress. The distinguished chairman of the Consumer Affairs and Coinage Subcommittee of the Banking, Finance and Urban Affairs Committee has assured me that he will take prompt action on this legislation next year.

Mr. Speaker, H.R. 3957 is a good bill to preserve the significant resources in the Delaware and Lehigh navigation canal corridor. I believe the amendments improve the bill by removing questionable unconstitutional and nongermane provisions. Therefore, I urge my colleagues to approve H.R. 3957.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank my friend, the ranking member of the subcommittee, for yielding, and I want to thank him, and particularly want to thank the chairman of the Subcommittee on National Parks and Public Lands, Mr. VENTO, for all of his continued cooperation and diligent work throughout the course of this bill, starting at the introduction of the bill, through two hearings, subcommittee and full committee markup, then House passage on October 11, Senate passage, and again this second House vote today.

I also want to thank my colleague, the gentleman from Pennsylvania and Representative from Bucks County, and also a member of the Subcommittee on National Parks and Public Lands, Mr. KOSTMAYER, and his staff for his leadership in initiating and following through on this bill with me.

This legislation is so important to our constituents. Such a corridor for Pennsylvania would be a wonderful step forward in enhancing the quality of life for the citizens of Bucks County, the citizens of Northampton County, and the citizens of Lehigh County. In our 15th Congressional District, it takes our No. 1 natural resource, the Lehigh River, the associated canal, historic sites along the way, and really seeks to bring it back to a semblance of the glorious days when the canal and river were king.

This bill designates the Delaware and Lehigh Navigational Canal as a National Heritage Corridor and establishes a 21-member commission to help design and define the future of the river and canal area.

I concur with the other body's amendments Nos. 1 through 4 which satisfy the concerns of the Justice Department. These amendments take the power of nomination of commission members and the power to extend the life of the commission from the Governor of the Commonwealth and gives these powers to the Secretary of the Interior. They were offered by the senior Senator from Pennsylvania and are not only acceptable to me, but heartily embraceable because they eliminate potential constitutionality conflicts. They contribute to the quality of the legislation.

The other body's amendments authorizing the Treasury to mint and issue $5 commemorative coins and to redesign the reverse side of the half dollar, quarter, dime, nickel, and penny, also for commemorative purposes present problems to members on the Banking Committees. These amendments were not offered by the senior Senator from Pennsylvania, and although such amendments may be placed by the other body in their legislation; in this body, they would be ruled not germane.

I urge my colleagues to strongly support this legislation with the first four amendments and to send it back to the other body for their approval.

Mr. CRAIG. Mr. Speaker, I thank my colleague for the comments, and I urge my colleagues to approve H.R. 3957.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and agree to Senate amendments Nos. 1 through 4 and disagree to Senate amendment No. 5 to the bill, H.R. 3957.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the House agreed to Senate amendments Nos. 1 through 4 and disagreed to Senate amendment No. 5 to H.R. 3957.

A motion to reconsider was laid on the table.

WASHINGTON PARK WILDERNESS BILL OF 1988

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2165) to designate wilderness within Olympic National Park, Mount

Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes.

The Clerk read as follows:

S. 2165

That this bill may be cited as the "Washington Park Wilderness Bill of 1988".

TITLE I—OLYMPIC NATIONAL PARK WILDERNESS

SEC. 101. DESIGNATION.

(a) Wilderness.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the Olympic National Park, Washington, which—

(1) comprise approximately eight hundred and seventy-six thousand six hundred and sixty-nine acres of wilderness, and approximately three hundred and seventy-eight acres of potential wilderness additions, and

(2) are depicted on a map entitled "Wilderness Boundary, Olympic National Park, Washington", numbered 149/60,051A and dated August 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Olympic Wilderness.

SEC. 102. WOLF CREEK POWERLINE.

The Secretary is authorized to upgrade, maintain and replace, as necessary, the Wolf Creek underground powerline to Hurricane Ridge: *Provided*, That to the extent practicable, such maintenance and operation shall be conducted in such a manner as to remain consistent with wilderness management.

SEC. 103. PAYMENT TO CLALLAM COUNTY.

There is hereby authorized to be appropriated not to exceed $155,000 to the Secretary of the Interior to make a payment to the Clallam County Historical Society and Museum of Port Angeles, Washington, to compensate the Society for its possessory interest in the National Park Service visitor center, Pioneer Memorial Museum, Olympic National Park, Washington. Upon relinquishment by the Clallam County Historical Society of all interests and use in the facility, the Secretary of the Interior shall make payment to the Clallam County Historical Society and acceptance of payment shall be considered full and just compensation for the Society's participation in the construction of the Pioneer Memorial Museum.

SEC. 104. GENERAL PROVISIONS.

(a) Misdemeanor Penalties.—Section 3 of the Act of March 6, 1942 (56 Stat. 136; 16 U.S.C. 256b) is hereby revised as follows: after "shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than", strike "$500" and insert in lieu thereof "$25,000".

(b) Forfeiture of Property.—Section 4 of the Act of March 6, 1942 (56 Stat. 135; 16 U.S.C. 256c) is hereby revised to read as follows:

"Sec. 4. All guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or means of transportation of every nature or description used by any person or persons or organizations within the limits of the park when engaged in or attempting to engage in killing, trapping, ensnaring, taking or capturing such wild birds, fish or animals, or taking, destroying or damaging such trees, plants, or mineral deposits contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior shall be forfeited to the United States and may be seized by the officers in the park and held pending prosecution of any person or persons or organization arrested under or charged with violating the provisions of this Act, and upon conviction under this Act of such persons or organizations using said guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation of every nature and description used by any person or persons or organization, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior: *Provided*, That the forfeiture of teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation shall be in the discretion of the Court.".

(c) Fugitives from Justice.—(1) The Act of March 6, 1942, (56 Stat. 135 et seq.; 16 U.S.C. 256) is hereby revised as follows: Section 5 is renumbered as section 6 and succeeding sections are renumbered accordingly and a new section 5 is inserted as follows:

"Sec. 5. All fugitives from justice taking refuge in Olympic National Park shall be subject to the same laws as refugees from justice found in the State of Washington.".

(2) The Act of March 6, 1942 (56 Stat. 137, 16 U.S.C. 256i) is hereby revised as follows: after "the provisions of sections 3" strike "and" and insert in lieu thereof ","; after "4" insert "and 5".

(d) Technical Corrections to Boundaries.—The Act of November 7, 1986 (Public Law 99-635; 100 Stat. 3527) revising the boundaries of Olympic National Park is hereby amended as follows:

(1) In section 1(a)(2) after "48 degrees 23 minutes north and 47 degrees" strike "38" and insert in lieu thereof "34".

(2) In section 1(a)(2) after "all surveyed and unsurveyed islands", insert ", above the point of lowest low tide,"; and at the end of the paragraph, strike "north;" and insert "north: *Provided*, That such lands as are identified in this paragraph shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington;".

(3) In section 1(b) after "numbered 149/60,030A, sheets 1 through" strike "10" and insert in lieu thereof "9";

(4) In section 2(a) after "within section 15, township", strike "15" and insert in lieu thereof "24";

(5) In section 2(a) after "*Provided, however*, That the Secretary of Agriculture shall" strike "not"; and

(6) Section 4 is renumbered as section 5 and a new section 4 is inserted as follows:

"Sec. 4. Effective upon acceptance thereof by the State of Washington, the jurisdiction which the United States acquired over those lands excluded from the boundaries of Olympic National Park by this Act is hereby retroceded to the State.".

SEC. 105. KALALOCH VISITOR CENTER.

The Secretary is directed to complete a study for the location of a year round visitor center in the Kalaloch area of Olympic National Park. Such study shall include the location, size and cost estimates for the design, planning and construction of the visitor center and support facilities. The study shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate by March 1, 1989. The Secretary is authorized to construct such visitor center subject to the appropriation of funds.

TITLE II—NORTH CASCADES NATIONAL PARK SERVICE COMPLEX WILDERNESS

SEC. 201. DESIGNATION.

(a) Wilderness.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area, Washington, which—

(1) comprise approximately six hundred and thirty-four thousand six hundred and fourteen acres of wilderness, and approximately five thousand two hundred and twenty-six acres of potential wilderness additions, and

(2) are depicted on a map entitled "Wilderness Boundary, North Cascades National Park Service Complex, Washington", numbered 168-60-186 and dated August 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Stephen Mather Wilderness.

SEC. 202. HYDROELECTRIC PROJECTS.

Section 505 of the Act of October 2, 1968 (82 Stat. 930; 16 U.S.C. 90d-4) is amended as follows: strike "in the recreation areas", and insert in lieu thereof "in the lands and waters within the Skagit River Hydroelectric Project, Federal Energy and Regulatory Commission Project 553, including the proposed Copper Creek, High Ross, and Thunder Creek elements of the Project; and the Newhalem Project, Federal Energy and Regulatory Commission Project 2705, within the Ross Lake National Recreation Area; the lands and waters within the Lake Chelan Project, Federal Energy and Regulatory Commission Project 637; the Company Creek small hydroelectric project at Stehekin within the Lake Chelan National Recreation Area; and existing hydrologic monitoring stations necessary for the proper operation of the hydroelectric projects listed herein".

SEC. 203. LAND ACQUISITION FOR ADMINISTRATIVE FACILITIES.

Section 301(a) of the Act of October 2, 1968 (82 Stat. 927; 16 U.S.C. 90b) is hereby amended to add a new subsection as follows:

"(b) The Secretary is hereby authorized to acquire, with the consent of the owner, lands outside of the authorized boundaries of North Cascades National Park Service Complex for the purpose of construction and operation of a backcountry information center not to exceed five acres. The Secretary of the Interior is further authorized to acquire with the consent of the owner, lands for the construction of a headquarters and administrative site or sites, for the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area not to exceed ten acres. The lands so acquired shall be managed as part of the park.".

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to complete the land acquisitions authorized pursuant to section 203 of this Act.

SEC. 205. RENEWABLE NATURAL RESOURCE USE IN RECREATION AREAS.

Section 402(a) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1) is hereby amended to read as follows:

"The Secretary shall administer the recreation areas in a manner which in his judgment will best provide for (1) public outdoor recreation benefits and (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment. Within that portion of the Lake Chelan National Recreation Area which is not designated as wilderness, such management, utilization, and disposal of renewable natural resources and the continuation of existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, or other values contributing to public enjoyment, are authorized. In administering the recreation areas, the Secretary may utilize such statutory authorities pertaining to the administration of the national park system, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith. Within the Ross Lake National Recreation Area the removal and disposal of trees within power line rights-of-way are authorized as necessary to protect transmission lines, towers, and equipment;" : *Provided*, That to the extent practicable, such removal and disposal of trees shall be conducted in such a manner as to protect scenic viewsheds.".

SEC. 206. MINERAL RESOURCE USE IN RECREATION AREAS.

Section 402(b) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1b) is hereby amended to read as follows:

"The lands within the recreation areas, subject to valid existing rights, are hereby withdrawn from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, and disposition under the United States mineral leasing laws: *Provided, however*, That within that portion of the Lake Chelan National Recreation Area which is not designated as wilderness, sand, rock and gravel may be made available for sale to the residents of Stehekin for local use so long as such sale and disposal does not have significant adverse effects on the administration of the Lake Chelan National Recreation Area.".

TITLE III—MOUNT RAINIER NATIONAL PARK WILDERNESS

SEC. 301. DESIGNATION.

(a) WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the Mount Rainier National Park, Washington, which—

(1) compromise approximately two hundred and sixteen thousand eight hundred and fifty-five acres of wilderness, and

(2) are depicted on a map entitled "Wilderness Boundary, Mount Rainier National Park, Washington", numbered 105-20,014A and dated July 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Mount Rainier Wilderness.

SEC. 302. BOUNDARY ADJUSTMENTS.

(a) PARK BOUNDARY ADJUSTMENTS.—The boundaries of the Mount Rainier National Park as established in the Act of March 2, 1899 (30 Stat. 993), as amended; (16 U.S.C. 91-110b), are further revised to add to the Park approximately two hundred and forty acres, and to exclude from the park approximately thirty-one and one-half acres, as generally depicted on the map entitled "Mount Rainier National Park Proposed 1987 Boundary Adjustments", numbered 105-80,010B and dated January 1987, which shall be on file and available for public inspection in the Washington office of the National Park Service, United States Department of the Interior and at Mount Rainier National Park.

(b) FOREST BOUNDARY ADJUSTMENT.—The boundaries of the Snoqualmie National Forest and of the Gifford Pinchot National Forest, are hereby revised to include in the Snoqualmie National Forest approximately thirty-one and one-half acres, to exclude from the Snoqualmie National Forest approximately thirty acres, and to exclude from the Gifford Pinchot National Forest approximately two hundred and ten acres, as generally depicted on a map entitled "Mount Rainier National Park Proposed 1987 Boundary Adjustments", numbered 105-80,010B, and dated January 1987, which shall be on file and available for public inspection in the Washington District of Columbia office of the Forest Service, United States Department of Agriculture and at the Snoqualmie and Gifford Pinchot National Forests.

(c) ADMINISTRATION OF PARK LAND.—(1) Federal lands, and interests therein formerly within the boundary of the Snoqualmie National Forest and the Gifford Pinchot National Forest, which are included within the boundary of the Mount Rainier National Park pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the Park, and shall be subject to all the laws and regulations of the Park.

(2) The Secretary of the Interior is authorized to accept either concurrent or exclusive jurisdiction over lands and waters included within Mount Rainier National Park by this Act. The Secretary shall notify in writing the Governor of the State of Washington of the acceptance of any such jurisdiction ceded to the United States by the State. The existing exclusive Federal jurisdiction, where it exists in the Park, shall remain in effect until such time as the Secretary and the Governor shall agree upon the terms and conditions of concurrent legislative jurisdiction for said Park pursuant to section 320(i) of the Act of October 21, 1976 (90 Stat. 2741).

(3) AUTHORIZATION OF LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire from willing sellers by donation, purchase with donated or appropriated funds, exchange, bequest, or otherwise all non-Federal lands, waters, and interests therein included within the boundary of the Mount Rainier National Park pursuant to this Act.

(d) ADMINISTRATION OF FOREST LAND.—(1) Federal lands, and interests therein formerly within the boundary of the Mount Rainier National Park, which are excluded therefrom and are included within the boundaries of the Snoqualmie National Forest pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of the Forest, and shall be subject to all the laws and regulations applicable to the National Forest System.

(2) For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9), the boundaries of the Snoqualmie National Forest and the Gifford Pinchot National Forest, as modified pursuant to this Act, shall be treated as if they were the boundaries of those national forests on January 1, 1965.

(3) Effective upon acceptance thereof by the State of Washington, the jurisdiction which the United States acquired over those lands excluded from the boundaries of the Mount Rainier National Park by this Act is hereby retroceded to the State.

SEC. 303. PARADISE POWERLINE.

The Secretary is authorized to upgrade, maintain and replace as necessary, the Paradise powerline from Longmire to Paradise: *Provided*, That to the extent practicable, such maintenance and operation shall be conducted in such a manner as to protect scenic viewsheds.

TITLE IV—GENERAL ADMINISTRATIVE PROVISIONS

(a) ADMINISTRATION.—(1) Subject to valid existing rights, the wilderness areas designated under titles I, II, and III of this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated as wilderness, except that reference to the Secretary of Agriculture shall be deemed, where appropriate, to be a reference to the Secretary of the Interior, and any reference to the effective date of the Wilderness Act shall be deemed, where appropriate, to be a reference to the effective date of this Act.

(2) Lands designated as potential wilderness additions shall be administered by the Secretary of the Interior insofar as practicable as wilderness until such time as said lands are designated as wilderness. Any lands designated as potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon that are inconsistent with the Wilderness Act have ceased or that non-Federal interests in land have been acquired, shall thereby be designated as wilderness and managed accordingly.

(3) Congress does not intend that wilderness areas designated under this Act lead to the creation of protective perimeters or buffer zones around such wilderness areas. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(b) MAP AND DESCRIPTION.—(1) As soon as practicable after the effective date of this Act, the Secretary of the Interior shall file a map of the wilderness areas and a legal description of its boundaries with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such maps and legal descriptions shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in the maps and legal descriptions may be made. Such maps and legal descriptions of the boundaries shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the appropriate Superintendent.

(2) Boundaries adjacent to paved and unpaved roads shall be drawn as narrowly as is practicable to allow for necessary maintenance and repairs to existing roads. Such boundaries should not, in general, exceed two hundred feet from the centerline of paved roads and one hundred feet from the centerline of unpaved roads: *Provided, however,* That larger boundaries may be drawn only as the Secretary deems necessary to exclude from the wilderness existing developments, improvements, and structures adjacent to existing roads, as well as areas needed to maintain and repair existing roads: *Provided further,* That to the extent practicable, undeveloped areas adjacent to all roads shall be managed as if designated as wilderness.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. WILD AND SCENIC RIVERS.

Section 3(a), paragraph (60), of the Wild and Scenic Rivers Act, which designates the Klickitat River in the State of Washington as a component of the national wild and scenic rivers system, is amended to add the following sentence at the end of the paragraph:

"The boundaries of the designated portions of the Klickitat River shall be as generally depicted on a map dated November, 1987, and entitled 'Klickitat National Recreation River, River Management Area: Final Boundary', which is on file in the office of the Chief, Forest Service, Washington, District of Columbia."

SEC. 502. RESERVATION OF WATER RIGHTS.

Within each of the areas designated as wilderness pursuant to this Act, the Congress expressly reserves a right to all the waters that arise upon or under or flow through such areas: *Provided,* That this reserved right shall be exercised only to protect wilderness values within the wilderness boundaries. The priority date of such reserved rights shall be the date of enactment of this Act. The Federal water rights reserved by this Act shall be subject to valid existing water rights and shall be in addition to any water rights previously appropriated or reserved by the United States for other than wilderness purposes. The United States shall promptly claim the water rights reserved by this Act in a proceeding consistent with the McCarran Amendment (43 U.S.C. 666).

The SPEAKER pro tempore. Is a second demanded?

Mr. GRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. Craig] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2165, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, S. 2165 designates wilderness in the State of Washington's three national parks, approximately 877,000 acres in Olympic, approximately, 217,000 acres in Mount Rainier, and approximately 635,000 acres in North Cascades National Park Service complex. These three national parks contain outstanding wilderness resources which include majestic mountain scenery, wilderness beaches, temperate rain forests, alpine lakes and meadows, glaciers, and abundant wildlife. Furthermore, these national parks provide a scenic backdrop to the major metropolitan areas bordering Puget Sound and receive millions of visitors. Despite the national park and national recreation area designation for these lands, development does remain a threat to their wilderness character. The potential exists for roads, lodges, dams, powerlines and recreational facilities to encroach on these pristine areas.

S. 2165 not only prevents this threat from becoming a reality, it also includes special provisions to improve the management efficiency of the three parks:

First, it clarifies and strengthens law enforcement authorities.

Second, it makes boundary adjustments and corrections.

Third, it authorizes the Secretary of the Interior to acquire land for an administrative headquarters and a backcountry information center for the North Cascades complex.

Fourth, for the Lake Chelan (Shalan) and Ross Lake National Recreation Areas, the bill limits the number of hydroelectric projects, clarifies when lumber can be harvested and withdraws the lands from mineral entry with the exception of sand, rock, and gravel for the residents of Stehekin (Sta-he-kin).

Mr. Speaker, S. 2165 is very similar to the bill introduced by Mr. Chandler, which passed the House in September. The only substantive difference is new, compromise water rights language pertaining to the wilderness areas. Both sides of the controversial water rights issue have agreed to this language. It is a bipartisan bill with the unanimous support of all members of the Washington congressional delegation. I urge the passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of S. 2165, which designates, as my colleague has mentioned, 1.7 million acres of wilderness within the three national parks within the State of Washington.

I would like to associate myself with the remarks of the chairman of the Subcommittee on National Parks and Public Lands, and I ask our colleagues to support us in this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I would like to commend Senator Evans for his outstanding work, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the Senate bill, S. 2165.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

DESIGNATING A SEGMENT OF RIO CHAMA RIVER, NEW MEXICO, AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 850) to amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System as amended.

The Clerk read as follows:

S. 850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF RIO CHAMA RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) Rio Chama, New Mexico.—The segment extending from El Vado Ranch launch site (immediately south of El Vado Dam) downstream approximately 24.6 miles to elevation 6,353 feet above mean sea level; to be administered by the Secretary of Agriculture and the Secretary of the Interior. For purposes of compliance with the planning requirements of subsection (d), the Cooperative Management Plan for the river prepared by the Secretary of Agriculture and the Secretary of the Interior may be revised and amended to the extent necessary to conform to the provisions of this Act. The segment of the Rio Chama beginning at the El Vado Ranch launch site downstream to the beginning of Forest Service Road 151 shall be administered as a wild river and the segment downstream from the beginning of Forest Service Road 151 to elevation 6,353 feet shall be administered as a scenic river.".

SEC. 2. PROVISIONS APPLICABLE TO CERTAIN SEGMENT OF RIO CHAMA.

The protections afforded under the Wild and Scenic Rivers Act for rivers listed in section 5(a) for study for potential addition to the national wild and scenic river system shall, until Congress determines otherwise, apply to the segment of the Rio Chama from the point at elevation 6,353 feet above mean sea level to the point approximately 4.0 miles downstream at elevation 6,283.5 feet above mean sea level: *Provided*, That nothing in this Act or the Wild and Scenic Rivers Act shall interfere with the Secretary of the Army's operation and management of Abiquiu Dam for purposes authorized by section 5 of Public Law 97-140 or otherwise authorized prior to December 31, 1988.

SEC. 3. MANAGEMENT OF OTHER RIVER SEGMENT AND FOREST SERVICE LANDS.

(a) The Secretary of the Army, acting through the Chief of Engineers, the Secretary of the Interior, acting through the Bureau of Land Management, and the Secretary of Agriculture, acting through the Forest Service, shall jointly manage the segment of the Rio Chama River in New Mexico from elevation 6,283.5 feet above mean sea level downstream to elevation 6,235 feet above mean sea level. Such management shall be pursuant to—

(1) the Preferred Alternative for the proposed Santa Fe National Forest Plan (dated January 1986);

(2) the "Interim Rio Chama River Management Plan," dated May 1986 (as that plan may be revised in the "Final Rio Chama River Management Plan"); and

(3) shall be consistent with the operation of Abiquiu Dam for purposes authorized by section 5 of Public Law 97-140 or otherwise authorized prior to December 31, 1988.

(b) The Secretary of Agriculture shall not acquire, except by consent of owner, any interests in the Jolly-Chama Canyon Subdivision: *Provided*, That such subdivision lands are maintained in single unit private residential use.

The **SPEAKER** pro tempore. Is a second demanded.

Mr. CRAIG. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 850, the Senate bill now under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, S. 850, which passed the Senate on October 7, 1988, would designate 27.6 miles of the Rio Chama River in the State of New Mexico as a component of the National Wild and Scenic Rivers System. The legislation is similar to H.R. 1839, which was introduced by Representative RICHARDSON, and which passed the House on October 26, 1987.

S. 850 differs from the House passed measure in that it deletes 3.15 miles of river that would be designated by H.R. 1839, and further it includes rather specific provisions regarding the Abiquiu Dam, located immediately downstream from the designated segment. Unfortunately, S. 850's placement of the boundary at elevation 6,308 feet combined with its language on the Abiquiu Dam leaves open the possibility, while remote, that a designated wild and scenic river segment could be flooded. Further, such language has raised questions with certain colleagues from the State of Texas on the legislation's impact on Rio Grande compact water.

We have been working with members of the New Mexico delegation and interested groups to see if an agreeable compromise could be fashioned. I believe we have found that compromise and it has been incorporated into the legislation before the house today. The agreement would bring the downstream designation of the Rio Chama to elevation 6,353 feet, the maximum flood point. That stretch of river from elevation 6,353 feet to 6283.5 feet, while not designated would be subject to those provisions, including section 7(b) of the Wild and Scenic Rivers Act which provide protection against actions that would degrade the river but would allow for the rare inundation by backwater from Abiquiu Dam during extreme flood conditions.

This agreement is predicated on the fact that setting the designation at elevation 6,353 feet will eliminate any possibility of flooding within a designated wild and scenic river segment. It is understood that in that portion of the river subject to the section 7(b) provisions of the Wild and Scenic Rivers Act, there is sufficient flexibility in standards of management to accommodate temporary inundation, for flood control purposes only, to protect life and property downstream. With this understanding, the specialized language relating to the Abiquiu Dam is unnecessary and thus would eliminate Rio Grande compact concerns.

Mr. Speaker, under this agreement permanent protection of the free-flowing segments of the Rio Chama will be provided, while ensuring the continued integrity of the Wild and Scenic Rivers System. Further, the authorized purposes of the Abiquiu Dam are not infringed upon and no legal obstacles to the protection of downstream life and property are presented on the basis of this legislation. Given the circumstances surrounding the area, this is an acceptable compromise and I support its adoption by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank the chairman and I also want to thank the minority for their contributions to this bill.

Mr. Speaker, I rise in support of S. 850, to designate the Rio Chama River in New Mexico as a wild and scenic river.

The Rio Chama is one of the great rivers of the West and one of the most important recreation resources in New Mexico. A National Park Service Study described the Rio Chama as the most important and valuable river in the State, being less than 3 hours' driving time from three-fourths of the State's population. The section designated in S. 850 flows through the thick pine forests of the Chama Wilderness Area and past Red Rock cliffs. To rafters, canoeists, and fishermen, it provides unparalleled beauty and tranquility.

Aside from its beauty and recreational appeal, the Rio Chama has several other assets. It is a significant winter habitat for the American bald eagle. The Ghost Ranch Area has some of the oldest fossil remains in North America. Some archeologists consider the Rio Chama to be the earliest Navajo site in New Mexico.

Last October the House passed H.R. 1839, a bill I introduced to designate the Rio Chama as a wild and scenic river. My bill designated as wild and scenic the section of the river between El Vado Dam and elevation 6,283.5 feet. Elevation 6,283.5 feet is the authorized level for flood control at Abiquiu Dam. S. 850 ends wild and scenic designation at elevation 6,308 feet.

Although flood control is authorized only to elevation 6,283.5 feet, Abiquiu Dam rises to elevation 6,353 feet. If there were a terrible flood, the water behind the dam could rise into the section of the Rio Chama which the House and Senate bills designate as wild and scenic. This possibility is unacceptable. Flooding of a wild and scenic river would effectively negate the basic premise of the Wild and Scenic Rivers Act—to preserve our rivers in their natural, free-flowing state.

To avoid flooding of a wild and scenic river, we have amended the Senate bill to move the wild and scenic designation up to elevation 6,353 feet. But we have provided protection for this lower segment of the river by adding a new section 2 which applies the protections of section 5(a) of the Wild and Scenic River Act to that portion of the Rio Chama between elevation 6,353 and 6,283 feet. The protection afforded under section 5(a) of the Wild and Scenic Rivers Act will protect the Rio Chama from permanent flooding, mining, and other uses that would have an adverse effect on the wild and scenic values of the river.

The protection provided in section 2 does not threaten the water that Albuquerque stores at Abiquiu. Section 2 expressly states that it does not interfere with the Secretary of the Army's operation and management of Abiquiu Dam for purposes authorized by section 5 of Public Law 97-140 or otherwise authorized prior to December 31, 1988. This language applies only to the segment of the river between elevation 6,353 feet and elevation 6,283.5 feet. Section 5 of Public Law 97-140 authorizes the storage of Albuquerque's water. The reference to other authorization prior to December 31, 1988, refers to H.R. 5423, sent to the President last week, which authorizes the storage of water to replace Albuquerque's water. Neither this bill nor H.R. 5423 are intended to create a permanent storage pool over and above the 200,000 acre-feet of Albuquerque's water and the 52,000 acre-feet of sediment storage.

Mr. Speaker, I believe we have arrived at an excellent solution to the problem of protecting a river that could be flooded in rare instances when nature takes an extreme course. Under this bill as amended, the entire section of the river designated as wild and scenic in H.R. 1839 is protected. The section from El Vado Dam to elevation 6,353 feet will be wild and scenic and the remaining river segment down to elevation 6,283.5 feet will be protected under section 5(a) of the Wild and Scenic Rivers Act.

I want to emphasize that the segment of the river from elevation 6,353 feet to 6,283.5 feet is probably the most important recreational section of the Rio Chama. This segment is also bordered by private land, pasture, and roads. It is my understanding that this segment would never be inundated, except in a period of heavy flooding, possibly once a century.

Protecting the river and bordering lands is very important to me. When flood management alternatives are available which can preserve the environmental, recreational, and economic values of the river area, then such alternatives should be used. If temporary inundation is unavoidable, it should be as brief as possible.

Mr. Speaker, this bill, as amended, has the support of the entire New Mexico delegation, the Governor, the Federal agencies which manage the Rio Chama, and the national and New Mexico environmental community. It will protect one of the great rivers of the Southwest—the Rio Chama—a river rich in beauty, important to wildlife and of great recreational value.

As a wild and scenic river, the Rio Chama will join the Rio Grande in New Mexico as a destination for boaters, fishermen, and tourists who come to New Mexico to enjoy our outstanding natural resources.

I urge all of my colleagues to support passage of S. 850 and make the Rio Chama a wild and scenic river.

I would like to engage in a colloquy with the chairman of the Subcommittee on National Parks and Public Lands. It is my understanding that the protection provided in section 2 does not threaten the water that Albuquerque stores at Abiquiu Dam since section 2 expressly states that it does not interfere with the Secretary of the Army's operation and management of Abiquiu Dam for purposes authorized by section 5 of Public Law 97-140, this being the law that authorizes the storage of Albuquerque's water. Is this understanding correct?

□ 1800

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, that is my understanding.

Mr. RICHARDSON. I thank the chairman.

Mr. Speaker, once again I would like to thank the minority and the entire New Mexico congressional delegation for working on this landmark legislation that brings a rich addition to the wild and scenic river system.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of S. 850 before us today. This bill would designate a segment of the Rio Chama River in New Mexico as a component of the wild and scenic rivers system. The segment is located between the El Vado Dam and the Abiquiu reservoir which are both U.S. Army Corps of Engineers projects.

This bill is very similar to House legislation, H.R. 1839, which the House passed last year. However, the original 31-mile designation would have, in effect, precluded additional water storage beyond the current capacity of the dam since such storage would have inundated a portion of the designated segment. Therefore, compromise language has been agreed on to only provide the protections afforded under the Wild and Scenic Rivers Act for study rivers for an approximate 4-mile segment of the river, rather than designation. This language is embodied in the Senate version of the bill before us.

Mr. Speaker, I believe this is a good compromise on this important issue. This segment of the Rio Chama River clearly meets the requirements for wild and scenic designation. In addition, the new provisions address the concerns of the Corps of Engineers and the other body. Therefore, I urge my colleagues to approve S. 850.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, my thanks go to the gentleman from New Mexico, Mr. RICHARDSON, Senator BINGAMAN, and Senator DOMENICI who worked so hard to fashion this compromise.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 850, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2030, OCEAN DUMPING REFORM ACT OF 1988

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 2030) to amend the Marine Protection, Research, and Sanctuaries Act.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is a second demanded?

Mr. LENT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

(For conference report and statement, see proceedings of the House of Tuesday, October 18, 1988, at Page 31199.)

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to voice my strong support for the conference report on S. 2030, the Ocean Dumping Ban Act, and to urge swift and final passage.

Mr. Speaker, more than a decade has passed since the U.S. Congress decided to end the dumping of sewage sludge into the oceans off the Northeast; a decision that has since been frustrated by lawsuits and administrative delays. Once again, however, the House has an opportunity to vote on the question, and once again, I urge the House to vote "yes": to end the shortsighted and wasteful practice of dumping millions of tons of sludge into our marine environment yearly.

Mr. Speaker, the conference report on S. 2030, which was passed by the other body yesterday, will force those municipalities that have for too long been dumping thousands of tons of sewage sludge into our oceans to recognize that the time has come to end ocean dumping. The legislation before us represents a careful blend of incentive and sanction to achieve that objective, and I believe it represents a major achievement that deserves our full support.

Its key components include:

A ban on all ocean dumping of sewage sludge after 1991;

A directive for States with municipalities that currently dump sewage sludge to create their own trust funds, into which will be deposited receipts from fees imposed on those who are dumping in the interim to raise funds for land-based alternatives;

The authority for EPA to waive the fees for any municipality that is adhering to a compliance schedule developed jointly with EPA;

The imposition of a graduated schedule of tough penalties on those who fail to meet the 1991 deadline, with the penalties also deposited into the State trust funds;

Reimbursement provisions to the EPA and the Coast Guard to cover their costs of running the ocean dumping program;

A study of how EPA has implemented the additional protections for coastal waters as called for by section 403(c) of the Clean Water Act;

The addition of several new estuarine areas into the National Estuaries Program under the Clean Water Act; including an area of particular importance to me, Massachusetts Bay and Cape Cod Bay;

A new title relating to medical wastes, with two components. The first relates to the discharges by public vessels of shipboard medical wastes into ocean waters; while the second stiffens significantly the civil and criminal sanctions under the Ocean Dumping Act for illegal medical waste dumping, and makes it clear that both the Clean Water Act and the Ocean Dumping Act absolutely prohibit the fouling of our Nation's waters with medical debris;

Finally, the conference report contains an additional title IV that was first proposed by the Senate relating to waste handling practices of vessels carrying solid waste. Title IV, referred to as the Shoreline Protection Act, is designed to minimize the amount of garbage that ends up in our waters and riverways from vessels that are used to transport municipal wastes.

Mr. Speaker, this conference report represents progress in our long fight to clean up our oceans from sewage sludge, medical wastes and other debris. Its passage by the Senate yesterday suggests that today may be the last time we vote on the question of sewage sludge dumping. I urge a positive vote on that question and the final passage of this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. I yield myself such time as I may consume.

Mr. Speaker, it is a pleasure for me to rise in strong support of the conference report on S. 2030, the Ocean Dumping Ban Act of 1988. I want to commend many of the members of the Committee on Merchant Marine and Fisheries, particularly our chairman, the gentleman from North Carolina [Mr. JONES] also the gentleman from Massachusetts [Mr. STUDDS] as well as, on the Republican side of the aisle, particularly the gentleman from New Jersey [Mr. SAXTON] and the gentlewoman from Rhode Island [Miss SCHNEIDER]. I commend also the gentleman from New Jersey [Mr. HUGHES].

Mr. Speaker, this legislation is the result of years of work. In the last several weeks Members from the House and Senate have fashioned a good compromise to address the ocean dumping of sewage sludge. This bill has a cutoff date of December 31, 1991, after which it will be illegal to dump into the ocean any sewage sludge or industrial waste. Through the system of fees and penalties set up in the legislation, the nine municipalities currently engaged in this practice will be encouraged to develop and implement alternatives to ocean dumping as fast as they can.

The mechanism in the bill enables the communities to use some of the funds they will have to pay in fees and penalities by putting money into trust funds that will be set up for each municipality. These trust funds will provide the financial means for these communities to develop alternatives—whether they be for incineration, landfills, composting, or some other new technology. The penalty levels escalate after 1991 to keep the pressure on to cease ocean dumping.

This bill recognizes the practical reality that some communites may not be able to meet the 1991 cutoff date. In a perfect world, I would like to see all ocean dumping stopped immediately. But, it is not a perfect world. However, the Ocean Dumping Ban Act provides the incentives to help municipalities, like my own Nassau County, Long Island, to stop ocean dumping as fast as possible. That is our objective.

Critics may argue that by turning back some of the fees and penalties to the communities, through the mechanism of the trust funds, we have not been tough enough. However, it simply makes no sense, from an environmental standpoint, to solve one problem by creating another. The goal is to help the affected municipalities develop environmentally safe alternatives. I believe that we have been successful in fashioning a compromise that meets our objective.

I want to comment briefly on one particular provision in the bill. I am delighted that the House and Senate conferees accepted my proposal to include the Peconic Bay of Long Island on the list for priority consideration by the Environmental Protection Agency for estuary designation under the National Estuary Program. The Peconic Bay has suffered terribly from the "brown tide" for the last several years—virtually destroying the bay scallops and other fisheries resources. Designation as a national estuary would lead to the development of a comprehensive management plan to restore the health and ecological integrity of the area. I thank the conferees for their help on this matter.

I urge my colleagues to join me—and other Members of this body who have worked so diligently to develop this legislation—to swiftly approve this conference report so that we may send it to the President for his signature without delay.

Mr. STUDDS. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am pleased to rise in support of the conference report on S. 2030, the Ocean Dumping Ban Act of 1988. I wish to commend the House and Senate conferees for the fine job they have done in developing the legislation now before us. The issues were difficult and complex, and the time short, but we have a bill—a good bill—that will finally put an end to the dumping of sewage sludge and industrial waste into the oceans.

The bill as agreed to by the conferees, provides for a combination of measures to force the cessation of the dumping of sewage sludge and industrial waste into the oceans. Ocean dumping after December 31, 1991, is prohibited. Any dumping prior to that date will require a permit from EPA, and special dumping fees are imposed starting at $100 a dry ton in 1989, and increasing to $150 a dry ton in 1990, and $200 a dry ton in 1991. After 9 months after the date of enactment, no ocean dumping may take place without a permit, and in order to obtain a permit the dumper must enter into either a compliance agreement or an enforcement agreement with EPA. The State in which the dumper is located must also be a party to the agreement. A compliance agreement is one which sets forth a schedule for the cessation of ocean dumping by December 31, 1991. An enforcement agreement is one which establishes a schedule for the cessation of dumping after December 31, 1991, for those who cannot cease dumping by that date.

Any dumping after the December 31, 1991, date is subject to a high, and increasing penalty, starting at $600 a dry ton and increasing by 10 percent each year plus an additional 1 percent for each year beyond 1991. The longer the dumping continues, the more costly it becomes.

The legislation contains a number of innovative provisions designed to both offer substantial incentives to end ocean dumping and to assist in the development and implementation of alternatives to ocean dumping. Each dumper establishes a trust account into which 85 percent of the fees, and a percentage of the penalties starting at 90 percent in 1992 and decreasing by 5 percent each year thereafter, are deposited. The money in the account may be used for the development and implementation of alternatives to ocean dumping. Fifteen dollars a dry ton is paid to EPA out of the fees and penalties to cover the costs of implementing the act, and the remainder, through 1994, is paid 50 percent to the State for deposit in its revolving loan fund under title 6 of the Federal Water Pollution Control Act and 50 percent to the State for deposit into a clean oceans fund to be established by the States to provide assistance to those paying into it for developing and implementing alternatives to ocean dumping. After 1994, the balance of the penalties after payments to the trust accounts and EPA is paid to the State for providing assistance for estuary and nonpoint source pollution control programs, implementing measures to restore the New York Budget, and deposit in the State's revolving loan fund. The payments into the revolving loan fund are in addition to grants made pursuant to the allotment formula in the Federal Water Pollution Control Act. The provisions in the conference agreement will contribute significantly to our efforts to achieve and maintain a high degree of water quality in the oceans. I urge passage of this very important legislation.

Mr. LENT. Mr. Speaker, I yield 4½ minutes to the gentleman from New Jersey [Mr. Saxton] a member of the Committee on Merchant Marine and Fisheries.

Mr. SAXTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, you know, I hope all of you have had the opportunity to notice that it has been a truly beautiful autumn day outside these Chambers today—and shortly, I hope that all of you will also take the opportunity to make this a memorable day inside these Chambers as well.

Passage of the Ocean Dumping Ban Act represents, I believe, a very important change in attitude toward the protection of this Nation's oceans. The effort to change that attitude began, legislatively, over a decade ago under the guidance of my good friend and colleague from New Jersey, Bill Hughes.

Since coming to the Congress myself, a furtherance of this attitude has been at the top of my agenda. With the help of my colleagues on Merchant Marine and Fisheries—Chairman Jones, Claudine Schneider, and Tom Carper—we have ridden that legislative roller coaster to its happy conclusion and produced today what has become one of the most comprehensive ocean protection measures in recent years.

Last week, while the House debated the Ocean Dumping Ban Act, I said that I believed that many people who had lived full lives with the ocean as their friend had come to fear that friend. Earlier this week, I learned unfortunately that a whole new generation cannot even begin to know their seashore as a safe and friendly place.

Pack No. 61 of the Stafford Township Cub Scouts wrote to tell me that they just wished they could go swimming without being afraid to get hurt or get sick. I'm sure that each of us would be proud to tell these kids, and others like them across the Nation, that by the time many of them are Boy Scouts, our oceans will be healed because of what we have done here today. It is a message of hope that these children need to hear, and a very real measure of protection that our oceans deserve.

The combination of heavy penalties and forced savings provided in this bill will bring a rapid and permanent end to all ocean dumping of sewage sludge and industrial waste.

Mr. Speaker, what began as a simple amendment, has become a vehicle for many of the clean ocean initiatives of the 100th Congress—including a total ban on the economically and psychologically devastating practice of ocean dumping of medical waste. It is the violators who will now be facing the fear—the fear of a quarter million dollar fine and 5 years in jail.

These provisions, especially in combination with the medical waste tracking bill that I and others on Merchant Marine and Fisheries got rolling last fall, will send that message of hope to all who visit our shores.

Mr. Speaker, this is a strong and purposeful bill and I urge its passage here today.

□ 1815

Mr. STUDDS. Mr. Speaker, in all the years the Congress has wrestled with this problem, no one has worked harder, more diligently, and with greater success than the gentleman from New Jersey [Mr. Hughes].

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I rise in very strong support of the conference report on S. 2030, which was approved by the other body just yesterday. It represents a very strong, comprehensive agreement that has been hammered out with the other body to end the practice of dumping sewer sludge and industrial waste, and it sets up new penalties for medical waste in our oceans.

Mr. Speaker, it has been a long road. When I came to Congress in 1975, one of the first initiatives that I became interested in as a matter of good ocean policy was the issue of ocean dumping. In fact, my colleagues on the Committee on Merchant Marine and Fisheries can honestly say that they have heard about ocean dumping ad nauseam from this gentleman from New Jersey, but it has been a good undertaking.

Mr. Speaker, we made great progress in 1977. We forced out of the ocean, as a result of the late 1977 law, about 300 industrial dumpers and almost a hundred municipal dumpers. It has been a success story.

But, Mr. Speaker, we have not finished the job. This will do it.

This just did not happen. It happened because of the work of a lot of people, and I want to thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. Studds] for his work over the years, both in 1977 and this year, and my colleague on whose behalf I introduced this legislation, the gentleman from New Jersey [Mr. Saxton], my partner in developing this legislation, as well as the gentlewoman from Rhode Island [Miss Schneider]. I want to thank members of the Committee on Public Works and Transportation, the gentleman from California [Mr. Anderson] and his ranking minority member, the gentleman form Arkansas [Mr. Hammerschmidt], the gentleman from New Jersey [Mr. Roe] who has been very instrumental in forging the compromise in this bill and helping us move the site from 12 miles off of our beach to the 106-mile site. Without their help that would not have been possible, to move it out to deeper water where it does not do quite as much damage, but it is still not the right place.

Mr. Speaker, there are other land-based alternatives that should be in place that are in place around this country in all other municipalities around this country except for nine, and I want to thank my colleagues for making this day possible.

As my colleagues know, Mr. Speaker, we have made a virtual cesspool off of our beaches in New Jersey. It has hurt our tourist economy. Now the fishermen at the 106-mile site are complaining because now we are damaging our fishery resources.

It is a dirty practice, Mr. Speaker, and we are going to end it with this legislation. It is a good bill, and I urge my colleagues to strongly support it.

Mr. LENT. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. GALLO], a member of the Committee on Public Works and Transportation.

Mr. GALLO. Mr. Speaker, as a member of the conference committee that resolved the differences between the House and Senate on this important initiative to ban all ocean dumping by December 1991, I rise in strong support of this landmark legislation.

This legislation, which reflects bipartisan cooperation in the House and the Senate, is the best of both worlds. We have taken the strengths of each bill and brought them together in a way that addresses remaining concerns expressed by all participants. This agreement is a victory for people everywhere who care about our common environment.

All too often, we pass laws without providing for adequate enforcement.

I am proud to say that this bill gives us a real hammer for enforcement, with a portion of the fees and fines going to the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the Coast Guard to step up their monitoring and protection efforts.

Without the strict deadlines and significant fines and penalties for missing those deadlines contained in this legislation, we will never see an end to this environmentally destructive practice.

Because most of the penalties contained in this bill are held for use in the development of land-based alternatives to ocean dumping and for other projects that promote clean water, I believe that we have developed a bill that is both tough and fair. This is both a carrot and a stick.

The agreement allows for creation of a State clean ocean fund and calls for a maximum 9-month period for negotiations between municipalities currently dumping sludge in the ocean and the EPA resulting in consent agreements setting timetables for an end to ocean sludge dumping.

Fees of $100 per dry ton in 1989, $150 in 1990 and $200 in 1991 would be imposed for failure to meet timetables.

After December 31, 1991, any municipality still dumping sludge in the ocean will be required to pay stiff penalties beginning at $600 per dry ton.

I would like to thank the conferees for their dedication to the protection of our oceans for our children and our grandchildren. I urge my colleagues to support this bill.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. MANTON]

Mr. MANTON. Mr. Speaker, I thank the gentleman for yielding, and rise in support of the conference report on "The Ocean Dumping Ban Act." The conference report establishes December 31, 1991, as the deadline for the cessation of the ocean disposal of sewage sludge and industrial waste. The report provides for the payment of fees by dumpers to cover administrative costs and for research, monitoring, and enforcement by the EPA, NOAA, and the Coast Guard. Individuals who dump after the deadline will be subject to strict penalties which will increase substantially on an annual basis.

The conferees have also agreed to include provisions to ban the illegal dumping of garbage and medical wastes into our marine waters; to maintain the provision I sponsored for a study by the EPA of direct ocean discharges; and, to add several new estuaries to the list for priority consideration in the National Estuary Program.

The conference report represents a realistic approach to ceasing the ocean disposal of sewage sludge and industrial waste. It maintains most of the stringent provisions of the House bill, which was sponsored by the gentleman from New Jersey, Mr. HUGHES, and cosponsored by myself and many others. Approval of this conference report will be the first step in a renewed emphasis by the Congress on protecting and improving our Nation's estuarine, near coastal and open ocean waters. However, we must not stop here. In the 101st Congress, we must take the next step by addressing direct discharges of sewage and industrial pollutants into our waters.

Mr. Speaker, I would once again take the time here to offer my thanks and appreciation to the distinguished chairman of the Merchant Marine Committee, Mr. JONES of North Carolina; Mr. STUDDS, the chairman of the Subcommittee on Fisheries and Wildlife; Mr. ANDERSON, chairman of Public Works Committee; my colleagues from New York, the chairman of the Water Resources Subcommittee, Mr. NOWAK, and Mr. LENT; and, the prime sponsor of this important legislation, the gentleman from New Jersey, Mr. HUGHES, for their cooperation, accommodation and hard work in developing this conference agreement.

In addition, I also would like to offer my thanks again to the staff of the Merchant Marine Committee, particularly Tom Kitsos, Joan Bondareff, and George Pence; the staff of the Public Works and Transportation Committee; and, Jim Mathews of my staff, for their work on this issue over the past several months.

Mr. Speaker, at this point, I would like to ask the gentleman from New Jersey, Mr. HUGHES, if he would join me in a brief colloquy to clarify the intent of the provisions of title I, (section (E)(2)(B)), relating to the use of trust fund moneys.

As the gentleman is aware, this bill setsup tough fees and penalties to encourage the prompt end of ocean dumping and provides that some of those fees and penalties will be set aside in a trust fund. I would like the assurance of the sponsor of this legislation that it is his understanding and intent that in making such trust funds available to "identify, develop, and implement" alternative systems, the funds may be used for the construction, operation and maintenance of acceptable interim and alternative systems.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. MANTON. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, the answer is yes. The fees and penalties in this bill were set sufficiently high so they would effectively discourage ocean dumping and also provide dedicated trust funds which can be utilized for identification, construction, operation and maintenance of interim and alternative systems until they are fully implemented and ocean dumping ceases.

I thank the distinguished gentleman for his response, and once again congratulate him on his efforts to bring this issue to a successful conclusion.

Mr. LENT. Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me the 2 minutes.

Mr. Speaker, I rise in vigorous support of the conference report on S. 2030. I believe that passage of this legislation is and will be considered the most important environmental achievement of this Congress, the 100th Congress, which is historical unto itself, and I think that when we start reading the honor roll of environmental leadership, Mr. Speaker, in this House for the 100th Congress, on that list will be the gentleman from California [Mr. ANDERSON], the gentleman from New York [Mr. LENT], Mr. JONES, the gentleman from New Jersey [Mr. HUGHES], the gentleman from Massachusetts [Mr. STUDDS], the gentleman from New Jersey [Mr. GALLO], the gentleman from New Jersey [Mr. SAXTON], the gentleman from New York [Mr. MANTON], and FRANK LAUTENBERG, our Senator from New Jersey, and a name left off should be Jim Howard because he worked for many, many years as chairman of the

Committee on Public Works and Transportation, as we all know, and was one of the key leaders in this Congress in this particular field of getting America and the East Coast out of the ocean.

For 11 long years the dumping of municipal sewage sludge has continued despite the obvious intent of Congress to end this obnoxious practice. Congress passed an amendment to this very act in 1977 calling for its cessation. We have seen foot-dragging, and we have seen legal maneuvering, but what we have not seen is an end to the damage being inflicted upon our oceans. What this measure says is, "Enough is enough. You can't dump your sewage, and you can't dump your garbage into the ocean anymore. Period. End of story."

As chairman of the Science, Space, and Technology Committee and ranking member of the Public Works Committee, I have held hearing after hearing concerning man's effect on the environment. Ozone depletion and global warming, acid rain, groundwater contamination, clean water, wetlands protection, solid waste disposal, the list goes on. The results of all these hearings has made it abundantly clear to me that we live in a shrinking world which has very definite limits in its capacity to absorb the by-products created by man.

The ocean has sent some very shocking and disturbing signals warning us of its own limits. Once fertile fishing grounds are yielding smaller and often disease-riddled catches, instead of vacationers on the beach we have sick and dying dolphins, needles, and vials of infectious blood. We simply cannot afford to allow this to continue. The ocean is not just some fish tank that you can easily drain and clean out. It takes years and years for the environment to correct the imbalance that man creates, and that is why this legislation is so extremely important.

My colleagues and I have worked very hard to address the concerns of all those affected by this legislation. I believe we have drafted a fair and equitable bill which will not only end ocean dumping but provides a logical and effective process to establish alternatives to replace this practice. We have already heard a detailed accounting of the basic provisions of the bill so in the interest of time, I would like to discuss only what I think are a few key points. First of all there are stringent fees and penalties which are mandated by the agreements entered into by the dumper, EPA and the State. Strict schedules will be reinforced by these fees and penalties insuring dumpers are given every incentive to find alternatives and implement them as soon as possibile. Most of the meney collected under these provisions will be placed in trust accounts to be used by the dumpers for the sole purpose of accomplishing this goal.

Another very important facet of this bill is the involvement of the State in the process. A percentage of the money collected will go to the State to establish a "Clean Oceans Fund" to be used in aiding he dumpers efforts. Also the State will make available 10 percent of its State revolving fund to the dumpers for use as seed money during in the first 2 years of development for the alternative system. Involvement by the State is a point which has sometimes been lost in the push to force the dumpers out of the ocean. This problem is not just a concern for the 130 communities in northern New Jersey served by the municipalities involved. It is the concern of the communities up and down the Jersey coast and across the State in general. These provisions allow the Governors who helped bring this legislation to light the opportunity to remain intimately involved in the process.

Finally, any excess funds collected beyond those used to implement alternative systems will be used to bring areas in the state into compliance with the Clean Water Act, Non-point Source Pollution Control, the National Estuary Program, or implementation of the New York Bight Restoration plan. These are very important programs which will further prevent damage to our water resources, all of which are tied to the ocean.

In closing, I wish to thank all of the members of the Public Works and Merchant Marine Committees for their assistance in bringing this legislation before us today. In particular, I would like to mention my friend and colleague from New Jersey, Mr. HUGHES, who has been a leader in this struggle and with whom I have worked very closely on this subject. We both realize how vitally important the ocean is to our State and we hope you will join us in preventing its senseless destruction.

□ 1830

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Speaker, I rise in support of the conference report on S. 2030, the Ocean Dumping Ban Act of 1988. This legislation reflects the combined efforts of the House Committees on Public Works and Transportation and Merchant Marine and Fisheries, and the Senate Committee on Environment and Public Works. The members of these committees, and the conferees, have produced legislation of which they can be proud—legislation which will terminate the practice of dumping sewage sludge and industrial waste into the oceans.

Under this legislation, ocean disposal of sewage sludge and industrial waste is prohibited after December 31, 1991. Prior to that time dumping may take place only pursuant to a permit issued by EPA and in order to obtain a permit a dumper must enter into an agreement with EPA and the State in which the dumper is located which specifies a schedule for the phasing out and cessation of ocean dumping.

Prior to December 31, 1991, special fees are imposed on ocean dumping, starting at $100 a dry ton in 1989 and increasing to $150 a dry ton in 1990 and $200 a dry ton in 1991. If a dumper can enter into a compliance agreement—an agreement to cease dumping by December 31, 1991—the dumping fees are waived, except for $15 a dry ton to cover the costs of administering the Ocean Dumping Ban Act. If a dumper cannot meet that date it must enter into an enforcement agreement which specifies a schedule and time for the cessation of ocean dumping.

Substantial and increasing penalties are imposed for dumping after December 31, 1991, starting at $600 a dry ton and increasing 10 percent each year plus an additional 1 percent for each year after 1991.

The conference agreement, in addition to imposing substantial penalties for dumping after December 31, 1991, contains provisions to assist in the identification, development and implementation of alternatives to ocean dumping. Each dumper is to establish a trust account into which it deposits 85 percent of the fees and a percentage of the penalties starting at 90 percent in 1992 and decreasing by 5 percent in each succeeding year. The funds in the trust account are available to the dumper to use for alternatives to ocean dumping. Of the fees and penalties, $15 per dry ton is paid to EPA for implementation of the act. The remainder, through 1994, is divided equally into a payment into the State's revolving loan fund under title VI of the Federal Water Pollution Control Act and a payment into a clean oceans fund which the State must establish. Moneys in the clean oceans fund are made available to the dumper, in the proportion in which contributed, for alternatives to ocean dumping. After 1994, the remainder is paid to the State and the State can use it for estuary programs, non point source pollution control, the restoration of the New York Bight, and for deposit into the State's revolving loan fund.

The portions of the dumping fees and penalties which are paid into the States' revolving loan funds are in addition to the grants made by EPA pursuant to the allotment formula in the Federal Water Pollution Control Act. Also, since these funds originate from the dumpers they are not Federal funds and the matching requirement for capitalization grants under title VI of the Water Pollution Control Act does not apply to them.

Mr. Speaker, this is a good bill. It is a fair bill. And it will work. I strongly urge its passage.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Speaker, as a representative of the eastern half of Long Island, NY, I am delighted to be here today to rise in support of S. 2030, the Conference Report on the Ocean Dumping Ban Act of 1988.

This year, the summer of 1988, on Long Island was a tragic one. We were outraged by many items that washed up on our beaches. We were very disturbed by sewage sludge that has affected and degraded our beaches, hurt our tourism and disgusted our people, so I am especially pleased to be here today to speak for and support this legislation, which has taken many, many months to develop and refine.

When I look back at my time in the Merchant Marine and Fisheries Committee as a freshman, as we dealt with this issue when it was first raised in February in committee, as we listened at hearings and finally in June passed this legislation out of the Merchant Marine and Fisheries Committee, I was very pleased that we in fact were successfully moving to finally resolve this multi-year problem.

I would like to lend my support and my thanks to the gentleman from New Jersey [Mr. HUGHES] and to the gentleman from New York [Mr. MANTON], because together they fashioned this bill in conjunction with many other people.

I would like to especially praise the gentleman from New York [Mr. LENT], because as part of this bill to ban ocean dumping of sludge and medical wastes, he was kind enough to add the requirement that the Peconic Bay be added to the National Estuary Program. Peconic Bay is on the eastern end of Long Island and has been severely polluted with a brown algae which has wiped out our scallop crop for the last 3 years. By adding this particular bay to the National Estuary Program, we will now receive the kind of support and aid needed to clean up Peconic Bay and restore this important fishery.

So I am delighted to be here today to say thanks to the gentleman from New York [Mr. LENT] and thanks to my colleagues. You have done extraordinarily good work and we can all be proud of what we are accomplishing here tonight.

Mr. JONES of North Carolina. I urge my colleagues to pass the conference report on S. 2030, a bill to ban the dumping of sewage sludge and industrial waste, and for other purposes.

S. 2030 has four titles: One, the Ocean Dumping Ban Act of 1988; two, the designation of areas for priority consideration under the National Estuary Program; three, provisions pertaining to the disposal of medical waste into United States and ocean waters; and, four, the Shore Protection Act of 1988, pertaining to the transportation of garbage on vessels in interstate commerce.

I am particularly pleased that the House and Senate were able to reach agreement on title I of this bill, the Ocean Dumping Ban Act of 1988. Title I provides an orderly process for the phasing out and cessation of ocean dumping of sewage sludge and industrial waste. At the moment, in the entire United States, only nine municipalities and one company are continuing to use the ocean for dumping of sewage sludge and industrial waste. This act states clearly that such practice is prohibited after December 31, 1991. If dumpers continue to use the ocean for disposal of these materials after the deadline, they will be subject to stiff penalties.

The Ocean Dumping Ban Act is, I believe, an eminently fair piece of legislation. The act is based largely on the concepts developed in the House and in the Merchant Marine and Fisheries Committee. While it provides for stiff fines for those who are unable to meet the 1991 deadline, it also allows a certain percentage of the special fees and new civil penalties to be used by the dumpers for identifying and implementing alternative systems to ocean dumping. Thus, the penalties are both a strong financial incentive to end ocean dumping and a means to help dumpers get out of the ocean. However, the longer the dumper continues to dump sewage sludge or industrial waste in the ocean, the less money will be available to the dumper to spend on the alternative system.

The Ocean Dumping Ban Act authorizes two types of agreements for dumpers. Within 9 months from enactment of this act, a person continuing to dump sewage sludge or industrial waste in the ocean must enter into either a compliance agreement or an enforcement agreement with the Environmental Protection Agency [EPA] which authorizes the dumping and establishes a plan and schedule to end ocean dumping. Absent such agreement, a person cannot obtain a permit under title I of the Marine Protection, Research, and Sanctuaries Act [MPRSA] and cannot continue to dump these materials into the ocean. The act also explicitly prohibits any new entrants into the ocean dumping arena, other than those municipalities who are now dumping pursuant to a permit or court order and were dumping as of September 1, 1988.

Persons who can meet the 1991 deadline are authorized to continue dumping until the deadline provided they enter into a compliance agreement with EPA and obtain a permit under title I of the MPRSA. The conferees intend that EPA should use the normal permitting procedures otherwise authorized by the MPRSA and other applicable Federal law such as the Administrative Procedure Act; however, in all other respects, the Ocean Dumping Ban Act shall control. If a person enters into a compliance agreement with EPA, the special fees imposed by this act will be waived, with the exception of a flat $15 per dry ton fee imposed on all dumpers which will be used for the payment of relevant Federal agency costs.

For those municipalities or persons who are not able to meet the 1991 deadline, they must enter into an enforcement agreement with EPA. These municipalities are subject to both escalating fees prior to 1991 and escalating penalties after 1991. Beginning in 1989, the dumpers under an enforcement agreement must pay a fee of $100 per dry ton of sewage sludge or industrial waste dumped into the ocean. This fee will increase to $200 per dry ton in 1991.

Municipalities subject to an enforcement agreement also must pay a civil penalty if they violate the 1991 deadline. The penalty starts at $600 per dry ton of material dumped into the ocean in the first year of the violation (1992), and escalates by 10 percent plus an additional 1 percent for each year thereafter.

All dumpers who enter into agreements with EPA must set up trust accounts for the deposit of certain percentages of the assessed fees and penalties. Unless the fees are waived, up to 85 percent of the fees and, starting in 1992, 90 percent of the penalties (to be reduced by 5 percent each year) shall be deposited in the dumper's trust account. Moneys in the trust account are to be used solely for identifying, developing and implementing the alternative system, that is, a system for managing sewage sludge or industrial waste other than by dumping it in the ocean. Of the excess fees and penalties, that is, those left over after depositing into the trust account and paying the $15 per dry ton fee to cover agencies' costs, the balance is to be split two ways—50 percent is to be deposited into the respective State's revolving loan fund established under title VI of the Federal Water Pollution Control Act and 50 percent is to be deposited into the clean oceans fund, a fund which the Governor of each affected State must establish and use to assist, on a proportional basis, the dumpers in their States to end ocean dumping.

The $15 per dry ton fee for agencies' costs is to be split equally among the National Oceanic and Atmospheric Administration [NOAA]. Although all fees initially are to be paid directly to EPA, EPA's role with respect to two-thirds of the fees is to be simply a conduit for forwarding their share of the fees to the Coast Guard and NOAA. These fees are to be counted as offsetting collections to the respective agencies' budgets.

Title II of S. 2030 adds four new areas to the list to which EPA must give priority consideration in designating new estuaries under the National Estuary Program, section 320 of the Federal Water Pollution Control Act. These areas are Barataria-Terrebonne Bay in Louisiana; Massachusetts Bay (including Cape Cod Bay and Boston Harbor) in Massachusetts; Indian River Lagoon, Florida; and, Peconic Bay, New York. The conferees intend that EPA shall give priority consideration to these listed sites but otherwise do not intend to modify the procedures for designating national estuaries.

Title III of S. 2030 contains important provisions pertaining to the dumping and disposal of medical waste into United States and ocean waters. Title III adopts the Senate prohibitions on dumping medical waste into ocean waters and discharging medical waste into navigable waters, while accepting much of the House language from H.R. 5213 on what types of medical waste should be regulated. Increasing civil and criminal penalties for dumping medical waste in the ocean should act as a deterrent to those who view the ocean as a repository for waste.

Title III also contains an important subtitle on the disposal of potentially infectious medical waste from U.S. public vessels. Subtitle A of title III prohibits the disposal at sea of potentially infectious medical waste from U.S. public vessels, unless (1) the health or safety of those aboard the vessel is threatened; or (2) during wartime, or a declared national emergency. In the event of either of these two circumstances, the medical waste may be disposed of at sea, provided the vessel is no closer than 50 nautical miles to the nearest land, the waste is sterilized and properly packaged and weighted so that it will not come ashore. In the event the vessel is a submarine and therefore has no sterilizing equipment aboard, the waste needs only to be properly packaged and weighted before it is disposed of during the exempted circumstances.

Enactment of subtitle A should put an end to the improper disposal of medical waste from U.S. vessels and end the washing ashore in North Carolina and other coastal communities of infectious medical waste from such vessels. I am appreciative of the cooperation the Merchant Marine and Fisheries Committee received from the U.S. Navy in developing this subtitle. The policies are based largely on those the Navy's Atlantic fleet headquarters adopted on its own following some regrettable incidents this past summer where medical waste identified as coming from Navy sources washed ashore in North Carolina. With the enactment of this law, such incidents should forever be halted.

Finally, title IV of S. 2030 contains the Shore Protection Act of 1988. This title, based essentially on Senate-passed legislation sponsored by Senators LAUTENBERG and BRADLEY, addresses the problems of improper handling of municipal and commercial waste transported by barges. This problem has been particularly troubling in the New York City area, but, if vessels are used for transporting gargage in other coastal areas, could be a larger national problem in the future. This title requires all vessels transporting municipal or commercial waste in U.S. coastal waters to obtain a permit or other identification number from the U.S. Coast Guard. Since the vessel owner must pay a fee of up to $1,000 per vessel to be identified, this requirment will hopefully not impose an onerous financial burden on the Coast Guard.

Mr. Speaker, I applaud the efforts of many of my colleagues on the Merchant Marine and Fisheries Committee who worked hard and long to bring the Ocean Dumping Ban Act to fruition. In particular, I acknowledge the longstanding efforts of our colleague from New Jersey, BILL HUGHES, a leader in the effort to end ocean dumping. Also working closely with Mr. HUGHES were representatives JIM SAXTON, also of New Jersey, TOM CARPER of Delaware, CLAUDINE SCHNEIDER of Rhode Island, GERRY STUDDS of Massachusetts, ROY DYSON of Maryland, NORM LENT and GEORGE HOCHBRUECKNER, both of New York, and our Oceanography Subcommittee Chairman, MIKE LOWRY of Washington. Finally, I have to say thanks to Representative TOM MANTON of New York who managed to keep his perspective and sense of humor through the many months of deliberations on this sensitive issue.

Mr. Speaker, S. 2030 is an important bill for coastal America. It should result in cleaner oceans and cleaner beaches. For this, all of Amercia can be grateful. I urge the adoption of the conference report.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of the conference agreement on S. 2030, the Ocean Dumping Ban Act of 1988.

This compromise agreement responds to the growing public outrage and urgent congressional concern over the pollution of our oceans. The disposal of sewage sludge and industrial waste, along with increasing evidence of medical waste, have underlined the urgency of bringing an end to ocean dumping.

The agreement before us today represents an important meeting of the minds among the concerned committees in both bodies, members of the New York and New Jersey delegations, and industrial and environmental interests. I applaud all of them for their action on this critically important matter.

I especially want to commend Chairman GLENN ANDERSON, our Water Resources Subcommittee chairman, HENRY NOWAK, and subcommittee ranking Republican, ARLAN STANGELAND for their leadership. They and the leadership of the Merchant Marine and Fisheries Committee worked very effectively with the conferees in the other body to produce a bill that is both environmentally sensitive and sensible.

First and foremost, this bill calls for an end to ocean disposal of sewage sludge and industrial waste after 1991. Between now and then, those who are currently dumping must obtain permits and agree to seek alternatives to ocean disposal.

Seeking other disposal options, such as incineration and land based treatment, is a very important aspect of this legislation. Dumpers would be required to set up trust accounts to fund such efforts, with revenues to come from a system of permit fees and penalties assessed for ocean dumping.

In addition, New York and New Jersey would, for 2 years, set aside 10 percent of their Federal funds under the Clean Water Act to help establish wastewater treatment revolving loan accounts. The loans would aid municipalities in finding alternatives to ocean disposal of sewage sludge.

Responding to the growing number of incidents of medical waste being discovered on beaches along the eastern seaboard, this bill would make it illegal under the Clean Water and Ocean Dumping Acts to dispose of medical waste in navigable waters and the oceans. It toughens penalties for such dumping and prohibits public vessels from disposing of potentially infectious medical wastes at sea.

S. 2030 also requires permits and vessel identification numbers, and provides for waste handling practices and enforcement tools, to protect against commercial and municipal waste pollution in coastal waters. Some would question the need for such a comprehensive regulatory scheme at this point, and I would encourage the Coast Guard and EPA to keep the size of this shore protection program at a workable and effective level.

Of course, nothing in the bill regulates the dumping of dredged or fill material. The discharge of such material into the oceans is currently subject to thorough regulation under section 103 of the Ocean Dumping Act.

Mr. Speaker, this conference agreement represents an important step toward restoring the health of our oceans, and I urge its support.

Mr. BRENNAN. Mr. Speaker, I rise in support of the conference report on the Ocean Dumping Ban Act, S. 2030.

Today we have an opportunity to pass a series of badly needed measures to protect our marine environment. The legislation we are considering contains safeguards against the ocean dumping of sewage sludge, medical waste, and municipal solid waste.

All Americans want our coastal waters to be clean. But in my home State of Maine, I believe we have a special sensitivity to this matter. The ocean represents the source of a livelihood and a way of life for many of us. In August and early September, the Maine Sunday Telegram ran a series of articles on problems facing the Gulf of Maine—and on more serious problems of pollution that have occurred elsewhere. Mr. Speaker, I include these articles in the RECORD.

We all know that the fight to end sewage sludge dumping has been a long one. In 1977 Congress passed amendments to the Ocean Dumping Act to end dumping of sewage sludge that "unreasonably degraded the marine environment" by 1981. In 1981 the city of New York sued the EPA, on the argument that its sludge did not degrade the environment. A federal court rule in favor of New York.

The measure before us unambiguously bans ocean dumping of sewage sludge and industrial waste by 1991. S. 2030 provides for a schedule of fees and fines to enforce this deadline. Moneys collected will be spent on finding alternatives to ocean dumping, construction of wastewater treatment plants, and other Clean Water Act purposes.

S. 2030 also includes provisions to end the abhorrent practice of dumping medical waste. It prohibits the dumping of medical waste from any public vessels, except in cases of emergency. It amends the definition of waste in existing marine environment statutes, the Ocean Dumping Act and the Clean Water Act, to include medical waste. And it establishes tough penalties, including criminal penalties of up to $250,000 and confiscation of vessels involved in dumping.

With regard to solid waste, this legislation tightens regulation of the so-called "garbage barges." It requires that barge operators be licensed and that steps be taken to minimize spillage of solid waste during transport, loading, and unloading.

S. 2030 is one of Congress' most significant measures to protect coastal waters during this session. If we approve this measure, I think we can feel confident that we took another step toward protecting our oceans and waterways. I urge you to give the Ocean Dumping Ban Act a strong vote of approval.

[From the Maine Sunday Telegram, Aug. 28, 1988]

TROUBLED MAINE GULF REACHES A CROSSROAD

(By Tux Turkel and Joanne Lannin)

Maine is inseparable from its ocean. For centuries, the cool, clean waters of the Gulf of Maine have nurtured the state's economy and shaped Maine's identity.

But decades of dumping sewage and toxic chemicals into the gulf, and years of overfishing and poor management, now threaten the sea and ultimately, the animals and people who depend on it.

A six-week investigation by the Telegram has found that the waters of the Gulf of Maine, while a long way from ecological disaster, are troubled by the taint of pollution and the mismanagement of resources.

A review of studies, discussions with dozens of experts and a first-hand look at conditions from Boston to Nova Scotia show that, despite its clean appearance, the Gulf of Maine has been invaded by some of the same kinds of contamination that closed beaches and infected fish in New Jersey, New York, and Rhode Island this summer. At the same time, there is mounting evidence that the gulf's valuable fishing resource is at the brink of collapse because of overfishing and poor management.

Among the growing indicators:

Hundreds of acres of Maine mudflats were closed to clamming this summer due to bacteria pollution, probably caused by inadequate sewage treatment.

Portland Harbor, although clean enough for swimming, has an unexplained presence of petroleum compounds and cancer-causing agents.

Beaches were closed and shellfishing banned in Massachusetts Bay, on the Gulf of Maine's southern rim, after heavy rains caused 400 million gallons of waste-laden storm water to be released into Boston Harbor.

Massachusetts officials warned children and pregnant mothers not to eat certain seafood from Quincy Bay, citing high levels of cancer-causing substances.

Many species of commercially valuable fish, such as cod, haddock, redfish, herring and dabs, have been fished out. Redfish and herring populations have been decimated.

Some Maine fishermen, tired of declining catches and of earning as little as $100 for a six-day trip, have abandoned the gulf and signed on with fishing boats in Alaska.

The New England seafood industry now relies on Canada and Norway for much of its supply of fresh fish.

These and other events are the early warning signs of problems in the gulf, experts say. But they say they don't know enough about how the gulf works to put the threat in perspective.

David Townsend, a scientist and spokesman for Gulf of Maine research groups, made that point bluntly last month to a legislative study committee.

"It is embarrassing to admit," Townsend testified, "that so much of what we believe about our living marine resources remains virtually unchanged from the earlier half of the century, and is in fact pure conjecture."

The gulf took millions of years to evolve. But in just the past century, mankind has brought the gulf to the brink of peril, say oceanographers, biologists and fisheries managers. They say mankind has a decade or so to solve the mysteries of the gulf and figure out how to protect its most fragile features, or the sea will succumb to the eastern march of coastal development and other pressures on its resources.

"We're in a dangerous spot," says Charles Yentsch, founding director of the Bigelow Laboratory for Ocean Sciences. "These changes aren't linear, they are exponential. We can't predict the rate of change very accurately."

GULF IF LIKE AN ENCLOSED TUB

The Gulf of Maine is a semi-enclosed sea measuring 260-by-150 miles. Surrounded by mainland Cape Cod on the south, the Maine-New Hampshire coast on the west and the Nova Scotia coast on the northeast, it is cradled in an underwater embrace by Georges Bank and Browns Bank, sunken ridges that force the Atlantic Ocean through the narrow Northeast Channel.

The gulf is part of the Northeast continental shelf ecosystem, the offshore waters stretching from Canada to North Carolina that share similar geological and biological properties. The gulf is also the cleanest of those waters.

"I would say the Gulf of Maine is in the healthiest condition, in regard to water quality," says Ken Sherman, who studies the relationship between ecology and marine life for the National Marine Fisheries Service in Narragansett, R.I.

The gulf benefits from relatively low population along its shores. It also avoids most seaborne pollution from the south, because Gulf Stream currents generally veer away. But as a shallow, enclosed tub, it accumulates any pollution that streams in from rivers or the mainland. As coastal population and its pressures increase, so does pollution.

MAINERS HAVE LONG FED OFF OF GULF

Population pressures weren't a factor 3,600 years ago when the gulf attracted its first coastal residents.

While the Egyptians were building their pyramids, Red Paint People were living on the Maine coast. These Indians, named for the powdery red ochre they used to line their hillside graves, were Maine's first fishermen. They caught codfish right off the shore and crafted the first fishing vessels for their forays into gulf waters in search of swordfish and whales. Buried mounds of discarded shells piled on beaches throughout New England attest to the Indians' dependence on the sea.

Around the time of the Revolutionary War, fisheries brought in $50,000 annually to the Maine economy. Although shrimp, crabs and scallops were hardly fished at all, the lobster has been a staple of the Maine fishing industry since the earliest days. Two hundred years ago, lobsters were so plentiful they were used for fish bait.

Ironically, the fishing industry now threatens to destroy itself.

Technological advances have made it possible for a fisherman to catch in one trip what he used to catch in one season. No longer do fog, wind or rain slow the fisherman down. He has radar and sounders to guide him through the peaks and valleys of the ocean floor, to the same prime fishing spot every time.

The technological advances, coupled with an increase in the number of fishermen using them and the lack of clear management policies, have decimated some species of groundfish beyond their ability to replenish themselves.

Already, aquaculture sites along the Maine coast, which produce farm-raised salmon, halibut and mackerel, are beginning to take the place of traditionally-caught fish in the marketplace. The future Gulf of Maine fisherman may well be a farmer instead of a hunter.

"I think we'll be driven in that direction," says Brian Marcotte, a biologist with the Maine Department of Marine Resources. "Maine is at a turning point in its fishing industry and ecology."

COAST: LESS WORK, MORE PLEASURE

While the fishing industry struggles to adapt, the Gulf of Maine coast is struggling with its own pressures as it becomes more valuable as an aesthetic resource.

Today, the gulf is being asked to accommodate a social and economic dichotomy. Its shores are being transformed from a workplace to a playground, yet they are crowded with workers who want to play by the water.

Fishermen and their time-worn support services are being shooed off the waterfront from Kittery to Camden. The state's last fish rendering plant, in Rockland, will close this fall.

Meanwhile, the coast has evolved into Maine's leading population and job center. Covering 12 percent of the state, the coast is home to 58 percent of the population and 65 percent of the jobs. Most of the job growth is in the service and retail trades. Land-use patterns reflect a desire to live near the water, not a need born of commerce.

Once a working port, Portland Harbor now accommodates twice as many pleasure boats as commercial vessels. About 600 new marina slips are on the drawing board.

And recreational pressures continue to mount. In the past 10 years, the state of Maine has used about $7 million in federal funds to provide public access to the coast. It will spend millions more in the years ahead.

The danger is in loving the gulf to death. As humans crowd the fragile edge, the byproducts of civilization—sewage, toxic chemicals, airborne deposits—find their way into the sea. Until recently, says scientist Townsend, that didn't seem so threatening.

"The solution to pollution is dilution," he says. "That has guided everyone's thinking about the ocean. But it looks like we're reaching the limit, and when we do, I don't know how we turn it around."

Marine ecologist Ken Sherman and other researchers say Gulf of Maine residents should take note of other similar bodies of water, such as Europe's North Sea and Baltic Sea. Massive doses of nutritients from sewage and fertilizers have created runaway blooms of microscopic plants that choke off oxygen near the shore, killing marine life. Some of these conditions have already been observed off New York and New Jersey, Sherman says, and in the long run these algae explosions may be changing the entire food web.

WHAT DO 'WARNING FLAGS' SIGNAL?

The Gulf of Maine is far from ecological catastrophe. But after decades of swallowing sewage and toxic chemicals, after years of overfishing and poor management, warning flags are going up. The challenge now is to figure out what they mean.

What are the sources of pollution in the gulf?

What effect is pollution having on marine life?

What are the precise physics of the gulf?

How do the fisheries work and how can they be managed?

Maine gleans its identity and economy from its forest and ocean. The Gulf of Maine is, in a sense, Maine's own sea. It has been a cornerstone of the state's past, and will be a critical part in the future. Hard decisions made now, experts say, will dictate whether the gulf endures as a productive source of life, wealth and pleasure in the 21st century.

Gulf of Maine Breeds Abundant and Diverse Life

(By Joanne Lannin)

As early as 1616, New England settlers knew what a productive body of water the Gulf of Maine was. In his "General Historie of Virginia, New England and the Summer Isles," Captain John Smith mentioned the abundance of sturgeon, cod, haddock, mackerel, herring and a number of other species.

In 1925, Henry Bigelow and William Schroeder published their massive report, Fishes of the Gulf of Maine, based on almost 14 years of study in the gulf.

They catalogued 232 different species of fish from 86 different families. Their study identified the major species along with their habits, habitat and abundance.

This bounty of sea life, which has drawn fishermen to the gulf for centuries, is part of an almost-invisible, interdependent food web with its roots in tiny one-celled plants called phytoplankton.

These plankton bloom each spring in bunches so thick they cloud the water and can be seen from satellites orbiting the earth. The annual blooms are followed by explosions of zooplankton, or microscopic animals.

Zooplankton, in turn, are the diet of a wide variety of fish larvae, marine mammals and seabirds.

As luck, or Mother Nature, would have it, many species of fish spawn in the early spring. When the eggs hatch and become free-floating larvae, they are in an ideal position to take advantage of the fertile garden of phytoplankton and zooplankton unfolding around them.

What phytoplankton is not eaten near the ocean's surface sinks to the bottom of the ocean.

There it becomes a banquet for bottom-dwelling invertebrates such as barnacles, sponges, marine worms, sea cucumbers, scallops, mussels and clams.

These diverse sea creatures, some of which are commercially valuable in their own right, attract a wide variety of prey to the ocean bottom. These creatures from the deep include lobsters, crabs and groundfish species such as cod, haddock, redfish and flounder. They feed on smaller organisms and each other if need be.

While groundfish and shellfish are the nost commercially valuable, there is a wealth of sea life in the gulf not hunted for food. These are the sea mammals and seabirds that roam the gulf, competing with fishermen for groundfish and shellfish.

Among them are dolphins, seals, puffins and blue heron and, of course, the most popular marine mammal, the whale.

From sighted whales off Browns Bank to the elusive sperm whale off Georges Bank, giants of the sea prove the rich diversity of the Gulf of Maine.

The return of humpback whales to Stellwagen Bank off Boston Harbor this summer shows the interdependence of various species in the gulf's food web.

For the past five years the humpbacks have avoided Stellwagen Bank, a prime whale-watching site just 30 miles offshore from Boston in the Gulf of Maine.

Biologists theorize that the whales, 50 to 100 strong, are back this summer, because commercial fishermen have fished out the herring and mackerel that compete with whales for the sand lance, a pencil-thin fish now being found in dense concentrations in the Stellwagen area.

Other whales, such as right whales, have also increased in the southern Gulf of Maine this summer.

Gulf's Natural Blender Whips Up Meals for Sea Life

(By Tux Turkel)

The Gulf of Maine is a life-producing engine. Tides. Water temperature. Density. Circulation. These and other forces drive the engine in a seasonal sequence. This is how the Gulf of Maine works:

WINTER

Cold weather is settling in across the gulf. The sun is low on the horizon, just beginning its slow climb toward summer. The ocean continues to cool as surface temperatures drop to near 40 degrees.

Cold water is dense water. At some point, winter cools the ocean surface so it is denser than the water below. The surface water sinks, and warmer, less dense water rises to replace it. Over and over. Sinking and rising. This vertical mixing of deep ocean water is the first step in preparing a springtime banquet for the gulf's inhabitants, an explosion of life that pioneer oceanographer Henry Bigelow called "the vernal flowering."

Plant production is the basis for life in the gulf. The key ingredients are generous helpings of nutrients and sunlight. As deep water comes up from the gulf, it brings along the nutrient nitrogen, a byproduct of dead animals and organic material that has sunk to the ocean floor. Nitrogen becomes suspended at the surface, where it is accessible to microscopic plants that exist year round. They wait for ample sunlight and the approach of spring.

SPRING

The sun is higher in the sky. Days are longer. The microscopic plants drink in sunlight. The vernal flowering has begun.

The microscopic plants are forms of algae. These one-celled plants, called phytoplankton, are the foundation of the food web. Multiplying by the billions now, this intense growth period is called an algae bloom.

Also present in the water are tiny animals called zooplankton. They graze on phytoplankton. Soon after an algae bloom, zooplankton production takes off. That's good news for baby groundfish, such as cod and haddock. Just born and famished, they begin to devour zooplankton. Uneaten phytoplankton that had * * * the surface also sink to the ocean floor * * * they become food for worms, starfish and * * *.

* * * * *

Meanwhile rain is falling across New England and Canada, coaxing snow and ice from the land and washing it seaward at a rate of 250 billion gallons a year. This freshwater flow helps give the gulf a powerful push, setting up currents that circulate nutrients and life.

When river water enters the Gulf of Maine, it turns right—west—and flows toward the Great South Channel between Cape Cod and Georges Bank. It veers right because of the Coriolis effect, a phenomenon created by the earth's rotation and the gulf's latitude.

At the same time, fresher water exiting the gulf is replaced by salt water flowing along the bottom of the Northeast Channel from the open ocean. Warm and dense, it stays on the bottom and fills the major basins: Wilkinson, Jordan and Georges. Being more dense, it depresses sea level, so that the center of the gulf is actually 4 inches lower than coastal waters. That doesn't seem like much, but it's enough to give river runoff a downhill ride toward the basins.

The fresh water is forced to make a detour, however, courtesy of the Coriolis effect. River water is yanked right, setting up a counter clockwise current around the gulf. These currents—gyres—are most pronounced around the three major basins. All that spinning helps continue to bring nutrients to the surface, which fuels life production throughout the summer and fall.

SUMMER

Groundfish have eaten much of the available animal stock from the deepwater algae blooms. The gulf's strong tide now lends a hand by mixing up nutrients close to shore, sending nitrogen to the surface and pumping it seaward.

These tidally-inspired algae blooms occur continually during warm weather, but they play their strongest role in summer when the deepwater blooms have receded. Without them, the gulf would be less productive for fish.

The gulf also periodically benefits, scientists believe, from a shot of nutrition from what are called Gulf Stream rings.

The Gulf Stream is the strong Atlantic Ocean current moving north along the East Coast. It normally passes by the Gulf of Maine. Occasionally, a piece of high-energy current breaks off and spins toward the gulf. This ring pumps deep water into the gulf and pulls surface water out, intensifying the amount of nutrients for phytoplankton. In the long run, that means more food for fish.

The gulf not only produces a lot of food, it serves up its meals efficiently.

In summer, deep gulf waters are stacked in three distinct layers. Sun-warmed water floats on the surface. Salty water clings to the bottom. In the middle, a very cold intermediate layer—left over from the previous winter—forms and isolates the top and bottom layers.

Most important, this middle layer seems to keep phytoplankton from falling to the bottom, in effect recycling nutrients and kicking them back to the surface where they can fuel primary food production.

FALL

The gulf is at its warmest now. But the weather is changing, and storms and high waves can mix deep water sufficiently to create autumn algae blooms. While generally less intense than spring blooms, scientists think they may be important for herring larvae, which hatch in the fall, or as a winter food source for zooplankton. No one knows for sure.

After Eons of Glacial Growing Pains, Resource-rich Gulf Is in Prime of Life

(By Tux Turkel)

Geologically speaking, the Gulf of Maine is a tean-ager. Energetic, growing and productive, it is a sea in its prime.

The gulf wasn't always like this.

Twenty million years ago, the gulf wasn't a sea at all, but a dry coastal plain with rolling hills and stream valleys. Its appearance began to change dramatically 2.5 million years ago, when the first of about 30 separate ice ages rolled in and began working the land. Like sculptors creating an intricate bowl, glaciers chipped and shaved the surface, carving out in relief the ridges, valleys and basins that would eventually form the gulf's complex bottom.

The youthful gulf we know today was born about 16,000 years ago, a mere blink in geological time. The last ice age had parked a mile-thick glacier on New England, stretching seaward and butting up against what is now the underwater ridge called Georges Bank. As the ice receded northward and melting increased at the edge of the Atlantic Ocean, warm, salty seawater flowed back through a deep, submerged valley, now called the Northeast Channel, and began to eat away at the glacial base. Like water infiltrating a puddle of melting ice, it began to thin and lift the glacier, filling deep basins with seawater.

Bloated, the gulf expanded. With the coast still depressed from the weight of glaciers, the sea moved about 60 miles inland as far as Bingham. Prehistoric Portland lay under about 160 feet of water.

Over the next 4,000 years, warm seawater flowed back into the gulf and cold meltwater ran in from the mainland. Sand and gravel, the inland debris called moraine, was scraped up and swept into the gulf. Clay, mud and other glacimarine sediments, those hung up in the ocean environment, melted out and fell to the bottom.

GLACIER OUT OF THE PICTURE

By 12,500 years ago, the Gulf of Maine was free from ice, but not from its influence. Glaciers clung to Mount Katahdin and the mountains, sending streams of ice water and sediment to the sea. The massive input of freshwater created strong currents and a cold brackish environment that favored new and different forms of life.

Land boundaries were changing, too. Coastal Maine rebounded. Relieved of the heavy ice sheet, it emerged as dry land once again. At the eastern edge of the gulf, Georges Bank and Browns Bank stood high and dry. Like dams, they restricted seawater from flowing in, except through the narrow Northeast Channel. Modern fishermen know the banks were once above sea level and connected to the mainland. They occasionally dredge up tree stumps and animal remains on the shallow ridges, some of which lie just 30 feet below water.

REDUCED MELTING SHRINKS GULF

About 9,000 years ago, the gulf went through something of a regression. The earth's climate was warmer and drier than it is now. Freshwater melting trickled off. Deprived of sustenance, the gulf contracted. But a second force also has a hand in creating the shrinking gulf.

Coastal Maine, now free from the weight of glaciers, began to rise out of the sea and set new limits on the gulf. At the same time, Georges Bank sank. Like the surface of a waterbed, land moved up and down in response to shifting weight.

The sinking of Georges Bank sent warm, salty water pouring into the gulf. With little freshwater to drive the gulf's currents, the mixing of fresh and saltwater declined. The result was a warm, saline environment and less marine life.

TIDES, SHIFTING RESHAPE GULF FLOOR

About 5,000 years ago, the gulf entered a more dynamic phase, a time of increased biological production and activity. It is a phase that continues today.

The modern gulf is an accident of geology and sea level.

The underlying factor is the advent of very high tides. Tides help mix water and churn up nutrients. They also create extensive mudflats that harbor clams and other marine animals.

High tides owe their existence to the current shape of the gulf, most notably the narrow Bay of Fundy. This critical shape has been formed through the earth's current experience of melting glaciers, coupled with the sinking of the Northeast coast.

The melting and sinking in the Northeast is raising the sea level. But at the same time, Hudson Bay and parts of northern Canada are rising because glaciers there retreated more recently, only about 8,000 years ago. Like the waterbed, Maine and the Northeast—one side of the bed—are sinking while the Canadian land mass—the other side of the bed—is heading up.

In time, the Gulf of Maine will get so large that it will no longer be in resonance with gravitational forces. Tides will decrease. If natural forces continue to control events, that won't happen for another 2,000 years or so.

But scientists now worry that the burning of fossil fuels is warming the earth and the oceans and melting the polar icecaps. This so-called greenhouse effect will make the gulf grow faster than expected, flooding the coast.

LOBSTER POPULATION DROP FEARED

(By Joanne Lannin)

David Sullivan of Kittery has been lobstering off the Isles of Shoals for the past 15 years, just as his father, grandfather and great-grandfather did.

Like many lobstermen, Sullivan says he has maintained a good catch over the years, though he has, at times, had to go further offshore to find it.

For the past 10 years, New England lobstermen have pulled between 35 and 45 million pounds of lobster, now worth close to $100 million, from their traps. It is the largest and most important fishery in New England.

But though lobstering is stable at present, the future is full of question marks.

Some inshore areas have experienced sharp drops in their catches in the past year.

Most lobstermen are using three to four times as many traps as they did 10 years ago, but they are catching five to six fewer pounds per trap annually. And conflicts over gear have increased as lobstermen venture further offshore to find their prey.

Biologists continue to be concerned about the future of the lobster population. So many of the lobsters being caught are juveniles who have never reproduced that biologists fear a sudden crash in the population.

To prevent such a catastrophe, a New England-wide increase in the legal minimum size of lobsters has begun this year. The increase, from 3 to 3/16ths to 3 and 5/16ths, will be phased in by 1/32 inch a year over the next five years.

This year the legal size has increased to 3 and 7/32nds. Canada and the state of New Hampshire have resisted the size increase. But there are efforts afoot in New Hampshire to comply, simply for economic reasons.

"New Hampshire is still the fly in the ointment," says Ed Blackmore, president of the Maine Lobstermen's Association. "But it is now in an economic bind. They can't sell them (undersized lobsters) anywhere else now."

The rest of the country has also decided to go along with Maine's V-notch program, the conservation measure that many say is the reason why the lobster population has remained stable.

The V-notch refers to the ½-inch nick lobstermen are supposed to make on the tail of an egg-bearing lobster before throwing it back into the ocean.

If the lobster is a shedder with a loose-fitting shell, then notch will only nick the muscle and may last only a year or so. But if the notch is a deep nick in the muscle, it can be visible for as long as 10 years, during which time the lobster may not legally be harvested.

Despite these measures, a number of lobstermen, including Sullivan, think New England should impose a region-wide limit on the number of licenses it issues. Massachusetts stopped issuing new licenses last year and has not lifted the freeze.

"If you limit traps, there will just be an influx of new people," Sullivan says. "I think limited entry would help in the long run."

Sullivan says this year has been slow in starting, but he expects things to pick up in September, as they did last year.

"When my great grandfather went lobstering in the '30s, he told my grandfather lobstering was done," Sullivan says. "Obviously, lobstering wasn't done then. You're gonna have high points and low points. I'd like to think I'm not going to have to get out of it."

[From the Maine Sunday Telegram, Sept. 4, 1988]

FISHING AS A WAY OF LIFE GETS TOUGHER IN NOVA SCOTIA

(By Joanne Lannin)

CLARK'S HARBOR, NOVA SCOTIA.—As the third day of August dawned, a cold gray blanket of fog swathed the boats as they lay in the West Head harbor. It was the 30th consecutive day of fog.

Still, Russell Atkinson and his crew of five moved quickly through the mist, readying their 45-foot fishing boat for a trip the next day in search of tuna.

Like many longliners on the south shore of Nova Scotia, Atkinson usually fishes on the northern edge of Georges Bank, catching cod, haddock, cusk, hake and a few halibut with lines of baited hooks.

The fishing has been good on the Canadian side of the Gulf of Maine the past four years in the absence of American competition. But officials say the stocks are beginning to decline on the Canadian side, just as they have across the line for New England fishermen.

At the same time, the prices Nova Scotia fishermen have been getting for their fresh fish have been cut in half because of a glut of salted and frozen fish in processors' warehouses left over from a year ago.

With thousands invested in their boats, licenses and gear, many fishermen say they are barely able to make boat payments and feed their families. This summer a few, like Atkinson, have decided to cast their lines in search of tuna at the entrance to the Northeast Channel.

Atkinson's livelihood and the livelihoods of many in Clark's Harbor will be affected by his success. Fishing has, after all, been the way of life and the economic lifeblood of the people here for the past 300 years.

"You're either a fisherman or a fish plant worker," says Atkinson, a Clark's Harbor longliner. He has a strong, bear-like build, a long, reddish-brown beard, blue eyes under bushy eyebrows and a warm, musical voice with more than a hint of Cockney roots. "On this island," he adds, "Ninety-nine percent of the people depend on fishing."

Clark's Harbor, population 1,200, is on the southwest edge of Cape Sable Island, the southern-most point in all Nova Scotia. Many of the people are descendants of pioneers from Nantucket and Cape Cod who braved the waters of the Gulf of Maine back in 1760 to find a new home.

Some historians believe Cape Sable Island was the land visited by Eric the Red and his son Leif.

Though Nova Scotia is filled with tourists all summer long, Cape Islanders escape the onslaught because they are off the well-publicized Lighthouse Route. There are no restaurants, no motels and no tourist attractions except the fishing wharves where rows of fishing vessels, their masts shrouded in fog, wait for the monthly high tides to fall.

Yet a tourist would see Nova Scotia here in all its unspoiled beauty. Wildflowers grow in the lush green grass along the road. The houses with their steep-gabled roofs are painted many shades of green, blue, red or white with contrasting trim. Gulls nest on long, rocky sea walls, and stacks of lobster pots seem to fill every available space.

The sounds and smells of fishing are everywhere: from the 36 boatyards, where fiberglass hulls take shape by the roadside, to the 30 fish plants where fish are gutted, salted and stacked in bins for shipment to Europe or the United States.

Robert Cunningham, the owner of the local grocery store, The Village, and a descendant of the earliest settlers, says he can tell how things are going in the Gulf of Maine by the way people spend their money. With boat payments to make, bait to buy and gear to replace, Cunningham says the first thing people cut down on is food.

"Things have been booming the last few years," Cunningham says. "This is the first bad one in some time."

"Everyone knows when it's been a good season," agrees Freman Nippard, a Cape Sable Island fisherman.

Nippard has dark black hair, a compact, muscular build and a twinkle in his eyes behind dark eyeglass frames. He came here 14 years ago from Newfoundland with his bride. He has stayed to raise three daughters and earn a reputation as one of the best longliners in the Gulf of Maine.

Nippard and Atkinson often fish side by side in the Gulf of Maine, and their experiences have made them closer than brothers over the years. After a day of tying strings and hooks onto longline gear, Nippard, Atkinson and another fisherman, Vaughn Atwood, sit at a kitchen table smoking cigarettes, drinking coffee and talking about fishing.

Nippard says he rarely sees his wife, who works in a local fish plant, or his three daughters now that he has bought a second boat. With $445,000 invested in the new boat and another $18,000 for his second groundfish license, Nippard must fish every available day each year to make a good living, which he says is $35,000 a year.

"Everyone says the fishermen are getting rich, but no one figures in all the gear we lose and all the bad weather we bear," Nippard says. "It's a gamble, but I hope when I'm 48 years old, what I've built up will fall in place. Hopefully, I'll have time for my grandchildren."

Atkinson too feels the pressures. He and Nippard recall being off Georges Bank last March in a storm that sank two boats. As the waves rose and fell, the crews huddled below cramped sleeping quarters the size of a couple of coffins.

"It was blowing 70 to 80 miles an hour. We shouldn't have been there," Atkinson says. "But if you've got payments, you've got to go."

While at least 80 percent of New England fishermen, and many Canadians, drag for fish with otter trawls and nets, Cape Islanders and other fishermen on Nova Scotia's southern shore fish with long lines of thin, tightly woven rope that has about 1,600 hooks attached to it.

Longlining is the way Cape Islanders have fished since the 1700s. Atkinson says there are 35 longliners in Clark's Harbor alone.

There have been some advances in longlining over the years. Now, the lines are fed through an automatic baiting machine, cast out early in the evening and hauled back six hours later.

Still, it takes 12 hours "on a good day" to haul back the six lines cast out and to take each fish off its hook.

"We go Friday to Friday, 18 to 21 hours a day," says Nippard. "We get one square meal a day."

These fishermen take pride in being longliners, not because it is hard work but because they say it is a less disruptive way of fishing than dragging.

Draggers use an otter trawl, shaped like a funnel, that catches and kills just about everything in its path, including some undersized fish. But longline hooks catch only fish big enough to grab the bait, and the technique brings them back alive. While draggers catch their quotas well before the year ends, longliners say they rarely reach their quotas.

"They kill more fish than we catch," says Atkinson. "Yet the dragger fleet has 82 percent of the quota."

Most of all, though, these Nova Scotia longliners take pride in fishing the way their fathers, grandfathers and great-grandfathers did.

BATHTUB-SHAPED GULF FLOOR MAXIMIZES TIDES

Monster tides that strand ships and expose miles of mud where water once was: This twice-daily draining and filling is a hallmark of the gulf of Maine.

Why are the tides so high? And why are high tides important to the gulf's productivity?

Scientists say the gulf is like a bathtub that is the perfect shape and size to produce huge tidal swings.

The earth's tides result from a gravitational tugging between the moon and sun. This gravitational pull would cause the oceans to pile up under the moon and sun, except that the continents spread across the globe get in the way. The result is a complex, worldwide pattern of tidal flows that is greatly influenced by how land is shaped.

The Gulf of Maine is basically an enclosed sea. Every 12 hours and 25 minutes, water enters and leaves the gulf. As it turns out geology and sea level have shaped the gulf in such a way that it is in tune—in resonance, as scientists say—with this 12-hour, 25-minute tidal song.

To understand the concept of resonance, imagine sitting in a filled bathtub, one where the foot end is narrower than the head end.

Using your hands, paddle back and forth in the center. Paddle fast, then gradually decrease the motion. At some point, this paddling will create a wave of water that piles up at one end of the tub and then the other. The key is finding the right speed to get that big wave sloshing back and forth. When you find it, that's the resonance period for the bathtub.

In the Gulf of Maine, the narrow end of this tub is the Bay of Fundy, the forked appendage that divides New Brunswick and Nova Scotia. Forty-foot tides are common there because water is forced into a confined space. The wider end is Cape Cod, where the tides are lower because the water can spread out. As the gulf narrows, heading east, tidal range increases.

Scientists say the tub-shaped gulf is in resonance with the tidal period. What they mean is that the ocean tidal wave—like your hand in the bathtub—is paddling at just about the perfect rate so that when it relaxes, the water can flow from one end to the other. That creates the high sloshing in the tub, and the high tides in the Gulf of Maine.

High tides mix up nutrients close to shore and push them seaward, where they help trigger algae blooms. Plant growth is the basis of the food web, and ultimately supports all life in the gulf.

FISH DECLINE THREATENS TO SWAMP THE GULF FLEET

(By Joanne Lannin)

New England fishermen rejoiced when the United States extended its territorial boundaries out to 200 miles in 1976. But 12 years later there is little joy in the Gulf of Maine fishing industry.

The new law succeeded in banishing the foreign fishing fleet from the waters of the Gulf of Maine and Georges Bank, where some of the world's richest fishing grounds had been ravaged by European and Japanese factory ships.

But the new limit set the stage for a series of developments that have devastated fish stocks and now threaten to bring the New England fishing industry to its knees:

New England fishermen invested in bigger, faster boats and the most sophisticated technology, causing some species of fish to decline beyond their ability to recover.

Efforts to conserve and manage fish stocks have been undermined by disregard for the law and a lack of federal enforcement.

In 1984, the World Court settled a long-running conflict with Canada over who owned the rich fishing grounds of the gulf and Georges Bank, with the New England industry ultimately losing a major portion of its traditional fishing grounds.

Fishermen in New England and Canada dump thousands of pounds of fish overboard each year. Almost 100 percent of these discards, usually juvenile fish, do not survive and are lost to the fish stocks as potential spawners.

As a result the annual catch of many species of groundfish in the Gulf of Maine and neighboring Georges Bank has declined by 30 to 50 percent since 1982.

Though the fishing industry has traditionally been a cyclical one, industry officials and regional biologists in both New

England and Maritime Canada see no signs of a quick turnaround in the current situation.

"The stocks are in pretty bad shape," says John Neilson, a biologist with the Department of Fisheries and Oceans in St. Andrews, New Brunswick. "Biomass (the total weight of all fish) is at an all-time low."

"I don't see anything in the future happening to improve the situation," agrees Vaughn C. Anthony, of the National Marine Fisheries Service in Woods Hole, Mass. "I think more fishermen will be going out of business in the next few years."

The landing figures for 1986, the most recent ones available, show the extent of the decline in fish stocks. In the past four years, landings of haddock, dabs, Atlantic cod and winter flounder in the Gulf of Maine have been cut by more than half.

Most alarming are the figures for haddock, which show the catch in the Gulf of Maine has decreased from 7.6 thousand metric tons in 1983 to 1.8 thousand metric tons in 1986. A metric ton is 2,204 pounds.

While official figures are not yet available, fishermen say 1987 was no better than 1986. And this year, they say the fishing is off by half. Things are so bad that a number of Maine fishermen spent this summer in Alaska as crewmen on fishing boats there.

"In the summertime, the money's not there for the effort we put in," says Tom Jordan, owner of the Rachel and Heidi out of Portland. On one trip this summer, Jordan and his crew stayed out for 5½ days looking for fish. After paying boat expenses, the crew earned less than $100 each.

"I've never seen it so bad," Jordan says. "Everyone's in a panic."

Fish prices have only made things worse. While prices rose during the first few years of the fish decline, they have now dropped dramatically because of an increase in fresh groundfish imported from Canada, Alaska, Norway and other European countries.

New England fishermen used to have the fresh groundfish market to themselves, but it has now become a global market, spurred on by a new consumer demand for fish and its highly touted health benefits.

"As our supply becomes smaller, we become less important in that market," says Robin Alden, editor of Commercial Fisheries News, the industry's monthly bible. "It remains to be seen if we can compete successfully in a world market."

"WAY OVERFISHED"

Biologists blame the decline in fish stocks on a tremendous increase in fishing pressure from New England and Canadian fishermen. Even fishermen agree there are more boats out there today—especially in traditional fishing grounds such as Georges Bank.

"It looks like a city out there with all the lights and buoys. You don't have room to move," says Gary Dedrick, a Nova Scotia fisherman, of Georges Bank. "In my opinion, it's way overfished. I don't know how long it can take this kind of pressure."

Statistics show the change: In 1976 there were 236 trawlers of 50 to 150 tons in the New England fleet, and only 43 vessels over 150 tons. In 1986 the number of vessels in the 50- to 150-ton group had nearly doubled to 418, while those 150 tons and over had tripled to 127.

Not only are boats bigger and faster, but they are now equipped with sophisticated radar and sounding gear that make the cabin resemble an airplane cockpit.

Vessel captains now peer into video-game-like screens where they can see the movement of their own boat across the ocean or retrieve satellite information that shows where the fish are headed.

The screens also show the kind of terrain the boat is traversing. Boulders or patches of rocks are highlighted in orange or red in many systems, making them stand out like warning beacons.

These advances have given fishermen a great advantage over their dwindling prey. Between 1976 and 1986, fishing effort increased 100 percent in the Gulf of Maine and 57 percent on Georges Bank.

"American fishermen have tremendous catchability," says Anthony. "Guys today can tow along the bottom very precisely and come back next month and go right over it again. The only ones who could do that years ago were the oldtimers."

LEGAL FISHERMEN SUFFER

Tom Jordan of Portland has been fishing in the Gulf of Maine since he was a teenager. Two years ago, when he was 32, he finally invested in his own boat, a 64-foot dragger named after his two daughters, Rachel and Heidi.

Jordan resents being blamed for the current state of affairs. Like other fishermen, Jordan believes the stocks could stand the pressure of legitimate fishing if all fishermen would abide by state and federal regulations.

But, he says violations are rampant, particularly among boats run by captains and crews for absentee owners.

"The real fishermen, the owner-operators, try to make the regulations work," says Jordan. "The people that suffer are the ones that go by the laws."

Jordan and Marshall Alexander, a fisherman from Biddeford Pool, say it sickens them to fish beside boats using nets with mesh holes much smaller than the legal size. They admit they have squealed on a few.

"They were taking more (undersized fish) in three weeks than we put back in a year," Jordan says. "People play games. They change nets on the way in or say they're going after shrimp but don't."

The problem, many say, is the lack of enforcement by the federal government, which oversees the activity of the fishing fleet in the Gulf of Maine. The National Marine Fisheries Service has just 25 agents to enforce its laws from Virginia to Maine.

And with the federal government's emphasis on drug patrols, the Coast Guard is often too busy to transport agents out to the fishing grounds.

The situation is so bad in some parts of New England that the Fisheries Management Council is considering eliminating some of the more difficult to enforce regulations.

RICHES TO CANADA

The loss of prime fishing ground is also hard for fishermen to take.

In 1984 the World Court split Georges Bank between the United States and Canada to settle a long-running dispute about who owned the rich fishing grounds that form the southeastern border of the Gulf of Maine.

The decision gave Canada the rich northeast tip of the bank, where haddock, swordfish and scallops are found in abundance, and forced many boats out of their traditional fishing grounds.

Canada has enforced the line with regular armed patrols, and has fined any boats caught over the line, whether they were fishing or not, and confiscated the fishermen's boats, catch and all.

Some fishermen began making longer trips out to international waters off the Grand Banks to avoid conflicts over the line. But many other boats were forced closer to shore in the Gulf of Maine, where they now compete for the dwindling supply of fish with smaller inshore boats.

Biologists say the result of all this is that most finfish species are maintaining themselves at low levels. That is, just enough successful mating and spawning goes on each year to provide new fish, but not enough to produce what is known as a "good year class." Year class refers to the year in which a fish is born.

"When you increase the effort beyond the fish's ability to replenish itself, obviously the stocks are going to decline," says Ron Schultz, biologist with the National Marine Fisheries Service at Woods Hole. "Years ago they talked about the endless ocean forest. Believe me the fish stocks are finite."

One species that has been just about fished out is redfish, also called ocean perch, which are most common in deep waters of the Gulf of Maine. Redfish are slow-growing fish that reach maturity at age 8 or 9 and can live more than 50 years.

Redfish catches in the Gulf of Maine rose to 15,000 metric tons in 1979 but declined to 1,800 metric tons in 1987.

According to biologists, because so few redfish are out there spawning, things will get worse no matter how little fishing goes on in the next few years.

"It going to decline this year whether you fish it or not," says Anthony.

The amount of fish actually caught in the Gulf of Maine may not be the biggest threat. Some biologists believe the discard problem may be undermining conservation efforts.

In New England there is a minimum size limit on the major commercial groundfish species. Fishermen's nets are also regulated to allow groundfish below the minimum size to escape the net.

But in reality, many undersized fish make it on board because the nets get clogged when almost full. In addition, thousands of pounds of juvenile flounder, cod and haddock are dragged on board during shrimp fishing operations each spring.

That is because shrimp trawlers are allowed to use a 1¾-inch mesh net, as opposed to the 5½-inch net groundfish draggers use, to trap the tiny northern shrimp most often found on the soft, muddy bottom of inshore waters in the Gulf of Maine. This same environment is also home to juvenile fish in early spring, which also happens to be New England's inshore shrimp season.

University of New Hampshire professor W. Hunting Howel and graduate student Richard Langan found the discard problem in the Gulf of Maine to be significant. Howell says that even though fishermen cull through their catch and throw the juvenile fish back overboard, close to 100 percent of these "victims" do not survive.

Though the problem is obvious, the solution is not. The northern shrimp is worth $6.5 million a year to the New England fishing industry.

[From the Maine Sunday Telegram, Sept. 4, 1988]

U.S., CANADA CLASH OVER CONSERVATION AND BOTH FAIL

(By Joanne Lannin)

Since 1977, attempts to conserve the groundfish stocks in the Gulf of Maine and on Georges Bank have failed.

At the same time, conflicting efforts by Canada and the United States to manage fishing have contributed to the decline in the Gulf of Maine groundfish stocks.

The problem is the two countries cannot agree on whether the American size-limit system or the Canadian quota system is the best management tool. And while both methods of management have their merits, both Canadian and US. officials say an inability to enforce the regulations has undermined management efforts.

"Given the problems with enforcement, the regulations haven't been given a chance," says Robin Alden, editor of Commercial Fisheries News in Stonington and a former member of the New England Fisheries Management Council.

The United States and Canada have been at odds over regulations since the 200-mile limit went into effect in 1977. At that point, the two countries still shared the Gulf of Maine and the rich fishing grounds off Georges Bank.

Officials recognized the need to cooperate on managing the fish stocks. But the two countries remained at loggerheads because of their differing philosophies and social systems.

The goal of American regulations has been to allow fishermen to catch all the fish they can all year while allowing juvenile fish to escape fish nets. The theory is that these juvenile fish will survive to spawn before being caught in two or three years.

New England fishermen complain about the regulations but live with them because their right to fish any time they want is not restricted.

Canadian regulations are based on the assumption that limiting the total number of fish caught, as well as limiting the number of fishermen in the industry, will keep fish stocks stable. Fishermen tolerate the system because they get unemployment compensation during closed seasons and after their quotas are reached.

The differing regulations work in theory for those fish that reside in distinct areas of the Gulf and do not venture over the line drawn across the gulf by the World Court in 1984. But for those fish that cross the line, such as haddock, cod and pollack, each country's regulations undermine the other's.

New England fishermen catch as many legal size fish as they want, and the Canadians catch the juvenile fish that have escaped U.S. nets and have ventured east of the line.

"You end up frustrating each other's programs by not allowing each other to reach its goals," says Guy Marzhesseault, deputy executive director of the New England Fisheries Management Council in Danvers, Mass.

"If we worked together, things would be better," agrees Sandy McLean, deputy minister of the Department of Fisheries and Oceans in Nova Scotia.

Quotas are the underpinning of the Canadian management system. Many European countries also use the quota system, and it is endorsed by biologists from both Canada and New England.

"Quotas are the most direct way we have to control exploitation,'" says John Neilson, a biologist with the Department of Fisheries and Oceans in St. Andrews, New Brunswick.

Quotas are set each years for each species of fish in each area of Atlantic Canada. The multi-step process begins with biologists like Neilson deciding what the total allowable catch (TAC) for a particular species of fish shold be, based on what was caught the year before and on survey samples of the fish population.

Once the biologist figures the TAC, he or she must go before the Canadian Atlantic Fisheries Scientific Advisory Committee, where the TAC is argued much as a graduate thesis would be.

"It's an extensive and exhaustive review," Neilson says.

The TAC is then passed along to management officials, who decide each user group's individual quota. For example, one user group might be owners of longline vessels under 60 feet in southwest Nova Scotia.

"The overall concept is that no matter how they divide it, we have set the total dimensions of the pie," Neilson says.

Some fisheries biologists in New England agree that quotas are the best way to conserve the resource.

Vaughn Anthony of the National Marine Fisheries Service in Woods Hole says the theory behind the American strategy of allowing juvenile fish to escape through nets with bigger holes is sound. But in reality, he says many small fish are caught when the net begins to clog and fill.

Those undersized fish are ultimately discarded at sea, and most do not survive the ordeal.

Anthony says the fact that only the smallest "virgins" are left to spawn makes for inefficient reproduction. The larger and stronger undersized fish tend to be the ones that fail to survive the catch-and-release experience.

Anthony says it makes sense to ensure the survival year after year of some of the largest fish, which produce the most eggs. He favors a system like Iceland's, where fishermen are allowed to choose whether to catch all they want for half the year or to fish year-round while adhering to a quota system.

"You have to reduce the amount of take to build stability," Anthony says. "There is a value to mesh size but it does not control the stock."

But while biologists call quotas the most effective conservation tool, many fishemen in Nova Scotia say rampant cheating by fishermen on trip limits undermines the quota system. A trip limit is a quota placed on the amount of fish a vessel can catch on a single trip.

Trip limits were imposed on the inshore dragger fleet because they had been reaching their yearly quotas after just a few weeks of fishing. But fishermen say trip limits force the dragger fishermen to discard any fish over their limits.

"They (the large fish plants) send them out with a shopping list," says Russell Atkinson, a Clark's Harbor longliner. "If they haul more haddock than they need, they dump the rest."

Lack of enforcement also undermines the quota system. With only 60 to 70 enforcement personnel to keep track of 8,000 fishermen and 3,500 boats at 300 points of entry from Digby to Lunenburg, enforcement efforts are doomed to failure.

"They have all kinds of codes set up," says Gary Dedrick, a Birchtown longliner. "They have someone there (on the dock) in the middle of the night to take their extra fish."

Marzhesseault of the New England Fisheries Management Council says the United States tried quotas briefly in 1977 when New Englanders increased their fishing effort after the 200-mile limit went into effect. But he says the quotas led to the same problems cited by Nova Scotia fishermen, with significant discard out at sea and misreporting of catches.

"They were troublesome. We had no confidence in them," Marzhesseault says of the quotas.

Marzhesseault says the 5½-inch mesh size now in effect is a much more effective management tool, when combined with the closing of spawning areas during spawning season, because it is based on the biology of the fish population.

The mesh size refers to the size of the holes in the net in the cod end, the part of the funnel-shaped net the fish swim to as the net drags along the ocean bottom.

James Wilson, professor of economics at the University of Maine, has some preliminary evidence that seems to support mesh size and fish size limits as the best ways to conserve the stocks.

Wilson, one of the prime movers behind Portland's fish auction, built a computer simulation of a small ecosystem like Georges Bank, plugging in the biomass of each species along with characteristics of each.

Once the data on each species were added, Wilson's system became chaotic and it became impossible to predict fish populations. To economists, this suggests that scientists know a great deal about individual species but little about the way the whole ecosystem interacts.

Economists started fishing in their make-believe world, responding with various management techniques when a species began to decline. They found that quotas and limits on the number of fishermen did little to change an evolving situation but that mesh-size limits did.

"It's not proof of anything, it's suggestive," says Wilson. "We still have a lot of tweaking to do."

As with Canadian quotas, cheating undermines American management efforts. Officials say minimum fish size is easy to enforce at the dock when fish are unloaded. But the mesh size regulations require at-sea enforcement at a time when government cutbacks have reduced the number of enforcement personnel.

Because no one is watching, many fishermen use net liners to decrease the size of the mesh so nothing will slip through. Or they switch from illegal to legal-sized nets on their way into port.

"There is fairly broad-based non-compliance up and down the coast," Marzhesseault says.

Despite enforcement problems, officials in both countries agree the most important thing that could happen to fisheries management is cooperation between the United States and Canada. Wilson says he has been trying for several years to get the two countries' management people to sit down and work out an agreement.

But while Canadian and New England biologists have met privately, there has been little movement.

"We're going to have to sit down and negotiate a common arrangement," Wilson says.

LOBSTERS SEEK TRAPS, STUDY FINDS

(By Joanne Lannin)

SOUTH BRISTOL.—What happens when you remove all the traps from an area abundant with lobsters? Why, they leave the area to find more traps, or course.

In July 1987, Robert Steneck, a biologist at the University of Maine's Darling Center, asked 50 lobstermen if they would be willing to remove their traps from an area approximately 300 yards by 600 yards at the mouth of the Damariscotta River for about 90 days.

Steneck chose that area, called the Thread of Life, because it is the richest lobster ground on the coast of Maine, a place where veteran lobstermen will tell you the average catch per trap is about one keeper every other day.

Steneck hoped to determine the feeding habits of lobsters in a trap-free environment. True to his predictions, the lobsters quickly went for the mussels set out for them on trays. But after the first two weeks, the lobsters began to leave the area completely.

There were no storms during the period and no dramatic water temperature changes to account for the exodus. Steneck says the lobsters left for one reason: to find more lobster bait.

Steneck says their behavior was consistent with other research he has done, which found up to 80 percent of lobsters' food to be lobster bait. He says lobsters have been videotaped reaching into traps and pulling out the bait.

In addition, lobstermen must throw back any undersized lobsters they catch in their traps. In all, Maine lobstermen use about 50 million pounds of bait each year to bait 2 million traps and catch 20 million pounds of lobsters.

"They are making out like bandits," Steneck says of the lobsters. "But that didn't surprise any lobstermen. They say they have been farming lobsters for years."

What the findings suggest is that the proliferation of lobster traps along the Maine coast over the years may not be as bad for the lobster population as some biologists have feared. Steneck thinks these findings should be considered by those in favor of trap limits.

"I think trapping can have a net positive effect," Steneck says.

But another biologist, Jay Krause of the Department of Marine Resources, doubts that lobsters would decline if the number of traps decreased. He points to high catch rates at the turn of the century despite the fact that there were only 250,000 traps in Maine waters.

"It would have an effect on the other populations," such as blue mussels and crabs, Krause says. "But I can't help but believe the lobster population would thrive without traps."

Steneck plans to continue his lobster study by dragging small areas of the Thread of Life to determine the effect of dragging on the lobster population.

Lobstermen and mussel draggers have clashed often in recent years, with lobstermen charging that the action of the drags disturbs the ocean bottom and chokes lobsters caught in the wake.

Steneck also fears that draggers may disturb the juvenile lobster's fragile habitat, which he has found depends on the presence of shelter-ready cobbles and boulders.

"If juvenile lobsters can't find a hiding place, they're goners," Steneck says. "They can burrow into soft ground but it takes hours and attracts fish."

Steneck says there are no restrictions at present on where dragging can take place. But if his study proves a direct impact, "we might want to protect lobster nursery grounds. * * * That still has to be quantified."

[From the Maine Sunday Telegram, Sept. 4, 1988]

SALMON FARM LURES DOWN EAST FISHERMEN

(By Joanne Lannin)

CUTLER.—Robert Nelson Cates, 63, had his doubts about aquaculture. After 40 years of setting a net and hoping for a good run of Down East herring, it was strange to see 105,000 salmon waiting in the harbor for their next meal.

But when officials from Nordic Enterprises in Greenwich, Conn., came to Cutler and asked Cates and his son to help them out in 1986, they decided to give it a try.

With financial backing from the parent company, Cates and his son acquired a 6.3-acre lease in Little River and began raising Atlantic salmon. This month, they will take their first 18,000 salmon to market.

"To put it in a nutshell, the purse seiners have crippled the (herring) stocks," Cates says. "I said to myself, 'this might be a good business. The younger fellas might be able to take a hold.' "

The Cates are two of a number of Down East fishermen who have turned away from traditional fisheries to raise Atlantic salmon in pens. Industry officials say the value of farm-raised salmon may surpass that of wild fisheries by the turn of the century.

"Farm fish will soon be the largest food industry in New Brunswick," says Brian Rogers, general manager of SeaFarm Canada and president of SeaFarm Maine. "And there is good potential for Maine."

"We cannot expect that traditional ocean harvests can meet the rising demand for fish. Our ocean resources are already hard pressed," said Spencer Apollonio, the former commissioner of the Department of Marine Resources. "Acquaculture provides the technology and the opportunity to supplement the sea's natural production."

According to Ken Honey of the Maine Department of Marine Resources, the first lease for salmon pens was approved in 1986. Now there are 18 firms, many with multiple leases, raising salmon on 440 acres off the Maine coast.

The acquaculture activity has spread south and across Cobscook Bay from New Brunswick, where 31 salmon farms have sprung up since the first lease was granted to a Norwegian company in 1978.

Maine's biggest salmon raiser, Ocean Products Ltd. of Eastport, expects to sell 1 million pounds of farm-raised salmon this year. In New Brunswick, the value of aquaculture products is already equal to traditional fishery products.

What makes Down East Maine and the coast of New Brunswick such a natural niche for salmon farming are the tides that rise and fall an average of 20 feet a day and provide ideal water temperatures for juvenile salmon.

During the warmer months, the tides create a plume of cold water that extends from Grand Manan Island at the mouth of the Bay of Fundy southwest along the Maine coast to well beyond Penobscot Bay. In the winter, the tidal mixing keeps coastal waters in this region above freezing.

Honey says attempts to raise salmon south of Vinalhaven in the early 70's failed because the water got too cold in the winter. "Salmon can't stand water less than 32 degrees," Honey says.

The action of the tides also flushes out the area around the pens each day, allaying some concerns about fish feces polluting the coastline and affecting shellfish.

To help monitor aquaculture leases on a regular basis, the state of Maine has added one environmental scientist to its marine resources staff.

Honey says the new industry has an incentive to keep its pen areas free of pollution. The six-inch smolts, or juvenile salmon, take 18 months to grow to market size. The smolts cost about $2.50 each but will bring $4 to $5 a pound when the fish are market size.

"It's a risky, expensive proposal," agrees Cates. "If it bothered the water quality in any way, I've told them I'd be the first one to get them out."

Another barrier to salmon farming has been lifted in the past two years with the opening of several salmon hatcheries in Maine and New Brunswick.

Two years ago, salmon farmers could not get enough smolts to stock their pens. Now Sea Farm, Ltd. has three hatcheries, and Ocean Products opened a hatchery in Machias early this summer.

"The situation has changed most dramatically," says Rogers of Sea Farm. "We have the potential to raise 1.5 to 2 million smolts a year."

As for critics who say the pens interfere with navigation and traditional fisheries, state law has been toughened so that no aquaculture lease will be granted if a harbor is blocked or fishing is displaced.

Honey says 30 percent of lease applications are rejected each year because they don't meet the criteria. There were 39 lease applications that went to public hearings last year.

In the Cutler area, Cates says other fishermen don't seem to mind the sight of the pens in their harbor. But they are skeptical of fish-farming as a way of life, just as Cates still is to a degree.

Cates says his involvement with Nordic Enterprises is risk-free. He gets paid a weekly salary for tending the fish, and his expenses are taken care of by the parent company.

"If it turns out all right, I can buy in 20 percent," Cates says. "But I don't know if it's a paying proposition yet or not. I guess I'm just an old Down Easter."

[From the Maine Sunday Telegram, Sept. 4, 1988]

CONTENTS OF FISH STOMACHS HELP SHAPE PROTECTION OF RESOURCE

(By Joanne Lannin)

SHEEPSCOT BAY.—Juvenile herring run through the bay all summer long. Yet Rich Langton, a biologist with the Department of Marine Resources, was surprised when he found a number of the speedy herring inside the stomach of a slower-moving skate.

"You don't expect that," Langton says. "There must be something in the behavior of the herring that allows the skate to prey on them."

Langton has been sampling the contents of fish stomachs in the Gulf of Maine for a year now. He and Les Watling of the University of Maine's Darling Center have made 22 trips out to Sheepscot Bay since last August to catch fish and check their stomach contents in an effort to construct a precise picture of the food web in the Gulf of Maine.

Just as different cultures have developed a preference for different foods, various species of fish in the Gulf of Maine have their own eating habits.

By understanding "who's eating whom," Langton and Watlin hope to provide the knowledge needed to improve fisheries management strategies in the future. They will study the fish population for two more years before publishing their findings.

"The aim of this study is to get an early warning of what is going on out there," Langton says. "Once we understand the food chain, we can understand why it changes. Our chance of sustaining the fishery will be a lot better."

The researchers chose Sheepscot Bay because it is a rich spawning ground for many different species of fish due to the action of the three rivers running into it: the Sheepscot, the Damariscotta and the Kennebec.

The bay is home to cod, several species of flounder and ocean pout. There are also a multitude of underused species, such as sculpin, skates and sea ravens.

"It's been known for a long time as spawning area," Langton says. "The question no one has asked is why."

On a recent trip, Langton, biologist Herb Perkins and boat captain Mike Dunn made three, 30-minute drags about nine miles out from Boothbay Harbor, near Bantam Rock, Sequin Island and the mouth of the Kennebec River. They used a net with mesh much smaller than the legal 5½ inch size so that they would trap the younger fish.

Young herring, while plentiful, are too fast for this net. But each tow brought up a handful of squirming fish along with a mass of sea stars and a few crabs. Langton and Perkins dumped the contents of the net into a plastic bin filled with water and picked through the jumbled pile.

The biologists separated the fish into another bin and threw the rest back overboard. Then they cut open the fish, removed the stomachs and preserved them in solution for examination later on, tagging each jar with the species, size and sex of the fish.

Langton, who has been with the DMR for eight years, worked on a similar study of all North Atlantic fish in the 1970s when he was with the National Marine Fisheries Service in Woods Hole, Mass. Langton says sampling stomach contents is not as unappetizing as it seems.

"Opening up a fish is like taking a sample of the ocean bottom," Langton says. "They don't chew, they gulp. It's not like cleaning up after your dog or cat."

Indeed, the samples cut open on board that day clearly showed what the fish's last meal had been. Opening one sculpin's stomach was like opening a can of sardines, revealing herring inside. Another sample showed the ocean pout's favorite meal to be tiny clams, shells and all.

"They come inshore for their summer clam dinner," Langton says.

While results won't be published for another two years, Langton and Watling have come up with some interesting preliminary findings. For instance, they have found the crangon, a small snapping shrimp-like creature, to be a major prey item for many more fish species than they had previously thought.

Langton says that by finding out which prey items are the most important, fisheries management officials may be able to predict the strength of future year classes of fish by measuring the abundance of their prey at a given time of year.

Future fisheries policies might even include efforts to find markets for underutilized fish, such as sculpins, that tend to prey on the same things as more valuable fish such as yellowtail flounder.

"It may be that we should be looking for a market for sculpins to get the system back into balance for yellowtail flounder," Langton says. "By understanding who's eating whom we can see what may have an impact on the commercially important species."

[From the Maine Sunday Telegram, Sept. 11, 1988]

POLLUTION MUDDIES GULF OF MAINE WATERS

(By Tux Turkel)

BOOTHBAY HARBOR—At the bottom of a freezer at the Bigelow Laboratory for Ocean Sciences lie 10 plexiglass tubes filled with mud from the bottom of Casco and Penosbscot bays. For lack of money to analyze it, the mud has been frozen since 1983, waiting for tests that might show whether pollution from cars and power plants is drifting into the Gulf of Maine on the wind and rain.

The Gulf of Maine is relatively clean, scientists agree. It is not ringed with industrial outfalls, as is Europe's North Sea. Unlike Chesapeake Bay, it generally is not loaded with sewage from major cities and farms.

Yet, contamination is creeping into the Gulf of Maine.

Increasing levels of polychlorinated biphenyls or PCBs, a now-banned compound used in electrical components, have turned up in Casco Bay.

Byproducts of burning oil, known as polycyclic aromatic hydrocarbons or PAH, are present in Casco and Penobscot bays.

High concentrations of toxic lead have been found in Boothbay Harbor crabs.

Pollution from Boston Harbor, one of the dirtiest harbors in the country, has moved from Massachusetts Bay into other parts of the gulf.

These discoveries may be early warnings of trouble for the gulf, some researchers say.

"I think we have been lulled into a false sense of security because we don't have major industrial discharges into the Gulf of Maine," says Anne Johnson, a former Bigelow Laboratory researcher who now works for the State Planning Office. "But we do have evidence of degradation. So where is it coming from?"

No one knows for sure. So little research has been done that, in most cases, scientists can not say if the contamination poses a long-term threat to fisheries or public health.

One exception was highlighted in July when Maine officials closed hundreds of acres of clam flats due to bacterial pollution. The suspected cause is the thousands of private sewage systems that dump lightly treated waste into the ocean.

These so-called overboard discharge systems were licensed by the state over the past 15 years. While that form of sewage treatment is now banned, existing pipes and the cumulative impact of new development will keep many flats off limits.

Bigelow's acting director, Patrick Holligan, says development along the East Coast makes it inevitable that Maine's coastal resources will degrade further in the years ahead.

"The next question is one of prediction," he says. "How fast is it going to happen? What needs to be done to prepare for it?"

The apparent health of Maine's coastal and offshore waters is offset by nagging questions.

In 1980, a federal project was carried out in Casco Bay and Portland Harbor by Peter Larsen, a scientist who studies the ocean floor. The aim was to see if low-level pollution in fisheries habitat indicated larger potential problems.

As part of the project, Larsen took sediment samples and had them analyzed for metals. PCBs and hydrocarbons. In 1981 and 1982, working with Anne Johnson, he followed up with similar samples. The studies revealed high levels of metals in Portland Harbor.

Metals are naturally present in the environment, but can be toxic to fish and humans in large concentrations. Larsen now says the findings are not surprising, considering the urban setting and historic industrial input.

Of greater concern was an apparent rise in the concentration of PCBs.

PCBs are thought to cause cancer and are known to cause productive defects. They accumulate in body fat which is why the federal government advises children and pregnant women not to eat fish with significant concentrations of PCBs.

In Casco Bay, Larsen found no PCBs in 1980, but subsequent samples turned up increasing amounts. Larsen wondered whether the increase represented recent or current discharges of the chemical compound. He still does not know, since he was unable to get money for follow-up studies.

The most surprising finding was the high PAH concentrations. These compounds, associated with incomplete oil burning from cars, factories and power plants were evident in ocean mud and sand.

PAH compounds are considered cancer-causing, but there are dozens of compounds, and some are more toxic than others. Researchers have not determined safe levels for human consumption.

Additional studies by Larsen also drew several preliminary—and controversial—conclusions:

PAH compounds are settling and concentrating in deep basins of the Gulf of Maine.

The compounds seem to travel in the air before being deposited in the ocean during storms.

Particles settling onshore also collect in stormwater runoff, where they are tranbillion, 11-year cleanup project, officials say it will be just the first step in making the harbor safe for swimming and marine life.

On a broader scale, pollution is seeping from the harbor into the Gulf of Maine. A 1984 study by Battelle Research Laboratory in Duxbury, Mass., shows that PAH compounds and PCBs, both cancer-causing materials, are moving offshore and settling in deep basins.

PEOPLE MOVING TO THE COAST DUMP MORE POLLUTION ON MARINE LIFE

(By Tux Turkel)

Fish take notice: Humans like the Gulf of Maine too, and they are crowding the edge as never before. Get set for more pollution as they send their wastes seaward.

Here is the problem, at least for the gulf. Maine's coast, which covers 12 percent of the state, is home to 58 percent of the state's 1.2 million people and 65 percent of the jobs. That concentration is expected to continue.

In Massachusetts, 40 percent of the state's 7 million people live in coastal communities and 75 percent live within an hour's drive.

Worse, the shift from a manufacturing economy to retail and trade requires more land per new job. That means more highways, parking lots and buildings lining the gulf.

"Where you have more condos, marinas (and development), you're going to have some increased pollution load," says Jim Bernard, natural resources policy director at the Maine State Planning Office. "It's just the nature of the beast."

But trying to determine the effects of development-spawned pollution and how to control it is an overwhelming task. Except for Boston Harbor, no one can point to one big pipe, one big manufacturing plant.

Instead, storm sewers, parking lots and obsolete treatment systems from Cape Cod to Canada trickle varying amounts of sewage, chemicals and compounds into rivers and bays and, finally, into the Gulf of Maine.

Researchers are unsure how this diffuse discharge affects the overall health of the gulf. A regional attempt to monitor the gulf's environmental quality is getting underway.

We have a little more time to learn a few lessons from what has been happening (to the south) and see if this is the way we want to go or not," says Bernard.

The underlying trends of coastal development are made clear in an article by state economist Charles Colgan in a planning office report called Coastal Choices: Deciding Our Future.

The forest and the coast are the foundations of Maine's economy, Colgan points out, but the coast is now the population and employment center and the fastest growing part of the state.

It is also where the transformation of the economy from manufacturing to trade and service is most evident, Colgan writes. Along the coast in the 1980s, trade and service jobs have grown by more than 23 percent while manufacturing has declined by more than 10 percent.

While pollution from heavy industry may pose a more concentrated threat, scattered, small-scale development taxes coastal resources in different ways. Service and trade growth takes up more land because customers must be brought to the place of business, Colgan writes.

In an interview, Colgan adds that new England's labor shortage may draw new residents to the region in the 1990s. If that happens, increased demand for housing and related development will follow.

More coastal residents mean more sewage and toxic chemicals going into the Gulf of Maine. Even at current population levels, wastewater treatment systems in many communities contribute to pollution in the gulf.

About 90 percent of the state's municipalities have modern sewage treatment, according to Stephen Groves, director of the state's water quality control bureau. But several coastal communities still discharge untreated waste into the ocean. They include Eastport, Lubec, Jonesport, Stonington, Owls Head, Portland's Peaks Island and Biddeford Pool.

A handful of summer communities, such as Squirrel Island off Boothbay, also have no treatment.

Two large towns, Brunswick and Bangor, only provide primary treatment. Both plan to upgrade their systems.

But the state also has about 3,000 private overboard discharge systems, generally serving homes built on rocky areas lacking enough soil for septic systems. These sytems—recently banned by state law—tend to malfunction and send poorly treated sewage into the ocean.

Citing high levels of bacterial pollution, marine resources officials earlier this summer closed hundreds of acres of Maine mudflats to clam harvesting. Overboard discharge systems are suspected as a major cause.

In Massachusetts, Gloucester still discharges raw sewage. And Boston's primary system frequently sends untreated waste into the harbor.

In Canada, untreated sewage is probably the leading cause of contamination in the gulf, according to Don Gordon, a federal researcher at Bedford Institute of Oceanography in Dartmouth, N.S. Many clam beds in the Bay of Fundy are closed, he says.

"There is very little in the way of sewage treatment," Gordon says. "I think a lot of people just don't realize there's a problem."

The growing realization of a problem has brought together Maine, New Hampshire and Massachusetts and the Canadian provinces of Nova Scotia and New Brunswick in a rare attempt at regional cooperation in the gulf.

The five governments hope to make a joint assessment of the gulf's health and resources, and ultimately set up an environmental monitoring program.

The environmental effects of population growth can be seen in microcosm on Cape Cod, the sandy arc that forms the gulf's southwestern boundary and is one of the fastest growing areas in Massachusetts.

A nonbinding referendum is on the ballot this November to ban new construction for one year. Public concern focuses on traffic and threats to drinking water, but marine pollution is also a growing problem.

Bacterial pollution has closed about 7,000 acres of shellfish beds on the cape in recent years.

And there are early signs that nitrogen runoff from fertilizers and faulty waste treatment forms oxygen-choking algae blooms near the shore, according to Rich Delaney, director of Massachusetts' Costal Zone Management Program.

"You put people there, and they want green lawns so they use fertilizers and pesticides," Delaney says. "Then they want to go shellfishing, it's a fun thing to do, and they realize the beds are closed."

Money Woes Limit Study and Protection of Gulf

(By Tux Turkel)

THE NEED TO UPDATE OLD KNOWLEDGE SPAWNS SUPPORT FOR RESEARCH IN MAINE

It took oceanographic pioneer Henry Biegelow more than a decade to chart the currents that drive the Gulf of Maine and underlie its productivity. He published his findings in 1927.

For almost half a century, researchers largely relied on Biegelow's rough outline. Only recently have they used modern electronics, which can collect more data in one measurement than Bigelow could in his entire lifetime.

"We've done very little to improve on his description of the circulation," says David Townsend, executive director of the Association for Research on the Gulf of Maine, or AGRO-Maine. "And that's basically a result of our inability to go out and use the technology that exists today."

The reason, say Townsend and others, is a fractured, inconsistent system of government support for research. That translates into too little money to find out how the Gulf of Maine works and how to keep it healthy.

Townsend made that point in July, at the first meeting of the Legislature's Commission on Marine Research. The commission was set up to look at research problems and opportunities, develop consistent state policy and increase state support. It will issue a report this winter.

Formation of the research commission is a tangible example of how Maine is taking a closer look at the gulf and its importance. Other signs include:

A federal bill sponsored by Maine Sen. George Mitchell and 15 other senators called the Marine Research Act of 1988.

The bill, if passed, would earmark $29.5 million to set up 10 regional programs, including one in the Gulf of Maine. They would coordinate work with existing research facilities on how to prevent pollution and safeguard marine resouces.

The formation of ARGO-Maine, a consortium of research, educational and government institutions seeking to conduct long-term, collaborative studies in the gulf.

Establishment of the Marine Evironmental Monitoring Program. This new state effort, within the Department of Environmental Protection, is starting up with $33,500 to hire a biologist to monitor coastal pollution, trace contamination sources and study impacts.

A so-called Gulf of Maine initiative within the State Planning Office. The agency is meeting with officials from Massachusetts, New Hampshire, New Brunswick, and Nova Scotia, trying to foster regional cooperation to protect and monitor the gulf.

INFORMATION LACKING

The state research commission was formed at the urging of Rep. Reed Coles, D-Harpswell, a member of the Marine Resources Committee. Coles says he thinks the state should play a stronger role in supporting marine research.

He adds that reliable information is lacking about how much Maine actually spends today and the value of various gulf resources.

At the first hearing, members of the state's marine research community turned out to give their views of the problems.

"It is embarrassing to admit that so much of what we believe about our living marine resources remains virtually unchanged from the earlier half of the century, and is in fact pure conjecture," Townsend told the group.

Townsend, a research scientist at the Bigelow Laboratory for Ocean Sciences, said Maine does a poor job in competing for research funding.

As an example, he noted that Maine ranked last among 17 states in follow-up support for a National Science Foundation grant program to stimulate competitive research efforts.

Bigelow Lab employs about 50 scientists working on basic oceanographic research. The problem, says Patrick Holligan, acting director of the Bigelow lab, is that most are paid through sporadic contractual grants and have no financial security.

"You have to run two or three contracts to keep up a full salary," Holligan says.

Scientists can also find themselves out of work when their grants expire. That is what happened to Peter Larsen, an ecologist studying contaminants in ocean mud. His samples have been shelved for five years because no money is available to test them.

The University of Maine's Darling Center receives a $300,000 annual operating budget. But if its staff, made up of university faculty, wants to pursue research, it is entirely dependent on grants.

"We're in the same boat as Bigelow," says director Les Watling.

Watling recalls a federally funded study in the early 1980s of trace metals in Maine rivers. Various compounds were found in the Saco and St. Croix. Then the project ended. Later, a student examined animal life in the Saco estuary and measured some metal content. Nothing further was done to determine the significance.

ARGO-Maine is made up of the Bigelow Lab, Department of Marine Resources, Maine Geological Survey, Maine Maritime Academy and the University of Maine. The cooperative effort paid off earlier this year when the National Science Foundation gave ARGO-Maine an 80-foot research vessel. It is the only deep-sea research ship based north of Cape Cod.

The DEP's new effort, the Marine Environmental Monitoring Program, represents its first direct attempt to protect offshore waters. The agency has about 100 people charged with protecting freshwater and coastal wetlands, but only one—working part-time—on marine pollution.

"Their stuff was viewed as alarmist in the way it was presented," says Les Watling, director of the University of Maine's Darling Center. "The message we heard is that the Gulf of Maine had all these pollutants throughout it. And while they did measure some pollutants, the values were so low, compared to other places on the East Coast, that we felt this type of tone was unnecessary."

At Bigelow Lab, research scientist David Townsend says he disagrees with the way the experiments were designed and the conclusions drawn by Larsen and Johnson. But he agrees contaminants are present and that their potential impact demands comprehensive study.

"If this thing is going to have such far-reaching implications," he says, "let's do it right."

Anne Johnson's response: "We can't wait until we have all the answers before we try to do something. It's an imperfect world. We need to act on imperfect knowledge."

In late July the Maine Department of Environmental Protection took a small step to follow up on the questions posed by Larsen and Johnson. John Sowles, the lone researcher for the state's new Marine Environmental Monitoring Program, collected mussels in Casco Bay and is having them analyzed for trace metals, pesticides, PCBs and PAH compounds.

Crabs are scavengers that eat organisms on the harbor floor. The idea was that the Maine crabs would be free of contaminants and could serve as control specimens. Officials were surprised when one of the crabs contained 21 parts per million of lead, one of the highest levels found at the lab.

Since crabs are not a major commercial resource in Maine, no one followed up on the mystery until 1985, when the state's Public Health Laboratory tested crabs and got similar results. Sowles then found lead in blue mussels he sampled in 1986. He chose mussels because they filter their food through water.

"The metals the mussels are picking up suggest it's a present-day problem, not just metal buried in the sediments," Sowles says.

To find out, Sowles says core samples of harbor sediments must be extracted to date contamination levels.

"If you get a peak in 1940, that might suggest an activity in 1940 is causing the problem," he says. "But if it's just the very top of the core, it's probably a present-day problem. Then I would start looking closely at activities in the watershed of Boothbay Harbor."

Sowles says the DEP air bureau estimates that automobile exhausts will emit about 900 pounds of lead a year in Booth-bay Harbor alone. So lead deposited on the ground, in parking lots and roads, eventually gets washed into the harbor by storms.

"This would be true for every harbor in Maine," Sowles says, adding that researchers need to study other harbors.

CLEAR AND UNCLEAR THREATS

The most vexing question posed by low-level contamination in the Gulf of Maine is whether it is reducing the productivity of fisheries or threatening human health. In Massachusetts Bay, the answer is clearer—and more disturbing—than it is on the Maine coast.

Boston Harbor is one of the most polluted bodies of water in the country. It gains that distinction after decades of swallowing poorly treated municipal waste water, sewage sludge discharges and dredge spoils.

The extent of Boston Harbor's problems were underscored in June, when government officials advised all consumers not to eat lobster livers, and warned pregnant women and children under 12 to avoid lobsters, flounder and softshell clams caught around Boston Harbor. They also said similar problems could be expected in the northern part of Massachusetts Bay.

The warning came after a study found high levels of liver tumors, viruses and other diseases in fish and shellfish from Quincy Bay. Researchers found 83 percent of flounder had liver disease; 23 percent showed liver tumors.

Lobsters were also found to have a high level of PCBs in their livers, the green substance near the tail. Clams had high levels of viruses, and stocks were lower than predicted.

Maine's offshore waters are by comparison much clearer, with the exception of sewage, which continues to keep many mudflats off limits for shellfish consumption.

But studies by the Department of Marine Resources indicate that small concentrations of other contaminants found in some species do not pose human health concerns, according to marine biologist Brian Marcotte.

A recent study of diseased clams also ruled out metals and pesticides, pegging biological factors as the most likely cause. And no evidence has linked contamination with reduced productivity, Marcotte says.

At the university's Darling Center, Watling says it is premature to assume that small concentrations of PCB's or PAH compounds are hurting anything.

"No one knows if 10 parts per billion of PAH in the bottom sediments is going to make any difference at all," Watling says.

Watling, an oceanographer, is an authority on animals that live on the ocean floor. Their health is critical to commercial fishing, because 65 percent of the goundfish landed in Maine feed on botton dwellers.

Watling says his observations of various parts of the Gulf of Maine suggest the ocean floor is in excellent shape. He says trawler dragging their nets across the bottom are doing more damage to the habitat than any contamination he is aware of.

At the same time, Watling says few samples have been taken, but at current funding levels, he doesn't expect them to be.

"No one has done the lab work to say how high pollution levels have to be before you kill or lower reproductive levels," he says. "It's an open question. And I don't see it being resolved soon."

Sowles is especially interested in metal content, to see if urban runoff from Portland is concentrating in marine life.

"So what if there are high levels in the sediments?" Sowles asks. "What does it do? What does it mean?"

Those answers will have to wait at least until spring. It will take that long for the state to analyze the samples.

UNSAFE LEAD IN BOOTHBAY

It has been five years since a National Marine Fisheries Service lab in Maryland inadvertently discovered unsafe levels of lead in rock crabs taken from Boothbay Harbor.

Today, state officils still don't know why crabs contain the toxic metal, or whether the discovery has implications for other Maine harbors. And there is little being done to find out.

"Nothing has happened since 1986." says Sowles, an aquatic biologist at the Maine Department of Environmental Protection. "We haven't come any closer to answering the question of where the lead is coming from."

Lead is extremely toxic in low concentrations, attacking the nervous system and bone marrow. Children are especially sensitive to lead poisoning.

Follow-up samples in 1985 and 1986 taken by Sowles and other state researchers confirmed high lead levels in crabs and blue mussels.

On one hand, those findings are not cause for alarm. Lead concentrates in a crab's gills, which people generally don't eat. And sewage has already closed Boothbay Harbor to shellfish harvesting.

"The point is, we don't know the significance of it," says Sowles. "The levels may be there, but so what? Is it affecting the fisheries? Human health? We just don't know, and I think we've got to start looking."

The contamination came to light when Maine officials shipped 30 rock crabs to Maryland in 1983, to help federal researchers who were looking into pollution in New York and Philadelphia.

Additional studies by Larsen also drew several preliminary—and controversial—conclusions:

PAH compounds are settling and concentrating in deep basins of the Gulf of Maine.

The compounds seem to travel in the air before being deposited in the ocean during storms.

Particles settling onshore also collect in stormwater runoff, where they are transported by rivers into the ocean.

HOW POLLUTION BUILDS

In 1983, Larsen and Johnson dropped plastic tubes into the mud below Casco and penobscot bays to extract three-foot-deep cores of the bottom. Their goal was to develop time samples, a way to learn the rate at which compounds were accumulating.

High concentrations closest to the surface of the ocean would suggest the rate had increased in recent years. If verified, the next step would be to trace the sources of contamination.

Money ran out, however, and it is these samples that sit in the freezer at Bigelow Laboratory.

"Right now," Larsen says, "all we have is a couple of snapshots in the dark."

Larsen and Johnson have been criticized by some colleagues for overdramatizing their findings before more conclusive studies could be done.

"Their stuff was viewed as alarmist in the way it was presented," says Les Watling, director of the University of Maine's Darling Center. "The message we heard is that the Gulf of Maine had all these pollutants throughout it. And while they did measure some pollutants, the values were so low, compared to other places on the East Coast, that we felt this type of tone was unnecessary."

At Bigelow Lab, research scientist David Townsend says he disagrees with the way the experiments were designed and the conclusions drawn by Larsen and Johnson. But he agrees contaminants are present and that their potential impact demands comprehensive study.

"If this thing is going to have such far-reaching implications," he says, "let's do it right."

Anne Johnson's response: "We can't wait until we have all the answers before we try to do something. It's an imperfect world. We need to act on imperfect knowledge."

In late July the Maine Department of Environmental Protection took a small step to follow up on the questions posed by Larsen and Johnson. John Sowles, the lone researcher for the state's new Marine Environmental Monitoring Program, collected mussels in Casco Bay and is having them analyzed for trace metals, pesticides, PCBs and PAH compounds.

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Crabs are scavengers that eat organisms on the harbor floor. The idea was that the Maine crabs would be free of contaminants and could serve as control specimens. Officials were surprised when one of the crabs contained 21 parts per million of lead, one of the highest levels found at the lab.

Since crabs are not a major commercial resource in Maine, no one followed up on the mystery until 1985, when the state's Public Health Laboratory tested carbs and got similar results. Sowles then found lead in blue mussels he sampled in 1986. He chose mussels because they filter their food through water.

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On a broader scale, pollution is seeping from the harbor into the Gulf of Maine. A 1984 study by Battelle Research Laboratory in Duxbury, Mass., shows that PAH compounds and PCBs, both cancer-causing materials, are moving offshore and settling in deep basins.

"This whole region, Massachusetts Bay, the Gulf of Maine and Georges Bank, are part of the same system," says Paul Boehm, the study's principal investigator. "It is apparent that any of these deep basins are traps for pollutants."

Contamination is moving via sewage-laden water, Boehm says. But it also travels in the air, from particles generated by cars and factories in the Northeast, and by urban runoff following storms.

"When you look at the Gulf of Maine in its entirety, you could have pollution from any or all sources, because it's an accumulator," he says.

Boehm says researchers now need to study the sources that pollute the gulf and try to figure out the rate of contamination. Some of that work is due to begin this fall. The next step would be to see whether low levels of pollution in deep basins are affecting marine life, he says.

"Then you could take some appropriate management actions," he says.

The extent of Boston Harbor's problems were underscored in June, when government officials advised all consumers not to eat lobster livers, and warned pregnant women and children under 12 to avoid lobsters, flounder and softshell clams caught around Boston Harbor. They also said similar problems could be expected in northern parts of Massachusetts Bay.

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RESEARCHERS IN THE DEPTHS PROBE EROSION

(By Tux Turkel)

Off Seguin Island.—Bathers at Popham Beach did not know it, but the two-person submarine bobbing in the distant swells last June was trying to determine how fast the popular swimming area was being eaten away by the sea.

"Every beach in Maine is experiencing long-term erosion, says Joseph Kelley, the state's marine geologist. "So ultimately, sand is moving offshore."

Kelley and his colleague, University of Maine geologist Daniel Belknap, are trying to learn how sand movement and the flow of river sediments are shaping the seashore.

Their initial assessment is bad news for bathers and boaters: Beaches are losing sand to the sea while—ironically—sand and mud are washing back to clog some rivers and harbors.

Belknap and Kelley's research into sediment dynamics in the Gulf of Maine has broad implications for recreational and commercial development, particularly the controversial practice of dredging harbors and depositing the spoils offshore.

"I don't think we'll have the answers for another five years," Kelley says. "At least in ways persuasive enough to affect public policy."

Researchers know the ocean is rising and land is being washed to sea. Exactly what happens then has been a mystery.

To find out, Belknap and Kelley have been setting special traps 200 feet below the surface. The traps are made of plastic pipes set on a cement-filled base. They are designed to capture and measure sand and mud washing down from shore. The traps were deposited last summer in Saco and Sheepscot bays.

Bedrock ridges traverse the bottom of Saco Bay, creating a mud- and sand-filled basin that is the former valley of the Saco and Scarborough rivers.

"We think sediment is being carried through that shelf-valley and out to sea," Belknap says.

Sheepscot Bay, at the mouth of the Kennebec River, contains a large fan-shaped deposit of sand. The sediment traps are placed to see how material is stirred up during winter storms.

In June, the men and university students boarded a 160-foot government research ship to revisit the traps. Researchers relied on sophisticated electronics to relocate the traps. Then they climbed into a 15-foot submarine named Delta to retrieve the samples, using a robot arm to grab the plastic pipes and haul them to the surface.

Kelley says they expected to find a couple of inches of sand or mud in each trap. Prior theories suggested sand loss was a gradual but constant process.

Instead, they found almost nine inches of sediment, six inches of which were sand and gravel. The sediments were in three layers—mud, sand and mud. The sand apparently was grabbed by violent waves during winter storms and transported to deep water.

Analysis shows it came from Old Orchard and Popham beaches, moving out over a period of years.

"We thought these deep areas were quiet for years at a time," Belknap says. "But last winter was not significantly stormy, yet one of the traps was filled up nine inches."

Belknap and Kelley now wonder if these sediment traps represent the average rate of sand loss.

"What we went through last year, was that representative of the last 100 years, or more importantly, the next 10 years?" Kelley wonders.

The second observation to come out of sediment studies is that mud flowing from major rivers is moving offshore, but sand from adjacent beaches is flowing back and collecting where people want to maintain harbors.

Researchers are still unsure how fast this is happening because it is part of complex, interconnected cycles of sediment distribution. But they have some clues.

Belknap and Kelley studied sand movement in the Kennebec River last summer for the state and Bath Iron Works. They examined an area where the U.S. Army Corps of Engineers has deposited spoils from dredging a channel in the river. The material, they found, was moving right back upriver toward Bath.

Depositing dredge spoils is becoming controversial, especially because some contain metals or PCBs (polychlorinated biphenyls). Early research suggests these materials won't stay put. Instead, they are dispersing and possibly causing contamination.

"We have to consider where we put these things," Kelley says. "There may be no shallow spots in the Gulf of Maine to dispose of our contaminated dredge spoils."

These theories are already beginning to affect harbor development.

Scarborough wants Pine Point Harbor dredged and a new anchorage created. The job would create about 43,000 cubic yards of dredge spoils, enough to cover a football field 18 feet deep. But tests show traces of PCBs in harbor sediments, and local, state and federal agencies are at odds over the best place to deposit the spoils.

A similar fight is under way in Wells, where the harbor is so clogged it has become hazardous at low tide. State officials say dredging is futile, because the harbor will refill quickly.

"They are not really harbors," Kelley says of Scarborough and Wells. "They are tidal deltas of rivers, so they fill rapidly with mud."

In addition, researchers believe that dumping sediment offshore removes it from the complex system that builds beaches, despite the trend to long-term erosion.

"The most important thing is not to lose it to the transport system," Belknap says. "If you are going to dredge, put it back on the beach, if it's not contaminated. If you dump offshore, it's lost."

Belknap and Kelley will learn more about dump sites and sand movement over the next year when the government dredges part of Biddeford Pool this fall. Sediment traps have been set at the offshore deposit site. Next summer, the traps will be pulled to see whether sand and mud stay in the deposit area or move inshore.

"We'll know whether it is a good dump site," Kelley says.

Diving to the Gulf's Bottom

(By Tux Turkel)

Off Damariscove Island.—My first impression of the inside of Delta, the 15-foot submersible used to retrieve the sediment traps, in that it resembled a laundromat washing machine. I remember climbing in one as a kid and having a friend shut the glass door. This time I am looking out 10 tiny portholes, and at the feet and torso of Doug Privitt. That is because with a hull diameter of 3½ feet, the passenger must huddle on the bowl floor while the pilot sits astern on a stool.

Privitt designed the sub. He and another pilot have taken it down more than 1,000 times, so I don't feel too scared when the hatch is secured and Delta is dumped into 120 feet of water.

My first sensation is coolness. Privitt cuts the motor. It is quiet. As the sub descends, everything gets dark. Cool, dark and quiet. Very serene.

"OK. We're at 60 feet with 60 to go, it looks like," Privitt says into the radio.

As Delta nears the bottom, Privitt switches on floodlights. The silty sea floor appears outside the portholes. Visibility is poor.

Cruising at less than a mile an hour, we come across occasional starfish, plants and hundreds of tiny fish. But mostly, we see only mud in this section of the Gulf of Maine.

At one point I manipulate the robot arm in an attempt to grab a starfish. No way, I am generally content to sit in this cool, quiet cocoon and experience the ocean bottom.

I am startled when, after about 15 minutes, a voice comes over the radio. Time to come up. I am not ready. Privitt acknowledges, releases ballast and Delta rises as light streams in.

In a moment, waves are breaking over the portholes and the Maine coast bobs in the distance.

Army Uses Ocean Sites To Deposit Harbor-Dredging Sediments

When the U.S. Army Corps of Engineers dredges Maine rivers and harbors, it uses three ocean dump sites off Kennebunkport, Cape Elizabeth, and Rockland to deposit the spoils.

The southern site, situated three miles south of Cape Arundel in Kennebunkport, has been used infrequently since 1984 for sediments dredged from the bottom of the Kennebunk River and Cape Porpoise Harbor.

Since 1984, about 200,000 cubic yards of harbor sediments have been deposited in the site, which is covered by 135 feet of water.

The Army plans to deposit spoils dredge from Portsmouth Harbor in the Cape Arundel site in the next year.

A second site, used primarily for harbor sediments from Portland Harbor and the Fore River, is eight miles east of Cape Elizabeth.

The site, covered by 200 feet of ocean, receives a widely varying amount of materials each year, depending on dredging activities in Portland Harbor. To date, the fill has averaged about 200,000 cubic meters a year.

The third site is about 3.5 miles south of Rockland's breakwater in West Penobscot Bay.

The site is 230 feet deep and receives an average annual fill of 70,000 cubic meters.

Before material is deposited in the ocean sites, the Environmental Protection Agency, Army, National Marine Fisheries Service and the U.S. Department of Wildlife test it for metals, PCBs and any harmful effect it may have on marine life on the ocean floor.

Forces Block Exploiting of Gulf Energy Sources

(By Tux Turkel)

The Gulf of Maine can light houses, run cars and build cities. But its powerful tides, potential petroleum reserves and gravel deposits remain virtually untapped, waiting for economic and political forces to drive their development and bring them into conflict with fishing and other interests.

Skyrocketing oil prices in the 1970s focused attention on the gulf's energy resources. In 1988, with oil plentiful and prices depressed, exploitation attempts have all but stopped.

It seemed, 10 years ago, that the rich fishing grounds of Georges Bank would be pocked with test holes in a desperate search for oil and gas. Today, political action in the United States has banned drilling, and interest has ebbed.

Only the Canadians, on their side of the bank, continue to research the potential impact of energy development.

No one expects Georges Bank to provide vast quantities of oil and gas, but commercial deposits may be tapped at the edge of the gulf.

Sound waves bounced off the ocean floor indicate the geological potential for petroleum, but test drilling has been held up by strong opposition from fishermen and, more recently, by declining oil prices.

In June, the U.S. Interior Department, bowing to congressional pressure, postponed a planned auction on drilling rights until at least next October.

For now, the closest petroleum production to the Gulf of Maine is set for a tract off Newfoundland. Except for minor testing off Nova Scotia's eastern shore, it seems unlikely that New England or the Maritimes will exploit oil and gas resources anytime soon.

That concerns Milton Huntington, executive director of the Maine Petroleum Association. Huntington notes it takes a decade from the time oil is discovered to when it can be produced.

"When another energy crunch comes, and surely it will, everyone will turn to us to start producing offshore," he says. "It will probably be too late."

Tides in the Bay of Fundy range 40 feet, the highest in the world. For decades, engineers have schemed about how to harness the rise and fall as a source of cheap, pollution-free power.

Two years ago, Canadian interests seemed well on the way to building the world's largest tidal dam across Minas Basin in Nova Scotia. The project would have generated the electrical equivalent of three Maine Yankee nuclear power plants. Today, the project is hung up, for economic, political and environmental reasons.

"We don't see a practical way of going ahead right now," says George Baker, executive vice president of Tidal Power Corp. in Halifax, Nova Scotia.

A handful of tidal dams operate in other parts of the world. To test the technology in the Gulf of Maine, Baker's company built a small, experimental dam in 1984 at Annapolis Royal, N.S.

An immediate problem surfaced. Large numbers of migrating shad died as they were pulled through the dam's turbine. Engineers have been working on a pass system that lets more fish go safety around the turbine, but mortality remains a problem.

The project has drawn fire from local clammers, who claim the dam is generating silt and destroying clam beds. The clam harvest has been declining in the Annapolis Basin, but researchers have yet to link the drop to the dam.

Even if fish kills are solved, the Minas Basin project appears doomed for now, based on projections that a five-mile-long dam across the top of the Bay of Fundy would increase tides in the Gulf of Maine up to a foot. A 1984 study by Peter Larsen of the Bigelow Laboratory for Ocean Sciences predicted widespread environmental changes for coastal Maine Technology aside, political consequences have put the project on the back burner.

As a second choice, Tidal Power Crop, has been working to develop a smaller dam at Cumberland Basin, on the New Burnswick-Nova Scotia border. That dam, which would generate almost as much power as Maine Yankee, wouldn't have a noticeable affect on tides, Baker says.

But that dam, too, may be delayed by politics. While Nova Scotia is a strong advocate of tidal development, New Brunswick has a stake in building more nuclear reactors at its Point Lepreau site. It also has hydroelectric and coal resources to market, so provincal politicians aren't enthusiastic about a joint tidal venture with Nova Scotia.

"They've got a lot on their plate," Baker says. "They don't need tidal power."

Dimming prospects further are oil prices. Baker says projecting when prices will rebound, and by how much "is anyone's guess."

If there is one force working today on the side of tidal energy, it is the mounting concern over the greenhouse effect and the burning of fossil fuels.

In Maine, Larsen says issues he raised four years ago on the environmental impact of tidal dams must now be weighed against potentially greater effects of global warming.

"I personally think we should look very hard at tidal power," he says. "If the greenhouse effect is going to raise sea level anyhow, we may be able to slow it down with tidal power."

When the glaciers began melting 12,000 years ago vast quantities of sediment-filled water flowed into what is now the Gulf of Maine. Our legacy is offshore deposits of sand and gravel. Scientists are just now beginning to explore them as a first step to sizing up their commercial and environmental value, a process that has caused some controversy in New Hampshire.

Maine's major sand and gravel deposits seem to be off the southern coast, according to Maine Geological Survey director Walter Anderson. Scientists are using sonar and sampling methods to determine the distribution and depths.

In New Hampshire, a member of the state's Executive Council objected this summer to mapping sand and gravel deposits near the Isles of Shoals, saying it was a preclude to offshore mining. New Hampshire's state geologist denied that and said the work was pure research.

Anderson says some southern states have mined gravel to restore eroded beaches. But he thinks the Gulf of Maine states are a long way from offshore gravel mining.

It is an expensive process. Scientists also know that certain deposits are important to marine life, and that offshore sand and gravel is a finite resource because dams on New England's major rivers prevent further sediment runoff to the gulf.

"Whether it's (eventually) used for development, beach erosion, or not used because it's critical for marine organisms, it's still got to be evaluated," Anderson says.

In addition to sand and gravel exploration, researchers are looking for concentrations of valuable metals including copper, gold and silver that may occur in a volcanic belt running from Penobscot Bay to Eastport. That process is in a very early stage.

"We're still in an exploration mode, whether it's sand and gravel or oil and gas," Anderson says. "A lot more work has to be done offshore to make an evaluation."

[From the Maine Sunday Telegram, Sept. 11, 1988]

TOUR OF BOSTON HARBOR TELLS HOW IT TURNED FILTHY

(By Tux Turkel)

BOSTON.—The 60 passengers boarding the cruise ship might as well be on a summer excursion. Past Old Ironsides and the lightship Nantucket. Alongside the condos and marinas that mark the revival of Boston Harbor.

But the boat turns north and steers under the Mystic River Bridge, pulling up by an asphalt plant. The river here is khaki, specked with oil slicks that send back rainbows to an overcast sky.

"This is better today," says George Wallace. "I was here two years ago and the water was yellow."

Wallace is a board member of Save the Harbor-Save the Bay, a group devoted to cleaning up Boston Harbor and Massachusetts Bay by the end of the century. Wallace is leading a bi-monthly "sewer tour," taking people out to learn how Boston Harbor become the toilet for almost half of Massachusetts.

No doubt, Boston Harbor is filthy. The agency charged with cleaning it, the Massachusetts Water Resources Authority, calls it the dirtiest harbor in America.

Sewage. Dredge spoils. Industrial chemicals. Even low-level radioactive waste. Boston Harbor has swallowed them all and is choking to death.

Now there is a last-ditch effort to revive the harbor. It will take $6.1 billion and 11 years, New England's largest public works project ever. That will just cut pollution. Even if all goes well, it could take the harbor another decade to cleanse itself.

Boston Harbor's pending cleanup is good news from Cape Cod to Canada. Work has already begun to shut the spigot on the largest single source of pollution fouling the Gulf of Maine.

It is easy to see why Boston Harbor is such a mess.

Nearly half the population of Massachusetts, 2.5 million people and 5,500 businesses in 43 communities, flush their waste into the harbor. Every day they send 500 millions of sewage to sea, enough to equal the combined flow of the * * * solid waste and 70 percent of toxic materials, planners say. Sludge will be removed and treated on land.

Wallace points all this out as the tour boat glides by new downtown skyscrapers. Past the site of the proposed Fan Pier complex, which he says would add as much new sewage as the town of Hull. By the city's fish pier, ringed with draggers.

Wallace talks about the dichotomy of Boston Harbor. People marvel at the new prosperity. Tourists sit under the white tent on a pier at the New England Acquarium, enjoying the water. They are unaware, he says, that a combined sewer overflow is sending out raw sewage under the pier.

Looks are deceiving, because pollution has taken its toll on Boston Harbor.

Raw sewage regularly closes beaches to swimmers. Of the 4,700 areas of shellfish beds in the * * * use the technology that exists today."

The reason, say Townsend and others, is a fractured, inconsistent system of government support for research. That translates into too little money to find out how the Gulf of Maine works and how to keep it healthy.

Townsend made that point in July, at the first meeting of the Legislature's Commission on Marine Research. The commission was set up to look at research problems and opportunities, develop consistent state policy and increase state support. It will issue a report this winter.

Formation of the research commission is a tangible example of how Maine is taking a closer look at the gulf and its importance. Other signs include:

A federal bill sponsored by Maine Sen. George Mitchell and 15 other senators called the Marine Research Act of 1988.

The bill, if passed, would earmark $29.5 million to set up 10 regional programs, including one in the Gulf of Maine.

INFORMATION LACKING

The state research commission was formed at the urging of Rep. Reed Coles, D-Harpswell, a member of the Marine Resources Committee. Coles says he thinks the state should play a stronger role in supporting marine research.

He adds that reliable information is lacking about how much Maine actually spends today and the value of various gulf resources.

At the first hearing, members of the state's marine research community turned out to give their views of the problems.

"It is embarrassing to admit that so much of what we believe about our living marine resources remains virtually unchanged from the earlier half of the century, and is in fact pure conjecture," Townsend told the group.

Townsend, a research scientist at the Bigelow Laboratory for Ocean Sciences, said Maine does a poor job in competing for research funding.

As an example, he noted that Maine ranked last among 17 states in follow-up support for a National Science Foundation grant program to stimulate competitive research efforts.

Bigelow Lab employs about 50 scientists working on basic oceanographic research. The problem, says Patrick Holligan, acting director of the Bigelow lab, is that most are paid through sporadic contractual grants and have no financial security.

"You have to run two or three contracts to keep up a full salary," Holligan says.

Scientists can also find themselves out of work when their grants expire. That is what happened to Peter Larsen, an ecologist studying contaminants in ocean mud. His samples have been shelved for five years because no money is available to test them.

Another reason projects can stop abruptly at Bigelow is that the lab focuses on basic research. A government agency may fund start-up work and sampling to test a theory, for example. But when that phase ends, Holligan says, the agency may not continue with survey work, monitoring or analysis.

"The people who did the basic research can't get funding to continue the project," Holligan says.

Maine gives $100,000 a year to Bigelow, 5 percent of its annual research budget. The private, non-profit lab gets 90 percent of its $2.2 million budget from federal funds, but Holligan told the commission that continued support is threatened by cutbacks and competition from other labs.

Holligan says the lab needs at least 20 percent of its income as assured funding, solid money that would provide continuity and retain key scientists.

State government agencies have similar concerns.

Brian Marcotte, marine science director for the Department of Marine Resources, says he wants to offer fishermen more economic security by better predicting fish stock trends. But he notes that one-third of the department's scientific staff is supported with federal money, and three positions were lost last year to budget cuts.

The University of Maine's Darling Center receives a $300,000 annual operating budget. But if its staff, made up of university faculty, wants to pursue research, it is entirely dependent on grants.

"We're in the same boat as Bigelow," says director Les Watling.

Watling recalls a federally funded study in the early 1980s of trace metals in Maine rivers. Various compounds were found in the Saco and St. Croix. Then the project ended. Later, a student examined animal life in the Saco estuary and measured some metal content. Nothing further was done to determine the significance.

"A follow-up study a decade later would be helpful to see if this area is purging itself (of metals) or not," Watling says.

HOPES REST ON BILL

Advocates of more spending for research pin their highest hopes on the congressional effort championed by Mitchell.

Mitchell says he hopes it can be acted on before the end of the year. The chief opposition, he says, comes from the Reagan administration, which sees the programs as unnecessary.

Mitchell says he hopes Congress can debate the bill soon, while images of sewage and medical waste washing up on East Coast beaches are still fresh. He says the $30 million price tag should be viewed as a "protective investment."

"As we've seen in Chesapeake Bay, Boston Harbor and the Great Lakes, the cost of cleaning up after major environmental damage has occurred is many times greater than the cost of preventing damage in the first place," Mitchell says.

In Maine, the formation four years ago of ARGO-Maine is significant because it represents the kind of coordination the state will need to compete nationally for research money. ARGO-Maine is made up of the Bigelow Lab, Department of Marine Resources, Maine Geological Survey, Maine Maritime Academy and the University of Maine. The cooperative effort paid off earlier this year when the National Science Foundation gave ARGO-Maine an 80-foot research vessel. It is the only deap-sea research ship based north of Cape Cod.

The DEP's new effort, the Marine Environmental Monitoring Program, represents its first direct attempt to protect offshore waters. The agency has about 100 people charged with protecting freshwater and coastal wetlands, but only one—working part-time—on marine pollution.

Maine's planning office, meanwhile, is starting a year-long effort to assess the condition of the gulf by working with the three states and two Canadian provinces that abut it. A key task is to design a monitoring program using fish and other resources that are indicators of the sea's health.

The project also seeks to improve communication and management strategies between states and provinces. It finally envisions a high-level conference where governors and premiers will tackle the key issues.

At Bigelow, Holligan says state leaders should be concerned about what effect the degradation of the gulf will have on fishing, recreation and other enterprises Maine considers important.

But he says public and political awareness of the threats is so low that, if scientists expect to see more research money, they will have to embark on a basic education program to highlight the issues.

Anne Johnson, a former Bigelow researcher now working with the State Planning Office, has a more urgent view for the new marine research commission.

"We shouldn't get to what I call the dead fish stage before we decide to do something," she said.

No doubt, Boston Harbor is filthy. The agency charged with cleaning it, the Massachusetts Water Resources Authority, calls it the dirtiest harbor in America.

Sewage, Dredge spoils, Industrial chemicals. Even low-level radioactive waste. Boston Harbor has swallowed them all and is choking to death.

Now there is a last-ditch effort to revive the harbor. It will take $6.1 billion and 11 years. New England's largest public works project ever. That will just cut pollution. Even if all goes well, it could take the harbor another decade to cleanse itself.

Boston Harbor's pending cleanup is good news from Cape Cod to Canada. Work has already begun to shut the spigot on the largest single source of pollution fouling the Gulf of Maine.

It is easy to see why Boston Harbor is such a mess.

Nearly half the population of Massachusetts, 2.5 million people and 5,500 businesses in 43 communities, flush their waste into the harbor. Every day they send 500 millions of sewage to sea, enough to equal the combined flow of the Charles, Mystic and Neponset rivers.

The problem is not just volume, but the level of treatment. It isn't much.

Boston's two wastewater plants only remove about 40 percent of human waste and none of the sludge before discharging into the harbor. Feeding this form of primary treatment are 5,000 miles of pipe. Some pipes are 100 years old and leaky. A few are still made of wood.

Then there are 108 combined sewer overflow pipes. State-of-the-art in the 19th century, they handle both sewage and storm water. When it rains hard, they dump raw waste into the harbor. Some do that year-round.

To upgrade the network, workers will build the second largest wastewater treatment plant in the country, on Deer Island. A rock tunnel 200 feet under the harbor will carry waste five miles to the plant from the mainland. A second tunnel, 24 feet in diameter, will send treated water nine miles out into Massachusetts Bay, where it will be discharged and dispersed at sea.

This secondary treatment process will remove 90 percent of the solid waste and 70 percent of toxic minerals, planners say. Sludge will be removed and treated on land.

Wallace points all this out as the tour boat glides by new downtown skyscrapers. Past the site of the proposed Fan Pier complex, which he says would add as much new sewage as the town of Hull. By the city's fish pier, ringed with draggers.

Wallace talks about the dichtomy of Boston Harbor. People marvel at the new prosperity. Tourists sit under the white tent on a pier at the New England Aquarium, enjoying the water. They are unaware, he says, that a combined sewer overflow is sending out raw sewage under the pier.

Looks are deceiving, because pollution has taken its toll on Boston Harbor.

Raw sewage regularly closes beaches to swimmers. Of the 4,700 acres of shellfish beds in the harbor, about 3,000 acres are contaminated. Flounder have the highest national incidence of liver and skin tumors, and one in six bluefish are contaminated with PCBs.

Ironically, sewage also draws sealife. Lobster pots abound near the outfall of the Deer Island treatment plant. Many of the lobsters however, are tainted with toxic chemicals and the government has advised pregnant women and young children not to eat the tomalley, or liver.

Why has it taken so long to do anything about Boston Harbor?

Wallace blames lack of political leadership. Cleanup has been scheduled since 1972, when Congress passed the clean Water Act. But politicians knew the work would make sewer bills rise and they put off action.

It wasn't until 1982, when the city of Quincy sued the Metropolitan District Commission and won, that a court-ordered cleanup plan began moving ahead. The Massachusetts Water Resources Authority was created in 1985 to do the job and was given the power to raise and manage the needed money.

Today the first tangible signs of work have begun. Cranes are building new piers on Deer Island to handle the construction barges that will move equipment to the site beginning next year.

None of this will come cheaply.

Federal and State money is limited for the projects. Area users will pay most of the cost. The average home now pays $210 a year for water and sewer. Rates are expected to double in three years and reach $1,133 by the year 2000.

Rising sewer bills will draw public attention to the harbor, Wallace believes, and create public pressure for doing the job right.

Public pressure may also help bring about a solution to long-standing obstacles, such as finding a sludge disposal site that the public will accept.

"If people don't see a problem," he says, "we won't see a solution."

Wallace, who grew up in Dorchester and swam its beaches 25 years ago as a boy, wants Greater Boston to reclaim its harbor now, before it is too late.

"My goal is to see that the next generation doesn't lose this wonderful resource," he says.

[From the Maine Sunday Telegram, Sept. 11, 1988]

TINY PLANTS ACT LIKE ACID FACTORIES IN GULF

[By Tux Turkel, Staff Writer]

Floating by the billions in the Gulf of Maine are tiny phytoplankton, single-celled plants that are the basis of the marine food web. Some classes of phytoplankton might as well have tiny exhaust pipes sticking out of them, scientists say.

Globally, these microscopic plants may be emitting as much sulfur as all of man's cars and smokestacks, making the oceans a major source of acid rain.

Worse, the sulfur may be creating clouds and changing the weather.

"Even if we shut all the factories off tomorrow, there is still going to be sulfur coming down," says Patrick Holligan, acting director at Bigelow Laboratory for Ocean Sciences.

The Gulf of Maine has become an important classroom for studying forms of microalgae that produce sulfur. For one thing, Bigelow maintains the nation's largest collection of phytoplankton cultures. For another, some of the major algae bloom-forming plants are found here, making the gulf a major source of acid rain.

The research is of special interest in Europe, where natural and man-made emissions apparently are combining to destroy lakes and forests and possibly change the chemistry of coastal waters.

The broader question is what mankind can do about it, says Holligan, who came to Maine this year from the Marine Biological Association in Plymouth, England. He says a forest that declined over the past 20 years may not recover even if industrial emissions are cut in half.

"Once you've tipped the balance," Holligan says, "It may take longer for that balance to be restored even if you reduce industry, because of the active sulfur cycle."

Phytoplankton are also implicated in cloud formation. It works this way: Algae gives off dimethyl sulfide as a gas. The gas rises and mixes in the atmosphere with oxygen, becoming sulfur dioxide. Besides being the precursor of acid rain, the compound also forms sulfate aerosol, tiny droplets that condense and act like the seeds for clouds.

This sulfate aerosol appears to be forming more clouds than normal, scientists say. Clouds cut light, lower temperature and create more precipitation.

Measurements at the equator show that sulfate aerosol is being produced. Scientists now are working to measure the increase in clouds and temperature drops that would confirm climatic changes.

In the 1970s, scientists learned that certain classes of phytoplankton produce dimethyl sulfide or DMS. An organic sulfur compound, some portion of DMS turns to sulfur dioxide when released to the atmosphere. No one knows why.

It is known that larger algae such as seaweeds produce DMS to help control salt concentrations, and it may have s similar use in phytoplankton.

Scientists also know that DMS is a seasonal phenomenon. It explodes with summer algae blooms. The blooms are so extensive their movement can be tracked by satellite, which is one way phytoplankton activity is studied.

By measuring plankton growth and related sulfur output, scientists hope to get a better idea of how much DMS is being produced and what its overall impact is on acid rain.

Some evidence suggests that certain DMS-producing phytoplankton may thrive in nutrient-rich waters fed by organic pollution.

In Europe's North Sea, a phytoplankton called phaeocystis seems to be more productive as a result of sewage from the Rhine River. Scientists want to know if it is having an effect on the local ecology. Phaeocystis also exists in the Gulf of Maine, although the phenomenon has not been studied here.

Also unknown is whether acid rain is damaging the Maine coast. In Sweden, sulfur has leached enough trace metals out of fresh water that the ocean chemistry appears to be changing.

By altering the balance of nutrients in the coastal waters, acid rain may be changing the kind of plants growing there. That could affect the entire food web, researchers theorize.

Bigelow scientists went on a four-day cruise earlier this summer in the Gulf of Maine to observe a massive bloom of coccolithophores, a class of microalgae known to produce DMS. Because its summer algae blooms are so intense, the gulf is a world-class producer of sulfur.

Working under a two-year federal grant, Bigelow researchers Maureen Keller and Robert Guillard have already screened 1,000 algae cultures in the lab's collection and focused on 125 algaes suspected of making DMS. They found most DMS production is confined to a few classes of algae, including coccolithophores.

The water samples from the trip were analyzed for sulfur production by Keller.

Using satellite pictures to track duration of the bloom, the lab was able to make a rough estimate of how much sulfur the event was sending into the atmosphere.

The next step, awaiting funding, is to use the Gulf of Maine as a study site to come up with an annual total of plant-generated sulfur.

"Nobody has any idea of how large this source of sulfur is," Keller says. "That is what we're trying to give them a handle on."

Ultimately, scientists want to know the global impact on precipitation and climate.

How much sulfur is transported on prevailing winds? How much Gulf of Maine sulfur travels the ocean to England? And how much rains down on Nova Scotia, or even eastern Maine?

DEATH IN THE NORTH SEA SENDS ALARM ACROSS OCEAN

(By Tux Turkel)

ESBJERG, DENMARK.—It is 11 a.m., feeding time for the seals at Esbjerg's Fisheries and Maritime Museum.

As the keeper wades into an open-air tank to toss fish, tourists crowd the fence, snapping pictures. Suddenly, one seal let's out a loud bark. The tourists respond with a collective laugh.

They don't know that at the museum's service entrance four dead seals lie in a trailer, the latest victims of an apparent virus that has killed thousands of seals in the North Sea since April.

At the same moment, tourists on the waterfront board the ferry to Fano, a resort island just off the coast. From the ferry they can't see the signs posted along the beaches of Esbjerg that read "Badning forbudt."—No bathing. Pollution from local sewage has closed six miles of beaches on the outskirts of this North Sea city.

In a season that might be called the Summer of the Oceans, no body of water has drawn more worldwide attention than the North Sea.

The North Sea is one of the world's richest fishing areas, its beaches a magnet for tourism. But this summer, the sea has become better known for dead seals, toxic algae blooms, fish kills and waste dumping. Its coastal areas are overburdened with sewage, fertilizers and industrial waste. In the open ocean, oil discharges and hazardous-waste burning are common.

The most striking pictures to come from the North Sea this summer are those of dead seals. Scientists say the virus that is killing the seals is not directly related to pollution. But daily coverage of these mammals washing up along North Sea beaches has alarmed Europeans. They wonder what is happening to their ocean.

Here in Denmark, one of Europe's most environmentally aware countries, these images are especially disturbing. The Danes love the sea. In this small land of 5 million people, no one lives more than 34 miles from the ocean.

Denmark has a strong fishing heritage. It ranks 9th in the world in fish landings. Esbjerg is Denmark's largest fishing port and home to 218 vessels in the North Sea fleet.

Increasingly, though, Denmark's coast is becoming more valued for tourism and its economic benefits. The government estimates that summer tourists on the North Sea coast spend about $2.5 million daily.

With these emotional and financial ties to the North Sea, Danes are frustrated that geography and ocean currents put them on the receiving end of pollution from as far away as Great Britain. But while many tend to blame their more industrialized neighbors, awareness is growing that some of Denmark's worst pollution originates at home.

The fault lies not with some exotic chemicals streaming from errant industries, but with excess nutrients running from thousands of farm fields and dozens of sewage outfalls.

Danes are trying to come to grips with local pollution, before their beaches and fisheries are ruined beyond redemption.

SIMILAR TO MAIN GULF

Like the Gulf of Maine, the North Sea is relatively enclosed and shallow. It is a 90,000-square-mile basin bounded by Great Britain to the west and Scandinavia to the east.

The Atlantic Ocean enters the sea primarily through the English Channel. The flow sets up a counter-clockwise circulation pattern that sweeps past the coasts of France, Belgium, the Netherlands, Germany, Denmark and Sweden, exiting into the North Atlantic along the Norwegian fjords. It takes about three years for water along the German coast to leave the sea.

As a shallow tub that empties slowly, the North Sea suffers from its confinement by eight industrial nations. Theirs is a long-standing relationship of give and take. Collectively, they take fish, sand, gravel, gas and oil. They give sewage, fertilizers, toxic chemicals and industrial waste. For example:

Fish landings in the North Sea represent almost a third of the total catch for the Northeast Atlantic, although the sea represents less than 10 percent of the ocean area.

Millions of tons of sand and gravel are mined annually for construction and beach replenishment.

The North Sea boasts one of the world's most important off-shore oil and gas industries, with 4,000 wells and thousands of miles of pipeline to fuel Europe.

But in exploiting these resources, man has not treated the sea with respect.

Overfishing has decimated key stocks including herring and plaice, a sought-after groundfish. Researchers also think think some species are not reproducing at normal rates due to the effects of oxygen-robbing algae blooms and localized chemical concentrations.

Sewage and fertilizers have created intense algae blooms that ultimately smother the sea floor and kill fish. Algae also covers beaches with a thick foam that kills seabirds and keeps human bathers away.

Beyond these offenses, man also sprinkles the sea with chemicals, heavy metals and hazardous wastes. With airborne contaminants from cars and fossil-fuel-burning factories. Oil discharges from thousands of cargo ships and drilling platforms. Hazardous wastes incinerated at sea. Radioactive leaks from power plants.

Together, they have put coastal waters under such stress that today, the ecological balance of the North Sea is threatened.

THREAT TO TOURISM

The issues of balance come into focus during visits to the resort island of Fano and the working port of Esbjerg.

On an early morning in late summer, before the cars come out, Fano's northern village seems from another time. Quaint shops front on a cobblestone main street. Three-hundred-year-old brick buildings with thatched roofs line quiet residential roads.

Soeren Vinding lives with his family in a turn-of-the-century sea captain's villa. Born on Fano, he left to be a merchant seaman, returning in 1980 to teach chemistry in Esbjerg schools. Vinding is also a member of the Danish Nature Conservation Society, Denmark's largest environmental organization, and is chairman of its North Sea working group.

Vinding knows that Fano depends on tourism. Its population of 3,200 swells to 40,000 in summer. Half of the visitors are West Germans, fleeing industrial cities at home. They are drawn by 15 miles of clean sand beaches.

Many of these visitors rent the 2,500 summer homes tucked among the dunes on Fano's west side. They call Denmark's coast "Holiday Paradise."

Tourist traffic keeps the ferry from Esbjerg running every half-hour in summer. That makes it possible for 35 percent of the island's population—people like Vinding—to make the 20-minute commute to work in Esbjerg.

"We cannot exist here without tourism," Vinding says. "On Fano, it's really a threat to our society if we lose our beaches."

But Fano sweated out that threat this summer. The North Sea's first seal deaths were noticed in April off the Danish coast. In June, an intense algae bloom created a three-foot-high layer of brown foam off some Danish beaches. Fano was spared the foam, but German media sent back pictures that some Danes say cut the tourist traffic to Holiday Paradise.

The issue is controversial on Fano. A worker at the island's tourist bureau won't discuss it, referring questions to a supervisor, who is out running an errand.

In the town hall, Fano mayor Tage Jensen greets an American reporter with glossy brochures promoting the island's wonders. He says the resort had a good summer. He says pollution reports had no effect on tourism. If people stayed away, he says, it was because of poor weather.

Jensen does say the beaches used to be white, but are dark-colored now. He blames the mud and grit dredged daily from Esbjerg harbor and dumped offshore. Beyond that, he says, most of Denmark's pollution comes from Germany.

Vinding disputes most of these views. He says the weather was excellent this summer. And he says the beach is darker this year because of staining from brown algae blooms.

Some pollution, he agrees, does come from the south and west. On a tour of Fano's beaches, Vinding takes a plastic bag and starts combing through the rows of litter that have washed up from the ocean. In two minutes, he has a milk carton from Kent, England, a jug of dishwashing detergent from Germany and a juice can from the Netherlands.

They could have been tossed off a boat, he says, but most likely they teach a graphic lesson in North Sea currents.

As to whether tourism suffered from pollution reports, Torben Worsoe, a reporter who covers environmental issues for the Esbjerg Weekly, used a simple measure this summer. He noticed far fewer cars waiting in line for the Fano ferry.

"And I can't find any other reason than the pollution," Worsoe says.

FISHERMEN PROTEST

Pollution is also an issue for the fishermen of Esbjerg.

Esbjerg is on the northern edge of the Wadden Sea, an island-specked coastline running south to the Netherlands and a key fish-spawning area.

With a population of 80,000, Esbjerg is the country's largest fishing and cargo port on the North Sea and the base of Denmark's growing oil and gas industry. It is also home of the Danish Fishermen's Association, an industry trade union that sees a link between pollution and declining fish catches.

Jesper Juhl Larsen is captain of a 300-ton trawler that fishes out of Esbjerg for herring, mackerel and sand eels, the latter used at waterfront fish-meal plants. A member of the trade union, he joined 200 other boats last October in a protest against incinerating hazardous wastes at sea.

Large-scale waste burning began 19 years ago in the North Sea, the only place in the world where the practice is allowed. About 100,000 tons of chemicals, solvents and other materials that European countries find politically unpopular to dispose of at home are burned each year at sea.

Larsen got involved when he heard that the United States ship Vulcanus II was preparing to burn Spanish waste.

"Why should we have it up here when they don't want it?" Larsen says.

The fishing boats converged on the burn area, about 150 miles off the Danish coast. They tried to radio the Vulcanus II but received no reply. Then a handful of boats crossed the ship's bow, attempting to disrupt her course. Other boats played out their fishing nets. One snagged the ship's propellers. As a result, the ship's owners are suing a fisherman in criminal court for damages. A trial is set for November.

Larsen knows the protests are symbolic. Under an international agreement, North Sea ocean burning will be phased out in the early 1990s. But Larsen says it is a way to get public attention in Denmark to all forms of ocean pollution and the effect they are having on the marine environment.

"Here, we can see we have a chance to tell people there's something wrong," he says.

But in protesting offshore burning, Danes such as Larsen downplay pollution in their back yards.

As Larsen stands on his fishing boat, he is dwarfed by stacks from the three large fish-processing plants on the Esbjerg waterfront. These plants pipe tons of fish waste into the harbor daily. While treatment has improved in recent years, Vinding and others say the discharge remains a source of algae-growing nutrients in the harbor.

Tour around Esbjerg harbor with Vinding and he points out other problems. Inadequate sewage treatment has closed Esbjerg's beaches. A coal-fired power plant sprays the region with sulfur dioxide. And a bayside solid waste landfill releases metals and sewage into ground water and the ocean.

The landfill is testimony that Europe has yet to solve its waste disposal problems. Towering about 75 feet above sea level, the dump, Vinding says, is the highest point along the Wadden Sea.

"People get angry when they find the beach is polluted," Vinding says. "But I don't think they know it's coming from themselves."

RURAL POLLUTION

Aside from Esbjerg and a few large factories to the north, Denmark's North Sea coast is mostly rural. But it generates enough pollution to threaten coastal fisheries and ruin beaches, according to a review of reports and interviews with government researchers.

The biggest villain is the uncontrolled release of sewage, fertilizer and other nutrients into Danish waters.

The basis for life in the sea is one-celled plants called phytoplankton. A form of algae, they grow in relation to the amount of sunlight and nutrients available. In the spring, they multiply by billions in an event called an annual bloom.

Tiny animals called zooplankton eat the algae, baby fish eat the zooplankton and uneaten algae provides nourishment for bottom dwellers such as worms and fish.

But this delicate food will be destroyed when massive amounts of nutrients enter the water and overload the system.

The Quality Status Report on the Danish North Sea, * * * for centuries. What is new is a chronic overproduction of plant life fed by too many nutrients. It is literally choking the sea to death.

Richardson's phone began ringing early last April when seals started dying. Some researchers thought—incorrectly—that the deaths might be related to toxic algae.

In May, a poisonous species of algae did kill fish in aquaculture pens. Richardson says the combination of unusual wind conditions and an overabundance of the algae was responsible for the fish mortality. In June, a phaeocystis bloom covered Jutland beaches with brown foam, just as the tourist season was beginning.

"The high concentrations just had to be due to nutrients," she says.

These events have been most severe in the Kattegat, the enclosed stretch of water between Denmark and Sweden that connects the North Sea and Baltic Sea. Sea life on the bottom of the Kattegat is dying for lack of oxygen.

The Kattegat's plaice fishery is dying, too. Some fishermen blame overfishing for the losses, but Else Nielsen, a researcher at the fisheries institute, found plaice to be 30 percent smaller than normal in the Kattegat. If overfishing were to blame, she says, there would be fewer fish, but they would be larger.

Nielsen believes oxygen depletion in coastal nurseries has resulted in fewer, smaller fish.

Beyond the Kattegat, algae blooms and oxygen loss are becoming chronic in other coastal areas of the North Sea. The fear now is that these problems will expand into deeper water, threatening the open ocean.

RAIN TRIGGERS EXPLOSION

In an old carriage house next to Katherine Richardson's office, government researchers are tracking changes in Denmark's coastal environment. They see a dangerous trend.

"Since 1981, we have had these algae blooms every year," says Arne Nielsen, director of the Marine Pollution Laboratory.

Neilsen traces these severe blooms to heavy rain in 1978 and 1979, a period when Denmark recorded its highest rainfall in 100 years. The rain, he says, washed manure and fertilizers from thousands of farm fields into rivers and bays, setting the stage for algae explosion in the early 1980s.

It is easy to see why. From the air, Denmark appears as a patchwork quilt of fields, a brown and green tapestry stitched together by roads and specked with villages. Agriculture plays a far bigger role in the economy than fishing, and farming interests have great political power.

That is one reason why it has been hard to reach a national consensus over who is responsible for increasing coastal pollution. Farmers blame cities and their sewage. Cities blame farmers and their fertilizers. Everyone blames the Germans and the British.

But now Danes are set to take bold steps to control nutrient pollution at home. Polls show that about 80 percent of Danes shink pollution is the most pressing problem facing the country.

Those feelings are reflected in last year's enactment by the Danish Parliament of a five-year plan to reduce nitrogen input by 50 percent and phosphorus by 80 percent.

To do this, the government is setting stricter limits on sewage discharge. It is also requiring new cars after 1990 to have catalytic converters, and asking farmers to use manure more efficiently and control runoff.

Danes will pay for much of the program through a tax on drinking water.

"The evidence we have is clear," Arne Nielsen says. "Pollution in the coastal zone is too high, and it must be brought back to the levels we had in the 1950s, or something like that."

But Nielsen also says it is doubtful that Denmark can make such dramatic progress in five years. Aside from building treatment plants, it will take many years to phase in new cars. And controlling farm pollution depends on the individual actions of thousands of farmers.

BICKERING HAMPERS CLEANUP

Beyond that, the influence of pollution from other countries remains a major concern. Denmark cannot by itself clean the North Sea. Several recent conferences and agreements among the European neighbors suggest a growing recognition that it will take a collective effort.

But political bickering over which nation is most responsible for various forms of pollution is slowing progress.

"The question is whether we will take action fast enough to save the sea," Nielsen says.

Back in Esbjerg, the signs are mixed.

On one hand, area farmers are building manure storage facilities to prevent run-off. They city's sewage treatment plant is set to be upgraded by 1992.

On the other hand, the coal-fired power plant is expanding, but without the best technology to control emissions. The landfill is scheduled to expand as well.

Harbor dredge spoils, which contain mercury and other toxic metals, are still being dumped near shore because it is less expensive than barging the material farther out.

How much can Danes really do to clean up the North Sea?

At the Esbjerg Weekly, environmental reporter Worsoe sums up a theme echoed by several observers.

"They cannot do so much alone," he says, "but they can be a good example."

Seal Carcasses on Beaches Rouse Emotions in Europe

(By Tux Turkel)

Maybe it is their eyes.

Maybe it is the way seals look back at their human admirers that makes them so endearing, and why their mass destruction in the North Sea has sent shock waves across Europe.

Seals began washing up on Danish and Dutch beaches last April. At least 11,000 have died since then. It is now a common daily sight to find carcasses on North Sea beaches.

What is happening to North Sea seals? How are humans reacting?

Dutch scientists announced in late August that a form of canine distemper virus was killing the seals. Up to 80 percent of all North Sea seals could die before the virus runs its course, experts say.

Earlier theories tied the deaths to toxic algae blooms and manmade pollution. Speculation continues, however, about whether the North Sea's seal population had become too large and under stress, and whether a decline in fish off Greenland made seals migrate south in search of food.

In any case, many Europeans take the seal deaths as a sign that their ocean is on the verge of destruction. Reaction has been strong and emotional.

West German television has been giving an almost nightly death count on the news. In July, thousands of West Germans formed a 25-mile human chain along a beach and called for tougher pollution control laws.

Dead seals began showing up in Great Britain in mid-August. The British, widely known for their love of animals, began raising money in an attempt to save as many seals as possible if a vaccine becomes available. British newspapers are filled with grim stories with headlines such as: "Seal patrols scour dunes for the dying."

Experts and interest groups also are weighing in publicly about whether pollution has an indirect role in the tragedy.

Greenpeace, the international environmental group that has been fighting various forms of North Sea pollution, runs front-page ads with a drawing of a seal. It links pollution to the seal deaths and makes a pitch for money.

In Denmark, at the Esbjerg aquarium, a printout on a bulletin board lists a running tally of the number of dead seals found off the west coast of Jutland. As of Aug. 30, there were 715. Trailers filled with dead seals arrive daily.

The aquarium's director, biologist Svend Tougaard, is an expert on seals and has been studying the deaths since April. He believes pollution could have made the seals more susceptible to the virus, but has no proof.

Tougaard sees a connection, though, between the fish kills, algae blooms and other pollution-related events that have marked 1988 in Europe.

"You know the North Sea is in bad health," he says.

Tougaard doesn't think much of efforts in other countries to find a vaccine. He says it will be hard to administer and that money is better spent cleaning the ocean.

Tougaard also decided not to set up any sort of "save the seals" fund raiser at the aquarium. He thinks a long-term, educational effort to make the public aware of how the ocean works and how it is threatened is more effective.

"People come in and say to us, 'can we offer you some money to help the seals?'" Tougaard says. "We say, 'go home, and tell your town to clean up its pollution.'"

Ocean Leaves Warning on Jersey Shore

(By Christine Kukka)

UNION BEACH, N.J.—Joseph Turso stands on the shore of Union Beach, gazing at the ocean where three generations of his family have swum. The sun is shining, but no one is swimming today.

The water is muddy and oily. The grimy sand is littered with dead horseshoe crabs, flies, pigeons and enough bottles, cans and plastic goods to stock a kitchen.

"Years ago you couldn't get a parking space here," Turso said, surveying the beach on Raritan Bay, across from New York City. Today he is the only one on the beach, and he does not go near the water.

After absorbing millions of tons of waste from sewers and industries, from households and hospitals and military installations, the ocean here served notice this summer that it can hold no more.

In a spectacle that scandalized the nation and devastated New Jersey's booming tourism industry, the ocean returned man's waste to the beaches of this state.

The waste has decimated the tourist trade with high fecal bacteria levels, hypodermic needles, grease balls and garbage slicks. And it has wounded the state's fishing industry with contaminated seafood.

But the most visible wastes on New Jersey's beaches are not the most damaging.

Scientists estimate that 99 percent of the contaminants that plague the Jersey shore come from faulty sewer systems and street, pesticide and industrial runoffs that travel through storm drains to the ocean.

Years ago, when Joseph Turso wanted to go swimming, he walked to Union Beach. This summer he went to Maine.

"It used to be like Maine here," said the 60-year-old retiree. "This year is the worst I've ever seen it. I don't think I'll ever see it cleaned up."

The New York-New Jersey metropolitan region has 18 million people living on a quarter of the land area of Cumberland County in Maine. For generations the region has relied on the ocean to be both a recreation area and bottomless sink for its wastes.

Garbage was first dumped in New York's harbor two centuries ago. When the harbor began to stink, city officials started dumping in Raritan Bay, said National Marine Fisheries Service biologist Clyde I. MacKenzie, who specializes in shellfish problems in the bay.

In 1924, the city's ocean garbage dump was moved to a site 12 miles off the northern coast of New Jersey. When garbage and sewage sludge began to wash ashore in 1987, the federal Environmental Protection Agency ordered the site moved 106 miles off the Jersey coast, to an area that had received toxic, industrial and low-level radioactive waste for decades.

These are not the only dump sites along New Jersey's coast:

Philadelphia dumped waste into the ocean off the Delaware Bay, south of New Jersey, until the early 1970s.

The Department of Defense maintained an acid and ammunition dump within 15 miles of the Jersey coast for decades.

The U.S. Army Corps of Engineers, which dredges harbors to keep channels open, has several dump sites off New Jersey. A spot six miles off the northern Jersey coast called the Mud Dump receives an estimated 8 million cubic yards of dredge spoils annually, according to the Army.

These spoils contain large amounts of polychlorinated biphenyls (PCBs), dioxins and other toxic substances that settle to the bottoms of harbors.

MacKenzie said the first time a shellfish bed was closed by human waste contamination was in 1895, when clams from Staten Island touched off a wave of typhoid. By 1925, the New York side of Raritan Bay was completely closed to shellfish harvesting.

The harbor has gone downhill since. Industrial run-off containing PCBs, solvents, dioxins and other cancer-causing agents has contaminated the Raritan and Hudson bays and northern Jersey coast, settling into their murky bottom layers.

The cumulative effect of decades of ocean dumping and raw sewage has created an ocean bottom in Raritan Bay and off northern New Jersey that has the consistency of "black mayonnaise and can reek of sulfur," according to Anne L. Studholme, chief of the environmental assessment branch of the Northeast Fisheries Center of the National Marine Fisheries Service.

The contaminated waste gives the bay waters a dark, silty appearance and casts an oily slime on northern New Jersy beaches.

Raw sewage closed several beaches in recent years after swimmers became infected with intestinal viruses caused by fecal coliform bacteria. Scientists have compared some New Jersey beaches to unchlorinated swimming pools used by thousands of people.

This summer, a handful of beaches closed due to medical waste, high bacteria levels, floating debris and, in one instance, pigeon excrement.

NO ONE LISTENED

While pollution of coastal waters has only recently taken a toll on New Jersey's tourism industry, fishermen have been battling pollution for years.

"We've always had pollution on the Jersey shore," said Robert G. Egnatovich Sr., a North Middletown fisherman and opponent of ocean dumping. "What we had different on the shore this year was the power of the press."

Egnatovich, 43, said fishermen have been hauling up garbage, sewage waste, tampon applicators and medical waste in their nets for years. But no one listened to their complaints.

Egnatovich once harvested silver hake and whiting. Now he fishes for a scant supply of squid and uses baited hooks to hunt for the sharks that remain off the polluted New Jersey coast.

Egnatovich said he noticed a drop in stocks five years ago, when refrigerator parts, murky sewage sludge and human waste replaced the fish in his net.

William Figley, fisheries biologist with the New Jersey Division of Fish, Game and Wildlife, said total fish landings have remained constant for several years, but fishermen have required more boats and equipment to find them.

And several popular species, such as the black sea bass, have nearly dissappeared despite an arsenal of state of the art equipment.

Neither fishermen nor scientists know if the drop in fish is caused by pollution, overfishing or a combination of the two.

Egnatovich now leads a regional fight against the ocean dump site that receives 8.3 million tons of sewage sludge a year.

While a dump site situated 106 miles off the coast is out of view of land dwellers, it is in full view of fishermen.

"Even if you sweep dirt farther and farther under the carpet, it's still there," Egnatovich said.

"There are two opposing forces here, the fishermen and development," MacKenzie said. "Unfortunately, the fishermen have had no political stature. If fishermen were recognized as the most important users of the ocean, it would still be clean."

While many scientists are more concerned about invisible pollution such as PCBs and heavy metals, fishermen have been successful in focusing public attention on ocean dumping of sewage sludge from New York City, a practice they blame for recent incidents of fin rot, ulcerated fish and shell burn in lobsters.

WARNINGS TO CONSUMERS

Fishermen now need scorecards to determine what is safe and unsafe to eat. The current roster of advisories cautions the public against eating a variety of ocean products:

Bluefish six pounds or larger are potentially hazardous. The theory is the larger the fish, the more toxins it has ingested and retained in its liver, body fat and skin. Pregnant and nursing women and young children are told not to consume any bluefish.

American eels, white catfish, white perch and striped bass from New Jersey waters should be treated with caution because of high levels of toxins in their livers. Enforcement officials recently found a 1.5-ton load of illegal striped bass bound for Philadelphia, according to Capt. Edward Markowski of the state's Division of Fish, Game and Wildlife.

Shellfish harvesting along Raritan Bay is prohibited unless soft shell clams are "depurated" or suspended in a sterilized solution for 48 hours.

Contaminated clams are "relayed" or relocated to a clean beach for a two-month purging period before they are sold.

Marine patrol agents recently shut down the state's largest depuration plant after it sold more clams than it depurated, Markowski said.

After an aggressive campaign to get coastal towns to install modern sewer systems, New Jersey is proud that only one-quarter of its shellfish flats are closed to harvesting, according to Robert M. Runyon, chief of the New Jersey Department of Environmental Protection's Bureau of Monitoring Management.

In contrast, one-third of Maine's tidal flats are closed due to high fecal coliform counts, primarily from untreated human waste, according to Maine Department of Marine Resources research planner Robert Lewis.

New Jersey health officials are now debating whether to limit consumption of blue crabs and lobster due to high metal levels in their tomalley, or livers.

Against this backdrop of advisories, New Jersey agriculture officials tried to bolster their seafood industry this summer by assuring the public that at least some of the fish were safe to eat.

State officials staged a much-publicized seafood cook-out. But at the same time, they issued fact sheets on how to fillet a fish to avoid its toxic-laden liver, fat, skin and lateral muscle

Despite the state's best marketing efforts, the sale of seafood in northern New Jersey dropped 50 percent this summer.

According to fishermen at the Belford Fishermen's Co-op, the only seafood harvested from northern New Jersey waters that still sold well was lobster.

TOURISTS TURN AWAY

Like the fishing industry, tourism along the northern shore was down by half this summer, according to merchants.

During the week before Labor Day, beaches were nearly empty and seaside restaurants and hotels were crying for business.

The hypodermic needles, high bacteria counts and ocean dumping reports of the summer of 1988, following an epidemic of dolphin deaths in 1987, proven too much for tourists.

The state's department of tourism is still collecting data, but losses on the northern Jersey shore are estimated at 40 to 50 percent, according to Noreen G. Bodman, director of New Jersey's Division of Travel and Tourism.

Normally, an estimated 8.6 million visitors spend $7.7 billion in New Jersey's coastal counties each year.

Asbury Park, a grander version of Old Orchard Beach, had a malfunctioning sewer system that spewed grease balls and raw sewage into the ocean in July, forcing the beach to close for nearly a month.

At Seaside Park, so many pigeons congregated under a pier to feed on human leftovers that their excrement ran into the ocean and posed a health hazard to swimmers.

Though only five miles of beaches in New Jersey were closed this summer, the tourists and their money stayed away.

Some merchants, including Asbury Park merchant Rudie Menditto, have asked their congressmen to apply for federal disaster relief as a result of pollution problems.

"You're blessed up there. Old Orchard Beach is a beautiful beach," said Menditto, whose business was down 60 percent this summer. "I hope the concessionaires up there don't have to go through the anguish that we've gone through."

THE REAL ENEMY

While ocean dumping has been blamed for many of the problems suffered on the New Jersey coast, scientists and New Jersey environmental officials say that untreated industrial and sewage waste and oily run off—not ocean dumping—account for 99 percent of the contamination.

John "Jack" Pearce, deputy director for the federal government's Northeast Fisheries Center in Woods Hole, Mass., and an ocean dumping expert, knows the cause of pollution.

"We have met the enemy and it is us," he said. "I think we're wasting time focusing on ocean dumping. The problem is not ocean dumping, it's our collective waste.

The significance is that the state required developments containing 25 units or more to comply with its strict Coastal Facilities Act regulations. Developers built dozens of 24-unit projects to avoid the regulation, which was supposed to protect the fragile coast.

New Jersey is trying, however belatedly, to reduce waste and pollution.

The state has committed itself to a mandatory recycling program to reduce its solid waste flow by 25 percent in the next five years.

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Normally, an estimated 3.6 million visitors spend 37.7 billion in New Jersey's coastal counties each year.

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"We have met the enemy and it is us," he said. "I think we're wasting time focusing on ocean dumping. The problem is not ocean dumping, it's our collective waste.

"The sludge from the 106 ocean dump doesn't come close to shore," Pearce added. "It just deflects attention from the real issue, which is the solid waste we produce. It's not the Exxon refinery we have to worry about, it's how we conduct our individual lives."

Pearce argues that the nation needs to replace malfunctioning sewage systems and storm drains, which are the major cause of pollution but cost millions of dollars to replace.

Tourism officials, scientists and fishermen blame state and federal officials for ineffective environmental laws, weak enforcement and poor pollution prevention.

A lack of sound planning is another major factor. "Some day, when an archaeologist examines the Jersey shore he will wonder at what the mystical significance was of 24 housing units to each development," Runyon speculated.

The significance is that the state required developments containing 25 units or more to comply with its strict Coastal Facilities Act regulations. Developers built dozens of 24-unit projects to avoid the regulation, which was supposed to protect the fragile coast.

New Jersey is trying, however belatedly, to reduce waste and pollution.

The state has committed itself to a mandatory recycling program to reduce its solid waste flow by 25 percent in the next five years.

It is also working on a statewide zoning and development plan to control and limit development, safeguard its environment and ban growth where there is a shortage of drinking water.

A state Blue Ribbon Panel on Ocean Incidents recently recommended the appointment of an ocean advocate who would represent the ocean when coastal development is proposed.

Like Maine, New Jersey has a strong tradition of home rule, which allows municipalities to implement a patchwork of inconsistent land-use plans that have afforded little coastal or wetlands protection.

Rudie Menditto, the Asbury Park merchant who has seen his business dry up this summer, has some advice for Maine people looking for lessons from New Jersey's experiences this summer.

"You have to pass tough laws and stick with them and enforce them," Menditto said. "Don't wait for a crisis like this to do something."

Pollution Caused by Development Plagues Asbury Park

(By Christine Kukka)

Asbury Park, N.J.—When health officials closed the beach in this tourist town this summer, it was not because of medical waste or ocean dumping.

What closed the beach and continues to cause most of the pollution that plagues New Jersey's coast is dense coastal development, malfunctioning sewage treatment plants and storm drains that dump oil, grease and pesticides directly into the ocean.

Still, at a time when state officials are trying to limit development along the Jersey shore, Asbury Park is asking for more.

Like Old Orchard Beach in Maine, Asbury Park wants to replace its honky-tonk shops, vacant buildings and amusement parks with 2,400 shorefront condominium units and a Quincy Market-like development of specialty shops.

Asbury Park is hoping the condominiums will attract a well-heeled, middle-aged and elderly population that will pay taxes without requiring schools or many municipal services in return.

Developers are razing a mile-long and four-block wide stretch of Asbury Park's boardwalk and redeveloping 45 acres. Their plans call for replacing the T-shirt and salt water taffy shops with fern bars, castle-like condominium complexes and boutiques.

What portion of the ambitious redevelopment plan will be approved by the state's coastal development review division is anyone's guess.

Asbury Park has one of the worst environmental records in the state. After a $90,000 fine, it was the last coastal town to replace its antiquated sewage treatment plant with a modern facility this summer.

"Some of their redevelopment plans have been found to be acceptable, while others have not," said Stephen Whitney, chief of the New Jersey's Department of Environmental Protection's Division of Coastal Resources. "We're looking at the plans very carefully."

While state officials scrutinize Asbury Park's redevelopment plans, the great-great-grandson of Oliver Wendell Holmes is flipping hamburgers at Ollie's Luncheonette on the boardwalk for the last summer.

A line of specialty shops are slated to replace Ollie's Luncheonette, which Oliver W. Holmes 5th has owned and operated for 25 years.

The tourists who supported Holmes' shop were chased away by fecal coliform contamination in the coastal waters. His business was down 60 percent this summer.

Holmes says he is a victim of development and pollution, and the two are inseparable.

Asbury Park officials hope the massive redevelopment will dramatically improve a blighted environment.

To complete its facelift, the town handed over development rights to its shorefront to a public Waterfront Management Board.

The board contracted with a private developer to renovate the 45-acre parcel, as long as the development complied with municipal waterfront zoning.

Asbury Park gave the waterfront developers, Carabetta Enterprises Inc. and brothers Henry and Sebastian Vaccaro, the right to condemn property and raze the honky-tonk stores.

The historic Casino and Convention Hall buildings that are the cornerstones of the boardwalk will remain architecturally intact.

Because of the pending redevelopment, Ollie Holmes' lease will soon expire.

Business has been so bad lately, few merchants are complaining about their pending unemployment. "I guess I'll go work for someone else now," Holmes philosophized.

Because Asbury Park's redevelopment occurs on land already developed and covered with asphalt, there has been little opposition to the redevelopment by environmentalists.

And the development comes at a time when the town's new $23 million wastewater treatment plant has come on line.

But there is a catch.

The town's new wastewater treatment system is designed for the 17,000 residents who now live in Asbury Park—not for the 3,000 to 4,000 extra who will occupy the 2,400 new condominiums.

It is the kind of poor planning that New Jersey state officials had hoped to avoid.

"We think it will be able to accommodate them somehow," said Marianne Schell, Asbury Park's director of development. "The sewer plant is state-of-the-art construction and can be expanded."

"If we find they don't have sewage capacity or won't expand it, we won't allow the development," Whitney said.

For Rudie Menditto, pollution and poor planning are facts of life. He has operated the Boardwalk Tobacco Shop for 27 years and, like Holmes, he presides over a dying business along the boardwalk of Asbury Park.

"They finally fixed the sewers here so people could swim again," Menditto said, gazing at the waves crashing against the empty beach. "But you have a tremendous amount of people living on the shore. The accumulation of all of this waste takes its toll."

Mr. RINALDO. Mr. Speaker, I rise in support of S. 2030, and I urge my colleagues to join me in voting in favor of this bill.

I am an original cosponsor of the House version of this measure, and I want to commend my colleagues, particularly Congressmen HUGHES and ROE for their tremendous efforts in producing a bill that is long overdue.

This bill will halt the dumping of sewage sludge in the Atlantic Ocean by 1991 and also bans all further dumping of medical waste in the ocean.

The measure also imposes a fee on municipalities that continue ocean dumping. Proceeds from this fee will be deposited into a special account and used to develop land-based alternatives.

Mr. Speaker, this bill is one of the most important pieces of legislation that has come before this Chamber in this Congress.

It is a critical issue to residents in my district and State, and it is a landmark environmental bill that recognizes the irreplaceable nature of our marine resources.

It puts this body squarely on record. We will no longer allow the pollution of one of our most important natural resources.

This legislation is a bill that deserves to be passed, and I yield back the balance of my time.

Miss SCHNEIDER. Mr. Speaker, I rise today in strong support of the conference report on S. 2030, the Ocean Dumping Ban Act of 1988. This bill is the culmination of a lot of hard work and dedication by many of my colleagues, especially BILL HUGHES and JIM SAXTON with whom I began this legislative odyssey 8 long months ago.

A year ago everyone said that this bill would never pass. Mayor Koch and other supporters of the harmful practice of ocean dumping employed obstructionist tactics in an attempt to assure that this bill would never survive the legislative process.

I stand here today and say, "Mayor Koch, you were dead wrong!" This horrible practice will end, and this Congress will bring it to an end. Passage of this bill is a great victory for all of us who care about our oceans and environment. David has slain Goliath—the people of Rhode Island have won, New Jersey has won, and even the people of New York have won. This is a major victory in protecting our oceans and beaches.

This bill will make it illegal to dump sewage sludge or industrial waste into any ocean waters of the United States after December 31, 1991. Anyone who knowingly violates this deadline will face stiff fines and penalties, and could be subject to imprisonment. Those who dump up until the 1991 deadline will also have to pay disposal fees of up to $200 per dry ton.

The sludge being dumped at the 106-mile site contains a horrifying list of toxics and metals, such as arsenic, PCB's, mercury, DDT, lead, cadmium, and dozens of others. These kinds of pollutants caused the old 12-mile dump site to become a virtual dead sea, and to be closed to further dumping. The moving of the dump site further offshore did not resolve any problems, it merely relocated them.

There are many fishermen from my district in Rhode Island who fish in and around the 106-mile dump site. Within the past year there have been numerous reports from fishermen and scientists about new diseases and deformed fish and shellfish coming from previously pristine areas near the new dump site.

The commercial fishing industry is worth three-quarters of a billion dollars to Rhode Island's economy every year, and employs nearly 7,000 Rhode Islanders. The Nation's fishing industry is also the only segment of our economy with a trade surplus with Japan—$1.1 billion. That surplus, and my State's economy, however, are in danger because of continued ocean dumping. It is abundantly clear that the costs of ocean dumping are borne by many, not just by those municipalities that dump their waste in the ocean.

I would like to see ocean dumping stopped immediately. Procedural and technological realities, however, have made that an impossible task. This bill, however, will end ocean dumping, and this historic end to the long saga of ocean dumping in the United States put New York City and Mayor Koch on notice that this Nation will no longer tolerate a total disregard for our oceans and our environment.

Mr. STANGELAND. Mr. Speaker, I rise in support of the conference report on S. 2030. This legislation prohibits ocean dumping of sewage sludge and industrial and medical waste, and regulates the transport of commercial and municipal waste in coastal waters. While I have some concerns about S. 2030, I believe the bill, as a whole, improves our efforts to protect the environment.

First, let me congratulate the conferees on both Houses for their hard work on this consensus legislation. In particular, let me thank the leadership of the House Public Works and Transportation Committee, as well as its New Jersey and New York delegation members. Congressmen BOB ROE, GUY MOLINARI, DEAN GALLO, and EDOLPHUS TOWNS were very helpful. I also appreciate the extensive efforts of members of the House Merchant Marine and Fisheries Committee and the Senate Environment and Public Works Committee.

Title I, known as the Ocean Dumping Ban Act of 1988, is the heart of S. 2030. We have taken provisions from the earlier Senate-passed bill and the House-passed bill, H.R. 4338. The resulting compromise bans ocean dumping of sewage sludge and industrial waste after 1991, establishes certain disposal fees, penalties, trust accounts and discretionary funds to develop ocean dumping alternatives and to prevent water pollution generally. The bill also redirects the use of New York's and New Jersey's Clean Water Act funds to develop environmentally sound alternatives to ocean dumping.

The conferees have agreed to apply the ocean dumping ban to industrial waste as well as sewage sludge. Only one industrial waste dumper, however, is currently dumping or planning to dump off the Atlantic coast. The conferees included industrial waste with the understanding that the dumper was in the process of negotiating an ocean dumping permit and planning to end ocean dumping in the next few years. Recognizing that, the conferees do not intend to inhibit or otherwise affect the current permit process between the dumper and EPA.

The bill requires EPA to waive special permit fees if dumpers enter into satisfactory compliance agreements. The conferees retained this important concept from H.R. 4338 to provide incentives for municipal and industrial dumpers to enter into agreements with EPA. The provision is particularly important when applied to the one industrial dumper covered by our bill. The conferees agreed to expand the scope of S. 2030's ocean dumping ban to include industrial waste but only in the same respect as in the House bill. H.R. 4338 covered industrial waste but allowed for a waiver of special permit fees if the industrial waste dumper entered into a compliance agreement. The conference report contains this same approach.

The conferees included the Senate provision that requires States to join EPA and dumpers in signing compliance agreements and enforcement agreements. This was done to ensure greater State participation—not to give a State any kind of outright veto. States are encouraged to participate and cooperate fully so that ocean dumping ends and environmentally sound alternatives are pursued as soon as possible.

The compromise also includes provisions on availability and use of the State revolving loan funds established in the Water Quality Act of 1987. The Public Works Committee believes title VI capitalization grants have a role to play in developing environmentally sound alternatives to ocean dumping. Fees and penalties collected under S. 2030 are also to be used for capitalization grants to New York's and New Jersey's revolving loan funds.

We have also agreed to modify the provisions in the House-passed bill regarding ocean discharge criteria requirements in section 403(c) of the Clean Water Act. The Public Works Committee, as the committee of jurisdiction over the Clean Water Act, recognizes a serious problem may exist with the implementation of section 403(c). Therefore, we have agreed to include section 1007 which requires EPA to report on section 403(c), its implementation, and the need for additional legislation. The gentleman from New York [Mr. MANTON] is to be congratulated for his efforts on this issue.

Mr. Speaker, one of my greatest concerns involves the Nation's emerging waste disposal crisis and the secondary impact of our absolute ban on ocean dumping in this bill. Where are we going to put all of this sewage sludge? How are we going to deal with the ever-mounting problem of municipal, solid waste?

The answer is through the development of environmentally sound alternatives and improved pretreatment methods. This bill does not limit such alternatives to land-based methods. The conferees specifically agreed to include "alternative system"—a broadly defined term based in part on the Senate bill and in part on my amendment to the House bill. It is important to note that in defining "alternative system," the conferees agreed not to specifically address ocean incineration.

Title II amends section 320(A)(2)(B) of the Clean Water Act to include four more estuaries to the list to which EPA must give priority consideration when designating estuaries for the National Estuary Program. This section of the Clean Water Act requires the Administrator of EPA to give priority consideration to listed estuaries but does not require the Administrator to select such estuaries for the program and to convene management conferences. By adding more estuaries to section 320(A)(2)(B), the conferees do not intend to decrease funding for estuaries which EPA has already designated in the program, nor do the conferees intend to preclude the designation of other estuaries or to change in any way the nomination process already established in section 320.

Title III includes various prohibitions, penalties, and enforcement tools to help solve the medical waste problem. The conference report prohibits the dumping of medical waste in navigable waters as defined in the Clean Water Act and ocean waters as defined in the Ocean Dumping Act. The House Public Works and Transportation Committee conferees agreed to the Clean Water Act amendments proposed by the Senate Environment and Public Works Committee and a modified version of the ocean dumping amendments proposed by the House Merchant Marine and Fisheries Committee. The conferees agree the term "medical waste" does not include, in any respect, dredged or fill material.

Title IV, the Shore Protection Act of 1988, is an effort to respond to leaking garbage barges and poor waste management practices. The bill requires permits and vessel identification numbers, and provides for waste handling practices and enforcement tools to stem the tide against commercial and municipal waste pollution in coastal waters. I recognize a problem exists, but I believe title IV's approach to a solution may be broader than necessary. The Coast Guard and EPA should strive to keep this new regulatory program as small, yet effective as possible.

The conferees intentionally limited the program to coastal waters and to commercial and municipal waste. Dredged and fill material subject to regulation under the Ocean Dumping Act, the Clean Water Act, and the Rivers and Harbors Act of 1899 are not included in the list of regulated materials. The Coast Guard may look at violations of these acts when deciding to deny permits but in doing so, should first consult the Secretary of the Army and the Administrator of EPA, for their expertise in these areas.

Mr. Speaker, in spite of some concerns, I believe S. 2030 is worthwhile legislation. It provides a timely response to growing concerns about our coastal and marine environments. It mandates an end to ocean dumping. At the same time, it recognizes the Nation's emerging waste management crisis by not precluding other disposal options. For all of these reasons, I urge my colleagues to give unanimous support to the conference report.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of the conference report on S. 2030, a bill which will help cleanse our coastal waters. The New York delegation should be especially congratulated for cooperating with the other conference members in phasing out the ocean disposal of sewage sludge, as New York City is the largest single user of the ocean for this purpose, and will face the greatest burden in finding alternatives.

Despite its major focus on title I of the bill, which regulates the ocean disposal of sewage sludge and industrial waste, this act will also benefit the Great Lakes.

Title III of this bill is a further addition to the array of bills the House has passed to control the wash-up of medical waste on our shores. Last August, I introduced a multipoint bill, H.R. 5249, which was designed to end the dumping of medical waste in the Great Lakes, a water system which has also been plagued by medical debris on the beaches and its attendant economic and public safety problems. I am pleased that title III of this act, by banning the discharge of medical waste into navigable waters under the Clean Water Act reflects a major section of my bill. However, a complete ban on the dumping of medical waste into the Great Lakes akin to that found in the Ocean Dumping Act, as well as increased civic and criminal penalties under the Clean Water Act for medical waste discharges under that act would have provided much more protection for the lakes. Fortunately, a recent bill from the House Energy and Commerce Committee authorizes a pilot program for medical waste tracking which includes the Great Lakes, as well as a waste reduction program. These elements complement the provisions of our bill and will aid in the identification of illegal medical waste disposers.

Finally, title IV of the conference report is the Shore Protection Act. This provision should end the careless disposal of garbage, including medical waste, into our ocean waters from vessels transporting waste from shoreside facilities to garbage dumps. I am pleased that the conferees agreed to my suggestion that the Great Lakes also be covered by the restrictions in the bill. I am not aware of any particular problems that the lakes experience now with vessel transport of solid waste, but this title will serve as a mechanism to ensure that none develop in the future.

I urge my colleagues to support this conference report, which represents one of the most significant bills from the Merchant Marine and Fisheries Committee this year.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The Speaker pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the conference report on the Senate bill, S. 2030.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

STRENGTHENING CERTAIN FISH AND WILDLIFE LAWS

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 4030) to reauthorize and amend certain wildlife laws, and for other purposes.

The Clerk read as follows:

Senate amendments:

Page 2, strike out lines 13 to 24, and insert:

SEC. 201. STATE USE OF AMOUNTS FROM STAMP FEES.

Section 203(b)(3) of Public Law 86-797 (commonly known as the Sikes Act; 16 U.S.C. 670i(b)(3)) is amended to read as follows:

"(3) Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this title in the State concerned. Such fees may be used by the State agency to acquire lands or interests therein from willing sellers or donors to provide public access to program lands that have no existing public access for enhancement of outdoor recreation and wildlife conservation; provided that the Secretary of Agriculture and the Secretary of the Interior maintain such access, or ensure that maintenance is provided for such access, through or to lands within their respective jurisdiction.".

Page 8, line 2, after "under" insert: "section 401 of"

Page 8, after line 16, insert:

SEC. 405. CONVEYANCE OF FISH HATCHERY TO THE COMMONWEALTH OF KENTUCKY.

Notwithstanding any other provision of law and within 180 days of the date of enactment of this Act, the Secretary of the Interior shall convey, without reimbursement, to the Commonwealth of Kentucky, all of the right, title, and interest, including the water rights, of the United States in and to the fish hatchery property located approximately 14 miles due north of the city of Frankfort in Franklin County, Kentucky and known as the Frankfort National Fish Hatchery, consisting of 114.2 acres, more or less, of land together with any improvements and related personal property thereon. The property conveyed by this Act shall be used by the Kentucky department of Fish and Wildlife Resources as a part of the Kentucky fishery resources management program and if it is used for any other purpose, title to such property shall revert to the United States.

Page 8, after line 16, insert:

SEC. 406. CONVEYANCE OF FISH HATCHERY TO THE STATE OF NEW HAMPSHIRE.

Notwithstanding any other provision of law, the Secretary of the Interior shall convey, without reimbursement, to the State of New Hampshire no later than December 31, 1988, all of the right, title, and interest of the United States in and improvements and related personal property under the Secretary's jurisdiction, including buildings, structures and equipment, associated with the United States' facility known as the Berlin National Fish Hatchery and located in the northwest corner of Berlin township. Coos County, New Hampshire. The improvements and related personal property conveyed shall be used by the New Hampshire Fish and Game Department as a part of the new Hampshire fishery resources management program and if they are used for any other purpose, title to such property shall revert to the United States.

Page 8, after line 16, insert:

SEC. 407. CONVEYANCE OF FISH HATCHERY TO THE STATE WISCONSIN.

Notwithstanding any other provision of law and within 180 days of the date of enactment of this Act, the Secretary of the Interior shall convey, without reimbursement, to the State Wisconsin, all of the right, title, and interest, including the easements and water rights, of the United States in and to the fish hatchery property located in the Town of Lake Mills, Wisconsin, and known as the Lake Mills National Fish Hatchery, consisting of the land together with any improvements and related personal property thereon. The property conveyed by this Act shall be used by the Wisconsin Department of Natural Resources as a part of the Wisconsin fishery resources management program and if it is used for any other purpose, title to such property shall revert to the United States.

Page 18, after line 18, insert:

TITLE VII—AMENDMENTS TO THE FISH AND WILDLIFE CONSERVATION ACT OF 1980

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

Section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended by striking "and 1988." and inserting in lieu thereof "1988, 1989, and 1990.".

SEC. 802. FEDERAL CONSERVATION OF MIGRATORY NONGAME BIRDS.

After section 12 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910), add the following new section:

"SEC. 13. FEDERAL CONSERVATION OF MIGRATORY NONGAME BIRDS.

"(a) Conservation Activities.—The Secretary shall undertake the following research and conservation activities, in coordination with other Federal, State, international and private organizations, to assist in fulfilling his responsibilities to conserve migratory nongame birds under existing authorities provided by the Migratory Bird Treaty Act and Migratory Bird Conservation Act (16 U.S.C. 701-715) and section 8A(e) of the Endangered Species Act (16 U.S.C. 1537A(e)) implementing the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere:

"(1) monitor and assess population trends and status of species, subspecies, and populations of all migratory nongame birds;

"(2) identify the effects of environmental changes and human activities on species, subspecies, and populations of all migratory nongame birds;

"(3) identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543); and

"(4) identify conservation actions to assure that species, subspecies, and populations of migratory nongame birds identified under paragraph (3) do not reach the point at which the measures provided pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543) become necessary.

"(b) Reports.—Within one year after the date of enactment of this Act, and at five-year intervals thereafter, the Secretary shall prepare a report that presents the results of the activities taken pursuant to subsection (a) of this section and that describes any efforts to carry out those conservation actions identified pursuant to paragraph (4) of subsection (a) of this section. Such reports shall be submitted to the Committee on Environment and Public Works of the United States Senate and to the Committee on Merchant Marine and Fisheries of the United States House of Representatives.".

Page 18, after line 18, insert:

TITLE IX—MISCELLANEOUS AMENDMENTS

SEC. 901. RELINQUISHMENT OF EXCLUSIVE LEGISLATIVE JURISDICTION.

Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, the exclusive legislative jurisdiction of the United States over all or part of any United States Fish and Wildlife Service lands or interests therein, including but not limited to National Wildlife Refuge System and National Fish Hatchery System lands, in that State, Commonwealth, territory, or possession. Relinquishment of exclusive legislative jurisdiction under this subsection may be accomplished (1) by filing with the governor (or, if none, the chief executive officer) of the State, Commonwealth, territory, or possession concerned, a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide.

SEC. 902. REMOVAL OF THE A. REGINA.

Section 1115 of the Water Resources Development Act of 1986, Public Law 99-662 (1986), 100 Stat. 4235, shall be amended by striking the final period thereof and by adding thereafter the following: ": Provided, That, in furtherance of the work authorized by paragraph (3) hereof, and conditioned on successful removal of the A. Regina, the Secretary of the Army is hereby authorized to transfer upon such conditions as he shall deem fit the title to a Delong Pier Jack-Up Barge Type A, serial number BPA6814, directly to any entity, including any private corporation to be used to assist in the removal of the wreck of the said A. Regina. Procedures otherwise governing the disposal of government property, shall not apply to the above authorized transfer of title. The foregoing actions shall be at no cost to the United States, and shall constitute full compliance by the Secretary of the Army with the requirement of paragraph (3) hereof.".

Page 18, after line 18, insert:

SEC. 903. AMENDMENT TO THE NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT.

Section 5 of the Act of March 26, 1984, (16 U.S.C. 3704), otherwise known as the "National Fish and Wildlife Foundation Establishment Act", is amended by inserting the following at the end of section 5: "Notwithstanding any other provision of this section, the Secretary of the Interior is authorized to continue to provide facilities, and necessary support services for such facilities, to the National Fish and Wildlife Foundation after March 26, 1989, on a space available, reimbursable cost basis.".

SEC. 904. AMENDMENT TO THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966.

Subsection (e) of section 4 of the Act of October 15, 1966 (16 U.S.C. 668dd(e)), otherwise known as the "National Wildlife Refuge System Administration Act of 1966", is amended by striking "thereunder" and all that follows through the end of the sentence and inserting in lieu hereof "thereunder shall be fined under title 18, United States Code, or imprisoned for not much more than 1 year, or both.".

SEC. 905. TECHNICAL CORRECTION.

Section 9(d)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1538(d)(1)(A)), as amended by the African Elephant Conservation Act, is amended further by striking "recreational purposes); or" and inserting in lieu thereof "recreational purposes) or plants; or".

Page 18, line 18, insert:

TITLE X—PROTECTION OF MASSACHUSETTS BAY

SEC. 1001. SHORT TITLE.

This title may be cited as the "Massachusetts Bay Protection Act of 1988".

SEC. 1002. DEFINITION.

For purposes of this title the term "Massachusetts Bay" includes Massachusetts Bay, Cape Cod Bay, and Boston Harbor, consisting of an area extending from Cape Ann, Massachusetts south to the northern reach of Cape Cod Massachusetts.

SEC. 1003. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds and declares that—

(1) Massachusetts Bay comprises a single major estuarine and oceanographic system extending from Cape Ann, Massachusetts south to the northern reaches of Cape Cod, encompassing Boston Harbor, Massachusetts Bay, and Cape Cod Bay;

(2) several major riverine systems, including the Charles, Neponset, and Mystic Rivers, drain the watersheds of eastern Massachusetts into the Bay;

(3) the shorelines of Massachusetts Bay, first occupied in the middle 1600's, are home to over 4 million people and support a thriving industrial and recreational economy;

(4) Massachusetts Bay supports commercial fisheries, including lobsters, finish, and shellfisheries, and is home to or frequented by several endangered species and marine mammals;

(5) Massachusets Bay also constitutesd an important recreational resources, providing fishing, swimming, and boating opportunities to the region;

(6) rapidly expanding coastal populations and pollution pose increasing threats to the long-term health and integrity of Massachusetts Bay;

(7) while the cleanup of Boston Harbor will contribute significantly to improving the overall environmental quality of Massachusetts Bay, expanded efforts encompassing the entire ecosystem will be necessary the ensure its long-term health;

(8) the concerted efforts of all levels of government, the private sector, and the public at large will be necessary to protect and enhance the environmental integrity of Massachusetts Bay; and

(9) the deisgnation of Massachusetts Bay as an Estuary of National Significance and the development of a comprehensive plan for protecting and restoring the Bay may contribute significantly to its long-term health and environmental integrity.

(b) PURPOSE.—The purpose of this title is to protect and enhance the environmental quality of Massachusetts Bay by providing for its designation as a Estuary of National Significance and by providing for the preparation of a comprehensive restoration plan for the Bay.

SEC. 1004. DESIGNATION AS ESTUARY OF NATIONAL SIGNIFICANCE.

Section 320(a) (B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) is amended by inserting "Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor);" after "Buzzards Bay, Massachusetts;".

SEC. 1005. FUNDING SOURCES.

Within one year of enactment, the Administrator of the United States Environmental Protection Agency and the Governor of Massachusetts shall undertake to identify and make available of funding to support activities pertaining to Massachusetts Bay undertaken pursuant to or authorized by section 320 of the Clean Water Act, and shall make every effort to coordinate existing research, monitoring or control efforts with such activities.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4030, legislation to amend and strengthen certain wildlife laws. The House passed the bill in July, and it has just been amended by the other body and sent back to us.

As passed by the House last July, the bill contained seven separate titles, each addressing a separate issue related to wildlife conservation. The first strengthened Federal wildlife law enforcement capabilities. The second reviewed the Sikes Act which authorizes wildlife management agreements between Federal and State governments. The third made additional funds available to the Fish and Wildlife Service for the acquisition of migratory waterfowl habitat. The fourth transferred a Federal fish hatchery to the University of Georgia, and renamed another fish hatchery in Georgia. The fifth authorized the acquisition of additional lands for a Hawaiian National Wildlife Refuge. The sixth made several technical changes to the Klamath River Basin Restoration Act. The seventh called for a study of the fishery resources of the Russian River Basin in California.

The bill before us today contains several provisions added by the Senate. The first is the text of H.R. 4883, which amends the Clean Water Act to include Massachusetts Bay in the National Estuary Program.

The second reauthorizes the Fish and Wildlife Conservation Act for an additional 2 years. It also requires the Fish and Wildlife Service to augment its existing program for the conservation of migratory game birds by undertaking measures to conserve migratory birds that are not ordinarily hunted in the United States. The Fish and Wildlife Conservation Act itself is designed to encourage the conservation of fish and wildlife species that are not ordinarily subject to hunting or fishing.

The third provision added by the Senate authorizes the Secretary of the Interior to relinquish to a State the exclusive legislative jurisdiction of the United States on national wildlife refuges. This would, in effect, authorize the Secretary to permit State and local law enforcement agents to aid in the enforcement of laws of the refuges.

The fourth provision added by the Senate facilitates the removal of a shipwreck from a coral reef off the coast of Puerto Rico. It authorizes the transfer of a barge from the Army Corps of Engineers to a salvage firm to enable it to remove the wreck.

The fifth and sixth Senate additions contain the text of two provisions that were earlier passed by the House as amendments to another wildlife bill. They would permit the Secretary of the Interior to continue to provide facilities to the National Fish and Wildlife Foundation on a reimbursable basis, and would increase the penalties for violations of the National Wildlife Refuge System Administration Act.

The seventh provision added by the Senate would transfer Federal fish hatcheries to the States of Kentucky, New Hampshire, and Wisconsin. The eighth would make a technical correction to the Endangered Species Act.

Finally, the Senate bill contains an amendment to the House amendment to the Sikes Act that provides that fees collected by States for hunting on Federal lands may be used to acquire public access to the Federal lands for recreation and wildlife conservation. The Senate provisions stipulate that the lands may only be acquired from willing sellers, and that the Federal Government is responsible for maintaining the access.

Let me here acknowledge the cooperation of the Public Works and Transportation Committee and Chairman GLENN ANDERSON. Two of the items added to the bill affect matters within that committee's jurisdiction.

Section 902 permits the transfer of a surplus specialized Army Corps of Engineers barge to remove the shipwreck *A. Regina* from a coral reef in Puerto Rico. Obviously, this item is a matter normally handled by Public Works. Also, title X amends section 320(a)(2)(B) of the Federal Water Pollution Control Act to direct that Massachusetts Bay be given priority consideration for designation as an estuary of national concern. This title is equivalent to H.R. 4883 which was referred jointly to our two committees.

We are grateful to our Public Works colleagues for helping us expedite final action on H.R. 4030.

In closing, Mr. Speaker, let me say that I believe that these provisions are worth while, that I know of no opposition to them, and that I urge Members to vote favorably on this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Speaker, I rise in support of the several fish and wildlife provisions within H.R. 4030; and to express my particular support for title V which authorizes funds for the expansion and enhancement of the Kilauea Point National Wildlife Refuge on Kauai.

Funds from this authorization will be used to ensure that proper conditions are restored and maintained for the several species of seabirds which nest on the refuge. Native plants used as nesting material are to be restored to the area. A fence to keep feral animals which prey on nesting birds and chicks will be built.

This measure is also for the benefit of the half million visitors who come to the refuge each year. Other plants to improve public access to new refuge areas will be made possible by this legislation.

H.R. 4030 authorizes funds for new additions to the Kilauea Wildlife Refuge, and ensures that the new areas will be properly managed and maintained as an integral part of the refuge. It will allow the Fish and Wildlife Service the means and flexibility to balance the needs of native wildlife with the recreational enjoyment of the public.

The plans for this refuge include wildlife enhancement activities, hiking trails, emergency and law enforcement access roads, and a waterfront recreation area.

I can personally attest to the spectacular vistas, and abundant and easily accessible wildlife. One of many attractions is the three-year-old albatross colony which resides on the refuge. It is the first albatross colony in the main Hawaiian Islands, and the only one which can be viewed in the United States.

I ask favorable consideration for H.R. 4030.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4030 and urge its adoption by the House.

Mr. Speaker, this bill is a collection of a number of different wildlife bills that have earlier been passed by the House. These bills have been put together in one package in the Senate and are being returned to us for final action.

Included in this package are: Technical amendments to the Lacey Act which allows the Federal Government to enforce fish and wildlife laws; reauthorization of the Sikes Act allowing fish and wildlife conservation programs on military reservations; extension of the Wetlands Loan Fund; establishment of a new national wildlife refuge in Hawaii; restoration programs for two river basins in California; conveyances of certain fish hatcheries to State authority; and provisions protecting Massachusetts Bay.

Mr. Speaker, this is a noncontroversial bill which is designed to enhance our ability to conserve and manage our fish and wildlife resources. I believe it deserves prompt action by the House so that it can be presented to the President for his signature. I urge its adoption.

Mr. JONES of North Carolina. Mr. Speaker; I rise today to ask my colleagues to pass H.R. 4030, as amended and passed by the other body on October 14, 1988. H.R. 4030 is an act to strengthen and amend various fish and wildlife laws. The House passed a very similar version of H.R. 4030 on July 26, 1988, by unanimous voice vote, and I urge passage of this noncontroversial legislation.

H.R. 4030, as passed by the other body adds a few new provisions which the Committee on Merchant Marine and Fisheries finds acceptable. The first modification would assist the Army Corps of Engineers in fulfilling its statutory obligation to provide for the removal of the wreck of a ship from a coral reef off Puerto Rico which is considered critical habitat for threatened and endangered sea turtles. The provision authorizes the Army Corps of Engineers to transfer a surplus barge to the salvage company which has pioneered a method for removing shipwrecks without causing further environmental damage. Currently, the Corps does not have this authority. Experts have stated that time is of the essence in removing this wreck. This provision will allow the removal to begin immediately to save the reef and its important sea turtle habitat without further cost to the Government. I would like to thank the leadership of the House Committee on Public Works and Transportation for their support and approval of this provision.

The second modification to the House passed bill requires the Administrator of the Environmental Protection Agency to give priority consideration to the inclusion of Massachusetts Bay in the National Estuary Program. A similar measure, H.R. 4883, was introduced by the Honorable GERRY STUDDS June 21, 1988. H.R. 4883 was favorably reported by the Committee on Merchant Marine and Fisheries on August 4 of this year after a joint hearing held by two of our subcommittees. Therefore, I support the adoption of this amendment by the other body.

The third modification would amend the National Fish and Wildlife Foundation Establishment Act to allow the foundation to continue to rent space within the Department of the Interior beyond March 26, 1989, at GSA determined rental rates. This amendment would also allow the foundation to receive from the Interior Department necessary support services associated with the rental space such as cleaning or mail delivery on a reimbursable cost basis. This provision is identical to one contained in H.R. 4272 previously passed by the House on September 26, 1988.

Another modification to H.R. 4030 involves a long overdue upgrading of the criminal penalties available for violations of the National Wildlife Refuge System Administration Act. The current $500 maximum fine makes a violation of the Refuge Act one of the cheapest Federal wildlife violations on the books. This leaves our refuge system vulnerable to those who would disobey the wildlife laws of this country. With this amendment, the committee is signaling its desire that significant criminal fines be imposed for serious violations of the Refuge Act. This provision which upgrades Refuge Act penalties was also included in H.R. 4272 when it passed the House on September 26, 1988.

The fifth modification would reauthorize appropriations for the Fish and Wildlife Conservation Act of 1980, known as the Non-Game Act. This provision is similar to H.R. 4029, introduced by the Honorable GERRY STUDDS in February 1988, and which was considered at a hearing by our Fish and Wildlife Subcommittee. In addition, this provision calls for a study of nongame, song birds.

An additional modification would transfer ownership of three low priority Federal fish hatcheries to the States of Kentucky, New Hampshire, and Wisconsin.

The final modification would authorize the Secretary of the Interior to relinquish enforcement authority to a State over any part of U.S. Fish and Wildlife Service lands which are currently under the exclusive jurisdiction of the Federal Government. This provision will aid in law enforcement efforts by allowing State law to apply to crimes like murder, assault or robbery when committed on Fish and Wildlife Service property under the exclusive jurisdiction of the Federal Government.

With regard to the original House-passed bill, title I amends the Lacey Act, a law to control the commerce in illegally taken fish and wildlife. This title overturns a wrongly decided decision from the 9th Circuit Court of Appeals and provides that the sale of both guiding or outfitting and transportation services for the purpose of illegally obtaining wildlife be made subject to the penalties of the Lacey Act.

The title also makes several additional technical changes which the Department of Justice strongly advocates. The first would clarify the search and seizure and arrest authority for Fish and Wildlife law enforcement agents, consistent with constitutional requirements. The second expands the list of prohibited activities subject to Federal penalties under the Lacey Act. The third amendment modifies the false labeling provisions of the Lacey Act.

Title II reauthorizes the Sikes Act. This act provides for wildlife management agreements between Federal and State governments to enhance wildlife conservation on Federal lands.

Title III contains two provisions on wetlands and migratory bird conservation. The first would extend the authorization for the wetlands loan fund. This act authorizes expenditures for the acquisition of important wetlands and other essential waterfowl habitat. The second would amend the Duck Stamp Act to allow the U.S. Fish and Wildlife Service to deduct the expenses of marketing the duck stamp copyright from the royalties derived from the sale of duck stamp products. This would allow the service to market the stamps more aggressively, which should generate additional revenues for acquiring wetlands.

Title IV provides for the transfer of a Federal fish hatchery in Georgia to the University of Georgia. The university currently has a long-term lease to operate the hatchery, but needs full title to enable it to make necessary capital improvements. Title 4 also renames the national fish hatchery in Millen, GA, in honor of former Congressman Bo Ginn.

Title V authorizes $2.6 million for the acquisition of additional lands and making needed improvements for a national wildlife refuge in Hawaii.

Title VI makes several technical changes to the Klamath River Basin Restoration Act. This act established the Klamath River Basin conservation area and the Klamath fishery management council and task force.

Title VII incorporates the provisions of H.R. 2513, a bill authorizing a study of the fishery resources of the Russian River Basin. Title VII contains the same provisions of H.R. 2513 as reported out of the Committee on Merchant Marine and Fisheries with one exception. Section 4 of H.R. 2513 was deleted at the request of the Public Works and Transportation Committee regarding the extension of a permit by the Secretary of the Army for a dam in California.

In conclusion, I urge the passage of H.R. 4030, as amended by the other body. A very similar version of this noncontroversial legislation had unanimous, bipartisan support in the House, and I once again urge its passage.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 4030.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

ATLANTIC STRIPED BASS CONSERVATION ACT AMENDMENTS OF 1988

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4124) to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "and 1988," and inserting in lieu thereof "1988, 1989, 1990, and 1991,".

SEC. 2. EFFECTIVE PERIOD.

Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "1988." and inserting in lieu thereof "1991.".

SEC. 3. FUNDING OF STRIPED BASS STUDIES.

Section 7(d) of the Anadramous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "the fiscal year ending September 30, 1980," and all that follows through "September 30, 1988" and inserting in lieu thereof "each of the fiscal years 1988, 1989, 1990, and 1991".

SEC. 4. COMMISSION FUNCTIONS.

Section 4(a)(1) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by inserting "and at any other time it deems necessary," immediately after "thereafter,".

SEC. 5. STUDY OF STRIPED BASS IN ALBEMARLE SOUND AND ROANOKE RIVER BASIN.

(a) FINDINGS.—The Congress finds that:

(1) The anadromous stock of striped bass in the Albemarle Sound-Roanoke River Basin area of North Carolina sustained important commercial and recreational fisheries as recently as the 1960's and 1970's.

(2) This stock has been declining for some time and is severely depressed at present, and may soon reach a level from which recovery will be exceptionally difficult.

(3) The reasons for this decline are thought to include fishing; other human activities and environmental factors, such as unsuitable water flow before, during, and after critical spawning periods; degradation of water quality by pollutants; the impact of eutrophication on the food chain, and the impact of changing land use activities.

(4) Current Federal and interstate efforts to conserve the Atlantic striped bass, while effective in identifying factors contributing to the decline of other important Atlantic coastal migratory stocks of striped bass and steps that will be effective in reversing that decline, have not made a major contribution to the protection and restoration of the Albemarle Sound-Roanoke River stock of striped bass.

(5) Because the striped bass and the aquatic environment of the Albemarle Sound-Roanoke River basin presently are being significantly affected by combined but not fully understood causes, a study should be undertaken to obtain additional biological information to understand the significance of fishing, water flows, and other factors in the decline of the striped bass populations in the Albemarle Sound-Roanoke River basin and, if feasible, develop an effective course of action for restoring these important stocks of striped bass.

(b) STUDY.—

(1) IN GENERAL.-The Director of the United States Fish and Wildlife Service, in consultation with the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration shall—

(A) immediately undertake a biological study of the striped bass fishery resources and habitats of the Albemarle Sound-Roanoke River basin area;

(B) develop short-term and long-term recommendations for Federal and State government agencies for restoring and conserving such resources and habitats; and

(C) submit the results of such study and such recommendations to the Congress and to the States of North Carolina and Virginia as soon as practicable, but not later than 36 months after the date of the enactment of this Act.

(2) CONTENTS OF THE STUDY.—The study conducted under this subsection shall, to the extent existing data are adequate, use such existing data and shall include—

(A) a description of the Albemarle Sound-Roanoke River basin area, and an investigation and analysis of the effects of land and water use practices on the striped bass population and habitats of the area;

(B) an investigation and analysis of the abundance and age and geographic distribution of the Albemarle Sound-Roanoke River stock of striped bass, including the amount and geographical location of migration and spawning habitat;

(C) an investigation and analysis of factors that may affect the abundance and age and geographic distribution of the Albemarle Sound-Roanoke River stock of striped bass, including—

(i) the extent and causes of mortality at successive stages in the life cycle of striped bass, including mortality due to recreational and commercial fishing; and

(ii) the combined effects of pollution and other natural and human alterations of the physical environment, including the effects of water withdrawals, discharges, and flows, on striped bass migration and spawning and on the viability and condition of eggs and larval fish;

(D) an investigation and analysis of the status and effectiveness of current striped bass management measures implemented by State and Federal authorities, including State fishing regulations and Federal fish stocking activities, reservoir management and water flow regulation, and an analysis of whether any additional State or Federal measures would be effective in halting the decline and initiating the recovery of the Albemarle Sound-Roanoke River stock of striped bass; and

(E) a recommendation of whether conservation of the Albemarle Sound-Roanoke River stocks of striped bass could be improved by management of these stocks under the provisions of the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Plan for Striped Bass and the Atlantic Striped Bass Conservation Act.

(c) PARTICIPATION BY STATE AGENCIES.—

(1) The Director of the North Carolina Division of Marine Fisheries, the Executive Director of the North Carolina Wildlife Resources Commission, the Secretary of the Virginia Department of Natural Resources, and the District Engineer for the Wilmington District of the United States Army Corps of Engineers shall be invited to have their agencies participate in conducting the study and developing recommendations pursuant to subsection (b).

(2) To facilitate participation by the agencies referred to in paragraph (1), should they decide to participate, a Memorandum of Understanding will be executed with such officials setting forth the respective responsibilities of the entities involved in conducting the study and developing those recommendations.

(d) CONSULTATION.—In carrying out the study under subsection (b), the Atlantic States Marine Fisheries Commission, other Federal agencies, the Albermarle-Pamlico Estuarine Study, Dominion Resources, Inc./Virginia Power/North Carolina Power, affected local governments in North Carolina and Virginia, appropriate commercial and recreational fishing interests, and other interests shall be consulted, to the maximum extent practicable.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $1,000,000 to carry out the requirements of this section. These appropriations will remain available until expended.

(f) STATE AUTHORITY.—Nothing in this section shall be construed as authorizing any State to manage fisheries within the jurisdiction of another State.

(g) RESTRICTION ON USE OF OTHER FUNDS.—Amounts appropriated pursuant to the authorization contained in section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) shall not be used to carry out this section.

SEC. 6. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.

(a) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—The Secretary of Commerce shall promulgate regulations governing the fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines to be consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851) and necessary and appropriate to—

(1) ensure the effectiveness of State regulations or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

(2) achieve conservation and management goals for the Atlantic striped bass resource.

(b) CONSULTATION; PERIODIC REVIEW OF REGULATIONS.—In preparing regulations under subsection (a), the Secretary shall consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, State, and local government entity. The Secretary shall periodically review regulations promulgated under subsection (a), and if necessary to ensure their continued consistency with the requirements of subsection (a), shall amend those regulations.

(c) FISHERY MANAGEMENT PLAN ON STRIPED BASS.—

(1) The appropriate Regional Fishery Management Councils may prepare a fishery management plan on Atlantic striped bass, which if approved and implemented by the Secretary shall supersede any regulations promulgated under subsection (a). Such plan shall—

(A) meet the requirements of sections 301 and 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 and 1853);

(B) apply to all fishing for Atlantic striped bass within the exclusive economic zone; and

(C) ensure the effectiveness of the Plan of the Atlantic States Marine Fisheries Commission defined under section 3(7) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note).

(2) The Secretary shall review such fishery management plan pursuant to section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) and shall approve the plan if it meets the requirements of paragraph (1) and other provisions of this section. The Secretary shall implement the plan by promulgating regulations in accordance with section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855). No regulation promulgated under subsection (a) shall have force and effect during any period in which regulations implementing such plan are in effect.

(d) APPLICABILITY OF MAGNUSON ACT PROVISIONS.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) or (c) of this section as if such regulations or plan were issued under the Magnuson Fishery Conservation and Management Act.

(e) DEFINITION.—As used in this section, the term "exclusive economic zone" has the meaning given such term in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(6)).

(f) EFFECTIVE PERIOD.—Subsections (a) through (e) of this section shall cease to have force and effect at the close of September 30, 1991.

(g) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 3 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

"(1) The term 'Magnuson Act' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).".

(2) Section 5 of such Act is amended by striking "Act of 1976" each place it appears and inserting in lieu thereof "Magnuson Act".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4124 reauthorizes the Atlantic Striped Bass Conservation Act, extends the emergency striped bass study for an additional 3 years and provides for a new study of striped bass population in North Carolina. The purpose of this bill, and the law it reauthorizes, is to restore the striped bass to its historic status as one of the most important commercial and recreational species in the United States.

As the author of the emergency striped bass study in 1979 and the Atlantic Striped Bass Conservation Act in 1984, I am proud to report that great progress has been made in bringing back the striper. In those earlier days, the prognosis for the striped bass was bleak and it was clear that, in the absence of significant conservation efforts, the striped bass would never regain its past prominence. In short, our fisherman and our environment were threatening the survival of the bass.

As many of my colleagues are aware, the Atlantic Striped Bass Conservation Act has prompted coastal states to adopt very tough conservation and management measures for their waters that are consistent with the Atlantic States Marine Fisheries Commission's management plan for striped bass. If a State fails to do this, it is subject to a federally imposed moratorium. I am pleased to note, however, that it has not been necessary for the Federal Government to impose a moratorium on striped bass fishing in any State, although several States, as I think Members know, have themselves closed their striped bass fishery because of high levels of pollution.

Mr. Speaker, H.R. 4124, as returned to us from the other body, contains two additional provisions. The first allows the Atlantic States Marine Fisheries Commission to determine if a State is in compliance with the Striped Bass Act at any time during a year. Currently, there is question as to whether the Commission can make this determination at times other than at the end of each year. The second new provision that the Senate included in H.R. 4124 requires the Secretary of Commerce to promulgate regulations for striped bass caught in the exclusive economic zone. This measure is strongly supported by all the affected States, including Maryland, and should improve the conservation of Atlantic Striped Bass in waters beyond the jurisdiction of individual States.

Finally, Mr. Speaker, the Striped Bass Act is a success story. The magnificent striped bass, once severely depleted and nearly placed on the Federal endangered species list, is making a comeback. Reauthorization of this act would allow another chapter to be written in this increasing happy story. I strongly urge my colleagues to support this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4124 and urge its adoption by the House.

This bill was passed by the House Merchant Marine and Fisheries Committee and the entire House earlier this year. It authorizes appropriations for the Atlantic Striped Bass Conservation Act in order to continue the strong conservation programs that have been conducted by the Department of Commerce, the Department of the Interior, and the Atlantic States Marine Fisheries Commission.

As passed by the other body, the bill includes a study of striped bass populations in the waters off North Carolina. This study is similar to one which was included in the House bill. The Senate bill also dropped a House provision calling for a study on issuing a striped bass stamp. Although this provision was not accepted by the Senate, I remain hopeful that consideration of this proposal and others that will help increase our research base for commercial and recreational fisheries will be looked at by the House and the Senate in the next Congress.

Finally, the Senate included a provision to deal with a particular problem involving striped bass fishing in the exclusion economic zone, especially off the coast of Maryland. At the moment, no Federal regulation exist governing fishing in this area and this has caused a problem for Maryland in terms of enforcing its own regulations.

I do wish to call particular attention to one section of the Senate amendment. Section 6(c) allows the Regional Fishery Management Councils to prepare a fishery management plan for striped bass. The section also establishes procedures by which such a plan would be approved. I want to make it clear that it is the intent of the House that this provision does not in any way affect the normal fishery management plan development and approval procedure that is clearly established in the Magnuson Fishery Conservation and Management Act. Rather, this section of the bill is designed to encourage the councils to act and develop a plan which takes into account the existing Atlantic States Marine Fisheries Commission striped bass plan.

Mr. Speaker, this is another of a number of measures passed by our committee that promotes the conservation of our Nation's fish and wildlife. I would like to compliment the chairman of the subcommittee, Mr. STUDDS, for his work on this issue and urge the adoption of the bill.

Mr. STUDDS. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Speaker, I would like to engage in a brief colloquoy with the gentleman from Massachusetts.

Mr. Speaker, Long Island has a tradition of commercial striped bass fishing that is over 300 years ago. However, the catch restrictions imposed by the Atlantic States Marine Fisheries Commission, together with the Hudson River PCB problem, have put fishermen in my district out of business since 1985. The PCB problem has now all but disappeared off Eastern Long Island, but the Commission continues to place size limits and other catch restrictions which, while acceptable to spot fishermen, are prohibitive to commercial fishermen in my district.

The goal of the Atlantic Striped Bass Conservation Act is to protect and restore East Coast striped bass stocks to healthy levels—particularly the Chesapeake Bay stock. As I interpret the intent of Congress in enacting this law, after Atlantic striped bass stocks have successfully been restored, the resource would then be made accessible to the fishing community.

Mr. Speaker, I yield to the gentleman from Massachusetts to ask if that is his interpretation of the intent of the law, and if he has any thoughts on the situation facing commercial fishermen on Long Island?

Mr. STUDDS. Mr. Speaker, during the subcommittee's striped bass hearing, witnesses testified that the surveys for Hudson River fish were near record levels, indicating that the New York stocks of striped bass are on the increase. I understand that the State of New York intends to propose a limited commercial fishery in the eastern end of Long Island consistent with the interstate fishery management plan for striped bass. I want to assure my colleague Mr. HOCHBRUECKNER that the Committee on Merchant Marine and Fisheries is very aware of the problem in his district. We fully expect the New York proposal to be given every possible consideration by the Atlantic States Marine Fisheries Commission, and I can assure my colleague that our committee will be monitoring this issue very closely.

The gentleman from New York has been a strong advocate of the commercial fisheries in his district, and I would like to acknowledge his continuing contribution to the work of this committee.

Mr. Speaker, I rise today to address an issue of vital importance to my congressional district. As we reviewed implementation of the Atlantic Striped Bass Conservation Act in the Merchant Marine and Fisheries Committee last spring, I raised some concerns I have as the representative of eastern Long Island. I also recommended a new program which could solve a serious problem in my district.

Long Island has a very old tradition of commercial striped bass fishing. There are fishermen on eastern Long Island whose families have made their living catching striped bass since Colonial times, in the early 1600s. For the past several years, however, these fishermen have been out of business. Because they are no longer permitted to catch and market striped bass, they have had to take jobs driving school buses, working as janitors, and doing other work for which they were not trained or inclined.

The effective prohibition on commercial striped bass fishing in my district stems from both Federal and State policies. In New York State, we have had a problem over the years in the Hudson River with contamination by polychlorinated biphenals [PCB's]. On eastern Long Island, however, the fishery last tested clean; that is, below 2 parts-per-million PCB's, which means that fish swimming off Long Island are safe to eat.

Setting aside the PCB problem for a moment, from the standpoint of Federal policy, the 33 inch minimum size requirement imposed by the Atlantic States Marine Fisheries Commission [ASMFC] for New York striped bass seems unfair for the commercial fisherman. As any professional fisherman will tell you, a striper 33 inches or longer is not a desirable fish to bring to market. To make a living, fishermen need to be able to catch the school size bass—between 16 and 30 inches. Adding insult to injury, the Commission is now raising the size limit to 38 inches.

From the Long Island commercial fisherman's perspective, the Commission's dictates seem especially unfair because the Atlantic Striped Bass Conservation Act was intended to protect Chesapeake Bay stocks, not Hudson River stocks. The Commission does not consider the fact that between 68 and 80 percent of the striped bass off eastern Long Island are Hudson River bass. This fact was proved by tests at the University of Rhode Island, and research is now in progress in the New York Department of Environmental Conservation [DEC] which should corrolate those findings.

The State and Federal Governments must work together to find a reasonable compromise that can restore the time-honored commercial fishing industry on eastern Long Island. At the same time, of course, we must protect the overall Atlantic striped bass stocks and ensure that the fish going to market are safe to eat.

I again ask the ASMFC for a partial change in the size limits imposed for eastern Long Island, where the fishery has tested clean. I ask that the Commission consider an agreement with the New York DEC wherein, if New York permits an opening of the area of the fishery that tests clean for PCB's—an area which from all accounts I have seen is teeming with Hudson River stripers—the ASMFC will permit local fishermen to catch striped bass in the 16–30 inch size range.

An important point to consider is that New York State has in place a very effective yellow tag program for fish. This program will enable us to tell which striped bass are from the areas off Long Island that have tested clean for PCB's.

Mr. Speaker, I am concerned about a small number of fishermen on Long Island's East End using old fashioned fishing techniques. If we can put into place a limited, carefully monitored program allowing for a partial opening of the Long Island fishery for school size striped bass, we can put fishermen in my district back to work and help prevent an old American tradition and way of life from disappearing.

I especially appreciate the work of the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from North Carolina [Mr. JONES], and the members of the Merchant Marine and Fisheries Committee to help resolve this problem in my district. I look forward to their continued assistance to the people of eastern Long Island on this most important issue.

Mr. JONES of North Carolina. Mr. Speaker, I rise today to urge my colleagues to support H.R. 4124, an act to reauthorize the Atlantic Striped Bass Conservation Act and Emergency Striped Bass Study for fiscal years 1989 through 1991, and for other purposes.

The House previously has passed H.R. 4124, as amended. The other body has now approved the measure in a somewhat different version, and all of the changes are acceptable to the Committee on Merchant Marine and Fisheries.

When we previously considered this measure in July, I referred to the serious decline of important stocks of striped bass that led Congress to authorize the Emergency Striped Bass Study in 1979. This continuing study investigates the causes of the decline, and monitors the abundance and distribution of striped bass. I also referred to the importance of the Atlantic Striped Bass Conservation Act. This act promotes the restoration and management of depleted populations of striped bass by encouraging the States to implement consistent and effective management programs within their respective jurisdictions. The measure before us today will allow these important programs to continue, thus benefiting all of the coastal States.

Testimony before by committee now suggests that the act is beginning to reverse the decade-long decline in striped bass populations. Not all States have noted striped bass recoveries, however, North Carolina, for instance, is still experiencing a serious decline of this important species. In response to this continued decline, I previously had offered an amendment of special interest to North Carolina to H.R. 4124 which directed that a study be conducted of the status of striped bass in the Albemarle-Roanoke River area of North Carolina and the causes of their decline in that region. It is of particular satisfaction to me that while the North Carolina striped bass study had been slightly modified by the other body. The study remains essentially the same as first proposed by the House.

The fishing industry has always been a critical economic mainstay of the First District of North Carolina, and striped bass has always been one of the most important species in that industry. It is of utmost importance to my district and to the Nation to seek a better understanding of the threats to the striped bass resources of the Albemarle Sound-Roanoke River area of the State, and to eliminate those threats.

The reasons for the decline of striped bass in this area are unclear, but probably include the cumulative effect of reduced and altered waterflows, water pollution, fishing, and changed land use activities. There is, therefore, an urgent need to centralize and review existing data and generate new biolgical information on the reasons for the decline, to make recommendations to arrest the decline, and to begin to restore our striped bass stocks. We must look not only to the past, but we must also anticipate reasonably foreseeable future land and water uses and evaluate their likely impact on our goal of restoring striped bass stocks. We must act quickly. As I stated in July, of particular concern are plans for additional diversions of water from the Roanoke river and the continued deterioration of water quality in Albemarle Sound.

Because of the fragile condition of the striped bass populations in the area, even small changes in the condition of the Roanoke River could have major consequences for the survival of such populations. For the duration of the North Carolina striped bass study authorized by this section, it is our intent that State and Federal agencies should exercise caution so that actions are not taken or authorized which may contribute further to the decline of striped bass. Whenever possible, additional conservation actions should be taken to enhance the recovery of striped bass resources including, to the maximum extent possible, maintaining adequate instream flows in the Roanoke River.

The other body's version of H.R. 4124 that we are considering today differs somewhat from the House-passed bill, but the intent remains the same. The study will be under the primary direction of the U.S. Fish and Wildlife Service in consultation with the National Marine Fisheries Service, with invited State agency participation, particularly the North Carolina Division of Marine Fisheries and the North Carolina Wildlife Resources Commission. Moreover, interested citizen and industry groups are to be consulted throughout the course of the study.

The study will include a biological description of the study area and will focus on current and reasonably foreseeable land and water uses that may have an effect on the striped bass population of the area. Of particular importance is the examination of adverse impacts during the most vulnerable stages of the striped bass life cycle, including spawning, that might be caused cumulatively by factors such as water withdrawals, discharges and flows, fishing and the combined effects of pollution and other alterations of the physical environment. The study will also examine changes in management regimes and regulations that might be necessary to improve the status of the striped bass stocks.

The measure before us today would require completion of the study as soon as practicable but no later than 36 months after the date of enactment. This is twice as long as the 18 months provided by the original House bill. I would like to note that the longer period may be necessary only for certain aspects of the study. I believe that "as soon as practicable" certainly means less than 36 months. The Committee on Merchant Marine and Fisheries expects to receive periodic reports to enable careful monitoring of the progress of the study and to assure that the final report is received truly "as soon as practicable."

Although I agree with some of the observations made by Senator WARNER in his statement on S. 2384 on Tuesday, October 4, I must disagree with him with respect to the intent of this legislation and its impact on the Lake Gaston project.

First, neither this legislation nor my original bill had any retroactive effect on the project. There was and is no retrospective effect because the matter has been remanded to the Corps of Engineers to comply with the National Environmental Policy Act.

Second, nothing in this legislation nor in my original bill was or is intended to alter the provisions of NEPA, the Clean Water Act, or their implementing regulations.

Third, neither this legislation nor my original bill determined whether the Lake Gaston project ultimately should or should not go forward.

Fourth, both my original bill and the bill before us today strongly state that it is national policy to preserve and enhance the rapidly diminishing stock of striped bass in the Roanoke-Albemarle area. Prior to this legislation, no such national policy existed.

I do not know whether the EIS and study will ultimately support building the pipeline. Until the results of the study are available, however, I do know that the Corps of Engineers should not issue the required section 404 permit. The purpose of this legislation is to require the Federal agencies to conduct an adequate study first, and not act precipitously in the absence of the required results of the study.

Finally, it is important to note that this striped bass study is not to be viewed as a substitute for any environmental impact statement which I believe is required under the National Environmental Policy Act for the Lake Gaston Water Division project. Rather, the study is intended to supplement the environmental impact statement process. Indeed, it seems to me no analysis of the impacts on striped bass by the proposed Lake Gaston water withdrawal can be complete or adequate without the results of the study authorized in this bill.

I also want to note that ongoing activities by the east coast States and the two Federal fishery agencies under the emergency striped bass study (section 7(D) of the Anadromous Fish Conservation Act) continue to serve a very necessary role in coastwide striped bass conservation and restoration programs. I do not intend that the North Carolina striped bass study detract in any way from, or use any funds appropriated for, the emergency striped bass study.

In closing, I urge my colleagues to support H.R. 4124 as passed by the other body.

Miss SCHNEIDER. Mr. Speaker, I rise today in strong support of H.R. 4124, the reauthorization of the Atlantic Striped Bass Conservation Act.

The striped bass is one of the most important sport and commercial species of fish in the Northeast. The precipitous decline of this species in the 1980's led to the emergency measures imposed under the Atlantic Striped Bass Conservation Act. I coauthored the original act in 1984, and was again an original cosponsor of this year's reauthorization. The reauthorization passed unanimously out of the Committee on Merchant Marine and Fisheries, and was approved by the House with no opposition.

The striped bass populations have made a tremendous comeback since this law was first passed 4 years ago. There have been many reports from biologists as well as fishermen from Rhode Island to Maryland that there are apparently healthy stocks of young striped bass. These young fish are the key to the species' survival in the future, and they must still be protected if we are to see the type of healthy fishery that existed two decades ago.

The Atlantic Striped Bass Conservation Act has been remarkably successful in its first 4 years. The species, however, is still not back to its healthy levels of 20 years ago and this act is the best means that we have to ensure their recovery. I strongly urge my colleagues to support its reauthorization.

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Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. GRAY of Illiniois). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4124.

The question was taken; and (two-thirds having voted in favor thereof) the rules are suspended and the Senate amendment was concerned in.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT WITH AN AMENDMENT TO H.R. 4189, MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1988

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 593) to concur with the Senate amendment to H.R. 4189 with an amendment.

The Clerk read as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. That this Act may be cited as the "Marine Mammal Protection Act Amendments of 1988".

INTERIM COMMERCIAL FISHERY EXEMPTION

SEC. 2. (a) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating section 114 as section 116; and

(2) by inserting immediately after section 113 the following new section:

"INTERIM EXEMPTION FOR COMMERCIAL FISHERIES

"SEC. 114. (a)(1) During the period beginning on the date of enactment of this section and ending October 1, 1993, except as provided in paragraph (2), the provisions of this section, rather than sections 101, 103, and 104, shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States and vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental kill or serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

"(2) The provisions of this section other than subsection (e)(6)(A) shall not govern the incidental taking of marine mammals in the course of commercial yellowfin tuna fishing subject to section 104(h)(2) of this title.

"(b)(1) The Secretary shall, after consultation with the Marine Mammal Commission—

"(A) publish in the Federal Register, for public comment, not later than sixty days after the date of enactment of this section a proposed list of those fisheries, along with a statement of the marine mammals and the approximate number of vessels or persons involved in each such fishery, that have—

"(i) frequent incidental taking of marine mammals;

"(ii) occasional incidental taking of marine mammals; or

"(iii) a remote likelihood of or no known incidental taking of marine mammals;

"(B) publish in the Federal Register not later than one hundred and twenty days after the date of enactment of this section a final list of the fisheries and other information required by paragraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an exemption and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered from the program established under subsections (c), (d), (e), and (f), and other relevant sources and after notice and opportunity for public comment, the classification of fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An exemption shall be granted by the Secretary in accordance with this section for a vessel engaged in a fishery identified under paragraph (1)(A) (i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner, the name and description of the vessel, the fisheries in which it will be engaged, and such other information as the Secretary considers necessary. A decal or other physical evidence that the exemption is current and valid shall be issued by the Secretary at the time an exemption is granted, and so long as the exemption remains current and valid, shall be reissued annually thereafter.

"(B) No exemption may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Notwithstanding any other provision of this title, exemptions granted under this section shall authorize the incidental taking of marine mammals, other than California sea otters, from any species or stock, including a population stock designated as depleted, but shall not authorize the intentional lethal taking of any Steller sea lion, any cetacean, or any marine mammals from a population stock designated as depleted.

"(3)(A) Beginning two hundred and forty days after the date of enactment of this section, each owner of a vessel engaged in any fishery identified under paragraph (1)(A) (i) or (ii) shall, in order to engage lawfully in that fishery—

"(i) have registered with the Secretary in order to obtain for each such vessel owned an exemption for the purpose of incidentally taking marine mammals in accordance with this section;

"(ii) ensure that a decal or such other physical evidence of a current and valid exemption as the Secretary may require is displayed on or is in the possession of the master of each such vessel; and

"(iii) report as required by subsection (c).

"(B) Any owner of a vessel receiving an exemption under this section for any fishery identified under paragraph (1)(A)(i) shall, as a condition of that exemption, take on board a natural resource observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery identified under paragraph (1)(A) (i) or (ii) who—

"(i) fails to obtain from the Secretary an exemption under this section;

"(ii) fails to maintain a current and valid exemption; or

"(iii) fails to ensure that a decal or other physical evidence of such exemption issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and shall be subject to the penalties of this title except in the case of unknowing violations before January 1, 1990.

"(D) If the owner of a vessel has obtained and maintains a current and valid exemption from the Secretary under this section and meets the requirements set forth in this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the exemption applies.

"(E) Each owner of a vessel engaged in any fishery not identified in paragraph (1)(A) (i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in such form and manner as the Secretary may require, instances of lethal incidental taking in the course of that fishery.

"(4) The Secretary shall suspend or revoke an exemption granted under this section and shall not issue a decal or other physical evidence of the exemption for any vessel until the owner of such vessel complies with the reporting requirements under subsection (c) and such requirements to take on board a natural resource observer under paragraph (3)(B) as are applicable to such vessel.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, Regional Fishery Management Councils, and other interested parties, the means by which the granting and administration of exemptions under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an exemption under this subsection. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an exemption. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of exemptions under this section.

"(c) The owner of each vessel holding an exemption granted under subsection (b) of this section shall regularly compile information which shall be used in a report to be submitted to the Secretary at the close of the fishing season or annually, as the Secretary may prescribe. Such report shall be submitted in such form as the Secretary may require and shall include the following:

"(1) the type of fishery engaged in by the owner's vessel;

"(2) the date and approximate time of any incidental taking of a marine mammal, together with the area in which the incidental taking occurred, the fishing gear used at the time of the incidental taking, and the species of fish involved; and

"(3) for each incidental taking, the number and species of marine mammals involved, whether the marine mammals were deterred from gear or catch, incidentally injured, incidentally killed, or lethally removed to protect gear, catch, or human life.

If there was no incidental taking of marine mammals during the reporting period, a report stating that fact shall be filed with the Secretary.

"(d)(1) The Secretary shall establish a program to enhance the quality of and verify information received from reports submitted by owners of vessels who have been granted an exemption under subsection (b) of this section. The program shall include, but not be limited to—

"(A) education efforts regarding the information that must be submitted;

"(B) interviews with fishermen; and

"(C) other such information gathering and verification activities that will enable the Secretary to determine reliably the nature, type, and extent of the incidental taking of marine mammals that occurs in a fishery.

Except to the extent authorized by the provisions of subsection (e), the program shall not include placement of observers aboard exempted vessels.

"(2) Information obtained under this subsection shall be subject to the confidentiality provisions of subsection (j).

"(e)(1) For each fishery identified under subsection (b)(1)(A)(i) of this section, the Secretary shall, after consultation with the appropriate Regional Fishery Management Councils, other Federal and State agencies, and other interested parties, and subject to paragraph (6), place observers on board exempted vessels so as to monitor not less than 20 percent nor more than 35 percent of the fishing operations by vessels in the fishery to obtain statistically reliable information on the species and number of marine mammals incidentally taken in the fishery. If the Secretary determines that fewer than 20 percent of the fishing operations by vessels in the fishery will be monitored during the course of the fishing season, the Secretary shall implement the alternative observation program described in subsection (f) to the extent necessary to supplement the observer program described in this subsection.

"(2) When determining the distribution of observers among fisheries and between vessels in a particular fishery, the Secretary shall be guided by the following standards:

"(A) the requirement to obtain the best scientific information available;

"(B) the requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery;

"(C) consistent with paragraph (1), the requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage; and

"(D) where practicable, the need to minimize costs and avoid duplication.

"(3) If the Secretary finds that, for reasons beyond his or her control, the Secretary cannot assign observers to all the fisheries identified under subsection (b)(1)(A)(i) of this section at the level of observer coverage set forth in paragraph (1), the Secretary shall allocate available observers among such fisheries, consistent with paragraph (2), according to the following priority:

"(A) those fisheries that incidentally take marine mammals from any population stock designated as depleted;

"(B) those fisheries that incidentally take marine mammals from population stocks that the Secretary believes are declining;

"(C) those fisheries other than those described in subparagraphs (A) and (B) in which the greatest incidental take of marine mammals occur; and

"(D) any other fishery identified under subsection (b)(1)(A)(i).

The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not identified under subsection (b)(1)(A)(i).

"(4) Information gathered by observers shall be subject to the provisions of subsection (j). Consistent with the requirements of paragraph (1), the Secretary shall, if requested by the Appropriate Regional Fishery Management Council, or in the case of a State fishery, the State, require observers to collect additional information, including but not limited to the quantities, species, and physical condition of target and non-target fishery resources and, if requested by the Secretary of the Interior, seabirds.

"(5) Notwithstanding the provisions of paragraph (4), the Secretary may decline to require observers to collect information described in such paragraph, if the Secretary finds in writing, following public notice and opportunity for comment, that such information will not contribute to the protection of marine mammals or the understanding of the marine ecosystem, including fishery resources and seabirds.

"(6) The Secretary shall not be required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation where harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities of a vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7)(A) An observer on a vessel (or the observer's personal representative) under the requirements of this section or section 104 that is ill, disabled, injured, or killed from service as an observer on that vessel may not bring a civil action under *any* law of the United States for that illness, disability, injury, or death against the vessel or vessel owner, except that a civil action may be brought against the vessel owner for the owner's willful misconduct.

"(B) This paragraph does not apply if the observer is engaged by the owner, master, or individual in charge of a vessel to perform any duties in service to the vessel.

"(8) There are authorized to be appropriated to the Department of Commerce for the purposes of carrying out this subsection not to exceed $2,700,000 for fiscal year 1989 and not to exceed $8,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

"(f)(1) The Secretary shall establish an alternative observation program to provide statistically reliable information on the species and number of marine mammals incidentally taken in those fisheries identified pursuant to subsection (b)(1)(A)(i) of this section for which the required level of observer coverage has not been met or for any other fisheries about which such reliable information is not otherwise available. The alternative program shall include, but not be limited to, direct observation of fishing activities from vessels, airplanes, or points on shore.

"(2) Individuals engaged in the alternative observation program shall collect scientific information on the fisheries subject to observation, consistent with the requirements of paragraph (1) and subsection (e) (4) and (5). All information collected shall be subject to the provisions of subsection (j).

"(g)(1) The Secretary shall review information regarding the incidental taking of marine mammals and evaluate the effects of such incidental taking on the affected population stocks of marine mammals.

"(2) If the Secretary finds, based on the information received from the programs established under subsections (c), (d), (e), and (f), that the incidental taking of marine mammals in a fishery is having an immediate and significant adverse impact on a marine mammal population stock or, in the case of Steller sea lions and North Pacific fur seals, that more than 1,350 and 50, respectively, will be incidentally killed during a calendar year, the Secretary shall consult with appropriate Regional Fishery Management Councils and State fishery managers and prescribe emergency regulations to prevent to the maximum extent practicable any further taking. Any emergency regulations prescribed under this paragraph—

"(A) shall, to the maximum extent practicable, avoid interfering with existing State or regional fishery management plans;

"(B) shall be published in the Federal Register together with the reasons therefor;

"(C) shall remain in effect for not more than one hundred and eighty days or until the end of the fishing season, whichever is earlier; and

"(D) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines the reasons for the emergency regulations no longer exist.

In prescribing emergency regulations under this paragraph, the Secretary shall take into account the economics of the fishery concerned and the availability of existing technology to prevent or minimize incidental taking of marine mammals.

"(3) If the Secretary finds, based on information received from the programs established under subsections (c), (d), (e), and (f), that incidental taking of marine mammals in a fishery is not having an immediate and significant adverse impact on a marine mammal population stock but that it will likely have a significant adverse impact over a period of time longer than one year, the Secretary shall request the appropriate Regional Fishery Management Council or State to initiate, recommend, or take such action within its authority as it considers necessary to mitigate the adverse impacts, including adjustments to requirements on fishing times or areas or the imposition of restrictions on the use of vessels or gear.

"(4) The Secretary shall impose appropriate conditions and restrictions on an exemption granted under subsection (b) if—

"(A) a Regional Fishery Management Council or State does not act in a reasonable period of time on a request made by the Secretary under paragraph (3); or

"(B) if the Secretary determines after notice and opportunity for public comment that the purposes of this section would be better served by such action.

"(h) The Secretary shall design and implement an information management system capable of processing and analyzing reports received from the programs established under subsections (c), (d), (e), and (f), and other relevant sources, including Federal and State enforcement authorities, marine mammal stranding networks, and the marine mammal researchers. The information shall be made accessible to the public on a continuing basis, but in any case no later than six months after it is received, subject to the provisions of subsection (j).

"(i) When carrying out the Secretary's responsibilities under subsections (b), (d), (e), (f), and (h) of this section, the Secretary shall, to the maximum extent practicable, utilize the services and programs of State agencies, Federal agencies (including programs established by Regional Fishery Management Councils), marine fisheries commissions, universities, and private entities, on a reimbursable basis or otherwise. The Secretary is authorized to enter into contracts and agreements to carry out his or her responsibilities and shall establish appropriate guidelines to ensure that other programs used or contracted for will meet the same standards as a program established by the Secretary. A person contracting with the Secretary to provide observer services under subsection (e) of this section must provide evidence of financial responsibility in an amount and form prescribed by the Secretary to compensate employees (or their survivors) adequately for any illness, disability, injury, or death from service on a vessel.

"(j)(1) Any information collected under subsection (c), (d), (e), (f), or (h) of this section shall be confidential and shall not be disclosed except—

"(A) to Federal employees whose duties require access to such information;

"(B) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(2) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(k) The Secretary, in consultation with any other Federal agency to the extent that such agency may be affected, shall prescribe such regulations as necessary and appropriate to carry out the purposes of this section.

"(l)(1) The Chairman of the Marine Mammal Commission shall, after consultation with interested parties and not later than February 1, 1990, transmit to the Secretary and make available to the public recommended guidelines to govern the incidental taking of marine mammals in the course of commercial fishing operations, other than those subject to section 104(h)(2), after October 1, 1993. Such guidelines shall be developed by the Commission and its Committee of Scientific Advisers on Marine Mammals and shall—

"(A) be designed to provide a scientific rationale and basis for determining how many marine mammals may be incidentally taken under a regime to be adopted to govern such taking after October 1, 1993;

"(B) be based on sound principles of wildlife management, and be consistent with and in furtherance of the purposes and policies set forth in this Act; and

"(C) to the maximum extent practicable, include as factors to be considered and utilized in determining permissible levels of such taking—

"(i) the status and trends of the affected marine mammal population stocks;

"(ii) the abundance and annual net recruitment of such stocks;

"(iii) the level of confidence in the knowledge of the affected stocks; and

"(iv) the extent to which incidental taking will likely cause or contribute to their decline or prevent their recovery to optimum sustainable population levels.

"(2) The Secretary shall advise the Chairman of the Commission in writing if the Secretary determines that any additional information or explanation of the Chairman's recommendations is needed, and the Chairman shall respond in writing to any such request by the Secretary.

"(3) On or before February 1, 1991, the Secretary, after consultation with the Marine Mammal Commission, Regional Fishery Management Councils, and other interested governmental and nongovernmental organizations, shall publish in the Federal Register, for public comment, the suggested regime that the Secretary considers should, if authorized by enactment of any additional legislation, govern incidental taking of marine mammals, other than those subject to section 104(h)(2), after October 1, 1993. The suggested regime shall include—

"(A) the scientific guidelines to be used in determining permissible levels of incidental taking;

"(B) a description of the arrangements for consultation and cooperation with other Federal agencies, the appropriate Regional Fishery Management Councils and States, the commercial fishing industry, and conservation organizations; and

"(C) a summary of such regulations and legislation as would be necessary to implement the suggested regime.

"(4) On or before January 1, 1992, the Secretary, after consultation with the Marine Mammal Commission, and consideration of public comment, shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives recommendations pertaining to the incidental taking of marine mammals, other than those subject to section 104(h)(2), after October 1, 1993. The recommendations shall include—

"(A) the suggested regime developed under paragraph (3) of this subsection as modified after comment and consultations;

"(B) a proposed schedule for implementing the suggested regime; and

"(C) such recommendations for additional legislation as the Secretary considers necessary or desirable to implement the suggested regime.

"(m) The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(n) For the purposes of this section, the owner of fixed or other commercial fishing gear that is deployed with or without the use of a vessel shall be deemed to be an owner of a vessel engaged in the fishery in which that gear is deployed.

"(o) As used in this section—

"(1) the term 'fishery' has the same meaning as it does in section 3(8) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(8)).

"(2) the term 'Secretary' means the Secretary of Commerce.

"(3) the term 'vessel engaged in a fishery' means a fishing vessel as defined in section 2101(11a) of title 46, United States Code, or a fish processing vessel as defined in section 2101(11b) of that title, which is engaged in fishery.

"(4) the term 'vessel of the United States' has the same meaning as it does in section 3(27) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(27)).".

(b) Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended by striking "and 113" and inserting in lieu thereof the following: "113, and 114".

(c) The table of contents contained in the first section of the Marine Mammal Protection Act of 1972 is amended by striking:

"Sec. 114. Authorization of Appropriations."

and inserting in lieu thereof the following:

"Sec. 114. Interim Exemption for Commercial Fisheries.

"Sec. 115. Status Review; Conservation Plans.

"Sec. 116. Authorization of Appropriations.".

STATUS REVIEW

SEC. 3. (a) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by inserting immediately after section 114, as added by section 2 of this Act, the following new section:

"STATUS REVIEW; CONSERVATION PLANS

"SEC. 115. (a)(1) In any action by the Secretary to determine if a species or stock should be designated as depleted, or should no longer be designated as depleted, regardless of whether such action is taken on the initiative of the Secretary or in response to a petition for a status review, the Secretary shall only make such a determination by issuance of a rule, after notice and opportunity for public comment and after a call for information in accordance with paragraph (2).

"(2) The Secretary shall make any determination described in paragraph (1) solely on the basis of the best scientific information available. Prior to the issuance of a proposed rule concerning any such determination, the Secretary shall publish in the Federal Register a call to assist the Secretary in obtaining scientific information from individuals and organizations concerned with the conservation of marine mammals, from persons in any industry which might be affected by the determination, and from academic institutions. In addition, the Secretary shall utilize, to the extent the Secretary determines to be feasible, informal working groups of interested parties and other methods to gather the necessary information.

"(3)(A) If the Secretary receives a petition for a status review as described in paragraph (1), the Secretary shall publish a notice in the Federal Register that such a petition has been received and is available for public review.

"(B) Within sixty days after receipt of the petition, the Secretary shall publish a finding in the Federal Register as to whether the petition presents substantial information indicating that the petitioned action may be warranted.

"(C) If the Secretary makes a positive finding under subparagraph (B), the Secretary shall include in the Federal Register notice, a finding that—

"(i) a review of the status of the species or stock will be commenced promptly; or

"(ii) a prompt review of the petition is precluded by other pending status determination petitions and that expeditious progress is being made to process pending status determination petitions under this title.

In no case after making a finding under this subparagraph shall the Secretary delay commencing a review of the status of a species or stock for more than one hundred and twenty days after receipt of the petition.

"(D) No later than two hundred and ten days after the receipt of the petition, the Secretary shall publish in the Federal Register a proposed rule as to the status of the species or stock, along with the reasons underlying the proposed status determination. Persons shall have at least sixty days to submit comments on such a proposed rule.

"(E) Not later than ninety days after the close of the comment period on a proposed rule issued under subparagraph (D), the Secretary shall issue a final rule on the status of the species or stock involved, along with the reasons for the status determination. If the Secretary finds with respect to such a proposed rule that there is substantial disagreement regarding the sufficiency or accuracy of the available information relevant to a status determination, the Secretary may delay the issuance of a final rule for a period of not more than six months for purposes of soliciting additional information.

"(F) Notwithstanding subparagraphs (D) and (E) of this paragraph and section 553 of title 5, United States Code, the Secretary may issue a final rule as to the status of a species or stock any time sixty or more days after a positive finding under subparagraph (B) if the Secretary determines there is substantial information available to warrant such final status determination and further delay would pose a significant risk to the well-being of any species or stock. Along with the final rule, the Secretary shall publish in the Federal Register detailed reasons for the expedited determination.

"(b)(1) The Secretary shall prepare conservation plans—

"(A) By December 31, 1989, for North Pacific fur seals;

"(B) by December 31, 1990, for Steller sea lions; and

"(C) as soon as possible, for any species or stock designated as depleted under this title, except that a conservation plan need not be prepared if the Secretary determines that it will not promote the conservation of the species or stock.

"(2) Each plan shall have the purpose of conserving and restoring the species or stock to its optimum sustainable population. The Secretary shall model such plans on recovery plans required under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)).

"(3) The Secretary shall act expeditiously to implement each conservation plan prepared under paragraph (1). Each year, the Secretary shall specify in the annual report prepared under section 103(f) of this title what measures have been taken to prepare and implement such plans.".

TAKING OF PORPOISE IN TUNA FISHERY

SEC. 4. (a) Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) in clause (ii), by striking the period at the end and inserting in lieu thereof a comma; and

(B) by adding at the end, flush with the margin, the following:

"except that the Secretary shall not find that the regulatory program, or the average rate of incidental taking by vessels, of a harvesting nation is comparable to that of the United States for purposes of clause (i) or (ii) of this paragraph unless—

"(I) the regulatory program of the harvesting nation includes, by no later than the beginning of the 1990 fishing season, such prohibitions against encircling pure schools of species of marine mammals, conducting sundown sets, and other activities as are made applicable to United States vessels;

"(II) the average rate of the incidental taking by vessels of the harvesting nation is no more than 2.0 times that of United States vessels during the same period by the end of the 1989 fishing season and no more than 1.25 times that of United States vessels during the same period by the end of the 1990 fishing season and thereafter;

"(III) the total number of eastern spinner dolphin (Stenella longirostris) incidentally taken by vessels of the harvesting nation during the 1989 and subsequent fishing seasons does not exceed 15 percent of the total number of all marine mammals incidentally taken by such vessels in such year and the total number of coastal spotted dolphin (Stenella attenuata) incidentally taken by such vessels in such seasons does not exceed 2 percent of the total number of all marine mammals incidentally taken by such vessels in such year;

"(IV) the rate of incidental taking of marine mammals by the vessels of the harvesting nation during the 1989 and subsequent fishing seasons is monitored by the porpoise mortality observer program of the Inter-American Tropical Tuna Commission or an equivalent international program in which the United States participates and is based upon observer coverage that is equal to that achieved for United States vessels during the same period, except that the Secretary may approve an alternative observer program if the Secretary determines, no less than sixty days after publication in the Federal Register of the Secretary's proposal and reasons therefor, that such an alternative observer program will provide sufficiently reliable documentary evidence of the average rate of incidental taking by a harvesting nation; and

"(V) the harvesting nation complies with all reasonable requests by the Secretary for cooperation in carrying out the scientific research program required by section 104(h)(3) of this title;"; and

(3) by adding at the end the following new subparagraphs:

"(C) shall require the government of any intermediary nation from which yellowfin tuna or tuna products will be exported to the United States to certify and provide reasonable proof that it has acted to prohibit the importation of such tuna and tuna products from any nation from which direct export to the United States of such tuna and tuna products is banned under this section within sixty days following the effective date of such ban on importation to the United States; and

"(D) shall, six months after importation of yellowfin tuna or tuna products has been banned under this section, certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)) for as long as such ban is in effect.".

(b) Paragraph (2) of section 108(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1378(a)) is amended to read as follows:

"(2) initiate—

"(A) negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are found by the Secretary to be unduly harmful to any species or population stock of marine mammal, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals, with the Secretary of State to prepare a draft agenda relating to this matter for discussion at appropriate international meetings and forums; and

"(B) discussions with foreign governments whose vessels harvest yellowfin tuna with purse seines in the eastern tropical Pacific Ocean, for the purpose of concluding, through the Inter-American Tropical Tuna Commission or such other bilateral or multilateral institutions as may be appropriate, international arrangements for the conservation of marine mammals taken incidentally in the course of harvesting such tuna, which should include provisions for (i) cooperative research into alternative methods of locating and catching yellowfin tuna which do not involve the taking of marine mammals, (ii) cooperative research on the status of affected marine mammal population stocks, (iii) reliable monitoring of the number, rate, and species of marine mammals taken by vessels of harvesting nations, (iv) limitations on incidental take levels based upon the best scientific information available, and (v) the use of the best marine mammal safety techniques and equipment that are economically and technologically practicable to reduce the incidental kill and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate;".

(c) Section 108 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1378) is amended by adding at the end the following new subsection:

"(c) The Secretary shall include a description of the annual results of discussions initiated and conducted pursuant to subsection (a)(2)(B), as well as any proposals for further action to achieve the purposes of that subsection, in the report required under section 103(f) of this title.".

(d) Section 104(h)(2)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(h)(2)(B)) is amended by adding at the end the following new clauses:

"(iv) The Secretary shall, by January 1, 1989, prescribe regulations to ensure that the backdown procedure during sets of the purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than thirty minutes after sundown. The Secretary may waive or otherwise modify such regulations for—

"(I) a designated certificate holder on an observed trip if the Secretary determines, based on observer reports, that such restriction is not necessary because the certificate holder has consistently utilized fishing techniques and equipment so as to result in an incidental marine mammal mortality rate during sundown sets that is no higher than the average such rate for the fleet during daylight sets; or

"(II) all certificate holders on observed trips if the Secretary determines that such restriction is not necessary because all certificate holders have developed and are utilizing fishing techniques and equipment that assure that the incidental marine mammal mortality rate during sundown sets will be no higher than such rate during daylight sets.

"(v) The Secretary may authorize, after public notice and opportunity for comment, designated certificate holders to conduct experimental fishing operations on observed trips, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce the incidental mortality of marine mammals in the course of commercial yellowfin tuna fishing operations, and the Secretary may waive such terms and conditions of the general permit and this section, other than the quotas on incidental taking of marine mammals and the prohibition against encircling pure schools of certain species of marine mammals, as the Secretary determines to be necessary and appropriate for the conduct of such experimental fishing.

"(vi) The Secretary, after public notice and opportunity for comment and consultation with the skippers' panel of experts established pursuant to the general permit, shall develop and implement by not later than the beginning of the 1990 fishing season a system of performance standards to maintain the diligence and proficiency of certificate holders in the use of the best marine mammal safety techniques and equipment that are economically and technologically practicable. The system shall include such arrangements as are necessary for the identification of certificate holders whose incidental marine mammal mortality rate is consistently and substantially higher than the average rate of the fleet, and for the supplemental training and observation of such certificate holders, and provisions for suspension or revocation of certificates of inclusion of those certificate holders whose unacceptably high rate of incidental taking reflects a lack of diligence or proficiency in the use of the best marine mammal safety techniques and equipment.

"(vii) It shall be unlawful to use any explosive devices other than Class C explosive pest control devices in the course of commercial yellowfin tuna fishing subject to the general permit. The Secretary shall prescribe regulations, effective April 1, 1990, to prohibit or restrict the use of class C explosive pest control devices in the course of commercial yellowfin tuna fishing unless the Secretary determines, based on a study which the Secretary shall undertake, that the use of such devices does not result in physical impairment or increased mortality of marine mammals.

"(viii) During the 1989 and subsequent fishing seasons, each certificated vessel shall carry on every fishing trip subject to this subsection an official observer certified by the Secretary or by the Inter-American Tropical Tuna Commission for the purpose of conducting research and observing fishing operations unless, for reasons beyond the control of the Secretary, an observer is not available for such purpose. The Secretary may waive this requirement after the 1991 fishing season and establish a less extensive observer program if the Secretary, after notice and opportunity for comment, determines that such an alternative program will provide sufficiently reliable information.

"(ix) The Secretary shall annually convene meetings with representatives of conservation and environmental organizations, the commercial tuna fishing industry, and other interested persons for the purpose of discussing the results of efforts to reduce the incidental mortality and serious injury of marine mammals under this subsection as well as throughout the international fleet as a whole and developing plans for such efforts during the next year. On or before April 1, 1992, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a comprehensive report on the results of such efforts. The report shall discuss the results of the scientific research programs, performance standards, observer program, prohibition on sundown sets, development of alternative fishing techniques, and other efforts required by this section, and shall include recommendations for such action as the Secretary considers necessary and desirable to reduce further the total mortality and serious injury of marine mammals in the course of commercial yellowfin tuna fishing throughout the international fleet.".

(e) Section 110(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1380(a)) is amended—

(1) immediately before "The Secretary" at the beginning of the first sentence, by inserting "(1)"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of identifying appropriate research into promising new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals, the Secretary shall contract for an independent review of information pertaining to such potential alternative methods to be conducted by the National Academy of Sciences with individuals having scientific, technical, or other expertise that may be relevant to the identification of promising alternative fishing techniques. The Secretary shall request that the independent review be submitted to the Secretary on or before September 8, 1989, and the Secretary shall submit the report of the independent review, together with a proposed plan for research, development, and implementation of alternative fishing techniques, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on or before December 5, 1989.".

SCIENTIFIC RESEARCH AND PUBLIC DISPLAY PERMITS

SEC. 5. (a) Section 109(h) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1379(h)) is amended to read as follows:

"(h)(1) Nothing in this title shall prevent a Federal, State, or local government official or employee or a person designated under section 112(c) from taking, in the course of his or her duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for—

"(A) the protection or welfare of the mammal,

"(B) the protection of the public health and welfare, or

"(C) the nonlethal removal of nuisance animals.

"(2) Nothing in this title shall prevent the Secretary or a person designated under section 112(c) from importing a marine mammal into the United States if such importation is necessary to render medical treatment that is not otherwise available.

"(3) In any case in which it is feasible to return to its natural habitat a marine mammal taken or imported under circumstances described in this subsection, steps to achieve that result shall be taken.".

(b) Section 102(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(b)) is amended by adding at the end the following new sentence, flush with the margin: "Notwithstanding the provisions of paragraphs (1) and (2), the Secretary may issue a permit for the importation of a marine mammal, if the Secretary determines that such importation is necessary for the protection or welfare of the animal.".

(c) Paragraph (1) of section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)) is amended to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking and importation for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock if—".

(d) Section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended—

(1) by striking "display or scientific research" each place it appears and inserting in lieu thereof the following: "scientific research, public display, or enhancing the survival or recovery of a species or stock";

(2) by inserting "(1)" immediately after "(c)"; and

(3) by adding at the end the following new paragraphs:

"(2) A permit may be issued for public display purposes only to an applicant which offers a program for education or conservation purposes that, based on professionally recognized standards of the public display community, is acceptable to the Secretary and which submits with the permit application information indicating that the applicant's facilities are open to the public on a regularly scheduled basis and that access to the facilities is not limited or restricted other than by the charging of an admission fee.

"(3) A permit may be issued for scientific research purposes only to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose and does not involve unnecessary duplication of research. No permit issued for purposes of scientific research shall authorize the killing of a marine mammal unless the applicant demonstrates that a nonlethal method for carrying out the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock designated as depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(4)(A) A permit may be issued for enhancing the survival or recovery of a species or stock only with respect to a species or stock for which the Secretary, after consultation with the Marine Mammal Commission and after notice and opportunity for public comment, has first determined that—

"(i) taking or importation is likely to contribute significantly to maintaining or increasing distribution or numbers necessary to ensure the survival or recovery of the species or stock; and

"(ii) taking or importation is consistent (I) with any conservation plan adopted by the Secretary under section 115(b) of this title or any recovery plan developed under section 4(f) of the Endangered Species Act of 1973 for the species or stock, or (II) if there is no conservation or recovery plan in place, with the Secretary's evaluation of the actions required to enhance the survival or recovery of the species or stock in light of the factors that would be addressed in a conservation plan or a recovery plan.

"(B) A permit issued in accordance with this paragraph may allow the captive maintenance of a marine mammal from a depleted species or stock only if the Secretary—

"(i) determines that captive maintenance is likely to contribute to the survival or recovery of the species or stock by maintaining a viable gene pool, increasing productivity, providing biological information, or establishing animal reserves;

"(ii) determines that the expected benefit to the affected species or stock outweighs the expected benefit of alternatives which do not require removal of animals from the wild; and

"(iii) requires that the marine mammal or its progeny be returned to the natural habitat of the species or stock as soon as feasible, consistent with the objectives of any applicable conservation plan or recovery plan, or of any evaluation by the Secretary under subparagraph (A).

The Secretary may allow the public display of such a marine mammal only if the Secretary determines that such display is incidental to the authorized maintenance and will not interfere with the attainment of the survival or recovery objectives.".

(e)(1) Section 101(a)(3)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3)(B)) is amended by inserting, immediately after "scientific research purposes", the following: "or enhancing the survival or recovery of a species or stock".

(2) Section 102(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(b)) is amended by striking "research" and inserting in lieu thereof the following: "research, or for enhancing the survival or recovery of a species or stock,".

(3) Section 109(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1379(b)) is amended—

(A) in paragraph (1)(E), by striking "research and public display purposes" and inserting in lieu thereof the following: "research, public display, or enhancing the survival or recovery of a species or stock"; and

(B) in paragraph (3)(B)(ii), by striking "research or public display purposes" and inserting in lieu thereof the following: "research, public display, or enhancing the survival or recovery of a species or stock".

(4) Section 202(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1402(a)(2)) is amended by inserting, immediately after "scientific research", the following: ", public display, or enhancing the survival or recovery of a species or stock".

AUTHORIZATION OF APPROPRIATIONS

Sec. 6. Section 7 of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384 and 1407) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under such title (other than section 114(e)(8)), $12,250,000 for fiscal year 1989, $12,740,000 for fiscal year 1990, $13,250,000 for fiscal year 1991, $13,780,000 for fiscal year 1992, and $14,331,000 for fiscal year 1993.";

(2) in subsection (b)—

(A) by striking "and" immediately after "1985,"; and

(B) by striking "and 1988" and inserting in lieu thereof the following: "1988, and 1989, $3,120,000 for fiscal year 1990, $3,240,000 for fiscal year 1991, $3,370,000 for fiscal year 1992, and $3,500,000 for fiscal year 1993"; and

(3) in subsection (c)—

(A) by striking "and" immediately after "1983,"; and

(B) by striking "and 1988" and inserting in lieu thereof the following: "1988, and 1989, $1,140,000 for fiscal year 1990, $1,190,000 for fiscal year 1991, $1,230,000 for fiscal year 1992, and $1,280,000 for fiscal year 1993".

STUDY ON MORTALITY OF ATLANTIC DOLPHIN

Sec. 7. (a) The Secretary of Commerce shall conduct a study regarding the east coast epidemic during 1987 and 1988 which has caused substantial mortality within the North Atlantic coastal population of Atlantic bottle-nosed dolphin. The study shall examine—

(1) the cause or causes of the epidemic;

(2) the effect of the epidemic on coastal and offshore populations of Atlantic bottle-nosed dolphin;

(3) the extent to which pollution may have contributed to the epidemic;

(4) whether other species and populations of marine mammals were affected by those factors which contributed to the epidemic; and

(5) any other matters pertaining to the causes and effects of the epidemic.

(b) On or before January 1, 1989, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan for conducting the study required in subsection (a).

AMENDMENTS TO FISHERMEN'S PROTECTIVE ACT OF 1967

Sec. 8. Section 8(h)(4) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)(4)) is amended to read as follows:

"(4) The term "fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from an offending country, whether or not taken by fishing vessels of such country, or packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof."

PRIBILOF ISLAND TRUST FUNDS

Sec. 9. Section 206(e)(1) of the Fur Seal Act of 1966 (16 U.S.C. 1166(e)(1)) is amended by adding at the end the following new sentence: "In addition, there are authorized to be appropriated to the Secretary $3,200,000 for fiscal year 1989 and $1,800,000 for fiscal year 1990 to be used for the purpose of funding the Saint Paul Island Trust, as established pursuant to subsection (a)(1) of this section, and $3,700,000 for fiscal year 1990 to be used for the purpose of funding the Saint George Trust, as established pursuant to subsection (a)(1).".

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Studds] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. Young] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Marine Mammal Protection Act Amendments of 1988, H.R. 4189, as amended. The bill before us is similar to the version passed by the House on September 15, 1988, although there are a few significant differences which I will highlight later for my colleagues.

Section 2 of the bill creates a new section in the Marine Mammal Protection Act [MMPA] which provides for a 5-year interim exemption from existing requirements of the act and establishes new rules governing commercial fisheries. These provisions are identical to the original House language and reflect an agreement reached between the commercial fishing industry and the environmental community. The exemption is necessary in order to enable our fishermen to legally fish under the rules of the MMPA.

The bill establishes a comprehensive reporting and observer program as a way of increasing our understanding and knowledge of the interactions between marine mammals and fishermen. Those fisheries with the most severe interactions with marine mammals will be held to a higher degree of accountability than those fisheries with infrequent or no interactions. Again, these provisions are identical to the original House bill.

The bill also requires the Marine Mammal Commission and its Committee on Scientific Advisors to recommend to the Secretary of Commerce guidelines to govern the incidental taking of marine mammals in the course of commercial fishing and directs the Secretary of Commerce to prepare conservation plans for marine mammals which have been declared depleted or are in the process of receiving this designation. All of these provisions are virtually identical to those of the original House bill.

Finally, Mr. Speaker, the area where this bill differs significantly from the original House version concerns new restrictions on foreign and domestic tuna fishermen who take porpoise or dolphin. For my colleagues who are unaware I want to point out that over 100,000 dolphins were killed last year alone by foreign and domestic tuna fishermen in the eastern tropical Pacific Ocean. Moreover, while foreign fishermen harvest 60 percent of the tuna in that area they are responsible for 80 percent of the dolphin mortalities. Because of my deep concern for all marine mammals and with the encouragement of our friends in the environmental community, the Subcommittee on Fisheries and Wildlife held a hearing to seek expert advice on how best to stop these killings.

As a result of that hearing, we developed a strategy that I believe would have ended the large scale slaughter of dolphins. During our committee consideration of this bill, I successfully offered an amendment, which has come to be known as the Studds amendment, requiring the Secretary of Commerce to annually review and modify the MMPA permit issued to domestic tuna fishermen. During this review the Secretary would have been required to reduce the number of dolphins taken, reduce the percentage of sets on dolphins or demand the use of new alternative fishing techniques to meet the goals of the act. It should be noted that the Tunaboat Association's permit is the only marine mammal permit which is not subject to periodic review. Without such review, the impetus for development of alternative technologies—something Congress mandated in 1981—is greatly reduced. The House unanimously passed H.R. 4189 in September and it contained these tough provisions.

I must say to my colleagues, that I am extremely disappointed that the other body deleted these provisions. While the bill does make a number of significant improvements to the MMPA which are expected to reduce the overall mortality of dolphins, it does not contain the Studds amendment and is not as strong as I or the environmental community had hoped. While I am personally tempted to insist on the House position and reinstate the Studds amendment, the other body has made it quite clear that this would result in the killing of the bill. Given the few short legislative hours remaining, the need to reauthorize the MMPA and other improvements contained in the bill, I have been persuaded by the environmental community—including Greenpeace, the Humane Society, the Center for Environmental Education, the Defenders of Wildlife, the National Wildlife Federation and many others who have been extremely helpful in this cause—to support these provisions. Our collective judgment is that the bill before us is better than no bill and that more dolphins will be saved by enacting this bill than by waiting until some undetermined time in the future for new legislative action. However, I want to make it abundantly clear that by acquiescing today neither myself nor the environmental community are satisfied and we will continue to work together to reduce dolphin mortality.

With respect to the specific measures relating to dolphins the bill:

Requires foreign nations wishing to sell their tuna in our markets to adopt a comprehensive dolphin protection regulatory program comparable to that of the United States.

Requires foreign fleets to cut in half their mortality rates by the end of this coming fishing season and requires that by the end of the 1990 season—they must be fully comparable to the U.S. rate.

Requires foreign fleets to adopt special protections for the eastern spinner and coastal spotted dolphin similar to those of the United States; in order to give these to stocks the protection they need.

Requires the Secretary of Commerce to begin embargo proceedings of all yellowfin tuna and yellowfin tuna products from any nation not complying with these protection standards.

Requires the Secretary to follow the same embargo proceedings against any third party or intermediary country wishing to sell yellowfin tuna in our markets and which fails to ensure that it too has embargoed the same tuna product from countries embargoed by the United States.

Directs the Secretary to enter into international negotiations aimed at establishing worldwide protections for porpoise; and

Requires the National Academy of Sciences to quickly examine alternative fishing gear or techniques and indentify those alternatives which should be tested.

All of these measures I just outlined are virtually identical to the provisions contained in the original House bill. Other provisions contained in this bill which are not identical to the original House position include:

The ban on sundown sets and night fishing for all tuna fishermen. The original House bill required the Secretary to issue regulations ensuring that fishing be completed no later than 30 minutes after sundown. Everyone agrees that mortality rates of porpoise are significantly higher during and after sundown. Some have suggested that the amendments made by the other body appear to allow some fishing after sundown. Our understanding and indeed our intent in agreeing to this language is that the Secretary make absolutely certain in the regulations that all those procedures necessary to release porpoise in the net are completed prior to dark. It is essential that backdown and other lifesaving procedures following backdown occur during daylight so that tuna fishermen can successfully release all porpoise in the net.

The establishment, for the first time ever in any fishery, of a system of performance standards for captains. While the other body amended our original language, it did not alter the basic direction of the House bill. The Secretary of Commerce will still be required to establish levels and rates of incidental mortality to serve as a baseline for performance standards. The additional language added by the other body allows an affirmative defense that mitigating circumstances influenced the kill rate. If a certificate holder can demonstrate that an unacceptably high kill rate was not due to the lack of diligence or proficiency, the certificate will not be lifted. Poor judgment in this case would indicate a lack of diligence. For example, if sets are made during poor sea conditions, diligence in attempting to rescue animals would not reflect overall diligence by the captain.

The requirement to have 100 percent observer coverage on all U.S. tuna boats for a minimum of 3 years. These provisions in the original House bill allowed the Secretary to waive the 100-percent observer requirement after 3 years if it was determined that a less extensive program would satisfy the purpose and goals of the act. The other body amended this language to allow a waiver if the Secretary determined a less extensive program was as statistically valid or reliable. Our committee felt that observers serve a greater purpose than simply collecting data and in fact enhanced compliance with regulations designed to save dolphins. We certainly expect that before any waiver of this requirement is granted the Secretary will consider factors such as the enforcement role of observers.

A ban on the use of any explosive devices, other than those classified as type C, in the course of yellowfin tuna fishing. Although I unsuccessfully proposed in committee to ban the use of all explosives, the original House bill only required a study of the effects of using explosives during the course of yellowfin tuna fishing. This is one of the few areas where I believe the other body improved the bill; and,

The requirement that the Secretary submit to Congress before April 1, 1992, a full report on the results of the efforts to reduce foreign and domestic mortality. The report is to include specific recommendations necessary to reduce further overall porpoise mortality.

Last, Mr. Speaker, the bill amends section 8 of the Fishermen's Protective Act by expanding the definition of fish products to include such items as coral, seaweeds, processed and canned fish, aquaculture products such as pearls and any other aquatic product exported by an offending nation. The impact of this amendment is to provide the President with a wider range of options from which to choose sanctions that may be warranted against a foreign nation that diminishes the effectiveness of an international fishery conservation program such as the International Whaling Convention. The discretionary embargo authority of the President under the so-called Pelly amendment has been useful in increasing compliance with fishery conservation programs.

The other body amended the House bill by significantly expanding the President's authority to include embargoes against any product. Recognizing the far-reaching implications of this change and the fact that the House has had an opportunity to review this proposal, the Merchant Marine and Fisheries Committee at the urging and with the support of our colleagues on the Ways and Means Committee, proposes a less sweeping modification. Our proposal which we are now considering is a much simpler modification of the Pelly amendment, keeping well within the original intent of the law by encompassing fishery products only.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4189 and urge its adoption.

Mr. Speaker, this bill was unanimously passed by the House earlier this year and has now been returned from the Senate with an amendment.

We are sending it back to the Senate for final passage with an additional amendment which reflects concerns voiced by the House Ways and Means Committee. The Senate is expected to accept the bill and send it on to the President for his signature.

H.R. 4189 reauthorizes the Marine Mammal Protection Act and amends it to correct a number of problems that were identified in hearings held in the House this year.

The most important part of this bill is that section dealing with the interactions between marine mammals and commercial fishermen other than tuna fishermen. H.R. 4189 establishes a 5-year temporary program which will allow fishermen to continue their operations while providing protection for marine mammals, as well as gathering data on interactions between commercial fishermen and marine mammals. This section of the bill reflects a compromise that was reached by members of the environmental community and the commercial fishing industry after a long series of negotiations.

I do wish to point out that the bill makes the interim program available only to domestic commercial fishermen and those foreign vessels that receive permits under section 204(b) of the Magnuson Fishery Conservation and Management Act. This restriction is included to ensure that the Japanese high seas salmon gillnet fleet which currently is not able to obtain a permit to take marine mammals will not have this program available to them.

This bill also provides increased protection for porpoises taken incidentally to commercial tuna fishing and establishes new standards for the granting of permits for research and public display.

In addition, the Senate added authorizations for the St. Paul Island and St. George Island trust funds. These funds were established to provide a financial base for residents of the islands in exchange for a reduction in the commercial harvest of fur seals. Money has already been appropriated for this purpose and these authorizations merely provide the approval of the authorizing committees.

Finally, I wish to express my disappointment that the Committee on Ways and Means could not agree to full expansion of the Pelly amendment sanctions at this time. This extension was included in the Senate bill, but the bill we are passing today modifies it significantly. I hope that my colleagues on the House Ways and Means Committee will reconsider their position in the next Congress so that this tool can be available to the President for ensuring the conservation of our Nation's fisheries.

Mr. Speaker, this is a good bill and one that deserves the support of the House and I urge its adoption.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this committee has many creatures to protect, and I only regret the distinguished gentleman for Alaska has not chosen to this evening honor us with his imitation of one or more of them.

Mr. Speaker, this is a colorful committee to serve on.

Mr. YOUNG of Alaska. Mr. Speaker, I do not think that the House at this late time of night could stand it.

Mr. STUDDS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I rise in strong support of H.R. 4189, the Marine Mammal Protection Act Amendments of 1988, as amended by the Senate substitute S. 2189. This bill, virtually identical to the House passed version, has a long history of development which I would like to summarize for my colleagues.

In the late 1960's and early 1970's the country underwent a strong popular movement for the protection of marine mammals. At that time I learned of the increasing dangers facing marine mammals via commercial fishing operations and certain sporting practices. As a native southern Californian growing up around various species of marine mammals, I recognized the importance of protecting this important resource. It was this recognition that compelled me to introduce the original Marine Mammal Protection Act [MMPA] which was signed by the President on October 21, 1972, becoming Public Law 92-522.

Since its inception, the Marine Mammal Protection Act has continued to be the guiding force behind the protection of thousands of whales, seals, dolphins, polar bears, and numerous other species of marine mammals. This legislation before us today, builds upon the foundation of strong mammal protection first established in 1972.

In order to more fully understand the 1988 MMPA reauthorization, I would briefly like to explain some of the provisions included in my original bill. First, Public Law 92-522 required the Secretaries of Commerce and Interior to prescribe limitations on the taking—harassing, capturing, and killing—of each species of ocean mammal, while taking into account the economic and technical feasibility of its implementation. It was the belief of Congress that this provision would establish a set of guidelines for the protection of marine mammals while providing the flexibility for continued economic prosperity among commercial interests. Although many changes and additions have occurred regarding this original provision, it continues to maintain its importance, flexibility, and overall strength in the protection of marine mammals.

Second, the 1972 act authorized the Secretaries of Commerce and Interior to issue permits for the taking of any ocean mammals consistent with the prescribed limitations for each particular species. Moreover, it required that notification of the issuance of these permits appear in the Federal Register so that objecting parties could submit their views or request a hearing. Last, the bill established a Marine Mammal Commission to study and review the condition of the species of ocean mammals and make recommendations regarding their conservation and management.

While the previously mentioned provisions of the original MMPA continue to be extremely important, it is my belief that its greatest feature was a limited 5 year authorization. As you know Mr. Speaker, this provision allows the bill to be amended to adapt to the continually changing conditions and circumstances surrounding the marine environment. Undoubtedly, this particular provision has provided Congress the opportunity to receive a large amount of constituent input on needed changes to the MMPA. If I might add, Mr. Speaker, the numerous views expressed by constituents are reflected in the bill before us today.

Because of the summaries previously offered by my colleagues, I will limit my comments on the key provisions and amendments found in H.R. 4189. Although the bill does not include a zero kill provision on incidental taking of dolphins, it does prohibit sundown and night fishing, require 100 percent observer coverage, establish skipper performance standards and prohibit the encircling of pure schools of porpoise. It was the belief of the House Merchant Marine and Fisheries Committee that a zero kill quota levied on the domestic tuna fleet, which has a 99-percent porpoise release rate, would result in foreign yellowfin tuna fleets disregarding U.S. marine mammal protection laws due to their inability to accommodate this particular restriction, thereby further endangering the lives of dolphins.

In addition, H.R. 4189 requires foreign fleets to reduce by half the mortality rates for porpoises by the end of the next fishing season, and decrease the level of dolphin mortality to an amount comparable to the U.S. fleet by the end of the 1990 season. The bill also requires that foreign fleets participate in observer programs equal to that of the United States and that if any of the new restrictions are not met, the Secretary of Commerce would be directed to commence embargo proceedings against tuna products from those noncomplying nations.

Moreover, a new provision would prohibit third parties from acting as intermediaries in the processing or shipment of tuna from embargoed nations.

It is my belief, Mr. Speaker, that this bill represents a strong commitment on the part of Congress for further protection of this Nation's marine resources. I commend Merchant Marine and Fisheries Committee Chairman JONES, its ranking minority member Mr. DAVIS as well as my colleagues in the House and Senate for their efforts on this bill.

Mr. SAXTON. Mr. Speaker, as we have seen in the past 2 days, few things galvanize the public interest more strongly than a threat to the lives of our ocean leviathans the great whales.

The nation watches as a small band of compassionate human beings work together to try to save three gray whales from certain death in the polar seas. And in the southern seas, vast teams of volunteers try equally hard to save the lives of an entire pod of whales beached on the coast of Australia. It is a phenomenal—but understandable effort to help.

We too must do our part—and I believe that the bill before us today is a solid contribution to that effort. The strengthened provisions of this bill move it much closer to resembling its title—the Marine Mammal Protection Act and will surely save the lives of many thousands of dolphins, whales, and other marine mammals.

Chairman JONES, Mr. STUDDS, Mr. YOUNG—to all of you—and your staff—I extend my hearty congratulations.

Mr. Speaker, I urge passage of the bill.

Mr. CONTE. Mr. Speaker, I rise today to add my voice to the chorus of support for H.R. 4189 which reauthorizes funding for the Marine Mammal Protection Act of 1972. This legislation authorizes a total of $123.3 million for fiscal years 1989 to 1993.

The Marine Mammal Protection Act was originally created in 1972 to protect and manage marine mammals found within the waters of the United States. Since its adoption, this important conservation measure has helped protect many species of mammals including, whales, seals, porpoises, sea otters, polar bears, walruses, and manatees. The original act contained a variety of provisions including a moratorium on the taking and importation of marine mammal products. This provision was initiated in an effort to halt the rapid depletion of mammal populations around the world for purely altruistic purposes.

The legislation before us improves the protection requirements of the original act by adding further restrictions on the tuna fishing and export industries. These provisions include: requiring all foreign nations to implement a marine mammal conservation program similar to that imposed by the United States; requiring all foreign fleets to cut their porpoise mortality rate in half by the end of the next fishing season; and requiring the Department of Commerce to start tuna embargo proceedings against noncomplying nations. In addition to these provisions the bill also contains a modification to the original act by allowing the importation of marine mammals into the United States for medical treatment that would not otherwise be available.

As a cosponsor of H.R. 4189, I urge my colleagues to support this legislation. Failure to act now would pose serious consequences for one of our Nation's premier conservation programs.

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Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the resolution (H. Res. 593).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

OUTER CONTINENTAL SHELF OPERATIONS INDEMNIFICATION CLARIFICATION ACT OF 1988

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4517) to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

TITLE I

SECTION 1. SHORT TITLE.

This Act may be cited as the "Outer Continental Shelf Operations Indemnification Clarification Act of 1988".

SEC. 2. INDEMNITY AGREEMENTS.

Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1802 et seq.) is amended by adding at the end the following new subsection:

"(e) Any owner or operator of an offshore facility may enter into an indemnity, hold harmless, or similar agreement with any person holding a lease on the Outer Continental Shelf with respect to any liability arising under this title. Notwithstanding the provision of this subsection (e), any such indemnity, hold harmless, or similar agreement shall not relieve such owner, operator, or person from liability arising under this title. Nothing in this subsection shall be construed to alter or in any way affect the financial responsibility requirement imposed under this section.".

SEC. 2. GUARANTORS LIABILITY.

Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by redesignating subsection (a) as (c)(1) and adding a new subsection (c)(2) to read as follows:

"(2) The total liability of any guarantor in a direct action suit brought under this section shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument obtained from the guarantor by the person subject to liability. Nothing in the subsection shall be construed, interpreted or applied to diminish the liability of any person under this Act or other applicable law.".

TITLE II—PETTAQUAMSCUTT GOVE NATIONAL WILDLIFE REFUGE

SEC. 201. FINDINGS.

The Congress finds that—

(1) Pettaquamscutt Cove, and the associated tidal marshes and mudflats, and dividing the towns of Narragansett and South Kingstown, Rhode Island, has been identified as the most important black duck migration and winterizing habitat in Rhode Island, in accordance with the objectives of the North American Waterfowl Plan:

(2) Pettaquamscutt Cove provides important migration and wintering habitat for various other species of waterfowl, valuable feeding habitat for shorebirds, terns, gulls, and wading birds, and habitat for many species of finfish and shellfish;

(3) Pettaquamscutt Cove is home to several State-listed Rare and Uncommon animal and plant species; and

(4) designation of this area as a National Wildlife Refuge would significantly aid in the conservation of these fish and wildlife resources.

SEC. 202. PURPOSES.

The purposes for which the Pettaquamscutt Cove National Wildlife Refuge is established and shall be managed include—

(1) to protect and enhance the populations of black ducks and other waterfowl, geese, shorebirds, terns, wading birds, and other wildlife using the refuge;

(2) to provide for the conservation and management of fish and wildlife within the refuge;

(3) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

(4) to provide opportunities for scientific research environmental education, and fish and wildlife-oriented recreation.

SEC. 203. DEFINITIONS.

For the purposes of this Act—

(1) the term "refuge" means the Pettaquamscutt Cove National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means the lands and waters of the Pettaquamscutt Watershed in the State of Rhode Island.

SEC. 204. ESTABLISHMENT OF REFUGE.

(a) (1) Within one year after the effective date of this Act the Secretary shall designate approximately 600 acres of land and waters within the selection area which the Secretary considers appropriate for the refuge.

(2) After making such designation, the Secretary shall publish in the Federal Register, and in newspapers of local circulation, a notice of availability of a detailed map depicting the boundaries of the land so designated, which map shall be on file and available for inspection in the office of the Director of the United States Fish and Wildlife Service, Department of the Interior, and in appropriate offices of the United States Fish and Wildlife Service in the State of Rhode Island.

(b) BOUNDARY REVISONS.—The Secretary may make such minor revisions in the boundaries designated under this section as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the Refuge.

(c) ACQUISITION.—After determination of the boundaries of the refuge in accordance with the provisions of subsection (a) of this section, the Secretary is authorized to acquire the lands and waters, or interests therein, within the boundary of the refuge.

(d) ESTABLISHMENT.—The Secretary shall establish the National Wildlife Refuge, by publication of a notice to that effect in the Federal Register and publications of local circulation, whenever sufficient property has been acquired within the boundary of the refuge to consitute an area that can be effectively managed as a National Wildlife Refuge.

SEC. 205. ADMINISTRATION.

The Secretary shall administer all lands, waters, and interests therein acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1968 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of recreation opportunities, and interpretive education, as he deems appropriate to carry out the purposes of this Act.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior—

(a) such funds as may be necessary for the acquisition of lands and waters designated in section 4(a)(1); and

(b) such funds as may be necessary for the development, operation and maintenance of the refuge.

SEC. 207. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker I rise in support of H.R. 4517, legislation to amend the Outer Continental Shelf Lands Act Amendments of 1978 to clarify existing law with respect to the ability of leaseholders and their contractors to enter into indemnity agreements; and to establish a National Wildlife Refuge in Rhode Island.

Title I of the bill, addressing indemnity agreements on the Outer Continental Shelf, seeks to ensure that contractors working on other continental shelf leases can enter into indemnity agreements and are able to obtain oil spill insurance. Following the enactment of the OCS amendments of 1978, the validity of the indemnity agreements was called into question. This bill merely clarifies that those agreements between contractors and leaseholders are valid. The bill does not affect the imposition of liability under the act, nor does it alter its financial responsibility requirements.

Title II of this bill establishes a wildlife refuge in Rhode Island. The area targeted for acquisition has been identified by the U.S. Fish and Wildlife Service as an important migration and feeding area for the threatened piping plover, shorebirds, canvasbacks, Canada geese and other waterfowl. In addition it is a nesting area for osprey and a feeding area for several species of herons and egrets. This bill would authorize the acquisition of approximately 600 acres of lands and waters that the Secretary of the Interior determines are appropriate for inclusion in the refuge.

Title II is supported by the Fish and Wildlife Service, I know of no opposition to this bill and I urge Members to support it.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4517, and urge its adoption by the House.

Mr. Speaker, H.R. 4517 accomplishes two purposes: First, it amends title III of the OCS Lands Act so that small contractors working on Outer Continental Shelf leases can enter into agreements and thereby obtain oilspill insurance. This will ensure that the operators obtain the insurance and therefore ensure that claimants can receive compensation for any damages resulting from oilspills.

I want to note that section 3 of the Senate substitute adds a new subparagraph to section 305(c) of the Outer Continental Shelf Lands Act amendments which confirms the limit on a guarantor's liability under the act. The subparagraph does two things: First, it states that a guarantor's total liability with respect to an incident shall not exceed the amount of the insurance policy or similar instrument written by the guarantor, even if the owner or operator of the facility faces claims arising out of the incident from multiple claimants which exceed the owner's or operator's insurance. Second, it clarifies that a person which has liability under section 304 of the act cannot limit, diminish, or alter that primary statutory liability by acting as a guarantor for any other person by virtue of the guarantor's limited liability under this subsection.

The second part of H.R. 4517 which was added in the Senate establishes a new wildlife refuge in the State of Rhode Island. It is my understanding that establishment of this refuge is supported by the people in the area concerned and that there is no objection from the Secretary of the Interior.

Mr. Speaker, as I stated this is a noncontroversial bill which deserves adoption by the House and I urge its adoption.

Miss SCHNEIDER. Mr. Speaker, I rise today in strong support for title II of H.R. 4517, which will establish a national wildlife refuge in my hometown of Narragansett, RI.

The beautiful Pettaguamscutt Cove, which lies within the borders of both the towns of Narragansett and South Kingstown, provides important habitat to many species of waterfowl, terns, wading birds, ospreys, shorebirds, white-tail deer, and many species of finfish and shellfish. The cove is just inland from Naragansett Bay and is part of the sensitive Narrow River estuary system.

The Narrow River estuary system is a fertile and important wetland area that has been facing tremendous development pressures in the past decade. The 600 acres that will be set aside for this national wildlife refuge has, in fact, already been earmarked for a residential development. The town of Narraganset has been trying to purchase and preserve the parcel of land on Pettaquamscutt Cove known as Bridgepoint Commons. The creation of a national wildlife refuge will enhance this effort, as well as creating a comprehensive approach to preserving this spectacular and valuable resource.

The cove has been identified by the U.S. Fish and Wildlife Service as being the most important black duck migration and wintering habitat area in Rhode Island. Creating a national wildlife refuge in this area is consistent with the objectives of the North Americn waterfowl management plan. The creation of this refuge is strongly supported by Federal, State, and local officials as well as by Rhode Islanders who have enjoyed this beautiful area for generations.

I would like to thank Senator CHAFEE for his fine work in getting this provision approved by the Senate. Even though this refuge will be located only one-half mile from my home, I assure my colleagues that it will be beneficial to all Rhode Islanders and to New England to preserve this very important and sensitive natural resource.

I strongly urge all of my colleagues to support this very important provision, and to vote for H.R. 4517.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 4517, the OCS Operators Indemnification Clarification Act.

Mr. Speaker, the Merchant Marine and Fisheries Committee has worked long and hard to pass a comprehensive oil spill bill. While we have not been able to accomplish this difficult feat, I am pleased that we will be able to enact this small piece of the overall package during this session.

This legislation will clarify the ability of owners and operators of rigs and vessels involved in the exploration, development, and shipment of oil to enter into indemnity, hold harmless, or other similar agreements. This practice had been common before the enactment of the Outer Continental Shelf Lands Act Amendments [OCSLAA] in 1978. Following passage of that legislation, it was unclear whether this type of indemnity agreement was allowable. H.R. 4517 will add language to the OCSLAA to clarify Congress' position that these agreements are valid.

A few changes have been made in the bill since the House passed it under suspension of the rules in June which strengthen and further clarify the intent of the legislation.

Section 3 of the Senate substitute adds a new subparagraph to section 305(c) of the Outer Continental Shelf Lands Act amendments which confirms the limit on a guarantor's liability under the act. The subparagraph does two things: First, it states that a guarantor's total liability with respect to an incident shall not exceed the amount of the insurance policy or similar instrument written by the guarantor, even if the owner of operator or the facility faces claims arising out of the incident from multiple claimants which exceed the owner's or operator's insurance. Second, it clarifies that a person which has liability under section 304 of the act cannot limit, diminish or alter that primary statutory liability by acting as a guarantor for any other person by virtue of the guarantor's limited liability under this subsection.

Mr. Speaker, I support this legislation and urge my colleagues to join me in voting to enact this important legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4517.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

OMNIBUS INSULAR AREAS ACT OF 1988

Mr. DE LUGO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 721) to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and to stimulate the development of the private sector of Indian tribal economies, as amended.

The Clerk read as follows:

S. 721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Insular Areas Act of 1988".

SEC. 2. JUDICIAL ASSISTANCE.

(a) GENERAL AUTHORITY.—The Ninth Judicial Circuit of the United States may provide assistance to the courts of the freely associated states. The Chief Justice of the United States or the Chief Judge of the Ninth Circuit may, upon the request of a duly authorized official of a freely associated state, authorize any circuit judge of, or district court judge within, the Ninth Circuit to serve temporarily as a judge of any court of a freely associated state.

(b) REIMBURSEMENT AND ALLOWANCES.—The Congress hereby consents to the acceptance and retention of reimbursement or allowances for expenses related to service on a freely associated state court authorized by this section. All such reimbursement or allowances shall be reported by the judge concerned to the Administrative Office of the United States Courts.

(c) AGREEMENTS.—The President is authorized to enter into agreements with the freely associated states that are necessary or appropriate to facilitate implementation of this section.

SEC. 3. CONTROLLED SUBSTANCES IN THE FREELY ASSOCIATED STATES.

(a) GENERAL AUTHORITY.—The President is authorized to negotiate agreements which provide—

(1) that the United States shall carry out the provisions of part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) as necessary to provide for the lawful distribution of controlled substances in the freely associated states; and

(2) that a freely associated state which institutes and maintains a voluntary system to report annual estimates of narcotics needs to the International Narcotics Control Board, and which imposes controls on imports of narcotic drugs consistent with the Single Convention on Narcotic Drugs, 1961, shall be eligible for exports of narcotic drugs from the United States in the same manner as a country meeting the requirements of subsection (a) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 593).

(b) EFFECTIVE DATE.—Agreements concluded pursuant to this section shall become effective pursuant to section 101(f)(5) of Public Law 99-239 or section 101(d)(5) of Public Law 99-658, as may be applicable.

SEC. 4. NORTHERN MARIANAS COLLEGE.

The Northern Mariana College is hereby constituted a depository to receive Government publications, and the Superintendent of Documents shall supply to the Northern Marianas College one copy of each such publication in the same form as supplied to other designated depositories.

SEC. 5. MATCHING FUND REQUIREMENT.

The last sentence of section 501(d) of Public Law 95-134, as amended by Public Law 96-205, as amended (48 U.S.C. 1469a(d)), is amended—

(1) by inserting "any Federal program as it applies in" before "American Samoa"; and

(2) by inserting "or other expenditures" after "funds".

SEC. 6. VIRGIN ISLANDS.

The Revised Organic Act of the Virgin Islands is amended by striking out the second sentence of section 25 (48 U.S.C. 1615).

SEC. 7. CABRAS ISLAND.

Section 818(b)(2) of Public Law 96-418 (94 Stat. 1782) (as amended by section 504 of Public Law 98-454 (98 Stat. 1736)) is amended by striking "30 percent" and inserting "50 percent".

SEC. 8. PONAPE HYDROPOWER DIVERSION.

Section 2 of the Act of June 30, 1954 (68 Stat. 330), as amended, is amended by inserting "for design and construction of the Nanpil River hydropower diversion project;" after "Ponape;".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from the Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. DE LUGO].

GENERAL LEAVE

Mr. DE LUGO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?

There is no objection.

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, each Congress, a number of relatively noncontroversial proposals regarding the insular areas are combined into an omnibus bill.

These acts have provided essential assistance and rationalized the treatment of insular areas under various laws. Although the acts have been relatively noncontroversial, they have addressed many needs that would otherwise be overlooked.

Differences regarding the Palau Compact of Free Association legislation made agreement on an omnibus insular areas bill difficult this Congress. But the administration's decision a couple of weeks ago to support the fundamental provisions of the Palau resolution that I sponsored along with 64 other Members made enactment of an omnibus insular areas bill this year a possibility. Spokesmen for the other body committed that they would try to obtain Senate approval of it.

Based on this commitment, the House approved an amendment to S. 1047 on October 4 with a vote of 416 in favor, incorporating provisions that would address a number of insular needs.

The amendment was supported on a bipartisan basis, would not have a significant budget impact, and the administration cleared its provisions in almost all respects.

The other body, though, included some of the provisions in its amendment to the Palau Compact legislation. It did not include all of the provisions passed by the House but added one not contained in the House bill.

The intent was to provide an incentive to us to accept provisions of the amendment to the Palau Compact. But there are differences that cannot be influenced in this way.

Additionally, the omnibus provisions should not have to ride on the fate of the compact legislation, which is uncertain at this point.

So, I propose that we send back across the Capitol the omnibus provisions to which the other body has agreed in a separate vehicle. The amendment to S. 721 includes them with some minor technical amendments.

Let me now outline what the bill would accomplish. Members should refer to my statement on the original passage of this legislation on pages H9431-9434 of the Record for a further explanation of their intent.

Section 1 would designate the short title: The Omnibus Insular Areas Act of 1988.

Section 2 would authorize the temporary assignment of judges of the ninth judicial circuit to freely associated State courts upon the request of the States.

It is assumed that such assignments will be arranged in a manner consistent with constitutional requirements of both the United States and the State involved.

In the case of the United States, this assumption does not require that the arrangements be made by the executive branch in light of the foreign policy powers of the President. To suggest that it should would be to propose that the executive, a political branch, should encroach upon the independence of the judiciary.

The government-to-government contacts required can be satisfied by contacts between judiciaries. It may be helpful, however, for there to be executive-to-executive understandings reached concerning this assistance. The language provides for such arrangements.

Section 3(a) would authorize the President to agree with the freely associated States to continue to have the United States regulate the distribution of drugs to the States or to treat the States as foreign countries for the purposes of such distribution if they agree to international conventions on distribution.

Section (b) of section 3 provides for submission to Congress of agreements reached under this section.

Section 4 would make the Northern Marianas College a Federal depository so that it will be eligible to receive all Federal publications.

Omnibus Insular Areas Acts in 1980, 1983, and 1984 have all intended to waive requirements for insular governments to spend funds in order to have any Federal program or project apply to or take place in the Islands. These acts are built upon waiver authority contained in Omnibus Insular Areas Acts of 1977 and 1978.

Current law requires the waiver of contribution requirements by American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands of the first $200,000 of such a requirement per project or program by every Federal agency in each instance where such a requirement could be applied.

The intent of section 5 is that any requirements for insular spending under any Federal program or project be waived to the extent of $200,000 annually.

Although the budgetary impact of this waiver is nonexistent or slight, the intent is that the waiver be applied across-the-board for all projects and programs regardless of the cost.

Section 6 would amend the Revised Organic Act of the Virgin Islands. It would authorize the U.S. District Court for the Virgin Islands to sit anywhere in the territory.

Section 7 would amend the limitation in existing law on the amount of the proceeds from the sale or lease of 927 acres at Guam's main port that Guam may use for development costs from 30 to 50 percent.

This property was transferred to the territory under a 1980 law. The 1984 Omnibus Insular Areas Act amended the 1980 law's requirement that all proceeds from any private use of the land be paid to the Federal Government to permit 30 percent of the proceeds to be used for development costs. This amendment further liberalizes the original requirement. It would still provide that half of the proceeds from private use of the property would be paid to the Federal Government.

Section 8 is the provision which has not passed the House before. It would authorize such sums as may be necessary for the design and construction of the Nanpil River hydropower diversion project in the Federated States of Micronesia. It is intended that the project will proceed as described in the March 1988 Army Corps of Engineers Report entitled: "Pohnpei Island Surface Water Resources Study: A Planning Report for Hydropower Addition to the Nanpil River Project."

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 721, the Omnibus Insular Areas Act of 1988.

The provisions of the bill are noncontroversial and have the support of the administration, the Senate and the House. In fact, all of the provisions have been previously passed in different bills by the House and Senate. All parties have agreed to the provisions contained in the legislation.

While all of the sections of the bill are meritorious, I want to comment on the provision regarding judicial assistance. Supreme Court Justice Anthony M. Kennedy suggested this provision, which had been previously endorsed by the Judicial Conference of the Pacific, which Justice Kennedy chaired. The insular areas are fortunate indeed to have an individual of the caliber and in the position of Justice Kennedy involved in judicial matters affecting the people of the Pacific Islands. This particular provision should help to strengthen the relationship between the United States and the people of the freely associate States of Micronesia.

I would like to acknowledge and commend the efforts of Chairman Ron de Lugo of the Subcommittee on Insular and International Affairs, as well as the efforts of Senators Bennett Johnston and James McClure, chairman and vice chairman of the Senate Energy and Natural Resources Committee, to enact legislation that meets the concerns of all parties involved in insular issues.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. de LUGO. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from California relative to the distinguished Justice from California, Justice Kennedy.

Mr. Speaker, at this time I also would like to commend the gentleman from California [Mr. Lagomarsino] for his work on this legislation and his work with the subcommittee.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the Virgin Islands [Mr. de Lugo] that the House suspend the rules and pass the Senate bill, S. 721, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: An act entitled "Omnibus Insular Areas Act of 1988".

A motion to reconsider was laid on the table.

PUBLIC BUILDINGS AMENDMENTS OF 1988

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2186) to improve the efficiency and effectiveness of management of public buildings, as amended.

The Clerk read as follows:

S. 2186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Buildings Amendments of 1988".

SEC. 2. INCREASED THRESHOLD FOR APPROVAL PROCESS.

Sections 4(b) and 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 603(b) and 606(a)) are amended by striking out

"$500,000" each place it appears and inserting in lieu thereof "$1,500,000".

SEC. 3. LIMITATIONS ON LEASING AUTHORITY.

(a) Limitation on Appropriations for Leasing Certain Space.—Section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 603(a)) is amended by inserting after the second sentence the following new sentence: "No appropriation shall be made to alter any building, or part thereof, which is under lease by the United States for use for a public purpose if the cost of such alteration would exceed $750,000 unless such alteration has been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

(b) Limitation on Leasing Certain Space.—Section 7 such Act (40 U.S.C. 606) is amended by adding at the end thereof the following new subsection:

"(e) Limitation on Leasing Certain Space.—

"(1) General Rule.—The Administrator may not lease any space to accommodate—

"(A) computer and telecommunications operations;

"(B) secure or sensitive activities related to the national defense or security, except in any case in which it would be inappropriate to locate such activities in a public building or other facility identified with the United States Government; or

"(C) a permanent courtroom, judicial chamber, or administrative office for any United States court;

if the average rental cost of leasing such space would exceed $1,500,000.

"(2) Exception.—The Administrator may lease any space with respect to which paragraph (1) applies if the Administrator first determines, for reasons set forth in writing, that leasing such space is necessary to meet requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 4. DOLLAR AMOUNT ADJUSTMENT.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is further amended by adding at the end the following new subsection:

"(f) Dollar Amount Adjustment.—Any dollar amount referred to in this section and section 4(b) of this Act may be adjusted by the Administrator annually to reflect a percentage increase or decrease in construction costs during the preceding calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any such adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 5. STATE ADMINISTRATION; SPECIAL RULES FOR LEASED BUILDINGS.

The Public Buildings Act of 1959 (40 U.S.C. 601-616) is amended by adding at the end thereof the following new sections:

"SEC. 19. STATE ADMINISTRATION OF CRIMINAL AND HEALTH AND SAFETY LAWS.

"Notwithstanding any other provision of law, the Administrator may, whenever the Administrator considers it desirable, assign to a State, or to a commonwealth, territory, or possession of the United States, all or part of the authority of the United States to administer criminal laws and health and safety laws with respect to lands or interests in lands under the control of the Administrator located in such State, commonwealth, territory, or possession. Assignment of authority under this section may be accomplished by filing with the chief executive officer of such State, commonwealth, territory, or possession a notice of assignment to take effect upon acceptance thereof, or in such other manner as may be prescribed by the laws of the State, commonwealth, territory, or possession in which such lands or interests in lands are located.

"SEC. 20. SPECIAL RULES FOR LEASED BUILDINGS.

"(a) Specifications.—Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, the Administrator shall not make any agreement or undertake any commitment which will result in the construction of any building which is to be constructed for lease to, and for predominant use by, the United States until the Administrator has established detailed specification requirements for such building.

"(b) Competitive Procedures.—The Administrator may acquire a leasehold interest in any building which is constructed for lease to, and for predominant use by, the United States only by the use of competitive procedures required by section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

"(c) Inspections.—The Administrator shall inspect every building to be constructed for lease to, and for predominant use by, the United States during the construction of such building in order to determine that the specifications established for such building are complied with.

"(d) Enforcement.—

"(1) Post-construction evaluation.—Upon completion of a building constructed for lease to, and for predominant use by, the United States, the Administrator shall evaluate such building for the purpose of determining the extent, if any, of failure to comply with the specifications referred to in subsection (a).

"(2) Contract clause.—The Administrator shall ensure that any contract entered into for a building described in paragraph (1) shall contain provisions permitting a reduction of rent during any period when such building is not in compliance with such specifications.".

SEC. 6. COMPLIANCE WITH NATIONALLY RECOGNIZED CODES.

(a) In General.—The Public Buildings Act of 1959 (40 U.S.C. 601-616) is further amended by adding at the end the following new section:

"SEC 21. COMPLIANCE WITH NATIONALLY RECOGNIZED CODES.

"(a) Building Codes.—Each building constructed or altered by the General Services Administration or any other Federal agency shall be constructed or altered, to the maximum extent feasible as determined by the Administrator or the head of such Federal agency, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes. Such other codes shall include, but not be limited to, electrical codes, fire an life safety codes, and plumbing codes, as determined appropriate by the Administrator. In carrying out this subsection, the Administrator or the head of the Federal agency authorized to construct or alter the building shall use the latest edition of the nationally recognized codes referred to in this subsection.

"(b) Zoning Laws.—Each building constructed or altered by the General Services Administration or any other Federal agency shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of—

"(1) zoning laws, and

"(2) laws relating to landscaping, open space, minimum distance of a building from the property line, maximum height of a building, historic preservation, and esthetic qualities of a building, and other similar laws,

of a State or a political subdivision of a State which would apply to the building if it were not a building constructed or altered by a Federal agency.

"(c) Special Rules.—

"(1) State and local government consultation, review, and inspections.—For purposes of meeting the requirements of subsections (a) and (b) with respect to a building, the Administrator or the head of the Federal agency authorized to construct or alter the building shall—

"(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivison, or both, in which the building will be located;

"(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

"(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Administrator or the head of the Federal agency, as the case may be—

"(i) a copy of such schedule before construction of the building is begun; and

"(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

"(2) Limitation on state responsibilities.—Nothing in this section shall impose an obligation on any State or political subdivision to take any action under paragraph (1).

"(d) State and Local Government Recommendations.—Appropriate officials of a State or a political subdivision of a State may make recommendations to the Administrator or the head of the Federal agency authorized to construct or alter a building concerning measures necessary to meet the requirements of subsections (a) and (b). Such officials may also make recommendations to the Administrator or the head of the Federal agency concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Administrator or the head of the Federal agency shall give due consideration to any such recommendations.

"(e) Effect of Noncompliance.—No action may be brought against the United States and no fine or penalty may be imposed against the United States for failure to meet the requirements of subsection (a), (b), or (c) of this section or for failure to carry out any recommendation under subsection (d).

"(f) Limitation of Liability.—The United States and its contractors shall not be required to pay any amount for any action taken by a State or a political subdivision of a State to carry out this section (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

"(g) Applicability to Certain Buildings.—This section applies to any project for construction or alteration of a building for which funds are first appropriated for a fiscal year beginning after September 30, 1989.

"(h) National Security Waiver.—This section shall not apply with respect to any building if the Administrator or the head of the Federal agency authorized to construct or alter the building determines that the application of this section to the building would adversely affect national security. A determination under this subsection shall not be subject to administrative or judicial review.".

(b) Notification of Federal Agencies.—Not later than 180 days after the date of the enactment of this section, the Administrator of General Services shall notify the heads of all Federal agencies of the requirements of section 21 of the Public Buildings Act of 1959.

SEC. 7. LIMITATION ON MAXIMUM RENTAL RATE.

Section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a), is repealed.

SEC. 8. PROTECTION OF FEDERAL PROPERTY.

(a) Reference to GSA.—The Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318-318d) is amended—

(1) by striking out "Federal Works Agency" each place it appears and inserting in lieu thereof "General Services Administration"; and

(2) by striking out "Federal Workers Administrator" each place it appears and inserting in lieu thereof "Administrator of General Services".

(b) Inclusion of Leased Property.—The first section of such Act (40 U.S.C. 318) is amended to read as follows:

SECTION 1. SPECIAL POLICE.

"(a) Appointment.—The Administrator of General Services, or officials of the General Services Administration duly authorized by the Administrator, may appoint uniformed guards of such Administration as special policemen without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under the charge and control of the Administrator.

"(b) Powers.—Special policemen appointed under this section shall have the same powers as sheriffs and constables upon property referred to in subsection (a) to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays of unlawful assemblies, and to enforce any rules and regulations promulgated by the Administrator of General Services or such duly authorized officials of the General Services Administration for the property under their jurisdiction; except that the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.".

(c) Conforming Amendments.—

(1) Section 2.—Section 2 of such Act (40 U.S.C. 318a) is amended by striking out "Federal property" each place it appears and inserting in lieu thereof "property".

(2) Section 3.—Section 3 of such Act (40 U.S.C. 318b) is amended by striking out "and over which the United States has acquired exclusive or concurrent criminal jurisdiction".

SEC. 9. CERTAIN OTHER AUTHORITIES.

Nothing in this Act (including any amendment made by this Act) shall be construed to affect the authorities granted in sections 5, 6, and 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f, 403g, and 403j).

SEC. 10. TECHNCAL AMENDMENT.

The Act entitled "An Act to designate the United States Post Office and Courthouse in Pendleton, Oregon, as the 'John F. Kilkenny United States Post Office and Courthouse' ", approved October 17, 1984 (Public Law 98-492; 98 Stat. 2271), is amended by striking out "Dorian" and inserting in lieu thereof "Dorion".

SEC. 11. NAMINGS.

(a) Lawton Chiles, Jr. Federal Building, Lakeland, Florida.—

(1) Designation.—The Federal Building to be constructed in Lakeland, Florida, that will replace the existing Federal Building in Lakeland, Florida, shall be known and designated as the "Lawton Chiles, Jr. Federal Building".

(2) Legal references.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the building designated by paragraph (1) is deemed to be a reference to the "Lawton Chiles, Jr. Federal Building".

(3) Effective date.—This subsection shall take effect on whichever of the following occurs later:

(A) The date of the enactment of this Act.

(B) January 3, 1989.

(b) Robert A. Young Federal Building, St. Louis, Missouri.—

(1) Designation.—The Federal building located at 405 South Tucker Boulevard, St. Louis, Missouri, shall be known and designated as the "Robert A. Young Federal Building".

(2) Legal references.—Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal building referred to in paragraph (1) shall be deemed to be a reference to the "Robert A. Young Federal Building".

The SPEAKER pro tempore. Is a second demanded?

Mr. MOLINARI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Anderson] will be recognized for 20 minutes, and the gentleman from New York [Mr. Molinari] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Anderson].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2186, commonly referred to as the Public Buildings Amendments of 1988 is designed to improve the efficiency and effectiveness of management of public buildings.

On December 14, 1987, the House passed H.R. 2790, a similar bill to this legislation. The Senate passed S. 2186 on May 18 of this year. We are now considering a substitute amendment to S. 2186. This is a result of various meetings between appropriate committee staffs of both Houses. This, therefore, is a compromised version with consultations with appropriate Federal agencies.

The reforms in this bill include:

First, raising the prospectus threshold from $500,000 to $1.5 million. This change is needed due to inflation costs which was last adjusted in 1972.

Second, the bill provides limitation on alteration and certain kinds of space to any leased building by the U.S. Government unless approved by the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works. This provision discourages GSA from leasing space to accommodate major computers and permanent courtroom facilities. These activities can be better accommodated in Government-owned buildings.

Third, the bill provides GSA the authority to retrocede exclusive jurisdiction over areas under its control, so that State governments and other entities could utilize local law enforcement authorities to protect Federal properties. Further, the bill would also provide special rules for leased buildings. The Administrator should provide detailed specification requirements, utilize competitive procedures, and agree to perform regular inspections on leased buildings for predominant use by the U.S. Government before committing to any agreements.

Any building to be constructed or altered by the Federal Government should to the maximum extent feasible comply with one of the nationally recognized model building codes and zoning laws. This would help local authorities work closely with GSA in coordinating building codes and zoning requirements. However, no action may be brought against the United States for failure to meet the requirements.

We also have in this legislation two provisions which we simply incorporated from two name bills. Earlier this year, the House passed a bill to name the Federal Building located in St. Louis, MO, as "The Robert A. Young Federal Building". Bob Young is a former colleague who chaired the Subcommittee on Public Buildings and Grounds. The Senate passed earlier this month a bill to name the Federal Building to be constructed in Lakeland, FL, as the "Lawton Chiles, Jr., Federal Building".

Mr. Speaker, to conclude, this legislation will allow the General Services Administration, the housekeeping agency for the Federal Government, additional tools in which to carry out Federal housing needs in the most efficient manner.

I urge my colleagues to support this bill.

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Mr. MOLINARI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in December of last year, the House passed H.R. 2790 which amended the Public Buildings Act of 1959. Today we are considering an amendment to the companion Senate bill, S. 2186, which reflects a compromise of the House and Senate bills.

Throughout, the House and Senate Public Works Committees have worked closely with GSA. In addition, the administration has also been consulted.

The amendment to S. 2186, which closely follows the House bill passed last year, will update certain provisions of the Public Buildings Act of 1959—including increasing for the first time in 16 years the prospectus threshold for leasing, construction, and repair and alteration projects to $1.5 million.

Certain requirements regarding leased buildings are included in order to discourage the leasing of certain types of space which frequently require costly alterations. Also, the bill as amended would require that GSA specifications are met for buildings constructed which are to be leased to the Federal Government.

The amendment also contains provisions similar to legislation passed by the House in the 99th Congress and also included in the bill as originally passed by the House which would require, to the maximum extent feasible as determined by the Administrator, compliance with nationally recognized model building codes, and consideration of other local requirements. Local officials would be consulted during the planning process and allowed to make recommendations based on their review and inspection.

The amendment would make permanent certain authorities regarding the protection of federally owned and leased buildings in order to give the Administrator greater flexibility in terms of fire and police protection by local or Federal law enforcement officials.

Two final provisions incorporate language from a bill passed by the House earlier this year which names a building in Missouri in honor of our former colleague, Bob Young, and a bill passed by the Senate naming a building in Florida for retiring Senator Lawton Chiles.

At one point, the House had included in a draft of the substitute amendment the provisions of H.R. 2524, which was passed by this House in September and would allow certain agencies which now have locational restrictions to be considered for location outside the District of Columbia in lower cost, high quality space.

Just last week at a meeting of the Public Works Committee, we again were faced with the issue of the high cost of leasing space in this region, and the matter of exploring a wider delineated area for our leases received a great deal of attention. Unfortunately, the senate has been hesitant to act and, reluctantly, I agreed to delete the provision from the amendment in the interests of gaining final approval of the public buildings amendments. It is an issue, however, that we, and I hope that Senate, will continue to pursue in the 101st Congress.

Mr. Speaker, the Public Works Committee has worked hard on this legislation, and I believe the result is a bill which will greatly improve Federal leasing and the management of public buildings.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the substitute amendment to S. 2186, the Public Buildings Amendments of 1988. In December of last year, the House passed it's own version of this bill, H.R. 2790.

Language included in this amendment is the result of negotiation and consultation between the House and Senate Public Works Committees, GSA and the administration.

The public buildings amendments would result in improvements in the management and congressional oversight of our public buildings program. Section 2 of the amendment increases the threshold for prospectuses requiring approval by the Public Works Committee for the leasing, construction, or alteration of Federal space to $1.5 million. The current threshold, $500,000, has not been amended since 1972.

Several provisions relate to the leasing of space. The committee has long been concerned regarding the amount of Federal funds necessary for leased space, currently $1.2 billion annually. The amendment would require prospectus approval for alterations to leased space in excess of $750,000.

Additionally, certain types of leased space which typically require expensive alterations—such as space for computer operations or court space—would be prohibited unless the administrator of GSA certifies in writing that these operations cannot be accommodated in federally owned space.

Another requirement regarding leased space in section 5 of the amendment provides that the Administrator must provide specifications for buildings constructed which are to be leased for the predominant use by the Government. In this way, we will ensure that specific Government needs are met.

A concern many Members have communicated to the committee is addressed in section 6 of the amendment which requires compliance, to the maximum extent feasible as determined by the Administrator, with one of the nationally recognized model building codes when buildings are constructed or altered.

Local officials will also have the opportunity to review and comment on plans for the building or alteration. In this way, Federal officials will have the benefit of the expertise of those most familiar with the particular area in which the project is completed.

Various provisions designed to give GSA more flexibility in providing security are included in S. 2186. The bill makes permanent GSA's authority to perform certain law enforcement functions in buildings owned or leased by the United States. The Administrator would also be allowed to assign such responsibilities to local authorities as appropriate.

Finally, the amendment would name a building to be constructed in Lakeland, FL, in honor of retiring Senator Lawton Chiles, and a building in St. Louis, MO, in honor of the former chairman of the House Public Buildings and Grounds Subcommittee, Bob Young.

Mr. Speaker, I urge the House to pass S. 2186, as amended.

Mr. MOLINARI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from California [Mr. Anderson] that the House suspend the rules and pass the Senate bill, S. 2186, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to revise and extend their remarks on S. 2186 the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that my special order for 60 minutes today be vacated, and I ask unanimous consent that I may be permitted to address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CORRECTION OF SPECIAL ORDER REQUESTS

Mr. DREIER of California. Mr. Speaker, due to an error in the special order requests on October 13, Mr. Conte was granted a 60-minute special order for today. The special order should have been granted to Mr. Green of New York. I ask unanimous consent that Mr. Green be granted permission to take his 60-minute special order in lieu of Mr. Conte today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON S. 1630, RETIREMENT AND SURVIVORS ANNUITIES FOR BANKRUPTCY JUDGES AND MAGISTRATES ACT OF 1988

Mr. KASTENMEIER. Mr. Speaker, I call up the conference report on the Senate bill (S. 1630) to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 11, 1988, at page 29669).

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. Kastenmeier] will be recognized for 30 minutes, and the gentleman from California [Mr. Moorhead] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. Kastenmeier].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the conference report on S. 1630, the Retirement and Survivors Annuities for Bankruptcy Act of 1988. This report brings to culmination almost 2 years of work on legislation to improve the retirement system for bankruptcy judges and magistrates. I am proud of the work done by the Congress on this issue. We have worked cooperatively with the other body as well as with the judicial branch to achieve the overarching goal of improving the recruitment and retention of high quality magistrates and bankruptcy judges.

Special thanks for this bill go to my chairman, Peter Rodino, whose interest in the Federal court system is unsurpassed in the Congress. In addition, recognition should be given to Carlos Moorhead, the ranking member on the Subcommittee on Courts, Civil Liberties and the Administration of Justice, Hamilton Fish, the ranking member of the Committee on the Judiciary, Congressmen Mike Synar, Rick Boucher, Henry Hyde and numerous others. Finally, I wish to congratulate Senators Heflin, Biden, DeConcini, Thurmond, and Grassley for their diligent work on this issue.[1]

The provisions of this conference report are relatively straightforward. The measure before us provides for an improved retirement and survivors annuities system for bankruptcy judges and bankruptcy judges. The conference report adopts the basic structure of the Senate-passed bill as well as the original House bill, H.R. 2586—that was cosponsored by nearly 200 Members of the House—and its successor bill, H.R. 4340. Under the proposal before us today judicial adjuncts eligible for retirement will qualify for benefits after 14 years of service. The retirement benefits will be equal to 100 percent of the salary of the position being vacated. Special rules are developed for persons who serve less than 14 years or who retire before the age of 65.

The conference report differs from the original Senate-passed bill in two important respects. First, these personnel are required to contribute 1 percent of their salary to the retirement fund.[2] Second, magistrates or bankruptcy judges who retire before the age of 65 must pay a penalty in terms of reduced retirement benefits of 2 percent a year for each year of retirement before age 65, up to a maximum of 20 percent. In addition, the conference report also requires the Judicial Conference to submit a report in 5 years about the retirement program. Finally, the report adopts the disability benefits and judicial survivors' annuities provisions contained in both bills, with minor variations.[3]

In closing, I would like to remind my colleagues of the important work done by the Federal courts to adjudicate the rights of our citizens. Access to justice is one of the hallmarks of our democracy. Without the valuable services of judicial adjuncts such as bankruptcy judges and magistrates that precious right of access would be seriously eroded. Of equal import is the maintenance of a high quality of justice offered by these judicial personnel. Thus, it is essential to the preservation of the rights of all Americans that we are able to recruit and retain high quality judicial personnel. This bill is an integral step toward that goal. I urge support for this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to accompany S. 1630.

S. 1630 is important legislation. It's not only important to the 284 bankruptcy judges and the 280 full-time magistrates, it's also important to the operation and morale of our Federal judiciary. I would like to commend the gentleman from Illinois [Mr. Hyde] for all the work he did as a conferee on this bill.

For whatever reason, since the Bankruptcy Reform Act of 1978, the bankruptcy judges and the magistrates have been losing ground with both their salaries and their retirement benefits. What has happened as a result of this is that there has been a high rate of turnover, higher than other Federal agencies. But what is even more disturbing to me, is the fact that now new judgeships are being filled with much younger lawyers, oftentimes with persons just a few years out of law school. Although not indicative of a diminution in the quality of candidates, it is a complete reversal from where Federal judges have been selected from in the past. Traditionally, the average age of a Federal judge is somewhere between the ages of 45 to 55. Lawyers at this age have usually been in private practice from 20 to 30 years. During this time they have developed a healthy understanding and appreciation of the system and they bring this experience to the bench. What I like best about this amendment is that a bankruptcy judge or magistrate could retire only at age 65 after 14 years of service. In addition, for each year a judge voluntarily leaves office prior to age 65 the percentage of salary would be reduced by 2 percent. This would have the effect of encouraging lawyers to accept appointments later in their legal career and to stay in the system for a longer period of time.

There are over 190 cosponsors of this legislation and I know of no opposition to the bill. I urge Members to vote in favor of its passage.

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Mr. Speaker, I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. Gray of Illinois). The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

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[1] Excellent staff work was done on this bill by Denis Hauptly John Rabiej of the Administrative Office of the United States Courts, Sandy Strokhoff of the Office of Legislative Counsel of the House of Representatives as well as Karen Kremer, Sam Gerdano and Kevin McMahon of the staff of the Senate Judiciary Committee. Thanks also should be given to the staff of the House Committee on the Judiciary.

[2] As a result of inclusion of the contribution requirement numerous other changes were made in the bill. For example, the House-passed amendment provided retirees with the opportunity to claim a lump sum refund for prior contributions to the retirement system upon early separation from office. These provisions are included in the conference report.

[3] The conference report also adopts the provisions from the House bill relating to the practice of law after retirement, recall, and from the Senate bill the alternative annuity for incumbents, and a modified version of the effective date. The conference report also adopts a set of technical amendments relating to the thrift savings plan.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE CRITICAL STATE OF OUR NATION'S ICEBREAKER FLEET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, a few days ago Washington Post carried a very timely article on the Federal Page regarding the critical state of our Nation's icebreaker fleet. In that article, the Commandant of the Coast Guard, Adm. Paul Yost, outlined the problems that have faced the Coast Guard in its efforts to secure funding for additional icebreakers.

Since becoming chairman of the Coast Guard Subcommittee last year, I have been increasingly concerned about our Nation's ability to meet its requirements for polar icebreaking capability. Last summer, the United States had four icebreakers—the *Polar Star* and *Polar Sea*, built in the 1970's, and the *Northwind* and *Westwind*, which were more than 40 years old and required constant maintenance. A fifth icebreaker, the *Glacier*, was retired earlier last year because of severe structural damage.

The issue of our icebreaking capability took on even greater meaning last summer when neither of our World War II vintage *Wind* class icebreakers was capable of being used and the United States had to request the assistance of our friends in Canada to perform the annual break-in for resupply of our troops at Thule, Greenland.

As a result of their unreliability and the tremendous expense of maintaining the *Wind* class vessels, the Commandant ordered the *Westwind* decommissioned earlier this year and the *Northwind* will be retired as soon as it returns from its current deployment. This leaves us with only two polar icebreakers—one of which, the *Polar Star*, is currently trying to navigate the Northwest Passage because it could not return to its homeport through the Chukchi Sea north of Alaska.

As Admiral Yost stated in the Post article, this would not have been necessary a couple of years ago when we had five icebreakers in the fleet. However, with only two vessels in the fleet, the *Polar Star* cannot be permitted to winter over the Arctic. It must be brought home, despite an additional fuel cost of half a million dollars to the Coast Guard.

The Coast Guard has had responsibility for operating our Nation's icebreaker fleet since 1965, and for 10 years has been warning the administration and Congress that funding was needed to replace the *Winds*. A 1984 study to identify U.S. polar icebreaking needs into the next century concluded that we need a fleet of four icebreakers to meet our national icebreaking requirements. Based on the recommendations in that report, the Coast Guard Authorization Act of 1984 directed the Coast Guard to procure two icebreakers to be operational by 1990 as replacements for the *Wind* class ships. However, no funds have been specifically authorized and, more importantly, none have been appropriated for this purpose.

Last January, I led a delegation of members of our committee to see firsthand the job that our icebreakers perform for the break-in and resupply of our bases in Antarctica. The U.S. personnel we talked with at those bases will certainly attest to the critical necessity of the United States maintaining adequate icebreaking capability. It is essential that we are able to resupply our personnel in remote parts of the world such as Antarctica and Greenland.

The Coast Guard continues to seek funding for at least one additional icebreaker. Even if one is authorized and funds are appropriated for fiscal year 1990, it will be several years before construction can be completed and the ship put into service. As fiscal year 1990 budget is prepared and debated, I sincerely hope the administration and Members of Congress will remember the embarassment of not being able to resupply our troops in Greenland last year, and the additional expense incurred this year because the *Polar Star* must come home through the Northwest Passage.

Granted, icebreakers are an expensive proposition. However, we can't continue to take a "Scarlett O'Hara" attitude of worrying about it tomorrow. We must begin now to restore our national icebreaking capability. It's time to bite the bullet and say, "Let's do it."

RESOLUTION ON SOVIET MINES IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, I have taken this special order out to talk about some legislation which I introduced today, and it is interesting that, as we are approaching 2 weeks beyond our target adjournment, that we are still introducing legislation into this 100th Congress. But I am doing it because I think it is very important.

My colleagues, as we have observed over the past several months in this Presidential campaign, one of the criticisms which have been leveled at both candidates is that fact that they had not talked about the issues and were only talking about all kinds of surface items without really getting into it, and then yesterday criticism was launched at Vice President BUSH because he did not mention his opponent, and he in Fulton, MO, gave a major foreign policy address.

So, I guess when one is being scrutinized by the media, it is difficult to win either way, but, Mr. Speaker, I introduced legislation today which really comes on the heels of the address which was delivered yesterday in Fulton by Vice President BUSH.

Mr. Speaker, Vice President BUSH talked about the concern of Soviet expansionism, and the resolution which I introduced today concerns specifically the use of land mines in Afghanistan by Soviet troops. I have been joined in this effort by 11 of our distinguished colleagues who have long been engaged in the political battle surrounding the Soviet occupation of Afghanistan.

The Department of Defense estimates, Mr. Speaker, that the number of Soviet mines in Afghanistan could be as many as 20 million. Now I went through a briefing about a year and a half ago on this issue, and the original thought was that there were only as many as 3 or 4 million of these land mines, and my friend from Garden Grove, CA, Mr. DORNAN, and my friend from Florida, Mr. MCCOLLUM, joined with us just a few weeks ago on a special order dealing with this issue, and I have here, as I have held up for the past couple of years, a little sample of these tragic land mines which are still spread throughout Afghanistan, and according to these reports we have now as many as 20 million.

Ironically, in the face of continued injuries and deaths brought about by these mines, the Soviet Foreign Minister, Eduard Shevardnadze, told our Secretary of State, George Shultz, during a recent meeting that the mines, these mines which could blow the hand off a child, would not pose a major problem for refugees wishing to return to Afghanistan because most of the mines destroy themselves within several days of being planted. Well, Mr. Speaker, nothing could be further from the truth. This appears to be the Soviet rationale for failing to take steps to either detonate or remove these mines.

Studies of the war in Afghanistan, which we have talked about here time and time again, conclude that approximately 9 percent of the total prewar Afghan population has been killed since the Soviets took over their country. Of these war casualties, 3 percent are estimated to have ultimately died from these kinds of land mines. Tragically the number of Afghans maimed by these weapons is significantly higher than that.

Mr. Speaker, throughout the war the Soviets actually intended for the mines to injure rather than kill their victims. As I have said many times, tragically throughout history children have been the victims of war. Unfortunately in Afghanistan, Mr. Speaker, through devices such as these they are the targets.

The maimed Afghans have served two purposes for the Soviets. First, the exodus of Afghans from their homeland increased because of the necessity of seeking medical treatment for wounded family members in neighboring Pakistan, and, second, the crippled Afghans worked to demoralize the Afghan resistance inside the country.

Mr. Speaker, the Soviets seem to be prolonging the war in Afghanistan, and thereby, the suffering of the Afghan people, in order to strengthen the Soviet puppet regime in Kabul. The Soviets can continue to plant mines and supply them to the Afghan Army unless the international communities take action to condemn the past and possible future of these land mines in Afghanistan.

Our Secretary of State, Mr. Shultz, has stated that the Soviet Union, having inflicted so much suffering on the Afghan people, has a special obligation to provide resources for their resettlement. However, prior to any large-scale movement of Afghan refugees to their homeland, Pakistan-based officials for our Agency for International Development, AID, have observed that certain areas of Afghanistan will have to be thoroughly cleared of mines.

One expert, Mr. Speaker, has noted, and I quote, "This is the largest mine-clearing task the world has ever faced."

I hope the international community will take action to hold the Government of the Soviet Union financially and morally responsible for the removal of the mines which Soviet troops have laid since the 1979 invasion. At the very least, we should demand that the Soviets produce maps which will detail the placement of the millions of mines which they will leave behind.

I hope very much, Mr. Speaker, that my colleagues will join in cosponsoring this very important resolution.

DRUG TREATMENT AND CRIME REDUCTION ACT OF 1988

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, we are losing the "war on drugs" with our current policies—but with new policies we can start to win that struggle.

I am, therefore, introducing today a bill which:

Provides treatment for drug dependency as our first line of defense against addiction;

Accepts that different severities and conditions of addiction will require different treatment modalities;

Uses the principles of Medicare prospective payment to control costs and ensures the most effective treatment of addiction;

Requires copayment by patients, but does not deny treatment to the needy;

Mandates collection of data on the clinical effectiveness and cost effectiveness of various treatment modalities and providers, and denial of payments to ineffective programs; and

Finances the program through the establishment of an addiction treatment trust fund financed by a $3,000 increase in the Social Security payroll base.

Treatment provided by this bill will result in a substantial decrease in drug-related crime and its attendant social and financial burden on our people. Finally, this bill will strike at the major route for the spread of the AIDS virus into the general population.

The 100th Congress is nearly history. I introduce this bill at this point to allow my colleagues ample time to study it, to provide us with their most valuable input, and to allow the community, both general and scientific, the opportunity to provide their assessment and advice. The bill will be reintroduced at the start of the 101st Congress incorporating the suggestions which we receive. Over the next several months, the sections of the bill relating to prospective payment methodology especially will be expanded and improved.

Clearly, our present policies are not working; new, effective approaches are urgently needed. Drug use continues to increase in the young, the elderly, and the disadvantaged. Increasingly, babies are born addicted to heroin and to cocaine. Drug dependency is exploding in the educated professional groups we look to for our society's integrity: Lawyers, physicians, governmental officials. Our headlines scream: "Suburban Drug Users Middle Class"; "Doctor Faces Drug, Gun Charges"; "Lawyers on Drugs Create Problem Fraught With Legal, Moral Questions"; "Children Tangled in Drug Net". These reports come not just from the major cities, but also from the farmlands of Iowa, from the high mountain country of Colorado, and from rural West Virginia. The Nation's Capital saw, in just the past year, cocaine related hospital emergency admissions rise over 100 percent, PCP admissions more than double, and heroin admissions increase by one-third.

Nationwide, our current drug law enforcement policy is a lottery: Less than 3 percent of the 30 million regular illicit drug users, or 750,000 individuals per year, are arrested for drug violations. Just to maintain the status quo will soon require the doubling, then tripling of Federal law enforcement funds; 50,000 additional State prison spaces each year will be required if detention rates continue on their present upward course. The costs of continuing this escalation are staggering. Even though we are spending over 75 percent of our "war on drug" funding on law enforcement, it is now clear that we'll never be able to afford to prosecute our way out of the drug problem. Currently, the purely financial cost of drug abuse—in terms of providing health care, reduced productivity, law enforcement, plus theft and destruction of property—is estimated at $60 billion—$60,000,000,000—annually.

Meanwhile, only 1 of every 30 people in need of treatment is able to receive it at any given time. Typically, we ask those desperate to get off drugs to wait 6 to 18 months for needed treatment. Directors of State drug abuse programs plead for increased treatment capacity. All this is in the face of data which show a three dollar return for every dollar spent on treatment!

Drug dependency is a chronic condition, much like chronic heart or kidney disease. We must begin to respond to it as a medical problem, to recognize that quick cures do not happen, that long term programs for prevention of relapse are essential. We waste our money when we moralistically restrict the proper medical decisions as to effective therapy. Patients who have been free of illicit drugs for 2 or more years on methadone maintenance have been forced—by law—out of these programs. Many of these, not unexpectedly, have become ensnared by illicit drugs and have returned to intravenous drug usage.

AIDS brings an even greater urgency to the drug problem. Three quarters of all heterosexually transmitted AIDS comes from contact with intravenous drug users. Moreover, by 1991 there will be 20,000 infants and children with AIDS; the overwhelming majority of these will be due to intravenous drug using parents. This is AID's major gateway to the population at large, and urgent, effective action is essential.

The bill I am introducing rests on the well-founded concept that drug dependency is a chronic relapsing disease for which initial therapy must be followed by a prolonged, but less intensive, period of prevention of relapse—perhaps life-long. This concept is sound, medically and psychologically. Moreover, it fits well the observations of law enforcement experts, who see recidivism as the usual outcome of programs which provide acute initial treatments only. But the recognition of a long-term health problem demands that we find a long-term solution. We have to realize that the "war on drugs" is not a lightning "Six Days War" such as Israel's victory over Egypt—it is more like World War II—and so far it has been one long Pearl Harbor.

This bill allows entry into a treatment program only after the formal assessment of the individual's severity of addiction. Such assessment is to be accomplished with a tried and proven instrument such as the Addiction Severity Index (ASI; as cited in NIDA Second Triennial Report, 1987). With proper triage, the most clinically effective, most cost-effective treatment will be selected for each individual. Costly, ineffective treatments will not be reimbursable. A valid triage method is essential, because the methods and cost of treating a cocaine addict who is a graduate of an Ivy League school holding a highly paid job with a supportive family, are far different from the methods and cost of treating a 16-year-old inner city minority juvenile delinquent who has dropped out of school and has no family.

Because we require a well-stratified entry into the treatment programs, this bill will result in the production of much needed data on the effectiveness of various theraputic modalities. Selected data will be reported to the Department of Health and Human Services on an annual basis. The required information will be carefully defined so as to show the effectiveness of the program and areas needing improvement. Data will be collected on number of applicants, time between application and start of individual therapy, severity of addiction profile, treatment regimen prescribed, compliance, duration of therapy, maintenance or secondary preventive regimen, outcome at defined times (1 to 5 years, for example).

Working with this practical data base, and taking into account other clinical and research information, the D.H.S.S. will annually reevaluate the appropriateness of therapy regimens being funded, thus enhancing the cost-effectiveness of the approach. Moreover, the success and compliance of specific providers can be monitored, allowing timely program adjustments. Thus, this bill will accelerate the process of filling the knowledge gaps in the therapeutic matrix of treatment modality versus drug of dependency, stratified by severity of addiction. In other words, we can find out what works best for a crack addict who has no job and family support, versus what works best for an upper-income weekend heroin "chipper" with family and job.

Funding will be accomplished by a modest increase in the present cap on income subject to the Old-Age, Survivors, and Disability Insurance tax. The revenue raised will allow at least a doubling of the present national effort against drug dependency. The payoff for Americans in decreased human suffering and criminal activity is well worth the cost. Indeed, data from the Department of Health and Human Services, from the U.S. Customs Service, and from private industry's Employee Assistance Programs, indicate that a net financial gain may be expected from increased expenditures for treatment and prevention.

In summary, emphasis on the criminal justice approach to the control of drugs in the United States is, by itself, inadequate. This bill's treatment-based approach is a complement to law enforcement, not a replacement. Only effective therapeutic programs will be paid for, and providers of therapy will be monitored for efficacy. The bill insists that the drug abuser pay as he is able, but does not deny therapy to the poor. This bill will reduce the cost of dealing with the drug problem; drug-related crime will decrease; the spread of AIDS will be stemmed.

The time is overdue for mounting this double-barreled attack in our country's war against drugs.

SHELDON COLEMAN: A MAN WHOSE VISION WAS TO PRESERVE OUR NATURAL HERITAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, I rise today to pay tribute to a man who was described by one associate as having "spent a lifetime admiring and protecting and getting other people to admire and protect." The quote referred to Sheldon Coleman, chairman of the board of the Coleman Co., who died last month in Wichita and to his commitment to the natural beauties of this country he loved so much.

Sheldon Coleman knew of what he spoke. He was an avid outdoorsman from the age of 5 when he was captivated with the beauty of nature during a family vacation to Estes Park, CO. He camped and fished extensively and is reported to have paddled canoes over 5,000 miles. He hired on to the Coleman Co. "just like a man hired off the street" and spent 2 years learning to operate every machine in the place. So, both in his love for the outdoors and in the operations of the company which came to embody his life and his commitment to quality, this man, Sheldon Coleman knew what he was talking about.

As a nation, we benefited from Sheldon Coleman's life in many ways. He was active in the Wichita community for sure and touched the lives of thousands there. He also was a presence on the national scene. He served time and again. He was a member of the President's Commission on Americans Outdoors, the President's Outdoor Recreation Policy Review Group, the Take Pride in America campaign, and the Interior Department's Protect our Wetlands and Duck Resources task force. In all of those instances, there was a link between Sheldon Coleman's private passion and his public service. In addition to the public service to which he so generously gave his time, there were numerous examples of commitment of his financial resources. One of the most notable was the financial support he provided to help inner-city youth from Cleveland and Akron, OH experience backpacking and other outdoor pursuits. All of this taken together led the National Park Service to honor Sheldon Coleman earlier this year by naming him an honorary park ranger. It was a fitting tribute of which he was, no doubt, proud.

In closing, I would bring to my colleague's attention the fact that the Coleman Co. also has made contributions to our national defense. The company's Coleman camp stove was used in World War II and was ranked by Ernie Pyle with the jeep as one of the most important pieces of equipment used in the war effort. At the same time, the company's lamp became part of the military code of that war. During the Battle of the Bulge, the response "lamp" to the word "Coleman" confirmed for GI's that they were dealing with other Americans.

The loss of Sheldon Coleman is one which will be felt for years. America is a better place because of the life he led. He showed Americans, young and old, how to enjoy and protect our natural heritage. He was ready and willing to make a commitment for things in which he believed. For that, the Nation is indeed a better place.

DUKAKIS AND MILITARY BRIEFINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I am not going to take anywhere near the time I signed up for in this special order. It is just that I wanted to call my colleagues' attention to a fascinating story that appeared in the Washington Times the day after the debate and then a fact that I became aware of that I find is very disturbing about how the Governor of Massachusetts, Mr. Dukakis, approaches top secret matters and how well he think he should be briefed as a person aspiring to be the Commander in Chief of all of our armed forces and what we call the leader of the world as the President of the only superpower in the Free World.

Mr. Speaker, this article was written by Bill Gertz, and I would like to point out that in the 6 years that the Washington Times has been in existence it does in my opinion a much better job of reporting on national security issues than does the reigning major newspaper in this town, the Washington Post.

But Mr. Gertz' article in the October 14 edition of the Washington Times was titled "U.S. Satellites Detect Marked Increase in Mobile Soviet ICBMs."

Mr. Speaker, this is a disturbing article because it shows that in spite of the euphoria that the Free World feels over the trip of Mr. Reagan in late last spring to Moscow and the December trip of the General Secretary of the Soviet Union, the head of the Communist party, Mikhail Gorbachev, upon which visit he signed the INF, the intermediate nuclear forces treaty, in spite of this euphoria we feel there is a new dawn of Soviet-United States relations. The Soviets have not cut back a penny, not a rouble, in their defense budget.

□ 1945

They have spent over $200 billion in Soviet strategic defense to our roughly $13 billion.

There are some Soviet experts who are now leaking to the West that they believe the Soviet Union allocates 40 percent of their gross national product—not 16 or 17 as the CIA briefed Members of this body and the other body, the Senate, but 40 percent of their budget toward weaponry, personnel and those parts fo the space program, which is most of their space program, that has a military application.

Now, before I read the key parts of Bill Gertz' article here on what the Soviets are doing with two types of ICBM's, both a rail garrision ICBM and a mobile ICBM, a truck mobile, which we are still arguing about in this country, both systems of which the Democratic contender for the

Presidency is against, let me tell you what I have heard about Mr. Dukakis, that he does not want in-depth top secret briefings. He says, "Don't brief me on anything that has to do with our military that the general population doesn't know about."

The minute I heard that, I thought of two Senators from the other body who also follow this pattern of "Don't brief me about anything top secret."

One of them when I asked him why he would want to remain in ignorance about some of the most sensitive issues in our time, since all of us by mere election, not by a security background check, but by mere election, 535 men and women in this Chamber and the other have access to top secret material, we could get a daily briefing by the CIA if we wanted to carve out time or with the Defense Intelligence Agency.

We can go overseas and ask to talk in any embassy in the world to the Army attaché, the Navy attaché, the Air Force attaché, if it is a large enough embassy where you have attachés representing the 3 branches of the service, and they are all there as attachés from friendly and aggressor nations, are assigned to this country to feed information home. That defense attache system pumps information into the Defense Intelligence Agency. We can get daily briefings.

I said to the Senator, "Why don't you want to be that knowledgeable, my good friend from Iowa?"

He said, "One, because I don't ever want to slip and release something that is secret, and two, I would rather not know, because I base my assumptions on what is out there in the public knowledge."

Now, I confronted that with a priest named Bryan Hehir, who is the brains behind my Catholic Conference of Bishops on every pronouncement they make on very sophisticated defense issues, like the nuclear freeze or the INF treaty. Every time the bishops put out a small letter or a pastoral major white paper on anything to do with defense, it generally comes out of this office in Washington, DC, where not even a monsignor or a bishop, but a mere priest, Father Bryan Hehir, very smart, deals in these issues.

I asked him once if I could get President Reagan to clear him, Father Hehir, for a top secret briefing, would he take it, and he said no. He only wants to know what the people know. "That is for you to get those top secret briefings."

Then I thought, of course, some of his strongest allies here in the Senate do not want debriefings either.

What would Michael Dukakis' rationale be, that he does not want to be smart on top secret issues? Does he want the ignorance that Senator Kennedy had in the debate with Richard Nixon where Kennedy did not know about the planned Bay of Pigs assault upon Cuba to try to get rid of Castro; so he was able to talk tougher on a top secret program because he honestly did not know about it, and Nixon knowing about it, pulled in, wondered if Kennedy was releasing secrets, rushed right away to the national security people and said, "Has Senator Kennedy just violated secret confidences?"

And they said, "No, he doesn't know anything about it."

That was the first debate, the one that most people watched, the one where Senator Kennedy looked tougher than Vice President Richard Nixon, and it probably launched him right into the White House.

Now, I think Dukakis owes it to the American people that he should get as smart as he possibly can on SDI so that he is not all over the place on that issue.

I know that Vice President BUSH is going to continue to run this silly socalled photo opportunity with him bopping around a Chrysler plant in Ohio in this tank where he looked for all the world like Pee Wee Herman with a suit and a tie in this large tanker's helmet, and they are going to get a lot of milage out of that, because now Dukakis is running 2 to 1 behind BUSH with male voters across the country. BUSH meanwhile has pulled ahead with female voters. There is your real gender gap, males by 2 to 1, and blue collar and laborers of either gender, 2 to 1 BUSH ahead of Dukakis, and it may be his shifting all over the map on defense issues and his ignorance.

The ad also points out, the one that BUSH is running, how Dukakis is against every major strategic system. He switched his mind on the B-2 Stealth bomber, but just a few months ago he said the Stealth bomber was too stealthy, which is an asinine statement on its face. Now he is for that Stealth. He is for the D-5 Trident system, which most people who try to gut our defense budget are for here in the House because you do not have to see those ICBM's that are put into submarines, those submarine-launched ballistic missiles. Get them out to sea, get them underwater so we do not have to look at them; but I want to demagogue this issue to constituencies around this country where we have to plug ICBM's into the ground or make them mobile on trucks or make them mobile on a peacekeeper rail garrison mode.

Take all that into consideration when you hear the following:

> The Soviet Union sharply increased its deployments of mobile ICBMs this year, doubling the number of rail-mobile SS-24 missiles—

We have none—

> and increasing the number of road-mobile SS-25s by half, according to U.S. intelligence sources.
>
> The mobile missiles were detected by U.S. spy satellites and reported secretly within the administration by intelligence agencies, the sources said.

I will tell you, I have not been briefed on this yet, and I probably will not talk about it after I am briefed. I expect it to be confirmed, but it is interesting to come out here on the House Floor and share with my fellow Americans coast to coast in Alaska, Hawaii, the Caribbean, the Virgin Islands and Guam and the hotels in Japan and the hotels in Geneva and all the other places and the foreign ministry of the Soviet Union where I saw them watching the proceedings of this House floor, which our own Embassy cannot do. Our own Ambassadors or diplomatic personnel cannot watch, but Ted Turner, the owner and entrepreneur of CNN as a gift to the Soviet Foreign Ministry made cable television available to them so they can listen in the foreign ministry in Moscow to my remarks here.

I want people to understand that since I have not been briefed, I am merely relating what is in the newspapers and I will try to confirm this to my own satisfaction as a Congressman who has access to top secret information.

Now, according to a former Pentagon weapons expert, Frank Gaffney, the rumors are that he was removed by Frank Carlucci, our Secretary of Defense—I do not know the ins and outs of that, he says that mobile ICBM's have created a major obstacle to strategic arms control because eliminating the movable ICBM's—whether they are train or road—movable ICBM's "can't be verified."

> "The [mobile ICBMs] pose a substantial and growing threat, particularly in terms of a formidable follow-on attack," Mr. Gaffney said.
>
> Discovery of the new Soviet mobile missiles comes at a time when the United States has no similar weapons, and the two presidential candidates have vowed to adopt widely differing policies regarding the development of mobile ICBMs.
>
> Democratic candidate Michael Dukakis has said he opposes both the rail-mobile version of the MX missile and plans for a mobile ICBM dubbed the Midgetman.

Now, a couple of footnotes there. Dukakis says he would be for maybe a Minuteman IV missile. Now, this is a smart man, but he betrays his ignorance of all issues on defense, particularly the modernization of our strategic weapons force, because everybody in the Pentagon has told me since the day I was sworn in there in January of 1977 that Shakespeare was wrong. A rose by any other name is not a rose. Sometimes it is a dead program.

If they had named the MX, which now does have a name, the Peacekeeper, or a acronym, the PK, and hence

PKRG, which the Strategic Air Command is for, if they had named the MX the Minuteman IV, it would have gone through this House like lightning, gone through the other body, everybody would have said that we dumped Minuteman I for Minuteman III, so now we are going to dump the Minuteman II missiles for the Minuteman IV missiles, but because they called it MX, missile experimental, and it was bigger and it had 10 warheads, it became a cause celebre and an object of attack by the antidefense forces across this country.

Here comes Dukakis full circle after 12 or more years of development, research and now the deployment already after hard fought battles on this floor and on the Senate floor where some are actually deployed in the field, he says he is against any safe basing of the Peacekeeper, that is, the MX, and he might be for a Minuteman IV, which has not even started, is not on the drawing boards and is 8 to 10 to 12 years away.

It shows his unbelievable ignorance on defense issues.

Let us come back—and Midgetman, what a stupid name, Midgetman is supposed to mean a small Minuteman. When you get into heraldry or symbolism, you use the Minuteman symbol, or the Minuteman statue that sits at Concord Bridge as the symbol for the Minuteman missiles, ready at a moment's notice to defend our peace, to be used as a deterrent.

What do you use as a picture for the Midgetman? The Air Force hates the name so much they call it the small missile, mobile small missile, but here we are stuck with this name that was originated in this body by gosh knows who, the Midgetman, which is the truck mobile missile.

So now Dukakis says he is for both, but he might be for a new Minuteman IV, which has not even been developed or is not even being talked about.

Mr. Dukakis says he favors that advance version of the silo-based Minuteman III, the Trident II nuclear submarine—get it out to sea—and the radar-evading Stealth bomber, one of his switched positions just this year of 1988, he did not switch in 1987.

Vice President GEORGE BUSH, the Republican Presidential candidate is on record as favoring continued research and development for both the MX rail mobile missile and the Midgetman, and he said he will decide as President whether to proceed with the deployment of a rail-based MX or the more expensive Midgetman.

This is one of the reasons President Reagan vetoed the Defense authorization bill—and let me see if I can remember the compromise. The House wanted $250 million for the rail-based Peacekeeper and $250 million for the stupidly named Midgetman, a small single warhead missile, or what Senator PETE WILSON wants, and I am inclined to go along with him if we go that direction, a two-warhead, a little bit larger than your small Midgetman missile, still on mobile trucks around the country, and $250 million for that.

The White House wanted $200 million for the small one, $650 million for the big one, the rail garrison one, and I think the compromise they worked out is the following: The House and the Senate conferees put back $200 million, and it goes on to the rail garrison Peacekeeper, but they can only spend $250 million of it up through February. They must spend $250 million on the smaller one, the so-called Midgetman, and then in February President Bush or President Dukakis decides what to do with the extra $350 million. You got that? Do not feel bad if you do not. That is the arcane way, like the shell game we play with defense dollars around here.

The Strategic Air Command, the people who are chartered to defend our country, who wear uniforms for 20, 30, 35 sometimes 40 years, they want the rail based, the rail garrison Peacekeeper, which the Russians have in the field, as they already have in the field the smaller mobile version.

Now, listen to this: "U.S. intelligence agencies concluded recently that Soviet Strategic Rocket Forces"—sorry, I have to stop there and explain something. Eighty percent of this Congress do not know this. I stand by this. Eighty percent of my colleagues do not know what I am about to say.

We have in the United States, Army, Navy, Air Force, three major commands, the Air Force only 41 years old.

The Soviets have five major commands. You proud marine veterans, do not get upset, we all know you are under the Department of the Navy. There is no Secretary of the Marine Corps, just three branches in the Defense Department.

The Soviets have the Soviet Army, the Soviet Navy and with it the Soviet Marine Corps under their Navy and the Soviet Air Force, but they have two extra full major commands with totally different uniform colors, different insignia on their lapels, different shoulder boards, totally different military commands.

□ 2000

One is called the Soviet Strategic Defense Forces. I believe we should have, and I have a bill in to this effect, that we should have the U.S. Strategic Defense Forces to put all of our defense assets into one command. And then they have the Soviet Strategic Rocket Forces. Their rocket forces do not answer to an Air Force. That only has to do with air-breathing equipment, and I admit I do not know whether their cruise missiles, the ones that are not in the Navy, come under their rocket forces or under their Air Force, probably under their Air Force because it is air breathing, one of their five major commands.

Let me read this part over, "U.S. intelligence agencies concluded recently that Soviet Strategic Rocket Forces, since January 1988"—and this is just a few weeks after General Secretary, now President, Mikhail Gorbachev, visited the White House—they deployed 10 new huge SS-24 missile systems on trains at bases near 3 Soviet cities.

The new missiles double the SS-24 force, and that brings to 20 systems trains traveling around the Soviet Union, mobile, big, multiwarheaded strategic missiles making it difficult for us to target them. They are out there, and we are arguing about it in the U.S. Presidential campaign.

"The SS-24s were photographed on rail cars loaded in long garages at Plesetsk and Kastroma in the northwestern Soviet Union, and at a newly discovered facility at Gladkaya about 60 miles south of the Siberian city of Krasnoyarsk"—which I said in this well that I went through on the Trans-Siberian railway system in August.

"Single SS-24 trains were detected at Plesetsk and Gladkaya and three trains were photographed at the Kastroma base" south of Krasnoyarsk.

"Each SS-24 rail car contains four launchers with four missiles"—and there are 2 cars per train, and remember that there are 20 systems out there. And that is 10 separate trains with 2 systems on each train, but 1 rail car, 4 launchers with 4 missiles, each containing 10 independently targeted warheads, so those 4 missiles represent 40 warheads, nuclear weapons capable of destroying 40 cities. They had before 10 trains out there, some of them doubled up, now they have 20 systems, 2 to a train or 10 trains roaming the country with 80 warheads on those 2 missile cars on the train.

Here is the really rough part, because we do not do this: "In addition, each four-launcher system has four 10-warhead 'reload/refire' missiles." They had 5 trains traveling around with 10 of these cars, now they have 10 trains with 20 cars, each train has 40, and 40, 80 missiles, and 80 reload missiles, 160 missiles per double-car train, and we photographed them. We see the massive long train sheds that they are hidden in, and besides the new SS-24's, equivalent to our rail garrison Peacekeeper, that is, MX, they also have deployed around Moscow, Moscow has deployed, 50 new road-mobile SS-25 missiles just so far this year.

Mr. Speaker, that new deployment brings the latest estimate of deployed Soviet SS-25's, their Midgetman, their small missiles, to 150 missiles. They had roughly 100 when Gorbachev visited the White House, and now they have added 50 more to that. They have trucks traveling around the country with 150 warheaded missiles, and trains, double-car trains, 10 of them, with hundreds more, and we continue to argue about it in the Presidential campaign.

"The SS-25s are located at bases throughout the Soviet Union, including four bases once used"—and here is the kicker—"for SS-20s"—that are going to be cut up, not the warheads, not the nuclear devices, not the atomic bombs, just the carriers, the missiles are being cut right now under the INF treaty.

"The SS-25"—and that is the small one—"is a three-stage missile and is described"—and this is by the United States military, our Pentagon—"as a 'perfect reserve weapon' for protracted war." God forbid anybody should think about protracting nuclear exchanges. " 'It has a single reentry vehicle and is this easily retargeted,' according to the Pentagon publication 'Soviet Military Power.' "

By the way, I would suggest that those who follow this Chamber's proceedings in the Congressional Record should write to their Congressman and make their Congressman get it from the Pentagon, and there are plenty of copies left, this book that they pay for with their tax dollars called "Soviet Military Power," which has everything in it I have discussed except Members will see 100 SS-25's when it is now 150, and they will see 10 SS-24 missile systems on 5 trains, double sets, and now that is doubled. There are 20 out there, 10 trains.

"The current defense budget"—and here are those figures I gave before—"allows the Pentagon to spend $600 million on a rail-mobile basing mode for the MX, but with strings attached"—that whichever one of our two people, the Vice President or the Governor of Massachusetts wins, they can only or we can only, spend $250 million up through February, and then the new President gets to make a decision on the other $350 million.

Mr. Speaker, I don't know about the Speaker, but I am going to try in the next few days to go over in the early morning about 7:30 across the Anacostia River to Bolling Air Force Base, where it does not have runways anymore, but that is where the headquarters is for the Defense Intelligence Agency, and I am going to get briefed on this. I do not want to be like Father Hair, who makes all his decisions for 300 or more Catholic bishops based on ignorance, because he does not have access to the material. I do not want to be like my colleagues in the other body, a couple of Senators, who love to live in ignorance so they will not have to be confused by the facts and possible get hard facts put in front of them to change their position. I sure as holy blazes do not want to be like the governor of Massachusetts, avoiding the U.S. Air Force Electronic Systems Command headquarters about 35 minutes out the front door of his Governor's office, situated between the historical cities of Lincoln and Lexington and right next to Concord Bridge, Hanscom Air Force Base. I do not want to live in that kind of ignorance.

Mr. Speaker, I am going to get briefed on it and find out if that is true, and if it is, the intelligence sources of this country will tell me up or down with photographs of the Soviet trains and where they get their information on the mobile missiles.

If it is true, I know how, for 12 years, to restrict what I release, guarding my top-secret clearances, but how to discuss this as an adult and share the knowledge with the taxpayers who pay for all of this hardware, the men who design them, the research and development, who deploy them, and then the man who serve from Thule, Greenland, to Antarctica, to England, along the East German corridor, the men who serve out in the missile fields of the Dakotas and Wyoming and who are going to be deploying the B-2 bombers when they come on line at Whiteman Air Force Base in Missouri, the men who fly the B-1's in South Dakota, Kansas, Texas, leaving out a State, North Dakota.

Mr. Speaker, I submit the article for inclusion in the Record at this point.

U.S. Satellites Detect Marked Increase in Mobile Soviet ICBMs

(By Bill Gertz)

The Soviet Union sharply increased its deployments of mobile ICBMs this year, doubling the number of rail-mobile SS-24 missiles and increasing the number or road-mobile SS-25s by half, according to U.S. intelligence sources.

The mobile missiles were detected by U.S. spy satellites and reported secretly within the administration by intelligence agencies, the sources said.

Soviet land-based mobile nuclear missiles are described by the Pentagon as "Highly survivable systems for protracted operations" because each system can be reloaded with additional missiles.

According to Frank Gaffney, a former Pentagon weapons expert, mobile ICBMs also have created a major obstacle to strategic arms control because eliminating the movable ICBMs "can't be verified."

"The [mobile ICBMs] pose a substantial and growing threat, particularly in terms of a formidable followon attack," Mr. Gaffney said.

Discovery of the new Soviet mobile missiles comes at a time when the United States has no similar weapons, and the two presidential candidates have vowed to adopt widely differing policies regarding the development of mobile ICBMs.

Democratic candidate Michael Dukakis has said he opposes both the rail-mobile version of the MX missile and plans for a mobile ICBM dubbed the Midgetman.

Mr. Dukakis instead favors an advanced version of the silo-based Minuteman III ICBM, the Trident II nuclear missile submarine and the radar-evading Stealth bomber.

Vice President George Bush, the Republican presidential candidate, is on record as favoring continued research and development for both the MX rail-mobile missile and the Midgetman. He has said he will decide as president whether to proceed with the deployment of a railbased MX, or the more-expensive Midgetman.

U.S. intelligence agencies concluded recently that Soviet Strategic Rocket Forces, since January 1988, deployed 10 new SS-24 missile systems at bases near three Soviet cities. The new missiles bring the total SS-24 force to 20 systems.

The SS-24s were photographed on rail cars loaded in long garages at Plesetsk and Kastroma in the northwestern Soviet Union, and at a newly discovered facility at Gladkaya, about 60 miles south of the Siberian city of Krasnovarsk.

Single SS-24 trains were detected at Plesetsk and Gladkaya and three trains were photographed at the Kastroma base, according to the sources.

Each SS-24 rail car contain four launchers with four missiles, each containing 10 independently targeted warheads. In addition, each four-launcher system has four 10-warheads "reload/refire" missiles.

Besides the new SS-24s, the intelligence agencies also found that Moscow deployed 50 new road-mobile SS-25 missiles so far this year. The new deployments bring the latest estimate of deployed Soviet SS-25s to 150 missiles

The SS-25s are located at bases throughout the Soviet Union, including four bases once used for intermediate-range SS-20s, that were scrapped under the INF treaty, the sources said.

The SS-25 is a three stage missiles and is described by the Pentagon as "a perfect reserve weapon" for protracted war. It has a single re-entry vehicle and and is thus easily retargeted," according to the Pentagon publication Soviet Military Power.

The current defense budget allows the Pentagon to spend $600 million on a rail-mobile basing mode for the MX, but with strings attached. Congress required that only $250 million of that amount be used between now and Feb. 15 in order to give the next president the option of canceling the program.

TRIBUTE TO THE HONORABLE JAMES M. JEFFORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. Green] is recognized for 60 minutes.

Mr. GREEN. Mr. Speaker, the gentleman from Massachusetts [Mr. Conte] had originally asked for this time, but because he was not able to be here this evening, he asked if I would take over in his stead.

The purpose of this special order, as my colleagues know, is so that we could sing the praises of our departing colleague, the gentleman from Vermont [Mr. Jeffords], and I am delighted to be here this evening and to be able to do exactly that. I would like to hit just a few of the important things that the gentleman from Vermont has done in the course of his years in this House.

I guess I was most closely involved with the gentleman from Vermont back in 1981 at a time when we were facing a very significant retrenchment in Federal programs and when there was great concern among those of us from the Northeast and the Midwest regions of the country that unless some of us were prepared to speak out, those programs which were particularly of value to our parts of the country might get lost in the shuffle. I think the gentleman from Vermont [Mr. JEFFORDS] was one of the first of those to recognize the problem. He was one of the first of those to start calling around among Republican colleagues from the Northeast and the Midwest, and it was in good part as a result of his leadership that we organized the informal group that ultimately came to be known as the Gypsy Moths that set out to make sure that the programs that affected our parts of the country got a fair shake in the course of the budget negotiations in 1981, and I think that because of his leadership in that effort, the gentleman from Vermont [Mr. JEFFORDS] can certainly claim credit for the yeoman work that the Gypsy Moths did in helping preserve programs like the Guaranteed Student Loan Program, the Low Income Energy Conservation Program, Medicaid, the National Endowment for the Arts, and many, many others.

The next area where I think the gentleman from Vermont has been extremely important to this House and to the country has been in the area of the environment. The gentleman from Vermont has been a real leader on issues like clean air, clean waters, and a host of other environmental problems which this country faces, and I think all of us can be proud of the role and the leadership that he has exhibited in connection with environmental issues.

Another area that I remember his taking a particularly strong role on has been the question of job training, and, of course, in this House we all know that there has been a lot of talk from time to time about the need to invest in plant and equipment and research in order to keep this country competitive in the world, but I think it took the gentleman from Vermont [Mr. JEFFORDS] to remind us from time to time that it was only important to have the plants and the equipment and the research, but if those were going to work, it would also take a skilled work force in order to make them work and in order to keep us No. 1, and it was JIM JEFFORDS who was always here and down at the White House arguing the case for seeing to it that we made the same kind of investment in the quality of our work force that we made in the quality of our capital goods, our plants, our equipment and our research and development. He certainly did play a major role in this body in the Job Training and Partnership Act.

Finally, it may seem a little strange for someone from New York City to recognize the role that the gentleman from Vermont [Mr. JEFFORDS] played on agricultural issues, but the fact of the matter is that although often overlooked, the Northeast does have agriculture as an important part of its economic base, and I happen to, in coming from New York State, from a State that is one of the major agricultural States in this country, I even have a winery in my district, Shapiro's Kosher Winery. But perhaps more to the point, our interests are not always parallel to those of midwestern or southern or western farmers, and one thinks particularly in the dairy area.

I think it was very important to us in the Northeast to have JIM JEFFORDS on the Committee on Agriculture as a senior Republican there in a position to speak for our interests in the Northeast and to represent our farmers in their agricultural industry.

I want to lead off this tribute to JIM tonight with a great expression of how much we have benefited by his presence here in the House. I know that we are not losing him, that he is just moving to another venue in the Capitol in another few weeks, but I know that we will miss him over here.

Mr. LEACH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I am happy to yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Speaker, I appreciate the gentleman yielding to me, and I would like to add the contribution that JIM has been one of the giants in this body.

□ 2015

Frankly, because he is moving to the other body where we will work with or do battle with in the not too distant future, there are not a lot of people here to sing the praises of someone just beginning a career in politics, but of those who have begun a career in the House in the last several decades, few have made a more significant contribution than JIM JEFFORDS, and I want to tip my hat to one of the loveliest people I have ever worked for in public life.

Mr. GREEN. Mr. Speaker, I want to thank the gentleman from Iowa for joining me in this tribute to the gentleman from Vermont. Many others of our colleagues would have liked to have been here but were not able to do so but have submitted remarks praising JIM JEFFORDS.

Mr. HAWKINS. Mr. Speaker, I'd like to take this opportunity to express my deep appreciation to JIM JEFFORDS for his strong leadership as ranking minority member on the Education and Labor Committee. JIM and I have worked together for many years on a wide range of employment, training and education issues throughout his tenure on both the full committee and as ranking minority member on the Subcommittee on Employment Opportunities.

During our subcommittee days, we worked well together on crafting bipartisan proposals in the areas of training, employment and civil rights. I'm sure that these are issues that JIM will always be concerned with and will always provide thoughtful leadership.

JIM has also been especially productive in the area of education on the committee. We have often been able to find a common, bipartisan ground on a number of key issues. We were able to pass out of the committee—for the first time ever—bipartisan legislation to provide Federal assistance to establish drug education programs in elementary and secondary schools, and education and training provisions, as part of the trade bill, that will help equip our citizens with the skills and training necessary to productively lead our Nation into the 21st century.

Since this may be among JIM JEFFORDS' last days on the floor of the House of Representatives, I would like to wish him and his family well, and I am sure we will be hearing more from him in the future, JIM, again, thank you for your efforts to move many key bills in a bipartisan manner, and your exemplary leadership on issues of concern to the American people. You have made a worthwhile and lasting contribution to improving the Nation's employment and educational systems, and I will always consider you a good friend, both personally and professionally.

Mr. CONTE. Mr. Speaker, it's a real pleasure to give a proper farewell to a colleague and dear friend of mine, JIM JEFFORDS of Vermont.

JIM and I have served together in the House for the last 14 years. Since my district in western Massachusetts borders Vermont, oftentimes the problems faced by my constituents are the same problems faced by JIM's constituents—depressed milk prices for dairy farmers, cuts in low-income heating assistance, and rebuilding the economy of the Frost Belt. It hasn't been easy, but both JIM and I have seen our region make dramatic inroads to a successful economic recovery. With that kind of record, it's easy to see why the people of the Green Mountain State want him as their next Senator.

JIM has a record of constitutent service that we could all be proud of. His leadership on the two major Committees he serves on, Agriculture and Education and Labor, has given him national recognition.

While we have worked to ensure the continued viability of the Northeastern farmer, JIM and I have worked most closely on issues relating to education and labor. As the ranking minority member of the Appropriations Committee as well as its Labor-HHS-Education Subcommittee, and with JIM as the ranking member of the Education and Labor Committee, we've worked hand-in-hand to ensure that the House provides national leadership on job training, secondary and postsecondary education, vocational education, and other issues so vital to our country's economic well-being.

Usually when we say good-bye to a Member at the end of a particular Congress, you're hoping for a peaceful retirement for them back in their home State. In JIM's case, nothing could be further from the truth.

JIM is embroiled in a battle for a seat in the other body. If all goes well, JIM will move only a few hundred yards away to the relatively peaceful confines of the world's "most deliberative body." I understand that things are going quite well for JIM, and that he appears to be the odds-on favorite. But I know I speak for a lot of the Members in this body when I say that our best wishes for happiness and good health go with JIM as he leaves us, wherever he might end up.

I remember when Russell Long was leaving the other body, he said, "I really think that it's better to retire, in Uncle Earl's terms, when you still have some snap left in your garters." Well, I don't know about JIM's garters, but I know he's got more than enough snap to keep the other body on its collective toes. I want to wish JIM, his lovely wife Liz and their family the very best of everything. Good luck, old buddy. We'll miss you.

Mr. HORTON. Mr. Speaker, I rise today to offer these comments for my good friend from Vermont, JIM JEFFORDS. It has been a honor to serve in the House with JIM since his arrival here in 1975. Our mutual interest in matters relating to the Northeast had he and I working closely on many occasions over the last 13 years.

JIM was first elected to the House as at-large Representative from the State of Vermont in 1975, after distinguishing himself in both his academic and professional careers. After attending Yale and graduating from Harvard Law School, JIM made an early commitment to public service. He began with the Rutland, VT, County Board of Property Tax Appeals, and later was elected to the Vermont State Senate. JIM then served as Vermont Attorney General before coming to the U.S. House of Representatives.

I have always admired JIM for his independent thinking and great sense of humor. Thoughout his years in the House, he has maintained the ability to win new political friends and disarm political opponents.

Having risen to the position of ranking Republican on the Committee on Education and Labor, JIM has been a leader on many initiatives to improve our educational system and to make the American workplace safer. While Vice-Presidential candidate DAN QUAYLE was doing his part on the Senate side, JIM played a major role in the creation of the Job Training Partnership Act here in the House.

I serve as cochairman of the Northeast-Midwest Coalition, on which JIM has served as an active member for several years. His input has enabled the coalition to represent our area of the Nation with such vigor that it now receives a more fair share of Federal dollars.

Another area of mutual interest to JIM and myself is the welfare of farmers in our respective districts. JIM is the founder and leader of the Northeast Agricultural Caucus, on which I serve as a member. Through his influence with the Agricultural Caucus and as a senior member of the Agriculture Committee, JIM has always fought to ensure that dairy farmers are provided a fair price for their product.

Our loss will undoubtedly be the U.S. Senate's gain. JIM is seeking to become the next Senator from the great State of Vermont. I know that he will continue representing the same constituents he has today with honesty and integrity.

Though he may only be on the other side of the Hill, we know that we in this body will miss JIM and the leadership he provided. On behalf of my wife, Nancy, and myself, I wish JIM the best of luck in his race for the Senate and all else he pursues.

Mr. HALL of Ohio. Mr. Speaker, I am pleased to have the opportunity to participate in this tribute to our colleague, the gentleman from Vermont [Mr. JEFFORDS].

I have enjoyed working with JAMES M. JEFFORDS on a variety of human rights, human needs, and hunger initiatives over the course of the decade in which we have served together in the House of Representatives. His service and commitment on these issues have demonstrated that bipartisan cooperation can achieve results to improve the quality of life for the citizens of this planet.

My closest work with JIM has been on initiatives of Congressional Friends of Human Rights Monitors. This organization was founded on December 10, 1983, with the goal of using the prestige and influence of the U.S. House and Senate to assist the brave individuals and organizations who monitor human rights conditions under repressive governments around the world.

When human rights monitors are threatened or harassed by authoritarian or totalitarian regimes, then the flow of information to the outside world about human rights conditions within those countries can be jeopardized. Congressional Friends of Human Rights Monitors has sought to provide a network for a speedy response from the U.S. House and Senate to bring our concern about human rights monitors to the attention of the governments where they live.

JIM and I have been the two House members of the Steering Committee of Congressional Friends of Human Rights Monitors since this organization started nearly 5 years ago. With JIM's help, the group has grown from 13 Senators and 91 Representatives to the current 29 Senators and 133 Representatives.

As the minority House representatives on the steering committee, JIM has brought a true bipartisan spirit of cooperation to the cases we have supported and the initiatives we have promoted. He has helped to demonstrate to the world that there are no party divisions in the United States when it comes to advancing international respect for basic human rights.

I have also worked with JIM JEFFORDS on other issues relating to international human rights. My colleagues should recall that he was among the first Members of Congress to speak out against the abuses of the Marcos regime in the Philippines. At a time when our Government was putting strategic security considerations ahead of human rights concerns, JIM called for the United States to distance itself from the corruption and human rights violations of Ferdinand Marcos. His help was critical to the creation of a bipartisan policy in support of promoting human rights and civil liberties for the people of the Philippines.

JIM JEFFORDS also was a minority leader of efforts to shift our foreign aid spending from military aid to food and development-oriented aid. He was an original cosponsor of the Human Needs and World Security Act, a bill backed by Bread for the World, RESULTS, and other organizations. This bill proposed a blueprint for freezing the unprecedented growth of the military component of U.S. foreign aid, and providing increases for a number of underfunded human needs programs.

Along with the gentleman from North Dakota [Mr. DORGAN] and me, he cosponsored an amendment to freeze funding for the military assistance program (MAP). This amendment failed by one vote in 1984, but the effort to freeze MAP succeeded in the House in 1987 during the consideration of the foreign aid authorization bill. These initiatives relating to MAP grew out of the Human Needs and World Security Act, which JIM helped to introduce in 1983.

JIM and I have also participated in Joint efforts relating to domestic hunger relief, food stamps, and the Women, Infants and Children (WIC) Program. He has been a leader in the struggle to end hunger both here and abroad.

He has many other achievements in the fields of agriculture, environmental conservation, alternative energy, education, and employment. However, I wanted to take the opportunity to cite his special contributions regarding the international protection of human rights and the reordering of foreign aid spending priorities.

It takes bipartisan dedication to build constituencies in this body for human rights and human needs initiatives. Those of us who have worked with JIM JEFFORDS across the aisle on issues of common concern will miss his special work and cooperation. We salute his example and hope that it will inspire further bipartisan endeavors in the House of Representatives.

Mr. GOODLING. Mr. Speaker, I am pleased to have this opportunity to congratulate my colleague from Vermont for his distinguished career as a Member of the House of Representatives. I expect that this will not really be a true farewell, but rather a Godspeed during your transition to the other body.

Mr. JEFFORDS and I entered the House of Representatives in the same year—1975. That was a difficult year for Republicans making their first run for the House, and we were 2 of only 17 new Republican Members elected to the House of Representatives that year. After being sworn into office, both Mr. JEFFORDS and I were appointed to serve on the Committee on Education and Labor. In order to determine the order of seniority among new Members, we drew numbers on slips of paper. Mr. JEFFORDS drew last and drew No. 1. I have never been very lucky in these sorts of things, and that drawing eventually determined who was to be ranking Republican on the Committee on Education and Labor in 1984.

Congressman JEFFORDS has had a difficult assignment here in the Congress. As the Representative from the State of Vermont, he has been the entire Vermont delegation from his first day in Washington. While this may have made it easy to have State caucus meetings, it also provided a real challenge for Mr. JEFFORDS. Without a delegation to rely on and go to for support, he was on his own to a great extent. Despite all this, it is easy to see that Mr. JEFFORDS made a difference and became a highly effective Member of the House.

I have always felt that the best accomplishments of Congress have come about when Members from both sides of the aisle have worked together and forged honest compromises. In order for this to occur, there must be individuals who are willing to bring ideas and people together, to act as the glue to hold agreements together. My colleague from Vermont has been one of those invaluable Members of Congress. Time and again he has forged compromise positions which on the one hand do not contradict his own views, and yet allow the Congress to move away from a standoff toward positive action. In the Committee on Education and Labor, Mr. JEFFORDS has been a bridge between the two sides and is responsible for bipartisan legislation in areas such as parental leave, special education, job training, and civil rights.

We will miss Mr. JEFFORDS in the House and on the committee. I hope and expect that he will have the opportunity to take on a similarly important role in the U.S. Senate. I look forward to working with you, Mr. JEFFORDS, as we continue to create more education and training opportunities for America's young children, youth, and adults.

Mr. CLAY. Mr. Speaker, I wish to thank the gentleman from New York, [Mr. GREEN], for providing us with this opportunity to pay tribute to a distinguished colleague.

Mr. Speaker, the end of the 100th Congress also marks the end of the House career of JIM JEFFORDS. As a member of the Committee on Education and Labor, it has been my privilege to work closely with JIM JEFFORDS on a number of bills. That experience has provided me with an appreciation for JIM's skill as a legislative drafter, his unstinting willingness to work for the legislation he supports, and, most importantly, his deep and abiding concern for the welfare of those he represents.

As might be expected given our differing backgrounds and party affiliations, there are distinct differences between JIM and myself in our approach to national issues. Despite these differences, JIM has consistently sought out those areas in which we could put aside our personal differences in order to further the national interest. Where others might have sought controversy and partisan advantage, JIM worked for consensus. As a result, Americans are better assured equal opportunity based on ability and not position or race. Americans have greater opportunity for a decent education. Those who might not otherwise be able have a greater opportunity to receive a higher education and those in need of vocational training are more likely to receive it. Another individual is presently claiming credit for enactment of the Job Training Partnership Act, but we on the Committee on Education and Labor know well that there would be no such law were it not for the efforts of JIM JEFFORDS.

As chairman of the Subcommittee on Labor-Management Relations, I have been privileged to work directly with JIM on a number of issues and can personally attest to the importance of his contribution. Because of JIM's efforts, American workers for the first time have a protected right to advance notice of mass layoffs and plant closings. No longer will they face the incredible trauma of showing up for work to discover that the plant gates have been padlocked. Because of JIM's efforts, our voluntary private pension system has been considerably strengthened. Not only is it more secure, but the ability of workers to earn private pensions and provide for their retirement security is greater than at any point in our past.

JIM's accomplishments, however, extend beyond the legislation he has helped to enact. More than many Members in this body, JIM has also been instrumental in establishing the legislative agenda for the future. Two matters on which I was privileged to work closely with JIM, the Pension Portability Act and the Family and Medical Leave Act, fall within the category of unfinished business. Despite our best efforts, enactment of these provisions is still pending. Yet, I strongly feel that those efforts were anything but unsuccessful. Because of JIM's work in this Congress, these issues are now an indelible part of the legislative agenda and, before too many years are past, will inevitably be a part of the protections afforded American workers. While I am certain that JIM will continue to play an important role in the development of these and other issues of importance to the well-being of American citizens, his presence in the House and on the Education and Labor Committee will be sorely missed.

Mr. FISH. Mr. Speaker, I rise tonight to pay tribute to my long time friend and colleague, JIM JEFFORDS. Clearly the most outstanding Member of the Vermont delegation. I have been proud to serve with JIM for the last seven Congresses.

JIM'S name has become synonymous with environmental protection, agriculture, and the advancement of education. He has served with distinction as ranking Republican on the House Education and Labor Committee and the Agriculture Subcommittee on Livestock, Dairy, and Poultry. I have turned to him numerous times regarding acid rain, and on dairy issues in the Northeast he is our spokesman. His commitment to his constituents and this country is clearly evident.

In the proud Republican tradition, JIM has always seen through the rhetoric and attacked the heart of an issue. He has taken tough stands on issues like occupational disease notification and minimum wage. His single motive is to do what is right evidenced by his leadership in civil rights. I distinctly remember last October when he voted for the controversial deficit-reduction bill, the only Republican to do so. Regardless of one's view of the issue, he displayed tremendous courage and conviction to stand alone on that vote. He was a representative in the finest sense of the word.

Several months ago, JIM graciously appeared on a video marking my 20 years in Congress. I am delighted that I have the opportunity tonight to return his compliments. JIM'S dedication, work ethic, and commitment to constituent service has been a clear benchmark for other Members of the House of Representatives.

Mr. Speaker, the voters of Vermont displayed remarkable insight when they chose JIM JEFFORDS as their representative. Undoubtedly, they will do so again in November and launch his career in the U.S. Senate. I look forward to continuing our relationship and friendship across the Capitol.

Good luck, JIM, and God bless.

Mrs. MORELLA. Mr. Speaker, I would like to thank the gentleman from New York for calling this special order in tribute to our friend and colleague from Vermont, JIM JEFFORDS.

JIM'S 14 years of service to his Vermont constituents and to his country have been exemplary. He has been a leader on a variety of issues, especially those involving his committee assignments on Agriculture, Education and Labor, and Aging.

While I am a fan of much of JIM'S work, I appreciate most the leadership and integrity which he has shown in foreign affairs, developing personal expertise on the Philippines, Central America, Chile, and Indonesia. JIM has been an outspoken supporter of the Arias Peace Plan. He was among the first in our body to focus our attention, and the eyes of the Nation, on the corrupt and repressive rule of Ferdinand Marcos, and has strongly backed President Aquino's efforts to establish democratic government and institutions in the Philippines.

I join with the other Members who have spoken today in saying that we will sorely miss JIM JEFFORDS independent voice and clarity of vision. I am heartened by the belief that our loss will be the Senate's, and the country's, gain.

Ms. SNOWE. Mr. Speaker, it is an honor and pleasure today to extend my best wishes to my good friend, Congressman JIM JEFFORDS, and commend his legislative achievements.

I have had the good fortune of working side-by-side with JIM JEFFORDS on many issues of importance to our respective States, Maine and Vermont. In addition to striving for the benefit of these states, JIM JEFFORDS has achieved significant policy results for this country as a whole. Congressman JEFFORDS has truly been an outstanding Member of this body, and I know the Senate will be a finer institution when, as I expect, the people of Vermont elect him as their Senator in November.

Congressman JEFFORDS has always been a strong leader in the House of Representatives on issues of importance to the dairy industry. My dairy farmers know him well, and of his work to improve the dairy program. We certainly appreciate his efforts to understand their concerns, as they strive daily to make ends meet.

Several years ago, Congressman JEFFORDS was kind enough to come over to Maine on a busy fall weekend to chair a meeting I held with Maine dairy farmers. And he brought their concerns and their ideas back to Washington. We have fought some tough battles to help dairy farmers in the Northeast, and every success we have achieved had come only as a result of JIM JEFFORDS' persistence.

But JIM JEFFORDS' distinguished record goes well beyond agriculture. He was an early and active member of the gypsy moth battles in the early-1980's, and he fought for progress on acid rain and other environmental issues. I applaud his perseverance as an advocate of a national bottle recycling bill, one of many issues relating to a national solid waste crisis which Congress must return to and confront next year.

In addition, Congressman JEFFORDS has been a leader in the areas of hunger relief and nutrition. The Hunger Relief Act which he sponsored was overwhelmingly approved by his colleagues in the House in 1984, and he had made valuable contributions to the Food Stamp Program.

Educational issues have also been a priority for JIM JEFFORDS during his time in the House of Representatives. He contributed several major amendments to the Higher Education Reauthorization Act of 1986, and his loan consolidation program has made paying loans easier for students seeking higher education.

JIM JEFFORDS' compassion has touched the handicapped, as he has ardently supported programs on their behalf. His concern has been translated into a tangible benefit for handicapped persons, as the existence of wheelchair ramps in public buildings in the result of one of his amendments.

Today I salute you, JIM, and thank you for your fine work on behalf of all Americans. Your dedication and compassion serve as an inspiration to us all. We will miss you here in the House and wish you the best of luck as you continue your distinguished career in public service.

Mr. SHUMWAY. Mr. Speaker, I am pleased to have this opportunity to bid a proper farewell to our friend and colleague, JIM JEFFORDS, as he prepares to leave this body.

I became well acquainted with JIM through our mutual service on the House Select Committee on Aging. I will miss JIM's legislative abilities, talented leadership, and experienced voice as much as all my colleagues. However, a personal incident which I shared with JIM JEFFORDS made me view him in a different light. As a result, he stopped being just a colleague; he became my friend.

A few years ago, I was organizing a field hearing of the Aging Committee in my district. As we all know, it isn't always easy to persuade other Members to participate in such hearings, particularly those whose districts are located some distance from one's own. JIM very kindly agreed to join me at that field hearing, in the city of Roseville, CA. That's about as far from Vermont as he could get, and still be in the continental United States. The people of my district were fascinated with JIM for a couple of reasons. First, now that Nevada has grown, he was the first "at large" Congressman they had ever met. He was asked curiously what it was like to be a Congressman with twice as much work as a Senator. Second, any lingering suspicions my constituents might have had about New Englanders being standoffish and reserved were rapidly dispelled. Due to a precarious seating arrangement, JIM's chair suddenly disappeared off the platform, with him in it. Undaunted, he recovered, resumed his position, and put the alarmed audience immediately at ease with his friendly good humor. It was not a situation in which I would like to put anyone, much less an esteemed colleague—but JIM carried the circumstances off beautifully. I doubt the citizens of Roseville will ever forget him, and those memories are warm impressions of a caring human being. Certainly, I will never forget him. The people of Vermont are fortunate indeed to have had JIM JEFFORDS representing them in the House. I know he will continue working for the best interest of his State and the Nation, even if he doesn't have twice the job of a Senator anymore.

Good luck JIM. It's been a real privilege to know and work with you in the House of Representatives.

Mr. GUNDERSON. Mr. Speaker, it is, indeed, a deep personal pleasure to join with my colleagues in saying "thank you" to our friend, the gentleman from Vermont, JIM JEFFORDS. Certainly, it cannot be goodbye, because we fully expect him to succeed in his efforts to become a Member of the U.S. Senate.

When I arrived in the U.S. House of Representatives in 1980, one of the first people to greet me was JIM JEFFORDS. Since that time, our service has focused on almost identical issues for the past 8 years. At that time, JIM sought me out, encouraged me to seek a seat on the House Agriculture Committee and, especially, on his Dairy Subcommittee. That, of course, was my intention and, with JIM's help, I was successful.

This marked the beginning of 8 years of close cooperation on behalf of America's dairy farmers. The dairy industry has never had a better friend in Congress than JIM JEFFORDS. Actually, even I must admit that at times his defense of his position bordered on being too aggressive. But, it was that enthusiasm and total commitment that made him so successful for America's dairy farmers. Have you ever seen anyone with more charts explaining and defending his position? Let me tell you, the charts displayed here on the House floor were minor compared to the battle charts maintained in his office during the really big dairy fights.

I know I speak for dairy farmers in Wisconsin and throughout the country when I say, "Thanks, JIM, for a job well done." In many way JIM JEFFORDS was Wisconsin's 10th Congressman. We only hope that he will now become Wisconsin's third Senator on behalf of dairy.

But, our close relationship does not belong solely in the area of agriculture. We also served together on the House Education and Labor Committee and, in the past sessions, he also served as our ranking member—our leader. I think it is accurate to say that no House Republican worked more closely with JIM on job training issues than I did. I succeeded him as ranking member on the Employment Opportunities Subcommittee. During this time we worked closely to fine tune the Job Training Partnership Act.

Thanks to the gentleman from Vermont who labored most vigorously, this landmark legislation was made a reality.

This commitment to job training expands to all of education. JIM's commitment to higher education in Vermont and around the country, his commitment to our elementary education and especially school lunch, combined with his commitment to the total manpower training agenda explain the total respect and admiration given JIM JEFFORDS by the education community.

JIM JEFFORDS of Vermont—politically independent, yes; warm personally; progressive; caring about the less fortunate; understanding the problems of the little guy in education and agriculutre; committed to the concept of public service.

JIM JEFFORDS is a credit to his State and this institution. JIM JEFFORDS is also our friend. So, to you, JIM, we say thanks; we wish you well; and, yes, we look forward to working with you as the Senator from Vermont in the 101st Congress.

Mr. HAYES of Illinois. Mr. Speaker, the conclusion of the 100th Congress will bring to an end the noteworthy House career of a colleague of ours who serves on the Education and Labor Committee with me, JAMES JEFFORDS of Vermont. I have come to know and respect JIM as a gifted and able colleague.

JIM's reputation in the House and more particularly, on the Education and Labor Committee, is one that any Member would be proud to have. His hard work and dedication to American values have won the respect and admiration of not only his constituents, but also his House colleagues on both sides of the isle.

The almost 6 years I have served on the Education and Labor Committee with JIM JEFFORDS have brought us together on a number of issues which have benefited untold numbers of Americans. While we have not agreed on each and every issue, and while we differ on ideology, I have nevertheless found his perseverance in championing causes he believes in to be fair and honest. One thing you can count on in the Education and Labor Committee is that JIM JEFFORDS will fight hard and effectively for his positions.

Since we come from different political parties, I don't want to wish him too much luck in his future political endeavors, but given his distinguished public career, I know that he will do well in whatever position his future path leads him to.

It has been a pleasure and an honor for me to serve with him in the short time I have been a Member of Congress. We will miss his presence in the House but I am confident we will continue to hear of JAMES JEFFORDS in the years ahead. I wish JIM and his family all the best.

Mr. MURPHY. Mr. Speaker, today, I rise to bid farewell to a valued colleague and a good friend, JIM JEFFORDS of Vermont. As we all know JIM has decided to seek new challenges and so I think that it is only fitting that we take this time to say a few good words about him, and wish him success in the future.

In an environment such as ours, fueled by partisan tensions, JIM JEFFORDS has always seemed to stand for ideals and not just ideologies. He has been able to look beyond narrow partisan points of view and examine all sides of an issue. JIM has always had the strength of character to vote his conscience. What more can we ask from our colleagues?

Now coming from the other side of the aisle, I don't want my praise for JIM to sound too effusive. Over the years, JIM and I have had discussions about many issues. Our exchanges have always been friendly, but not always in agreement.

Being an Irishman, it always made me a little frustrated that even after I had overwhelmed him with rhetoric as well as poured on the Irish charm, Jim sometime still disagreed with me. Occasionally, I wondered if this gentleman would ever be made to atone for his independent attitude.

In my prayers, I asked St. Patrick to help Jim see the light. Well for the longest time, nothing seemed to change. We stayed friends, we continued to discuss issues, and yet we still continued to disagree. Had St. Pat forgotten me? Had my Irish luck run out?

And then it hit me. If Jim Jeffords finds success in November, what better penance for stubbornness than a term in the U.S. Senate. I wish Jim all the best in the future.

Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay tribute to my friend and colleague, Jim Jeffords, who is leaving the House of Representatives for a race to join the other body. I have enjoyed serving with Jim on the Agriculture Committee and he has been an outstanding asset to my Subcommittee on Conservation, Credit, and Rural Development, as well as the Subcommittee on Livestock, Dairy, and Poultry.

Jim worked with me and helped initiate the idea of establishing a National Soil and Water Conservation Endowment. He was also a leader in soil conservation legislation which was greatly needed in order to preserve our Nation's eroding topsoil. On the Subcommittee on Livestock, Dairy, and Poultry he is well known and highly respected for his knowledge and work on legislation to better our dairy programs.

Not only has Jim served with untiring efforts on the Agriculture Committee, he is the minority leader for the Education and Labor Committee and a member of the Select Committee on Aging. His expertise and commitment to the fields of agriculture, the education of our children, labor relations, and the needs of the elderly and handicapped have gained him a seat to each succeeding Congress since he was first elected in 1974.

As if these committee assignments are not enough, Jim still finds the time to currently serve our country as a captain in the U.S. Naval Reserve. How he finds this time and energy to serve in these diverse capacities is a mystery to me; apparently, it takes an extremely loyal and unselfish person who is willing to work long hours to get the job done. Jim does the job he was elected to do and he goes above and beyond the call of duty of a public servant. Oftentimes I call upon the entire Tennessee delegation to assist me with problems occurring in my district. It is a wonder to me how Jim is able to operate so effectively without help from other Vermont members.

In leaving this body, he leaves his imprint on the lives of many: his colleagues, his constituents in Vermont, and the United States as a whole. Jim, I thank you for the privilege of serving with you and for becoming my friend. I wish you and your family Godspeed in all your future endeavors.

Mr. MAZZOLI. Mr. Speaker, I want to join in saying farewell to our colleague from Vermont, Jim Jeffords, who will be leaving the House for the Senate at the end of the 100th Congress following 14 years of service as a U.S. Representative.

Jim has been an able legislator and served the interests of his constituents well through his work on the House Agriculture Committee and as the ranking Republican member of the Education and Labor Committee.

Though he is leaving the House, his decision to do so does not necessarily signal an end to Jim's interest in public service on behalf of the people of Vermont. I am sure that Jim will bring the same diligence and thoughtful concern to the Senate of the United States as he brought to the House. I wish Jim all the best for the future.

Mr. BONIOR. Mr. Speaker, tonight I wish to continue the tribute given by several of my colleagues last evening to Jim Jeffords, who will soon be leaving us.

It has been a privilege to have known Jim Jeffords and to have worked so closely with him for all of these years.

Jim Jeffords has been a leader on so many important issues affecting the people of this country that it is impossible to mention all of them this evening.

I'd just like to focus on three issues that I have worked with him on, which I think are particularly significant.

The first is education, specifically job training.

Jim Jeffords is the ranking minority member of the Education and Labor Committee. In that role he has been instrumental in passing bipartisan legislation on a wide range of employment and training issues.

He has been a leader in forging legislation on job training to make this country and its workers more competitive in a changing world market.

Jeffords played a pivotal role in putting together the Job Training and Partnership Act in 1981-82, helping the program live up to its goals of job training and youth employment.

He also helped construct the worker readjustment program that was incorporated into the omnibus trade legislation Congress passed this year. The program assists workers who have lost their jobs because of plant closings or layoffs, who need retraining.

Coming as I do, from a State that has had unemployment in double digits for the last several years, that kind of assistance is greatly appreciated.

I have also worked closely with Jim on veterans' issues. He served in the U.S. Navy, and is currently a captain in the Naval Reserve.

Veterans have long been one of his highest priorities. He took one of the first trips of anyone in this body to pressure Vietnam to begin identification of the remains of those listed as missing in action from the Vietnam war.

His work on job retraining has had a special veterans focus.

And through the Vietnam-EAR congressional caucus, Jim Jeffords has been a leading voice in calling public attention to the effects of exposure to agent orange.

In 1987, under his leadership Congress adopted legislation requiring the Veterans' Administration to bear the burden of proving that an agent orange-related disability is not service connected.

He offered an agent orange amendment to the High-Risk Occupational Disease Notification and Prevention Act which the House has adopted.

Finally, I'd like to mention Jim Jeffords' work on behalf of peace and democracy in Central America. For it is here that I think his political courage and leadership is most clearly displayed.

On one of the most bitter and divisive issues which has separated the President and Congress throughout the tenure of the Reagan administration, Jim has always stood firm against the onslaught of war in Central America.

He was 1 of only 5 or 10 on the other side of the aisle who always had the courage to stick to his convictions—when it was not popular or easy to do so.

You don't have to agree with Jim on the issue to appreciate his political courage.

No example, in my opinion, better represents Jim's greatness than his fight for peace in Central America.

Jim Jeffords has been a leader in the best sense of the word. For he has always put the concerns of issues above partisanship, and the concerns of people above personal gain.

He has struggled for what was right, what was decent, what was humane. And for that, the world is a better place.

I join the long list of colleagues who have saluted Jim Jeffords.

GENERAL LEAVE

Mr. GREEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. Hutto). Is there objection to the request of the gentleman from New York?

There was no objection.

WHO IS SMOKING WHAT AT THE FARM CREDIT SYSTEM?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. Leach] is recognized for 5 minutes.

Mr. LEACH of Iowa. Mr. Speaker, the smoke signals coming from the Omaha Farm Credit District indicate that someone is smoking from a pipe of surrealism on the Farm Credit Reservation.

Recently there have been reports that the chief of the Omaha District is urging that Farm Credit Services move from a system designed to assist family farmers to become an all-purpose banking entity, a la Citicorp, American Express, and Merrill Lynch, providing credit cards, checking accounts, security investments, as well as commercial loans to an undiscriminated customer base.

Such a conceptualization defies the original purpose of Congress, which was to develop a farmer-controlled system to supplement the long and short-term credit capacities of traditional farm lending institutions.

Simply put, the ideas being fertilized in Omaha today by a few chieftans of farm credit bear little resemblance either to what Congress envisioned yesterday or what are likely to be the real needs of rural Americans tomorrow. The prospect of the U.S. Government infusing funds in a farmer-oriented system, so that it can, in turn, become a bank, a broker, a real estate empire, is socialized nonsense.

Let there be little doubt that the Congress of the United States has no stomach for turning the farm credit system into a socialized banking monster. The system should be of, by and for farmers, not power-grabbing financiers.

AMBASSADOR HARRY BARNES

Mr. EDWARDS of California. Mr. Speaker, I wish to take this opportunity to join my colleagues in commending Ambassador Harry Barnes for his efforts on behalf of the struggle to return Chile to its democratic tradition. The victory by the "no" vote in last week's plebiscite is a tribute not only to the courage and resourcefulness of the Chilean voters, but also to Ambassador Barnes's quiet but firm insistence that the Pinochet government hold a fair election. Ambassador Barnes can take satisfaction in knowing that he played a significant role in making certain that the Chile he leaves in November will have already taken its first significant steps toward true democracy.

It is now up to the next ambassador and the next administration to build on Ambassador Barnes's work. After all, the results of the plebiscite have posed a new set of questions about Chile's future. Although Pinochet has admitted defeat in the plebiscite, it is still far from certain that the end of his regime is in sight. Unless Pinochet agrees to move up the date for the open election, he will remain in power for up to another year. And the possibility remains, should the military as expected field a candidate in those elections, that Pinochet or his surrogate could find a place on the ballot.

This leaves plenty of room for abuse by the Pinochet government should it try to make certain that it does not give up power.

It is the responsibility of the United States, as the leader of the Free world, to let Pinochet know in no uncertain terms that, at the very least, he is expected to adhere to his own constitution and hold a fair election next year. Preferably, he should leave office as soon as possible.

Ambassador Barnes has provided us with an excellent example of how U.S. pressure can be used effectively to help a country make the transition to democracy. I thank him for providing us with that example, as well as for his 38 years of service to our country. I also join him in looking forward to traveling to Chile in 1990 to witness the inauguration of Chile's first democratically elected president. I hope that the events of the next year will allow us to make that trip.

On a personal note, I also deeply appreciate the hospitality of Ambassador Barnes to me and my congressional party when visiting Chile early this year. The Ambassador and his splendid staff extended every possible courtesy to us, and we benefited greatly from his knowledge of Chilean affairs.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dreier of California) to revise and extend their remarks and include extraneous material:)

Mr. DeLay, for 5 minutes, today.

Mr. Burton of Indiana, for 60 minutes, on October 20.

Mr. Gingrich, for 5 minutes, today.

Mr. Weber, for 5 minutes, today.

Mr. Stangeland, for 5 minutes, today.

Ms. Snowe, for 5 minutes, today

Mr. Miller of Washington, for 5 minutes, today.

Mr. Coble, for 5 minutes, today.

Mr. Horton, for 60 minutes, on October 20 and 22.

Mrs. Bentley, for 60 minutes, on October 24, 25, 26, 27, and 28.

Mr. Michel, for 60 minutes, on October 20.

Mr. Madigan, for 60 minutes, on October 20.

(The following Members (at the request of Mr. Anderson) to revise and extend their remarks and include extraneous material:)

Mr. Glickman, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Ray, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. Stenholm, for 30 minutes, today.

Mr. Gray of Illinois, for 60 minutes, on October 20 and 21.

Mr. Alexander, for 60 minutes, on October 20.

Mr. Stenholm, for 30 minutes, on October 20 and 21.

Mr. Gonzalez, for 60 minutes, on October 20.

Mr. Edwards of California, for 60 minutes, on October 24, 25, and 26.

Mr. Morrison of Connecticut, for 60 minutes, on October 20.

(The following Members (at the request of Mr. Kastenmeier) to revise and extend their remarks and include extraneous material:)

Mr. Hughes for 60 minutes on October 20.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Leach of Iowa, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gonzalez, following, Mr. St Germain, on conference report on H.R. 4352, in House, today.

Mr. Fauntroy, in support of H.R. 4236 today.

Mr. Wylie, following Mrs. Roukema, on conference report on H.R. 4352, in House, today.

(The following Members (at the request of Mr. Dreier of California) and to include extraneous matter:)

Mr. Lent.
Mr. Schulze.
Mr. Hopkins.
Mr. Hefley.
Mr. Lungren in two instances.
Mr. Shuster.
Mr. Thomas of California.
Mr. Crane in eight instances.
Mr. Gunderson.
Mr. Lewis of California in two instances.
Mr. Parris.
Mr. Porter in two instances.
Mr. Stump.
Mr. Marlenee.
Mr. Kemp.
Mr. Petri.
Mr. Ritter.
Mr. McMillan of North Carolina.
Ms. Snowe.
Mr. Hastert in three instances.
Mrs. Morella.
Mr. Michel in two instances.
Mr. Schuette.

(The following Members (at the request of Mr. Anderson) and to include extraneous matter:)

Mr. Andrews in two instances.
Mr. LaFalce.
Mr. Montgomery.
Mr. Guarini in 10 instances.
Mr. Edwards of California.
Mr. Mazzoli in four instances.
Mr. Carr.
Mr. DeFazio.
Mr. Dorgan of North Dakota.
Mr. Traficant.
Mr. Kanjorski.
Mr. Manton.
Mr. Mavroules.
Mr. Miller of California.
Mr. Walgren.
Mr. Atkins.
Mr. Sikorski.
Mr. Hertel.
Mr. Barnard in three instances.
Mr. Hamilton.
Mr. Stark in 10 instances.
Mr. Hoyer.
Mr. Udall.
Mr. Yatron.
Mr. Hubbard.
Mr. Fauntroy.
Mr. Fazio.
Mr. Towns.
Mr. Lehman of Florida.
Mr. Annunzio.
Mr. Sisisky.
Mr. Schumer.

Mr. GLICKMAN.

Mr. LELAND.

Mr. MCMILLEN of Maryland.

Mr. LEVINE from California in three instances.

Mr. HARRIS.

Mr. FLORIO.

Mr. CLEMENT.

Mr. PEPPER.

Mr. RICHARDSON.

Mrs. BOXER.

Mr. VENTO.

Mr. GARCIA.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1867. An act to amend title 28, United States Code, to make certain improvements with respect to the Federal court interpreter program, and for other purposes; to the Committee on the Judiciary.

S. 1961. An act to amend title 28, United States Code, to provide Federal debt collection procedures; to the Committee on the Judiciary.

S. 2010. An act to establish a National Voluntary Reunion Registry demonstration program; to the Committee on Education and Labor.

S. 2033. An act to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes; to the Committees on the Judiciary, Ways and Means, and Energy and Commerce.

S. 2279. An act to amend title 11 of the United States Code, the bankruptcy code, regarding swap agreements; to the Committee on the Judiciary.

S. 2793. An act to amend title 18 of the United States Code to punish corruption; to the Committee on the Judiciary.

S.J. Res. 344. Joint resolution to designate the week of November 20 through November 26, 1988, as "National Family Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1275. An act for the relief of Joyce G. McFarland;

H.R. 3515. An act to amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to promulgate regulations on the management of infectious waste;

H.R. 3621. An act to declare that certain lands located in California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and to declare such lands to be part of the reservation with which they are contiguous.

H.R. 3757. An act to amend title 5, United States Code, to permit voluntary transfers of leave by Federal employees where needed because of a medical or other emergency situation.

H.R. 4410. An act to designate the Federal Building at Spring and High Streets in Columbus, Ohio, as the "John W. Bricker Federal Building".

H.R. 4818. An act to establish the National Park of America Samoa.

H.R. 4939. An act to amend the Safe Drinking Water Act to control lead in drinking water.

H.R. 5052. An act to amend title 31 of the United States Code to provide for a transfer of control of the General Accounting Office Building and to improve the administration of the General Accounting Office.

H.R. 5199. An act to make nonmailable any plant fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests, and for other purposes.

H.R. 5389. An act concerning disaster assistance for Bangladesh.

H.R. 5442. An act to provide the Environmental Protection Agency and the public with additional information about asbestos products.

H.R. 5471. An act to amend the Public Health Service Act to revise the authority for the regulation of clincal laboratories.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 59. An act entitled the "National Forest and Public Lands Nevada Enhancement Act of 1988".

S. 136. An act to improve the health status of Native Hawaiians, and for other purposes.

S. 437. An act to authorize the refinancing of certain small business debentures, and for other purposes.

S. 1727. An act to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

ADJOURNMENT

Mr. LEACH of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 20 minutes p.m.) the House adjourned until tomorrow, Thursday, October 20, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4477. A letter from the Secretary of Defense, transmitting a report on tank barriers, pursuant to Senate Report No. 100-326; to the Committee on Armed Services.

4478. A letter from the Executive Director, D.C. Retirement Board, transmitting the Board's annual report of activities for fiscal year 1987, pursuant to D.C. Code section 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

4479. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the audit report on the Environmental Protection Agency's interagency agreements with the Department of Justice for Superfund activities for fiscal year 1987, pursuant to 31 U.S.C. 7501 nt.; to the Committee on Energy and Commerce.

4480. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 2-89 concerning the Department of the Navy's proposed lease of defense articles to Greece, pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

4481. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 1-89 concerning the Department of the Navy's proposed lease of defense articles to Denmark, pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

4482. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report covering employment of foreign nationals in U.S. diplomatic missions overseas, pursuant to Public Law 100-204, section 159 (101 Stat. 1355); to the Committee on Foreign Affairs.

4483. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report covering human rights activities in Ethiopia, pursuant to section 1310, National Defense Authorization Act for fiscal year 1989; to the Committee on Foreign Affairs.

4484. A letter from the Comptroller General, transmitting a list of the reports issued or released by the GAO in September 1988, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

4485. A letter from the Chairman, Cultural Property Advisory Committee, U.S. Information Agency, transmitting a report of its findings and recommendations with regard to the Government of Canada's request of October 2, 1985 for a bilateral cultural property agreement, pursuant to 19 U.S.C. 2605(f)(6); to the Committee on Ways and Means.

4486. A letter from the Secretary of Agriculture, transmitting the initial commodity and country allocation table showing current programing plans for food assistance under titles I/III of Public Law 400 for fiscal year 1989, pursuant to 7 US.C. 1736b(a); jointly, to the Committee on Agriculture and Foreign Affairs.

4487. A letter from the Secretary of Energy, transmitting a report, "The Low-Level Radioactive Waste Policy Amendments Act of 1985," which describes the activities and progress of the compact regions and unaffiliated States in 1987 leading to development of new disposal sites for low-level radioactive waste, pursuant to 42 U.S.C. 2021g(b); jointly, to the Committee on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on AIDS drugs: Where are they? (Rept. 100-1092). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. Report on technology policy and its effect on the national economy (Rept. 100-1093). Referred to the Committee of the Whole House on the State of the Union.

Mr. STOKES: Permanent Select Committee on Intelligence. Report on U.S. counterintelligence and security concerns: a status report personnel and information security (Rept. 100-1094). Referred to the Committee of the Whole House on the State of the Union.

Mr. GORDON: Committee on Rules. House Resolution 591. Resolution providing for the consideration of S. 2751, a bill to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes (Rept. 100-1095). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 592. Resolution providing for the consideration of S. 2840, a bill to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes (Rept. 100-1096). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 5534. A bill to establish a moratorium period during which all genetic research involving the human immunodeficiency virus which causes acquired immune deficiency syndrome will cease; to the Committee on Energy and Commerce.

By Mr. BERMAN:

H.R. 5535. A bill to authorize the Secretary of Education to enter into a contract with a public agency or other nonprofit entity to establish a youth community volunteer services program; to the Committee on Education and Labor.

By Mr. CAMPBELL (for himself and Mr. Johnson of South Dakota):

H.R. 5536. A bill to authorize the exchange of certain Federal public lands; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. CRANE:

H.R. 5537. A bill to authorize prohibitions of imports from and exports to Yugoslavia; jontly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. DeFAZIO:

H.R. 5538. A bill to establish as emergency forest fire fund, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. DORGAN of North Dakota:

H.R. 5539. A bill to provide for the development of a plan to distribute Federal contracts and grants among the regions and States of the United States on a per capita basis, to rename the Department and Secretary of Agriculture as the Department and Secretary of Agriculture and Rural Development, to centralize responsibility for Federal rural development programs in a newly established Rural Development and Finance Administration, to increase Federal payments in lieu of taxes to units of general local government, and for other purposes; jointly, to the Committees on Government Operations, Agriculture, Interior and Insular Affairs, Merchant Marine and Fisheries, and Ways and Means.

By Mr. DORNAN of California:

H.R. 5540. A bill to amend title 10, United States Code, to provide that employees of the Department of Defense who are captured and held captive during military operations shall be eligible to receive the Prisoner-of-War medal; to the Committee on Armed Services.

By Mr. DYMALLY (for himself, Mr. Fauntroy, and Mr. Mazzoli):

H.R. 5541. A bill to establish a Supreme Court of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. GONZALEZ:

H.R. 5542.

By Mr. HEFLEY (for himself, Mr. Chandler, and Mr. DioGuardi):

H.R. 5543. A bill to exempt certain ruling requests with respect to employee benefit plans from the user fees required under section 10511 of the Revenue Act of 1987; to the Committee on Ways and Means.

By Mr. SCHULZE:

H.R. 5544. A bill to amend the Internal Revenue Code of 1986 with respect to health benefits for retired workers; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 5545. A bill to amend the Social Security Act by establishing an entitlement program, to be financed by raising the level described in section 230 of such act of wages and self-employment income subject to certain taxes, under which certain treatment services shall be provided to persons suffering from drug or alcohol addiction; to the Committee on Ways and Means.

By Mr. FLORIO:

H.R. 5546. A bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes; jointly, to the Committees on the Judiciary and House Administration.

By Mr. BERMAN:

H.J. Res. 675. Joint resolution to amend the War Powers Resolution to revise the procedures for consultation between the President and the Congress, and the procedures for consideration by the Congress of legislation, with respect to the involvement of U.S. Armed Forces in hostilities; jointly, to the Committees on Foreign Affairs and Rules.

By Mr. COURTER (for himself, Mr. Dwyer of New Jersey, Mr. Watkins, Ms. Kaptur, Mr. Wortley, Mr. Hall of Texas, Mr. Pepper, Mr. Gallegly, Mr. Akaka, Mr. Horton, Mr. Lungren, Mr. Bustamante, Mr. Rodino, Mr. Wilson, Mr. McEwen, Mr. Fuster, Mr. Emerson, Mr. Gallo, Mr. Fawell, Mr. Fazio, Mr. Florio, Mr. Hansen, Mr. Hefner, Mr. Gunderson, Mr. Grant, Mr. Garcia, Mr. Lagomarsino, Mr. Hopkins, Mr. Hoyer, Mr. Hunter, Mr. Donnelly, Mr. Jeffords, Mr. Hatcher, Mr. Latta, Mr. Lewis of Georgia, Mr. Mack, Mr. Montgomery, Mr. Dicks, Mr. Bliley, Mr. Dingell, Mr. Mfume, Mr. Dornan of California, Mrs. Johnson of Connecticut, Mr. Kasich, Mr. Kolter, Mr. McGrath, Mr. Jones of North Carolina, Mr. McCloskey, Mr. McDade, Mr. Martin of New York, Mr. Blaz, Mr. Spence, Mrs. Saiki, Mr. Pursell, Mr. Henry, and Mr. Lewis of Florida):

H.J. Res. 676. Joint resolution designating December 7, 1988, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor; to the Committee on Post Office and Civil Service.

By Mr. STUDDS:

H. Res. 593. Resolution to concur with the Senate amendment to H.R. 4189 with an amendment; considered under suspension of the rules and agreed to.

By Mr. DREIER of California (for himself, Mr. Wilson, Mr. Burton of Indiana, Mr. Crane, Mr. Dornan of California, Mr. Fish, Mr. Hunter, Mr. Lagomarsino, Mr. McCollum, Mr. Porter, Mr. Solomon, and Mr. Gilman):

H. Res. 594. Resolution expressing the sense of the House of Representatives that the Government of the Soviet Union should provide for the removal of the land mines placed in Afghanistan by the military forces of the Soviet Union; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 5547. A bill for the relief of David C. Funk; to the Committee on the Judiciary.

By Mr. HUGHES:

H.R. 5548. A bill for the relief of Clive G. Medland; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 458: Mr. McCollum.

H.R. 817: Mr. Inhofe.

H.R. 918: Ms. Pelosi.

H.R. 958: Mrs. Morella, Mr. Hayes of Louisiana, Mr. Hamilton, Mr. Sharp, Mr. Fawell, Mr. Ritter, Mr. Sweeney, Mr. Stratton, Mr. Kennedy, Mr. Bosco, Mr. Packard, Mr. Conyers, Mr. Evans, Mr. Cooper, Mr. Leach of Iowa, Mr. Weiss, Mr. Bryant, Mr. Leland, Mr. Sikorski, Mr. Boulter, Mr. Combest, Mr. Fascell, Mr. Henry, Mr. Hiler, Mr. Oxley, and Mr. Stenholm.

H.R. 1028: Mr. McEwen, Mr. Brennan, Mr. English, and Mr. Eckart.

H.R. 1049: Mr. Yates.

H.R. 1497: Mr. Ravenel.

H.R. 2168: Mr. Hughes.

H.R. 2474: Mrs. Johnson of Connecticut and Mr. Craig.

H.R. 2666: Mr. Dellums.

H.R. 2747: Mr. Madigan, Mr. Atkins, Mr. Hansen, Mr. Wortley, and Mr. Eckart.

H.R. 2854: Mr. Mineta.

H.R. 3418: Mr. Shays.

H.R. 3486: Mr. Yatron.

H.R. 3509: Mr. Mineta, Mr. Lowry of Washington, and Mrs. Morella.

H.R. 3510: Mr. Mineta, Mr. Lowry of Washington, and Mrs. Morella.

H.R. 3577: Mr. Barnard.

H.R. 4089: Mr. Kleczka.

H.R. 4149: Mr. Crane.

H.R. 4221: Mr. SMITH of Florida, Mr. NELSON of Florida, Mr. SWEENEY, Mr. RAY and Mr. PRICE of North Carolina.

H.R. 4302: Mr. MCEWEN.

H.R. 4424: Mr. FISH.

H.R. 4483: Mr. SHAYS.

H.R. 4649: Mr. MARTINEZ.

H.R. 4874: Mr. HORTON.

H.R. 4899: Mrs. MORELLA, Mr. RODINO, Mrs. JOHNSON of Connecticut, and Ms. KAPTUR.

H.R. 4990: Mr. ST GERMAIN and Mr. FLORIO.

H.R. 4991: Mr. DARDEN, Mr. HILER, and Mr. CONTE.

H.R. 5020: Mr. MCDADE, Mr. BEREUTER, Mr. MYERS of Indiana, Mr. ROBINSON, Mr. LATTA, Mr. SHAW, and Mr. CRANE.

H.R. 5151: Mr. HOLLOWAY and Mrs. VUCANOVICH.

H.R. 5180: Mr. RODINO, Mr. DAVIS of Illinois, Mr. SMITH of Florida, Mrs. KENNELLY, Mr. COSTELLO, Mr. YATRON, Mr. HUGHES, Mr. DELLUMS, Mr. HUBBARD, Mr. MAZZOLI, and Mr. BUNNING.

H.R. 5187: Mr. SHARP and Mr. WEISS.

H.R. 5207: Mrs. COLLINS, Mr. DOWDY of Mississippi, Mr. LEHMAN of Florida, and Mr. MRAZEK.

H.R. 5212: Mr. CROCKETT.

H.R. 5259: Mr. BAKER, Mr. ROBERTS, Mr. ESPY, and Mr. SCHUETTE.

H.R. 5272: Mr. MICHEL, Mr. HOLLOWAY, Mr. SOLOMON, Mr. DELAY, Mr. SAXTON, Mr. DANNEMEYER, Mr. MADIGAN, Mr. WORTLEY, and Mr. PACKARD.

H.R. 5275: Mrs. PATTERSON, Mr. SMITH of Florida, and Mrs. COLLINS.

H.R. 5285: Mr. NIELSON of Utah.

H.R. 5298: Mr. BAKER, Mr. ROBERTS, Mr. ESPY, and Mr. SCHUETTE.

H.R. 5311: Ms. KAPTUR, Mr. OWENS of New York, and Mr. VENTO.

H.R. 5369: Mr. DELLUMS and Mr. VENTO.

H.R. 5475: Mr. ATKINS.

H.R. 5492: Mr. DEFAZIO and Mr. HATCHER.

H.J. Res. 223: Mr. THOMAS A. LUKEN.

H.J. Res. 446: Mr. SKAGGS and Mr. SMITH of Iowa.

H.J. Res. 449: Mr. JONES of North Carolina.

H.J. Res. 522: Mr. BRENNAN.

H.J. Res. 526: Mr. NIELSON of Utah and Ms. KAPTUR.

H.J. Res. 546: Mr. ASPIN, Mr. BONIOR, Mr. BRENNAN, Mr. CLEMENT, Ms. KAPTUR, and Mr. PURSELL.

H.J. Res. 578: Mr. BRENNAN.

H.J. Res. 639: Mr. BRENNAN.

H.J. Res. 651: Mr. RICHARDSON, Mr. BRENNAN, and Mr. RAHALL.

H.J. Res. 654: Mr. GRANT, Mr. BRYANT, Mr. MARTINEZ, Mr. BUSTAMANTE, Mr. BONIOR of Michigan, Mr. WAXMAN, Mr. VENTO, Mr. STOKES, Mr. CHAPMAN, Ms. SLAUGHTER of New York, Mr. LOWRY of Washington, Mr. MFUME, and Mr. LEVIN of Michigan.

H.J. Res. 660: Mr. PETRI, Mr. BLAZ, Mr. BROWN of Colorado, Mr. MCEWEN, Mr. LEACH of Iowa, Mr. ALEXANDER, Mr. BRUCE, Mr. KLECZKA, Mr. CARR, and Mr. OLIN.

H.J. Res. 669: Mr. BROWN of Colorado, Mr. LEHMAN of California, Mr. CHANDLER, Mr. MOORHEAD, Mr. GOODLING, Mr. SWEENEY, Mr. NELSON of Florida, Mr. AUCOIN, Mr. LUNGREN, Mr. SAVAGE, Mr. GALLO, Mr. WHEAT, Mr. TAUKE, Mr. BEILENSON, Mr. ARCHER, Mr. HILER, Mr. SABO, Mr. BADHAM, Mr. DEWINE, Mr. NOWAK, Mr. MORRISON of Washington, Mr. COBLE, and Mr. HUTTO.

H. Con. Res. 317: Mr. BRENNAN, Mr. MATSUI, Mr. SPRATT, Mr. ECKART, Mr. DAVIS of Michigan, Mr. KANJORSKI, and Mr. CRAIG.

H. Con. Res. 333: Mr. ASPIN.

H. Con. Res. 339: Mr. HOPKINS, Mr. MFUME, Mr. MYERS of Indiana, Mrs. SMITH of Nebraska, Mr. BROWN of California, Mrs. BOXER, Mr. DARDEN, Mr. DAVIS of Illinois, Mr. MCEWEN, Mr. STENHOLM, Mr. LIPINSKI, Mr. UPTON, Ms. PELOSI, and Mr. GUNDERSON.

H. Con. Res. 354: Mr. RAVENEL, Mr. HERGER, Mr. HILER, Mr. GEKAS, Mr. MCCRERY, andMr. NIELSON of Utah.

H. Con. Res. 355: Mr. DAVIS of Michigan.

H. Con. Res. 365: Mr. LANCASTER.

H. Con. Res. 366: Mr. MCCOLLUM.

H. Con. Res. 374: Mr. LLOYD, Mr. BATEMAN, Mr. TRAFICANT, Mr. KONNYU, Mr. SKAGGS, Mr. MINETA, Mr. TORRICELLI, Mr. HAYES of Louisiana, Mr. FIELDS, Mr. PERKINS, Mr. MCCURDY, Mr. ENGLISH, Mr. SCHEUER, Mr. HUNTER, Mr. WEBER, Mr. LOWERY of California, Mr. MCCOLLUM, Mr. DENNY SMITH, Mr. LEWIS of California, Mr. HUBBARD, Mr. DORNAN of California, Mr. HOUGHTON, Mr. HORTON, Mr. SOLOMON, Mr. FROST, Mr. BUSTAMANTE, Mr. ANDREWS, Mr. MARTINEZ, Mr. MRAZEK, Mr. CHAPMAN, Mrs. BOGGS, Mrs. BENTLEY, and Mr. MCEWEN.

H. Con. Res. 380: Mr. INHOFE, Mr. DERRICK, Mr. HUBBARD, Mr. DOWDY of Mississippi, Mr. RINALDO, Mr. CROCKETT, and Mr. ROBERTS.

H. Res. 411: Mr. BARTLETT.

H. Res. 487: Mr. BURTON of Indiana, Mr. SWIFT, Mr. DICKINSON, Mr. WHITTAKER, Mr. MCCRERY, and Mr. EMERSON.

H. Res. 501: Mr. PACKARD.

H. Res. 526: Mr. DEFAZIO, Mr. WALKER, Mr. SMITH of New Hampshire, Mr. KONNYU, Mr. BRYANT, Mrs. JOHNSON of Connecticut, Mr. GUNDERSON, Mr. MAZZOLI, and Ms. SLAUGHTER of New York.

H. Res. 546: Mr. LUJAN, Mr. LAGOMARSINO, Mr. DONALD E. LUKENS, Mr. MCCANDLESS, Mr. FAWELL, Mr. ROWLAND of Connecticut, Mr. SWINDALL, Mrs. MARTIN of Illinois, Mr. GOODLING, Mr. COBLE, Mr. DEWINE, Mr. GEKAS, Mr. HERGER, Mr. INHOFE, and Mr. KOLBE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5031: Mr. PARRIS.

EXTENSIONS OF REMARKS

TRIBUTE TO F.J. "DUTCH" AND HAZEL BURKETT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to two very special people from my 17th Congressional District of Ohio, Mr. and Mrs. F.J. Burkett.

Dutch Burkett and his wife, Hazel, have been married for 58 years, but they are often unable to celebrate their anniversary because it falls during the Canfield Fair, where they have been volunteers for more than 40 years. They began showing draft ponies at the fair in 1945, and have been an established and well-respected part of the fair ever since.

Dutch Burkett retired in 1962 from the traffic bureau of the Warren Police Department after 20 years of service. He drove a school bus for the Canfield School District for 17 years, and although he is an auctioneer, this wonderful man now devotes most of his time to his horses. He helped found the Mahoning Valley Pony Breeders Association in 1945 and continues to be its secretary-treasurer, a post he has held for 39 years. Dutch is also steward for the fair judges in the registered Shetland category and the registered minihorse competition.

Hazel Burkett is secretary of the Ohio Welsh Pony Association and is the bookkeeper who keeps track of entries and winners for all the horse and pony judging.

Mr. Speaker, it is with great pride that I salute these two fine people who have truly become institutions in my district. I consider it both an honor and a privilege to represent them and I wish them both the best in the coming years.

TRIBUTE TO RICHARD ALLEN

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. ATKINS. Mr. Speaker, I rise to pay tribute to Richard "Dick" Allen, a hometown boy from Framingham who has made good and has shared his life with the town he loves.

Dick was graduated from Middlebury College then went on to earn his MBA from the Harvard Business School. His business career began as a cost accountant with the Dennison Manufacturing Corp. Soon after, he became personnel director where he remained for 18 years. Dick's true spirit however, is embodied in his commitment and dedication to serving the town of Framingham and a host of nonprofit agencies.

Dick was a town meeting member for 25 years, before being elected to serve 10 years as town moderator. Many organizations have benefited from his energies: Framingham school committee, of which he was a member; the Vernon House, where he was deeply involved; the Framingham Union Hospital and the First Parish Church. In 1985, the local Red Cross named him Volunteer of the Year.

The town of Framingham has been blessed with a caring, hard-working individual who gave so freely of himself. Dick has had a significant impact on his community and his presence will be severely missed. It is with a certain amount of regret that I wish a fond farewell to such an able and respected member of the Framingham community. I join his wife Helen, his 2 children Susan amd Peter, and 10 grandchildren, in wishing him a well-deserved retirement. It is my wish that he can now begin work on fulfilling his lifelong dream: to participate as a grandfather in a grandfather/grandson tennis tournament.

COMMENDATION FOR BRIAN GREYER ON RECEIVING THE EAGLE SCOUT AWARD

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. BORSKI. Mr. Speaker, I rise today to commend the accomplishments of Brian Greyer, a young man from my district who will be honored for his completion of the requirements of the Eagle Scout award by the Boy Scouts of America.

Brian has been a Boy Scout since 1981. At age 22, he is a recipient of the Ad Altare Dei Medal from the Catholic Committee on Scouting and he is an Ordeal Member of the Order of the Arrow. He has also served as Troop No. 74's Junior Assistant Scoutmaster.

While these accomplishments are tremendous for any young man, Brian has earned these merits despite the disability of blindness and mental retardation. I want to commend Brian for these outstanding accomplishments as he receives the Eagle Scout award.

TRIBUTE TO CHARLOTTE ROSS—A NATIONAL LEADER IN SUICIDE PREVENTION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. LANTOS. Mr. Speaker, I invite my colleagus in the Congress to join me today in paying tribute to Charlotte P. Ross, one of our national leaders in suicide prevention and a pioneer in youth suicide prevention.

We in San Mateo County are particularly indebted to Charlotte. In 1966 she founded the Suicide Prevention and Crisis Center of San Mateo County, which offered 24-hour telephone connections to trained volunteers to assist persons in despair. For over two decades the center has helped provide professional assistance in crises and followup counseling to thousands of individuals. Charlotte's efforts have increased community awareness of the many individuals in our midst who face personal despair and see no solution except suicide. She, her staff, and the hundreds of volunteers who have been trained as counselers over the years have been an invaluable resource to the San Francisco Peninsula.

Ms. Ross has made important contributions to suicide prevention programs well beyond the Bay area, however. For the past decade Charlotte has focused her energies on developing innovative programs to respond to the tragedy of youth suicide. She has developed suicide prevention programs for public schools involving personnel training, parent awareness education, group counseling for high-risk young people, and community-based programs for suicidal youth.

Ms. Ross was appointed cochairperson of the Task Force on Youth Suicide Prevention of the California Senate Select Committee on Children and Youth. In this role, she played a key role in framing the California legislation requiring the development of a statewide youth suicide prevention program for public schools. This legislation was the first such initiative in the Nation and it has been a model for the rest of the country.

On the national level, I worked with Charlotte for several years to bring attention to the tragedy of youth suicide and undertake more vigorous Federal action to deal with it. We began some 5 years ago with legislation to provide Federal funding through the Department of Education for a Youth Suicide Commission and provide grants for youth suicide prevention programs. Significant progress has been made on these goals with the establishment of the Youth Suicide National Center in Washington, DC, and the adoption of legislation earlier this year allowing the funding of local youth suicide prevention programs with Department of Education funds.

Mr. Speaker, Charlotte has received numerous awards and commendations for her contributions to suicide prevention. She is a frequent lecturer and consultant for organizations in the United States and abroad, and she has authored a number of important articles on youth suicide prevention. Currently she serves as president/executive director of the Youth Suicide National Center in Washington, DC, and she is also the vice president of the International Association for Suicide Prevention.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, although we in San Mateo County have long recognized and appreciated Ms. Ross' commitment and dedication, increasingly she has been recognized and honored nationally and internationally. I invite my colleagues in the Congress to join me in paying tribute to Charlotte Ross—a devoted health-care professional and an international leader in the prevention of youth suicide.

PERSONAL EXPLANATION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. COURTER. Mr. Speaker, due to previously scheduled business in my district, I was not present for rollcall vote number 446. Had I been present, I would have voted in support of this legislation.

H.R. 5043, the Postemployment Restrictions Act, would impose new restrictions on lobbying by former Members of Congress, their top staff members, and high-level executive branch officials. Although Congress has imposed postemployment restrictions on former executive branch employees for many years, Congress has never included the legislative branch in these restrictions. This legislation is important because it proves to the American people that Congress will not continue to exempt itself from ethics laws it imposes on other institutions.

H.R. 5043 will go far in addressing the widespread perception that former Government officials are using their connections to influence public policy for personal gains. It is critically important that the public has faith in the integrity of its leaders and Government employees. H.R. 5043 is an important step in this direction, and I am pleased to lend my support to this legislation.

WESTERN NEW YORK LOSES AN OUTSTANDING JOURNALIST, LUCIAN C. WARREN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. KEMP. Mr. Speaker, I was deeply saddened to learn about the passing last Wednesday of Lucian C. Warren, a good friend and one of the pillars of the Washington press corps.

Lu was the Washington bureau chief for the Buffalo News when I first came to Congress in 1970. He was always fairminded and professional, and I was grateful to him for his help in my adjustment from professional quarterback to Congressman.

In addition to his exemplary service for the Buffalo News, Lu was an influential leader in Washington's newspaper community. He served as president of the National Press Club, president of the Gridiron Club, and chairman of the standing committee of correspondents. During his tenure with the Gridiron Club, I was fortunate enough to accompany him to several of the club's dinners.

I believe that Murray Light, editor of the News, said it best in paying respect to Lu's "integrity, his personal warmth and charm and his dedication to the news business." I know that Lu will be sorely missed by all of us. My wife, Joanne, and I extend our deepest sympathies to Lu's wife, Katherine, and his family.

I would like to include an excellent tribute to Lu that appeared in the Buffalo News.

[For the Buffalo News, Oct. 12, 1988]

LUCIAN C. WARREN DIES; WAS CHIEF OF THE NEWS WASHINGTON BUREAU

(By Douglas Turner)

WASHINGTON.—Lucian C. Warren, 75, retired Buffalo News Bureau chief and one of the most influential leaders in the capital's journalistic organizations, died in his Maryland home early this morning after a long illness.

At various times in his long career, Warren, a Jamestown native, held all three of the top positions in this city's newspaper community.

He was president of the National Press Club, president of the Gridiron Club, and chairman of the Standing Committee on Correspondents, the organization that runs the House and Senate press galleries in the Capitol.

"All of us at The Buffalo News who worked with Lu Warren had the greatest respect for his integrity, his personal warmth and charm and his dedication to the news business," said Murray B. Light, editor and senior vice president of The News. "He was a wonderful colleague, and he shall always evoke positive memories."

"The Washington press corps had the same feeling of high regard for Lu," Light said. "His professionalism, enormous energy level and enthusiasm had made him well known to hundreds of Washington's journalists and political leaders.

"It is not a cliche to say that Lu Warren will be sorely missed by all of us who had the privilege of knowing him and working with him."

Lee Roderick, the current press club president, called Warren "an outstanding leader" and recalled that Warren led the fight to break the color line at the club when he was president in 1955.

That year, the club admitted its first black member, Louis Lautier of the old Atlanta Daily World. Warren was inaugurated club president by Earl Warren, then U.S. chief justice.

Warren was the second Buffalo News reporter to be press club president, Roderick noted, the first being Alfred H. Kirchhofer in 1927, who later became the newspaper's editor.

Columnist Carl T. Rowan, president of the Gridiron Club, said Warren "was one of the most dedicated members the club ever had."

Warren began his career while still in high school with the old Jamestown Evening Journal, worked as a city reporter from 1937 to 1943 for the old Buffalo Courier-Express, and became the Courier's Washington correspondent in 1945. He was named as Washington bureau chief of The News in 1968.

During his time with The News, Warren filed dispatches from Vietnam, Eastern Europe, and Scandinavia and traveled the world covering former President Richard M. Nixon. In 1970, he filed an exclusive set of interviews with the White House staff and the Nixon Cabinet.

After his retirement from The News in 1978, Warren and his wife, Katherine, embarked on an around-the-world tour, filing dispatches from various world capitals.

He and his wife narrowly escaped death in 1984 when they survived a boating accident in the Potomac River that claimed the lives of former National Press Club President Michael Hudoba and his wife, Frances.

At the time of his death, Warren was the congressional correspondent for the Frederick, Md., News-Post, and a contributing writer for The Buffalo News. He retired from full-time duties with The News in 1978 after 10 years as bureau chief.

Warren, a 1936 Phi Beta Kappa graduate of Denison University, was also widely published in such periodicals as the New York Times Magazine. Esquire and Coronet magazines, Parade, Family Weekly and others.

His influence in journalistic circles continued unabated, largely through his post as secretary of the Gridiron Club, the organization that is host of one of the city's most prestigious political dinners.

Warren was occasionally called on to settle serious disputes, such as the time that House Doorkeeper James T. Molloy, a native of Buffalo, threatened in 1984 to take control of the House Press Gallery after an embarrassingly small turnout in the gallery for a speech by Irish Prime Minister Garrett Fitzgerald. Warren was chosen to mediate the dispute between Molloy and the 4,000-member press gallery.

Perhaps the highest honor conferred on Warren was his induction in 1986 into the Journalism Hall of Fame of the Washington Chapter of Sigma Delta Chi/Society of Professional Journalists. His class also included television correspondent Roger Mudd, political writer David Broder and High Sidey, a correspondent from Time magazine.

Warren's honors included a Ernie Pyle journalism award for dispatches he wrote from Vietnam for The Buffalo News.

Survivors include his wife, the former Katherine Smith, a son, Lucian James Warren, and three daughters, Sylvia Warren, Katherine "Kitty" Sites and Nancy Warren-Stringos, and 15 grandchildren.

Memorial donations may be made to Hospice of Charles County, MD. Arrangements are being made by Arehart Funeral Home, La Plata, Md.

There will be no service here this week, but his ashes will be interred in a family plot in Bermus Point, Chautauqua County.

A memorial service at the National Press Club is being planned.

VOTER PARTICIPATION: THE KEY TO DEMOCRACY

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. ANDREWS. Mr. Speaker, how we enter the 1990's will be determined November 8. Not only will voters decide a new President, but Members of Congress, Senators, Governors, county commissioners, mayors, city council members, school board trustees, and numerous others.

The key word here is "voters." Voters are the people who judge the candidates. They are the people who look through the hype and weigh the issues. They are the people who decide which candidate best reflects their views and can best lead the community. They are the people who take the time and the interest to try and make our country a little better. Voters are the people who care enough to try.

The problem is that the voter seems to be a dying breed in our country. In recent years, there has been an alarming increase in the number of eligible Americans who do not participate in elections. The U.S. Census Bureau reports all age groups show a decline in voting for presidential elections since 1972. Less than one-half of all newly eligible 18- to 24-year-olds are registered to vote. A study from the Committee To Study the American Electorate found that in the 1986 midterm election, only 37 percent of eligible Americans cast ballots. This was the lowest turnout since 1942, when a significant portion of the voting population was off fighting World War II. On November 8, it is expected that voter participation will drop to less than half the eligible electorate.

Compared to other Western democracies, our record is woefully inadequate. France, England, Italy, and Canada see voter participation rates ranging from 75 to 95 percent of the eligible voting public. That is a far cry better than our country, which prides itself on being the standard bearer of democracy throughout the world.

Such a performance was not the intention of our Founding Fathers. When these revolutionaries stood shoulder to shoulder against the tyranny of King George, they boldly shook the world and introduced a new system of governance to the world; one where the people made the decisions.

"Whatever government we design in America will be a government where the rulers are servants, and the people their sovereigns and superiors," said Benjamin Franklin during the debates prefacing the American Revolution.

As we begin to wind down the bicentennial celebration of our U.S. Constitution, it is somewhat disheartening to see how we have taken our freedoms and responsibilities for granted.

When the Founding Fathers laid the foundation of our government in Philadelphia, they relied upon the electorate to decide the laws and direction of our society. Not every person within that electorate would necessarily get his or her way, but at least each person could have a voice in his own destiny.

I know how important that voice is to the functioning of our Government. I listen to that voice whenever I read the mail from Texas that comes to my office or when I hold town meetings in my district. I listen because it is my responsibility to listen.

The voters' responsibility is to make their voice heard.

I know how difficult it might sometimes be to speak out. I know about the every day struggle to make ends meet and care for your family. Yet, I also know that democracy will fail if America's strong voice falls to only a quiet whisper.

Democracy in government is a responsibility of the people. It requires that we educate ourselves on the issues and use that knowledge at the polls. It requires that we instill this responsibility into our children.

President John F. Kennedy once said that "in a democracy, every citizen, regardless of his interest in politics, 'holds office.' Every one of us is in a position of responsibility; and, in the final analysis, the kind of government we get depends upon how we fulfill those responsibilities. We, the people, are the boss, and we will get the kind of political leadership, be it good or bad, that we demand and deserve."

With less than half of our eligible electorate taking part in our national elections, then obviously some good men and women have decided to let someone else make the decisions.

Someone else decides how the children should be educated. Someone else decides what is legal and what is illegal. Someone else decides who will get our money. Someone else decides the direction of our lives.

Is it any wonder why we complain that government is ineffective, impersonal, antagonistic and out of control? The reason is that if we allowed government to be run by someone else.

The fact remains that our country's strength relies with its people. Builiding on that strength requires the efforts of each and every one of us.

SALUTE TO HON. REV. DR. ALBERT P. ROWE, PASTOR OF CALVARY BAPTIST CHURCH

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute an outstanding individual in my 8th Congressional District of New Jersey who has distinguished himself as a spiritual leader, builder, educator and highly dedicated public servant of the people of Paterson.

I am speaking of the Hon. Rev. Dr. Albert P. Rowe who, in 1988, is celebrating two productive and fulfilling decades as the pastor of Calvery Baptist Church of Paterson, NJ. Reverend Rowe's 20-year anniversary will be celebrated with a dinner on November 4, 1988, at the Sheraton Hotel in Fairfield, NJ. I know this dinner will be a great success, and that no one will be more proud of Reverend Rowe than his lovely wife, Dorothy, who holds degrees from Howard University and Montclair State College and now serves as principal of Dale Avenue School in Paterson, NJ.

Mr. Speaker, Reverend Rowe's accomplishments and achievements are so many, it is hard to know where to begin. This outstanding leader was born in South Carolina and grew up in Syracuse, NY. He received degrees from Morgan State College, Crozer Theological Seminary of Chester, PA., Princeton Theological Seminary and Eastern Theological Seminary of Philadelphia. Since becoming pastor of Calvary Baptist Church in 1968, he has made innumerable contributions to the church and to his community, enriching all those with whom he has come in contact.

He was responsible for organizing the Calvary Baptist Federal Credit Union, the Calvary Baptist Day Care Center, the church's housing corporation and the Calvary Baptist Community Health Center. Through Reverend Rowe's leadership, the congregation built a new church and Christian Education Building in 1972, and it opened a new and modern community center in 1975.

Among his other church-related activities, Reverend Rowe has served as chairman of the Progressive National Baptist Convention Home Mission Board, as resource leader and conference planner of the World Baptist Youth Conference, as committee chairman of the American Baptist Churches of New Jersey, as resource leader of the American Baptist Churches U.S.A. Great Gathering, as Chairman of the Social Action Committee of the Greater Paterson Council of Churches, and as Christian Education Conference Leader of the Progressive National Baptist Convention of the Eastern Region.

Mr. Speaker, along with all that Reverend Rowe has done for his church, he has also given unselfishly to his community, having served since 1982 as a highly active member of the Paterson City Council. In addition, he has served as a member of the Board of Trustees of Barnett Memorial Center; on the United Way of Passaic Valley; as a commissioner of the Paterson Board of Education; on the Advisory Committee of Paterson Education, Inc.; on the board of directors of the Paterson Branch YMCA; as president of Help People Live Productively; on the Mayor's Council on Youth Services; as a founder of Paterson United Against Drug Abuse; as a member of the Black Business and Professional Association; as a life member of NAACP and as a member of Alpha Phi Alpha fraternity. He has been listed in such distinguished publications as Who's Who in Black America, Who's Who in Religion, Black Ministers and Clergymen and Dictionary of International Biography.

While Reverend Rowe has not sought personal recognition, his accomplishments speak for themselves and have prompted others to recognize his outstanding achievements. He was nominated Outstanding Young Man of the Year by the Wilmington Jaycees in 1966; he received the Calvary Baptist Church Distinguished Service Award, the PUADA Appreciation Award and the Alpha Phi Alpha Fraternity Outstanding Service Award, all in 1973; he received the Paterson Branch NAACP Community Service Award in 1974, the Brothers in Blue Community Service Award in 1975, the Calvary Baptist Church Community Service Award in 1977, the Greater Paterson Arts Council Religious Leadership Award in 1980, the Paterson Board of Education Service Award in 1982 and the Community Civic and Spiritual Leadership Award in 1983.

Mr. Speaker, Calvary Baptist Church is an important spiritual and community center for countless numbers of people in the greater Paterson area with a long history that goes back more than a century to its founding in 1879. It is clear that Rev. Dr. Albert Prince Rowe has not only lived up to this long and rich tradition during the past 20 years, he has enhanced it and contributed immeasurably to it.

Mr. Speaker, it is people such as Reverend Rowe who truly make a difference in their community, and who make their State and Nation a better place to live. I invite you and our colleagues to join me in saluting a truly outstanding American, the Hon. Rev. Dr. Albert Prince Rowe, Pastor of Calvary Baptist Church of Paterson, NJ.

CORPORATIONS DO NOT PAY TAXES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. CRANE. Mr. Speaker, the 1986 tax reform fiasco is catching up with all of us. The call for simplicity and fairness has not only resulted in confusion and panic but higher tax rates. The biggest travesty that the Members of Congress have not awaken to is that corporations do not pay taxes. It doesn't take a genius or a Harvard MBA to realize that corporations do not pay taxes. Corporations collect taxes for the government. Corporations do not pay taxes themselves but pass that direct cost to the customer or the stockholder.

Let us take a quick look at an example of why corporations do not pay taxes. The ABC Corp. sells widgets. These widgets are made at a cost of $10. They are sold to the consumer for $12. ABC nets a $2 profit on each widget sold. The government decides to increase corporate taxes. Widgets now cost ABC $12. At this rate, ABC will be out of business quickly. Consequently, ABC has to increase the cost of the widget to $14 in order to continue to make a profit and stay in business. But alas, a highly innovative Japanese corporation which makes widgets for $10 is not required to pay a corporate tax, and can sell those same widgets for $12, earning a profit of $2 per widget. Customers will now turn to the Japanese corporation where they can get a better deal. End result: The American company loses customers which in turn loses profits, which in turn loses taxes, which forces the company to layoff employees who pay taxes on their earnings. This is a nasty cycle which eventually costs the Federal Government more money than it made on the original tax.

Furthermore, we must consider the shareholder. If the corporate tax is passed on to the shareholder by a reduction in dividends, where is the incentive to invest in that corporation? Ask yourself this simple question: Should stockholders invest in companies that are not profitable? I think not.

But Congress does not stop with increasing taxes on corporations. We create reporting standards, a maze of paperwork, and books of little known and antiquated regulations. The September 21, 1988, Wall Street Journal published Neil Wissing's view of tax reform on corporations. In his speech to members of the Internal Revenue Service commissioner's advisory group and to Commissioner Gibbs, he discussed how the impact of tax reform on his firm took "a 40 member staff needing 75 percent more time than before to do the return and spent 50 percent more time analyzing law changes for which the IRS gave little or no guidance. The return contained 25 percent more pages; additions due later will bring the increase to 50 percent and produce a document 9 inches thick."

The biggest problem of all stems from the fact that understanding the Internal Revenue Code is all but impossible. A good portion of the corporations in this country have relegated themselves to filing and then praying for a limited amount of fines and penalties. "Corporate America" has quit trying to understand the IRC because the code cannot be understood. Congress keeps creating tax rules and leaves the IRS to enforce them. All the rules and regulations have led to increased costs to corporations. And we all know who pays for the additional costs.

We cannot continue to slap the cost of pork barrrell projects on the back of corporations. By 1990, corporate income taxes are expected to reach $129 billion, double the amount in 1986 and more than triple that of 1983. Congressional tax legislation in this decade will result in corporate Federal income taxes of $141 billion in 1991—40 percent more than they would have been had the pre-1981 tax law remained in effect. Furthermore, corporate income taxes as a percentage of gross national product increased from 1.1 percent in 1983 to 1.9 percent in 1987; they are expected to increase to 2.4 percent in 1992.

The Members of Congress must face up to the fact that we hurt our constituents when we create a burdensome situation for corporations. The cost of business should be created by the corporation itself, not the Federal Government. Through taxation and regulation we are shooting ourselves in the foot. Higher prices for goods and services because of senseless interference, will only lead to economic disincentives. We must remember that corporations do not pay taxes.

A TRIBUTE TO MARGARET S. EGAN

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. MORRISON. Mr. Speaker, on October 20, Margaret Egan, the long-time town clerk of Milford, CT, will be honored by the Knights of St. Patrick in New Haven as the winner of the Distinguished Irish-American Award. There could not have been a finer choice. Margaret is a credit to Irish-Americans everywhere, but those in Milford and all of Connecticut have particular reason to be proud.

Margaret has lived in Milford for 48 years and was the first elected town clerk. She served in that capacity from 1959 until her retirement in 1985. Over that time, she served in various capacities in the Connecticut Town Clerks Association, the New England Town Clerks Association, and the International Institute of Municipal Clerks, all of which afforded her the opportunity to meet with her counterparts, learn from them, and exchange ideas about how they could do their jobs even better.

Her activism in the community has not been limited to elected office. She is a member of the local United Way Board of Directors and a past president of the Milford Emblem Club. She has also been active in the Business and Professional Women's Club, the American Legion Auxiliary, the V.F.W. Ladies Auxiliary, and the Milford Historical Society. Her interest in politics has not been limited to her job; she has also served as a State central committeewoman and as the Democratic Town Committee Treasurer.

Throughout her professional life, Margaret was able to balance her responsibilities to her job with those to her family. She and her husband, the late Lawrence Egan, who was a highly respected member of the Milford community in his own right, raised three children. Margaret is justifiably proud of her 11 grandchildren and her 6 great-grandchildren.

The Knights of St. Patrick is not the first group to honor Margaret. Dedication and a record of achievement like hers are hard to find but easy to recognize. She has been named woman of the year by, among others, the town of Milford and the Milford Chamber of Commerce. Last year alone, she was the recipient of the MAYPO Citizenship Award and the Milford Bar Association Liberty Bell Award for Community Service.

When I first ran for Congress in 1982, Margaret was one of my earliest and most ardent supporters. Since then, I've known—and relied on the knowledge—that I could always turn to her for encouragement and support. Margaret is one of the people who have made our part of Connecticut a very important place for me, and as she is honored I want her to know that she has my friendship, my love, and my thanks.

THE MINIMUM WAGE: A BETTER WAY

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. PETRI. Mr. Speaker, although it now seems clear that the issue of the minimum wage will not be brought before the House this Congress, and although the welfare reform bill is behind us, I do not believe we are finished addressing the issue of how best to help low skilled people support families by working rather than through welfare. I continue to believe that the best way to accomplish this objective is through reform of the existing earned income tax credit, and I intend to continue to fight for such reform in the next Congress.

Because this issue is not likely to go away, I think Members and others may find it helpful to have available in the RECORD some additional material on the subject beyond that which was inserted on May 4 (pp. H2962-2980) and May 18 (p. E1592) of this year. I would like to insert in the RECORD at this point an analysis of how many people would be helped, and by how much, by the compromise proposal on the minimum wage which I was prepared to offer this year, as compared to the final Kennedy-Hawkins proposal for an increase in the minimum wage to $4.55 over 3 years. I would also like to insert editorials on the subject from the New York Times of September 21 and July 11, a July 11 Newsweek column by Robert Samuelson—which also appeared in the Washington Post—and an October 4 Christian Science Monitor column by David R. Francis.

[From the New York Times, Sept. 21, 1988]

THE MINIMUM WAGE: A BETTER WAY

A job at the current Federal minimum wage of $3.35 an hour pays just $6,700 a year. Is it humane to ask anyone to clean offices or pump gas for that amount, which is only half of what it takes to keep a family of four out of poverty?

Surely not. But the remedy proposed by Congressional Democrats is not humane, either. They would raise the minimum wage to $4.55, pushing thousands of needy workers off the job rolls. Happily, there's another remedy that's humane and sensible, and that has no adverse employment effects: expand an existing Federal program to supplement wages, the earned income tax credit.

A bipartisan effort to do just that, led by Representative Thomas Petri, a Wisconsin Republican, is probably doomed this Presidential election year because both parties would rather embarrass each other than reduce poverty. But that's no reason to rush to raise the minimum wage. The tax credit belongs high on the legislative calendar next year, no matter who wins the White House.

Five out of six jobs paying the minimum wage are not held by poor people at all, but by the teenage children of middle-income families or by second earners in families with few children. But one in six is still a lot of people. According to Ronald Mincy, a researcher at the Urban Institute, increasing the minimum wage by just a dollar would lift nearly 100,000 families above the poverty line.

The catch is that a higher minimum wage would also induce businesses to get by with fewer employees. By conservative estimate, a dollar increase would eliminate 250,000 jobs, most held by people under age 24. For some, loss of a job might mean only the loss of movie money. But as Mr. Mincy points out, it would deprive others of the work experience needed to break the cycle of poverty. That's where the Petri plan fits in.

Wage subsidies have been built into the Federal tax code since 1975. Some four million poor families with children receive tax credits—cash payments—of up to 14 percent of wages, or a maximum, of $870 annually. Mr. Petri would raise the maximum, and link payments to need. A family of six subsisting on $8,000 would receive $2,500.

Unlike an increased minimum wage, the expanded earned income tax credit would add nothing to employers' costs and create no incentives for evasion or payroll cuts. Targeting would be precise. Suburban teenagers wouldn't get a penny, while a $12,000-a-year garment worker supporting three kids would receive an extra 60 cents an hour.

Why, then, has Mr. Petri's plan received so cold a shoulder in Congress? Many Republicans are obsessed by the idea of a two-tier minimum, with a lower rate for teenagers. Many Democrats are eager to placate organized labor by voting to raise the minimum wage, and even more eager to embarrass George Bush by forcing a White House veto just before the election.

The best hope now is for Senate Republicans to kill the minimum wage bill in coming days. That would clear the decks for a fresh, bipartisan look at the earned income tax credit next year.

[From the New York Times, July 11, 1988]

BETTER THAN $3.35, $4.25 OR EVEN $5.05

Should the Federal minimum wage, frozen at $3.35 an hour since 1981, be raised?

Absolutely! say labor unions and their liberal allies, arguing that it's not fair to ask someone to work for less than is needed to keep a family above the poverty line.

Outrageous! say business groups. Raising the minimum wage would *hurt* poor people by pricing hundreds of thousands of unskilled workers out of the labor market and pushing them onto the welfare rolls.

Who's right? Both sides are. But both sides, eager to claim the high ground, ignore an alternative that would accomplish what each wants, to raise the incomes of the working poor without reducing jobs. It's called the earned income tax credit (see box) and expanding it would be the best remedy of all.

House Democrats back a plan to raise the minimum wage of $5.05 by 1992. The Senate is almost certain to vote for some smaller increase. The best guess now is that Congress will compromise on a veto-proof increase to $4.25.

That may please unions looking for a political victory. And it may please business lobbies that had expected to absorb a larger increase. But it should not satisfy anyone who cares about the plight of poor Americans who are willing to work.

A 90 cent increase over three years would still leave minimum wage workers with less buying power than they had in 1981, and roughly 20 prcent less than the income needed to keep a family of three out of poverty, *and* it would reduce employment. Impartial economists estimate the job loss for the vulnerable 16- to 24-year-old age group at approximately 250,000.

There's a better way: use wage subsidies to increase workers' take-home pay without increasing employers' labor costs. The mechanism for doing that already exists: the earned income tax credit. All that's needed is to increase the maximum credit and link it to family size.

Congressman Thomas Petri, a Wisconsin Republican and stubborn advocate of the tax-credit alternative, enumerates its advantages over the minimum wage:

It is a snap to administer. The computers that withhold payroll and increase taxes can easily add tax credits.

It creates no incentives for evasion, because if doesn't threaten workers' jobs or rise employers' costs.

It can be precisely targeted to aid the working poor. Under the Petri plan, middle-class teen-agers working part time would not receive a cent. But a garment worker supporting four children on $6 an hour would end up with 10 percent more take-home pay.

If an expanded E.I.T.C. is such a hot idea, why are both Congress and the Reagan Administration cool to it? In part because it distracts from the symbolic battle between labor and business and in part because it would complicate the political problem of meeting deficit reduction targets.

A 90 cent increase in the minimum wage would raise welfare costs and kick up inflation by a fraction of a percentage point, adding a few billion dollars to the budget deficit. But the effect would be indirect, and thus possible to ignore under the deficit reduction law.

According to the Congressional Budget Office, the increase in the carefully targeted tax credit proposed by Mr. Petri would enlarge the budget deficit by only half as much. But the budgetary effect would be direct and thus subject to the deficit reduction law.

In other words, the only defect of the tax credit is administrative appearances. In every other respect, expanding it would be far superior to raising the minimum wage. Sadly, appearances seem to matter more in Washington than the dignity and income of poor people.

[From Newsweek, July 11, 1988]

MINIMUM-WAGE POLITICKING—A BIG INCREASE WILL MOSTLY RAISE INFLATION AND JOBLESSNESS WITHOUT MUCH HELPING THE POOR

(By Robert J. Samuelson)

Some of you may think that raising the minimum wage is a long-overdue way of helping the poor. Please discard this outdated idea. Current efforts by Democratic leaders in Congress to raise the minimum wage have more to do with embarrassing the Republicans in an election year than helping the poor. Increasing the minimum wage is misguided social policy, even if it seems the fair thing to do.

Popular wisdom is understandable and well meaning. The current minimum—$3.35 an hour—hasn't been raised since 1981. By 1987 it stood at only 37 percent of average hourly earnings. It hasn't been that far below the average wage rate since 1949. This seems monstrously indecent. Workers stuck in minimum-wage jobs are being progressively impoverished. Their pay is about $7,000 a year. That's less than two-thirds of the government's official poverty floor for a family of four. It's a dismaying picture. It's also thoroughly misleading.

The profile of minimum-wage workers simply doesn't fit the popular stereotype. Consider:

Most aren't from poor families. About 70 percent come from families with incomes at least 50 percent above the poverty line, according to a study by the Congressional Budget Office. Only 19 percent come from families below the poverty line.

Most minimum-wage jobs aren't held by heads of families. About two-thirds are held by young (24 and under) and single workers. about a third are teenagers. The typical minimum-wage worker is a teenager from a non-poor family working as a waiter or waitress. A third of all minimum-wage jobs are in restaurants.

Most workers don't get stuck in full-time minimum-wage jobs; indeed, two-thirds of minimum-wage jobs are part time. Some jobs permanently pay the minimum, but they have higher turnover. Other jobs may start at the minimum, but companies quickly give raises to employees they want to keep. Since 1980 the proportion of workers receiving the minimum has fallen from about 11 to 4 percent.

Government policies shouldn't be based on stereotypes that are demonstrably false. Legislation passed by the House Education and Labor Committee would raise the minimum-wage about 51 percent, to $5.05, by 1992. Enacting this sort of increase to help the minority of workers who fit the stereotype—heads of families with full-time jobs—is self-defeating. It would raise unemployment and inflation in return for, at most, a tiny reduction in poverty.

When government mandates higher labor costs, someone has to pay them. Companies are likely to raise prices and fire (or not hire) the least productive workers. After reviewing the available studies, economists

Frederick Furlong and Marc Charney of the Federal Reserve Bank of San Francisco concluded that the present proposal would raise inflation at least a quarter of a percentage point and result in the loss of 100,000 to 300,000 jobs. "The increase in unemployment would be among lower-wage workers, the group that the minimum-wage law is supposed to help," they write.

Supporters of a higher minimum dismiss these side effects as trivial. For instance, they point out that the extra joblessness would add only 0.1 to 0.3 percentage points to the unemployment rate. This argument is absurd. It justifies bad legislation as long as the bad effects are small, as Rep. Richard Armey, Republican of Texas, says. "Why not raise [the minimum] to $10 or $20 an hour?" he asks. "The adverse effect of the minimum wage is perfectly obvious when we imagine it inflated to $10 an hour. . . . At $5.05 the effects on employment are not quite so blindingly apparent. Instead of millions of workers being laid off, there will only be a mere few hundred thousand."

TOUGH CHOICES

There are better ways of helping the working poor. Rep. Thomas E. Petri, Republican of Wisconsin, suggest improving the earned-income tax credit, which goes to working parents with low incomes. The maximum credit is now $874. Because most of these workers don't owe income taxes, the credit is refundable. It's a direct payment that covers their social-security taxes and a bit more. But today's credit doesn't vary according to family size. Petri would provide bigger credits for larger families, up to $2,500 for four children. This approach wouldn't raise prices, wouldn't deter hiring and would direct benefits to those in need.

It's not a partisan idea. An early advocate was economist Robert Reischauer of the Brookings Institution, a Democrat. Privately, some Democratic congressmen concede it's a good concept. But the Democratic congressional leadership clings to the minimum wage out of habit and expediency. It's superficially popular. One recent Gallup poll showed 77 percent of Americans support a higher minimum. It's also heavily favored by organized labor, a major Democratic constituency. Finally, it doesn't add to the budget deficit. By contrast, Petri's proposal would cut tax revenues about $2 billion. Doing it right would mean raising someone else's taxes or cutting some spending.

There's no taste for such tough choices. Even raising the minimum wage is harder than it seems. The dilemma is basic: the larger the increase, the greater the economic damage; the smaller the increase, the more it's a gesture. In the House, the Democrats haven't felt confident enough of victory to bring the measure to a floor vote. Congessmen from the oil patch and farm belt—where local economies remain weak—worry that excessive increases would hurt too much. The leadership is looking for the middle ground. Last week the Senate Labor Committee approved legislation raising the minimum only to $4.55 by 1991. Even Republicans might accept $4.10 or $4.25.

A lot of intricate legislative maneuvering lies ahead. It should be fascinating. But be assured that it doesn't have much to do with the poor. It's over political symbolism. Raising the minimum wage involves the worst kind of backdoor spending and feel-good politics: people can say there're helping the poor when they're really not. Democrats are trying to paint the Republicans as cold, cruel and heartless, while the Republicans are desperately scrambling to avoid this unpopular stigma. Whoever wins, the poor lose.

[From the Christian Science Monitor, Oct. 4, 1988]

SORTING OUT THE ECONOMICS OF A HIGHER MINIMUM WAGE

(By David R. Francis)

BOSTON.—In an election year, the politics of economics tends to become all-important. That's certainly the case with Congress's battle over the minimum wage.

"The whole thing gets blown out of proportion," says Harvard economist Richard Freeman of the minimum wage. "It has become a symbol for the different sides. It is sort of ridiculous."

The legislative effort of congressional Democrats to boost the minimum wage for the first time in seven years ended last week in a successful Republican filibuster in the Senate.

Democrats will use this news in the campaign to charge that Republicans do not care about the poor. Republicans will counter that a boost in the minimum wage would cut many jobs.

In the presidential race, Vice-President George Bush has defused the issue somewhat by supporting an increase in the minimum wage, but only if the bill provides a "training wage" that would allow newly hired workers to be paid at 80 percent of the wage floor for their first 90 days of employment.

The minimum-wage issue is not dead. It will come up again next year in Congress.

Looking at the economic evidence, Mr. Freeman concludes that despite the "huffle and puffle" of the politicians, a boost in the minimum wage as proposed by the Democrats—from $3.35 an hour ($6,700 a year) to $4.55 an hour via 40-cent-an-hour increases over the next three years—would not do much to reduce poverty. Nor would it reduce employment by much.

About 85 percent of those workers receiving the minimum wage do not come from poor families, he says. They are youths living in middle-class homes or spouses supplementing the wages of the key breadwinner. For that 85 percent, a higher minimum wage may be nice but not necessarily economically crucial for a family.

Examining the 15 percent of low-wage working poor, a minimum-wage increase would lift 144,000 to 200,000 families above the poverty level, according to a study by Ronald Mincy, a research associate at the Urban Institute in Washington.

Some others among the 2.2 million of working poor families would benefit, too. Mr. Mincy figures that the gap between actual income of these families and the top official poverty-level income amounts to $8 billion. A rise in the minimum wage would reduce that gap by between $750 million and $1 billion.

When the minimum wage goes up, some bosses decide it is no longer profitable or affordable to hire some workers. Estimates of job losses vary greatly, depending on assumptions and in some cases the wishes of the political or economic sponsor of the study.

Some of the latest work was done by Alison Wellington, a student of University of Michigan economist Charles Brown. Mr. Brown was director of research on the Minimum Wage Study Commission, which was set up by Congress during the Carter presidency and which made its report at the start of the Reagan tenure. Its recommendation that the minimum wage be indexed to the inflation rate was ignored by the new government. As a result, the $3.35 minimum wage remained unchanged, while average wages rose. The minimum is now only about 30 percent of the average hourly wage in nonagricultural industries.

Ms. Wellington calculates that teen-age employment might be reduced by 0.56 percent from what it otherwise might be for every 10 percent jump in the minimum wage. Of course, if the economic expansion were to continue, the effect could be merely a slowdown in the increase in teen-age employment.

She found no significant effect for young adults (aged 20 to 24), except for blacks and Hispanics in that age bracket.

A Congressional Budget Office researcher, looking at her work and that of others, concluded that the number of jobs lost by the increase in the minimum wage proposed by the Democrats would amount to 175,000 to 350,000. That compares with a labor force of some 123 million.

"The effects on employment are more modest than some critics are saying," says Brown.

A minimum-wage increase would also raise costs and thus inflation. One calculation cited by Joseph Flader, legislative director in the office of Rep. Thomas Petri (R) of Wisconsin, shows inflation rising 0.2 to 0.3 percent extra a year through 1991. This in turn would boost interest rates.

The cost to business in higher wages of the higher minimums would be about $25 billion, Mr. Flader estimates. Indirect effects on higher wages as workers try to maintain a differential with minimum-wage workers could amount to some $22 billion.

Government would also have to pay another $2 billion to $5 billion in direct and indirect costs, he says.

Employees benefit financially from these wage gains, though inflation could trim those gains in real terms.

Considering all these factors, opinion in Washington appears to be trending toward an alternative way to raise the incomes of the working poor—the earned-income tax credit that has been part of the tax code since 1975. Some 4 million poor families with children receive cash payments from the federal government of up to 14 percent of wages, or a maximum of $874. Representative Petri leads a bipartisan effort to raise the maximum amount of this credit to $2,500.

"We have won the intellectual argument," claims Nielson Wright, another Petri aide. His hope is that powerful Democrats will back the Petri proposal once the election is past.

As a political compromise, the Petri plan would boost the minimum wage to $4. But its core is the increase in the tax credit. This has the advantage of focusing money directly on the working poor with children.

Other advantages of the tax credit are that it would not trim employment or boost inflation and interest rates. Flader says he is confident that the tax credit would do more to help working poor families with children than the hike in miminum wage alone. It would provide credits not only to those families whose incomes are at or below the equivalent of the proposed $4.55-an-hour minimum; it would also help some 3 million poor families whose incomes are somewhat above that. And the credits should make working more attractive financially than living on welfare alone for many families.

Who Gets What?

(Comparing the Petri compromise (EITC reform plus a $4 minimum wage) with a $4.55 minimum wage only (K-H) when both are fully phased in 1991)

1. Single Individuals: receive, at minimum wage, $7388 ($8000 minus $612 FICA tax) per year under Petri, versus $8404 ($9100 minus $696 FICA) under K-H, but both are well above the latest single person poverty line of $5778.

2. Single Child, Single Earner Families: receive $8488 ($7388 plus $1100 EITC) per year under Petri versus $9394 ($8404 plus $990 EITC) under K-H, both again above the latest poverty line for two person households, $7397.

Single child, two earner families are even better off and should not be a primary focus of interest in the minimum wage debate.

3. Families With Two or More Children: these are the families most in need of help, the ones all the minimum wage rhetoric focusses on; they should be our primary interest.

At the minimum wage, these families net, after EITC and FICA, $9394 under K-H, equivalent to $4.70 per hour, versus under Petri:

$9038 ($4.52 per hour) for families with 2 children,

$9588 ($4.80 per hour) for families with 3 children, and

$10138 ($5.07 per hour) for families with 4 or more children.

For those making more than the minimum, the higher their wage the better Petri compares, as the value of the extra K-H wage increase to $4.55 diminishes toward zero and the Petri EITC increases continue. Above a wage of $4.23, even 2-child families are better off under Petri.

There are between 0 and 150,000 non-tipped breadwinners with 2 or more children earning the minimum wage or below. About two thirds of them (if there are any) would do almost as well under Petri as under K-H, and the other third would do slightly to substantially better.

There are now about 1.5 million family heads with 2 or more children earning between $3.35 and $4.55. Slightly less than half of these would do, on average, very slightly less well under Petri than under K-H, while the rest would do, on average, very substantially better.

Finally, there are about 3 million such family heads currently making over $4.55 who would receive no help at all under K-H but substantial help under Petri (averaging about 25 cents per hour, with a maximum of 80 cents).

Thus, Petri helps three times as many of these families as K-H, and even to the one third of the families that are helped by both, Petri provides more help on average and targets it better.

NOTE: Petri compares better than above in years before 1991 because the full EITC increase is effective immediately, and it also compares better than above in years after 1991 because the EITC increases are indexed.

SHADES VALLEY'S PEGGY HARRELL CITED AS ROLE MODEL FOR MATH TEACHERS

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. ERDREICH. Mr. Speaker, the National Science Foundation has established the Presidential Awards for Excellence in Science and Mathematics Teaching to recognize and reward outstanding middle, junior high, and high school teachers who serve as models for their colleagues in the areas of science and mathematics teaching.

These national awards provide increased visibility and rewards for demonstrated professionalism, encouraging high quality teachers to enter and remain in the teaching field. The National Science Foundation makes a $5,000 grant to each award recipient's school, to be used under the direction of the awardee to supplement other resources for improving science or mathematics programs. The award is presented to two teachers in each State, one in math and the other in science. I am pleased to tell my colleagues in the House that this year, the mathematics teacher who received the award for the State of Alabama resides and teaches in my district in Jefferson County, AL. Her name is Peggy Harrell, and she teaches mathematics at Shades Valley High School, the high school from which I graduated.

Mrs. Harrell has been a teacher at Shades Valley for 13 years, and serves on a committee to increase interest in math and science in schools in Jefferson County. As noted by many of her students, Mrs. Harrell sets high expectations for her students, then does all within her power to help them reach the goals she has set. She stimulates her students' interest in mathematics by showing them practical applications of math in everyday situations.

Peggy Harrell brings math to life for her students, and her efforts on behalf of her students make her most deserving of this outstanding recognition by the National Science Foundation. I commend Peggy Harrell on recognizing the importance of excellence in education and demanding excellence in her students, and congratulate her on receiving a 1988 Presidential Award for Excellence in Science and Mathematics Teaching by the National Science Foundation. Our State and Nation's future, our ability to compete in the ever-demanding world marketplace, depend upon the critical efforts such as those for which Peggy Harrell has been recognized.

Following is an editorial from the Birmingham Port-Herald commending Peggy Harrell on this outstanding recognition and the enthusiasm and high expectations she brings to her students and the teaching profession:

ENTHUSIASTIC TEACHER

Any academic subject can be boring and seem difficult in the hands of the wrong teacher. But with the right teacher, one who is enthusiastic about the subject, can bring abstract concepts into the real world and has high expectations of students, even the driest of subjects can be a delight to learn.

A case in point is trigonometry and Shades Valley High School teacher Peggy Harrell. Mrs. Harrell is one of two Alabama recipients of this year's Presidential Award for Excellence in Science and Mathematics. The other is Tuscaloosa Central High School science teacher Suzanne Parker.

For reasons that escape us (perhaps, we had the right teachers), trigonometry is one of those subjects that many students dread. But that isn't true of Mrs. Harrell's students. They are excited about trigonometry—to the point of arguing with each other about how to solve a problem.

Mrs. Harrell attributes her success to setting high expectations for students. Her students say it is because she cares about their learning.

Both are right, but underlying both explanations is the enthusiasm that Mrs. Harrell brings to the job. She enjoys both the subject and her students.

It's a combination we can never have too much of in our teachers.

COMMENDATION FOR MATTHEW FREY ON RECEIVING THE EAGLE SCOUT AWARD

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. BORSKI. Mr. Speaker, I rise to commend the outstanding accomplishments of Matthew Frey, a young man from my district in Northeast Philadelphia who will be honored by the Boy Scouts of America for his completion of the Eagle Scout requirements.

Matthew has been a Scout since 1982. At the age of 17, he has received the Historic Trails Award for completing the Benjamin Franklin Trail, and is an Ordeal Member of the Order of the Arrow. In addition to these awards, he has served as the senior patrol leader of Boy Scout Troup No. 74 in Philadelphia and was also recently appointed to the position of junior assistant scoutmaster.

Mr. Speaker, all these accomplishments are tremendous for any young man. However, I especially want to commend Matthew because he has excelled in these areas despite the disabilities of cerebal palsy, mental retardation and deafness. Matthew is an inspiration to all of us and I commend him on this notable occasion.

TRIBUTE TO NATHAN MONUS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to a most distinguished gentleman from my 17th Congressional District of Ohio, Mr. Nathan Monus. Mr. Monus has been selected the Mahoning Valley Economic Development Corporation's "Mahoning Valley Man of the Year" award. A life-long resident of the Mahoning Valley and graduate of the Ryan School, Nathan Monus has been involved in countless community activities and numerous economic ventures of value to the Mahoning Valley.

Nathan Monus attended the Virginia Military Institute and Ohio State University before serving 4 years in the European Theater during World War II. He joined the Tamarkin Co. in 1950 and ultimately attained the position of chief financial officer, a post the held until the company was sold to Giant Eagle in 1981. At that time he became a member of the board and and vice president of the Giant Eagle and Phar-Mor board. These companies currently employ over 3,000 men and women in the Mahoning Valley and the numbers continue to grow.

Mr. Monus has held the office of president of the Austintown Rotary Club, president of the Youngstown Area Jewish Federation, and Rodef Sholom Temple. He is affiliated with and sits on the boards of several local companies as well as having sat on the board of Goodwill Industries, the National American Wholesale Grocery Association and is currently the president of Leadership Youngstown.

Presently, Mr. Monus is actively involved in area economic development, politics, sports, and travel. He also expresses a casual interest the Pride basketball team. He is married to the former Frances Tamarkin and together they have two children, Michael and Susan, a daughter-in-law, Cindy and two grandchildren, Jason and Brett.

Mr. Speaker, I am proud and honored to represent such an active and productive citizen. I wish him all the best in the future.

TRIBUTE TO MRS. MINNIE HAFEMAN

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. DAVIS of Michigan. Mr. Speaker, it gives me great pride to call attention to the tremendous achievements of Mrs. Minnie Hafeman, a dietetic supervisor at the Veterans' Administration Hospital in Iron Mountain, MI. Minnie is retiring on October 21, 1988, after 64 years of dedicated public service. Her tenure is the second longest in Veterans' Administration history.

Minnie, age 78, began her career at the National Soldiers Home in Milwaukee, WI in 1924. She recalls attending to veterans of the Civil War during her early years. In 1949 she moved to Crystal Falls, MI and began her current work with the VA in Iron Mountain. Anyone familiar with Michigan's upper peninsula will immediately recognize the commuting problem she faced. For the last 40 winters Minnie braved snowstorms and treacherous conditions in driving 40 miles each way to and from work. On some days her fellow workers were frequently amazed that she made it to work. Minnie is described by her colleagues as energetic, dedicated and reliable.

Citizens like Minnie inspire us all toward greater achievement. I am sure my colleagues join me in commending Minnie for her many years of devoted public service and wishing her luck in her retirement.

ADMINISTRATION SUPPORT FOR S. 2752

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. SWIFT. Mr. Speaker, there has been some confusion about the administration's stand on H.R. 5203 and its companion bill, S. 2752. For the record, I am submitting the following two letters from the Departments of Agriculture and Interior which clearly show these two Federal Departments' positions on these bills:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, October 4, 1988.

Hon. DANIEL J. EVANS,
Vice-Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR EVANS: This letter is to advise you that the Department of Agriculture does not intend to recommend a veto for either S. 2752, a bill "To declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes," or the companion House bill, H.R. 5203. I offer my apology for any confusion that resulted from the September 30 statement of Administration policy directed toward H.R. 5203.

We appreciate the amendments adopted in this legislation to accommodate the concerns of the Department of Agriculture and the Forest Service.

Sincerely,

GEORGE S. DUNLOP,
Assistant Secretary.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, October 5, 1988.

Attention: Assistant Director for Legislative Reference.

Hon. JAMES C. MILLER III,
Director, Office of Management and Budget, Washington, DC.

DEAR MR. MILLER: This is to inform you that the Department of the Interior will not recommend that the President veto H.R. 5203, a bill "to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes," if it is presented to the President.

We have been informed that the Department of Agriculture has withdrawn its objection to the bill. The bill would transfer about 11,905 acres of the Olympic National Forest (ONF) to the Department of the Interior to be held in trust for the Quinault Indian Reservation. Additionally, 45 percent of the income from 5,460 acres of the ONF would accrue to the Secretary of the Interior for reforestation and land consolidation activities on the Quinault Indian Reservation.

The bill involves lands under the jurisdiction of the Department of Agriculture. Accordingly, if the Department of Agriculture has no objection to its passage, the Department of the Interior would not recommend veto.

Sincerely,

WILLIAM P. RAGSDALE,
Deputy Assistant Secretary.

TRIBUTE TO STEVE FIELDS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. HUBBARD. Mr. Speaker, Steve Fields, a former mayor and an outstanding citizen of Hickman, KY, died on September 28 at Baptist Memorial Hospital in Memphis, TN.

Steve Fields, only 39 years old, died after a 2-year battle with terminal cancer. He was born in Fulton County, KY, on August 17, 1949.

For many years I have admired Steve Fields and his family. Steve was the youngest mayor ever to serve Hickman. He served as mayor pro-tem following the resignation of Mayor Joe Rumfelt in December 1979, and was subsequently elected by the people of Hickman to complete the former mayor's term. He also served as a Hickman city commissioner. Steve was very dedicated and served the people of Hickman with distinction. He also was a business partner with his father in Fields Petroleum, Inc., a longtime successful corporation at the Mississippi River community of Hickman.

My wife Carol and I extend our heartfelt sympathy to his lovely wife, Teresa Williams Fields; his daughter, Stephanie Fields; his parents, Betty and Ardel Fields; his brother, Tony Fields; his sister, Cindy Parker; and his grandmother, Mrs. Ernest Fields.

A TRIBUTE TO INVENT AMERICA

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. LOWERY of California. Mr. Speaker, Henry Ford, Benjamin Franklin, Thomas Edison—each one a person of innovation and invention. These names represent American can-do. The Invent America Program carries on the tradition of America's leadership role. Invention places us at the cutting edge to open doors to new frontiers. The Invent America program is an exceptional opportunity to improve and broaden America's youth education process. Today's inspired student is a key element to America's future. However, there is an increasing concern that many of these young minds are being lost in the shuffle of a textbook education. The classroom experience is important, but it is imperative that we not overlook the value of cultivating the youth's skills and talents. Invent America encourages a combination of analytical, critical, and creative thinking skills.

Invent America was formed in 1986 by J. Morgan Green, a California businessman. America's school children were receiving low statistical I.Q. scores in comparison with our competitors, Japan, Asia, and Europe. A group of educators became involved in the initiative of implementing the program. In a brief period of time the Invent America Program grew to become nationwide, with San Diego becoming one of the leading participants.

Throughout San Diego, the Invent America Program has reached more than 550 area schools. The appointed director of the San Diego City Schools Program is Jo Anne Schaper. The objective of the program is to develop the necessary skills to become more competitive in the business and academic communities.

Invent America is one of two programs sponsored by the U.S. Patten Model Foundation. The primary sponsors are Mastercard and Pepsi. In addition to these proud sponsors, the program is endorsed unanimously by the Cabinet Members and Vice President Bush is the Honorary Chairman.

Invent America is about inventions. The process of invention fosters study and experimentation. It is real life thinking which involves trial and error methods. A dynamic component of the program is it produces results. An inventor gains hands-on experience, it is tangible evidence of his/hers efforts, and it may better the quality of our standard of living.

The Invent America Program consists of each school submitting a winner from each grade level at a local level. In cooperation with local "Invention Conventions" more than one winner can be submitted nationally. In late April, nine State winners are selected—one from each grade level. A regional competition takes place and eventually 45 national winners and their parents attend an all expense paid trip to Washington, DC, for a reception.

Invent America has had to rely on a sponsorship program. In the past, institutions such as the Industrial Environmental Association of San Diego County, Kiwanis Club of San Diego, San Diego Trust and Savings Bank, University Industries, San Diego Patent Law Association, Greenwood Florist Shop, Reuben Fleet Space Theater and Science Center, James S. Copley Foundation, San Diego Gas and Electric, U.S. Patent Model Foundation, Washington DC, San Diego Science Educators Association, Kearny Mesa Rotary Club, Ocean Instruments, Pepsi-Cola Co., and Amway Corp. have contributed funds. Because public schools are limited by a budget, the schools are unable to assume the costs for materials and or paperwork for the inventions. For this reason, it is crucial that this program gain the support of the business and scientific communities.

It is a pleasure to take this opportunity to commend these outstanding institutions for their willingness to participate in the process of educational advancement. Education is crucial to the development of our Nation. As the Invent America process unfolds, we can all look forward to a future which breeds competitiveness, achievement, and involvement among America's youth.

TRIBUTE TO BESS SMITH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise to pay tribute to one of the finer citizens of my 17th Congressional District of Ohio, Bess Smith. Mrs. Smith has been selected by the Smithsonian Institution to participate in a special Christmas holiday celebration entitled "The Ten Trees of Christmas."

Mrs. Smith was informed by the Office of Horticulture of the Smithsonian Institution that her proposal for the "Battenburg Lace" was approved for the 1988 Trees of Christmas exhibition. The exhibition will be presented at the National Museum of American History on the Mall in Washington.

According to the Smithsonian Institution, Mrs. Smith will be decorating an 8-foot tree with between 150 and 200 ornaments. The exhibition is scheduled to open to the public on December 16, 1988. I encourage all of my colleagues to drop by and view what I am sure will be a most beautiful exhibit.

Mr. Speaker, I wish Bess Smith all the best as she becomes yet another representative from Ohio's 17th Congressional District in Washington. I consider it both an honor and a privilege to represent her.

NEW SURVEY FINDS HUNGRY CHILDREN IN WASHINGTON STATE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. LELAND. Mr. Speaker, yesterday the Washington State Governor's Task Force on Hunger and the Food Research and Action Center [FRAC] presented results of a hunger survey of low income families in that State. Hunger was found in approximately one-third of the families surveyed.

The impact of hunger was clear. The children in hungry families were more likely than nonhungry children to have experienced weight loss, fatigue, headaches, inability to concentrate, and irritability over the 6 months prior to the survey.

While the existence of hunger in the United States is not surprising to members of the House Select Committee on Hunger who have learned of its manifestations through hearings and reports, the careful conduct of the survey is innovative and worthy of commendation.

The survey is unique in its use of a tested instrument under the guidance of a professional technical advisory committee headed by Dr. Victor Sidel, distinguished university professor of social medicine at Montefiore Medical Center and the Albert Einstein College of Medicine in the Bronx.

Dr. Sidel pointed out that the survey instrument was conservative. It asked respondents about the condition of hunger in eight separate questions and concluded that hunger occurred only when five such questions were answered positively. Dr. Sidel said a scientifically valid survey tool was crucial because of past attacks on the credibility of locally conducted hunger surveys. He also noted the failure of this administration to conduct such studies although they have been called for by the President's Task Force on Food Assistance and similar panels.

Called the Community Childhood Hunger Identification Project [CCHIP], the survey instrument was tested in New Haven, CT, in 1986. The identification there of hungry children, health problems and lack of food resources brought a substantial local response. The school breakfast program was expanded to all city elementary schools with supplementary local funding. Contributions to food pantries increased dramatically. Private agencies instituted aggressive outreach to low income families.

Over the course of the next 15 months surveys will be conducted in Hennepin County, MN; Polk County, FL; Harford, CT; rural counties in central California; Pontiac, MI; Pickens County, AL and selected neighborhoods in New York City. FRAC provides technical guidance to the local groups who conduct them.

According to Robert Fersh, executive director of FRAC, it is possible to estimate that 2 to 5 million children in this country "now have a serious hunger problem." FRAC and local groups using the CCHIP survey will go on to further validate this estimate. Their work places a heavy responsibility upon both Congress and the executive branch to eliminate the causes of hunger in the United States.

CONGRESSMAN DALE E. KILDEE HONORS THE KODALY ENSEMBLE HUNGARIAN DANCE THEATER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation the first North American performance of the Kodaly Ensemble Hungarian Dance Theater, which will take place on Sunday, October 23, at the Whiting Auditorium in Flint, MI. I share the excitement and pride of the Flint Hungarian-American community on this historic cultural occasion.

Since it was formed earlier this year, this award-winning dance group from Budapest has continually captured the original spirit of Hungarian folk art in it presentations. The performers, both dancers and musicians, are among the best Eastern Europe has to offer. The talented members of the ensemble have mastered the intricate interpretations of Hungarian folk dance by spending countless hours researching, training, and perfecting their auspicious craft. By combining traditional folk ideals and fresh stage presentations, these young artists depict the essence of the Hungarian folk community by exhibiting a sense of enthusiasm and warmth in every movement.

The Kodaly Ensemble views dance as the mirror of society. The height of success for a folk dance company is the ability to capture a deeper, more faithful reflection of a community. This group does an extraordinary job of capturing the sparkle, color, and diversity of Hungarian village society.

It is with great pleasure that I honor these distinguished performers. The Kodaly Ensemble has demonstrated by its world travel the importance of cultural exchanges as a means of bringing the peoples of the world closer together. People from around the globe should recognize and emulate the dedication of these artists to making our world a better place in which to live.

Mr. Speaker, I believe that all Members of Congress and all Americans should join with me in welcoming these very talented young men and women to North America. Their 1988 tour marks an important cultural event of the season. For the first time, North American audiences have the opportunity to appreciate this remarkable and commendable Eastern European dance theater company.

VA EMPLOYEE HONORED FOR OUTSTANDING WORK WITH VIETNAM VETERANS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. MONTGOMERY. Mr. Speaker, Raymond M. Scurfield, D.S.W., has been named winner of the Veterans' Administration's Olin E. Teague Award for his outstanding work in the psychological rehabilitation of veterans with combat-related post-traumatic stress disorder [PTSD].

The Teague Award is awarded to a VA employee, or employees working as a team, whose achievements have been of special benefit to veterans with service-connected problems. The award honors the late U.S. Representative from Texas who, as chairman of the House Committee on Veterans' Affairs for 18 years, was an advocate of disabled veterans.

Currently director of the post-traumatic stress treatment program at the American Lake VA Medical Center in Tacoma, WA, Dr. Scurfield has been involved in the care of psychologically war-injured veterans for 17 years. He is nationally recognized for his clinical and research expertise, and leadership in the study and treatment of PTSD.

Dr. Scurfield served as a captain in the U.S. Army Medical Service Corps in Vietnam where he was a psychiatric social worker and executive officer at the 8th Field Hospital in Nha Trang.

He began his VA career as a social worker at the Brentwood VA Medical Center (Los Angeles) and coorganized the establishment of the first substance abuse program at that hospital where he again observed the psychological problems of returning Vietnam veterans. He became chief of the Vietnam veterans' resocialization unit, and developed and supervised the veterans-in-prison program within the Los Angeles County jail.

In 1982, Dr. Scurfield was named the first national associate director for clinical service of the VA's Readjustment Counseling Service, which oversees the agency's network of Vietnam Veterans Outreach Centers. In this position, Dr. Scurfield was responsible for the formulation, planning and implementation of psychological rehabilitation services throughout the Vet Center program. He was instrumental in the development of the proposal for the national Vietnam veterans readjustment study, the largest of its kind to examine the problems of Vietnam veterans.

In 1985, Dr. Scurfield became the first director of the post-traumatic stress teatment program at the American Lake VA Medical Center, a state-of-the-art rehabilitative treatment program. The program has been highly praised by veterans, family members, veterans service organizations, and Federal, State and private sector officials. A principal and coprincipal investigator on several research projects, he currently is conducting an ongoing followup study of graduates of the American Lake program.

Dr. Scurfield holds a clinical faculty appointment at the University of Washington School of Social Work, and also has been a lecturer at the University of Hawaii, Hilo, and the University of Southern California.

A graduate of Dickinson College, Carlisle, PA, Dr. Scurfield earned an M.S.W. and a D.S.W. from the University of Southern California, Los Angeles.

Mr. Speaker, I'm sure my colleagues will want to join me in congratulating Dr. Scurfield for this latest honor and in commending him for his dedication to helping his fellow veterans.

GUAM'S FIRST OLYMPIC TEAM

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. BLAZ. Mr. Speaker, watching the 1-hour TV special on Guam's historic Olympic participation prompts me to recall and record this momentous occasion for our young athletes and the enhanced pride of our territory.

It isn't often that international news is focused on our peaceful and relatively small island community. Nevertheless, we have our moments of attention. In recent years Miss Guam was also Miss World. Pope John Paul paid us a call, and President Ronald Reagan honored us with a visit.

In a recent address, I characterized being an Olympian as similar in significance to being an astronaut or a member of a Super Bowl championship team.

For the rest of their lives our Olympians will draw abundantly from this experience. For indeed, they have been where few others have the opportunity to compete.

As we call to mind the exploits of our athletes, I would like to include in any tribute, the technicians who quietly and laboriously filmed and collected data in order to record the Olympic events for posterity:

Ed Buendicho, photographer; Rudy Cabana, editor; Robert Balagtas, assistant editor; and Dean Obenauer, assistant producer.

Finally, for the record, I would like to provide a complete listing of the organizers and athletes of the Guam National Olympic Committee:

ATHLETES

John Halloran, coach; Rick Taitano, Fred Schumann, Jim Walker, Lou Klitzkie, Julie Ogborn, and Mariana Ysrael.

BOXING

Terry Stotts, coach; and Ted Dela Pena.

JUDO

Ed Alseika, coach; Rick Blas, Derrick Anderson, and Mariano Aquino.

SWIMMING

Frank Whitman, coach; Jonathan Sakovich, Patrick Sagisi, Veronica Cummings, and Barbara Gayle.

YACHTING

Linda Yeomans, boatman; Jon Iriarte, Victor Torres, Dan Millar, shipwright; Gary Griffin, and Leonard Pruski, extra official.

WEIGHTLIFTING

Milan Cukovic and Pete Fejeran.

WRESTLING

Phillip Prendergast, coach; and Ruben Tucker.

MEDICAL TEAM

Dr. Pat Sagisi, Dr. Lex Rathbun, Dr. Tom Rozycki, medical; Tony Blas, and Joe Taitano.

Governor Joseph F. Ada—head of the Guam delegation.

OFFICIALS

Michael Reidy, president; Geoffrey Burke, secretary general; Hank Parker, chief de mission; Ray Topasna, chief de mission assistant; Jill Nesset, administrative director; James Ji, attache; Monica Okada, press attache; Judge B. J. Cruz, weightlifting; Ginger Porter, yachting; Gordon Chu, bowling; and Steve Ogborn, athletics.

MEDIA

Tom Blaz, Edward Buendicho, Edwin Dela Pena, Tony Diaz, Dave Ecret, Nestor Licanto, Carlos Nivera, Joe Tighe, Jon Anderson, and Robert Collias.

Finally, Mr. Speaker, I want to pay homage to one of the most respected residents of Guam, Mr. Charlie Nivera, editor of the Guam Tribune. Mr. Nivera was to have been on this historic trip covering his fourth Olympiad but passed away on the eve of the games.

FAMILY AND MEDICAL LEAVE ACT, H.R. 925

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1988

Mr. HAYES of Illinois. Mr. Speaker, I rise in support of the Parental and Medical Leave Act of 1987, H.R. 925. I am a cosponsor of this bill and supporter of the bipartisan compromise.

This compromise bill would provide working parents, both men and women with up to 15 weeks of unpaid leave upon the birth or adoption of a child. Employers of more than 50 workers would be required to continue employees' health insurance coverage while they are on parental and medical leave, and give them back the same or equivalent job when they return to work. In addition, the legislation would also provide 10 weeks of leave for workers who need to care for a sick child or parent and up to 15 weeks for their own personal illness.

Some employers are fighting to prevent the Parental and Medical Leave Act from being approved by the Congress. I believe workers have a right to unpaid family leave.

This legislation would cover workers who have completed 1 year of employment and who work an average of 20 or more hours per week for an employer with 50 or more employees—dropping to 35 or more employees 3 years after enactment.

In addition, employees in the top 10 percent of salary range can be denied leave if the employer can demonstrate a business necessity, such as loss of a major contract, that would occur if leave is granted.

Parental and medical leave has been mandated in virtually every industrial country except the United States. Economic reality dictates the dependence of American families on two incomes. While there is considerable flexibility within the workplace to extend basic job protections, those workers at the bottom of the ladder are not afforded even minimal options in times of family crisis.

In the next 10 years, two of every three entrants into the work force will be women. The crucial role they will play must be addressed by effective national standards. These are some of the reasons why I am a cosponsor and supporter of the Parental and Medical Leave Act of 1987, H.R. 925. This legislation is well drafted and has bipartisan support.

Mr. Chairman, recently the other body was unable to report this bill and finished its consideration of the Parental and Medical Leave Act. The bill was removed from further floor discussion. It is unfortunate the other body could not report this bill favorably.

An investment in children today will save taxpayers and employers many dollars tomorrow. I understand that the Family and Medical Leave Act would cost businesses about $147 million annually. A recent report by the Institute for Women's Policy Research, suggest that no parental leave legislation would cost about $715 million annually.

While this legislation has been before the 100th Congress, I have received a lot of mail from constituents in support of the family and Medical Leave Act, H.R. 925. In addition, there is substantial support for this legislation from concerned groups and individuals across America. I have attached copies of several letters I have received on this important legislation, because I want to share them with my colleagues in the House, for their consideration and review. I am confident that this bipartisan legislation, with such a broad base of community support will continue to earn favorable consideration, when it is reintroduced in the next Congress.

I do hope that the Parental and Medical Leave Act is promptly reintroduced in the 101st Congress. I urge that all Members of the House join me in supporting this measure in the next Congress.

AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,
Washington, DC, September 14, 1988.

DEAR REPRESENTATIVE: The American Federation of State, County and Municipal Employees (AFSCME) strongly supports the bipartisan compromise on H.R. 925, the Family and Medical Leave Act, which will be considerd soon on the House floor.

H.R. 925 establishes an essential standard for unpaid family and medical leave for American workers while protecting the interest of small employers.

This legislation is long overdue and represents a modest step toward squaring our public policy with the realities of work and family life in late twentieth century America. It provides an opportunity to move beyond rhetoric to concrete action in support of a pro-family public policy.

We urge you to support H.R. 925, without weakening amendments. It is of vital concern to American workers and families.

Sincerely,

GERALD W. MCENTEE,
International President.
WILLIAM LUCY,
International Secretary-Treasurer.

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, September 22, 1988.
Hon. CHARLES HAYES,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE HAYES: The American Association of Retired Persons (AARP) strongly urges you to vote for and support the Family and Medical Leave Act of 1988 (H.R. 925).

Family care and medical leave are important issues for AARP's members and for all Americans. Job protection for temporary leave to care for ill family members is especially important for midlife and older women, who not only work in large numbers—over half of AARP's 10 million working members are women—but also are, overwhelmingly, the caregivers for all family members. Frequent job loss due to family caregiving has made it difficult for women to earn adequate retirement income. Ultimately, this contributes to the high poverty rate among older women.

The elder care provision of this bill is critical for midlife and older working women. Eighty percent of the 6.6 million elderly who require long term care live with their families and rely upon them for much of that care. Unfortunately, the difficulties of reconciling elder care and employment means that one-third of these caregivers live at or below the poverty level.

The temporary medical leave provision is particularly important. Job loss is devastating to a family's income regardless of whether it results from an employee's illness of an employee's leave to care for an ill family member. It may also be a reflection of age discrimination: although older workers are not sick any more frequently than their younger counterparts, an older worker's illness often serves as a pretext for age discrimination and termination.

The family and Medical Leave Act is a significant step towards recognizing the importance of caregivers and protecting the jobs of people who want and need to work. This version of H.R. 925 currently reflects a compromise designed to respond to the concerns of the business community. AARP urges you to oppose all weakening amendments to the current legislation and to support this bill.

Sincerely,

HORACE B. DEETS.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, September 8, 1988.

DEAR REPRESENTATIVE: On behalf of the AFL-CIO, I urge your support for H.R. 925, the Family and Medical Leave Act of 1988.

H.R. 925 is a compromise bill reported by the Committee on Education & Labor and Post Office & Civil Service. It is legislation which will permit employees to take modest amounts of unpaid but job-protected leave to attend to pressing family needs. H.R. 925 is certainly not a radical proposal; in public opinion polls, support for family and medical leave runs two-to-one; in states which have family leave policies, no negative effects on business enterprises have been documented; in a rapidly changing work force, with both mothers and fathers at work, a national family leave policy makes social and economic sense.

H.R. 925 has been given close scrutiny by several committees of the Congress and has bi-partisan support. We again urge your support without crippling amendments.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

UNITED STEELWORKERS OF AMERICA,
AFL-CIO, CLC,
Washington, DC, September 13, 1988.
U.S. House of Representatives,
Washington, DC.

Re: Family and Medical Leave Bill (HR 925).

DEAR REPRESENTATIVE: The realities of the modern day working family forces a recognition that both parents are working and that family medical needs necessitates, at times, the presence of a parent in the family environment during working hours. We, therefore, strongly urge your support for not only maternity leave, but also medical leave.

The political campaigns have been emphasizing family-related issues. A parent, in order to handle basic medical crisis within the family, should not be penalized and discharged from work if he/she must take minimal unpaid leave of absence from work. Such medical needs include, but are not limited to, maternity time off.

This bill represents a humane response for a public policy measure to protect the working family. Public polls indicate a widespread acceptance that Congress should establish such a policy. We urge your support.

Sincerely,

JOHN J. SHEEHAN,
Legislative Director.

FOOD & ALLIED SERVICE TRADES,
Washington, DC, September 9, 1988.
Hon. CHARLES HAYES,
Longworth House Office Building, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HAYES: After almost two years of discussion, many Democrats and Republicans of the House of Representatives have reached a compromise regarding the Family and Medical Leave Act (H.R. 925). On behalf of the more than 3.5 million workers that FAST affiliates represent, I urge you to support this important piece of legislation without weakening amendments when it is considered on the House floor September 14, 1988.

Today's workforce is dramatically different than it was a mere twenty years ago. Statistics show that in a substantial majority of families both adults work. For example, over half of all women with children under one and two-thirds of women with children under three are in the workforce. This nation is committed to the family and there must be a manner in which the needs of the family can be met without disrupting the productivity of the workplace.

The modified bill strikes the correct balance between the needs of employees to take leave without the fear of loosing their jobs. It also meets the needs of employers to continue their operations in a productive manner. The compromise would allow an employee to take up to ten weeks of unpaid family leave over a two year period and up to fifteen weeks of medical leave over one year. One key to the new bill is that it addresses the needs of the small business community by allowing truly small businesses to be exempt from the bill's provisions.

The United States is the only industrialized country without a parental leave policy. In fact many countries offer leave that approaches half a year; sometimes this leave is paid or partially paid. I believe that this bill achieves a reasonable balance between the concerns of business and the needs of the family. I urge you to vote for H.R. 925 in it current form.

Sincerely,

ROBERT F. HARBRANT,
President.

AMERICAN POSTAL WORKERS UNION,
AFL–CIO,
September 13, 1988.

CHARLES A. HAYES, M.C.,
Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE HAYES: On behalf of the 335,000 members of the American Postal Workers Union, AFL–CIO, I urge you to support H.R 925, the Family and Medical Leave Act, which has been scheduled for consideration by the House during the week of September 12, 1988.

The United States lags behind many industrialized nations in the world in it's lack of a national policy relating to leave for the birth or adoption of children, the care of seriously ill children or for the care of elderly parents. Some federal agencies have guidelines on parental leave, but with few exceptions, the leave is granted at the discretion of the employee's supervisor.

The United States Postal Service has a present policy which provides for short periods of maternity leave for women upon the birth of a child. However, Postal Service policy on the use of paternity leave is sporadic, at best, and it remains totally unsympathetic to employees' requests for time to care for ill children or parents.

The Family and Medical Leave Act, H.R. 925, addresses these problems by guaranteeing postal, federal and private sector workers approved periods of parental leave for the birth, adoption, or serious health condition of a child (or care of an elderly parent), and temporary medical leave for serious health conditions. Enactment of H.R. 925 will be an important step toward providing the American worker with benefits which the other industrialized nations of the world provide.

We, therefore, urge your support for H.R. 925, as reported, when it is considered by the full House.

Sincerely yours,

MOE BILLER,
President.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
Washington, DC, September 15, 1988,

Hon. CHARLES A. HAYES,
U.S. House of Representatives, Longworth House Office Building, Washington, DC

DEAR REPRESENTATIVE HAYES: The Family and Medical Leave Act is scheduled for a House vote in September. On behalf of the 700,000 Federal employees represented by the American Federation of Government Employees, I urge you to support this important legislation.

The Family and Medical Leave Act is a critical first step in establishing a national work and family policy. The bill responds to dramatic changes taking place in the workforce and in our family structures. It provides genuine support for today's working parents who face the dual responsibilities of work and family. The bill will improve the financial security of America's families while increasing the productivity and efficiency of America's businesses. Assuring jobs for employees when a family or medical crisis occurs reduces employee turnover and improves morale and loyalty.

The House Committee on Labor and Human Resources passed a bipartisan compromise version of the Family and Medical Leave Act, H.R. 925, in November by a vote of 21 to 11. The bill has 151 cosponsors and pledges of support from many more. I urge your support for H.R. 925 as it comes to the House floor, and your opposition to any weakening amendments.

Sincerely,

JOHN N. STURDIVANT,
National President.

SERVICE EMPLOYEES INTERNATIONAL UNION, AFL–CIO, CLC,
Washington, DC, September 22, 1988.

DEAR REPRESENTATIVE: Service Employees International Union (SEIU) represents over 850,000 workers in service sector occupations. Our workers are the janitors that clean your childrens' classrooms, the nursing home workers that care for your parents and the nurses that help care for your ailing families and friends. These workers are typical of the gorwing service sector workforce in this country where turnover is the norm and job security and benefits are minimal.

While this sector has rapidly expanded, the recognition of service workers' needs has not kept pace. SEIU represents the low and middle-income workers who need the minimum family and medical leave protections provided in H.R. 925. SEIU found that in our unionized low-wage private sector workforce, only 26 percent of our contracts provided real job protections. Furthermore, only 13 percent on average of all our private sector workers had any provision for the caregiving of a seriously ill family member. (See attached survey results.)

In the area of emergency medical leave, SEIU has closely looked at the need for worker protections. It is disturbing that the workers who lack this protection are but one accident or illness away from job loss. H.R. 925 provides a short period of unpaid leave to help workers recover and become productive workers again. The medical leave provision would especially help our nation's older workers, which the Bureau of Labor Statistics indicates will soon be our most rapidly growing sector of the labor force.

SEIU urges you to support the Family and Medical Leave Act when it reaches the House floor. A national guarantee of job protected family and medical leave is essential for low and middle-income working Americans.

Sincerely,

JOHN J. SWEENEY,
International President.

THE JEWISH COMMUNITY RELATIONS COUNCIL OF THE JEWISH UNITED FUND OF METROPOLITAN CHICAGO,
Chicago, IL, September 16, 1988.

Hon. CHARLES A. HAYES,
Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN HAYES: The Jewish Community Relations Council of the Jewish United Fund of Metropolitan Chicago has passed a resolution supporting the passage of the Family and Medical Leave Act, H.R. 925/S. 249 now pending in Congress. We believe it is in the best interest of the American family to allow workers to take leave to care for themselves or their families in the event of the birth, adoption or serious illness of a family member and legislation guaranteeing employees this right is urgently needed.

The Family and Medical Leave Act will ensure a measure of economic security for today's families. I urge you to pass this bill without delay.

Sincerely,

PEGGY NORTON,
Director.

UNITED MINE WORKERS OF AMERICA,
Washington, DC, September 7, 1988.

DEAR REPRESENTATIVE: On behalf of the United Mine Workers of America, I urge you to support H.R. 925, "The Family and Medical Leave Act of 1988" when it is considered by the House of Representatives. We also ask you to oppose all amendments which attempt to undermine or weaken the compromise that is embodied in H.R. 925.

Strong families and hard work have always been the way of life for America's coal miners. But when family emergencies occur, miners often face insensitive management policies that penalize them and threaten their jobs, simply for needing time to care for their loved ones.

Delegates to the UMWA's 49th Constitutional Convention overwhelmingly agreed to support a federal law to make family leave a basic right for all working Americans.

H.R. 925 represents a compromise that working men and women deserve.

Sincerely,

RICHARD L. TRUMKA.

[Western Union Mailgram]

Hon. CHARLES HAYES,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE CHARLES HAYES: In the coming weeks the House will be voting on a bill which would set modest national standards for unpaid family and medical leave. On behalf of the 1.7 million members of the International Brotherhood of Teamsters, I wish to express our support for H.R. 925, the Family and Medical Leave Act.

The United States is the only industrialized western nation that does not offer this minimum protection to its workers. According to 1987 Bureau of Labor Statistic Studies, 64.7% of all women with children and 51.1% of mothers with infants under the age of one were in the labor force. The average working, married woman with children contributes 41.3% to the total family earnings. The two-earner family is not a passing trend but an economic reality whose growth is expected to continue.

The Family and Medical Leave Act was carefully crafted to balance the needs of both business and the modern american workforce. It would set a much needed national employment standard for temporary medical and family leave. We urge your support and favorable consideration of H.R. 925.

Sincerely,

DAVID A. SWEENEY,
Director, Department of Legislation, International Brotherhood of Teamsters.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

September 6, 1988.

DEAR REPRESENTATIVE: We understand that the proposed Family and Medical Leave Act (H.R. 925) will be taken up on the House floor in the near future. The UAW strongly supports this legislation; we urge you to vote for the bill and to oppose any weakening amendments.

This important pro-family legislation is a bipartisan compromise reported by the Education and Labor and Post Office and Civil Service Committees earlier this year. The bill would guarantee workers the right to take an unpaid leave of absence upon the birth or adoption of a child, upon the serious illness of a child or parent or in the event the worker becomes disabled. Workers would have the right to return to the same or an equivalent job at the end of the leave. Also, employers would be required to continue any health insurance coverage for the duration of the leave.

To address some of the concerns of small businesses, the compromise bill reduces the amount of family leave to 10 weeks every two years and the length of disability leave to 15 weeks per year. In addition, the compromise covers only workers who have been employed for a year and who work at least 20 hours per week. The bill also exempts companies that employ 50 or fewer workers (after three years, the threshold would drop to thirty five).

H.R. 925 represents a modest response to the dramatic changes in the nature of the workforce. Today, in many American families both parents work outside the home. Approximately sixty-seven percent of women with children under 3 years old are in the workforce. And one out of every four families is headed by a single parent.

Despite these striking changes in the workforce, the United States remains the only industrialized nation without a coherent national employment policy that seeks to accommodate the needs of working parents in areas such as child care and medical emergencies. Shockingly, there is no law which prevents employers from discharging workers who are compelled to take time off from work because of parental responsibilities or because of serious disabilities. In our judgment, workers should not be forced to make an intolerable choice between financial security and parental responsibilities or medical needs. We believe all workers should be entitled to a minimum amount of family and medical leave as a basic social right.

The UAW therefore urges you to support the proposed Family and Medical Leave Act (H.R. 925) when it is considered on the House floor and to oppose any weakening amendments. Your consideration of our views on this important legislation will be appreciated. Thank you.

Sincerely,

DICK WARDEN,
Legislative Director.

COMMUNICATIONS WORKERS OF AMERICA (AFL-CIO, CLC),
Washington, DC, September 8, 1988.

File: 1.14.

DEAR REPRESENTATIVE: The Communications Workers of America strongly urges you to adopt H.R. 925, The Family and Medical Leave Act, without damaging amendments.

The workplace of 1988 requires new standards to meet the needs of a new workforce. More women than ever before are working. Their families need their incomes: without them, family income would have declined since 1973, according to a congressional study. Furthermore, a large number of American families are solely headed by mothers, who must work for their families to survive.

This changing workforce is not just a trend: it's a fact of life. And as a result, many American families face incredible pressures in trying to balance the needs of their children with the demands of work.

The Family and Medical Leave Act is an eminently modest proposal which would ease this tension. Major changes have been made in the bill to accommodate business concerns. Now, H.R. 925 will provide relief for many American workers, with minimal impact on business.

In fact, CWA has had negotiated parental leave benefits with many of our major employers since 1978. This program has functioned smoothly, benefitting both our members and our employers.

The Family and Medical Leave Act is supported by a significant majority of American voters. It is time for Congress to recognize the realities of work and family life and to enact these modest proposals. We urge you to adopt H.R. 925, without amendment.

Sincerely,

BARBARA J. EASTERLING,
Executive Vice President.

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,
Washington, DC, September 1, 1988.
U.S. House of Representatives,
Washington, DC. 20515

DEAR REPRESENTATIVE: I am writing on behalf of the International Association of Fire Fighters and its 170,000 members to express our strong support for H.R. 925, the Family and Medical Leave Act of 1987. I understand that the full House of Representatives may vote on H.R. 925 during the week of September 12, 1988.

Today, in most American families, both parents must work. Our members, who are professional fire fighters employed primarily by municipal governments, earn an average salary of $18,500 per year. Most often, this salary is inadequate to support an entire family and a second spouse must work outside of the home. The lack of leave benefits in many places needed to cope with newborn or ill children creates extreme hardship for many families.

Our organization believes that it is time for Congress to establish minimum leave standards to alleviate the hardship and stress faced by many families.

On behalf of our members, I strongly urge you to support H.R. 925.

Sincerely,

HAROLD A. SCHAITBERGER,
Director, Department of Governmental Affairs and Public Relations.

CONGRESSIONAL TRIBUTE TO LOUIS JOSEPH BERBERET

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to acknowledge and pay tribute to a distinguished citizen in my district, Louis Joseph Berberet, sports legend and businessman. Louis will be inducted into the St. Anthony's High School Hall of Fame. This award is given to citizens who graduated from St. Anthony's High School of Long Beach, to recognize their outstanding contribution to the community.

The youngest of five children to attend St. Anthony's High School for all 12 years, Louis became well known as an athlete. He set incomparable records in high school. During the 1946–47 school year, Louis was named Long Beach Athlete of the Year.

While attending the University of Santa Clara on an athletic scholarship, Louis broke many of his own records and far exceeded his own expectations he had set in his childhood. Not only did he play football, but basketball, and baseball as well.

In 1949, Louis signed with the New York Yankees, becoming the first Long Beach baseball player to sign with a major league team. Though the Korean war interrupted his career, he returned to baseball, playing for several major league teams starting with the Washington Senators, then the Boston Red Sox, and finally finishing his professional career with the Detroit Tigers.

Louis has taken that same drive and dedication that made him excel in sports, and applied it to becoming a successful businessman and community leader. Louis and his wife, Lila Faye reside in Las Vagas, NV, where he works as general manager of Nevada Liquor & Wine Co.

My wife, Lee, joins me in extending our congratulations to Louis Joseph Berberet. On behalf of the entire community, we wish Larry, his wife, his children: Tom, Deborah, Mary, and Lori, all the best in the years to come.

FEW OPTIONS WITHOUT HEALTH INSURANCE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. STARK. Mr. Speaker, on October 11, Pete Aleshire, health columnist for the Oakland Tribune, provided a very moving, specific example of why we need mandated health insurance in America.

The debate on this issue is often carried on in very theoretical tones, with macroeconomic studies about its impact on various sectors of the economy. But Mr. Aleshire's column helps bring the debate back to Earth—and to the daily, individual tragedies which we as a civilized Nation ought to address.

The column follows:

[From the Oakland (CA) Tribune]

FEW OPTIONS WITHOUT HEALTH INSURANCE

(By Peter Aleshire)

The day after the debate, Michael Dukakis should have been flooded by 37 million volunteer campaign workers—the 15 percent of the population with no medical insurance.

He wasn't, of course. And I think I know why.

It's the same reasons Karen won't let me use her last name.

Karen called me the other day. She works for a major defense contractor but has no medical insurance. Which means that her five-year-old son Nicholas also has no coverage.

She's ashamed.

She's ashamed that she can't afford medical insurance. Ashamed that if something happens to her, or her son, she'll be a charity case. Ashamed that the American dream has eluded her somehow.

Dukakis helped make Massachusetts the only state in the country that requires all companies to provide health insurance for their employees. That sort of system would provide insurance for about 20 million of the 37 million who lack it nationwide.

I think George Bush gets away with opposing that idea because most voters don't really know who all these uninsured people really are.

Which is why I think it's worth telling you about Karen, and the tangle her life has become.

She was raised in Chicago, one of two daughters in a upper-middle class family. She had a nice life, there at the beginning. She graduated from Western Illinois University with a degree in psychology in 1977.

She taught kindergarten for a while, then got a job as a data processor.

Then she made her big mistake. She married Jim. They had a kid, but it never was a very good marriage. He couldn't hold a job. Drank a lot. Hit her sometimes.

He disappeared after the divorce. She thinks he's in Texas.

She moved out here, to be near her sister, hoping to make a new start.

She worked as a cocktail waitress for a while. Then she got a job in an insurance office.

But before her benefits kicked in, her son got terribly sick. He was almost dead when the doctors finally figured out he was allergic to milk.

Mercifully, he lived.

But she lost everything else. She was at the hospital all the time, so the insurance company fired her. She didn't qualify for benefits, so she simply gave the hospital every dime she had and applied for welfare, hating herself, but completely out of options.

Welfare paid most of the hospital bills.

As soon as her son got well, she went back to work.

About three months ago, she got a job with a temporary service agency that has a contact with McDonnell Douglas Corp., one of the nation's biggest defense contractors. The big corporations love to do that. They get workers they can get rid of at a moment's notice, without paying for benefits.

She's hoping she can work her way into a permanent position.

Except, every so often, Nicholas gets sick.

This morning, for instance, he woke up with an earache.

The last time that happened, several private doctors refused to treat her because the family has no medical insurance.

So she called the county health clinic. They said she could come down and wait for the first available doctor. But she would be low on the priority list, so it might mean waiting all day long.

But she doesn't get paid if she doesn't go to work. Besides she's trying so hard to convince McDonnell Douglas to make her a regular employee.

When we hung up, she wasn't sure what she was going to do.

She ought to go work for the Dukakis campaign.

But I don't think she will.

She's ashamed and feels helpless.

And that, in essence, is why the United States and South Africa remain the only industrialized countries in the world that do not guarantee basic medical care to every member of society.

REPLACING THE GLASS-STEAGALL ACT OF 1934

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. BARNARD. Mr. Speaker, as the 100th Congress comes to a close, I want to amplify the remarks I made earlier today and bring to my colleagues' attention a matter of unfinished business, of the utmost importance, that should be addressed as a top priority when the 101st Congress convenes in January 1989. Despite a concerted effort by the Senate, by the House Banking Committee, and others, to develop a modern regulatory framework under which bank holding companies may exercise new powers, such as underwriting corporate debt and sponsoring mutual funds, the Congress this year has failed to enact a replacement for the outdated Glass-Steagall Act of 1934. Glass-Steagall reform legislation, S. 1886, was overwhelmingly approved by the Senate, 94 to 2, and very similar legislation was reported as H.R. 5094 by the House Banking Committee. The Energy and Commerce Committee and the Judiciary Committee reported proposed amendments to H.R. 5094. Yet, despite the significant agreement between the Senate bill and the House Banking Committee bill on the regulatory structure and new authority for bank holding companies, this badly needed legislation has not been, and will not be, enacted this year.

I strongly support the commitment made by our committee's chairman in an October 14 letter to Federal Reserve Chairman Alan Greenspan, to move Glass-Steagall reform legislation through the Congress beginning on the first day of the 101st Congress and look forward to working with him to achieve this goal. As the chairman has indicated, there is a strong consensus among members of the Banking Committee that reform of financial institutions regulation should be accomplished legislatively. At the same time, speaking for myself and many other members of the Banking Committee, in view of the difficulty Congress has experienced in updating our banking regulatory structure, while legislation is pending before the Congress, the Federal Reserve Board and other regulators are obligated to apply existing law conscientiously when acting on applications of financial institutions to engage in different or new activities. Further, the significant agreement between the bills approved by the House Banking Committee and the full Senate clearly indicates very specifically the main lines of reform legislation likely to be enacted by Congress. Both bills recognize that the regulatory framework for financial institutions is inadequate for the realities of today's marketplace and must be adapted to provide consumers convenient access to a complete array of financial services and to ensure the competitiveness of America's financial institutions. Decisions by Federal regulators applying existing law consistent with the policy reflected in these bills is unlikely to create significant inconsistencies with any reform legislation that Congress enacts early in the 101st Congress—as Chairman ST GERMAIN has correctly indicated our committee will strive to accomplish.

S. 2148—UMATILLA BASIN PROJECT ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MILLER of California. Mr. Speaker, title II of S. 2148 authorizes the construction of the Umatilla Basin project, OR. This title is an amended version of S. 1613, which passed the Senate last month.

This project will help resolve an intensifying conflict over water needs in the Umatilla Basin. At issue are adequate water supplies for irrigation and for anadromous fisheries.

The purpose of this project is to improve streamflow and fish passage conditions in the Umatilla River to help restore salmon and steelhead runs while continuing to meet irrigation water supply commitments. The project does not address other water issues in the basin. For example, the project will not abrogate or limit the reserved water or fishing rights of the Confederated Tribes of the Umatilla Indian Reservation.

The key feature of the project is a water exchange with the Columbia River on the north boundary of the Umatilla Basin. Irrigators would forgo some Umatilla water diversions and have that water replaced from the Columbia River. The exchange would improve Umatilla River flows during periods critical to fish. To accomplish the exchange, a pumping complex to deliver Columbia River water to the Umatilla Basin would be constructed. Other, smaller pumping and water distribution and control facilities would also be required.

The estimated cost of the project is $46 million. Under the terms of S. 1613 as passed by the Senate on September 8, 1988, all project costs would be nonreimbursable. Title II of S. 2148 has been substantially modified to reflect a more balanced approach to sharing the costs of this project with project beneficiaries.

The Committee on Interior and Insular Affairs did not have an opportunity to consider title II of S. 2148 as a separate bill. Accordingly, there is no House report on the legislation and the project. In order to correct this deficiency, I am providing this section-by-section explanation of title II of S. 2148.

Section 201.—This title may be cited as the "Umatilla Basin Project Act".

Section 202.—This section authorizes the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin project, Oregon. The purposes of the project are to mitigate losses to anadromous fishery resources and continue water service to the Hermiston, West Extension, Westland, and Stanfield Irrigation Districts. This section also describes the principal components of the project.

The acquisition of lands and water rights, and the implementation of water conservation measures are included in the listing of principal works of the Umatilla Basin project. It is intended that these activities be an integral part of the project.

The Secretary should promptly establish a continuing process to identify, evaluate, and implement cost-effective water conservation measures and water rights transfers which could supplement or substitute for other elements of the project. The economies and opportunities for these predominantly non-structural measures are most likely to be realized if they are sought out in the early stages of the project.

Section 203.—This section provides that project facilities shall be integrated and coordinated into existing features of the Umatilla Project, in accordance with Federal reclamation laws and State water rights. This section also requires the Secretary to secure appropriate permits before constructing the project, and provides for the execution of agreements with State and local authorities, and the Confederated Tribes of the Umatilla Indian Reservation, for the monitoring and operation of the project to ensure that the authorized purposes are met.

Section 204.—This section provides that power to operate the project shall be provided by the Bonneville Power Administration, consistent with provisions of the Columbia River Basin Fish and Wildlife Program. The cost of power shall be credited to fishery restoration goals of the Columbia River Basin Fish and Wildlife Program.

Section 205.—This section states that non-Federal interests shall be responsible for the cost of operating and maintaining the project, except for power costs described in Section 204, and those costs associated with mitigating losses to anadromous fisheries resources. It is expected that the Secretary will enter into agreements with the non-Federal interests to ensure the payment of these costs.

Section 206.—This section authorizes, as an interim measure, the appropriation of funds, through the end of fiscal year 1998, to operate existing project facilities to provide flow augmentation in the Umatilla River for anadromous fish. The intent of this section is to provide the Secretary with authority to continue the use of existing irrigation pumps to provide limited flow enhancement for fisheries purposes until the project is operational.

The House insisted on the 1998 "sunset" provision for the authority contained in this section. Our concern was that the Bureau of Reclamation would use an "open ended" authorization as a means of forcing the taxpayers to pay for costs which legitimately should be carried by the irrigation districts.

It is our intent that the authority provided in this section be very narrowly interpreted. As a interim measure, the Secretary is authorized to pay operation and maintenance costs of existing facilities if they are used for providing flow augmentation of anadromous fish. This authority should not be used as a means of transferring the O&M costs of the irrigation districts to the Federal taxpayer.

Section 207.—This section states that the project shall be considered part of a comprehensive program to restore the Umatilla River basin anadromous fishery resource, and sets forth requirements for consolidating cost sharing with other regional fisheries and power projects in the area. This section also states that public or private entities may share in the costs of, or construct parts of the project, and that those contributions shall be credited to the total amount of any cost sharing required for the project.

Section 208.—This section provides that project pumping capacity in excess of that needed for fishery benefits may be made available for use on presently irrigated lands eligible for service within the irrigation districts that participate in the project. The costs of providing this service shall be based on the operation and maintenance costs related to such conjunctive use and an appropriate share of capital costs for such use as specified by an agreement between the Secretary of the Interior and the irrigation districts.

This section provides that the boundaries of the irrigation districts may be modified to include lands which received irrigation water from the districts prior to October 1, 1988. However, such irrigation use shall be considered as secondary to the purpose of providing water for fishery resource purposes.

This section also makes pumping power available for this secondary purpose from the Bonneville Power Administration, at a rate based on similar uses in the region. The cost of power for such pumping, and the cost of transmitting power from the Federal Columbia River Power Sytem to the project pumping facilities, shall be borne by irrigation districts receiving the benefit of such water.

It is expected that the agreement referred to in this section will be in the form of a contract between the districts and the Secretary, and that the contract will provide for 100 percent repayment by local interests of all capital and operation and maintenance expenses properly chargeable to irrigation. it is also expected that of the capital costs assigned to irrigation, the districts will pay according to ability to pay as determined by normal Reclamation procedures and policy.

Section 209.—This section authorizes the appropriation of $1,000,000, for the purpose of acquiring land, water rights, or interests therein for benefit of fishery resources, consistent with State law and the purpose of this title.

Earlier versions of this section authorized "such sums as required" for this program. A $1 million cap has now been placed on the program. By imposing this cap, it was not our intent to diminish the importance of this program. The program authorized by this section could provide a low-cost solution to restoring the Umatilla fishery. We expect the Bureau will give this program high priority.

Section 210.—This section authorizes, through the tenth fiscal year after which construction funds are first made available, appropriations of $42,400,000 for construction of the Umatilla Basin Project and for the study authorized by section 213, less any amounts previously appropriated for the project. Unobligated project costs may be indexed to adjust for inflation.

This section makes nonreimbursable those costs allocated to the mitigation of anadromous fish species and the study authorized in section 213. Appropriations are also authorized for the Federal share of operation and maintenance of the project, and provides that related fish passage and protective facilities constructed or to be constructed by the Bonneville Power Administration that are features of the Columbia River Fish and Wildlife Program shall be consolidated into calculations of project costs and benefits.

A principle purpose of this section is to set a specific time limit on the authorization of appropriations for the project. If the project has not completed by the expiration date described in this section, further consideration by Congress of additional authority to construct the project will be required. This will ensure continued Congressional oversight of the project.

Section 211.—This section sets forth restrictions for the protection of State water law, compacts, water allocations, ground water resources, and water rights of Indian tribes.

Section 212.—This section authorizes the Secretary to make up to $2,000,000 available to the Stanfield and to the Westland irrigation districts under the terms of the Rehabilitation and Betterment Act. These funds would be used for encouraging water conservation and making improvements to the districts' water supply systems.

It is noted that this is an authorization, not a requirement. As a supplement to or substitute for these funds, the Secretary should also consider using existing authorities to extend financial assistance to the districts under the terms of the Small Reclamation Project Act, as amended.

Section 213.—This section directs the Secretary to perform a one-year study of current operations of the existing Umatilla Project to identify possibilities for improving flows for fishery restoration. The Secretary is to report the findings of this study to Congress.

The Bureau of Reclamation has previously reported that operation of the existing project has been the major cause of stream flow depletions that severely limit or preclude fish migration, spawning, and rearing. The Secretary should operate the existing Umatilla Project to support the fishery restoration objectives of this title, to the maximum extent consistent with existing contracts and statutes. The Secretary should further recommend changes in law where necessary or useful to further the objectives of this title.

THE FUTURE AND OUR ENERGY POLICY IN THE UNITED STATES

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. ANDREWS. Mr. Speaker, I represent Houston where energy is important. In fact, for many years the energy industry fueled a period of expansion and prosperity that made Houston the symbol of growth for much of America.

In recent years the slump in the energy industry has hit cities around the Southwest like Houston especially hard. In fact, it has brought a recession to the Southwest while much of America has enjoyed a long period of economic growth.

This has been the century of American energy. Our abundant resources enabled us to win wars, prosper, and provide freedom of opportunity for millions of our people. In many respects, the energy industry—and particularly the independent segment—highlights what is best and most exciting in the American freedom enterprise system; individuals willing to accept great risk in return for substantial reward; people who are willing to invest in the best research and then commit resources to bring oil and gas to the market. (The energy business is not for the timid.)

Some observers still talk about free markets in energy, but the price of oil and gas is determined by OPEC. Saudi Arabia is driving down the price by increasing production—flooding the market. One does not need to be an economist to see what happens when the Saudis force the prices lower. New wells are forced to shut in; new drilling halts; our reliance on imports increases dramatically.

The statistics are dramatic. Domestic production is down a million barrels a day; tens of thousands of stripper wells have shut in; the rig count is under a thousand; imported oil is increasing from 27 to 42 percent, and is slated to go higher—to over 50 percent within a few years. Hundreds of thousands of jobs have been lost in the Southwest. State revenues are down and associated industries are hurting.

Part of the problem, of course, is that we do not control our energy destiny since we do not control the price of energy. We must do a better job.

I think America needs a comprehensive national energy policy, a policy that will provide incentives for domestic energy production and half our dependency on risky imported energy.

As a member of the Committee on Ways and Means, I have been working to provide incentives—and remove roadblocks—for our domestic energy producers. Let me mention two of the roadblocks that I have sought to remove.

The most recent and dramatic example was the repeal of the windfall profits tax just a few months ago as part of the omnibus trade bill. Believe me, that was a long, tough fight to remove the roadblock put up by the windfall profits tax. Along with the Senate Finance Committee and key Members of the Congress from the Southwest, I worked to get that misnamed, misguided excise tax on domestic production off the books. Now, I know that there are people who say there is not much immediate benefit from the windfall profits tax repeal when the price is low—but I also know that this industry has been paying $100 million a year for the administrative costs to comply with the tax, even when it is not being collected. I think that is ridiculous to ask an industry that is already hurting to fill out forms for a tax that creates no revenue.

A second roadblock occurred in the 1987 reconciliation bill. At the urging of the administration, the bill changed the collection point for diesel tax. This change has caused severe cash-flow problems for oil and gas drilling contractors, waterway operators, farmers, and other off-highway users.

The 1987 bill required these off-highway users to pay the excise tax at the time of purchase and then file for a refund from the Internal Revenue Service. No interest is paid on this loan to the Federal Government. At the same time, State and local governments, aviation companies, railroads and industrial users are exempt from this requirement. This was not fair. Many times the tax will far exceed the profit earned. For oil drillers, this tax could cost each company between $100,000 and $2 million.

I introduced legislation along with my colleagues, Jake Pickle, Ron Chandler and Brian Donnelly to allow all off-highway users an exemption from this requirement. This bill received bipartisan support and was adopted by the Ways and Means Committee as part of the technical corrections package.

Additionally, deductions for offshore meal expenses and the extension of the nonconventional fuels credit await action by the House-Senate conference members.

Let me now address the future. We lack a national strategy—one that we must develop if we are to compete in the next decade. There are three points that should be included in our national strategy: First, I believe the time has come for an oil import fee. The oil import fee legislation that I introduced is identical to Senator Bentsen's bill. Both will impose a variable fee on imported oil and petroleum products—with no exceptions. There has been little stability to oil prices since 1985. A variable import fee will offer a floor price for oil. Both bills will tax the difference between the present price of oil and $24 per barrel. In the case of imported refined products and petroleum feedstocks, an additional $2.50 differential will be imposed to make up for the environmental costs domestic refiners must pay. All revenues gained from the fee will be used to reduce the Federal budget deficit.

A variable import fee of this nature was recently estimated by industry experts to double the active drilling rig count in 6 months and immediately begin arresting the decline in U.S. oil production. These results would be of enormous benefit to both oil producers and oil consumers.

Second, we need legislation that gives a tax credit for exploratory drilling and a moratorium on income for new field production, marginal and "stripper" wells. The Energy Production Incentive Act, H.R. 5522, will accomplish these goals. The bill will remove percentage depletion and intangible drilling costs as preference items for alternative minimum tax purposes. The bill also includes a key incentive for independent producers: repeal of the "transfer rule" that prevents independents from taking advantage of the depletion allowance. We must use tax incentives to find more natural resources—they will make a difference.

Last, I believe that tax incentives offer a proper vehicle for the third aspect of my energy policy—let's make natural gas our Nation's primary source. Our oil resources are limited, and coal and nuclear energy present environmental problems that we may not be able to mitigate.

But natural gas is efficient and environmentally attractive. Use of domestic natural gas has no negative effect on the Nation's trade balance, and supplies are plentiful. According to the Department of Energy, the United States has a natural gas resource base in the lower 48 States adequate for more than 60 years at present rate of use.

Natural gas should be used in the commercial, industrial, and transportation sectors. This is a weapon against oil imports which should be used. If we were to convert one-half of our 16 million fleet vehicles to operate on compressed natural gas, we could reduce oil imports by 500,000 barrels a day and increase annual domestic gas consumption by 1 trillion cubic feet.

To promote the use of natural gas in the transportation sector, I have introduced the "Alternative Fuels Incentive Act" which will create tax incentives for the use of alternative fuels such as compressed natural gas. These incentives converge with the emerging national consensus that we need to increase the use of alternative fuel vehicles, especially in urban areas where air pollution threatens the quality of life. The problems of the greenhouse effect are ones that we cannot ignore. In Houston, as in many other major cities across the Nation, there is an ozone problem, and 50 to 55 percent of this pollution comes from automobile exhaust. The conversion of transportation fleets to alternative fuels must proceed deliberately. Initially, private and public owners of fleets of vehicles could elect to convert their vehicles to alternative fuel use; tax incentives would make that option easier for such fleet owners. Second, vehicle manufacturers would retrofit vehicles at the factory, thus creating a market for new vehicles converted to alternative fuel technology. The final stage would see the creation of dedicated alternative fuel assembly lines.

In summary, I have introduced this legislation as a starting point. The debate regarding our national energy policy should be expanded into the arena of tax incentives for alternative fuel use and to further contribute to the debate over tax incentives for energy exploration and development. This legislation should be used as a point of departure to craft a comprehensive and progressive energy policy that will address the crucial concerns of energy security, the environment, and economic growth and prosperity.

We are at a critical juncture in the development of a sound and stable energy policy. After much neglect, inconsistency, and lack of direction, this Nation must unite in promoting an aggressive and innovative program that will ensure a safe and secure future for our children and grandchildren. It is truly a question of survival. This is a national problem and not one just for the oil patch. Decisions that we make in the next Congress will affect our Nation's energy future for decades to come. I look forward to that debate.

TED RUNNER STADIUM DEDICATION

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. LEWIS of California. Mr. Speaker, I am honored to stand before you today to recognize the truly remarkable accomplishments and contributions of Mr. Ted Runner, who has recently retired after 35 years of dedication to the University of Redlands and its athletic circuit. As a result of Ted's commitment to scholarship and athletics, the University of Redlands is saluting him appropriately on October 22, by officially dedicating their magnificent new stadium in his name, the "Ted Runner Stadium."

Ted's relationship with the University of Redlands began while he was student there, but his history with the university really flourished when he became head track coach in 1953. His success as a leading sportsman later brought him several other positions. In 1959, Ted was appointed head football coach for the university, but it seemed that track and football weren't the only sports Ted had the knack for as in 1960 he took the golf team to the Southern California Intercollegiate Athletic Conference [SCIAC] championships in 1960, 1983, and 1988. His involvement with univeristy athletics did not, however, restrict him to the playing field. His experience expanded into the administration building. Mr. Runner was dean of the schools of education and physical education. His leadership guidance, and inspiration greatly benefited the growth of the athletic facilities and programs at the University of Redlands.

Although Ted truly "became of age" as an athlete while he finished his education at the University of Redlands, his involvement in athletics began while he was student at Chaffey High School where he was a top mile runner. He later attended Chaffey Junior College where he was a 2-year decathlon winner as well as an outstanding hurdler and relay runner. It was there that Ted earned his first collegiate letter in football. He later earned a second letter at the University of LaVerne. This early athletic success paved the way for him to greater achievements at the University of Redlands. While completing his bachelor of arts degree, he was the National Small College total offense leader, a member of the "Little All-American" second team, of the Pineapple Bowl team, and the championship team at the Southern California Intercollegiate Athletic Conference.

Mr. Runner's hands-on participation did not go without reward. He was the first recipent of the Mary Proctor Award in 1969: a recipent of the Distinguished Service Award and was elected to the Intercollegiate Athletic Hall of Fame as both athlete and coach. From 1960 to 1973, Ted's involvement with the National Association of Intercollegiate Athletics was extensive. He was the area I track and Field representative, track and field chairman, district III Coach of the Year, elected to executive commmitee, inducted into the Hall of Fame as track coach and was president for 1 year.

In conjunction with his work at the University of Redlands, Ted Runner belongs to a number of organizations; namely, the Southern California Intercollegiate Athletic Conference, the California Association of Physical Education, Health and Recreation, the American Association of Health, Physical Education and Recreation, the American Football Coaches Association, the National Track Coaches Association, the Kiwanis Club, Elks Club, Salvation Army Board of Redlands, and Boys Club Board.

It is easy to give a detailed list of Ted Runner's achievements, participation and awards, as there is such a broad source of information, but expressions of admiration and gratitude from those who benefited from the guidance of Ted Runner at the University of Redlands, and on the field of athletics, summarize best what Ted Runners' contributions have meant to them.

> The standards or excellence and commitment that Ted Runner has set for himself as a person, and as a professional, have provided me with the model that I, as a teacher, constantly seek to attain. He is a sensitive human being who constantly avails himself to others who are in need of assistance. This with his dedication to the university, serves as a constant reminder of values that I deem important to a fulfilled life. In short, he is a class human being and everyone who has been in contact with him is better off for their association with him.
>
> Mr. Runner is known and respected throughout the United States by his peers. His work with the Bulldog Bench has involved many alumni with the university that might otherwise not have been reached. His leadership has helped to make the university highly respected in the realm of athletics. Because of his genuine interest in people, and his perspective for athletics as an adjunct to the total curriculum, I, for one, am proud to recommend the university to prospective students/athletes.

It is evident that Ted Runner possesses an incredible amount of strength, endurance, and integrity. Yet, I think it is important to recognize that no matter how much strength one has, they cannot succeed solely on their own merits. The support of Ted Runner's family, his late wife, Ernestine, his son Tim, his daughter Marilyn and their families, supported their father at every turn, and the result is what I'm here paying tribute to today. Ted Runner is an exceptional example to us all, and it is with great respect that I honor him today.

THE CRASH OF 1987

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. PORTER. Mr. Speaker, 1 year ago today our country was faced with horrifying memories of 1929. The 508-point meltdown in the Dow caused investors to wring their hands and demand that Congress take action and save the market. The Brady Commission, the SEC, the CFTC, the GAO, the NYSE, the CME, and the President's Working Group conducted studies and issued comprehensive reports to further our knowledge of market economics.

On July 7, 1988, the New York Stock Exchange and the Chicago Mercantile Exchange agreed upon a series of trading delays that would begin whenever the Dow Jones industrial average falls 250 points or more in 1 day. This agreement, designed to strengthen and better coordinate the Nation's financial markets through a system of circuit breakers and shock absorbers, represents a positive step for an industry that is striving to regulate and police itself.

Now, 1 year later, the real forces that caused the crash are still being debated. Because of this degree of uncertainty, I feel we were wise in allowing the New York Stock Exchange and the Chicago Mercantile Exchange more time to test their circuit breaker plan before considering legislation that could possibly limit our Nation's competitiveness as well as lead to further market instability.

GENOCIDE CONVENTION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. YATRON. Mr. Speaker, it is with a great deal of satisfaction to note that legislative action on the Genocide Convention was nearly completed last Friday, when the Senate passed implementing legislation on the treaty. The House had passed implementing legislation on April 25 of this year.

The bill will be sent to the President, and I urge him to sign it as soon as possible. When he does, the United States will join nearly 100 other nations that have already ratified the treaty. Hopefully, other important human rights instruments such as the U.N. Convention Against Torture, will also be ratified by the United States in the near future.

The House Foreign Affairs Subcommittee on Human Rights and International Organizations, which I chair, marked up a resolution regarding the adoption of the treaty, which was passed by the House of Representatives during the 99th Congress.

It has been 40 long years since President Harry S. Truman signed the "Convention on the Prevention and Punishment of the Crime of Genocide" which was sent to the Senate for its advise and consent.

On too many occasions the world has witnessed genocide, the greatest example of man's inhumanity to man. Let us hope that by ratifying this convention, we can draw attention to past examples of this heinous crime and never allow it to happen again.

The Genocide Convention, which U.S. representatives to the United Nations had a significant role in drafting, establishes a procedure to try any person(s) charged with committing such an act.

I would like to praise our colleague in the other body, Senator PROXMIRE, for his tireless efforts during the last 19 years to get the Genocide Convention ratified. In the minds of many, his name is synonymous with endeavors to ratify the convention.

Mr. Speaker, in yesterday's New York Times A.M. Rosenthal has an excellent column about Raphael Lemkin, the man who coined the word "genocide." U.S. ratification of this treaty would be a belated tribute to this dedicated individual who lost 49 members of his family during the Nazi Holocaust, and then found refuge in the United States. Mr. Lemkin passed away in 1959, but before he did, he worked to establish a convention against genocide, and made its adoption his crusade. I commend the column to the attention of my colleagues.

The column follows:

[From the New York Times, Oct. 18, 1988]

A MAN CALLED LEMKIN

(By A.M. Rosenthal)

The story in the paper reported that after 40 years of consideration the United States Senate had voted to make it a Federal offense to commit genocide. That is the crime of acting with intent to destroy a national ethnic, racial or religious group.

The story did not mention a man called Lemkin.

Raphael Lemkin pokes his head into a newspaper office in the headquarters of the United Nations in the village of Lake Success on Long Island.

"Here is that pest, that Lemkin," he says, "I have a genocide story for you."

Everybody groans; Oh, Lemkin again? He makes a funny face, folds his hands in begging gestures. The reporters gather around for a few minutes. He gets his little story about the genocide convention, usually tucked away in the paper on a Sunday.

Raphael Lemkin was a Polish professor of law, a distinguished academician who spoke nine languages. He was a Jew. During the Holocaust the Germans murdered 49 members of his family; see how few words it takes to tell the whole story.

He escaped to Sweden, reached the United States, found good positions at Duke and Yale. He left them and gave himself over to his life's work.

His work was to convince the nations of the world that they must make it a crime to plan or carry out another Holocaust of any people. He coined "genocide" from the Greek word for race and the Latin for killing. He wrote a convention, a treaty for the nations to sign.

Then he walked the corridors of the U.N. He stopped journalists, took junior delegates by the arm and hung on until they listened, at least a moment. To see an ambassador, he would plan and plot for weeks and sit for days in reception rooms.

He had no money, no office, no assistants. He had no U.N. status or papers, but the guards always let him pass. He carried a black briefcase stuffed with documents and his daily sandwich.

He knew that when he opened the door people would say: What, Lemkin, you here again? Sometimes it was said affectionately, sometimes with distaste. Then he would pretend he did not care. But there were many days when he sat slumped in the cafeteria over a cup of coffee, barely able to lift it for the weariness in him and the rebuff.

But if he had to wheedle and plead he did if he met an arrogant delegate who had influence, he made himself small and fawned. Then he would turn away and make the small smacking noises of a man trying to get a bad taste out of his mouth.

He would bluff a little sometimes about pulling political levers, but he had none. All he had was himself, his briefcase and the conviction burning in him. We would say to him: Lemkin, what good will it do to write mass murder down as a crime; will a piece of paper stop a new Hitler or Stalin?

Then he put aside cajolery and his face stiffened.

"Only man has law. Law must be built, do you understand me? You must build the law!"

He walked the halls every day from the spring of 1946 until Dec. 8, 1948, when the General Assembly, in Paris, adopted a resolution approving his convention. That day reporters went looking for him to rejoice in his triumph. But we could not find him until, hours later, we thought to look into the darkened Assembly hall. He sat there weeping as if his heart would break. He asked please to be left in solitude.

Then this Lemkin came back to the corridors for years, pleading with delegation after delegation to follow through on the U.N. resolution by getting their countries to sign the treaty. There was a time when he was considered for the Nobel Peace Prize; Winston Churchill backed him.

But he died alone on Aug. 28, 1959, without medals or prizes, in a hotel in New York. There were seven people at the graveside when Raphael Lemkin was buried.

In his lifetime, and for long after, the country that gave him succor never signed the treaty, although almost 100 others did. For almost 40 years lawyers fought it on technical grounds, Senate racists fought it out of fear that blacks might use it. Some senators worried that making mass murder a Federal crime would diminish state rights.

The Senate gave its consent to the treaty in 1986. But it took two more years to push through the legislation needed to make genocide a crime in the Federal code.

Jacob Javits fought for it all his senatorial years. And at every Senate session for 19 years, Senator William Proxmire rose in outrage to plead for the convention—3,000 speeches, each different. Raphael Lemkin and the Senator from Wisconsin never met. But they would have understood each other at once.

A SALUTE TO THE FLAG AND UNCLE SAM

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. KANJORSKI. Mr. Speaker, during the heat of our current Presidential campaign, many Americans have focused their attention on patriotism and the flag. Dan Koze, a writer whose "Personal Peeks" column is enjoyed regularly by readers of the Wilkes-Barre Times Leader, has written a column commemorating Old Glory that I think will be of interest to all my colleagues. Dan's open letter to young Jennifer Sabatura of Shavertown, PA, captures the meaning of our flag beautifully. I recommend that all of the Members of the House take a few moments to read it.

The article follows:

[From the Times Leader (Wilkes-Barre), Sept. 14, 1988]

A SALUTE TO THE FLAG AND UNCLE SAM

(By Dan Koze)

Yes, Jennifer, there is an Uncle Sam.

Although you, Jennifer Sabatura of Shavertown, never asked, I want to say that you perhaps witnessed Uncle Sam in his finest hour when you attended the rededication of the war memorial at the Wilkes-Barre Township American Legion Post 518 recently.

I understand that Congressman Paul Kanjorski, our Representative in Washington, D.C., commended you for being the only youth at these special ceremonies.

As an 11-year-old, and a junior member of the American Legion Auxiliary, you got vivid accounts about those who gave the supreme sacrifice—their lives—and from those who have served, and continue to do so, in various capacities throughout the community as veterans of these wars.

The dedication, or rededication, of a war memorial for those who served and died in World War I, II, the Korean conflict, and the Vietnam War is indeed Uncle Sam in action. In fact, we should go back to all the wars since the Declaration of Independence was signed.

Yes, Jennifer, there sure as heck is an Uncle Sam.

I see him each day I see our flag flying, and I for one thank God that my flag is like an umbrella of FREEDOM over my head and that of my family and millions of others.

Jennifer, at this rededication ceremony I'm sure you saw the Stars and Stripes fly majestically and maybe, like others, got goose bumps. It is a wonderful feeling to know that we can uphold the high principles of freedom it represents.

Therefore, you and I must never apologize for our remarks when we see the American flag being treated in a disrespectful manner by anyone—regardless of their status, past, present or future.

Uncle Sam would not apologize, because if he were a living creature, he'd demand that the smallest flag be given the utmost respect—24 hours a day, 365 days a year, in good and bad weather.

Yes, Jennifer, Uncle Sam is in every fiber that makes that American flag—whether that flag is the size of a football field or a tiny one held by a baby watching a parade on the Fourth of July.

And, as Uncle Sam places each flag on the graves of our dead comrades in the thousands of cemeteries throughout the world, may it never be degraded, torn, or soiled by the ignorance of mankind.

Every star and stripe in that American flag is a representation of the long, fruitful history of our nation, whose sons and daughters died and fought for not only our freedom but that of others throughout the world.

Congressman Kanjorski perhaps conveyed great words of wisdom to you after the ceremony that you may or may not remember—but you, I'm sure, will cherish those precious moments.

Yes, Jennifer, remember his words if you can—remember our nation's history, cherish our land, and never forget those who died for the cause of freedom in all wars and conflicts.

Yes, Jennifer, there is an Uncle Sam. Be cautious, however, of those who use the mask of patriotism in their attempt to destroy the freedoms given by our forefathers.

I never met Uncle Sam as you did; however, I did serve during three periods of great turmoil which tested every man's patriotism.

Yes, Jennifer the TIP OF THE HAT goes to you as a young patriot. You indeed witnessed Uncle Sam in his finest hour.

God bless Uncle Sam and our representatives in government who perhaps can see that our Uncle Sam is here to stay.

Thought of the Day—"* * * One nation under God, indivisible, with liberty and justice for all."

THE PRESIDENT NEEDS THE LINE-ITEM VETO

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MAZZOLI. Mr. Speaker, I do not agree with every single position that the head of our Democratic ticket, Governor Dukakis, has taken on issues before the Nation. There is one, however, with which I do agree wholeheartedly: the President's need for line-item veto authority to help balance the Nation's budget.

Line-item veto power is possessed by 43 of the Nation's Governors, most of whom are Democrats. It continues to perplex me that my party has a very strong and almost antagonistic stand against the use of the line-item veto. The line-item veto is a simple and understandable mechanism that does not either usurp or blur the constitutional powers of each branch as other budget-balancing efforts—such as the original Gramm-Rudman-Hollings Act—have.

With the line-item veto in place, each line—or item—of an appropriations bill would reach the President as a separate bill to be signed into law or vetoed separately. Any item vetoed would be returned to Congress which could overide the veto by a two-thirds vote thus forcing the money to be spent despite the President's objections.

Therefore, under the line-item veto the Congress would still have the final say on Federal spending.

I commend to the attention of my colleagues the following article which appeared on the front page of the October 13 Washington Times describing Governor Dukakis' support for the line-item veto.

I hope my colleagues—as well as the members of the National Economic Commission, which at this moment are deliberating their report which will be issued in December recommending steps to be taken to balance the budget—will give serious consideration to the line-item veto proposal.

I plan to introduce legislation next Congress and encourage my colleagues to support it.

DUKAKIS SEES LINE-ITEM VETO AS A TOOL FOR PRUNING DEFICIT—QUESTIONS OF WHICH PROGRAMS TO CUT, HOW TO LOWER INTEREST RATES STILL LINGER

(By Frank J. Murray)

LOS ANGELES.—Gov. Michael Dukakis' promise to cut the federal budget deficit depends in large part on lower interest rates and enactment of a line-item veto, his chief tactician John Sasso said yesterday.

"I am convinced that, as president, Dukakis would forge a strategy with the Congress to bring down that debt consistently every year that he is president," Mr. Sasso told The Washington Times in an interview.

"He's committed to that."

Both President Reagan and Vice President George Bush, the Republican nominee, have argued strongly for a line-item veto, which would allow the president to veto specific items in spending bills.

Such a veto is strongly opposed in the Congress, because many senators and representatives fear it would dilute their ability to put "pork barrel" projects in unrelated legislation.

Asked how a president proposing new spending programs could reverse the trend of growing deficits without raising federal taxes, he said:

"There are four steps: He would make tough choices on spending programs, collect current revenue that's out there, some $100 billion or so a year, increase economic growth, bring down interest rates."

"Particularly in budgetary matters, you've got to have an executive who leads," Mr. Sasso said without specifying where cuts might be attempted.

The federal deficit is estimated to be about $146 billion for 1989. The national debt is about $2.5 trillion.

Mr. Dukakis, who has boasted that he balanced 10 state budgets as governor of Massachusetts, is required by state law to do so. Mr. Dukakis also has the line-item veto, a power denied the president.

Under federal law, the U.S. budget goes to the president's desk as an all or nothing proposition.

"Maybe as president he can get the line-item veto," Mr. Sasso said.

Although Mr. Sasso was more specific yesterday, than Mr. Dukakis has been, he left several key questions unanswered, including where the axe might fall and how interest rates might be cut and by how much.

"The interest on the debt is the size of the debt every year, just the interest," Mr. Sasso said. The federal government will spend about $163 billion on interest payments to service the national debt in 1989.

In the past, Mr. Dukakis said he would cut spending on the Strategic Defense Initiative $1 billion a year from its current $4 billion level, but he has also said he favors increases in conventional weapons that may offset any savings from cuts in the Star Wars initiative.

Tax increases would be a "last resort" in a Dukakis administration, said Mr. Sasso, who focused on increased collection of missed taxes.

"This is not from an amnesty on evaders, which can be an element but only one, but there's $100 billion a year or more out there in the 'overground economy' that's not getting collected, by the Treasury's own figures," he said.

The only example he cited was the practice of taking business deductions on such luxury items as yachts.

Mr. Dukakis has indicated that $100 billion in taxes could not be collected immediately and perhaps never. The highest figure he has used is $30 billion after a couple of years.

"It's not fair to the average working person who pays the taxes to have wealthy folks not paying, because they don't have any choice," Mr. Sasso said.

Asked about Mr. Bush's suggestion that IRS agents would be intruding into major aspects of private life, Mr. Sasso responded, "What is he saying? You shouldn't obey the law? What's he saying? People shouldn't pay their fair share?

In several proposals, including development of more trained workers for high-tech manufacturing, Mr. Dukakis has talked of stimulating business and job development through "partnership programs. He has given no estimates of growth or revenue those programs might produce.

Meanwhile, the chairman of the taxwriting House Ways and Means Committee said yesterday that both presidential candidates have offered unrealistic budget deficit proposals.

"The deficit reduction plans I have heard so far on the campaign trail remind me of those gimmick diets," said Rep. Dan Rostenkowski, Illinois Democrat.

"You don't have to exercise, you can eat anything you want. You just go to sleep and wake up and you are thin," Mr. Rostenkowski told a Capitol Hill luncheon.

"Well, whoever wakes up in the White House on Jan. 21 of next year is still going to have a big fat deficit to contend with," he said. "And now is not the time for candidates to be taking blood oaths about the things they won't do to attack the problem," he said.

Both candidates have pledged not to touch Social Security. Mr. Bush has said unequivocally that he is opposed to a tax increase and he has said he will seek a flexible freeze on federal spending as a means of shrinking the deficit.

Mr. Rostenkowski said he is concerned that both men have "locked themselves into a position of ignoring the deficit," with this talk.

The next president will have only a few hundred days to enact controversial deficit reduction legislation and ruling anything off the table now will make it all the more difficult for him to change direction within that brief time period, he said.

Mr. Rostenkowski predicted that proposals for a value added tax or a federal sales tax will be considered in Congress next year because such measures raise "big bucks" for the government.

IN HONOR OF HERB AND GERI BIEBER

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. LEVINE of California. Mr. Speaker, it is with great pleasure that I rise today to recognize the selection of Herb and Geri Bieber as this year's recipients of the Red Yarmulka Humanitarian Award, to be held on Sunday, October 30, at Sinai Temple in Los Angeles, CA.

This award is given annually to an individual or a couple who have given unselfishly of themselves to this organization, to their religious community, and to the community at large.

Herb and Geri Bieber have devoted their lives to helping those organizations which help those in need. They have worked diligently on behalf of the "Tikva" program at Camp Ramah, designed to integrate children with emotional handicaps into communal life.

Born in Inglewood, CA, March 25, 1928, Herb spent his early years on the family chicken farm with two older sisters and a younger brother. The farm failed in the Great Depression and Herb's father embarked on a new career based on the invention of fluorescent light. By the time Herb was seven, he and his brother Larry were assembling fixtures on the kitchen table. At 11, he began installing them after school. Bieber Lighting Corp. is today among the most established and well-known lighting companies in the country.

Geri was born in Wilkes-Barre, PA, on July 30, 1932 and lived in New Haven, CT, until she was 9. Her parents and sister Gloria were on the train, moving to California when war was declared on December 7, 1941. They settled in Venice where her father ran the Los Angeles Examiner office. Brother Jack was born when she was 12. Her lifetime friendship with Judy Miller also began at this age. During her high school years, Geri became active in B'nai B'rith girls. She also participated in activities at Venice High School and organized an innovative "discussion day" for girls league. Geri was one of the original March of Dimes debutantes in 1950, chosen for community involvement as well as scholastic achievement.

Herb and Geri met at a social and were married on June 24, 1951. Their children began arriving soon after, one a year until there were four, Ricc, Bob, Janet, and Nina. Then there were daughters-in-law Sherri and Lauri, and son-in-law Rabbi Ed Feinstein. Soon they were the proud grandparents of Rachel, Marni, Yonah, Benjamin, and Nessa. This family claims the only conservative female Rabbi and Cantor who are sisters. Nina was the second conservative woman ordained at the Jewish Theological Seminary and Janet was trained by Cantor Alan Michaelson in Los Angeles.

Throughout their 37 years of marriage, Geri and Herb have been strongly involved with the Jewish community. Herb served on the boards of Temple Tifereth Jacob, Southwest Temple Beth Torah, and Sinai Temple, where he was youth commission chairman for several years. Geri has been active with the sisterhoods and university women of the University of Judaism, where she serves on the board, having held many offices, including chairing the prestigious author/artist luncheon in 1982. For the past 5 years, she has been a docent at Skirball Museum, Hebrew Union College. Geri serves on the executive board of Camp Ramah. Herb and Geri have organized and hosted the Ramah Rikkudiah—Israeli folk-dance weekend—at Camp Ramah for the past 6 years. Geri performed with the Shomrei Tarbut, Israeli folk-dance group for over 10 years. She also finds time for creative loves such as calligraphing ketubot, sewing her "good clothes," and needlework. When he isn't working, Herb, still the farmer at heart, loves tending the fruits and vegetables in his garden.

It is a pleasure to share the news of this special tribute with my colleagues in the U.S. House of Representatives.

HOLY ROSARY GRAMMAR SCHOOL CELEBRATES GOLDEN JUBILEE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. GUARINI. Mr. Speaker, in the 14th District I represent, we have been fortunate to have the input of nonpublic schools which have been doing an excellent job of educating our children.

On Saturday evening, October 22, 1988, an outstanding school will be having a celebration marking its 50th anniversary. The school is the Holy Rosary Grammar School, part of the Roman Catholic Parish of Holy Rosary Church in downtown, Jersey City.

Holy Rosary holds a special position in the entire State of New Jersey, and according to information provided by its now pastor, Father Paul L. Bochicchio. He said, "It all started on the sixth day of October 1934 on the occasion of the solemn consecration of Holy Rosary Church." The Right Reverend Monsignor Felix Di Persia, Domestic Prelate, and pastor of Holy Rosary Church, said,

"Among all the churches erected by the Italian immigrants in the dioceses of Newark, our church becomes the first to have been consecrated. This extraordinary privilege fills us with holy joy, because it crowns an ardent desire of our heart, and pledges us to a proof of daily gratitude of our bishop. And we make a solemn promise to make use of all our strength, that soon there may rise in our parish a Catholic school worthy of the temple consecrated today.

"With such achievement we shall have satisfied the wish of our most beloved bishop, discharged our heart's vow, and accomplished worthy deeds of an efficacious Christian social education."

The promise Monsignor Di Persia made to build a school was shortly to be fulfilled. In 1935, he purchased eight lots on the southeast corner of Seventh and Brunswick Streets. In the spring of 1938, plans were drawn by the architect, Mr. Anthony DePace. In July, bids for construction were issued and in August the job was awarded to the construction firm of Mr. Nicholas D'Elia, who shortly after began construction.

The Maestre Pie Filippini arrived at Holy Rosary on August 1, 1938, at the request of Monsignor Di Persia. The sisters, seven in all, took residence in the old convent. The school was inaugurated in September 1938, and, for the first year, the nursery at the old convent was used as the school where the first four grades were taught. The new school was ready for use at the start of the fall semester of 1939. The initial enrollment was 134. Today 4 sisters, with the help of 7 lay teachers, are teaching 240 children in all elementary grades include kindergarten and prekindergarten. They also conducted catechetical classes for children attending public schools. In conjunction with the establishment of the school, the Mothers' Auxiliary was formed to facilitate cooperation between parents and the school administration in the performance of the pupils' training program. Members consisted of the school children's mothers and their first president was Mrs. Antoinette De Marco. In 1954, the auxiliary was superseded by the more effectual Parent-Teachers' Association.

Construction of the school was completed in March 1939, at a cost of $160,000. It was a completely modern eight classroom school with auditorium, dressing rooms, nurse's room, and office. On Sunday, April 24, 1939, the most Reverend Thomas J. Walsh, first archibishop of Newark, laid the cornerstone and dedicated the building.

Close upon this event, Monsignor Di Persia, afflicted with diabetes, was taken seriously ill. At 8:45 p.m. on Sunday, November 24, 1940, he passed away in the rectory of the parish for which he gave 28 years of remarkable leadership.

After World War II, the shortage of schools became more acutely felt in the United States and Holy Rosary was no less pressed for enlargement of its educational plant. Pastor Father Santora responded to the need by contracting the service of the engineer, David Scrocco, to design the school extension and the new convent. On the feast of Our Lady of Mt. Carmel, July 16, 1952, Monsignor Monteleone officially broke ground. The construction firm of Nicholas D'Elia erected the buildings which were completed for the fall semester of 1953.

The extension was connected to the rear of the original school building and stretched westward along Seventh Street. Built at a cost of $240,000, the two-story extension, constructed of the same materials as those of the original building, has eight classrooms, a kindergarten, a cafeteria, and a library. The convent, raised in proximity to the south side of the school and fronting Brunswick Street, is a three-story building joined to the school by a cloister.

On the feast of Our Lady of Lourdes, February 11, 1954, the Most Reverend Thomas A. Boland, second Archbishop of Newark, dedicated and laid the cornerstone of both buildings.

The debt on the church at this time was $483,000 and over 80 percent of it was brought on by the recent construction. In order to relieve the debt burden, Father Santora devised the "Building Fund Drive." Begun March 16, 1953, it devised a gift plan which afforded a sort of participation by parishioners in the actual construction and payment of the buildings. The donations given would be in the form of a purchase of a part of the school and the name of the donor or the name of anyone he chooses would be placed on the article. All items (ex. desk) had a fixed price and the allocation of values to articles ranged from $25 to $5,000. The drive culminated on May 15, 1954 with the presentation of the Grand Ball. It featured Perry Como who had graciously accepted Father Santora's invitation to be present at the affair held at the Jersey City Armory. Final count at the end of campaigning reflected a total receipt of $70,000.

The school was blessed with many fine principals, including its first, Sister Antonina Belli, followed by the principals of Holy Rosary School (in order) were: Sister Assunta Croscenti, Sister Sophia Agabiti, Sister Grace Pollizoto, Sister Adele Mononia, Sister Mary Zucca, Sister Ascenzia Tizzano, and Sister Irma Papaleo.

Sister Ann Louise Abascal is the principal at the present time, and Sister Irma Papaleo served the longest with 16 years of devoted service. Sister Anne Louise Abascal was a member of the community at Holy Rosary from 1976 to 1979 as the first grade teacher, and in the early part of 1980, was the eighth grade teacher.

The Holy Rosary Grammar School community is indeed proud of the results derived from its garden of education. What immediately comes to mind is that two young men have become medical doctors, Nicola Vernese and James Gentile. They also point to Joseph Faccone and Ronald Di Miglio, attorneys at law and Susan Loriccio, a professional in the music area, as well as Gloria De Marco, a successful business woman and Freeholder Frank Manzo, who has been a community leader.

Also, they are excited about screen actor Sal Pierro, who graduated from the school on 7th and Brunswick Streets.

The savings to the taxpayers in the public school system over the years exceeds $30 million. The results have been outstanding.

I am extending my personal congratulations to Holy Rosary School and to the pastors of the parish, who have given sterling leadership over the years since Monsignor Di Persia first began the education arm we honor today.

After Monsignor Di Persia were the following pastors: Rev. Gerard M. Santora, Rev. Joseph F. X. Cevetello, Msgr. Francis Lo Bianco, Msgr. Nicholas A. Di Marzio, and Rev. Paul L. Bochicchio, (present pastor).

I am certain that my colleagues here in the House of Representatives wish to join me in this grand community salute to Holy Rosary Grammar School at its 50th anniversary.

TRIBUTE TO BOB KINIERY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mrs. BOXER. Mr. Speaker, I would like to bring to your attention and that of my colleagues the good works of Bob Kiniery of Mill Valley, CA, who was recently selected as a finalist for the National Golden Rule Award. This award, sponsored by J.C. Penney, honors exemplary volunteer service by individuals and organizations and recognizes their contributions to improving the quality of life in their communities.

Mr. Kiniery was selected as a finalist for his work with the Men's Program of Marin Abused Women's Services. The Men's Program is dedicated to stopping men's violence against their women partners. The program has received national and international recognition for its innovative three-level approach to the problem by:

First, conducting outreach and education to the community, second, developing a series of peer group and education classes, and third, organizing a "community of cooperative men" to address this serious issue.

Mr. Kiniery is involved in all aspects of the program's activities by speaking before community groups, counseling inmates at San Quentin prison, working shoulder-to-shoulder with women's groups and involving men who are abusing their partners.

Whether addressing an audience of high school boys regarding the issue of date violence, a meeting of concerned business people, a group of San Quentin inmates, or women who are the victims of abuse, his sincerity, honesty, and willingness to confront tough and sensitive questions enable him to communicate his message and get people to acknowledge and start addressing this serious problem.

In nominating Mr. Kiniery for the Golden Rule Award, Bill Bruemmer, chief of the Marin Probation Department said:

> Never have I seen a man who can bridge so many seemingly diverse groups of people and get them to face an issue so large and so scary. He knows that we all need to look carefully at this issue, and he will not let us turn away. He gives so many people hope.

I applaud J.C. Penney in recognizing the effects of Bob Kiniery and all the other volunteers from around the country who are honored through the National Golden Rule Award Program. Our communities and ultimately our Nation are stronger as a result of their unselfish efforts.

NO FURLOUGHS FOR MURDERERS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CRANE. Mr. Speaker, the criminal justice system and the need for reform is an issue that has recently received a great deal of attention in the press. Of particular importance to the American people is the issue of furloughs for murderers. The crime of murder is a most serious one. The taking of a human life is an act that is virtually incomprehensible to the majority of us. We are repulsed by the thought of a person who could cold-bloodedly commit such a crime. As believers in the judicial system of our country, we expect these murderers to be found and to be prosecuted to the full extent of the law.

However, there are those who would like to treat the people who commit these heinous crimes as if their rights are more important than the rights of their victims. While we respect the constitutionally guaranteed rights granted to criminals, we do not believe that special privileges, such as Governor Michael Dukakis' furloughs, need to be added to those rights. The rights of the victim, of the victim's family, and of potential future victims must take precedence over the murderer's special privileges. Our judicial system is meant to be fair to all of those involved and it appears to be failing in that respect when it gives precedence to those who find it impossible to abide by the laws and threaten the well-being and the lives of law-abiding citizens.

The Citizens Against Unsafe Society [CAUS] in Massachusetts were able to overcome those who wanted prisoners' well-being to be considered more important than law-abiding citizens' well-being. However, we still must question the reasoning of those, including Gov. Michael Dukakis, who originally supported such an inherently unjust system in the first place. I ask you to keep this in mind as you review the following article, "Getting Away With Murder," by Robert James Bidinotto.

[From the Reader's Digest, July 1988]

GETTING AWAY WITH MURDER

(By Robert James Bidinotto)

In Massachusetts, convicted killers roamed the streets on weekend passes, then a crusading newspaper and outraged citizens took action.

On the night of October 26, 1974, Joey Fournier, age 17, was working alone at the Marston Street Mobil service station in Lawrence, Mass. Three men drove up, and two entered the gas station, brandishing knives and demanding money. Joey gave them $276.37 and pleaded for his life.

Minutes later, Michael Byron, one of Joey's friends, stopped by. The office floor was covered with blood. Horrified, Michael found Joey's body stuffed in a trash barrel, his feet jammed up near his chin. He had been stabbed 19 times.

Three men—Alvin Wideman, Roosevelt Pickett and William R. Horton, Jr.,—were soon apprehended. All confessed to the robbery, but not to Joey's murder. Prosecutors were convinced, however, that the actual killer was Horton. He had previously served three years in South Carolina for assault with intent to murder.

In May 1975, the trio was convicted of armed robbery and first-degree murder. In many states, they could have forfeited their lives. But a few weeks earlier, Gov. Michael Dukakis had vetoed a death-penalty bill.

Still, a first-degree murder conviction in Massachusetts was supposed to mean a mandatory sentence of life in prison, with no possibility of parole. The Fournier family, devastated by their loss, took comfort in the prosecutor's assurance that Joey's killers would never again walk the streets.

Under a little-known state law, however, such first-degree killers were eligible for unguarded, 48-hour furloughs from prison. On June 6, 1986, William Horton was released from the Northeastern Correctional Center in Concord. He never came back.

About 7:30 p.m. on April 3, 1987, Clifford Barnes, 28, heard footsteps in his house in Oxon Hill, Md. He called out, thinking Angela Miller, his fiancée had returned early from a wedding party. Instead, a man suddenly loomed before him, pointing a gun. It was William Horton.

For the next seven hours, a laughing Horton punched, pistol-whipped and kicked him. Horton also cut him 22 times across his midsection.

Later that night, Angela returned. Bound and gagged, Cliff listened in helpless horror to Angi's screams as Horton savagely attacked her. For four hours, she was assaulted, tied up, and twice raped.

Finally Cliff broke free and staggered to a neighbor's home for help. When Horton went to check on him, Angi cut herself loose and escaped through a window. Now panicked, Horton stole Cliff's car and fled. After a high-speed police chase, he was wounded in a shoot-out and captured.

In Lawrence, Susan Forrest, a young reporter for the Eagle Tribune, was covering Horton's rampage and recapture. But one chilling detail puzzled her. "The question everyone wants answered," she wrote, "is how a cold-blooded murderer ever got out in the first place."

Forrest's editor, Dan Warner, encouraged her to find out. But she ran into a bureaucratic stone wall. Michael Fair, commissioner of the Massachusetts Department of Correction, at first refused to talk to her. Then he cited the state's 1972 Criminal Offender

Record Information Act, which strictly limits public access to court and prison records of convicted criminals. The law granted convicted killers a right to privacy that made their crimes virtually a state secret.

Warner and Forrest were outraged. They could not find out why Horton had been released—or how many other Hortons were walking the streets. Forrest appealed to the governor for an interview, but was rebuffed.

Still, Susan Forrest's hard hitting front-page stories provoked public wrath. And two state representatives—former police officer Larry Giordano and Joseph Hermann—introduced a bill to ban furloughs for first-degree murderers.

At the public hearing on Giordano's bill on May 27, 1987, members of Joey Fournier's family listened as his sister, Donna Fournier Cuomo, and father, Ronald, begged lawmakers to end the furloughs. Another witness, George Chaffee of Derry, N. H., told a harrowing tale. His 44-year-old mother had been brutally beaten and murdered in 1970 by confessed Massachusetts rapist John Zukoski. Even after being convicted for second-degree murder, Zukoski became eligible for furloughs; and in September 1986 he was paroled. A few months later, Zukoski was arrested and indicted yet again for beating and raping a women.

"How many times," Chaffee demanded, "does a person have to rape and murder before he is locked up for good?"

The victims' families made a powerful impact on everyone present. The biggest shock, however, came from the testimony of Associate Correction Commissioner Dennis Humphrey.

A sentence of "life without parole," Humphrey revealed, was meaningless. It was assumed that eventually everyone—even first-degree murderers like Horton—would have their sentences commuted and "get out." After only ten years, a lifer was routinely transferred to a minimum-security facility, which has no walls. There he became eligible for furloughs. At that moment, Humphrey said, such facilities held about 160 first-degree killers. Horton had been one of them; he was on his tenth weekend pass when he disappeared.

The Massachusetts inmate-furlough program was enacted in 1972 under Gov. Francis W. Sargent, and a killer soon escaped. This stirred up a legal controversy, but in 1976 Governor Dukakis pocket-vetoed a bill to ban furloughs for first-degree murderers. It would, he said, "cut the heart out of efforts at inmate rehabilitation."

The furlough program, in essence, released killers on an "honor system" to see if they would stay out of trouble. This trial-and-error approach helped the governor decide when to commute, or reduce, a first-degree murder sentence, thus making a lifer eligible for parole. On average, in Massachusetts, prisoners whose sentences are commuted from life without parole spend fewer than 19 years in prison. Governor Dukakis, in fact, had already commuted the life sentences of 28 first-degree murderers by March 1987.

When Donna Fournier Cuomo learned that Horton had been repeatedly granted furloughs, all the nightmares of her brother's death returned. At the May 27 hearing, she met other concerned women: Maureen Donovan, Joan Bamford, Joanne Pekarski and Gertrude Lavigne. They had learned that the weekend Horton fled, he'd been spotted only two blocks from Donovan's home. "It could have been my family he went after," she said.

The women circulated a petition to support Representative Giordano's furlough-ban bill. But the bill was stalled in committee by legislative allies of Governor Dukakis.

In the face of growing public opposition, the Dukakis administration made some revisions in the furlough guidelines (eligibility became 12½ years in prison rather than ten), but defended the program relentlessly. At a news conference, bureaucrats trotted out figures showing that relatively few killers on furlough had escaped. Human Services Secretary Philip Johnson told astonished reproters, "Don't forget that Mr. Horton had nine previous successful furloughs."

To Commissioner Fair, furloughs were a prison "management tool." Unless a lifer has hope of parole, he argued," we would have a very dangerous population in an already dangerous system." But, critics wondered, if armed guards can't control "very dangerous" killers inside locked cells, how are unarmed citizens supposed to deal with them?

When Dukakis visited the Andover, Mass., police station one day, furlough opponents Maureen Donovan, Joanne Pekarski and Mary Gravel got to meet with him. Gravel told the governor about her own daughter's unsolved murder. "What if Claire's killer is caught and convicted, then furloughed?" she asked. "What do you think it would do to my family if they were walking down the street and saw this person?"

"I'd probably feel the same way you do," Dukakis responded. "But, unfortunately, it's not going to change my mind."

The governor began recounting a recent discussion with inmates' families about their grievances, but Maureen Donovan angrily interrupted. "You'll meet with prisoners' families, but you keep avoiding us."

The meeting quickly deteriorated. Dukakis explained that he hadn't asked for the power of commutation. Gravel replied, "There's no law that says you have to use it."

"If you don't like the system, you can change it," the governor said.

"Thank you very much," Donovan answered. "That's exactly what we'll do."

The encounter with Dukakis convinced the women that their best option was to put a referendum about furloughs on the November 1988 ballot. Within weeks, they formed CAUS—Citizens Against Unsafe Society.

Susan Forrest had still been unable to get Horton's records. Fed up, Dan Warner invited every newspaper editor in the state to a meeting in May 1987. There he and Forrest denounced the prisoner-privacy statute and asked for support to open Horton's files. The result was a flood of articles and indignant editorials. Finally, under pressure, the state released Horton's records. These confirmed that while in prison he had a record of 11 disciplinary infractions, three drug-related. Yet prison officials eventually gave Horton "excellent" evaluations and said "he projects a quiet sense of responsibility."

In the months following the hearing, there were other revelations:

Legislators learned that Horton had also been turned loose daily, with little supervision, on a work-release program. His job: to help mental patients.

Of over 80 Massachusetts convicts listed as escaped and still at large, only four had actually "escaped." The rest simply walked away from furloughs, prerelease centers and other minimum-security programs. These convicts included murderers, rapists, armed robbers and drug dealers.

Commissioner Fair personally approved first-degree lifer Armand Therrien's transfer from a medium-security prison to a minimum-security one, which made him eligible for a work-release program. Therrien, a two-time murderer, walked off and vanished in December 1987.

None of the women of CAUS had ever been involved in grass-roots politics, and they faced an enormous job of gathering 50,525 certified voter signatures by early December 1987, the deadline for the 1988 ballot. Before long, they were regular fixtures on talk shows, and other volunteers came forward.

Many of the CAUS members, like the Fourniers and Gravels, were families of murdered children. George Hanna, a retired police officer, was an early recruit. His son, George Jr., a state trooper, was shot and killed while on duty in 1983. Marion and John Spinney's daughter, Karen, was stabbed to death in 1975 by an armed robber who was on furlough. The man who killed Jim and Paula Danforth's 19-year-old daughter, Paula Marie, in 1986 was also given a meaningless sentence of "life without parole."

The signature drive became their crusade. Working 15-hour days, the core group of 20 people canvassed the state, haunting shopping malls, bingo halls, and churches. Paula Danforth, eight months pregnant, helped corral a thousand signatures in one day.

A Massachusetts House committee held further hearings. Families of other victims told their stories, including Vivianne Ruggiero, whose 27-year-old husband, John, a police officer, had been shot in the head five times without provocation. John left his widow with two small children. Meanwhile, Vivianne testified, John's convicted killer, Daniel Ferreira, sentenced to life without parole, had married while on one of 33 furloughs. "Isn't he lucky that he can go on with his life?" Vivianne said bitterly. "I wish I could have a furlough one weekend, or one hour, when my husband's death is not on my mind."

Cliff and Angi Barnes, Horton's victims, also testified. "I'm tired of hearing about the rights of prisoners," Angi said. "As far as I'm concerned, they gave up their rights when they took another person's life." Cliff was asked about statistics touting the success rate of the furlough program. "So we're expendable," he retorted. "Is that what they're saying?"

After the hearings, CAUS members worked feverishly to collect and deliver signed petitions to city halls across the state. Late at night on December 1, 1987, nine bone-weary volunteers crowded into Joan Bamford's living room to tally the results. They needed 50,525 signatures. They had 52,407. There were screams, tears and hugs all around.

In the waning days of 1987, CAUS members were glad they had taken matters out of the politicians' hands. The state's House passed Giordano's bill overwhelmingly. But in the Senate, Royal Bolling, Sr., used parliamentary stalling tactics to kill it as the legislative session ended.

A month later, Bolling received a standing ovation for his efforts from 400 inmates at Norfolk prison. "I'm always glad to see some of my old friends," he said, smiling. "I hope I will continue to deserve your good will."

The occasion for this strange episode was "Legislative Awareness Day," an annual event that reminds inmates in Massachusetts they are allowed to vote. An inmate leader urged fellow convicts to register and vote against the referendum banning furloughs. A deputy secretary of state, Richard Shibley, brought in hundreds of absentee-ballot applications.

Although the CAUS referendum was virtually assured of voter approval in November, Representative Giordano reintroduced his furlough-ban bill to halt the program even sooner. And, as spring arrived, Dukakis came under mounting public pressure to end the furlough program himself before it hurt his Presidential campaign.

On March 22, 1988, at a packed news conference, the governor promised not to veto Giordano's bill. Asked if he was personally in favor of furloughs, Dukakis answered, "That's irrelevant. The fact of the matter is that the people of this Commonwealth and the legislature aren't." He added he still wanted some alternative program to help him commute the sentences of first-degree murderers. On April 28, after the legislature passed the furlough ban by a wide margin, the governor signed it into law. (In preparing this article, Reader's Digest requested an interview with Governor Dukakis, but he declined.)

For Maureen Donovan, CAUS's feisty co-founder, the work to reform the system has just begun. With Dukakis seeking an alternative to the furlough program, CAUS has announced its next goal will be to restrict the governor's power to commute life sentences.

For the Lawrence Eagle-Tribune, an effort to uncover hidden facts became a crusade. After nearly 200 stories by Susan Forrest, Barbara Walsh and other determined reporters, the furlough system was finally exposed to public scrutiny. On March 31, 1988, the Eagle-Tribune received journalism's highest honor: the Pulitzer Prize.

For Donna Fournier Cuomo, the issue remains hauntingly, harshly personal. On the 13th anniversary of her brother's murder, she visited the now-deserted gas station in Lawrence. She cried softly as she stared at the weeds and empty windows, symbols of a terrible waste. Joey, she thought, would have been 30 years old.

"Someone asked, 'Are you doing this for your brother?'" Donna once testified. "I guess I am . . . because if I didn't—he'd have died for nothing. And then you couldn't live with yourself, because justice would not have been served."

AMERICAN EXPORTERS AND SOUTH AFRICA

HON. DENNIS J. HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HASTERT. Mr. Speaker, one of the more controversial pieces of legislation to be debated during this Congress has been the trade embargo against South Africa.

Like my colleagues, I deplore the system of apartheid in force in South Africa. President Reagan would like to see it dismantled. I share that commitment.

The question we have faced in the House of Representatives is: Will the Dellums bill accomplish that aim? To me and many others in the House and Senate, the answer is that it will not serve to advance civil rights liberalization in South Africa. If anything, it will in fact turn back the clock in the country, reducing the opportunities for the black majority.

There is another side to the question which is important to us. And that is the impact of the legislation on U.S. jobs. There are many American exporters who will lose important markets if the Dellums bill is ever enacted.

I have recently read an eloquent discussion of how the trade embargo legislation would affect one such exporter, Caterpillar. The company is the fourth largest exporter in the United States. It sends $100 million of U.S.-made product there a year. That translates into about 1,000 jobs at Caterpillar's U.S. plants.

If Congress forces them to leave South Africa—as the House/passed bill would do—Caterpillar's large export market there would be turned over to Japanese and European competition.

We would lose those high-paying union jobs in Illinois and other States; South Africa would simply turn to other suppliers for their equipment needs.

Moreover, Caterpillar's initiatives to improve the living conditions and economic opportunities of its black work force would also be lost.

I urge my colleagues to read this fine statement. It was written and delivered by Byron De Haan, Caterpillar's director public affairs. The speech was given at the Peoria Rotary Club on August 26, 1988.

THE AMERICAN BUSINESS PRESENCE IN SOUTH AFRICA: THE CATERPILLAR VIEW

Fellow Rotarians and guests, as you know, the subject of the American business presence in South Africa is currently very topical.

In 1986, Congress enacted the "Comprehensive Anti-Apartheid Act"—which imposes a variety of sanctions against U.S.-South African business relationships.

And couple of weeks ago—on August 11—a much more severe sanctions bill passed the House of Representatives. It would require complete disinvestment by American firms in South Africa * * * and impose a near-total trade embargo between the two countries.

This issue has become deeply politicized * * * with presidential and other candidates outdoing each other in leveling criticism against South Africa (and in some cases, against American firms—like Caterpillar—with business relationships in that country.

In such a climate, it's understandable that companies like Caterpillar would receive many questions about their South African business interests. We get these questions from individual stockholders * * * civil rights organizations * * * public interest groups * * * among others

The subject has been on caterpillar's annual stockholders meeting agenda in two of the past three years.

For the most part, these inquiries are legitimate, well-meaning questions about a subject that is rightfully a matter of public scrutiny. In every case, we answer the questions. We don't say "none of your business." It *is* their business.

So this afternoon, instead of burdening you with a formal "speech" on this subject, I've simply reached into our file of letters and other inquiries. I hope the answers will also be responsive to questions you may have. (And I shall welcome additional questions at the conclusion of my remarks.)

1. What is the makeup of the Caterpillar business presence in South Africa?

Our export relationship began in 1927 with establishment of an independent Caterpillar dealer. We have the same dealer today.

In 1962, to provide better product support, we established Caterpillar Africa—a small parts processing and distribution center near Johannesburg.

We've been number one in the South African market for 61 years. Komatsu, a Japanese company, is currently number two.

2. What's the job-related significance of Cat's South African business?

Caterpillar Africa employs 81 people * * * 54 of whom are nonwhite.

But job numbers connected with our export business are much bigger. South Africa is our 10th largest export market. In a good year, our export volume runs about $100 million. That's work for 1,000 Caterpillar people, many of whom are located right here in Central Illinois.

3. What's Caterpillar's view of apartheid (an Afrikaans word meaning "separateness", i.e., segregation)?

We don't like apartheid. We don't practice it. We have a Code of Conduct that mandates equal opportunity, and we practice *that* on a worldwide basis.

Additionally, as far back as the early 1970's, we've had a written affirmative action program to benefit South African nonwhites.

In 1977, we were one of the first companies to enroll in what were then called the six Sullivan Principles * * * pledging Caterpillar to the following:

1. Nonsegregation of races in all eating, comfort and work facilities.
2. Equal and fair employment practices for all employees.
3. Equal pay for all employees doing the same work.
4. Development of training programs to prepare nonwhites for supervisory, administrative, clerical and technical jobs.
5. Increasing the number of nonwhites in management.
6. Improving the quality of employees' lives outside the work environment in such areas as housing, transportation, schooling, recreation and health facilities.

Later, a seventh principle was added: Working to eliminate laws and customs that impede social and political justice.

4. What are specific examples of things Caterpillar is doing in the "outreach" area?

Following Peoria's successful adopt-a-school program, we've adopted a school in a black township near Johannesburg. We helped form a health clinic in the same township. In another black township, we contributed $150,000 to a new commercial college and community center. We've provided scholarships to this college and other schools. Through associations and our own corporate leverage, we're pushing for black enterprise. In 1988, for example, we have an objective of directing at least 80% of our discretionary purchases to black-owned businesses.

5. Let's get more specific about the seventh Sullivan Principle. What is Cat doing in pursuit of social and political justice?

Our general manager in South Africa is currently president of—and chief spokesman for—the American Chamber in that country. In the past two years, the Chamber has urged that restrictions be abolished on rights of nonwhites to move freely in South Africa. It's urged phasing out of the Group Areas Act, and the ending of forced removal of nonwhites from communities closed to them under that Act. It's urged abolition of laws requiring people of different races to live separately. It's urged dismantling a migratory labor system that separates spouses and their families. And it's asked that major business districts be opened to businessmen of all races.

Following the American ideal that government should rest on consent of the governed, they've urged immediate negotiations among representatives of all races and political parties to work toward parliamentary representation for all South Africans.

Earlier this year, our manager met with State President P. W. Botha to discuss these changes.

6. What changes are actually taking place? What progress has been made?

Black labor unions with the right to strike and bargain collectively have been legal since 1981. The Influx Control and Pass Control laws—restricting movement of nonwhites—fell in 1986. The Job Reservation laws (reserving certain jobs for whites) are off the books. Silly statutes like the Mixed Marriages Act and the Immorality Act are gone. In 1986, the Dutch Reformed Church renounced its "apartheid theology." Most significantly, as in this country, there's been a big rise in black economic and purchasing power . . . and in the number of black small business entrepreneurs.

7. Does that mean Caterpillar is satisfied with the pace of progress?

By no means. As I said a moment ago, we're calling for more change * * * and swifter change. But significant social change is usually a gradual process * * * witness the fact that the American civil rights revolution is still incomplete after 34 years.

8. Let's turn to the trade sanctions * * * are they effective?

As we've learned to our sorrow here in Central Illinois, they usually miss the mark they're aimed at * * * but strike other, unintended targets.

Remember the grain sanctions against the USSR? The Russians simply bought corn from other countries; and the resulting surplus in this country meant lower corn prices for Tri-County farmers.

And you'll recall the pipelayer sanctions against the Russians. They bought the pipelayers—and bulldozers—from Komatsu instead of Caterpillar, and finished the pipeline ahead of schedule!

9. What's been the impact of the 1986 sanctions?

Let me offer this conclusion of the Machinery and Allied Products Institute, a nonlobbying Washington-based capital goods think tank.

"While sanctions are intended to have a moderating effect on South African government policies, experience to date shows quite the opposite has occurred. Since the United States stepped up its sanctions-oriented approach toward that country, prospects for any liberalization of apartheid policies have decreased measurably as the political situation there has deteriorated. Conservative pro-apartheid parties have advanced substantially at the expense of anti-apartheid representations in the South African legislature; and the ruling Nationalist party appears to have slowed the pace of liberalization. Further, the strong showing of the far-right Conservative Party in last May's general election, and in two recent by-elections, has moved the ruling party to take further repressive measures against anti-apartheid groups."

10. How many U.S. firms are still in South Africa? How many have left? Why did they leave?

There were originally about 300 companies represented there. About half have left. I'm acquainted with my counterparts in many of these companies and I can report they left, essentially, for one or more of three reasons: (1) they weren't making any money; (2) they were weary of the constant hassle and criticism; (3) they no longer receive tax credits in America on taxes already paid in South Africa (in other words—double taxation).

11. Many of these "disinvested" companies have been replaced by local ownership. What's been the social impact?

Mostly negative. As the *New York Times* reported August 7, these replacement firms are * * * "reducing commitments to community projects. Without exception, they have discontinued their association with the code of ethical conduct adopted by American companies * * * to increase opportunities for blacks."

12. What would be the effect of H.R. 1580 (the new sanctions proposal) on Caterpillar?

Devastating. We would be forced to divest ourselves of our Johannesburg subsidiary * * * and close out our substantial export business and the jobs that depend on it. (Let me again note that $100 million in exports creates jobs for 1,000 people.)

13. What would be social consequences of such withdrawal?

Wholly negative.

Because of the heavy population of Caterpillar machinery in South Africa, the parts subsidiary would probably pass to local ownership. And our voice for social change would be stilled.

Second, as with the pipelayers, our export business would pass to the Japanese. Our principal competitor is already telling customers, "You better buy Komatsu because the American Congress is going to kick Caterpillar out."

14. Is the U.S. being displaced by other countries as a leading exporter to South Africa?

Yes. In 1983, we ranked first * * * 1984, second, * * * 1985, third * * * and fourth in 1986 and 1987. West Germany, Japan and the U.K. in that order are now ahead of us. And let's remember—when you talk about lost American exports, you're talking about lost American jobs.

15. Is there a long-range solution to South Africa's problem?

We deeply believe there is. It lies mid-way between the two extremes of an authoritarian return to strict apartheid on the Right * * * and violent revolution toward a one-party Marxist state on the Left.

I'm talking about the currently unpopular Middle. It's there in the middle that people of goodwill of all races must gather to work out, step-by-step, solutions which are of, by and for South Africans.

16. What should the U.S. do?

We should do what we seem to do rather infrequently these days—and that is carefully assess what are America's long-term interests. We have a strategic stake in South Africa which is moral, economic and political.

When we do that, we'll stop taking shortsighted, punitive, isolationist steps that are driving South Africans into the reactionary Right and the revolutionary Left. Instead, we'll develop and implement a policy aimed at support—both moral and tangible—for those in the Middle who are struggling to build a democratic, multiparty post-apartheid nation with solid guarantees of liberty and justice for all.

17. A final question: What do your nonwhite employees at Caterpillar Africa say about the possibility of your leaving?

Let me cite a personal experience. During a visit to South Africa several years ago, I talked with virtually all of our black employees—in some cases in their homes. I asked them if they wanted Caterpillar to leave. Without exception, they said no * * * for two reasons.

a. The first of these reasons, as you would suspect, had to do with good pay, good benefits and good working conditions * * * in short, jobs. But interestingly that was only their second most important reason.

b. The most important factor, they said, is this: Caterpillar is a connection to the outside world * * * a conduit, if you will, through which can flow pressure for social change. So we want you to stay, they said, and let the pressure flow. But don't play a pat hand. Don't say, "When in Rome, do as the Romans do." Stand for the same things you do in the United States * * * be a factor for social change. In short—for God's sake, stay and help us.

My friends, we're trying to do exactly that in South Africa.

Thank you.

SMALL BUSINESS COMMITTEE ACCOMPLISHMENTS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. LAFALCE. Mr. Speaker, as we approach the end of the 100th Congress, I would like to briefly review some of the activities of the Committee on Small Business which I am privileged to chair.

Early last year, the committee developed an agenda for both legislative and oversight activities which I am pleased to report has been largely accomplished. Legislatively, the House approved all seven committee initiatives brought before it. Of these, as of October 19, two had become law, and four others were cleared for the President's signature, leaving only one House-approved bill on which the Senate had taken no action. A brief description of each of the six bills on which agreement was reached follows:

SBA reauthorization: H.R. 4174, the SBA Reauthorization and Amendment Act of 1988, is a major 3-year Small Business Administration reauthorization bill, providing the legislative framework for the continued operation of the Federal Government's only agency whose sole mission is to provide assistance to our Nation's small business community. In addition to continuing SBA's basic financial, procurement, business development and other assistance programs, the bill makes numerous revisions in existing law which will improve their operation or fill an unmet need. These include: new incentives to encourage commercial lenders to make SBA guaranteed loans of up to $50,000; a new program with loan guarantees of up to $1 million to help small businesses finance pollution control equipment or facilities; permanent extention of the successful pilot program to sell SBA-guaranteed development company debentures to private sector investors instead of to the Federal Financing Bank; technical changes to improve the operation of the Certified Development Company [CDC] and Small Business Investment Company [SBIC] Programs; improvements in the Small Business Innovation and Research [SBIR] Program to facilitate participation by agencies with smaller levels of research and development funding; new authorities and staffing for procurement center representatives; a new "preferred" surety bond program to both encourage participation by sureties and with less red tape for their small business clients; an increase in the threshold below which disaster loans are extended on an unsecured basis, from $5,000 to $10,000; authorization of disaster loan eligibility for up to an additional 20 percent of physicial loss eligibility to enable victims to finance hazard mitigation projects; and clarifications on the definition of a disaster for the purposes of SBA's disaster assistance program and on eligibility for such assistance.

Procurement reform: H.R. 1807, the Business Opportunity Development Reform Act of 1988, is the first major overhaul in 10 years of the Government's most important program to assist socially and economically disadvantaged businesses, the Capital Ownership Development or so-called "8(a)" Program. This priority initiative was the result of years of effort in which the committee worked with our counterparts in the Senate and with the Government Operations and Armed Services Committees, the administration and representatives of the minority business community to fashion legislation to restore the integrity and improve the operation of this program which accounts for more than 60 percent of all Federal prime contracts to disadvantaged concerns. Its provisions include: The introduction of competition into what has been an entirely sole-source contracting program; the extension of program participation terms to 9 years from the current maximum of 7 years; a mandated decrease in the time for processing applications for certification to participate in the 8(a) program from an average of 1 to 2 years to a maximum of 90 days; increased management, technical and financial assistance for 8(a) firms; strong anti-fraud and abuse provisions, including increased fines and jail terms for "front companies;" increased "due process" appeal rights for 8(a) companies; improved goal setting procedures for Federal agencies dealing with small and small disadvantaged businesses; the mandatory inclusion of liquidated damages clauses in contracts awarded to large businesses which contain small and small disadvantaged business subcontracting plans, violations of which would result in the payment of damages to the Government; and increased resources and funding for SBA to impliment the new programs and activities required by the bill.

Small business trade legislation: Title VIII of H.R. 4848, the Small Business International Trade and Competitiveness Act (P.L. 100-418), is designed to refocus existing Federal programs toward promotion of small business exports, and to provide small business with the technological resources and capital which is required to compete successfully in world markets. Small business can play a key role in helping us correct our trade and competitiveness problems, yet to this end we have not taken full advantage of the small business sector's proven superiority in innovation and productivity. The act provides for: an expansion of the responsibilities of SBA's Office of International Trade to promote small business exports in cooperation with the Department of Commerce; an authorization for limited additional funding for this purpose; authorization of additional funds for the reimbursement of expenses of members of the Service Corps of Retired Executives [SCORE] involved in specialized export-related counseling; authorization of additional matching grants to programs within the existing Small Business Development Center [SBDC] network or similar entities to enhance their export promotion capabilities; direction to SBA to give weight to export-related benefits when considering applications for financial assistance and to aggressively market its existing export financing program; the establishment of a new specialized export-related fixed-asset financial assistance program with loan guarantees of up to $1 million, plus up to $250,000 for other purposes such as working capital; an increase of SBA's maximum guarantee on general purpose business loans from $500,000 to $750,000; studies by the General Accounting Office [GAO] on expanding and making permanent the successful Small Business Innovation Research [SBIR] Program and on the effectiveness for small businesses of existing trade remedy assistance laws; and the convening of a National Seminar on Small Business Exports to be preceded by regional small business trade conferences to develop recommendations on how to further stimulate small business exports.

Women's business ownership legislation: H.R. 5050, the Women's Business Ownership Act of 1988, is the first congressional recognition of the importance of women entrepreneurs and the contribution women business owners are making to the economic future of our Nation. The legislation is the product of extensive hearings and investigations and seeks to promote the interests of small concerns owned by women, to remove discriminatory barriers which are encountered by women in accessing capital and other factors of production and to require that the Government identify, define, and analyze those discriminatory barriers facing women entrepreneurs. The bill provides for: The establishment of a 3-year program of demonstration projects in cooperation with private sector organizations to provide management training and technical assistance to women business owners; the authorization of funds on a matching grant basis for this purpose; amendment of the Equal Credit Opportunity Act to require the Federal Reserve Board to reexamine and revise regulations which exempt business loans from key protections of the act and to require the same type of protections for commercial loans which are presently in force for consumer credit transactions, including those relating to (1) notification of the right to receive a statement of reasons for the denial of credit, (2) the retention of loan records used for answering such inquiries and for the monitoring of compliance with the act, and (3) the collection of information on marital status; the creation of a nine-member National Women's Business Council, including representatives of the highest levels from both the public and private sectors, to examine issues and make recommendations in support of women-owned businesses, including a comprehensive plan of action with specific goals and timetables; and improved collection of business statistics and data on women-owned business co-operations, partnerships and sole proprietorships.

Debenture prepayment penalty legislation: S. 437 (H.R. 3718) allows participants in SBA's Certified Development Company [CDC] Program and Minority Enterprise Small Business Investment Company [MESBIC] Program to prepay their obligations without exhorbitant penalties. Such penalties have been charged by the Federal Financing Bank [FFB] on CDC debentures which it purchased prior to the establishment of a new financing mechanism in 1986, through which CDC debentures are now sold to private investors. Similarly, SBA has penalized MESBIC's wishing to prepay their obligations by refusing to purchase new ones in the future. These policies have had an extremely adverse effect on CDC and MESBIC Program participants which are now locked into the high interest rates prevailing in the early 1980's. This legislation provides for: The orderly and equitable prepayment of CDC and MESBIC debentures upon the borrower's request; the imposition of prepayment penalties on those exercising this option which would be similar to those commonly in use in the private sector and to those which have been used in the CDC Program since 1986; a 1 percent fee to the CDC issuer of a debenture being prepaid, which would be reduced by half if the borrower refinanced its obligation through that CDC, providing a monetary incentive to do so and lessening the likelihood of disruptions of CDC operations and cash flow; and a limitation to $75 million annually of the aggregate amount of CDC refinancings permitted which would continue the prior SBA guarantee so as to minimize the impact of such refinancings on the issuance of new debenture guarantees which are currently limited to $450 million.

1987 SBA program revisions: H.R. 2166 (P.L. 100-72) made several revisions in SBA Programs which were needed in 1987 if certain SBA Program services were not to be disrupted before a more comprehensive SBA reauthorization could be enacted. The Congressional Budget Office estimated that this legislation would result in budget authority savings of $465 million in fiscal years 1987 and 1988. It provided for: A temporary extension through fiscal 1988 of the committee-initiated pilot program through which SBA-guaranteed debentures issued by certified development companies participating in the agency's 503/504 Program are sold to private investors rather than to the Federal Financing Bank; an increase in the 1988 authorized level of surety bond guarantees from $1.142 to $1.250 billion to accommodate increased program demand and prevent the disruption of contracting opportunities for small concerns; and an authorization to appropriate funds to losses on guarantees previously issued under the Pollution Control Bond Guarantee Program.

In addition to its legislative activities, the committee aggressively pursued oversight activities in programs under its jurisdiction. Ongoing oversight and investigative efforts contributed both to improved operation of these programs and to the formulation and enactment of legislation.

The committee also undertook an active ombudsman role on behalf of small business in order to fulfill its oversight responsibilities under House Rules to investigate the problems faced by all types of small business.

During the 100th Congress, the committee studied a wide range of public policy issues which directly affect the small business sector but which are not within the committee's specific legislative jurisdiction. Our objectives were twofold: First, to examine the particular problems and concerns of the small business community and to ensure that those concerns are fully considered by the appropriate committees of jurisdiction; and second, to seek to reconcile opposing points of view and forge compromise positions that will achieve our societal goals while protecting the interests of the small business community.

Following is a brief summary of the Small Business Committee's ombudsman activities:

Health insurance: The committee held a series of hearings to examine the problems that small businesses face in providing employee health benefits, and to explore alternative strategies to expand health insurance coverage. The committee issued a staff report detailing the health insurance problem and recommending several policy options as alternatives to mandated health benefits. These included a 100 percent tax deduction for the health premium costs of the self-employed business owner, and removal or modification of Government regulatory obstacles which impede the formation of group insurance pools.

Minimum wage: The committee held hearings on the need to increase the minimum wage, and on the potential impact on small business. It issued a staff report recommending (1) that the minimum wage be gradually restored to the buying power it had in 1981; (2) that there be no automatic indexing provision; (3) that the exemption for small retail and service establishments be substantially increased; and (4) that States be authorized to experiment with a short-term subminimum training wage to help bring unemployed youth and unskilled workers into the labor force.

Liability insurance: The committee held a series of hearings on the causes of the liability insurance crisis and its impact on small business, and examined potential solutions, such as repealing or modifying the insurance industry exemption from antitrust laws and requiring insurers to disclose their claims experience.

Parental leave: The committee held a hearing to explore the need for a national policy requiring employers to offer unpaid family-related leave benefits, and to consider the potential impact of any such policy on small business. In response to small business concerns, the compromise Family and Medical Leave Act reported by the Education and Labor Committee exempted businesses with fewer than 50 employees, thus excluding about 94 percent of the Nation's businesses from the requirements of the proposed bill.

Nonprofit competition: The committee held a series of hearings to examine the nature and the extent of the problem of competition between nonprofit organizations and for-profit businesses. The small business community believes that nonprofit organizations are entering commercial activities that are inappropriate and unrelated to the mission for which they are given tax-exempt status. They argue that the Federal income tax exemption and other Government benefits give nonprofits unfair competitive advantages in areas where for-profit businesses are providing the same goods or services. The committee will continue its investigation of the unfair competition issue in the next Congress by examining individual case histories in several different industries.

Occupational disease notification: The committee held a hearing to consider the potential liability impact of proposals to require notification of workers who are exposed to health hazards on the job. The hearing addressed the concerns of the small business community that the"job risk bill" could result in substantial litigation by stimulating liability claims against employers.

In addition to hearings on these subjects and on those that were the focus of legislation previously discussed, the committee held hearings on small business economic development issues, the impact of mergers and acquisitions on small business, the United States/Canada Trade Agreement, global competition in the auto parts industry, the emergence of small business trade opportunities with the Soviet Union and on other matters. In all, the full Committee on Small Business alone has conducted 43 hearings in the 100th Congress, not counting many more held by its six subcommittees.

I am proud of the record of the Committee on Small Business during this Congress, and I am honored to have been elected its chairman by my colleagues. I also want to take this opportunity to thank the members of the Small Business Committee for their participation and valuable contributions to the accomplishments of the committee this Congress. In particular, I want to thank the senior Republican members of the committee, Joseph McDade, Silvio Conte, and Andy Ireland, and the subcommittee chairmen, Ike Skelton, Nick Mavroules, Ron Wyden, Dennis Eckart, Charlie Hatcher and Norm Sisisky.

I look forward to working with all members of the committee again in the 101st Congress. Next year, the committee plans to pursue a comprehensive review of the role of the small business sector not only in our national economy, but in the increasingly competitive global economy. With a coordinated effort among the subcommittees, I hope to conduct an extensive series of oversight hearings to explore the challenges and opportunities that small businesses face not only in the changing economy of the United States, but also the world.

The committee will continue to do everything possible to ensure that the concerns of the Nation's small business community are heard by policymakers in both the legislative and executive branches of government and to provide small business with the environment it needs to prosper.

A CONGRESSIONAL SALUTE TO LONG BEACH FIRE DEPARTMENT SEARCH AND RESCUE EXPLORER POST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to acknowledge and recognize the Long Beach Search and Rescue Post 279, which was named the top rated explorer post in the country by the International Association of Fire Chiefs.

This unique explorer post is compromised of young men between the ages of 15 and 19, who serve a twofold mission. The primary goal is to provide knowledge and skills of search and rescue techniques to young people who wish to serve the public during emergency situations. The secondary purpose is to encourage members toward career possibilities in law enforcement, fire protection, and emergency medical services.

Long Beach Search and Rescue has logged over 360,000 hours of community service since its formation. The post is sponsored by the Long Beach Fire Department, the Long Beach Police Motor Patrol Association, as well as the Independent Insurance Agents and Brokers of Long Beach. Advisors from both the police and fire department work with the young men and attend weekly meetings at the search and rescue building located next to the fire department training center at 2247 Argonne Avenue.

My wife, Lee, joins me in extending our congratulations to the Long Beach Search and Rescue Explorer Post. The post, because of its dedication and commitment, is having a positive impact in the city of Long Beach and the surrounding area, and is helping young people become responsible and productive citizens while serving their community. We wish them well at all their future endeavors.

THE REAL ISSUE: HOW TO END OUT DEFICIT SPENDING PIG-OUT AND BRING TRUE HEALTH TO THE ECONOMY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. STARK. Mr. Speaker, I would like to include in the Record a most thoughtful column which appeared in the New York Times of October 9 by Laura D'Andrea Tyson, entitled "Behind the Rosy Numbers Lurks Decline."

The article points out that despite the apparent good health of the economy, there are extremely serious undercurrents that threaten the future of the Nation. As one candidate has said, any economy would appear healthy if you pumped it up with $200 billion in hot checks a year. But as everyone knows, those who overspend eventually end up paying the piper—and increasingly the piper is a Japanese banker!

What is impressive about the column is the number of ideas it offers for getting the Nation back on the right course. The article follows:

BEHIND THE ROSY NUMBERS LURKS DECLINE

(By Laura D'Andrea Tyson)

Current economic news creates the illusion of a healthy economy. The unemployment rate is at a 14-year low. The trade deficit is shrinking. The widely anticipated recession has not materialized, and inflation remains moderate.

If we look deeper, however, we find the economic situation is far from sanguine. The competitiveness of the nation—its ability to provide rising living standards to its citizens while balancing its trade in world markets—is at risk. American producers are getting beaten in world markets, not only in traditional industries like apparel, but in high-technology industries like semiconductors, where the American lead seemed unassailable just a decade ago.

As a result of huge trade deficits and extensive foreign borrowing, the United States is now the world's largest debtor nation. The prosperity reflected by current economic indicators is a fragile one, resting on borrowed funds that must be repaid.

Unfortunately, we have not used foreign funds to build productive capacity from which to repay our creditors. While our foreign borrowing has reached unprecedented highs, our net investment rate has sunk to unprecedented lows. Even as foreign money floods our shores, our infrastructure crumbles, our educational system deteriorates and our investment rate remains the second-lowest among the industrial countries.

Despite the extra spending made possible by foreign loans, real weekly earnings for most workers are now no higher than they were in the early 1960's. Real median family income in 1987 was no higher than in 1973 despite a sharp increase in two-earner families.

Nor can we console ourselves that we have used foreign funds to improve the economic plight of the poor. The gap between the rich and the poor has grown. Some 32½ million people, many of them children, now live in poverty. Despite our debt, we have more income inequality and a greater incidence of poverty than most developed nations.

How can we solve the economic problems we have inherited from the Reagan years, when we lived on borrowed money and borrowed time? First, we need a major increase in investment. And to finance more investment without increased dependence on foreign borrowing, we need to save more. This is where the budget deficit comes in. The deficit must be cut to increase government saving, but it must be cut in ways that encourage private saving and increase public investment. On the revenue side, some kind of consumption tax should be considered.

On the spending side, an increase in Federal investment in education is particularly urgent. We can no longer afford the lost productivity and social costs of 23 million functionally illiterate people and workers insufficiently trained for high-technology jobs.

But more investment is not enough. Several countries with investment rates enviable by American standards are economic basket cases. What matters is not just the amount but the returns on that investment.

Of critical importance to the rebuilding of American competitiveness is investment in manufacturing. Manufacturing finances the lion's share of commercial research and development spending. Manufacturing jobs pay more than jobs in the rest of the economy. Without a strong domestic manufacturing base, many of our high-wage jobs in the services would also disappear.

And manufacturing is the key to improving the trade imbalance. Our trade in agriculture and services is simply too small to do the job of turning a trade deficit of $150 billion into a trade surplus of $50 billion. Yet such is the size of the trade adjustment required simply to stop growth in our foreign debt.

How can the Government promote manufacturing? The easiest way to answer this question is to consider what the government should not do. Luckily, the Reagan Administration provides us with a handy guide.

First, we must not pursue macroeconomic policies that drive the dollar through the roof and then drive it back down through the floor. The high dollar destroyed the competitiveness of many of our best producers, resulting in lost world market share and production cutbacks. The low dollar, while restoring the competitiveness of the United States as a production location, is allowing foreigners to purchase our assets at bargain-basement prices. And huge swings in currency values have created uncertainty discouraging investment.

Second, we must not militarize the high-technology industrial and research base. Currently, about 80 percent of Federal R. & D. spending is for military purposes. Nearly one-third of our scientists and engineers are engaged in military research. No wonder, as Jesse Jackson has pointed out, we are a nation that produces MX missiles but cannot make a competitive video cassette recorder. We need to increase Federal R. & D. spending for commercial purposes.

Federal financing should be used to support public and private R. & D. partnerships on pre-competitive technologies from which a large number of producers stand to benefit. Such partnerships prevent the duplication of costly research and encourage private producers to finance research ventures that are too costly and risky for any one of them.

Third, the Government must not sit passively by in the name of free trade while domestic producers are injured by unfair foreign trading practices. We must use the new trade law and negotiating power to open foreign markets and to stop dumping in our markets before—not after—domestic producers have lost profits, production and employment.

Finally, the Government must not pretend that the third world debt crisis is over. We need to cooperate with our allies to fund a program of real debt relief to stimulate third world markets for our industrial producers.

The challenges before us are great. We must reduce our trade imbalance, repay our foreign creditors, and provide our citizens with rising living standards. And these objectives must be pursued in a competitive world economy.

The first step in meeting these challenges is to recognize them. We must not be fooled by current economic news. Beyond today's good news lurks a long-term economic decline that must be reversed.

ALMON J. LONG HONORED BY VETERANS OF FOREIGN WARS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a man who is a distinguished veteran of the Korean War, a dedicated leader in the Wyoming Valley area, and a personal friend of mine. On October 22, Pennsylvania's Veterans of Foreign Wars will join me in honoring, at a testimonial banquet, their State commander, Almon J. Long. Mr. Long enlisted in the U.S. Army at Wilkes-Barre, in 1951. He served admirably in Korea with the 822d Engineer Aviation BN, and was assigned to the 49th Bomber Wing, 5th Air Force and 8th Army. His service awards include the Good Conduct Medal, National Defense Service Medal, United Nations Service Medal, Korean Service Medal with three stars and the Presidential Unit Citation.

To belong to the Veterans of Foreign Wars, one of the most prominent veterans organizations in the country, is an honor; to belong for over 35 years, and to serve as a State Commander, is the mark of a true patriot who remembers the importance of service to one's country and understands the importance of reminding all Americans that the liberty we enjoy is thanks to the veterans who risked their lives to preserve it.

In 1952, Almon bagan his association with the VFW as a member of the Shawnee-Plymouth Post 1425. Two years later, Almon moved to New Jersey and served as Commander of the M.A. Kelly Post 2433. While in New Jersey, he served the community as Voice of Democracy Chairman and also as a member of the Union Township Veterans Alliance and the Golden Knights Drum and Bugle Corps. Almon returned home to Pennsylvania in 1973, transferred to Anthracite Post 283 and ascended in VFW leadership, becoming Post Commander in 1980. He also became Commander and State Membership Director of the Voice of Democracy's 11th District. Almon extended his service to our country and our country's veterans through his membership on the Veterans Advisory Committee of the 11th Congressional District of Pennsylvania.

In addition to his leadership roles at the VFW and the Voice of Democracy, Almon also has served other areas of the community with distinction. He has served as president of the Edwardsville-Larksville Little League, chairman of the Larksville Borough's Bicentennial Commission, and Police Committee; and vice chairman of the Civil Service Commission and Recreational Authority. Almon also has contributed to the area through his work on the executive board of Local 19, U.F.C.W., and as a member of the board of trustees of the Valley View Chapel.

We in our District have been fortunate to have Almon Long as our neighbor, and the VFW of Pennsylvania is lucky to have him as a Commander. Mr. Speaker, I am proud to draw your attention to Almon Long today. As long as America has great patriots like him, we will forever be able to defend the honor of our heritage.

TRIBUTE TO MARILYN CHELSTROM, PRESIDENT, TAFT INSTITUTE FOR TWO-PARTY POLITICS

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. BARNARD. Mr. Speaker, 26 years ago Marilyn Chelstrom assumed leadership in the development of a program to improve teacher education in Government and politics across the United States. Since 1963 she has served first as executive director and, since 1978 as president of the Taft Institute for Two-party Government, a nonpartisan, nonprofit educational organization chartered by the New York Board of Regents.

Ms. Chelstrom worked to organize, raise funding, and provide planning and logistical support for over 600 Taft seminars for teachers that have been held across the Nation. The Taft seminars have been cosponsored with the Taft Institute by 115 colleges and universities located in 47 States. Approximately 18,000 teachers from the 50 States have gained knowledge, broadened perspectives and teaching incentives from these teacher-education seminars. These are graduate-level courses which have immersed teachers in the study of both practical politics and political science. Along with the college professors who teach background sessions, numerous public officeholders, party leaders, and political analysts teach sessions and engage in discussion and exchange with the teachers. An opportunity to ask questions of political leaders in face-to-face sessions adds an important personal dimension to learning.

As teachers across the Nation have increased and improved their knowledge of political processes, practical problems of Government, and the research and theories of political science, thousands upon thousands of students have benefited. Ms. Chelstrom has argued for 26 years that teachers are the key factor in improving civic education and public understanding in our democratic system. She has attested to the highly significant role of teachers in stimulating interest in political processes by young people and in teaching them about the meaning of the Constitution and the U.S. system of Government. Moreover, she has backed her rationale with hard work.

At the University of Georgia in the Georgia 10th Congressional District, we have had the good fortune to hold 13 Taft seminars for teachers since 1975. Hundreds of Georgia teachers have evaluated the seminars very highly. Many have written the director, Dr. Mary Hepburn of the University of Georgia, to praise the program as the best teacher education course that they have ever had. For example, in the summer 1988 the following unsolicited comments were received:

I am convinced that individuals can make a difference if they keep up with political activities at the local level and national level. Elected officials are responsive to constituents if they know what the people who elect them want.

Thanks for the opportunity for this learning experience! I have many ideas to implement in the classroom.

This was a very helpful learning experience. This is the best class I have ever had on a teaching subject; I encourage all social studies teachers to attend. Thanks very much for this great experience.

I learned more practical information that I could adopt and use in the classroom than I have in any undergraduate and graduate course that I have taken.

One of the goals was to make us more aware of the political process and events that relate to this process. I feel that I definitely became more aware of this and, as a result, I am a much better citizen.

The strength of the program was its diversity—a wide range of political information.

One strong element of the seminar was the quality of the speakers, both academic and political. They all exhibited an excellent knowledge of their areas.

As Marilyn Chelstrom, president of the Taft Institute for Two-party Government, departs from the Taft Institute after two and a half decades of service, it is fitting that this Congress recognize her great contribution to the education of American teachers and American youth. With this purpose in mind, this acknowledgement is entered into the CONGRESSIONAL RECORD.

CONTRA COSTA COUNTY DEVELOPS PROGRAM ON ADOLESCENT SUBSTANCE ABUSE AND VIOLENCE PREVENTION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MILLER of California. Mr. Speaker, in Contra Costa County, under the leadership of the United Way of the Bay Area and Battered Women's Alternatives, a program is reaching out to help parents cope with the greatest dangers facing young people today—the terrifying increase in substance abuse and violance. Working closely with the County Health Services Prevention Program and with the Alternatives to Violence and Abuse Coalition [AVAC], a coalition of county agencies, a comprehensive response is being promoted on a countywide basis. The coalition has been developing programs for teens in the schools, for parents in the workplace, and for all in the community.

The United Way has taken the lead in the workplace program development. With the help of its County Steering Committee, United Way has established a "Task Force on Adolescent Substance Abuse and Violence Prevention" with corporate, labor, county, and community agency representation. The task force cochairs are Don Cornwall, credit manager and treasurer, Chevron USA, and Linda Best, partner, Hasseltine Best. With the support of a grant from United Way, Battered Women's Alternatives has hired Michael Radetsky, MPH, cofounder of Men Overcoming Violence [MOVE], to staff the task force and coordinate the workplace program.

Under the direction of this task force, a program for working parents has been established. A series of presentations helps parents examine the dangers facing young people today, some of the root causes of self-destructive and violent behaviors, and some practical prevention measures they can take. The program also acquaints parents with resources available within the county.

The United Way Task Force has combined the efforts of public, corporate, and nonprofit sectors to bring the program to parents in the workplace.

SOUTHERN CALIFORNIA EDISON COMMUNITY CONTRACT PROGRAM

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. LEWIS of California. Mr. Speaker, I am honored to stand before you today to recognize a very valuable service in the 35th District. Southern California Edison Co. and the Community Services Department of San Bernardino County are participating in a unique public/private partnership designed to assist low-income customers to conserve energy and reduce utility bills.

The Community Services Department, under the Edison Community Contract Program, has installed 50,000 fluorescent light bulbs in low-income housing developments. These new innovative bulbs are designed to use 75 percent less energy, last nine times longer, and operate at a cooler temperature than conventional incandescent bulbs. It is estimated that low-income clients have saved 4.7 million kilowatts of energy and reduced utility bills by approximately $400,000 by participating in Edison's Fluorescent Bulb Relamping Program.

I would like to recognize Mr. Howard Allen, Southern California Edison's chairman of the board, president and chief executive officer, and his staff who have contributed to the success of this innovative project. In addition, I would like to recognize the Community Services Department staff who implemented the program: Arlene Medina, Maria Juarez, Charles Thaxton, Rita Acueto, Jan White, Esther Rojas, Nancy Lucy Ginter, Margaret Tesoriere, Crestina Lozano, Edith Broomall, Kathy Reynosa, Robert Soliz III, Elaine Goggin, Cheryl Watson, Margarita Moreno, Natalie Hoody, Lupe Rodriguez, Jovita Diaz, Rodolfo H. Castro and Elsa Rivas.

Energy Conservation is a national priority. I commend Southern California Edison and the Community Services Department for their leadership in this important area.

SENATE—*Thursday, October 20, 1988*

(Legislative day of Tuesday, October 18, 1988)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the Honorable BROCK ADAMS, a Senator from the State of Washington.

The PRESIDING OFFICER. We have as our guest chaplain this morning, the son of the regular Chaplain of the Senate, Rev. Richard C. Halverson, Jr., pastor of the Chesterbrook Presbyterian Church of Falls Church, VA.

Reverend Halverson.

PRAYER

The Reverend Richard C. Halverson, Jr., offered the following prayer:

Let us pray:

Lord, this is a prayer for love—for charity.

It is written that: "Though I speak with the tongues of men and of angels, and have not charity, I am become as sounding brass, or a tinkling cymbal. And though I have the gift of prophecy, and understand all mysteries, and all knowledge; and though I have all faith, so that I could remove mountains, and have not charity, I am nothing. And though I bestow all my goods to feed the poor, and though I give my body to be burned, and have not charity, it profiteth me nothing."

Knowing the truth of these words, dear Lord, we pray our words and deeds, like a vacuum, would be filled with the presence of Thy love. Don't let us carry on business as usual without extending to one another the hand of friendship and kindness and longsuffering charity. For without charity, we realize that all of our prophecies, all of our good deeds, all of our great speeches are in vain.

Now, we are mindful, as we make this prayer, that we are asking you for the greatest gift of all, for it is also written: "And now abideth faith, hope, charity, these three; but the greatest of these is charity."

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 20, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BROCK ADAMS, a Senator from the State of Washington, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. ADAMS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain's son for the beautiful prayer today. I thank him for using the King James version of the Bible. I have to admit that I am quite opinionated in the matter, but I prefer the King James version. It thrills me when I hear the King James version quoted.

The King James version of the Bible was published in 1611. I am not a great admirer of King James, King James I of England—he was King James VI of Scotland. He was the first in the Stuart line of English kings. He believed in the divine right of kings and he got into quite a bit of trouble with the Parliament. He had a good many difficulties with the Parliament. And his son, of course, Charles I, made two dreadful errors and he lost his head twice. I say he lost his head twice. He lost his head when he took on Parliament and he actually did lose his head. It was severed from his body on January 30, 1649, in front of his palace at Whitehall.

And then came the commonwealth and the protectorate under Oliver Cromwell.

But if I may just proceed for 30 seconds, the name James has always been perhaps my favorite masculine name, certainly one of my real favorites. I have no explanation for that other than the fact that it was King James who commissioned the publication of the authorized version of the Holy Bible.

I feel so strongly about it that I will not read any other Bible. There are those who say, "Well, I like this version or that version because I understand it better."

Well, I have no problem. It is not a problem of understanding with me. My problem is living up to that that I do understand.

It is a little like three individuals who were discussing the Bible. One said, "I favor the revised version because I can better understand it."

The second one said, "I favor the King James version, because it is written in such beautiful English, and I like the majesty of the words and phrases."

And they turned to the third, and they said, "Which translation do you like best?"

He said, "I like my mother's translation best, because she translated it into real life."

I can remember my foster mother, too. She was not educated in the universities of this world. She had no degrees. She had not been through high school. I suppose she may have had 6 or 8 months of schooling in her life. But she lived by that Bible. She had an unshakable, unbending, indomitable, unfaltering faith in the Bible.

Many times I have gone home at night at 1 or 2 o'clock in the morning, and she awakened to let me in the door and always offered to fix something to eat for me. When I would lie down, turn off the lights, I would hear her voice in the other room praying on her knees. Many times I have walked up on the steps and looked in at the window and I have seen her on her knees in prayer.

So that is the kind of translation that I like best.

And she and my foster father, a coal miner, kept in their home that King James version of the Holy Bible. That was good enough for me. I was reared on it. I heard about it when I stood at my mother's knee.

So, that King James version is the only one I will read. I do not think God will hold that against me. But I praise His Holy Name every day, for a new day. And I am glad that the Bible is still a best seller. It is in many versions. But the King James was the Bible of my childhood and it will be the Bible of my age.

I compliment the minister who gave the prayer. As I listen to the prayers of ministers, I can tell, almost every time, if a minister is quoting from the King James version or he is quoting from some of the other versions that are, to me, not nearly the King James. I am opinionated in that respect, as I say, but I do not have to apologize for that. I thank him again.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. I ask unanimous consent that the time of the Republican leader be reserved for him.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent there be a period for morning business not to extend beyond 1 hour, that Senators may speak therein for 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wisconsin.

WHY EASY MONETARY POLICY IS NO ANSWER TO RECESSION

Mr. PROXMIRE. Mr. President, can prudent economic policy avoid a long and deep recession and prevent a depression? The answer is no! It is a loud and clear no! Here is why. The Government has two major tools for fighting recession. The first is an expansive fiscal policy that requires a deliberate increase in Government spending to put the unemployed back to work, to provide unemployment compensation, to meet the increased welfare costs that are required for many of the millions who lose their jobs. Even in these times of economic recovery, the Nation's savings and loans and banks are suffering record failures. A recession—particularly if it is substantial—will certainly require a multibillion-dollar expenditure by the Federal Government to provide the Government guaranteed relief for depositors whose savings have been lost in what is likely to be a record number of failed financial institutions. So a recesssion will certainly increase Federal spending by a great deal—by tens of billions of dollars per year and perhaps more.

A recession will also swiftly and sharply cut Federal revenues. The millions who lose their jobs will also lose the income on which they pay taxes. American business profits will nose dive in a recession. So, of course, the corporation income tax revenues of the Federal Government will dwindle. Capital gains taxes that yield many billions to the Federal Government in good times will provide very little revenues as capital gains becomes capital losses.

With Federal spending soaring and Federal revenues collapsing, what will happen to the Federal deficit? It could easily climb to $300 billion or $400 billion or higher. Certainly the Congress would be in no mood in a recession to reduce the program on which the unemployed and poor depend. Who will support a tax increase under such circumstances?

But would the Federal Government try to fight such a recession by substantially increasing spending even beyond the automatic increases to meet recession costs? Would the Federal Government even consider stimulating the economy by reducing taxes to cut revenues even further than the recession would certainly reduce revenues? Such action would certainly deepen the deficit, up to an annual rate of half a trillion dollars or more. The national debt would climb overnight to $3 trillion and then to $4 trillion. The sudden increase in borrowing would tend to lift interest rates. The Federal Government could easily be spending half a trillion per year just in interest on the national debt.

So how about the major tool available to the Federal Government to battle recession? How about monetary policy—easy money, low interest rates? Some argue that this is precisely the circumstance that would bring the Federal Reserve Board riding to the rescue like the horse marines. And how would the FED rescue the depressed American economy? It would, as it could, open the flood gates and bring on a torrent of credit. How would that resurrect the economy? The monetary-policy-can-save-us boys tell us that the flood of credit would depress interest rates. Result: economic recovery. Homebuyers would find the low-interest rates would make it possible to buy homes with modest monthly payments. Auto buyers would buy cars because the finance charge would fall with the rate of interest and low monthly car payments would bring millions of cars within the reach of American buyers. That is not all. Businesses would find that borrowing to build plants and buy more efficient equipment was cheaper because interest rates were lower. So business spending, too, would fuel recovery.

Sounds good? Sure does. It sounds so good you should not believe it. Here is why. Both households and businesses in this country are already up to their eyebrows with an alltime super debt, and with the lowest rate of savings ever. American business is even more deeply in debt. In fact, American business debt is about twice as high as the Federal Government debt. And a torrent of leveraged buyouts are driving American business debt billions of dollars higher every month. Sure, lower interest rates might temporarily persuade both our heavily indebted household sector and our up-to-the-eyebrows-in-debt business sector to go even deeper over their heads. But what a grossly irresponsible policy. To buy a year or so more of good times, these economists would push American households and businesses already drowning in debt even deeper underwater. Think of it. We already have a private sector so deeply in debt that the next recession will surely see record bankruptcies. So what is the answer? Flood the country with credit. Drive down the rate of interest so households and businesses will borrow even more and continue to dig the American economy into an even deeper hole on this debt binge.

So what is the answer? The answer is painful. No one likes it. The next President will have to wake the country and the Congress up to the debt dilemma. America will have to adopt a truly Spartan program of less private, as well as less public spending, higher taxes and, of course, less borrowing—especially less private borrowing. Is this a prescription for a short-term economic slowdown? It is indeed. It means debt retirement, not debt expansion. It means that for awhile, Americans will live less well, as we make up for years of living beyond our means. It means we face our problem at once. Every passing month of irresponsibly living beyond our means will make it worse.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

The Senator from Alaska.

THE PHILIPPINE BASES AGREEMENT

Mr. MURKOWSKI. Mr. President, on Monday, the United States Government and the Philippine Government signed an agreement concerning the use of our bases in the Philippines.

This event comes after a long series of negotiations between our Department of State and the Philippine Foreign Minister, Mr. Manglapus.

We are told, Mr. President, that this new agreement is a good deal for the United States and for the Philippines. I am not so sure. I will reserve judgment until the Senate Foreign Relations Committee reviews the agreement early next session.

Although, technically, the United States does not pay "rent" for the use of Clark Air Force Base and Subic Naval Station, this agreement does have a price tag.

The tag is not the $180 million a year that our Government pledged to secure on a "best efforts basis" under the existing agreement, but $480 million per year.

We are told, Mr. President, that $480 million is a bargain, because it is less than the $1 billion which the Philippine Foreign Minister, Mr. Manglapus, demanded at the beginning of the negotiations. Well, I question the "bargain."

Where is the money to pay for this bargain to come from? From the Defense budget? No, that is not the way the system works. The administration has not come to the Congress to ask for the money. Where would we get it? In fact, Mr. President, to pay for this bargain, the administration will have to gut aid programs for other Third World nations. I am not sure the bargain is worth it.

Mr. President, I am fully committed to the success of the great democratic commitment in the Philippines.

I was privileged to witness, at firsthand, the election which set the stage for the fall of President Marcos and the rise of President Aquino.

I believe that the United States has a moral obligation to assist the Philippines to throw off the yokes of poverty and insurgency.

I do not believe, though, that it is in the interests of either country to entangle the legitimate developmental and debt management needs of the Philippines with the bases issues.

I have long believed, Mr. President, and I have said so, that if the United States has a need for a foreign base, and rent is required, that rent is a legitimate defense expenditure and ought to be dealt with accordingly. In short, if it is in our national interest to locate a base overseas, then we should negotiate in good faith and at arms length for a fair monetary arrangement.

At the same time, if we wish to help an ally with its economy, then we should treat that subject separately.

I do not believe that military bases should be paid for in the guise of a "best efforts basis" under our foreign aid program.

This system, which we use with the Philippines, confuses issues that need not be confused and puts the United States in the position of giving foreign aid because it is demanded and not because it is required.

It may come as a surprise, Mr. President, but in most of the countries in which the United States stations troops, we pay no rent at all. Our NATO bases in Western Europe are free to our use, our bases in Japan cost us nothing, and our bases in Korea are also provided free. In fact, in all these cases, the host government provides various elements of host nation support. In simple terms, Mr. President, they pay us.

It may well be that if the problem of the Philippine bases had been approached with clear heads on both sides, we might have a different conclusion regarding developmental aid.

It is possible that the Philippine Government, with their minds uncrowded by the issue of the bases, would rather have had a different aid package from the United States.

At the same time, our U.S. negotiators may have been able to take the clear headed approach if the impetus had not been to reach a bases agreement. All of the economic issues which divide our two countries have been carried on the back of the base negotiations and that is not a rational approach.

Mr. President, the expenditure of $480 million of the United States taxpayers' money may well be justified in the Philippines.

That money may well be what is required to get the Philippine economy back on track again. If that is the case, however, Mr. President, the case will have to be made to this Senator in those terms. The developmental aid will have to be justified on its own terms and any payments for the bases will have to be justified on strictly military terms.

Tying the developmental aid to the bases agreement simply does not wash.

I do not believe that Clark Air Base and Subic Naval Station, despite all their military advantages, have suddenly become worth three times what they were worth at the beginning of the year.

The fact is, Mr. President, I do not think anyone, inside the United States Government or out, has any idea what these bases are actually worth to us, and I am sure that no one has a keen grasp on the alternatives.

For that reason, I sponsored an amendment to the Defense Authoriation Act which will require the United States Government to present to the Congress, 6 months from now, a study of the alternatives that are available to us both for maintaining the bases in the Philippines and for moving them elsewhere.

I fear that the Philippine Government, having won such a large increase this time, will be simply encouraged to try for more the next time.

I hope that the study that I have called for and the exercise of conducting it will give our negotiators a clear appraisal of what these bases are actually worth and what alternatives are available. Until our alternatives are made clear, this Senator must reserve judgment on the 2-year bases deal just announced.

THE 100TH CONGRESS

Mr. MURKOWSKI. Mr. President, in remaining moments that I have, I shall, as this historic 100th Congress comes to a close, recognize and take stock of what has been accomplished, and what remains to be done when we meet again for the next Congress.

As I reflect on our work, a sobering image of the future arises: missing from the ranks in our next Congress will be some true friends and giants of the Senate.

Some of our most senior and experienced colleagues will not be returning.

Our most senior colleague, Senator John Stennis, will be retiring after 41 exceptional years of public service in the Senate. Throughout his Senate tenure, Senator Stennis has directly influenced an extraordinary array of our national policies, including the shaping of our national defense. His basic sense of civility and his courage have been demonstrated time and again throughout his service in the Senate: from his lone and early criticism of Senator Joseph McCarthy, to his steadfast leadership of the Armed Services Committee during the Vietnam war. Simply put, Senator Stennis is truly a model public servant.

Senator William Proxmire, presently presiding over the Senate, for over 30 years of dedication to Wisconsin and the United States, serves to remind each of us that persistence, hard work, independence, and common sense can make a difference in the legislative process. One of Bill Proxmire's current achievements, the passage of the Genocide Treaty, required literally years of persuasion. Colleagues who serve directly with Chairman Proxmire will give us a more detailed understanding of his strong and able leadership of the Banking Committee. But those of us not privileged to serve with him on a committee have other measures of the man.

He has not missed a recorded vote for over 20 years; he has such rapport with the citizens of Wisconsin that he has spent less for reelection than most of us spend on Christmas card stamps; he can infuriate bureaucrats—and some of his colleagues—by handing out awards that question Government projects or spending; and he sheds light on tough issues by making a speech a day on the floor. Not having Bill Proxmire help open the Senate each day will mean not only a void in the ordinary course of our daily lives, but will represent a real loss in the ranks of those wise persons in the Senate who lead by deed as well as words.

Mr. President, I have noticed over the past weeks many of my colleagues discussing Senator Bob Stafford's departure in the context of his great work on the environment. Surely any accurate rendition of Bob's mark on his State and Nation must focus on his chairmanship and activity on the Environment and Public Work Committee. Yet, I have had the distinct pleasure of working with Bob Stafford on the Veterans' Affairs Committee, and his strong support and sensitivity for our Nation's veterans must not go unmentioned as Bob retires to the lovely hills of Vermont.

Mr. President, the departure of Senator Dan Evans is of special significance to me. Dan and I have served together on three committees—Foreign Relations, Energy and Natural Resources, and Indian Affairs—and we share interests in a number of issues affecting the pacific Northwest. I have witnessed, firsthand, Dan's thoughtfulness, concern, and the careful manner in which he approaches the broadest range of national and international issues. From his first weeks in the Senate, Dan's strength and persuasion have been evident, and I will not only miss his insights, but our colleagues on the Foreign Relations, Energy and Indian Affairs Committees will be deprived of a great friend.

I would not be surprised to see him back in Washington in the future in some highly elevated capacity.

Mr. President, Senator Lawton Chiles' departure from the Senate came as a surprise to us who have watched Lawton work on what must be one of the most thankless committees in the Congress. As chairman of the Budget Committee, Senator Chiles has been tugged and pulled by Republicans and Democrats alike in trying to get some control over not only the numbers in our budget, but the budget process as well. His work during the "budget summit" of last session certainly made our appropriations process run smoothly for the first time in my memory. But, Lawton Chiles' contribution to our Nation runs deep in other areas as well. For example, from his earliest days in the Senate he argued that our Government should conduct its business "in the sunshine," and he has made our Government more responsive as a result of this effort.

Mr. President, Senator Paul Trible is the youngest Member to leave this body, and he will look forward to another career in public service. Paul has represented Virginia steadfastly in his 6 years in the Senate, as he had when he was representing the tidewater district of Virginia in the House. As a father of young children, Paul has experienced the frustrations of the Senate's difficult schedule, and his departure reminds us all that we will have to continue the work that our leaders have begun this session to enhance the quality of our life here. Although we will miss Senator Trible's contribution in the Senate next Congress, we will be comforted to know that he will continue to work in Virginia.

Mr. President, good friends, young and older, are leaving our ranks, friends with whom we have disagreed at times on particular issues. Yet, the beliefs and positions of our departing colleagues represent an extraordinary diversity, as do the constituencies they have so ably represented in the Sente.

Finally, as I prepare to leave Washington, I am comforted that when I return, Senator Byrd will still be in the Senate. He has chosen to take on new duties on the Appropriations Committee, and maybe as President pro tempore. Senator Byrd has always been courteous to me, an extraordinary gentleman, and a Senator who appreciates and understands the concerns of my faraway State of Alaska. I look forward to Senator Byrd's role in the 101st Congress as he departs from leadership to new responsibilities. It has been a privilege to work with him on the minority side, and I look forward to continuing that relationship.

On behalf of my wife, I must say that Nancy and I are grateful to have had the privilege of having worked with our departing colleagues, Senator Stennis, Senator Proxmire, Senator Chiles, Senator Stafford, Senator Evans, and Senator Trible. It is my fervent hope that their States will send to this body men and women who share the same sense of dedication to public service and decency befitting the U.S. Senate.

The PRESIDING OFFICER. The Chair thanks the distinguished Senator from Alaska for his kind remarks.

The Senator from Washington.

NUCLEAR WEAPONS PRODUCTION COMPLEX

Mr. ADAMS. Mr. President, in recent days there has been a great deal of discussion on the floor of the Senate and in the national media concerning problems in the U.S. Department of Energy's nuclear weapons production complex. My own view is that this open discussion is not only healthy, but long overdue. For too long, the management, and mismanagement, of the Department's weapons production complex has been insulated from outside scrutiny. The blame does not rest with the Department alone. Many in Congress have been willing accomplices to the view that the DOE's weapons complex should be kept out of sight and out of mind. Even in this Congress, for example, proposals to require nuclear weapons program contractors to bear direct financial responsibility for accidents caused by their negligence were turned aside during the debate on the Price-Anderson Act.

Mr. President, there is much to discuss. The next Congress will face a number of issues critical to the future of the DOE nuclear weapons complex ranging from the decision to proceed with the SIS laser isotope facility in Idaho, to the construction of new production reactors, to finding a way to clean up environmental contamination, to insuring that a new, more rigorous and more accountable system of regulation is implemented.

First, I am bothered by the fact that the public, after listening to the discussion of these critical issues, may come to believe that the Congress and the administration are merely playing "pork barrel politics" with both our national security and the health of our citizens. I do not believe that. I do not believe that any Member of this body opposes or supports a given reactor just because he or she thinks it will bring jobs to their State. I know there are political advantages associated with bringing jobs to your State and political costs associated with opposing projects that do so. I have paid some of those costs as a result of my opposition to locating a nuclear waste dump in Washington State, my efforts to close the N-reactor because I believe it is unsafe and unneeded, and my opposition to conversion of WNP-1 because I believe it is not a realistic option in our effort to meet our national need for tritium. My point, however, is that I have reached my conclusions and taken my positions because of the substance of the arguments, not the politics of the moment. I believe that those who disagree with my conclusions do so for legitimate reasons. And I hope that this ongoing debate will focus on science and our national security needs rather than politics and personalities.

Second, I am deeply disturbed by the situation we now face. Some of my colleagues have suggested that the United States may, in essence, be required to walk down the path of "unilateral disarmament" because the mistakes of the last 30 years have left us without an assured capability to produce tritium. I agree that we need a certain amount of tritium to assure our defense and I also agree that, in the absence of decisive progress on strategic arms control agreements, that need will be difficult to satisfy without new production capacity being developed and/or old capacity being restored. But cries of "unilateral disarmament" and other trappings of a crisis-in-the-making—will not produce better decisions or lead to safer plants. They will only lead, in my view, to the same sort of "quick fix" decisions, cloaked in national security wrappings, that have brought us to the present sorry state of affairs.

Ironically, the practice of the Department of Energy to sweep its problems under the rug, in some cases almost literally, will make it even more difficult to develop new production capacity. As we find out more about DOE's past mistakes, we have more concerns about their ability to act responsibly in the future. That concern is understandable given what we know now about the problems associated with accumulated waste and aging facilities. Those concerns will no doubt grow as we learn more. For example, as a result of congressional approval of a provision which Congressman Foley and I sponsored to authorize and fund a CDC epidemiological study of the health of people living downwind of the Hanford facilities, we are about to quantify the consequences of the unacceptable radiation releases which have taken place at DOE facilities. We are also finally beginning to learn what DOE had previously attempted to keep secret: That their facilities had been operated in an unsafe manner for decades. The record of accidents, unanticipated power spikes, accidental releases of radiation, inadequately trained and supervised personnel in control rooms, structural flaws in facilities, scientifically suspect calculations and operating practices, inadequate research and analysis—all that and more is coming to light.

What is also coming to light is this simple fact: DOE knew what was going on, they knew what was wrong, they knew what could and might and did happen—and they did nothing about it. In fact, all they did was resist reform efforts which might have corrected the problems. They opposed independent oversight activities. They refused to make a case for a new production reactor. They allowed this crisis to develop.

There is a good deal of natural skepticism about giving the same organization which got us into this mess the authority to fix it. In my own State of Washington, some of the people who have been put at risk as a result of DOE mismanagement are understandably reluctant to allow DOE to come back in and run yet another plant in their neighborhood. That feeling appears to be shared by at least some of the people of Colorado, Ohio, and South Carolina. If we are going to fix this problem, we have to begin by fixing DOE. We have to restore credibility to the agency and the process before we "trust them" to make basic decisions about our future.

Third, I agree that we have a tritium problem which we need to address and address on an accelerated basis. I disagree, however, with the conclusion that conversion of an incomplete reactor, initially designed for commercial purposes, is the way to deal with this problem. Yesterday a copy of the GAO report on the conversion issue was submitted for the Record. A careful reading of that report indicates that WNP-1 offers us no assurance that the tritium we need will actually be produced. The report makes it clear that safety considerations will require the reactor to be run at lower enrichment levels than originally proposed. We do not have the technology to produce goal quantities of tritium at those required lower enrichment levels and there is no certainty that we ever will be able to generate goal quantities at those lower levels. In order to actually meet tritium requirements at this reactor we would need a new tritium target design as well as new tests on the long-term integrity of such a design; a process that could take as long as 4 years to demonstrate. I would call the attention of my colleagues to the discussion of these issues in appendix III of the GAO report, previously submitted for the Record, and indicate again that the claims that WNP-1 assures us a quicker and cheaper solution to our tritium needs is simply not accurate.

Mr. President, let me conclude by simply making this observation: We do have a problem, we do need to address it, and we do need to address it now. But in the process, we also need to address the institutional problems associated with DOE's failures of the past; we do need to address the problems of accumulated waste at existing facilities; we do need to address the issues of past harm to human health and the environment; we do need, in short, to make some basic decisions about the way we want our defense production facilities to operate. Isolating just the issue of our tritium needs will, I fear, not give us the kind of systemic solution we need. Instead, it will force us to adopt more "quick fixes" and require us to give more power and authority to an agency with a record that neither inspires nor deserves our trust and confidence.

RETIRING SENATORS

Mr. ADAMS. Mr. President, while I have the floor, and while the present occupant of the chair is the Senator from Wisconsin, I want to take this moment at the end of the 100th Congress to express my appreciation to Senator Proxmire for his years of service. I have admired the Senator for many years. I once received his Golden Fleece Award when I was Secretary of Transportation. He may remember I sent him back a letter saying, "I received your letter. I have examined what happened, and I believe I won it fair and square."

I also am going to miss Senator Stafford, an old and dear friend from the House days, one who has helped my children as well as me. We shall miss both Senators very much.

Senator Stennis I have always admired greatly, and he has been a great leader for all of us, both as President pro tempore and as chairman of the Armed Services Committee of the Senate.

Senator Trible I wish well in his new endeavors. I had the opportunity to serve with him on the Foreign Relations Committee and it was a great joy.

Senator Chiles I shall miss very much. I felt a certain amount of sorrow for him as chairman of the Budget Committee, having been chairman of a budget committee; I think he bore up very well, and at last he gave us a 2-year budget.

For my colleague, Senator Evans, we shall all miss him, but I agree with the comments of Senator Murkowski a little earlier, I think we shall see more of him in the future. He is an old and dear friend. We have been together in politics for 35 years, often on different sides of an issue, a man of great integrity and a man who I think has served his country well.

TRIBUTES TO RETIRING SENATORS

A TRIBUTE TO DAN EVANS

Mr. ADAMS. Mr. President, most of my colleagues and constituents know that Dan Evans and I did not always agree on how we ought to deal with issues effecting our State and our Nation. But I suspect that not enough people understand that those differences did not alter my respect for him as a Senator or diminish my affection for him as a human being.

Dan Evans and I have known each other—and disagreed with each other—for a long time: our time at the University of Washington overlapped and my service in the House of Representatives overlapped with his tenure in the Governor's office. He came to the U.S. Senate before I did and, I suspect, was less than delighted when I joined him here since I got here by defeating one of his closest friends, former Senator Gorton. Despite whatever misgivings he may have had about my joining him here, Dan Evans welcomed me to the U.S. Senate. He and his staff made me feel welcome. We worked together on a number of issues critical to our State: our cooperation made it possible to pass legislation easing implementation of the FIP Program, the creation of a wildlife preserve in Bowerman Basin, protection of Hanford Reach, and a host of other programs. We served together on the Foreign Relations Committee and I hope that our united efforts had something to do with making approval of the INF Treaty possible. And even when we did disagree, as we have most notably on questions related to the Hanford Nuclear Reservation, our differences were professional and philosophic, not personal and political.

Over the years, I am sure that both Dan and I have said some things about each other which we did not mean. But I mean it when I say now that Dan Evans has served his State and his Nation well. He is a good Senator and a good man. Both Washington State and Washington, DC, have been fortunate to have had the benefit of his talents. Betty and I wish Dan and Nancy continued health, happiness, and—in one last "nasty shot"—many years of continued service here in our Nation's Capital.

TRIBUTE TO WILLIAM PROXMIRE

Mr. President, when BILL PROXMIRE retires at the end of the 100th Congress, something wonderful will be leaving the U.S. Senate. When people write about BILL PROXIMRE, they tend to characterize him as a maverick. They may be right—and if they are, that is sad because there should be nothing unusual about a Senator who goes home virtually every weekend; who makes every vote; who speaks every day about issues of national concern; who is willing to fight for decades for a principle as important as the Genocide Convention; who becomes furious about the almost daily waste of taxpayer dollars. Maybe that explains why BILL PROXIMRE could run a campaign that cost a couple of hundred dollars—in a State where other candidates spend a couple of million—and still get elected.

BILL PROXIMRE may never have been "a member of the club," but he has always been willing to use a club to call the attention of his colleagues to the problems we ought to be addressing. He is a man of firm conviction and total honesty. He has never traded a vote, never shaded a view. There is an old saying that holds that "if you try to please everyone, no one will like it." Well, BILL PROXMIRE never tried to please anyone; and everyone loved it, and everyone loved him.

Mr. President, there are those who say we shall not see the likes of BILL PROXMIRE again. For the sake of our country, I hope they are wrong. We need more people like BILL PROXMIRE in the U.S. Senate. And if we don't get them, I'm sure BILL will come back and speak every day on that subject until we do.

A TRIBUTE TO LAWTON CHILES

Mr. President, many years ago, I served as the first chairman of the House Budget Committee. As a result of that experience, when I came to the U.S. Senate I made one request: do not, I begged my colleagues, assign me to the Budget Committee.

I wish LAWTON CHILES had made the same request; if he had, he might be in the U.S. Senate next year. LAWTON's decision not to seek re-election was rooted in more than the frustration inherent in the budget process, but I'm sure that it was a part of his thinking. While the budget may have frustrated LAWTON, his mastery of the process fascinated his colleagues. Last year, LAWTON CHILES did what few thought was possible: he negotiated a "Summit Agreement" with the administration which allowed us to develp a consensus—rather than a confrontation—about the elements of Federal spending. If that was all that LAWTON CHILES had accomplished in his tenure in the Senate, it would be accomplishment enough. But of course he has done more than that. His years of service have been marked by a compassion for the needy and a commitment to developing systematic solutions to our Nation's problem. He was, and is, an original thinker, a man of insight and courage, and a man of uncommon good humor. We will miss him; but I suspect that he has the good sense not to miss us. I suspect that LAWTON CHILES will spend some time in Florida, some time here among his friends, and some time with his family. He has earned it.

A TRIBUTE TO ROBERT STAFFORD

Mr. President, I spent some time in New England years ago when I was a student at Harvard Law School. But the New England I knew in Boston is, I suspect, different from the towns and villages and people of Vermont that ROBERT STAFFORD has known and represented so well for so many years.

As a man of the West, I must confess that I find the Eastern most regions of our Nation a little hard to understand. But I find ROBERT STAFFORD easy to admire. He is a man as strong as the mountains of his State, as stable as the land that has supported life for generations, as secure as the values which fill the hills and valleys of Vermont. ROBERT STAFFORD has been a hero to the people who care about the land, about the air, about the water, about the Earth itself. His behavior in the months since he announced he would not seek reelection is representative of his commitment. He did not take "early retirement;" instead, he continued to work for consideration of the Clean Air Act and he shared with us, and with the Nation, his views on the future of the environment.

Mr. President, ROBERT STAFFORD demonstrates that true public service is designed to do more than respond to the problems and passions of the moments: true public service is designed to look at the long term, to analyze the challenges we face, and attempt to find solutions which will make the future better than the present. ROBERT STAFFORD has done just that and, as a result, we are all in his debt.

A TRIBUTE TO PAUL TRIBLE

Mr. President, I served only 2 years with PAUL TRIBLE, but in that time I was impressed by his intelligence and his dedication. His service on the Iran-Contra Committee demonstrated that he was a man with an independent mind, a man willing to challenge the politics of party, a man who cared about the values which shape our Nation. Indeed, even his decision to leave the Senate was based on the recognition of the importance of those values: when he concluded that his service here took too much time from his family, he decided that his first obligation was to secure in his own life the values he hoped to make safe for the Nation as a whole. It is always easier, Mr. President, to "fix the world" rather than make the difficult choice to "set our own house in order." PAUL TRIBLE made that choice. And in the process, he earned our respect just as the choices he made while in public life earned the gratitude of his State and Nation.

TRIBUTE TO JOHN STENNIS

Mr. President, in some ways it is presumptuous of me to rise to pay tribute to JOHN STENNIS. He is a giant. His record in this body and in the history of this Nation is written in a script as bold and as large as the man himself. The Senate service of JOHN STENNIS spans over 40 years, years in which modern America was forged. To study the record of JOHN STENNIS is to study the history of America. On the issue of civil rights, for example, JOHN STENNIS both reflected the attitude of his State and helped shape a new level of sensitivity. On the issue of national defense, JOHN STENNIS is the man to whom we all turn for guidance and advise. His public life, as well as his private life, is beyond reproach. He is, in the best sense of the word, a patriot.

JOHN STENNIS told his constituents that his goal was to plow a straight furrow to the end of his row. He has not reached the end of the row yet, but he can look back and see a straight line of service. And we, who seek to follow him, can only look with admiration not just at the furrow he plowed, but at the seeds he has sown and the crops which have grown. I fear, Mr. President, that we will not see his like again.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Chair thanks his good friend, the Senator from Washington.

The chair recognizes the Senator from Missouri.

(Mr. ADAMS assumed the chair.)

BETTER CHILD CARE SERVICES

Mr. BOND. Mr. President, adequate child care is certainly going to require the attention of the next session of Congress. As we are all fond of pointing out, our children are our future. The care they receive during their formative years perhaps more than anything else will determine the kind of society, the kind of people, we will become. I believe everyone in this body agrees that child care is an important issue. Recently we debated this issue as part of the so-called "pro-family package" which included parental leave and child pornography legislation as well as S. 1885, the Act for Better Child Care. The package was taken down by the majority leader after failure of a motion to close debate. While we will see no further action this year, the issue is far from dead. I anticipate my colleagues on the other side of the aisle will try to resurrect and reintroduce the ABC bill next year.

Mr. President, I followed the debate on the so-called "family package" with great interest, and was continually amazed that proponents of that proposal had the gall to accuse anyone who even dared question a provision of it as being de facto antifamily.

I am offended by that characterization—and it is only because I know Missourians and of their abilities to recognize grandstanding that I am not more deeply offended.

Mr. President, I am not naive, and certainly recognize that partisan maneuvering and posturing are part of the process. However, I do not believe the American people are well-served by a take it or leave it approach to legislation.

What have the successes of the 100th Congress been? Even a cursory glance shows that the word "bipartistan" is included in every one. It wasn't the Democrats' Farm Credit Assistance bill, or the Republicans' trade bill. No one called the drought relief bill Democrat or Republican, and welfare reform was a classic compromise.

So why, in the closing days of the 100th Congress, do my friends on the other side suddenly want bills to be the Democrats' version or nothing at all? Perhaps the answer is simple—they want the political points for trying, but not the responsibility for governing. If that indeed is the case, then this so-called "pro-family" package was nothing more than a cruel hoax designed to embarrass those who do not simply fall into line. I do not believe that is any way to govern.

Unfortunately, child care was thrust into this hoax. No one disputes the importance of quality child care; what we cannot agree on is a workable definition of the problem. The child care issue has been defined as an education issue, a workforce issue, a family-income issue, a psychological issue and a nonissue. The range of viewpoints is wide and at times appears irreconcilable. Yet, judging from the plethora of bills from all parts of the political spectrum, it appears that we all agree that while perhaps no persistant nationwide day care shortage exists, shortages in affordable safe day care do exist in many communities in virtually every State in America. The perceived need for an expanded Federal role in child care is no longer at issue; what is at issue is what the nature of that role should be—what form that involvement should take. Unfortunately, while the ABC bill was a solution to the need for an expanded Federal role, it was not a good one, or even an acceptable one.

In the August 29, 1988, Washington Post, my good friend and colleague Senator Dodd cited his act for Better Child Care Services as the "consensus response" to the increasing need for affordable, quality child care. The majority's action to bring this bill up on the floor as an amendment to parental leave was a skillful effort to portray to those back home that the consensus he mentioned had been reached. While I commend his work to bring to public attention the problems many families face in finding affordable quality child care, I would suggest that the "consensus" he mentioned is one of recognition of the problem, and not of an approach to its solution. This conclusion was illustrated clearly by the failure of the majority to get the 60 votes necessary to restrict debate on this issue.

The proponents of the ABC bill cited three objectives to be accomplished by its implementation: increased availability, increased affordability, and increased quality. To achieve these objectives, $2.5 billion would have been authorized over the next 3 years to assist nonprofit providers in establishing and maintaining day care centers. While proponents of this approach might rest comfortably in the knowledge that a sufficient amount of money would have been spent to solve the problem, I believe this country would get more for its money using a much different approach, and that we in Congress would be irresponsible not to explore it during the 101st Congress.

With a budget deficit approaching $146 billion, next year is not the time for the Federal Government to embark on a new entitlement program. This bill authorized $2.5 billion a year for 1989, 1990 and 1991, and "such sums necessary" thereafter. With an average day care cost of approximately $3,000 per year per child, it is estimated that the ABC could have increased the number of day care slots by about 700,000. That would have alleviated the problem only slightly, as California alone needs 1 million slots. One tenth of the money authorized by the bill, $250 million a year, would have been eaten up in administrative costs. This sum alone, multiplied over the next several years, should suggest that the best long-term solution to the child care shortage is NOT a new government program. A more thoughtful, less costly, and ultimately more effective approach would be to increase the number of private sector and corporate providers by adopting special one-time incentives and eliminating barriers to their participation.

Mr. President, I believe that a long-ignored but appropriate role for government is that of "enabler" rather than "provider". It defies logic that any bill before Congress which advocates an enhanced Federal role in child care would not contain the kind of positive incentives which would shift the burden away from the government and away from government subsidies where possible. Yet not a single provision in the ABC bill could have been construed as enabling private, corporate providers willing to meet quite stringent standards to get in the game. A Labor Department Task Force reported recently that only 11 percent of the Nation's 6 million employers provide child care assistance programs. And a recent study completed for the Small Business Administration suggests that many more employers would be willing to get into the game if barriers to participation were eliminated and if more and better "how-to" information were available. Potential corporate participants list two primary obstacles to assuming the role of child care provider. One is the phenomenal cost of obtaining liability insurance; of the small percentage of firms providing on site care, most have seen their premiums double or triple recently, and the premium cost increases bear no relationship to claims. The second major barrier is the enormous cost accompanying establishment of a day care center, a cost averaging $53 per square foot, according to the Department of Labor. Yet the ABC bill did nothing to address these issues. If we are trying to provide onsite day care then this neglect is incomprehensible.

Mr. President, an alternative to ABC introduced earlier during this session would knock down both of these barriers through establishment of liability insurance risk pools and through establishment of a child care facility credit for employers equal to 25 percent of the startup costs for establishment of onsite facilities. This alternative, Senator Hatch's Child Care Services Improvement Act, has been given too little attention by this body, despite being cosponsored by 16 of us. While ABC contained an information and referral component designed to expand availability, all the information in the world will not help a corporation obtain liability insurance or make establishment of a day care center as affordable as a tax credit would. But ABC ignored these issues.

Full participation by the private sector will take some time to encourage. In the meantime, if the Government is to subsidize some families for day care, we should be certain that families most in need are targeted to receive assistance. ABC would have provided subsidies for families earning up to 100 percent of the median income. Median income averages over $30,000 in some States. As the average American family income where only one parent works is about $24,000, the ABC bill could have resulted in a Federal subsidy for the middle class, with no guarantees that families most in need would be reached.

As Governor of Missouri, I saw that many Federal attempts to address problems often resulted in overly cumbersome Federal regulations. ABC proponents claim to recognize that the best solutions to community problems are usually found on the local level, and claim that their approach is locally-oriented. While States would have been given the sums for implementation, they would have been subject to strict guidelines about how the money was to be spent. The ABC bill called for the establishment of a national advisory committee on child care standards, who would have been charged with the task of proposing minimum national standards for child care programs. States would have been given little latitude to use the infrastructures and delivery systems they had already developed if forced to comply with stringent new standards.

States must be given the freedom to legislate standards that meet the particular needs of their regions. The competence of the Federal Government in setting up a system of applicable nationwide standards responsive to all the children of this country is questionable at best. While ensuring safety of Minneapolis toddlers might mean preventing frostbite, in Tucson safety guarantees would have to include protection against scorpion stings. At a child care hearing earlier this summer, Governors Thomas Kean, of New Jersey, and Bill Clinton, of Arkansas, criticized the proposal for its lack of State flexibility and input. I do not think either of these two men could be called antifamily. However, I am perfectly willing to be lumped into a category with them if that's the way proponents of the ABC bill want to paint us.

Mr. President, a true "consensus" approach would ensure that Americans could continue to utilize a wide variety of options and settings to fill their child care needs. The ABC bill, with its emphasis on minimum standards and on the establishment of costly, government-run centers, could have caused the phasing out of home-based operations, which comprise over two-thirds of all child care arrangements in many States, including my home State of Missouri. If proponents want to return to the days of solving a problem by throwing Federal money at it, they could at least be sure they hit the target.

Again, Senator Hatch's Child Care Services Improvement Act, encompasses this philosophy of providing cost-effective, locally-oriented solutions to the child care problems in local communities. In addition to providing the incentives for private employers to provide onsite child care mentioned above, the legislation we have offered would make available block grants to the States so that they in turn could work with local officials to develop the best programs possible for local communities. Some uses of these funds might include the establishment of community day care centers, after school programs, information programs to help parents select the best day care they can afford or better enforcement of health and safety standards at day care facilities. States would be free to implement a sliding scale of eligibility for assistance to remove disincentives for job advancement among the working poor. In short, the Child Care Services Improvement Act gives States the flexibility to implement all that the ABC bill mandates—at one-tenth the cost.

Another more suitable approach might be a tax credit for families with children under 4, which could be used for child care expenses. The credit could be phased out as income rises, to ensure that the families most in need receive the most money. Vice President George Bush has a tax credit plan that will reach the families most in need at a cost of $1.5 billion, slightly more than half the cost of the ABC bill. A tax credit plan would be more effective than the ABC approach, as it makes child care affordable without creating a huge bureaucracy, and is nondiscriminatory and relatively simple to administer as well.

In closing, let me say that the word in the press over the summer and early this fall was that child care was an issue whose time had come. I do not dispute that. But I believe many of my colleagues recognized that this is certainly not the time to pass an ill-conceived child care bill. I am glad some of my colleagues resisted the election-time temptation to put their names on whatever bore the child care label. The American people would not have been fooled, and this issue is too important to fall victim to politics.

Mr. President, in conclusion let me say that I was deeply troubled by the "profamily package," as well as the underlying attitude of its proponents. It seems to me that a bumper sticker mentality has taken over this Chamber and that constructive criticisms or suggestions are not only not welcomed—but if you dare make them, the sword of anti-family-ism shall swiftly strike you down.

The mentality seems to be that only the Federal Government can be trusted to solve families' problems—by imposing mandates, creating centers, setting standards and providing cash. Whatever happened to the belief in the American employer and employee? When did we suddenly decide that small, medium or large employers cannot be trusted to do anything right for their employees? And since when did we decide that—contrary to years of experience—that the Federal Government knows best?

I am glad my colleagues rejected this notion that the Feds know best, however narrowly, and hope that next year we can begin work on a truly responsible "profamily package".

SENATOR DAN EVANS

Mr. STEVENS. Mr. President, we approach the end of this historic 100th Congress with both joy and a certain amount of sadness. Joy over the Senate's tremendous accomplishments over the last 2 years such as ratification of the INF Treaty. And sadness over the prospect that when we return in January, many of our colleagues whose counsel and friendship we have come to rely on will not be here as the 101st Congress is gaveled to order.

Before we enter the frenzy of the final few days of the session, I want to comment on the loss of one of our colleagues who has decided to move on to ever greener pastures, Senator Dan Evans. Dan first came to the Senate in 1983.

The sense of loss we all felt when Scoop Jackson left us lessened when we knew former Washington Gov. Dan Evans—an articulate, bright, and thoughtful legislator would join us. Over the past 5 years, I have increased my trust in Dan's wise counsel and thoughtful advice. We do not always agree on the issues, but I respect Dan's defense of his views and his advocacy for the people he represents.

Dan's career in public service began in 1943 when he served in the U.S. Naval Reserve aboard an aircraft carrier in the Asiatic-Pacific theater. During the Korean war, he was lieutenant on a destroyer and later participated in the peace negotiations at Panmunjom. He then returned to his home State of Washington where he founded Evergreen State College and later served as its president.

Dan first held elective office in 1956, when he won a seat in the Washington House of Representatives. The fact that Dan is the only person who has served three terms as Governor of the State of Washington speaks to his great popularity at home.

Dan has provided us with leadership on a broad spectrum of issues—issues such as deficit reduction and energy efficiency. He was one of the early supporters of the line-item veto and was an articulate advocate of Gramm-Rudman-Hollings.

He is in no small measure responsible for enactment of the Appliance Energy Conservation Act and worked hard to improve automobile efficiency standards. He has also taken an active role in fisheries issues, just as his predecessors had done.

As ranking member of the Senate Select Committee on Indian Affairs and the Senate Energy Committee, Dan has continued the "Washington tradition" of support for Alaska by acting as almost a third voice here in the Senate for Alaska's Native people.

DAN has also played an important role in international trade issues. He was a outspoken advocate in favor of the trade bill and actively supported the United States-Canada Free-Trade Agreement.

DAN has also played an important role in issues which are important to Senator MURKOWSKI and me. He supported the 1987 amendments to the Alaska Native Claims Settlement Act. He was also instrumental in including Alaska Natives in legislation providing benefits to Native Americans—bills such as the Indian Self-Determination Act and the Indian Financing Act, to name just a few.

The protections DAN sought for the Columbia River Gorge and the designation of certain lands in Washington as wilderness are just part of the legacy he leaves to the people of Washington. We shall all miss DAN EVANS, and we wish him and Nancy well in the days ahead. Although we are losing a Senate colleague, I am confident we will continue to be blessed by DAN's and Nancy's warm friendship.

HONORING SENATOR WILLIAM PROXMIRE

Mr. STEVENS. Mr. President, I would like to recognize one of our most distinguished colleagues, Senator WILLIAM PROXMIRE, who is retiring upon completion of the 100th Congress. Undeniably, Senator PROXMIRE has had a tremendous impact on this body for over 30 years. He is a proven individualist, one who will be irreplaceable.

Senator PROXMIRE has been a true pioneer. Immediately after being elected to this body in 1957, he challenged the so-called dictatorial methods of then Majority Leader Lyndon Johnson. He emerged victorious—and we are still feeling the effects of this victory. Throughout his tenure in the Senate, his iconoclastic approach has proven effective.

Senator PROXMIRE has accurately been called the "watchdog of the public's purse." His "Golden Fleece" awards have brought wasteful spending into the forefront. He has consistently proven to attract public attention to a Federal Government which tends to be held captive by fiscal spending policies.

Senator PROXMIRE can also be admired for his tenacious character. The best symbol of this was his fight for U.S. ratification of the International Genocide Treaty. He delivered more than 3,000 speeches over nearly 20 years before the Senate approved the treaty just 2 years ago.

I was pleased to join with him each time this matter came up for a vote. I think he has done a greater service in explaining the ramifications of that treaty.

Senator PROXMIRE and I have certainly had our disagreements over the years. But we've also fought and won some battles together—such as last year's resolution advocating the importance of funding for the research phase of the strategic defense initiative.

Senator PROXMIRE has been a true maverick. He has been one who recognized his role here as being one of a maverick, and he has produced for his people.

His tenure as a U.S. Senator is commendable. I recognize his many achievements at this time, and give him my very best wishes as he retires from the U.S. Senate.

I want my good friend to know as I stated in these comments that I will miss Senator PROXMIRE and I will miss the opportunity to work with him and the challenge of working on the other side from time to time.

SENATOR PAUL S. TRIBLE, JR.

Mr. STEVENS. Mr. President, I take this opportunity to pay tribute to one of our distinguished colleagues—Senator PAUL S. TRIBLE, Jr., of Virginia. Throughout the last 6 years, it has been my privilege to work alongside Senator TRIBLE on many issues. He has proven himself time and time again to be a dedicated and outstanding Senator for both his constituents and the country. PAUL served 4 years in the House before joining us in the Senate.

PAUL TRIBLE's record speaks for itself. He has played an invaluable role in issues of critical importance to his State—transferring control of National and Dulles Airports to a local authority, protecting the textile industry, and advancing Roanoke River flood control—to name just a few.

Additionally, Senator TRIBLE has proven himself a man of rare leadership and insight to our Nation. As a member of the select committee investigating the Iran-Contra affair, PAUL demonstrated his courage and tenacity as the committee delved for the truth.

He has been a member of a group that gets together and has lunch together here every Wednesday, and I have enjoyed particularly his contributions to the group of Senators who have joined together in the so-called Wednesday group.

As Congress draws to a close, I thank PAUL TRIBLE for the honor of working with him. I wish my good friend success in all his future endeavors and I am sure I express the sentiments of the entire Senate in acknowledging how much we will miss him.

I think we will see a lot more of PAUL TRIBLE in the future.

SENATOR LAWTON CHILES

Mr. STEVENS. Mr. President, let me pay tribute to another of our departing colleagues, Senator LAWTON CHILES. LAWTON has served in the Senate since 1971, and can be credited with many timely accomplishments throughout this period.

Senator CHILES has performed well the Herculean duty of chairman of the Budget Committee. In our present age of great budgetary constraints and an ailing budget process, Senator CHILES has persistently attempted to create solutions, even when the prospects for doing so have been bleak.

Another of Senator CHILES' greatest achievements has been the preservation of our commitment to America's older citizens. He has had the distinction of serving as both chairman and ranking minority member of the Special Committee on Aging. He has effectively helped provide programs to protect the interests of older Americans. One of his most innovative achievements in this area was to expand Medicare coverage beyond the institution, thereby promoting home health care.

Additionally, to preserve America's greatest resource, he has championed legislation designed to encourage kids to remain in school, including a resolution proclaiming a National School Dropout Prevention Week. Senator CHILES has also been chairman of the National Commission to Prevent Infant Mortality, and has secured increased appropriations for prenatal care and child health programs.

Another indication of his widespread commitment to American society is Senator CHILES' effort to begin the war on drugs. For more than 10 years, he has focused on eliminating the problem of illegal narcotics smuggling and trafficking. His efforts as one of the original forces in the war on drugs have helped give this issue the national attention necessary for victory.

As he leaves I am hopeful that the Senate will finally act on the drug bill. Senator CHILES has made a major commitment and has focussed on eliminating the problem of illegal narcotics smuggling and trafficking which so affects his home State of Florida, and I do hope that as we leave we will have a small victory in that war by passing this most significant bill that is still before the Congress.

Back in 1971 we all learned a little bit about campaigning when "WALKIN' LAWTON" took off across Florida.

I believe we have all learned from "WALKIN' LAWTON'S" down-to-earth style, including his effective grassroots approach to campaigning. I've enjoyed serving with him on the Appropriations Committee, and believe he leaves behind an impressive string of accomplishments for which Floridians and Americans can all be proud.

As this 100th Congress sputters to a close, we offer Senator CHILES and Rhea our warmest wishes for a content and peaceful life after the Senate. Catherine and I have enjoyed our social evenings with LAWTON and Rhea—and know we will see much of them in the future.

Mr. President, it is a sad thing to see friends of many years decide to go back home, but it is, I think, a great tradition of the Senate that we do take the time to express our appreciation to them for having joined us.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair, in his capacity as a Senator from Washington, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LOCAL RAIL SERVICES SYSTEMS ASSISTANCE BILL

Mr. HARKIN. Mr. President, in wrapping up the 100th Congress, there are a lot of bills lying around that I know different Senators are interested in getting through. Some of these bills are very important measures that have been worked on for a long time in a nonpartisan manner and have very wide support.

One of those bills is one that I have been working very hard on for the last year. I do not mean that I have just been working on it exclusively. I have been working on it with a lot of other Senators, both Republicans and Democrats, to get it through. We have had some roadblocks thrown in our way, but each time the block came up, we were able to overcome it and move ahead.

I am talking about the local rail service assistance bill. Local rail service assistance has been in existence since 1973. It has provided assistance to rehabilitate branch lines and to purchase lines in 47 States that would otherwise have been abandoned. Many of these local branch lines were cut off by their parent companies because they did not make enough money for the parent company; not that they were losing money, but they just were not making enough money, so they cut them off. They moved to abandon them.

In many cases, these local branch lines need upgrading, new ties, maybe they need some new track, and then cars can run on them safely.

Well, I can tell you, Mr. President—I see the Senator from Washington State in the chair—I know that you know your rural areas, too, and they have a need to move their grain in the most efficient way possible. Without these branch lines, a lot of this grain has to be hauled by truck. It costs more. And who pays that cost? It is the farmer that pays that cost. It takes money right out of the farmer's pocket, aside from beating up a lot of our roads and our small bridges and highways and roads that go out to those rural areas.

What has happened is that a lot of these branch lines, the shippers along the lines, maybe the elevator operators, maybe some shippers and other local people, they get together and they may form a corporation or some entity to buy that branch line and to appropriate it. But they need a little bit of money to fix it up to get it operable. That is where the local rail service program comes in. It provides that kind of assistance.

I can speak about Iowa. I do not know the specifics in every State, but in Iowa, for every $1 of Federal money that goes in, the State will put in a dollar and $2 of local money goes in. So we get kind of a 3-to-1 bang there. For every $1 of Federal money, we get $3 of State and local money to fix up these rail lines.

The success stories under this program since 1973 are replete. Here is a book of successes—803 successes put out by the National Conference of State Railway Officials in 1987, attesting to the success of the Local Rail Services Program, what it has done to keep these local branch lines open to move our grain out of our rural areas.

Well, the local rail services assistance program ended this year. Bills were introduced on the Senate side and on the House side to continue the local rail services program. The administration said no, they did not want to continue it. They wanted to zero it out. A program that has been an unqualified success, has been a great boon to rural areas of America, and yet the administration says they want to cut it out.

(Mr. BURDICK assumed the chair.)

Mr. HARKIN. Well, this program has strong bipartisan support. This has not been a partisan issue. Two bills were introduced on the Senate side. They both had Republican and Democrat support on both sides of the aisle. And the same way in the House.

Senator PRESSLER from South Dakota has been a strong proponent and fought very hard for it. Senator D'AMATO has fought hard for it. Senator MURKOWSKI and Senator COCHRAN from the other side of the aisle; Senator ROCKEFELLER, myself, Senator ADAMS, Senator BUMPERS, Senator BURDICK from this side of the aisle. There has been strong bipartisan support for local rail services.

Well, the bill got through committee. It is at the desk now, the Senate-passed bill. We passed an appropriation for it for local rail services on the Senate side. But when we went to conference the chairman of the House committee did not want to approve any appropriations without an authorization. So we agreed to that and he agreed to move the bill rapidly through the House to get it through before the session ended so that we would have an authorization in case we wanted to fund it next year in the supplemental. So we are sitting here now without any appropriation and without an authorization.

I see the Senator from North Dakota [Mr. BURDICK] in the chair. This has been, as the Senator knows, a good program for North Dakota. Local rail services kept those branch lines open so those farmers could get that grain out.

Well, the House passed the authorization bill at a level of $10 million for 1 year. Last year the appropriation here was about $9.6 million, so it essentially keeps the program at the same level. It is not a big increase, just basically the level we have had over last year.

So the House has passed it at the $10 million level and sent it over here. H.R. 4547 is now at the desk.

I cannot find one Senator opposed to it, not one. And yet there is a hold on it.

Now, as I understand it, the hold on it is not because of Senators, it is because of OMB. OMB has said, no, they do not want the thing to go through.

Well, I had a talk yesterday with Mr. Wright, the head of OMB. He said that he had heard from Senator PRESSLER about it and others and he was going to check with his people to see what the situation was.

I checked with DOT. As best as I can figure it out, there is something circular going on here. DOT and OMB are sort of talking around each other and it just keeps going around in a circle.

It is agreed, bipartisan, that it would be a good bill, good for rural areas. It is not that much of an authorization. It is no big, huge expenditure. Yet, we cannot seem to break the logjam between OMB and DOT to get it through. I really do not know why.

I have to say, again, this is something that is very, very important to rural areas. I do not know what the disposition of it is going to be, but I certainly hope that we can get OMB and DOT or someone to break this circle that they have going down there.

I do not find any real strong opposition to it except the administration has taken a position opposed to it. And, based on that opposition, they say that they are going to put a hold on it; they are not going to let it go through.

Well, again, all I can say is that, in my own State of Iowa, farmers, if they have those branch lines operating, farmers make anywhere from 3 cents to 12 cents a bushel more in their own pockets. If they have to ship it by truck, this is money right out of their pockets, at a time when our farmers and people in rural areas are getting hit already.

I stress again that we are fixing up branch lines that move grain and move other items in and out of rural areas. Otherwise they are going to be beating up our roads and then we are going to have to go in and fix up the highways and the bridges and everything else.

So, it is a situation that, quite frankly, I find very, very frustrating. Everybody gets frustrated around here once in awhile about different things, but nothing has frustrated me more than this. I could understand if this had some huge budget impact. It is not that at all.

If you could point to waste of money and how money has been thrown away I could understand it—but here is the success. Look at this book. I did not put this out. The National Conference of State Railway Officials put this out, talking about the success of that program and what it has done to keep those branch lines open.

I am not going to take too much after the administration right now, Mr. President, because I am hopeful that they will come around and permit local rail services to go through. We still have some time here. I do not know when the Senate is going to adjourn. I am going to hold my fire a little bit. But if it is their intent to block local rail services I intend to take the floor of the Senate again and again to start pointing some fingers and to start talking about this administration and whether or not they really want to turn their back on rural America or whether or not they want to join with us in a partnership to solve one of the really big problems of transportation that we are confronting in rural America right now.

This is a small program that goes a long way. It is a small program that not only helps farmers out, helps shippers out, small towns out, it is a program supported bipartisanly, on both sides of the aisle and bicamerally, both the Senate and the House supporting it. And yet they will not let it go through.

So, I just want to take this time, Mr. President, to implore the administration to take their hold off this bill and let it go on through because the time is getting late, and I am hopeful we can get this through before the session ends.

If this session ends and we do not get local rail service assistance through, I believe that the only conclusion that can be drawn is that the administration has thumbed its nose and turned its back on rural America.

As I say, there is still time. If it gets through, then maybe we will be OK. Maybe this is just a mix-up downtown and no one has focused on it. But I hope they will focus on this issue soon because the time is getting late.

I yield the floor, and I suggest the absence of a quorum, Mr. President.

Mr. D'AMATO. Mr. President, I rise to add my comments to those of other supporters of the Local Rail Service Assistance Program. Many of us have been striving to reauthorize LRSA before the 100th Congress adjourns sine die. This program has widespread support; however, due to OMB's opposition, we have been unable to bring up the bill.

On June 28 the Senate Commerce Committee reported out S. 2570, to reauthorize LRSA for 3 years at $25 million per year. On September 26 the House passed H.R. 4547, a simple authorization bill for 1 year at $10 million. I urge the Senate to take up the House bill, which is being held at the desk, and pass it. This bill will not require a time-consuming conference, and would keep LRSA alive without interruption.

Mr. President, the Local Rail Service Assistance Program provides critical aid to regional and shortline railroads that might otherwise be abandoned, leaving shippers without service. It also funds rehabilitation and other projects on light density rail freight lines.

For fiscal year 1989 the LRSA Program was funded at $9.6 million. The fiscal year 1989 transportation appropriations bill did not include LRSA funds because the program was set to expire at the end of fiscal year 1988. If H.R. 4547 were passed, we could add critical funds for the program during the next Congress.

LRSA is a successful program which saves important parts of the Nation's rail infrastructure, keeps costs down for shippers, preserves jobs and local economies, and is vital to many agricultural communities. It provides for discretionary grants and for State entitlement planning grants.

In New York State, the Rochester & Southern Railroad would apply for LRSA funds to rehabilitate track which has caused several derailments, necessitating reduced speed and increased operating costs. The R&S project would address the worst locations and improve overall service, including intermodal service to the Rochester market. It is an example of the importance of LRSA to local communities.

Mr. President, I am committed to restoring this small, but important rail program. I urge the Senate to free up this bill so that we might pass it quickly and without disruption to this rail transportation program.

Thank you, Mr. President.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, has morning business been closed?

The **PRESIDING OFFICER.** Morning business is closed.

NATIONAL COMMISSION ON THE THRIFT INDUSTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the pending business be set aside until further consultations between the two leaders.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BYRD. And, of course, taking into the consultations the distinguished Senator from Wisconsin [Mr. PROXMIRE], the distinguished Senator from New York, and others.

So, there is nothing before the Senate just now?

The **PRESIDING OFFICER.** The majority leader is correct.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended and that Senators may speak therein for not to exceed 15 minutes, with the period for morning business being extended for 1 hour.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I discussed this with my good friend, the majority leader. As I understand it, this means the end of the banking bill, unfortunately. I want to make a short statement to explain the situation.

TIME FOR THE FED TO GIVE SECURITIES UNDERWRITING POWERS TO THE NATION'S BANKS

Mr. PROXMIRE. Mr. President, why did the Congress fail to enact legislation to permit banks to underwrite securities? Here was legislation unanimously supported by the regulators of our banks. The Reagan administration pleaded for the legislation. In a capitalistic country that relies on capital for economic progress, those who raise capital urged Congress to permit the Nation's banks to provide their great professional competence to the underwriting function so critical to raising capital. This support included 77 percent approval of the legislation by the chief financial officers of the Fortune 500. It included the solid backing of the major homebuilders' association that represents an industry that requires billions of dollars of new capital every year. The National Governor's Association that speaks for State government throughout the country called for the passage of this legislation. So did the other major governmental organizations—the Nation's mayors, the county executives. There was not one group of American institutions that relies on capital that did not favor and strongly favor this legislation.

With that kind of support was there any surprise when the Senate passed this legislation last March by a smashing 94 to 2 vote? Here was a bill that seemed to be on its way. The bill was referred to the House Banking Committee. The House Banking Committee recommended to the full House of Representatives that it pass. It then went to the House Energy and Commerce Committee on a sequential referral. That House committee reported out a substantially different bill on the same subject with the recommendation that the House consider and pass it. A House leadership group met to try to resolve differences between the bills recommended by the two House committees. That group included the chairmen of the two House committees, the Speaker of the House and the chairman of the House Rules Committee. This House leadership group determined that because of the differences between the two committees, each of which had substantial jurisdiction, the differences could not be reconciled this year. The House leadership also decided the legislation should be reconsidered next year.

To resolve this difference and secure action this year, the Senate Banking Committee just this month decided to send roughly the same legislation that had passed the Senate last March to the House, but in two separate bills. One bill was drafted to come within the jurisdiction of the House Banking Committee. The second bill was designed to fall within the jurisdiction of the House Energy and Commerce Committee. This was the legislation this Senator, as chairman of the Senate Banking Committee, offered as an amendment to separate House passed bills on Tuesday. I pressed for their passage yesterday. If that legislation had passed the Senate it could have permitted the House to quickly and easily solve the jurisdictional tangle in the House. Each House committee could have acted separately. The House could have passed both bills with the same strong approval that the Senate demonstrated in its enactment of the basic legislation last March.

Of course, all this is hypothetical. Some House leaders had indicated that the legislation was dead for this year, no matter what the Senate did. And it all became academic when the legislation was blocked on the floor of the Senate yesterday. At that point it had become clear that any single Senator could kill this or any legislation by simply putting in a quorum call and insisting that the quorum go live. Obviously, it would take a day or two to secure a quorum, and longer to bring back the 60 Senators necessary to invoke cloture and impossible to keep a quorum in town for the 30 hours necessary to run out time on a filibuster. But even if miraculously all of this were accomplished, there was evidence that the House leadership had made its mind up that it would not act on this legislation this year.

Mr. President, after 31 years in this body, and 8 years as chairman of the Senate Banking Committee, I am now convinced that the one and only sure way this country can provide significant opportunity for this Nation's banks to bring their great professional expertise to underwriting securities and thereby provide capital on a competitive basis to the American economy is for the Federal Reserve Board to step in with their present authority and permit bank holding companies with proper safeguards to engage in underwriting securities. The Federal Reserve Board has done exactly this in the past on a limited basis. It should move and move promptly ahead in the future. Of course, it would be more satisfactory if the Congress enacted the legislation passed by the Senate last March. But that is not going to happen this year. And it almost certainly won't happen next year or for many years to come.

The Federal Reserve Board has consistently acted with prudence and caution in its major responsibility for bank regulation. The Supreme Court has confirmed the authority of the Federal Reserve Board to act in this area. The Fed recognizes how vital is the availability of capital that could be and should be provided on a competitive basis by professionally qualified underwiters. Congress has failed to do the job. There is not a scrap of real evidence that it will act in the future. The time has come for the Fed to act.

I ask unanimous consent that an excellent editorial from this morning's Washington Post be printed in the RECORD at this point.

There being no objection, the ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 20, 1988]

THE BANKING BILL'S DEMISE

For a few months last spring it looked as though Congress might at last pass rational legislation on banking reform this year. The carefully drafted Proxmire bill had just passed the Senate with a huge majority. But now the bill is certifiably dead, the victim of jurisdictional wrangling in the House.

The central issue is whether banks should be permitted to enter some of the kinds of financial business that, in the Depression, Congress split off into a separate securities industry. That securities industry has prospered hugely in the half century since then and is understandably reluctant to share its turf. But there's a strong case for letting the banks in. Wider competition in the financial markets would be a good thing. Sen. William Proxmire's bill would have allowed the banks to enter several carefully specified areas under conditions that sharply limited the risks that they could take with their depositors' money. It was a bill worth passing.

But banks—like railroads and power companies—evoke sharp and suspicious reactions in American politics. The House Banking Committee gave the banks fewer new powers than the Senate had done and attached a long list of benefits for consumers that the banks, not to mention federal regulators, consider unworkable. Then the House Energy and Commerce Committee claimed overlapping jurisdiction on grounds that the securities laws lie in its fiefdom. As you probably suspected, the jurisdictional quarrel veiled a deeper and more substantial one. The Energy and Commerce Committee is, in the populist tradition, inclined to give the banks very little.

Many bankers think that it's foolish to try to get legislation. It's easier and safer, some of them argue, to continue to keep their lawyers at work chipping away to widen the loopholes in the wall between banks and securities dealers. In the courts and in the regulatory agencies, they have already won a good deal of new territory.

But that process is creating a disorderly structure that fits together only haphazardly. Coherent legislation would be greatly preferable—if Congress could bring itself to legislate. The speaker of the House, Jim Wright, and the chairman of the Banking Committee, Fernand St Germain, have written to the Federal Reserve Board to warn it not to make any further changes in the banking regulations before Congress acts. They seem to think that they can get a bill moving early next year. That seems unlikely. The first priority in January will necessarily be the bailout of the S&L industry. Congress' best opportunity to enact a good banking bill is the one that the House has just kicked away.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. FORD). Without objection, it is so ordered.

BICENTENNIAL MINUTE

OCTOBER 24, 1914: THE LONGEST CONTINUOUS SESSION ENDS

Mr. DOLE. Mr. President, as we conclude this productive and protracted 2d session of the 100th Congress, we might reflect back 74 years to the 63d Congress. That Congress set the record of 567 days for the longest continuous session—actually two sessions which simply merged together without break.

The 63d Congress met during the first 2 years of the administration of Woodrow Wilson, a President with an ambitious legislative program. It tackled successfully such significant issues as the creation of the Federal Reserve System, establishment of the Federal Trade Commission, passage of the Clayton Anti-Trust Act, and enactment of tariff and tax reform.

The 1st session of the 63d Congress oppened on April 7, 1913, and came to a close 239 days later at noon on December 1. Although the House took a day's rest, the Senate did not allow even a minute to elapse between its first and second sessions. Back to work again, it continued for another 328 days. By then, tired Senators were ready to go home—particularly those scheduled to run in the first direct election of Senators that November.

The session might have ended even earlier, but as often happens during the closing hours of a Congress, a filibuster had erupted, in this case over Federal relief for southern cotton farmers. Not until those conducting the filibuster conceded defeat did the leadership of the Senate and House introduce resolutions that would end the second session at 4 p.m. on October 24, 1914.

Senators were debating nominations in closed session when word came that the House had adopted the adjournment resolution. Moving back into legislative session, the Senate threw open its doors at 3:15 p.m. an alert doorkeeper then leaned over the balcony and advanced the clock by 45 minutes, allowing the Presiding Officer to declare the Senate of the 63d Congress adjourned. Thus ended the Senate's longest continuous session.

A LEGACY CONTINUES IN EMPORIA; WILLIAM ALLEN WHITE'S GAZETTE ALIVE AND WELL

Mr. DOLE. Mr. President, my home State of Kansas has long been recognized for its proud newspaper heritage, thanks in large measure to our small-town papers and their talented and influential editors and publishers.

It is a tradition that has produced the likes of Clyde Reed, Huck Boyd, Arthur Capper, and William Allen White; fiery and eloquent opinion-makers whose independent and common sense voices influenced not only generations of Kansas readers, but also the men who sat in the Oval Office.

That proud tradition continues today despite the challenges of television and radio, and the changing face of rural America. Nowhere is it more evident than in Emporia, the home of William Allen White and the Emporia Gazette.

Today, the New York Times has published an article saluting the Gazette and its newest editor—Barbara White Walker—who became the fourth member of the family to take command of the daily newspaper on September 21.

As the article points out, it's no easy chore having to follow in the footsteps of William Allen White, William L. White and Katherine White, but Mrs. Walker is ready and able to carry on the tradition.

Mr. President, I ask unanimous consent that the New York Times article, "Where Eloquence Seems a Birthright", be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHERE ELOQUENCE SEEMS A BIRTHRIGHT

(By William Robbins)

EMPORIA, KANSAS, October 19.—On the slender shoulders of Barbara White Walker has fallen the right and obligation to take command of a country newspaper that once made a little Kansas town a household word and that, nearly a century ago, gave America the Sage of Emporia.

But not, says Mrs. Walker softly but firmly, an obligation to be yet another William Allen White.

"I have to be myself," she said.

On Sept. 21 Mrs. Walker became the fourth member of the White family to become editor of The Emporia Gazette, succeeding her mother, Kathrine White, who died in August. As the heroine of William Lindsay White's book "Journey for Margaret," Mrs. Walker already had a prominent place in the story of the White family, which she joined in wartime London at age 3. More of that later.

But whether or not her name, like those of William Allen White and his son, William L. White, also a writer of national note, will ever be revered as theirs are now, she says she needs to write her own chapter in the story of the Whites and their newspaper.

The story of The Emporia Gazette begins, of course, with William Allen White, the country editor who bought a failing small-town newspaper in 1895 and made it a national clarion, first gaining attention with the editorial "What's Wrong With Kansas," demonstrating his simple but colorful style.

"What we are after is the money power," he wrote. "Because we have become poorer and ornerier and meaner than a spavined, distempered mule, we, the people of Kansas, propose to kick; we don't care to build up, we wish to tear down."

William Allen White's words are cast in bronze on park monuments around Emporia. So, too, are those of his son, William L., whose "Prayer for Rain," published in the Dust Bowl days of 1935, adorns the wall of a new White Memorial Park, to be dedicated here Oct. 28.

"O Lord, in Thy mercy, grant us a rain, and by that we don't mean a shower," it says. 'We want to go out in our car in the early evening and watch the lightning go ripping across the southwestern sky in hot blue forks as the fat clouds roll in on us from Chase County."

There are some here, including Mrs. Walker, who say William L. White has never been properly appreciated, blighted by the shadow of his more famous father despite his own success as a war correspondent in World War II, and a number of books.

One of those, "Journey for Margaret," tells how, reminded by a note in his notebook of a request from his wife, Kathrine, to check on adopting some orphan children, he found and won the affection of a London waif. The note, in cablese, said "Uplook kids."

Barbara, whom he adopted after getting her home aboard a coveted flight from London to Portugal, was the child he called Margaret in the book.

Barbara White grew up in New York, where William Lindsey White continued to write, and where she attended the private Nightingale-Bamford School. In 1957 she married David Walker, a classmate at Stanford University.

Mrs. Walker and David Walker, a Ph.D. Graduate of Columbia University who is a former business manager and controller of Elmira College in New York, returned in 1972 to Emporia, now a town of about 23,000, when her father became terminally ill. When Mrs. Walker became the editor her husband, who by then was publisher, also became president of the family corporation.

Both take pride in the respect local experts say The Gazette continued to enjoy under William L. and Kathrine White and its current executive editor, Ray Call, who is now second-in-command to Mrs. Walker.

"William L. brought a more sophisticated and literary quality to the paper and combined it with a hometown flavor," says Del Brinkman, vice chancellor of the University of Kansas who is a former dean of its William Allen White School of Journalism.

"Ray Call has continued some of that and has done some writing akin to what William Allen would have done," Mr. Brinkman said. He cited a recent Call editorial, "Easy Does It, Guv," attacking the Kansas Governor,

"Gingerly this time, like a barefoot child in a patch of thorns, Governor Hayden has raised the issue of new highways for Kansas," Mr. Call wrote. "The Governor is right to watch his step, because the last time he really put his foot in it."

Mrs. Walker says she plans to be an "active editor" and continue to write some editorials.

Meanwhile, she said, "I respect the traditions, and I feel the presence of my parents behind me. But I'm not afraid to be different."

Mr. DOLE. Mr. President, I also add a special salute to the Gazette's outstanding executive editor, Ray Call, whose leadership and journalistic talents have earned him a special place in Kansas newspaper history.

Mr. President, I would like to extend my best wishes to Mrs. Walker and her associates.

The tradition is alive and well in Emporia, KS.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I will just indicate, as I am certain the majority leader has earlier, there are still two major items we hope to conclude action on between now and tomorrow, hopefully tomorrow noon, if not shortly thereafter.

One is the technical corrections bill, and I would say the hopes for passage of that are maybe not quite 50-50, maybe much less than 50-50.

I have discussed this with Senator BAUCUS today and with Senator BYRD.

But there is still some hope. As long as we are here, there is some hope it could happen and we could resolve some of the differences.

That is a very important tax bill to a lot of people in this country, in every State in this country, not so-called special interest groups, who are circling around the Capitol hoping something will happen, but ordinary, hardworking men and women out there across America, farmers and others, who have special provisions in this tax bill, including the taxpayers' bill of rights, and I see the author of that provision on the floor now, Senator PRYOR of Arkansas, a very important provision for taxpayers. And it is obviously in that bill largely due to the efforts of the distinguished Senator from Arkansas. But it has broad bipartisan support. That is in this tax bill.

There is the diesel tax relief for farmers, the so-called heifer tax, certain bond provisions that I have just been discussing with the Presiding Officer that would apply to a dozen or more States.

There are a number of provisions in this tax bill, and it is very important we do it this year.

I urge my colleagues and certainly urge the staff to carry on their best efforts. I know staff on both sides of the Capitol and both sides of the aisle, Republican and Democratic staff members, are still trying to find some way to harmonize some of the differences that their bosses have, whether they be Senators or Members of the House, or whether they be Republicans or Democrats.

So I would say that is there, and then there is the drug bill. I think we are winning the battle on the drug bill. It is just my hope we can keep it as tough as we can, with penalties for users as well as those who supply drugs.

There has not been any agreement reached. I heard some accounts certain Senators are saying agreements have been reached. There is no agreement reached until the entire package has been signed off on by the majority leader, Senator BYRD, by the Speaker of the House, JIM WRIGHT, by the majority leader in the House, TOM FOLEY, by the Republican leader in the House, BOB MICHEL, and by this Senator, the Republican leader in the Senate, and we would hope we could do that in the early evening so that we could take up that bill tomorrow, but again that depends on all the different matters being reconciled.

There are some 30 rather major items that were in dispute. Many of those have been resolved, but I think, as Senator BYRD indicated yesterday, it is best we try to keep what we resolved to ourselves; otherwise, someone will read about it or hear about it and come in and try to undo it.

So progress is being made on the drug bill, and I hope we can do as well on the tax bill before we adjourn sine die hopefully early tomorrow afternoon or even tomorrow morning.

I yield the floor.

Did the Senator want me to yield?

Mr. PRYOR. Mr. President, I was just about to ask the distinguished minority leader if he could give us a little report on the drug bill and he did so, I think, certainly to the best of his knowledge.

I am very hopeful that we could do two of those pieces of legislation, the drug bill and the technical corrections bill. I would certainly hate to see the 100th Congress gasping for its last breath and not being able to do these very, very major pieces of legislation.

I certainly encourage the conferees and those who are working in groups around the Capitol and in the offices to continue and realize how very close we are and hopefully that both of these bills can come to the floor.

Mr. President, I would like to ask the distinguished minority leader if he might advise me or educate me on whether or not the House or the Senate might vote first on the drug bill. Would that be a Senate vote first? I keep hearing rumors that the House of Representatives may in fact send a drug bill over here to the Senate and then adjourn and go home. I hope they would not adopt that procedure.

Mr. DOLE. If it goes to conference, I understand, then the Senate would act first. But I am not certain what we are doing now. It is not a conference. It is something quite different than a conference. I will try to find out.

I might make a parliamentary inquiry on who would act first on the drug bill.

The PRESIDING OFFICER (Mr. SIMON). The response is, generally speaking, the House that requested the conference would have to act—would act last. I am sorry. I misunderstood the Parliamentarian.

Mr. DOLE. In this case, we do not have a conference, we just have meetings.

The PRESIDING OFFICER. No conference has been requested.

Do we have any tradition, then, Mr. Parliamentarian?

The House is free to agree to our amendments, or they could amend.

Mr. DOLE. Or they could amend and go home. I think that is what the Senator from Arkansas was somewhat concerned about.

The PRESIDING OFFICER. The Chair would observe that is not unprecedented.

Mr. DOLE. Having been a Member of the House, I understand. When they are ready to go home, they go home, and if we want to go home, we go home, too. I do not think that is a very good answer.

Mr. PRYOR. If I might respond, Mr. President.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. DOLE. Mr. President, I will be happy to yield the floor, but I first wish to make an observation.

BRAILLE MAP OF THE CAPITAL

Mr. DOLE. Mr. President, I have just met a very outstanding group of young people on the way to the Senate floor. They were students from the Overbrook School for the Blind in Philadelphia. The group of 30 blind students from all over the world is the first group to use the new braille map of the Nation's Capital which will help them appreciate what everybody else appreciates as they walk around this remarkable building and other places of history.

I wish to commend the former Presiding Officer, Senator FORD, who is chairman of the Rules Committee, along with Senator STEVENS, who were responsible for producing the new braille maps. It is going to be a great service to many, many people who visit this wonderful place. I can tell you firsthand that the young people I just met were excited about not only being here, but excited knowing that in addition to somebody telling them about where they were and where they were standing, they could pretty much determine that themselves with these new braille maps. I commend those Senators who made that discovery possible.

Mr. President, let me welcome our friends from the Overbrook School for the Blind.

I know my colleagues join me in wishing then a pleasant visit to the Nation's Capital.

THE DRUG BILL AND THE TAX TECHNICAL CORRECTIONS BILL

Mr. PRYOR. Mr. President, I have just a comment or two about the drug bill and the technical corrections bill. I firmly believe that we can pass both of those bills. It is my hope that we would have a chance to do any amendments on the floor that are necessary.

I also wish to state that in my 10 years in the Senate, the only times that I have regretted leaving the Senate early is in the last few hours of the session, because a lot of things happen in the last few hours of the Senate's session.

I think it would be very difficult, for example, for us to even have a vote. I do not know how many Members we have in town—maybe 50, maybe 40. I have only seen about three or four of us today. They are hiding out and wandering around, but they are not here.

I just think it is so critical in these last hours that we really zero in on these two pieces of legislation and try to pass them. They are both very, very constructive bills. Thousands and thousands of staff hours and Senators' and Members' hours have been dedicated to those pieces of legislation. They are very, very complex.

I have a parochial interest in one, Mr. President, which the distinguished Republican leader, Senator DOLE, just mentioned, the taxpayers' bill of rights. I have worked 2 solid years on taking that bill to where it is today.

Right now, I feel unsafe about going 50 feet from this Senate floor, because I do not know what might happen. I do not know what piece of paper might be floating around here that would be voice voted by unanimous consent. So I am hanging in here. I feel like the expectant father sitting outside the delivery room. I do not know quite what to expect, but I know something is about to come.

I feel that that is the way we all feel right now in the last hours when some very, very critical legislation needs to come to the floor. I respectfully urge my colleagues who are involved in that to bring us those pieces of legislation. I think it will be a constructive end to the 100th Congress.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, there are nine treaties and conventions on the Executive Calendar. I inquire of the distinguished Republican leader if he is ready to proceed on his side with the following:

Calendar 10, Berne Convention for the Protection of Literary and Artistic Works;

Calendar 23, Investment Treaty With the Republic of Senegal;

Calendar 24, Investment Treaty With the Republic of Zaire;

Calendar 25, Investment Treaty With the Kingdom of Morocco;

Calendar 26, Investment Treaty With the Republic of Turkey;

Calendar 27, Investment Treaty With the Republic of Cameroon;

Calendar 28, Investment Treaty With the People's Republic of Bangladesh;

Calendar 29, Investment Treaty With the Arab Republic of Egypt;

Calendar 30, Investment Treaty With Grenada.

Mr. DOLE. Each of those have been cleared and the ranking Republican on the Foreign Relations Committee, Senator HELMS, is present.

Mr. BYRD. Very well.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned treaties; that they be considered as having been passed through the various parliamentary stages up to and including the presentation of the resolution of ratification and that a single vote count for nine to be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The treaties will be considered to have passed through their various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

BERNE CONVENTION FOR THE PROTECTION OF LITERARY AND ARTISTIC WORKS

The resolution of ratification was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to accession to the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, completed at Paris on May 4, 1896, revised at Berlin on November 13, 1908, completed at Berne on March 20, 1914, and revised at Rome on June 2, 1928, at Brussels on June 26, 1948, at Stockholm on July 14, 1967, and at Paris on July 24, 1971 and amended in 1979.

Mr. PELL. Mr. President, as chairman of both the Foreign Relations Committee and the Joint Committee on the Library, I see our entry into the Berne Convention from a unique vantage point.

International piracy of literary and artistic works has become an alarming and significant problem. A 1984 survey of 10 selected nations estimated that U.S. copyright industries lost over $1.3 billion as a result of this illicit activity.

The purpose of the Berne Convention is to provide increased protection for the rights of authors in their work product.

While a relatively obscure discipline, copyright law touches every American in their homes, schools, libraries, and workplaces. Determining the scope of a law which deeply affects how all of us may enjoy books, films, television programming, computer software, information products and services, music, and visual arts requires great caution, particularly in a changing society that seeks both the free flow of information and the free marketplace.

The Berne Convention is the oldest and most important multilateral copyright treaty. Negotiated in 1886, its latest revision was completed in 1979. The United States has not adhered to the Berne Convention because of differences of copyright principles involving notice and registration formalities and domestic manufacture requirements. The United States, the Soviet Union, and the People's Republic of China are the only major countries that are not parties to the convention.

The United States belongs to a more recent treaty, the Universal Copyright Convention [U.C.C.]. Both treaties are administered by United Nations organizations: Berne by the World Intellectual Property Organization, and the U.C.C. by UNESCO. The United States has a seat on the committee that oversees the U.C.C., but since the United States withdrew from UNESCO, we have a smaller voice and no formal vote in the overall planning and budgeting process affecting U.C.C.-related activities.

If the United States adheres to the Berne Convention, it will improve relations with 24 nations that adhere to Berne, but not the U.C.C., and with whom U.S. copyright relations are nonexistent or unclear.

Another important benefit in support of U.S. adherence to the Berne Convention is the enhanced political credibility of our global effort to strengthen copyright norms, to suppress piracy, and to secure in all countries a realistic minimum standard of protection for creative works. A major forum in which this policy objective is being sought is the General Agreement on Tariffs and Trade [GATT]. The United States is seeking within GATT the adoption of a code or standard of conduct relating to the protection of intellectual property. For copyrights, that standard or code may well be the minimum economic rights of the Berne Convention. If the United States joins Berne, our trade negotiators around the world could insist on these standards as those that constitute adequate protection for GATT.

Accordingly, for all of these reasons, it is essential for the protection of American works in the markets of other nations for the United States to become a member of this major international convention.

Mr. LEAHY. Mr. President, the Senate's action today on the resolution of ratification of the Berne Copyright Convention marks the concluding step taken by the Congress in a process of great significance to America's creative community and to the American position in world trade.

On October 5, the Senate adopted, by a vote of 90-0, S. 1301, the Berne Convention Implementation Act. Prior to that vote, I spoke in some detail about the beneficial aspects of U.S. adherence to the Berne Convention. I will not repeat those remarks here, except to note that no other proposal before the Congress is more likely to foster continued American preeminence in the world trade in books, films, music, computer software, and other copyrighted works.

On Wednesday, October 12, the House of Representatives accepted in full the Senate-passed amendment, which I offered along with Senators DECONCINI and HATCH, to the Berne implementing legislation. That legislation is now on the way to the White House, where the President's signature is assured. It is therefore now timely for the Senate to act on the resolution of ratification which was reported by the Foreign Relations Committee on July 14.

I noted in my remarks on the Berne legislation the mechanics whereby the Berne Convention will come into force with respect to the United States, and the process by which an effective date for the legislation will be established to occur simultaneously with the coming into force of the treaty. Passage of the Berne implementing legislation, and ratification of the Berne Treaty, are thus complementary steps which taken together will bring the United States into the Berne Convention with a minimum of disruption to established legal and business practices in the copyright field.

Mr. President, I thank the chairman of the Foreign Relations Committee, Senator PELL, for the effective and essential role he has played in bringing this historic process to fruition. I also thank the majority and minority leaders for their effort in making room on the crowded calendar of these closing days of the 100th Congress for this important matter.

In closing, let me note the precedent for the action we take today. In 1935, the Senate ratified the Berne Treaty. However, the next day, the Senate voted to reconsider its ratification action, and the measure died with the expiration of that Congress. The reason, apparently, was that Congress was not prepared to make the necessary changes in U.S. copyright law to conform with Berne standards. But today, it is clear that there is no longer any reason to hesitate or delay. The implementing legislation has been passed; all that remains is to ratify the treaty. I urge the Senate to do so without delay, and thereby take the final step needed to bring the United States, after 102 years, into the world's oldest, strongest, and most widely respected copyright union.

INVESTMENT TREATY WITH THE REPUBLIC OF SENEGAL

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Republic of Senegal Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington, December 6, 1983 (Treaty Doc. 99-15), provided that the Senate's advice and consent to ratification of the Investment Treaty with Senegal is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

INVESTMENT TREATY WITH THE REPUBLIC OF ZAIRE

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Republic of Zaire Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington, August 3, 1984 (Treaty Doc. 99-17), provided that the Senate's advice and consent to ratification of the Investment Treaty with Zaire is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

INVESTMENT TREATY WITH THE KINGDOM OF MOROCCO

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Kingdom of Morocco Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol, signed at Washington, July 22, 1985 (Treaty Doc. 99-18), provided that the Senate's advice and consent to ratification of the Investment Treaty with Morocco is subject to the following understanding:

Under Article IX of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

INVESTMENT TREATY WITH THE REPUBLIC OF TURKEY

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Republic of Turkey Concerning the Reciprocal Encouragement and Protection of Investments, with Protocol, signed at Washington, December 3, 1985, (Treaty Doc. 99-19), provided that the Senate's advice and consent to ratification of the Investment Treaty with Turkey is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

INVESTMENT TREATY WITH CAMEROON

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Republic of Cameroon Concerning the Reciprocal Encouragement and Protection of Investment, signed at Washington on February 26, 1985 (Treaty Doc. 99-22), provided that the Senate's advice and consent to ratification of the Investment Treaty with Cameroon is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

INVESTMENT TREATY WITH THE PEOPLE'S REPUBLIC OF BANGLADESH

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the People's Republic of Bangladesh Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol and Exchange of Letters, signed at Washington on March 12, 1986 (Treaty Doc. 99-23), provided that the Senate's advice and consent to ratification of the Investment Treaty with Bangladesh is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

INVESTMENT TREATY WITH THE ARAB REPUBLIC OF EGYPT

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Arab Republic of Egypt Concerning the Reciprocal Encouragement and Protection of Investments, signed at Washington September 29, 1982; with a Related Exchange of Letters signed March 11, 1985; and a Supplementary Protocol signed March 11, 1986 (Treaty Doc. 99-24), provided that the Senate's advice and consent to ratification of the Investment Treaty with Egypt is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

INVESTMENT TREATY WITH GRENADA

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and Grenada Concerning the Reciprocal Encouragement and Protection of Investment, signed at Washington on May 2, 1986 (Treaty Doc. 99-25), provided that the Senate's advice and consent to ratification of the Investment Treaty with Grenada is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

The PRESIDING OFFICER. Is there any further discussion?

Mr. BYRD. Mr. President, I ask for a division.

The PRESIDING OFFICER. A division has been requested.

Senators in favor of the ratification of these treaties, please rise. (After a pause.) Those opposed will rise and stand until counted.

With two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

Mr. BYRD. Mr. President, I move to reconsider en bloc the actions that were taken in approving the treaties.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations. There are seven nominations.

Mr. DOLE. Mr. President, they all have been cleared.

Mr. BYRD. Very well.

Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the seven nominations on which the distinguished Republican leader, and Mr. HELMS and I have just conferred. They are as follows: José A. Costa, Jr., Marjorie B. Kampelman, Louis B. Susman, John Train, Edwin J. Feulner, Evan Griffith Galbraith, and Julia Chang Bloch.

I ask unanimous consent also that the Senate proceed to the immediate consideration of the nominations en bloc; that they be confirmed en bloc; that the motions to reconsider en bloc be laid on the table, and that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

José A. Costa, Jr., of Florida, to be a member of the Advisory Board for Radio Broadcasting to Cuba.

Marjorie B. Kampelman, of the District of Columbia, to be a member of the Advisory Board for Radio Broadcasting to Cuba.

Louis B. Susman, of Missouri, to be a member of the U.S. Advisory Commission on Public Diplomacy.

John Train, of New York, to be a member of the Board of Directors of the African Development Foundation.

Edwin J. Feulner, Jr., of Virginia to be a member of the U.S. Advisory Commission on Public Diplomacy.

Evan Griffith Galbraith, of Connecticut, to be a member of the Board of Directors of the Overseas Private Investment Corporation.

Julia Chang Bloch, of the District of Columbia, to be a member of the Peace Corps National Advisory Council.

DEPARTMENT OF JUSTICE

Mr. BYRD. Mr. President, the distinguished Republican leader calls to my attention the nomination of Thomas J. Ashcraft, from North Carolina, to be U.S. attorney for the western district of North Carolina. I ask unanimous consent that the Senate proceed to that nomination.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read the nomination of Thomas J. Ashcraft, of North Carolina, to be U.S. attorney for the western district of North Carolina.

The PRESIDING OFFICER. Is there further debate on the nomination? Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination of Mr. Ashcraft.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISSISSIPPI RIVER COMMISSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of the nomination of Col. Gerald Edward Galloway, Jr., U.S. Army, to be a member of the Mississippi River Commission; that the Senate proceed to the immediate consideration of the nomination; that it be confirmed; that the motion to reconsider be laid on the table, and that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered. The nomination is confirmed.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

DATE FOR COUNTING OF THE ELECTORAL VOTE BY CONGRESS

Mr. BYRD. Mr. President, I believe that House Joint Resolution 677, changing the date of the counting of the electoral vote, is at the desk. I ask unanimous consent that the Senate proceed to the immediate consideration of the joint resolution.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 677) changing the date for the counting of the electoral vote by Congress to January 4, 1989.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 4352 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4352) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 13, 1988.)

Mr. KENNEDY. Mr. President, I support the Stewart B. KcKinney homeless assistance reauthorization conference report and I commend my colleagues for their tireless work on this landmark legislation.

The tragedy of homelessness is a moral outrage. No man, woman or child in this Nation should suffer for want of a decent place to live—and, yet, estimates of the number of Americans living without shelter range as high as 2 million. Perhaps the most appalling fact of all is that the fastest growing subpopulation among the homeless is young children. Immediate, coordinated and effective action is essential to end this national disgrace. The McKinney Act represents an important step toward abolishing the shame and indignity of homelessness in America.

Last year, the Congress passed, and President Reagan signed, a landmark bill: the Stewart B. McKinney Homeless Assistance Act, which provides needed housing, health care, education and job training services to the homeless. The conference report before us will extend those critical programs.

The Senate Committee on Labor and Human Resources contributed important measures to this package, including primary health care grants to community-based oranizations, a demonstration project for treating homeless individuals for drug or alcohol abuse, a community-based mental health services demonstration projects, comprehensive mental health services, adult and youth educational assistance grants, a job-training demonstration project, and emergency community services grants for case management.

In addition, this package includes the so called JEDI bill, which passed the Senate by a vote of 99 to 0 in April 1987. The JEDI Program will provide increased and improved job training services to long-term welfare recipients and individuals with disabilities. JEDI represents a creative new approach to the problems of welfare dependency, poverty and hopelessness. The program will provide incentive bonuses to job training agencies that are effective in the training and placement of traditionally hard-to-serve individuals. Moreover, JEDI will save the Government money; for every incentive bonus paid out, even greater Federal savings are accrued.

It is encouraging that this homeless legislation enjoys such broad support. Perhaps with such broadbased support we will be able to secure the appropriations needed to fully fund this legislation in the coming years. Thus far, the Congress has fallen short in its monetary commitments to the excellent programs set forth in this bill. It is time that we back up our promises to this Nation's most vulnerable citizens with full funding.

Homelessness is abhorrent and it is unnecessary. I urge my colleague to support the conference report before us and to support full funding for these programs in the years ahead.

Mr. CRANSTON. Mr. President, I am very pleased that the Senate is now able to take up the conference agreement on the Stewart B. McKinney Homeless Assistance Amendments Act of 1988. This legislation will continue the effort we started last year to provide real help to tens of thousands of Americans who are bearing the burden of homelessness.

House and Senate conferees worked intensely over the past 3 weeks and have shaped a bill that is responsible and effective. I believe the product is not just a good compromise but a real improvement on the bills that passed each House separately.

The task was not easy—five committees of the Senate and six committees of the House were involved. And, because of the differing jurisdictions an even larger number of subconferences were held.

I deeply appreciate the strong leadership provided on this issue by Senate majority leader, Senator BYRD. Many other Senators of both parties, including Senators KENNEDY, DOMENICI, and GLENN, have worked long and hard to shape the bill now before us. They all deserve credit for a job done.

Mr. President, the passage of the McKinney Act last year marked only the beginning of the Federal response to homelessness. The evidence from the first year of program operation demonstrates that although much progress has been made, we still have a long way to go.

For example, demand has far exceeded the funds appropriated for the homeless housing programs, and appropriations were far below the authorization levels for both fiscal years 1987 and 1988. In that time, HUD was able to fund only 19 of 141 applications received for the Section 8 Single Room Occupancy Program, and only 39 of the 250 applications received for the supplemental assistance program.

This funding shortfall occurs at the same time when key indicators show that need is increasing. Last December, the U.S. Conference of Mayors reported that 65 percent of the 26 cities surveyed are routinely turning away homeless people from emergency shelter programs because of a lack of beds or space. Demand for emergency shelter has increased by an average of 21 percent, with an increase up to 40 percent in some cities.

In June 1988, the National Alliance to End Homelessness reported that as many as 736,000 people are homeless on any given night. The National Alliance also estimated that 1.3 to 2 million people may experience homelessness at some point during the course of a year. An estimated 25 to 33 percent of this population consists of families with children. The September 1988 report by the National Academy of Sciences confirmed that children under the age of 18, usually in families headed by women, "are the fastest growing group among the many subpopulations of the homeless."

Clearly, homelessness, like the shortage of affordable housing in general, is a national problem demanding a sustained Federal response. This conference agreement to reauthorize the McKinney Act is a important step in that response. It concentrates on delivering assistance to needy people as quickly as possible.

First, the agreement reauthorizes the Interagency Council for the Homeless and specifies that body's responsibilities in detail. Regional coordinators would be assigned to interpret regulations, assist States, and homeless providers in the application process for Federal assistance, and organize regional workshops.

Second, the agreement reauthorizes the Emergency Food and Shelter Program administered by FEMA.

Third, the agreement encourages states to establish State Interagency Councils on the Homeless.

Fourth, the agreement encourages Federal agencies to identify "unutilized" as well as "underutilized" Federal facilities that can be used to shelter the homeless on a temporary basis.

Fifth, the agreement reauthorizes and further refines the four McKinney homeless housing programs: Emergency Shelter Grants, Supportive Housing, Supplemental Assistance for Facilities to Assist the Homeless, and Section 8 Single Room Occupancy [SRO] certificates. Refinements made by this legislation will make the programs more flexible and effective at the local level.

Sixth, the agreement makes several technical amendments to the Housing and Community Development Act of 1987. The amendments are primarily designed to compel the Department of Housing and Urban Development to comply with the original intent of provisions contained in the 1987 act.

Seventh, the agreement reauthorizes primary health care and mental health services to the homeless. These programs are also included in title VIII of S. 2889, the Health Omnibus Programs Extension of 1988, as passed by the House and Senate on October 13, 1988.

Eighth, the agreement reauthorizes the demonstration of service for alcoholism and substance abuse treatment. These programs were also included in the Health Omnibus Programs Extension of 1988.

Ninth, the agreement reauthorizes two programs that provide literacy training and education to homeless adults and children.

Tenth, the agreement reauthorizes job training programs for homeless youth.

Eleventh, the agreement reauthorizes a community services program to provide emergency case management for homeless individuals, making homelessness prevention an eligible use under the program.

Twelfth, the agreement authorizes the Jobs for Employable Dependent Individuals Program, known as JEDI, to enhance the provision of Job Training Partnership Act services to long-term recipients of AFDC and SSI by paying bonuses to States that succeed in training and employing this population.

Thirteenth, the agreement includes new protections against fraud and abuse in HUD programs. The provision would allow HUD to obtain the Social Security number or employer identification number and a signed consent form from program participants to determine their eligibility. This information would permit HUD to verify current wage and benefit information and ensure that housing assistance goes only in the right amounts to those who are eligible.

Fourteenth, the agreement extends the current prohibition on implementation of HHS regulations which would restrict the use of AFDC emergency assistance funds for homeless families and limit the authority of States to use AFDC funds for shelter in temporary quarters.

Fifteenth, the agreement authorizes a demonstration program which will enable two to three States to use AFDC emergency assistance funds to provide transitional housing facilities and provide onsite social services for AFDC recipients who are currently residing in welfare hotels.

Finally, I am delighted, as chairman of the Committee on Veterans' Affairs, that the agreement includes provisions that reauthorize medical care to veterans. The bill would convert underused space in VA facilities to domiciliary care beds. The bill would also furnish medical care, treatment, and rehabilitative services to homeless veterans who are chronically mentally ill.

The Statement of Managers directs HUD "* * * to permit shorter than 5-year extensions of section 8 contracts with the option for the owner to renew for subsequent terms up to the maximum total term originally contemplated by the contract." The intent of that statement has two parts. First, it is intended to permit the Department to provide extensions for less than 5 years only for those owners who want to extend their contracts for less than 5 years but are, at the time, reluctant to renew them for a full 5-year term. It is not intended that the Department could require an owner to accept less than a 5-year extension if the owner wants a full 5 year extensions. Second, this statement of managers language applies to all types of section 8 contracts, including those which were originally entered into on newly constructed and substantially rehabilitated projects and without regard to the source of the project's mortgage financing.

I hope this summary of the conference agreement is useful to my colleagues. I have highlighted the major features of a long and complicated conference agreement. I believe that we have reached an excellent compromise and forged a comprehensive approach to help those in our society who are least able to help themselves. As the nights grow colder and the specter of homelessness grows more fearsome for many, I am anxious to see these programs expanded and improved so that many more can be reached and helped.

Mr. President, the reauthorization of the McKinney legislation has been the result of a bipartisan effort in Congress. Yet, once again, as with the original McKinney legislation administration involvement has ranged from nonexistent to obstructionist.

Administration tactics in the last few days have been a replay of last year's Housing and Community Development Act. They laid low when the homeless bill was in committee, where their request for 60 percent cuts in homeless housing programs would have been rejected by a bipartisan majority. They held back when the homeless bill came to the Senate floor, where their amendments would have been defeated, again by a bipartisan majority. Their only participation in the conference was to send a last minute letter from HUD Secretary Pierce outlining the administration grievances. This letter represented the first time that the administration had brought their concerns before the Subcommittee on Housing and Urban Affairs.

On item after item, the administration grievances were found to be entirely baseless, undermining the clear congressional intent that governs various housing policies and distorting the very ground rules by which budgetary analyses are conducted. It was clearly the handiwork of the same bureaucratic crowd at OMB and HUD which launched the vicious attack on last year's Housing and Community Development Act. I was not suprised to read in the Wall Street Journal of October 7, 1988—the day after the conferees received Secretary Pierce's letter—that "[c]areer staffers fret that the budget office is increasingly partisan, rather than a place of 'neutral competence'."

This administration has had a clear set of hostile objectives for Federal housing policy in the past 7 years: to cut Federal housing programs for the very poor to the bone, to replace housing production and rehabilitation programs with so-called vouchers that can place an enormous rent burden on low-income tenants, to reduce the inventory of subsidized low-income housing by selling off properties at fire-sale prices at the same time that the supply of low income housing is dwindling at an alarming rate.

This and every other housing bill are tempting targets because they address the needs of those who are not powerful—the poor, the homeless and those with modest incomes who are struggling to find decent, affordable housing for their families. This and every other housing bill are vulnerable because there is so very little pork in them—funding for Federal housing programs has been cut by 81 percent since President Reagan took office.

Congress has had to fight this administration every step of the way to avoid a complete abdication of Federal responsibility for affordable housing. Our fight has proven to be correct. Report after report after report demonstrates that the administration's policy of "no Federal policy" has wreaked havoc on the low-income housing market and has greatly contributed to the tragic and still escalating rise in homelessness throughout this Nation.

Fortunately, Mr. President, members of the conference committee—House and Senate, Democrats and Republicans—have said a resounding "no" to the politically motivated objections of HUD and OMB. I believe that the Senate should adopt this conference report overwhelmingly.

Mr. GLENN. Mr. President, I want to take this opportunity to commend my colleagues for the pending passage of the conference report on the Omnibus Stewart B. McKinney Homeless Assistance Amendments of 1988. This legislation reauthorizes the homeless assistance programs established by the Stewart B. McKinney Homeless Assistance Act of 1987. By enacting the McKinney Act last year, Congress crafted the Federal Government's first comprehensive policy directed toward the homeless. That measure provided vitally needed emergency relief to the growing numbers of homeless through grants for shelter and housing, health care, and community services and education programs. The bill we will pass today reauthorizes McKinney programs for fiscal years 1989 and 1990. It embellishes and refines certain provisions of the act.

As we pass this legislation, we must remember that neither the severity nor the magnitude of the problem has disappeared. We still see homeless people sleeping in the parks, seeking shelter from the elements in subway stations, and lining up at soup kitchens with palms outstreched.

The McKinney Act, it must be remembered, was neither devised to attack the underlying causes of homelessness in America nor to eliminate this scourge in one fell swoop. Its objectives were more narrow: to address the acute and immediate needs of the homeless. And the programs, by and large, have been successful in meeting these focused goals.

I am proud and pleased to note that the Committee on Government Affairs, which I chair, contributed to this omnibus package with three important programs. Specifically, the committee created the Interagency Council on the Homeless, authorized the Federal Emergency Management Agency's [FEMA] Emergency Food and Shelter Program, and facilitated the transfer of underutilized Federal property to homeless service providers.

The package now before us is an outstanding one, and I most strongly urge its speedy passage.

Mr. SASSER. Will the distinguished chairman of the Subcommittee on Housing and Urban Affairs yield for a question regarding section 1004 of the bill which governs the prohibition of reduction of section 8 contract rents.

As Senators well know, under the Housing and Community Development Act of 1987, the Secretary of HUD was prohibited from reducing the contract rents in effect on or after April 15, 1987, for certain types of section 8 housing, unless a refinancing of the project debt which decreased periodic payments had occurred. Unfortunately, HUD interpreted this provision in a manner which completely flouts congressional intent so as to justify HUD's reduction of contract rents during the period of April 15, 1987, through February 5, 1988, the date of enactment of the Housing and Community Development Act of 1987. HUD also would permit section 8 rent reductions if there is a negative annual adjustment factor contrary to the clear wording of the 1987 act prohibiting such reduction.

The House and Senate Housing Subcommittees believe very strongly that the language in the 1987 act should prevent any reductions in rent on or after April 15, 1987, except in the case of refinancing. Section 1004 was inserted in this bill originally by the House in order to restate, in substantially identical form, the provision contained in the 1987 act. In addition, the House included two new sentences which, first, required that rents that have been reduced after April 14, 1987, and prior to the enactment of this bill "shall be restored" to the maximum rent in effect on April 15, 1987, and, second, required that the Secretary shall make assistance payments to owners in amounts equal to the difference between the rightful maximum rent and the reduced amount.

I understand that the conferees have modified the original House language. First, I understand that the restatement of section 142 of the 1987 act has been deleted because the conferees believed that existing law was clear and unambiguous on the point that contract rents in effect on or after April 14, 1987, could not be reduced and did not require any restatement. Second, it is my understanding that, the conferees have added a provision that states that during fiscal year 1989 the sentences added by this bill to section 8(2)(C) of the United States Housing Act of 1937 shall be effective only to such extent, or in such amounts, as are provided in appropriation acts.

I understand that the restoration of rents and the actual payments to owners would be subject to appropriation acts only during fiscal year 1989 and not thereafter and that on October 1, 1989, owners would have a right to such restoration and payment.

Can the chairman explain why this action was taken?

Mr. CRANSTON. I commend the Senator from Tennessee for his persistent support of this provision. The provision is one of several technical corrections in this bill made necessary by HUD's refusal to implement sections of the 1987 act in accordance with explicit congressional intent. This provision implements a significant policy change that is necessary to save thousands of units as decent, safe and sanitary housing for low- and moderate-income people. The provision was made subject to appropriation approval in fiscal year 1989 to avoid the prospect of a disruptive point of order under the Budget Act.

Mr. GLENN. I wonder if the Senator from Pennsylvania will engage me in a colloquy?

Mr. HEINZ. I will be delighted to so engage the distinguished Senator from Ohio.

Mr. GLENN. Concern has been raised about the intent of Congress with respect to title V of the McKinney Act amendments, identification and use of unutilized and underutilized public buildings and property. I want to take a moment to specify that intent as I understand it.

When Congress passed the McKinney Act in 1987, it did so with the intention that the Government should undertake to identify and make available those unutilized or underutilized properties which are suitable for use as homeless shelter on a temporary basis. Quite simply, the presumption in title V is—and always has been—that such properties would be provided for use as homeless shelter with a minimum of delay.

Mr. HEINZ. That is also my understanding.

Mr. GLENN. We intend that properties which are designated as suitable for use as homeless shelters be made available as soon after that designation as possible. By regulation, the GSA can waive the "screening" of any excess property for other uses where there are "extenuating circumstances". The urgent need for shelter is certainly one such circumstance. We intend that the waiver authority be applied in these cases.

Mr. HEINZ. I agree with my distinguished colleague on each of the points he has raised. I just want to make it clear, however, that nothing in this colloquy should be construed to change the meaning of intent of the colloquy between Senators GLENN and CRANSTON on September 28, 1988, with respect to foreclosed properties for resale by the FHA.

Mr. MURKOWSKI. Mr. President, as ranking minority member of the Veterans' Affairs Committee, I rise to speak in favor of the conference report on H.R. 4352, the Omnibus McKinney Homeless Assistance Act of 1988. I take this opportunity to congratulate my colleagues in both the House and Senate for the fine work they have done to address the many problems of the homeless in our Nation. These problems, which affect the veteran population, are quite serious and cannot and should not be ignored. I applaud the commitment shown by both the House and Senate on this most important matter and thank the staffs involved for their hard work on the bill.

I, along with the chairman of the Committee on Veterans' Affairs, Senator CRANSTON, proposed a provision in the bill which would authorize an apporpriation of $30 million in each of fiscal years 1989 and 1990 for the medical care of veterans by the Veterans' Administration. Of the money appropriated, 50 percent would be available for domiciliary care and 50 percent would be available for the chronically mentally ill homeless veteran. In the area of domiciliary care, underutilized space located in Veteran's Administration facilities in urban areas, in which there are significant numbers of homeless veterans, would be converted to domiciliary care beds. The VA would then furnish domiciliary care in such beds to those veterans, primarily homeless veterans, who would be in need of this type of care.

In the area of chronically mentally ill veterans, money would be made available for furnishing care, treatment, and rehabilitative services in community-based halfway houses to homeless veterans who have a chronic mental illness disability.

I would also like to acknowledge the commitment and dedication of the VA for homeless veterans. The VA has contributed significantly to meeting the needs of its homeless veteran population and in the prevention of homelessness. I commend them on their gallant efforts in this area and thank them for their cooperation.

Mr. President, the issue of homelessness is a troubling and complex one. I believe the action we are taking today is important in the continuing efforts to abolish homelessness in America. We in the Senate have a commitment to these individuals. It is my belief that this bill is a good example of that commitment. I urge my colleagues to join me in support of this bill.

Mr. HEINZ. Mr. President, I rise in strong support of the package of amendments to reauthorize the McKinney Homeless Assistance Act. This bill addresses a pressing need in our Nation—assisting the homeless.

Since the President signed the McKinney Act into law last July, it has become clear that, although the programs are operating well, homelessness continues to be a very serious problem facing our country. Indeed, the staggering number of applications filed by local and State governments and nonprofit organizations for the Federal homeless money—a large percentage of which HUD found meritorious but simply did not have the budget authority to fund—is a testiment to how grave our homeless problem is.

Providers of services to the homeless in my State of Pennsylvania alerted me to problems they were experiencing in using the McKinney programs to assist the homeless population. This conference package includes a number of amendments to the McKinney programs to address the problems that Pennsylvania providers identified. These amendments will assist all providers to better serve the homeless by increasing the flexibility for administering homeless programs.

This conference package amends the emergency shelter grant program to allow complementary funding for social services provided at emergency shelters. This amendment will allow facilities such as the Whale's Tail and the Light of Life Mission, both successful mixed-use facilities in Pittsburgh, PA, to use emergency shelter grants to provide bridge housing and alcohol abuse and employment counseling, as well as other social services aimed at breaking the vicious cycle of shelter living.

This package also increases the authorization for the section 8 single room occupancy [SRO] program. The section 8 program has proven to be an effective and popular means by which to provide permanent housing to homeless people. During the first year, applications outnumbered awards by a factor of more than 10. HUD awarded 19 grants for approximately 1,000 units for the $35 million in budget authority, from among 141 applications totaling $419 million in budget authority to rehabilitate 11,500 units. In addition, public housing authorities will now be able to use SRO assistance to rehabilitate efficiency units, which will provide residents with cooking facilities, so long as the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units. This amendment allows better facilities to be provided to the homeless at no additional cost to the Federal program.

The cap on the advance a grantee may receive for substantial rehabilitation of transitional housing was found to be too low, to the extent that less than 30 percent of the funds went to large cities. This package raises the advance cap to allow rehabilitation to take place in high cost areas. A broader issue raised by this issue is whether the funds authorized by the McKinney Act are reaching the areas that need it the most. Under these amendments, HUD must report to Congress by March of next year on whether an alternative system of distributing assistance under the McKinney Act can be developed to ensure that jurisdictions with greatest need can provide for their homeless population.

In addition to improving the programs for the homeless established under the McKinney Act, this package addresses another serious problem our country faces—radon contamination. About 1 month ago, the Government issued a national advisory that all homeowners should test their homes for radon contamination. This advisory resulted from an Environmental Protection Agency [EPA] study that found that the radon problem is more widespread than originally believed and that the residents of up to 8 million homes are threatened by radon.

HUD estimates there are 9.6 million people living in public housing. These are poor people, and many are senior citizens. They need to be protected from the radon health threat.

HUD has played a limited role in the Government's response to the radon problem and has been reluctant to get involved at all. This conference package contains a provision to require HUD to develop a radon policy. The provision requires HUD to enter a memorandum of understanding with EPA describing clearly the responsibilities of each and to report to Congress within 1 year of enactment on HUD's estimate of the radon problem in HUD-owned and HUD-assisted multifamily housing and recommendations for addressing the radon problem in multifamily housing. Granted, this provision is just the first step in getting HUD to work more closely with EPA to deal with the radon problem. In the next Congress, after HUD has completed its assessment and analysis, we must craft a radon program to ensure that those living in HUD-owned and HUD-assisted housing are not exposed to the radon risk.

Mr. President, the McKinney homeless reauthorization and the related amendments in this conference package will serve to improve the Government's ability to address pressing housing issues facing our Nation. I was glad to play a role in the shaping of this package.

The **PRESIDING OFFICER.** The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2344.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2344) entitled "An Act to provide for the reauthorization of appropriations for the Office of Government Ethics, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. 2. REAUTHORIZATION.

Section 405 is amended to read as follows:

"There are authorized to be appropriated to carry out the provisions of this title and for no other purpose—

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(4) such sums as may be necessary for each of the five fiscal years thereafter.".

SEC. 3. OFFICE OF GOVERNMENT ETHICS TO FUNCTION INDEPENDENTLY.

(a) ESTABLISHMENT AS A SEPARATE EXECUTIVE AGENCY.—Section 401(a) is amended by striking "in the Office of Personnel Management an office to be known as" and inserting "an executive agency to be known as".

(b) APPOINTMENT AND CONTRACTING AUTHORITY.—Section 401 is amended by adding at the end the following:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Office of Government Ethics in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under paragraph (2) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.".

SEC. 4. REPORTS TO CONGRESS.

The Ethics in Government Act of 1978 is amended by adding after section 407 the following:

"REPORTS TO CONGRESS

"SEC. 408. The Director shall, not later than January 31 of each year in which the first session of a Congress begins, submit to the Congress a report containing—

"(1) a summary of the actions taken by the Director during the 2-year period ending on December 31 of the preceding year in order to carry out the Director's functions and responsibilities under this title; and

"(2) such other information as the Director may consider appropriate.".

SEC. 5. AGENCY PROCEDURES RELATING TO FINANCIAL DISCLOSURE STATEMENTS.

Section 402 is amended by adding after subsection (c) the following:

"(d)(1) The Director shall, by the exercise of any authority otherwise available to the Director under this title, ensure that each executive agency has established written procedures relating to how the agency is to collect, review, evaluate, and, if applicable, make publicly available, financial disclosure statements filed by any of its officers or employees.

"(2) In carrying out paragraph (1), the Director shall ensure that each agency's procedures are in conformance with all applicable requirements, whether established by law, rule, regulation, or Executive order.".

SEC. 6. INFORMATION TO BE REPORTED ANNUALLY BY EXECUTIVE AGENCIES.

Section 402 is amended by adding after subsection (d) (as added by section 5) the following:

"(e)(1) In carrying out subsection (b)(10), the Director shall prescribe regulations under which—

"(A) each executive agency shall be required to submit to the Office an annual report containing—

"(i) a description and evaluation of the agency's ethics program, particularly—

"(I) the various elements comprising the agency's program (including any educational, counseling, or other services provided to officers and employees), as in effect during the period covered by the report; and

"(II) any other matter which the Director may require in order to carry out the functions and responsibilities of the Director under this title; and

"(ii) the position title, and duties of—

"(I) each official who was designated by the agency head to have primary responsibility for the administration, coordination, and management of the agency's ethics program during any portion of the period covered by the report; and

"(II) each officer or employee who was designated to serve as an alternate to the official having primary responsibility during any portion of such period; and

"(B) each executive agency shall be required to inform the Director as to the disposition of any matter referred to in subparagraph (A).

"(2) For the purpose of this title, the term 'ethics program', as used in connection with an agency, means any procedures established, services offered, and other activities carried out by the agency, as part of a program designed to promote compliance by officers and employees of such agency with requirements established by or under law, rule, regulation, or Executive order relating to conflicts of interest, financial disclosure, and standards of conduct.".

SEC. 7. CORRECTIVE ACTION.

Section 402 is amended by adding after subsection (e) (as added by section 6) the following:

"(f)(1) In carrying out subsection (b)(9) with respect to executive agencies, the Director—

"(A) may—

"(i) order specific corrective action on the part of an agency based on the failure of such agency to establish a system for the collection, filing, review, and, when applicable, public inspection of financial disclosure statements, in accordance with applicable requirements, or to modify an existing system in order to meet applicable requirements; or

"(ii) order specific corrective action involving the establishment or modification of an agency ethics program (other than with respect to any matter under clause (i)) in accordance with applicable requirements; and

"(B) shall, if an agency has not complied with an order under subparagraph (A) within a reasonable period of time, notify the President and the Congress of the agency's non-compliance in writing (including, with the notification, any written comments which the agency may provide).

"(2)(A) In carrying out subsection (b)(9) with respect to individual officers and employees—

"(i) if the Director finds that an officer or employee is violating any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may order the officer or employee to take specific action (such as divestiture, recusal, or the establishment of a blind trust) to end such violation; and

"(II) shall, if the officer or employee has not complied with the order under subclause (I) within a reasonable period of time, notify, in writing, the head of the officer's or employee's agency of the officer's or employee's noncompliance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President; and

"(ii) if the Director finds that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director may recommend to the head of the officer's or employee's agency that appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) be brought against the officer or employee, except that, if the officer or employee involved is the agency head, any such recommendations may instead be submitted to the President.

"(B)(i) In order to carry out the Director's duties and responsibilities under subparagraph (A) with respect to individual officers and employees, the Director may make findings concerning potential violations of any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.

"(ii) Before any such finding is made, the officer or employee involved shall be afforded—

"(I) notification of the alleged violation;

"(II) an opportunity to comment, either orally or in writing, on the alleged violation; and

"(III) an opportunity for a hearing, if requested by such officer or employee, except that any such hearing shall be conducted on the record.

"(3) The Director shall send a copy of any order under paragraph (2)(A)(i)(I) to—

"(A) the officer or employee who is the subject of such order; and

"(B) the head of the officer's or employee's agency or, if the officer or employee is the agency head, to the President.

"(4) For purposes of paragraphs (2)(A)(i)(II), (2)(A)(ii), and (3)(B), in the case of an officer or employee within an agency which is headed by a board, committee, or other group of individuals (rather than by a single individual), any notification, recommendation, or other matter which would otherwise be sent to an agency head shall instead be sent to the officer's or employee's appointing authority.

"(5) Nothing in this title shall be considered to allow the Director (or any designee)—

"(A) to make any finding that a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated; or

"(B) to issue any order, or make any recommendation for disciplinary action, based on any provision of title 18, United States Code, or any criminal law of the United States outside of such title.".

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 3 shall take effect on October 1, 1989.

Mr. BYRD. Mr. President, I ask that the Senate move to concur in the amendment of the House with the following amendment, which I send to the desk on behalf of Mr. LEVIN; that reading of the amendment be dispensed with, and that the motion be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 3746

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. 2. REAUTHORIZATION.

Section 405 is amended to read as follows:

"There are authorized to be appropriated to carry out the provisions of this title and for no other purpose—

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(2) not to exceed $3,500,000 for each of the 5 fiscal years thereafter.".

SEC. 3. OFFICE OF GOVERNMENT ETHICS TO FUNCTION INDEPENDENTLY.

(a) ESTABLISHMENT AS A SEPARATE EXECUTIVE AGENCY.—Section 401(a) is amended by striking out "in the Office of Personnel Management an office to be known as" and inserting "an executive agency to be known as".

(b) APPOINTMENT AND CONTRACTING AUTHORITY.—Section 401 is amended by adding at the end the following:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Office of Government Ethics in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under paragraph (2) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.".

SEC. 4. REPORTS TO CONGRESS.

The Ethics in Government Act of 1978 is amended by adding after section 407 the following:

"REPORTS TO CONGRESS

"SEC. 408. The Director shall, no later than March 31 of each year in which the second session of a Congress begins, submit to the Congress a report containing—

"(1) a summary of the actions taken by the Director during a 2-year period ending on December 31 of the preceding year in order to carry out the Director's functions and responsibilities under this title; and

"(2) such other information as the Director may consider appropriate.".

SEC. 5. AGENCY PROCEDURES RELATING TO FINANCIAL DISCLOSURE STATEMENTS.

Section 402 is amended by adding after subsection (c) the following:

"(d)(1) The Director shall, by the exercise of any authority otherwise available to the Director under this title, ensure that each executive agency has established written procedures relating to how the agency is to collect, review, evaluate, and, if applicable, make publicly available, financial disclosure statements filed by any of its officers or employees.

"(2) In carrying out paragraph (1), the Director shall ensure that each agency's procedures are in conformance with all applicable requirements, whether established by law, rule, regulation, or Executive order.".

SEC. 6. INFORMATION TO BE REPORTED BY EXECUTIVE AGENCIES.

Section 402 is amended by adding after subsection (d) (as added by section 5) the following:

"(e) In carrying out subsection (b)(10), the Director shall prescribe regulations under which—

"(1) each executive agency shall be required to submit to the Office an annual report containing—

"(A) a description and evaluation of the agency's ethics program, including any educational, counseling, or other services provided to officers and employees, in effect during the period covered by the report; and

"(B) the position, title, and duties of—

"(i) each official who was designated by the agency head to have primary responsibility for the administration, coordination, and management of the agency's ethics program during any portion of the period covered by the report; and

"(ii) each officer or employee who was designated to serve as an alternate to the official having primary responsibility during any portion of such period; and

"(C) any other information that the Director may require in order to carry out the responsibilities of the Director under this title; and

"(2) each executive agency shall be required to inform the Director upon referral of any alleged violation of Federal conflict of interest law to the Attorney General pursuant to section 535 of title 28, United States Code, except that nothing under this paragraph shall require any notification or disclosure which would otherwise be prohibited by law.".

SEC. 7. CORRECTIVE ACTION.

Section 402 is amended by adding after subsection (e) (as added by section 6) the following:

"(f)(1) In carrying out subsection (b)(9) with respect to executive agencies, the Director—

"(A) may—

"(i) order specific corrective action on the part of an agency based on the failure of such agency to establish a system for the collection, filing, review, and, when applicable, public inspection of financial disclosure statements, in accordance with applicable requirements, or to modify an existing system in order to meet applicable requirements; or

"(ii) order specific corrective action involving the establishment or modification of an agency ethics program (other than with respect to any matter under clause (i)) in accordance with applicable requirements; and

"(B) shall, if an agency has not complied with an order under subparagraph (A) within a reasonable period of time, notify the President and the Congress of the agency's noncompliance in writing (including, with the notification, any written comments which the agency may provide).

"(2)(A) In carrying out subsection (b)(9) with respect to individual officers and employees—

"(i) the Director may make such recommendations and provide such advice to such officers and employees as the Director considers necessary to ensure compliance with rules, regulations, and Executive orders relating to conflicts of interest or standards of conduct;

"(ii) if the Director has reason to believe that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that such agency head investigate the possible violation and, if the agency head finds such a violation, that such agency head take any appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) against the officer or employee, except that, if the officer or employee involved is the agency head, any such recommendation shall instead be submitted to the President; and

"(II) shall notify the President in writing if the Director determines that the head of an agency has not conducted an investigation pursuant to subclause (I) within a reasonable time after the Director recommends such action;

"(iii) if the Director finds that an officer or employee is violating any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may order the officer or employee to take specific action (such as divestiture, recusal, or the establishment of a blind trust) to end such violation; and

"(II) shall, if the officer or employee has not complied with the order under subclause (I) within a reasonable period of time, notify, in writing, the head of the officer's or employee's agency of the officer's or employee's noncompliance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President; and

"(iv) if the Director finds that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) be brought against the officer or employee, except that if the officer or employee involved is the agency head, any such recommendations shall instead be submitted to the President; and

"(II) may notify the President in writing if the Director determines that the head of an agency has not taken appropriate disciplinary action within a reasonable period of time after the Director recommends such action.

"(B)(i) In order to carry out the Director's duties and responsibilities under subparagraph (A) (iii) or (iv) with respect to individual officers and employees, the Director may conduct investigations and make findings concerning possible violations of any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.

"(ii)(I) Subject to clause (iv) of this subparagraph, before any finding is made under subparagraphs (A) (iii) or (iv), the officer or employee involved shall be afforded notification of the alleged violation, and an opportunity to comment, either orally or in writing, on the alleged violation.

"(II) The Director shall, in accordance with section 553 of title 5, United States Code, establish procedures for such notification and comment.

"(iii) Subject to clause (iv) of this subparagraph, before any action is ordered under subparagraph (A)(iii), the officer or employee involved shall be afforded an opportunity for a hearing, if requested by such officer or employee, except that any such hearing shall be conducted on the record.

"(iv) The procedures described in clauses (ii) and (iii) of this subparagraph do not apply to findings or orders for action made to obtain compliance with the financial disclosure requirements in title 2 of this Act. For those findings and orders, the procedures in section 206 of this Act shall apply.

"(3) The Director shall send a copy of any order under paragraph (2)(A)(iii) to—

"(A) the officer or employee who is the subject of such order; and

"(B) the head of officer's or employee's agency or, if such officer or employee is the agency head, to the President.

"(4) For purposes of paragraphs (2)(A)(ii), (iii), (iv), and (3)(B), in the case of an officer or employee within an agency which is headed by a board, committee, or other group of individuals (rather than by a single individual), any notification, recommendation, or other matter which would otherwise be sent to an agency head shall instead be sent to the officer's or employee's appointing authority.

"(5) Nothing in this title shall be considered to allow the Director (or any designee) to make any finding that a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated.

"(6) Notwithstanding any other provision of law, no record developed pursuant to the authority of this section concerning an investigation of an individual for a violation of any rule, regulation, or Executive order relating to a conflict of interest shall be made available pursuant to section 552(a)(3) of title 5, United States Code, unless the request for such information identifies the individual to whom such records relate and the subject matter of any alleged violation to which such records relate, except that nothing in this subsection shall affect the application of the provisions of section 552(b) of title 5, United States Code, to any record so identified.".

SEC. 8. ANNUAL PAY OF DIRECTOR.

Section 407 is amended to read as follows:

"ANNUAL PAY OF DIRECTOR

"SEC. 407. Chapter 53 of title 5, United States Code, is amended—

"(1) in section 5316 by striking out: 'Director of the Office of Government Ethics.'; and

"(2) in section 5314 by adding at the end thereof: 'Director of the Office of Government Ethics.' ".

SEC. 9. ADMINISTRATIVE PROVISIONS.

Section 403 is amended by striking out "pursuant to subsections (b)(3) and (b)(4) of section 402." and inserting in lieu thereof "pursuant to the Office of Government Ethics responsibilities under this Act. The head of any agency may detail such personnel and furnish such services, with or without reimbursement, as the Director may request to carry out the provisions of this Act".

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 3 shall take effect on October 1, 1989.

Mr. LEVIN. Mr. President, today we are bringing to the Senate floor the final version of a bill to reauthorize the Office of Government Ethics. We first passed S. 2344, a bill introduced by Senator COHEN and myself, on June 28, 1988.

The House Post Office and Civil Service Committee and the House Judiciary Committee, which share jurisdiction for OGE, each introduced and reported bills to reauthorize the Office. On October 4, 1988, the House substituted the text of their agreed-upon bill for the text of S. 2344 and sent it back to this body. The House-passed bill was very similar to S. 2344 as passed by the Senate and, over the last week, relevant House and Senate committee members have been negotiating on the remaining issues. We believe that this bill addressed the interests and concerns of both the House and the Senate on OGE's reauthorization, and it is one on which we have reached informal agreement with the House.

As currently drafted, S. 2344 would bring about many positive changes for OGE. It would remove the Office from the Office of Personnel Management and make it a separate executive agency in fiscal year 1990. It would raise the status of the OGE Director from Executive Level V to Executive Level III, thus placing the Director on the same level as the Chairman of the Merit Systems Protection Board. The authorized appropriation of the Office would be increased for the first time since 1978, but the bill retains a cap on those expenditures.

In reaching this compromise with the House, Governmental Affairs Committee members have accepted several provisions which were in the House bill but not in the Senate bill. These provisions would require executive agencies to submit annual reports to OGE on their ethics program and, every other year, would require OGE to report to Congress on its own activities. OGE would also be required to ensure that each agency has written procedures to review financial disclosure statements and that those procedures conform with all applicable requirements.

We have also agreed to delete several provisions of the earlier Senate-passed bill, one of which concerned designated agency ethics officials or DAEO's. Because DAEO's are usually either political appointees or so-called excepted service employees, they have virtually no civil service employment protections. That is, they can be fired at the will of the agency head. Yet it is their job to assess the ethical propriety of top agency officials' actions and report any possible criminal violations to the Department of Justice. That can put them in a very tough position. They can be fired for simply doing their jobs. Testimony by a former DAEO at our hearing earlier this year, demonstrated the need for some form of protection against possible retaliation by a DAEO's superiors when a DAEO makes a very tough call against such a superior. The Senate bill would have allowed DAEO's to appeal adverse personnel actions to the Merit Systems Protection Board, or MSPB, just like any employee in the competitive service. However, concern was expressed by House staff over creating employee protections for political appointees, a step that is apparently unprecedented. We, therefore, agreed to strike this provision from S. 2344, but our concern for the independence of judgment by DAEO's remains.

In lieu of the Senate provision, it is my understanding that OGE has not only the authority but also a responsibility to support the DAEO's as they attempt to carry out their ethics interpretation and enforcement responsibilities. If OGE believes that a DAEO has been or is being adversely affected because that DAEO is doing what he or she is supposed to do in identifying ethical violations, OGE should do whatever it can to support the DAEO and prevent any retaliation on the part of agency personnel. Such action may include notifying the President and the Congress of such retaliatory action.

One provision in the Senate bill that the House Members agreed to accept would require executive agencies to inform OGE when they refer alleged violations of Federal conflict of interest law to the Attorney General for a prosecutive determination. The provision stipulates, however, that this notification does not require disclosure otherwise prohibited by law, such as the Privacy Act, the Freedom of Information Act, or, where applicable, the independent counsel law.

In one of the most important sections of the bill, S. 2344 also clarifies, but does not expand, the OGE Director's authority in section 402(b)(9) of the Ethics in Government Act to order corrective action by agencies and individuals. The OGE Director has had the authority to order such corrective action since the Office was created in 1978. Over the years, though, there has been considerable confusion as to what the term "corrective action" means and under what circumstances the Director's authority may be used. During our hearings on OGE's reauthorization, the current Director said he was not sure how that section should be interpreted and believed statutory clarification is needed.

S. 2344 provides that clarity. It establishes explicit procedures by which the Director may order agencies to correct, modify, or establish a component of their ethics program. If an agency does not comply with such an order, the Director must notify the President and the Congress of the agency's noncompliance.

With regard to individual officers or employees, S. 2344 spells out the Director's corrective action authority using a four-tiered system of compliance. First, the Director may make recommendations and give advice to officers and employees on how to comply with ethics rules. Second, if the Director believes that the ethics rules have been or are being violated, he may recommend that the individual's agency investigate and take appropriate disciplinary action. If the agency does not conduct an investigation or take appropriate action, OGE must notify the President. Third, if the Director finds that ethics rules are being violated, he may order action to end the violation, such as divestiture or recusal. If the employee does not comply, the Director must notify the individual's agency head (or the President if the individual is the agency head). Finally, the Director may recommend specific disciplinary action to the agency head, or the President, if the Director finds that an individual is violating or has violated the ethics rules. If the agency head does not take appropriate action, the Director may notify the President.

Both House and Senate Members have expressed concerns that the due process rights of individual officers and employees be protected in this process of ordering and recommending action. Therefore, S. 2344 requires that before any finding is made, the individual who is the subject of the allegation shall be notified of the allegation and given an opportunity to comment, either orally or in writing. Before any action is ordered by OGE, the individual, if he or she so requests, must be allowed an on-the-record hearing. Finally, OGE must send a copy of any order for action to the individual who is the subject of the order as well as the individual's agency head—or the President.

The hearing provision applies only when OGE is actually ordering an individual to take a specific action, and then, only if the individual requests such a hearing. This provision is not intended in any way to affect OGE's right to confidentially, if appropriate, refer a case to the Department of Justice for a prosecutive determination. That authority remains untouched.

S. 2344 clarifies several other points. It clearly establishes that the OGE Director can conduct investigations and make findings regarding possible violations of ethics rules. That authority should have been apparent, but the lack of any clear statement to that effect in the statute has been the source of some confusion and consternation. On the other hand, S. 2344 also clearly states that the OGE Director may not make any finding that criminal law has been or is being violated. Such determinations are clearly the province of the Department of Justice, not OGE. OGE should, however, be allowed to recommend administrative action permitted by such laws, as is the case in the postemployment conflict of interest law in section 207(j) of title 18, United States Code.

Finally, S. 2344 also allows OGE to request the services of other agencies in carrying out its responsibilities. Currently, the OGE Director may request inspectors general to assist in OGE investigations, but only in matters involving financial disclosures. S. 2344 would allow the Director to request IG assistance in any OGE investigations. The bill would also allow agency heads to detail personnel and furnish services with or without reimbursement. This could provide OGE with needed resources during their busiest period of Presidential transitions without having to increase their permanent staff.

Mr. President, OGE plays a vital role in the execution of our confict of interest laws and regulations. The Office was created to "provide overall direction of executive branch policies related to preventing conflicts of interest." The changes and clarifications to OGE's stature and responsibilities will, I believe, allow OGE to better provide that needed direction. I am pleased to sponsor and bring to the Senate, along with my friend and colleague Senator COHEN, the bill that will not only renew our commitment to the work of this Office, but will strengthen its authority.

Mr. President, I ask unanimous consent that a section-by-section analysis of S. 2344 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF S. 2344

1. *References:* This section simply notes that the relevant Act is the Ethics in Government Act of 1978.

2. *Reauthorization:* This section reauthorizes OGE for six years, permitting appropriations of up to $2.5 million in FY 1989 and up to $3.5 million in the next five years. The six year reauthorization was requested by OGE to prevent having the next reauthorization fall in a year when they may be having to process thousands of financial disclosure forms in the next presidential transition. Both the House and Senate bills had this provision.

The $3.5 million authorized appropriation for the last five years of the reauthorization was in the Senate bill. The House bill authorized "such sums as may be necessary" for the last five years. We believed that setting a specific dollar amount above which appropriations may not go permits the authorizing committees to retain more control over the conduct of OGE's activities.

3. *Office of Government Ethics to Function Independently:* In this section, OGE is removed from OPM and made a separate executive agency. This measure was in both the House and Senate bills.

4. *Reports to Congress:* The House bill required OGE to report to Congress by January 31 of the year in which the first session of Congress begins on their activities over the prior two years. The Senate bill had no such provision, but we agreed to include the reporting requirement after modifying the timing of the reports to the second session of each Congress (to avoid conflict with Presidential transitions) and making the date of the report March 31 (to allow OGE more time to prepare the report).

5. *Financial Disclosure Procedures:* The House bill required the Director to ensure that each agency has an effective financial disclosure review process. The Senate bill had no such provision, but we agreed to its inclusion.

6. *Reports to OGE:* The House bill required OGE to issue regulations requiring reports to OGE by each agency on its ethics program. The Senate bill had no such provision, but we agreed to its inclusion. This compromise will also include the Senate requirement that agencies notify OGE when they refer conflict of interest allegations to the Department of Justice for prosecutive determination.

7. *Corrective Action:* The first part of the corrective action section (the new section 402(f)(1)) spells out procedures for OGE to follow when ordering agencies to take corrective action. This was in the House bill but not in the Senate bill, and we agreed to accept its inclusion.

The second section (the new Section 402(f)(2)) spells out procedures for OGE to follow when ordering individual officers and employees to take action to end ongoing violations and to recommend that agency heads take disciplinary action. A four-tiered system is established:

(1) the Director can make recommendations and give advice to officers or employees on how to comply with ethics rules (section (2)(A)(i));

(2) if the Director believes an officer or employee is violating or has violated ethics rules, the Director can refer the matter to the agency for investigation and appropriate disciplinary action. If no investigation is conducted by the agency, the OGE Director can notify the President (section (2)(A)(ii));

(3) if the Director finds that an officer or employee is violating ethics rules, the Director can order the officer or employee to take specific action to end the violation (such as divestiture, recusal, or the establishment of a blind trust). If such action is not taken, the OGE Director must notify the agency head (or the President if the individual involved is the agency head) (section (2)(A)(iii));

(4) if the Director finds that an officer or employee is violating or has violated ethics rules, the Director can recommend that agency heads take specific disciplinary action (such as reprimand, suspension, demotion, or dismissal). If such action is not taken, the OGE Director can notify the President (section (2)(A)(iv));

The section explicitly permits the Director to conduct investigations and make findings on possible violations of ethics rules, but does not permit findings that criminal conflict of interest laws have been violated (which is the responsibility of Justice Department). Before any finding is made, OGE must give the individual notice of the allegation and an opportunity to comment. The OGE Director must establish procedures for such notice and comment. Before ordering any action, OGE must afford the individual an opportunity for a hearing if the individual so requests. Findings and orders involving the routine completion of financial disclosure forms are excluded from this process because a process has already been established in title 2 of the Act for such cases.

The section also requires that copies of any orders to end ongoing violations be sent to the individual and the head of that individual's agency (or the President where appropriate). It also specifies that where an agency is headed by a board or commission, any notification that would normally be sent to an agency head would be sent to the employee's appointing authority.

Finally, the section provides that records developed pursuant to the Director's corrective action authority should not be made available under the Freedom of Information Act unless the request for information identifies the individual and the subject matter involved in the allegation. This provision was in S. 2344 as passed by the Senate, but was amended somewhat at the request of the House.

8. *Annual Pay of Director:* The pay and status of the Director will be increased from Executive Level V to Executive Level III. This was in the Senate bill, and the House agreed to accept it.

9. *Administrative Provisions:* The Senate bill allowed OGE to use Inspectors General

for any investigation they are allowed to conduct, not just in financial disclosure cases as in current law. The Senate bill also permitted agencies to detail employees to OGE on a nonreimbursable basis during the hectic transition period. The House agreed to these provisions.

10. *Effective Date:* OGE would become a separate agency on October 1, 1989, to allow them time to establish the necessary administrative systems. The effective date for the remaining provisions is the date of enactment. This was in both the House and Senate bills.

Mr. GLENN. Mr. President, I rise in support of the Senate amendment to the House amendment to S. 2344, the Office of Government Ethics Reauthorization Act of 1988. This bill would reauthorize the Office of Government Ethics [OGE] for an additional 6 years and establish it as a separate executive agency outside the Office of Personnel Management. In addition, the Senate amendment to S. 2344 contains some long needed amendment to clarify the authority of the Director of OGE and makes several other changes to current law to improve OGE's overall operations.

S. 2344 was introduced by Senators Levin and Cohen in April 1988 and referred to the Governmental Affairs Committee. In May the committee favorably reported the bill to the full Senate and on June 28 the Senate adopted it on a voice vote. On October 4, the House passed its version of the OGE reauthorization bill, H.R. 4712, by a vote of 417 to 3 and then substituted the text of H.R. 4712 for S. 2344.

Throughout this year the Committee on Governmental Affairs has worked closely with the Committees on the Post Office and Civil Service and the Judiciary—which share jurisdiction in the House over the OGE reauthorization legislation—to resolve the relatively few substantive differences between the bills. This effort produced the compromise amendment under consideration today and, consequently, obviated the need for a conference.

OGE was created in 1978 pursuant to title IV of the Ethics in Government Act to provide overall direction of executive branch policies on preventing conflicts of interest. OGE was reauthorized in 1983 for an additional 5 years, through September 30, 1988. During its 10-year history OGE has served as the centralized executive branch ethics office authorized to direct, monitor and enforce compliance with ethics requirements by both agencies and individuals. The amendments to title IV proposed in this legislation are, in the main, important and timely clarifications of OGE's authority and adjustments to its operations so that the Office will work even more successfully in the years to come.

Since the authorization for OGE expired on September 30, 1988, and we will soon face a new administration bringing thousands of new political appointees into the Federal work force, I urge my colleagues to vote in favor of this bill so that it may be sent back to the House for quick approval and then on to the President for his signature.

Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 2344, a bill to reauthorize the Office of Government Ethics for 6 years. This bill will ensure the continuation of a small, but important, agency within the executive branch that is charged with directing, coordinating, and overseeing the ethics program for the entire executive branch.

In June, the Senate passed S. 2344, a bill introduced by Senator Levin and myself, and the House of Representatives subsequently passed its own reauthorization bill, substituting its language into S. 2344.

The bill before us today represents a compromise between the Senate and House versions of the OGE reauthorization legislation and is the produce of negotiations of several Senate and House Members who have been closely involved in the oversight of the Office of Government Ethics for some time. The provisions of this bill, which I hope will be adopted today and accepted by the House before adjournment, are very similar to the Senate-passed bill, and will bring about many changes to make the Office of Government Ethics a stronger, more effective voice in ethics policy and enforcement.

This bill, for example, includes provisions to enhance the independence and stature of the Office of Government Ethics and its Director. It would remove the OGE from its parent agency, the Office of Personnel Management, and make it a separate agency. It would also raise the status of the OGE director and provides for a reasonable, controlled increase in the appropriations of the Office.

The bill includes provisions that will better enable the Office of Government Ethics to perform its many statutory mandates. The OGE director must act in many capacities: As an adviser to executive branch personnel on ethics matters, an interpreter of the ethics laws, and an enforcer and adjudicator when there have been possible violations of ethics standards or laws. This bill clarifies how, and under what circumstances, the Director should perform these duties. It clarifies, for example, the Director's authority to order corrective action by agencies and individuals in order to bring them into compliance with ethics laws and standards. There has been some confusion over the appropriate use of this authority, and this bill will go far in clarifying the circumstances and limits of the OGE's authority to order such actions.

The bill also clarifies the authority of the OGE to conduct investigations and to make findings regarding possible violations of the ethics laws and standards of conduct.

A major concern that was expressed throughout the Senate and House hearings on the reauthorization of the OGE was whether the due process rights of officials and employees of the executive branch are adequately protected when the OGE orders or recommends corrective action. The bill before us today establishes procedures providing for notification of the allegations made and for an opportunity to respond prior to any finding being made by the OGE with regard to possible ethics violations. Before any action is ordered by the OGE, the individual must be given the opportunity to request a hearing.

These provisions reflect an attempt to balance the legitimate due process rights of Federal officials and employees with the need to make expeditious ethics rulings, where necessary to preserve the public's confidence in the integrity of its officials. I shall monitor how well this new process works to determine whether it strikes the appropriate balance of due process and efficient operation of the ethics program.

Mr. President, this year the Office of Government Ethics will be especially important during the massive transition that will occur as the Reagan administration comes to a close. The OGE will perform the critical tasks of reviewing and approving the financial disclosure forms of countless political appointees coming into the new administration, and of educating these officials about the ethics laws and regulations. The OGE must be well equipped to do its job if we want the new cadre of administration officials, from whichever party holds the White House, to start off on solid ethical footing, free from conflicts of interest. The tone must be set from the first day of the administration, and a viable OGE is an important factor in this process.

This bill will go far in making the OGE an effective voice in ethics policy and enforcement, and I urge my colleagues to adopt this bill. I would like to commend my colleague, Senator Levin, for his fine work on this legislation and for his continued dedication to improving our ethics laws.

The motion was agreed to.

Mr. BYRD. Mr. President, I move that the Senate concur in the House title amendment to S. 2344, the Office of Governmental Ethics reauthorization bill.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF LAWRENCE K. LUNT

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 712, a bill for the relief of Lawrence K. Lunt, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 712) for the relief of Lawrence K. Lunt.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3747

Mr. BYRD. Mr. President, on behalf of Mr. DeConcini, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], for Mr. DeConcini, proposes an amendment numbered 3747.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On line 5 of the bill delete the amount of "$614,185.00" and substitute instead the amount of $307,092.50."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3747) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 712), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISPOSAL OF REAL AND PERSONAL FEDERAL PROPERTY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 5104, a bill to improve the effectiveness of the disposal of real and personal Federal property, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5104) to improve the efficiency and effectiveness of the management and disposal of Federal real and personal property.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5104) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

L. RICHARDSON PREYER, JR. FEDERAL BUILDING AND U.S. COURTHOUSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 3327, to designate the Federal Building in Greensboro, NC as the "L. Richardson Preyer, Jr. Federal Building and U.S. Courthouse" and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3327) to designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3748

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Mr. Durenberger, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. Dole], for Mr. Durenberger, proposes an amendment numbered 3748.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . HANDICAPPED PARKING SYSTEM.

(a) Regulations.—Not later than the 180th day following the date of the enactment of this Act, the Secretary of Transportation shall issue regulations—

(1) which establish a uniform system for handicapped parking designed to enhance the safety of handicapped individuals, and

(2) which encourage adoption of such system by all the States.

In issuing such regulations, the Secretary shall consult the States.

(b) Definitions.—For purposes of this section—

(1) Uniform System for Handicapped Parking.—A uniform system for handicapped parking designed to enhance the safety of handicapped individuals is a system which—

(A) adopts the International Symbol of Access (as adopted by rehabilitation International in 1969 at its 11th World Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

(B) provides for the issuance of license plates displaying the International Symbol of Access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(C) provides for the issuance of removable windshield placards (displaying the International Symbol of Access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(D) provides that fees charged for the licensing or registration of a vehicle used to transport individuals with handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

(E) for purposes of easy access parking, recognizes licenses and placards displaying the International Symbol of Access which have been issued by other States and countries.

(2) State.—The term "State" has the meaning such term has when used in chapter 4 of title 23, United States Code.

Mr. DURENBERGER. Mr. President, I rise today to offer an amendment with my colleague from Massachusetts that will remove a critical transportation barrier faced by many handicapped individuals. For many of us, the use of an automobile and accessible parking is something we take for granted. But for 6.5 million disabled Americans the need for accessible parking is a reality. Great efforts have been made to eliminate the burdens facing drivers with disabilities. But what many people may not realize is the problems faced by disabled drivers because of State-by-State differences in handicapped parking policies. My amendment will establish a uniform system for handicapped parking, and will mandate that the international symbol of access be displayed on all handicapped license plates.

Currently, one-quarter of the States do not have reciprocity in honoring another State's handicapped parking permits or symbols. This means that an individual's disability recognized in one State may not be recognized in another State. Even in States that do offer reciprocity, many times officers are not able to recognize another State's handicapped parking permits and issue costly parking citations to individuals who should be entitled to handicapped parking.

Mr. President, this subject is not new. The 98th Congress passed a resolution that encouraged States to develop a more uniform system for handicapped parking. Some States have responded, others have not. Earlier in the 100th Congress, the Senate passed similar legislation that went even further setting up minimum standards and imposing sanctions on States who were not in compliance with the standards. Although this amendment does not impose sanctions on the States, it is my intention and my understanding that the Secretary will use his current authority to impose sanctions on any State not in compliance with the minimum standards established in this legislation and will promulgate the "minimum standards criteria" regulations through the regulatory-negotiation procedure under the Federal Advisory Committee Act.

This amendment is supported by the Paralyzed Veterans of America as well as the Consortium for Citizens with Developmental Disabilities. I would like to commend both of these groups for their efforts in working to resolve the handicapped parking problem.

It is Congress' responsibility to see that the differences in State standards do not infringe on the rights and needs of handicapped persons. Uniformity of standards and an easily accessible symbol for identifying vehicles are desperately needed to ensure the transportation rights of all disabled individuals. It is time again to move forward and to protect the rights and interests of the disabled. I urge my colleague to support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3748) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3749

(Purpose: To make a technical correction)

Mr. BYRD. Mr. President, I send a technical amendment to the desk on behalf of Mr. BURDICK and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BURDICK, proposes an amendment numbered 3749.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 1, line 7, immediately after "Courthouse", insert "and Post Office".

In section 2, line 6, immediately after "Courthouse", insert "and Post Office".

Amend the title of the bill to read:

"To designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the 'L. Richardson Preyer, Jr. Federal Building and United States Courthouse and Post Office'."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3749) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3327), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PURPLE HEART MUSEUM COMMITTEE

Mr. BYRD. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of House Concurrent Resolution 126, a concurrent resolution recognizing the efforts of the Purple Heart Museum Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 126) recognizing and supporting the efforts of the National Purple Heart Museum Committee, and encouraging the people of the United States to participate, in the development of a national museum to honor those individuals awarded the Purple Heart.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 3750

(Purpose: To amend the preamble)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator WEICKER and Senator DODD and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. WEICKER, for himself, and Mr. DODD, proposes an amendment numbered 3750.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the preamble, strike out the first three clauses and insert in lieu thereof the following:

Whereas George Washington, at his headquarters in Newburgh, New York, on August 7, 1782, devised the Badge of Military Merit (the antecedent of the Purple Heart) to be given to enlisted men and non-commissioned officers for meritorious action;

Whereas the Badge of Military Merit became popularly known as the "Purple Heart" because it consisted of the figure of a heart in purple cloth or silk edged with narrow lace or binding and was affixed to the uniform coat above the left breast;

Whereas three Badges of Military Merit were awarded during the Revolutionary War, all to volunteers from Connecticut;

Whereas the first recipient of the Badge of Military Merit was probably Sergeant Elijah Churchill, a carpenter from Enfield, Connecticut;

Whereas Sergeant Churchill, who served in several units, including the 2d Continental Light Dragoon Regiment, was cited for gallantry in three separate actions and was awarded the Badge of Military Merit by George Washington at his headquarters, Newburgh, New York, on May 3, 1783;

Whereas the Badge of Military Merit was redesignated by General Douglas MacArthur as the Purple Heart in February 1932, to be awarded to persons killed or wounded in action against an enemy of the United States; and

Mr. WEICKER. Mr. President, I rise to thank the chairman of the Armed Services Committee, Senator NUNN, and the ranking minority member, Senator WARNER, for accepting my amendment to House Concurrent Resolution 126, to recognize and support efforts to establish a National Purple Heart Museum in Enfield, CT, and for bringing the measure, as modified, to the floor for approval in the final hours of the 100th Congress.

I offered this amendment on behalf of myself and Senator DODD.

House Concurrent Resolution 126 was submitted by Congresswoman NANCY JOHNSON and agreed to by the House on May 24, 1988, and referred to the Armed Services Committee for consideration.

My amendment made certain technical corrections to Congresswoman JOHNSON's concurrent resolution based on new information which was not available to her when the concurrent resolution was drafted. It does not change the scope or intent of her concurrent resolution in any way.

Congresswoman JOHNSON's concurrent resolution simply recognizes and expresses support for a group of citizens in Connecticut who are trying to establish a National Purple Heart Museum to honor members of the Armed Forces killed or wounded in action. The efforts of this group deserve recognition, and it is fitting and proper that such a museum be located in Enfield, CT. The first recipient of the Badge of Military Merit—the antecedent of the Purple Heart given during the Revolutionary War—is believed to be a sergeant from Enfield.

The Chief of Military History at the Department of the Army has been kind enough to provide me with background information on the early history and subsequent evolution of the Badge of Military Merit/Purple Heart. That information is summarized below.

The Purple Heart had its origins in the Revolutionary War.

At his headquarters in Newburgh, NY, on August 7, 1782, Gen. George Washington designed a badge of distinction for enlisted men and noncommissioned officers. It was called the Badge of Military Merit and was awarded for any singularly meritorious action. Later it became popularly known as the Purple Heart, because it consisted of the figure of a heart in purple cloth or silk edged with narrow lace or binding and was affixed to the uniform coat above the left breast. Recipients were allowed to pass sentinels without being challenged and to have their names and units inscribed in a Book of Merit.

The Badge of Military Merit was unique at that time, as it honored the lower ranks where decorations were unknown in both European and American armies. General Washington intended that the "road to glory in a patriot army and a free country is open to all." That very democratic tradition continues in the Armed Forces today.

Three Badges of Military Merit were awarded during the Revolutionary War, all to volunteers from Connecticut. Sergeant Elijah Churchill, a carpenter from Enfield, CT, was probably the first recipient of the decoration. Sergeant Churchill served in several different units, including the 2d Continental Light Dragoon Regiment. He was cited for gallantry in three separate actions and was awarded the Badge of Military Merit by General Washington at his Newburgh, NY, headquarters on May 3, 1783.

After the Revolutionary War, the Badge of Military Merit fell into disuse. It was not issued, for example, during World War I. It was revived in 1932 by Gen. Douglas MacArthur to honor George Washington's military achievements and redesignated the Purple Heart, an award given to those killed or wounded in action against enemies of the United States.

To honor the history of this decoration, a group of citizens in Enfield, CT, is busy making preparations for the establishment of the National Purple Heart Museum. A committee has been formed, money is being raised, land is being acquired, and memorabilia are being assembled. The Governor has signed a bill into law which designates Enfield as the museum's official home. All this will be done at no cost to the Federal Government.

Mr. President, this is a very worthwhile effort. It honors George Washington and all the members of the Armed Forces who gave life and limb and shed blood to create this great country of ours, to defend it, and to carry out its will over the years.

The Purple Heart has a special place in American military history.

Mr. President, I want to thank Senators NUNN and WARNER for their invaluable assistance and firm support in bringing this whole matter to such a timely and satisfactory conclusion.

Mr. DODD. Mr. President, I am pleased to join my fellow Senator from Connecticut, Mr. WEICKER, in asking the Senate to agree to House Concurrent Resolution 126 that recognizes and supports the effort in our State to establish a National Purple Heart Museum. Senator WEICKER and I have an amendment to the preamble to augment the historical background provided therein.

It is only fitting that this museum should be located in Connecticut. It is well known that the first American who was awarded this decoration, called at the time the Badge of Military Merit was Sgt. Elijah Churchill of Enfield, CT.

It is also a matter of pride in our State's history that the following two recipients were Sgts. William Brown of Stamford, CT, and Daniel Bissell of East Windsor, CT, recognized for their conspicuous bravery in the Revolutionary War. They were followed by more than 1 million Americans who were wounded while fighting in defense of our Nation and the principles it stands for.

The establishment of the National Purple Heart Museum is more than just a token exercise in historical reflection. It has a very strong relevance for our present and future as well. It is to reinforce our awareness that although our country has been generously blessed by the Lord with a favorable geography and all the material riches of this land, the ultimate guarantee of our freedom and fortune has always resided and will continue to reside in our people, our men in uniform. Without men and women like Sergeant Churchill and the million who followed, who sacrificed themselves willingly for the common good, we would not be able to enjoy the life and liberties that we do enjoy.

This is what the establishment of the National Purple Heart Museum means to me. I urge my colleagues to agree to our amendment and this concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3750) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 126), as amended, was agreed to.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution, as amended, was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SMALL BUSINESS ADMINISTRATION AUTHORIZATION ACT—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 4174, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4174) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

The conference report is printed in the House proceedings of the RECORD of October 3, 1988.)

Mr. BUMPERS. Mr. President, I am pleased to present the Senate the conference report to accompany H.R. 4174, a bill to authorize appropriations for the Small Business Administration. This is the first authorization for the agency since I became chairman of the Senate Small Business Committee, and I am proud of the committee's work.

This conference agreement sets program levels for fiscal years 1989 and 1990, and it authorizes appropriations of such sums as may be necessary for 1991. Our intention is to draft another authorization after 2 years, but this provision for the third year will allow the Appropriations Committees in 1990 to work on bills for 1991 even if the authorization process is not yet completed.

This bill preserves most existing SBA financing programs for small business, but it also implements a number of important reforms which will make the programs work more smoothly and be more accessible for small business. I particularly want to call attention to a new form of financing for businesses needing to install pollution control devices which are made necessary by State of Federal law. The previous SBA Program along these lines was not effective, primarily because it was available only through the Washington office and also because SBA imposed a 3½-percent guaranty fee on borrowers.

Our new pollution control financing program will be available through the section 7(a) guaranteed bank loan program and will be available through SBA district offices across the country. Moreover, it will involve much less paperwork and a more reasonable 2 percent guaranty fee. Loans will be available for pollution control financing for up to $1,000,000 as opposed to $750,000 for general business loans under the same program.

This bill continues the crucial Small Business Investment Company and Minority Enterprise Small Business Investment Company Programs, which constitute the only Federal support for venture capital for small business. These programs have historically spawned some of our Nation's greatest business success stories, including Federal Express, Nike, and Cray Research. There is no doubt in my mind that this program has repaid the Government and the taxpayers many times over when the thousands of jobs created are considered, as well as millions of dollars in corporate and personal income taxes. Moreover, changes in these programs will result in less paperwork for SBIC's, and assure a more regular and affordable flow of capital to the program.

We have included a large number of provisions at the request of the Administration, including creation of a new Preferred Surety Bond Program which was introduced by Senator NUNN. I believe that SBA strongly supports this bill, which is the product of extensive negotiations between our committee, Members of the House, and the administration. I hope that OMB, which has not historically been very supportive of SBA, will see the merit of this bill as well and the President will sign it promptly.

Mr. DOMENICI. Mr. President, I would like to take a few moments to discuss the pending business, the conference report to H.R. 4174, the Small Business Administration Reauthorization and Amendment Act of 1988.

I want to express my dismay that the House conferees refused to accept my amendment to permanently authorize a national White House Conference on Small Business. The amendment was similar to my legislation, S. 818, which has 45 cosponsors.

This amendment was the culmination of negotiations with the distinguished chairman of the Senate Small Business Committee, Senator BUMPERS, and the ranking member, Senator WEICKER. I addressed their concerns, including what they perceived as shortcomings in previous White House Small Business Conferences, and the concerns expressed by witnesses at a 1987 hearing on S. 818.

With their input, I believe we had a much stronger bill than what we had in S. 818. One of the most frequent complaints voiced in regard to previous White House Small Business Conferences is their political nature. Whether it be the 1980 conference under a Democratic administration, or the 1986 conference under a Republican administration, the charge was made that the White House used the conference for political advantages.

Through Chairman BUMPERS' leadership, we addressed this issue by limiting the number of staff the President can appoint to administer the conference, included language to encourage increased utilization of SBA personnel, and reduced the number of delegates the President may appoint, from 100 in the 1986 conference to 50.

More than 1,800 delegates attended the 1986 conference, a testament to the importance small business owners put on this forum. These men and women came to Washington at their own expense to share mutual concerns and to recommend solutions to the problems that affect their businesses—problems that often hinder their efforts to expand, efforts to bring more jobs to America's communities.

In fact, 1 of the final 60 recommendations reported by the conference delegates included one offered by the New Mexico Conference delegates to provide permanent authorization for a White House Conference on Small Business.

On previous occasions I have stood before you and remarked that the White House conference is an excellent example not only for the small business owner to share his or her concerns with his or her elected officials, but also for Congress to assure America's small businesses that their Government believes they ought to have a voice, an opportunity to be heard. I said then, and I maintain still, that my legislation would prove to the "little guy" that his or her elected officials are concerned about his or her livelihood.

I regret that the opportunity to listen directly to the little guy, and to the many numerous people the conference delegates represent, has been lost. I am most appreciative of the hard work performed by Chairman BUMPERS and Ranking Member WEICKER on my behalf and on the behalf of all small business owners, and I am disappointed that our colleagues in the House of Representatives did not see fit to consider this need.

Mr. HELMS. Mr. President, I thank the managers for their assistance in removing from the conference report on H.R. 4174 a provision that was most troubling to this Senator, and I suspect to a good many other Senators as well as to the White House.

I had objected to the inclusion of what had been section 124 in the original conference report. That section proposed to impose sanctions against small businesses which engage in trade with South Africa.

The question of imposing additional sanctions of any kind against South Africa is a major issue, Mr. President, and one which was not appropriate to be considered as a minor provision within this small business legislation.

I appreciate the cooperation of the chairman and ranking minority Member in securing Senate and House adoption of Senate Concurrent Resolution 163 which removed this provision from the final conference report which is now before the Senate. I know how strongly both Senators feel on the subject, and so I recognize the lengths to which they and their House counterparts have gone to accommodate those of us who feel equally strongly in opposition to further sanctions and to those with a strong interest in other aspects of this legislation. I am pleased that their accommodation now provides the opportunity to pass this small business legislation—and with a much-improved likelihood that the measure can be signed by the President. I thank them for their cooperation.

Having said that, Mr. President, let us examine some of the substantive defects with the provision that, thank-fully is no longer in the bill—but which we may face again next year.

The original section 124 provided that small businesses shall not be eligible for any program or activity under the authority of the Small Business Act or the Small Business Investment Act of 1958 if such business engaged in trade or other commercial activity with the Government of South Africa, any South African entity, or any entity located in South Africa other than an entity involved in anti-apartheid activity, or which provides educational, housing, or humanitarian assistance to individuals throughout South Africa on a nondiscriminatory basis.

The greatest irony in this provision, Mr. President is that its impact would have most adversely affected blacks—both black Americans and black South Africans.

It is black Americans who have been most aggressive in recent years to reach out by establishing joint ventures with South African blacks. Many of these operations have been minority-owned small businesses. Yet under the House-passed provision, these initiatives would be scuttled.

Many Americans and South Africans—including most black South Africans—believe that a key ingredient to the demise of the apartheid system in South Africa is a vibrant economy by which black economic progress can be translated into black political progress.

Mr. President, even the Comprehensive Anti-Apartheid Act of 1986, which I opposed, provides an exemption to its provisions for new investment in South Africa among firms owned by black South Africans. Yet that current exemption and its intent to encourage black entrepreneurs and workers, would have been crippled by section 124 of the original conference report.

Another problem was that section 124 imposed on small businesses a requirement for political awareness and participation that is not expected or required for larger businesses. If a company located in a small, rural town where South Africa is not a major day-to-day topic, simply exported its products to South Africa, that company would be subjected to massive retaliation by the legislation as originally reported by the conference committee. That would be most unfair to the American small businessman and his employees. These companies are struggling to make a go of their business, and the entrepreneurs who founded them are often men and women who are devoted, almost single mindedly, to making a go of their business enterprise.

It is all too easy here in Washington to forget the cruel consequences of a small business failure. The owners often lose their life savings, their homes, and their families' future when the business fails for whatever reason.

Again, I thank the managers for having spared American small businessmen, and their counterparts in South Africa, from this onerous requirement.

Mr. NUNN. Mr. President, I rise in support of the conference report on H.R. 4174, the Small Business Administration Reauthorization and Amendment Act of 1988. The agreement reached by the conference committee is a strong and responsible package providing authorizations for SBA's programs for 3 fiscal years, 1989 through 1991. The bill provides the stability needed by the agency and the small business community it serves. The appropriation levels authorized represent very modest increases, less than the 3.9 percent rate proposed by the House-passed bill. I commend our Chairman, my friend from Arkansas [Mr. BUMPERS], and the ranking minority member, my friend from Connecticut [Mr. WEICKER], for their leadership in bringing this conference agreement together. As a member of the conference committee, I would be remiss in failing to recognize the cooperation of the chairman and ranking minority member of the House Small Business Committee, Representative JOHN LAFALCE of New York and JOE MCDADE of Pennsylvania. The conference report now before the Senate represents our common efforts for the good of the small business community and the agency that serves it.

In addition to providing authorizations for appropriations, H.R. 4174 makes a number of substantive improvements to several important SBA programs. Specifically, I would like to call my colleagues' attention to title II of the bill, which contains the Preferred Surety Bond Guarantee Program Act of 1988. This title makes important improvements to the Surety Bond Guarantee Program, an essential program for many small business firms and disadvantaged small business firms that provide construction services as contractors and subcontractors.

Access to adequate bonding is vital to the survival and growth of construction contractors and subcontractors. Federal law, the Miller Act, requires a contractor to provide a performance and payment bond on every Federal construction contract in excess of $25,000. Most State and local governments impose similar bonding requirements. With increasing frequency, purchasers of private commercial construction are requiring bonds of their prime contractors. Likewise, more and more prime contractors are requiring bonds of their subcontractors.

Small firms have traditionally found it difficult to obtain bonding in the commercial marketplace. They are considered to be much higher risks with their shorter track records and thinner capitalization. The small firms are seeking bonds for smaller dollar value jobs, which require as much effort as bonds for larger contracts, and generate smaller fees for the bonding agents. The most recent substantiation of the problems facing small construction firms in obtaining adequate bonding can be found in the results of a survey conducted by the American Subcontractors Association [ASA] during July 1988. ASA found that 73 percent of the specialty trade contractors were facing ever tougher standards to obtain needed surety bonding, and 27 percent reported a reduction in the total dollar value of bonds that their firms could obtain. Increasing numbers are looking to the SBA Surety Bond Guarantee Program for assistance.

Other earlier informal surveys, by organizations such as the National Association of Minority Contractors [NAMC], suggest that the hardest hit in the competition for bonding may well be small firms, which are owned and controlled by socially and economically disadvantaged individuals. Title II provides special assistance for these firms.

Today, the expanded use of bonding is being actively promoted by the associations representing the major surety bonding firms and the surety bond producers, the agents that work with the contracting community. A principal objective of the Preferred Surety Bond Guarantee Program authorized by title II of the conference report is to bring these so-called standard surety firms and their agents back into the SBA Surety Bond Guarantee Program.

The SBA Surety Bond Guarantee Program may see increasing demands from small firms outside of the construction industry. With more than a little concern, Mr. President, I call to my colleagues' attention the trend among Federal agencies to use bonding requirements as a means of shifting to others their responsibility to determine the qualifications of their prospective contractors.

The SBA Surety Bond Guarantee Program has been in existence since 1971. Under the program, SBA guarantees a participating surety company against 80 percent of the loss on a bond issued to a small business firm with SBA's approval. Since its inception, over 200,000 contracts valued at more than $17 billion have been guaranteed through the program.

Early in the program's history, the standard surety firms, the very largest players in the industry, participated. That participation declined rapidly during the late 1970's. For all of the 1980's, the standard sureties have been essentially absent from the program. To fill the void, a group of specialty surety companies were created to meet the needs of the small business community under the program. These firms have carried the SBA Surety Bond Program during most of its existence. The Preferred Surety Bond Guarantee Program Act of 1988, contained in title II, establishes a pilot program aimed at substantially expanding the participation of the standard surety companies in the SBA Surety Bond Guarantee Program, without impending the continued participation of the specialty surety companies.

The primary reasons given for the departure of the standard sureties from the Surety Bond Guarantee Program were the costs and administrative burdens associated with the process used by SBA to review and approve, on a transaction-by-transaction basis, the underwriting and administration of the SBA-guaranteed bonds. The standard sureties report that these procedures are too time consuming and costly to make their participation in the Surety Bond Guarantee Program worthwhile. There is also a certain amount of resentment on the part of the standard surety firms in having their business judgments second-guessed by SBA employees.

In 1982, the Small Business Committee, under the leadership of my colleague from Connecticut [Mr. WEICKER], then chairman of the committee, conducted some revealing oversight hearings on the SBA Surety Bond Guarantee Program. Shortly after these hearings, SBA invited The Surety Association of America, representing the standard surety companies, to suggest ways to encourage the return of these firms to the program. The result of these discussions was the development of a proposal, referred to as Plan B. This proposal formed the basis for the bill, S. 2259 which I introduced on March 31, 1988, with the cosponsorship of Senators WEICKER, BUMPERS, and BOREN. Following a very positive hearing conducted on April 12, 1988, S. 2259 was subsequently added to the Senate's version of the authorization bill, S. 2619.

Mr. President, the provisions of title II authorize a 3-year test of a preferred surety program, similar to the preferred lender program already enacted for SBA's guaranteed loan program. Surety companies that meet a very stringent set of standards to be prescribed by the SBA would be freed from the requirement to have the SBA give prior approval of each transaction. SBA would only approve the firm's standards and procedures for underwriting, administration, and claims. Individual actions by the firm would be handled without any prior approvals from SBA, presumably in the same manner as the firm's bonding activity outside of the program. In the jargon of the industry, the preferred surety would be given the pen to write bonds with the SBA guarantee. For the protection of the Treasury, the conferees expect that SBA regulations will permit a prompt suspension of a firm's preferred status upon a finding of violations of the firm's approved bond underwriting or claims procedures or of SBA's program regulations.

In addition, firms participating in the Preferred Surety Bond Guarantee Program would obtain a maximum guarantee of 70 percent, rather than the 80 percent allowed under the current regulations for the existing Surety Bond Guarantee Program. The standard surety companies have expressed a willingness to accept this reduced level of Government guarantee, as a measure of their confidence in their own underwriting standards and claims decisions.

Effective implementation of the Preferred Surety Bond Guarantee Program will also require SBA to issue regulations prescribing stringent qualification standards for firms to be accorded preferred surety status. While the conferees adopted the Senate provision, and its legislative history as set forth in Senate Report No. 100-416, the conferees did not intend that these standards should be so restrictive as to prevent the participation of adequately capitalized and well-managed firms from the ranks of the specialty surety firms currently operating in the program.

Along the same lines, I would like to reinforce another point made in the Senate report. A key goal of the Preferred Surety Bond Guarantee Program is to substantially improve the access to bonding for disadvantaged small business contractors and subcontractors. To foster this goal, the Small Business Committee suggested that the administration consider conducting a test of a demonstration bonding expansion program for disadvantaged small business concerns in one of its regions. The suggested pilot program envisions the creation of an association organized by several of the preferred sureties, and its use of a managing general agent which would focus its underwriting efforts on the needs of disadvantaged small business construction firms. To facilitate prompt underwriting decisions, the managing general agent could be afforded a specified level of independent underwriting authority to be exercised in accordance with procedures specified by the association. The conferees urge the administration to give this concept careful consideration in formulating its overall plans for the implementation of the pilot Preferred Surety Bond Guarantee Program. If a test of the demonstration program is undertaken, it is expected that its effectiveness in expanding bonding opportunities for disadvantaged small business concerns will be included in the review of the program to be undertaken by the General Accounting Office.

In addition to the provisions relating to the pilot Preferred Surety Bond Guarantee Program, title II makes several other important improvements to the existing Surety Bond Guarantee Program. It establishes a 90-percent guarantee for bonds for contracts of $100,000 or less, or for any program guaranteed bond issued to a firm owned and controlled by socially and economically disadvantaged individuals.

Obtaining bonds on small dollar value contracts has consistently been a problem for small construction contractors and subcontractors, without regard to social or economic disadvantaged status. Bond premium fee structures are based upon the dollar value of the contract. The business realities of the application and review process dictate that almost the same effort will be expended on evaluating a bond for a smaller contract as for a larger contract. The higher guarantee is designed to make the underwriting of these bonds more attractive.

The conference report also adopted the Senate provision providing for this higher guarantee on any program bond issued to a small business concern owned and controlled by socially and economically disadvantaged individuals. This increased guarantee is designed to encourage participating sureties to better meet the needs of disadvantaged small business concerns which historically have faced discrimination in obtaining needed surety bonding.

The 90-percent guarantee would not be available under the Preferred Surety Bond Guarantee Program. Any bond provided these higher guarantees would be subject to SBA review on a transactional basis, like any bond underwriting or administration action under the existing Surety Bond Guarantee Program.

Section 206 of the conference agreement adopts the Senate provision regarding a thorough GAO evaluation of the results of the pilot Preferred Surety Bond Guarantee Program, and of the improvements made to the existing program. To provide a benchmark against which to measure the results of title II, and to provide data regarding the parameters of other bonding issues that are likely to be the subject for additional legislative or administrative initiatives during the next Congress, the conferees directed the GAO to conduct a preliminary survey and review of the bonding needs of small business concerns and disadvantaged small business concerns. This survey will determine the extent to which such firms are currently meeting their bonding needs through the use of corporate sureties, the existing

SBA Surety Bond Guarantee Program, or other forms of security such as personal sureties. The conference report noted the persistent concerns with the use of personal sureties, which all too frequently leave subcontractors and suppliers exposed to unreasonable risks. The dangers associated with the use of personal sureties was the subject of an oversight hearing in August 1987 conducted by the Governmental Affairs Committee's Subcommittee on Federal Spending, Budget, and Accounting, on which I serve. Under the leadership of my good friend from Florida [Mr. CHILES], an administrative solution to the personal sureties problem is in the works. The GAO will be expected to review the adequacy of that fix and access whether further regulatory actions are needed or a legislative solution will be required. The conferees also directed that the GAO's review encompass other potential limitations in the protections accorded by the Miller Act.

Mr. President, title II makes important improvements to an important SBA Program. The conference agreement, derived from the Senate amendment to H.R. 4174, was carefully developed with assistance from the associations representing many segments of the surety bonding industry and the consumers of their services within the construction industry. In particular, I would like to note the assistance provided by the American Subcontractors Association. The National Association of Minority Contractors shared with me the special problems of minority construction firms. The needs of the surety industry were expressed by representatives of the Surety Association of America, the American Surety Association, the National Association of Surety Bond Producers, and the American Insurance Association.

Mr. President, finally, I would like to thank my staff, Rob Hall, my legislative counsel, and Bill Montalto, the procurement policy counsel to the Committee on Small Businesss, for their efforts in assisting me with the preparation of the Preferred Surety Bond Guarantee Program Act of 1988 and in assisting me to see it through the conference with the House.

Mr. President, I urge the adoption of the conference report to H.R. 4174.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2049.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2049) entitled "An Act to establish an independent Commission on the Veterans' Administration Home Loan Guaranty Program; to amend title 38, United States Code, to authorize reductions in the interest rate on loans made by the Veterans' Administration to finance the sales of properties acquired by the Veterans' Administration as the result of foreclosures, and to establish creditworthiness requirements and require a 0.5 per centum fee for assumptions of such loans other than those sold without recourse, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Benefits and Programs Improvement Act of 1988".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATION PROGRAMS

PART A—PROVISIONS RELATING TO MONTGOMERY GI BILL AND CERTAIN OTHER EDUCATION PROGRAMS

SEC. 101. MONTGOMERY GI BILL DEATH BENEFIT.

(a) IN GENERAL.—Subchapter II of chapter 30 is amended by adding at the end the following new section:

"§ 1417. Death benefit

"(a)(1) In the event of the service-connected death of any individual—

"(A) who—

"(i) is entitled to basic educational assistance under this chapter; or

"(ii) is on active duty in the Armed Forces and but for section 1411(a)(1)(A)(i) or division (i) or (ii) of section 1412(a)(1)(A) of this title would be eligible for such basic educational assistance; and

"(B) who dies while on active duty,

the Administrator shall make a payment, subject to paragraph (2)(B) of this subsection, in the amount described in subsection (b) of this section to the person or persons described in paragraph (2)(A) of this subsection.

"(2)(A) The payment referred to in paragraph (1) of this subsection shall be made to the person or persons first listed below who is surviving on the date of such individual's death:

"(i) The beneficiary or beneficiaries designated by such individual under the individual's Servicemen's Group Life Insurance policy.

"(ii) The surviving spouse of the individual.

"(iii) The surviving child or children of the individual, in equal shares.

"(iv) The surviving parent or parents of the individual, in equal shares.

"(B) If no such person survives such individual, no payment shall be made under this section.

"(b) The amount of any payment made under this section shall be equal to—

"(1) the amount reduced from the individual's pay under section 1411(b), 1412(c), or 1418(c) of this title, less

"(2) the total of—

"(A) the amount of educational assistance that has been paid to the individual under this chapter before the payment is made under this section; and

"(B) the amount of accrued benefits paid or payable with respect to such individual in connection with this chapter.

"(c) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 1435(b)(1), it shall be considered to be an entitlement earned under this subchapter.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 30 is amended by adding at the end the following new item:

"1417. Death benefit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of July 1, 1985.

SEC. 102. MONTGOMERY GI BILL ELIGIBILITY FOR INDIVIDUALS DISCHARGED FOR PRE-SERVICE MEDICAL CONDITIONS OR DUE TO REDUCTIONS IN FORCE.

(a) IN GENERAL.—Section 1411(a)(1) is amended—

(1) in clauses (A)(ii)(I) and (B)(ii)(I), by inserting after "disability" the following: ", for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected,";

(2) in clauses (A)(ii) and (B)(ii), by striking out ", or (II)" and inserting in lieu thereof "; (II)"; and

(3) by inserting before "; or" at the end of clause (A)(ii) and before the semicolon at the end of clause (B)(ii) the following: "; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1)(A) Section 1412(b)(1) is amended to read as follows:

"(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces (i) for a service-connected disability, (ii) for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, (iii) for hardship, (iv) in the case of an individual discharged or released after 20 months of such service, for the convenience of the Government, or (v) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"(B) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual—

"(i) who, during the two years of service described in clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section, was discharged or released from active duty in the Armed Forces for a service-connected disability or for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, if the individual was obligated, at the beginning of such two years of service, to serve such four years of service; or

"(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve (I) for a service-connected disability, (II) for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which the Administrator determines is not service connected, (III) for hardship, (IV) in the case of an individual discharged or released after 30 months of such service, for the convenience of the Government, or (V) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(B) Paragraphs (1)(A)(i) and (1)(B)(i) of section 1412(a) are each amended by inserting ", subject to subsection (b) of this section," after "Forces".

(2) Section 1413(a)(2) is amended by inserting "or (III)" after "section 1411(a)(1)(A)(ii)(I)" and after "section 1411(a)(1)(B)(ii)(I)" the first place each appears.

(3) Clause (F) of section 3103A(b)(3) is amended to read as follows:

"(F) to benefits under chapter 30 of this title by reason of—

"(i) a discharge or release from active duty for the convenience of the Government, as described in sections 1411(a)(1)(A)(ii)(II) and 1412(b)(1)(A)(iv) of this title;

"(ii) a discharge or release from active duty for a medical condition which preexisted service on active duty and which the Administrator determines is not service connected, as described in clauses (A)(ii)(I) and (B)(ii)(I) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(ii) of this title; or

"(iii) an involuntary discharge or release from active duty for the convenience of the Government as a result of a reduction in force, as described in clauses (A)(ii)(III) and (B)(ii)(III) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(v) of this title.".

(c) Effective Date.—The amendments made by this section shall take effect—

(1) as of July 1, 1985, with respect to individuals discharged or released for a medical condition which preexisted service on active duty or in the Selected Reserve and which the Administrator determines is not service connected; and

(2) as of October 1, 1987, with respect to individuals involuntarily discharged or released for the convenience of the Government as a result of a reduction in force.

SEC. 103. OPPORTUNITY FOR MONTGOMERY GI BILL ENROLLMENT FOR CERTAIN ACTIVE-DUTY NONPARTICIPANTS.

(a) In General.—Subchapter II of chapter 30 is amended by adding at the end the following new section (after the section added by section 101(a) of this Act):

"§ 1418. Opportunity for certain active-duty personnel to withdraw election not to enroll

"(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in this section referred to as the 'open period'), an individual who—

"(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

"(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

"(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary shall prescribe, to withdraw an election made under section 1411(c)(1) or 1412(d)(1) of this title not to receive educational assistance under this chapter.

"(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 1411(c)(1) or 1412(d)(1) of this title and who—

"(1) while serving on active duty during the open period, makes a withdrawal of such an election;

"(2) continues to serve the period of service which, at the beginning of the open period, such individual was obligated to serve;

"(3)(A) serves the obligated period of service described in clause (2) of this subsection;

"(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the Administrator determines is not service connected, or (iii) hardship; or

"(C) before completing such obligated period of service, is (i) discharged or released from active duty for the convenience of the Government after completing not less than 20 months of such period of service, if such period was less than three years, or 30 months, if such period was at least three years, or (ii) involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense;

"(4) before completing such obligated period of service, has completed the requirements of a secondary school diploma (or an equivalency certificate); and

"(5) upon completion of such obligated period of service—

"(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service,

is entitled to basic educational assistance under this chapter.

"(c) The basic pay of an individual withdrawing, under subsection (b)(1) of this section, an election under section 1411(c)(1) or 1412(d)(1) of this title shall be reduced by—

"(1) $1,200; or

"(2) in the case of an individual described in clause (B) or (C) of subsection (b)(3) of this section whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200, an amount less than $1,200.

"(d) A withdrawal under subsection (b)(1) of this section is irrevocable.".

(b) Conforming Amendments.—(1) The second sentence of section 1411(b) and of section 1412(c) are each amended by striking out "subsection" and inserting in lieu thereof "chapter".

(2) Section 1413 is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

"(c)(1) Subject to section 1795 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 1418 of this title is entitled to 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance).

"(2) Subject to section 1795 of this title, an individual described in clause (B) or (C) of section 1418(b)(3) of this title whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200 is entitled to the number of months of assistance under this chapter that is equal to the lesser of—

"(A) 36 multiplied by a fraction the numerator of which is the amount by which the basic pay of the individual has been reduced under section 1418(c) and the denominator of which is $1,200; or

"(B) the number of months the individual has served on continuous active duty after June 30, 1985.".

(3) Section 1415(b) is amended by inserting "or 1418" after "section 1411".

(4) Section 1416 is amended by adding at the end the following new subsection:

"(c) A member of the Armed Forces who—

"(1) completes at least two years of service on active duty after June 30, 1985;

"(2) after such service continues on active duty without a break in service; and

"(3) but for section 1418(b)(3)(A) of this title would be entitled to basic educational assistance under this chapter,

may receive such assistance for enrollment in an approved program of education while continuing to perform the service described in section 1418(b)(2) of this title.".

(5) Section 1421 is amended—

(A) in subsection (a) in the matter preceding clause (1), by inserting "or 1418" after "section 1411"; and

(B) in subsection (b) in the matter preceding clause (1), by inserting "or 1418" after "section 1412".

(c) Clerical Amendment.—The table of sections for subchapter II of chapter 30 is amended by adding the following new item (after the item added by section 101(b) of this Act):

"1418. Opportunity for certain active-duty personnel to withdraw election not to enroll.".

SEC. 104. MONTGOMERY GI BILL SECONDARY SCHOOL DIPLOMA REQUIREMENTS.

(a) Active Duty Participants.—Clause (2) of section 1411(a) is amended to read as follows:

"(2) who completed the requirements of a secondary school diploma (or equivalency certificate) not later than—

"(A) the original ending date of the individual's initial obligated period of active duty in the case of an individual described in clause (1)(A) of this subsection, regardless of whether the individual is discharged or released from active duty on such date; or

"(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection;

except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree; and".

(b) SELECTED RESERVE PARTICIPANTS.—Section 1412(a)(2) is amended—

(1) by striking out "received" and inserting in lieu thereof "completed the requirements of"; and

(2) by inserting the following before the semicolon: ", except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree".

SEC. 105. CHOICE OF MONTGOMERY GI BILL BENEFITS FOR CERTAIN RESERVISTS.

Section 1412 is amended by adding at the end the following new subsection:

"(e)(1) An individual described in subclause (I) or (III) of subsection (b)(1)(B)(ii) of this section may elect entitlement to basic educational assistance under section 1411 of this title, based on an initial obligated period of active duty of two years, in lieu of entitlement to assistance under this section.

"(2) An individual who makes the election described in paragraph (1) of this subsection shall, for all purposes of this chapter, be considered entitled to educational assistance under section 1411 of this title and not under this section. Such an election is irrevocable.".

SEC. 106. REFRESHER, REMEDIAL, AND DEFICIENCY COURSES.

(a) MONTGOMERY GI BILL ACTIVE DUTY PROGRAM.—Subsection (a) of section 1434 is amended—

(1) by inserting "(1)" before "Except";

(2) by designating the second sentence as paragraph (2) thereof;

(3) in paragraph (2) (as so designated), by striking out "those provisions" and inserting in lieu thereof "the provisions of the sections enumerated in paragraph (1) of this subsection"; and

(4) by adding at the end the following new paragraph:

"(3) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1641 is amended—

(1) in subsection (a), by—

(A) inserting "(1)" after "(a)"; and

(B) adding at the end the following new paragraph:

"(2) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education."; and

(2) in subsection (b), by striking out "1691(a)(1)" and inserting in lieu thereof "1691(a) (other than clause (1))".

(c) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.—Subsection (a) of section 1733 is amended to read as follows:

"(a)(1) Any eligible person shall be entitled to the benefits provided an eligible veteran (with no dependents) under section 1691 (if pursued in a State) of this title.

"(2) Educational assistance under this chapter for the first five months of full-time pursuit of a program (or the equivalent thereof in part-time educational assistance) consisting of such course or courses shall be provided without charge to entitlement.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 15, 1989.

SEC. 107. TUTORIAL ASSISTANCE.

(a) ASSISTANCE UNDER THE MONTGOMERY GI BILL FOR ACTIVE-DUTY PARTICIPANTS.—(1) Subchapter II of chapter 30 is amended by adding at the end the following new section (after the section added by section 103(a) of this Act):

"§ 1419. Tutorial assistance

"(a) An individual entitled to an educational assistance allowance under this chapter shall also be entitled to benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section.

"(b) The amount of such benefits payable under this section may not exceed $100 per month, for a maximum of twelve months, or until a maximum of $1,200 is utilized. This amount is in addition to the amount of educational assistance allowance payable to the individual under this chapter.

"(c)(1) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the individual under this section in excess of $600.

"(2) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.".

(2) Section 1435 is amended by adding at the end the following:

"(e) Payments for tutorial assistance benefits under section 1419 of this title shall be made—

"(1) in the case of the first $600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

"(2) in the case of payments to an individual for such benefits in excess of $600, from—

"(A) funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits;

"(B) the Department of Defense Education Benefits Fund established under section 2006 of title 10; and

"(C) funds appropriated to the Department of Transportation,

in the same proportion as the Fund described in subclause (B) of this clause and the funds described in subclause (A) or (C) of this clause are used to pay the educational assistance allowance to the individual under this chapter.".

(3) The table of sections for subchapter II of chapter 30 is amended by adding the following new item (after the item added by section 103(c) of this Act):

"1419. Tutorial assistance.".

(b) POST-VIETNAM ERA EDUCATIONAL ASSISTANCE PROGRAM.—(1) Subchapter III of chapter 32 is amended by inserting after section 1633 the following new section:

"§ 1634. Tutorial assistance

"(a) An individual entitled to benefits under this chapter shall also be entitled to the benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section. Any amount paid to an individual under this section shall be in addition to the amount of other benefits paid under this chapter.

"(b) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of educational assistance paid to the individual under this section in excess of $600.

"(c) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of monthly educational assistance the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

"(d) Payments of benefits under this section shall be made—

"(1) in the case of the first $600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

"(2) in the case of payments to an individual for such benefits in excess of $600, from the fund from contributions made to the fund by the veteran and by the Secretary of Defense in the same proportion as these contributions are used to pay other educational assistance to the individual under this chapter.".

(2) The table of sections for subchapter III of chapter 32 is amended by inserting after the item relating to section 1633 the following new item:

"1634. Tutorial Assistance.".

(c) INCREASE IN MAXIMUM TUTORIAL ASSISTANCE PAYMENTS.—(1) Section 1692(b) is amended by striking out "$84" and "$1,008" and inserting in lieu thereof "$100" and "$1,200", respectively.

(2)(A) The heading of section 1692 is amended to read as follows:

"§ 1692. Tutorial assistance".

(B) The item relating to section 1692 in the table of sections at the beginning of chapter 34 is amended to read as follows:

"1692. Tutorial assistance.".

SEC. 108. COOPERATIVE TRAINING.

(a) MONTGOMERY GI BILL.—(1) Section 1402(3)(B) is amended—

(A) by inserting "(i)" before "a full-time"; and

(B) by inserting before the period at the end ", and (ii) a cooperative program (as defined in section 1682(a)(2) of this title)".

(2) Section 1432 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such individual under section 1415 and section 1422, if applicable, of this title.

"(2) For each month that an individual is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month.".

(b) POST-VIETNAM-ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 1602(2)(B) is amended—

(A) by inserting "(i)" after "includes"; and

(B) by inserting after "of this title " the following: ", and (ii) in the case of an individual who is not serving on active duty, a cooperative program (as defined in section 1682(a)(2) of this title)".

(2) Section 1631 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly benefit payment to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly benefit otherwise payable to such individual (computed on the basis of the formula provided in subsection (a)(2) of this section).

"(2) For each month that an individual is paid a monthly benefit payment for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate 80 percent of a month.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

SEC. 109. EXTENSION OF DELIMITING PERIODS BY REASON OF ALCOHOL CONDITIONS.

Section 105 is amended by adding at the end the following new subsection:

"(c) For the purposes of any provision relating to the extension of a delimiting period under any education-benefit or rehabilitation program administered by the Veterans' Administration, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct.".

SEC. 110. MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

(a) PAYMENT FOR LESS THAN HALF-TIME PURSUIT OF A PROGRAM OF EDUCATION.—Section 2131(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new clause:

"(4) an appropriately reduced rate, as determined under regulations which the Administrator of Veterans' Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned.".

(b) TIME OF ELIGIBILITY.—Section 2132(b) of such title is amended to read as follows:

"(b) Educational assistance may not be provided to a member under this chapter until the member has completed the initial period of active duty for training required of the member.".

SEC. 111. TECHNICAL AMENDMENTS.

(a) TITLE 38 AMENDMENTS—Title 38 is amended as follows:

(1) Section 1402(3)(B) is amended by striking out "includes" and inserting in lieu thereof "in the case of an individual who is not serving on active duty, includes".

(2)(A) Section 1411(a)(1)(A)(i)(I) is amended by inserting ", as the individual's initial obligated period of active duty," after "serves".

(B) Section 1412(a)(1)(A)(i) is amended by inserting ", as the individual's initial obligated period of active duty," after "serves".

(3) Section 1411 is amended by adding the following new subsection at the end:

"(d)(1) For purposes of this chapter, any period of service described in paragraph (2) of this subsection shall not be considered a part of an individual's initial obligated period of active duty.

"(2) The period of service referred to in paragraph (1) is any period terminated because of a defective enlistment and induction based on—

"(A) the individual's being a minor for purposes of service in the Armed Forces;

"(B) an erroneous enlistment or induction; or

"(C) a defective enlistment agreement.".

(4) Section 1413 is amended—

(A) in subsection (a)(2)—

(i) by striking out "In" and inserting in lieu thereof "Subject to section 1795 of this title and subsection (c) of this section, in"; and

(ii) by striking out "active duty" and all that follows through the period and inserting in lieu thereof "continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section 1411(a)(1)(A)(ii)(I) or (III) of this title, or in the case of an individual described in section 1411(a)(1)(B)(ii)(I) or (III) of this title, after June 30, 1985."; and

(B) in subsection (b)(1), by striking out "active duty" and all that follows through "title, and" and inserting in lieu thereof "continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section 1412(a)(1)(A) of this title, or in the case of an individual described in section 1412(a)(1)(B) of this title, after June 30, 1985, and".

(5)(A) Section 1415(a) is amended by striking out "Subject" and all that follows through "except" and inserting in lieu thereof "The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except".

(B) Section 1422(a) is amended by striking out "Subject" and all that follows through "except" and inserting in lieu thereof "The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except".

(6) Section 1431(a) is amended by striking out "beginning on" and all that follows through the period and inserting in lieu thereof the following: "beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—

"(1) in the case of an individual who becomes entitled to such assistance under clause (A) or (B) of section 1412(a)(1) of this title, on the later of the date of such individual's last discharge or release from active duty or the date on which the four-year requirement described in clause (A)(ii) or (B)(ii), respectively, of such section 1412(a)(1) is met; and

"(2) in the case of an individual who becomes entitled to such assistance under section 1411(a)(1)(B), on the later of the date of such individual's last discharge or release from active duty or January 1, 1990.".

(7)(A) Section 1432 is amended by adding at the end the following new subsection (after the subsection added by section 108(a)(2) of this Act):

"(e)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual.

"(B) For purposes of this paragraph, the term 'established charge' means the lesser of—

"(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

"(ii) the actual charge to the individual for such course or courses.

"(2) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

"(3) In each case in which the rate of payment to an individual is determined under paragraph (1) of this subsection, the period of entitlement of such individual under this chapter shall be charged at the rate of one month for each payment of educational assistance to the individual that is equal to the amount of monthly educational assistance the individual would otherwise be eligible to receive for full-time pursuit of an institutional course under this chapter.".

(B) Section 1434 (as amended by section 106(a) of this Act) is amended—

(i) in subsection (a)(1), by inserting "1786(a)," after "1780(g),";

(ii) by striking out subsection (c); and

(iii) by redesignating subsection (d) as subsection (c).

(8) Section 1432(c)(3) is amended—

(A) by striking out "For" and inserting in lieu thereof "(A) Except as provided in subparagraph (B) of this paragraph, for";

(B) by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(C) by adding at the end the following new subparagraph:

"(B) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection.".

(9) Section 1673(d) is amended—

(A) by inserting "or under chapter 106 of title 10" before the period at the end of the first sentence; and

(B) by inserting "or under chapter 106 of title 10" after "of this title" in the third sentence.

(b) CHAPTER 106 AMENDMENTS.—Chapter 106 of title 10, United States Code, is amended as follows:

(1) Section 2131(c)(2) is amended by inserting before the period at the end the following: "(or the equivalent thereof in part-time educational assistance)".

(2) Section 2132(a)(2) is amended—

(A) by striking out "received" and inserting in lieu thereof "completed the requirements of"; and

(B) by inserting before the semicolon the following: ", or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistment or extension".

(3) Section 2132(c) is amended by adding the following sentence at the end: "At the request of the Administrator of Veterans' Affairs, the Secretary of Defense shall transmit a notice of entitlement for each such person to the Administrator.".

(4) Section 2132(d) is amended to read as follows:

"(d) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter but shall elect (in such form and manner as the Administrator of Veterans' Affairs may prescribe) the program to which such service is to be credited.".

(5) Section 2133 is amended—

(A) in subsection (a), by striking out "section" and inserting in lieu thereof "chapter";

(B) in subsection (b), by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by adding as paragraph (1) the following new paragraph:

"(b)(1) In the case of a person separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection."; and

(C) in paragraph (2) of subsection (b), as redesignated by subparagraph (B) of this paragraph, strike out "1431(e)" and insert in lieu thereof "1431(f)".

(6) Section 2135 is amended—

(A) in subsection (a)(1), by inserting ", and during which the member has received such assistance," after "chapter"; and

(B) by striking out clause (A) of subsection (b)(1) and inserting in lieu thereof the following:

"(A) the number of months of obligated service the person has remaining under the agreement entered into under section 2131(a) of this title divided by the original number of months of such obligation; and".

PART B—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 121. COURSE WITHDRAWALS.

(a) IN GENERAL.—Section 1780(a)(4) is amended by inserting after "circumstances" the following: ", except that, in the first instance of withdrawal by an eligible veteran or person from a course or courses with respect to which such veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply so as to require that mitigating circumstances be considered to exist only with respect to withdrawals from a course or courses being pursued with assistance under title 38, United States Code, that occur on or after June 1, 1989.

SEC. 122. EDUCATIONAL ASSISTANCE FOR CERTAIN INCARCERATED VETERANS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.

Section 1631 is amended by adding at the end the following new subsection (after the subsection added by section 108(b)(2) of this Act):

"(e)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed the lesser of (A) such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 1633 of this title. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.

"(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.".

SEC. 123. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 1792(c) is amended by striking out "December 31, 1989" and inserting in lieu thereof "December 31, 1993".

SEC. 124. REPEAL OF EXPIRED PROGRAM OF ACCELERATED-PAYMENT LOANS.

(a) REPEAL.—Sections 1682A, 1686, 1737, and 1738 are repealed.

(b) CONFORMING AMENDMENTS.—Section 1798 is amended—

(1) by striking out "or person" each place it appears;

(2) in subsection (a)(1)—

(A) by striking out "and eligible person"; and

(B) by inserting "(if the program of education is pursued in a State)" after "subchapter";

(3) in subsection (b)—

(A) in paragraph (1), by striking out "or eligible person"; and

(B) in paragraph (3), by striking out "or subchapter II of chapter 35, respectively,";

(4) in subsection (e)—

(A) in paragraph (2), by striking out "or person's"; and

(B) by amending paragraph (3)(B) to read as follows:

"(B) data regarding the default experience and default rate with respect to loans made under this section.";

(5) in subsection (f)—

(A) by striking out paragraphs (1) and (3); and

(B) by striking out "(2)"; and

(6) in subsection (g)(2)(A)—

(A) in the first sentence, by striking out "and eligible persons"; and

(B) in the second sentence, by striking out "or eligible person".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 34 is amended by striking out the items relating to sections 1682A and 1686.

(2) The table of sections at the beginning of chapter 35 is amended by striking out the items relating to sections 1737 and 1738.

(3) The table of sections at the beginning of chapter 36 is amended by striking out the heading relating to subchapter III and inserting in lieu thereof the following:

"SUBCHAPTER III—EDUCATION LOANS.".

(4) Chapter 36 is amended by striking out the heading for subchapter III and inserting in lieu thereof the following:

"SUBCHAPTER III—EDUCATION LOANS".

TITLE II—REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

SEC. 201. TRAINING AND WORK EXPERIENCE WITHOUT PAY IN STATE AND LOCAL GOVERNMENT AGENCIES.

Section 1515 is amended—

(1) in subsection (a)(1), by inserting " , or of any State or local government agency receiving Federal financial assistance," after "Administration)".

(2) in subsection (b)—

(A) in paragraph (1), by inserting "at a Federal agency" after "section"; and

(B) by striking out paragraph (3) and inserting in lieu thereof:

"(3) Use of the facilities of a State or local government agency under subsection (a)(1) of this section or use of facilities and services under subsection (a)(4) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

"(4) The Administrator shall prescribe regulations providing for the monitoring of training and work experiences provided under such subsection (a)(1) at State or local government agencies and otherwise ensuring that such training or work experience is in the best interest of the veteran and the Federal Government.".

SEC. 202. USE OF FOR-PROFIT ORGANIZATIONS FOR EMPLOYMENT ASSISTANCE AND INDEPENDENT LIVING PROGRAMS.

(a) EMPLOYMENT ASSISTANCE.—Section 1517(a)(2)(C) is amended—

(1) by striking out "and" at the end of subclause (iii); and

(2) by inserting before the period at the end " , and (v) any for-profit entity in a case in which the Administrator has determined that services necessary to provide such assistance are available from such entity and that comparably effective services are not available, or cannot be obtained cost-effectively, from the entities described in subclauses (i) through (iv) of this clause.".

(b) INDEPENDENT LIVING PROGRAMS.—Section 1520(a) is amended—

(1) in paragraph (1), by striking out "public" and all that follows through "organizations" and inserting in lieu thereof "entities described in paragraph (7) of this subsection"; and

(2) by adding at the end the following new paragraph:

"(7) Entities described in this paragraph are (A) public or nonprofit agencies or organizations, and (B) for-profit entities in cases in which the Administrator determines that services comparable in effectiveness to services available from such an entity are not available, or cannot be obtained cost-effectively from, public or nonprofit agencies or through facilities of the Department of Medicine and Surgery.".

TITLE III—HOME LOAN GUARANTY PROGRAM

SEC. 301. INTEREST RATE REQUIREMENTS FOR VENDEE LOANS.

Section 1833(a) is amended by adding at the end the following new paragraph:

"(7) The Administrator shall make a loan to finance the sale of real property described in paragraph (1) of this subsection at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Administrator determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans' Administration Loan Guaranty Revolving Fund established by section 1824(a) of this title.".

SEC. 302. CREDITWORTHINESS DETERMINATIONS AND FEES WITH RESPECT TO ASSUMPTIONS OF VENDEE LOANS.

Section 1814 is amended—

(1) in subsection (a)(1), in the matter preceding clause (A)—

(A) by striking out "If" and inserting in lieu thereof "Except as provided in subsection (f) of this section, if"; and

(B) by striking out "guaranteed, insured, or direct housing loan obtained by a veteran" and inserting in lieu thereof "loan guaranteed, insured, or made"; and

(2) by striking out subsection (f) and inserting in lieu thereof the following:

"(f)(1) This section shall apply—

"(A) in the case of loans other than loans to finance the purchase of real property described in section 1833(a)(1) of this title, only to loans for which commitments are made on or after March 1, 1988; and

"(B) in the case of loans to finance the purchase of such property, only to loans which are closed more than 45 days after the date of the enactment of the Veterans' Benefits and Programs Improvement Act of 1988.

"(2) This section shall not apply to a loan which the Administrator has sold without recourse.".

SEC. 303. AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND.

Section 1824 is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding subsection (b) of this section, the Fund shall be available to the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts and subject to paragraph (3) of this subsection, for—

"(A) contracts for the performance of such supplementary services described in paragraph (2) of this subsection for which the Administrator is otherwise authorized to contract; and

"(B) the acquisition of such supplementary equipment described in such paragraph, (not including services or equipment for which the Fund is available under subsection (b) of this section), as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

"(2) The supplementary services and equipment referred to in paragraph (1) of this subsection are services or equipment not performed or available during fiscal year 1988, or services in excess of the level of such services performed during fiscal year 1988, and may include, among other things, the services of—

"(A) appraisers to review appraisal reports and issue certificates of reasonable value;

"(B) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

"(C) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

"(D) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(E) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certifications;

"(F) contractors to list for sale in local newspapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(G) contractors to prepare closing documents and review them after closing; and

"(H) contractors to provide automated data processing equipment, supplies, services, and software for carrying out the program administered under this chapter.

"(3) The Administrator may not in any fiscal year obligate more than $25,000,000 for services or equipment under this subsection.".

TITLE IV—EMPLOYMENT

SEC. 401. VETERANS PREFERENCE WITHIN LOCAL HIRE OF ALASKA CONSERVATION SYSTEM UNITS.

Section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) PREFERENCE ELIGIBLES WITHIN LOCAL HIRE.—Notwithstanding the provisions of subsection (a), any individual who is eligible to be selected for a position under the provisions of subsection (a) and is a preference eligible as defined in section 2108(3) of title 5, United States Code, shall be given an employment preference, consistent with the preference in the competitive service as defined in section 2102 of such title for which such person is eligible under subchapter I of chapter 33 of such title, in selection to such position.".

SEC. 402. COORDINATION OF INFORMATION AND ASSISTANCE.

(a) PURPOSE.—It is the purpose of this section to ensure that veterans who are dislocated workers eligible for assistance under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or are otherwise unemployed receive, to the extent feasible, assistance (including information on vocational guidance or vocational counseling, or information on both vocational guidance or vocational counseling), including information on counseling, needed by such veterans—

(1) to apply for services and benefits for which they are eligible as veterans, dislocated workers, or unemployed persons;

(2) to obtain resolution of questions and problems relating to such services and benefit; and

(3) to initiate any authorized administrative appeals of determinations or other actions relating to such services and benefits.

(b) MEMORANDUM OF UNDERSTANDING.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Labor and the Administrator of Veterans' Affairs shall enter into a memorandum of understanding to carry out the purpose of this section. The memorandum shall include provisions that define the relationships and responsibilities of the Veterans' Administration, the Department of Labor, and State and local agencies with respect to the provision of the following information, forms, and assistance:

(A) Information on services and benefits referred to in subsection (d).

(B) All application forms and related forms necessary for individuals to apply for such services and to claim such benefits.

(C) Assistance in resolving questions and problems relating to receipt of such services and benefits.

(D) Assistance in contacting other Federal Government offices and State offices where such services or benefits are provided or administered.

(2) The memorandum of understanding entered into pursuant to paragraph (1) shall include a provision for the periodic evaluation, by the Secretary of Labor and the Administrator of Veterans' Affairs, of the implementation of their respective responsibilities under such memorandum.

(c) COORDINATION OF DEPARTMENT OF LABOR ACTIVITIES.—The Assistant Secretary of Labor for Veterans' Employment and Training, in consultation with the office designated or created under section 322(b) of the Job Training Partnership Act, shall, except as the Secretary of Labor may otherwise direct, coordinate the activities of the components of the Department of Labor performing the responsibilities of the Secretary of Labor under this section.

(d) COVERED SERVICES AND BENEFITS.—This section applies with respect to the following services and benefits:

(1) Employment assistance under—

(A) part C of title IV of the Job Training Partnership Act (96 Stat. 1380; 29 U.S.C. 1721 et seq.); and

(B) the Veterans' Job Training Act (97 Stat. 443; 29 U.S.C. 1721 note).

(2) Employment and training assistance for dislocated workers under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.).

(3) Employment assistance and unemployment compensation under the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 (29 U.S.C. 2271 et seq.) and under any other program administered by the Employment and Training Administration of the Department of Labor.

(4) Educational assistance under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.); and

(B) chapters 30, 31, 32, 34, and 35 of title 38, United States Code, and chapter 106 of title 10, United States Code.

(5) Certification of a veteran as a member of a targeted group eligible for the targeted jobs credit determined under section 51 of the Internal Revenue Code of 1986.

(e) DEFINITION.—In this section, the term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

TITLE V—EXTENSIONS OF CERTAIN AUTHORITIES

SEC. 501. CONTINUED OPERATION OF VETERANS' ADMINISTRATION REGIONAL OFFICE IN THE PHILIPPINES.

(a) THREE-YEAR EXTENSION.—Section 230(b) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(b) RATIFICATION FOR LAPSED PERIOD.—Any action by the Administrator of Veterans' Affairs in providing, during the period beginning on October 1, 1988, and ending on the date of the enactment of this Act, for a Veterans' Administration Regional Office in the Republic of the Philippines under section 230 of title 38, United States Code, is hereby ratified with respect to that period.

SEC. 502. ALCOHOL AND DRUG TREATMENT PROGRAM.

(a) THREE-YEAR EXTENSION.—(1) Subsection (e) of section 620A is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(2) Any action by the Administrator of Veterans' Affairs in providing, during the period beginning on October 1, 1988, and ending on the date of the enactment of this Act, for care and treatment and rehabilitative services under section 620A of title 38, United States Code, is hereby ratified with respect to that period.

(b) CLINICAL EVALUATION AND REPORTS.—Subsection (f) of such section is amended to read as follows:

"(f)(1) During the period before October 1, 1997, the Administrator shall conduct an ongoing clinical evaluation in order to determine the long-term results of drug and alcohol abuse treatment furnished to veterans in contract residential treatment facilities under this section.

"(2) The evaluation shall include an assessment of the following:

"(A) The long-term results of treatment referred to in paragraph (1) of this subsection on drug and alcohol use by veterans who may have received such treatment.

"(B) The need for hospitalization of such veterans for drug and alcohol abuse after completion of the residential treatment.

"(C) The employment status and income of such veterans.

"(D) The extent of any criminal activity of such veterans.

"(E) Whether certain models and methods of residential treatment for drug and alcohol abuse are more successful for veterans with specific abuses, specific levels of resources available to them, and specific needs than are other models and methods.

"(3) To the extent feasible, the Administrator shall select for consideration in the evaluation veterans whose treatment for drug and alcohol abuse in contract residential treatment facilities under such section represents a variety of models and methods of residential drug and alcohol abuse treatment.

"(4) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the following reports on the evaluation under this subsection:

"(A) Not later than February 1, 1993, an interim report containing information obtained during the first four years of the evaluation and any conclusions that the Administrator has drawn on the basis of that information.

"(B) Not later than March 31, 1998, a final report containing information obtained during the evaluation and the determinations and conclusions of the Administrator based on that information.".

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I rise in support of the pending measure, the House amendments to S. 2049, the proposed "Veterans' Benefits and Programs Improvement Act of 1988." The House amendments represent a compromise agreement arrived at between the Committees on Veterans' Affairs of the House and Senate on provisions modifying veterans' education, rehabilitation, and home loan guaranty programs and extending two expired authorities that have been extended in the legislation passed by the House or Senate. As is explained in detail in the committees' explanatory statement on this measure, which I will ask to be printed in the RECORD at the conclusion of my remarks, the measure before us is derived from several different bills, is the product of extensive negotiations carried out over the past 2 months and, in my view, reflects an eminently fair compromise of the differences between the measures passed by the two bodies.

I am very pleased with the final product, which I believe will contribute significantly to the improvement of veterans' education, rehabilitation, and home loan programs as well as extend certain expiring authorities crucial to veterans in the Philippines and those in VA drug rehabilitation programs. I urge my distinguished colleagues to join with me in approving final passage of this legislation.

Since the explanatory statement describes in detail the compromise agreement on S. 2049, I will summarize the provisions and then will discuss only some of the provisions in the compromise agreement.

TITLE I—EDUCATION PROGRAMS

Mr. President, title I of the compromise agreement contains provisions to make various improvements in VA programs of education that would:

First, provide to certain survivors of an MGIB participant whose death while serving on active duty is service connected, a benefit payment equal to the total amount of the deceased MGIB participant's pay reductions minus the amount of any chapter 30 assistance that the participant had received.

Second, provide entitlement to 1 month of MGIB educational assistance for each month of active duty served by a participant who is discharged from military service first, after July 1, 1985, for a preexisting medical condition which the Administrator determines is not service connected, or second, after October 1, 1987, involuntarily for reasons beyond the participant's control, due to a reduction in force [RIF], and as a result, does not meet the length-of-service requirement for MGIB entitlement.

Third, provide service members who first entered active duty during the period July 1, 1985, through June 30, 1988, and elected not to enroll in the MGIB, with a one-time open period during which they may withdraw such elections and become MGIB participants. The basic pay of a service member becoming a participant is to be reduced by $1,200 prior to the individual's release or discharge from active duty. If, before satisfying the $1,200 requirement, the individual were discharged due to a service-connected disability, preservice medical condition, reduction in force, or hardship, he or she generally would be entitled to 1 month of educational assistance for each $100 that the individual's pay was reduced, but not to exceed the number of months the individual served on active duty.

Fourth, extend, from June 30, 1988, under the VA's interpretation of current laws, to December 31, 1989, the deadline by which Vietnam-era veterans who served on active duty from October 19, 1984, through June 30, 1988, must have received a secondary school diploma—or an equivalency certificate—in order to be entitled to combined MGIB benefits.

Fifth, in the case of MGIB participants seeking to earn their benefits through a combination of 2 years of active-duty service and 4 years of service in the Selected Reserve but who, after completing 2 years on active duty and before completing their Reserve obligation, are discharged due to disability or hardship, allow the participant to elect to receive benefits based either on their active-duty service alone or on the combination of their active-duty service and the amount of service they completed in the Selected Reserve's.

Sixth, authorize pursuit of refresher, remedial, and deficiency courses for participants under the MGIB chapter 30 program and the Post-Vietnam Era Educational Assistance Program [VEAP] with a charge to entitlement, and under the chapter 35 Survivors and Dependents Educational Assistance Program, without a charge to entitlement for the first 5 months' payment of such allowances.

Seventh, make chapter 30 MGIB participants and VEAP participants eligible for individualized tutorial assistance with no charge to entitlement for the first 6 months and increase the monthly tutorial allowance.

Eighth, make cooperative training available for participants under the chapter 30 MGIB program and VEAP, with benefits paid at the rate of 80 percent of the basic full-time monthly rate otherwise payable and with entitlement charged proportionately.

Ninth, for purposes of any provision of law relating to the extension of a delimiting period under a VA program of educational assistance or rehabilitation, provide for the disabling effects of chronic alcoholism to be considered not to be the result of willful misconduct and thus make persons with entitlement to VA education or rehabilitation programs eligible for delimiting-period extensions based on chronic alcoholism on the same basis as extensions are granted for physical or mental injuries or illnesses.

Tenth, permit a student who is using VA education benefits a one-time opportunity to withdraw from a course or courses—for which the grade assigned is not used in computing the requirements for graduation—without being required to repay the benefits for the course or courses.

Eleventh, in the case of a VEAP participant who is serving a sentence in a Federal, State, or local penal institution for conviction of a felony, limit the amount of educational assistance payable to the same extent as benefits are limited under other VA-administered educational assistance programs in such cases.

Twelfth, extend the existence of the Veterans' Advisory Committee on Education for 4 years, to December 31, 1993.

Thirteenth, repeal certain expired education loan authorities.

Fourteenth, authorize benefits for less than half-time training under chapter 106 of title 10 and eliminate the requirement that an individual complete 180 days in the Selected Reserve before becoming eligible to receive such educational assistance.

TITLE II—REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

Mr. President, title II of the compromise agreements contains provisions to make various improvements in VA rehabilitation programs that would:

First, allow the use of State and local government agencies supported in whole or in part with Federal funds to provide uncompensated training or work experiences in programs of vocational rehabilitation.

Second, allow the VA, in cases in which the Administrator determines that comparable services are not available from, or cannot be provided cost effectively through, public or nonprofit organizations, to contract with for-profit organizations to provide employment assistance or programs of independent living services to certain veterans with service-connected disabilities.

TITLE III—HOME LOAN GUARANTY PROGRAM

Mr. President, title III of the compromise agreement contains provisions to make improvements in the VA Home Loan Guaranty Program that would:

First, require the VA to offer below-market interest rates on the loans—known as "vendee loans"—which it makes to finance its sales of foreclosed properties where and to the extent the Administrator determines, in light of prevailing conditions in the real estate market involved, that the lower rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the loan guaranty revolving fund [LGRF].

Second, extend the creditworthiness requirements and 0.5-percent fee applicable to assumptions of VA-guaranteed loans—pursuant to provisions recently enacted in Public Law 100-198—to vendee loans with the exception of those sold without recourse.

Third, expand the VA's authority to pay from the LGRF certain loan guaranty program administrative expenses so as to include, to such extent as is or in such amounts as are provided for in appropriation acts, supplementary contractual services and equipment not otherwise authorized to be paid for out of the LGRF when the Administrator makes a finding that that would be in the best interest of the long-term stability and solvency of the LGRF; and provide that, in each fiscal year, not more than $25 million would be available for such contracting.

TITLE IV—EMPLOYMENT

Mr. President, title IV of the compromise contains provisions to make various improvements in veterans' employment programs that would:

First, clarify that Civil Service veterans' preference provisions apply to veterans and other preference-eligibles who are otherwise eligible to be selected for a position under the local-hire authority of Alaska conservation units.

Second, require the Secretary of Labor and the Administrator of Veterans' Affairs to enter into a memorandum of understanding to provide information and assistance regarding services and benefits programs to veterans who are dislocated workers or are otherwise unemployed.

TITLE V—EXTENSIONS OF EXPIRING AUTHORITIES

Mr. President, title V of the compromise agreement contains provisions that would:

First, extend for 3 years, through fiscal year 1991, the VA's authority to maintain a regional office in the Philippines.

Second, extend for 3 years, through fiscal year 1991, the VA's authority to provide drug and alcohol dependency treatment and rehabilitation services through contracts with halfway houses and other community-based facilities.

Third, in order to assess long-term outcomes and determine whether certain types of drug and alcohol care are more successful for certain veterans, require the conduct, during the period ending September 30, 1997, of a longitudinal study of veterans who have received care through the contract drug and alcohol program.

Fourth, ratify actions taken by the VA during the period from September 30, 1988, through the date of enactment pursuant to the provisions being extended.

IMPROVEMENTS IN THE MONTGOMERY GI BILL AND OTHER EDUCATIONAL-ASSISTANCE PROGRAMS

Mr. President, the compromise agreement contains a number of provisions which I believe will make the Montgomery GI Bill [MGIB]—the program of educational assistance for the All-Volunteer Force—even more successful than it already is. This program, first enacted in 1985 in Public Law 98-525 as a 3-year-test program and made permanent last year in Public Law 100-48, which I authored in the Senate, has become a very popular recruitment tool for the Armed Forces. It also has great value—as I noted in my floor remarks on May 8, 1987—Record page S6201—at the time of Senate action on S. 12, my bill to make the program permanent—as an investment in the development of a more highly trained, competitive and productive work force and as an educational and vocational means to assist service personnel in readjusting to civilian life. In many cases, this program provides educational opportunities to those who might not otherwise be able to afford them.

This year, however, the need to make some fine-tuning adjustments—none affecting the basic structure of, or underlying conceptual basis for, the program—has come to light. I want to highlight some of these adjustments.

Mr. President, two provisions in the compromise agreement would help address the situations of service members who enroll in the MGIB, but are unable to use their MGIB benefits due to circumstances totally beyond their control.

First, section 101 of the compromise agreement includes a provision—derived from section 315 of S. 2011 as passed by the Senate and section 2 of H.R. 4213 as passed by the House—to provide to certain survivors of an MGIB participant who dies from a service-connected cause while serving on active duty a death benefit equal to the total amount of the deceased MGIB participant's pay reductions minus the amount of educational assistance that the participant had received. The provisions accepted here is the same as those we worked out with Senator Dole and passed in the Senate on October 18.

Second, section 102 of the compromise agreement includes a provision—derived from section 311 of S. 2011 and section 3 of H.R. 4213—to provide an entitlement of 1 month of educational assistance for each month of active duty served by an MGIB participant who is discharged from military service first, after July 1, 1985, for a preexisting medical condition which the Administrator determines is not service connected, or second, after October 1, 1987, involuntarily for reasons beyond the participant's control, due to a reduction in force [RIF], and as a result, does not meet the length-of-service requirement for MGIB entitlement of 20 months on active duty of a 24-month enlistment or 30 months on active duty of a 36-month enlistment.

OPPORTUNITY FOR MGIB ENROLLMENT FOR CERTAIN ACTIVE-DUTY NONPARTICIPANTS

Mr. President, I am also pleased that section 103 of the compromise agreement includes a provision—derived from section 312 of S. 2011 and section 5 of H.R. 4213—to provide service members who first entered active duty during the period July 1, 1985, through June 30, 1988 and elected not enroll in the MGIB with a one-time 7-month enrollment period from December 1, 1988 through June 30, 1989. Recruit training officers at Navy, Air Force, and Marine Corps recruit training bases have acknowledged that during the early stages of the MGIB some recruits were provided inadequate information on the program and therefore opted not to enroll.

I believe that because the MGIB was not advertised and implemented effectively during its early stages, the recruits should not be penalized and as a result should be given the opportunity to reconsider their initial decisions not to participate. This provision in the compromise agreement would provide those service members who elected not to enroll in the program with a one-time open period—from December 1, 1988 to June 30, 1989—during which they would have the option to withdraw their election not to enroll and agree to a basic-pay reduction of $1,200 prior to the individual's release or discharge from active duty.

TOLLING OF DELIMITING PERIODS BY REASON OF ALCOHOL CONDITION

Mr. President, it is especially significant that the compromise agreement contains a provision which, to a substantial extent, would produce a result that I have been working to achieve since 1979. Section 109 of the compromise agreement includes a provision—derived from section 324 of S. 2011 as passed by the Senate which incorporated the provisions of section 5 of S. 9, which I introduced on January 6, 1987—which would provide that, for purposes of any provision relating to the extension of a delimiting period under a VA-administered educational assistance or rehabilitation program, the disabling effects of chronic alcoholism would not be considered the result of willful misconduct. Thus, this provision would make persons with entitlement to VA education or rehabilitation programs eligible for delimiting-period extensions based on chronic alcoholism on the same basis as extensions are granted for other physical or mental disabilities.

On six different occasions—most recently, before this year, as part of S. 9 in 1987—since 1979 the Senate has previously passed provisions which I authored to provide for tolling delimiting periods for veterans who are temporarily unable to pursue a program of education or rehabilitation because of a drug or alcohol condition. During much of this time, the VA has been defending in court its position of generally disallowing delimiting-period extensions based on drug or alcohol dependencies on the grounds that such conditions are the result of willful misconduct and, thus, do not constitute grounds for extensions under the general provisions of law allowing extensions based on disabilities. Now, with the April 20, 1988, Supreme Court decision in the case of *Traynor* v. *Turnage*, 56 U.S.L.W. 43119, it is clear that no judicial relief is available to achieve the goal of this legislation. Only Congress can provide a remedy and I am delighted that, in the case of chronic alcoholism, the compromise provides the relief that I have sought for so long.

I strongly believe that this proposal to afford veterans a further opportunity to use VA educational and rehabilitation benefits is most desirable and could be extremely important to the readjustment and rehabilitation of the individuals involved. Delimiting period extensions for those who were, but are no longer, prevented by alcohol disabilities from using those benefits would have considerable value in contributing to achieving and maintaining the medical, social, and economic rehabilitation of those recovering from disabilities related to alcohol. That is a goal in which society in general, as well as the individual, has a tremendous stake. Thus, in view of the national priority for, and the urgency of, ending drug and alcohol dependency in our society, I am extremely gratified that we have finally been able to achieve a compromise with our colleagues in the House with respect to the alcoholism issue.

COMMUNITY-BASED ALCOHOL AND DRUG TREATMENT SERVICES

Mr. President, section 502 of the compromise agreement—derived from section 606 of S. 2011, which I authored in the Senate, and section 201(a) of H.R. 5114—would extend the VA's authority to provide drug and alcohol care, treatment, and rehabilitation services through contracts with halfway houses and other community-based facilities for 3 years, through fiscal year 1991, and would require the VA to conduct or provide for a longitudinal study of veterans who have received care through the contract program.

The VA's experience with the contract program over the last 9 years, as outlined in its final report concerning the success and cost-effectiveness of the program, and the testimony presented at the committee's June 9 hearing convinced me that this program is a major asset to the VA's overall substance abuse treatment program and should be made permanent. Unfortunately, however, the House Committee would not agree to this, and hence the compromise would extend the authorization only for an additional 3 years. In fiscal year 1991, when the authorization expires, I will again press to make the program permanent.

I am very pleased that the compromise agreement includes my provision to require the VA to conduct a longitudinal study of veterans who have received care through the contract program. There is very little data regarding the long-term success of different drug treatment programs. The VA-administered contract program is an ideal setting to conduct this type of clinical evaluation because veterans can be tracked through the VA system. The information obtained from this study would be very helpful in determining what are the most effective methods of treatment for both veterans and the general public.

I am pleased to note that the Senate has voted to make available to the VA additional funding for its drug and alcohol treatment programs just as was done for fiscal year 1987 through the enactment of Public Law 99-570, the Anti-Drug Abuse Act of 1986—through the Omnibus Anti-Substance Abuse Act of 1988, S. 2852. A provision has been included in that legislation, at my request, to transfer to the VA for outpatient substance abuse treatment 4.5 percent of the treatment funds that become available over each of the next 5 fiscal years under that bill. This would enable the VA to expand its outpatient and contract programs in order to treat thousands of additional veterans, who must now, in many cases, wait as long as a month to receive treatment. I would urge the VA to give priority to treatment of drug addicts, and, in particular, those addicts at high risk for AIDS.

I would also note that the omnibus legislation includes, at my request, an authorization of appropriations of $1 million for the conduct of an evaluation of the VA's ongoing inpatient and outpatient drug and alcohol treatment programs. Information gathered through this evaluation methods of treatment for both veterans and the general public.

TITLE III—BACKGROUND ON HOME LOAN GUARANTY PROGRAM

The VA Home Loan Guaranty Program, established by the Servicemen's Readjustment Act of 1944—Public Law 346, 78th Congress—was originally designed to assist veterans returning home from World War II who, due to their military service, had been unable to establish the credit history necessary to obtain a home mortgage. Since 1944, the program has guaranteed loans totaling more than $300 billion, helping almost 13 million veterans to purchase homes. I would refer my colleagues to my introductory statement on S. 2049 on February 4, 1988—RECORD page S667—for a more extensive discussion of the background and status of the VA Home Loan Program.

Traditionally, for the vast majority of VA-guaranteed loans the cost to the Government of providing the guaranty has been quite small and the benefit to veterans and to society quite significant. However, as a result of the downturn in certain areas of the economy in recent years, high default and foreclosure rates on properties guaranteed by VA loans, with a resultant large VA inventory of foreclosed homes acquired at liquidation sales, have threatened the viability of the program by substantially increasing program costs. These conditions have necessitated appropriations in fiscal years 1987 and 1988 alone of over $1 billion. These rapidly escalating program costs parallel the increasing debt which veterans have incurred through the foreclosure of homes purchased with VA-guaranteed loans.

INDEPENDENT COMMISSION ON VA HOME LOAN PROGRAM

Mr. President, I am disappointed that the compromise does not include the provisions in section 2 of S. 2049, which would have created an independent commission on the Home Loan Guaranty Program modeled after the Commission on Veterans' Education Policy established under section 320 of Public Law 99-576. I believe that the present state of the Home Loan Program requires the intensive, focused, objective scrutiny—removed from the day-to-day pressures of politics and program administration—that an independent national commission of experts could have provided.

On September 26, the House passed H.R. 5221, which would establish a Veterans' Administration Mortgage Indemnity Fund [MIF] in the U.S. Treasury for all operations carried out with respect to housing loans guaranteed or insured by the VA which are closed on or after October 1, 1989. Given the short amount of time remaining in this Congress, the Senate committee was not able to complete a full analysis of the very complex House provisions. Our committee intends to hold hearings on the House provisions if the House passes them again in the 101st Congress.

INTEREST RATE ON VENDEE LOANS

Mr. President, section 301 of the compromise agreement contains a provision—from section 3 of S. 2049 as passed by the Senate—which would require the VA to offer an interest rate for vendee loans which is lower than the prevailing mortgage market interest rate where and to the extent the Administrator determines, in light of prevailing conditions in the real estate market involved, that the lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the loan guaranty revolving fund [LGRF].

In certain areas of the country, competition among sellers of foreclosed properties has led many of them to offer sales inducements in the form of advantageous financing terms, including offering below-market-interest rate loans. In such markets, the VA must have effective sales tolls available if it is to reduce its large inventory of foreclosed properties.

Of course, while lower interest rate loans may be necessary to sell properties in some areas, they also reduce the VA's income over the term of the loan. Additionally, the lower yield provided by such loans reduces their attractiveness to buyers in the secondary market. Therefore, section 301 calls for below-market interest rates to be offered only when that would be in the interest of the solvency of the LGRF—that is, when the costs associated with lowering the interest rate would be less than the cost of either reducing the purchase price of the property or of continuing to hold and maintain the property.

ASSUMPTIONS OF VENDEE LOANS

Mr. President, section 302 of the compromise agreement contains a provision—from section 4 of S. 2049 as passed by the Senate—which would, with respect to loans closed more than 45 days after enactment, extend the creditworthiness requirements and 0.5-percent fee applicable to assumptions of VA-guaranteed loans, as enacted in Public Law 10-198 on December 22, 1987, to vendee loans sold by the VA with recourse. Loans sold with recourse are those where the VA is obligated to buy the loan back—for the amount owing under the note—in case of default. This provision would not apply to vendee loans sold without recourse since the VA has no financial interest in, or any means to keep track of, such loans after they are sold. I would refer my colleagues again to my introductory statement on S. 2049, on February 4, 1988—RECORD, page 1115—for a more extensive discussion of this provison.

The potential abuses resulting from the free assumability of loans are as applicable to vendee loans sold with recourse as they have been to VA-guaranteed loans. Accordingly, in order to reduce foreclosures on such vendee loans, section 302 would extend to persons assuming vendee loans the restrictions on assumability just made applicable to persons who buy homes and assume VA-guaranteed loans from veterans. I believe that this extension would be equitable as well as in the interest of the solvency of the home loan program.

CONTRACT SERVICES PAID FROM THE LGRF

Mr. President, I am delighted that the section 303 of the compromise agreement contains a provision—from section 422 of S. 2011 as passed by the Senate on October 18—which would expand the VA's authority, to the extent provided in an appropriations act, to pay from the LGRF Loan Guaranty Program administrative expenses for supplementary contractual services and equipment purchases not otherwise authorized to be paid from the LGRF. The Administrator could use this authority only if the Administrator makes a finding that such supplementary contracting and equipment are in the best interest of the long-term stability and solvency of the LGRF. A ceiling of $25 million per fiscal year would be placed on the amounts which could be used for these purposes. This provision originated as section 12 of S. 1801, the proposed "Veterans' Home Loan Program Improvements Act of 1987," which the Senate passed last year. However, section 12 was not included in the compromise agreement on that legislation, enacted as Public Law 100-198.

I believe that permitting the Administrator to use the LGRF to pay for certain additional contracted-for administrative costs in addition to fee-basis appraisers and brokers' commissions—which can be paid for now from the LGRF under current law—and for certain supplemental acquisitions of equipment would allow for a more consistent, comprehensive, and cost-effective provision of services in the home loan program.

Under this amendment, LGRF funds could be so utilized only where the Administrator finds that that would be in the interest of the long-term solvency and stability of the LGRF. This would be the case where the short-term cost of contracting for the additional services and equipment is expected to generate long-term savings which would exceed the cost of such services and equipment. Once again, I'd refer my colleagues to my discussion of this provision in my February 4, 1988, introductory statement.

PROVISION NOT INCLUDED IN THE COMPROMISE AGREEMENT

Mr. President, I particularly regret that the compromise agreement does not contain the provision in section 336 of S. 2011, which is derived from S.

2383 which I introduced on May 12, 1988—RECORD, page 10811—to make certain 1977 and 1978 service academy graduates and 1978 SROTC members eligible for Vietnam-era GI bill benefits individuals. I would refer my colleagues to my floor statement on S. 2011 in the October 18 CONGRESSIONAL RECORD for a more extensive discussion of my views on this issue.

The Senate provision would have provided a measure of equity for those individuals who graduated from a service academy in the class of 1977 or 1978 or from an SROTC program in 1978 who met the conditions outlined in our bill. These were the individuals who—as evidenced by their participation in VEAP—demonstrated an interest in earning education benefits during their service. I regret that we were unable to come to an agreement with our colleagues in the House on this issue.

CONCLUSION

Mr. President, in closing, I want to express my deep appreciation to the distinguished chairman and ranking minority member of the House Committee on Veterans' Affairs, SONNY MONTGOMERY and GERALD SOLOMON, and of the House Veterans' Affairs Subcommittee on Education, Training, and Employment chairman, WAYNE DOWDY, and ranking minority member, CHRISTOPHER H. SMITH, as well as the ranking minority member of the Senate committee, FRANK MURKOWSKI, for their excellent cooperation and many courtesies on this measure.

I would also like to note the contributions of, and thank, the committee staff members who have worked long, hard, and effectively on this legislation—on the Senate side, Darryl Kehrer, Jane Wasman, Elizabeth Buechler, Barbara Masters, Bill Brew, Erin McGrath, Tabb Osborne, Deborah Leon, Ann Danelski, Charlotte Hughes, Cathy Chapman, Jennifer Loporcaro, Loretta McMillan, Ed Scott, and Jon Steinberg for the majority; and Chris Yoder, Tom Roberts, and Alan Ptak for the minority; and Roy Smith, the committee's editorial director; and, on the House side, Jill Cochran, Vic Raymond, Gloria Royce, Lee Ann Mayo, Kingston Smith, Rufus Wilson, Pat Ryan, and Mack Fleming, who worked so cooperatively with us to reach final agreement on this measure.

Finally, we are indebted to Joe Womack of the House legislative counsel's office for his fine work in the drafting of the compromise agreement.

Mr. President, I urge all of my colleagues to support this measure.

In closing, Mr. President, I ask unanimous consent that there be printed in the RECORD, first, the explanatory statement on the compromise agreement which has been prepared by the two Committees on Veterans' Affairs, in lieu of an explanatory statement which would accompany a conference report as the definitive legislative history of the measure, and which the chairman of our counterpart committee in the House is also printing in the RECORD, and second, the Congressional Budget Office cost estimate for this measure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT ON THE COMPROMISE AGREEMENT ON S. 2049 AS AMENDED, THE "VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT OF 1988"

This document explains provisions of various measures (listed below) passed by the Senate and House of Representatives and the provisions of a compromise agreement between the Senate and House Committees on Veterans' Affairs on those provisions, which will be offered as a proposed House amendment to S. 2049 as amended and passed by the Senate on April 28, 1988. The differences between these various measures and the provisions of the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

The measures referred to above are as follows:

S. 2049, the proposed "Veterans' Home Loan Program Improvement Act of 1988", as passed by the Senate on April 28, 1988 (hereinafter referred to as "S. 2049").

H.R. 4213, the proposed "Montgomery GI Bill Amendments of 1988", as passed by the House on September 13, 1988 (hereinafter referrred to as "H.R. 4213").

Section 201(a) of H.R. 5114, the proposed "Veterans' Health-Care Programs Amendments of 1988", as passed by the House on September 22, 1988 (hereinafter referred to as "H.R. 5114").

H.R. 5221, the proposed "Veterans' Home Loan Mortgage Indemnity Act of 1988", as passed by the House on September 26, 1988 (hereinafter referred to as "H.R. 5221").

Section 301 and 302, part B of title III, and sections 606 and 702 of S. 2011, the proposed "Veterans' Benefits and Programs Improvements Act of 1988", the text of which was agreed to by the Senate on October 18, 1988, as an amendment to H.R. 4741 (hereinafter referred to as "S. 2011").

TITLE I—EDUCATION PROGRAMS

PART A—PROVISIONS RELATING TO MONTGOMERY GI BILL AND CERTAIN OTHER EDUCATION PROGRAMS

MONTGOMERY GI BILL DEATH BENEFIT IN CERTAIN CASES

Senate bill: The Senate bill (section 315 of S. 2011) would amend chapter 30 of title 38, relating to the Montgomery GI Bill (MGIB) program of educational assistance for members of the All-Volunteer Force, to add a new section 1437, to be effective retroactive to July 1, 1985, to provide a death benefit to certain survivors of an MGIB participant whose death while serving on active duty is service connected. The death benefit would be equal to the total amount of the deceased MGIB participant's pay reductions minus the amount of chapter 30 assistance that the participant had received.

House bill: The House bill (section 2 of H.R. 4213) contains a substantively identical provision with the exceptions that it would provide for payment to the estate of the deceased individual if there are no such survivors and would also provide for a benefit payment to a participant who, through no willful misconduct of the individual, becomes so physically or mentally disabled as to be unable to utilize such educational assistance.

Compromise agreement: The compromise agreement (section 101) would provide for only the death benefit and would not provide for any payment if there are none of the specified survivors.

The Committees expect the service departments to make every reasonable effort to contact the survivors of persons who died before the date of enactment and inform them of this benefit.

MONTGOMERY GI BILL ELIGIBILITY FOR INDIVIDUALS DISCHARGED FOR PRESERVICE MEDICAL CONDITIONS OR DUE TO REDUCTIONS IN FORCE

Senate bill: The Senate bill (section 311 of S. 2011) would further amend chapter 30 of title 38 to add a new section 1417 to provide entitlement to one month of educational assistance for each month of active duty served by an MGIB participant who (a) is discharged from military service (1) after June 30, 1985, for a pre-existing medical condition which the Administrator determines is not service connected, or (2) after September 30, 1987, involuntarily for reasons beyond the participant's control, and (b) as a result, does not meet the length-of-service requirement for MGIB entitlement of 20 months on active duty of a 24-month enlistment or 30 months on active duty of a 36-month enlistment.

House bill: The House bill (section 3 of H.R. 4213) contains a substantively identical provision with the exception that the House bill (a) would not provide for MGIB participants discharged from military service due to a RIF, (b) would provide for participants who earn MGIB benefits through two years of active-duty and four years of Selected Reserve service, and (c) would make a conforming amendment to section 3103(A) of title 38, relating to the minimum active-duty service requirements for title 38 benefits eligibility.

Compromise agreement: The compromise agreement (section 102) contains the House provision and the Senate proposal to include those discharged due to a RIF, with an amendment providing that the Secretary of the service branch concerned—under regulations of the Secretary of Defense (or the Secretary of Transportation in the case of the Coast Guard)—would determine what constitutes a RIF.

The Committees intend that, for this purpose, an individual is to be considered to be discharged due to a RIF if the discharge is part of (a) an effort to reduce the number of servicemembers because of fiscal constraints—such as the 34,000 drawdown in active duty "end strengths" during fiscal year 1988 which resulted from the FY 1988 Defense spending ceiling enacted in section 8001 of Public Law 100-203 in implementation of the December 1987 "Budget Summit Agreement"—or (b) a major realignment of the force structure of one or more of the Armed Forces. The Committees do not intent that RIFs encompass minor adjustments in the size of the force or small-scale drawdowns such as result from a redefinition of an individual unit's mission or the deactivation of a unit.

The Committees also note that the September 30, 1987, effective date for individuals discharged due to a RIF is intended to provide relief for the approximately 241 Coast Guard enlisted personnel who were involuntarily separated in May 1988 due to the Coast Guard's need to reduce its fiscal year 1988 personnel spending by $100 million.

OPPORTUNITY FOR MONTGOMERY GI BILL ENROLLMENT FOR CERTAIN ACTIVE DUTY NON-PARTICIPANTS

Both the Senate bill (section 312 of S. 2011), by further amendments to chapter 30, and the House bill (section 5 of H.R. 4213), in freestanding provisions, would provide servicemembers who first entered active duty during the period July 1, 1985, through June 30, 1988, and elected not to enroll in the MGIB with a one-time 120-day open period during which they could become participants.

A. Eligibility

Senate bill: The Senate bill would provide such an open period, beginning on December 1, 1988, during which servicemembers may withdraw their elections of non-participation and become MGIB participants by agreeing to make a commitment to serve two years on active duty in addition to any period of service for which they are obligated at the time of enrollment.

House bill: The House bill is substantively the same as the Senate bill with the exceptions that the open period in the House bill would (a) begin on the 31st day after the date of enactment, and (b) not require an additional two-year service requirement.

Compromise agreement: The compromise agreement (section 103) would establish an open period from December 1, 1988 to June 30, 1989, during which servicemembers may, on such form as the Secretary of Defense prescribes, withdraw their election not to participate, and would not require a commitment of an additional period of service.

B. $1,200 pay-reduction/payment

Senate bill: The Senate bill would require a basic pay reduction of $100 per month for each of the first twelve months of the additional two-year period of active duty for which the individual would become obligated to serve.

House bill: The House bill would require either a lump-sum payment of $1,200, (b) a $100 basic-pay reduction for twelve consecutive months, or (c) a combination of the lump-sum payment and reduction in pay to equal $1,200.

Compromise agreement: The compromise agreement (section 103) would require the basic pay of an individual withdrawing an election of non-participation to be reduced by $1,200 before the individual's discharge or release from active duty.

C. Amount of entitlement

Senate bill: The Senate bill would provide that basic educational assistance entitlement for service on active duty during the additional two years of service required in order to participate in the MGIB would be earned in the same manner under chapter 30 as it is earned during an initial period of service.

House bill: The House bill would provide that the individual would be entitled to basic educational assistance to the same extent, in the same manner, under the same conditions, and in the same amount as the individual would have been entitled if the individual had not originally made an election not to participate, and if, before satisfying the $1,200 requirement, the individual were discharged due to (1) a service-connected disability, (2) pre-service medical condition, (3) a reduction in force, involuntarily, or (4) hardship the individual would be entitled to one month of educational assistance for each $100 that the individual's pay was reduced or the individual paid, but not to exceed the number of months the individual served on active duty.

Compromise agreement: The compromise agreement (section 103) follows the House provision with an amendment providing that an individual whose discharge or release from active duty prevents the basic pay of the individual from being reduced by $1,200 would be entitled to the number of months of assistance that is equal to the lesser of (a) 36 multiplied by a fraction equal to the fraction that the amount by which the basic pay of the individual is reduced is of $1,200, or (b) the number of months the individual has served on active duty after June 30, 1985, as part of the individual's initial obligated period of active duty.

MONTGOMERY GI BILL SECONDARY SCHOOL DIPLOMA REQUIREMENTS

A. Deadline for earning diploma or equivalent

Senate bill: The Senate bill (section 313(a) of S. 2011) would amend sections 1411(a) and 1412(a) of title 38, relating to the criteria for entitlement to MGIB benefits, to overrule the VA's interpretation that Vietnam-era veterans who served on active duty from October 19, 1984, through June 30, 1988, must have received a secondary school diploma (or an equivalency certificate) by June 30, 1988, in order to be eligible for the MGIB and, thus, to receive "combined" Vietnam-era GI Bill and MGIB benefits (under section 1415(d) of title 38), which will become available on January 1, 1990, following the termination of the Vietnam-era GI Bill (chapter 34) on December 31, 1989. The deadline by which the veteran must have a high school diploma would be extended until the veteran begins pursuit of a program of education using MGIB benefits.

House bill: The House bill (section 7(2)(3)(A) of H.R. 4213) would extend the deadline to December 31, 1989.

Compromise agreement: The compromise agreement (section 104) contains the House provision.

B. Secondary-school equivalency requirement

Senate bill: The Senate bill (section 313(b) of S. 2011) would amend sections 1411(a)(2) and 1412(a)(2) of title 38, relating to MGIB eligibility criteria for active-duty participants, and section 2132(a)(2) of title 10, relating to MGIB eligibility criteria for members of the Selected Reserve, to delete the reference to a high-school-diploma equivalency certificate as an alternative criterion (to a diploma) for eligibility and substitute a secondary--school-diploma equivalent as determined by the Secretary concerned pursuant to regulations prescribed by the Secretary of Defense.

House bill: No provision.

Compromise agreement: No provision.

CHOICE OF MONTGOMERY GI BILL BENEFITS FOR CERTAIN RESERVISTS

Senate bill: The Senate bill (section 314 of S. 2011) would amend section 1412 of title 38, relating to MGIB basic educational assistance earned through a combination of service on active duty and in the Selected Reserve, to enable a veteran who is eligible for MGIB benefits under that section by reason of having completed two years of active duty and is obligated to serve four continuous years in the Selected Reserve, but who is separated prior to the completion of that Selected Reserve obligation due to disability, the opportunity for an irrevocable election to receive benefits under either such section 1412 or under section 1411, under which eligibility is earned through only active-duty service.

House bill: No provision.

Compromise agreement: The compromise agreement (section 105) contains this provision with an amendment providing that individuals who are separated due to hardship also be provided the opportunity for the irrevocable election.

REFRESHER, REMEDIAL, AND DEFICIENCY COURSES

Senate bill: The Senate bill (section 321 of S. 2011) would, effective September 30, 1989, amend sections 1434(a), 1641, and 1733(a) of title 38 and section 2136 of title 10 to provide uniformly for the pursuit of refresher, remedial, and deficiency courses under each of the VA-administered programs of educational assistance, other than the Vietnam-era GI Bill, and to provide for no charge to entitlement for the first five months of such pursuit. The Administrator would be required, not later than February 1, 1991, to submit to the Congressional Committees on Veterans' Affairs a report on the use of these courses with and without entitlement during FY 1988 and 1989.

House bill: The House bill (section 4 of H.R. 4213) would, effective upon enactment, amend section 1402(3) of title 38, relating to the definitions under the chapter 30 MGIB program, to include within the definition of a "program of education" refresher, deficiency, or other preparatory or special education or training courses—with a charge to entitlement for any use of benefits for that purpose and a nine-month limit on providing educational assistance for refresher courses.

Compromise agreement: The compromise agreement (section 106) would, effective August 15, 1989, authorize pursuit of refresher, remedial, and deficiency courses under the chapter 30 MGIB program and the Post-Vietnam Era Educational Assistance Program (VEAP) under chapter 32 of title 38—but not under chapter 106 of title 10—with a charge to entitlement and without a limit on the number of months of refresher courses, and (b) without a limit on the number of months of refresher courses, and (b) authorize pursuit of such courses under chapter 35 of title 38, the Survivors and Dependents Educational Assistance Program, without a charge to entitlement for the first five months' payment of such allowances.

TUTORIAL ASSISTANCE

Senate bill: The Senate bill (section 322 of S. 2011) would, effective October 1, 1988, amend chapter 30, chapter 32, and section 1692 of title 38, and section 2131 of title 10, so as to (a) make MGIB and VEAP participants eligible for individualized tutorial assistance; (b) increase the monthly allowance for such assistance under the Vietnam-era GI Bill and chapter 35 from $84 to $100 and the overall maximum from $1,008 to $1,200, and make the increased amounts applicable under the MGIB and VEAP; and (c) provide for a charge to entitlement, under the MGIB and VEAP, at a rate equal to the proportion that 50-percent of the tutorial assistance paid bears to the full-time rate for the applicable monthly educational assistance allowance.

House bill: No provision.

Compromise agreement: The compromise agreement (section 107) would, effective on the date of enactment, provide (a) for individualized tutorial assistance under the chapter 30 MBIB program and VEAP (chapter 32)—but not under chapter 106 of title 10—with no charge to entitlement for the first $600 of such assistance; (b) for full charge to entitlement for assistance received in excess of $600; (c) in the case of chapters 30 (MGIB) and 32 (VEAP), for the charge to entitlement to be appropriately prorated between the entitlements for the basic allowance and any additional allowance (so-called "kickers") provided by the Department of Defense; and (c) that under chapters 30 and 32 (1) the first $600 of tutorial assistance would be paid from the VA's readjustment benefits account, and (2) amounts above that level would be paid from the same sources as those from which the individual's educational assistance is paid generally.

The Committees direct the VA to notify persons on, or in a notice accompanying the certificate of eligibility and on the tutorial assistance application form of the charge to entitlement beyond the first $600.

COOPERATIVE TRAINING

Senate bill: The Senate bill (section 323 of S. 2011) would, effective upon enactment, amend sections 1402(3) and 1602(2) of title 38, relating to the definition of the term "program of education" for purposes of chapters 30 and 32, respectively, to make cooperative training available under the MGIB and VEAP, with benefits paid at the rate of 80 percent of the basic full-time monthly rate otherwise payable and with entitlement charged proportionately.

House bill: No provision.

Compromise agreement: The compromise agreement (section 108) contains this provision effective January 1, 1989.

TOLLING OF DELIMITING PERIODS BY REASON OF ALCOHOL CONDITIONS

Senate bill: The Senate bill (section 324 of S. 2011) would amend chapters 30, 31, 32, 34, and 35 of title 38, to extend the eligibility ("delimiting") periods for education or rehabilitation programs of certain veterans and other eligible persons who have been prevented from participating in such programs because of a drug or alcohol dependence or abuse condition for which the individual received recognized treatment or rehabilitation and which is sufficiently under control for the individual to participate in the education, training, or rehabilitation program involved. The length of any resulting extension would be the lesser of the length of time the individual was prevented from pursuing education or rehabilitation or four years.

House bill: No provision.

Compromise agreement: The compromise agreement (section 109)—by amending section 105 of title 38 to provide that, for purposes of provisions relating to the extension of a delimiting period under any education-benefits assistance or rehabilitation program administered by the VA, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct—would make persons with entitlement to VA education or rehabilitation programs eligible for delimiting-period extensions based on chronic alcoholism on the same basis as extensions are granted for physical or mental disabilities.

The Committees note that, as applied in cases of chronic alcoholism, the term "recovery" from a disability, as used in sections 1431(d), 1503(b)(1), 1662(a)(1), and 1712(b)(2) of title 38 to delineate the point at which the delimiting period again begins to run, is intended to refer to the individual's regaining the ability to initiate or resume the individual's program of education or rehabilitation. The Committees further note that this provision is intended to have no effect on the criteria for eligibility for VA non-service-connected disability pension under section 521 of title 38.

MONTGOMERY GI BILL SELECTED RESERVE

A. Payment for less than half-time pursuit of a program of education

House bill: The House bill (section 6(a) of H.R. 4213) would amend section 2131 of title 10, relating to MGIB educational assistance earned solely through service in the Selected Reserve, to authorize benefits for less than half-time training under chapter 106 of title 10 unless tuition for such training is otherwise available from the military department concerned.

Senate bill: No provision.

Compromise agreement: The compromise agreement (section 110(a)) contains this provision.

B. Time of eligibility

House bill: The House bill (section 6(b) of H.R. 4213) would amend section 2132 of title 10, relating to eligibility for MGIB educational assistance earned solely through service in the Selected Reserve, to eliminate the requirement that an individual complete 180 days in the Selected Reserve before becoming eligible to receive such educational assistance.

Senate bill: No provision.

Compromise agreement: The compromise agreement (section 110(b)) contains this provision.

FLIGHT TRAINING UNDER THE MONTGOMERY GI BILL

[Note: This assumes Daschle amendment carries in the Senate.]

Senate bill: The Senate bill (section 325 of S. 2011) would amend sections 1432 and 1434 of title 38 and sections 2131 and 2136 of title 10 so as to (a) permit the Administrator, during the four FYs 1989 through 1992, to approve the pursuit of flight training by an individual entitled to basic educational assistance under the MGIB if (1) the training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation, (2) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license, and (3) the flight school courses meet Federal Aviation Administration (FAA) standards and are approved by the FAA and the State approving agency; (b) authorize payment for such training in the amount equal to 60 percent of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay; (c) compute the number of months of entitlement charged under chapter 30 by dividing the the total amount of educational assistance paid for flight training by the participant's monthly rate of education assistance and charge one month of entitlement under chapter 106 for each $140 paid for flight training; and (d) require that the Administrator (1) conduct an evaluation of paying educational assistance for flight training under the MGIB to determine the effectiveness of the program in preparing the participants for recognized vocational objectives in the field of aviation, and (2) submit a report on the evaluation to the Committee on Veterans' Affairs of the Senate and House of Representatives not later than January 31, 1993.

House bill: No provision.

Compromise agreement: No provision.

Part B—Administrative and Miscellaneous Provisions

COURSE WITHDRAWALS

Senate bill: The Senate bill (section 331 of S. 2011) would, effective with respect to course withdrawals occurring after May 31, 1989, amend section 1780(a)(4) of title 38—which precludes the payment of VA educational assistance for a course for which the grade assigned is not used in computing the requirements for graduation, including a course from which the student withdraws, unless the Administrator finds there are mitigating circumstances—so as to require that mitigating circumstances be considered to exist in the first instance of a student's withdrawal from a course or courses to the extent that withdrawal does not exceed 6 semester hours or the equivalent thereof.

House bill: No provision.

Compromise agreement: The compromise agreement (section 121) contains this provision with an amendment making the provision effective with respect to withdrawals which occur after May 31, 1989.

The Committee intend that this provision (a) would have no effect on the responsibilities of the schools and veterans to notify the VA of changes in student status, and (b) in a case in which an individual who has received the benefit of this provision, the VA will notify him or her that retroactive overpayment may be created if non-punitive grades are assigned in the future.

EDUCATIONAL ASSISTANCE FOR CERTAIN INCARCERATED VETERANS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

Senate bill: The Senate bill (section 334 of S. 2011) would amend section 1631 of title 38, relating to entitlement to educational assistance, to limit the amount of educational assistance payable to a VEAP participant who is serving a sentence in a Federal, State, or local penal institution for conviction of a felony to the same level of benefits payable to participants in other VA-administered educational assistance programs who are so incarcerated. That level is the lesser of (a) the allowance otherwise payable, or (b) the established charges for tuition and fees plus the costs of necessary books, supplies, and equipment—with the benefits otherwise payable reduced to the extent tuition and fees are paid under other, non-VA governmental programs.

House bill: No provision.

Compromise agreement: The compromise agreement (section 122) contains this provision.

VETERANS' ADVISORY COMMITTEE ON EDUCATION

Senate bill: The Senate bill (section 335 of S. 2011) would amend section 1792 of title 38, relating to the Veterans' Advisory Committee on Education (VACE), to extend the existence of the VACE for four years, to December 31, 1993, and add to its membership the chairman of the Commission on Veterans' Education Policy.

House bill: No provision.The compromise agreement (section 123) contains the provision to extend the existence of the VACE.

The Committee believes that the decision on service on the VACE of the Chairman of the Commission is best left to the discrection of the Administrator.

REPEAL OF EXPIRED PROGRAMS OF ACCELERATED-PAYMENT LOANS

Senate bill: The Senate bill (section 337 of S. 2011) would repeal sections 1682A, 1686, 1737, and 1738, and amend section 1798, of title 38 to repeal the VA's expired authorities to make (a) accelerated payments of chapter 34 and chapter 35 educational assistance allowances in the form of education loans that are cancelled upon the veteran's satisfactory completion of his or her program of education, and (b) education loans to persons other than certain chapter 34 participants receiving loans in order to continue full-time pursuit of their educations after the expiration of their delimiting periods.

House bill: No provision.

Compromise agreement: The compromise agreement (section 124) contains this provision.

MEASUREMENT FULL-TIME STUDY

Senate bill: The Senate bill (section 333 of S. 2011) would amend section 1788(e) of title 38—relating to the measurement of whether a non-college-degree course which is offered by an institution of higher learning and for which the institution requires one or more unit courses or subjects creditable toward a college degree is considered a full-time course for VA-administered educational assistance purposes—so as to provide that credit hours awarded for the non-degree course would be converted to equivalent clock hours and combined with the number of clock hours concurrently pursued, if any, to determine total training time.

House bill: No provision.

Compromise agreement: No provision.

The Committees intend to consider this provision as part of their review of the report of the Commission on Veterans' Education Policy, which was submitted to the Administrator of Veterans' Affairs and the Veterans' Affairs Committees under section 320 of Public Law 99-576 on August 29, 1988.

VIETNAM-ERA GI BILL ELIGIBILITY FOR CERTAIN SERVICE ACADEMY GRADUATES

Senate bill: The Senate bill (section 336 of S. 2011 would amend section 1652(a)) of title 38, relating to definitions for purposes of chapter 34, the Vietnam-era GI Bill, so as to make eligible for Vietnam-era GI Bill benefits individuals who (a) before January 1, 1977, commenced their third academic year as cadets or midshipmen at one of the service academies or as members of the Senior Reserve Officers Training Corps (SROTC) under section 2104 or 2107 of title 10; (b) served on active duty for more than 180 days after graduation from one of the academies or completing the SROTC program; (c) if separated from active duty, were discharged or released under conditions other than dishonorable; and (d) enrolled in VEAP, which was closed to new enrollments on July 1, 1985.

House bill: No provision.

Compromise agreement: No provision.

TECHNICAL AMENDMENTS

Senate bill: No provision.

House bill: The House bill (section 7 of H.R. 4213) contains provisions making various technical amendments in the MGIB provisions in chapter 30 of title 38 and chapter 106 of title 10.

Compromise provision: The compromise agreement (section 111) contains these provisions with amendments.

TITLE II—REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

TRAINING AND WORK EXPERIENCE WITHOUT PAY IN STATE AND LOCAL GOVERNMENT AGENCIES

Senate bill: The Senate bill (section 301 of S. 2011) would amend section 1515 of title 38, relating to the facilities that may be used in providing vocational rehabilitation programs under chapter 31 to certain veterans with service-connected disabilities, so as to (a) allow the use of State and local government agencies supported in whole or in part with federal funds to provide uncompensated training or work experiences in chapter 31 programs of vocational rehabilitation, and (b) require the Administrator to prescribe regulations for monitoring such veterans' training and work experiences and otherwise ensuring that they are in the best interest of the veterans and the Federal Government.

House bill: No provision.

Compromise agreement: The compromise agreement (section 201) contains this provision.

USE OF FOR-PROFIT ORGANIZATIONS FOR EMPLOYMENT ASSISTANCE AND INDEPENDENT LIVING PROGRAMS

Senate bill: The Senate bill (section 302 of S. 2011) would amend sections 1517(a)(2)(C) and 1520(a) of title 38, relating to employment assistance and programs of independent living services for certain veterans with service-connected-disabilities, to allow the VA—in cases in which the Administrator determines that comparable services are not available from, or cannot be provided cost-effectively through, public or nonprofit organizations—to contract with for-profit organizations to provide employment assistance under section 1517(a)(2)(c) and programs of independent living services under section 1520(a).

House bill: No provision.

Compromise agreement: The compromise agreement (section 202) contains this provision.

TITLE III—HOME LOAN GUARANTY PROGRAM

HOME LOAN PROGRAM COMMISSION AND REFORMS

Senate bill: The Senate bill (section 2 of S. 2049) would, in a freestanding provision, create an independent Commission on the VA's home loan guaranty program modeled after the Commission on Veterans' Education Policy established under section 320 of Public Law 99-576. The Commission would be required to submit within one year to the VA and the Committees a report on its findings and recommendations regarding the status of the program, analyzing the problems—particularly the recent program-cost and foreclosure-rate increases—the program currently is facing, possible solutions to those problems, and changes to improve the financial stability and solvency of the program and the benefits and services offered to veterans.

House bill: The House bill (H.R. 5221) would establish a Veterans' Administration Mortgage Indemnity Fund (MIF) in the Treasury of the United States for all operations carried out with respect to housing loans guaranteed or insured by the VA which are closed on or after October 1, 1989. The existing 1-percent loan guaranty fee would be replaced by a new 1¼-percent mortgage indemnity fee, supplemented for three years by a ¼-percent premium by the Government, with the proceeds of the indemnity fee and premium being deposited in the MIF. Excess monies in the MIF could be invested in Government securities.

In connection with the requirement for payment of this additional ¼-percent fee, veterans would be relieved of liability in the event of foreclosure. Service-connected disabled veterans rated 30-percent or more and the surviving spouses of those who die from service-connected causes would be exempt from the fee requirement. Veterans who make a downpayment of 5-percent or more would be charged a ¾-percent fee.

Other provisions in the bill are designed to allow for easier refinancing of certain conventional loans, clarify the debt waiver provisions in title 38, and maximize the VA's returns on its loan asset sales.

Compromise agreement: No provision.

The Senate Committee intends to hold hearings on the House provisions if the House passes them again in the 101st Congress.

INTEREST RATE REQUIREMENTS FOR VENDEE LOANS

Senate bill: The Senate bill (section 3 of S. 2049) would amend section 1816(d) of title 38, relating to the making and sale of vendee loans (loans made to qualified purchasers of VA foreclosed properties), to require the VA to offer an interest rate on vendee loans lower than the prevailing mortgage market interest rate where and to the extent the Administrator determines, in light of prevailing conditions in the real estate market involved, that the reduced rate is necessary in order to market the property competitively and is in the interest of the longterm stability and solvency of the Loan Guaranty Revolving Fund.

House bill: No provision.

Compromise agreement: The compromise agreement (section 301) contains this provision.

CREDITWORTHINESS DETERMINATION AND FEES WITH RESPECT TO ASSUMPTIONS OF VENDEE LOANS

Senate bill: The Senate bill (section 4 of S. 2049) would, effective with respect to loans closed more than 45 days after the date of enactment, amend section 1817A of title 38, relating to assumptions of VA-guaranted or direct housing loans, to extend the creditworthiness requirements and 0.5-percent fee paid by the buyer applicable to assumptions of VA-guaranteed loans—requirements enacted in Public Law 100-198 on December 22, 1987—to vendee loans sold by the VA with recourse (that is, with an agreement by the Government to repurchase the loan in case of default).

House bill: No provision.

Compromise agreement: The compromise agreement (section 302) contains this provision.

AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND

Senate bill: The Senate amendment (section 422 of S. 2011) would amend section 1824 of title 38, relating to the Loan Guaranty Revolving Fund (LGRF), to provide that, to such extent as is or in such amounts as are provided for in appropriation Acts, the Administrator's authority to use funds in the LGRF for certain specified loan guaranty program administrative expenses would be expanded to include payment for certain specified supplementary contracted-for services and equipment not otherwise authorized to be paid for from the LGRF. The total amount could not exceed $25 million in any fiscal year. The LGRF funds could be so used only when the Administrator makes a finding that it would be in the best interest of the long-term stability and solvency of the LGRF to use it for such purposes. "Supplementary" services and equipment which include services and equipment which were not available during, or are to be provided at a level in excess of what was provided for, fiscal year 1988.

House bill: No provision.

Compromise agreement: The compromise agreement (section 303) contains this provision.

TITLE IV—EMPLOYMENT

VETERANS PREFERENCE WITHIN LOCAL HIRE OF ALASKA CONSERVATION SYSTEM UNITS

Senate bill: The Senate bill (section 706 of S. 2011) would amend section 1308 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 (16 U.S.C. 3198), to clarify that Civil Service veterans' preference provisions apply to veterans and other preference-eligibles who are otherwise eligible to be selected for a position under the local-hire authority of Alaska Conservation Units.

House bill: No provision.

Compromise agreement: The compromise agreement (section 401) contains this provision.

COORDINATION OF INFORMATION AND ASSISTANCE

Senate bill: The Senate bill (section 706 of S. 2011) would, in a freestanding provision, (a) require that, not later than one year after the date of enactment, the Secretary of Labor and the Administrator of Veterans' Affairs enter into a memorandum of understanding (MOU) to define the relationships and responsibilities of the VA, Department of Labor (DOL), and State and local agencies with respect to providing unemployed veterans with information, forms, and assistance regarding the following programs: (1) title IV.C. of the Job Training Partnership Act (JTPA), (2) the Veterans' Job Training Act, (3) employment and training assistance for dislocated workers under title III of the JTPA, (4) employment assistance and unemployment compensation under the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 and any other program administered by the Employment and Training Administration, (5) educational assistance under the Adult Education Act and chapters 30, 31, 32, 34, and 35 of title 38, and (6) certification of a veteran as a member of a targeted group eligible for the targeted job tax credit program; (b) require that the MOU include a provision for the periodic evaluation, by the Secretary of Labor and the Administrator, of the implementation of their respective responsibilities under the MOU; and (c) require that the Assistant Secretary for Veterans' Employment and Training, in consultation with the office designated or created under section 322(b) of the JTPA and except as the Secretary of Labor may otherwise direct, coordinate the activities of the components of the DOL.

House bill: No provision.

Compromise agreement: The compromise agreement (section 402) contains this provision.

TITLE V—EXTENSIONS OF EXPIRING AUTHORITIES

REGIONAL OFFICE IN THE PHILIPPINES

Senate bill: The Senate bill (section 702 of S. 2011) would extend for four years, through FY 1992, the VA's authority to maintain a Regional Office in the Republic of the Philippines.

House bill: The House bill (section 10 of H.R. 4741) would extend the authority for three years, through FY 1991.

Compromise agreement: The compromise agreement (section 501 contains the House provision with an amendment to ratify actions taken by the VA pursuant to the extension of this authority during the period from September 30, 1988, through the date of enactment.

COMMUNITY-BASED ALCOHOL AND DRUG TREATMENT SERVICES

Senate bill: The Senate bill (section 606 of S. 2011) would amend section 620A of title 38 to make permanent the VA's authority to provide drug and alcohol care, treatment, and rehabilitation services through contracts with halfway houses and other community-based facilities. In addition, the Senate bill would require the VA to (a) conduct or provide for a longitudinal study (FYs 1989 to 1997) of veterans who have received care through the contract program to assess long-term outcomes and determine whether certain types of such care are more successful for certain veterans, and (b) submit to the Veterans' Affairs Committees an interim report on the first four years of the study by February 1, 1993, and a final report by March 31, 1998.

House bill: The House bill (section 201(a) of H.R. 5114) would extend the contract authority for three years, through FY 1991.

Compromise agreement: The compromise agreement (section 502) contains the House provision and the Senate provision regarding the longitudinal study and would ratify actions taken by the VA pursuant to the extension of this authority during the period from September 30, 1988, through the date of enactment.

The Committees intend for the conduct of the longitudinal study to begin on December 1, 1988.

U.S. CONGRESS,
Washington, DC, October 18, 1988.

Memorandum:

To: John Steinberg.

From: Richard Curley and Nina Shepherd.

Subject: Table of Costs for S. 2049.

The attached table reflects the costs for S. 2049, the Veterans' Benefits and Programs Improvement Act of 1988, as passed by the House on October 12, 1988.

Attachment.

S. 2049 (AS PASSED BY THE HOUSE ON OCTOBER 12, 1988) VETERANS' BENEFITS AND PROGRAM IMPROVEMENT ACT OF 1988

[By fiscal years, in millions of dollars]

	1989	1990	1991	1992	1993
TITLE I: EDUCATION PROGRAMS					
Sec. 101. Montgomery GI bill (MGIB) death benefit:					
Budget authority	1	(1)	1	1	1
Outlays	1	(1)	1	1	1
Sec. 102. MGIB eligibility in case of pre-service medical discharge:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 103. MBIB temporary enrollment period:					
Budget authority	−22	−12	2	3	4
Outlays	−22	−12	2	3	4
Sec. 104. MGIB secondary school diploma requirement:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 105. MGIB benefit choice for reservists:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 106. Refresher courses:					
Function 050:					
Budget authority	(1)	6	4	4	4
Outlays	(1)	6	4	4	4
Function 700:					
Budget authority	(1)	7	9	10	12
Outlays	(1)	5	9	10	12
Sec. 106 total:					
Budget authority	(1)	13	13	14	16
Outlays	(1)	11	13	14	16
Sec. 107. Tutorial assistance:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 108. Cooperative training:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 109. Extension of delimiting periods by reason of alcohol conditions:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 110. MGIB selected reserve program changes:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	3	1	(1)	(1)	(1)
Sec. 121. Course withdrawals:					
Budget authority	(1)	2	2	3	4
Outlays	(1)	2	2	3	4
Sec. 122. Education assistance for incarcerated veterans:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 123. Veterans' Advisory Committee on Education:					
Budget authority	0	(1)	(1)	(1)	(1)
Outlays	0	(1)	(1)	(1)	(1)
Sec. 124. Repeal of expired loan programs:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
Title I total:					
Function 050:					
Budget authority	(1)	6	4	4	4
Outlays	(1)	6	4	4	4
Function 700:					
Budget authority	−21	−3	14	17	21
Outlays	−18	−4	14	17	21
Total:					
Budget authority	−21	3	18	21	25
Outlays	−18	2	18	21	25
TITLE II: REHABILITATION FOR VETERANS WITH SERVICE—CONNECTED DISABILITIES					
Sec. 201. Training and work experience in State and local agencies:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 202. Use of for-profit organizations for certain programs:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Title II total:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
TITLE III: HOME LOAN GUARANTY PROGRAM					
Sec. 301. Below market interest rates for vendee loans:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 302. Assumption requirements for vendee loans:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 303. Procurement of services by LGRF:					
Authorization level	25	25	25	25	25
Outlays	25	25	25	25	25
Title III total:					
Authorizations	25	25	25	25	25
Outlays	25	25	25	25	25
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
TITLE IV: EMPLOYMENT					
Sec. 401. Veterans preference in Alaska:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0

Sec. 402. Coordination of services with DOL:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Title IV total:					
Budget authority	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
TITLE V: EXTENSIONS OF EXPIRING AUTHORITIES					
Sec. 501. Extension of R.O. in the Philippines:					
Authorization level	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)
Sec. 502. Extension of Alcohol and Drug Treatment Program:					
Authorization level	6	6	6	0	0
Outlays	6	6	6	0	0
Title V total:					
Authorization level	6	6	6	(1)	(1)
Outlays	6	6	6	(1)	(1)
Bill totals:					
Function 050:					
Budget authority	(1)	6	4	4	4
Outlays	(1)	6	4	4	4
Function 700:					
Authorization level	31	31	31	25	25
Outlays	31	31	31	25	25
Budget authority	−21	−3	14	17	21
Outlays	−18	−4	14	17	21
Total:					
Authorization level	31	31	31	25	25
Outlays	31	31	31	25	25
Budget authority	−21	3	18	21	25
Outlays	−18	2	18	21	25

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[1] Less than $500,000.

The costs of this bill fall within budget functions 050 and 700.

Mr. MURKOWSKI. Mr. President, I am pleased to support the Veterans' Benefits and Programs Improvements Act of 1988, and I urge its adoption. This bill would make important improvements in veterans' education, vocational rehabiliation, home loan guaranty, and employment programs.

The bill has its genesis in a measure passed by the Senate in April containing several improvements to the VA Home Loan Guaranty Program. I am disappointed the other body did not agree to an independent commission to evaluate and make recommendations for improving the Loan Guaranty Program. Certainly, the program's history over the past several years would indicate there is room for improvement and need for fresh perspective.

In that light, I note that the House-passed H.R. 5221, a companion bill which addressed home loan guaranty issues would totally restructure the Home Loan Program and convert it from a guaranty program to a mortgage indemnity program. The compromise now before the Senate does not contain this provision. The Senate committee has simply not had an opportunity to study or hold hearings on this proposal, and we believe the changes it would make are too drastic to undertake without that kind of careful consideration.

I understand the committee chairman intends to hold such a hearing should the House pass the proposal again in the next Congress. I applaud the chairman for that intention, as I applaud the House for its initiative. Clearly, the importance of the Home Loan Program and the precedent-shattering losses it has endured in recent years call for a thorough examination and, perhaps, fundamental changes.

The bill does require the VA to be competitive in selling homes it has acquired as a result of foreclosure in real estate markets where other major sellers use below-market interest rates and have, as a result, pushed the VA out of the picture. The long-term health of the loan guaranty revolving fund [LGRF] can require that VA have the flexibility to meet or beat its competition in marketing homes.

Also included in the bill are provisions which allow the VA to contract for services and equipment needed to operate the Loan Guaranty Program and pay for these services from the LGRF. This provision is necessary because the VA has been unable, due to financial pressure, to implement even basic management initiatives to improve the operation of the program. I am convinced the equipment and services would more than pay for themselves in reduced losses to the LGRF.

I am particularly pleased the bill also includes a provision addressing an unintended consequence of a provision in law providing for "local hire" of staff at National Park Service-managed conservation units in Alaska. In establishing parks and other conservation units in Alaska in 1980, the Congress wisely included a provision that recognizes the value of a staff well versed in the culture and natural resources of the park units by mandating that certain staff be hired from the local population. In order to ensure this local resource is utilized, the law now requires the employment of individuals who live or work near the unit without regard to any other employment preferences.

In disregarding other preferences, the Congress unintentionally nullified the veterans' employment preference earned by local-hire eligible persons who served their country in uniform. The provision would correct this situation by providing veterans, who also meet local residency requirements for these positions, be given the usual veterans' preference over local residents who are not veterans. It would not provide veterans who are not local residents a preference over local residents who do meet the existing local-hire criteria.

The bill, as amended, also includes a provision based on an amendment originally authored by Senators HEINZ and KERRY which would require the Department of Labor and the VA to enter into an agreement with each other. The agreement would ensure unemployed veterans are both informed of the programs and benefits available to them and receive effective assistance in applying for and participation in those programs. It would also define the role of each agency in the information, assistance, and service delivery process.

The concerns that led to the development of this amendment are real. There are many programs available to, or targeted to, unemployed veterans. Provision of accurate and timely information about them is an intimidating task. Veterans have earned the fruits of these programs and have every right to insist that they be efficiently and effectively coordinated.

Failure to meet this goal imposes a cost not just in poor service to veterans, but in missed opportunities and wasted lives. The cost is unacceptable.

The Senator from Pennsylvania has wisely identified an area requiring increase emphasis and has skillfully crafted an amendment to address the problem. I particularly commend him for his willingness to mold the amendment into a form acceptable to the Committee on Veterans' Affairs. I believe the Senate, as well as the Nation's veterans, are the benefits of his work.

The bill also contains 14 provisions relating to veterans education and readjustment programs and 2 provisions improving veterans vocational readjustment programs.

These provisions would among other things:

Permit veterans who were unable to pursue a program of education due to the disabling effects of alcoholism an opportunity for extension of their 10-year period of eligibility for benefits. This provision would nullify a recent decision of the Supreme Court, Traynor versus Turnage, which upheld the prohibition of such an extension found in current VA regulations. The Senate has repeatedly passed such a provision, and I am pleased the House has now agreed to accept it.

The bill would also provide what is, in effect, an "open season" to withdraw an election to not participate in the Montgomery GI bill. This one-time opportunity would apply to individuals who entered on active duty during the period of July 1, 1985, through June 30, 1988. It responds to congressional findings that in the early days of the Montgomery GI bill, participation rates were low, perhaps because new recruits were not properly informed of the benefits of this program. I am confident the uniformed services will take every effort to ensure eligible servicemembers are informed of this opportunity and will expeditiously establish the procedures necessary to implement this provision. The success of the provision will depend upon the action the Department of Defense takes to implement it. I urge the Secretary of Defense to ensure servicemembers receive the benefits of this provision.

I will not comment at length on the other provisions of the bill except to note that they will improve veterans programs and their administration and to urge my colleagues to join me in supporting enactment of the bill.

Mr. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REGISTRATION AND PROTECTION OF TRADEMARKS

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1883.

The PRESIDING OFFICER (Mr. SIMON) laid before the Senate the amendment of the House of Representatives to the bill (S. 1883) to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes.

(The amendment of the House is printed in the RECORD of October 19, 1988, beginning at page H 10411.)

Mr. HOLLINGS. Mr. President, I want to take a moment to speak in support of H.R. 2848, the Satellite Home Viewer Act of 1988, which is title II of S. 1883, the bill before us today. In 1984, when we passed the Cable Telecommunications Act, we included a provision regarding the reception of satellite programming by home dish users. Since then, many programmers have scrambled their signals. This has caused numerous legal and policy problems, both in the areas of communications and copyright. H.R. 2848 addresses many of these problems, and while I believe some of its provisions could be improved, I believe that over all it is a good measure that should be enacted into law.

The Senate Commerce Committee has held numerous hearings on the effects of scrambling satellite-delivered programming. As a result, the committee reported Senator GORE's legislation, S. 889, which is pending on the calendar. This legislation seeks to address problems concerning access to this scrambled programming, the price of such programming, and the standard for the equipment used to decode the scrambled signals.

H.R. 2848 addresses many of the same problems the Commerce Committee addressed in S. 889. It requires the FCC to determine whether to establish a standard for decoding equipment. This will help ensure that home dish users do not spend large sums of money only to find that the equipment is soon out of date. This bill also imposes increased penalties on people who illegally intercept scrambled programming. The piracy problem is certainly severe. It seems that every few weeks we hear of another incident where the police have caught a group of "satellite pirates." This must stop, and I believe these increased penalties will certainly help. Finally, this legislation requires the FCC to report to us on any discrimination by those who retransmit television signals via satellite to home dish users. Such a study will help ensure that marketplace is working fairly.

H.R. 2848 also corrects certain copyright problems. These are more in the domain of my Judiciary Committee colleagues, but they do have important communmications policy effects. They are thus of great concern to the Commerce Committee. By amending the copyright laws to give home dish users the ability to receive retransmitted television signals, we are increasing the number of information sources that people can receive and helping the communications industry grow. These are important results.

For all of these reasons, I believe H.R. 2848 deserves our support, and I urge that we act on it immediately.

Mr. DANFORTH. Mr. President, today the Senate is considering legislation that will help bring television signals to rural Americans.

This legislation creates an interim statutory license for satellite carriers to retransmit television signals to home satellite dish owners for private viewing. That means that home dish owners will have more access to satellite-delivered video programming.

This legislation is particularly important to dish owners who live in rural areas, and who have limited access to broadcast signals. It will help to bring signals to remote "white areas" where network signals cannot be received. At the same time, the bill protects the network-affiliate distribution system that has served local communities so well.

The Federal Communications Commission [FCC] is directed by this legislation to determine whether it is feasible to extend its syndicated exclusivity rules to the satellite carriage of broadcast signals. The FCC has, and would continue to have, the responsibility of administering the syndicated exclusivity rules. Violations of any such syndicated exclusivity rules would be violations of the Communications Act, and subject to the sanctions and penalties of that act. The FCC is also required by this legislation to report on whether, and the extent to which, there exists unlawful discrimination against distributors of secondary transmissions from satellite carriers. The FCC must also begin an inquiry to determine whether there is a need for a universal scrambling standard for satellite cable programming intended for private viewing by home dish owners.

The rampant problem of "piracy" of satellite signals is also addressed by this legislation. "Piracy" is the use of illicit descrambling technology to intercept scrambled programming without the authorization of the programmer or payment for the programming. Civil and criminal penalties for piracy are stiffened by this bill. Those who manufacture, assemble or modify unauthorized descramblers will be subject to fines of up to $500,000 and imprisonment of up to 5 years. Legitimate descrambler manufacturers and distributors are permitted to bring law suits against programming pirates under this legislation.

The product of considerable negotiation and compromise, the statutory copyright and piracy provisions of this legislation have widespread support in the communications industry. That is an unusual accomplishment. I urge my colleagues to support this legislation.

Mr. DECONCINI. Senator Hatch and I, as ranking member and chairman of the Subcommittee on Patents, Copyrights, and Trademarks, are extremely pleased Congress is taking final action on S. 1883 so that this important bill can reach President Reagan's deak and be signed into law. S. 1883 is the most significant piece of trademark legislation to come before Congress in over four decades. It was approved by the Senate in May of this year by unanimous consent and with bipartisan support. It is before us again, having passed the House. The House significantly revised our version before passage, and we would like to comment briefly on some of those changes.

We introduced S. 1883 because we felt it was important to revise and update the 42-year-old Federal trademark statute, the Lanham Act. We were concerned that existing law could no longer keep pace with societal changes and modern commercial realities. As passed by the Senate, S. 1883 accomplished six major objectives aimed at modernizing Federal trademark law.

First, S. 1883 permitted a trademark applicant to file a trademark registration application on the basis of the applicant's bona fide intent to use the mark in commerce. This provision would eliminate potential problems and sometimes futile expenditures faced by applicants under the existing preapplication use in commerce requirement. Moreover, it would harmonize United States trademark law with laws of other countries, such as Canada and Great Britain, that have already converted to an intent to use system. This change would eliminate preferential treatment of foreign trademark applicants who are currently exempted from the use in commerce requirement. Under S. 1883, all trademark applicants, both foreign and domestic, would be subject to the same application standards.

The second objective of S. 1883 was to remove from the Federal register "deadwood," or marks that are not in commercial use. The bill would accomplish this goal by redefining the meaning of use to a stricter standard, by shortening the term of registration from 20 to 10 years, and by increasing the requirements trademark owners must meet in order to maintain their registrations.

A third objective of the Senate passed version was protection of truly famous trademarks from dilution, which is unauthorized use that diminishes the distinctive quality of a mark. This was accomplished by the addition of a narrow Federal cause of action which is important because it would establish a national standard for the protection of famous marks. Currently, only 23 states have dilution laws. This creates a "patchwork" type of protection that does not satisfactorily protect the tremendous value of famous marks.

The remaining three objectives of S. 1883 were the creation of a Federal system governing trademark security interests; revision of section 43(a) of the Lanham Act, which has evolved into a Federal unfair competition statute, so that the language reflects federal court interpretation; and finally, clarification and modification of many Lanham Act provisions to facilitate the act's uniform interpretation.

As S. 1883 emerged from the House, it is a somewhat different bill than what the Senate sent over. Although the House passed verison is still a strong and valuable piece of legislation, we feel that it is important to comment on and clarify some of the House changes.

We are particularly disappointed by the House's decision to eliminate the Federal dilution cause of action. Although this was a somewhat controversial issue, the Senate had worked hard to come up with a carefully crafted compromise that we thought would be acceptable to all. By eliminating this section, the Federal Government loses the opportunity to provide guidance to those States that have dilution laws, and to create greater certainty in this area.

Just as important, the dilution provision would have aided U.S. delegates at the General Agreement on Tariffs and Trade negotiations. Currently, foreign countries can resist U.S. requests to provide higher international protection standards for intellectual property by pointing out that the United States provides little or no dilution protection. The dilution provision in S. 1883 would have demonstrated that we are willing to give the same level of protection we are asking other countries to provide.

Dilution is an important, developing area of the law. Eliminating this provision from the legislation will not eliminate the accompanying problems; they merely will have to be addressed in the future.

The second major trademark law revision not contained in the House-passed version is the provision for a centralized trademark security interest system. The security interest provision included in the Senate-passed version encountered no opposition and was endorsed by the American Bankers Association. We are very disappointed by this omission and ask that the House reconsider this important issue in the next Congress.

We would like to make clear that the only implications of the House's failure to include these provisions is that time prevented us from reaching a consensus on specific statutory language. There should be no inference about the principles or objectives these provisions addressed and were intended to achieve.

Several of the remaining objectives of this legislation underwent significant revision in the House. The intent-to-use provisions were revised both technically and substantively. Unlike the Senate-passed bill, the House version provides for a second examination of the intent-to-use application after the applicant submits a statement of use. The Senate did not include this provision because we wanted to assure that once the Patent and Trademark Office [PTO] conditionally approved registration, the applicant would have the needed certainty to invest in actual use of the mark without fear that the PTO might reverse its earlier approval of the mark for registration.

The Senate recognizes that there may be limited situations in which the PTO can consider some registration issues only after use is made. The House bill provides for a second examination to accommodate these rare occasions, and only in these situations will a second examination be allowed. If the issue can be addressed during the first examination, clearly it must be addressed then. The PTO cannot be given the opportunity to reverse its conditional approval of a mark's registrability on the basis of facts that could have been—that should have been—looked at during the first examination.

Other changes in the intent-to-use system include reducing the amount of time a trademark applicant will have to make use of the mark to just 3 years instead of 4. Furthermore, the House added a "good cause" requirement the applicant must meet in order to obtain the last four 6-month extensions.

Once the intent-to-use system is in place, Congress must carefully monitor the effect the House changes have on both applicants and the PTO. If the changes serve to reduce the certainty the intent-to-use system is meant to provide, or prove burdensome to either applicants or the PTO, Congress should expeditiously consider revising the system so it can meet its stated objectives.

Two other House revised provisions that deserve special mention are the revised definitions of "use in commerce" and "abandonment of mark" which appear in the House-passed bill. The House amended these definitions to assure that the commercial sham of "token use"—which becomes unnecessary under the intent-to-use application system we designed—would actually be eliminated. In doing so, however, Congress' intent that the revised definition still encompass genuine, but less traditional, trademark uses must be made clear. For example, such uses as clinical shipments of a new drug awaiting FDA approval, test marketing, or infrequent sales of large or expensive or seasonal products, reflect legitimate trademark uses in the normal course of trade and are not to be excluded by the House language.

Finally, we would like to address the revisions the House made to the provision amending section 43(a) of the Lanham Act. Although it is clear that false advertising is not protected free speech, there was some concern on the House side that a provision creating a civil remedy for those who may be damaged by false advertising could run into serious first amendment problems. This concern was thoroughly scrutinized and extensive legal research was conducted to investigate all aspects of the envisioned problems. Although the Senate did not share in this concern, we were willing to agree to certain changes in order to eliminate House fears.

The revised language of section 43(a) includes a reference to misrepresentations made about another's goods or services in "commercial" advertising or promotions. In limiting the language in this say, the word "commercial" is intended only to eliminate any possibility that the section might be applied to political speech. Although the Senate sees this language as unnecessary because section 43(a) requires that the misrepresentations be made with respect to goods or services, we consider inclusion of the language harmless so long as Congress' intent that it be interpreted only as excluding political speech is clear. It is also Congress' intent that the "commercial" language be applicable any time there is a misrepresentation relating to goods or services. Therefore, even though they are not commercial enterprises, nonprofit organizations would be as liable for misrepresentations as profit organizations.

Also in the context of revising 43(a), the House revised 32(2) of the Lanham Act. This revision makes it clear that those in the broadcast industry are to be treated the same as those in the print media and publishing industries with respect to innocent infringement of trademark rights. This section also specifically extends the innocent infringement language of 32(2) of acts that violate 43(a) of the act.

Last, with respect to the revision of section 43(a) of the Lanham Act, it is important to clarify that, in revising section 43(a), Congress does not intend to preempt remedies otherwise available under the Lanham Act, State, or common law. A provision to this effect was contained in the version of S. 1883 we passed last May, but it does not appear in the version approved by the House. It is critical, therefore, that this point be made in the legislative history.

In sum, S. 1883 is a good and important bill that will modernize U.S. trademark laws so they more accurately reflect modern realities, and align with trademark laws of other countries. This bill is also important as a fine example of how a dedicated bipartisan effort can accomplish worthwhile goals. We are pleased to see the passage of S. 1883 by this Congress.

Mr. DECONCINI. Mr. President, it is with great pleasure that I rise today in support of S. 1883, the Trademark Law Revision Act of 1988. This vital legislation will serve to update our current trademark laws which have needed modernization for some time. These modernizations will bring our trademark laws in line with present day marketing practices and will help to harmonize U.S. trademark laws with those of other countries. The 100th Congress has worked very hard on S. 1883, and I am very pleased that we are now securing the passage of this important bill.

Trademarks encourage competition, promote economic growth and raise the standard of living for all of our citizens. The "Made in the USA" trademark in a foreign land carries a message more powerful than any foreign aid and more potent than any propaganda. America stakes its reputation on its trademarks. They are the most important ambassadors the United States sends abroad.

The U.S. trademark law, commonly referred to as the Lanham Act, was enacted 42 years ago. Although it has worked well for many years, it is now in need of updating and revision to reflect changes in business practices and other laws. S. 1883 will make these changes without costing the taxpayers any money. S. 1883 will reduce the advantage foreign nationals currently enjoy in obtaining U.S. trademark rights; eliminate unnecessary and costly uncertainity for small and large companies in launching new products and reduce the geographic fragmentation of trademark rights; improve and make the trademark system equal for small enterpreneurs and corporate trademark owners; and modernize the Lanham Act, clarifying its provisions, removing inconsistencies, conforming it to judicial interpretation, and updating it to reflect modern day commercial realities.

I wish to thank the ranking minority member of the Subcommittee on Patents, Copyrights and Trademarks, Senator HATCH, and his counsel Abby Kuzma and Randy Rader; Senate cosponsers Senator GRASSLEY and his counsel Melissa Patack, and Senator HEFLIN and his counsel Karen Kremer, who all played vital roles in the Senate action. Next, I wish to congratulate the chairman of the House Subcommittee on Courts, Civil Liberties and the Administration of Justice, Mr. KASTENMEIER, for his work in bringing reasonable, balanced trademark law revision legislation to the floor of the House for action. Additionally, I would like to express my appreciation to the ranking minority member of the Courts Subcommittee, Mr. MOORHEAD, who was the original sponsor of the trademark law revision legislation in the House.

I would also like to thank the U.S. Trademark Association [USTA] for its leadership in the private sector. The USTA's 2-year study of trademark law problems before legislation was initiated and its continued commitment as the process evolved has been indispensable in securing passage of the reform legislation. I would particularly like to thank Robert Eck, former USTA president; Ronald Kareken, the current USTA president; Robin Rolfe, USTA executive director; and USTA manager of Government relations, Yvonne Chicoine whose dedication and perseverance contributed greatly to the passage of the bill.

Just as important was the objective advice Congress received from the Patent and Trademark Office, particularly Ron Bowie, which proved very helpful in drafting this legislation. I also wish to thank everyone else whose dedication and hard work were invaluable to the passage of S. 1883.

I especially would like to commend Jerome Gilson, whose expertise was invaluable throughout the legislative process; Dolores Hanna, Vito Giordano, Al Robin, and the many others with the Trademark Review Commission who participated in the 2-year study by the USTA; the American Intellectual Property Law Association; Intellectual Property Owners, Inc.; the American Bar Association; and the many, many other individuals and groups who joined together to see this bill enacted.

Finally, I wish to extend my thanks to my staff members Tara McMahon, Ed Baxter, and Mary Cabanski and all the others on my staff who have put so much time and effort into getting this bill passed.

Mr. President, S. 1883 also contains, as a separate title, the provisions of H.R. 2848, the Satellite Home Viewer Act. This title represents the end product of many months of work by the House Judiciary's Subcommittee on Courts, Civil Liberties, and the Administration of Justice. I want to congratulate the chairman of that subcommittee, Congressman ROBERT KASTENMEIER, for his success in working out a very emotional and controversial subject to the satisfaction of all the parties involved. It is my pleasure to be able to accept the work of Chairman KASTENMEIER's subcommittee and urge my colleagues in the Senate to support his fine effort.

I also want to take this opportunity to thank Chairman KASTENMEIER for his cooperation in packaging these two worthy bills together. I believe the strategy of linking the two bills together, both in the negotiations and in congressional consideration, was the only way that both could have been passed this year. Chairman KASTENMEIER's cooperation in this strategy was instrumental in our mutual success.

Senator LEAHY has been a strong proponent of the Satellite Home Viewer Act in the Senate. I would like to thank him and acknowledge his role in the Senate's decision to so promptly pass the House version of H.R. 2848.

Mr. HATCH. Mr. President, among the most gratifying moments of public service are those in which Senators and Representatives, Republicans and Democrats, unite in addressing a common concern, and reshape the law, that it may better do its work. For making this such a moment, I thank the senior Senator from Arizona, my friend DENNIS DECONCINI, who chairs the Subcommittee on Patents, Copyrights and Trademarks of the Senate Judiciary Committee. I thank also our esteemed colleagues from the House, Representatives ROBERT KASTENMEIER and CARLOS MOORHEAD. Their untiring labors have indeed reshaped trademark law in a way that will serve the purposes of the law far better, for the Government and for the people.

More than four decades have passed since enactment of the Lanham Act, the foundation of America's trademark law. Think of the extraordinary changes in commerce we have witnessed since then. During these four phenomenal decades, the business side of trademark matters has progressed so dramatically that the law has been hard pressed to serve as well as it was intended to. The changes we have made will benefit all who are involved in the trademark community: not only great corporations and long established businesses, but new entrepreneurs and back yard tinkerers—and most importantly of all, every consumer in this country.

I was particularly concerned that the former law granted preferential treatment to foreign trademark applicants, since they were exempted from the use in commerce requirement. Under this legislation, all trademark applicants, foreign and domestic, must meet the same application standards.

Through all my years of Senate service, I have been pleased to work with the trademark community—on the Trademark Display Act in 1982, for example, and on the Trademark Counterfeiting Act and the Trademark Clarification Act in 1984. Now, as the ranking minority member on the Subcommittee on Patents, Copyrights and Trademarks, I am pleased to join in this more comprehensive updating and improvement of our trademark registration and enforcement laws.

I am also pleased that section II of this bill provides interim licensing of secondary transmission by satellite carriers of superstations for private viewing by Earth station owners. Representatives MOORHEAD and KASTENMEIER are to be commended for their fine work in preparing this portion of the bill. My Senate colleagues and I are grateful to join with the House in adopting this important measure, and we applaud the spirit of cooperation evident in this grand compromise, which brings together many diverse parties and interests.

Again, I salute my colleagues for their efforts on this bill: for their spirit of bipartisan cooperation, for their thorough and careful examination of the issues, and for their development of a prudent and workable bill—a bill which, I might add, I expect to pass without dissent.

Mr. LEAHY. Mr. President, as chairman of the Agriculture Committee, and as a Senator interested in rural development, I am aware of the contributions that backyard satellite dishes make to rural America. The Senate has before it legislation that will help those who live in rural areas—those who rely on satellite dishes—to receive the variety of television programming that many Americans take for granted. I hope that we will send this bill directly to the President for his signature.

Television has an unparalleled ability to link the diverse communities of our Nation. It provides Americans from every region of the country with the opportunity to acquire news and information, to observe their Government in action, and to watch sporting events, movies, and other forms of entertainment. This bill will help ensure that Americans who rely on satellite dishes can see those programs, too.

Those who reside near metropolitan areas receive a variety of programs for traditional over-the-air broadcasts. A great number see even more programs through cable systems wired directly into their homes.

But the wide variety of programming available in metropolitan areas is not available to all Americans. Many who live in rural areas do not get reception of more than one or two stations through the rooftop antennas that pick up signals broadcast over-the-air. Most do not have access to cable television, either.

In the last few years, backyard satellite dishes have been sprouting up in rural areas. A backyard dish owner usually subscribes to a package of signals similar to a cable programming package. Thus, a backyard dish provides a great service to rural consumers because it enables them to view the programs readily available to their cousins in the distant cities.

However, a backyard dish is capable of picking up satellite signals without the sender's knowledge or consent. A dish owner can pick up signals that cable systems, networks, and "superstations" send to their affiliates, subscribers and other customers throughout the country. The cable operators, broadcasters, copyright owners and others who invest a great deal of time and money to put together the programming are correct when they point out that dish owners who intercept the signals are not paying their fair share. Many of them now scramble their satellite signals to prevent unauthorized interception.

If Congress does not act, dish owners will not have the means to view the programming that most Americans get by simply switching on the set. They will not be able to buy the programming from distributors that sell packages of satellite signals.

While this problem threatens satellite signal distributors and the home dish owners, it is not easy to solve because it runs up against the legitimate rights of copyright owners and broadcasters.

H.R. 2848, a bill studied and reported by both the House Judiciary Committee and the House Commerce Committee, would amend the Copyright Act to permit businesses to include network and superstation programming in the packages sold to dish owners. Through a statutory license, the bill protects copyright owners and makes sure that dish owners are able to purchase at a fair price the means to receive superstation and network signals delivered by satellite. The law would sunset in 6 years and thus allow a new technology to establish itself while discouraging industry from becoming dependent on Congress' intervention in the marketplace. See House Report No. 100-887, parts 1 and 2.

The bill further defends the rights of networks and their affiliates by permitting the satellite retransmission of network programming to households located in white areas—households that cannot pick up network signals through a rooftop antenna or a cable because they are far from the big cities, or in some cases just on the wrong side of a mountain. The bill establishes a procedure to notify networks about the number of homes receiving their signal through satellites and penalizes retransmissions of network signals to persons who do not live in white areas.

Many Members of Congress are concerned that dish owners are paying too high a rate for satellite programming. This bill requires the Federal Communications Commission to report to Congress on whether dish owners are, in fact, subject to price discrimination. It makes sure that copyright penalties can be imposed against carriers who unlawfully discriminate against distributors in the selling of retransmitted signals.

The retransmission of network and superstation signals by cable systems or satellite carriers causes some problems. For example, a cable system could deliver a program into an area that already gets the program through a local broadcaster. The local broadcaster doesn't like that because he purchased rights to that program thinking that he would be the only one to show it within his area. The FCC is about to enforce syndicated exclusivity on cable systems—and thereby allow local braodcasters to have exclusive use of programs under certain circumstances. This bill will require the FCC to study whether syndex should apply to the dish industry in the manner in which it will apply to cable television.

Finally, I would like to mention two important contributions suggested by Chairman DINGELL's Committee on Energy and Commerce. The bill increases penalties for the theft of satellite signals and calls for a study of encryption technology to determine appropriate encryption standards.

Mr. President, ever since the House first sent this bill over to the Senate, I have been encouraging my colleagues on the Judiciary and Commerce Committees to pass this legislation before the recess. I know satellite dish owners around the Nation are counting on it. If we pass S. 1883, which now includes the text of H.R. 2848, we will be able to enhance the variety of programming available to those who rely on satellite dishes—including many Americans who live in rural areas.

I would like to thank Senators DECONCINI and HOLLINGS, who helped me keep this legislation on track, and to acknowledge the fine work of Congressmen BOB KASTENMEIER, MIKE SYNAR, RICK BOUCHER and CARLOS MOORHEAD. Those gentlemen found paths around every roadblock. I would also like to acknowledge those who represent the satellite dish industry, the dish owners, the cable industry, the satellite carriers, independent television, network television, the electric cooperatives, the motion picture industry, and all others who recognized that many parties had a stake in solving this very difficult problem.

COPYRIGHT LIABILITY OF STATE GOVERNMENTS

Mr. WILSON. Mr. President, I would like to address a concern regarding a developing issue of great significance to copyright holders, especially those selling textbooks, computer software, and other copyrighted works to state schools and universities.

At issue is whether State government agencies throughout the United States are free to use and copy copyrighted works without permission and without providing compensation to the person who created the work.

The Congress is charged by article I, section 8, of the Constitution to protect the interests of authors in their writings. This we have done through enactment and periodic updating of the Copyright Act. However, just a few weeks ago, on October 3, the Ninth Circuit Court of Appeals held that State governments are immune under present law from damage suits for copyright infringement. This decision apparently rests on the court's interpretation of the scope of the 11th amendment's protections of the States against suit. That decision, and a similar one issued by the fourth circuit, embodies an enormous potential to reduce critical incentives to authors of books, computer software, plays, music, films, and other creative works. Indeed, all copyright holders are at risk, but perhaps none more than educational publishers, among whose principal markets are State universities.

Mr. President, I do not intend to criticize fair use of copyrighted materials by State universities and other State agencies. Fair use is an integral element of our copyright laws and helps further the dissemination of ideas. I am only concerned that State institutions, just as is everyone else, be properly liable for their use of copyrighted works.

Mr. President, in light of the importance of this issue, I would appreciate hearing the views on this matter of the Senator from Arizona, Senator DECONCINI, who serves with great distinction as the chairman of the Judiciary Committee's Subcommittee on Patents, Copyrights, and Trademarks.

Mr. DECONCINI. Mr. President, the Senator from California and I share a strong concern for the rights of authors and other creative artists, and I have been pleased to work with him to further their interests.

Mr. President, the recent court decisions cited by Senator WILSON do greatly concern me. As the ninth circuit stated, "We recognize that our holding will allow States to violate the Federal copyright laws with virtual impunity. It is for Congress, however, to remedy this problem."

I want to assure the Senator from California that I will call early hearings of my subcommittee next year on this issue, and I anticipate that any necessary remedial legislation can be moved promptly in the next session. I trust that State institutions will not exploit this situation, as the issue will be addressed next year.

Mr. WILSON. Mr. President, I greatly appreciate receiving this assurance from my good friend. He is a champion of the rights of intellectual property rights holders, and no one in this body could ask for more than the word of the Senator from Arizona.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of House Concurrent Resolution 344, a concurrent resolution commending the International Boundary and Water Commission, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The concurrent resolution will be stated by title. The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 344) commending the International Boundary and Water Commission for its efforts during the past one hundred years to improve the social and economic welfare of the United States and Mexico and to improve good relations between our two countries.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 344) was considered and agreed to.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' ADMINISTRATION ADJUDICATION PROCEDURE AND JUDICIAL REVIEW ACT

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 11.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 11) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration, and for other purposes.

(The amendment of the House is printed in the RECORD of October 19, 1988 beginning at page H10333.)

DIVISION B OF S. 11: VETERANS' BENEFITS IMPROVEMENT ACT OF 1988

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I rise to urge approval of S. 11 with a House amendment—adding titles XI, XII, XIII, XIV, XV, and XVI—to the Senate amendment adopted yesterday. The House amendment represents a compromise, reached by the two Committees on Veterans' Affairs, between H.R. 4741 as passed by the House on July 26, various other House measures—including H.R. 4861 as passed by the House on July 12, H.R. 4948 as passed by the House on September 20, and H.R. 5114 as passed by the House on September 22—and the provisions of S. 2011 as reported by our committee on August 1 and passed by the Senate October 18, with amendments, as a substitute text for H.R. 4741.

Mr. President, because the provisions of titles I through IV, which appear in division A of the pending measure, are unchanged from S. 11 as passed by the Senate on October 18 and because I made a comprehensive statement on those provisions at that time, I will not further discuss them at this time.

Mr. President, because each of the provisions of titles XI through XVI of division B of the compromise agreement is described authoritatively in the explanatory statement developed by the two Committees on Veterans' Affairs which I will insert in the RECORD as part of my remarks today and which the chairman of the House committee [Mr. MONTGOMERY] inserted in the RECORD during House debate on this measure yesterday (H. 10355), I will provide only a summary of those provisions at this point and then discuss certain key elements of the measure.

SUMMARY OF PROVISIONS OF DIVISION B (TITLES XI-XVI)

Mr. President, the House-Senate division B compromise agreement contains six titles—Title XI, Compensation Rate Increases; Title XII, Agent Orange; Title XIII, Education and Rehabilitation Provisions; Title XIV, Miscellaneous Benefit Provisions; Title XV, Health Care; and Title XVI, Miscellaneous—which include provisions to do the following:

TITLE XI—RATE INCREASES

This title contains amendments to chapters 11 and 13 of title 38 and freestanding provisions that would increase by 4.1 percent, effective December 1, 1988, with rate increases rounded down to the nearest dollar, the rates of compensation paid to veterans with service-connected disabilities and dependency and indemnity compensation (DIC) paid to the survivors of those who die from service-connected-causes.

TITLE XII—AGENT ORANGE AND RELATED PROVISIONS

This title contains amendments to title 38 and freestanding provisions that would:

First, provide from certain unexpended Agent Orange study funds (a) $3 million for testing the blood dioxin levels of individuals participating in the Ranch Hand study of veterans who engaged in herbicide spraying missions in Vietnam (Operation Ranch Hand), and (b) $1 million to fund a survey to be conducted by an independent scientific entity under contract to the VA pursuant to a law enacted after enactment of the compromise agreement of the scientific evidence, studies, and literature on the health effects of possible exposure to toxic chemicals contained in herbicides used in Vietnam during the Vietnam era.

Second, require the VA to (a) conduct an outreach program to keep Vietnam veterans informed of (1) new developments regarding the health effects of service in Vietnam, and (2) veterans' benefits and services available to such veterans; and (b) take reasonable actions to organize and keep updated the information in the Agent Orange registry so that it can be used by the VA to notify veterans promptly of any increased health risk from exposure to dioxin (or other toxic agent).

Third, require, effective March 1, 1989, that at least one-third of the Ranch Hand study advisory committee be composed of qualified scientists nominated by veterans' organizations and that the chairman of the Advisory Committee cannot be a Government scientist unless the Secretary of HHS determines, and so notifies the Veterans' Affairs Committees of that determination, that a qualified non-Government scientist is not available.

Fourth, require the Secretary of Defense to submit to the Committee a schedule of annual progress reports and a final report for the Ranch Hand study, which reports would then also be required to be submitted to the Committees.

Fifth, extend, by 15 months, from September 30, 1989, to December 31, 1990, VA health-care eligibility for Vietnam veterans who may have been exposed to dioxin and certain veterans exposed to ionizing radiation.

Sixth, exclude from computation of income for purposes of VA needs-based pensions and parents' DIC and health-care eligibility based on financial status, payments received in settlement of *In re Agent Orange Product Liability Litigation*, MDL 381 (E.D.N.Y.).

TITLE XIII—REHABILITATION PROVISIONS

This title contains amendments to chapters 11, 15, and 36 of title 38 that would:

First, extend for three years, through January 31, 1992, the temporary programs of trial work periods and vocational rehabilitation evaluations for veterans receiving compensation at the rate paid totally disabled veterans based on a determination of individual employability, and make these veterans' participation in the evaluations voluntary, as is currently their participation in any subsequent vocational rehabilitation.

Second, require that, subject to a $5 million cap in any fiscal year, expenditures under VA contracts for the educational and vocational counseling services provided to individuals applying for or receiving benefits, from (a) the temporary program of vocational training under section 524 of title 38 for non-service-disabled veterans newly awarded needs-based VA pension under chapter 15, or (b) any VA-administered program of educational assistance, be paid for out of the VA's Readjustment Benefits account.

Third, extend for three years, from January 31, 1989, until January 31, 1992, the temporary programs of vocational training for certain pension recipients and the three-year protection of veteran-pensioners' VA health-care eligibility if they lose pension entitlement as a result of work income, and expand the eligibility for the vocational training program to include veterans who were awarded pension prior to February 1, 1985.

TITLE XIV—MISCELLANEOUS BENEFIT PROVISIONS

This title contains amendments to chapters 13 and 19 of title 38 and a freestanding provision that would:

First, in the case of National Service Life Insurance (NSLI), Veterans' Special Life Insurance (VSLI), Veterans Reopened Insurance (VRI), and United States Government Life Insurance, authorize the VA to pay interest on insurance settlements from the date a policy matures to the date of payment of proceeds.

Second, authorize the VA to adjust discount rates for premiums paid in advance on NSLI, VSLI, and VRI policies.

Third, expand the existing exclusion for proceeds from fire insurance policies, for purposes of pension and parents' DIC income computations, to encompass a reimbursement from any source for property loss from any cause.

Fourth, recodify provisions contained in section 410(b) of title 38, relating to DIC-equivalent benefits for survivors of certain veterans rated totally disabled at the time of death, and establish, as an alternative criterion to the duration-of-marriage criterion, a child born of or after the marriage.

Fifth, (a) require the Administrator of Veterans' Affairs and the Secretary of Labor to include, to the maximum extent feasible, as part of the agencies' annual budget submissions, information on the amount of funds that will be expended in the coming fiscal year in various VA and DoL benefit and services programs for or in connection with wartime combat or combat theater veterans; and (b) provide that if either the VA or DoL is unable to supply some element of the required information, the agency involved must indicate why it cannot provide the specific information and what actions, at what cost, would be necessary to enable it to do so. This provision was inadvertantly omitted from the House-passed measure and is expected to be restored through the enactment of a concurrent resolution.

TITLE XV—HEALTH CARE

This title contains amendments to chapters 17, 73, 76, and 81 of title 38, Public Law 100-322, and freestanding provisions that would:

First, authorize the VA, upon 30 days' notice to the Senate and House Committees on Veterans' Affairs to move a Vet Center that was in existence on January 1, 1988, from one community location to another without regard to the limitations enacted in Public Law 100-322 in cases in which the move is necessitated by conditions beyond the VA's control.

Second, specifically authorize the movement, for reasons beyond the VA's control, of 17 Vet Centers to another community location, as proposed by the VA's Chief Medical Director in a July 25, 1988, letter.

Third, extend for one year, through FY 1990 (a) the authorization of annual appropriations (and increase from $500,000 to $1,000,000 the amount of such authorization) for grants to the Veterans Memorial Medical Center (VMMC) in Manila to assist in equipment purchases for and the rehabilitation of VMMC facilities, and (b) the VA's authority to contract with the VMMC for the care and treatment of certain U.S. veterans in the Philippines.

Fourth, make certain technical corrections, relating to contract outpatient care and certain personnel authorities, necessitated by the enactment of Public Law 100-322.

Fifth, make technical corrections in provisions enacted in Public Law 100-322 so as (a) to reduce the payback obligation of participants, in the VA's Department of Medicine and Surgery tuition reimbursement program, who breach their agreements so as to require payment of only those sums which have actually been expended, prorated to reflect the time remaining in their agreements; and (b) to provide that participants in the tuition reimbursement program who fail to maintain VA employment shall be held liable for the amount which either has been paid to them or is payable on their behalf—rather than only amounts that have actually been paid by the VA.

Sixth, require the Administrator to transfer to the State of Tennessee a tract of land consisting of not to exceed seven acres, together with improvements, at the Alvin C. York Veterans' Administration Medical Center in Rutherford County, Tennessee, on the conditions that the property be used by the State of Tennessee for construction of a State veterans' nursing home and that the State has provided certain assurances to the Administrator.

Seventh, authorize the VA, upon giving 90 days' advance notice to the Veterans' Affairs Committees during the first half of the calendar year and without compliance with Federal and VA excess property statutory restrictions, to transfer directly to a State, for use as the site of a State veterans' home nursing-home or domiciliary care facility, property that is excess to the VA's needs.

Eighth, provide for the conversion of nonphysician VA hospital directors from appointment under title 38 to appointment under the Senior Executive Service authority in title 5, but allow such directors who wish to remain under title 38 to do so.

Ninth, (a) postpone for four years, until December 1, 1992, the requirement of annual December 1 reports from VA medical centers to the Administrator providing lists indicating the quantity of each health-care item procured at each VA medical center under a local contract and the total amount paid for such an item, and (b) postpone until May 20, 1989, certain restrictions on procuring health-care items under local contracts.

TITLE XVI—CEMETERY AND MEMORIAL PROVISIONS

This title contains an amendment to chapter 24 of title 38 and a freestanding provision that would:

First, extend for five years, through fiscal year 1994, the authorization of appropriations (of "such funds as may be necessary") for grants for the construction of state veterans' cemeteries.

Second, (a) authorize appropriations of $6 million for the construction of, and such other sums as are necessary for the operation of, the Pacific War Memorial and other historical and memorial sites on Corregidor; and (b) require the American Battle Monuments Commission to restore, operate, and maintain the Memorial and such sites using only funds so appropriated and private contributions.

TITLE XI—COMPENSATION/DIC COLA

Section 1101 of the compromise agreement would provide for a 4.1-percent cost-of-living adjustment (COLA) in the rates of VA service-connected compensation and dependency and indemnity compensation (DIC), with rates rounded down to the nearest dollar, as were the rates in both the House-passed measure, H.R. 4741, and the Senate-passed measure, S. 2011/H.R. 4741.

I believe that we must attach the highest priority to meeting the needs of the 2.2 million veterans with service-connected disabilities and the 310,000 survivors of those who have made the final sacrifice. This is and always has been my number one priority in veterans' affairs. Through the COLA, we can ensure that the value of their VA benefits is not eroded by inflation.

I note that the cost of this provision would be $345 million in budget authority and $311 million in outlays in FY 1989 and as follows in budget authority and outlays, respectively, for the next four fiscal years: $408 million and $409 million in FY 1990, $403 million in both in FY 1991, $398 million in both in FY 1992, and $393 million in both in FY 1993. The FY 1989 cost is consistent with the amount assumed in the Committee's September 28, 1989, crosswalk allocation report under the Congressional Budget Resolution for FY 1989 and the amount provided in the Gramm-Rudman-Hollings sequester baseline (which is based on a 3.9-percent increase with rates above 50 cents rounded up to the nearest dollar).

Mr. President, I am delighted to note that we were able to enact a compensation COLA before this Congress adjourns so as to ensure that the increase will be made on time on December 1. It is clear now that the delay, caused by so many different factors, we experienced in taking up this bill on the floor during this very busy legislative period did not in any way adversely affect our being able to make provision for the COLA in the benefits that service-connected veterans so richly deserve.

TITLE—XII—AGENT ORANGE PROVISIONS

Mr. President, I am greatly disappointed that the compromise agreement does not include the majority of the Agent Orange-related provisions contained in S. 2011 as reported and as amended by the Daschle-Kerry-Cranston amendment. These provisions, which I described at great length in my statement during the debate preceding passage of S. 2011 on October 18 (beginning on page S16621), would have provided a comprehensive package of health care, benefit payments, and scientific review provisions to assist Vietnam veterans in ways that were reasonablly related to current scientific knowledge in order to address the concerns about their exposure to Agent Orange.

These have been very emotional and controversial issues, and the inability to resolve them completely has contributed to a feeling on the part of some Vietnam veterans that they have not been treated fairly by the Nation for which they fought.

During our extensive negotiations over the provisions in the Senate version, the House Veterans' Affairs Committee leadership made clear its strong opposition to providing compensation benefits for Agent Orange-exposed veterans or taking at this time, without further Committee scrutiny, the kinds of steps proposed in the Senate bill to try to resolve the concerns facing such veterans. Despite repeated, persistent efforts to try to convince the House Committee of the merits of the Senate provisions, that Committee was unwilling to move in the direction of the Senate bill in any major way. I assure my colleagues, and especially the Senators from South Dakota and Massachusetts with whom I worked so very hard to craft a compromise that would command overwhelming Senate support, that I did my very best on this. I made the case to the Chairman of the House Committee as strongly as I know how—but to no avail.

Although I am frustrated as well as disappointed that we could not get the House to accept more of the Senate provisions, I am determined not to give up the struggle to help ensure that serving our Nation in an unpopular war does not unfairly prevent those veterans from receiving all of the benefits they deserve. Senators Dashle and Kerry have done excellent work in moving this issue forward in the Senate, and we will be back again next year. I very much hope that next year the House Committee will have taken the opportunity to study our provisions further and will be willing to modify its position on this issue.

Mr. President, at this time I would like to describe the Senate provisions which the House did agree to include in the compromise legislation now before us.

VA OUTREACH PROGRAM

Mr. President, I am pleased that the compromise agreement, in section 1204, would require the VA to conduct an outreach program to keep Vietnam veterans informed of new developments regarding the health effects of service in Vietnam and of the benefits and services available to those veterans. The VA also would be required to reorganize the Agent Orange registry and keep it updated, so that it could be used to facilitate appropriate outreach efforts to Agent Orange-exposed veterans. This provision is derived virtually intact from a provision in the proposed Daschle-Kerry-Cranston floor amendment. Although the requirement that any materials provided to veterans also be provided to the Veterans' Affairs Committees was deleted, I intend to make that request to the VA on behalf of the Senate Committee.

RANCH HAND STUDY ADVISORY COMMITTEE

Section 1205 of the compromise agreement accepts 3 of the 5 Ranch Hand provisions in the Daschle-Kerry-Cranston floor amendment so as to make certain improvements to the Advisory Committee established to monitor and provide advice regarding the conduct of the Air Force epidemiological study on veterans who participated in herbicide spraying missions in Vietnam (Operation Ranch Hand).

First, the compromise agreement would require, effective March 1, 1989, that at least one-third of the Ranch Hand study advisory committee be composed of qualified scientists nominated by veterans' organizations. Only scientists qualified by virtue of academic achievement and scientific experience would be eligible to serve on the Committee. The Ranch Hand study protocol contained such a one-third requirement, but it has not been met.

In addition, also effective March 1, 1989, the compromise would provide that the chairman of the advisory committee could not be a Government scientist unless a non-Government scientist were not available. The compromise agreement does not include the provision to require the Secretary of HHS to furnish financial and logistical support to the Advisory Committee Chairman. However, I expect the Secretary to ensure that such necessary support is provided.

Third, the compromise agreement would require the Secretary of Defense to submit to the Senate and House Veterans' Affairs Committees a schedule of annual progress reports and a final report for the Ranch Hand study, which reports would then also have to be submitted to the Committees.

Although the compromise agreement does not include the provision that the members of the Advisory Committee and the Air Force scientists conducting the Ranch Hand study may directly consult with one another, I certainly hope that there is no effort made to restrict this consultation.

EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR RADIATION EXPOSURE

Mr. President, section 1202 of the compromise agreement, which is derived from section 204 of S. 2011 (which was derived from section 207 of S. 9), would extend by 15 months, from September 30, 1989, to December 31, 1990, VA health-care eligibility for Vietnam veterans who may have been exposed to dioxin and for certain ionizing-radiation-exposed veterans.

Public Law 97-72 provided Vietnam veterans who may have been exposed to dioxin (and certain veterans exposed to ionizing radiation) with eligibility for VA health care for any disability except for a disability found to have resulted from some cause other than exposure to dioxin (or ionizing radiation), without requiring a determination of an association between that exposure and such disabilities. Given the scientific uncertainties regarding the effect of human exposure to dioxin and in light of the epidemiological studies underway on the effects of such exposure, the Congress believed that it was not fair to deny VA health care to Vietnam veterans when science might later determine that their disabilities were linked to their service in Vietnam. Section 1202 would ensure that such health-care eligibility continues through 1990. For greater detail on this provision, I would refer my colleagues to the Committee report accompanying S. 2011 (page 79).

PAYMENTS FROM AGENT ORANGE SETTLEMENT

Section 1203 of the compromise agreement (which is derived from section 205 of S. 2011) would exclude from computation of income for purposes of VA-needs based pensions, parents' DIC, and health-care based on financial status, payments received in settlement of *In re Agent Orange Product Liability Litigation*, MDL 381 (E.D.N.Y.). This provision is the same substantively as S. 1805, introduced by Senator Mitchell.

Mr. President, without a legislative exclusion those payments would, in the case of veterans receiving VA pension, in effect be paid to the Government and not the veteran or his or her survivors by virtue of the offsetting reduction in VA pension benefits required under current law.

Section 1203 would ensure that the neediest veterans—those qualifying for needs-based pensions—would not be prevented from receiving any net gain (after offset) from the payments they receive from the court settlement. For example, without the income exclusion, veterans with no dependents who have an annual income of approximately $6,214 would gain virtually no net benefit from the maximum annual $1,800 payment (paid annually for 7 years), and survivors with no dependents who have an annual income of approximately $4,164 would gain virtually no net benefit from the maximum payment of $3,400 (paid in one lump sum), currently anticipated to be paid out under the Agent Orange litigation settlement.

Mr. President, the Senate provision (section 205 of S. 2011) was generic. It would have excluded from computation of income for purposes of VA needs-based pensions, parents' DIC, and health-care based on financial status, payments received in settlement of or as the result of a judgment in any litigation based on injuries or disabilities alleged to have been incurred as a result of events that occurred during the active-duty service of a veteran—as long as the annual amount of such payments did not exceed the annual income limits set for pension benefits for a veteran with the same marital status and number of dependents. The House Committee preferred a narrower approach limited to the specified *Agent Orange* settlement. Also, the House Committee declined, on jurisdictional grounds, to agree to the Moynihan amendment which would have extended the Senate Committee approach to non-VA benefits.

FUNDING FOR AGENT ORANGE BLOOD TESTING

Mr. President, the compromise agreement also contains, in section 1201, a provision, derived from H.R. 4741 but which has also been of keen interest to me, which would provide that $3 million would be made available for testing the blood dioxin levels of the participants in the Ranch Hand study—the Air Force epidemiological study of the health of individuals who participated in herbicide spraying missions in Vietnam. That study began in 1979 and is continuing with long-term followup.

On July 8, 1988, I and the chairman of the House Veterans' Affairs Committee and the ranking minority members of both committees wrote to the leadership of the Senate and House Appropriations Committees requesting that the $3 million be provided to the Ranch Hand study in a fiscal year 1988 supplemental appropriations bill. Unfortunately, that was not done. I ask unanimous consent that our July 8 letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, July 8, 1988.

Hon. JOHN C. STENNIS, Chairman, Committee on Appropriations, U.S. Senate, Washington, DC. 20510.

DEAR MR. CHAIRMAN: We are writing as Chairman and Ranking Minority Members of the Veterans' Affairs Committees of the House of Representatives and Senate regarding a unique and cost-effective opportunity to study directly the relationship between the health of Vietnam veterans and exposure in Vietnam to Agent Orange and its contaminant dioxin.

As you know, Public Law 96-151 required a study of the relationship between exposure to Agent Orange and the health of Vietnam veterans. Public Law 97-72 expanded the requirement to include other factors in the Vietnam "experience".

The critical problem in investigating the association between Agent Orange (and its contaminant dioxin) and disease in humans is to distinguish between veterans who have been exposed and those who have not. In fact, the inability of the Centers for Disease Control (CDC) to identify in a scientifically-valid manner exposed and non-exposed veterans was the reason that the Agent Orange Study could not be completed. Two other studies being conducted by CDC can shed light on the health effects of the Vietnam experience, but neither can directly address the health effects of exposure to Agent Orange.

However, a newly developed and tested blood assay technique can accurately show exposure to Agent Orange through the level of residual dioxin in blood.

The Air Force health study of veterans who participated in Operation Ranch Hand (Agent Orange spraying missions in Vietnam) is widely recognized as extremely comprehensive and based on sound epidemiological principles. Based on blood assays done on a small sample of the Ranch Handers, as well as information about the nature and extent of their contact with Agent Orange in Vietnam, it is clear that this study population as a group received substantial Agent Orange exposure. Because the study was begun before the blood dioxin test was available, the exposure index used was based primarily on military records. As the CDC's blood validation study conducted in connection with its Agent Orange Study demonstrated, military records cannot be taken as a reliable indicator of Agent Orange exposure, even when combined with personal reports of such exposure. Accordingly, use of the new blood assay technique to test the Ranch Handers could improve the reliability of the exposure index used in that study and the accuracy of interpretation of the health data already gathered on these veterans. Combining the new blood test and health information offers a unique opportunity to examine the health effects of human exposure to dioxin (Agent Orange) in a cost-effective way. No new funds should be required.

The Congress has authorized and appropriated about $19 million for the CDC Agent Orange Study that will revert to the Treasury if some action is not taken by the Congress this Session. The funds were appropriated in the Supplemental Appropriations Act of 1984 (Public Law 98-181), a copy of which is enclosed. Of that amount, $3 million should be sufficient to pay for testing the Ranch Handers. Additionally, although the CDC and other scientists have not yet been able to design a scientifically-valid, comprehensive Agent Orange study of all Vietnam troops, smaller studies—in addition to the Ranch Hand study—may be possible, as well as research of specific disabilities that might be related to Agent Orange exposure or service in Vietnam. Therefore, we would urge that all of the Agent Orange research funds not yet expended be made available through September 30, 1991, rather than be allowed to lapse.

The following language is suggested for inclusion in the next fiscal year 1988 supplemental appropriations bill. It should accomplish a transfer of these funds so that no new monies will be needed:

VETERANS' ADMINISTRATION MEDICAL AND PROSTHETIC RESEARCH

For "Medical and prosthetic research", such funds as were provided under this heading by Public Law 98-181 and have not been expended shall remain available, for research and other activities relating to the health effects of service in Vietnam, including exposure to Agent Orange and its component compounds, until September 30, 1991: *Provided*, That an amount of such funds not to exceed $3 million shall be available for carrying out research involving blood dioxin levels pursuant to the Air Force epidemiological study of military personnel who participated in Agent Orange spraying missions in Vietnam (Operation Ranch Hand).

We have received letters (copies enclosed) recommending such action from: Veterans' Administration, Domestic Policy Council Agent Orange Working Group, Centers for Disease Control, Office of Technology Assessment, U.S. Air Force.

Of particular note, we believe, are the comments of the Congressional Office of Technology Assessment.

With warmest regards,

Cordially,

ALAN CRANSTON,
Chairman.
FRANK H. MURKOWSKI,
Ranking Minority Member,
Senate Committee on Veterans' Affairs.
G.V. (SONNY) MONTGOMERY,
Chairman.
GERALD B.H. SOLOMON,
Ranking Minority Member,
House Committee on Veterans' Affairs.

Mr. CRANSTON. Mr. President, the Ranch Handers generally are considered, as a group, to have received the greatest exposure to agent orange in Vietnam. Accordingly, this extremely comprehensive study is expected to yield the most scientifically valid and complete information on the health effects of such exposure. Unfortunately, the index of agent orange exposure currently used in the study is based primarily on military records, which the CDC found to be inadequate—as I will discuss in greater detail later. The CDC has, however, refined a methology for detecting residuals of dioxin in blood, from which exposure in Vietnam, based on the half-life of dioxin in the blood, can be accurately extrapolated. The cost of each blood test is $1,000, and the Ranch Hand study has not been provided the necessary funding.

At the committee's May 12 hearing on agent orange, the Air Force and the CDC stressed the importance of the blood tests for the Ranch Hand study and expressed their hope that the Congress would make the necessary funds available for such purposes.

Approximately $18 million in unexpended funds remain from those appropriated to carry out the comprehensive agent orange study mandated by Public Law 96-151—as amended by Public Law 97-72. After blood dioxin testing of a sample of study participants revealed that, first, military records and personal accounts of exposure could not be used to predict agent orange exposure, and, second, that all except two of the approximately 600 participants tested had dioxin levels that did not exceed background levels, the CDC found that it was not scientifically feasible to conduct that study. Section 1201 would make $3 million of the unexpended funds available to enable the Ranch Hand study to test the blood dioxin levels of its study participants and thus help ensure the validity of the results of this significant study.

Section 1201 also would provide that an additional $1 million of the unexpended funds would be made available to fund a survey—to be conducted by an independent scientific entity—such as the National Academy of Sciences—under contract to the VA pursuant to a law enacted after enactment of the compromise agreement—of the scientific evidence, studies, and literature on the health effects of exposure to agent orange and other toxic chemicals contained in herbicides used in Vietnam during the Vietnam era.

READJUSTMENT COUNSELING FACILITIES

Mr. President, I am delighted to note that the compromise agreement, in section 1501, contains provisions I proposed relating to the process by which decisions are to be made by the VA regarding the location of Vietnam veteran readjustment counseling centers, the so-called Vet Centers, through which the VA currently provides readjustment counseling services to eligible Vietnam-era veterans.

Mr. President, these provisions in the compromise agreement would do two things. First, they would generally amend the law so as to permit the relocation of a Vet Center from one community location to another in cases in which the move is necessitated by "conditions beyond the VA's control," such as the reasons cited by the VA in a July 25 letter to me and House Chairman SONNY MONTGOMERY which I inserted in the RECORD during Senate debate on S. 2011 on October 18—beginning on page S 16563. Such relocations could take place with 30-days advance notice but without regard to the limitations enacted in Public Law 100-322. Second, the compromise agreement would specifically authorize the movement, for reasons beyond the VA's control, of the 17 Vet Centers from one community location to another as proposed in the Chief Medical Director's July 25 letter.

LAND TRANSFER, RUTHERFORD, TN., TRANSFERS OF EXCESS PROPERTIES FOR STATE HOME FACILITY USES

Mr. President, I am also delighted to note that the compromise agreement, in sections 1504 and 1505, include provisions—originally derived from section 308 of H.R. 5114 and from proposals made by Senators SASSER and MURKOWSKI and myself which would, first, require that the Administrator transfer to the State of Tennessee, based on certain conditions and assurances, a 5-to-7-acre tract of land at the Alvin C. York VA Medical Center in Murfreesboro for the purposes of the construction and operation of a State veterans' home nursing home for veterans; and second, amend section 5022(a) of title 38, United States Code, to authorize the VA under certain conditions to transfer, to a State for use as the site of a State veterans' home nursing home or domiciliary care facility, real property that is excess to the VA's needs, and require 90 days advance notice of such transfers to the House and Senate Veterans' Affairs Committees which must be received by June 1 of the year in which the transfer is proposed to be made or in the preceding year.

Mr. President, these provisions address both the specific needs of the State of Tennessee for the VA to transfer a 5-to-7-acre tract of land at the VA Medical Center in Murfreesboro for the purposes of the construction and operation of a 120-bed State veterans' home nursing home and the need for a more generic approach that can apply in situations in which a State is ready and willing to use excess VA land to construct and operate a nursing home or domiciliary for veterans. In such cases, the transfer to the State would enable the property, while in the hands of the State, to continue to be used for the basic purpose of providing care for VA-health-care eligible veterans.

HEALTH CARE PROVISIONS

Mr. President, unfortunately, with the exception of those few provisions which provide for continuation of the authority for a program or make technical changes, we were unable to reach an agreement with the House on the vast majority of the health-care provisions which were reported in S. 2011. Thus, these provisions are not included in the compromise agreement.

Mr. President, we reached a stalemate on these health-care measures over the issue of the inclusion of section 101 of H.R. 5114, as passed by the House, which would mandate special pay for nurses of up to $7,000 per year depending upon tenure, geographic region, and health-care specialty.

The VA, as are other Federal and non-Federal health-care facilities, is having a very difficult time recruiting and retaining nurses. I strongly support measures aimed at helping the VA to overcome problems of recruitment and retention of health-care professionals as well as those strengthening the nursing profession. In this regard, I have authored provisions enacted this past May as part of Public Law 100-322 which established a VA tuition-reimbursement program, provided VA nurses with Saturday premium pay, and mandated that the chief nurse sit on medical center policymaking committees. Also included in that act was a provision I coauthored with Senator DECONCINI, which provided for the VA to establish child-care centers in VA facilities for the children of VA employees. Additionally, as part of S. 2462 which I introduced on May 27, 1988, and which was incorporated into S. 2011, I proposed provisions to carry out a pilot program designed to test recruitment and retention methods and encourage post-secondary schools offering health-care training courses to expand and improve their programs. Most recently, on October 18, when the Senate passed those provisions, it also passed my amendment to S. 2011 to increase the amount by which the VA could increase special pay rates.

Over the last several years, beginning in 1980, I have authored in the Senate many other provisions to help the VA deal with recruitment and retention problems regarding nurses and other health-care personnel. Of particular relevance to nurses have been provisions in Public Law 96-330, enacted on August 26, 1980, authorizing special pay rates, the VA Scholarship Program, and a pilot program to study nurse recruitment and retention; and provisions in Public Law 97-251, enacted on September 8, 1982, authorizing the Administrator to increase pay for such purposes as overtime, weekend pay, and evening and night-shift differentials, modifying the Scholarship Program to make VA employees

eligible to participate, and authorizing the implementation of the "Baylor Plan" for scheduling and reimbursing nurses.

I recognize the need for a salary increase for VA nurses in many areas and specialties so as to help the VA remain competitive with non-Federal facilities, but I am not convinced that the House approach, requiring mandatory, across-the-board increases, is the right way to go. I believe that the House provision would increase the financial strain the VA is already experiencing, since, according to the best information available to me based on past practice, the VA would inevitably be forced to absorb a high portion of the increased costs, estimated to be $70 to $100 million a year. Faced with a $635 million deficit for this fiscal year, I do not see how we could appropriately require the VA to increase further its expenditures across the board as the House provision would mandate. For more information about the current VA fiscal crisis, I refer my colleagues to my statement in the October 6, 1988, RECORD, beginning on page S14756.

Mr. President, in regard to the VA fiscal crisis, on October 11, 1988, I and 24 of my colleagues wrote to Ronald Reagan urging him to take a personal interest in the funding problems the VA is experiencing.

Mr. President, I ask unanimous consent that the text of that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, DC, October 11, 1988.

Hon. RONALD REAGAN,
The White House, Washington, DC 20500

DEAR MR. PRESIDENT: We are writing to call your attention to the urgent funding problems now being experienced within the Veterans' Administration health-care program and to urge that you direct the Office of Management and Budget to send forth the supplemental request which was forwarded there. According to the Administrator of Veterans' Affairs, he has met personally with the OMB Director "to bring him up to date on the needs of the Medical Care account in FY 1989".

On September 9 and 20, the Senate Veterans' Affairs Committee held oversight hearings to explore various concerns which had been raised by VA doctors, nurses, and other health-care professionals, as well as affiliated medical schools, that the agency was not fulfilling its responsibility to provide prompt and effective health care to those veterans eligible for it. These concerns were validated at the hearing by 9 VA field witnesses who, testifying under oath, all described the current fiscal state of affairs as a "crisis" and "the worst financial crunch" they had ever seen in VA health care.

In connection with those hearings, the VA's Chief Medical Director has advised that the VA is facing at least a $635 million deficit for fiscal year 1989. Additionally, over the years, the agency has been reallocating large amounts of money from both recurring items—such as inventories, drugs, and prostheses—and non-recurring items—such as equipment and maintenance and repairs—in order to maintain daily operations. The cumulative effect of these reallocations is to reduce the current funding base by another $440 million, thus making the total VA health-care deficit approximately $1.1 billion in all.

On September 9, the Administrator testified that a supplemental request had been forwarded to OMB to assist in offsetting the anticipated deficit. The Administrator said he would do everything within his power, including appealing to you if necessary, to obtain timely Administration action on the request. On September 13, 1988, Senator Cranston wrote the Administrator to emphasize "two vitally important matters. * * * First, that the amount * * * in such a request be sufficient to enable the VA in FY 1989 to maintain its current levels of services and comply with all applicable laws; and, second, that your actions be most expeditious in order to produce an Administration request that can be considered by the House Appropriations Committee when it marks up an FY 1989 continuing resolution. * * * I would underscore the testimony of the Chief Medical Director * * * that an additional appropriation of $608 million [later revised upward to $635 million] is necessary for this purpose. Otherwise, depending on the amount of the shortfall, the VA would be forced to take a number of actions * * * to cut back on health-care services to veterans."

On October 1, because no supplemental appropriation was received by Congress, the VA, as predicted, began cutting back on health-care services and veterans are now being turned away from VA medical facilities. Yet a supplemental request has not been forthcoming from OMB. We believe that this is tragic. Many of these veterans have nowhere else to turn for health care. The result of these cutbacks will be that the health and quality of life of a number of these veterans will deteriorate—with fatal consequences in some cases.

We are especially concerned that OMB will be unsympathetic to the VA's supplemental request. In a May 24, 1988, letter to the Chairman of the House Appropriations Subcommittee on HUD-Independent Agencies, in connection with its consideration of the FY 1989 VA appropriation, OMB Director Miller stated that veterans' programs, among other items, are "a low-priority service".

Mr. President, we have been unable to determine whether or not the Administrator has sought your assistance. We wanted to be sure that you were personally aware of this very grave situation. We believe that the VA has an urgent need for additional funds in order to maintain the level of health-care services it offered in FY 1988. We respectfully ask that you personnally intervene and instruct OMB to transmit the supplemental request to Congress immediately—in adequate time for us to act prior to adjournment.

Your immediate attention to this matter would be greatly appreciated.

With warm regards,

Cordially,

Alan Cranston, John Melcher, Dennis DeConcini, Max Baucus, Brock Adams, John D. Rockefeller IV, Howard M. Metzenbaum, Thomas Daschle, Quentin N. Burdick, Spark M. Matsunaga, George J. Mitchell, Alan J. Dixon, Patrick Leahy, Bob Graham, Daniel K. Inouye, Kent Conrad, Donald W. Riegle, Frank R. Lautenberg, Claiborne Pell, Daniel P. Moynihan, Terry Sanford, Wendell Ford, Jeff Bingaman, Tom Harkin, Carl Levin.

Mr. CRANSTON. Mr. President, I believe that mandating an increase in nurses' salaries without ensuring that the VA would have adequate funds to cover such an increase would have a very harmful effect on the system as a whole. The VA would be forced into draining off more money from nonrecurring items, like equipment and maintenance and repair, to meet the costs of daily operational needs—this would be still more of robbing Peter to pay Paul. Indeed, nurses might be enticed to work at the VA as a result of the increased salaries, but they would not stay long without the necessary supplies and equipment needed to practice and provide appropriate care.

The VA currently has the authority to increase salaries by using the special rate authority I authored in section 4017(g) of title 38. That section authorizes the VA to increase rates of basic pay in order: First, to provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of personnel at non-Federal facilities in the same labor market, second, to achieve adequate staffing at particular facilities, or third to recruit personnel with specialized skills, especially those with skills which were difficult or demanding.

As of July 31, 1988, 117 out of 168 VA facilities were utilizing this authority for RN's and 9 others had requests pending. The VA estimates that, for all the occupations within the 153 hospitals where special rates have been authorized since 1987, $202 million will be required. Of the total requirement, $117 million will be obtained by redirecting funds from existing resources—the remaining $85 million has been provided for in the fiscal year 1989 appropriation. Within the total $202 million requirement, the VA estimates that approximately 60 percent, $121 million, will be authorized for registered nurses.

Athough the VA regulations for justifying such an increase under the special rate authority are cumbersome and the review process time consuming, the VA General Counsel has recently issued an opinion which would permit the VA to streamline those procedures. It is my understanding that the VA is seriously considering doing so, and I strongly urge that this be done.

In addition to the authority to increase basic pay rates, the VA, in Public Law 100-322, was given the authority—although no money has yet been appropriated to implement it—to provide bonus pay to nurses of up to $16,000 over a 4-year period to nurses, or other scarce health-care professionals, who live in a geographic area or

work in a clinical specialty where recruitment or retention is a problem.

Both the special rate and bonus pay provisions permit the VA to take targeted—I stress targeted—action to meet a specific problem in a specific area. Although the same problem exists with these provisions as exists with the House measure—lack of appropriations to support them—I believe these provisions are preferable at this time to the House solution because they are not mandatory and can be applied regionally or locally and by specialty, as the situation warrants.

Mr. President, the subject of salary rates and accompanying appropriations is an extremely difficult one and one which requires a great deal of thought and reflection prior to implementing a new system. The House reported its bill on September 15 and passed it on September 22. We have not had adequate opportunity to assess all of its ramifications, but I have indicated today something about our preliminary analysis.

As chairman of the Veterans' Affairs Committee, I plan to reintroduce at the outset of the 101st Congress the unenacted provisions from S. 2011 and hold a hearing very promptly to explore possible legislative remedies to resolve current recruitment and retention problems for nurses and other health care personnel in the VA.

CONDITIONS OF EMPLOYMENT OF CERTAIN PERSONNEL

Mr. President, I am very disappointed that the compromise agreement does not contain a provision which was added to S. 2011 during Senate debate on October 18 to hold in abeyance, until October 1, 1989, the decision of the U.S. Court of Appeals for the District of Columbia Circuit in the case *Colorado Nurses Association and VA Medical Center, Ft. Lyon, Colorado* v. *Federal Labor Relations Authority* (No. 87-1104, July 19, 1988). As I discussed during that debate, that decision reversed a decision of the Federal Labor Relations Authority [FLRA] which held that the VA has a duty under the Civil Service Reform Act [CSRA], Public Law 96-454, to bargain with title 38 VA employees over conditions of employment. The court ruled that the VA Administrator has exclusive discretion to establish regulations concerning the working conditions of such employees and is, therefore, not under any obligation to bargain with such employees based on the CSRA.

Because we are concerned that the court's decision in *Colorado Nurses* affects so significantly the underlying relationship between these employees and the VA, we anticipate that the committee will have to undertake concerted efforts next year involving the Congress, the VA, organizations representing VA employees, and others with an interest in VA health-care matters to try to develop an overall solution to this matter.

In the meantime, in order to allow that process to go forward, Senator MURKOWSKI and I proposed the provision in our amendment to S. 2011 in order to provide interim relief by staying the effect of the *Colorado Nurses* decision for a year during which time the parties would be in the same position they were in before the decision was issued. Unfortunately, our colleagues in the House were not persuaded that there was any need for such a status quo provision, because there was no indication that the VA planned any alteration of that status.

Mr. President, I intend to watch this situation very closely in the weeks and months ahead, as our committee grapples with the overall question of the appropriate relationship between the VA and title 38 personnel and will be prepared to take whatever steps are appropriate if I become aware of actions on the VA's part which seek to implement the court's decision during the period in which we are trying to work out a final compromise.

OTHER S. 2011 PROVISIONS NOT INCLUDED IN THE COMPROMISE AGREEMENT

Mr. President, I regret that other provisions in S. 2011 as passed by the Senate were also not included in the compromise agreement reached with the House. These provisions would:

First, clarify that eligibility for waiver of VA home loan debts is available to active duty service personnel.

Second, require the VA to furnish inpatient and outpatient mental health services to veterans diagnosed, on the basis of a personal examination, by a mental health professional designated by the Chief Medical Director as suffering from service-related posttraumatic stress disorder [PTSD].

Third, mandate the VA's Special Committee on PTSD to submit to the Administrator—who would submit them to the two Veterans' Affairs Committees—three reports—the first, due April 1, 1989, giving the special committee's evaluation of the results of the study mandated by Public Law 98-160 on the prevalence and incidence of PTSD among Vietnam veterans, and the second and third, due February 1, 1990 and 1991, respectively, updating prior reviews of the VA's efforts to meet the needs of veterans with PTSD.

Fourth, require the VA to carry out a scientifically valid study of the postwar psychological problems among Asian-American, American-Indian, native Hawaiian, other native American Pacific Islander—including American-Samoan native, and Alaska native Vietnam veterans.

Fifth, authorize the appropriation of $3.125 million for fiscal year 1989 and $6.25 million for each of the following 3 fiscal years to establish and operate five Mental Illness Research, Education, and Clinical Centers [MIRECC's] at VA facilities meeting certain prescribed criteria, and require at least one MIRECC to be designated by July 1, 1989.

Sixth, extend entitlement to readjustment counselng to veterans who have served in hostilities after May 7, 1975—the end of the Vietnam era, and eligibility for such services to World War II and Korean conflict veterans, with particular emphasis in the furnishing of counseling on the needs of those who served in combat.

Seventh, extend for 1 year, through fiscal year 1990, the VA's authority to furnish respite care to certain chronically ill veterans and also for 1 year, through fiscal year 1990, the due date for a VA report on an evaluation of furnishing such care.

Eighth, revise the VA's authority to enter into agreements for sharing scarce medical resources so as to, (a) delete the requirement that reimbursement rates cover full costs and substitute the statutory standard for VA-Department of Defense sharing agreements—a "methodology that provides appropriate flexibility" after costs are taken into account, (b) provide that payments for the use of VA resources be allotted to the VA facility involved, and (c) expand the categories of facilities with which the VA may enter into sharing agreements to include all health care facilities.

Ninth, extend for 3 years, through fiscal year 1992, the authorization of appropriations for State veterans' home construction grants.

Tenth, require the VA to conduct a 4-year pilot program under which the agency would provide specially trained monkeys to no more than 20 veterans who have service-connected disabilities rated 50 percent or more disabling and are quadriplegic; allow the VA to provide up to 10 specially trained service dogs to such quadriplegic veterans who would benefit from the assistance provided by such a dog; and facilitate the provision of monkeys to no more than 20 other veterans who are quadriplegic; and require the Administrator to conduct an evaluation of this program.

Eleventh, require the VA to conduct a pilot program for the provision of dogs specially trained to provide hearing assistance to individuals who are deaf to not more than 20 veterans with service connecting hearing impairments who are in need of the assistance of such dogs.

Twelfth, reduce from 90 to 45 days the period, after VA submission of a title 5 health-care employees' special pay rate request, in which the President may disapprove the proposed rate, and clarify that the VA may take action based on approval given in a short period.

Thirteenth, provide for the VA Health Professional Scholarship Program to be extended to persons enrolled in the second year of an associate degree nursing program.

Fourteenth, authorize the appropriation of $5 million for each of fiscal years 1989 and 1990 and $6 million for each of fiscal years 1991 and 1992 for the VA to reinstitute—with modifications—a program of grants to provide assistance in the education of health care personnel, other than physicians and dentists, by VA-affiliated schools and to assist in developing and evaluating new health careers, interdisciplinary approaches, and career-advancement opportunities in collaboration with representatives of those professions the members of which are currently responsible for carrying out the duties involved, and authorize the VA to use up to 10 percent of each year's appropriation on VA programs to develop or initiate improved methods of education and training for health care personnel.

Fifteenth, require the VA during calendar years 1989, 1990, and 1991 to conduct, and submit periodic reports on, a pilot program at not less than five VA health care facilities to determine the desirability of implementing various pay and management practices relating to the recruitment and retention of registered nurses and other scarce health care professionals; and provide the VA with the authorities to implement, as part of the pilot programs, flexible employee benefits and action to minimize pay compression.

Sixteenth, provide that the procedures in title 5 for the resolution of specified lesser disciplinary actions—admonishments, reprimands, suspensions of 14 days or less, and transfers not involving loss of grade—would be used in cases involving title 38 VA health care personnel—including the use of a negotiated grievance procedure involving an appeal to an arbitrator for those employees who are members of recognized bargaining units—and create, in title 38, a grievance-resolution process that parallels that available to title 5 employees.

Seventeenth, expand the period defined for title 38 purposes as the Vietnam era in the case of veterans who served in the Republic of Vietnam to include the period beginning on February 28, 1961, and ending on August 4, 1964—the day before the starting date in current law.

Eighteenth, require disclosure to the VA of, (a) certain third party reported information maintained by the Internal Revenue Service [IRS] and the Social Security Administration [SSA] relating to income, for 2 tax years 1988 and 1989, for purposes of verifying eligibility for VA needs based pension or parents' dependency and indemnity compensation or for VA health care services based on income status, and (b) IRS and SSA information relating only to wage and self-employment income for purposes of determining eligibility for compensation paid at the total-disability rate based on an individual determination unemployability.

Nineteenth, allow the VA, in the case of compensation beneficiaries with total-disability ratings based on individual unemployability, to verify or otherwise act upon wage data only if the Administrator finds that the amount and duration of the earnings reported therein clearly indicate that the individual may no longer be qualified for a rating of total disability.

Twenty, prohibit the Administrator from using such IRS or SSA information without first complying with Social Security Act requirements relating to, (a) independent verification of the date, (b) notifying the individual concerned, and (c) allowing the individual fair opportunity to contest agency findings based on such information.

Twenty-one, require the VA, within 90 days after the date of enactment and before obtaining any such IRS or SSA information, to notify certain recipients of the applicants for VA benefits and services that income reported to the VA will be subject to verification against such information.

Twenty-two, provide that the VA's costs for the program under which IRS and SSA information would be obtained, used, and verified would be paid from the VA's compensation and pension account and that amounts collected as a result of the program would be paid into that account.

CONCLUSION

Mr. President, in closing I want to express my deep appreciation to the distinguished chairman and ranking minority member of the House Committee on Veterans' Affairs, Mr. MONTGOMERY and Mr. SOLOMON, as well as the ranking minority member of the Senate Committee, Mr. MURKOWSKI, for their cooperation and many courtesies on this measure.

Mr. President, it has been a pleasure to work with Senator MURKOWSKI and all the members of the Senate committee in the development of this comprehensive legislation. I want to note the contributions of, and express my deep gratitude to, the committee staff members who have worked on this legislation—on the minority staff, Lisa Moore, Chris Yoder, Laura Stepovich, Tom Roberts, Tony Principi, in his last effort before leaving the position of minority chief counsel and staff director, and Tony's successor, Al Ptak, minority staff director; Roy Smith, who so ably provides editorial support to the committee; and, on the majority staff, Jane Wasman, Sandi Isaacson, Barbara Masters, Elizabeth Buechler, Darryl Kehrer, Kris Hardy, Tabb Osborne, Erin McGrath, Deborah Leon, Ann Danelski, Charlotte Hughes, Loretta McMillan, Karen Paul, Sharon Blackman, Claudia Kashin, Bill Brew, Ed Scott, and Jon Steinberg and Cathy Chapman, Jennifer Loporcaro, and Liz Giffin, who have left the staff.

I also wish to note the contributions of the staff of the House Committee on Veterans' Affairs—Vic Raymond, Jack McDonell, who last month left the staff after a distinguished career, Charlie Peckarsky, Arnold Moon, John Brizzi, Jill Cochran, Rufus Wilson, Kingston Smith, Pat Ryan, and Mack Fleming—in working with us to reach the final agreement on this measure.

Finally, as always, we are deeply indebted to Greg Scott and Bob Cover of the Senate and House Legislative Counsel's Office for their outstanding work in connection with the drafting of the compromise agreement.

Mr. President, I am disappointed that the compromise agreement does not contain many of the provisions in S. 2011 as reported by our committee and as passed by the Senate on October 18 in H.R. 4741. However, I am pleased that, through the enactment of this truly bipartisan measure, we will be able to ensure a timely COLA for service-connected disability compensation and DIC recipients, as well as help to maintain and improve VA benefits and other programs.

Mr. President, I urge unanimous approval of the pending compromise agreement in the House amendment to the Senate amendment adopted on October 18.

Mr. President, I ask unanimous consent that an informal cost estimate on the provisions of division B prepared by the Congressional Budget Office be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 11, DIVISION B: VETERANS' BENEFITS IMPROVEMENT ACT OF 1988, AS PASSED BY THE HOUSE OF REPRESENTATIVES, OCTOBER, 9, 1988

[By fiscal years, in millions of dollars]

Direct spending	1989		1990		1991		1992		1993	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
SCORING AGAINST RESOLUTION										
Sec. 1101: Compensation COLA [1] (4.1 percent rounded down)	345	311	408	409	403	403	398	398	393	393
Sec. 1201: Reapprop. of AO study funds	4	4	0	0	0	0	0	0	0	0
Total, direct spending	349	315	408	409	403	403	398	398	393	393
AUTHORIZATION										
Sec. 1202: Exten. of AO Health-Care Auth	0	0	12	10	3	5	0	0	0	0
Sec. 1303: Voc. Rehab. for pensioners	2	2	3	3	1	1	([2])	([2])	0	0
Sec. 1502: Grants to the Philippines	0	0	1	0	0	([2])	0	([2])	0	([2])
Sec. 1601: State Vet. Cemetery Grants	0	0	3	0	3	0	4	1	4	2
Sec. 1602: Corregidor War Memorial Repairs	6	1	([2])	1	([2])	2	([2])	1	([2])	1
Total, authorization	8	3	19	14	7	8	4	2	4	3
Grand total, S. 11	357	318	427	423	410	411	402	400	397	396

[1] The budget resolution assumes a 4.5 percent COLA, which would increase budget authority by $400 million in 1989 and outlays by $361 million.

[2] Less than $500,000.

S. 11, DIVISION B: VETERANS' BENEFITS IMPROVEMENT ACT OF 1988, AS PASSED BY THE HOUSE OF REPRESENTATIVES, OCTOBER 19, 1988

[By fiscal years, in millions of dollars]

Direct spending	1989		1990		1991		1992		1993	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
SCORING AGAINST G-R-H BASE										
Sec. 1101: Compensation COLA [1] (4.1 percent rounded down)	345	311	408	409	403	403	398	398	393	393
Sec. 1201: Reapprop. of AO Study Funds	4	4	0	0	0	0	0	0	0	0
Sec. 1203: AO lawsuit settlement funds	5	5	5	5	5	5	5	5	5	5
Total, direct spending	354	320	413	414	408	408	403	403	398	398
AUTHORIZATION										
Sec. 1202: Exten. of AO Health-Care Auth	0	0	12	10	3	5	0	0	0	0
Sec. 1303: Voc. Rehab. for pensioners	2	2	3	3	1	1	([2])	([2])	0	0
Sec. 1502: Grants to the Philippines	0	0	1	0	0	([2])	0	([2])	0	([2])
Sec. 1601: State Vet. cemetery grants	0	0	3	0	3	0	4	1	4	2
Sec. 1602: Corregidor War Memorial repairs	6	1	([2])	1	([2])	2	([2])	1	([2])	1
Total, authorization	8	3	19	14	7	8	4	2	4	3
Grand total, S. 11	362	323	432	428	415	416	407	405	402	401

[1] The CBO sequester base includes a full 4.1 percent COLA in compensation benefits. This is estimated to cost $365 million in budget authority in 1989 and $328 million in outlays.

[2] Less than $500,000.

Mr. CRANSTON. Finally, Mr. President, I ask unanimous consent that an explanatory statement on the compromise agreement on division B of S. 11 as amended be printed at this point in the RECORD.

There being no objection, the materials was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT ON THE COMPROMISE AGREEMENT ON DIVISION B OF S. 11 AS AMENDED, THE "VETERANS' BENEFITS IMPROVEMENT ACT OF 1988"

This document explains provisions of various measures (listed below) passed by the Senate and House of Representatives and the provisions of a compromise agreement between the Senate and House Committees on Veterans' Affairs on those provisions, which will be offered as a proposed House amendment to S. 11 as amended and passed by the Senate on October 18, 1988. The differences between these various measures and the provisions of the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

The measures referred to above are as follow:

H.R. 4861, a bill to extend the authorization of appropriations for grants for State veterans' cemeteries as passed by the House on July 12, 1988 (hereinafter referred to as "H.R. 4861").

H.R. 4741, the proposed "Veterans' Compensation Act of 1988", as passed by the House on July 26, 1988 (hereinafter referred to as "H.R. 4741").

H.R. 4948, the proposed "Bill to Direct the American Battle Monuments Commission to Restore, Operate, and Maintain the Pacific War Memorial and other Historic Memorial Sites on Corregidor in the Republic of the Philippines", as passed by the House on September 20, 1988 (hereinafter referred to as "H.R. 4948").

The provisions (other than section 201(a)) of H.R. 5114, the proposed "Veterans' Health-Care Programs Amendments of 1988", as passed by the House on September 22, 1988 (hereinafter referred to as "H.R. 5114").

The provisions (other than sections 301 and 302, part B of title III, and sections 606 and 702) of S. 2011, the proposed "Veterans' Benefits and Programs Improvement Act of 1988," the text of which was agreed to by the Senate on October 18, 1988, as an amendment to H.R. 4741 (hereinafter referred to as "S. 2011").

TITLE XI—COMPENSATION RATE INCREASES

Disability compensation and dependency and indemnity compensation COLA

House bill: The House bill (sections 2 through 7 of H.R. 4741) would provide for a 4.2-percent COLA, effective December 1, 1988, in the rates of VA disability compensation and DIC.

Senate amendment: The Senate amendment (section 101) would provide for the rates to be increased by the same percentage as the December 1, 1988, Social Security/VA pension COLA—currently estimated by the Office of Management and Budget to be 3.9 percent and informally estimated by the Congressional Budget Office to be 3.9 to 4.0 percent—effective on the same date.

Compromise agreement: The compromise agreement (sections 1101–1106) provides for a 4.1-percent COLA, effective December 1, 1988.

TITLE XII—AGENT ORANGE AND RELATED PROVISIONS

Funding for agent orange blood testing

House bill: The House bill (section 306 of H.R. 4741) would provide, from the unexpended funds provided to conduct the Agent Orange epidemiological study mandated under Public Law 96-151, that $3 million be available for testing the blood dioxin levels of those individuals (so-called "Ranch Hand personnel") who are participating in an ongoing U.S. Air Force study of their health status.

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1201) contains this provision with amendments to increase the authorized amount to $4 million, with $3 million to be available for the Ranch Hand blood testing and $1 million to be available to fund a survey—to be conducted by an independent scientific entity under contract to the VA pursuant to a law enacted after enactment of the compromise agreement—of the scientific evidence, studies, and literature on the health effects of possible exposure to toxic chemicals contained in herbicides used in Vietnam during the Vietnam era.

The Committees note that the $4 million in question here is offset by $5 million in additional savings to be realized from the compromise agreement in section 103 of S. 2049 establishing a 7-month open period for the Montgomery GI Bill.

Extension of health-care eligibility based on agent orange or ionizing radiation exposure

House bill: No provision.

Senate amendment: The Senate amendment (section 220) would amend section 610(d)(3) of title 38 to extend, by 15 months, from September 30, 1989, to December 31, 1990, VA health-care eligibility for Vietnam veterans who may have been exposed to dioxin (and certain veterans exposed to ionizing radiation).

Compromise agreement: The compromise agreement (section 1202) contains this provision.

Treatment for needs-based benefits purposes of amounts received under agent orange litigation settlement

House bill: No provision.

Senate amendment: The Senate amendment (section 221) would amend sections 415(f)(1) and 503(a) of title 38 to exclude from computation of income for purposes of VA needs-based pensions, parents' DIC, and health-care based on financial status, payments received in settlement of or as the result of a judgment in litigation based on injuries or disabilities alleged to have been incurred as a result of events that occurred during the active-duty service of a veteran—as long as the annual amount of such payment does not exceed the annual income limits set for pension benefits for a veteran with the same marital status and number of dependents. In a freestanding provision, payments received in settlement of In re Agent Orange Product Liability Litigation, MDL 381 (E.D.N.Y.), would be excluded from computation of income for purposes of all Federal needs-based benefits other than such VA benefits.

Compromise agreement: The compromise agreement (section 1203) includes a free standing provision which provides that payments received in connection with settlement of the Agent Orange Litigation are to be treated as reimbursement for prior unreimbursed medical expenses and shall not be counted as income for purposes of laws administered by the VA.

The House Committee notes that it has jurisdiction only over matters concerning VA benefits.

Ranch hand study advisory committee

House bill: No provision.

Senate amendment: The Senate amendment (section 232) would (a) require, effective March 1, 1989, that at least one-third of the Ranch Hand study advisory committee (Advisory Committee) be composed of qualified scientists nominated by veterans' organizations; (b) provide that a scientist would be deemed "qualified" if he has received an appropriate advanced degree in a relevant field and has published relevant scientific articles, or has equivalent qualifications; (c) require, effective March 1, 1989, that the chairman of the Advisory Committee cannot be a Government scientist unless the Secretary of HHS makes determination, which the Secretary would be required to report to the Committees, and that a qualified non-Government scientist is not available; and (d) require the Secretary of HHS to furnish financial and logistical support to the Advisory Committee Chairman. The Senate amendment (section 234) would also require the Secretary of Defense to submit to the Committees a schedule of annual progress reports and a final report for the Ranch Hand study, which reports would then also be required to be submitted to the Committees.

Compromise agreement: The compromise agreement (section 1205) contains the provisions relating to the Advisory Committee membership, Chairman, and progress reports.

Agent orange outreach services

House bill: No provision.

Senate amendment: The Senate amendment (section 218) would require the VA to (a) conduct an outreach program to keep Vietnam veterans informed of (1) new developments regarding the health effects of service in Vietnam, including annually providing updates on any such health risks, and (2) veterans' benefits and services available to such veterans; (b) reorganize the Agent Orange registry and keep it updated; and (c) take reasonable actions to organize the information in the registry so that it can be used by the VA to notify veterans promptly of any increased health risk from exposure to dioxin (or other toxic agent). In addition, the VA would be required to furnish to the Committees any information provided to veterans in (a)-(c), above.

Compromise agreement: The compromise agreement (section 1204) contains this provision, with amendments providing that updates on any health risks be provided as information on such risks becomes known, rather than annually and deleting the requirement that information furnished to veterans be provided to the Committees as well.

TITLE XIII—REHABILITATION PROVISIONS

Temporary programs of trial work periods and vocational-rehabilitation evaluations

House bill: No provision.

Senate amendment: The Senate amendment (section 303) would amend section 363 of title 38 and section 111(c) of Public Law 98-543 to (a) extend for three years, through January 31, 1992, the temporary programs of trial work periods and vocational-rehabilitation evaluations for service-connected-disabled veterans rated totally disabled based on a determination of individual employability, and (b) remove the requirement that these veterans undergo vocational rehabilitation evaluations to determine their rehabilitation potential.

Compromise agreement: The compromise agreement (section 1301) contains this provision.

Funding of educational and vocational counseling services

House bill: No provision.

Senate amendment: The Senate amendment (section 332) would amend chapter 36 of title 38 to add a new section 1797 to require that, subject to a $5 million limitation in any fiscal year, VA contracts for the educational and vocational counseling services provided to individuals applying for or receiving benefits under (a) the temporary program of vocational training under section 524 of title 38 for certain non-service-disabled veterans newly awarded need-based VA pension, or (b) any VA-administered program of educational assistance be paid for out of the VA's Readjustment Benefits account.

Compromise agreement: The compromise agreement (section 1302) contains this provision.

Vocational training for pension recipients

A. Extension of Program Period; Protection of Health-Care Eligibility

House bill: The House bill (section 9(b) of H.R. 4741) would amend sections 524 and 525 of title 38 to extend for three years, from January 31, 1989, until January 31, 1992, the temporary programs (a) of vocational training for certain non-service-disabled veterans newly awarded need-based pension, and (b) of three-year protection of veteran-pensioners' VA health-care eligibility if they lose pension entitlement as a result of work income.

Senate amendment: The Senate amendment (section 341) contains a substantively identical provision except that it extends the program for one year, from January 31, 1989, until January 31, 1990.

Compromise agreement: The compromise agreement (section 1303) contains the House provision.

B. Program Expansion

House bill: The House bill (section 9(a) of H.R. 4741) would amend section 524(a) of title 38 (a) to expand the program to permit veterans who were awarded pension prior to February 1, 1985, to apply for evaluations as whether their achievement of a vocational goal is feasible and, if so, to participate in vocational training, and (b) to remove the restriction providing that, under this program, not more than 3,500 veterans may be evaluated during any 12-month period beginning on February 1 on their potential to achieve a vocational goal.

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1303) contains the House provision described in (a), above.

TITLE XIV—MISCELLANEOUS BENEFIT PROVISIONS

Life insurance programs

A. Authority for Payment of Interest on Insurance Settlements

House bill: No provision.

Senate amendment: The Senate amendment (section 401) would, with respect to insurance policies maturing after the date of enactment, amend subchapters I and II of chapter 19 of title 38 to authorize the Administrator, where it is administratively and actuarially sound to do so, to pay interest on the proceeds of National Service Life Insurance (NSLI), Veterans' Special Life Insurance (VSLI), Veterans Reopened Insurance (VRI), and United States Government Life Insurance policies from the date the policy matures to the date the proceeds are paid.

Compromise agreement: The compromise agreement (section 1401(a)) contains this provision.

B. Authority to Adjust Discount Rates for Advance Payment of Premiums

House bill: No provision.

Senate amendment: The Senate amendment (section 402) would, with respect to premiums paid after the date of enactment, amend subchapter I of chapter 19 of title 38 to authorize the Administrator, where it is administratively and actuarially sound to do so, to adjust the discount rates for premiums paid in advance on NSLI, VSLI, and VRI policies, although no adjustments could be made below the discount rates currently authorized for each program—3 percent, 2.5 percent, and 3.5 percent, respectively.

Compromise agreement: The compromise agreement (section 1401(b)) contains this provision.

Income exclusion for casualty loss reimbursements

Senate amendment: The Senate amendment (section 709) would amend sections 503(a)(5) and 415(f)(1)(I) of title 38 to exclude reimbursement—in an amount not to exceed the fair market value or reasonable replacement value, whichever is greater—from any source for property loss, from the beneficiary's income used by the VA for purposes of determining eligibility for, and rates of, pension and parents' DIC.

House bill: No provision.

Compromise agreement: The compromise agreement (section 1402) contains this provision.

The Committees believe that the VA General Counsel has taken too restrictive a view of the authority provided under current law with respect to casualty loss reimbursements.

Recodification of provisions relating to certain benefits for survivors of certain veterans

House bill: The House bill (section of 8 of H.R. 4741) would (a) recodify, in a new section of title 38, provisions contained in section 410(b), of title 38, relating to DIC-equivalent benefits for survivors of certain veterans rated totally disabled at the time of death, and (b) in that new section, reduce from 2 years to 1 year the marriage-duration requirement for purposes of such DIC-equivalent benefits and establish, as alternatives to the duration-of-marriage criterion, the same alternatives that apply under section 404 of title 38 to DIC, *i.e.*, marriage within 15 years after service or a child born to the survivor and veteran.

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1403) contains this provision with an amendment deleting the provisions that would reduce the general marriage-duration requirement and require no specific marriage duration if the marriage occurs within 15 years after service.

TITLE V—HEALTH CARE

Readjustment counseling facilities

House bill: No provision.

Senate amendment: the Senate amendment (section 607) would amend section 612A(b)(1), relating to the process by which community-based Vietnam-era veteran readjustment counseling centers (Vet Centers) in existence on January 1, 1988, may be moved, to authorize the VA to move such a Vet Center from one community to another with 30 days notice, but without regard to the limitations enacted in Public Law 100-322, in cases in which the move is necessitated by "conditions beyond the VA's control" (*e.g.*, the landlord raises the rent to a level beyond what the agency is authorized to pay or the property is damaged or destroyed). This provision would also specifically authorize the movement, for reasons beyond the VA's control, of 17 Vet Centers to another community location, as proposed by the VA's Chief Medical Director in a July 25, 1988, letter to the Committees.

Compromise agreement: The compromise agreement (section 1501) contains this provision.

Contracts and grants for medical care for veterans in the Philippines

House bill: The House bill (section 201(b) of H.R. 5114) would—

(a) amend section 632(a) of title 38, relating to contracts for the furnishing of hospital care and medical services of United States veterans in the Philippines, to provide for a 3-year extension, through September 30, 1992, of the authority to enter into contracts with the Veterans Memorial Medical Center (VMMC) for the furnishing of such care and services; and

(b) amend section 632(b)(1) of title 38, relating to grants for the VMMC, to authorize the appropriation of $1,000,000 for fiscal years 1990 through 1992 for grants to assist the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such center.

Senate amendment: The Senate amendment (section 612) would—

(a) extend the contract authority for one year, fiscal year 1990, and authorize the appropriation of $500,000 for the grants for that year;

(b) require the Administrator of Veterans' Affairs to submit to the Senate and House Committees on Veterans' Affairs—

(1) February 1, 1989, and February 1, 1990, reports describing the use of grants funds during the preceding fiscal years; and

(2) a May 1, 1989, report containing:

(A) Information on the care furnished United States veterans in the Philippines in fiscal years 1986, 1987, and 1988, broken down by care for service-connected and non-service-connected disabilities, with respect to (i) the number of United States veterans furnished care at Veterans' Administration expense; (ii) the number of inpatient days of care and outpatient visits; and (iii) the amount of care and visits furnished at the VMMC or at other facilities.

(B) An analysis comparing the cost-effectiveness and quality of care furnished veterans through the VMMC and other facilities.

(C) A projection of the needs of United States veterans for care in the Philippines during fiscal years 1990 through 1993.

(D) A projection of the needs for the replacement and upgrading of the plant and facilities at the VMMC for fiscal years 1990 through 1993.

(E) The VA's plan for meeting the needs for care of United States veterans in the Philippines.

(F) Any planned actions and legislative recommendations of the Administrator.

(G) Any comments that the Secretary of State wishes to make on the contents of the report.

Compromise agreement: The compromise agreement (section 1502) contains the Senate provision with an amendment to authorize the appropriation of $1,000,000 for grants to the VMMC for FY 1990.

Technical Corrections

A. *Outpatient-Care Technical Amendments*

House bill: No provision

Senate amendment: The Senate amendment (section 710(a)(1)) would, effectively retroactively to May 20, 1988, the date of the enactment of Public Law 100-322, amend section 603(a)(2)(B) of title 38 to correct technical errors in amendments made by that public law. Thus, this provision would correct provisions of section 603(a)(2)(B) which, contrary to the intent of the Conferees on that measure, (a) failed to make outpatient contract care authority available for veterans with service-connected disabilities rated at 30 or 40 percent, who have incomes at or below the VA pension standard, who are former prisoners of war (POWs), who are World War I veterans, or who are in receipt of compensation or pension aid-and-attendance or housebound benefits, and (b) made pre-hospital and obviate contract care authority available for certain veterans with incomes above the pension aid-and-attendance level. The provision would also ratify actions of the VA taken pursuant to the provision as corrected during the period beginning May 20, 1988, through the date of enactment.

Compromise agreement: The compromise agreement (section 1503) contains this provision.

B. *Health-Care Personnel Technical Amendments*

House bill: No provision.

Senate amendment: The Senate amendment (section 710(a)(2)) would amend section 4114(a) of title 38, relating to temporary full-time, part-time, and without-compensation appointments, to correct technical errors in amendments made by Public Law 100-322. Thus, this provision would authorize the Administrator to employ pharmacists and occupational therapists—occupations which were shifted into the so-called title 5/title 38 hybrid personnel category by Public Law 100-322—in such less-than-permanent-full-time appointments.

Compromise agreement: The compromise agreement (section 1503) contains this provision.

C. *Health Personnel Tuition-Reimbursement Program Technical Amendment*

House bill: No provision.

Senate amendment: The Senate amendment (section 709(a) (3) and (4)) would amend section 4324 of title 38, relating to the liability of a participant in the VA's health-care personnel tuition-reimbursement program to make repayments for breach of the service-obligation agreement, to—

(a) delete the requirement for tuition-reimbursement recipients to pay treble damages in instances where the recipient fails to complete the period of obligated service and, instead, require repayment of only those sums actually expended, prorated to reflect the time remaining in the agreement; and

(b) require that participants who fail to maintain VA employment while pursuing a course being paid for by the VA be held liable for the amount which has been paid or is payable by the VA on their behalf, rather than only amounts that have been paid.

Compromise agreement: The compromise agreement (section 1503) contains these provisions.

Land transfer, Rutherford, Tennessee

House bill: The House bill (section 308 of H.R. 5114) would (a) require that the Administrator of Veterans' Affairs transfer to the State of Tennessee all right, title, and interest of the United States in and to a tract of land consisting of not to exceed seven acres, together with improvements, at the Alvin C. York Veterans' Administration Medical Center in Tennessee. Any such transfer would have to be subject to (a) the conditions (1) that the property transferred be used by the State for a nursing care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of title 38 and (2) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property would revert to the United States, and (b) such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1504) contains the House provision with a Senate amendment that (a) that transfer shall be made without regard to section 5022(a)(2)(A) of title 38, United States Code, and (b) the transfer may be made only if the Administrator has determined that the State of Tennessee has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of title 38, United States Code and section 641 of such title) necessary to construct and operate a State home nursing facility.

Transfers of excess properties for state home facility uses

House bill: No provision.

Senate amendment: The Senate amendment (section 707) would amend section 5022(a) of title 38, relating to disposing of VA property, to authorize the VA to transfer real property, which is excess to the VA's needs, to a State for use as the site of a State veterans' home nursing-home or domiciliary care facility without regard to section 5022(a)(2) of title 38, which requires advance Congressional notice of transfers and receipt of fair market value for the property, or any other provision of law relating to the disposition of real property by the United States. The provision would require that such a transfer may be made only under the conditions that (a) the Administrator determines that the State has provided sufficient assurance that it has the resources—including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of title 38 (construction grants) and section 641 of that title (per diem payments)—to construct and operate such a facility; (b) the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of title 38, and if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States. In addition, the transfer would be made under additional terms and conditions as the Administrator considers appropriate to the interests of the United States.

Compromise agreement: The compromise agreement (section 1505) contains this provision with amendment that a transfer of property for this purpose may not be made unless the Administrator submits to the Committees on Veterans' Affairs of the Senate and the House of Representatives, before June 1 of the year in which the transfer is proposed to be made or of the preceding year, a report providing notice of the proposed transfer and a period of 90 consecutive days elapses after the report is received.

Conversion of non-physician medical center directors to senior executive service

House bill: The House bill (section 105 of H.R. 5114) would—

(a) amend sections 4101(e), 4103(a), and 4107(c), relating to the appointment and pay of employees hired pursuant to title 38, and establish a freestanding provision to provide for the conversion of non-physician VA hospital directors from appointment under title 38 to appointment under the Senior Executive Service authority in title 5; and

(b) provide that no individual would have a reduction in pay as a result of this provision.

Senate amendment: The Senate amendment (section 626) is substantively identical to the House bill and, in addition, includes a provision to allow any current director to elect, within 60 days of the date of enactment, to remain under the title 38 appointment authority for as long as the individual continued to serve as a director.

Compromise agreement: The compromise agreement (section 1506) contains the Senate amendment.

Procurement through local contracts

House bill: No provision.

Senate amendment: The Senate amendment (section 704) would amend section 5025 of title 38, relating to procurement of health-care items through local contracts, to (a) postpone for four years, until December 1, 1992, the requirements that VA medical centers annually submit December 1 reports to the Administrator (containing lists indicating the quantity of each health-care item procured at each medical center under a local contract and the total amount paid for the item) and that the Administrator annually submit to the House and Senate Committees on Veterans' Affairs February 1 reports on the experience under section 5025 during the previous fiscal year; and (b) make a conforming change postponing until May 20, 1989, certain restrictions on procuring health-care items under local contracts. In lieu of the foregoing reports, the Administrator would be required to submit to the Committees by February 1, 1989, a report showing the percentages of the total of all health-care items procured by the VA in fiscal year 1988 through local contracts and follow-up reports, on February 1, 1990, 1991, and 1992, showing the percentages of the total of all health-care items procured by the VA and by each VA medical center in the prior fiscal year that were purchased through local contracts. In the case of each medical center where the percentage was greater than 20 percent, the Administrator would be required to provide an explanation for such level. Finally, this provision would amend (until December 1, 1992) the definition of the term "health-care item" in current section 5025 so that the definition would not include any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 73 (which includes food delivery items such as eating utensils, ladles, spatulas, and trays).

Compromise agreement: The compromise agreement (section 1507) contains this provision.

Standardization of coverage of medical and pharmaceutical items

House bill: No provision.

Senate amendment: The Senate amendment (section 704) would amend section 402 of the Veterans' Benefits and Services Act of 1988, Public Law 100-322 (38 U.S.C. 5025), to require that the Administrator shall develop and fully implement an agency-wide plan for the cost-effective standardization of "health-care items as defined in section 5025(e)(1) of title 38, United States Code", procured by the VA. Current law requires such a plan for "medical and pharmaceutical items".

Compromise agreement: The compromise agreement (section 1508) contains this provision.

Technical clarification of period of clinical evaluation of alcohol and drug abuse program

House bill: No provision.

Senate bill: No provision.

Compromise agreement: The compromise agreement (section 1509) would make a technical amendment to a provision (section 620A(8)(1) of title 38) expected to be enacted in the Veterans' Benefits and Programs Improvement Act of 1989 (S. 2049 as passed by the House on October 12, 1988, with a substitute compromise amendment) requiring the conduct of a longitudinal clinical evaluation of certain alcohol and drug treatment programs. The amendment would specify that December 1, 1988, is the beginning date of the period during which the evaluation is to be conducted.

TITLE XVI—CEMETERY AND MEMORIAL PROVISIONS

Extension of authorization of appropriations for State cemetery construction grants

House bill: The House bill (section 1 of H.R. 4861) would amend section 1008(a)(2) of title 38, relating to construction grants for State cemeteries for veterans, to (a) specify that the fiscal year 1989 appropriation authorization for this program would be $9 million, and (b) extend for four years, through fiscal year 1993, the authorization of appropriations of "such as may be necessary".

Senate amendment: The Senate amendment (section 411) would amend section 1008(a)(2) to extend for five years, through fiscal year 1994, the authorization of appropriations for the program at the "such sums" level.

Compromise agreement: The compromise agreement (section 1601) contains the Senate amendment.

Pacific war memorials and other historical and memorial sites on Corregidor in the Republic of the Philippines

House bill: The House bill (H.R. 4948) would (a) authorize the appropriation of $6 million for the construction, and of such other sums as are necessary for the operation of, the Pacific War Memorial and other historical and memorial sites on Corregidor; and (b) require the American Battle Monuments Commission to restore, operate, and maintain the memorial (using only funds specifically so appropriated and private contributions).

Senate amendment: No provision.

Compromise agreement: The compromise agreement (section 1602) contains this provision.

Provisions not included

In addition to the provisions discussed below, the House- and Senate-passed legislation, H.R. 5114 and S. 2011, respectively, included a number of provisions on which agreement could not be reached and which, therefore, are not included in the compromise agreement. Descriptions of the House provisions can be found in the report accompanying H.R. 5114 (H. Rept. No. 100-937) and descriptions of the Senate provisions, in the report accompanying S. 2011 (S. Rept. 100-439). Descriptions of provisions in the floor amendment to S. 2011 can be found on pages S. 16570 to S. 16575 of the CONGRESSIONAL RECORD for October 18, 1988.

A. House Provisions

Toledo, Ohio, outpatient clinc

House Bill: The House bill (section 307 of H.R. 5114) would require the Administrator to upgrade the Toledo, Ohio, VA satellite outpatient clinic to an independent clinic effective October 1, 1988, and ensure that it has adequate funding in any fiscal year to continue in that status.

Senate amendment: No provision.

Compromise agreement: No provision.

The Committees direct that, within 90 days after enactment, 2 FTEE be added to the current FTEE complement for the following purposes: 1 physician from a medical school, affiliated or otherwise, to be assigned as clinic director and 1 full-time patient representative. The committees also direct the VA to expand the affiliation with the Medical College of Ohio to include, where the College has particular expertise, clinical specialties in high demand by veterans as to which veterans visiting the Ann Arbor VA medical center are experiencing long waiting times for appointments. The Committees also encourage the development of agreements to share medical resources under the authority of the VA/DOD Sharing Act.

B. Senate Provisions

Clothing allowance

House Bill: No provision.

Senate amendment: The Senate amendment (section 102) would expand the clothing allowance authorized under section 362 of title 38—currently payable to a veteran who, because of service-connected disability, uses a prosthetic or orthopedic applicance (including a wheelchair) which tends to wear out or tear the veteran's clothing—to include cases in which the Administrator determines that the veteran uses medication prescribed for a service-connected skin condition that stains or otherwise damages the veteran's clothing.

Compromise agreement: No provision.

Expansion of multiyear procurement authority to include non-medical items

House Bill: No provison.

Senate amendment: The Senate amendment (section 705) would amend section 114 of title 38, relating to the VA's authority to make multiyear procurements of certain medical items, to (a) expand that authority to include non-medical items, and (b) make a technical correction in section 114(e)(2) so as to delete as unnecessary and faulty definition of the terms "cancel" and "cancellation".

Compromise agreement: No provision.

Home loan debt waiver

House Bill: No provision.

Senate amendmet: The Senate amendment (section 421) would amend section 3102(b) of title 38 to clarify that home-loan debt waivers are available to active-duty service personnel.

Compromise agreement: No provision.

Definition of vietnam era

House Bill: No provision.

Senate amendment: The Senate amendment (section 701) would amend section 101(29) of title 38 to modify the definition of "Vietnam era" for general title 38 purposes to change the starting date to include, in the case of those who served in the Republic of Vietnam, the period beginning February 28, 1961, and ending August 4, 1964 (the day before the starting date in current law).

Compromise agreement: No provision.

Mr. MURKOWSKI. Mr. President, I am most pleased to rise in support of final passage of S. 11, the judicial review, veterans' compensation and health-care bill. As ranking minority member of the Committee on Veterans' Affairs, I am happy to support this measure which would, among other things, provide a cost-of-living increase for veterans in receipt of disability compensation or survivors' benefits and make modifications to health-care programs administered by the Veterans' Administration.

COMPENSATION AND RELATED ISSUES

Mr. President, the cost-of-living adjustment is a mandatory requirement for the Congress. We cannot, and will not, allow inflation to erode the purchasing power of the disability benefits provided to those injured while on active duty or the survivors of those who die while on active duty or due to a service-connected cause. This legislation is continuing evidence that the Congress recognizes this obligation and will fulfill its duty.

Mr. President, the bill extends, for 3 years, the trial programs for providing counseling, evaluation, and vocational rehabilitation services to veterans who are awarded non-service-connected pensions or service-connected disability compensation at the 100-percent rate due to a determination of unemployability. These veterans have turned to the VA for income security, and they have received it. At the same time, this program will provide them with an opportunity to obtain the skills needed to overcome their disabilities and return to the world of work. It is my belief that this provision is a major benefit to disabled veterans since the respect and self-satisfaction derived from employment is worth far more than disability benefits. The bill also makes participation in the program voluntarily for veterans receiving service-connected compensation and allows individuals awarded pension prior to initiation of this trial program to participate. This ensures that limited VA resources will be focused on those most motivated to benefit from the opportunity presented by this program.

The bill also recognizing the extent of the burden borne by limited VA conseling and vocational rehabilitation resources by allowing limited payment for contract services from the readjustment benefits account.

In another provision, the bill liberalizes eligibility for benefits paid to the survivors of 100 percent disabled veterans who died due to a non-service-connected cause. These survivors are paid benefits in the same amount as survivors of veterans who die due to a service-connected cause if certain criteria for the period of total disability and length of marriage are met. The bill would allow payment of these benefits, irrespective of length of marriage, if a child has been born of the relationship.

AGENT ORANGE ISSUES

Mr. President, the Senate-passed bill contained provisions which were adopted by an amendment offered by Senators DASCHLE, KERRY, and CRANSTON. These provisons are described in detail in the CONGRESSIONAL RECORD of October 18, 1988. I am pleased that a bill which I introduced, S. 1692, led the way for serious consideration and subsequent action in providing meaningful legislation on this issue.

However, due to the lateness of the hour, the difficulty and complexity of the issue, and the emotion surrounding it, the House and Senate were unable to reach agreement on the vast majority of agent orange provisions. I continue to be concerned about the possible health effects of exposure to agent orange and will continue to work to address the concerns of Vietnam veterans.

HEALTH CARE PROVISIONS

It is unfortunate that the House and Senate were unable to reach agreement on the many health-care provisions included in the Senate- and House-passed bills. However, the clock kept ticking and time did not permit adequate discussions between the Members on the complex issues relating to the delivery of health-care services in the 1990's and the difficult matters of recruitment and retention of health-care professionals.

I am committed to working with my colleagues to find solutions to these tough issues. I will work during the recess to examine closely the proposals set forth in the House bill as well as other proposals which would resolve these problems.

It is my understanding that the House plans to hold hearings on several of the issues and provisions contained in the Senate bill. I hope that during that process the House will look favorably on the provision to authorize the VA to provide assistive animals to service-connected quadriplegic veterans.

S. 11 does include some provisions in the health-care area.

First, the bill would provide for a 1-year extension of the VA's authority to provide a grant to the Veterans Memorial Medical Center [VMMC] in the Philippines. The grant for fiscal year 1990 would be increased from $500,000 to $1 million. In addition, the bill would require a detailed report—due May 1, 1989—on the care furnished to United States Veterans in the Philippines and the current conditions of the VMMC. This report will assist the

Congress in making determinations about future grants and evaluate the best way to provide health care services to United States veterans who reside in the Philippines.

I am pleased that this bill contains an administration proposed provision. The bill would provide for the conversion of nonphysician hospital directors from the title 38 personnel system to the Senior Executive Service in title 5.

Public Law 100-322 restricted the VA's ability to manage its land and facility resources by limiting the VA's ability to excess or transfer VA land. I expresseed my opposition to those unnecessary restrictions. And today my view has not changed. Notwithstanding those restrictions, the House passed legislation would require the VA to transfer land at the Alvin C. York VA Medical Center to the State of Tennessee for the purpose of establishing a State veterans' home. I believe that this proposal has significant merit. But I oppose making such exceptions only 5 months after the restrictions were established. Therefore, the Senate bill contained general language which authorized the VA to transfer its land to States for the purposes of establishing a State veterans' domiciliary or nursing home care facility. This compromise bill would authorize the land transfer in Tennessee but also authorize the VA to transfer any VA land to a State for the establishment of a State veterans' home. The VA would be required to report such a proposal to the Congress and wait 90 days for the action to occur.

Mr. President, this bill contains provisions which would permit the VA to relocate Vietnam veteran readjustment counseling centers—known as vet centers—to other community-based locations for reasons beyond the control of the VA with only a 30-day notification period. I support this provision because it provides the VA with needed flexibility to make management decisions and act on those decisions without lengthy report-and-wait requirements.

Provisions which made signficant improvements in the VA's Procurement Program were enacted on May 20, 1988, as part of Public Law 100-322. It later came to my attention that the reporting requirements contained in that bill were burdensome. I am pleased that the final bill contains Senate provisions which would ease the administrative burden associated with the enactment of Public Law 100-322.

The joint explanatory statement which accompanies this bill contains language which directs the Administrator to provide additional staff for a VA outpatient clinic in Toledo, OH. I believe such language is micromanagement and that such decisions regarding staffing levels should be made by the VA.

Finally, the final bill would make technical changes and corrections to certain provisions which were enacted on May 20, 1988, in Public Law 100-322. These technical changes relate to tuition reimbursement, outpatient entitlements, and personnel matters.

CONCLUSION

Mr. President, before closing, I would like to commend my colleagues on the committee, especially Senator CRANSTON, for his accommodation to me and other members on this side of the aisle. We work together well and generally in a bipartisan fashion to address the needs of our Nation's veterans. I also thank the leadership of the House Veterans' Affairs Committee—G.V. "SONNY" MONTGOMERY, the chairman, and JERRY SOLOMON, the ranking minority member, for their tremendous contributions on this legislation.

I want to note my appreciation for the outstanding efforts of the Veterans' Affairs Committee staff who worked hard on this important legislation. From my own staff, I thank my Chief Counsel/Staff Director Alan Ptak, Tom Roberts, Chris Yoder, Lisa Moore, Laura Stepovich, Susan Theroux, and Tracy Gourd. Anthony Principi, who served as Repubican staff director until last summer, earned appreciation for his work on the early stages of this legislation.

In addition, I recognize the fine work of the majority staff including Jane Wasman, Darryl Kehrer, Sandi Isaacson, Barbara Masters, Elizabeth Buechler, Sharon Blackman, Claudia Kashin, Ann Danelski, Kris Hardy, Deborah Leon, Erin McGrath, Loretta McMillan, Tabb Osborne, Charlotte Hughes, Lorraine Beilan, Karen Paul, Bill Brew, Ed Scott, and the majority chief counsel/staff director, Jon Steinberg. Finally, I thank our editorial director, Roy Smith, who worked diligently throughout the year.

I would also like to express my appreciation to the committee's Republican legislative assistants. Specifically, Jo Sherman, Kent Talbert, Sue Ellen Walbridge, and Laurie Stegman. I thank them for their cooperation and interest in this bill.

The staff of the House has been very cooperative, and I wish to acknowledge their hard work. In particular, I thank the majority chief counsel/staff director, Mack Fleming, and Pat Ryan, Jack McDonnell, Victor Raymond, Arnold Moon, Charlie Pecakarsky, Jill Cochran, John Brizzi, and Rufus Wilson, minority counsel and staff director, Kingston Smith and Geoff Gleason also of the minority staff. Finally, I wish to express my appreciation to Bob Cover, with the House legislative counsel, who did the primary drafting of the legislation and Greg Scott of the Senate legislative counsel who assisted in drafting many of the provisions originating in the Senate.

I urge my colleagues to support this legislation. I thank the Chair.

Mr. DASCHLE. Mr. President, on Tuesday the Senate passed landmark legislation to comprehensively address the legitimate health concerns of Vietnam veterans exposed to agent orange. The legislation was a compromise agreed to by Senators KERRY, CRANSTON, MURKOWSKI, and myself, and was offered as an amendment to S. 2011, the veterans' compensation bill, by Senators KERRY, CRANSTON, myself, and 21 other Senators. Not one Senator took the floor to oppose this modest attempt to address the agent orange issue.

Tuesday was an important day and the Senate vote was an apparent victory for Vietnam veterans. The Senate had cleared the way for the first significant agent orange compensation and for an independent, comprehensive research and review program to track the complex scientific issues surrounding this issue. In essense, we had set up a mechanism through which we could received objective answers to our questions about agent orange.

The victory in the Senate was not only lost, but the status quo was essentially eroded by the House's response to the Senate's action. Yesterday the House, at the request of the chairman of the House Veterans' Affairs Committee and apparently pursuant to an agreement reached by the House and Senate Veterans' Affairs Committees, rejected virtually all of the Senate agent orange amendment as well as the original agent orange provisions in S. 2011.

This action took place only minutes after the Senate bill was sent to the House and before most House or Senate Members even knew what was in the final package. I ask my colleagues to consider whether or not this is the best way to determine a policy potentially affecting over 2 million Vietnam veterans. I submit that it is not. The House-Senate agreement is an affront to the many veterans who expect their Government to acknowledge the suffering they continue to endure—suffering from diseases related to their agent orange exposure and suffering from the uncertainty caused by an inadequate Government response to the scientific issues involved in this complex problem.

Briefly, let me explain what Vietnam veterans got in the package sent over by the House. From the Daschle-Kerry-Cranston amendment, the compensation for non-Hodgkin's lymphoma and soft-tissue sarcoma was dropped, as was the provision for an independent scientific review of the scientific evidence related to agent orange. In fact, all the Daschle-Kerry-Cranston provisions were dropped with the exception of two provisions, which were watered down.

First, our provision for a continuous outreach program was kept in the final language, though the requirement for annual updates was dropped. Under the final language, the VA may provide outreach at the Administrator's discretion. The irony of this situation should not go unnoticed. For years the VA has refused to do anything meaningful for Vietnam veterans exposed to agent orange. Under the proposed package, the VA will provide outreach, when it feels like it, to advise veterans of benefits and services available to them. The hypocrisy lies in the fact that, as a result of the House action, veterans have virtually no agent orange benefits or services. We've now put the cart before horse, and we've taken away the means for even finding the horse.

Second, the final package includes one less-known, but important, provision concerning the structure of the advisory committee for the Air Force's ranch hand study. Our provision merely required that the protocol for the ranch hand study be followed in key areas where it has been violated in the past.

While I am pleased that veterans will finally have representation on the advisory committee as required by the protocol, I am extremely disappointed and perplexed by the final action to delete our amendment's prohibition on Government interference in the communication between the Air force scientists and the advisory committee. The study protocol prohibits such interference, and the final bill sends exactly the wrong message to those in the Government who have interfered in the past in this communication, which is supposed to occur in an atmosphere free of any Government influence.

From the underlying provisions in S. 2011, the 1-year health care extension for veterans with health complaints related to agent orange or atomic radiation exposure was retained. The Senate committee language allowing payments from the agent orange lawsuit settlement to be excluded from consideration as income for purposes of determining eligibility for means-tested VA programs was also retained, though the stronger language passed on the Senate floor was rejected. All other Senate agent orange provisions were dropped, including an extension of previously authorized compensation for chloracne, which even the Government acknowledges is associated with agent orange. This is a significant step backward.

Among those Senate provisions dropped in the House-Senate agreement is the provision for annual independent scientific reviews of the scientific evidence on agent orange to help the VA determine which diseases, if any, are reasonably associated with exposure to agent orange or Vietnam service. I cannot understand how anyone could find this provision objectionable. Its cost is less than $1 million per year, and its benefits are immeasurable. Its substance should not be controversial, for it does not prejudge the issue. It only seeks an independent, objective view of the science—a way to take the politics out of the science. I think we should all be able to agree that that is a modest and reasonable goal.

Other Senate provisions dropped in the House-Senate agreement were: a tissue archiving system to facilitate future research, pilot studies to determine whether or not a large-scale epidemiological study is feasible, and a simple report on current research relating to treatment for dioxin exposure. Like the scientific review provision, none of these provisions were costly, and none of them posed any great threat to the opponents of agent orange other than the possibility that we would get beyond the politics and uncover the truth.

And, unfortunately, Mr. President, that is the impression I am left with—that many opponents of the Daschle-Kerry-Cranston amendment are afraid of the truth. They evidently feel the Government stands to lose too much if we allow objectivity into the system. To those people I would say that it is Vietnam veterans who are continuing to lose because of our totally inadequate response to their concerns. If we in Congress are not willing to ensure that Vietnam veterans are treated fairly, then we should reevaluate our priorities.

This is a sad, sad day for Vietnam veterans and for all those who believe that the system can and should work for those who have legitimate grievances. We have lost this year, but we will be back early next year and as often as necessary until this issue is settled. And we will win. The only question is will Congress act before it is too late? Will the Government be allowed to outlast the survivors?

As the victims of agent orange increase, there will be fewer veterans able to seek Government help. But their sacrifices will not be forgotten. And as the victims' voices are quieted, those of us who remain will raise our voices until the Government listens.

FLIGHT TRAINING AMENDMENT TO S. 2011

Mr. DASCHLE. Mr. President, I would like to share with my colleagues one additional concern regarding the Senate-passed amendments to the Veterans' Benefits and Programs Improvements Act that were not included in the House amendment to S. 11. One of those amendments would have authorized a 4-year test program of flight training benefits for eligible veterans under the new GI bill.

Two days ago, the Senate overwhelming defeated a motion to table the amendment by a vote of 47 to 15. This body then proceeded to accept the amendment by voice vote.

The flight training amendment was a cooperate effort on the part of myself, the chairman of the Commerce Subcommittee on Aviation, Senator FORD, and the ranking minority member of the subcommittee, Senator KASSEBAUM. The amendment had also gained the support of the chairman of the Senate Veterans Affairs Committee, Senator CRANSTON.

Veterans and military personnel service organizations who endorsed flight training legislation during Senate hearings earlier this year included the American Legion, the Veterans of Foreign Wars, AMVETS, American Ex-Prisoners of War, the Non-Commissioned Officers Association, the Fleet Reserve Association and the National Association of Uniformed Services. This amendment had also received the overwhelming support of the Aircraft Owners and Pilots Association.

Through Senate passage of this amendment, we have hoped to address two serious problems facing our Nation—veterans' unemployment and the Nation's inexhaustible demand for pilots. The unfortunate lack of a House/Senate conference on S. 2011 has precluded further consideration of extending flight training benefits to meet these serious needs.

While I am very disappointed that there was no opportunity for House and Senate Members to discuss the utility and value of this amendment, I am grateful for the encouragement and strong support demonstrated by my colleagues in granting it Senate approval. I look forward not only to repeating this successful effort in the Senate next year, but to seeing this worthwhile test program pass the House and become law.

Mr. BYRD. Mr. President, I move the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AVIATION SAFETY RESEARCH ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1056, S. 2746, the Aviation Safety Research Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2746) to amend the Federal Aviation Act of 1958 relating to aviation research.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Research Act of 1988".

SEC. 2. AVIATION MAINTENANCE AND FIRE SAFETY RESEARCH.

Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety, to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resistance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for in-flight aircraft fires, and to develop advanced aircraft fuels with low flammability and technologies for containment of aircraft fuels for the purpose of minimizing post-crash fire hazards.".

SEC. 3. RESEARCH ON RELATIONSHIP BETWEEN HUMAN FACTORS AND AIR SAFETY AND ON SIMULATION MODELING.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop simulation models of the air traffic control system and airport design and operating procedures which will provide analytical technology for predicting airport and air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in airport and air traffic control operations programs.".

SEC. 4. RESEARCH PLAN AND REPORTS.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end the following new subsection:

"RESEARCH PLAN AND REPORTS

"(d)(1) The Administrator shall prepare, review, revise, publish, and transmit a national aviation research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than the date of the submission to Congress of the President's budget for fiscal year 1990, and for each fiscal year thereafter. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth—

"(A) for the first 2 years the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

"(B) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project for such years and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements; and

"(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given the highest priority.

"(2) Subject to section 316(d)(2) of this Act and the regulations prescribed to carry out such section, the Administrator shall report annually, beginning with the date of transmission of the first aviation research plan as required by paragraph (1), to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted together with each plan transmittal required under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of content contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the follówng:

"(d) Research plan and reports.
"(e) Civil aeromedical research.
"(f) Research advisory committee.".

SEC. 5. CIVIL AEROMEDICAL RESEARCH.

(a) ESTABLISHMENT OF CIVIL AEROMEDICAL INSTITUTE.—Section 106 of title 49, United States Code, relating to the Federal Aviation Administration, is amended by adding at the end thereof the following new subsection:

"(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 312(e) of the Federal Aviation Act of 1958. Such institute shall be known as the 'Civil Aeromedical Institute'.".

(b) CIVIL AEROMEDICAL RESEARCH.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"CIVIL AEROMEDICAL RESEARCH

"(e) The Civil aeromedical Institute established by section 106(j) of title 49, United States Code, is authorized to conduct civil aeromedical research, including, but not limited to, research related to—

"(1) protection and survivial of aircraft occupants;

"(2) medical accident investigation and airman medical certification;

"(3) toxicology and the effects of drugs on human performance;

"(4) the impact of disease and disability on human performance;

"(5) vision and its relationship to human performance and equipment design;

"(6) human factors of flight crews, air traffic controllers, mechanics, inspectors, and airway facility technicians; and

"(7) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation.".

SEC. 6. ADVISORY COMMITTEE.

Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"RESEARCH ADVISORY COMMITTEE

"(f)(1) Not later than 180 days after the date of the enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

"(2) The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration.

"(3) The advisory committee shall be composed of not more than 20 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of their education, training, or experience. The Administrator in appointing the members of the committee shall ensure that universities, corporations, associations, consumers, and other government agencies are represented.

"(4) The chairman of the advisory committee shall be designated by the Administrator.

"(5) Members of the advisory committee shall serve without pay; except that the Administrator may allow any member, while attending meetings of the advisory committee or a subordinate committee, travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

"(6) The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this secton and section 316.

"(7) Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and supplies as the Administrator determines are necessary for the advisory committee to carry out its functions.

"(8) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

"(9)(A) Not more than 1/10 of 1 percent of the funds made avilable to carry out research under this section and section 316 for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

"(B) No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection.".

SEC. 7. FUNDING.

(a) FISCAL YEAR 1989.—Section 506(b)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(B)) is amended—

(1) in clause (vii), by striking "; and" and inserting in lieu thereof a comma; and

(2) by adding at the end, flush with the margin, the following:

"except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects; and".

(b) FISCAL YEAR 1990.—Section 506(b)(2)(C) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(C)) is amended to read as follows:

"(C) for fiscal year 1990—

"(i) $25,000,000 solely for human factors research projects and activities; and

"(ii) $221,530,000 for all other research projects and activities,

except that no less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects.".

(c) DEFINITION.—Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by adding at the end the following:

"As used in this paragraph, the term 'long-term research project' means a research project which is identified as a discrete project in the aviation research plan required by section 312(d)(1) of the Federal Aviation Act of 1958 and which is unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the date of the commencement of such project."

AMENDMENT NO. 3751

(Purpose: To make an amendment in the nature of a substitute)

Mr. DOLE. Mr. President, on behalf of Senator KASSEBAUM, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], on behalf of Mrs. KASSEBAUM, proposes an amendment numbered 3751.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Research Act of 1988".

SEC. 2. AVIATION MAINTENANCE AND FIRE SAFETY RESEARCH.

Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resistance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for in-flight aircraft fires, and to develop advanced aircraft fuels with low flammability and technologies for containment of aircraft fuels for the purpose of minimizing post-crash fire hazards.".

SEC. 3. RESEARCH ON RELATIONSHIP BETWEEN HUMAN FACTORS AND AIR SAFETY AND ON DYNAMIC SIMULATION MODELING.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop dynamic simulation models of the air traffic control system and airport design and operating procedures which will provide analytical technology for predicting airport and air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in airport and air traffic control operations programs.".

SEC. 4. RESEARCH PLAN AND REPORTS.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end the following new subsection:

"RESEARCH PLAN AND REPORTS

"(d)(1) The Administrator shall prepare, review, revise, publish, and transmit a national aviation research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than the date of the submission to Congress of the President's budget for fiscal year 1990, and for each fiscal year thereafter. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth—

"(A) for the first 2 years the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

"(B) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project for such years and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements;

"(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given the highest priority; and

"(D) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

"(2) Subject to section 316(d)(2) of this Act and the regulations prescribed to carry out such section, the Administrator shall report annually, beginning with the date of transmission of the first aviation research plan as required by paragraph (1), to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted together with each plan transmittal required under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(d) Research plan and reports.

"(e) Civil aeromedical research.

"(f) Research advisory committee.".

SEC. 5. CIVIL AEROMEDICAL RESEARCH.

(a) ESTABLISHMENT OF CIVIL AEROMEDICAL INSTITUTE.—Section 106 of title 49, United States Code, relating to the Federal Aviation Administration, is amended by adding at the end thereof the following new subsection:

"(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 312(e) of the Federal Aviation Act of 1958. Such institute shall be known as the 'Civil Aeromedical Institute'. Research conducted by the institute should take appropriate advantage of capabilities of other government agencies, universities, or the private sector.".

"(b) CIVIL AEROMEDICAL RESEARCH.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"CIVIL AEROMEDICAL RESEARCH

"(e) The Civil Aeromedical Institute established by section 106(j) of title 49, United States Code, is authorized—

"(1) to conduct civil aeromedical research, including, but not limited to, research related to—

"(A) protection and survival of aircraft occupants;

"(B) medical accident investigation and airman medical certification;

"(C) toxicology and the effects of drugs on human performance;

"(D) the impact of disease and disability on human performance;

"(E) vision and its relationship to human performance and equipment design;

"(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other persons involved in the operation and maintenance of aircraft and air traffic control equipment; and

"(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

"(2) to make comments to the Administrator on human factors aspects of proposed air safety rules;

"(3) to make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

"(4) to advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between such Administration and the National Aeronautics and Space Administration, other Government agencies, industry, and foreign governments; and

"(5) to provide medical consultation services to the Administrator with respect to medical certification of airmen.".

SEC. 6. ADVISORY COMMITTEE.

Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"RESEARCH ADVISORY COMMITTEE

"(f)(1) Not later than 180 days after the date of the enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

"(2) The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration.

"(3) The advisory committee shall be composed of not more than 20 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of their education, training, or experience. The Administrator in appointing the members of the committee shall ensure that universities, corporations, associations, consumers, and other government agencies are represented.

"(4) The chairman of the advisory committee shall be designated by the Administrator.

"(5) Members of the advisory committee shall serve without pay; except that the Administrator may allow any member, while attending meetings of the advisory committee or a subordinate committee, travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

"(6) The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this section and section 316.

"(7) Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and supplies as the Administrator determines are necessary for the advisory committee to carry out its functions.

"(8) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

"(9)(A) Not more than ⅒ of 1 percent of the funds made available to carry out research under this section and section 316 for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

"(B) No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection.".

SEC. 7. FUNDING.

(a) FISCAL YEAR 1989.—Section 506(b)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(B)) is amended—

(1) in clause (vii), by striking "; and" and inserting in lieu thereof a comma; and

(2) by adding at the end, flush with the margin, the following:

'except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects; and".

(b) FISCAL YEAR 1990.—Section 506(b)(2)(C) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(C)) is amended to read as follows:

"(C) for fiscal year 1990—

"(i) $25,000,000 solely for human factors research projects and activities; and

"(ii) $221,530,000 for all other research projects and activities,

except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects.".

(C) DEFINITION.—Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by adding at the end the following: "As used in this paragraph, the term 'long-term research project' means a research project which is identified as a discrete project in the aviation research plan required by section 312(d)(1) of the Federal Aviation Act of 1958 and which is unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the date of the commencement of such project.".

SEC. 8. AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.

(a) FINDINGS.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

(b) STUDY ON INCREASED AUTOMATION.—

(1) IN GENERAL.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) CONTENT.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying individuals possessing those attributes and aptitudes.

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

(c) AGREEMENT WITH ADMINISTRATOR OF NASA.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) CONTENT.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

(d) AUTHORIZATION OF APPROPRIATIONS.—For conducting research under this section there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

Mr. FORD. Mr. President, the Aviation Safety Research Act, H.R. 4686 as amended with the text of S. 2746, which is now before the Senate, is a very important bill for the future of air safety. It requires the Federal

Aviation Administration to increase its research efforts in several critical safety areas, and to develop a plan for long-term research work.

In recent years, budget constraints and air traffic system demands have forced the FAA to abandon its long-term research efforts in favor of work with an immediate payoff. Consequently, many important areas have not been addressed. The Aviation Safety Research Act specifically directs research on aircraft fatigue, human factors in aviation accidents, maintenance technology, fire resistant materials, low flammability fuels, containment of aircraft fuels postcrash, and simulation of air traffic and airport capacity problems.

The Office of Technology Assessment recently published a report which concluded that additional improvements in aviation safety will come through solving some of the human problems in the skies and the cockpit. To do that requires commitment, and long-term research. The bill, introduced by Senator KASSEBAUM, and cosponsored by me, will direct the Federal Aviation Administration to dedicate 15 percent of its R&D appropriation to long-term research in certain areas. The bill would also establish an advisory committee consisting of experts who would help the FAA stay abreast of new concepts and aware of work being done by other agencies.

I urge my colleagues to pass this bill to give the FAA the help it needs for research to make the air transportation system safer.

Mr. HOLLINGS. Mr. President, I need not remind my colleagues of the fact that in recent months we have seen too many airline accidents involving the tragic loss of life. In August 1987, 156 people died as a result of the crash of a Northwest airliner at Detroit; 4 months later, 28 people died as a Continental jet crashed on takeoff in Denver; in April 1988, an aging Aloha Airlines aircraft lost a significant portion of its fuselage while in flight over the Hawaiian Islands; and less than 2 months ago, 13 people died in an accident involving another Continental jetliner that crashed in Dallas.

Certainly, this list is not conclusive. There have been other accidents involving commuter air carriers and general aviation aircraft, and there have been numerous incidents in which there were fortunately no fatalities.

With the help of the National Transportation Safety Board, the probable cause of most accidents can now be identified, leading to actions designed to minimize their repeat occurrence. Many times, however, more research is needed before a conclusive action can be taken by the Federal Aviation Administration to improve air safety. Yet, in recent years, for a variety of reasons, the FAA has not adequately directed its research and development activities to areas that will produce the best results.

The legislation before the Senate is designed to help the FAA better focus its research activities. Specifically, H.R. 4686 as amended with the text of S. 2746 directs the FAA to undertake increased R&D in the areas of aircraft maintenance, human factors, and fire safety. Because of its importance, the bill increased the fiscal year 1990 FAA authorization for research and development by $25 million, with these additional funds to be used solely for research into the preformance of aviation personnel.

The bill also directs the FAA to prepare a National Aviation Research plan, in order that the agency can establish its research priorities, including a framework for accomplishing long-term research work. In this regard, the bill requires the FAA to dedicate at least 15 percent of its R&D work in fiscal years 1989 and 1990 to long-term activities. The bill strengthens the role of the Civil Aeromedical Institute, which is located in Oklahoma City, where much of the aviation human factors research will occur. And it establishes a 20-member Research Advisory Committee, to ensure better coordination between FAA research activities and work being conducted by outside institutions.

Mr. President, I commend Senators KASSEBAUM and FORD for taking the initiative to ensure that the FAA receives the policy direction needed to make it responsive to the traveling public. This bill is a strong measure that will greatly assist the FAA and improve air safety. I urge my colleagues to support this bill and I urge its adoption.

Mr. DANFORTH. Mr. President, the amendment in the nature of a substitute offered today by Senator KASSEBAUM contains a provision identical to legislation which passed the House of Representatives on September 20. That legislation is H.R. 3779, the Controller Performance Research Act, which was introduced in the House on December 17, 1987, by Representative JACK BUECHNER of St. Louis, MO. I introduced an identical bill in the Senate, S. 2876, on October 7. This legislation will require the Federal Aviation Administration [FAA] to study the effect of automation of the air traffic control system on the people responsible for the day-to-day operation of the system—the air traffic controllers.

Mr. President, the FAA has begun an ambitious overhaul of its existing air traffic control system. That program will culminate in the mid-1990's with implementation of the Advanced Automation System [AAS] and several other enhancements. The hardware and software which make up these systems will significantly change the role of air traffic controllers, who will be freed from many of the routine functions they now perform.

The FAA has a detailed program for the development and production of AAS and related systems. However, the FAA does not have a plan for ensuring that controllers will be able to perform at their peak in a more automated air traffic control environment. A recent report issued by the Office of Technology Assessment, entitled "Safe Skies for Tomorrow," concluded that current FAA programs to understand human error and enhance controller performance are inadequate.

Mr. President, section 8 of the amendment we are considering, the Controller Performance Research Act, requires the FAA to conduct research to study the effect of automation on the performance of air traffic controllers and the air traffic control system. Specific topics which the FAA must investigate include methods for accerlating air traffic controller training, physical and psychological effects of automation on air traffic controllers, identification of aptitudes needed to function well in a highly automated system, and new technologies and procedures for exploiting automated communications systems.

This provision also authorizes the FAA Administrator to enter into an agreement with the Administrator of the National Aeronautics and Space Administration [NASA] for use of NASA's human factor facilities and expertise. The legislation authorizes to be appropriated such sums as may be necessary from the Airport and Airway Trust Fund.

Mr. President, the Controller Performance Research Act will ensure that the FAA performs the research necessary to ensure that air traffic controllers are able to get the maximum benefits from automated equipment intended to improve the safety and efficiency of the air traffic control system. I urge my colleagues to accept the amendment offered by Senator KASSEBAUM.

AMENDMENT NO. 3752 TO AMENDMENT NO. 3751

(Purpose: To promote air safety)

Mr. BYRD. Mr. President, on behalf of Mr. METZENBAUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] on behalf of Mr. METZENBAUM, proposes an amendment numbered 3752 to amendment No. 3751.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following:

SEC. 9. CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES.

(a) ADVANCE NOTICE OF PROPOSED RULEMAKING.—In order to ensure greater air safety to passengers of air carriers and reduce the incidence of post-crash fires, the Administrator of the Federal Aviation Administration shall, within 90 days following the date of enactment of this Act, issue an advance notice of proposed rulemaking to determine the feasibility of installing in all air carrier aircraft crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident.

(b) RESEARCH.—Within 60 days following the date of enactment of this Act, the Administrator shall undertake or supervise research to develop technologies which will prevent the spraying or free flow of significant quantities of fuel after an air crash or develop fuels and fuel additives which can reduce rapid fuel dispersal and combustibility, or both.

Mr. METZENBAUM. Mr. President, my amendment to the Aviation Safety Research Act will help reduce postcrash fires. I appreciate the cooperation I received from Senators KASSEBAUM, HOLLINGS, and FORD on this matter.

This amendment should help make it safer to fly. It requires the Secretary of Transportation to initiate an advance notice of proposed rulemaking on installing more crash resistant fuel tanks and fuel lines in the bodies of planes. It would also direct the FAA to research and develop other technologies which could reduce the incidence of and damage caused by plane crash fires.

Not that many weeks ago, a Delta Airliner plunged into the ground just seconds after takeoff and burst into flames. Fourteen people died because of smoke inhalation and burns.

We can learn a lesson from this tragedy. According to airline safety experts, many casualties from airplane crashes do not result from the impact of the crash, but from postcrash fires and fumes.

The fuselage of a fully fueled commercial airliner usually contains hundreds of gallons of jet fuel. If it crashes, the impact can rupture fuel tanks and fuel lines. Fire from leaking jet fuel spreads quickly and is very hard to put out. Those passengers that can get out of the wreckage right away are lucky.

We can do better than rely on luck. There are ways to help make airplanes safer from the danger of postcrash fires. Installing crash resistant inner fuel tanks and self-sealing fuel lines in the fuselage can help cut off the flow of fuel when a plane crashes. Developing an antimisting fuel additive to turn jet fuel into a gel so that it can be contained if it does leak will also help.

It stands to reason, if the fuselage can be made more crash-resistant and if fuel can be contained in the event of a crash, then the risk of out-of-control fire will be reduced and passengers will have more time to escape the wreckage.

That is the aim of this legislation—to help save lives. It is supported by the Air Line Pilots Association, the National Transportation Safety Association, and the Association of Flight Attendants.

I urge the adoption of my amendment.

Mrs. KASSEBAUM. Mr. President, aviation safety is a topic of the gravest concern to all of us. H.R. 4686, the House version of S. 2746, the Aviation Safety Research Act of 1988, addresses long-term research and human factors research—two aspects of aviation safety which have received too little in the way of attention and resources. The Senate bill was unanimously reported by the Commerce Committee on October 3. The House measure passed the House by voice vote on September 20.

Senate bill 2746 incorporates recommendations made by the Office of Technology Assessment (OTA) in July in its excellent report titled "Safe Skies for Tomorrow." Among those recommendations is the finding that greater attention must be devoted to the problems of human error in aviation safety. Although human error is a factor in over 65 percent of commercial aviation accidents, OTA determined that current Federal Aviation Administration [FAA] programs related to human error and to controller, mechanic, and cockpit crew performance are inadequate.

Mr. President, S. 2746 explicitly requires the FAA Administrator to direct research to develop a better understanding of the relationship between human factors and aviation accidents, to enhance air traffic controller, mechanic, and flight crew performance, to develop a human factors analysis of new technologies, and to identify innovative and effective corrective measures for human errors which adversely affect air safety.

The bill also directs the Administrator to use simulation models of the air traffic control system and airport design and operating procedures to help predict airport and air traffic control safety and capacity problems, to evaluate planned research projects, and to test proposed revisions in airport and air traffic control operations. Senate bill 2746 provides an additional $25 million in fiscal year 1990 for human factors research.

This legislation also addresses other pressing aviation safety needs. At present, most of the FAA's research budget is devoted to relatively short-term projects related to development of equipment for the air traffic control system. The FAA does not have a formal long-range research and development program. Senate bill 2746 will require the FAA to prepare a research plan describing, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States. The research plan would be submitted to Congress annually. In addition, 15 percent of the amount appropriated to the FAA for research and development is to be spent on long-term projects.

This legislation also directs the FAA to undertake research into two areas which have received increasing attention due to recent air disasters. First, the FAA is required to investigate the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft. This provision gives the FAA a statutory directive to explore the kinds of problems which led to the incident in April in which a 19-year-old 737 literally fell apart in midair.

In addition, S. 2746 requires an assessment of the fire and smoke resistance of aircraft materials, smoke containment systems, and technologies for the containment of aircraft fuels in order to minimize postcrash fires. This directive tells the FAA to place additional focus on preventing the kind of postcrash fire which claimed the lives of 14 after the August crash of a 727 on takeoff from Dallas.

Mr. President, S. 2746 includes several other important features. It provides a statutory authorization for an important institution, the Civil Aeromedical Institute. It also establishes a Research Advisory Committee of up to 20 members appointed by the FAA Administrator to make recommendations concerning the FAA's research efforts and to coordinate with similar research conducted outside of the FAA.

I am pleased that we are able to act today on H.R. 4686, the House version of S. 2746. This is important legislation, and I urge its adoption.

Mr. BYRD. Mr. President, I ask unanimous consent that the Metzenbaum amendment to the Kassebaum substitute be agreed to; that the Kassebaum substitute, as amended, be agreed to; that the committee substitute, as amended, be agreed to; that the bill be advanced to third reading; that the Senate proceed to the immediate consideration of Calendar Order No. 989, H.R. 4686, the House companion, and that all after the enacting clause be stricken and the text of S. 2746, as amended, be substituted in lieu thereof; that the bill be advanced to third reading and passed; that the motion to reconsider be laid on the table; and that S. 2746 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 4686

Resolved, That the bill from the House of Representatives (H.R. 4686) entitled "An

Act to amend the Federal Aviation Act of 1958 relating to aviation research", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Research Act of 1988".

SEC. 2. AVIATION MAINTENANCE AND FIRE SAFETY RESEARCH.

Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after the first sentence the following: The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety, to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resistance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for in-flight aircraft fires, and to develop advanced aircraft fuels with low flammability and technologies for containment of aircraft fuels for the purpose of minimizing post-crash fire hazards.".

SEC. 3. RESEARCH ON RELATIONSHIP BETWEEN HUMAN FACTORS AND AIR SAFETY AND ON DYNAMIC SIMULATION MODELING.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop dynamic simulation models of the air traffic control system and airport design and operating procedures which will provide analytical technology for predicting airport and air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in airport and air traffic control operations programs.".

SEC. 4. RESEARCH PLAN AND REPORTS.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end the following new subsection:

"RESEARCH PLAN AND REPORTS

"(d)(1) The Administrator shall prepare, review, revise, publish, and transmit a national aviation research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than the date of the submission to Congress of the President's budget for fiscal year 1990, and for each fiscal year thereafter. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth—

"(A) for the first 2 years the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

"(B) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project for such years and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements;

"(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given the highest priority; and

"(D) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

"(2) Subject to section 316(d)(2) of this Act and the regulations prescribed to carry out such section, the Administrator shall report annually, beginning with the date of transmission of the first aviation research plan as required by paragraph (1), to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted together with each plan transmittal required under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(d) Research plan and reports.
"(e) Civil aeromedical research.
"(f) Research advisory committee.".

SEC. 5. CIVIL AEROMEDICAL RESEARCH.

(a) ESTABLISHMENT OF CIVIL AEROMEDICAL INSTITUTE.—Section 106 of title 49, United States Code, relating to the Federal Aviation Administration, is amended by adding at the end thereof the following new subsection:

"(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 312(e) of the Federal Aviation Act of 1958. Such institute shall be known as the Civil Aeromedical Institute. Research conducted by the institute should take appropriate advantage of capabilities of other government agencies, universities, or the private sector.".

(b) CIVIL AEROMEDICAL RESEARCH.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"CIVIL AEROMEDICAL RESEARCH

"(e) The Civil Aeromedical Institute established by section 106(j) of title 49, United States Code, is authorized—

(1) to conduct civil aeromedical research, including, but not limited to, research related to—

"(A) protection and survival of aircraft occupants;

"(B) medical accident investigation and airman medical certification;

"(C) toxicology and the effects of drugs on human performance;

"(D) the impact of disease and disability on human performance;

"(E) vision and its relationship to human performance and equipment design;

"(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other persons involved in the operation and maintenance of aircraft and air traffic control equipment; and

(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

"(2) to make comments to the Administrator on human factors aspects of proposed air safety rules;

"(3) to make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

"(4) to advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between such Administration and the National Aeronautics and Space Administration, other Government agencies, industry, and foreign governments; and

"(5) to provide medical consultation services to the Administrator with respect to medical certification of airmen.".

SEC. 6. ADVISORY COMMITTEE.

Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"RESEARCH ADVISORY COMMITTEE

"(f)(1) Not later than 180 days after the date of the enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

"(2) The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration.

"(3) The advisory committee shall be composed of not more than 20 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of their education, training, or experience. The Administrator in appointing the members of the committee shall ensure that universities, corporations, associations, consumers, and other government agencies are represented.

"(4) The chairman of the advisory committee shall be designated by the Administrator.

"(5) Members of the advisory committee shall serve without pay; except that the Administrator may allow any member, while attending meetings of the advisory committee or a subordinate committee, travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

"(6) The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this section and section 316.

"(7) Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and supplies as the Administrator determines are necessary for the advisory committee to carry out its functions.

"(8) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

"(9)(A) Not more than 1/10 of 1 percent of the funds made available to carry out research under this section and section 316 for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

"(B) No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection.".

SEC. 7. FUNDING.

(a) FISCAL YEAR 1989.—Section 506(b)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(B)) is amended—

(1) in clause (vii), by striking "; and" and inserting in lieu thereof a comma; and

(2) by adding at the end, flush with the margin, the following:

"except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects; and".

(b) FISCAL YEAR 1990.—Section 506(b)(2)(C) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(C)) is amended to read as follows:

"(C) for fiscal year 1990—

"(i) $25,000,000 solely for human factors research projects and activities; and

"(ii) $221,530,000 for all other research projects and activities,

except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects.".

(c) DEFINITION.—Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by adding at the end the following: "As used in this paragraph, the term long-term research project means a research project which is identified as a discrete project in the aviation research plan required by section 312(d)(1) of the Federal Aviation Act of 1958 and which is unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the date of the commencement of such project.".

SEC. 8. AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.

(a) FINDINGS.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

(b) STUDY ON INCREASE AUTOMATION.—

(1) IN GENERAL.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) CONTENT.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying individuals possessing those attributes and aptitudes.

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

(c) AGREEMENT WITH ADMINISTRATOR OF NASA.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) CONTENT.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

(d) AUTHORIZATION OF APPROPRIATIONS.—For conducting research under this section there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

SEC. 9. CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES.

(a) ADVANCE NOTICE OF PROPOSED RULEMAKING.—In order to ensure greater air safety to passengers of air carriers and reduce the incidence of post-crash fires, the Administrator of the Federal Aviation Administration shall, within 90 days following the date of enactment of this Act, issue an advance notice of proposed rulemaking to determine the feasibility of installing in all air carrier aircraft crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident.

(b) RESEARCH.—Within 60 days following the date of enactment of this Act, the Administrator shall undertake or supervise research to develop technologies which will prevent the spraying or free flow of significant quantities of fuel after an air crash or develop fuels and fuel additives which can reduce rapid fuel dispersal and combustibility, or both.

WATER RESOURCES DEVELOPMENT ACT—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on S. 2100 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2100) to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. BURDICK. Mr. President, as the Senate considers passage of S. 2100, the Water Resource Development Act of 1988, I want my colleagues to be aware of the significance of this legislation, which returns the water resources authorization process to a biennial basis.

Early in this Congress I announced that reestablishing the biennial passage of omnibus water resources legislation was a goal of the Committee on Environment and Public Works. I want my colleagues to know that by passing S. 2100 we are in fact returning to this normal, noncontroversial and routine system.

The bill which the conferees have agreed upon including 16 project authorizations having a total estimated cost of $1.7 billion. The overall cost of this legislation is approximately $2 billion.

There are two very important principles which have been strictly adhered to in reaching agreement on S. 2100. First, and most important, the cost sharing and environmental reforms of the 1986 Water Resources Development Act have not been abrogated in any way. Second, only projects which have completed corps planning have been authorized for construction.

I will ask unanimous consent that the administration's views on this legislation be printed in the RECORD following my remarks.

It is obvious, Mr. President, that we have entered a new era in water resources development, a time of cooperation between the Congress, the executive branch, and non-Federal sponsors in the promotion of water resources development. I sincerely hope that the next administration is prepared to build on the success of the last 2 years.

The Corps of Engineers is to be commended for their efforts in implementing the reforms of the 1986 Water Act, Mr. President. Implementation of that sweeping legislation will continue, but significant progress has been made. I am sure we will hear more about this next year in oversight hearings on the corps civil works program.

I want to commend my colleagues on the conference—Senators MOYNIHAN, BREAUX, STAFFORD and SYMMS—for their efforts to achieve consensus on this legislation.

I thank the Senate staff—Tom Skirbunt, Ann Garrabrant, Mike Weiss, and Mark Haynes for their hard work.

Mr. President, S. 2100 is a noncontroversial Water Resources Development Act, as well as very significant legislation. I believe it deserves the support of all my colleagues.

Mr. President, I ask unanimous consent that the text of two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 18, 1988.

Hon. QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that negotiations are proceeding on a compromise Disaster Relief Bill, which would combine portions of H.R. 2707 and S. 2380, and then be passed quickly by both House and Senate before the session ends.

The Administration is concerned with the costs of these bills, especially the House bill that was estimated to cost $80 million annually by the Congressional Budget Office (CBO). While these costs are subject to appropriations and thus not a technical violation of G-R-H, the costs turn out to be almost a mandatory expenditure for disaster victims in many cases.

The Administration is also concerned that this bill not be used to begin any new programs that could grow into large budget expenditures in the future. In particular, the new erosion grant program in the House bill is strongly opposed.

I would appreciate your help in assuring that any compromise bill be devoid of new programs and be deficit neutral in terms of budget cost so that it is favorably received by the Administration.

Sincerely,

JOSEPH R. WRIGHT,
Acting Director.

DEPARTMENT OF THE ARMY,
Washington, DC, October 19, 1988.

Hon. QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I have reviewed the Conference Report on S. 2100, the Water Resources Development Act of 1988, and am gratified by the effort that the conferees have made to produce a bill that would be acceptable to the President. It is my strong hope that amendments will not be added to the conference report and thereby make the bill unacceptable.

The conferees have been faithful to the cost sharing principles established by the landmark Water Resources Development Act of 1986 and have been careful to avoid premature authorization of new water development projects. While not all remaining provisions can be supported by the Army, the bill contains almost all of the items included in the Administration's proposal sent to Congress last spring. In addition, the action of the conferees to delete many provisions opposed by the Administration has cleared the way for our recommending that the President approve the bill.

Under the leadership of the Senate Committee on Environment and Public Works and House Committee on Public Works and Transportation, the Water Resources Development Act of 1986 established a solid basis for revitalization of the Nation's water resources program. With S. 2100, the conferees are taking the next important step, laying a firm foundation for reestablishment of the biennial project authorization cycle for the Army's Civil Works Program. This cycle is vital to the orderly and efficient development of new water projects under the 1986 Act's reforms requiring increased non-Federal participation in project planning, construction financing, and operation and maintenance.

Since enactment of that bill two years ago, non-Federal financing of water projects has increased from three percent to fourteen percent of total project costs, 58 new construction starts have begun and another 63 have been funded. Many projects have been reduced in size and scope and many have been dropped, thereby yielding substantial environmental benefits. Cost sharing is working well. Non-Federal sponsors continue to sign local cooperation agreements. The news across the board is good.

By enacting S. 2100, the 100th Congress will move the water resources program forward another vital step. I am convinced that this and similar responsible biennial authorization bills which adhere to sound cost sharing principles and authorize only economically and environmentally sound projects endorsed by both the Administration and the Congress will ensure a strong, credible national water resources development program for years to come.

If the Conference version of S. 2100 is passed by Congress without amendment, I will recommend that the President approve it.

Sincerely,

ROBERT W. PAGE,
Assistant Secretary of the Army (Civil Works).

Mr. STAFFORD. Mr. President, I am pleased to join my fellow Senate conferees in presenting to the Senate the conference report on S. 2100, the Water Resources Development Act of 1988.

Members will recall that prior to the Water Resources Development Program of the Corps of Engineers was almost at a dead standstill because of a decade-long stalemate over cost sharing and environmental policies.

With the passage of the 1986 act, almost all of the major policy disputes were resolved. There were hopes expressed at the time that in the future, the approach of Congress to the Corps of Engineers program would be more responsible and consistent as a result of this resolution.

This conference report demonstrates that those hopes were not unfounded. We now have before us a bill which demonstrates that Congress can return to a more regular schedule of corps authorizing legislation and can do so in a reasonably responsible fashion.

Although the conference report on S. 2100 is a bit larger than some of us may have hoped, it remains true to the most important principles upheld in the Senate-passed bill: It authorizes no new projects for construction which have not received a favorable report of the Chief of Engineers and it makes no generic or specific changes to the cost-sharing principles established by the Water Resources Development Act of 1986.

S. 2100 authorizes 16 new projects for construction. As I stated, all have received a favorable report of the Chief of Engineers. In addition, most have been reviewed and approved by the Secretary of the Army. These reviews ensure that only those projects that are environmentally and economically justified are authorized for construction. In this regard, several projects in the House-passed bill which had received neither a Chief's report or the review of the Department of the Army have been deleted from the conference package as premature.

The biennial authorization process reestablished by this legislation allows the Congress to defer authorization of projects which have not completed the study process confident in the knowledge that they will be eligible for inclusion in the authorization bill enacted by the 101st Congress. The discipline accompanying a policy of authorizing in biennial legislation only those projects that have been thoroughly reviewed by the Chief of Engineers and the Department of the

Army can help ensure that only worthwhile projects are constructed. In turn, that discipline can guarantee the continued vitality and integrity of the Nation's Water Resources Development Program.

Also, as I have said, S. 2100 is fully consistent with the new cost-sharing policies established by the Water Resources Development Act of 1986. As originally introduced, the House version of this legislation included a provision, section 3(c), intended to make clear that all projects authorized subsequent to the Water Resources Development Act of 1986, including the projects in the act before us, were subject to the cost-sharing formulas established by that act. This provision was dropped for technical reasons before passage in the House. Its deletion should in no way be interpreted as a retreat from cost sharing. Rather, without exception, the cost-sharing requirements of the 1986 act apply to all new construction projects authorized in the bill before us.

Mr. President, at this point I would like to provide some additional explanation for a few specific provisions in the conference report.

Section 13 of the bill makes a technical correction to section 101(a) of the Water Resources Development Act of 1986 to allow the crediting of the value of utility relocations performed by the local sponsor of a navigation project against the additional 10-percent cash contribution required by section 101(a)(2) of that act. This credit was intended to be included in the 1986 act but was inadvertently omitted from the final version.

Section 3(b) of S. 2100 extends the provisions of the 1986 act limiting cost increases at Corps of Engineers projects to the projects authorized in this and any subsequent act. This provision is included to encourage within the Corps of Engineers a greater emphasis on establishing precise costs of project development early in the planning process. I note in this regard that Assistant Secretary of the Army Robert W. Page, should be given special recognition for his efforts to improve project management and accountability with the Army Corps "Initiatives 88" program.

Mr. President, I would also like to note that certain projects in this bill were reluctantly agreed to by the administration. The Port Sutton Channel, FL, project is objectionable from an administration policy perspective because the Chief of Engineers report identified only a single beneficiary to the project. For this reason, the project authorization suspends construction until the Secretary can determine that the project would serve more than a single beneficiary. The Truckee Meadows, NV, project is considered objectionable because it authorizes the Secretary to carry out fish and wildlife enhancement measures that have not yet been completely studied.

Section 7 of the bill provides authority for the Secretary of the Army to participate with private industry, academia, and others, in mutually beneficial research and development activities for construction, design, and related activities. Section 7 is designed to develop and rapidly apply state of the art technology to reduce construction costs and increase productivity. The legislation will help pool the resources and capabilities of the Corps of Engineers, industry and the university community and to build on the research and development capabilities of Corps of Engineers laboratories. The provision will provide cost savings and other important benefits directly to the Corps of Engineers program as well as to private industry.

Specifically, this section allows the Secretary to enter into joint research and development ventures on a 50-50 cost shared basis. As numerous recent studies have made clear, our Nation's construction industry has not devoted its scarce resources to research and development. Our foreign competitors, on the other hand, have learned the important lesson that research and development today equals more efficient and innovative construction tomorrow. Section 7 is meant to offer private industry the opportunity to perform research and development along with the Federal Government, and thereby decrease the costs for both parties. We should all welcome this opportunity to make the Nation's domestic industry more competitive with its foreign counterparts. Here again, Secretary Page should be recognized for his leadership in this area.

I should also note at this point that section 8 of the bill complements section 7 in that it encourages the Secretary to utilize, whenever feasible, innovative technology in all phases of the water resources development projects and programs under his jurisdiction. Not only can the corps use its talents in partnership with private industry to create and research new solutions to the engineering and construction challenges that we must face, but they can and should use their projects and programs as a real-world test bed for the fruits of that partnership. Such an arrangement has the potential to make significant improvements in reducing project costs, project efficiency reliability, and safety, and can also result in more environmentally sound projects and programs.

Finally, Mr. President, subsection 4(d) modifies the authorization of the Los Angeles and Long Beach Harbors, San Pedro Bay, CA, project to authorize the Secretary to consider crediting the value of work carried out by the local sponsor if a credit is recommended by the Chief of Engineers and approved by the Secretary. Nothing in the provision is meant to compromise the technical analyses normally performed in the corps planning process and it is intended that each separable element of the project must continue to be environmentally and economically justified.

One of the potential benefits of the Los Angeles-Long Beach Harbor deepening project is the creation of valuable land in the harbor. Unfortunately, the Water Resources Development Act of 1986 did not address the question of appropriate cost sharing for projects which, in addition to providing navigation benefits, also create valuable new land. Therefore, the Secretary of the Army should thoroughly investigate this issue and recommend, if appropriate, additional non-Federal contributions which would be justified as a result of any special benefits that the project sponsor would receive in connection with this project. Until these recommendations are received, it would be inappropriate for Congress to attempt to specify any particular policy. Accordingly, the conferees have not addressed this issue in the report before us.

Mr. President, this legislation is noncontroversial, it carries on with the 1986 policy reforms, and I urge my colleagues to give it their support.

Mr. MOYNIHAN. Mr. President, though it sometimes seemed doubtful that we would reach this point, I am glad to report that our conference committee has agreed on a water resources bill. The Water Resources Development Act of 1988 will be a reality.

I thought that there was good reason to doubt that we might get this far. As is often the case, the House and Senate versions of this bill were quite different in scope, and the Corps of Engineers and the Office of Management and Budget were of different opinions than either House of Congress as to just what this bill should contain. I must commend the Members of our conference, most particularly Mr. ANDERSON, Mr. ROE, Mr. NOWAK, Mr. HAMMERSCHMIDT, and Mr. STANGELAND for their dedicated work. These gentleman were willing to strike projects from the bill that they themselves had sponsored, as well as projects very much needed by other Members of the House, in order that we might have a bill. I commend them for it. On the Senate side as well, our conferees worked hard, and were very open to compromise.

Due to objections by the administration, and the threat of a veto, many meritorious projects were excluded from this bill. Chief among these in my mind is the advancement of construction of a new bridge over the Irondequoit Bay in Rochester, NY. My preference would have been to include the project sponsored by Ms. SLAUGH-

TER in the House, but the House Public Works Committee leadership came to an agreement with the corps over this project, and in the interest of passing a bill this year, the Senate conferees accepted the terms of this understanding.

Mr. President, this bill reestablished the principle of a regular authorization of water projects by Congress. Our effort has the support of the administration, as evidenced by the two letters that appear in the RECORD indicating support for the bill from the Office of Management and Budget, and from the Corps of Engineers.

Two years ago we predicted that the management of water resource projects in the United States had been given a new direction, and was back on track. I think this bill bears out our predictions.

Mr. ADAMS. Mr. President, I am pleased by the fact that we will soon approve the conference report on S. 2100, the Water Resources Development Act. I am also delighted by the fact that this legislation contains several provisions important to my own State and I would like to express my appreciation to the managers, and their staff, for their willingness to work with me on these issues.

I would like to take a moment to call attention to one of those provisions which effects the cities of Aberdeen and Tacoma and the Wynoochee Lake project. As those who have been involved in this issue know, the city of Aberdeen has been facing a fiscal crisis as a result of rapidly increasing costs associated with the operations and maintenance requirements contained in the contract the city has with the Army Corps of Engineers. Indeed, if changes had not been made in the contractual obligations of the city, the possibility of a default—with all the associated costs to the city and the Federal Government—was all too real. Under the legislation, the corps can modify the projects operating criteria so that the city can lower its operation and maintenance costs. Both the corps and Aberdeen realize that modified operating criteria is the key to avoiding financial default while at the same time allowing them to maintain the integrity and long-term viability of the structure.

Though enactment of this legislation, Congress has taken an initial step to resolve this problem by giving Aberdeen and the corps a mechanism to control costs and further develop this facility. As many of my colleagues know, Aberdeen and its sister city, Tacoma, have plans to build a hydropower facility which can provide a permanent solution to the fiscal exposure that both the city and the Federal Government have in connection with the Wynoochee project, as well as providing long-term, cost-effective power to the citizens of Aberdeen and Tacoma. In the context of that hydropower project, I want to make it clear that the Federal Energy Regulatory Commission has already given preliminary approval to the Aberdeen/Tacoma design and will, as the regulatory process continues, take steps to ensure that the facility meets all applicable environmental standards. Because the corps will continue to own the project, it too has a responsibility to ensure the proper performance of the hydropower facility. Based on the information I have seen, it appears that this goal can be achieved without the imposition of costly overlapping regulatory burdens which could drive up the price of the project and threaten its ultimate viability.

I know that Aberdeen and Tacoma have expended enormous amounts of time and money in the effort to solve the Wynoochee problem. The corps, the administration and the Congress have also demonstrated a willingness to try to work this problem out. I urge all the parties to redouble their efforts and negotiate in the best of faith with the full knowledge that failure to achieve an agreement on the final terms of Aberdeen's operation and maintenance of the facility and the regulation of the hydropower facility will cause another fiscal crisis. We can avoid that if everyone is willing to keep on working together. I am, I know the cities of Aberdeen and Tacoma are, and I hope the corps and the administration are as well.

Mr. STAFFORD. Mr. President, there are two sections of the bill which deserve special attention: sections 38 and 39.

Section 38 provides that certain portions of property in and along the Delaware River in the vicinity of Philadelphia, PA, are to be declared to be nonnavigable for the purposes of navigation servitude unless the Secretary finds that the proposed developments which are to be built on these properties are not in the public interest.

Section 39 outlines similar conditions for portions of Coney Island Creek and Gravesend Bay, NY.

Mr. President, navigation servitude is one of the fundamental powers by which the Federal Government protects and maintains the interest of all citizens in our Nation's navigable waterways. As Members may be aware, the Federal power of navigation servitude finds its roots in the concept that the Nation's waters should be free and open for all citizens as pathways for commerce, recreation, fishing, or any other legitimate use.

Almost since the founding of this Nation, the public's interest and the Federal Government's powers over navigable waterways has been protected and refined through numerous court decisions.

Although the concept and application of navigation servitude is quite complex, perhaps the most major implication of it is that no person who owns lands or waters considered to be navigable should be forever indemnified from a Federal taking for the purpose of navigation improvement.

The consequences of this are multifold and profound, so that when Congress is asked to lift navigation servitude and divest the Federal Government of this fundamental power in a specific instance, the question of the public interest, and how is it best served must necessarily arise.

This question was particularly acute when we were asked to accept the House language lifting navigation servitude for sections of the Delaware River in the vicinity of Philadelphia. This case is like no other nonnavigability request in my memory in that the question of the public interest could hardly be less clear. Those arguing in support of lifting navigation servitude from these properties maintain that the proposed waterfront developments will serve the public interest by revitalizing a rundown waterfront area, while at the same time creating jobs and expanding the city of Philadelphia's tax base.

On the other hand, the implications of the proposed developments may have for safety and the vitality of commercial navigation in the area, and the potential precedent this section may have for future congressional actions with respect to navigation servitude, are disturbing.

It is for these reasons that this provision is highly controversial, and it is for these reasons that this Senator accepted this provision with great reluctance.

Mr. President, having said these things, I now would like to ask my good friend from North Dakota, the distinguished chairman of the Committee on Environment and Public Works to clarify a few matters with respect to sections 38 and 39 of the conference report.

Is it the understanding of the able Senator from North Dakota that the public interest determinations of the Secretary outlined in these sections are mean to be extremely thorough, and at a minimum should include a careful examination of the issues of the public's broad interest in these waterways, the public's safety, the safety of commercial navigation, and that thorough consideration should also be given to the effect of the proposed developments on the continued operation and expansion of all commercial port operations in these areas, on past and future Federal investments in navigation improvement and maintenance in the vicinity, and on the environment?

Mr. BURDICK. I thank my good friend from Vermont and can assure him that my understanding agrees perfectly with his.

I would also like to add that I too am troubled by these provisions, particularly section 38. I believe that the Senator is correct in his statement that navigation servitude is critically important in protecting the public's and Federal Government's interest in navigable waterways and that any removal should be done only after the most careful and thorough examination.

Mr. STAFFORD. Mr. President, I thank my good friend for his remarks and would now like to ask him if he agrees with me that sections 38 and 39 should in no way be construed to constitute congressional support or approval of any or all of the proposed Delaware River or Gravesend Bay and Coney Island Creek property developments.

Mr. BURDICK. That is correct, these provisions should not be taken as a congressional endorsement of the proposed projects.

Mr. STAFFORD. Then would the distinguished chairman agree that these sections should not prejudice in any way the public interest determinations required of the Secretary under these sections or any subsequent permitting decisions made by any Federal agency pursuant to existing law.

Mr. BURDICK. I can assure my good friend, the ranking minority member of the Committee on Environment and Public Works, that I agree with him that in no way should these sections prejudice or otherwise effect these determinations or decisions.

Mr. STAFFORD. Finally, Mr. President, I would ask about the intent of the chairman of the Environment and Public Works Committee with respect to any future requests for declarations of nonnavigability.

Mr. BURDICK. I am pleased the Senator from Vermont has raised this question. It is my intent that hearings be held next Congress on the critically important question of navigation servitude and that those hearings will lead to a more formal and thorough process by which the committee can examine and act on any future requests to remove navigation servitude.

Mr. STAFFORD. I thank the distinguished chairman of the Committee on Environment and Public Works.

DELAWARE RIVER NONNAVIGABILITY DECLARATION

Mr. SPECTER. Mr. President, the conference agreement on S. 2100, the Water Resources Development Act of 1988, contains a provision, which Senator Heinz and I strongly support, to declare certain portions of the Delaware River, encompassing the old, historic central waterfront, in the city of Philadelphia, to be nonnavigable. The provision is necessary technical legislation to enable five proposed commercial and residential development projects supported by the city, the Philadelphia Port Corporation and the Philadelphia Industrial Development Corporation [PIDC] to proceed at these sites.

The provision is necessary because the doctrine of navigational servitude, which applies to navigable waters of the United States, creates a cloud on title and thus precludes financing for these projects. Under the doctrine of navigational servitude, the U.S. Government can order the alteration or removal of the projects without compensation to the project owners would be clearly inequitable.

The Senate Environment and Public Works Committee held a hearing at my request on this matter on July 29, 1988. The testimony at this hearing on behalf of the mayor of Philadelphia, the Philadelphia Port Corporation, and the PIDC strongly supported the city's projects and made a persuasive case for the enactment of legislation to clear title so that the projects can proceed. As outlined in the testimony, the five projects have significant economic value to the city of Philadelphia and the Commonwealth of Pennsylvania through the creation of 4,000 new permanent jobs and $1.3 billion in local and State revenues over the next 30 years.

At the conclusion of this hearing, the Department of the Army promised to begin discussions with representatives from Philadelphia to craft legislation for the nonnavigability declaration. Additionally, on September 6, I personally escorted John Doyle, Army Corps of Engineers Principal Deputy Secretary for Civil Works, on a tour of the proposed development along Philadelphia's waterfront. Following John Doyle's visit, extensive discussions did ensue, and an agreement was ultimately reached that addresses concerns the Army has had and the specific facts and circumstances of Philadelphia's particular case. The conference agreement on S. 2100 embodies this agreement.

The conference agreement would declare the Philadelphia project sites to be nonnavigable, unless the Secretary of the Army determines, after consulting with local and regional public officials and using reasonable discretion, that such projects are not in the public interest. The conference agreement also retains permitting and regulatory authorities of the U.S. Government but would require compensation for the owners if there were an order by the United States to alter or remove the projects. Subject to the public interest test, the provision would remove the cloud on title represented by the navigational servitude so that the projects can proceed. The conference agreement provides, further, that the declaration of nonnavigability will expire if areas are not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with applicable permits within 20 years after the date of enactment of the legislation, or if work in connection with any permitted activity is not commenced within 5 years after issuance of permits.

Like any substantial waterfront projects, Mr. President, Philadelphia's projects have caused concerns to be raised in some quarters. On August 29, 1988, I met with a number of concerned parties in Philadelphia, and I concluded that their reservation, including diminution of future port development and safety issues, are being addressed and should be addressed further. The conference agreement's requirement for a public interest test will provide an opportunity for all to be heard again on this matter, but I want to stress that time is of the essence, because projects which will provide major employment and commercial stimuli for the city may come unwound if they cannot proceed promptly.

Since these projects face real, immediate deadlines, it has been essential for Congress to act on this matter this year, and I want to express my gratitude to my distinguished colleagues, Department of the Army officials, and my constituents and their representatives who have worked so hard to achieve this result. One issue which should be addressed further concerns further development of the port for industrial and cargo purposes, I am working with representatives of the Commonwealth of Pennsylvania and the city of Philadelphia to provide for such development.

S. 2100 AND THE DELAWARE RIVER NONNAVIGABILITY DECLARATION

Mr. HEINZ. Mr. President, I rise to express my strong support for the provision in the conference agreement on S. 2100, the Water Resources Development Act of 1988. This provision declares certain portions of the Delaware River at the central waterfront in the city of Philadelphia to be nonnavigable waters of the United States. This legislation must be enacted into law if the proposed development projects are to proceed at these sites.

The projects are part of the city's plan for commercial, residential and recreational development for its waterfront. The plan has developed through an approval process over a 20-year period. The process has included wide public participation and the projects are fully supported by the city, the Philadelphia Port Corporation and the Philadelphia Industrial Development Corporation. The projects will provide thousands of jobs and public access to the waterfront, at sites which contain blighted, dilapidated piers with no recent past or future port use.

The projects are located above and below the site which was the subject of a nonnavigability declaration approved by Congress in 1972—known as Penn's Landing. They will complement the Penn's Landing development and will not interfere with port and industrial waterfront commerical uses.

The legislation in the conference agreement is required because the doctrine of navigational servitude creates a cloud on title and therefore prevents project financing, This problem is exacerbated by the 1972 precedent for the Penn's landing site because that law highlighted the cloud on title for these next sites and projects. Under the doctrine of navigational servitude, the U.S. Government can order the removal or alteration of the projects without compensation to the owners.

The conference agreement embodies the results of extensive discussions between the Department of the Army, the city of Philadelphia and Members of Congress. It addresses the concerns the Army has expressed and the specific facts and circumstances of Philadelphia's particular case. I would like to commend all of the parties in these discussions for there diligent and successful efforts.

The conference agreement declares the Philadelphia project sites to be nonnavigable, unless the Secretary of the Army determines, after consulting with local and regional public officials and using reasonable discretion, that such projects are not in the public interest. The conference agreement confirms existing permitting and regulatory authorities of the U.S. Government but would require compensation for the owner if there were an order by the United States to remove or alter the projects. Subject to the public interest test, the legislation would remove the cloud on the title represented by the navigational servitude so that the projects can proceed. Furthermore, the conference agreement provides that the declaration of nonnavigability will expire if areas are not bulkheaded, filled or occupied by permanent structures or marina facilities in accordance with the applicable permits within 20 years after the date of enactment of this bill, or if work in connection with any permitted activity is not commenced within 5 years after issuance of permits.

Mr. President, Philadelphia's waterfront projects face immediate deadlines, and it is essential for Congress to act on this legislation this year. I look forward to working with the Secretary of the Army in completing the public interest test as soon as possible.

Mr. EVANS. Mr. President, I am pleased that today the Senate is acting on the conference report to S. 2100, the Water Resources Development Act of 1988. This legislation contains several provisions of importance to myself and to the State of Washington. In particular are three items which were included in H.R. 5247, the House of Representatives equivalent to S. 2100. The three projects include the transfer of operation and maintenance costs for the Wynoochee Reservoir project, the Blair and Sitcum Waterways reauthorization, and the land transfer in Whitman County, WA. My thanks go to the fine efforts of Congressman DICKS and FOLEY for assuring that these items were included in the legislation considered in the House of Representatives, and in the conference report we are acting on today. I would also like to express my deep appreciation to the members of the Senate Environment and Public Works Committee for their work and the fine work of the committee staff. Additionally, I wish to express my appreciation to my colleague, Senator ADAMS, for his work as we joined efforts to ensure that the committee report favorably considered these important Washington State projects.

I would like to address an initiative that is of particular interest to the cities of Aberdeen and Tacoma. This provision of the report involves the transfer of all of the operation, maintenance, repair and rehabilitation [OMR&R] costs of the Wynoochee Reservoir project to the city of Aberdeen, WA. This project is currently operated by the Corps of Engineers. This transfer should result in significant cost savings to the United States and the city of Aberdeen.

The cost savings is particularly necessary for the city of Aberdeen. Under the provisions of the 1967 contract, the city of Aberdeen is responsible for paying 50 percent of the OMR&R costs incurred by the Corps of Engineers. However, since that contract, costs of OMR&R have escalated to an alarming amount. An amount which has surpassed the fiscal capability of the city of Aberdeen, thus placing the city in a serious situation as it faces a prospective OMR&R bill for fiscal year 1989. However, with this congressional authorization, the Corps of Engineers will be able to transfer OMR&R responsibility to the city which, in cooperation with the city of Tacoma, will take full responsibility for these costs. Aberdeen plans to lower OMR&R costs by utilizing staff from the nearby Cushman projects, owned by the city of Tacoma, and by prudently managing off-site operations and maintenance at the dam. In addition, the city hopes to build a hydropower facility, in cooperation with the city of Tacoma, to help fund part of its OM&R obligation. The city shall be subject to the regulations promulgated by the Secretary of the Army which will ensure that OMR&R is consistent with the project's authorized purposes. Additionally, the report includes a provision in which the city will indemnify the United States for any negligence of the city in connection with the OMR&R of the dam. I am hopeful that this action today will prove to be an appropriate and effective solution for all involved.

Another provision of importance in the conference report involves the reauthorization of funds for the Blair and Sitcum Waterway's project. The original legislation authorized a total of $38.2 million. However, since 1986, the project cost has increased by more than 20 percent plus interest. The increased cost is due to the outdated study for bridge and dredging costs. I understand that this legislation will set that level at the current official Corps of Engineers estimate of $51 million. This provision is particularly important, as it is part of the Puyallup Lands Claim Settlement recently passed by the Puyallup Indian Tribe in August. This settlement is the result of 4 years of hard work and negotiation.

Finally, the conference report considers a land transfer that would be mutually agreeable to both the Port of Whitman County and the Walla Walla Corps of Engineers. The proposed exchange will allow the Port of Whitman County to acquire corps' land for port and/or industrial purposes. The corps would receive a piece of property to be used for wildlife habitat.

The Port of Whitman County's growth has been stifled in recent years due to a lack of available property for rental purposes. This unavailability has prompted businesses to leave the state seeking investment elsewhere. Port development of corps' property should help this problem. The county has been working for the past 2 years to gain authorization and requests approval so that losses in business revenues can be kept to a minimum. I understand that local corps' authorities are pleased with the exchange due to the fact that the property owned by the Port is more suitable for development as a wildlife habitat. The corps needs congressional authorization, however, before the exchange can take place.

Mr. President, I would urge my colleagues to join me in supporting this conference report.

Mr. BREAUX. Mr. President, I rise in strong support of S. 2100, the Water Resources Development Act of 1988. Passage of this bill today represents the commitment of the Congress to return to a 2-year water resource project authorization schedule. Most of us remember passage of the Omnibus Water Resources Development Act of 1986 which passed during the 99th Congress. Passage of the 1986 act broke a 10-year deadlock over water project authorizations that arose due to concerns about cost-sharing and project authorization procedures.

I was a conferee for the 1986 act when I served in the U.S. House of Representatives and was pleased to to serve as a conferee for this bill. I commend the strong leadership of the chairman and ranking member, Senators BURDICK and STAFFORD, who insisted that the bill hold fast to the cost sharing and project authorization principles included in the 1986 act.

I thank both the House and the Senate conferees, in particular Senators BURDICK, STAFFORD, MOYNIHAN, and SYMMS, for their support for four very important provisions in this legislation for Louisiana. All of these projects are consistent with the 1986 Water Resources Act principles and will provide important benefit to the State of Louisiana and all who visit and benefit from the State.

First, I want to point out the Mississippi-Louisiana estuarine environmental enhancement project in the bill. In 1986, the Chief of Engineers recommended a freshwater diversion project be constructed to preserve the area's wetlands, protect fish and wildlife resources and to enhance recreation. Because the project is primarily for environmental enhancement, the Corps of Engineers and the Senate Environment Committee recommended 100 percent Federal funding for the project. This project will greatly benefit the State of Louisiana as well as all those who visit the State to enjoy its wildlife and recreation resources.

Second, this legislation includes a provision clarifying a key cost-sharing feature of the 1986 Water Resources Development Act. S. 2100 would allow local interests working on deep draft navigation projects to apply utility relocation costs toward the 10-percent cost-sharing requirement. I am pleased that this provision will save the State of Louisiana an estimated $9.7 million.

Third, like many of my colleagues in other States, Louisiana was hard hit by this summer's drought. The Bayou LaFourche water supply was especially hard hit and it promises to be hard hit in the future should there be another drought. Thus, S. 2100 requires the crops to periodically evaluate impacts associated with drought conditions and apply its emergency authorities to help the Bayou LaFourche area where appropriate. I am pleased the conferees recognized the seriousness of this problem and that the corps will be authorized to evaluate the needs of this community during future droughts.

Finally, S. 2100 modifies the Red River mitigation project authorized by the 1986 Omnibus Act to require the corps to acquire up to 300 acres of lands at Stumpy Lake for mitigation. The lands are valuable for fish and wildlife. Moreover, these lands can be used to help mitigate the impacts of a "headcut" that is threatening the structure of the Lake Bisteneau Dam.

My office was advised that the acquisition of the lands as soon as possible is critical to stop the headcut. Therefore, modification of the existing Red River project was viewed by the conferees as the most feasible and timely option. If the headcut is not stopped, I am advised the dam will be destroyed and will flood hundreds of valuable fish and wildlife acreage.

I am pleased that the House and Senate conferees were able to work together in a spirit of cooperation to abide by the principles of the 1986 act. This is a good bill and it is my hope it marks the start of a routine of a two-year cycle for project authorizations.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING USE OF THE HART BUILDING ATRIUM FOR A CONCERT BY THE CONGRESSIONAL CHORUS

Mr. BYRD. Mr. President, on behalf of Mr. ROCKEFELLER, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 509) authorizing the use of the Hart Building atrium for a concert by the Congressional Chorus.

Mr. ROCKEFELLER. Mr. President, I am pleased to submit this Senate resolution authorizing the second annual holiday concert by the Congressional Chorus, to be presented at the noon hour during the week of December 12, 1988, in the Hart atrium. The membership, repertoire and professionalism of the chorus have grown significantly during the year since their last holiday concert. The membership is now over 60 strong, representing staff members from the Senate, the House and legislative support agencies. The group's repertoire spans the broad range of American music, including arrangements of American folk songs and popular pieces, works of classical composers, and selections from Broadway musicals. The chorus continues to perform for appreciative audiences in the Senate and the House, and is planning several concerts to benefit local charities during the upcoming holiday season. The Congressional Chorus provides a wonderful opportunity for the hard-working women and men who support the work of the legislative branch of our National Government to briefly escape the pressures of the office and find joy and relaxation in creating beautiful music. The concert will incur no cost to the Senate and will not disrupt the performance of official duties.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 509) was agreed to, as follows:

S. RES. 509

Resolved, That the atrium of the Senate Hart Office Building may be used from 12:00 noon until 1:00 p.m. on one day during the week of December 12, 1988, for a concert of American and holiday music to be presented by the Congressional Chorus.

TRIBUTE TO SENATOR STAFFORD

Mr. KERRY. Mr. President, I am delighted to join with my colleagues in paying tribute to Senator BOB STAFFORD. There is no Member of the Senate more deserving of such a tribute, or more highly respected by his fellow Senators.

BOB STAFFORD is a man who values brevity, and I will honor that proud New England tradition by keeping my own statement short. BOB likes to refer to Calvin Coolidge, and even to give out "Calvin Coolidge awards" to witnesses who keep their testimony short. As one who followed in the footsteps of Calvin Coolidge as a Lieutenant Governor of Massachusetts, I also feel a kinship with him. But there are a few things which really must be said in order to do justice to BOB STAFFORD.

BOB STAFFORD has been and is one of the great environmentalists in the U.S. Senate. He has pioneered and led the way for many of us who are concerned with issues like acid rain, like clean air and clean water, like the greenhouse effect and the ozone layer, and toxic wastes and coastal preservation. In a recent commencement address, BOB STAFFORD warned that "We are steadily moving toward a global environmental crisis, unless the peoples of planet Earth make some changes in the way we live." If any one individual has helped to make us aware of the threat to our environment, and of the changes that we need to make, it has been BOB STAFFORD.

Senator STAFFORD has also been a leader on issues of the education of our children. I was privileged to serve with BOB STAFFORD in the 99th Congress on the Committee on Labor and Human Resources. There I saw at firsthand his intense personal commitment to quality education. BOB STAFFORD sometimes jokes about the firm of "Stafford and Pell." That law firm hs brought us two of the most important educational tools that we have in this country—Stafford loans and Pell grants. The next administration would do well to keep the law firm of Stafford and Pell on permanent retainer, and seek their counsel frequently. That would probably be the best investment in education that we could make.

Bob Stafford has literally devoted his life to public service. As city prosecutor, naval officer, State's attorney, deputy attorney general, attorney general, Lieutenant Governor, Governor, Congressman, and Senator, he has always exemplified the highest standards of public service, and has personified the quiet strength and dignity of the people of Vermont whom he represents.

Bob likes to tell a story about helping an old woman across the street in Rutland on election day. She said to him, "Is that old coot Stafford still running?" That's not how we think of Bob Stafford here in the U.S. Senate. He is a natural resource for all of us. This institution has been stronger and better for his presence, and he will be missed by all of us.

BUDGET SHORTFALL FACING VETERANS' ADMINISTRATION MEDICAL CARE FACILITIES

Mr. DASCHLE. Mr. President, America's veterans are facing a problem of tragic proportion. Funding for medical treatment at Veterans' Administration facilities nationwide has fallen drastically short of the level necessary to meet veterans' needs. Veterans requiring health care are being turned away from VA medical centers across the country.

As shocking as this crisis is, the cause of the budget shortfall is even more appalling. For years, the Veterans' Administration has apparently been requesting funding levels which are insufficient for meeting the most basic level of veterans' health care.

During 6 of the last 7 years, Congress has appropriated substantially more money for VA health care than was requested by the administration. Yet, the cumulative shortage in funding faced by the VA health care system is $1.1 billion.

I hesitate to speculate how serious the crisis would be if Congress had placed total faith in the budget recommendations for veterans' health care submitted by the administration.

In my home State of South Dakota, the consequences of the administration's annual budget requests are already hitting veterans hard. Following orders from the VA's central office in Washington, veterans' facilities in South Dakota are being forced to eliminate health care to so-called category C veterans.

Category C veterans are those individuals with non-service-connected health problems whose incomes exceed $21,110. That figure is adjusted given the number of dependents a veteran may have. Veterans who are service-connected for their disabilities are provided care regardless of the income.

In South Dakota, hundreds of veterans who previously needed and used VA medical centers will now be denied such treatment. While efforts are being made within the VA system to offset the funding shortfall without reducing service, individual VA facilities simply cannot continue to provide care for those veterans.

In Sioux Falls, SD, patients defined as category C veterans currently receiving inpatient care will be discharged once their condition has stabilized. With the exception of cardiac and oncology patients and individuals requiring emergency care, category C veterans will be turned away from the VA facility.

The reality of the current VA funding shortfall is that about 200 veterans who have been receiving VA health care in Sioux Falls will be denied access to the facility as early as next week. And, with approximately 4,500 non-service-connected veterans in the State, that number can be expected to rise. In the western half of South Dakota, where over 240 category C veterans needed VA medical attention last year, similarly grim circumstances are forecast.

Denying patients care is only part of the problem. Prescription drugs currently available to these veterans will be curtailed or eliminated altogether. And workloads for the staffs of VA facilities will increase significantly, as reductions in FTE's will be required due to a lack of funding.

This problem is not unique to my State. All across America veterans are being turned away from VA medical centers, denied medication and effectively cut adrift from the system that promised to provide for their health care needs.

What veterans are facing today is nothing less than a national tragedy—a national tragedy, I must emphasize, that has been created by the Veterans' Administration itself by misleading Congress regarding the financial requirements of its medical system.

Mr. President, why has the Veterans' Administration misinformed Congress as to how much money is required to provide adequate health care to veterans? And more importantly, when this issue was finally brought to the attention of congressional leaders, and the drastic impact of this shortfall was understood, why has the administration refused to request a supplemental appropriation to meet this need?

In testimony before the Senate Veterans' Affairs Committee in September, the VA Administrator assured the committee chairman that he would do all he could to see that this problem was addressed expeditiously. However, no word has yet been conveyed from the administration as to how it intends to respond to this assault on our nation's veterans.

On October 11, 1988, I joined 24 of my Senate colleague in sending a letter to the President expressing our concern that veterans are being turned away from VA hospitals and our belief that swift action is required to avert a national tragedy. This letter strongly urged the President to personally intervene on behalf of the Nation's veterans so that Congress can act before adjournment. To date, we have received no response from the administration to this plea.

Perhaps the explanation for the administration's silence is best illustrated by the comments of OMB Director James Miller. In a May 24, 1988, letter to the chairman of the House Appropriations Subcommittee on HUD and Independent Agencies, regarding the fiscal year 1989 VA appropriation, Mr. Miller referred to veterans' programs, among other items, as "a low priority service."

As Congress waits for some sign of compassion or concern from the administration, veterans are being denied medication and access to VA hospitals. It is very difficult for me to imagine how such a tremendous oversight could occur, and then, once uncovered, be ignored.

When veterans agreed to serve and protect their country, they were promised something in return. The U.S. Government promised them that they would be provided health care.

The promise was not that health care would be provided only if veterans were disabled in action. The promise was not that veterans can receive medical treatment only if they are indigent. No, the promise was that if our citizens dedicate a portion of their lives to defending this country, then this country will, in gratitude for veterans' priceless support of freedom, provide for their health care. The diminution of that promise is now very clear, and it is traceable to the current administration.

In this election year, as in all campaign seasons, we hear a great deal about national security. We are told how vital it is that our Commander in Chief understands this issue and what a risk it would be to elect a leader who is not skilled in this area.

Mr. President, how we, as a government, treat yesterday's soldiers sends a direct signal to the young men and women we may ask to defend our freedom tomorrow. That component of national security—the men and women who serve in the Armed Forces—is as important as the military hardware they operate. And that component of national security has been ignored and significantly deprioritized by this administration.

In conclusion, Mr. President, I urge my colleagues to join me in urging the administration to honor the Nation's commitment to veterans by providing adequate funding for veterans' health care programs.

AIDS UPDATE

Mr. CRANSTON. Mr. President, according to the October 10, 1988, AIDS Weekly Surveillance Report, 75,437 Americans have been diagnosed with AIDS; 42,432 Americans have died from AIDS; and 33,005 Americans are currently living with AIDS.

Mr. President, 528 more Americans have developed AIDS and 290 Americans have died from this horrible disease since I last noted these statistics 1½ weeks ago.

Mr. President, as the 100th Congress prepares to adjourn, I wanted to note these tragic statistics one last time for the Record this year. I plan on resuming my practice of recording the numbers of cases and deaths from AIDS every couple of weeks when the 101st Congress begins. Although the Congress will not be in session again between now and January, tragically, the pain and death from AIDS will not be in a recess during the intervening months.

Mr. President, we have made real progress this year in our battle against AIDS. But much, much more needs to be done. That fight will continue in the 101st Congress, and I will continue to be at the forefront of that effort.

SENATOR DANIEL EVANS

Mr. HECHT. Mr. President, the all-too-brief congressional service of Senator Daniel J. Evans of Washington crowns a long and distinguished career of public service. He has brought to us all a perceptive vision and breadth of experience that gave him unusual influence for a first-term Senator.

Dan Evans' knowledge of the world extends well beyond the common spheres of law and politics. His record includes 6 years of naval service, education as an engineer, and college president. Turning to political life, he compiled an enviable record, serving in Washington's House for 8 years, including a tenure as Republican floor leader. His service at the State level climaxed with his election as Governor in 1965. Hugely popular with his constituents, Dan went on to become the only Washington Governor ever to win three consecutive terms. It was during this time that he drew the attention of a national audience as the keynote speaker at the 1968 Republican National Convention.

After a 6-year hiatus from politics, Senator Evans returned to statewide office with his appointment to fill the seat of the estimable Senator Henry "Scoop" Jackson. He went on to build a record of accomplishment and merit that his earlier achievements had clearly presaged. Although as the chief executive of his State he was used to controlling the tenor and agenda of the political scene, he quickly adapted to the community and collegiality of the Senate. He spoke and acted with the calm confidence of someone with such diverse experience. A fierce advocate of free trade, he led the fight against a protectionist trade bill. A supporter of President Reagan's campaign to strengthen America's defenses, he voted to fund research for the Strategic Defense Initiative and to produce the MX missile. A true son of the American West, he was a proponent of the citizens' right to bear arms while fighting consistently to protect the fish and wildlife of the region.

Dan Evans will be missed greatly by the institution that came to know, respect, and admire him greatly.

SENATOR WILLIAM PROXMIRE

Mr. HECHT. Mr. President, I rise today to honor a man whose long and distinguished career in the U.S. Senate has spanned 30 years of dedication to public service.

Senator William Proxmire was born November 11, 1915, in Lake Forest, Illinois. In the late 1940's, with a Harvard degree in hand, Senator Proxmire moved to Wisconsin and began hosting the radio program, "Labor Sounds Off." After only a year in Wisconsin, he won an unexpected election to the State legislature, an event which propelled him into a long and significant career as a Member of the U.S. Senate.

Senator Proxmire was elected to the U.S. Senate in 1957 after defeating former Governor Walter J. Kohler in a decisive victory. William Proxmire had suddenly become the first Democrat to win a Senate seat in the State of Wisconsin in 25 years. In 1975, he became the chairman of the Banking Committee. Through the passage of the Depository Institutions Deregulation and Monetary Control Act, Proxmire at last realized a goal he had pursued for more than a decade, the removal of a ceiling on the amount of interest banks and savings and loans could pay to savers.

Senator Proxmire has always been regarded as a staunch opponent of Government waste. His best known tactic for calling attention to obscure programs he feels are wasteful is known as the Golden Fleece Award. This award is given to a Federal agency each month for the "biggest, most ridiculous or most ironic waste of the taxpayer's money." Proxmire's monthly fleece awards have been an indication of his dedication to the American taxpayer and his overwhelming distaste for unnecessary expenditures.

Sadly, Senator Proxmire has chosen to retire from the Senate at the end of the 100th Congress. His leadership and experience will be missed by all who had the opportunity to work closely with him. I applaud Senator William Proxmire for his dedication to his country and his grand sense of loyalty to the American taxpayer. Throughout his long and distinguished career, his sense of fairness and utter individualism have indeed made him a forerunner of the modern Senate.

SENATOR PAUL TRIBLE

Mr. HECHT. Mr. President, the adjournment of the 100th Congress brings to a close the Senate career of Senator Paul Trible. I have always been impressed with the great number of excellent leaders in this Chamber and especially for those with a strategist's mind like Senator Trible. There is no question, this body has benefited by his desire and determination to play an active role in serving our country and his State.

Senator Trible's efforts to support a strong defense have been instrumental in defending active aggression of communism at our borders. His proposal for the antidrug summit was also a significant contribution by the Senator.

Senator Trible has been a man who truly looks out for his constituents. Creating education assistance programs is one reason he is so well-liked in his State. Because of Senator Trible's stand on national defense and the Space Program, he has had the opportunity to create tens of thousands of jobs in northern Virginia. He has also made us all more aware of the seriousness of our drug problem and has provided a plan of action to overcome this concern. I greatly appreciate his commitment to this cause.

Mr. President, while Paul Trible has served this body for only 6 years, he has distinguished himself in his service. He has been committed to implementing truths in this Nation and his State. We will surely miss his skill and devotion in serving this body and all those he represents.

SENATOR ROBERT STAFFORD

Mr. HECHT. Mr. President, it is with deep appreciation and respect that we bid adieu to our esteemed colleague, Robert T. Stafford of Vermont.

Solicitous toward his colleagues and well-mannered to all, this courtly, distinguished gentleman has been a model of decorum and genteel behavior. A humble man who eschewed public displays of vanity, his objective was merely to work quietly, yet, competently behind the scenes to pull together the strands of important legislation. Instead of posturing or engaging in contentious debate, he strove diligently for fair consensus on myriad issues. As he himself once put it, "There will probably be little desk pounding, but we'll work it out."

A long-time proponent of better education for our children, he strove tirelessly for improvement and innovation in the often neglected area of vocational studies and to enhance learning opportunities for disadvantaged students. While thus expanding educational opportunities, he joined to help hold down the burgeoning cost of education to our taxpayers.

Our colleague is noted as a peerless proponent and protector of our country's natural resources. Over 5 years he painstakingly steered through Congress an immensely complicated effort to clean up hazardous waste. In addition, he had a leading role in framing and reauthorizing measures to cleanse our lakes, forests, and streams of pollution.

Last, but not less importantly, Senator Stafford, through his service on the Veterans' Affairs Committee, staunchly advocated the needs of our retired service personnel, in the process making sure the Nation never forgot the debt of honor and service owed to our fighting men and women.

SENATOR JOHN C. STENNIS

Mr. HECHT. Mr. President, today I would like to pay tribute to the epitome of the southern gentleman, Senator John C. Stennis. Over the years he has been described by his colleagues as "political idol, mentor and, above all, legend." He entered the U.S. Senate 41 years ago with a pledge to "plow a straight furrow right down to the end of the row," and he has done just that.

Mr. President, John Stennis is a man deserving of much praise and admiration. He has surmounted both physical illness and personal hardship that would have broken men half his age. Yet, he has continued on in the Senate forcefully. John Stennis is a man with a great sense of duty. The plaque on his desk, which reads "Think Mississippi," is a symbol of his undying loyalty to his State and the people he represents. He applauds progress, of mankind and politics, and he lives by the motto "look ahead."

John Stennis has been, and will continue to be, an inspiration to us all. He has watched our political process grow from adolescence to adulthood, offering it support and assistance, when needed, as a concerned father would guide his child. He has made his mark in history as an esteemed statesman, who even in absence, will offer leadership and guidance to his beloved Senate.

Mr. President, today I would like to distinguish John Cornelius Stennis in another light, as esteemed colleague and friend. We honor John Stennis for blessing this Chamber with such dignity, knowledge, principal and humor. He will be missed.

SENATOR LAWTON CHILES

Mr. HECHT. Mr. President, great men must walk many miles to accomplish great deeds. Some steps are bigger than others. Some steps are heavier and harder than others. Some steps are even in the wrong direction. But ultimately the steps of great men leave behind a trail of accomplishment that can be upheld and revered by those he has served.

Senator Lawton Chiles has walked many miles in his service to the U.S. Senate, to the State of Florida and to the people of this Nation. His trademark "treks" across his own State of Florida, shaking hands and taking notes, reaching out to the people of Florida in their homes and backyards, getting to know the people he would come to represent are will know. Within the Senate "Walkin' Lawton" has strolled in the Sun, sponsoring legislation which required committee meetings to be opened to the the public and the press. He has shown his concern for both the elderly and the very young, advocating alternative health care for senior citizens as well as programs and funds to help reduce the infant mortality rate. And his efforts to protect the environment will insure that generations to come will also be able to walk in the Sun.

Lawton Chiles has been a man of the people. He has been a man of the Senate dedicated to progress, justice, and serving his country. As he sets off on a new walk in life, Lawton Chiles will be greatly missed. Best of luck to him down whatever path life leads him next.

SENATOR DANIEL J. EVANS

Mr. McCONNELL. Mr. President, I would like to take just a brief moment to applaud my good friend and departing colleague, Dan Evans—a Senator whose loss will be felt by every Member of the Senate.

For the last 2 years, I have had the privilege and benefit of sitting next to Dan on the Foreign Relations Committee. In that time I have learned a great lesson in integrity from an instructor who teaches by example. His balanced, evenhanded approach to issues has earned him the well-deserved respect of his peers on both sides of the aisle and serves as a model for lawmakers throughout Congress.

On issue after issue, Dan commendably has demonstrated his competence by carefully, thoughtfully, and thoroughly examining the facts with a nonpartisan desire to accomplish what is best for our Nation. We all have benefited from the way he colorfully expressed his feelings about those issues—his remarkable ability to use vivid metaphors and illustrative analogies to get to the heart of an issue is complemented by his knack for coining a memorable phrase. How many of us will continue to use the terms "Holy Trade War" and "Crimson Whale" in discussions long after Dan has left this body?

Mr. President, when we reconvene in January, I will have the formidable task of filling Dan's chair. I only hope that in doing so, the knowledge I have gleaned from Dan will be as inspirational to the Senator who fills my chair as Dan's has been to me.

THE IMPORTANCE OF AIDS EDUCATION

Mr. KENNEDY. Mr. President, I want to take this opportunity to discuss an important policy matter relating to our recent action on the omnibus public health legislation, S. 2889.

The Institute of Medicine, the President's AIDS Commission, and all public health organizations have said consistently that education is our most effective weapon in the battle against AIDS. While drugs such as AZT and others provide an important glimmer of hope for those already infected, the only vaccine capable of stemming the spread of HIV infection, is education for prevention. Our educational initiative has several goals. First, we must communicate convincingly to the general public about what does and what does not cause the spread of the virus. Unwarranted public fear has reached epidemic proportions and continues to threaten efforts at the design of sound public health policy. We must fight the fear with facts and equip all Americans with the information they need to make responsible personal choices.

As a second educational goal, we must communicate effectively to persons whose behavior may put them at high risk of HIV infection. In order to do so, educational materials must be presented in different ways to reach different target audiences. While presenting the benefits of monogamy and abstinence from drug abuse may be the safest alternative, providing less than a comprehensive message will undoubtedly cost lives. In the words of Dr. June Osborn, a U.S. representative to the newly formed Global AIDS Commission, "AIDS is so desperate a threat that we must not leave gaping holes in our defensive action by declaring certain strategies to be off limits if they necessitate the acknowledgement of lifestyles and choices that depart from a defined norm."

The content of targeted education materials has been the topic of considerable Senate debate for more than a year. Since we first embarked on this journey, the number of individuals diagnosed with AIDS and those whose lives have been lost to this scourge has doubled. In fact, 50 young Americans have died each day, and the count continues to skyrocket. Experience has vividly demonstrated the options: education saves lives and ignorance kills. Therefore, I am extremely pleased that we have put in place a comprehensive AIDS education authorization guided by sound public health policy.

The Committee on Labor and Human Resources has heard hours of testimony from public health officials concerning the dangers of overly restrictive Federal requirements for the development of educational programs. In addition, I have received letters from hundreds of medical, public health, and social service organizations struggling with AIDS on the frontlines, who have pleaded with us not to paralyze them in the midst of battle. Finally, in communications to the Committee on Governmental Affairs, State public health officers from across this country spoke of the chilling effect which resulted from educational restrictions attached to the fiscal year 1988 appropriations bill. We are told that some States have pulled targeted prevention materials off the shelf for fear of violating the law, while others have generalized their approach and thus compromised their effectiveness. In response to such concerns, Senator Cranston and I offered alternative lanugage to the fiscal year 1989 appropriations bill which would not create the same chilling effect and would allow the development of effective and appropriate AIDS educational materials.

In authorizing the AIDS Educational Program, it was our intent to incorporate the well-balanced Federal guidance that accompanied the fiscal year 1989 appropriations bill. The language creates an objective standard of review and makes several important clarifications. First, it clearly affirms the Senate position that Federal funds should not be used to develop informational programs which are designed to promote or encourage sexual activity—heterosexual or homosexual—or intravenous drug abuse. Further, it acknowledges that educational programs must be designed to encourage behavior change, both in the general population and among those at high risk for infection, in order to reduce the risk of transmission of HIV among such populations. Therefore, the limitation should not be construed in a manner that would inhibit the development of appropriate and effective AIDS education programs that are designed for the purpose of encouraging necessary behavior change. The language included in the bill guards against needless restrictions in three ways. First, the bill would restrict funds for those programs that directly encourage sexual activity by design. This test should erase the concern of many health educators and counselors that the Government would apply an "effects test" that would forbid the publication of any material that led or encouraged some persons to engage in sexual activity, even if an increase in sexual activity was not the intention of the materials' author. Second, funds are restricted so that only literature that by design directly encourages increased sexual behavior is limited. Circuitous, inferential links between literature and behavior are insufficient to disqualify funding. Third, the language makes clear that truth is a defense to the funding restrictions: accurate information on how to avoid contracting AIDS is completely protected, whether this information might conceivably lead some persons to engage in sexual activity or not.

I would also like to take the opportunity to point out the strong role created for local governments and community-based organizations [CBO's] in the design and implementation of educational programs. In States with a significant incidence of AIDS, the State is required to pass through at least 50 percent of their prevention dollars to local governments and community-based organizations with a minimum of 25 percent going to CBO's. It has been the experience of those cities hardest hit by the epidemic, that the most effective educational programs are done by community groups located in and representative of those subpopulations which have been most seriously affected. These community-based education efforts, coupled with the authorized State programs and the national information campaign, should engage all of society in interrupting this plague through prevention. Beginning now, let us move forward, armed with the necessary tools and determined that no more Americans will die because we withheld from them the benefit of our scientific knowledge.

I ask unanimous consent that the letters from organizations and public officials about which I spoke earlier be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, April 20, 1988.

Dear Colleague: The Surgeon General and leading public health experts from the Centers for Disease Control are in agreement that widespread and effective education is our only weapon in the battle against the spread of the AIDS virus. Virtually all major medical professional organizations agree. We feel strongly that it is the responsibility of the United States Congress to ensure that the dissemination of vital public health information is vigorously encouraged, and not disrupted.

The principal educational efforts in the struggle against AIDS have been made by community-based organizations which have cared deeply and worked tirelessly. They have bridged language and social barriers and developed the trust which is essential for achieving successful behavior change. Reports from various parts of the country are highly encouraging. In some areas where these groups are active, there has been no increase at all in the incidence of infection.

In order to be effective, educational materials must be presented in different ways to reach different target audiences. Targeting each audience appropriately may make all the difference between bringing the AIDS menace under control and the continued spread of infection.

The Senate has gone on record stating that it is not the CDC's role to promote sexual activity, and we agree with that. At the same time, it is not the intent of the Senate to hamper effective educational efforts supported by the CDC to stop the spread of AIDS.

Prominent public health officials from across this country have sent out a plea for caution in considering any attempt at restricting educational efforts. These professionals are united in their belief that society will pay the price if we "leave gaping holes in our defensive efforts by declaring certain strategies to be off limits."

Attached for your information are letters from Deans of Schools of Public Health, researchers, and service-providers. Their experience with this virus provides invaluable insight into the consequences of unclear and overly broad legislation. We hope that you will take advantage of their view from the trenches as you address the greatest health challenge of our day.

We appreciate your support in continued efforts to carry out the lifesaving task of educating Americans about AIDS.

Edward M. Kennedy, Arlen Specter, David Durenberger, Donald Riegle, Carl Levin, Barbara A. Mikulski, Thomas Daschle, John Melcher, Alan Cranston, Albert Gore, Jr., Paul Simon, Christopher Dodd, Brock Adams, Frank Lautenberg.

Organizations Opposing Restrictive AIDS Education Policies

Professional, Health, Labor Organizations:

The Allen Guttmacher Institute.
American Academy of Pediatrics.
American Academy of Child and Adolescent Psychiatry.
American Association for Counseling and Development.
American Association for Marriage and Family Therapy.
American Association on Mental Retardation.
American Association of University Affiliated Programs.
American Baptist Church, USA.
American College of Physicians.
American Fed. of State, County and Municipal Employees.
American Hospital Association.
American Medical Association.
American Nurses Association Inc.
American Psychological Association.
American Public Health Association.
American Red Cross.
American Social Health Association.
American Society of Allied Health Professions.
Association for Children and Adults with Learning Disabilities.
Association of Junior Leagues, Inc.
The Association for Persons with Severe Handicaps.

Association for Retarded Citizens of the United States.

Association of Schools of Public Health.

Association of State and Territorial Health Officials.

Autism Society of America.

Child Welfare League of America, Inc.

Church of the Brethren.

Consortium for Citizens with Development Disabilities.

Consortium of Social Science Associations.

Disability Rights Education and Defense Fund.

Epilepsy Foundation of America.

Episcopal Church.

Evangelical Lutheran Church in America.

Friends Committee on National Legislation.

General Board of Church & Society.

General Federation of Women's Clubs.

International Association of Psychosocial Rehabilitation Services.

International Union, United Automobile, Aerospace and Agricultural Implement Workers of America-UAW.

Mental Health Law Project.

National Academy of Pediatrics.

National Alliance for the Mentally Ill.

National Association of Community Health Centers.

National Association of Counties.

National Association of County Health Officials.

National Association of Developmental Disabilities Councils.

National Association of Mental Health.

National Association of Protection and Advocacy Systems.

National Association of State Boards of Education.

National Association of State Mental Retardation Program Directors.

National Association on Alcoholism.

National Coalition of American Nuns.

National Council of Churches of Christ.

National Council of La Raza.

National Council of Negro Women, Inc.

National Down Syndrome Congress.

National Family Planning and Reproductive Health Association.

National Hemophilia Foundation.

National Mental Health Association.

National Network—National Fund for Runaway Children.

National Urban Coalition.

Planned Parenthood Federation of America.

Provincetown AIDS Support Group.

Religious Action Center of Reform Judaism.

Spina Bifida Association of America.

Therapeutic Communities of America.

Unitarian-Universalist Association of Congregations in North America.

United Church Board of Homeland Ministries.

United Church of Christ.

United Food and Commercial Workers.

United States Conference of Local Health Officials.

United States Conference of Mayors.

Regional and Local Entities and Leaders:

City of New York—Commissioner of Health.

City of New York—Mayor Edward I. Koch.

City of San Diego—Mayor Maureen O'Connor.

Boston University—School of Public Health.

Columbia University—School of Public Health.

Harvard University—School of Public Health.

Johns Hopkins University—AIDS Care Team.

Loma Linda University—School of Public Health.

San Diego State University—School of Public Health.

Tulane University—School of Public Health.

The University of Alabama at Birmingham—School of Public Health.

The University of California, Los Angeles—School of Public Health.

The University of Hawaii—School of Public Health.

The University of Illinois at Chicago—School of Public Health.

The University of Maryland—School of Public Health.

The University of Massachusetts—School of Public Health.

The University of Minnesota—School of Public Health.

The University of North Carolina at Chapel Hill—School of Public Health.

The University of Oklahoma—School of Public Health.

The University of Pittsburgh—School of Public Health.

The University of South Carolina—School of Public Health.

The University of South Florida—School of Public Health.

The University of Texas at Houston—School of Public Health.

Yale University—School of Public Health.

District Attorney of Kings County (New York).

New York Conference—28 Physicians, Professors, Nurses, and Researchers.

Options House Youth Shelter.

Planned Parenthood of Suffolk County (NY).

Planned Parenthood of Washington, DC.

Provincetown, Mass—Department of Health.

Edward N. Brandt, Jr., M.D., Ph.D.

Kenneth O. Williams, M.D., Children's Hospital of Los Angeles.

311 Health Educators and Health Care Providers.

AIDS Organizations and Advocacy Groups:

AIDS Action Council.

AIDS National Interfaith Network.

AIDS Project Los Angeles.

American Civil Liberties Union.

American Foundation for AIDS Research.

Birmingham AIDS Outreach.

Citizens Commission on AIDS.

Coalition for AIDS Prevention and Education.

Gay Men's Health Crisis.

Human Rights Campaign Fund.

Legal Action Center.

Los Angeles Youth Network.

Mothers of AIDS Patients.

National AIDS Network.

National Association of People with AIDS.

National Gay and Lesbian Task Force.

National Leadership Coalition on AIDS.

National Minority AIDS Council.

Provincetown AIDS Support Group.

San Francisco AIDS Foundation.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, February 3, 1988.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Labor and Human Resources Committee, SD 428, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KENNEDY: The American Public Health Association, (APHA) representing a combined national and affiliate membership of over 50,000 health professionals, opposes any amendments which would put restrictions on AIDS educational materials which are produced directly or indirectly with federal funds.

At APHA's October Annual Meeting which was attended by nearly 10,000 public health professionals, the Association adopted a public policy statement opposing the Helms AIDS Amendment which was adopted by the Senate and attached to the Senate Appropriations bill. We are convinced that this provision, and others like it, will inhibit the development and dissemination of AIDS educational materials which are appropriate and effective for the populations for which they are designed. Education is our only preventive measure to stop the transmission of the AIDS virus. It would be irresponsible of this Government to chill the development of educational materials and programs which offer our only hope to protect those who are not yet infected.

We urge you to vote against any amendments which would put federal restrictions on the ability of government to educate the public about the manner in which individuals can protect themselves from becoming infected with the AIDS virus.

Very truly yours,
WILLIAM H. MCBEATH, MD, MPH,
Executive Director.

ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS,
McLean, VA, November 16, 1987.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The Association of State and Territorial Health Officials (ASTHO) believes that health education/risk reduction activities are the primary defenses available to combat AIDS and HIV infection.

ASTHO opposes any language that would preclude CDC from fulfilling its responsibility of educating the public in reducing its risk of AIDS. CDC has been doing an admirable job in fighting AIDS and it should not be denied the authority to financially support materials addressed to those individuals engaging in high risk behavior who do not yet abide by public health guidelines. The existing limit that educational materials meet with the approval of the local community is appropriate.

I urge you and your colleagues to oppose such language should it be introduced as an amendment to S. 1220 or any other piece of health legislation.

Sincerely yours,
WOODROW A. MYERS, JR., M.D.,
President.

ASSOCIATION OF SCHOOLS OF PUBLIC HEALTH,
Washington, DC, December 9, 1987.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The Deans of the twenty-four accredited graduate Schools of Public Health wish to go on record in support of AIDS prevention testimony given by June E. Osborn, M.D., Dean of the School of Public Health at the University of Michigan before the Senate Labor and Human Resources Committee on November 18, 1987. As you know, Dean Osborn is recognized as one of the leading authorities on the prevention and control of the spread of the AIDS virus through education. I wish to highlight some very important parts of her testimony:

If people are well-informed about the few ways in which that virus can be spread, most of them need not be fearful; those persons whose behavior might put them at risk can decide to *avoid* this virus through personal decision-making about private, consensual behavior. That is the path to control of the epidemic. There will never be a better vaccine than that! However, we must act quickly to educate people at risk. . . .

Specific persons and groups at risk require specially targeted messages. While general and tasteful language can accomplish the goals of a national educational campaign, and while monogamy or chastity and abstinence from substances of abuse can and should be described as the safest and most desirable decisions to be made about personal bahavior, that does not suffice! We have fostered the most strikingly pluralistic society in history and have fought wars in the name of individual worth. AIDS is so desperate a threat that we must not leave gaping holes in our defensive effort by declaring certain strategies to be "off limits" if they necessitate the acknowledgment of lifestyles and choices that depart from a defined norm.

Since we believe that public education is crucial in the all out struggle to control the spread of the deadly AIDS virus, we urge you and your Senate colleagues to oppose any amendments to the FY88 continuing resolution (CR) that might hinder the Centers for Disease Control (CDC), or any other agency of the U.S. Public Health Service, from effectively carrying out its mission to educate the American public about ways individuals (and communities) may protect themselves from becoming infected. We would like to add our collective voice to Dr. Osborn's view that such amendments would cripple the "public health 'war effort' in the most dangerous possible way. To take away the capacity of those on the front lines of prevention to deploy whatever tactical weapons they need is to condemn whole subsets of our society to a dreadful and unnecessary risk; and to forbid community organizations even to seek alternative funding to meet their needs without activating federal funding sanctions is to paralyze them in the midst of the battle."

We also strongly endorse the Surgeon General's position on the need for public education and its impact on reducing the spread of AIDS among those at risk. Dr. Koop's report on acquired immune deficiency syndrome is just one example of an effective public health education tool utilized in the nationwide effort to control the AIDS epidemic.

We understand that the CR is scheduled to be considered by the Senate this week. We urge you and your colleagues to oppose all amendments to the resolution that would, in effect, paralyze current AIDS prevention and control programs of the U.S. Public Health Service, in general and public health education services of CDC, in particular. CDC is to be commended for the effective and efficient manner it administers AIDS prevention and control programs. These programs should be supported and fostered, not hindered and restrained by Congress.

I sign this letter on behalf of all my fellow Deans of the U.S. Schools of Public Health.

Sincerely,

Joyce Lashof, M.D, ASPH President and Dean, School of Public Health, University of California-Berkeley.

William F. Bridgers, M.D., University of Alabama at Birmingham; Abdelmanen Afifi, Ph.D., University of California-Los Angeles; Harvey Fineberg, M.D., Ph.D., Harvard University; Norman Scotch, Ph.D., Boston University; Allan Rosenfield, M.D., Columbia University; Jerrold Michael, M.P.H., Dr. P.H., University of Hawaii.

Jacob Brody, M.D., University of Illinois at Chicago; Edwin Krick, M.D., M.P.H., Loma Linda University; Robert Kane, M.D., University of Minnesota; Charles Cameron, M.D., University of Oklahoma; Juan Silva-Parra, Ph.D., University of Puerto Rico; Winona Vernberg, Ph.D., University of South Carolina; Palmer Beasley, M.D., University of Texas at Houston; Jan A.J. Stolwijk, Ph.D., Yale University.

D.A. Henderson, M.D., M.P.H., Johns Hopkins University; Stephen Gehlbach, M.D., M.P.H., University of Massachusetts; Michel Ibrahim, M.D., M.P.H., Ph.D., University of North Carolina at Chapel Hill; Edgar Duncan, Ph.D., University of Pittsburgh; F. Douglas Scutchfield, M.D., San Diego State University; Peter Levin, Sc.D., M.P.H., University of South Florida; J. T. Hamrick, M.D., M.P.H., Tulane University.

AMERICAN NURSES' ASSOCIATION, INC.,
Kansas City, MO, November 11, 1987.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: It is our understanding that S. 1220, "The Acquired Immune-Deficiency Syndrome Research and Information Act of 1987" will be considered by the Senate within the upcoming weeks. This legislation represents a bipartisan effort; during its consideration by the Senate Labor and Human Resources Committee, Chairman Edward Kennedy (D-MA) and Ranking Minority Member Orrin Hatch (R-UT) offered a compromise substitute bill to give more control of the programs to individual states. The bill was then approved unanimously by the Committee.

The 188,000 members of the American Nurses' Association (ANA) wholeheartedly support S. 1220. We believe that the best way to prevent the spread of the disease AIDS is through education and research. We, therefore, ask that you support S. 1220 without amendment.

The bill would provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning AIDS. The major provisions of the bill are:

Declaration of a public health emergency concerning AIDS;

Support of international efforts to combat AIDS;

Public information efforts on AIDS;

Training in the area of: epidemiology, surveillance, testing, counseling, education, information, laboratory analysis, and risk reduction relating to AIDS;

Authorization of appropriations for state service programs; and

Enhanced research programs.

Historically, public health efforts have included health education, and health promotion to control the spread of infectious diseases. Public health experts believe that educational programs are the key to minimizing the spread of AIDS. The HIV virus is transmitted through intimate sexual, blood-to-blood, or body fluid contact. In the overwhelming majority of cases, the transmission of the disease can be effectively prevented by individuals voluntarily abstaining from well-documented high risk behaviors and activities. There are strong indications that carefully targeted educational programs and individual health counseling directed at changing high risk behaviors have been effective in combating the transmission of AIDS. Educational efforts directed toward changing behavior continue to be crucial, and S. 1220 would help promote such efforts.

In addition, as part of Title V State service programs, the individual states would be permitted to utilize their federal funding for the provision of health care services for eligible individuals in the home and in community-based settings. States would be provided grants through the Centers for Disease Control (CDC) to support activities outlined in the bill. Such grants would also be available for international organizations, and to entities involved in a network of comprehensive medical services to AIDS patients.

We understand that several amendments may be offered to S. 1220, including an amendment to overturn the Supreme Court's decision in the *Arline* case. That decision stated that people with contagious diseases are covered by Section 504 of the Rehabilitation Act of 1973.

We ask that you oppose any effort to overturn *Arline*. ANA believes that the determination of whether a person with a contagious disease is qualified for a position depends on several factors: the nature, duration and severity of the risk and the probabilities of transmission. Health care groups advocate a careful balance between protection of the public and the right of handicapped individuals to be free of irrational discrimination. ANA filed an amicus brief last year to support the application of Section 504 to persons with contagious diseases. ANA stressed that employment decisions must be made on a case by case basis after consideration of the individual's medical profile.

Additionally, provisions to require mandatory AIDS testing of all patients admitted to Veterans Administration facilities and programs and those of St. Elizabeth's Hospital may be proposed. ANA opposes such efforts, and agrees with Dr. Koop's statement on AIDS testing. "Compulsory blood testing of individuals is not necessary. The procedure could be unmanageable and the cost prohibitive. It can be expected that many who test negatively might actually be positive due to recent exposure to the AIDS virus and give a false sense of security to the individual and his/her sexual partners concerning necessary protective behavior."

Public health officials almost universally oppose mandatory testing. The epidemiological benefits of testing do not support the redirection of resources from research and education to test a large body of people who are not high risk. The majority of VA admissions fall out of the demographic parameters that predict disease prevalence. Therefore, we ask that you oppose any amendment to require AIDS testing.

ANA urges you to support S. 1220 without amendments. The country needs an effective education and organized funded reseach effort. The addition of controversial amendments will have a chilling effect on the prevention and spread of the disease AIDS.

Sincerely,

MARGRETTA M. STYLES,
Ed.D., R.N., F.A.A.N.,
President.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC., February 23, 1988.
Hon. EDWARD KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR CHAIRMAN KENNEDY: As the Senate begins its deliberations over S. 1220, the Acquired Immunodeficiency Syndrome Research and Information Act of 1987, I want to inform you of the American Hospital Association's position regarding the legislation and a possible amendment.

In developing sound policies to address the problem of AIDS, we cannot afford to let fear guide our actions nor can we afford to ignore the very real concerns that the possible spread of infection engenders. Widespread health education activities must be the cornerstone of our efforts to halt the spread of AIDS. The primary focus of S. 1220 is to provide for a comprehensive program of education, information, risk reduction, training, prevention treatment, care, and research concerning AIDS. The American Hospital Association supports this goal and would oppose amendments that would detract from the objectives of this bill.

Concern has been raised over a potential amendment regarding routine testing for Human Immunodeficiency Virus (HIV) in patients admitted to hospitals. The American Hospital Association opposes mandatory routine testing of patients. Together with the Centers for Disease Control (CDC), the AHA has endorsed universal precautions as the most effective means of reducing the risk of HIV infection for hospital staff and patients. Because HIV is transmitted only by direct contact with blood or body substances, the treatment of all body substances as potentially infectious protects both patients and hospital staff regardless of whether an individual's infection status is known. Universal precautions require the use of barrier such as gloves, gowns, masks, or protective eyewear, when exposure to blood or body substances is anticipated. Use of such barrier precautions provides additional benefit in protecting employees and patients from a wide variety of infectious diseases.

It has not been demonstrated that routine testing will increase the level of protection for workers above that achieved by rigorous adherence to infection control procedures such as universal precautions. Routine testing of either patients or staff is unnecessary to reduce the risk of exposure to HIV and should not be substituted for rigorous adherence to universal precautions. Testing for HIV infection is appropriate when making a medical diagnosis; screening blood, organs, or other body substances prior to donation; or in conducting follow-up procedures when a potential exposure to HIV has occurred. If barrier precautions fail, for example after needlesticks or other inadvertent violations of universal precautions, it is appropriate to conduct post-exposure follow-up testing, whether the incident involves employee exposure to a patient's blood or body substances, or patient exposure to an employee's blood or body substances. Such testing, however, should not be done without thorough pre- and post-test counseling as well as maintenance of confidentiality of information about HIV status.

Other arguments against mandatory routine testing are that it is prohibitively expensive; there is a time delay that accompanies the administration of the test; and there is also an important risks of inaccurate test results. For many hospitals the screening test would be sent to reference laboratories and results may be unavailable for several days. In the case of ambigous or positive results, repeat testing will be necessary. It is often impossible to perform a test before treatment is required. False negative test findings could result in treating a small number of infectious patients as though they were not infectious and false positive test results could create serious problems for the patient.

Ultimately, consistent use of protective measures affords the best protection against the transmission of HIV. Routine screening of patients or staff is unnecessary to reduce the risk of exposure of HIV, and should not be viewed as a substitute for universal precautions.

We urge careful consideration of this issue as Congress attempts to fashion a reasoned response to the public health problems associated with Acquired Immunodeficiency Syndrome and urge that amendments to S. 1220 that would detract from the objectives of the legislation be rejected.

Sincerely,

JACK W. OWEN,
Executive Vice President.

AMERICAN PSYCHOLOGICAL ASSOCIATION,
Washington, DC, November 16, 1987.
Senator EDWARD M. KENNEDY,
Chairman, Labor and Human Resources Committee, U.S. Senate, Hart Senate Office Building, Washington. DC.

DEAR SENATOR KENNEDY: On behalf of the 90,000 members of the American Psychological Association (APA), I am contacting you regarding legislation that would restrict the use of federal funds for AIDS education. The APA is the largest national organization representing the concerns of psychologists who work in health care and academic settings. Our membership is vitally concerned with the need for appropriate and compassionate national leadership—a leadership informed by the cutting edge practices of public health—in dealing with the AIDS epidemic. In this regard, we oppose any Congressional action which would restrict federal support for the dissemination of vital AIDS education materials.

Throughout the course of the AIDS epidemic, community service organizations have provided a large share of the limited educational and psychosocial services available to people living with AIDS. At a time when other elements of our society had forgotten these men, women and children, these organizations stepped forward to help the dying and their families. So too, these organizations launched some of the first and most effective education campaigns to reduce the incidence of HIV infection. Using a variety of media and the most sophisticated techniques from psychology, these programs have informed individuals across the country about lowering the risk for HIV infection. In places like San Francisco, where education campaigns have been underway for some time, the rate of new HIV infections has dropped dramatically with the virtual elimination of new infections in some instances. These achievements are largely due to community-based education efforts.

AIDS education often must be explicit and detailed. Much of the early AIDS education materials relied on such euphemisms like "body fluids" in order to avoid frank discussions about how to really prevent HIV transmission. The mistakes of the past, which caused an untold number of infections due to ignorance, must not be repeated.

Recent House and Senate action restricting the use of federal funds for AIDS education, information or prevention materials and activities that "promote or encourage, dirctly or indirectly, homosexual activity" would hamper efforts to disseminate important AIDS education materials. Gay and bisexual men constitute over 70 percent of the AIDS cases. Additionally, many thousands of gay and bisexual men are infected with the human immunodeficiency virus. We must help these people to modify their behaviors through educational programs that are sensitive, compelling and direct. Otherwise we face a larger death toll than already predicted.

APA strongly opposes efforts to restrict the frank discussion of human sexuality that is so necessary for stemming the AIDS epidemic. We urge Congress to modify the language of the so-called Helms amendment contained in the Senate version of H.R. 3058 to permit continued federal support of community service provider AIDS education efforts. Moreover, we urge you to stand firm against attempts to bar necessary support for AIDS education and prevention efforts among gay and bisexual groups.

Sincerely,

LENARD D. GOODSTEIN, Ph.D.,
Executive Vice President,
Chief Executive Officer.

AMERICAN FOUNDATION FOR
AIDS RESEARCH,
Los Angeles, CA.
Hon. EDWARD M. KENNEDY,
Chairman.
Hon. ORRIN G. HATCH,
Ranking Minority Member, Committee on Labor and Human Resources, Hart Building, U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND HATCH: As an organization deeply concerned with the continuing AIDS crisis, we are committed to supporting major AIDS education and prevention programs, such as those authorized in S. 1220. It is our belief—based on experience and research data—that AIDS prevention programs must be carefully crafted for the targeted populations. With a disease as serious as AIDS, we must not be afraid to speak frankly and explicitly about transmission and how it is prevented. We must address all Americans in a manner that does not condone or condemn any lifestyle—but rather encourages all to adopt safe practices that prevent the further spread of this disease.

Therefore, we urge you to support S. 1220 and its important education programs. We further urge you to oppose any amendments that might in any way tie the hands of educators in reaching those at risk to AIDS.

Respectfully yours,

SCOTT J. TILDEN,
Executive Director.

NATIONAL LEADERSHIP COALITION
ON AIDS,
Washington, DC, February 19, 1988.
Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I am writing on behalf of the National Leadership coalition on AIDS to urge your support for Senate Bill S. 1220. We also urge you to oppose the addition of any amendments to that bill which would restrict public health measures to manage the HIV epidemic.

The Coalition is a national private-sector leadership response to the challenges of AIDS and is comprised of over 100 corporations and businesses, religious, labor and health organizations. (A roster of our members is enclosed.) We include a broad cross section of interests which represents the diversity of American society. One of our purposes is to bring together people and groups who may differ ideologically, but who share a common commitment to help people with AIDS and their loved ones.

Given the breadth and diversity of interests represented in the Coalition's membership, we have a unique understanding of the public's concern about AIDS. What we have seen is the clear and increasingly urgent concern most Americans have for increased support—public and private—for research, education, and care. Because those are central issues around AIDS, we see S. 1220 to be the foremost legislative effort to date to move sufficient federal resources into these key areas, hence our encouragement to you to support S. 1220.

We also urge you to assess with extraordinary care whatever amendments are introduced which would deflect the central purposes of S. 1220. The restrictions offered last year by Senator Jesse Helms regarding education materials seriously distracted attention from the primary issues comprising the AIDS epidemic, and consumed costly resources to mitigate. Those hours and dollars didn't go into services, care, or focused education to help the public understand the primary aspects of AIDS. We urge you to keep the debate on central and primary matters, those being the importance of additional support for education, research, and health care.

Thank you for your consideration of our appeal. If you would like additional information about our organization and our efforts to marshal the collective resources of all of America to respond rationally and compassionately to the HIV epidemic, please give us a call.

Sincerely,

B.J. STILES,
President.

NATIONAL LEADERSHIP COALITION ON AIDS—ROSTER OF MEMBERS

CORPORATE

Abbott Laboratories*, Abbott Park. Illinois.

Abt Associates*, Boston.

Addiction Recovery Corporation*, Northbrook, Illinois.

Allstate Insurance Company*, Northbrook Illinois.

American Telephone & Telegraph, New York.

Associated Madison Companies, Inc., a Subsidiary of Primerice Corporation*, New York.

Baxter Travacare*, Deerfield, Illinois.

Burroughs Wellcome, Company*, Research Triangle Park, North Carolina.

Chevron, U.S.A., Inc.,*, San Francisco.

The Equitable Life Assurance Society*, New York.

General Mills, Inc.*, Minneapolis.

Hoffmann-La Roche Inc.*, Nutley, New Jersey.

International Business Machines Corp.*, Armonk, New York.

Johnson & Johnson*, New Brunswick, New Jersey.

Joseph E. Seagram & Sons, Inc.*, New York.

Levi Strauss & Co.*, San Francisco.

Levine, Huntley, Schmidt & Beaver*, New York.

Marshall Field & Company*, Chicago.

Mercantile and General Reinsurance Group*, Toronto.

Metropolitan Life Insurance Co.*, New York.

NCR Corporation*, Dayton, Ohio.

Ogilvy & Mather, Washington, DC.

Pacific Bell*, San Francisco.

Scott Paper Company*, Philadelphia.

Security Pacific Corporation*, Los Angles.

Transamerica Occidental Life Insurance Co.*, Los Angeles.

Union Carbide, Danbury, Connecticut.

USAA*, San Antonio.

Wells Fargo Bank*, San Francisco.

ASSOCIATIONS, VOLUNTARY, RELIGIOUS, AND EDUCATIONAL ORGANIZATIONS

Academy for Educational Development*, Washington, D.C.

AIDS Action Council*, Washington, D.C.

AIDSFILMS, Inc.*, New York.

American College Health Association*, Rockville, Maryland.

American Council of Life Insurance*, Washington, DC.

American Federation of Labor and Congress of Industrial Organizations*, Washington, D.C.

American Hospital Association*, Chicago.

American Medical Association*, Chicago.

American Nurses Association*, Washington.

American Psychological Association*, Washington, D.C.

American Public Health Association*, Washington, D.C.

American Red Cross*, Washington, D.C.

Association of American Medical Colleges*, Washington, D.C.

The Association of Junior Leagues, Inc.*, New York.

Assoc. of State and Territorial Health Officials*, McLean, VA.

Blue Cross Blue Shield Association*, Chicago.

Catholic Charities, USA*, Washington, D.C.

Catholic Health Association*, St. Louis.

Center for Community Changes*, Washington, D.C.

Center for Population Options*, Washington, D.C.

Citizens Commission on AIDS for the New York City-Northern New Jersey Region*, New York.

The Episcopal Church Center*, New York.

Gay Men's Health Crisis*, New York.

Health Industry Manufacturers Association*, Washington, D.C.

Health Insurance Association of America*, Washington, D.C.

Health and Welfare Ministries, General Board of Global Ministries, United Methodist Church*, New York.

Human Rights Campaign Fund*, Washington, D.C.

National AIDS Network*, Washington, D.C.

The National Assembly of National Voluntary Health & Social Welfare Organizations, Inc.*, Washington, D.C.

National Association of Chain Drug Stores*, Alexandria, VA.

National Association of Home Builders*, Washington, D.C.

National Association of Manufacturers*, Washington, D.C.

National Association of People With AIDS*, Washington, D.C.

National Coalition of Hispanic Health and Human Services Organizations*, Washington, D.C.

National Council of Churches AIDS Task Force*, New York.

National Council of La Raza*, Washington, D.C.

The National Foundation for Infectious Diseases*, Bethesda, Maryland.

National Gay and Lesbian Task Force*, Washington, D.C.

National Health Council*, New York.

The National Hemophilia Foundation*, New York.

National Lesbian and Gay Health Foundation*, Washington, D.C.

National Minority AIDS Council*, Washington, D.C.

National Urban League*, New York.

New York University (School of Education, Health, Nursing and Arts Professions).*

Pharmaceutical Manufacturers Association*, Washington, D.C.

Philadelphia Commission on AIDS, Philadelphia, PA.

The Salvation Army*, Philadelphia, PA.

Society for the Right to Die*, New York.

Union of American Hebrew Congregations*, New York.

United Church Board of Homeland Ministries*, New York.

United Way of America*, Alexandria, VA.

U.S. Conference of Mayors*, Washington, D.C.

Volunteers of America*, Baltimore.

GRANTMAKING ORGANIZATIONS

American Foundation for AIDS Research*, New York/Los Angeles.

Design and Interior Furnishing Foundation for AIDS*, New York.

The Hunt Alternatives Fund*, New York.

Maurice Falk Medical Funds*, Pittsburgh, PA.

Pettus-Crowe Foundation*, Washington, D.C.

*Indicates Founding Member (as of February 17, 1988).

THE ASSOCIATION OF JUNIOR LEAGUES, INC.,
New York, NY, April 12, 1988.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The Association of Junior Leagues has voted to support S. 1220, the legislation you introduced in the Senate to provide "a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research" on AIDS at the federal level.

There is little question that strong federal leadership in conjunction with federal funds is necessary if we are to make progress in confronting AIDS. In particular, we at the Association are pleased with the emphasis the legislation places on developing a range of education strategies to ensure that accurate and complete information is disseminated. We especially support the attention paid to the needs of women of childbearing age and young adults.

The Association of Junior Leagues is an international organization of women committed to promoting voluntarism and to improving the community through the effective action and leadership of trained volunteers. The Association has 272 member Leagues representing approximately 180,000 individual members. Two-hundred sixty-two of these Leagues are in the United States. Our particular interest in the issue of AIDS grows out of the longstanding commitment of the Association and individual Junior Leagues to the needs of women and children. Currently, the Association and Leagues are involved in programs and public policy activities in such areas as child welfare, child health, adolescent pregnancy prevention, homelessness among families and substance abuse. AIDS relates to each of these issue areas, particularly as the disease has a disproportionate impact on poor and minority women and children.

We believe the fight against AIDS will require the combined and sustained commitment of the private sector, the voluntary community and all levels of government. S. 1220 offers a reasoned approach to that fight. We applaud your leadership and urge swift passage of S. 1220.

Sincerely,

JUDIE B. GREENMAN,
Chairman, Public Policy Committee.

GENERAL FEDERATION OF
WOMEN'S CLUBS,
Washington, DC, March 24, 1988.
Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I am writing on behalf of the General Federation of Women's Clubs (GFWC), the oldest and largest organization of volunteer women in the world, to express support for S. 1220, the Comprehensive AIDS Research, Care and Information Act.

The members of GFWC are deeply concerned about the threat AIDS poses to all Americans. We feel it is essential that the federal government provide strong leadership, and a substantial financial commitment, to AIDS research and public education in order to advance efforts to find a cure for the disease and to prevent further spread of the virus. This belief is reflected in the enclosed GFWC resolution "Sexually Transmitted Diseases," adopted by GFWC members last June.

Because GFWC believes so strongly in the need to provide accurate information to the public about AIDS, we have established the GFWC AIDS Education Program, in cooperation with the American Red Cross and the American Council of Life Insurance. GFWC volunteers across the nation are working to carry factual information about AIDS and its modes of transmission to the people of their communities. Special emphasis is placed on providing information to teenagers, who are faced with decisions which will effect the rest of their lives. These young people need clear, explicit information about how to prevent becoming infected with AIDS if they are to be able to make wise decisions.

We at GFWC will continue our efforts to inform the public about AIDS. But we recognize that it will take the cooperative efforts of many different types of organizations and the federal government to teach all Americans the facts about AIDS and the ways to protect themselves.

We strongly support the education provisions of S. 1220, and oppose any amendments to restrict the content or scope of educational materials. Clearly, AIDS educators must have access to the type of frank information needed to reach appropriate audiences, including those in high risk groups. Individual communities and educators will then be able to select the materials most appropriate for the age group and population.

The nearly 400,000 members of the General Federation of Women's Clubs applaud your leadership in bring S. 1220 before the Senate. You may count on our support as this bill moves through Congress.

Sincerely,

PHYLLIS V. ROBERTS,
International President.

EVANGELICAL LUTHERAN CHURCH IN
AMERICA, LUTHERAN OFFICE FOR
GOVERNMENTAL AFFAIRS,
Washington, DC, March 25, 1988.
Hon. MAX BAUCUS,
United States Senate, Washington, DC.

DEAR SENATOR BAUCUS: We strongly urge your support of S. 1220, the AIDS Research, Information and Care Act of 1988 and your opposition to hostile amendments to it.

In the face of one of the worst public health catastrophes in history, this bill—which authorize needed new federal programs in medical research, patient care and public education—deserves your vigorous support. It enjoys strong bipartisan sponsorship, with Senators Ted Kennedy (D-MA) and Orrin Hatch (R-UT) leading the fight for its passage.

As leaders of various religious traditions within a pluralistic society, we feel compelled to speak on behalf of the effective, candid education and prevention programs put forth in this legislation, as well as provisions for the care of persons with AIDS.

Despite the broad-based and bipartisan support for S. 1220, we are told that a number of unrelated or hostile amendments will be offered. In considering S. 1220, we hope the Senate will focus on the bill's vital research, education and patient care aspects.

Our government's response to the AIDS crisis must be based on the best medical information available, as well as compassion that is consistent with Judeo-Christian tradition. It should not be based on either political considerations or on attempts to exploit the hysteria surrounding the AIDS crisis.

Furthermore, public health and medical experts agree such amendments could be counter-productive, inhibiting the most effective response to the AIDS crisis. Among the groups supporting S. 1220 and opposing such hostile amendments are: the American Medical Association, the American Public Health Association, and the American Nurses Association.

In summary, it is imperative that our government's response be dramatically improved. Enactment of this legislation represents a step in that direction. We strongly urge passage of S. 1220, without adoption of hostile amendments.

Sincerely,

Evangelical Lutheran Church in America, Office for Governmental Affairs; National Coalition of American Nuns; Presbyterian Church (USA), Washington Office; United Church of Christ, Office for Church in Society; Unitarian-Universalist Association of Congregations in North America, Washington Office; Religious Action Center of Reform Judaism; National Council of Churches of Christ, Washington Office; American Baptist Church, USA; Office of Governmental Relations; Episcopal Church; General Board of Church & Society, United Methodists; Church of the Brethren, Washington Office; United Church Board of Homeland Ministries; Friends Committee on National Legislation; and AIDS National Interfaith Network.

CONSORTIUM OF SOCIAL SCIENCE
ASSOCIATIONS,
Washington, DC, February 12, 1988.
Hon. EDWARD M. KENNEDY,
315 Russell Office Building, United States Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the Consortium of Social Science Associations, I am writing to urge you to support the Acquired Immunodeficiency Syndrome Research and Information Act (S. 1220), and to oppose any amendments to the bill that would restrict public health measures to stem the AIDS epidemic.

Of particular concern are any amendments that would limit or prohibit the development of effective AIDS education materials. At present, prevention is our only major weapon against the spread of the HIV infection, and prevention can only be accomplished by changing current behavior patterns. Education is the key. However, education programs can only be effective if they are targeted to specific audiences, in language these audiences will understand and act upon. We believe that any amendment limiting the language or scope of AIDS education materials will obstruct the all-important need to reduce high-risk behavior.

The Consortium also urges you to oppose amendments that would require mandatory reporting of names of those who test positive for HIV, and/or mandatory contact tracing. Social health researchers and psychologists have, on numerous occasions, denounced such policies as likely to have a chilling effect on high-risk individuals' willingness to step forward and be tested. Many within the social health and research communities have also argued that mandatory reporting and tracing would accomplish little or nothing in the way of epidemiological study. The National Academy of Sciences report on AIDS states that data collected through mandatory reporting "are not necessarily accurate in estimating the extent of infection across the country," and that reporting would "greatly discourage voluntary testing and would inhibit high risk persons from seeking counseling and medical treatment out of fear of loss of privacy." In addition, not only would screening of low-prevalence populations find relatively few new cases, it would produce relatively large percentages of false positives.

The Consortium also urges you to oppose any amendments to S. 1220 that would involve the imposition of criminal penalties. Such amendments should only be brought to the floor of the Senate after careful consideration by relevant Senate committees.

Furthermore, it is of critical importance that the research, education, and care initiatives contained in S. 1220 receive rapid consideration without diversion by such unrelated amendments.

Similarly, amendments involving issues such as mandatory testing of health care workers, food handlers, and other groups should be considered in the context of S. 1575, the AIDS counseling and testing bill, rather than S. 1220. It is inappropriate for the Senate to consider such measures until there is an opportunity for hearings and full consideration of these controversial approaches.

The Consortium of Social Science Associations (COSSA) represents more than 185,000 American scientists across the broad range of social and behavioral science disciplines, many of whom are contributing their research talents to help cope with this pandemic. Attached is a list of COSSA member associations, affiliated societies, and contributing universities.

Thank you in advance for your vote in support of S. 1220 and against restrictive amendments. If you have any questions or need additional information, please feel free to call me.

Sincerely,

BRIAN DALY,
Executive Associate.

Attachment.

CONSORTIUM OF SOCIAL SCIENCE ASSOCIATIONS

MEMBERS

American Anthropological Association, American Economic Association, American Historical Association, American Political Science Association, American Psychological Association, American Sociological Association, American Statistical Association, Association of American Geographers, Association of American Law Schools, and Linguistic Society of America.

AFFILIATES

American Assembly of Collegiate Schools of Business, American Association for Public Opinion Research, American Education Research Association, American Society of Criminology, Association for Asian Studies, Association for the Social Sciences in Health, Eastern Sociological Society, Federation of State Humanities Councils, Gerontological Society of America, History of Science Society, International Studies Association, Law and Society Association, Midwest Sociological Society, National Council on Family Relations, National Council for the Social Studies, North Central Sociological Association, Northeastern Anthropological Association, Operations Research Society of America, Population Association of America, Regional Science Association, Rural Sociological Society, Social Science History Association, Society for the History of Technology, Society for Research on Adolescence, Society for Research in Child Development, Society for the Scientific Study of Religion, Southern Sociological Society, Southwestern Social Science Association, Speech Communication Association, and The Institute of Management Sciences.

CONTRIBUTORS

American Council of Learned Societies, Boston University, University of California, Berkeley, University of California, Irvine, University of California, Los Angeles, University of California, San Diego, University of California, Santa Barbara, Carnegie-Mellon University, Center for Advanced Study in the Behavioral Sciences, University of Chicago, University of Colorado, Columbia University, Cornell Institute for Social and Economic Research, Cornell University, Duke University, Florida State University, Harvard University, Howard University, University of Illinois, Indiana University, Institute for Research in Social Science, UNC-Chapel Hill, Institute for Social Research, University of Michigan, University of Iowa, The Johns Hopkins University, University of Maryland, Massachusetts Institute of Technology, Maxwell School of Citizenship and Public Affairs, Syracuse University, University of Michigan, University of Missouri, National Opinion Research Center, University of Nebraska, Graduate Faculty, New School for Social Research, New York University, University of North Carolina, Chapal Hill, Ohio State University, University of Oregon, University of Pennsylvania, Pennsylvania State University, University of Pittsburgh, Princeton University, Rutgers University, Social Science Research Council, University of Southern California, Stanford University, State University of New York at Stony Brook, University of Tennessee, Knoxville, Texas A&M University, Tulane University, University of Virginia, University of Washington, University of Wisconsin, Madison, University of Wisconsin, Milwaukee, and Yale University.

AAMR,
Washington, DC, March 18, 1988.

Hon. EDWARD M. KENNEDY,
Labor and Human Resources Committee, United States Senate, Washington, DC.

DEAR SENATOR KENNEDY: I am writing to you on behalf of the officers and members of the American Association on Mental Retardation regarding S. 1220. The Acquired Immunodeficiency Syndrome Research and Information Act of 1987.

At a recent meeting of our Board of Directors the following resolution was adopted:

Whereas, AIDS is a preventable disease and education and consequent behavior changes can protect an individual from contracting the disease; and, although people with mental retardation are no more susceptible to the disease than mentally typical people, education and training efforts must take into account the special learning needs of people with mental retardation.

Therefore, be it resolved that the American Association on Mental Retardation urges:

Education accessible to persons of all ages and abilities including people with mental retardation, that will allow the choices and behavior changes necessary for the prevention of the disease in individual cases.

Whereas, the societal discrimination that is so prevalent in the lives of people with disabilities is amplified when the individual has AIDS, AIDS Related Complex, or the AIDS virus:

Therefore, be it resolved that the American Association on Mental Retardation urges:

Nondiscriminatory and accessible services, including health care, confidential and properly consented-to testing and counseling, social services, sex education, employment, and appropriate community-based residential services for persons with mental retardation who have AIDS, AIDS Related Complex or the AIDS virus. Services must continue to be consistent with the least restrictive environment principle.

In addition, the following statement is included in our Legislative and Social Goals—1988:

It is important that educational materials which are prepared focusing on prevention, be appropriate to the population of persons with mental retardation who may require more explicit educational materials.

In view of the pending action on this bill, we strongly urge you and the other members of the committee to consider these concerns regarding the content of the bill as it may affect persons with mental retardation.

If you have any questions, or if we can be of any assistance to you, other members of the committee, or committee staff, please do not hesitate to call on us.

Sincerely,

MARY S. DE RISO,
Director of Governmental Affairs.

IN CONFERENCE,
New York, NY, November 14, 1987.

Hon. EDWARD M. KENNEDY,
Hon. ORRIN HATCH,
Senate Committee on Labor and Human Resources, United States Senate, Washington, DC.

DEAR SENATORS KENNEDY AND HATCH: As individual scientists and academic researchers deeply concerned with AIDS, we write to you to express our mounting alarm over recent developments in the formulation of federal policy. In general, we disagree with the AIDS legislation that has been introduced by Senator Jesse Helms. In particular, we are opposed to the AIDS education amendment to the Labor/Health and Human Resources appropriations bill that was passed on October 14th. Limitations of this type on AIDS education and risk-reduction programs threaten to cripple our public health effort against the epidemic in the most dangerous way.

Education is our only weapon in the struggle to halt the spread of the virus of AIDS. While drugs such as AZT provide an important glimmer of hope for those already infected, vaccines and cures are many years off and we cannot afford to wait. But thanks to extraordinary scientific progress, we already know what we need to know in order to design educational strategies for prevention of the further spread of the virus of AIDS.

If people are well-informed about the few ways in which the virus can be spread, most of them will not be fearful; those persons whose behavior might put them at risk can be alerted and can decide to avoid this virus through personal decision-making about private, consensual behavior. That is the path to control of the epidemic. There will never be a better vaccine than that. However, we must act quickly to educate people at risk.

The enemy in this war is a deadly virus capable of staying quietly dormant yet transmissible for several years before AIDS develops; but it can only spread by sexual intercourse, by sharing illicit-drug-injection apparatus, and by injection of large amounts of blood. This makes behavior change the prime focus of our public health strategy, now that screening of the blood supply is in place; and we must have people's focussed attention as we educate to achieve that behavior change.

Our educational initiative has several goals. First, we must communicate convincingly to the general public about what does and does not cause its spread, for diffuse fear is our worst enemy. Unwarranted public fear is presenting serious problems at present, for it distorts efforts at the design of wise public policies. What is more, personal fear is incompatible with compassion, of which we have great need in the design of such policies and in our societal response, for the AIDS epidemic already complied a terrible anthology of tragedies.

In this effort we should be using clearly worded messages and deploying all available media. Strong central leadership is essential to the credibility of such communication, and from the silence at the very top of our national effort to date, much fear and uncertainty has flourished and festered.

As a second educational goal, we must communicate to persons whose behavior may have put them at right risk. Our message to them must be plainly stated so that they can recognize their risks, and programs must be designed to encourge them to step forward in confidential or anonymous circumstances to learn of their status, with counselling both to interpret antibody test results and to help prevent further risk behavior.

Third, we must educate adolescents and children about the new virus and its ways, for the world has changed forever with the arrival of AIDS and it will be with us for generations to come—we cannot change that fact of life no matter what we do, but we can influence just how dominant a force it will be in the lives of our children's children by what we do now in the way of education for prevention.

Specific persons and groups at risk require specially targeted messages. While general and tasteful language can accomplish the goals of a national educational campaign, and while monogamy or chastity and abstinence from substances of abuse can and should be described as the safest and most desirable decisions to be made about personal behavior, this effort alone will not suffice. We have fostered the most strikingly pluralistic society in history and have fought wars in the name of individual worth. AIDS is so desperate a threat that we must not leave gaping holes in our defensive effort by declaring certain strategies to be "off limits" if they necessitate the acknowledgement of lifestyles and choices that depart from defined norm.

Early in the epidemic we made mistakes in trying to communicate through circumlocution. For instance, we talked about "intimate contact" when we meant sexual intercourse, leaving loving families uneasy about affectionate non-sexual contact; and we talked about "exchange of bodily fluids" when we meant semen and cervical secretions, leaving people unnecessarily frightened about sweaty handshakes or restaurant utensils.

We learned from those mistakes. We must speak in the languages of our intended listeners if we wish to be understood. That means for specific communities and subcultures the message must vary and must sometimes be quite explicit. That will present some difficult challenges, but to do less is to condone a virtual death sentence for unapproved behavior. We must not now take away the capacity of those on the front lines of prevention to deploy whatever tactical weapons they need and condemn whole subsets of our society to a dreadful and unnecessary risk; and to forbid community organizations even to seek alternative funding to meet their needs without activating federal funding sanctions is to paralyze them in the midst of the battle.

The price for such paralysis is unthinkable and will be paid by us all—both the direct cost of more of our citizens infected through lack of warning and the indirect cost inherent in the destructive effect on a society that puts some of its members beyond help. Instead of such crippling maneuvers, it is time to embrace with all our energy and ingenuity the historically unique opportunity to interrupt a plague by education for prevention.

Respectfully yours,

Frederick P. Siegal, M.D., Professor of Medicine, SUNY/Stony Brook, Section of Hematology Research, Department of Medicine, Division of Hematology/Oncology, Long Island Jewish Med. Ctr.

Lowell S. Young, M.D., Director, Kuzell Inst. for Arthritis and Infectious Diseases, San Francisco.

Marcel A. Baluda, Ph.D., Professor, Dept. of Pathology, UCLA School of Medicine.

Steven Witkin, Ph.D., Associate Professor, Department of Obstetrics and Gynecology, Cornell University Medical College.

Helen Schietinger, M.A., R.N., Director of AIDS Education, California Nurses Association.

Michael Eriksen, Sc.D., President, Society for Public Health Education.

Richard Christie, Ph.D., Professor of Social Psychology, Department of Psychology, Columbia University.

Wilfred G. Van Gorp, Ph.D., Chief, Neuro-Psychology Laboratory, UCLA/VAMC, West Los Angeles.

Lydia Temoshok, Ph.D., Langley Porter Psychiatric Institute, University of California, San Francisco.

Jeffrey Moulton, Ph.D., Langley Porter Psychiatric Institute, University of California, San Francisco.

Jeffrey E. Harris, M.D., Ph.D., Professor of Economics, Massachusetts Institute of Technology, Physician, Primary Care Unit, Massachusetts General Hospital.

Brian Wigdahl, M.D., Ph.D., Assistant Professor, Department of Microbiology, Pennsylvania State University, Hershey, PA.

Donald I. Abrams, M.D., Assistant Clinical Professor of Medicine, University of California, San Francisco, Assistant Director AIDS Clinic, San Francisco General Hospital.

Victor Degrottola, Ph.D., Assistant Professor, Biostatistics, Harvard School of Public Health.

David J. Volsky, Ph.D., Molecular Virology Laboratory, St. Luke's-Roosevelt Hospital Center, Associate Professor, Columbia University College of Physicians and Surgeons, New York, NY.

Arthur Amman, M.D., Adjunct Professor of Pediatrics Inc., University of California, San Francisco.

Don C. Des Jarlais, M.D., Assistant Deputy Director for Research, New York State Division of Substance Abuse Services.

Roger Detels, M.D., M.S., Professor, School of Public Health, University of California, Los Angeles.

Gordon R. Dressman, Ph.D., Chairman, Southwest Biomedical Research Foundation, Department of Virology.

Michael Grieco, M.D., Professor, Clinical Medicine, St. Luke's-Roosevelt Hospital Center, Columbia College of Physicians and Surgeons.

David E. Kanouse, Ph.D., Senior Social Scientist, The Rand Corporation.

Mathilde Krim, Ph.D., Associate Research Scientist, St. Luke's-Roosevelt Hospital Center and Columbia University College of Physicians and Surgeons.

Michael Lange, M.D., Assistant Chief, Division of Infectious Diseases, St. Luke's-Roosevelt Hospital Center, Associate Professor of Medicine, Columbia University College of Physicians and Surgeons.

Mervyn F. Silverman, M.D., M.P.H., Adjunct Professor of Medicine, University of California, San Francisco.

Carol Levine, M.A., Public Law and Government, New York, NY.

Donald B. Louria, M.D., Chairman and Professor, Preventive Medicine and Community Health, University of Medicine and Dentistry, NJ Medical School.

Michael S. McGrath, M.D., Ph.D., Assistant Professor of Medicine, AIDS Oncology Division, UCSF-San Francisco General Hospital.

Craig Rosen, Ph.D., Assistant Member, Department of Molecular Oncology, Institute of Molecular Biology, Nutley, NJ.

Note: The beliefs and opinions expressed in this letter represent the views of the individual signators only. No other endorsement, express or implied, is intended.

Child Welfare League
of America, Inc.,
Washington, DC, November 13, 1987.

Hon. Edward M. Kennedy, and Hon. Orrin G. Hatch,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

Dear Senators Kennedy and Hatch: On behalf of the Child Welfare League of America, its 475 members and 1200 affiliates, I am writing to you about our grave concerns regarding possible damaging amendments to S. 1220, "The Acquired Immune Deficiency Syndrome Research and Information Act of 1987".

Of particular concern are amendments that encumber the education of persons at high risk of contracting this deadly disease. The Surgeon General of the United States has frequently been quoted as identifying education as our first line of defense against AIDS. With amazing success, materials and information disseminated within the gay community have recently begun to show their effectiveness in a lessening in the numbers of persons exposed to HIV infection.

Unfortunately, educational materials aimed at youth who are engaged in high risk activity have not been as quickly developed or as effectively disseminated. Amendments that restrict knowledgeable, competent and experienced professionals from writing materials aimed at reaching and influencing these youth would have a deadly consequence for many young people. CWLA concurs that monogamy or abstinence may be effective in stopping the transmission of HIV infection, but experience shows that it is not realistic to assume that this advice is always followed.

It is all too obvious in the sad case of the Ray family of Arcadia, Florida, that fear based on ignorance is dangerous. The United States Senate, with your leadership, must firmly act on competent, compassionate public policy and not be dissuaded by hysterical rhetoric with no foundation in fact.

We are, therefore, counting on you to reject any such amendments.

Sincerely,

David S. Liederman,
Executive Director.

National Association
of County Health Officials,
Washington, DC, November 25, 1987.

Dear Senator: I am writing to urge your support for S. 1220, "Acquired Immunodeficiency Syndrome Research and Information Act of 1987". AIDS presents an unprecedented public health problem. It is imperative that Congress provide leadership to combat this disease in the most offective ways possible.

At the present time, education about AIDS prevention is the most effective means of stemming the epidemic. There are neither vaccines against AIDS, nor successful treatments or cures. The best method available is to educate people concerning high-risk behaviors and to teach individuals how to best protect themselves. Educational materials and methods must follow the basic tenets of public health practice which include knowing the target audience and gearing materials and methods specifically to this audience. It is crucial that strong leadership be given to assure that funds allocated for education clearly address those behaviors that may place individuals at risk of the HIV infection.

The Federal government must use its abilities to assure that a comprehensive response to AIDS is launched and continued until successful.

We understand that Senator Weicker is proposing an amendment that would assure funding for AIDS prevention education efforts targeted at young persons. This is the only positive amendment of which we are aware.

We urge your support for this initiative.

Sincerely,

JOEL NITZKIN, M.D.,
President, National Association of County Health Officials, Director, Monroe County Department of Health.

NATIONAL ASSOCIATION OF
STATE BOARDS OF EDUCATION,
Alexandria, VA, February 23, 1988.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: The need for educators to provide effective prevention education about Acquired Immune Deficiency Syndrome (AIDS) for our nation's elementary and secondary school students is urgent. The U.S. Public Health Service estimates that AIDS will kill about 179,000 Americans, many of them children and young adults, by the end of 1991. According to the Centers for Disease Control (CDC), nearly 5 percent of people with AIDS were infected with the virus before the age of 20. Adolescents and pre-adolescents are especially vulnerable to an HIV infection at a time when they are exploring their own sexuality and/or experimenting with drugs. Without accurate and effective information, many students may make behavior choices that unknowingly place them at risk for contracting and spreading the HIV virus. As a result of the devastating toll that AIDS has taken on our society, the lack of a cure, and the continuing threat this disease poses to our young people, it is clear that our public schools must play a role in abating the AIDS epidemic.

As national education associations, we are involved in a long-term effort to build the capacity of state and local education agencies to educate public school administrators, teachers, and students about the deadly threat of AIDS. State and local educators are playing a key role in AIDS education by providing sound guidelines for curricular content and effective instruction. We wish to call your attention to the AIDS education component of S. 1220, "A Comprehensive AIDS Research, Information and Care Act," to be considered by the Senate this week. S. 1220 includes a $265 million authorization to states for AIDS education and prevention programs administered through the CDC and the Department of Health and Human Services.

Our organizations are currently engaged in the process of developing model guidelines and programs for effective AIDS education. There is a great need for our services. Many state and local leaders do not have access to up-to-date information about the disease or about programs that can affect students' attitudes and behaviors. We need to direct more assistance to minority communities and to address the problem of educating youth who are at high risk of infection, many of whom are not in school. We must assist with the evaluation and monitoring of the quality of AIDS instruction in the schools.

Although states may set minimum standards and provide the latest information about AIDS and promising educational approaches to local communities, local communities must be free to choose the curricula and teaching materials they feel are appropriate for them. The decision about what information will be taught, which materials will be used, and at which grade level, should be a local one. Therefore, we believe it important not to restrict the ability of local educators to choose the instruction and materials they deem appropriate for the community they serve, in order to promote changes in students' knowledge, attitudes, and behavior.

S. 1220 represents significant and necessary support for AIDS education, and we urge you to support this legislation without amendment when it comes before the full Senate.

Sincerely,

American Federation of Teachers, American College Health Association, Council of Chief State School Officers, Council of the Great City Schools, National Association of State Boards of Education, National Education Association, and National School Boards Association.

NATIONAL COUNCIL OF
LA RAZA, RAUL YZAGUIRRE, PRESIDENT,
Washington, DC, March 23, 1988.

Hon. EDWARD M. KENNEDY,
U. S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: I am writing to you on behalf of the National Council of La Raza to endorse Senate Bill S. 1220, the Research, Education and Care Act of 1988. The Council is one of the largest national Hispanic organizations, which serves as an advocate for Hispanic Americans and as an umbrella organization for affiliate community-based groups which serve over one million Hispanics in 32 states, Puerto Rico, and the District of Columbia. The Council endorses S. 1220 because it would allocate resources to populations who do have a high prevalence of exposure to Human Immunedeficiency Virus (HIV).

The Council opposes any amendment to S. 1220 that would prohibit the development of effective AIDS education materials. Potential amendments including those that may be introduced by Senator Jessie Helms will be counterproductive from a public health standpoint. Any amendment to the bill requiring the reporting of names of individuals testing positive for HIV antibodies, contact tracing, or mandatory testing will deter persons most at risk for HIV infection from seeking medical care and risk-reduction education.

Groups engaging in high-risk behavior such as homosexuals/bisexuals, intravenous (IV) drug users, sexual partners of IV drug users, and prostitutes will be especially reluctant to seek needed information, diagnosis, and treatment if confidentiality provisions are not ensured. To the extent that this population perceives that confidentiality may be violated, participation in education and prevention programs will suffer dramatically. In addition, any sound public health policy launching an aggressive education, prevention, and risk-reduction effort must develop AIDS educational materials that are frank and targeted to specific groups that engage in high-risk behavior. Without effective educational materials the implementation of such an effort would undermine the reduction of transmission of the AIDS virus, the single most important cornerstone of the AIDS education and prevention efforts.

I thank you in advance for your sponsoring of S. 1220 and your leadership to prevent passage of regressive amendments to the bill.

Sincerely,

RAUL YZAGUIRRE,
President and Chief Executive Officer.

NATIONAL COUNCIL OF
NEGRO WOMEN, INC.,
Alexandria, VA, Mar. 25, 1988.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: Dr. Dorothy Height and I wish to commend you as an author of Senate Bill S. 1220, to establish a major national AIDS program. As we have discussed with you previously, AIDS education for minority populations requires the active participation of community-based organizations which are representative of these populations. Again, your legislation speaks to this requirement.

We do, however, wish to express our concern that the addition of regressive amendments to S. 1220 would serve as barriers to effective public health programs. The addition of amendments such as those proposed by Senator Jesse Helms (R-North Carolina) are vigorously opposed by our organization. We ask that you vote against any amendments similar to those offered by him in the past.

Many thanks for your leadership in the fight against AIDS. We must maintain a strong thrust, devoid of regressive and restrictive strategies to compromise the intent of S. 1220.

Sincerely,

GERTRUDE T. HUNTER, M.D.,
Director, National AIDS Education and Prevention Program (NAEPP), National Council of Negro Women, Inc. (NCNW).

NATIONAL MINORITY AIDS COUNCIL,
Washington, DC, Mar. 22, 1988.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: I am writing on behalf of the members of the National Minority AIDS Council to endorse Senate Bill S. 1220. I am also writing to oppose the addition of any amendments to the bill that would restrict public health measures to manage the HIV epidemic.

We laud the authorization for national AIDS information efforts to respond to the disproportionate impact of AIDS on the minority community in S. 1220. However, to address the needs of AIDS education in the minority community you must oppose any amendment that would prohibit the development of effective AIDS education materials.

We believe Senator Jesse Helms (R-NC) or other Senators will attach an amendment to S. 1220 to restrict AIDS education materials. The restriction offered last year by Sen. Helms was greeted with outrage from the public health community and would limit our ability to educate minority populations. Please vote against any similar amendment that may be added to S. 1220.

We thank you in advance for your vote in support of S. 1220 and your leadership to prevent passage of regressive amendments to the bill. Together, we can work together to ensure an adequate response to the AIDS public health emergency.

Sincerely,

MENCER DON EDWARDS.

NATIONAL URBAN COALITION,
Washington, DC, Mar. 21, 1988.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the National Urban Coalition, I am writing to endorse Senate Bill 1220. In addition, we oppose the addition of any amendments to the bill that would restrict public health measures to manage the HIV epidemic.

We are particularly supportive of the funds provided in S. 1220 for national information efforts to respond to the disproportionate impact of AIDS in minority communities and the role given to the Office of Minority Health in evaluating the information efforts among minorities.

If, however, we are to effectively address AIDS education and risk reduction in minority communities, it is imperative that no amendments prohibiting the development of effective AIDS education materials be attached to the bill.

It is our understanding that Senator Jesse Helms or other members of the Senate are planning to offer amendments to S. 1220 which would restrict AIDS education materials. Such amendments are counterproductive to our public health goals and would greatly restrict our ability to educate minority populations. We strongly urge you to oppose any such amendments.

Thank you for your leadership thus far on S. 1220, and in advance for your leadership to prevent passage of regressive amendments to the bill. We look forward to continuing to work together to ensure an appropriate response to the AIDS public health emergency.

Sincerely,

M. CARL HOLMAN,
President.

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, November 19, 1987.

EDWARD M. KENNEDY,
U.S. Senator,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the nation's mayors, I am writing to urge your support of S. 1220, the Comprehensive AIDS Research, Information and Care Act, which will soon be coming to the Senate floor for a vote. As you know, the Conference of Mayors' history and concern about Acquired Immune Deficiency Syndrome is a long one. Though its impact is greatest at the local level, AIDS is a national issue which calls for a national, comprehensive approach to stemming the spread of this disease. S. 1220, provides such an approach.

Lacking a vaccine or cure for AIDS, education remains our major tool in fighting AIDS. It is vitally important that AIDS education be tailored to meet the needs of those whose behavior places them at increased risk for AIDS. For this reason, the Conference of Mayors opposes any amendments to S. 1220 which could hamper targeted health information from reaching those at increased risk. Similarly, the Conference opposes any amendments which could "drive underground" the very people whose behavior needs to be altered, such as provisions calling for mandatory HIV antibody testing at drug and sexually transmitted disease clinics.

The Conference is also opposed to notions that groups not at increased risk for AIDS be tested, such as hospital patients or those applying for marriage licenses. There are much more effective ways to spend our money. Finally, the Conference of Mayors is opposed to any amendments to S. 1220 which would discrimiante without sound medical reasons against those who test positive for the HIV antibody, or who are suspected of being HIV antibody positive.

S. 1220 is legislation which would greatly enhance our ability to combat AIDS. It is worthy of your support, without amendment. As this session of the 100th Congress nears adjournment, cities and the nation need your leadership in support of this important legislation.

Sincerely,

RICHARD L. BERKLEY,
President,
Mayor of Kansas City, MO.

UNITED FOOD & COMMERCIAL
WORKERS INTERNATIONAL UNION,
Washington, DC, March 15, 1988.

DEAR SENATOR: Like all Americans, the officers and members of the United Food and Commercial Workers International Union are greatly concerned about the threats posed by the AIDS epidemic. While we hope that medical research will soon provide a vaccine and treatment for this dread illness, we understand that the only current defense is education. We therefore strongly support the AIDS Research, Information and Care Act, S. 1220.

While we hope that medical research will one day provide a vaccine and treatment for AIDS, it is clear to us that the only current defense against this killer is education.

The latest awareness research shows that, in certain subgroups of our society, knowledge of how AIDS is transmitted and how to prevent exposure is glaringly deficient. We believe that we must communicate accurate and complete AIDS information to all Americans—including our youth. We urge you and your colleagues to resist any effort to restrict the funding and implementation of targeted educational or educative campaigns aimed at communities in which risk is greatest or knowledge is lowest .

Education can also help to calm irrational fears about this new virus. Our organization has reviewed the recommendations of the U.S. Surgeon General and the Institute of Medicine. We share the concern that the AIDS epidemic can serve as an excuse for senseless discrimination against individuals unlucky enough to have become infected.

Organized labor is one of this nation's most vigilant guardians of individual rights, most particularly in the employment setting. Until appropriate confidentiality and anti-discrimination safeguards can be put in place, we hope you will scrutinize extremely carefully any call for wholesale use of AIDS screening tests or motions to require the assembly of lists of names in connection with screening programs.

The public health issues raised by this epidemic are extremely complex. We therefore urge you to resist the so-called "quick fix" solutions to this grave public health problem and to continue to rely on the advice and recommendations of medical and public health experts. S. 1220 is a solid step in the right direction and we hope it will win approval by the full Senate in the near future.

Sincerely,

WILLIAM H. WYNN,
International President.

COALITION FOR AIDS
PREVENTION AND EDUCATION,
March 18, 1988.

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: We are writing on behalf of the Coalition for AIDS Prevention and Education in support of S. 1220, the "Comprehensive AIDS Education, Research and Care Act."

The Coalition for AIDS Prevention and Education is a loose confederation of mental health and health organizations concerned about AIDS from a mental health service delivery and research perspective. We advocate for public policy which addresses AIDS in a humane and effective manner. To that end, the Coalition supports S. 1220, a bill which addresses the prevention, education, care and research issues around acquired immunodeficiency syndrome. In addition, we oppose any amendments to the bill which would restrict or undermine public health efforts to combat the AIDS epidemic.

As representatives of consumers, agencies and providers of mental health care, we are particularly concerned about amendments which would (1) limit education efforts, and (2) require mandatory testing and reporting of HIV test results.

We believe that it is crucial that strong leadership be given to ensure that funds allocated for education clearly address those behaviors that may place people at risk of HIV infection. We oppose any amendment that would prohibit the development of effective AIDS education materials.

Presently, in the absence of vaccines or treatments for AIDS, education about AIDS prevention is the most effective way to stop the spread of the HIV virus. The magnitude of the AIDS epidemic demands that the government help to educate the public about high-risk behaviors, and teaches people how to protect themselves from becoming infected. The most effective education has been found to be clear, straightforward, accurate, and geared toward a targeted population. Community based organizations know their constituents and are capable of providing the most effective, targeted education methods and materials. These organizations have proven to be the most effective in reducing the rate of HIV transmission.

Amendments which seek to require mandatory testing and reporting of HIV results, in the absence of nondiscrimination protections, would undermine the success of voluntary testing programs. These programs are designed to reach those at high risk of contracting AIDS. Forced testing programs would only serve to drive those at high risk of infection away from medical care and education programs. Moreover, testing in itself is not the objective; it is the counseling and education to change behavior which accompanies testing that is most needed and most helpful in stopping the spread of AIDS. While legislation which would require pre- and post-test counseling is pending in Congress, there is currently no such mandate. In addition, problems associated with inacccurate test results, the inability of testing centers to handle the added volume, and the high costs associated with HIV testing make mandatory testing of selected populations in particular settings unfeasible and unproductive in curtailing the spread of AIDS.

In addition to education and mandatory testing amendments, the Coalition for AIDS

Prevention and Education is concerned about other potential amendments including mandatory contact tracing of HIV infected individuals, criminalization of sexual transmission and blood or organ donation by persons who are HIV infected, and attempts to overturn or undermine the *Arline* decision. We oppose all attempts to attach amendments to S. 1220 which will only serve to lessen or undermine the effectiveness of this much needed and comprehensive legislative initiative.

The time is ripe for Congress to enact its first piece of federal policy to deal with AIDS. The Coalition for AIDS Prevention and Education recognizes the critical nature of the programs contained in S. 1220 and urges rapid consideration of the bill *without* diversion by unrelated amendments.

Sincerely,

American Academy of Child and Adolescent Psychiatry, American Association for Counseling and Development, American Association for Marriage and Family Therapy, American Psychiatric Association, American Psychological Association, National Association of Protection and Advocacy Systems, Inc., National Association of Social Workers, and National Council of Community Mental Health Centers.

AMERICAN SOCIETY
OF ALLIED HEALTH PROFESSIONS,
Washington, DC, March 1, 1988.

Re: Comprehensive AIDS Research and Education bill.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: As you know so well, the American allied health professions have no higher priority than safeguarding the health and well-being of all Americans. It is the belief of the American Society of Allied Health Professions that the AIDS epidemic poses a threat to Americans in all walks of life. We therefore enthusiastically support the AIDS Research, Information, and Care Act—S. 1220—which you have introduced.

While we hope that medical research will one day provide a vaccine and treatment for AIDS and we salute your plan to put federal AIDS research dollars to work more quickly, it is clear to us that the only current defense against this killer is education.

The latest awareness research shows clearly that, in certain subgroups of our society, knowledge of how AIDS is transmitted and how to prevent exposure is glaringly deficient. We believe that we must communicate accurate and complete AIDS information to all Americans—including our youth. We urge you and your colleagues to resist any effort to restrict the funding and implementation of targeted education campaigns aimed at communities in which risk is greatest or knowledge is lowest.

Education can also help to calm irrational fears about this new virus in our midst. Our organization has reviewed the recommendations of the U.S. Surgeon General and the Institute of Medicine. We share the concern that the AIDS epidemic can serve as an excuse for senseless discrimination against individuals unlucky enough to have become infected.

The health professions are among this nation's most vigilant guardians of individual rights, most particularly in the employment and health care settings. Until appropriate confidentiality and anti-discrimination safeguards can be put in place, we hope you will scrutinize extremely carefully any call for wholesale use of AIDS screening tests or motions to require the assembly of lists of names in connection with screening programs.

The public health issues raised by this epidemic are extremely complex. We therefore urge you to resist the so-called "quick fix" solutions to this grave public health problem and to continue to rely on the advice and recommendations of medical and public health experts. S. 1220 is a solid step in the right direction and we hope it will win approval by the full Senate in the near future.

Sincerely,

THOMAS E. FREELAND, Ph.D,
President.
CAROLYN M. DEL POLITO, Ph.D,
Executive Director.

BALTIMORE, MD, *December 10, 1987.*

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR KENNEDY: Information and education are the only weapons against AIDS. Although great advances have been achieved in cracking the secrets of the complex AIDS retrovirus, including the development of a treatment, an effective cure still eludes the best scientific efforts. Hence prevention is the one approach we have and that means education.

An amendment to the Labor and Human Resources Appropriations Bill offered by Senator JESSE HELMS and passed by the U.S. Senate could effectively destroy current federal AIDS educational programs. The language inserted by Senator Helms would prohibit the Centers for Disease Control from preparing or distributing material that "directly or indirectly" promotes or encourages homosexual activity. Furthermore, the CDC would be directed to emphasize abstinence from sexual activity outside of a mutually monogamous marriage.

On simple reading, many find this to be reasonable but it fails to recognize the diverse lifestyles and habits practiced in America today.

The virus causing AIDS is transmitted by sexual intercourse and by blood-to-blood contact, including the use of contaminated needles. The virus makes no distinction as to heterosexual or homosexual practices. It kills whether the patient is an IV drug abuser or the offspring of a drug user. Prevention requires changes in behavior, which can only be accomplished through education. To be effective, education must be targeted to its specific audience, and presented using language that the audience will understand and use. The amendment offered by Senator Helms, if signed into law, has the potential to stop such educational programs.

If people will not abstain from high-risk activity, they must at least be told how to reduce their risks. "Safer sex" educational programs have proven to be of great value. Frank and candid discussion about the mode of transmission of the virus is of vital necessity, even at the risk of offending the sensibilities of some people. Studies have shown that persons engaging in high-risk behavior, once armed with information, are willing to make lifestyle changes that reduce the likelihood of the spread of AIDS.

People must be told how to protect themselves, even if that means explaining risks in explicit terms. Education is the key to prevention, and prevention is the only instrument now available for curbing this public health menace.

The Helms amendment will create dramatic obstacles for the nation's public health goals. It must be rejected, or thousands more Americans will become infected, suffer and die.

Sincerely,

EDWARD N. BRANDT, Jr., M.D., Ph.D.

THE NATIONAL NETWORK OF
RUNAWAY AND YOUTH SERVICES, INC.,
Washington, DC, December 10, 1987.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The National Network of Runaway and Youth Services would like to commend you on your efforts to confront the challenges of acquired immune deficiency syndrome (AIDS).

As a membership organization, of over 1,000 youth serving agencies and runaway programs, we strongly support the educational approach to the prevention of AIDS which has been included in your legislation S. 1220. Our members work on a daily basis with young people and realize the essential part education must play in safe guarding our young people.

We are concerned about the current efforts to restrict federally-supported AIDS educational materials, information and activities. A large share of our membership is runaway centers and work with young people who are disconnected from their families, a support system and the educational process. They are in crisis and are in jeopardy of engaging in high-risk behaviors.

All young people, including the most vulnerable, need accurate information and facts about AIDS including material on high-risk behaviors and how one can prevent transmission. AIDS education must communicate with young people at their level of understanding and in their own language, if we hope to have them make safe and healthy decisions about their lives.

We are opposed to any amendment or legislation that would restrict or undermine this AIDS-education/prevention discussion. As the Surgeon General, C. Everett Koop, M.D., Sc.D., has said, "Those of us who are parents, educators and community leaders, indeed all adults, cannot disregard this responsibility to educate our young. The need is critical and the price of neglect is high. The lives of our young people depend on our fulfilling our responsibility."

We feel that an open, honest AIDS-education program is our responsibility, all of us including the federal government. Again, on behalf of the young people we work with, I would like to thank you for your support and leadership in creating such a safe environment through AIDS education; one in which they can grow.

If we can be of any further assistance on this matter, please feel free to contact our Washington, DC office at the above number.

Sincerely,

JAMES M. WALKER,
Chair, Board of Directors.

THE KINSEY INSTITUTE FOR RESEARCH IN SEX, GENDER, AND REPRODUCTION, *Bloomington, IN, April 4, 1988.*

Hon. Edward M. Kennedy,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator Kennedy: We the undersigned wish to record our support for your authorizing legislation (S1220) which would allow federal funds to be allocated for research into designing, targeting and testing for effectiveness all educational approaches that might reduce the risk of transmitting the AIDS virus. Education is our best current form of prevention—our best means of achieving significant behavior change. To achieve this goal, we must launch research and educational programs which are specifically focused on each portion of the United States population, despite their varying norms and values. For this reason we oppose any amendments to this legislation which would hinder such research efforts. Declaring the testing of any potentially effective strategy or specific materials "off limits" is, from the first, misinformed and, in the end, deadly.

To create the behavior change programs essential for stemming the tide of the AIDS epidemic, we must obtain a precise understanding of the sexual behavior and attitudes of the various ethnic, racial, social, age, and sexual orientation groups which constitute our nation. Such information is necessary for developing the precisely targeted educational programs which will be our most effective means of reducing the threat within at-risk groups and halting the spread of the disease to the population as a whole. These behavioral data are also crucial to biomedical investigations making possible the identification of appropriate subjects for programs ranging from the testing of vaccines to the evaluation of the threat to pregnant women and their offspring.

Assisting our fellow Americans in changing behaviors which put them at risk cannot be accomplished by a simple mandate or public exhortation. However, through sensitive behavioral research, we can develop techniques for helping individuals manage the sexual component of their lives with care and thoughtful self-control.

To prove or disprove the efficacy of various approaches to this formidable task, scientists must be allowed to ask appropriate questions and pursue research without struggling with crippling obstructions. Failure to employ the language and the ethnic, cultural, and age references which are used by each group provides erroneous information and handicaps effective intervention. Use of the vernacular (instead of sanitized, often incomprehensible language), explicit language, and visual aids is essential for meaningful communication with particular subgroups and is vital to the research on sex behavior, education, and the behavior change programs needed to halt this dreadful epidemic. Responsible research and education programs can be carefully controlled to protect untargeted portions of the population from material that might offend them. On the other hand, blanket prevention of the use of materials appropriate to each subgroup is simply poor science and provides a weak premise to public health policy.

From the start, educational research funded through the Centers for Disease Control, designed to reduce risk of infection, has been hampered by restrictive federal guidelines. These guidelines have prevented researches from exploring the full range of responsible approaches needed to reach targeted populations. The search for effective strategies was again hindered with the inclusion of the "Helms Amendment" in H.R. 3058, the Labor, Health and Human Services Appropriations Bill affecting FY88 AIDS funding. We applaud you for introducting legislation which does not restrict behavioral research leading to the prevention of the transmission of the AIDS virus. Proponents of restrictions to behavioral investigation fail to understand that the barriers they construct lead to poor preventive health measures and inevitably cost American lives.

In summary, to succeed in overcoming this most critical health crisis facing our nation we must appropriate major public funding for research describing American sexual behavior and developing educational programs and behavior change strategies carefully tailored to specific groups which are explicit regarding sex and drug use. To draw limits for or to deny funding to groundbreaking research cripples our search for the weapons with which to protect our society and fight the spread of this devastating disease.

Sincerely,

June Machover Reinisch, Ph.D., Jeffrey M. Baker, Ph.D., John R. Barry, Ph.D., Linda J. Beckman, Ph.D., Alan P. Bell, Ph.D., David R. Bolling, Jr., M.D. Janice Bordeaux, Ph.D., John Boswell, Ph.D., Allan Brandt, Ph.D., Robert Brooner, Ph.D., Pim Brouwers, Ph.D., Vern Bullough, Ph.D., Brian D. Carr, M.A., Rosalind Cartwright, Ph.D., Joseph A. Catania, Ph.D., Kenneth Charles, Ph.D., Margaret Chesney, Ph.D., Wayne Clark, Ph.D., Thomas J. Coates, Ph.D., John T. Cowles, Ph.D., William Crary, Ph.D., Anthony D'Augelli, Ph.D., Diane Damos, Ph.D., Shirley Damrosch, Ph.D., Louis A. Daprano, Ph.D., Henry P. David, Ph.D., Julian Davidson, Ph.D., Roger Detels, M.D., M.S. Milton Diamond, Ph.D., Marian E. Dunn, Ph.D., Veronica Elias, Ph.D., Norma Feshback, Ph.D., Seymour Feshback, Ph.D., Jeffrey Fisher, Ph.D., Diane Fordney, M.D., M.S., Mindy Fullilove, M.D., Richard Green, M.D., J.D., Joel D. Hencken, Ph.D., Hugh Hendrie, M.B., Ch.B., Gilbert Herdt, Ph.D., Gregory M. Herek, Ph.D., Norman Herst, M.D., M.P.H., Donald Hicks, Ph.D., Joan Hittleman, Ph.D., Evelyn Hooker, Ph.D., Mary E. Hotvedt, Ph.D., John F. House, Ph.D., Stephen B. Hulley, M.D., M.P.H., Margaret Intons-Peterson, Ph.D., Richard A. Isay, M.D., Robert Jones, M.D., Ph.D., Jerome Kagan, Ph.D., Jeffrey A. Kelly, Ph.D., Allan J. Kimmel, Ph.D., Philip R. Lee, M.D., Noretta Koertge, Ph.D., Robert Krikorian, Ph.D., Sandra Leiblum, Ph.D., Eugene E. Levitt, Ph.D., Harold I. Lief, M.D., Rhonda Linde, Ph.D., Lewis P. Lipsitt, Ph.D., Bernard Lo, M.D., Eleanor Maccoby, Ph.D., Nathan Maccoby, Ph.D., Robert Malgady, Ph.D., David Marrero, Ph.D., Patrick J. Mason, Ph.D., Andrew M. Mattison, Ph.D., William McCandless, Ph.D., Leon McKusick, Ph.D., David P. McWhirter, M.D., A.C.S., Eric N. Miller, Ph.D., John Money, Ph.D., Stephen F. Morin, Ph.D., Emily Mudd, Ph.D., Ronald D. Nadler, Ph.D., Robert M. Nakamura, Ph.D., Margaret Nichols, Ph.D., Kersth O'Brien, Ph.D., Mr. Paul Ogg, Nancy S. Padian, Ph.D., Wade Parks, Ph.D., M.D., Paul F. Pearsall, Ph.D., Don Penzien, Ph.D., Letitia Anne Peplau, Ph.D., Anne C. Petersen, Ph.D., John Peterson, Ph.D., Ronald A. Peterson, Ph.D., Richard C. Pillard, M.D., Bernadine Pinto, M.A., William N. Robiner, Ph.D., Raymond C. Rosen, Ph.D., Leonard A. Rosenblum, Ph.D., Joseph S. Rossi, Ph.D., Esther Rothblum, Ph.D., Renee Royak-Schaler, Ph.D., Anya Peterson Royce, Ph.D., Robert T. Rubin, Ph.D., M.D., Stephanie A. Sanders, Ph.D., Patricia Schreiner-Engel, Ph.D., Pepper Schwartz, Ph.D., David J. Seaman, Ph.D., Michael Shernoff, M.S.W., A.C.S.W., Mervyn F. Silverman, M.D., M.P.H., William Simon, Ph.D., Fran Snygg, M.F.A., Laura J. Solomon, Terry Tafoya, Ph.D., Milton Taylor, Ph.D., Auke Tellegen, Ph.D., Leonore Tiefer, Ph.D., Clarence A. Tripp, Ph.D., Rodney G. Triplet, Ph.D., Bruce Voeller, Ph.D., Allan J. Wabrek, M.D., Martin S. Weinberg, Ph.D., Bernard Weiner, Ph.D., James D. Weinrich, Ph.D., Stanley H. Weiss, M.D., William M. Whelihan, Ph.D., Mimi Rondenent White, B.A., John Whyte, M.D., Ph.D., Colin J. Williams, Ph.D., Gail E. Wyatt, Ph.D., Richard David Young, Ph.D., Theresa Zumwalt, M.D., Sue K. Hammersmith, Ph.D., Sylvia Herz, Ph.D., Vickie M. Mays, Ph.D., Linda J. Berkman, Ph.D., Diana Damos, Susan Kegeles, Ph.D., Heino F. L. Meyer-Bahlburd, Dr., Anke A. Ehrhardt, Ph.D., Susan M. Kegeles, Ph.D.

Therapeutic Communities
of America,
December 4, 1987.

Hon. Edward M. Kennedy,
Chairman, Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.

Dear Senator Kennedy: Therapeutic Communities of America (TCA), the principal association of non-profit residential "drug free" programs, representing some 300 agencies in North America, would like to commend you for (Labor) Committee passage of Senate Bill 1220, "The Acquired Immunodeficiency Syndrome (AIDS) Research And Information Act of 1987". As you know, AIDS is considered by many medical experts to be the gravest public health threat of this century.

As with any emergency, there has been considerable confusion regarding the best way to approach this illness. TCA supports Senate passage of S. 1220, because the legislation provides a comprehensive program of treatment, information, risk reduction, training, prevention, care and research concerning AIDS. In particular, we are very supportive of the provision authorizing up to $100 million to states for home and community based care (including outpatient drug abuse treatment services) for people with AIDS.

We understand that upon bringing this legislation to the Senate floor, there may be several amendments offered to the bill. TCA opposes any attempt to divert the original intent of S. 1220. The design of this legislation has been given careful consideration by members of the Senate Labor and Human Resources Committee, and therefore, the bill should be approved in its entirety.

Please feel free to enlist our support for Senate passage of this legislation.

Sincerely,

Douglas Chiappetta,
Director, National Office.

CITY ADMINISTRATIVE BUILDING,
San Diego, CA, December 8, 1987.
Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I support your bill, S. 1220, which will mark the first comprehensive legislative package to address the problems presented by the deadly Acquired Immune Deficiency Syndrome (AIDS). I applaud your efforts to combat this deadly disease which is a national crisis.

I believe S. 1220 provides the appropriate level of resources to defeat this deadly disease and I do not support any amendments which would diminish the intent of your bill. I am opposed to a proposed amendment which would hamper targeted health information from reaching those at increased risk. I believe that education is our best tool for combatting AIDS, and it is vitally important that we provide information to protect the public from infection, particularly those at the greatest risk. San Diego is currently administering several effective education programs aimed at high risk populations, and efforts to reach minority populations are currently being developed. To argue that AIDS education of specific audiences offends moral or political sensibilities or promotes undesired activities may irresponsibly put lives at risk.

I hope Congress will act swiftly and pass S. 1220 without any amendments so that we can begin to eliminate the spread of this disease.

Sincerely,
MAUREEN O'CONNOR,
Mayor.

KINGS COUNTY,
MUNICIPAL BUILDING,
Brooklyn NY, December 10, 1987.
Senator EDWARD M. KENNEDY,
Chairperson, U.S. Senate, Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: I am writing to express my support for S1220, the Acquired Immunodeficiency Syndrome Research and Information Act of 1987, which you introduced and which has been reported out of the Labor and Human Resources Committee. This important bill would provide for a comprehensive Federal program of education, research, care and treatment addressed to the serious national problem of AIDS. It would also authorize the funding necessary for both an effective Federal program and for assistance to state AIDS prevention programs aimed at increasing public awareness about and halting the spread of this fatal disease. Until a cure is found, a strong national program of education and prevention may be our most effective weapon in the war on AIDS.

I strongly oppose, however, any amendment along the lines proposed by Senator Helms which would require that AIDS education or prevention materials emphasize abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activity). Such a provision may prevent the development and dissemination of effective educational materials addressed to groups at high risk of exposure to AIDS. To be effective, educational materials must recognize that sexual activity outside marriage occurs, and include accurate information about safer sex techniques that will minimize the risk that those who engage in such activities are exposed to the AIDS virus. The proposed amendment would hinder efforts to protect Americans from AIDS and should be defeated.

With best wishes,
Sincerely,
ELIZABETH HOLTZMAN,
District Attorney.

AN OPEN LETTER TO CONGRESS

We are writing to express our concern regarding an amendment that was attached by the Senate on October 14, 1987, to H.R. 3058, the Labor-Health and Human Services Appropriations Bill. The amendment prohibits federal funds from being used to provide AIDS education or prevention materials or activities that "promote or encourage, directly or indirectly, homosexual sexual activities", and requires that all education material and activities paid for with federal funds "emphasize abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activity)".

As health educators and health care providers, we are deeply concerned that this amendment will significantly hamper our efforts to develop and distribute effective AIDS educational materials and activities. In the absence of a vaccine for AIDS, the best—and indeed only—means for preventing the spread of AIDS is through education and counseling of individuals and groups. To be effective, however, such materials and programs must be honest, explicit, and adapted toward people who participate in high risk activities and behaviors and thus are at high risk for contracting AIDS. In particular, educational materials for the gay community—whose members currently account for approximately 70 percent of the AIDS cases in this country-must be specifically developed and adapted for members of that community. Many of us in the states and localities have developed or used targeted educational materials that have proven effective by means of documented studies in reducing the rates of transmission of the etiologic agent for AIDS. Continuing such efforts at full strength, unimpeded by restrictions at the federal level, is essential if we are to fulfill our responsibilities as health educators and health care providers in combatting the AIDS epidemic.

We are deeply concerned that the amendment passed by the Senate will, indeed, be a significant impediment in our efforts to stop the AIDS epidemic. The amendment runs the risk of being broadly interpreted by this Administration as prohibiting any materials targeted to the homosexual community which inform individuals how to protect themselves during sex—because such information could be seen as "indirectly promoting" homosexual activities. Indeed, any explicit information on the use of condoms or other safer sex techniques could ultimately be prohibited by this amendment. Such restrictions would make effective AIDS educational materials impossible and would severely hamper us in our efforts to control the epidemic.

The provision of the amendment that all AIDS educational materials and activities "emphasize abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activity)" is even more threatening in posing a significant threat to the development of effective educational materials. No one disputes that AIDS prevention efforts should include, where appropriate, information on the usefulness of abstinence and monogamy in preventing exposure to the AIDS virus. But there is also a clear consensus among health educators and health care providers that educational materials will ultimately not be effective if such materials are forced to emphasize the use of abstinence and monogramy to the virtual exclusion of providing information on safer sex techniques for those individuals who choose to continue to engage in non-monogamous sexual relationships. Such a provision is therefore both unnecessary and counterproductive in the effort to end the AIDS epidemic.

It is our understanding that members of the House and the Senate will be meeting shortly in a conference on the Appropriations Bill. We strongly urge you to delete from the bill the amendment attached by the Senate. The restrictions in this amendment will serve only to hamper the necessary efforts that must be taken to control the public health crisis facing our nation in the AIDS epidemic. We urge you not to tie our hands in fulfilling our responsibility as health educators and health care providers by placing restrictions on our development and distribution of effective AIDS educational materials and activities.

Thank you for your consideration of our concern:

Selected signatures:

Anne Coulter, National Safety Council, Chicago, IL.

Lynne M. MoFenson, M.D., Massachusetts Department of Public Health.

Melissa Coren, Columbia Medical Center, New York, NY.

Michael Czepiel, Anselmo County Health District, Lufkin, TX.

Ronni L. Sanlo, Florida State AIDS Program.

James P. Hymes, Philadelphia Department of Health, Philadelphia, PA.

Marc Sapir, M.D., M.P.H., Department of Health, Berkeley, CA.

Ellie Cousineau, Shanti Project, San Francisco, CA.

Henri E. Norris, J.D., Multicultural Alliance for the Prevention of AIDS, San Francisco, CA.

Thomas Beley, Sunrise Department of Health, Sunrise, FL.

J.M. Jorgenson, Fairfax County Department of Health, CA.

Judith H. Southward, Alexandria Health Department, VA.

Brian Cross, Alameda County Health Agency, CA.

Ron Turner, Community Health Awareness Council, Detroit, MI.

Steven K. Bulleigh, U.S. Public Health Service, Phoenix, AZ.

Linda Poulsen, Central District Health Department, Boise, ID.

Frank J. DeFrancesco, M.A., Connecticut State Department of Health Service, Connecticut.

Virginia S. Beers, National Association of Public Hospitals, Washington, DC.

Robert G. Atwood, M.D., M.P.H., Yakima & Kittitas Counties Health Department, WA.

Alice Gandelman, Solano County Health Department, CA.

Jim Swank, Mehlville R-9 School District, St. Louis, MO.

Cecil Sharp, Oakville High School, St. Louis, MO.

Norah Schwartz, Austin-Travis Counties Health Department, Texas.

Andrea E. Marciano, Cortland County Health Department, New York.

Robert O. McAlister, Oregon State Health AIDS Chief, Oregon.

Wayne Clark, M.D., Department of Public Health, San Francisco, CA.

Jeffrey A. Menzer, Commission of Public Health, Washington, DC.

Lori A. Lindholm, Yellowstone City/County Health Department, Billings, MT.

Sally A. Boales, R.N., Ohio Department of Health, Ohio.

Adrienne B. Butler, M.D., Southeast Health Unit, Waycross, GA.

Geaorge A. Hanney, U.S. Public Health Service, Phoenix, AZ.

Hugh O. Rice, Edelman Health Center, Los Angeles, CA.

Angelia Stewart, City of Chicago Department of Health, Illinois.

Steven B. Rogers, California Department of Health Services, California.

Margaret T. Veroneau, AIDS Project, Portland, ME.

Patricia L. Rehfield, D.O., Ottawa County Health Department, Michigan.

David C. Swensen, Roman Catholic Diocese, Honolulu, HI.

John Kaizuka, Department of Health, Hawaii.

Anne Battersby, MSW, United Cerebral Palsy, San Francisco.

Peter H. Schreen, MD., Department of Psychiatry, Harlem Hospital Center, New York.

David C. Harvey, National Alliance for the Mentally Ill.

Sally Jo Manea, Department of Health, Hawaii.

Alan E. Gambrell, U.S. Conference of Mayors.

Mary Logan, Los Angeles County Department of Health Services.

Jane Polkowski, MD., Collier County Public Health Unit.

Margarete Haas, Spokane Country Health District, Spokane, WA.

Patricia Natzke, Madison Department of Public Health, Madison, WI.

John G. Brulin, Ph.D., University Texas Medical Branch, Galveston, TX.

Jeffrey R. Hanson, San Francisco General Hospital, San Francisco, CA.

Greg Lee, Lexington Fayette County Health Department, Lexington, KY.

Kim Lawton, San Francisco Department of Public Health, San Francisco, CA.

Janet Apperson, Waco-McLennan County Public Health District, Texas.

Donald L. Rice, Ph.D., University of Maryland, Maryland.

Vivian J. Rambo, R.N., M.A., Los Rios Community College District, Sacramento, CA.

B.A. Jinadu, MD., Kern Country Health Department, Bakersfield, CA.

Patricia A. Hagerty, New Jersey Department of Health, New Jersey.

Rev. Mark Henrickson, Director, AIDS Prevention, Hartford (CT) Health Department.

Al Allen, Director, Tacoma-Pierce County Health Department, WA.

Stewart Landen, Boston Department of Health, Massachusetts.

Lorraine Barton, STD "Navajo Tribe"—Window Rock, AZ.

Jan Luckhart, Texas Department of Health, Texas.

Joan Heintzman, Metro Visiting Nurses, Indianapolis, MN.

John Muth, MD., El Paso County Health Department, Colorado.

Shelley Martin, Public Health Department, Mendocino, CA.

Thomas Mosmiller, Public Health Department, San Francisco, CA.

Dorothy A. Flynn, Hazelden Foundation, Minnesota.

Ellen Leahy, Missoula Health Department, Missoula, MT.

Collin C. Schwoyer, Board of Health, Louisville, KY.

Tom Regan, Epidemiologist, Department of Defense.

ARLINGTON STREET CHURCH,
Boston, MA, November 6, 1987.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: The Social Action Committee of the Arlington Street Church wishes to express its great dismay and distress over your recent vote in favor of the Helms amendment which would prohibit federal funding "from being used to promote AIDS education . . . (which) promotes or encourages, directly or indirectly, homosexual sexual activity . . ." or any sexual activity outside of monogamous marriage.

Senator, literally hundreds of thousands of lives may be threatened by this amendment. In the face of potentially the worst public health catastrophe in history, the Helms amendment would scrap the *only* means of halting the spread of AIDS: effective preventative education.

Truly effective AIDS-prevention education must include gay sex-specific as well as heterosexually-specific information, since AIDS is primarily a sexually transmitted disease. The American people have the right to know the full range of risks and preventative options relative to AIDS.

Senator Helms and most of his supporters are scandalized by sexuality, particularly gay sexuality. However, we all ought to be scandalized instead by the enormous loss of precious human life. Indeed, by their unforgiveable stonewalling and footdragging on any real action on AIDS, Mr. Helms and the Reagan administration may well be responsible for the de facto genocide, by definition, of a sizable portion of the gay male population now and in the years ahead.

Congress must not participate in this scandal. We urgently implore you, Senator, to reverse your vote for this amendment and to work aggressively to ensure that effective AIDS-prevention information is made available to every American.

Thank you for your attention, and we look forward to your response.

Sincerely yours,

SANFORD LATNER,
(For the Social Action Committee.)

INDIANA UNIVERSITY,
DEPARTMENT OF CHEMISTRY,
Bloomington, IN, January 15, 1988.

Hon. SENATOR EDWARD KENNEDY,
Care of Michael Iskowitz, Committee on Labor and Human Resources, Hart Senate Office Building, Washington, DC.

Subject: Support for Senate Bill S-1220.

DEAR SENATOR KENNEDY: I wish to express my strong support for your Senate Bill S-1220 regarding AIDS programs. The AIDS crisis is a major problem on a global scale, and intelligent people in every social sphere have an obligation to direct their efforts towards both finding a cure and supporting those who have fallen prey to this killer. In our democracy, we, the American people, must stand up and proclaim our unflinching support to those of our legislators who have wisely addressed this serious issue. You, Senator Kennedy, are one of these wise legislators who deserves our support.

I recognize that certain persons, particularly Sen. Jesse Helms, have opposed this bill, and have attempted to weaken its effectiveness by the addition of detracting amendments. Helms' bigoted opposition, provoked solely by his ignorant hatred and fear of homosexuals, and surely not by any sound legislative thinking, must be stopped. This bill is highly important to all Americans, and quite possibly to the rest of the world as well. I urge, therefore, in the strongest possible terms, the immediate passage of Senate Bill S-1220 without the Helms amendment.

Sincerely yours,

LAWRENCE PRINCIPE.

TRIBUTE TO SENATOR LAWTON CHILES

Mr. DECONCINI. Mr. President, 18 years ago a young man who wanted to be a U.S. Senator took his candidacy directly to the people of Florida, gaining national attention by literally walking a thousand miles throughout the State. The voters recognized the worth of this man and elected him to the Senate. Because of his skill as a statesman and legislator and because of his devotion to his State and to his Nation, the people of Florida reelected him twice. Now, after three decades of public service, that man, our friend and colleague, LAWTON CHILES, has chosen to return to private life.

In his every action as a U.S. Senator, in every committee assignment he has held, LAWTON CHILES has stressed one major theme—that the Federal Government functions at its best when it is open, honest, and bipartisan. His Government in the Sunshine Act of 1976 and similar reforms of Senate committee meeting procedures have enhanced the American people's ability to know and understand the policies and actions of their Government. His work on the Governmental Affairs Committee initiated the process that continues today of reforming the procurement process and of exposing waste, fraud and abuse in the Pentagon. As ranking member and then chairman of the Senate Budget Committee, his leadership and guidance in shaping Senate efforts to balance the Federal budget will have long and far-reaching effects on our Nation's economy—effects that directly benefit each and every individual in this Nation.

I have served with LAWTON on the Appropriations Committee for 12 years and know that his influence there will be sorely missed. We worked together on many issues. We shared a deep concern about the plague of drugs that has killed so many of our Nation's youth. As Senators representing border States, we both recognized that inadequate interdiction efforts were making the drug merchants' job easy. We joined together to help close our Nation's borders to the drug trade by strengthening the surveillance and interdiction capabilities of Federal law enforcement agencies like the U.S. Customs Service and the Coast Guard.

Consequently, the seizures by these agencies of illegal drugs has climbed significantly.

Whether the issue was the fight against drugs or the effort to keep children in school, LAWTON focused on the fact that America's children are America's future. A caring and compassionate man, LAWTON took on an issue that doesn't make the headlines yet wrenches the heart of anyone who has ever lost a child. Through his co-chairmanship of a joint committee on the tragedy of infant mortality, LAWTON's leadership helped establish the goal of making every baby a healthy baby a national cause.

LAWTON CHILES is, indeed, a leader. He works with people of all points of view to develop a consensus. He is a man of vision, a man who is unafraid to tackle the tough issues. His departure from the Senate is a personal and professional loss to us, yet I know that his work in the private sphere will reflect those same characteristics which we all admire in him. I wish him every success and Godspeed.

THE S&L CRISIS: A TOP PRIORITY FOR 1989

Mr. DOLE. Mr. President, the thrift industry continues to dominate the business headlines across the country. There is a growing consensus that the S&L crisis should be a top priority for the next Congress and the next administration.

As I mentioned earlier, the 100th Congress does not have time in the remainder of its schedule to deal with this problem. Quick fixes won't work here.

But, what we can and should do is help speed up the process. We should try to gather the best information available so that the 101st Congress and the 41st President can make informed decisions on this issue.

In my view, this should not be a partisan issue. The problems facing the thrift industry are serious. If unaddressed, they could affect the entire U.S. economy.

HOW BIG IS THE PROBLEM

The biggest issue this year seems to be the actual size of the FSLIC deficit. Part of the problem is that the numbers we see floating around are only estimates. The actual number remains an unknown. Measuring the size of the FSLIC deficit with any degree of precision would be a monumental undertaking. It would involve going to each institution and examining every single loan on its books. The costs of such a study would be prohibitive. The fact is that we must rely on estimates.

OPTIONS FOR THE 100TH CONGRESS

The basic question left before the 100th Congress is how do we proceed from here? What do the events of the past 20 years suggest about the future? How can we minimize the cost of a potential bailout, and how do we prevent a recurrence of the FSLIC's problems?

The first issue should be to find out more about what financial commitments FSLIC has made in mergers and acquisitions involving insolvent thrifts. The charges suggesting that the Bank Board is using fancy accounting techniques to paper over extensive U.S. financial commitments which may eventually fall to the U.S. taxpayer are serious.

In my view, we need an accurate accounting of U.S. financial commitments in deals involving insolvent S&L's. We must have a better idea of the size of the problem before we start discussing possible solutions.

I would like to submit for the RECORD, a thought-provoking discussion of this issue that appeared in today's New York Times. I do not claim to be an expert in the field. But, in my view, this kind of discussion is important.

We cannot gloss over this issue and hope that it will simply fade away. It won't; in fact, the problem has continued to grow each month. Nor should we use the publicity this issue has received as an excuse to overreact to the thrift industry's problems. We must carefully review all of the available options before making any decisions about which policies we should or should not pursue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 20, 1988]

S & L'S: THE PRICE OF PREVARICATION

Federal regulators sell off seven more bankrupt savings and loans at a loss of $2 billion. Or is it two more S & L's at a loss of $7 billion? Like drug smuggling and toxic waste leaks, reports that more thrift institutions have failed have become commonplace and no longer ignite indignation.

But even if alarm is receding, the problem is not. At the very least, Washington will have to find tens of billions of dollars to bail out depositors. Better still, they will overhaul the whole discredited system and finally give independent regulators authority equal to their responsibilities.

It's no mystery how one-third of the nation's savings and loans dug themselves a deep financial hole. In 1982, Congress gave thrifts broad discretion to invest outside their traditional home mortgage market. But it left intact their unlimited right to raise money through Government-insured deposits.

Hundreds of fast-buck artists entered the thrift business, betting the depositors' money on high risk ventures and raking off fat up-front fees. The regulators were slow to sound the alarm, and when they did, Congress and the Reagan Administration were slow to send in more firemen.

When the bottom fell out of commercial real estate in the Sun Belt, Federal insurers were left with hundreds of insolvent S & L's and liabilities exceeding the national income of Denmark. Last year Congress finally allowed the regulators to borrow some $11 billion against future deposit insurance premiums and gave them authority to close hopeless S & L's. But compare $11 billion with a debt exceeding $50 billion. Three giant issues endure:

WHO SHOULD PAY?

Certainly not insured depositors, whom Congress has pledged to protect. The Federal Home Loan Bank Board could squeeze perhaps $20 billion from insurance premiums charged to solvent savings and loans. And it might even manage $40 billion by maintaining indefinitely the emergency surcharge on premiums. But financially prudent thrifts rightly contend that they are being unfairly taxed to pay for the mistakes of others.

On grounds of equity, efficiency, and political practicality, it makes sense to ask commercial banks and taxpayers to share the burden. Economists Robert Litan and Dan Brumbaugh suggest that insurance premiums on banks and thrifts be equalized. That would bring in extra cash, as well as allow solvent thrifts to compete for deposits on equal terms. Any of a half-dozen schemes would push the rest of the cost onto taxpayers.

HOW CAN LOSSES BE KEPT TO A MINIMUM?

Many insolvent thrifts are still operating, and still losing money, because the regulators don't have the cash to shut them down promptly and pay off depositors. Ominously, many of the deals in which the regulators have parceled out insolvent thrifts to new owners are thinly capitalized. If interest rates rise or real estate values fall further, many of them are likely to fall *again*.

HOW CAN THE NEXT CYCLE OF INSOLVENCIES BE PREVENTED?

Thrifts are still allowed to raise unlimited amounts of Government-insured deposits to invest in practically anything. And failing thrifts are still unlikely to be closed until far too late. One promising reform, already proposed by the regulators, would set higher capital requirements for thrifts that choose to make riskier investments. Another reform would lower insurance premiums for thrifts that maintain larger capital buffers.

Both changes would be useful. But neither substitutes for tougher regulation. Thrifts should be forced to adopt accounting methods used by other businesses, constantly revaluing assets to current market conditions. Thrifts that suffer heavy losses and can't meet minimum capital requirements should be automatically closed within a few months.

Will Washington have the will to acknowledge the scope of the catastrophe, accept partial responsibility and put in place reforms that banking interests would bitterly resist? The recent record is hardly reassuring. But that record also shows how awesome is the price of prevarication.

KAYLYNN MINSON, RIVERTON, UT

Mr. HATCH. Mr. President, Kaylynn Minson is an 18-year-old from Riverton, UT. On June 14, 1988, she and her family were trying to find her 5-year-old mentally retarded sister who had wandered off. While looking for her sister, Kaylynn stumbled upon her brother, Ryan, a 13-year-old, lying face down on the ground, suffering from cardiac arrest.

She turned him over, and his face was a frightening shade of blue. She began CPR, and a short time later her father arrived. He then called for an ambulance. Before the ambulance arrived, Kaylynn had revived her brother.

The lack of oxygen has caused extensive brain damage, but, Ryan is relearning to walk, talk, and do the things that most of us sometimes take for granted.

Because of the valiant and courageous effort of Kaylynn, her brother has another chance and her family has their son. I applaud Kaylynn for her courage and quick thinking.

SOVIET TREATY VIOLATIONS

Mr. DOLE. Mr. President, on September 16 the distinguished majority leader and I joined the Senator from Wyoming, Mr. WALLOP, in offering a Senate resolution on the Krasnoyarsk radar and other Soviet violations of the ABM Treaty. Its 81 to 0 adoption sent Moscow a signal of strong bipartisan support for settled U.S. policy that Soviet violations of the ABM Treaty, exemplified by, but not limited to, the Krasnoyarsk radar, must be corrected before the conclusion of any future agreement on strategic arms.

Our resolution also made clear that we cannot tolerate these Soviet violations indefinitely. We invited the President to work with the Congress to develop appropriate, proportionate response options to the Krasnoyarsk radar and other violations, should these remain uncorrected.

ACDA Director General William Burns tells us that our message was heard in Moscow, and I will ask that his letter of thanks be printed in the RECORD. Unfortunately, the Kremlin reaction to our message has been less than quick and constructive.

We had hoped to see the Krasnoyarsk and Gomel radars start to come down. Instead, President Gorbachev has offered to make a few alterations in the radar, and to invite others to operate it as an international space track in center. Neither measure would correct the violation. Krasnoyarsk would remain a well-advanced long-lead component of a territorial ABM system.

So let me say it one more time: the large phased array radar near Krasnoyarsk must be dismantled. Period.

I had hoped that this obstacle to further arms control would be overcome this year so that the new President could go straight to work on a verifiable and stabilizing START cut. I still hope it will be so.

But Mr. Gorbachev and his new Kremlin team must know that we are starting to consider what responses to take should our hopes again be dashed by Soviet inaction or another empty proposal. The administration is studying the issue, and so are we.

Last Friday the Republican Policy Committee published "Soviet Violations and the Future of the ABM Treaty" which examines the issue of responses, and also asks a deeper question: What has the ABM Treaty achieved and not achieved since 1972? I believe this paper will provoke serious thought on a serious issue. I commend it to my colleagues, and will ask that it be printed in the RECORD.

The Republican Policy Committee's paper is enriched by a number of charts and maps displaying important information about United States and Soviet strategic forces. Unfortunately, these cannot be reproduced in the RECORD, but I am sure that the paper's able author, Rob Soofer, would gladly supply them to anyone interested. I would also note that, although not reprinted in the RECORD today, the appendix to "Soviet Violations and the Future of the ABM Treaty" contains our Senate resolution, the "U.S. Unilateral Statement Following the ABM Treaty Review," and excerpts from the "President's Report on Soviet Noncompliance With Arms Control Agreements."

In sum, this paper is valuable both as a "think piece" and a reference.

I ask unanimous consent that the letter and the document to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, DC, October 4, 1988.

Hon. ROBERT DOLE,
U.S. Senate.

DEAR SENATOR DOLE: I would like to express my deep appreciation for your superb efforts in drafting and passing S. Res. 474. This unanimous vote of confidence in Administration policy regarding Soviet ABM Treaty violations came at a critical time, as you know.

Congressional support is an essential element of U.S. noncompliance policy. I look forward to continue consultations with you on the issue of responding to Krasnoyarsk and other Soviet violations.

Sincerely,

WILLIAM F. BURNS.

[From the U.S. Senate Republican Policy Committee, William L. Armstrong, Chairman, Oct. 14, 1988]

SOVIET VIOLATIONS AND THE FUTURE OF THE ABM TREATY

THE ABM TREATY REVIEW CONFERENCE

The United States and the Soviet Union recently concluded the third Review of the ABM Treaty as is required by the provisions of the treaty. The review was conducted from August 24-31, 1988, with Arms Control and Disarmament Agency (ACDA) director William Burns leading the U.S. delegation. The purpose of the Review Conference, which is held at five-year intervals, is not specifically defined by the ABM Treaty. It is generally taken for granted, however, that the Review is an opportunity to consider questions concerning compliance; to consider possible changes in the strategic situation which have a bearing on the provisions of the treaty; and, to discuss possible amendments to the treaty. At the 1982 Review Conference, both sides pledged continued adherence to the treaty.

During the present review, the United States emphasized the importance of Soviet violations of the ABM Treaty—violations that had not been present at the time of the 1982 Review. The most serious concern was the Soviet Union's deployment of a large phased-array radar near Krasnoyarsk in Soviet Central Asia. The U.S. stated that "since the Soviet Union was not prepared to satisfy U.S. concerns with respect to the Krasnoyarsk radar violation at the Review Conference, the United States will have to consider declaring this continuing violation a material breach of the Treaty." [1]

The U.S. also discussed the violation involving the illegally deployed radars at Gomel and raised with the Soviets a number of other ABM-related compliance concerns, "the totality of which suggests that the Soviet Union may be preparing a prohibited ABM territorial defense." [2] (See Appendix for Soviet ABM Treaty Violations).

After the Review, the U.S. government stated that it "will not accept Soviet violations or a double standard of Treaty compliance, and reserves the right to take appropriate responses in the future." The U.S. further stated that "the continuing existence of the Krasnoyarsk radar makes it impossible to conclude any future arms agreements on the START (Strategic Arms Reduction Talks) or Defense and Space areas." [3]

On September 16, the Senate unanimously adopted a resolution, introduced by Senator Malcolm Wallop (R-Wyo.), strongly supporting the Administration's policy as set forth in the August 31 Unilateral Statement; namely, that Soviet Violations of the ABM Treaty must be corrected before the conclusion of any future agreements on strategic arms. The Senate also urged the President to work with the Congress to develop appropriate and proportionate response options to the Krasnoyarsk radar, and any other unequivocal ABM Treaty violations.

MATERIAL BREACH: ANOTHER LEGAL DEBATE OVER THE ABM TREATY?

The U.S. government is now considering whether to declare the Krasnoyarsk radar violation a material breach of the ABM Treaty. A material breach is a "violation of provisions essential to the accomplishment of the object or purpose of the treaty." [4] The central object or purpose of the ABM Treaty is found in Article I of the treaty, which states:

"Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region. . . ."

In order to have confidence that the Soviet Union was not preparing a base for a national defense, the United States considered limitations on long lead-time items, such as large missile tracking radars, to be among the most important provisions of the ABM Treaty.[5] This was so because while interceptor missiles are small enough to produce and deploy surreptitiously, it was thought impossible to hide the radars necessary for an ABM defense of the nation. Construction of the Krasnoyarsk radar, in addition to other Soviet ABM activities, is therefore alarming not only because it violates the letter of the treaty, but also because it undermines the spirit behind the agreement.

Since the Krasnoyarsk Radar has the potential for tracking very large numbers of incoming warheads and directing ABM interceptors against those warheads (i.e., a battle management capability), it can provide a defense for, at the very least, an "individual region" of the Soviet Union.[6] There are an additional eight large phased array radars of the Krasnoyarsk type at various stages of deployment around the Soviet Union. These radars are legally deployed under the ABM Treaty because they are located on the periphery of the country and face outward. Though these radars are ostensibly deployed for early warning of an attack, they are much larger and vastly more powerful than needed for the single early warning function intended by the ABM Treaty. The important question that needs to be addressed is whether the construction of these radars, in conjunction with other Soviet ABM activities, supports the infrastructure for a territorial or nationwide defense.

It is important, however, that we do not focus singularly on the Krasnoyarsk violation, for this component-oriented approach to Soviet violations tends to obscure the totality of Soviet ABM-related activities that undermine the strategic purpose and object of the treaty. In other words, we should focus less on the Krasnoyarsk radar itself—though it is a serious violation—and more on the fact that there are another eight of these radars with the same battle management capability deployed—albeit legally—around the Soviet Union. Then add to this the testing of surface-to-air missiles (normally used against bombers) in an AMB mode, the construction of civil and leadership shelters, and an extensive laser and particle beam research effort, and one gets a picture of a country that is seriously interested in the concept of strategic defense.

WHAT HAPPENS IF WE DECLARE KRASNOYARSK A MATERIAL BREACH?

By elevating it in stature from a "violation," as it has been labeled in the President's Report on Soviet Noncompliance, to a "material breach," the Administration is entitled under international law to take "appropriate and proportionate responses" or invoke the breach for terminating or suspending the operation of the ABM Treaty in whole or in part. The treaty can also be abrogated by either party by invoking Article XV of the ABM Treaty, which allows either party to withdraw from the treaty at six-months' notice if extraordinary events related to the treaty have jeopardized its supreme interests.

The United States then has recourse to a number of actions, not limited to the following examples:

Continue to press the Soviets to dismantle the radar;

Suspend certain sections of the treaty or terminate U.S. adherence entirely;

Accelerate the testing of ABM components as allowed under the broad interpretation;

Increase funding for SDI research and development efforts;

Increase defense spending for other U.S. strategic forces.

It should be made clear, however, that it is not necessary to declare the Krasnoyarsk violation a material breach in order to take proportionate responses. The mere fact that it is a violation of the treaty provides the basis, under international law, for the United States to take unilateral actions that may not be consistent with obligations assumed under the treaty—even to the point of suspending or terminating certain parts of the treaty. Since the United States maintains virtually the same options without having to declare the violation a "material breach," it would seem expedient to avoid a long, drawn-out legal battle over whether Krasnoyarsk is a "material" breach or simply a violation.

Lest one think that the "material breach" question not have the potential for entangling the country in a legal wrangle over the ABM Treaty, consider that for over three years now we have been arguing about which is the legally correct interpretation of the treaty, with advocates of SDI favoring the "broad" interpretation, and critics of SDI supporting the "narrow" or "restrictive" interpretation.

In fact, the lawyers are already at it: In the September 1988 issue of Arms Control Today, a publication of the liberal Arms Control Association, two former U.S. arms control negotiators, who also happen to be attorneys, ask the question: "What is the legal meaning and intended purpose of the term 'material breach'; and does the Krasnoyarsk radar in fact qualify as a material breach?" [7] The authors conclude that a declaration of material breach would be against the best interests of the U.S. and that the issue should be handled by the Standing Consultative Committee (SCC).

The authors seem to forget that the U.S. government has been urging the Soviet Union for more than five years, both in the SCC and in other diplomatic channels, to correct this clear violation by dismantling the radar. But more importantly, the Arms Control Association, by focusing on legal rather than strategic issues, misses what should be the central question: In view of Soviet activities that are inconsistent with the spirit and the letter of the ABM Treaty, does the ABM Treaty still serve the security interests of the United States?

TIME FOR A NEW DEBATE

It is time to start replacing the lawyers with defense analysts, and with them, replace those time consuming debates about ABM Treaty interpretations with debate over the security impact of the treaty itself. It is also high time we ceased contriving legalistic justifications for Soviet violations of the ABM Treaty, as well as Soviet ballistic missile defense (BMD) activities that operate at the margins of what is permissible by the treaty. It is time we asked ourselves whether the AMB Treaty is still in our interests; and if it is not, what is the best alternative to continued adherence?

The two positions in this debate can be characterized as follows. Those that support the ABM Treaty view it as critical to U.S. security and a prerequisite to further progress in strategic arms control. Their central fear is that without the ABM Treaty, each side will then be encouraged to begin an arms race in defensive and offensive forces, thereby upsetting strategic stability. They also claim that the ABM Treaty has been responsible for restraining the growth of offensive nuclear forces since 1972.

Critics of the ABM Treaty claim that the treaty has been ineffectual in accomplishing its two major objectives: (1) restraining the Soviet offensive ballistic missile build-up and achieving deep reductions in these forces; and (2) preventing the Soviet Union from deploying a national ballistic missile defense or establishing the base for one. The U.S. thus has a military and an arms control rationale for ending its adherence to the pact.

THE ABM TREATY

The U.S. decision to sign the ABM Treaty was based on three explicit assumptions:

First, there was to be linkage between offensive and defensive forces, such that limitations on ABM systems would lead to deep offensive force reductions. The arms control logic of the day held that if defensive forces could be constrained, there would be no reason for either side to build more offensive weapons—and it was these offensive weapons that arms control was supposed to limit.

Second, it was assumed that threats to the survivability of respective retaliatory forces would be reduced. This was of particular concern to the United States because the Soviet Union was then deploying very large numbers of "heavy" ICBMs. The idea was that by limiting U.S. defenses, the Soviets would have no incentive to continue with the deployment of their powerful "first strike" ICBM force. This approach to arms control was based on the then emerging theory of deterrence characterized by the phrase Mutual Assured Destruction (MAD). According to MAD, neither side was supposed to acquire the ability to eliminate the opponent's retaliatory capability. As long as each side maintained the ability to destroy the other—even after absorbing an enemy surprise attack—stability was assured through nuclear terror.

Third, it was assumed that the technologies then available for missile defense were neither survivable nor cost-effective and thus insufficient to deny the attacker his objectives.

None of these assumptions is valid today: Deep reductions in strategic offensive weapons, contrary to U.S. expectations, did not follow in the wake of the ABM Treaty. Instead, the number of Soviet nuclear weapons grew exponentially and surpassed even U.S. worst-case estimates of potential Soviet strategic missile deployment levels.

The combination of larger and more powerful Soviet ballistic missile forces and restrictions in the U.S. ability to defend its deterrent forces resulted in an increase in the vulnerability of American retaliatory forces, not a decrease as hoped for.

The Soviets continued to devote substantial resources to missile defense research, development, and deployment, even going so far as to violate the most important provisions of the ABM Treaty.

The SDI program has demonstrated that technologies have been developed, since the ABM Treaty, that will permit the interception of ballistic missiles with nonnuclear means.

The treaty's continued utility must therefore be considered in the context of today's strategic environment, not that which existed in 1972. We need to remind ourselves what the treaty meant to achieve and ask ourselves whether it has indeed contributed to our security. If it now stands in the way of improving U.S. and allied security, then we need to contemplate alternatives to the treaty. It is simply not good enough to say that we need the ABM Treaty for the sake of arms control. We begin by asking the question: Have Soviet offensive and defensive force activities since the ABM Treaty's inception been inconsistent with the spirit of that treaty?

SOVIET ACTIVITIES INCONSISTENT WITH THE ABM TREATY

Offensive force build-up

The scope and tempo of Soviet ballistic missile programs after the ABM Treaty was signed proved somewhat unexpected—hardly what you would expect of a country interested in future arms reductions and stability based on mutual deterrence:

Four new ICBMs—the SS-16, SS-17, SS-18, and SS-19—were found to be in an advanced stage of testing by early 1974. The SS-19 was 4-5 times larger than its predecessor, the SS-11, while the SS-18 was one-third larger than its predecessor, the SS-9.[8]

The Soviets increased the number of its destabilizing, counterforce ICBMs from 290 (SS-9s) in 1972 to over 750 (SS-18/19/24/25) in 1988, with related increases in counterforce warheads of from roughly 290 to over 6,000.[9]

The Soviets increased the number of strategic warheads and bomber weapons from roughly 2,000 in 1972 to over 10,000 today, and have increased the capability of their missile force to attack hardened military targets by more than tenfold.[10]

Since SALT began in 1969, the Soviets have built five new types of ICBMs (with seven upgrades), seven new classes of ballistic missile submarines, and five new types of SLBMs (with three upgrades). By contrast, the U.S. deployed only one new ICBM (the Peacekeeper), one new ballistic missile submarine, and two new types of SLBMs.[11]

Contrary to Western arms control theory and American hopes, the Soviet Union did not eschew a hard-target, first strike capability. Instead, and perhaps encouraged by the complete vulnerability of the U.S., the Soviet Union continued to build those forces that would place at risk U.S. retaliatory forces. In 1985, top CIA officials testified before Congress that:

"The Soviets already have enough hard-target-capable ICBM reentry vehicles today to attack all U.S. ICBM silos and launch control centers and will have larger numbers of hard-target-capable RVs in the future. In such an attack today, they would stand a good chance of destroying Minuteman silos. The projected accuracy improvements for the new heavy ICBM we expect the Soviets to deploy in the late 1980s would result in a substantial increase in this damage capability.[12]"

Ironically, under the ABM Treaty, the survivability of U.S. land-based forces has not grown and the stability of the strategic balance has not improved—to the contrary, U.S. strategic forces became more vulnerable. The United States thus has an arms control and strategic rationale for reconsidering adherence to the ABM Treaty. In fact, when the U.S. signed the treaty in 1972, it was with the important caveat that should the strategic situation not improve, the U.S. would have a basis for withdrawal from the treaty. According to Unilateral Statement A that accompanied the ABM Treaty in 1972:

"The U.S. Delegate has stressed the importance the U.S. Government attaches to achieving agreement on more complete limitations on strategic offensive arms, following agreement on an ABM Treaty and on an Interim Agreement on certain measures with respect to the limitation of strategic offensive arms. The U.S. Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces * * * If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty."

Soviet strategic defense activities

If Soviet offensive force activities since 1972 suggest that the arms control rationale for the ABM Treaty no longer holds true, then Soviet strategic defense activities undermine the other principal rationale for continued adherence to the treaty: that the treaty was to prevent either side from acquiring the capability to deploy a defense of the nation. Soviet strategic defense efforts, both those permissible by the ABM Treaty and those in violation of the accord, provide the Soviet Union with a substantial breakout capability should they decide that the treaty is no longer in their interests. According to the Department of Defense.

"In the aggregate, the Soviet Union's ABM and ABM-related actions suggest that the USSR may be preparing an ABM defense of its national territory. These actions include radar construction, concurrent testing, SAM upgrade, ABM rapid reload, ABM mobility, and deployment of ABM components to Gomel." [13]

Soviet strategic defense activities include, but are not limited to, the following: [14]

The Soviets have spent $200 billion over the last decade on all types of strategic defenses, including massive investments in air defenses, deeply buried leadership shelters, civil defenses, and means applied to enhancing the survivability of offensive forces (e.g., hardening, concealment, mobility, etc.)

The Soviets have an operational ABM system protecting Moscow, Soviet ICBMs, and a substantial portion of the Western Soviet Union. The Moscow ABM system is presently being replaced with a more sophisticated system that will consist of 100 interceptors designed to intercept incoming missiles both within and outside the atmosphere. The modernization of the Moscow ABM system has given the Soviets a formidable ballistic missile defense infrastructure. According to the Pentagon, "this infrastructure provides the Soviet Union with active missile interceptors and radar production lines, operational experience with ABM systems and how they interact with strategic offensive forces, and a cadre of ABM personnel." [15]

The Soviets are in the process of completing a network of large phased-array radars like that at Krasnoyarsk. These radars—all legal under the ABM Treaty except for Krasnoyarsk—have the inherent capability to track large numbers of objects accurately, permitting them to perform as ballistic missile detection, warning, and tracking radars. Depending on their locations and orientation, these radars could contribute to ABM battle management as well.

The Soviet Union has been developing ABM systems believed capable, due to their inherent mobility, of being deployed to sites around the Soviet Union in a matter of months. Such systems reduce substantially the warning time the U.S. might have of Soviet breakout from the treaty. The Soviets recently demonstrated this capability by moving a FLAT TWIN ABM radar and a PAWN SHOP van, both components of an ABM system, from a test range and initiating deployment at a location outside a legal ABM deployment area—another serious violation of the ABM Treaty.

The Soviets have increasingly exploited the technological gray-areas between air defense and anti-ballistic missile defense. According to the Defense Department, the Soviet SA-10 surface-to-air missile may have the potential to intercept some types of ballistic missiles, as may the SA-X-12B/Giant when it is deployed.[16]

"The Soviet emphasis on the necessity of research on ballistic missile defense was demonstrated in 1972 by then-Minister of Defense Grechko shortly after the signing of the ABM Treaty. Speaking to the Soviet Presidium, he said that the Treaty 'places no limitations whatsoever on the conducting of research and experimental work directed towards solving the problem of defending the country from nuclear missile strikes.' " [17]

AN ABM TREATY REPORT CARD

How effective has the treaty been in accomplishing its main objectives? Not very. In the sixteen years since the treaty was signed:

It has failed to restrain the Soviet offensive ballistic missile build-up;

It has not provided the environment for offensive force reductions;

It has not prevented the Soviet Union from establishing a base for a national or territorial ballistic missile defense; and

It has not alleviated the vulnerability problem of U.S. strategic forces.

The ABM Treaty has been so ineffectual in preventing the Soviet Union from developing a defensive capability that the U.S. Joint Chiefs of Staff are said to be against termination of the treaty for fear that the Soviets would be better poised than the United States to deploy a missile defense of their national territory. Well, what does this say about the relative strategic defense efforts of the two sides? And what does this say about the effectiveness of the ABM Treaty in preventing the Soviet Union from acquiring an ABM capability?

It says that the ABM Treaty has been successful only in leaving undefended the side that did not wish to be defended (United States) while allowing the side that wished to be defended (Soviet Union) to proceed to construct its own defenses and lay the infrastructure for a nation-wide strategic defense system. If continued adherence to the ABM Treaty is evaluated in the context of the existing strategic environment and the history of the post-1972 strategic competition, one has to conclude, as does Dr. William R. Van Cleave, that:

"It is irrational to abide by an agreement that was supposed to accomplish certain objectives, but did not, and then let a failed agreement—which the other side is violating anyway—prevent us from seeking to accomplish the very objectives of the agreement." [18]

NEXT STEPS

The ABM Treaty interpretation debate was in large part a legal argument about what certain words in the ABM Treaty meant. Unfortunately this debate obfuscated the important strategic questions surrounding the role of the ABM Treaty in U.S. national security. We must guard against the same fate befalling the on-going consideration of Soviet ABM Treaty violations. For even if the Soviets were to dismantle the Krasnoyarsk radar, the future of the ABM Treaty would be in question due to the extent of other Soviet ABM-related activities. If the Joint Chiefs support strengthening the ABM Treaty regime for fear that the Soviets are now ahead in BMD capabilities, then the only thing that stands between the Soviets and strategic advantage is a piece of paper. A piece of paper we now need to debate in a strategic framework.

What alternatives does the United States have to continued adherence to the ABM Treaty? Some possible options include:

Continue nominal adherence to the ABM Treaty, but take appropriate and proportional responses to Soviet ABM Treaty violations. For example, we can conduct SDI tests necessary to validate the defensive systems under consideration;

Abrogate the ABM Treaty by invoking Article XV, which allows either party to withdraw from the treaty at six-months notice if extraordinary events related to the treaty have jeopardized its supreme interests—this is the course recommended by former Secretary of Defense Caspar Weinberger[19];

Pursue negotiations with the Soviets aimed at paving the way for a stable transition to a world in which defenses play a major role—an approach actually being taken by U.S. negotiators in the Defense and Space Talks.

The President's arms control advisor, Paul Nitze, has made the point that the ABM Treaty, because of its unlimited duration, was meant to be a "living accord," one that made allowances for changes in the strategic environment. According to Nitze:

"The Treaty's drafters also anticipated that certain types of new ABM systems might be created. And the treaty makes provision for possible changes and provides the mechanism by which such changes would be negotiated and agreed. The Treaty was intended to be adaptable to new circumstances, not to lock the United States and Soviet Union into a strategic relationship that might be less stable and less desirable than other possibilities that might emerge in the future.[20]

New circumstances have indeed arisen that mandate a reconsideration of U.S. support for the ABM Treaty. Soviet violations of the treaty, recent developments in defensive technologies, and Soviet offensive and defensive force activities have clearly changed the rules of the game that were established by the ABM Treaty. By their words and deeds the Soviets continue to demonstrate that they do not subscribe to the notion of deterrence through mutual vulnerability. The time has come to negotiate a new set of rules that incorporate strategic defenses into our overall security framework.

FOOTNOTES

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[1] U.S. Unilateral Statement Following ABM Treaty Review, August 31, 1988.

[2] U.S. Unilateral Statement Following ABM Treaty Review, August 31, 1988.

[3] U.S. Unilateral Statement Following ABM Treaty Review, August 31, 1988.

[4] Vienna Convention on the Law of Treaties, Article 60(3)(b).

[5] Other major provisions were the prohibition against upgrading air-defense systems to give them an ABM capability; and the prohibition on the development, testing, or deployment of mobile land-based ABM systems or components of such systems. According to the President's Report on Soviet Noncompliance, the Soviets are also violating these important provisions.

[6] See U.S. Department of Defense, *Soviet Military Power,* 1988, p. 48.

[7] Ralph Earle II and John B. Rhinelander, "The Krasnoyarsk Radar—A 'Material Breach' of the ABM Treaty?" *Arms Control Today,* September 1988, p. 9.

[8] See Thomas W. Wolfe, *The SALT Experience,* (Cambridge, MA: Ballinger Publishing Co., 1979), pp. 116–120.

[9] Based on figures from the Department of Defense and the International Institute for Strategic Studies, London.

[10] Paul Nitze, SDI and the ABM Treaty, Commencement Address to the Johns Hopkins School of Advanced International Studies, May 30, 1985.

[11] *Strategic Defense Initiative Organization Report to Congress FY 89,* p. 1–2.

[12] *Soviet Strategic Force Developments,* Testimony of Robert Gates and Lawrence Gershwin before the Committee on Armed Services and the Committee on Appropriations, June 26, 1985, p. 7.

[13] *Soviet Military Power, 1988,* p. 56.

[14] See, *Soviet Military Power, 1988,* and Department of Defense and Department of State, *Soviet Strategic Defense Programs,* October 1985.

[15] *Soviet Military Power, 1988,* p. 104.

[16] *Soviet Military Power, 1988,* p. 56.

[17] *Soviet Military Power, 1988,* p. 42.

[18] William R. Van Cleave, "The ABM Treaty: An Obstacle to American Security," In *SDI in the Near Term: Strategy, Technology, and the ABM Treaty,* (Washington, D.C.: Fund for an American Renaissance, July 1986).

[19] Caspar W. Weinberger, "It's High Time To Withdraw From ABM Treaty," *Wall Street Journal,* October 12, 1988, p. A18.

[20] Commencement address cited in note 10.

AGAIN, THE HOUSE IRRESPONSIBLY FAILS TO PASS BANKING LEGISLATION

Mr. GARN. Mr. President, as we enter the last days of the session, a sad but familiar situation faces the Congress. The Senate has passed a responsible, progressive, and comprehensive banking bill by the overwhelming margin of 94 to 2. S. 1886, the Proxmire Financial Modernization Act, reflects a sound and hard-fought compromise of all the competing interests that have a stake in financial services legislation. I wish that Congress could take the final steps necessary to enact this bill.

Unfortunately, that is not possible, because the House of Representatives has failed once again to produce a banking bill. Today's lead editorial in the Washington Post makes exactly this point, and I will ask unanimous consent that it be included in the RECORD after my remarks.

Mr. President, the House's failure to act on comprehensive banking issues over the last 6 years is a sorry commentary on the legislative process. It is a total abdication of its responsibility to legislate national financial policy. But there is only so much that we in the Senate can do.

The situation today feels very much like 1984 and 1986, when the Senate passed banking bills that the House simply refused to take up. There are some differences this time around, but I am not sure that, taken as a whole, they are encouraging.

Three House committees have passed banking legislation, and the results have ranged from real progress on certain key issues to absolutely unacceptable provisions. Furthermore, these committees appear to be a long way off from resolving their differences, particularly House Banking and House Energy and Commerce. Their jurisdictional squabbles have become the excuse for doing nothing once again, and amount to little more than political cover for inaction. I think that is inexcusable.

GIVING GROUND TO FOREIGN COMPETITION

The consequences of this failure to act are serious. This is not just a matter of protecting one industry's turf from another's. The U.S. financial services industry has been targeted by foreign competitors as ripe for the picking, and by failing to unshackle our own best competitors, we are playing right into their hands.

The securities industry keeps arguing that it is in the national interest to shelter them from competition from the big, bad banks. But the result has been that the best-known securities houses have turned overseas for infusions of capital, in some cases from foreign banks. Just this month First Boston, the Wall Street giant, announced its further consolidation with Credit Suisse, a huge Swiss bank. Goldman Sachs has sold a big piece of itself to Sumitomo Bank. And Shearson-Lehman-Hutton has an arrangement with a Japanese insurance company.

I will not go through the legal niceties that permit these arrangements. The point is that the longer we delay in reforming the financial services laws, the more ground we cede to foreign competition. That is plainly shortsighted and foolhardy.

NO BILL IS BETTER THAN A BAD BILL

There may be a silver lining to this cloud, however. While the House is preventing us from passing a good banking bill this year, at least we are not resorting to the alternative of passing a lousy one. That might have been the case if we had listened to some of the proposals that floated through the House committees at the end of this session.

My position is this: If Congress cannot pass a good banking bill—one that increases competition with approriate safeguards but without unnecessary regulation—then it should not pass one at all. S. 1886 satisfied this standard, but not by much. It reflected a delicate compromise that was only achieved after intense negotiations on both sides of the aisle. I could not have envisioned much deviation from this bill without the bipartisan consensus breaking down.

Unfortunately, the bill reported out of the House Banking Committee included too much of exactly this kind of deviation, especially in its so-called consumer provisions. I would never have stood still for Community Reinvestment Act amendments requiring the government to tell banks who they must lend to. That is credit allocation, plain and simple, which goes far beyond anything the misguided CRA was ever intended to achieve. Even its authors admit that.

Furthermore, strongly opposed the House provisions that put Congress in the business of designing so-called lifeline accounts. Banks are not public utilities, and Congress, as always, is a miserable micromanager. It is fundamentally wrong to subject institutions to hundreds of pages of regulations in order to require them to offer checking accounts that in many cases they are already offering.

But at least there were very positive parts of the House Banking Committee bill, particularly its securities provisions. I wish I could say something positive about the amendments made by the House Energy and Commerce Committee, but I cannot. The watered-down powers were bad enough, and the anticompetitive firewalls were even worse.

But what few people seem to realize is that the amendments would have severely curtailed existing securities and insurance activities of banks—trust activities, private placements, and brokerage activities were just a few of the areas affected. One provision required banks to cut independent security firms in on their profits, while another required them to cut in independent insurance agents—forget the marketplace or the consumer. I thought the whole purpose of this legislation was to bring more competition to the financial services industry, not less.

In short, I simply could not have supported any legislation that would have watered down the powers part of the Senate bill, added unworkable firewalls, or tacked on onerous consumer provisions. So rather than try to negotiate with the House on these positions—if they had ever gotten their act together—maybe we are better off having no bill.

I am not saying that a bad bill would have necessarily been the result, and I certainly stood with the rest of my Senate colleagues as ready, willing, and able to negotiate. But now that the House has once more refused to come to the bargaining table, we at least have the small consolation of not ending up with the worst of their provisions.

NO MORATORIUMS

Needless to say, I will also oppose any last-ditch effort to transform this banking bill into a moratorium that would prevent the regulators from interpreting banking laws. Let me remind my colleagues of the pledge we took in passing exactly that kind of moratorium last summer as part of the Competitive Equality Banking Act [CEBA]:

> It is the intent of Congress not to renew or extend the moratorium * * * whether or not subsequent banking legislation is passed by the Congress.

I will honor that pledge, now that the CEBA moratorium has since expired, and I expect my colleagues to honor it, too. This session of Congress would have been the time to pass that "subsequent banking legislation," and we certainly have had our chance. But since the House has once again prevented us from passing a bill, then the regulators and the courts should continue to interpret existing banking laws according to their terms. And let the State legislatures move forward. They all have my full support.

I am also aware of recent congressional letters sent to banking regulators that have been interpreted as threats to prevent new regulatory actions. These appear to be nothing more than attempts to impose a moratorium without Congress acting. Let me emphasize again that Congress has failed to act this year, and has therefore committed itself not to impose a moratorium. A single Member of Congress cannot undo this state of affairs, regardless of his rank.

As a result, the banking regulators are not only free to interpret the laws in connection with applications before them, but they are required to do so in a timely manner. And that is exactly what they should do.

CONCLUSION

Mr. President, because of the House's paralysis we will not be able to enact good banking legislation this year. But even if no legislation passes before we adjourn, we can at least look back to the progress made in the Senate banking bill this year. There will certainly be banking legislation in the next Congress, and we can draw on that progress. I believe that we can make S. 1886 even stronger next year, particularly in the insurance area, and that we should move quickly when we reconvene in 1989. I only hope that the House of Representatives will stop sitting on its hands and start facing the tough choices that have to be made.

I ask unanimous consent that the editorial to which I referred be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Banking Bill's Demise

For a few months last spring it looked as though Congress might at last pass rational legislation on banking reform this year. The carefully drafted Proxmire bill had just passed the Senate with a huge majority. But now the bill is certifiably dead, the victim of jurisdictional wrangling in the House.

The central issue is whether banks should be permitted to enter some of the kinds of financial business that, in the Depression, Congress split off into a separate securities industry. That securities industry has prospered hugely in the half century since then and is understandably reluctant to share its turf. But there's a strong case for letting the banks in. Wider competition in the financial markets would be a good thing. Sen. William Proxmire's bill would have allowed the banks to enter several carefully specified areas under conditions that sharply limited the risks that they would take with their depositors' money. It was a bill worth passing.

But banks—like railroads and power companies—evoke sharp and suspicious reactions in American politics. The House Banking Committee gave the banks fewer new powers than the Senate had done and attached a long list of benefits for consumers that the banks, not to mention federal regulators, consider unworkable. Then the House Energy and Commerce Committee claimed overlapping jurisdiction on grounds that the securities laws lie in its fiefdom. As you probably suspected, the jurisdictional quarrel veiled a deeper and more substantial one. The Energy and Commerce Committee is, in the populist tradition, inclined to give the banks very little.

Many bankers think that it's foolish to try to get legislation. It's easier and safer, some of them argue, to continue to keep their lawyers at work chipping away to widen the loopholes in the wall between banks and securities dealers. In the courts and in the regulatory agencies, they have already won a good deal of new territory.

But that process is creating a disorderly structure that fits together only haphazardly. Coherent legislation would be greatly preferable—if Congress could bring itself to legislate. The speaker of the House, Jim Wright, and the chairman of the Banking Committee, Fernand St Germain, have written to the Federal Reserve Board to warn it not to make any further changes in the banking regulations before Congress acts. They seem to think that they can get a bill moving early next year. That seems unlikely. The first priority in January will necessarily be the bailout of the S&L industry. Congress' best opportunity to enact a good banking bill is the one that the House has just kicked away.

FHLBANK EXIT ISSUE

Mr. RUDMAN. Mr. President, I want to call the Members' attention to an issue involving the Federal Home Loan Bank System. Last year, as part of the Competitive Equality Banking Act, we prohibited most institutions from changing their deposit insurance from FSLIC to FDIC. Several institutions, however, were permitted to change their insurance because their proposals to do so were underway when the prohibition was proposed. Having been excepted expressly from the prohibition, several of these institutions are now concerned that a change in Bank Board regulations may deprive them of their Home Loan Bank System membership as a result of the change in insurance. In addition, such institutions would be required to prepay their Home Loan Bank advances, including substantial prepayment penalties. I believe that this proposed change in regulations, which may otherwise be appropriate, should not apply to the particular institutions exempted by CEBA. That would be inconsistent with our intent in exempting such institutions from last year's moratorium on insurance conversions. I would like to have the views of the ranking minority member of the Banking Committee on this matter.

Mr. GARN. I agree with the Senator's view of our purpose last year. As chairman of the Banking Committee in 1982, I was deeply involved in passage of the legislation on which the Bank Board's proposed regulatory revision is based, as well as in the Senate proceedings and conference that produced the exemption permitting these institutions to change insurance funds. Last year we halted the exodus from FSLIC, but recognized that it would be unfair to apply the restriction to particular institutions that had already spent considerable time and money on transactions involving insurance conversions. These particular grandfathered institutions should not be penalized for relying in good faith on the Bank Board's rules in effect at the time of their conversion plans, and on the grandfathering provisions in CEBA. Although it is unclear to me that this statement of our intent will have any legal impact, I, nevertheless, urge the Federal Home Loan Bank Board to take this intent into account in promulgating its new regulations. It should be noted, however, that the CEBA grandfathering provisions were not intended to affect the application of any Bank Board regulations to any nongrandfathered institution.

Mr. RUDMAN. I would like to thank the Senator for his support on this matter and add that the distinguished Senator from Connecticut, Senator DODD, also joins me in supporting this clarification of the effect of last year's grandfathering language.

TRIBUTE TO DELEGATE KENNETH ROLLINS

Mr. WARNER. Mr. President, I rise today to pay my respects to a dear departed friend Kenneth Brady Rollins, who was taken from us on August 28, 1988, at the young age of 52.

Ken Rollins was a valued friend of mine who most recently represented Leesburg and Loudoun County in Virginia House of Delegates and was my State representative. But far beyond his life of public service—as mayor of Leesburg, as judge of Loudoun County Juvenile and Domestic Relations Court and General District Court, and so much more—Ken Rollins exemplified the public servant.

Mr. President, at memorial services on August 31, Ken Rollins was eulogized by a number of his peers. These words—their words—speak of the gentleman I knew so well.

I wish that I had found the eloquence of the "Letter to the Lord" written about Kenny by Fairfax County Executive J. Hamilton Lambert. Or the kind words of insight into Kenny's personality recited by Judge Jean Harrison Clements, as she described ". . . a good man, an honest man, a fair man, and a loyal man," a man who ". . . was both magnetic and disarming; strongwilled and gentle hearted; serious but funny; practical and visionary; known but translucent."

Mr. President, would that I could have matched the eloquence of State Senator Charles Waddell as he eulogized Kenny Rollins as ". . . a leader not a follower . . .", who ". . . did not duck the tough issues . . .". Senator Waddell described the Ken Rollins we all knew: ". . . the unique and very special man," who ". . . had an ability to make and keep personal friendship and not to allow political, social and economic differences disturb those personal relationships."

Mr. President, I wish it were possible to describe the Kenny Rollins I knew, but time would not permit a recounting of the multitude of attributes and qualities this man possessed.

I can only bring to the Senate's attention the passage of this fine man, and to pay my humblest respects to his widow Linda and his lovely children Tracie, Kelley, and Carla.

Mr. President, I shall miss my dear friend, and Virginia will miss its loyal servant. Kenneth Brady Rollins made a difference with his life, and the world is a finer place for having had him here.

TRIBUTE TO OFFICERS MICHAEL BUCZEK AND CHRISTOPHER HOBAN

Mr. MOYNIHAN. Mr. President, I know the Senate would wish to express its profound condolences to the families of Officer Buczek and Officer Hoban, 24 years of age and 26 years of age respectively, and all of those from Officer Byrne on who have died in one city—New York—this year, the fourth year of ther crack-cocaine epidemic of the 1980's.

I do not know what more to say. How many more policemen will die, how many more children will ruin their lives, how many more neighborhoods will become unsustainable for any civilized society before we act.

It is in the memory of men such as these that we in the Congress must continue to work to end the continuing cycle of destruction being wrought on us, our society, by an epidemic of almost inhuman proportions. I cannot promise that more men, women and children will not die even if we should enact our antisubstance abuse programs but I know that if we do not act to address this plaque it will continue to exact a huge toll.

To end this "war" we must commit ourselves to a compassionate approach to those who have fallen prey to this epidemic, to those who find themselves overtaken by cocaine and crack with no place to turn to rid themselves of their addiction.

Officers Buczek and Hoban remind us of the proportions of this battle. They died on the frontlines—brutally. They remind us of the quiet lives lost to the merciless horror of what truly is an epidemic. They remind us that we have a long way to go before the headlines change, before we make inroads against the traffickers who cause such horrors.

For those who ask where our heroes, say to them the names Byrne, McLean, McCormick, Peaco, Galapo, Buczek and Hoban. Their names should be remembered, their names will be remembered and what we do, we do for them and for their families.

FAA RESTRUCTURES

Mr. ROCKEFELLER. Mr. President, I had high hopes that this would be the year for Congress to finally come to grips with the longstanding problems facing the Federal Aviation Administration [FAA] and our national air transportation system. Unfortunately, the clock has run out on the 100th Congress but I would like to see the Congress revisit this important issue next year. I also urge the 101st Congress to reconsider S. 1600, a measure which I have cosponsored, that would establish an independent FAA.

Last April, the President's Aviation Safety Commission concluded that, "while the (aviation) system is safe for now, the present governmental structure is not working effectively enough to ensure its safety in the future." The Commission found such problems as chronic uncertainty over whether funding for safety projects would be appropriated, a high turnover rate among FAA administrators, and personnel rules that prevent the FAA from shifting air controllers to those parts of the country where they are most needed.

The President's Commission as well as the Office of Technology Assessment found that the major problems facing our air system are an inadequate infrastructure—including capacity limits at airports—and the Government's failure to address the problems. A recent report by the major aviation industry groups called "A critical Aviation Agenda for the Next Administration" reached similar conclusions.

It's clear that a major challenge confronting the next administration is to revive the Nation's airport/airway system. It is also a major challenge for all of us in Congress.

I regret that we cannot finish this important work this year. However, we should all commit ourselves to giving this matter the attention it deserves in 1989. The traveling public deserves nothing less.

THEO H. PITT, JR.

Mr. SANFORD. Mr. President, a fellow North Carolinian will conclude a very important chapter of his life early next month. He is Theo H. Pitt, Jr., of Rocky Mount, NC, who has served the past year as Chairman of the U.S. League of Savings Institutions, the primary trade group representing 3,100 savings institutions with assets of $1.5 trillion.

Theo is chairman of the board, president and chief executive officer of Pioneer Savings Bank, Inc. He joined that institution as a loan officer in 1961 and has served as chief executive officer since July 1974. Under his leadership, Pioneer has grown from one office and $35 million in assets to 24 full-service offices and assets of $500 million.

Just as he has so admirably led Pioneer, Theo has led the U.S. League through a most difficult year, a year in which his number one priority was to develop a program to reestablish the solvency of the Federal Savings and Loan Insurance Corp. When he assumed the chairmanship a year ago, Theo's first official act was to launch a major study of the deposit insurance system with an eye toward reforms that would ensure the future good health of the FSLIC and savings institutions, as well. I for one am eagerly awaiting the results of that study as we search for ways to help the FSLIC.

Theo is a strong and articulate advocate for the savings institutions business, raising the awareness in Washington not only of the severity of the FSLIC problem, but also the fact that healthy savings institutions can themselves pay just so much to solve the problem before their own survival is threatened. Theo Pitt has earned a special place in the history of America's savings institutions.

Theo will now be spending more time in North Carolina, but I know that the U.S. League will continue to turn to him for his wise counsel and as a spokesman for his business.

I ask my colleagues to join with me today in saluting Theo H. Pitt, Jr., and extending to Theo, his wife, Molly, and their son and daughter, Beth and David, every good wish for the future.

TRIBUTE TO PRESIDENTIAL AWARDS FOR EXCELLENCE IN SCIENCE AND MATHEMATICS TEACHING WINNER GEORGE TALIADOUROS

Mr. KENNEDY. Mr. President, we all recognize the importance of excellent teachers who are dedicated to the educational development of our Nation's youth. Our schools will never be any better than the teachers who work in them. In 1983, the Congress created the Presidential Awards for Excellence in Science and Mathematics Teaching, a program designed to recognize excellent science and mathematics teachers and to encourage highly qualified individuals to enter and remain in the field. This program is administered by the National Science Foundation. Awardees receive a $5,000 NSF grant, an expense-paid trip to Washington for 5 days, and generous gifts from businesses and industries.

George Taliadouros, a teacher of physics and technology at Minuteman Technical School in Lexington, MA, was given the award in recognition of his innovative and motivating teaching, in which he uses students' strengths to overcome their weaknesses.

A graduate of American International College with a masters of science and technology, he has won numerous teaching awards in the past, including the 1987 Special Recognition Award from the Massachusetts Department of Education, the 1988 Certificate of Excellence from the Northeast Network for Curriculum Coordination, and the 1987 and 1988 State level PAESMT Awards.

I am grateful to the efforts of Mr. Taliadouros and other teachers like him who have made a lifelong commitment to excellence in education. I extend to him my congratulations and best wishes.

TRIBUTE TO PRESIDENTIAL AWARDS FOR EXCELLENCE IN SCIENCE AND MATHEMATICS TEACHING WINNER JUDITH A. WHITE

Mr. KENNEDY. Mr. President, we all recognize the importance of excellent teachers who are dedicated to the educational development of our Nation's youth. Our schools will never be any better than the teachers who work in them. In 1983 the Congress created the Presidential Awards for Excellence in Science and Mathematics Teaching, a program designed to recognize excellent science and mathematics teachers and to encourage highly qualified individuals to enter and remain in the field. This program is administered by the National Science Foundation. Awardees receive a $5,000 NSF grant, an expense-paid trip to Washington for 5 days, and generous gifts from businesses and industries.

Judith A. White, a math teacher at McCarthy Middle School in Chelmsford, MA, was given the award in recognition of her outstanding teaching and her commitment to excellence both in and out of the classroom. She is a member of a variety of mathematics-teaching related committees and boards.

A graduate of the University of Massachusetts and Salem State College, she was the recipient of the State level PAESMT award for 1987, and is a member of the Board of Directors of the Associated Teachers of Mathematics in Massachusetts.

I am grateful to the efforts of Mrs. White and other teachers like her who have made a lifelong commitment to excellence in education. I extend to her my congratulations and best wishes.

SENATOR ROBERT T. STAFFORD

Mr. CRANSTON. Mr. President, few Senators will leave the Senate with a legacy more rich and distinguished than that of ROBERT T. STAFFORD of Vermont. Senator STAFFORD's political career covers 50 years. But his accomplishments will enrich Americans for lifetime after lifetime. For in his Senate service, BOB STAFFORD made major contributions to public policy. In two of the most important aspects of American life, education and the environment, he became an acknowledged Senate leader. In the full breadth of his career he displayed that rare combination of commitment and leadership that is the hallmark of excellence in public service. His vision has been expansive, his record of accomplishment, unique.

In education, Senator STAFFORD's record is simply unexcelled. He was a pioneer in the enactment of the Vocational Education Act and the Higher Education Facilities Act of 1963. In his long service on the Labor and Human Resources Committee, he was heavily involved in every piece of education legislation to come before the committee since he entered the Senate in 1971. During the time Republicans were the Senate's majority, Senator STAFFORD chaired the Education, Arts and Humanities Subcommittee. Last year, in honor of his leadership, the legislation reauthorizing Federal elementary and secondary education programs was named the Robert T. Stafford Elementary and Secondary Education Improvement Act.

For the environment, Senator STAFFORD's leadership has been tireless and courageous. His chairmanship of the Senate Environment and Public Works Committee—from 1981 to 1987—saw key environmental measures reauthorized and strengthened, including the Clean Water Act, Safe Drinking Water, and Asbestos Hazards Abatement. Senator STAFFORD's efforts were critical to the passage of Superfund legislation in 1986, and his political courage was never more evident than in that critical battle. In the past few weeks of the 100th Congress, Senator STAFFORD has addressed the Senate each week on key issues of atmospheric contamination facing our country and the world. His perceptions reflect not only a broad grasp of the issues, but the wisdom and insight gained in years of hard and effective political work. These remarks, which I commend to all Senators, are a lasting contribution to the critical national dialog on these issues.

Mr. President, BOB STAFFORD's presence and leadership will also be sorely missed in the area of disability issues, where he has made tremendous contributions. I have been honored to work with him to ensure that persons with disabilities are not denied the opportunities that are each American's due and that the special needs of disabled persons are met. We served together on the Labor Committee's Subcommittee on the Handicapped in the 1970's and then in this decade worked side by side on numerous pieces of legislation benefiting disabled persons. To cite just two examples, together we were joined with three other Senators as the principal coauthors of the Rehabilitation Act of 1973—including section 504, the landmark provision prohibiting recipients of Federal financial assistance from discriminating against disabled persons, and of section 502, which created the Architectural and Transportation Barriers Compliance Board with a mandate to ensure accessibility in buildings and transportation that receive Federal financial assistance. He was also one of the chief architects of the Education for All Handicapped Children Act of 1975, which gives every disabled child the right to a free and appropriate education.

Mr. President, disabled Americans have had no greater friend and ally in the U.S. Congress over the past 17 years than Bob Stafford. One of the great challenges facing us in the 101st Congress will be to fill the void that he will be leaving in this area.

I have also had the pleasure of working with Bob Stafford throughout his long service on the Committee on Veterans' Affairs. He was always a gentleman, always willing to listen, and always willing to take the other person's viewpoint into account.

Senator Stafford's distinguished career in public service began in the State's attorneys office in Rutland County, VT, in 1938. From 1953 to 1955 he was on the staff of the Vermont Deputy Attorney General. He became the Attorney General of Vermont in 1955, the Lieutenant Governor in 1957, and the Governor of Vermont in 1959.

Senator Stafford's Federal service began in 1961 with his election to the House of Representatives, an office he held for a decade. In September 1971, Gov. Deane C. Davis appointed him to the Senate seat vacated by the death of Senator Winston L. Prouty.

There are fewer than 100 persons in U.S. history who have served as Governor, Representative, and Senator from the same State; Robert T. Stafford is one of those persons. In this body he has served on the Labor and Human Resources Committee, the Committee on Veterans' Affairs, the Environment and Public Works Committee, the Special Committee on Aging, and the Special Committee on Official Conduct.

The people of Vermont, the people of the United States, and all Senators who have worked with Bob Stafford have been enriched by his presence in public life. He has been a positive force for creative change in America, and, most importantly, he has been effective. Senator Stafford's life of service is marked by courage, character, decency, and humility—qualities that grace the lives of great people everywhere. Our world has been made better by his presence.

TRIBUTE TO SENATOR STENNIS

Mr. KERRY. Mr. President, I would like to take this occasion to pay tribute to the dean of the Senate, Senator John Stennis of Mississippi. John Stennis is truly an elder statesman and an institution in the Senate. His love is the Senate, and no one can take his place in this body.

For four decades in the U.S. Senate, John Stennis has stood for honor, integrity, and love of country. He has been a stalwart in support of the defense of this Nation. His service on the Senate Armed Services Committee is unparalleled. His contributions to his beloved State of Mississippi and to the Nation are unequaled.

John Stennis has stood like a rock for fairness and integrity in this institution. His 10 years on the bench in Mississippi have given him a devotion to justice and fair play which he has carried throughout his Senate career. John Stennis has been not only a witness to history—he has been a part of history in this institution.

Senator Stennis served on the committee of inquiry which investigated the activities of Senator Joe McCarthy in 1954, and acquitted himself with courage and dignity. John Stennis was the first Senator to go to the floor of the Senate and denounce McCarthy, saying that he had poured "slush and slime" onto the Senate. John Stennis said that to condone McCarthy's activities would mean that "something big and fine has gone out of this Chamber, and something of a wrong character, something representing a wrong course, a wrong approach, will have entered."

John Stennis was also a leader in introducing legislation in the area of war powers. In 1971, he said that—

> The decision to make war is too big a decision for one mind to make and too awesome a responsibility for one man to bear. There must be a collective judgment given and a collective responsibility shared.

Senator John Stennis has stood for duty, honor, and responsibility throughout his Senate career. When he became a Senator some 40 years ago, John Stennis said,

> I want to plow a straight furrow right down to the end of my row.

John Stennis has plowed that furrow straight and true. When he leaves the Senate, something big and fine will truly have gone out of this Chamber. He has my respect and best wishes.

1988 REPUBLICAN PLATFORM CONTRIBUTIONS BY SENATOR LARRY PRESSLER

Mr. KASTEN. Mr. President, today I wish to pay tribute to a distinguished colleague, the senior Senator from South Dakota, Mr. Pressler, for his outstanding contribution to the 1988 Republican Party Platform. Senator Pressler served with me on the Republican Platform Committee during the convention in New Orleans this past summer, performing yeoman's service and, in the process, doing a great service to his constituents in South Dakota and the people of this Nation.

During the committee's mark up of the draft platform statement, Senator Pressler authored several amendments that strengthened and improved the final platform. These amendments advocated:

Preventing public lands from being transferred to any special group with the potential to abuse these lands, thus safeguarding public access by all citizens;

Pledging early action on the 1990 farm bill to improve farm programs set to expire in 1990 and to ensure equitable treatment of our Nation's farmers;

Recognizing that the tourism industry is a positive force in enhancing cultural understanding and sustaining economic prosperity;

Developing regional and short-line railroads as an alternative to railroad abandonments and pledging to continue encouraging their growth; and

Emphasizing the importance of vocational and technical education and urging the Federal Government to enhance vocational-technical education.

In addition, Senator Pressler assisted in the development of several other planks which were adopted by the platform committee without amendment. These planks advocated the following:

Endorsing satellite remote sensing from space to advance our understanding of environmental and climatic forces;

Encouraging the elimination of agricultural subsidies by the European Economic Community countries, thus helping put our farmers on a more equitable competitive basis with their European counterparts;

Encouraging that free and fair trade for farmers and ranchers be placed on the agenda of every international conference on trade, since free and fair trade for our farmers is extremely important to the overall global agricultural economy;

Encouraging development of alternative fuels such as ethanol and methanol, as continued development of these alternative fuels will help provide new markets for our grain; and

Recognizing that in order to have full participation in our country's unbounded future, rural people will need better access to modern telecommunications and satellite communications systems.

Mr. President, without the hard work and dedicated commitment of Senator PRESSLER, I doubt whether these positions would have become a part of my party's platform. I sincerely believe our platform is better for their inclusion. We, as a nation, will be the better for pursuing and attaining the platform's objectives. On behalf of the 1988 Republican Platform Committee, I commend Senator PRESSLER on his outstanding achievement and congratulate him for his excellent contributions to the 1988 Republican Party Platform.

RECESS UNTIL 4:30 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4:30 p.m. today.

There being no objection, the Senate, at 3:54 p.m., recessed until 4:30 p.m.; whereupon, the Senate was called to order by the Presiding Officer (Mr. GRAHAM).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Florida, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, while our work is going forward and we are preparing other measures for action, I shall ask that the Senate stand in recess. This will give the doorkeepers and the officers of the Senate and others a little respite.

Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 5:15 p.m. today.

Thereupon, at 4:38 p.m., the Senate recessed until 5:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROCKEFELLER).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of West Virginia, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, while waiting for the Republican leader, who is in the middle of an appointment, I can report that there has been good progress made in resolving some of the outstanding issues between the Houses on the drug bill.

I just talked with Senator NUNN. There are many Members of both Houses, both parties, involved in the discussions. The issues that are being narrowed down are such that I believe the working group can probably work for another couple, 3 hours, after which the remaining few issues will be brought to the two leaders in the Senate and the two leaders in the House for their final resolution. I hope that we can complete action in ironing out the differences by 10 or 12 o'clock this evening and that legislative counsel can then go to work to put into final form the pieces of the package so that sometime tomorrow afternoon the Senate and House could complete floor action on the drug bill.

So at the moment it looks good. I am optimistic as I have been all along. I want to thank and compliment those Senators and House Members who, at the request and direction of Senator DOLE and myself and the Speaker and Mr. MICHEL, have worked long and hard and are still very busily engaged in bringing about a resolution of the differences.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate, at 5:45 p.m., recessed until 6:06 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROCKEFELLER).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from West Virginia, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATING RIO CHAMA RIVER IN NEW MEXICO AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 850.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 850) entitled "An Act to amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. DESIGNATION OF RIO CHAMA RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) RIO CHAMA, NEW MEXICO.—The segment extending from El Vado Ranch launch site (immediately south of El Vado Dam) downstream approximately 24.6 miles to elevation 6,353 feet above mean sea level; to be administered by the Secretary of Agriculture and the Secretary of the Interior. For purposes of compliance with the planning requirements of subsection (d), the Cooperative Management Plan for the river prepared by the Secretary of Agriculture and the Secretary of the Interior may be revised and amended to the extent necessary to conform to the provisions of this Act. The segment of the Rio Chama beginning at the El Vado Ranch launch site downstream to the beginning of Forest Service Road 151 shall be administered as a wild river and the segment downstream from the beginning of Forest Service Road 151 to elevation 6,353 feet shall be administered as a scenic river.".

SEC. 2. PROVISIONS APPLICABLE TO CERTAIN SEGMENT OF RIO CHAMA.

The protections afforded under the Wild and Scenic Rivers Act for rivers listed in section 5(a) for study for potential addition to the national wild and scenic rivers system shall, until Congress determines otherwise, apply to the segment of the Rio Chama from the point at elevation 6,353 feet above mean sea level to the point approximately 4.0 miles downstream at elevation 6,283.5 feet above mean sea level: *Provided,* That nothing in this Act or the Wild and Scenic Rivers Act shall interfere with the Secretary of the Army's operation and management of Abiquiu Dam for purposes authorized by section 5 of Public Law 97-140 or otherwise authorized prior to December 31, 1988.

SEC. 3. MANAGEMENT OF OTHER RIVER SEGMENT AND FOREST SERVICE LANDS.

(a) The Secretary of the Army, acting through the Chief of Engineers, the Secretary of the Interior, acting through the Bureau of Land Management, and the Secretary of Agriculture, acting through the Forest Service, shall jointly manage the segment of the Rio Chama River in New Mexico from elevation 6,283.5 feet above mean sea level downstream to elevation 6,235 feet above mean sea level. Such management shall be pursuant to—

(1) the Preferred Alternative for the proposed Santa Fe National Forest Plan (dated January 1986);

(2) the "Interim Rio Chama River Management Plan," dated May 1986 (as that plan may be revised in the "Final Rio Chama River Management Plan"); and

(3) shall be consistent with the operation of Abiquiu Dam for purposes authorized by section 5 of Public Law 97-140 or otherwise authorized prior to December 31, 1988.

(b) The Secretary of Agriculture shall not acquire, except by consent of owner, any interests in the Jolly-Chama Canyon Subdivision: *Provided*, That such subdivision lands are maintained in single unit private residential use.

Mr. BINGAMAN. Mr. President, today I rise in support of S. 850. This bill is of tremendous importance to the State of New Mexico and to the enhancement of river resources in this Nation. The legislation the Senate considers today would add an important new component to this country's wild and scenic river system—the Rio Chama in northern New Mexico. This great river possesses outstanding natural, ecological, and recreational characteristics that deserve to be protected under the Wild and Scenic Rivers Act.

The New Mexico Legislature designated this portion of the Rio Chama as the State's only "Scenic and Pastoral River" in 1977. The State act encourages eventual wild and scenic designation which this bill will accomplish. I hope the U.S. Senate follows its recommendation today.

Specifically, the legislation would add to the national wild and scenic river system a 24.6-mile section of the Rio Chama from the base of the dam at El Vado Lake to an elevation of 6,353 feet.

The legislation also gives approximately 4 miles of the river, between elevations 6,353 and 6,283.5, the same protections afforded rivers listed for study under the Wild and Scenic Act.

It has not been an easy task bringing this bill before the Senate. It has required a great deal of compromise on all sides, but has produced legislation all can support.

I think it is important to recognize that this bill also provides protection for the 200,000 acre-feet of storage currently held by the city of Albuquerque. However, it is not my intent that the protection of Albuquerque's water would compromise the integrity of the Rio Chama. There is language in the bill which states that the legislation shall not interfere with the Corps of Engineers operation of the Abiquiu Dam. This language means that the authorized purposes of Abiquiu shall not be prohibited by this legislation. Further, it is my intent that the corps will exercise due care to preserve the river's values and particularly to avoid management activity that would permanently degrade the river.

I cannot stress enough the unique nature of the Rio Chama ecosystem and why it warrants wild and scenic designation. The recreational importance of this river is immense. In the National River Inventory released by the National Park Service in 1982, the Rio Chama was said to be the single most important river in New Mexico in terms of its recreational potential. It is less than 3 hours driving time from three-fourths of the State's population, yet it has maintained its remote and wild character. To rafters, kayakers, and canoeists, it offers unparalleled beauty and tranquility. Its rapids, while not dangerous, lend plenty of excitement amid the splendor and peace of the river canyon. Some of the most spectacular rafting occurs in the lower 4-mile segment that we have protected under the section 5(a) of the Study Provision Act.

Among the many values of the Rio Chama is its abundance of riparian habitat for a wide variety of wildlife. The river's banks are important winter habitats for bald eagles and other bird species. Elk, cougar, bear, mule deer, coyotes, and other mammals also inhabit this wild area. The river itself is home to one of the most prolific rainbow and brown trout fisheries in New Mexico.

The section of river between El Vado and Abiquiu is also an important archeological area, including one site considered by many archeologists to be the earliest Navajo settlement in the State. There have also been several major paleontological finds in the area. Near the stretch of river by Ghost Ranch, for example, have been found dinosaur bones that are among the oldest in the world.

This proposal enjoys the strong backing of environmental groups and recreation enthusiasts across New Mexico. Many in our State believe that Federal preservation of the Rio Chama is long overdue. There are many conservation organizations that have supported efforts to designate the Rio Chama. In particular, I want to thank the Rio Chama Preservation Trust, the Sierra Club, American Rivers, Inc., the Western Rivers Guides, the National Audubon Society for their important contributions toward ensuring passage of this legislation. I also want to thank my colleagues Senator DOMENICI and Congressman RICHARDSON for their strong support and assistance.

On the basis of this river's extraordinary geological, ecological, archeological, and recreational features, I enthusiastically urge its wild and scenic river designation.

And I ask my colleagues to join me.

Mr. DOMENICI. Mr. President, I wish to express my support for this revised version of S. 850, but also to express to the Senate my frustration over the failure of the House to accept the original—and, in my opinion, superior—version that we sent to them.

That earlier version of S. 850, which appeared to be acceptable to all when we passed it two weeks ago, provided a permanent solution to the needs to make the Rio Chama in New Mexico a wild and scenic river. It was a permanent solution benefitting New Mexico and the Nation.

As I see it, this new version lacks the comprehensive environmental protection in the earlier Senate-passed bill. It leaves a degree of uncertainty over what is provided by interim protection for a 4-mile stretch of the Chama, as that portion is protected "until Congress determines otherwise."

Despite this, I urge the Senate to pass the compromise. Further, I commend my colleague, Mr. BINGAMAN, and others who have worked so hard to reach this compromise.

The wild and scenic river system was begun 20 years ago. It was begun in New Mexico, when Congress designated a portion of the Rio Grande as wild and scenic. Approval of this bill gives to New Mexico and the Nation a second wild and scenic river in our State.

That is important and deserves praise.

But it has not been easy, Mr. President. This bill has been controversial for a long time because it involves conflicting resources. Let me explain.

The Rio Chama is a beautiful river, cutting through rock canyons in the country that the great painter, Georgia O'Keeffe, made famous. The best whitewater portions of the Chama, however, lie within the potential reservoir of an existing Corps of Engineers dam, Abiquiu Dam.

That dam, which has the physical capability to impound about 1.2 million acre-feet of water, is authorized to hold 754,000 acre-feet of water: 502,000 acre-feet of water described by the corps as the standard project flood, the kind of flood that could occur once every 800 years. We, of course, have experienced nothing close of that volume of runoff since Abiquiu's completion; 52,580 acre-feet set aside for sediment accumulation; and 200,000 acre-feet of storage of water from the Federal Government's San Juan-Chama project, storage approved in 1981 when Congress passed Public Law 97-140, a volume of water that is due for replacement over time out of Rio Grande system water as a result of H.R. 5423, passed recently:

The city of Albuquerque and other communities in New Mexico some years ago had the great foresight to contract to purchase 84,150 acre-feet of water yearly from the San Juan-Chama project. While some of this water was not needed immediately, New Mexican citizens still had to pay for it, and, if they failed to accept delivery, they would lose that water.

So Albuquerque and several other cities arranged, under that 1981 act of Congress, to store 200,000 acre-feet of this bought-and-paid for San Juan-Chama water at Abiquiu Reservoir.

Eventually, these owners will release all that water for use, drawing from the supplies held temporarily at Abiquiu. It is the understanding of this Senator that the city of Albuquerque and other owners of the San Juan-Chama water will begin to draw down this water within a decade. By sometime early in the next century, the city of Albuquerque and those other owners of the San Juan-Chama water will have drawn down all of the water they have stored at Abiquiu.

So the Congress earlier this month passed H.R. 5423 to authorize replacement storage for the San Juan-Chama water. This has importance for two reasons. New Mexico, like many areas in the West, needs water storage sites. Experts consider Abiquiu Dam an excellent site for storage, one with relatively low evaporation rates.

Second, the San Juan-Chama water now stored at Abiquiu has created significant recreational opportunities. Abiquiu Reservoir is a popular center for boating and fishing. We must not lose it.

So, once the President signs H.R. 5423, permanent authority will exist for a permanent pool of 252,000 acre-feet of water at Abiquiu, plus a temporary flood control pool of as much as 502,000 acre-feet. That puts the cumulative authorized storage at 754,000 acre-feet of water.

This bill, in combination with H.R. 5423, puts the Congress on record as saying the size of the permanent pool at Abiquiu—as opposed to the temporary flood control pool—is set at a maximum size of 252,000 acre-feet. That's true now and for the future.

Let me also reinforce a key point: Protecting that 200,000 acre-feet of permanent storage is critical to this Senator. That San Juan-Chama water—for its replacement—is vital to the future of Albuquerque and other New Mexico water users.

But protecting the wild and scenic character of the Chama is also vital.

The earlier, Senate-passed version of S. 850 designated a wild and scenic river down to that point where the reservoir would contain 754,000 acre-feet of water. That is an elevation of 6,308 feet, 3 miles downriver from the point of the maximum potential reservoir—1.2 million acre-feet—an elevation of 6,353 feet.

In that version of S. 850, we protected existing water needs by setting the bottom of the designated wild and scenic river at 6,308 feet.

We also protected Albuquerque's water, or its replacement, by saying that even in a period of catastrophic flooding—flooding greater than a 502,000 acre-foot standard project flood—those 200,000 acre-feet of water stored for New Mexico's future could not be dumped and lost to the people of New Mexico.

Under the revised bill that we consider today, the Federal Government will not designate those 3 miles as an official wild and scenic river. Thus we have 3 fewer miles of officially designated wild and scenic river. I regret that.

What concerned the House, as I understand it, was that in 1 year out of 800 years, under the Senate-passed bill, flood waters would back the reservoir above 6,308 feet of elevation and into the Chama wild and scenic river. That exceedingly remote possibility concerned the House greatly. It concerned me too, but I thought it was still advisable to designate the riverdown to 6,308 feet as officially wild and scenic.

The House insisted that we not provide the hard and fast protection, but provide something less, an interim protection similar to the protection under the Wild and Scenic Rivers Act. That is what section 2 of this revised bill achieves.

This bill authorizes that interim protection for those 3 miles, plus 1 additional mile, taking the protected river down to an elevation of 6,283.5 feet, the elevation of a reservoir holding 554,000 acre-feet of water.

As I said, that interim protection is similar, but more flexible, than the protection provided by an official wild and scenic designation. That flexibility is reinforced by the language in section 2 of the new version of the bill that says the operation and management by the Corps of Engineers of Abiquiu Dam for all purposes authorized in law prior to the end of 1988 may continue as before.

In no way—and this is important—does this new approach imperil or threaten the 200,000 acre-feet of Albuquerque water, or its replacement, as I have described earlier.

Since this river receives interim protection "until Congress determines otherwise," a rare, temporary inundation caused by heavy flooding is permitted. It is certainly not encouraged, but it is recognized as possible and legally permitted.

Further, it is clear from the language of the bill, as well as the colloquy that is a part of the legislative history, that this 200,000 acre-feet of San Juan-Chama water, and the H.R. 5423 water, will be protected fully and completely.

Because of this new language, the so-called antidumping language that was contained in section 2(b) of the earlier version of S. 850 is no longer necessary, and it has been dropped. It is clear that the protected portion of the river can be flooded temporarily, as that will not conflict with the objectives of such interim protection.

I should point out, of course, that such an occurrance is likely only once a century, and then only until the corps can safely release the flood waters in a way that prevents downstream flooding.

I should also point out that below that elevation of 6,283.5 feet, this bill sets up a 1.7-mile-long river to be cooperatively managed by three Federal agencies. The comments I made earlier in discussing S. 850 when it was first on the Senate floor, and the comments in the Senate report, describe fully the impact of this legislation on the river below 6,283.5 feet.

To sum up, this version of S. 850, as well as the earlier version, in combination with H.R. 5423, protects the Chama. They protect the San Juan-Chama water owned by Albuquerque and other cities. They protect New Mexico's future water needs, within the 200,000 acre-foot limit.

Mr. President, I urge immediate passage of the bill.

Mr. DOMENICI. My colleagues know of my strong support for this legislation, as well as my great concern over the impact this bill might have on the water now held at Abiquiu Dam for Albuquerque and other New Mexico communities, as well as the replacement water authorized by H.R. 5423, which passed earlier this month.

Because of the importance of S. 850, and the potential conflicts that might occur because the volume of runoff in a catastrophic flood is greater than was anticipated when the dam was authorized, I would like to pose several questions to the managers of the bill to make certain that I interpret the modifications from the original Senate-passed bill accurately.

There are three existing storage uses of Abiquiu Dam: About 52,000 acre-feet of storage set aside for sediment control, 200,000 acre-feet of storage for water supply and similar uses—this is what I might term the "Albuquerque water"—to be made permanent by H.R. 5423, and 502,000 acre-feet set aside to hold what is called the "standard project flood."

These three uses, I understand, would back the river to an elevation of 6,308 feet above sea level.

Is my understanding correct that the three uses I have cited are in no way compromised by this bill, particularly by the new protection authority in section 2, a new authority that covers the upper reaches of the Rio Chama behind Abiquiu Dam?

Mr. JOHNSTON. Yes; I share the Senator's understanding.

Mr. McCLURE. I agree. The three authorized uses of Abiquiu Dam are not compromised.

Mr. BINGAMAN. I would also agree. But it should be recognized that there are differences of opinion as to the authorized purposes of Abiquiu Dam and whether the 200,000 acre-feet of Albuquerque water is included in or over and above the flood control authorization of 502,000 acre-feet.

Mr. DOMENICI. I would point out that it is the expectation of this Senator that the 4 miles of the river between 6,283.5 feet of elevation up to 6,353 feet—the stretch of the river receiving interim protection under section 2 of this bill—will not be inundated, except in a period of unusually heavy flooding.

Protecting the river is very important to this Senator, and we agree that the corps should do what it can to prevent any inundation of that stretch, so long as it protects the 200,000 acre-feet of the Albuquerque water, or its replacement, and prevents the flooding of Espanola and other downstream communities.

Moreover, the corps should, to the extent practicable, manage any inundation so that it is brief.

But I would note the views of the Army Corps of Engineers included in Senate Report 100-568 on the original Senate-passed version of S. 850:

> The Congress should also be aware that, in the event of the design flood, Abiquiu Dam is not designed to release water quickly enough to keep flood water from backing up and inundating the reach between 6,283.5 and 6,353 (feet). The dam was designed this way so that, in event of a large, low-frequency flood, the dam would hold the water back, preventing flooding downstream. Therefore, for large floods, some portion of the reach between 6,283.5 and 6,353 will flood even if designated as a Wild and Scenic River.

The possibility of a catastrophic flood is why this bill does not designate a wild and scenic river below the elevation of 6,353 feet, and why we have established separate authorities below 6,353 feet.

In addition to the prevention of downstream flooding, as I have pointed out, we have the 252,000 acre-feet of storage to protect. That is what this compromise achieves.

Mr. BINGAMAN. If my colleague will yield for a moment. Is it your view that the language of section 2, stating that the bill shall not "interfere" with the corps' operation of Abiquiu Dam, means the corps can operate the dam without regard for the importance of the river?

Mr. DOMENICI. Of course not. The corps is expected to exercise due care to preserve the river's values within the framework if its own authorities, and particularly to seek to minimize any activity that would permanently degrade the river.

Mr. BINGAMAN. Is it true that there is no intention in this legislation, or in H.R. 5423, to create a permanent storage pool over and about the 200,000 acre-feet of Albuquerque, or replacement, water and the 52,000 acre-feet of sediment storage?

Mr. DOMENICI. That is correct.

And that leads me to this question, my key questions, which I pose to the managers of the bill: Is it accurate, as I believe it is, that if heavy flooding of the river behind Abiquiu Dam threatens to raise the river to a level where it would back up into the protected river segment for a period of time, the langage in this bill, as provided in section 2 of this bill, permits that flooding to occur?

In other words, is it accurate that this bill, with the proviso in section 2, as it relates to the creation of this new protected status for a portion of the Chama, cannot—and will not—be used to alter the corps' management of that extraordinary flooding event, should a backup of water be required in order to protect the integrity of the permanent storage at Abiquiu, and to ensure that the dam is operated by the corps in a manner that protects Espanola and other down river communities from flooding?

Mr. JOHNSTON. Mr. President, it is my view that the House amendment does two things. It protects a portion of the Rio Chama without putting it into the Wild and Scenic Rivers System or studying it further. In addition, the proviso in the House amendment ensures that, notwithstanding this protection, the Abiquiu Dam will be operated by the Corps of Engineers in a manner consistent with existing authorities, including H.R. 5423.

Mr. McCLURE. I would state that my answer to both of the questions posed by the Senator from New Mexico is "yes." That is my understanding of the intent of this bill.

Mr. DOMENICI. I thank my colleagues. That clarifies my concerns.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate move to concur in the House amendment and that a motion to reconsider be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

SPECIAL REVENUE BONDS UNDER THE BANKRUPTCY ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1863.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1863) entitled "An Act to amend the bankruptcy law to provide for special revenue bonds, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. DEFINITION OF MUNICIPALITY.

Section 101(31) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "and a municipality" after "partnership"; and

(B) in clause (ii) by striking "and" at the end;

(2) in subparagraph (B)(ii) by adding "and" at the end; and

(3) by adding at the end the following:

"(C) with reference to a municipality, financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; or

"(ii) unable to pay its debts as they become due;".

SEC. 2. WHO MAY BE A DEBTOR.

Section 109(c)(3) of title 11, United States Code, is amended by striking "or unable to meet such entity's debts as such debts mature".

SEC. 3. APPLICABILITY OF SECTIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1129(a)(6)," after "1129(a)(3),".

SEC. 4. DEFINITION OF SPECIAL REVENUES.

Section 902 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) 'special revenues' means—

"(A) receipts derived from the ownership, operation, or disposition of projects or systems of the debtor that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems;

"(B) special excise taxes imposed on particular activities or transactions;

"(C) incremental tax receipts from the benefited area in the case of tax-increment financing;

"(D) other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions; or

"(E) taxes specifically levied to finance one or more projects or systems, excluding receipts from general property, sales, or income taxes (other than tax-increment financing) levied to finance the general purposes of the debtor;".

SEC. 5. AUTOMATIC STAY.

Section 922 of title 11, United States Code, is amended by adding at the end the following:

"(c) If the debtor provides, under section 362, 364, or 922 of this title, adequate protection of the interest of the holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection such creditor has a claim arising from the stay of action against such property under section 362 or 922 of this title or from the granting of a lien under section 364(d) of this title, then such claim shall be allowable as an administrative expense under section 503(b) of this title.

"(d) Notwithstanding section 362 of this title and subsection (a) of this section, a petition filed under this chapter does not operate as a stay of application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.".

SEC. 6. AVOIDING POWERS.

Section 926 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "If"; and

(2) by adding at the end the following:

"(b) A transfer of property of the debtor to or for the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.".

SEC. 7. CLAIMS PAYABLE SOLELY FROM SPECIAL REVENUES.

Chapter 9 of title 11, United States Code, is amended—

(1) by redesignating section 927 as section 930; and

(2) by inserting after section 926 the following:

"§ 927. Limitation on recourse

"The holder of a claim payable solely from special revenues of the debtor under applicable nonbankruptcy law shall not be treated as having recourse against the debtor on account of such claim pursuant to section 1111(b) of this title.".

SEC. 8. POST PETITION EFFECT OF SECURITY INTEREST.

Title 11 of the United States Code is amended by inserting after section 927, as added by section 7, the following:

"§ 928. Post petition effect of security interest

"(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, special revenues acquired by the debtor after the commencement of the case shall remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

"(b) Any such lien on special revenues, other than municipal betterment assessments, derived from a project or system shall be subject to the necessary operating expenses of such project or system, as the case may be.".

SEC. 9. MUNICIPAL LEASES.

Title 11 of the United States Code is amended by inserting after section 928, as added by section 8, the following:

"§ 929. Municipal leases

"A lease to a municipality shall not be treated as an executory contract or unexpired lease for the purposes of section 365 or 502(b)(6) of this title solely by reason of its being subject to termination in the event the debtor fails to appropriate rent.".

SEC. 10. CONFIRMATION.

Section 943(b) of title 11, United States Code, is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and".

SEC. 11. TECHNICAL AMENDMENT.

The table of sections of chapter 9 of title 11, United States Code, is amended by striking the item relating to section 927 and inserting the following:

"927. Limitation on recourse.
"928. Post petition effect of security interest.
"929. Municipal leases.
"930. Dismissal.".

SEC. 12. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

Mr. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion.

The motion was agreed to.

MESSAGES FROM THE HOUSE

At 1:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1048. An act to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes;

S. 1851. An act to implement the International Convention on the Prevention and Punishment of Genocide;

S. 1991. An act entitled the "Uranium Mill Tailings Remedial Action Amendments Act of 1988";

S. 2361. An act to amend title 18, United States Code, to preserve personal privacy with respect to the rental, purchase, or delivery of video tapes or similar audio visual materials;

S. 2752. An act to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes; and

S. 2835. An act to designate the United States Post Office and Courthouse located at 151 West Street in Rutland, Vermont, as the "Robert T. Stafford United States Courthouse and Post Office".

The message also announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 159. A concurrent resolution to make corrections in the enrollment of the bill H.R. 4174;

S. Con. Res. 162. A concurrent resolution to correct the enrollment of H.R. 2642;

S. Con. Res. 163. A concurrent resolution to make a change in the enrollment of the bill H.R. 4174; and

S. Con. Res. 165. A concurrent resolution correcting the enrollment of H.R. 3146.

The message further announced that the House agrees to the amendments of the Senate to the concurrent resolution (H. Con. Res. 115) providing for participation by delegations of members of both Houses of Congress in ceremonies to be held in April 1989 in New York City marking the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the inauguration of President George Washington, and the proposal of the Bill of Rights as the first 10 amendments to the Constitution."

The message also announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 2472. An act to provide authorization of appropriations for activities of the National Telecommunications and Information Administration;

H.R. 4807. An act to amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes; and

H.R. 5102. An act to amend the provisions of title 5, United States Code, relating to the health benefits program for Federal employees and certain other individuals.

The message further announced that the House agrees to the amendments of the Senate to each of the following bills:

H.R. 4050. An act for the relief of certain persons in Riverside, California who purchased land in good faith reliance on an existing private land survey;

H.R. 4064. An act to amend title 28 of the United States Code, to authorize the appointment of additional bankruptcy judges; and

H.R. 4432. An act to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4352) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

The message further announced that the House recedes from its amendment to the title of the bill (S. 11) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration, and for other purposes; and that the House agrees to the amendment of the Senate to the amendment of the House to the bill, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate.

S. 1863. An act to amend the bankruptcy law to provide for special revenue bonds, and for other purposes;

S. 1883. An act to amend the act entitled "An Act to provide for registration and protection on trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes; and

S. 2209. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4236. An act to amend the act of June 6, 1900, to increase the number of trustees of the Federick Douglas Memorial and Historical Association; and

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 392. A concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of the bill S. 11.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 744. An act to amend the Toxic Substances Control Act to assist States in responding to the threat to human health posed by exposure to radon.

S. 1704. An act to authorize the establishment of the Lewis and Clark National Historic Trail Interpretive Center in the State of Montana, and for other purposes.

S. 1914. An act to designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 1985. An act to improve the protection and management of Archeological resources on Federal land.

S. 1986. An act to require that plastic ring carrier devices be degradable, and for other purposes.

S. 2148. An act to amend the Wild and Scenic Rivers Act of 1968, and for other purposes.

S. 2436. An act to reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission.

S. 2545. An act to redesignate Salinas National Monument in the State of New Mexico, and for other purposes.

S. 2723. An act to partition certain reservation lands between the Hoopa Valley Tribe and the Yourk Indians, to clarify the use of tribal timber proceeds, and for other purposes.

H.R. 775. An act to provide for the establishment of the Poverty Point National Monument, and for other purposes.

H.R. 945. An act for the relief of Allen H. Platnick.

H.R. 990. An act to direct the Secretary of the Interior to convey a certain parcel of land located near Ocotillo, California.

H.R. 1385. An act for the relif of Travis D. Jackson.

H.R. 1826. An act for the relif of Natasha Susan Middleman, Samantha Abigail Middleman, Naomi Kartrina Orloff Middleman, and Hannah Emily Middleman.

H.R. 2266. An act to amend the National Gas Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes.

H.R. 2628. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 respecting the importation of motor vehicles in anticipation of compliance with safety standards under such Act.

H.R. 2677. An act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987).

H.R. 3347. An act for the relief of Bibianne Cyr.

H.R. 3408. An act to increase the amounts authorized for the Colorado River Storage Project.

H.R. 3414. An act for the relief of Meenakshiben P. Patel.

H.R. 3471. An act to establish the Veterans' Administration as an executive department, and for other purposes.

H.R. 3685. An act to amend title 31, United States Code, to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim against the United States made by a member of the uniformed services or by an officer or employee of the Government.

H.R. 4182. An act to authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes.

H.R. 4209. An act to authorize appropriations to carry out title I of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, and 1991.

H.R. 4262. An act to amend title 17, United States Code, to implement the Berne Convention for their Protection of Literary and Artistic Works, as revised at Paris on July 24, 1971, and for other purposes.

H.R. 4416. An act to extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989.

H.R. 4418. An act to authorize appropriations for the National Science Foundation, and for other purposes.

H.R. 4480. An act to change the name of the Pacific Tropical Botannical Garden, a federally chartered organization, to the National Tropical Botannical Garden, and for other purposes.

H.R. 4642. An act to provide for the reinstatement of the canceled entry of William A. Wright to certain lands in Lamar County, Alabama.

H.R. 4777. An act to modify the boundary of the Guadalupe Mountains National Park, and for other purposes.

H.R. 4992. An act to expand our national telecommunications system for the benefit of the hearing-impaired and speech-impaired populations, and for other purposes.

H.R. 5001. An act to establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission.

H.R. 5007. An act to designate the United Courthouse at 620 Southwest Main Street, Portland, Oregon, as the "Gus J. Solomon United States Courthouse."

H.R. 5050. An act to amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes.

H.R. 5066. An act to add additional land to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes.

H.R. 5318. An act to amend the Egg Research and Consumer Information Act to limit the total costs that may be incurred by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds.

H.R. 5325. An act to establish a commission to review and make recommendations for the improvement of the Federal Crop Insurance Program.

H.R. 5395. An act to designate the Sipsey River as a component of the National Wild and Scenic Rivers System, to designate certain areas as additions to the Sipsey Wilderness, to designate certain areas as conditions to the Cheaha Wilderness, and to preserve over thirty thousand acres of pristine natural treasures in the Bankhead National Forest for the aesthetic and recreational benefit of future generations of Alabamians, and for other purposes.

H.J. Res. 644. Joint resolution granting the consent of Congress to the compact entered into between the State of North Carolina and the State of South Carolina establishing the Lake Mylie Marine Commission.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore [Mr. ADAMS].

At 2:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2165. An act to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Service Complex in the State of Washington, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1630) to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2030) to amend the Marine Protection, Research, and Sanctuaries Act.

The message also announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 3614. An act to authorize a study of the Hanford Reach of the Columbia River, and for other purposes;

H.R. 4124. An act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes; and

H.R. 4517. An act to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements.

The message further announced that the House agrees to the amendments of the Senate to each of the following bills:

H.R. 4030. An act to reauthorize and amend certain wildlife laws, and for other purposes; and

H.R. 4068. An act to amend the Archeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that Act, and for other purposes.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 850. An act to amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System;

S. 2186. An act to improve the efficiency and effectiveness of management of public buildings; and

S. 2691. An act to extend eligibility for the Indian Claims Commission Expert Witness Loan Fund, and for other purposes.

The message further announced that the House has passed the bill (S. 721) to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and to stimulate the development of the private sector of Indian tribal economies; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4189) to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1989 through 1993; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendments of the Senate numbered 1-4 to the bill (H.R. 3957) to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania; and that the House disagrees to the amendment of the Senate numbered 5 to the bill.

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4118. An act to amend and extend the authorization of appropriations for public broadcasting, and for other purposes; and

H.J. Res. 677. Joint resolution changing the date for the counting of the electoral vote by Congress to January 4, 1989.

At 4:30 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2840. An act to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes.

At 5:37 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House has passed the following bills, without amendment:

S. 2637. An act for the relief of Gillian Lesley Sackler;

S. 2751. An act to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes; and

S. 285. An act to amend the Hunger Prevention Act of 1988 to make a technical correction.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 2215) to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional 4 years, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the concurrent resolution (H. Con. Res. 381) expressing the sense of the Congress regarding the state of affairs in Lebanon, the necessity of resolving the constitutional crisis in Lebanon, and United States goals with respect to Lebanon.

The message also announced that the House has passed the bill (S. 1919) for the relief of Michael Wilding; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3917) for the relief of Rajani Lal; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5280) to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress.

ENROLLED BILL SIGNED

At 6:19 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks announced that the Speaker has signed the following enrolled bill:

H.R. 515. An act to provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 20, 1988, he had presented to the President the following enrolled bills:

S. 744. An act to amend the Toxic Substances Control Act to assist States in responding to the threat to human health posed by exposure to radon.

S. 1727. An act to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 1704. An act to authorize the establishment of the Lewis and Clark National Historic Trail Interpretive Center in the State of Montana, and for other purposes.

S. 1914. An act to designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 1985. An act to improve the protection and management of Archeological resources on Federal land.

S. 1986. An act to require that plastic ring carrier devices be degradable, and for other purposes.

S. 2148. An act to amend the Wild and Scenic Rivers Act of 1968, and for other purposes.

S. 2436. An act to reauthorize the Sleeping Dunes National Lakeshore Advisory Commission.

S. 2545. An act to redesignate Salinas National Monument in the State of New Mexico, and for other purposes.

S. 2723. An act to partition certain reservation lands between the Hoopa Valley Tribe and the Yourk Indians, to clarify the use of tribal timber proceeds, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4017. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the initial commodity and country allocation table showing current programming plans for food assistance under Public Law 480; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4018. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the transfer of certain appropriated funds to provide assistance to the Nicaraguan Democratic Resistance; to the Committee on Appropriations.

EC-4019. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a supplemental contract award report for the period November 1, 1988 to December 31, 1988; to the Committee on Armed Services.

EC-4020. A communication from the Chairman of the National Critical Materials Council, transmitting, pursuant to law, a report of the Council entitled "Critical Materials Report"; to the Committee on Energy and Natural Resources.

EC-4021. A communication from the Secretary of the Interior, transmitting, pursuant to law financial exhibits of the Colorado River Storage Project and Participating Projects for fiscal year 1987; to the Committee on Energy and Natural Resources.

EC-4022. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "1987 Annual Report on Low-Level Radioactive Waste Management Progress"; to the Committee on Energy and Natural Resources.

EC-4023. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on Solid Waste Disposal in the

United States; to the Committee on Environment and Public Works.

EC-4024. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, notice that it is in the public interest to use procedures other than competitive procedures for renovation of certain facilities in the District of Columbia; to the Committee on Environment and Public Works.

EC-4025. A communication from the Chairman of the Cultural Property Advisory Committee, United States Information Agency, transmitting, pursuant to law, a report of its findings and recommendations with respect to a request for a bilateral cultural property agreement with Canada; to the Committee on Finance.

EC-4026. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on ways to refine the adjusted average per capita cost and the adjusted community rate used to pay health maintenance organizations and competitive medical plans; to the Committee on Finance.

EC-4027. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Managing IRS—Actions Needed to Assure Quality Service in the Future"; to the Committee on Finance.

EC-4028. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation entitled the "Exclusive Economic Zone Revenue Assurance Act of 1988"; to the Committee on Finance.

EC-4029. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report covering employment of foreign nationals in United States diplomatic missions overseas; to the Committee on Foreign Relations.

EC-4030. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report concerning human rights activities in Ethiopia; to the Committee on Foreign Relations.

EC-4031. A communication from the Assistant Legal Advisor For Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to October 13, 1988; to the Committee on Foreign Relations.

EC-4032. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for September 1988; to the Committee on Governmental Affairs.

EC-4033. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, Transmitting, pursuant to law, a report on the adjustment of status of a certain alien under section 13(c) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4034. A communication from the Clerk of the United States Court of Appeals, transmitting, pursuant to law, a copy of a letter and an appendix to the report of the Independent Counsel in the case In re Nofziger, Edwin Meese III, Div. No. 87-1; to the Committee on the Judiciary.

EC-4035. A communication from the Assistant Attorney General (Administration), transmitting, pursuant to law, the audit report on the Environmental Protection Agency's interagency agreements with the Department of Justice for Superfund activities for fiscal year 1987; to the Committee on the Judiciary.

EC-4036. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the hours of employment of batboys and batgirls under the Fair Labor Standards Act; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-633. A joint resolution adopted by the Legislature of the State of California, to the Committee on Appropriations.

"SENATE JOINT RESOLUTION NO. 45

"Whereas, Multiple natural resources and uses on approximately 750,000 acres of national forest and adjoining mixed ownership lands in California were damaged by wildfires during the summer of 1987; and

"Whereas, The Forest Service of the United States Department of Agriculture has completed emergency rehabilitation measures on critical areas of the damaged lands, consisting of aerial seeding, stream channel work, contour, filling, and road drainage, and has begun the restoration of commercial forest lands through the salvage of commercial timber and reforestation efforts; and

"Whereas, The Forest Service has submitted appropriation requests through the federal budget process to further the recovery effort of all resources, including fisheries and wildlife habitats, soil and water resources, recreational facilities and uses, forage resources, transportation systems, and timber resources to provide a balanced program for national forest recovery, with the total cost for this initiative estimated to be $165 million; and

"Whereas, The fiscal 1988 appropriations bill included funding sufficient to carry out the initial and important phase of recovery and harvest of salvable timber, but appropriations for other natural resources and uses associated with the recovery were not adequate to complete the massive effort required to assure consideration of a balance of resources and uses and provide the assistance for recovery of the damaged lands to their prefire condition; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Senate and Assembly of the State of California respectfully memorialize the President and Congress of the United States to provide their full support and approval of budget requests of the Forest Service of the United States Department of Agriculture for the recovery effort on national forest lands damaged by wildfires in 1987, and thus provide consideration for all natural resources and uses on these lands; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Agriculture, the Speaker of the House of Representatives, the appropriate House Appropriations Committee, the appropriate Senate Appropriations Committee, and each Senator and Representative from California in the Congress of the United States."

POM-634. A concurrent resolution adopted by the legislature of the State of Hawaii; to the Committee on Appropriations:

April 26, 1988.

Hon. DANIEL J. KIHANO,
Speaker, House of Representatives, Fourteenth State Legislature, Regular Session of 1988, State of Hawaii.

SIR: Your Committee on Ocean and Marine Resources and Intergovernmental Affairs, to which was referred S.C.R. No. 31 entitled: "Senate Concurrent Resolution Requesting the United States Congress to appropriate funds for the development of technology to allow for the effective utilization of ocean resources", beg leave to report as follows:

The purpose of this Resolution is to request that the United States Congress appropriate funds for the development of technology to allow for the effective utilization of ocean resources.

Your Committees heard testimony from the Department of Business and Economic Development and the Hawaii Natural Energy Institute of the University of Hawaii in support of this resolution. Testimony indicated that one of the areas needing a great deal of work relative to the Exclusive Economic Zone (EEZ) is in ocean research technology to effectively manage and develop the resources at hand. In the U.S., the private sector has been slow to develop technology appropriate for long-term EEZ needs. In the past, funds have been allocated by the National Science Foundation for marine science research but virtually nothing for ocean resource technology. Thus, a Federal appropriation is required to spur the development of this technology.

In addition, your Committee have expressed concern over the environmental effects of seabed mining and has amended the language of the resolution to include ocean current measurement equipment to monitor the environmental effects of mining. Also, Hawaii's State lobbyist was included to receive copies of the resolution.

Your Committees on Ocean and Marine Resources and Intergovernmental Affairs concur with the intent and purpose of S.C.R. No. 31, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 31, H.D. 1.

Respectfully submitted,

COMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mike Crozier, Chairman; Les Ihara, Jr., Vice Chairman; Reb Bellinger, Member; Romy M. Cachola, Member; Mazie Hirono, Member; Karen K. Horita, Member; Roland M. Kotani, Member; Paul T. Oshiro, Member; Joseph M. Souki, Member; Dwight Y. Takamine, Member; Brian T. Taniguchi, Member; Dwight L. Yoshimura, Member; Hal Jones, Member; Barbara Marumoto, Member; John Justin Medeiros, Member.

COMMITTEE ON OCEAN AND MARINE RESOURCES

Robert Bunda, Chairman; Clarice Y. Hashimoto, Vice Chairman; Mark J. Andrews, Member; Carol Fukunaga, Member; Kenneth T. Hiraki, Member; Herbert J. Honda, Member; David Y. Ige, Member; Virginia Isbell, Member; Ezra R. Kanoho, Member; Samuel S. H. Lee, Member; Andrew Levin, Member; Calvin K.Y. Say, Member; Harvey S. Tajiri, Member; Mike O'Kieffe, Member; Bill Pfeil, Member.

"SENATE CONCURRENT RESOLUTION No. 31

"Whereas, in 1983, President Reagan signed a proclamation establishing the United States Exclusive Economic Zone as an area contiguous to the United States and its territories and extending two hundred nautical miles from the coast, nearly tripling the jurisdictional area of the United States; and

"Whereas, this proclamation established "sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and nonliving, of the seabed and subsoil and the superjacent waters"; and

"Whereas, scientific research has explored the potential of the ocean and has discovered a wealth of ocean resources, such as minerals, food, and energy; and

"Whereas, however, our utilization of the vast and rich resources of the ocean is very limited, because of the absence of appropriate ocean technology and engineering which is necessary to enable the effective utilization of ocean resources; and

"Whereas, the physical nature of the ocean environment is such that engineering solutions developed for use in other environments are usually inappropriate and often counter-productive when used in the ocean; and

"Whereas, in order for us to effectively utilize ocean resources it is essential that we develop:

"(1) In situ instrumentation for measurements and sampling of sea floor material;

"(2) Manned systems on the sea floor;

"(3) Robotics with decision-making capacity;

"(4) Systems for determining location and extent of sea floor deposits and mineral resources;

"(5) Systems for measuring water temperature, salinity, and critical chemical constituents with communications links between systems and a central relay facility; and

"(6) Understanding of the behavior of engineering materials in the marine environment; and

"Whereas, moreover, in order to use the ocean for waste management systems, it is essential to develop the following:

"(1) Waste storage systems with long life storage requirements;

"(2) Sensory systems to detect incipient leakage of radioactive or toxic wastes from sealed containers on or beneath the sea floor;

"(3) A precise navigation system to allow positioning on the deep ocean floor within a meter and capable of fail safe position reporting for periods of many years;

"(4) Instrumentation to provide realtime observations of nearshore water column characteristics and movements over distances of kilometers but with resolutions on the order of a hundred meters;

"(5) System engineering studies of the competing technologies of through the rock tunnels and pipes laid on the bottom for transport of sea water or other products from deep water to the shore;

"(6) System engineering studies of integrated transportation systems for workers and supporting material to deep water sites;

"(7) Underwater and electro-optical connectors;

"(8) Systems for allowing autonomous vehicles to find, mate with, and communicate or restore power supplies through ocean bottom outlets; and

"(9) System engineering studies of very large pipes, suspended in the water column or supported on the bottom; and

"(10) Ocean current measurement equipment to monitor the environmental effects of mining and processing of seabed minerals; and

"Whereas, in the past the United States has relied on private industry for advances in ocean technology; and

"Whereas, lack of government involvement has led to the decline of the competitive edge that the United States once held in the area of ocean technology; and

"Whereas, in order for the United States to regain the strategic and competitive edge in the field of ocean resources it is of utmost importance for the United States Congress to provide substantial funding for ocean technology to enable us to provide the vast resources of the ocean; now, therefore; be it

Resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the House of Representatives concurring, That the United States Congress is requested to appropriate funds for the development of technology to allow for the effective utilization of ocean resources; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's congressional delegation, and Hawaii's State lobbyist."

POM-635. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION No. 35

"Whereas, The Senate Task Force on California Nuclear Emergency Response assessed the state's preparedness for a nuclear powerplant emergency; and

"Whereas, The task force determined that the federal Emergency Broadcast System is an integral part of emergency planning in the state; and

"Whereas, The task force determined that stations are not required to participate in the Emergency Broadcast System for nuclear powerplant emergencies; and

"Whereas, The task force determined that there is little federal oversight of the Emergency Broadcast System to ensure that station staff is adequately trained in Emergency Broadcast System procedures; and

"Whereas, The task force concluded that the Emergency Broadcast System in California should be improved in order for the system to be used most effectively in nuclear powerplant emergencies; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to make the following changes in the Emergency Broadcast System:

"(a) Require all stations in the vicinity of a nuclear powerplant to participate in the Emergency Broadcast System during a serious nuclear powerplant accident;

"(b) Require stations which will act as primary Emergency Broadcast System stations in nuclear powerplant emergencies to participate in exercises of nuclear powerplant emergency response plans;

"(c) Provide regular training in Emergency Broadcast System operating procedures to station staff;

"(d) Provide necessary funding for each of the above items; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Chairperson of the Federal Communications Commission, to the Chairperson of the Nuclear Regulatory Commission, to the Chairperson of the Federal Emergency Management Agency, to the Governor, to the Director of Health Services, and to the Director of the Office of Emergency Services."

POM-636. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Armed Services:

HONOLULU, HI.

Hon. DANIEL J. KIHANO,
Speaker, House of Representatives, Fourteenth State Legislature, Regular Session of 1988, State of Hawaii.

SIR: Your Committee on Intergovernmental Relations, to which was referred S.C.R. No. 156, S.D. 1, entitled: "Senate Concurrent Resolution Urging Congress and the Department of Defense to Mitigate the Problems of Insufficient Child Care and Social Maladjustment Encountered by Military Personnel and Family Members," begs leave to report as follows:

The purpose of this concurrent resolution is to urge Congress to implement appropriate measures to mitigate the shortage of quality child care services and other factors that contribute to social maladjustment among military personnel and dependents stationed in Hawaii.

Hawaii presently has approximately 58,000 armed forces personnel and 66,000 dependents, many of whom work and socialize in the private sector to the benefit of the State and local communities. However, military personnel and family members also experience hardships such as low spousal employment and stress which could, to a large extent, be remedied by appropriate child care services. This concurrent resolution emphasizes that it is in the best interest of the State and the Nation to improve the quality of life for military personnel and dependents stationed in Hawaii and urges implementation of measures to improve the situation.

Your Committee has amended the transmittal clause of this measure by adding the Consultant to the State of Hawaii in Washington, D.C. to the list of those designated to receive copies of the concurrent resolution.

Other nonsubstantive revisions have been made for purposes of style and clarity.

Your Committee on Intergovernmental Relations concurs with the intent and purpose of S.C.R. 156, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 156, S.D. 1, H.D. 1.

Respectfully submitted,

Mike Crozier, Chairman; Les Ihara, Jr., Vice Chairman; Romy Cachola, Member; Karen Horita, Member; Paul Oshiro, Member; Dwight Takamine, Member; Dwight Yoshimura, Member; Reb Bellinger, Member; Mazie Hirono, Member; Roland Kotani, Member; Joseph Souki, Member; Brian Taniguchi, Member; Hal Jones, Member; John J. Medeiros, Member; Barbara Marumoto, Member.

SENATE CONCURRENT RESOLUTION 156

"Whereas, Hawaii is the home for 58,000 armed forces personnel and 66,000 military dependents; and

"Whereas, the armed forces has become an integral part of Hawaii's economic and social infrastructure by:

"(1) Employing approximately 20,000 civilians to work on military installations and at military offices across the State;

"(2) Infusing over $400 million into the State through the civilian payroll;

"(3) Participating in civilian community activities; and

"(4) Generating economic activity for many businesses across the State; and

"Whereas, the demand for child development services by military personnel, such as center-based programs and family child care/quarters based care, has far exceeded the optimum capacity of available programs; and

"Whereas, military personnel and family members experience hardships, such as low spousal employment and the stresses of military family life, resulting in large part from insufficient child care services; and

"Whereas, some of these hardships could be alleviated if more quality child care services were made available; and

"Whereas, in addition to hardships resulting from insufficient child care services, some military personnel and family members experience difficulties adjusting socially as a consequence of geographic isolation from family overseas, cultural differences and misunderstandings, and lengthy separations due to extended deployment; and

"Whereas, the difficulties confronting military personnel and family members are sufficiently understood so that mitigating measures can and should be implemented in the near future; and

"Whereas, the State of Hawaii values and sympathizes with military personnel and family members and has been receptive to recommendations that have addressed other problems in the past; now, therefore,

"Be it Resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the House of Representatives concurring, that it is in the best interest of the State of Hawaii and the United States to improve the quality of life for military personnel and family members stationed in Hawaii; and

"Be it Further Resolved that the Congress of the United States and the Department of Defense are urged to implement appropriate measures that will mitigate the shortage of quality child care services and the factors contributing to social maladjustment; and

"Be it Further Resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States; the President of the United States Senate; the Speaker of the United States House of Representatives; Hawaii's congressional delegation; the Secretary of Defense; Joint Chiefs of Staff; Commander-in-Chief, U.S. Pacific Command; Commander-in-Chief, U.S. Pacific Fleet; Commander-in-Chief, Pacific Air Forces; Commander, U.S. Army Western Command; Commanding General, Fleet Marine Force, Pacific; the Governor of the State of Hawaii; and the Consultant to the State of Hawaii in Washington, D.C."

POM-637. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Commerce, Science, and Transportation;

"SENATE CONCURRENT RESOLUTION 111

"Whereas, the fairness doctrine was adopted by the Federal communications Commission (F.C.C.) in 1949 to ensure that broadcasters cover issues of public importance and to present differing viewpoints on those issues fairly; and

"Whereas, in practice, the fairness doctrine provides that if a broadcaster airs only one side of a controversial issue, the broadcaster must permit, if requested, members of the public the opportunity to present an opposing viewpoint; and

"Whereas, by adopting a broadcast system in which only a select few companies and individuals are licensed to utilize the limited broadcast system, Congress has, in effect, required licensed broadcasters to act as public trustees with the responsibility to see that all sides of a controversial issue are presented; and

"Whereas, without the fairness doctrine, there are no safeguards to prevent a broadcaster from abusing the public interest by only presenting a single side of an issue; and

"Whereas, the United States Supreme Court in 1969 upheld the fairness doctrine against first amendment challenges in Red Lion Broadcasting Co. vs. F.C.C. 89 S.Ct. 1794, 395 U.S. 367, 23 L.Ed.2d 371, ruling that the rights of the viewing public to hear contrasting viewpoints on issues of public importance, not the rights of broadcasters, are paramount, and that the fairness doctrine is both a permissible and effective means of vindicating those rights; and

"Whereas, the Communications Subcommittee of Congress in 1987 gathered evidence which demonstrates that the doctrine increases debate on issue of public importance; and

"Whereas, the fairness doctrine, by serving to increase speech on issues of public importance and by advancing First Amendment values, is good journalistic practice; and

"Whereas, in 1986, the United States Court of Appeals ruled in Telecommunications Research and Action Center vs. F.C.C. 801 F.2d 501, 255 U.S. App. D.C. 287, rehearing denied 806 F.2d 1115, 257 U.S. App. D.C. 23, certiorari denied 107 S.Ct. 3196, 96 L.Ed.2d 684, that Congress had not codified the fairness doctrine, leaving the doctrine a mere regulation to be administered by the F.C.C.; and

"Whereas, because the fairness doctrine is not a part of our federal communications law, the doctrine is repealable without Congressional approval; now, therefore,

"Be It Resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the House of Representatives concurring that the United States Congress is urged to enact the fairness doctrine as law; and

Be It further Resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Hawaii's congressional delegation."

POM-638. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION NO. 30

"Whereas, The Central Valley Project was originally planned and designed by the State of California as a state project, and was authorized by the California Legislature in 1933; and

"Whereas, The state was unable to construct the project during the Great Depression, and the project was authorized as a federal project in 1935; and

"Whereas, In 1936, the state and the federal government entered into memorandums of understanding which specified that the state would operate and maintain the project following presentation to the United States of assurances of payment satisfactory to the United States; and

"Whereas, California has had difficulty in resolving its internal water conflicts in large measure because of conflicts with the Central Valley Project over areas of origin protection, fisheries protection, regulatory control, salinity control in the Sacramento-San Joaquin Delta, and protection of San Francisco Bay; and

"Whereas, The above issues, and many others must be the subject of extensive deliberations, negotiations, and public hearings at numerous levels of government both prior to and after acquisition of the Central Valley Project; and

"Whereas, A benefit-cost analysis shall be undertaken by the state, and, if acquisition does not have positive benefit-cost relationship, considering a multitude of water parameters, it should not be done; and the parameters shall include, but are not limited to, protection of areas of origin, contractual commitments, state liability, the acreage limination, and levee protection in all affected areas of the state; and

"Whereas, The Director of Water Resources was authorized by the Legislature in 1986 to enter into negotiations with the United States Bureau of Reclamation for transfer to the state of part or all of the federal Central Valley Project; now, therefore be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to transfer control and operation of the Central Valley Project to the State of California or other public entity; and be it further

Resolved, That if the United States transfers control and operation of the Central Valley Project to the State of California or any other public entity, the state or that entity will be required to comply with the legal and contractual obligations of the United States, including the obligation established in subarticle 10(h) of the agreement between the United States and the Department of Water Resources of the State of California for the coordinated operation of the Central Valley Project and the State Water Project dated May 20, 1985, as approved by Congress in Public Law 99-546 (HR 3113); and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-639. A resolution adopted by the Senate of the State of California; to the Committee on Finance:

"SENATE RESOLUTION NO. 44

"Whereas, The Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777 et seq) authorizes the U.S. Department of the Treasury to collect a total of approximately $156 million per year in excise taxes on sportfishing equipment, trolling motors, electronic fish finders, and sportboat motor fuel; and

"Whereas, Manufacturers of those products pass on the cost of these taxes, at least in part, to purchasers of sportfishing equipment, trolling motors, electronic fish finders, and sportboat motor fuel; and

"Whereas, The amount of purchases in any state of sportfishing equipment, trolling motors, electronic fish finders, and sportboat motor fuel probably is highly correlated with the number of licensed sportfishermen in the state; and

"Whereas, The need and opportunity for enhancing the land and water habitat of sportfish in a state probably is highly correlated with the amount of land and water within the state; and

"Whereas, It would be equitable to allocate Federal Aid in Sport Fish Restoration Act funds to states based on the number of licensed sportfishermen and land and water area within the states, without any arbitrary limit on the minimum of maximum amount of funds that any state could receive based on such an equitable allocation methodology; and

"Whereas, The Federal Aid in Sport Fish Restoration Act authorizes the Secretary of the Interior to allocate the tax revenue on sportfishing equipment, trolling motors, electronic fish finders, and sportboat motor fuel to states for fish restoration and enhancement projects based on the number of licensed sportfisherman and land and water area within the states; and

"Whereas, The act imposes an arbitrary cap of 5 percent and 1 percent minimum on the amount of tax revenues that any state can receive under the program; and

"Whereas, Eliminating the arbitrary cap of 5 percent and 1 percent minimum would more equitably allocate the funds to states and would better match the probable need and opportunity to use the funds to enhance sportfish habitat; now, therfore, be it

Resolved by the Senate of the State of California, That the Senate of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to ensure that states are apportioned Federal Aid in Sport Fish Restoration Act funds in proportion to the number of licensed sportfishermen and area of land and water in each state, the District of Columbia and territories of the United States, without any arbitrary maximum or minimum being placed on the apportionments determined with such an allocation methodology; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-640. A resolution adopted by the House of Representatives of the State of California; to the Committee on Finance:

"HOUSE RESOLUTION NO. 37

"Whereas, The Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777 et seq.) authorizes the United States Department of the Treasury to collect a total of approximately $156 million per year in excise taxes on sportfishing equipment, trolling motors, electronic fish finders, and sportboat monitor fuel; and

"Whereas, Manufacturers of these products pass on the cost of these taxes, at least in part, to purchasers of sportfishing equipment, trolling motors, electronic fish finders, and sportboat motor fuel; and

"Whereas, The amount of purchases in any state of sportfishing equipment, trolling motors, elecronic fish finders, and sportboat motor fuel probably is highly correlated with the number of licensed sportfishermen in the state; and

"Whereas, The need and opportunity for enhancing the land and water habitat of sportfish in a state probably is highly correlated with the amount of land and water with the State; and

"Whereas, It would be equitable to allocate Federal Aid in Sport Fish Restoration Act funds to states based on the number of licensed sportfishermen and land and water area within the states, without any arbitrary limit on the minimum or maximum amount of funds that any state could receive based on such an equitable allocation methodology; and

"Whereas, The Federal Aid in Sport Fish Restoration Act authorizes the Secretary of the Interior to allocate the tax revenue on sportfishing equipment, trolling motors, electronic fish finders, and sportboat motor fuel to states for fish restoration and enhancement projects based on the number of licensed sportfishermen and land and water area within the states; and

"Whereas, The act imposes an arbitrary cap of 5 percent and 1 percent minimum on the amount of tax revenues that any state can receive under the program; and

"Whereas, Eliminating the arbitrary cap of 5 percent and 1 percent minimum would more equitably allocate the funds to states and would better match the probable need and opportunity to use the funds to enhance sportfish habitat; now, therefore be it

"*Resolved by the Assembly of the State of California,* That the Assembly respectfully memorializes the President and the Congress of the United States to enact legislation to ensure that states are apportioned Federal Aid in Sport Fish Restoration Act funds in proportion to the number of licensed sportfishermen and area of land and water in each state, in the District of Columbia, and in territories of the United States, without any arbitrary maximum or minimum being placed on the apportionments determined with such an allocation methodology; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-641. A joint resolution adopted by the Legislature of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION NO. 9

"Whereas, State and national demographics indicate a substantial increase in the population's average age, with the number of persons over 65 rising from 28.6 million to over 35 million in the year 2000; and

"Whereas, One out of four persons over the age of 65 and three out of five persons over the age of 85 are expected to need long-term care; and

"Whereas, A study by the Harvard School of Public Health reveals that two-thirds of nursing home residents go bankrupt in three months and 90 percent face destitution in two years, which contributes to the severe mental anguish suffered by seniors and family members confronted with the spiraling financial responsibilities inherent in long-term care; and

"Whereas, The rapidly increasing number of older Californians should be encouraged to provide for potential long-term care costs so that they may live with dignity; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to allow, for federal income tax purposes, an income tax deduction as a miscellaneous itemized deduction for the total premiums paid by a taxpayer for the purchase of long-term care insurance; and be it further

"*Resolved,* That immediate family members be allowed, for federal income tax purposes, a miscellaneous itemized deduction for the total premiums paid for the purchase of long-term care insurance purchased on behalf of an elderly relative; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-642. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION NO. 44

"Whereas, Under the specific provisions of the agreement between Portugal and the United States regarding the concession of military facilities in the Azores, the Autonomous Region of the Azores has been receiving considerable financial aid for development for the United States; and

"Whereas, From 1983 to 1986, the Autonomous Region of the Azores has received the equivalent of $40 million per year; and

"Whereas, Funding to the Azores has been subsequently reduced through actions of the Administration and Congress by 20 percent or $8 million in both the immediate past and present fiscal years; and

"Whereas, Due to such disadvantages as its geographic location, the dimension and dispersion of the islands and other natural conditions, a very large number of Azoreans have emigrated from their beloved homeland to settle in America, establishing large communities with a growing social, political, and cultural presence in New England, California, and Hawaii; and

"Whereas, American financial aid, granted in accordance with the Portuguese constitutional provisions which established the autonomous and democratic government of the Azores, has been essential to the rapid economic and cultural development of the Azores and its people for the last 10 years; and

"Whereas, The continuation of agreed-upon support to one of America's staunchest and most reliable allies is fundamental to the continued growth of essential social and cultural institutions, and to the economic stability which is the keystone to the alliance which the United States has enjoyed with the Azores and with Portugal as a whole; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to restore federal aid to the Azores to the levels agreed upon in the Portugal-United States Agreement of 1983; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-643. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Foreign Relations:

"SENATE RESOLUTION 156

"Whereas, on December 8, 1987, President Ronald W. Reagan and Mikhail S. Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union, met in Washington, D.C. and signed the historic Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles; and

"Whereas, this treaty, more commonly known as the INF (Intermediate-range Nuclear Forces) Treaty, is the most important step taken since World War II toward slowing the nuclear arms buildup and toward building a more durable peace; and

"Whereas, the INF Treaty represents a landmark in post-war history because, unlike treaties of the past that attempted to control arms by establishing ceilings for new weapons, it is an arms reduction agreement; and

"Whereas, the INF Treaty completely abolishes an entire class of United States and Soviet nuclear arms; and

"Whereas, the INF Treaty also is historic for the innovative and far-reaching scope and character of its verification provisions; and

"Whereas, the INF Treaty lessens the threat of war without sacrificing NATO's ability to respond to any form of aggression and has the full support of the United States' allies; now, therefore, be it

"*Resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988,* That the United States Senate respectfully is urged to act expeditiously to fulfill its authority under the United States Constitution and to ratify the INF Treaty; and be it further

"*Resolved,* That certified copies of this Resolution be transmitted to the President of the United States Senate and to each member of Hawaii's congressional delegation."

POM-644. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION NO. 48

"Whereas, April 9, 1988, was the 25th anniversary of the granting of honorary citizenship to Sir Winston Churchill by the United States: and

"Whereas, Sir Winston Churchill's mother, Jennie Jerome Churchill, was an American, thereby making Sir Winston Churchill a son of America though a subject of Great Britain; and

"Whereas, Sir Winston Churchill inspired the world during World War II with his stirring oratory, his energy, and his stubborn refusal to make peace until Hitler's Army was crushed; and

"Whereas, Sir Winston Churchill inspired the world throughout his life with his commitment to the ideals of freedom, not only during time of peace but during the darkest moments of war; and

"Whereas, Sir Winston Churchill made significant contributions to the world and was honored with a Nobel Prize in Literature for both his writing and oratory, as well as being knighted; and

"Whereas, Sir Winston Churchill recognized the importance of understanding history and the relevance of history in solving current problems; and

"Whereas, Sir Winston Churchill made significant contributions towards peace and freedom of all people; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to designate November 27 through December 3, 1988, as "National Sir Winston Churchill Week"; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-645. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

SENATE CONCURRENT RESOLUTION NO. 81

"Whereas, Independent public and private efforts are underway to sequence and map every chemical base in all the deoxyribonucleic acid (DNA) of the human genome (all the genetic material); and

"Whereas, These efforts have already led to the identification of DNA fragments linked with Huntington's disease, cystic fibrosis, Alzheimer's disease, Duchenne muscular dystrophy and other disorders; and

"Whereas, Various federal agencies involved in these efforts include the National Institutes of Health, the National Science Foundation, and the Department of Energy; and

"Whereas, California's national laboratories and universities have received federal funding to support research in this area; and

"Whereas, Continued support of the genome project is necessary to maintain California's preeminence in biotechnology; and

"Whereas, The National Academy of Sciences has recommended that these individual efforts be coordinated through a lead agency; and

"Whereas, The Senate of the United States is considering a bill to establish a free-standing National Biotechnology Policy Board and Advisory Panel; and

"Whereas, This bill will organize already existing efforts and plan future ones, and will eventually lead to establishing a project, known as the genome project, to map and sequence every gene in the human body; and

"Whereas, This project will cost an estimated 45 million dollars per year, increasing to 200 million dollars per year over five years; and

"Whereas, Knowledge gained from the genome project could give insight into the causes of more than three thousand inherited diseases as well as cancer, diabetes, and heart disease; and

"Whereas, The Japanese are already developing the technology for sequencing of the human genome, including coordinating the efforts of various industries to produce the materials needed for the research; now, therefore, be it

"*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the members recognize and appreciate the necessity to map the human genome and proclaim their support of federal funding for this critical project; and be it further

"*Resolved,* That the members urge the Governor to mobilize public and private organizations to develop a strategy for supporting the genome project and for assuring new funding for the project so that California's researchers remain competitive, and to work with the Congressional delegation from California to confirm California's readiness to participate in this project and enhance its continuing role as a leader in basic research; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Governor of California, and to each Senator and Representative from California in the Congress of the United States."

POM-646. A concurrent resolution adopted by the legislature of the State of California; to the Committee on Labor and Human Resources:

"SENATE CONCURRENT RESOLUTION 134

"Whereas, major concerns for every individual are the individual's health and the availability and affordability of proper health care; and

"Whereas, the high cost of health care, escalating insurance rates, and discretionary criteria employed by insurance companies in categorizing an insured as a "high risk" make it increasingly difficult for many Americans to afford proper health care; and

"Whereas, catastrophic illness can bring financial ruin to those who are not insured; and

"Whereas, many uninsured individuals could prevent catastrophic illness by taking simple precautions such as regular physical examinations if they could afford health insurance; and

"Whereas, after a nine-month study on catastrophic illness expenses, the United States Secretary of Health and Human Services reported that there are about thirty million Americans who lack health insurance and another ten million who have insurance coverage that is inadequate to protect against the costs of catastrophic illness; and

"Whereas, in contrast to Europe, the Orient, the U.S.S.R., and the Commonwealth nations, the United States does not have some form of national health care insurance; and

"Whereas, for more than fifty years, Congress has been considering legislation that would address the issue of nationalized health care: Now, therefore, be it

"*Resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the House of Representatives concurring,* That the United States Congress is urged to resolve the issue of escalating health care costs by establishing a comprehensive national health insurance program which would make proper health care available to and affordable for all American citizens; and be it further

"*Resolved,* That certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Hawaii congressional delegation."

POM-647. A concurrent resolution adopted by the legislature of the State of Hawaii; to the Committee on Labor and Human Resources.

POM-648. A resolution adopted by the city council of Canton, OH, relative to the increase in national minimum wage; to the Committee on Labor and Human Resources.

HONOLULU, HAWAII, *April 26, 1988.*

Hon. DANIEL J. KIHANO,
Speaker, House of Representatives, Fourteenth State Legislature, Regular Session of 1988, State of Hawaii.

SIR: Your Committees on Human Services and Intergovernmental Relations, to which was referred S.C.R. No. 165 entitled: "Senate Concurrent Resolution Urging the Support and Adoption of the 'Young Americans Act of 1987'," beg leave to report as follows:

The purpose of this Concurrent Resolution is stated in the title.

Embodied in two bills in the United States Congress, H.R. 1003 and S. 476, the Young Americans Act of 1987 would: (1) provide assistance in the development of new or improved programs to help young persons through grants to the states for community planning, services and training; (2) establish an administrative agency of Children, Youth and Families within the U.S. Department of Health and Human Services; and (3) provide for a White House Conference on Young Americans. In addition, this Act provides for financial grants of $300,000 to states to plan and implement such assistance.

Your Committees have amended this Concurrent Resolution by including Hawaii's state lobbyist in Washington, DC as one of the recipients of this Concurrent Resolution.

Your Committees on Human Services and Intergovernmental Relations concur with the intent and purpose of S.C.R. No. 165, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 165, H.D. 1.

Respectfully submitted.

COMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mike Crozier, Chairman; Les Ihara, Jr., Vice Chairman; Reb Bellinger, Member; Romy Cachola, Member; Mazie Hirono, Member; Karen Horita, Member; Roland Kotani, Member; Paul Oshiro, Member; Joseph Souki, Member; Dwight Takamine, Member; Brian Taniguchi, Member; Dwight Yoshimura, Member; Hal Jones, Member; Barbara Marumoto, Member; John J. Medeiros, Member.

COMMITTEE ON HUMAN SERVICES

David Hagino, Chairman; Dennis Arakaki, Vice Chairman; Joan Hayes, Member; Marshall K. Ige, Member; Bertha Kawakami, Member; Joseph Leong, Member; Wayne Metcalf, Member; Henry Peters, Member; Mitsuo Shito, Member; James Shon, Member; Rod Tam, Member; Terrance Tom, Member; Cam Cavasso, Member; Fred Hemmings, Jr., Member; Patrick Ribellia, Member.

"SENATE CONCURRENT RESOLUTION 165

"Whereas, the National Network of Runaway and Youth Services is a national organization, the purpose of which is to develop the nation's capacity to increase, insure, and promote the personal, social, economic, educational, and legal options, and resources available to runaway and homeless youth and other at-risk youth, their families, and their communities; and

"Whereas, at its 1987 Symposium in Washington, D.C., the Network adopted a resoultion expressing its commitment to work toward the development of a National Youth Policy and the enactment of a Young Americans Act by the year 1990, both of which are being spearheaded by the National Collaboration for Youth and the National Youth Policy Steering Committee; and

"Whereas, there are currently two bills in the United States Congress, H.R. 1003 and S. 476, which embody the Young Americans Act as supported by the aforementioned national youth organizations; and

"Whereas, these bills would provide assistance in the development of new or improved programs to help young persons through grants to the states for community planning, services, and training; establish within the United States Department of Health and Human Services an operating agency to be designated the Administration on Children, Youth, and Families; and provide for a White House Conference on Young Americans; and

"Whereas, the children and youth of America are the nation's most valuable resource and it is the joint and several duty and responsibility of the federal government and the states and their political subdivisions to provide assistance to ensure that their basic needs are met: Now, therefore, be it

"Resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the House of Representatives concurring, That Hawaii's congressional delegation is urged to actively support H.R. 1003 and S. 476 as these measures are considered in the respective houses; and be it further

"Resolved, That the Congress of the United States is respectfully urged to enact the Younger Americans Act of 1987 as embodied in either H.R. 1003 or S. 476; and be it further

"Resolved, That certified copies of this Concurrent Resolution be transmitted to each member of Hawaii's Congressional Delegation, Hawaii's state lobbyist in Washington, D.C., the President of the United States Senate, and the Speaker of the United States House of Representatives."

POM-649. A concurrent resolution adopted by the legislature of the State of Hawaii; to the Committee on Veteran's Affairs.

"SENATE CONCURRENT RESOLUTION 49

"Whereas, the valuable contributions made by veterans toward protecting this country's ideals were first recognized in the early 1600's through the initiation of community-sponsored health care services in the Plymouth Colony; and

"Whereas, government awareness and appreciation for veterans' efforts were further recognized with the establishment of the first federally sponsored special health facility for veterans in Philadelphia, Pennsylvania in 1833, which was expanded following World War I to encompass the present veterans' hospital system; and

"Whereas, Senator Spark Matsunaga and Senator Alan Cranston have sent a letter to the Veterans Administration asking for 'immediate action' on the following health care issues:

"(1) Creation of a Hawaii Veterans Health Care Task Force that would study health care alternatives for veterans, including the possibility of a Veterans Administration medical center for Hawaii;

"(2) Making additional psychiatric beds available at the Queen's Medical Center for veterans, including some space specifically for veterans suffering from post-traumatic stress disorder; and

"(3) Expanding permanent 'readjustment' counseling services to the neighbor islands; and

"Whereas, the veterans population represents over ten percent of the State's total population, or over 100,000 individuals, whose geographic distribution in 1986 was 4,090 in Kauai county, 79,830 in the city and county of Honolulu, 7,480 in Maui county, and 10,530 in Hawaii county; and

"Whereas, the State of Hawaii is the home of 15,700 veterans over the age of sixty-five; by the year 1990, the number of veterans age sixty-five and over will increase to 23,900; and by the year 2000, the total number of veterans age sixty-five and over residing in the State will climb to more than 35,700; and

"Whereas, many of the veterans were members of the esteemed 442nd Regiment and the 100th Battalion during World War II, the most decorated unit in the history of the United States; and since World War II, many other Hawaii residents served during other periods of conflict—the Korean Conflict, Vietnam, and Grenada; and

"Whereas, the number of adult residential care homes, intermediate nursing, and skilled nursing beds available to this sizable portion of the State's population have been below the average available for veterans in other states; and

"Whereas, the State of Hawaii is one of eighteen states without a state-supported veterans home; and

"Whereas, thirty-two state veterans homes provide domiciliary care and thirty of these homes include nursing care units and six have hospitalization or acute care services available to veterans; and

"Whereas, the Veterans Administration provides grants to states with veteran homes, where one grant pays per diem and another provides money to support the construction of a state home; and

"Whereas, the State of Hawaii shares in the nation's commendation and dedication to the care of veterans as witnessed by the efforts of the following agencies and groups in the State:

"Hawaii State Veterans Affairs Advisory Council;
"Hawaii State Veterans Organizations Council;
"AJA Veterans Council;
"American Legion;
"AMVETS;
"China-Burma-India Veterans Association;
"Club 100;
"Disabled Americans Veterans;
"Fleet Reserve Association;
"442nd Veterans Club;
"Marine Corps League;
"M.I.S. Veterans Club;
"Military Order of the Purple Heart;
"Military Order of World Wars;
"Naval Enlisted Reserve Association;
"Paralyzed Veterans of America;
"Pearl Harbor Survivors Association;
"Reserve Officers Association;
"Retired Officers Association;
"Samoan Veterans Organization;
"Special Forces Association;
"The Forty and Eight;
"Veterans of Foreign Wars;
"Vietnam Veterans Leadership Program;
"Vietnam Veterans of America;
"Veterans of World War I, USA; and
"1399th Veterans Club; now, therefore,

"Be it resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the House of Representatives concurring, that a study be conducted by the Office of the Legislative Reference Bureau to analyze the availability and accessibility of adult residential care homes, intermediate care, and skilled nursing facilities for veterans throughout the State of Hawaii; and

"Be it further resolved that this study should specifically address the need for beds, availability of beds, and identify who is currently providing, and who should be providing beds; and

"Be it further resolved that this study include whether the State should consider establishing a facility for veterans as a distinct group of the elderly population in the form of a state veterans home which would insure that the residents of such a home could remain independent and in the least restrictive environment for as long as possible; and

"Be it further resolved that the Legislative Reference Bureau consult with the United States Veterans Administration, the Executive Office on Aging, the Department of Health, the State Health Planning and Development Agency, the Department of Human Services, and other appropriate organizations, and that all of these named organizations are requested to provide full cooperation and support to the Legislative Reference Bureau; and

"Be it further resolved that in order to facilitate the conduct of this study, the Department of Health and the Department of Human Services are requested to provide the Legislative Reference Bureau not later than May 15, 1988, with the names and addresses of the operators of every adult residential care home, intermediate care facility, and skilled nursing facility licensed to operate in this State; and

"Be it further resolved that the Office of the Legislative Reference Bureau submit its findings and recommendations to the Legislature prior to the convening of the Regular Session of 1989; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Director of the United States Veterans Administration, the Director of the Executive Office on Aging, the Director of Health, the Acting Administrator of the State Health Planning and Development Agency, the Director of Human Services, and the Director of the Legislative Reference Bureau."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By McCLURE (for himself and Mr. NICKLES):

S. 2919. A bill to prevent the takeover of pre-1935 hydroelectric projects on nonnavigable rivers; to the Committee on Energy and Natural Resources.

By Mr. LUGAR:

S. 2920. A bill to amend the Arms Export Control Act to authorize appropriations for programs for certain retired United States Government personnel to provide military training and advice on a volunteer basis to eligible countries; to the Committee on Foreign Relations.

By Mr. DODD:

S. 2921. A bill to amend title XVIII of the Social Security Act to provide payment for screening mammography in the same amounts as is provided for similar mammography; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for Mr. ROCKEFELLER):

S. Res. 509. A resolution authorizing use of the Hart Building atrium for a concert by the Congressional chorus; considered and agreed to.

By Mr. BYRD (for Mr. BAUCUS (for himself, Mr. SIMPSON, Mr. MELCHER and Mr. WALLOP)):

S. Res. 510. A resolution to express the sense of the Senate regarding the need to assess the fire management policies of the various Federal land management agencies in view of this year's fires in the Yellowstone region and elsewhere; considered and agreed to.

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 511. A resolution to authorize the release of documents by the Committee on Foreign Relations; considered and agreed to.

By Mr. BREAUX (for himself, Mr. BURDICK, Mr. SARBANES, Mr. GORE, Mr. FORD, Mr. MITCHELL, Ms. MIKULSKI, Mr. SIMON, Mr. SHELBY, Mr. TRIBLE, Mr. HEFLIN, Mr. ROCKEFELLER, Mr. PELL, Mr. MELCHER, Mr. JOHNSTON, Mr. METZENBAUM, Mr. SASSER, Mr. COHEN, Mr. LAUTENBERG, Mr. PRYOR and Mr. DASHLE):

S. Con. Res. 166. A concurrent resolution to express strong support for the cabotage laws protecting the coastwise trade for vessels of American construction, crewing, and documentation, as well as other maritime promotional programs, and to urge the administration in the strongest possible terms that the opening of maritime transportation services not be proposed by the United States at the General Agreement on Tariffs and Trade [GATT] talks, and that the United States reject any such proposal by a foreign nation; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE (for himself and Mr. NICKLES):

S. 2919. A bill to prevent the takeover of pre-1935 hydroelectric projects on nonnavigable rivers; referred to the Committee Energy and Natural Resources.

HYDROELECTRIC FAIRNESS ACT

Mr. McCLURE. Mr. President, I am today introducing the "Hydroelectic Fairness Act of 1988" in order to prevent the unwarranted use of Federal law by individuals to take over unlicensed hydroelectric projects owned by others—"claim jumping" in other words.

The projects at risk are those which were constructed prior to 1935 on nonnavigable waters and have not since been altered. They do not today have the protection of a Federal license because in 1935 they were exempted by Congress from the Federal Power Act's licensing requirements. Located throughout the Nation, there are an estimated 500 of these projects which are owned by electric utilities, private industry, municipalities, irrigation districts and others.

The "claim jumping" problem derives from unintentional quirks in the Federal Power Act which allow a nonowner to obtain a Federal license for one of these unlicensed projects owned by someone else. Although the Federal Power Act exempts from its licensing requirements those projects built prior to 1935 on nonnavigable rivers, it does require that such projects be Federally licensed if there is any post-1935 construction; but the act is silent as to who may propose such construction. In addition, there is another provision of the Federal Power Act which has been interpreted as allowing the voluntary licensing of these unlicensed projects; but there again, the Act is silent as to who may seek such a license.

What Congress did not expect—or intend—was that someone other than the project owner would propose new construction on one of these unlicensed projects. Nor did Congress foresee that anyone would seek a "voluntary" license on another person's unlicensed project. In a recent court ruling which held that the Federal Energy Regulatory Commission could issue a voluntary license, the U.S. Court of Appeals for the D.C. Circuit observed that ". . . pre-1935 project owners [are] at risk because volunteer applicants need not be project owners. Thus, the owner of a project not requiring a license may find himself the target of a license application by strangers." *(Cooley* v. *FERC* No. 87-1249, slip op. at 13: D.C. Cir. April 12, 1988.)

One might ask: why don't the owners of these unlicensed projects just apply for a license? After all, if they had a license they would be protected from "claim jumping." Apart from the fact that Congress did not intend that these projects be forced to obtain a license, there are several reasons why unlicensed project owners are reluctant to do so. First, filing for a license is an invitation for others to file a competing application, which is explicitly encouraged by the Federal Power Act. And there is no guarantee that the owner would obtain the license. Second, filing for a license is expensive. It costs many thousands of dollars to prepare the documents necessary for a license application, and for a smaller project, that cost alone might make it uneconomic and result in its being shut down. Third, once licensed the project would be taken out of State regulatory jurisdiction; the Federal Government would instead dictate how the project is to be operated and maintained, not the State.

For more than five decades, the licensing system established by the 1935 amendments to the Federal Power Act was not abused. It wasn't, that is, until someone decided to use the act's quirks to claim jump a project.

The specific situation involves the Orange and Rockland Utilities, an electric utility which serves thousands of residential, commercial and industrial customers in New York, New Jersey, and Pennsylvania. They own one of these pre-1935 unlicensed hydroelectric projects on which an outsider, Rio Hydroelectric Associates, filed for a license. Orange and Rockland has estimated that if they lose the project, they would have to pay $50 million to Rio Hydro over the next 30 years to purchase the power back from that project. In this connection, recall that another Federal law, the Public Utility Regulatory Policies Act of 1978, requires electric utilities to purchase power from "qualifying facilities" at "full avoided costs." These costs would then be passed on to Orange and Rockland's customers through higher electricity prices.

If Rio Hydro is allowed to claim jump this project, it will be the proverbial tip of the iceberg. Any one of the approximately 500 similarly situated unlicensed hydroelectric projects could be the next target of "claim jumpers."

The legislation I am introducing today would prevent claim jumping by prohibiting the Federal Energy Regulatory Commission from issuing a license for these pre-1935 unimproved projects located on nonnavigable waterways to any person other than the owner. This restriction would apply if the license proposes new construction because such construction would take place after the license was issued. However, once any post-1935 construction has taken place, the Federal Power Act's usual licensing requirements would subsequently apply. In addition, while this legislation restricts the issuance of the license to the owner of the project, the legislation would not prevent the owner from selling the unlicensed project to another person, in which case the licensing restriction would similarly apply. Moreover, this limitation would apply whether the proposed license would incorporate part or all of the unlicensed project.

Because we are in the final days of the 100th Congress it is evident that there will not be enough time to complete legislative action. But the introduction of this legislation will put on notice potential "claim jumpers" that their efforts will not go unnoticed. It will also put the Federal Energy Regulatory Commission on notice that Congress will consider this matter during the 101st Congress, and that they should therefore defer action on pending cases.

I ask that this bill be printed in the CONGRESSIONAL RECORD in its entirety, and I urge the other Members of the Senate to cosponsor this legislation.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2919

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled,

SECTION 1. This Act may be referred to as the "Hydroelectric Fairness Act of 1988".

SEC. 2. Part I of the Federal Power Act (16 U.S.C. 791 et seq.) is amended by adding the following new section at the end thereof:

"SEC. 32. The Commission is prohibited from issuing a license for any existing hydroelectric project which is located on nonnavigable waters and unimproved since August 26, 1935, to any person other than the owner of the project."●

By Mr. LUGAR:

S. 2920. A bill to amend the Arms Export Control Act to authorize appropriations for programs for certain retired U.S. Government personnel to provide military training and advice on a volunteer basis to eligible countries; to the Committee on Foreign Relations.

INTERNATIONAL VOLUNTEER MILITARY TRAINING ACT

● Mr. LUGAR. Mr. President, I rise today to introduce the International Volunteer Military Training Act. The purpose of this bill is to authorize the use by the Department of Defense of qualified retired military personnel and defense civilians on a volunteer basis, with only expenses paid, for foreign military training overseas.

Supplying funds, technical assistance, and training to friends and allies has long been an important instrument of U.S. foreign and national security policy. In recent years, however, funds provided for U.S. military training programs overseas may no longer be sufficient to support effectively the training requirements of our friends and allies. This is most unfortunate since the key to any effective military or security assistance program is the human skills and training is the key to developing these skills.

To make up for the shortfall in funding, it is necessary to develop innovative methods to provide required training and advice to our traditional allies at low cost.

To that end, we ought to enlist the support of the growing community of skilled and knowledgeable retired military personnel and defense civilians. These retirees represent an extensive source of technically trained, experienced, competent, and mature individuals with the skills and motivations necessary to provide military training and advice overseas for short periods at low cost.

A new organization, the Gray Eagles, has been established as a nonprofit corporation for the purpose of identifying and recruiting retired military personnel and defense civilians and utilizing them on a volunteer basis—with expense paid—for specific overseas training missions of limited scope and duration, usually one to four months. Modeled on the highly successful International Executive Service Corps [IESC], this program will provide a low-cost supplement to current U.S. military training capabilities.

The Volunteer Military Training Program, as envisaged in this bill, would work strictly within the guidelines of the Defense Security Assistance Agency [DSAA]. It would require the assistance of local Department of Defense [DOD] missions and host country personnel in identifying prospective training projects. As training needs are identified and as volunteers are requested by the country, the Gray Eagles, or any other private voluntary organization set up for this purpose, will match a volunteer's skills to the military training requirement and deploy the volunteer, as would any private contractor working under a foreign military sales contract.

The volunteer will receive travel expenses, health insurance, and a per diem to cover ordinary travel expenses, but no salary. The participating country will pay a small administrative fee to enable the program to be self-sustaining. Expenses will be provided from funds available to the country from any source, including U.S.-provided funds, and paid through the Defense Security Assistance Agency.

Based on a field survey conducted last year, the Defense Security Assistance Agency has concluded that this idea is feasible and useful. Initially the Gray Eagles, or similar organizations, will provide training in maintenance, logistics, and other areas of low or medium technology or basic military skills. Field interest for volunteers had been expressed in the areas of maintenance, logistics, training, vehicle, ship, communications, and engine repair, engineering, and field machine.

The major advantage of this program is that the host country will receive valuable training from experienced instructors for the cost of expenses only. U.S. law requires the host country to reimburse the United States for salaries as well as expenses for active-duty U.S. military trainers. These large personnel costs often make required training too expensive for many countries, especially those hard pressed for funds but in need of basic military-related skills.

The advantages of this program to the U.S. include: First, it supplements currently constrained Active Force levels; second, it enhances the ability of the United States to respond to military training requests; third, it has flexibility as a civilian organization outside of certain military administrative requirements; fourth, mature individuals would require minimum supervision; fifth, it would be responsive to foreign training requirements and priorities; sixth, it utilizes currently inactive pool of technical skills; seventh, it provides a flexible and cost-effective way of multiplying currently restricted U.S. training resources; and eighth, it provides that skills no longer current in Active Forces will be available in retired community.

In some ways, this program can be seen as a military training counterpart to the International Executive Service Corps, a civilian organization which recruits retired corporate executives to advise and train private enterprises in developing countries. IESC had performed effectively for over 24 years, with some 11,000 projects to its credit.

The purpose of this legislation is to insure that the Gray Eagles, or any other such volunteer program, functions within the constraints, controls, and regulations of our security assistance program and thus serves U.S. foreign policy and national security interests. The legislation authorizes DSAA to utilize the Gray Eagles volunteers as an important component of our Security Assistance Program. It also authorizes a small one-time startup fund to cover administrative costs in initiating and administering this program. Additional funds will be raised from private sources and from administrative fees collected from participating countries for services provided.

Through the Volunteer Military Training Program operating under appropriate controls, the skills of the military retired community can become an important part of our Nation's Security Assistance Program. These skilled and dedicated individuals are eager and ready to serve. To date, the Gray Eagles had received expressions of interest from over 2,500 retired personnel. This legislation will recognize and validate that dedicated commitment of those who have served this Nation so well and wish to "continue to serve."●

By Mr. DODD:

S. 2921. An act to amend title XVIII of the Social Security Act to provide payment for screening mammography in the same amounts as is provided for similar mammography; to the Committee on Finance.

OLDER WOMEN'S CANCER PREVENTION ACT

● Mr. DODD. Mr. President, I am pleased to introduce the Older Women's Cancer Prevention Act.

More than 1 in 10 American women will develop breast cancer sometime in their lives. This devastating disease is the leading cause of cancer deaths among women, taking over 45,000 lives in 1987 alone.

Older women are even more susceptible to this cancer. Fifty percent of all breast cancers occur in women over the age of 65, and both incidence and mortality increase with advancing age.

Of course, early detection and treatment of this condition can reduce fatality rates significantly. Indeed, the survival rate for older women who are treated is as good as it is for younger women, and recent studies have shown that screening programs are most effective among elderly women.

Mammography is the best method for catching breast cancer early, when it is most likely to be curable. Indeed, studies show that deaths from breast cancer are up to 30 percent lower among women who have had mammography than among those who have not been screened. One survey by the American Cancer Society and the National Cancer Institute involving 280,000 women showed that regular mammograms improved breast cancer survival among women over the age of 50; 81 percent were still alive 8 years after diagnosis, compared with the national survival rate of 65 percent.

Historically, Medicare has not covered preventive health care. Last year, during Senate consideration of the Medicare Catastrophic Coverage Act, I offered an amendment which would have allowed Medicare beneficiaries to apply toward the out-of-pocket expenses cap, expenses for early detection and preventive health care services, including mammography, screenings for colorectal and cervical cancer, tuberculosis, glaucoma, high cholesterol, as well as immunizations or boosters for tetanus, influenza, and bacterial pneumonia.

Although the Senate approved my amendment, it was modified in the conference to include reimbursement for mammography only. Thus, the Medicare Catastrophic Coverage Act signed by the President in July included coverage for mammography, but placed a $50 cap on reimbursement.

It has become clear that the reimbursement cap will not be sufficient to ensure that mammography will be readily available to women who need it. In most parts of the country, the actual price of the test performed in a doctor's office where most women are most comfortable receiving it, ranges from $80 to $200. The low cap on reimbursement severely limits provider options and actually defeats the intent of the legislation, which was to increase the number of women who are being screened and treated for early signs of breast cancer.

The bill I am introducing today would be a minor adjustment to the Medicare provisions of the Social Security Act, but would be of major benefit to older women in the early detection and treatment of breast cancer. The bill merely would raise the cap on the screening to be in line with diagnostic mammography, currently reimbursable under Medicare. That test falls under the same payment schedule as other radiology treatments, is reimbursed at a rate which is reasonable, and allows regional adjustment for the price of the test.

We must raise the reimbursement cap for screening mammography to reasonable levels so that mammography will become widely available to older women. With greater availability will come more frequent testing and a much greater likelihood of early detection and successful treatment of breast cancer.

Ultimately, Medicare must provide coverage for screening and early detection examinations in a more comprehensive fashion. It is my hope and objective to expand Medicare to include a truly comprehensive preventive health care program. Experience indicates that those persons who take advantage of preventive measures increase the likelihood of improving their health and quality of life, reducing health costs, and lowering their risk of disability and death.

The bill I am introducing today already has been introduced in the House of Representatives by my good friend, the Congresswoman from Connecticut, BARBARA KENNELLY. I might add, Mr. President, that Congresswoman KENNELLY deserves tremendous credit and praise for her leadership in the House on health care issues.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Women's Cancer Prevention Act of 1988".

SEC. 2. EQUALIZING PAYMENT FOR SCREENING MAMMOGRAPHY UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1834(e) of the Social Security Act (42 U.S.C. 1395m(e)) is amended—

(1) in paragraph (1)—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking "; and " at the end of subparagraph (B) and inserting a period, and

(C) by striking subparagraph (C); and

(2) by striking paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to screening mammography performed on or after January 1, 1990.●

NOTE

In the Record of October 14, 1988, the following statement of Mr. Hatch on the introduction of the bill S. 2903 was inadvertently omitted. The Permanent Record will be corrected accordingly:

By Mr. HATCH:

S. 2903. An act to amend the Lanham Trademark Act regarding gray market goods; to the Committee on the Judiciary.

GRAY MARKET GOODS

Mr. HATCH. Mr. President, last fall I introduced a measure, S. 1671, the Trademark Protection Act, to protect trademark owners against gray market goods. That bill was introduced in response to what many consider to be the incorrect interpretation of the law by the U.S. Customs Service, which through regulation has permitted the importation and sale of gray market goods. This situation has resulted in the serious undermining of our intellectual property laws and the infringement of the rights of American trademark owners.

Since the introduction of S. 1671 last year, the United States Supreme Court has addressed this issue, in the case of K Mart Corp. v. Cartier, Inc. In that case, the Supreme Court decided to restrict some gray market importation, but permit other such imports to continue. Unfortunately, the case was decided on narrow technical grounds. The Court did not address the intellectual property or consumer issues surrounding the gray market and left the gray market situation just as unclear as it had been before its decision.

This problem now involves billions of dollars per year and results not only in serious harm to the American consumer and laborer but also to the American intellectual property system. Clarification of the trademark laws, through legislation, is necessary. We must resolve this situation with respect to both trademark owners and consumers.

In simple terms, resolution for the trademark owners means greater trademark protection, and for the consumers means greater disclosure. Therefore, Senators DeConcini, Bradley, Mikulski, and I, are introducing the Trademark Protection Act of 1988, to take into account the recent Supreme Court decision and to finally resolve these important issues.

In addressing this issue, it is important that my colleagues have a clear understanding of what is meant by the gray market and the dangers that it poses to our intellectual property system.

TRADEMARK LAW

The use of trademarks has long been an important part of our system of intellectual property. They serve several useful purposes that are vital to free market enterprise. In his testimony before the Subcommittee on Patents, Copyrights and Trademarks, Guy Blynn, chairman and president of the U.S. Trademark Association, stated that a trademark's purpose is, among other things, to:

> (A) foster competition by enabling particular business entities to identify their goods or services and to distinguish them from those sold by others; (B) facilitate distribution by indicating that particular products or services emanate from a reliable though often anonymous source; (c) aid consumers in the selection process by denoting a level of quality relating to particular goods or services; (d) symbolize the reputation and good will of the owner, thereby motivating consumers to purchase or avoid certain trademarked products or services; and (e) protect the public from confusion or deception by enabling purchasers to identify and obtain desired goods or services. (Statement before Senate Subcommittee on Patents, Copyrights and Trademarks. February 17, 1987.)

In 1946, after nearly 5 years of work, Congress passed the Lanham Trademark Act, to organize and simplify our trademark laws. The purpose of the act, as stated in the Senate report, was "to place all matters relating to trademarks in one statute and to eliminate judicial obscurity, to simplify registration and to make it stronger and more liberal, to dispense with mere technical prohibitions and arbitrary provisions, [and] to make procedure simple."

For over 40 years, the Lanham Act has been surprisingly resilient to changes in the United States and world business practices. The growth and interdependence of the world economy since World War II has resulted in part from the tremendous growth of international trade. While this growth has produced many benefits, it has also produced some unfavorable side effects. One such side effect is growing infringement of the rights of American trademark owners.

In response to this growing problem, the measure that we are introducing today would eliminate the frustration and uncertainty common to this country's trademark owners by addressing the problems surrounding gray market products.

DEFINITION OF GRAY MARKET GOODS

In an opinion in which it was asked to consider the issue, the United States Court of Appeals for the District of Columbia defined gray market goods as follows:

> These are goods manufactured abroad bearing legitimate foreign trademarks that are identical to American trademarks. This situation typically arises when a foreign producer creates an American subsidiary that then registers the American trademark. Both the foreign producer and its American subsidiary often wish to be exclusively controlled by the American subsidiary. If, however, the price at which the American subsidiary sells the goods exceeds the price at which the goods are sold abroad, other importers have an obvious incentive to purchase the goods abroad (typically from a third-party who has legitimately purchased directly from the foreign producer) and resell them in the United States—perhaps without certain associated services or warranties—at a price below that charged by the American subsidary. The same result can occur, however, if the American trademark owner is the parent and the goods are manufactured abroad by a foreign subsidiary. *Copiat* v. *United States*, 790 F.2d 903, 904 (D.C. Cir. 1986).

THE GRAY MARKET PROBLEM

The gray market problem arises with the importation into the United States of goods bearing a trademark, familiar to the American consumer, but which are made for sale abroad and are brought into this country without the authorization of the U.S. trademark owner. Because gray market goods are not produced for sale in the United States, they often fail to meet the same high quality standards imposed upon merchandise manufactured for sale here. Moreover, gray market goods often are not subject to the same care in shipment and do not carry the usual warranties entitling the consumer to service at an authorized service center. In short, gray market goods present serious problems for American consumers. As the National Consumers' League, one of America's oldest and most respected consumer organizations, has stated:

> Gray market products often differ from the American trademarked products manufactured for sale in this country. Gray market imported foods, pharmaceuticals, and cosmetics can pose serious safety hazards. * * *
>
> Gray market products do not carry U.S. manufacturers' or authorized distributors' warranties and frequently do not have English language instructions. Gray market manufacturers frequently conceal this fact from consumers or mislead them by offering a warranty which appears to be the manufacturer's but is not. * * *
>
> Gray market goods are not necessarily cheaper. Gray marketeers argue that discount houses and discounted sales will disappear if the gray market is restricted. Frequently, gray market and domestic health care products are found together in a store and are offered at the same price.

The American consumer is not the only segment of our society that is harmed by the gray market. At a time when we are concerned about a record trade deficit and a sufficiency of meaningful manufacturing jobs for American workers, the gray market substitutes imports for U.S. goods and exports jobs. As a consequence, the gray market phenomenon has been strongly opposed by the great preponderance, if not all, of organized labor.

This is not to say that all the legitimate goods that gray market sales displace are U.S. products. The point is not that gray market goods are bad because they are imports. Rather, the point is that gray market goods are unfair competition in violation of the spirit, if not the letter, of our intellectual property laws.

This brings me to my third and perhaps most important point. Gray market goods undermine our intellectual property system. Specifically with respect to trademarks, which are most affected, gray market imports contravene the two basic purposes of the law. First, trademarks serve to prevent consumer deception and confusion. However, gray market goods are inherently confusing. Most often, as noted above, gray market goods are different products from their legitimate counterparts. Even where gray market and authorized goods are essentially identical physically, gray market goods often lack the quality and warranties that the consumer expects to receive in conjunction with the trademarked item. Again, as the National Consumers League has stated:

> Consumers assume that an American trademark represents strict and uniform standards for the production of trademarked goods. The current gray market confuses consumers about the reliability of trademarks. There is also clear and mounting evidence that the importation of gray market goods facilitates the manufacture and sale of counterfeit goods in the United States.

The gray market undercuts another important pillar of our trademark laws by depriving the U.S. trademark owner of a fair return on his investment. That is, the gray marketeer is able to sell the gray market good only because of the substantial investment made by the trademark owner that creates consumer acceptance of the brand. Although the gray marketeer profits, often handsomely, from the gray market sale, he does not contribute to help the U.S. trademark owner recoup on his investment.

The gray marketeer misleads the consumer by not telling the consumer that he or she is buying a gray market good rather than an authorized good. And when there is resulting consumer dissatisfaction, this dissatisfaction causes substantial harm to the reputation and goodwill associated with the trademark of the U.S. registered trademark owner, thereby diminishing and infringing the trademark in question.

This free ride that the gray marketeer takes on the back of the U.S. trademark owner is not mitigated by the fact that the trademarked good was initially purchased from the foreign manufacturer even if that foreign entity is related to the U.S. trademark owner. Our trademark laws are territorial in nature. Our laws recognize that the goodwill created in a trademark in one country through the time, effort and money spent in that country may be very different from the goodwill created in another country.

In addition, this recognition by our laws of separate goodwills in the same mark makes sense because the same symbols or words that make up a trademark not only have a separate legal basis but also a different factual significance in each country where the local trademark owner has created independent goodwill in the mark. Put simply, our laws recognize that in a complex world with different legal systems governing goods manufactured and sold in different countries, a brand "X" widget authorized for sale in the U.S. may be materially different from brand "X" widget intended for sale in another country, and thus it is necessary to protect U.S. trademarks and U.S. trademark owners from their foreign counterparts.

As a consequence, our laws, most importantly section 526 of the Tariff Act, do in fact contain provisions to protect U.S. trademark owners against the importation and sale in the U.S. of gray market goods. These laws provide for both a private right of action and government enforcement. For years these laws were fully enforced by the U.S. Customs Service. Unfortunately, as a result of misplaced and outmoded views about the antitrust laws, the U.S. Customs Service has in recent years failed to enforce these laws as they are written.

Unfortunately too, the Supreme Court decision earlier this year did not go the whole way in requiring Customs to enforce section 526 to stop all gray market imports. As a consequence Congress should and must act to effect this result. For this reason, we are introducing this bill to require customs agents to reject gray market goods at our borders.

Finally, it bears emphasis that while we are convinced that gray market goods are bad for America, and that gray market importation should be stopped, the gray market controversy is fundamentally an intellectual property dispute and not an attempt to embargo merchandise. The law does not, and should not, prevent any person from importing goods that otherwise meet out health and safety standards just because the goods were manufactured abroad and may be quite similar, though not identical, to goods sold in the United States by a U.S. trademark owner, provided that these imports do not bear the U.S. trademark owner's trademark. That is, our intellectual property laws do not prevent a person from importing into the United States noncounterfeit goods even when they bear a trademark identical to a U.S. trademark, provided that before importation the trademark is removed or obliterated. And, it should be further emphasized that this right is not illusory. Many companies, for example, Sears & Roebuck, sell goods made by a U.S. trademark owner or an affiliate of a U.S. trademark owner under their own brand name or as a generic.

Thus in the end, enforcement of the laws to prevent gray market imports will markedly reduce consumer deception, enhance U.S. employment, and ensure that entrepreneurs earn a sufficient return on their investment so as to continue to bring the maximum number of products and services to the U.S. market. This reflects what has been and should continue to be the essence of our intellectual property system.

PROPOSED LEGISLATION

The legislation that we are introducing today meets precisely that goal. Under its provisions the Lanham Trademark Act is amended to provide that no person may import into or sell within the United States any good that is manufactured outside the United States if that good bears a trademark that is identical to a trademark owned and properly registered by a person, corporation, or other entity, unless the U.S. trademark owner consents to such sale or importation.

This prohibition would apply regardless of whether the foreign manufacturer of the goods or foreign trademark owner whose trademark appears on the goods is related in any way to the owner of the U.S. trademark. The prohibition would also apply regardless of whether the owner of the U.S. trademark owns or has registered the trademark abroad. And, finally, the prohibition would apply regardless of whether the owner of U.S. trademark has authorized the use of the trademark abroad.

This legislation would empower the Secretary of the Treasury to exclude gray market goods if the U.S. trademark owner has registered that trademark with the Patent and Trademark Office and then files a copy of the certificate of registration with the Secretary of the Treasury. The U.S. trademark owner would also be allowed to bring an action against an importer or seller of gray market goods to enjoin the importation or sale and to obtain monetary damages and lost profits because of any such importation or sale.

By enacting this legislation, we will reduce unjust inroads upon trademark owners' rights, such as disincentives to investments resulting from free riding gray market goods; consumer concerns based on unserviceable and inferior products; and litigation expenses incurred by trademark owners to protect their trademarks against gray market goods.

This simple piece of legislation to the Lanham Trademark Act is one important way we can help our beleaguered American industries to once again perform on the cutting edge of competition.

ADDITIONAL COSPONSORS

S. 1988

At the request of Mr. BREAUX, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1998, a bill to regulate interstate natural gas pipelines providing transportation service which bypasses local distribution companies and to encourage open access transportation by local distribution companies at cost-based rates.

S. 2682

At the request of Mr. Pressler, the name of the Senator from Nevada [Mr. Hecht] was added as a cosponsor of S. 2682, a bill to provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress.

S. 2724

At the request of Mr. Riegle, the names of the Senator from Kentucky [Mr. Ford], the Senator from Illinois [Mr. Simon], the Senator from Iowa [Mr. Harkin], and the Senator from North Dakota [Mr. Burdick] were added as cosponsors of S. 2724, a bill to amend the Export Administration Act of 1979.

S. 2778

At the request of Mr. Levin, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 2778, a bill to establish a pilot program for the tracking of medical wastes in the States bordering the Great Lakes.

S. 2882

At the request of Mr. Wirth, the name of the Senator from South Dakota [Mr. Pressler] was added as a cosponsor of S. 2882, a bill to authorize a land exchange in South Dakota and Colorado.

SENATE JOINT RESOLUTION 307

At the request of Mr. Riegle, the names of the Senator from Washington [Mr. Evans], the Senator from Georgia [Mr. Nunn], the Senator from Delaware [Mr. Biden], and the Senator from Arizona [Mr. McCain] were added as cosponsors of Senate Joint Resolution 307, a joint resolution to designate the decade beginning January 1, 1988, as the "Decade of the Brain".

SENATE JOINT RESOLUTION S. 340

At the request of Mr. Packwood, the names of the Senator from Arizona [Mr. DeConcini], the Senator from Montana [Mr. Baucus], the Senator from North Dakota [Mr. Burdick], the Senator from Minnesota [Mr. Durenberger], the Senator from Hawaii [Mr. Matsunaga], the Senator from Rhode Island [Mr. Pell], the Senator from Indiana [Mr. Quayle], the Senator from Massachusetts [Mr. Kerry], the Senator from Oklahoma [Mr. Boren], the Senator from Utah [Mr. Garn], the Senator from South Carolina [Mr. Hollings], the Senator from Arkansas [Mr. Pryor], the Senator from Illinois [Mr. Simon], the Senator from Idaho [Mr. Symms], the Senator from South Carolina [Mr. Thurmond], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 340, designating November 27 through December 3, 1988, as "National Sir Winston Churchill Recognition Week".

SENATE JOINT RESOLUTION 344

At the request of Mr. Burdick, the name of the Senator from South Carolina [Mr. Hollings] was added as a cosponsor of Senate Joint Resolution 344, a bill to designate the week of November 20 through November 26, 1988, as "National Family Week".

SENATE JOINT RESOLUTION 387

At the request of Mr. Simon, the names of the Senator from North Dakota [Mr. Burdick] and the Senator from Rhode Island [Mr. Chafee] were added as cosponsors of Senate Joint Resolution 387, a joint resolution to express the sense of the Senate with respect to continuing resolutions in the Medicare Program.

SENATE CONCURRENT RESOLUTION 166 — EXPRESSING STRONG SUPPORT FOR CABOTAGE LAWS

Mr. BREAUX (for himself, Mr. Burdick, Mr. Sarbanes, Mr. Gore, Mr. Ford, Mr. Mitchell, Ms. Mikulski, Mr. Simon, Mr. Shelby, Mr. Trible, Mr. Heflin, Mr. Rockefeller, Mr. Pell, Mr. Melcher, Mr. Johnston, Mr. Metzenbaum, Mr. Sasser, Mr. Cohen, Mr. Lautenberg, Mr. Pryor, and Mr. Daschle) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. Con. Res. 166

Whereas a strong and healthy United States-flag merchant marine has been encouraged by this Nation for more than two hundred years in order to assist the strategic defense of the United States, as well as to create jobs and promote our commerce in foreign markets;

Whereas the cabotage laws, including section 27 of the Merchant Marine Act, 1920 (the "Jones Act"), and other promotional laws have been in existence for nearly two hundred years to protect and foster the United States-flag merchant marine;

Whereas the subsidized operating and capital costs of many foreign vessels are extremely low in comparison to American vessels, and because of standard of living differences, foreign operators are able to effectively block United States ships from any trade in which there is head-to-head unsubsidized competition;

Whereas the United States merchant marine has historically been a matter of national security, and therefore has not been appropriate for multisectoral negotiations;

Whereas competitors in the international shipping industry operate under the laws of their own country, regardless of the disparities in those laws, unlike most other service and manufacturing industries where competitors are established within a single nation's boundaries;

Whereas a ship is the sovereign territory of a nation, and international agreements should be limited to business activities that do not affect the existence of sovereign territory;

Whereas legislation was approved this year by Congress and signed into law, and that legislation creates a new set of rules for international maritime transportation practices, therefore placing maritime transportation outside the scope of services negotiations authorized by that legislation;

Whereas any effort to inject foreign shipping into areas otherwise reserved to the United States flag is and would be contrary to the national security policy of the United States;

Whereas the administration has consistently and unequivocally insisted that no changes be made to certain programs, including section 27 of the Merchant Marine Act, 1920, and, to date, has successfully rejected foreign efforts to participate in those trades; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress strongly urges the administration to refrain from submitting any proposal in the current round of GATT negotiations that would in any way consider maritime transportation activity as being within the scope of "trade in services", and to reject any proposals made by foreign nations to that effect, or which would lead to a contraction of the merchant marine, because of the disastrous impact such a decision would have upon the merchant marine and existing unfair transportation practices regimes, and because such a decision would imperil the outcome of the entire agreement.

● Mr. BREAUX. Mr. President, I rise today to submit a concurrent resolution that would help preserve our national security by urging that maritime transportation services be excluded from the upcoming General Agreement on Tariffs and Trade [GATT] round on services.

The GATT, along with the International Monetary Fund and the World Bank, was created after World War II to govern postwar economic and trade relations. Presently, the 97 members of the GATT account for 80 percent of the world trade in goods. The current round of negotiations, referred to as the Uruguay round, is the first effort to include the service sector as a subject for trade liberalization.

This concurrent resolution urges the administration to refrain from submitting any proposal in the current round of GATT negotiations that would in any way consider maritime transportation activity as being within the scope of trade in services.

Please recall that last year, the administation proposed opening our cabotage laws and allowing Canadian vessels to participate in our domestic shipping trade. In response to that, 55 Senators joined me in cosponsoring Senate Concurrent Resolution 69, which called on the administration to withdraw maritime services from the negotiating table. Our efforts were successful, and the United States-Canada Free Trade Area Agreement was concluded without a maritime section.

Now, informal discussions have indicated that the same type of proposal may be made in the GATT negotiations. This scenario is far worse than even the Canadian proposal. There is no room in the forthcoming discussions for consideration of proposals that would encourage entry by Third World and East bloc vessels into maritime trades now reserved, for security reasons, to vessels of the United States. Allowing such participation would ultimately and irrevocably spell the end of the U.S.-flag merchant marine.

It has been proven time and again that reliable U.S.-flag vessels are essential in time of conflict. It is important to remember that shipping lines compete head to head, yet operate under the laws of different nations, and that in order to overcome potentially devastating economic differentials, nearly all nations somehow support their fleets. In our case, the support is very lean, and to throw it away would be the most foolhardy thing we could do. Furthermore, the Congress just this year approved—and the President signed—legislation that creates a new framework for discovering and responding to unfair maritime practices, and that legislation—which promotes free trade—should not be dealt away in the name of "liberalization."

The maritime services industry cannot be "liberalized." As an essential element of national security, maritime transportation is not susceptible to those liberalizing factors that are contemplated when considering services that are "traded."

If the GATT includes maritime transportation, promotional programs such as the Jones Act, cargo preference and other financial programs, would be placed in great jeopardy. Moreover, it would make it extremely difficult to strengthen these measures or adopt new measures promoting the American merchant marine in the future.●

SENATE RESOLUTION 509—AUTHORIZING THE USE OF THE HART BUILDING ATRIUM

Mr. BYRD (for Mr. ROCKEFELLER) submitted the following resolution; which was considered and agreed to:

S. RES. 509

Resolved, That the atrium of the Senate Hart Office Building may be used from 12:00 noon until 1:00 p.m. on one day during the week of December 12, 1988, for a concert of American and holiday music to be presented by the Congressional Chorus.

SENATE RESOLUTION 510—SENSE OF THE SENATE REGARDING THE NEED TO ASSESS THE FIRE MANAGEMENT POLICIES OF THE VARIOUS FEDERAL LAND MANAGEMENT AGENCIES

Mr. BYRD (for himself, Mr. SIMPSON, Mr. MELCHER, and Mr. WALLOP) submitted the following resolution; which was considered and agreed to:

S. RES. 510

Whereas forest fires of 1988 have caused substantial physical and economic loss to private lands, businesses, farms, and ranches;

Whereas the Federal government should consider whether it is appropriate to provide assistance and compensation in certain instances to businesses, farms, and ranches adversly affected by the fires;

Whereas fire management policies of the National Park Service, Forest Serivce, and Bureau of Land Management should be thoroughly and carefully examined by the Congress in light of the losses suffered this summer; and

Whereas there is not enough time left in this session of Congress to examine these policies: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) an interagency review committee should be formed to review each fire and report to Congress concerning the extent to which economic and physical injuries were caused by government policies, and to recommended to Congress an appropriate Federal response;

(2) the interagency review committee should consist of—

(A) the Administrator of the Small Business Administration, who shall serve the chairperson,

(B) the Director of the Bureau of Land Management,

(C) the Director of the National Park Service,

(D) the Chief of the Forest Service, and

(E) the Administrator of the Farmers Home Administration; and

(3) recommendations of the interagency review committee should be made as quickly as possible so that Congress will have the benefit of such recommendations early next year to enable it to address the issues raised by the fires and fire management policies.

SENATE RESOLUTION 511—AUTHORIZING THE RELEASE OF DOCUMENTS BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 511

Whereas, on April 23, 1988, counsel for the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations received, in closed session, deposition testimony of Richard John Brenneke;

Whereas, the witness also testified in the sentencing phase of *United States* v. *Heinreich Rupp*, No. 87-CR-112, a criminal case in the United States District Court of the District of Colorado, and the Office of the United States Attorney for the District of Colorado has requested a transcript of the witness's April 23, 1988 deposition testimony;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Foreign Relations, acting jointly, are authorized to provide to the United States Attorney for the District of Colorado a transcript of the deposition testimony of Richard John Brenneke, subject to the United States Attorney's agreement to abide by confidentiality and other requirements established by the Committee.

AMENDMENTS SUBMITTED

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT

LEVIN AMENDMENT NO. 3746

Mr. BYRD (for Mr. LEVIN) proposed an amendment to the amendments of the House to the bill (S. 2344) to provide for the reauthorization of appropriations for the Office of Government Ethics, and for other purposes; as follows:

AMENDMENT No. 3746

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. 2. REAUTHORIZATION.

Section 405 is amended to read as follows:

"There are authorized to be appropriated to carry out the provisions of this title and for no other purpose—

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(2) not to exceed $3,500,000 for each of the 5 fiscal years thereafter.".

SEC. 3. OFFICE OF GOVERNMENT ETHICS TO FUNCTION INDEPENDENTLY.

(a) ESTABLISHMENT AS A SEPARATE EXECUTIVE AGENCY.—Section 401(a) is amended by striking out "in the Office of Personnel Management an office to be known as" and inserting "an executive agency to be known as".

(b) APPOINTMENT AND CONTRACTING AUTHORITY.—Section 401 is amended by adding at the end the following:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Office of Government Ethics in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under paragraph (2) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.".

SEC. 4. REPORTS TO CONGRESS.

The Ethics in Government Act of 1978 is amended by adding after section 407 the following:

"REPORTS TO CONGRESS

"SEC. 408. The Director shall, no later than March 31 of each year in which the second session of a Congress begins, submit to the Congress a report containing—

"(1) a summary of the actions taken by the Director during a 2-year period ending on December 31 of the preceding year in order to carry out the Director's functions and responsibilities under this title; and

"(2) such other information as the Director may consider appropriate.".

SEC. 5. AGENCY PROCEDURES RELATING TO FINANCIAL DISCLOSURE STATEMENTS.

Section 402 is amended by adding after subsection (c) the following:

"(d)(1) The Director shall, by the exercise of any authority otherwise available to the Director under this title, ensure that each executive agency has established written procedures relating to how the agency is to collect, review, evaluate, and, if applicable, make publicly available, financial disclosure statements filed by any of its officers or employees.

"(2) In carrying out paragraph (1), the Director shall ensure that each agency's procedures are in conformance with all applicable requirements, whether established by law, rule, regulation, or Executive order.".

SEC. 6. INFORMATION TO BE REPORTED BY EXECUTIVE AGENCIES.

Section 402 is amended by adding after subsection (d) (as added by section 5) the following:

"(e) In carrying out subsection (b)(10), the Director shall prescribe regulations under which—

"(1) each executive agency shall be required to submit to the Office an annual report containing—

"(A) a description and evaluation of the agency's ethics program, including any educational, counseling, or other services provided to officers and employees, in effect during the period covered by the report; and

"(B) the position title and duties of—

"(i) each official who was designated by the agency head to have primary responsibility for the administration, coordination, and management of the agency's ethics program during any portion of the period covered by the report; and

"(ii) each officer or employee who was designated to serve as an alternate to the official having primary responsibility during any portion of such period; and

"(C) any other information that the Director may require in order to carry out the responsibilities of the Director under this title; and

"(2) each executive agency shall be required to inform the Director upon referral of any alleged violation of Federal conflict of interest law to the Attorney General pursuant to section 535 of title 28, United States Code, except that nothing under this paragraph shall require any notification or disclosure which would otherwise be prohibited by law.".

SEC. 7. CORRECTIVE ACTION.

Section 402 is amended by adding after subsection (e) (as added by section 6) the following:

"(f)(1) In carrying out subsection (b)(9) with respect to executive agencies, the Director—

"(A) may—

"(i) order specific corrective action on the part of an agency based on the failure of such agency to establish a system for the collection, filing, review, and, when applicable, public inspection of financial disclosure statements, in accordance with applicable requirements, or to modify an existing system in order to meet applicable requirements; or

"(ii) order specific corrective action involving the establishment or modification of an agency ethics program (other than with respect to any matter under clause (i)) in accordance with applicable requirements; and

"(B) shall, if an agency has not complied with an order under subparagraph (A) within a reasonable period of time, notify the President and the Congress of the agency's noncompliance in writing (including, with the notification, any written comments which the agency may provide).

"(2)(A) In carrying out subsection (b)(9) with respect to individual officers and employees—

"(i) the Director may make such recommendations and provide such advice to such officers and employees as the Director considers necessary to ensure compliance with rules, regulations, and Executive orders relating to conflicts of interest or standards of conduct;

"(ii) if the Director has reason to believe that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that such agency head investigate the possible violation and, if the agency head finds such a violation, that such agency head take any appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) against the officer or employee, except that, if the officer or employee involved is the agency head, any such recommendation shall instead be submitted to the President; and

"(II) shall notify the President in writing if the Director determines that the head of an agency has not conducted an investigation pursuant to subclause (I) within a reasonable time after the Director recommends such action;

"(iii) if the Director finds that an officer or employee is violating any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may order the officer or employee to take specific action (such as divestiture, recusal, or the establishment of a blind trust) to end such violation; and

"(II) shall, if the officer or employee has not complied with the order under subclause (I) within a reasonable period of time, notify, in writing, the head of the officer's or employee's agency of the officer's or employee's noncompliance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President; and

"(iv) if the Director finds that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) be brought against the officer or employee, except that if the officer or employee involved is the agency head, any such recommendations shall instead be submitted to the President; and

"(II) may notify the President in writing if the Director determines that the head of an agency has not taken appropriate disciplinary action within a reasonable period of time after the Director recommends such action.

"(B)(i) In order to carry out the Director's duties and responsibilities under subparagraph (A) (iii) or (iv) with respect to individual officers and employees, the Director may conduct investigations and make findings concerning possible violations of any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.

"(ii)(I) Subject to clause (iv) of this subparagraph, before any finding is made under subparagraphs (A) (iii) or (iv), the officer or employee involved shall be afforded notification of the alleged violation, and an opportunity to comment, either orally or in writing, on the alleged violation.

"(II) The Director shall, in accordance with section 553 of title 5, United States Code, establish procedures for such notification and comment.

"(iii) Subject to clause (iv) of this subparagraph, before any action is ordered under subparagraph (A)(iii), the officer or employee involved shall be afforded an opportunity for a hearing, if requested by such officer or employee, except that any such hearing shall be conducted on the record.

"(iv) The procedures described in clauses (ii) and (iii) of this subparagraph do not apply to findings or orders for action made to obtain compliance with the financial disclosure requirements in title 2 of this Act. For those findings and orders, the procedures in section 206 of this Act shall apply.

"(3) The Director shall send a copy of any order under paragraph (2)(A)(iii) to—

"(A) the officer or employee who is the subject of such order; and

"(B) the head of officer's or employee's agency or, if such officer or employee is the agency head, to the President.

"(4) For purposes of paragraphs (2)(A) (ii), (iii), (iv), and (3)(B), in the case of an officer or employee within an agency which is headed by a board, committee, or other group of individuals (rather than by a single individual), any notification, recommendation, or other matter which would otherwise be sent to an agency head shall instead be sent to the officer's or employee's appointing authority.

"(5) Nothing in this title shall be considered to allow the Director (or any designee) to make any finding that a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated.

"(6) Notwithstanding any other provision of law, no record developed pursuant to the authority of this section concerning an investigation of an individual for a violation of any rule, regulation, or Executive order relating to a conflict of interest shall be made available pursuant to section 552(a)(3) of title 5, United States Code, unless the request for such information identifies the individual to whom such records relate and the subject matter of any alleged violation to which such records relate, except that nothing in this subsection shall affect the application of the provisions of section 552(b) of title 5, United States Code, to any record so identified.".

SEC. 8. ANNUAL PAY OF DIRECTOR.

Section 407 is amended to read as follows:

"ANNUAL PAY OF DIRECTOR

"SEC. 407. Chapter 53 of title 5, United States Code, is amended—

"(1) in section 5316 by striking out: 'Director of the Office of Government Ethics.'; and

"(2) in section 5314 by adding at the end thereof: 'Director of the Office of Government Ethics.' ".

SEC. 9. ADMINISTRATIVE PROVISIONS.

Section 403 is amended by striking out "pursuant to subsections (b)(3) and (b)(4) of section 402." and inserting in lieu thereof "pursuant to the Office of Government Ethics responsibilities under this Act. The head of any agency may detail such personnel and furnish such services, with or without reimbursement, as the Director may request to carry out the provisions of this Act".

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 3 shall take effect on October 1, 1989.

RELIEF OF LAWRENCE K. LUNT

DECONCINI AMENDMENT NO. 3747

Mr. BYRD (for Mr. DECONCINI) proposed an amendment to the bill (H.R. 712) for the relief of Lawrence K. Lunt; as follows:

On line 5 of the bill delete the amount of "$614,185.00" and substitute instead the amount of "$307,092.50".

L. RICHARDSON PREYER, JR. FEDERAL BUILDING AND UNITED STATES COURTHOUSE

DURENBERGER AMENDMENT NO. 3748

Mr. DOLE (for Mr. DURENBERGER) proposed an amendment to the bill (H.R. 3327) to designate the Federal building located at 324 West Market Street in Greensboro, NC, as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse;" as follows:

SEC. . HANDICAPPED PARKING SYSTEM.

(a) REGULATIONS.—Not later than the 180th day following the date of the enactment of this Act, the Secretary of Transportation shall issue regulations—

(1) which establish a uniform system for handicapped parking designed to enhance the safety of handicapped individuals, and

(2) which encourage adoption of such system by all the States.

In issuing such regulations, the Secretary shall consult the States.

(b) DEFINITIONS.—For purposes of this section—

(1) UNIFORM SYSTEM FOR HANDICAPPED PARKING.—A uniform system for handicapped parking designed to enhance the safety of handicapped individuals is a system which—

(A) adopts the International Symbol of Access (as adopted by Rehabilitation International in 1969 at its 11th World Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

(B) provides for the issuance of license plates displaying the International Symbol of Access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(C) provides for the issuance of removable windshield placards (displaying the International Symbol of Access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(D) provides that fees charged for the licensing or registration of a vehicle used to transport individuals with handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

(E) for purposes of easy access parking, recognizes licenses and placards displaying the International Symbol of Access which have been issued by other States and countries.

(2) STATE.—The term "State" has the meaning such term has when used in chapter 4 of title 23, United States Code.

BURDICK AMENDMENT NO. 3749

Mr. BYRD (for Mr. BURDICK) proposed an amendment to the bill H.R. 3327, supra; as follows:

In section 1, line 7, immediately after "Courthouse", insert "and Post Office".

In section 2, line 6, immediately after "Courthouse", insert "and Post Office".

Amend the title of the bill to read:

"To designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse and Post Office".

NATIONAL PURPLE HEART MUSEUM

WEICKER (AND DODD) AMENDMENT NO. 3750

Mr. DOLE (for Mr. WEICKER, for himself and Mr. DODD) proposed an amendment to the preamble of the concurrent resolution (H. Con. Res. 126) recognizing and supporting the efforts of the National Purple Heart Museum Committee, and encouraging the people of the United States to participate, in the development of a national museum to honor those individuals awarded the Purple Heart; as follows:

In the preamble, strike out the first three clauses and insert in lieu thereof the following:

Whereas George Washington, at his headquarters in Newburgh, New York, on August 7, 1782, devised the Badge of Military Merit (the antecedent of the Purple Heart) to be given to enlisted men and non-commissioned officers for meritorious action;

Whereas the Badge of Military Merit became popularly known as the "Purple Heart" because it consisted of the figure of a heart in purple cloth or silk edged with narrow lace or binding and was affixed to the uniform coat above the left breast;

Whereas three Badges of Military Merit were awarded during the Revolutionary War, all to volunteers from Connecticut;

Whereas the first recipient of the Badge of Military Merit was probably Sergeant Elijah Churchill, a carpenter from Enfield, Connecticut;

Whereas Sergeant Churchill, who served in several units, including the 2d Continental Light Dragoon Regiment, was cited for gallantry in three separate actions and was awarded the Badge of Military Merit by George Washington at his headquarters, Newburgh, New York, on May 3, 1783;

Whereas the Badge of Military Merit was redesignated by General Douglas MacArthur as the Purple Heart in February 1932, to be awarded to persons killed or wounded in action against an enemy of the United States; and

AVIATION RESEARCH ACT

KASSEBAUM AMENDMENT NO. 3751

Mr. DOLE (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 2746) to amend the Federal Aviation Act of 1958 relating to aviation research; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Research Act of 1988".

SEC. 2. AVIATION MAINTENANCE AND FIRE SAFETY RESEARCH.

Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resistance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for in-flight aircraft fires, and to develop advanced aircraft fuels with low flammability and technologies for containment of aircraft fuels for the purpose of minimizing post-crash fire hazards.".

SEC. 3. RESEARCH ON RELATIONSHIP BETWEEN HUMAN FACTORS AND AIR SAFETY AND ON DYNAMIC SIMULATION MODELING.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop dynamic simulation models of the air traffic control system and airport design and operating procedures which will provide analytical technology for predicting airport and air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in airport and air traffic control operations programs.".

SEC. 4. RESEARCH PLAN AND REPORTS.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end the following new subsection:

"RESEARCH PLAN AND REPORTS

"(d)(1) The Administrator shall prepare, review, revise, publish, and transmit a national aviation research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than the date of the submission to Congress of the President's budget for fiscal year 1990, and for each fiscal year thereafter. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth—

"(A) for the first 2 years the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

"(B) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project for such years and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements;

"(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given the highest priority; and

"(D) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

"(2) Subject to section 316(d)(2) of this Act and the regulations prescribed to carry out such section, the Administrator shall report annually, beginning with the date of transmission of the first aviation research plan as required by paragraph (1), to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted together with each plan transmittal required under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(d) Research plan and reports.

"(e) Civil aeromedical research.

"(f) Research advisory committee.".

SEC. 5. CIVIL AEROMEDICAL RESEARCH.

(a) ESTABLISHMENT OF CIVIL AEROMEDICAL INSTITUTE.—Section 106 of title 49, United States Code, relating to the Federal Aviation Administration, is amended by adding at the end thereof the following new subsection:

"(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 312(e) of the Federal Aviation Act of 1958. Such institute shall be known as the 'Civil Aeromedical Institute'. Research conducted by the institute should take appropriate advantage of capabilities of other government agencies, universities, or the private sector.".

"(b) CIVIL AEROMEDICAL RESEARCH.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"CIVIL AEROMEDICAL RESEARCH

"(e) The Civil Aeromedical Institute established by section 106(j) of title 49, United States Code, is authorized—

(1) to conduct civil aeromedical research, including, but not limited to, research related to—

"(A) protection and survival of aircraft occupants;

"(B) medical accident investigation and airman medical certification;

"(C) toxicology and the effects of drugs on human performance;

"(D) the impact of disease and disability on human performance;

"(E) vision and its relationship to human performance and equipment design;

"(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other persons involved in the operation and maintenance of aircraft and air traffic control equipment; and

"(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

"(2) to make comments to the Administrator on human factors aspects of proposed air safety rules;

"(3) to make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

"(4) to advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between such Administration and the National Aeronautics and Space Administration, other Government agencies, industry, and foreign governments; and

"(5) to provide medical consultation services to the Administrator with respect to medical certification of airmen.".

SEC. 6. ADVISORY COMMITTEE.

Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"RESEARCH ADVISORY COMMITTEE

"(f)(1) Not later than 180 days after the date of the enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

"(2) The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration.

"(3) The advisory committee shall be composed of not more than 20 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of their education, training, or experience. The Administrator in appointing the members of the committee shall ensure that universities, corporations, associations, consumers, and other government agencies are represented.

"(4) The chairman of the advisory committee shall be designated by the Administrator.

"(5) Members of the advisory committee shall serve without pay; except that the Administrator may allow any member, while attending meetings of the advisory committee or a subordinate committee, travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

"(6) The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this section and section 316.

"(7) Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and supplies as the Administrator determines are necessary for the advisory committee to carry out its functions.

"(8) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

"(9)(A) Not more than 1/10 of 1 percent of the funds made available to carry out research under this section and section 316 for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

"(B) No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection.".

SEC. 7. FUNDING.

(a) FISCAL YEAR 1989.—Section 506(b)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(B)) is amended—

(1) in clause (vii), by striking "; and" and inserting in lieu thereof a comma; and

(2) by adding at the end, flush with the margin, the following:

"except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects; and".

(b) FISCAL YEAR 1990.—Section 506(b)(2)(C) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(C)) is amended to read as follows:

"(C) for fiscal year 1990—

"(i) $25,000,000 solely for human factors research projects and activities; and

"(ii) $221,530,000 for all other research projects and activities,

except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects.".

(C) Definition.—Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by adding at the end the following: "As used in this paragraph, the term 'long-term research project' means a research project which is identified as a discrete project in the aviation research plan required by section 312(d)(1) of the Federal Aviation Act of 1958 and which is unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the date of the commencement of such project.".

SEC. 8. AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.

(a) Findings.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

(b) Study on Increased Automation—

(1) In General.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) Content.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying individuals possessing those attributes and aptitudes.

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) Report.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

(c) Agreement With Administrator of NASA.—

(1) In General.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) Content.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

(d) Authorization of Appropriations.—For conducting research under this section there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

METZENBAUM AMENDMENT NO. 3752

Mr. BYRD (for Mr. Metzenbaum) proposed an amendment to the amendment No. 3751 proposed by Mr. Dole (for Mrs. Kassebaum) to the bill S. 2746, supra; as follows:

At the end, add the following:

SEC. 9. CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES.

(a) Advance Notice of Proposed Rulemaking.—In order to ensure greater air safety to passengers of air carriers and reduce the incidence of post-crash fires, the Administrator of the Federal Aviation Administration shall, within 90 days following the date of enactment of this Act, issue an advance notice of proposed rulemaking to determine the feasibility of installing in all air carrier aircraft crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident.

(b) Research.—Within 60 days following the date of enactment of this Act, the Administrator shall undertake or supervise research to develop technologies which will prevent the spraying or free flow of significant quantities of fuel after an air crash or develop fuels and fuel additives which can reduce rapid fuel dispersal and combustibility, or both.

NATIONAL FIRE FIGHTERS DAY

GORE AMENDMENT NO. 3753

(Ordered referred to the Committee on the Judiciary.)

Mr. GORE submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 388) designating October 15, 1988, as "National Fire Fighters Day;" as follows:

On page 2, line 3, strike out "October 15, 1988" and insert in lieu thereof "November 12, 1988".

Amend the title so as to read as follows: "Designating November 12, 1988, as "National Fire Fighters Day".

CODIFICATION OF SHIPPING LAWS

BREAUX (AND OTHERS) AMENDMENT NO. 3754

Mr. BYRD (for Mr. Breaux,) (for himself, Mr. Stevens, and Mr. Hollings) proposed an amendment to the bill (H.R. 3105) to revise, consolidate, and enact certain laws related to shipping definitions and maritime commercial instruments and liens as subtitle II of title 46, United States Code, "Shipping," and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—MARITIME COMMERCIAL INSTRUMENTS AND LIENS

VESSEL IDENTIFICATION SYSTEM

Sec. 101. (a) Title 46, United States Code, is amended by adding the following new chapter 125 after chapter 123:

"CHAPTER 125—VESSEL IDENTIFICATION SYSTEM

"Sec.

"12501. Establishment of a vessel identification system.

"12502. Identification numbers, signal letters, and markings.

"12503. Information available to the system.

"12504. Information available from the system.

"12505. Fees.

"12506. Delegation of authority.

"12507. Penalties.

"§ 12501. Establishment of a vessel identification system

"(a) The Secretary of Transportation shall establish a vessel identification system to make available information under section 12503 of this title for use by the public for law enforcement and other purposes relating to—

"(1) the ownership of documented vessels;

"(2) the ownership of vessels numbered under chapter 123 of this title; and

"(3) the ownership of vessels titled under the law of a State.

"(b) The vessel identification system shall include information prescribed by the Secretary including—

"(1) identifying a vessel;

"(2) identifying the owner of the vessel;

"(3) identifying the State in which it is titled or numbered;

"(4) indicating whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicating where evidence of a lien or other security interest may be found against the vessel in that State; and

"(6) information assisting law enforcement officials.

"(c) The Secretary may maintain information under this chapter in connection with any other information system maintained by the Secretary.

"§ 12502. Identification numbers, signal letters, and markings

"(a) For the identification of a vessel of the United States, the Secretary of Transportation—

"(1) shall maintain a unique numbering system and assign a number to each vessel of the United States;

"(2) may maintain a system of signal letters for a documented vessel;

"(3) shall record a name selected by the owner of a documented vessel approved by the Secretary as the vessel's name of record; and

"(4) may establish other identification markings.

"(b) The manufacturer or owner of a vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned and any other markings the Secretary may require.

"(c) Once a number is assigned under this section, it may not be used by another vessel.

"(d) Once a documented vessel's name is established, the name may not be changed without the approval of the Secretary.

"(e) A person may not tamper with or falsify a number or other marking required under this section.

"§ 12503. Information available to the system

"(a) Except as provided in subsections (b) and (c) of this section, a State or a State's delegee approved by the Secretary of Transportation may make information available to the Secretary if, in a manner and form prescribed by the Secretary, the State—

"(1) identifies the vessel;

"(2) identifies the owner of the vessel;

"(3) identifies the State in which it is titled or numbered;

"(4) indicates whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicates where evidence of a lien or other security interest may be found against the vessel in that State;

"(6) includes information to assist law enforcement; and

"(7) includes other information agreed to by the Secretary and the State.

"(b) Except as provided in subsection (c) of this section, the Secretary also may accept information under conditions and in a manner and form prescribed by the Secretary.

"(c) The Secretary shall—

"(1) retain information on a vessel with a preferred mortgage under section 31322(d) of this title that is no longer titled in a State making information available to the Secretary under this chapter until the mortgage is discharged or the vessel is sold; and

"(2) accept information under section 31321(h) of this title only if that information cannot be provided to a State.

"§12504. Information available from the system

"For law enforcement or other purposes and under conditions prescribed by the Secretary, the Secretary of Transportation—

"(1) shall make available information in the vessel identification system to a State making information available under section 12503(a) of this title; and

"(2) may make available information in the vessel identification system to others.

"§12505. Fees

"(a) The Secretary of Transportation may charge a fee under section 9701 of title 31 for providing information to or requesting information from the vessel identification system, except to—

"(1) an agency; or

"(2) a State making information available to the Secretary under section 12503(a) of this title.

"(b) In addition to any fee under subsection (a) of this section, the Secretary may collect an annual fee of not more than $1.00 from the owner of each vessel of the United States under section 9701 of title 31 for maintaining the vessel identification system. However, the collection of that fee may be delayed under conditions prescribed by the Secretary.

"(c) The Secretary may employ any agency, State, or person to collect the fee established under subsection (b) of this section.

"(d) If a State is employed to collect a fee under subsection (c) of this section, the State may retain one-half of the amounts collected. A State shall transfer one-half of the amounts collected under subsection (b) of this section to the Secretary.

"(e) The Secretary shall deposit amounts transferred or collected under this section in the general fund of the Treasury as proprietary receipts of the Secretary and ascribed to the vessel identification system.

"(f) The amounts retained by a State under this section may be used to make information available to the Secretary and to pay incremental administrative costs.

"§ 12506. Delegation of authority

"The Secretary of Transportation may delegate to an agency, a State, or a qualified person the authority to—

"(1) establish and maintain the vessel identification system; and

"(2) charge fees under section 12505 of this title to a person making information available to or requesting information from the vessel identification system.

"§ 12507. Penalties

"(a) A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person with the intent to defraud—

"(1) provides false information to the Secretary of Transportation or a State issuing authority regarding the identification of a vessel under this chapter; or

"(2) tampers with, removes, or falsifies the unique vessel identification number assigned to a vessel under section 12502 of this title.

"(b) A person is liable to the United States Government for a civil penalty of not more than $10,000 if the person—

"(1) provides false information to the Secretary or a State issuing authority regarding the identification of a vessel under this chapter;

"(2) violates section 12502 of this title; or

"(3) fails to comply with requirements prescribed by the Secretary under section 12505 of this title.

"(c) A vessel involved in a violation of this chapter, or regulation under this chapter, and its equipment, may be seized by, and forfeited to, the Government.

"(d) If a person, not an individual, is involved in a violation of this chapter, the president or chief executive of the person also is subject to any penalty provided under this section.".

(b) The title analysis at the beginning of subtitle II of title 46, United States Code, is amended by adding after item 123 in part H:

"125. Vessel Identification System........... 12501".

CHAPTERS 301 AND 313 OF TITLE 46.—

SEC. 102. (a) Certain general and permanent laws of the United States, related to definitions and maritime commercial instruments and liens, are revised, consolidated, and enacted by paragraph (3) of this subsection as subtitle III of title 46, United States Code, "Shipping".

(b) The title analysis at the beginning of title 46, United States Code, is amended to read as follows:

"Subtitle	Sec.
"I. GENERAL	101
"II. VESSELS AND SEAMEN	2101
"III. MARITIME LIABILITY	30101
"[BALANCE OF TITLE RESERVED]"	

(c) Title 46, United States Code, is amended by adding at the end of the following new subtitle:

"SUBTITLE III—MARITIME LIABILITY

"Chapter	Sec.
"301. GENERAL	30101
"[CHAPTERS 303–311—RESERVED]	
"313. COMMERCIAL INSTRUMENTS AND MARITIME LIENS	31301
"[CHAPTER 315—RESERVED]	

"CHAPTER 301—GENERAL

"Sec.

"30101. Definitions.

"§ 30101. Definitions

"In this subtitle—

"(1) 'documented vessel' means a vessel documented under chapter 121 of this title;

"(2) 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country;

"(3) 'public vessel' means (except in chapter 315 of this title) a vessel that is owned, demise chartered, or operated by the United States Government or a government of a foreign country;

"(4) 'recreational vessel' means a vessel—

"(A) operated primarily for pleasure; or

"(B) leased, rented, or demise chartered to another for the latter's pleasure;

"(5) 'seaman' means a master or a crewmember of a vessel in operation.

"(6) 'State' means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States;

"(7) 'State vessel' means a vessel owned or demise chartered by the government of a State or an authority or a political subdivision of a State;

"(8) 'United States', when used in a geographic sense, means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

"(9) 'vessel of the United States' means a vessel documented under chapter 121 of this title, numbered under chapter 123 of this title, or titled under the law of a State.

"[CHAPTERS 303–311—RESERVED]

"CHAPTER 313—COMMERCIAL INSTRUMENTS AND MARITIME LIENS

"SUBCHAPTER I—GENERAL

"Sec.

"31301. Definitions.

"31302. Availability of instruments, copies, and information.

"31303. Certain civil actions not authorized.

"31304. Liability for noncompliance.

"31305. Waiver of lien rights.

"31306. Declaration of citizenship.

"31307. State statutes superseded.

"31308. Secretary of Commerce or Transportation as mortgagee.
"31309. General civil penalty.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"31321. Filing, recording, and discharge.
"31322. Preferred mortgages.
"31323. Disclosing and incurring obligations before executing preferred mortgages.
"31324. Retention and examination of mortgages of vessels covered by preferred mortgages.
"31325. Preferred mortgage liens and enforcement.
"31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims.
"31327. Forfeiture of mortgagee interest.
"31328. Limitations on parties serving as trustees of mortgaged vessel interests.
"31329. Court sales of documented vessels.
"31330. Penalties.

"SUBCHAPTER III—MARITIME LIENS

"31341. Persons presumed to have authority to procure necessaries.
"31342. Establishing maritime liens.
"31343. Recording and discharging liens on preferred mortgage vessels.

"SUBCHAPTER I—GENERAL

"§ 31301. Definitions

"In this chapter—

"(1) 'acknowledge' means making—

"(A) an acknowledgment or notarization before a notary public or other official authorized by a law of the United States or a State to take acknowledgments of deeds; or

"(B) a certificate issued under the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, 1961.

"(2) 'district court' means—

"(A) a district court of the United States (as defined in section 451 of title 28);

"(B) the District Court of Guam;

"(C) the District Court of the Virgin Islands;

"(D) the District Court for the Northern Mariana Islands;

"(E) the High Court of American Samoa; and

"(F) any other court of original jurisdiction of a territory or possession of the United States.

"(3) 'mortgagee' means—

"(A) a person to whom property is mortgaged; or

"(B) when a mortgage on a vessel involves a trust, the trustee that is designated in the trust agreement.

"(4) 'necessaries' includes repairs, supplies, towage, and the use of a dry dock or marine railway.

"(5) 'preferred maritime lien' means a maritime lien on a vessel—

"(A) arising before a preferred mortgage was filed under section 31321 of this title;

"(B) for damage arising out of maritime tort;

"(C) for wages of a stevedore when employed directly by a person listed in section 31341 of this title;

"(D) for wages of the crew of the vessel;

"(E) for general average; or

"(F) for salvage, including contract salvage.

"(6) 'preferred mortgage'—

"(A) means a mortgage that is a preferred mortgage under section 31322 of this title; and

"(B) also means in sections 31325 and 31326 of this title, a mortgage, hypothecation, or similar charge that is established as a security on a foreign vessel if the mortgage, hypothecation, or similar charge was executed under the laws of the foreign country under whose laws the ownership of the vessel is documented and has been registered under those laws in a public register at the port of registry of the vessel or at a central office.

"§ 31302. Availability of instruments, copies, and information

"The Secretary of Transportation shall—

"(1) make any instrument filed or recorded with the Secretary under this chapter available for public inspection;

"(2) on request, provide a copy, including a certified copy, of any instrument made available for public inspection under this chapter; and

"(3) on request, provide a certificate containing information included in an instrument filed or recorded under this chapter.

"§ 31303. Certain civil actions not authorized

"If a mortgage covers a vessel and additional property that is not a vessel, this chapter does not authorize a civil action in rem to enforce the rights of the mortgagee under the mortgage against the additional property.

"§ 31304. Liability for noncompliance

"(a) If a person makes a contract secured by, or on the credit of, a vessel covered by a mortgage filed or recorded under this chapter and sustains a monetary loss because the mortgagor or the master or other individual in charge of the vessel does not comply with a requirement imposed on the mortgagor, master, or individual under this chapter, the mortgagor is liable for the loss.

"(b) A civil action may be brought to recover for losses referred to in subsection (a) of this section. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court shall award costs and attorney fees to the plaintiff.

"§ 31305. Waiver of lien rights

"This chapter does not prevent a mortgagee or other lien holder from waiving or subordinating at any time by agreement or otherwise the lien holder's right to a lien, the priority or, if a preferred mortgage lien, the preferred status of the lien.

"§ 31306. Declaration of citizenship

"(a) When an instrument transferring an interest in a vessel is presented to the Secretary of Transportation for filing or recording, the transferee shall file with the instrument a declaration, in the form the Secretary may prescribe by regulation, stating information about citizenship and other information the Secretary may require to show the transaction involved does not violate section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).

"(b) A declaration under this section filed by a corporation must be signed by its president, secretary, treasurer, or other official authorized by the corporation to execute the declaration.

"(c) An instrument transferring an interest in a vessel is not valid against any person until the declaration required by this section has been filed.

"(d) A person knowingly making a false statement of a material fact in a declaration filed under this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"§ 31307. State statutes superseded

"This chapter supersedes any State statute conferring a lien on a vessel to the extent the statute establishes a claim to be enforced by a civil action in rem against the vessel for necessaries.

"§ 31308. Secretary of Commerce or Transportation as mortgagee

"When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary may foreclose on a lien arising from a right established under a mortgage under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241 et seq.), subject to section 362(b) of title 11.

"§ 31309. General civil penalty

"Except as otherwise provided in this chapter, a person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"§ 31321. Filing, recording, and discharge

"(a)(1) A bill of sale, conveyance, mortgage, assignment, or related instrument, whenever made, that includes any part of a documented vessel or a vessel for which an application for documentation is filed, must be filed with the Secretary of Transportation to be valid, to the extent the vessel is involved, against any person except—

"(A) the grantor, mortgagor, or assignor;

"(B) the heir or devisee of the grantor, mortgagor, or assignor; and

"(C) a person having actual notice of the sale, conveyance, mortgage, assignment, or related instrument.

"(2) Each bill of sale, conveyance, mortgage, assignment, or related instrument that is filed in substantial compliance with this section is valid against any person from the time it is filed with the Secretary.

"(3) The parties to an instrument or an application for documentation shall use diligence to ensure that the parts of the instrument or application for which they are responsible are in substantial compliance with the filing and documentation requirements.

"(b) To be filed, a bill of sale, conveyance, mortgage, assignment, or related instrument must—

"(1) identify the vessel;

"(2) state the name and address of each party to the instrument;

"(3) state, if a mortgage, the amount of the direct or contingent obligations (in one or more units of account as agreed to by the parties) that is or may become secured by the mortgage, excluding interest, expenses, and fees;

"(4) state the interest of the grantor, mortgagor, or assignor in the vessel;

"(5) state the interest sold, conveyed, mortgaged, or assigned; and

"(6) be signed and acknowledged.

"(c) If a bill of sale, conveyance, mortgage, assignment, or related document is filed that involves a vessel that has not yet been documented, and the Secretary decides that the vessel cannot be documented by an applicant—

"(1) the Secretary shall send notice of the Secretary's decision, including reasons for the decision, to each party whose name and address is stated on the instrument filed for recording; and

"(2) 90 days after sending the notice as provided under clause (1) of this subsection, the Secretary—

"(A) may terminate the filing; and

"(B) may return the instrument filed without recording it under subsection (e) of this section.

"(d) A person may withdraw an application for documentation of a vessel for which a mortgage has been filed under this section only if the mortgagee consents.

"(e) The Secretary shall—

"(1) record the bills of sale, conveyances, mortgages, assignments, and related instruments of a documented vessel complying with subsection (b) of this section in the order they are filed; and

"(2) maintain appropriate indexes, for use by the public, of instruments filed or recorded, or both.

"(f) On full and final discharge of the indebtedness under a mortgage recorded under subsection (e)(1) of this section, a mortgagee, on request of the Secretary or mortgagor, shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary. The Secretary shall record the certificate.

"(g) The mortgage or related instrument of a vessel covered by a preferred mortgage under section 31322(d) of this title, that is later filed under this section at the time an application for documentation is filed, is valid under this section from the time the mortgage or instrument representing financing became a preferred mortgage under section 31322(d).

"(h) On full and final discharge of the indebtedness under a mortgage deemed to be a preferred mortgage under section 31322(d) of this title, a mortgagee, on request of the Secretary, a State, or mortgagor, shall provide the Secretary or the State, as appropriate, with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary or the State, as applicable. If filed with the Secretary, the Secretary shall enter that information in the vessel identification system under chapter 125 of this title.

"§31322. Preferred mortgages

"(a)(1) A preferred mortgage is a mortgage, whenever made, that—

"(A) includes the whole of a vessel;

"(B) is filed in substantial compliance with section 31321 of this title;

"(C)(i) covers a documented vessel; or

"(ii) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter; and

"(D) has as the mortgagee—

"(i) a State;

"(ii) the United States Government;

"(iii) a federally insured depository institution, unless disapproved by the Secretary;

"(iv) an individual who is a citizen of the United States;

"(v) a person qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); or

"(vi) a person approved by the Secretary of Transportation.

"(2) Paragraph (1)(D) of this subsection does not apply to a vessel operated only as a fishing vessel, fish processing vessel, or a fish tender vessel (as defined in section 2101 of this title) or to a vessel operated only for pleasure.

"(b) A preferred mortgage filed or recorded under this chapter may have any rate of interest that the parties to the mortgage agree to.

"(c)(1) If a preferred mortgage includes more than one vessel or property that is not a vessel, the mortgage may provide for the separate discharge of each vessel and all property not a vessel by the payment of a part of the mortgage indebtedness.

"(2) If a vessel covered by a preferred mortgage that includes more than one vessel or property that is not a vessel is to be sold on the order of a district court in a civil action in rem, and the mortgage does not provide for separate discharge as provided under paragraph (1) of this subsection—

"(A) the mortgage constitutes a lien on that vessel in the full amount of the outstanding mortgage indebtedness; and

"(B) an allocation of mortgage indebtedness for purposes of separate discharge may not be made among the vessel and other property covered by the mortgage.

"(d)(1) A mortgage or instrument representing financing of a vessel under State law that is made under applicable State law covering the whole of a vessel titled in a State is deemed to be a preferred mortgage if—

"(A) the Secretary certifies that the State titling system complies with the Secretary's guidelines for a titling system under section 13106(b)(8) of this title; and

"(B) information on the vessel covered by the mortgage or instrument is made available to the Secretary under chapter 125 of this title.

"(2) This subsection applies to mortgages or instruments covering vessels titled in a State after—

"(A) the Secretary's certification under paragraph (1)(A) of this subsection; and

"(B) the State begins making information available to the Secretary under chapter 125 of this title.

"(3) A preferred mortgage under this subsection continues to be a preferred mortgage if the vessel is no longer titled in the State where the mortgage was made.

"(e) If a vessel is already covered by a preferred mortgage when an application for titling or documentation is filed—

"(1) the validity of the preferred mortgage covering the vessel to be titled in the State is determined by the law of the jurisdiction where the vessel is currently titled or documented; and

"(2) the validity of the preferred mortgage covering the vessel to be documented under chapter 121 is determined by subsection (a) of this section.

"§ 31323. Disclosing and incurring obligations before executing preferred mortgages

"(a) On request of the mortgagee and before executing a preferred mortgage, the mortgagor shall disclose in writing to the mortgagee the existence of any obligation known to the mortgagor on the vessel to be mortgaged.

"(b) After executing a preferred mortgage and before the mortgagee has had a reasonable time to file the mortgage, the mortgagor may not incur, without the consent of the mortgagee, any contractual obligation establishing a lien on the vessel except a lien for—

"(1) wages of a stevedore when employed directly by a person listed in section 31341 of this title.

"(2) wages for the crew of the vessel.

"(3) general average.

"(4) salvage, including contract salvage.

"(c) On conviction of a mortgagor under section 31330(a)(1) (A) or (B) of this title for violating this section, the mortgage indebtedness, at the option of the mortgagee, is payable immediately.

"§ 31324. Retention and examination of mortgages of vessels covered by preferred mortgages

"(a) On request, the owner, master, or individual in charge of a vessel covered by a preferred mortgage shall permit a person to examine the mortgage if the person has business with the vessel that may give rise to a maritime lien or the sale, conveyance, mortgage, or assignment of a mortgage of the vessel.

"(b) A mortgagor of a preferred mortgage covering a self-propelled vessel shall use diligence in keeping a certified copy of the mortgage on the vessel.

"§ 31325. Preferred mortgage liens and enforcement

"(a) A preferred mortgage is a lien on the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

"(b) On default of any term of the preferred mortgage, the mortgagee may enforce the preferred mortgage lien in—

"(1) a civil action in rem for a documented vessel or a vessel to be documented under chapter 121 of this title;

"(2) a civil action in personam in admiralty against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness; and

"(3) a civil action against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness.

"(c) The district courts have original jurisdiction of a civil action brought under subsection (b) of this section. However, for documented vessels or vessels to be documented under chapter 121 of this title, this jurisdiction is exclusive of the courts of the States for a civil action under subsection (b)(1) of this section.

"(d)(1) Actual notice of a civil action brought under subsection (b)(1) of this section, or to enforce a maritime lien, must be given in the manner directed by the court to—

"(A) the master or individual in charge of the vessel;

"(B) any person that recorded under section 31343 (a) or (d) of this title a notice of a claim of an undischarged lien on the vessel; and

"(C) a mortgagee of a mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

"(2) Notice under paragraph (1) of this subsection is not required if, after search satisfactory to the court, the person entitled to the notice has not been found in the United States.

"(3) Failure to give notice required by this subsection does not affect the jurisdiction of the court in which the civil action is brought. However, unless notice is not required under paragraph (2) of this subsection, the party required to give notice is liable to the person not notified for damages in the amount of that person's interest in the vessel terminated by the action brought under subsection (b)(1) of this section. A civil action may be brought to recover the amount of the terminated interest. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court may award costs and attorney fees to the plaintiff.

"(e) In a civil action brought under subsection (b)(1) of this section—

"(1) the court may appoint a receiver and authorize the receiver to operate the mortgaged vessel and shall retain in rem jurisdiction over the vessel even if the receiver operates the vessel outside the district in which the court is located; and

"(2) when directed by the court, a United States marshal may take possession of a mortgaged vessel even if the vessel is in the possession or under the control of a person claiming a possessory common law lien.

"§ 31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims

"(a) When a vessel is sold by order of a district court in a civil action in rem brought to enforce a preferred mortgage lien or a maritime lien, any claim in the vessel existing on the date of sale is terminated, including a possessory common law lien of which a person is deprived under section 31325(e)(2) of this title, and the vessel is sold free of all those claims.

"(b) Each of the claims terminated under subsection (a) of this section attaches, in the same amount and in accordance with their priorities to the proceeds of the sale, except that—

"(1) the preferred mortgage lien has priority over all claims against the vessel (except for expenses and fees allowed by the court, costs imposed by the court, and preferred maritime liens); and

"(2) for a foreign vessel, the preferred mortgage lien is subordinate to a maritime lien for necessaries provided in the United States.

"§ 31327. Forfeiture of mortgagee interest

"The interest of a mortgagee in a documented vessel or a vessel covered by a preferred mortgage under section 31322(d) of this title may be terminated by a forfeiture of the vessel for a violation of a law of the United States only if the mortgagee authorized, consented, or conspired to do the act, failure, or omission that is the basis of the violation.

"§ 31328. Limitations on parties serving as trustees of mortgaged vessel interests

"(a) Without the approval of the Secretary of Transportation, an instrument or evidence of indebtedness secured by a mortgage of a documented vessel to a trustee may not be issued, assigned, or transferred to, or held in trust for, a person not qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), unless the trustee—

"(1) is a State;

"(2) is the United States Government;

"(3) is a person approved by the Secretary and qualifying as a citizen of the United States under that section 2; or

"(4) has been approved by the Secretary.

"(b) The Secretary shall approve a trustee under subsection (a) (3) or (4) of this section if the trustee—

"(1) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

"(2) is authorized under those laws to exercise corporate trust powers;

"(3) is subject to supervision or examination by an official of the United States Government or a State;

"(4) has a combined capital and surplus (as stated in its most recent published report of condition) of at least $3,000,000; and

"(5) if the trustee is to be approved under subsection (a)(4) of this section, meets any other requirements prescribed by the Secretary.

"(c) If the trustee at any time does not satisfy the qualifications of subsection (b) of this section, the Secretary shall disapprove the trustee.

"(d) Except as provided in subsection (a) of this section, a right under a mortgage of a documented vessel may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322 of this title only with the approval of the Secretary.

"(e) The vessel may be operated by the trustee only with the approval of the Secretary.

"(f) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this section is void.

"§ 31329. Court sales of documented vessels

"(a) A documented vessel may be sold by order of a district court only to—

"(1) a person eligible to own a documented vessel under section 12102 of this title; or

"(2) a mortgagee of that vessel.

"(b) When a vessel is sold to a mortgagee not eligible to own a documented vessel—

"(1) the vessel must be held by the mortgagee for resale;

"(2) the vessel held by the mortgagee is subject to section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(3) the sale of the vessel to the mortgagee is not a sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).

"(c) Unless waived by the Secretary of Transportation, a person purchasing a vessel by court order under subsection (a)(1) of this section or from a mortgagee under subsection (a)(2) of this section must document the vessel under chapter 121 of this title.

"(d) The vessel may be operated by the mortgagee not eligible to own a documented vessel only with the approval of the Secretary.

"(e) A sale of a vessel contrary to this section is void.

"§ 31330. Penalties

"(a)(1) A mortgagor shall be fined under title 18, imprisoned for not more than 2 years, or both, if the mortgagor—

"(A) with intent to defraud, does not disclose an obligation on a vessel as required by section 31323(a) of this title;

"(B) with intent to defraud, incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) with intent to hinder or defraud an existing or future creditor of the mortgagor or a lienor of the vessel, files a mortgage with the Secretary of Transportation; or

"(D) with intent to defraud, does not comply with section 31321(h) of this title.

"(2) A mortgagor is liable to the United States Government for a civil penalty of not more than $10,000 if the mortgagor—

"(A) does not disclose an obligation on a vessel as required by section 31323(a) of this title;

"(B) incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) files with the Secretary a mortgage made not in good faith; or

"(D) does not comply with section 31321(h) of this title.

"(b)(1) A person that knowingly violates section 31328 or 31329 of this title shall be fined under title 18, imprisoned for not more than 3 years, or both.

"(2) A person violating section 31328 or 31329 of this title is liable to the Government for a civil penalty of not more than $25,000.

"(3) A vessel involved in a violation under section 31328 or 31329 of this title and its equipment may be seized by, and forfeited to, the Government.

"(c) If a person not an individual violates this section, the president or chief executive of the person also is subject to any penalty provided under this section.

"SUBCHAPTER III—MARITIME LIENS

"§ 31341. Persons presumed to have authority to procure necessaries

"(a) The following persons are presumed to have authority to procure necessaries for a vessel:

"(1) the owner.

"(2) the master.

"(3) a person entrusted with the management of the vessel at the port of supply.

"(4) an officer or agent appointed by—

"(A) the owner;

"(B) a charterer;

"(C) an owner pro hac vice; or

"(D) an agreed buyer in possession of the vessel.

"(b) A person tortiously or unlawfully in possession or charge of a vessel has no authority to procure necessaries for the vessel.

"§ 31342. Establishing maritime liens

"A person providing necessaries to a vessel (except a public vessel) on the order of a person listed in section 31341 of this title or a person authorized by the owner—

"(1) has a maritime lien on the vessel;

"(2) may bring a civil action in rem to enforce the lien; and

"(3) is not required to allege or prove in the action that credit was given to the vessel.

"§ 31343. Recording and discharging liens on preferred mortgage vessels

"(a) Except as provided under subsection (d) of this section, a person claiming a lien on a vessel covered by a preferred mortgage filed or recorded under this chapter may record with the Secretary of Transportation a notice of that person's lien claim on the vessel. To be recordable, the notice must—

"(1) state the nature of the lien;

"(2) state the date the lien was established;

"(3) state the amount of the lien;

"(4) state the name and address of the person; and

"(5) be signed and acknowledged.

"(b) The Secretary shall record a notice complying with subsection (a) of this section

"(c) On full and final discharge of the indebtedness that is the basis for a claim recorded under subsection (b) of this section, on request of the Secretary or owner, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

"(d) A person claiming a lien on a vessel covered by a preferred mortgage under section 31322(d) of this title must record and discharge the lien as provided by the law of the state in which the vessel is titled.

"[CHAPTER 315—RESERVED]".

SURRENDER AND INVALIDATION OF CERTIFICATES OF DOCUMENTATION

SEC. 103. (a) Section 12111 of title 46, United States Code, is amended—

(1) by striking the catchline and inserting in lieu thereof the following:

"**§ 12111. Surrender and invalidation of certificates of documentation**"; and

(2) by striking subsection (b) and inserting in lieu thereof the following:

"(b) An invalid certificate of documentation must be surrendered as provided by regulations prescribed by the Secretary of Transportation.

"(c)(1) Notwithstanding subsection (a) of this section, until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

"(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

"(B) sections 9 and 37(b) of the Shipping Act, 1916 (46 App. U.S.C. 808, 835(b));

"(C) section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(D) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

"(2) This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

"(3) The Secretary may approve the surrender of the certificate of documentation of a documented vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.".

(b) Item 12111 in the analysis of chapter 121 of title 46, United States Code, is amended to read as follows:

"12111. Surrender and invalidation of certificates of documentation.".

MISCELLANEOUS AND CONFORMING PROVISIONS

SEC. 104. (a) Title 46, United States Code, is amended—

(1) in section 2101(34), by inserting ", except in part H," immediately before "means";

(2) in section 2101(46), by striking the period at the end and inserting in lieu thereof "or titled under the law of a State.";

(3) in section 2110, by striking "the licensing of masters, mates, pilots, and engineers, and the documentation of vessels," and inserting in lieu thereof "and the licensing of masters, mates, pilots, and engineers,";

(4) in sections 12102(b), 12103(a), 12105(c), 12110(a), 12112 (a), (b), and (c), 12117, 12119, and 12120, by inserting "of Transportation" immediately after "Secretary" the first time it appears;

(5) in section 12102, by adding at the end of the following:

"(c) A vessel titled in a State is eligible for documentation only if the State certificate of title is surrendered."; and

(6) in section 12103(c), by amending clause (1) to read as follows:

"(1) identify and describe the vessel;".

(b) Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), is amended—

(1) in the first paragraph, by inserting "(a)" immediately after "SEC. 9.";

(2) in the second paragraph, by inserting "(b)" immediatley before "Every vessel"; and

(3) by striking the third, fourth, and fifth paragraphs and inserting in lieu thereof the following:

"(c) Except as provided in section: 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181) and sections 31322(a)(1)(D) and 31328 of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—

"(1) sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel (except in a vessel that has been operated only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of title 46, United States Code or in a vessel that has been operated only for pleasure) owned by a citizen of the United States; or

"(2) place a documented vessel under foreign registry or operate that vessel under the authority of a foreign country.

"(d)(1) Any charter, sale, transfer, or mortgage of a vessel, or interest or control in that vessel, contrary to this section is void.

"(2) A person that knowingly charters, sells, transfers, or mortgages a vessel, or interest or control in that vessel, contrary to this section shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

"(3) A documented vessel may be seized by, and forfeited to, the United States Government if—

"(A) the vessel is placed under foreign registry or operated under the authority of a foreign country contrary to this section; or

"(B) a person knowingly charters, sells, transfers, or mortgages a vessel, or interest or control in that vessel, contrary to this section.".

(c) The first sentence of section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242), is amended by striking "or under construction" and inserting in lieu thereof "a documented vessel, or a vessel under construction".

(d) Section 1101(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(a)), is amended to read as follows:

"(a) The term 'mortgage' includes—

"(1) a preferred mortgage as defined in section 31301 of title 46, United States Code; and

"(2) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of title 46, United States Code;".

(e)(1) Before January 1, 1992, the annual fee under section 12505 of title 46, United States Code (as enacted by section 101 of this Act), is $1.00.

(2) To establish, centralize, and computerize records and other information maintained under chapters 121, 125, and 313 of title 46, United States Code, from the effective date of this title through September 30, 1993, the Secretary of Transportation shall spend (out of amounts appropriated for the Department of Transportation under an appropriations law) not less than an amount that is equal to the amounts estimated to be—

(A) collected under section 9701 of title 31, United States Code, for fees paid for services and things of value provided under chapter 313 of title 46, United States Code (as enacted by section 101 of this Act), and for documenting vessels under chapter 121 of title 46; and

(B) transferred to or collected by the Secretary under chapter 125 of title 46, United States Code (as enacted by section 101 of this Act).

(f) Section 12502(a)(1) of title 46, United States Code (as enacted by section 101 of this Act), applies to a vessel of the United States that does not have a unique number as prescribed by the Secretary of Transportation under that section until the earlier of the following:

(1) the next time the vessel is documented, numbered, or titled.

(2) January 1, 1995.

(g) Nothing in this section requires the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment to carry out chapter 125 of title 46, United States Code (as enacted by section 101 of this Act), except to the extent that appropriations are made available in an appropriations law for the Department of Transportation.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 105. (a) A reference to a law replaced by section 102 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this Act.

(b) An order, rule, or regulation in effect under a law replaced by section 102 of this Act continues in effect under the corresponding provision of this Act until repealed, amended, or superseded.

(c) An action taken or an offense committed under a law replaced by section 102 of this Act is deemed to have been taken or committed under the corresponding provision of this Act.

(d) An inference of legislative construction is not to be drawn by reason of the caption or catch line of a provision enacted by section 102 of this Act.

(e) If a provision of this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid aplications that are severable from any of the invold applications.

REPEALS

SEC. 106. (a) The repeal of a law by this title may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(b) The following laws are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this title:

(1) sections 40, and 42 of the Shipping Act, 1916 (46 App. U.S.C. 838, 840).

(2) section 30 of the Merchant Marine Act, 1920 (46 App. U.S.C. 911-984).

(3) the Act of February 16, 1925 (46 Ap. U.S.C. 1011-1014).

(4) Reorganization Plan No. 1 of 1967 (46 App. U.S.C. 961 (note)).

(5) Sections 12109(c), 12113, 12114, 12115, 12116, 12118, and 12121 of title 46, United States Code.

EFFECTIVE DATES

SEC. 107. (a) This title and amendments made by this title take effect on January 1, 1989. However, sections 31321 and 31322 of title 46 (enacted by section 102 of this Act), United States Code (as sections 31321 and 32322 apply to vessels for which an application for documentation has been filed), take effect on January 1, 1990.

(b) An instrument filed before January 1, 1989, but not recorded before that date, is deemed to comply with section 31321 of title 46, United States Code, if it is in substantial compliance with the provisions in that section that had corresponding requirements under the law on December 31, 1988. However, the mortgage may not become a preferred mortgage until the vessel is documented.

(c) This title and the amendments made by this title do not affect the validity of any instrument filed or recorded before January 1, 1989, if there was a corresponding requirement under the law on December 31, 1988.

(d) An instrument filed or recorded before January 1, 1989, is deemed to comply with any new requirement under chapter 313 of title 46, United States Code (as enacted by section 102 of this Act), affecting the validity of that instrument.

(e) Section 102 of this Act and amendments made by that section do not affect any civil action filed before January 1, 1989.

(f) Section 104(b) of this Act and the amendments made by section 104(b) of this Act do not apply to any change in control resulting from, or which may at any time result from, any proposed plan of reorganization filed under the United States bankruptcy laws prior to the date of enactment of this Act, except that transactions undertaken as a result of such a plan shall continue to be governed by section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), as it existed prior to the date of enactment of this Act, to the extent that such section 9 would have governed such transactions.

TITLE II—DOCUMENTATION AND REPEALS

COASTWISE AND FISHERIES DOCUMENTATION

SEC. 201. (a) Notwithstanding sections 12106 through 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) ALEUTIAN TRAWLER, United States official number 236979;

(2) ENCORE, United States official number 545162;

(3) FAIR TIDE, United States official number 644363;

(4) FREEDOM, United States official number 569163;

(5) PAVLOF, United States official number 597532;

(6) SUVA, United States official number 225008;

(7) RA, United States official number 655181;

(8) TE DE II, United States official number 572205;

(9) FRE-N-EZE, United States official number 659826;

(10) BETA LYRA, United States official number 679226;

(11) POLAR ICE, United States official number 604676;

(12) COMPASS ROSE III, United States official number 559647;

(13) SCOTCH 'N WATER, United States official number 264090;

(14) ERSA, United States official number 229511;

(15) GILBERT, United States official number 230568, with a restriction that this vessel may engage in the coastwise trade of the United States only for the purpose of moving barges filled with seafood waste and wastewater to designated ocean disposal sites from Port Canaveral, Florida;

(16) MARY L, United States official number 275311;

(17) ZB-6, United States official number 505317;

(18) KUT N OUT, hull identification number BERL1087M-80A-385-80 and Florida registration number FL7665FG;

(19) FOXY LADY III, United States official number 299818; and

(20) GIPSY, United States official number 903276.

(b) Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), and United States Department of Transportation Contract Numbered MA-6772 (IFB PD-X-945) and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V OCEAN TEMPEST (ex HORSESHOE SPLICE), United States official number 248773, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: Provided, That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

REPEAL OF OBSOLETE LAWS

SEC. 202. The following laws related to shipping are repealed:

(1) the paragraph immediately before the heading "UNITED STATES VETERANS' BUREAU" in the first section of the Independent Offices Act, 1928 (46 App. U.S.C. 810a).

(2) the Act of July 3, 1926 (46 App. U.S.C. 817a).

(3) sections 3 and 4 of the Act of July 7, 1960 (46 App. U.S.C. 817b, 817c).

(4) sections 2, 4, 5, 16, 22, and 23 of the Merchant Marine Act, 1920 (46 App. U.S.C. 862-864, 874, 878, 879).

(5) section 2 of the Act of March 4, 1927 (46 App. U.S.C. 870a).

(6) the Act of April 16, 1934 (46 App. U.S.C. 870b-870d).

(7) section 2 of the Act of April 24, 1944 (46 App. U.S.C. 1128e-1).

(8) sections 203, 401-404, 716, 903, 904, 907, 1001-1005, and 1010-1012 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1113, 1141-1144, 1206, 1243, 1246, 1251-1255, 1260-1262).

(9) the first section and sections 2 and 3 of the Act of February 6, 1941 (46 App. U.S.C. 1119a, 1119b, 1214).

(10) the Act of June 12, 1960 (46 App. U.S.C. 1401-1413).

(11) section 7 of the Maritime Act of 1981 (46 App. U.S.C. 1606).

TRANSFER OF THE COAST GUARD CUTTER INGHAM

SEC. 203. The Secretary of the department in which the Coast Guard is operating shall transfer the Coast Guard cutter INGHAM to the Naval and Maritime Museum at Patriots Point, South Carolina. The Secretary shall transfer the INGHAM along with such equipment and in such condition as the Secretary considers appropriate. The Secretary shall make the transfer upon the decommissioning of the INGHAM or at a later time as determined appropriate by the Secretary.

RENTAL OF SOUND RECORDINGS

DECONCINI AMENDMENT NO. 3755

Mr. BYRD (for Mr. DECONCINI) proposed an amendment to the bill (H.R. 4310) to extend for an additional 5-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings; as follows:

On page 1, line 6, strike "ten" and insert in lieu thereof "thirteen".

DOLE (AND KASSEBAUM) AMENDMENT NO. 3756

Mr. McCONNELL (for Mr. DOLE and Mrs. KASSEBAUM) proposed an amendment to the bill (H.R. 4310) as follows:

At the appropriate place add the following:

SEC. 1 (a) The Secretary of Education (hereafter in this section referred to as the "Secretary") is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Kansas, located in Lawrence, Kansas, to pay for the cost of construction and related costs for a Biotechnology Research Center at the University of Kansas in order to serve as a catalyst for attracting research activity and industrial activity to that region of the country.

(b) No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $7,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

KENNEDY AMENDMENT NO. 3757

Mr. BYRD (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 4310) supra; as follows:

At appropriate place insert the following:

SECTION 1. EDUCATIONAL TELECOMMUNICATIONS MODEL DEMONSTRATION NETWORK AUTHORIZED.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Education is authorized, in accordance with the provisions of this section, to provide financial assistance to the Massachusetts Corporation for Educational Telecommunications located in Boston, Massachusetts, to pay part of the cost of the design of, construction of, and equipment for model educational telecommunications network and technology resource centers.

(b) APPLICATION.—No financial assistance may be made under this section unless an application is made to the Secretary, at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 in fiscal year 1989, and such sums as may be necessary in fiscal year 1990 and fiscal year 1991, to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

ARMSTRONG AMENDMENT NO. 3758

Mr. McCONNELL (for Mr. ARMSTRONG) proposed an amendment to the bill (H.R. 4310) supra; as follows:

At the appropriate place add the following:

SECTION . The National Mining Hall of Fame and Museum, organized and incorporated under the laws of Colorado, is hereby recognized as such and is granted a charter.

POWERS

SEC. . The National Mining Hall of Fame and Museum (hereafter in this Act referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. . The objects and purposes of the corporation are those provided in its articles of incorporation including—

(1) to honor citizens, mining leaders, miners, prospectors, teachers, scientists, engineers, inventors, governmental leaders, and other individuals, who have helped to make this Nation great by their outstanding contributions to the establishment, development, advancement, or improvement of mining in the United States of America;

(2) to perpetuate the memory of such individuals and record their contributions and achievements by the erection and maintenance of such buildings, monuments, and edifices as may be deemed appropriate as a lasting memorial;

(3) to foster, promote, and encourage a better understanding of the origins and growth of mining, especially in the United States, and the part mining has played in changing the economic, social, and scientific aspects of our Nation;

(4) to establish and maintain a library and museum for collecting and preserving for posterity, the history of those honored by the corporation, together with a documentation of their accomplishments and contributions to mining, including such items as mining pictures, paintings, books, papers, documents, scientific data, relics, mementos, artifacts, and things relating to such items;

(5) to cooperate with other mining organizations which are actively engaged and interested in similar projects; and

(6) to engage in any and all activities incidental thereto or necessary, suitable, or proper for the accomplishment of any of the purposes set forth in this section.

MEMBERSHIP

SEC. . Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. . The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. . The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. . (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare to pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Colorado.

LIABILITY

SEC. . The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SERVICE OF PROCESS

SEC. . With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

BOOKS AND RECORDS; INSPECTION

SEC. . The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. . The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(60) The National Mining Hall of Fame and Museum".

ANNUAL REPORT

SEC. . The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of the Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. . The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. . For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. . The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954.

TERMINATION

SEC. . If the corporation fails to comply with any of the restrictions or other provisions of this Act, the charter granted by this Act shall expire.

HOLLINGS AMENDMENT NO. 3759

Mr. BYRD (for Mr. HOLLINGS) proposed an amendment to the bill, H.R. 4310, supra; as follows:

At the end of the bill, add the following new section:

SEC. . That part of title I of Public Law 100-202 under the heading "National Park Service" and the subheading "Operation of the National Park System" (101 Stat. 1329-218) which reads "and for purchase of the vacant lot on the north side of Irwin Street between Jackson and Boulevard for a landscaped parking lot:" is deleted and there is inserted in lieu thereof the following: "and for the purchase by the Martin Luther King, Jr., Center for Nonviolent Social Change, Inc., in consultation with the National Park Service, of property within the Martin Luther King, Jr., National Historic Site or Preservation District, consistent with Federal and State preservation laws, for the construction of a landscaped parking lot:".

THURMOND AMENDMENT NO. 3760

Mr. McCONNELL (for Mr. THURMOND) proposed an amendment to the bill, H.R. 4310, supra; as follows:

At the appropriate place, insert the following new section:

HEALTH AND HUMAN RESOURCES CENTER AUTHORIZED

SEC. 1. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized, in accordance with the provisions of this section, to provide financial assistance to Voorhees College, located in Denmark, South Carolina, to pay the cost of construction and related costs for a Health and Human Resources Center at Voorhees College.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or ccompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $4,500,000, as may be ncessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Thursday, December 1, 1988, at 9:30 a.m. in SR332 to receive testimony on the potential impact of global warming on agriculture.

For further information, please contact Jim Phippard of the committee staff at 224-2035.

ADDITIONAL STATEMENTS

JUSTICE DEPARTMENT FOOT-DRAGGING ON JUDICIAL NOMINATIONS

● Mr. LEAHY. Mr. President, last Friday the Senate confirmed several nominations to the Federal courts. Among these was the nomination of Paul V. Gadola to be U.S. District Judge for the Eastern District of Michigan.

This nomination was pending before the Judiciary Committee longer than any other Federal judicial nomination in this Congress. Some have cited this nomination as evidence of a "stall" in the processing of judicial nominations by the committee. This is not the case. Nearly all the delay in acting on the Gadola nomination is attributable to foot-dragging and outright stalling, not by the Judiciary Committee, but by the Department of Justice.

Members of the Judiciary Committee are well aware of the reasons why the committee could not act more promptly on this nomination. The nominee himself is also aware of the reasons. However, it would be useful to set forth the chronology of this nomination in the CONGRESSIONAL RECORD, not only to set the record straight, but also to emphasize the recurring problem of Justice Department obstruction of the committee's efforts on judicial nominations throughout this Congress. Unfortunately, the Gadola nomination is not the only example of this obstructive behavior.

The vacancy to which Paul Gadola was nominated occurred on March 1, 1986, when Judge John Feikens of the Eastern District of Michigan retired. Mr. Gadola was not nominated to fill this vacancy until April 23, 1987, nearly 14 months later. This period of delay, of course, is entirely attributable to the executive branch.

Within 3 weeks after the committee received Mr. Gadola's nomination, we reviewed the background report compiled by the FBI and noted several unresolved issues. At that time, on May 15, 1987, I wrote to the Justice Department to ask that the FBI be directed to conduct further investigation in an attempt to resolve these issues. That procedure is not the least bit unusual. But the Justice Department's response was surprising and perplexing, and caused additional unnecessary delay in acting on this nomination.

First, the Justice Department simply ignored the committee's request. We have been furnished a memo prepared by an FBI official which indicates that our request was not even forwarded from the Justice Department to the FBI until October 15, 1987, 5 months after it had been made.

Then the Justice Department responded by telling the committee that we already had the information we requested. We went through that response, point by point, and showed the Department we were right and they were wrong. And in December 1987, I once again asked the Department to provide the information we had requested the previous May.

Finally, the information began to trickle in. We received one packet of material in January of this year, another in February, more in March, more in April.

All during this year, as we obtained these piecemeal responses, we continued to press the Justice Department to finish the work we had originally asked them to do in May 1987. These requests came from members of the Judiciary Committee. They came from Senator RIEGLE, after I explained to him why a hearing had not yet been held on Mr. Gadola's nomination. In March, I wrote to Senator THURMOND and asked him to help prevail upon the Justice Department to respond to our requests.

Finally, on June 13, I stated publicly, at a hearing on another judicial nomination, that I was determined not to let foot-dragging by the Justice Depatment hold the Gadola nomination hostage. I stated that I planned to hold a hearing on this nomination during the month of June, whether or not the Justice Department had seen fit to respond to our year-old questions about unresolved issues in the original FBI report. The final part of the Justice Department's response was delivered to the committee the next day.

The hearing on the Gadola nomination was scheduled for June 29. When it appeared possible that the Senate would begin its Fourth of July recess early, I moved the hearing up 1 week, to make sure that the chance for a hearing was not jeopardized. In order to squeeze the hearing into the schedule, we had to set it at an unusually early hour in the morning. But I was determined that Mr. Gadola should have a chance to address the issues concerning his nomination.

Finally, on June 22, the hearing was held. This was 13 months after the committee first asked the Justice Department to conduct further investigation on this nomination, but only 8 days after a reasonably complete response was received from the Department. These responses, as they trickled in over the 5 months preceding the hearing, resolved some of the issues left open in the original FBI report. On June 22, Mr. Gadola had an opportunity to address the remaining issues on the public record.

I still do not understand why the Justice Department treated this nomination with such disregard for the process of advice and consent. I do not understand why the Department first ignored this committee's request, then stonewalled it, then sought to evade it, and only after 13 months fully responded to it.

I am not going to get into the specifics of the committee's requests, every one of which was made on a confidential basis. I will give just one example of the kind of request we made to the Justice Department on the Gadola nomination, and of the Department's response.

Every judicial nominee fills out a standard form 86, the same form used for security clearances. Mr. Gadola did so in 1986. For some reason, this form was not included in the initial background report on Mr. Gadola's nomination. The FBI's background investigation suggested that there may have been some inconsistencies between the information collected by the FBI and the nominee's responses on form 86. So, in its initial request on May 15, 1987, the committee asked for a copy of the form 86 completed by Mr. Gadola.

That was a simple request. The Department's response was anything but simple. First, as I mentioned, they took 5 months even to pass the request along to the FBI. Then, the FBI insisted—incorrectly—that the committee already had a copy of the form the nominee had completed. Then, on December 18, 1987, the FBI sent a copy of the form to the Justice Department. Finally, on January 6, 1988, the Justice Department sent us a copy of the form 86. It took the Department almost 8 months to give us a copy of this six-page form.

None of the other requests the committee made last May were particularly complex. We asked the Justice Department to obtain some material from public records, to conduct some further interviews of specified persons, and to undertake other conventional investigative activities. It took many months, and in some cases more than a year, to obtain a complete response.

Mr. President, the Justice Department's conduct in this matter has left me puzzled and disturbed. Their stonewalling and foot-dragging was certainly a disservice to Mr. Gadola personally, and to his nomination; but it also was a disservice to the advice and consent process.

What is most disturbing is that this was not an isolated instance. In several other nominations considered by the committee this year, the Justice Department was similarly unresponsive to legitimate requests of the Judiciary Committee for further investigation on issues highly relevant to the nomination. Let me offer a few examples:

Nomination of Charles R. Butler—southern district of Alabama: On August 10, 1988, the committee asked the FBI to conduct an investigation into some serious charges that had been made at a committee hearing on Mr. Butler's nomination. Three weeks later, after no response had been received, committee staff called to inquire about the status of the request. Only then did the committee learn that the FBI took the position that it could not or would not conduct most of the investigation requested on a timely basis. This stonewalling substantially delayed the committee's resolution of these issues. The committee has yet to receive a complete response to its request, and some of the partial responses were received as late as October 4, the very day the Senate voted on the Butler nomination.

Nomination of James McGregor—western district of Pennsylvania: As long ago as December 1987, a member of the committee requested that the FBI conduct additional investigation; parts of that investigation still have not been done today, although the requests have been reiterated numerous times by several members of the committee. A committee request for further investigative assistance, made on June 9, 1988, met with a similar response: Delay, inadequate responses, and in some cases an outright refusal to respond.

Nomination of Howard Levitt—eastern district of New York: On June 16, 1988, the committee requested the Justice Department to ask the FBI to interview four people in connection with this nomination. The committee did not receive a response to this simple request until August 5, almost 2 months later, and even then the FBI did not provide the committee with reports of several additional and significant interviews that it had conducted. It was only after the committee conducted its own investigation that we learned of these additional interviews and obtained copies of the FBI reports.

These are just a few examples. But they are indicative of the kind of cooperation the Judiciary Committee has gotten when it has called upon the Justice Department for assistance in its important job of reviewing judicial nominations. We have been evaded, we have been stalled, we have been stonewalled. And we have been accused, by the same Justice Department, of unwarranted delay in processing judicial nominations. The pot, in short, has called the kettle black.

Throughout this Congress, Justice Department officials constantly and baselessly accused the Judiciary Committee of unwarranted delay on judicial nominations. In the case of the nomination of Paul Gadola, and of a distressingly large proportion of other nominations, it is abundantly clear that the principal cause of delay was the Justice Department itself. As the committee reviews its record in this field in preparation for the 101st Congress, I believe that this recurring problem deserves careful study and prompt correction.●

THE MONTANA WILDERNESS ACT

● Mr. McCLURE. Mr. President, I rise to comment on two colloquies between Senators with respect to S. 2751, the Montana Wilderness Act. The first between Senator MELCHER and Senator WIRTH on page S16444 of the October 18, 1988, CONGRESSIONAL RECORD, occurred prior to passage of amendment No. 3716 regarding water rights and was therefore applicable to the bill prior to its amendment. As such it is totally irrelevant to the interpretation of the bill as finally passed by the Senate, other than to stand for an interpretation rejected by the Senate.

The second colloquy occurred subsequent to passage of amendment No. 3716 and was between Senator WIRTH and Senator BUMPERS, neither of whom were cosponsors of the amendment. I find this to be an interesting, but irrelevant piece of legislative history. Needless to say I completely disagree with the interpretations of Senator WIRTH. I note for the record that the contemporaneous statements of the majority floor manager and sponsor—Senator MELCHER—and myself—the minority floor manager and ranking Republican on the committee of jurisdiction—are accorded definitive weight in the interpretation of amendments. I would also note that Senator BUMPERS, the chairman of the Public Lands, National Parks, and Forests Subcommittee did not agree with any specific views of Senator WIRTH but merely "with many views expressed by Senator WIRTH on this matter." Which views Senator BUMPERS agreed with are unclear to me and I'm sure would be to any court. I would also note that, contrary to the statement made by Senator WIRTH, no court, including the District Court in Colorado, has issued a final appealable decree holding that the designation of previously withdrawn lands as wilderness carries with it an additional reservation of water. In fact, there has been a final decision in New Mexico holding the contrary. While the issue will not be resolved with finality until there is a decision by the Supreme Court, it should be understood that first of all, this measure is not silent and second, even in other measures where Congress has not spoken directly but is silent, such silence is consistent with the views of the Solicitor of the Department of the Interior, the Attorney General, and the only court which has issued a final appealable order. Those views are that wilderness designation does not carry with it any additional implied reserved water rights.●

CONCERNING THE COLORADO UTE LEGISLATION

● Mr. McCLURE. Mr. President, I noted with some interest a colloquy which was inserted in the RECORD when the Senate considered H.R. 2642, the Colorado Ute measure. There were several comments made in the colloquy between the chairmen of the two committees of jurisdiction which are at best perplexing, and I think some response is warranted.

One very curious assertion is that "Indian reserved water rights are, in fact, private property rights subject to, among other things, the fifth amendment to the Constitution and not, for instance, subject to the property clause of the Constitution as are Federal reserved rights." First of all, so-called Indian reserved water rights are a species of Federal reserved water rights. They arise, as do all implied Federal reserved water rights from the continued judicial legislation which has determined that when Congress withdrew certain lands from the public domain for certain purposes, it impliedly reserved water rights necessary to accomplish the primary purpose of the reservation. While the purposes may differ, the underlying basis does not. More troubling however is an implicit statement that other Federal reserved water rights are not property. If they were not property then the Western States would not be continuing to face the problems presented by this judicial creation.

I would hasten to mention that all water rights, whether held by private parties, by municipalities, or by the Federal Government are recognized as property. It would also be safe to say that if whatever it is that you think you have is not compensable when it is taken, then it is not a property right. That is after all what the fifth amendment deals with. The right, however, is not to the corpus of the water but is rather a usufructory right subject to regulation. It is a right to certain uses of water, not ownership of the water itself. What the colloquy ignores is the limited nature of the Federal preemption which attends the creation of a Federal reserved water right and the appurtenant nature of that right to the land withdrawn and for the primary purposes for which the withdrawal was made. What the courts have done is to preempt certain aspects of State law in order to provide the Federal Government with a limited right to the use of a certain quantity of water without which the purposes of the reservation would be utterly defeated, and, in the case of Indian reservations and certain other Federal activities, provided that the requirements of application to beneficial use need not be achieved immediately. With other Federal reserved rights, the primary purposes may not even be recognized as beneficial uses under State law. State laws generally provide a similar authority for municipalities who may acquire rights for future use which are free for other appropriation until such time as the municipality chooses to exercise its right.

If the assertion is designed to imply that Federal reserved rights are not inextricably tied to the lands withdrawn and for the primary purposes for the withdrawal, then it suggests that the Congress has committed 120 years of fraud on the Western States. At the rate the courts and Federal agencies such as FERC and EPA are going, we may reach that result anyway, but Congress should not assist in the process. Certainly statutes such as the Indian Intercourse Act function as a Federal limitation of the ability of tribes to alienate resources, but in the case of reserved rights, there are other more fundamental limitations attendant to the nature of the right itself.

States do have the ability, if they choose, to grant or withhold applications for change in place of use, purposes of use, or other incidents of appropriative water rights. The implied Federal reserved water rights doctrine affords an early priority date to certain uses on certain lands. It does not abrogate federalism nor does it invest the United States with the ability to alter purposes or place of use without regard to State law. In the case of this legislation, there is an even more fundamental problem in that the colloquy misunderstands the nature of the legislation, the origins of the original settlement agreement, and the purposes and intent of the Energy Committee in adopting the language of section 5, which remains virtually unaltered in the final measure. The colloquy also mischaracterizes the concern of both lower and upper basin States to the nature of the rights which would be confirmed under the consent decree. The fundamental issue presented by the original measure as introduced and as reported by the select committee was the understanding by the parties to the agreement that the issue of off reservation use of reserved rights would be litigated. While all the States of the upper and lower basin were united in their opposition to such off reservation use, the lower basin was not prepared to permit legislation to be enacted which would promote such a suit. What the Energy Committee amendment to section 5 did, with some subsequent clarifications agreed upon by the lower basin, Colorado, and the tribes, was eliminate that litigation. That amendment and the reasons therefore as set forth in the views of the Energy Committee in the report on S. 1415 remains unaltered. Those views are to the language passed by the House which acted first because of the inability of the Senate to act.

I agree that this settlement, like all settlements, is unique and does not represent an invariable solution to other problems in other areas. I must respectfully disagree, however, with one comment made by the chairman of the Energy Committee and that is that the tribes agreed to have their reserved rights changed to Colorado State water rights when used off reservation. That is not an accurate reflection of either the original settlement agreement nor the agreement as modified by the amendments which Senator WALLOP and I offered and as subsequently clarified. These are not reserved rights. What we are approving is a modified settlement agreement in which the tribes are relinquishing both existing rights, some acquired by purchase, and certain claims in exchange for a series of water rights, some for direct flow diversions from certain streams, some for storage rights in certain facilities, and some for water stored in three Federal reclamation projects. The full use and exercise of those rights as set forth in the original agreement, and I emphasize use and exercise, not character or nature, is unaltered. The agreement is modified to clarify that off reservation the rights are State water rights. That does not mean that they are other than settlement rights on the reservation. There is no characterization of the nature of the rights when used on reservation at all in either the act or the agreement. The terms "project-reserved right" and "non-project-reserved right" are expressly disapproved. The important thing is that the tribes will, upon the entry of the final consent decree, be awarded the rights set forth in the agreement with the uses set forth in the agreement and those rights will be protected by a final decree entitled to full faith and credit under the Constitution. The actual nomenclature was and remains irrelevant to the tribes and the other parties.

I also must strongly disagree with the comment made by the chairman of the select committee that the marketability of reserved rights remains a matter of Federal law if the statement is intended to imply that by legislative fiat Federal reserved water rights can be made marketable. I expect that some tribes may find the concept exciting as well that one Congress can effectively free water rights so that they can be alienated and so defeat the capability of the reservation to support future generations, even if it were possible.

While colloquies are all very interesting, they represent only the views—in this case incorrect views—of the parties to the colloquy. What remains unaltered is the action of the Energy Committee and the language of the statute and the reasons therefore as set forth in the report as to what the language of section 5 does and does not do. Those views were not some afterthought generated by staff but were presented to the members of the committee and agreed to during the committee's business session. Any interpretation to the contrary is simply wrong.●

DEBTOR NATION—FACT OR FICTION?

● Mr. BOSCHWITZ. Mr. President, over and over again, especially in this election year, we hear about the crisis Americans are facing as the United States degenerates into "the world's leading debtor nation." Statistics have been hurled from every direction to support the conclusion that the economy in America is headed to hell in a handbasket. But now a new study, conducted by the Rand Corporation, has been released that disputes that assertion and brings us to a very different conclusion.

Warren Brookes of the Washington Times wrote an enlightening editorial last week discussing the Rand study and comparing its figures to those of a previous report conducted by the U.S. Commerce Department. According to the report, in 1986, when the United States was supposedly in debt an astronomical $263 billion, in reality the United States was a creditor nation by nearly $50 billion.

The difference between the two studies is due mostly to a gross underestimate of U.S. foreign investments. In the 1960's and 1970's U.S. investments in Europe and Asia peaked. Now in the 1980's foreign corporations are reinvesting in America because of its strong economic climate. Because the book value of U.S. investments purchased nearly 30 years ago is much less than the actual value today and the more recent foreign investments book value is much greater, an enormous discrepancy results.

The Commerce Department is required by law to use the book value figures, so the Rand report simply reevaluated U.S. foreign investments and reveals that the United States remains a strong creditor nation. Brookes does an outstanding job of explaining the study and I request that the text of the article appear in full in the RECORD.

The article follows:

DEBUNKING THE MYTH THAT WE'RE A DEBTOR NATION

(By Warren Brookes)

One of the more incredible myths promoted about the U.S. economy over the last few years is that we have become "the world's leading debtor nation," bigger than Brazil and Mexico!

This myth is throughly debunked by a new report from the prestigious Rand Corporation now being released, which shows that in 1986, when the United States was supposed to have become the "world's leading debtor nation" to the tune of $263 billion, it actually was a "creditor nation" by some $50 billion. (See Table).

More important, the report demonstrates that even the term "debtor nation" is very misleading, since most of the relative shift in our investment position "simply indicates faster growth in foreigners' assets in the United States assets abroad . . . the result of foreign funds sent to the United States for safekeeping and high returns."

In other words, our "debtor" position is wholly unlike that of the Lesser Developed Countries, whose debt is almost entirely money owed to Western banks. The U.S. position is primarily the result of willing foreign investments, the U.S. assets. In fact, the primary reason for our shift in asset balance is that in 1982 U.S. banks stopped lending $120 billion a year to LDC deadbeats.

Further, says the Rand report, "the level of debt compared with the size of the economy represents a smaller percentage in the United States than in the LDCs," even accepting the face value of the U.S. Commerce Department's flawed analysis.

But the main contribution of the Rand study; which was done under the supervision of Dr. Charles Wolf, by Sarah Hooker of the University of Michigan, is in "adjusting" the Commerce data to reflect realistic market values of assets as opposed to the historic (book) values which Commerce is required by law to use.

This adjustment produces a $313 billion net positive change in the U.S. net investment position in 1986—or an average change over the 1983-1986 four-year period of approximately $260 billion.

"This result was expected," the Rand report says, "because the book value of the older investments diverges more substantially from the market value of those investments than the book value of the newer investments . . . Thus newer foreign investment in the United States is closer to its market value . . . compared with older United States investment abroad."

To put it more simply: Most of the surge in foreign investment in the United States has taken place in the last few years, and was therefore on the Commerce "books" at close to its current market value. Conversely, more of the U.S. investment abroad took place in the 1960s and 1970s and is badly undervalued in the Commerce analysis.

In the 1960s and 1970s, U.S. corporations were "buying up" Europe and Asia, where growth was then stronger: Now, in the 1980s, foreign corporations are returning the favor in a much stronger U.S. economic climate.

At the same time a lot of our present foreign "investment assets" or "credits" are in fact bad debts from the LDCs which Rand wrote down to a more realistic value.

While all of this dramatically changes that actual "debtor" position of the nation, it does not change the basic trend from being a very high "creditor," to the tune of $369 billion in 1983 (instead of the $88.5 billion reported by Commerce) down to a $50 billion creditor position in 1986 (instead of the $263 billion "net debtor" position reported by Commerce.)

So, Rand adjustments produce "no significant impact on the rate of change of the net international investment position." Critics will charge that the shift is still a dangerous trend toward an ultimate "debtor position," which would in turn imply a loss in the U.S. standard of living.

There are two major problems with that, however. First, the net U.S. investment income from investments abroad is still strongly positive at $20.8 billion in 1987, and that was only down from $30.4 billion in 1980. In other words, our supposed "debtor" position isn't really costing the nation much yet.

Second, as the Rand report puts it, "our standard of living is measured by the amount of goods and services consumed, not the number of dollars kept in the United States. Thus as more dollars are sent overseas to purchase goods and services, the standard of livings is maintained or improved."

In short, the Rand study shows no evidence either that (we are a "debtor nation" in any real sense of the word, or that the change in our net international investment position is anything but the result of a stronger—not a weaker—U.S. economy.

The Rand thesis is solidly supported by the Organization for Economic Cooperation and Development studies of U.S. economic output per capita in terms of purchasing power, which show that since 1981 we have outperformed virtually all other major industrial nations in per capita buying power.●

TILTROTOR TECHNOLOGY

● **Mr. GARN.** Mr. President, one of the major issues emerging during the elections of 1988 is how can America solve the problem of its trade deficit. A major part of this issue relates to America's competitiveness in the world marketplace.

One area where America has always been the world leader is aviation technology. Our competitiveness in providing the world's most advanced and safest airplanes has opened markets abroad and created jobs at home.

Currently, the Federal Aviation administration [FAA] is making sure that America remains competitive into the 1990's and beyond. Administrator Allan McArtor has made certification of a civilian tiltrotor a major priority for his agency. If his ambitious timetable is met, America will be able to market this amazing aircraft in 1992, 2 years before the European consortium and up to 4 years before the Soviet model is ready. This is the kind of farsighted, innovative thinking that will be needed if America is to maintain its world leadership in aviation. It is also a refreshing change to see a Government agency assist progress and private sector initiative.

The tiltrotor, Mr. President, for those unfamiliar with this major development in aviation, combines the best features of a helicopter and an airplane. It takes off vertically like a helicopter, then transfers to forward flight, like an airplane, as the rotor blades swing downward to serve as propellers. The procedure is reversed on landing, permitting helicopter-style descent. The aircraft combines the vertical lift advantages of the helicopter, but flies at altitudes and velocity like airplanes.

The newest model, the V-22 or Osprey, has the ability to handle cargo or passengers. The V-22 is expected to carry up to 100 passengers from city center to city center in the future.

The civil application will require specific attention to a number of unique aspects of tiltrotor design, certification and operation. These include public safety, environmental compatibility, aircrew certification, airport/vertiport requirements, and air traffic control handling. The industry has already stepped forward and made an application for certification of a civil version of the V-22 aircraft and engine. This assures a solid, public/private partnership to bring the civil tiltrotor air transportation system to reality.

This aviation technology will offer emergency medical services, help underdeveloped countries, assist in search and rescue missions, and protect our borders from drug trafficking.

The FAA has taken the lead role in adapting the tiltrotor technology developed under NASA and DOD programs to civil use. This will expedite the parallel civil certification of the V-22 and greatly accelerate the transfer of technology to the civil aviation community. This effort, together with the FAA action to support the preparation of the infrastructure of vertiports and air traffic systems, is extraordinary in world aviation and rivals the commitments made with the introduction of the Douglas DC-3 and the Boeing 707.

America will be on the cutting edge of aviation technology if we support the development and certification of a civilian tiltrotor. This effort will give this Nation the ability to be the first to market this technology in Europe and the Third World. As we look to balancing our trade figures in the next decade, we should be grateful to the inventors of the tiltrotor technology who once again have proven American know how is the world leader in aviation advancement.

All of us who are committed to meeting the future needs of the traveling public should be grateful to the FAA. I applaud their leadership on this important issue and hope my colleagues understand and appreciate the FAA's efforts in this area.●

ST. ISIDORE SCHOOL

● **Mr. D'AMATO.** Mr. President, I rise today to pay tribute to a very special institution. The St. Isidore School of Riverhead, NY, had been selected by the U.S. Department of Education for academic excellence in the 1987-88 National School Recognition Program.

Each year, this program honors elementary, junior high, and high schools. In 1988, 287 elementary schools throughout the United States were chosen. I am proud to say that 26 of these are New York State schools.

St. Isidore's School has many unique programs. For example, an individualized reading program allows each student to proceed at his or her own speed. The program has resulted in high reading levels among the students over the 7 years of the program's existence. In addition, eighth graders are divided into groups that read high school literature or American biographies. With only 230 students, the school is close-knit. An established "buddy" system matches the younger children to the older students, with the older ones watching over the younger in school and on the bus.

This annual recognition program was initiated by William J. Bennett, former Secretary of the U.S. Department of Education, to recognize excellence in our schools. It is important to establish role models for struggling schools to follow. Since our educational system has been severely criticized in recent years, it is important to praise those deserving it.

Nearly 500 schools, both public and private, were nominated by 48 States this year. After the Department of Education received these recommendations, they selected schools to be visited by their representatives. Extensive criteria determined the winners. First, schools were chosen for their overall academic environment. Second, the Department of Education looked for the school's involvement in community affairs and vice versa. Standardized test scores and unique characteristics also pointed to a deserving school. From the site visits, education representatives acquired a feel for the school's environment. There is not a specified number of schools to be selected, but each year the list grows.

The winning schools are first recognized in Washington at a White House reception, and later at the school itself, where all of the school can participate in the festivities.

Mr. President, I salute St. Isidore's School and all the New York State schools selected in the National School Recognition Program for their outstanding achievements. Our schools are a very important part of our future. I am proud to have such fine schools in New York.●

OUR LADY OF MERCY SCHOOL

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a very special institution. Our Lady of Mercy School of Hicksville, NY, has been selected by the U.S. Department of Education for academic excellence in the 1987-88 National School Recognition Program.

Each year, this program honors elementary, junior high, and high schools. In 1988, 287 elementary schools throughout the United States were chosen. I am proud to say that 26 of these are New York State schools.

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HELPING SMALL BUSINESS AFFORD HEALTH INSURANCE

● Mr. BAUCUS. Mr. President, today I want to address a problem that troubles many of us. Namely, the widespread lack of health insurance among American families.

THE UNINSURED

Thirty-seven million Americans—12 million of them children—do not have health insurance.

Each one of them lives in a medical "Twilight Zone."

In 1986, a million were turned away from doctor's offices or hospitals because they did not have insurance.

And a recent study by the Robert Wood Johnson Foundation found that uninsured people saw physicians 27 percent less frequently and were hospitalized 19 percent less often than their insured counterparts. This figure was even higher for uninsured children, with 34 percent fewer visits to physicians.

The fact that children are affected to such a great degree is deeply troubling.

Their families are exposed to sky-high health care expenses.

And the children are less likely to receive primary care services and health supervision, including ambulatory care, preventive care and immunizations.

Good health care is critically important for children. It helps them grow—physically, intellectually and emotionally. It improves their chances of developing into healthy, productive adults.

When children are deprived of these essential services, it is a tragedy. Not only for themselves and for their families, but for all of society, which pays the price in many ways.

Congress has been looking at proposals that would address the needs of the Nation's uninsured. One proposal would require employers provide health insurance for their employees. Another would impose fines on employers who don't provide health insurance.

These ideas have the potential to make a substantial dent in the numbers of uninsured workers. They deserve serious consideration.

At the same time, we should also explore incentives, rather than penalties, to expand health insurance. This is especially true in the case of America's small businesses.

WHO ARE THE UNINSURED?

What do we know about the uninsured?

We know that many of them work. Two-thirds of the uninsured have jobs or are dependents of workers.

Over two-fifths of uninsured people in 1986 were in families with at least one full-time worker. Another 45.9 percent worked at least part-time or were in a family in which someone worked part-time.

Only one-eighth of the uninsured were in families with no workers.

We know that people without health insurance have low incomes relative to the insured.

And we know that young people are more likely to be uninsured. People in their twenties are twice as likely to lack health insurance than people over age 30.

SMALL BUSINESS AND HEALTH INSURANCE

We also know that the size of the firm that employs workers affects their health insurance status.

According to the Employee Benefit Research Institute, most of the uninsured are in firms that have fewer than 25 employees.

In 1983, 21 percent of the Nation's workers were employed in firms with fewer than 25 employees. But only 36 percent of those workers were covered by an employer-sponsored insurance plan.

In contrast, among workers in firms of 25 to 999 employees, 72 percent were covered under an employer-sponsored group plan; in companies of 1,000 workers or more, 85 percent of the employees had coverage.

A recent study by the National Rural Electric Cooperative Association found that firms with fewer than 10 employees accounted for 88 percent of the firms without coverage and 46 percent of the noncovered employees.

A 1986 Small Business Administration study showed that 46 percent of businesses with one to nine employees offered insurance, compared to virtually all of the businesses with 500 or more workers. And 65 percent of the workers who are employed by firms which do not offer insurance are in firms with fewer than 10 employees.

Why are small businesses less likely to offer health insurance to their employees?

The SBA study found that health insurance premiums are higher in small firms and that small firms pay a higher percentage of the premium than large firms.

The SBA study also reported that the cost to the Nation's smallest employers of insuring their workers could be as much as three times greater than what they now pay in FICA taxes. It also found that mandated health benefits costs could significantly reduce these smallest firms' profits or their owners' salaries by between 19 and 30 percent.

The NRECA study also found that cost is the major barrier small employers face in deciding to offer coverage.

But as a firm's economic performance improves, the likelihood that it will offer coverage increases.

Because lack of health insurance in nonagricultural rural businesses is largely a problem of the smallest and newest firms.

THE ROLE OF EMPLOYERS

Historically, employers have been an important source of health insurance in this country.

To encourage employers to provide this benefit, the Tax Code allows that employer contributions to health insurance plans on behalf of employees be excluded from the employee's gross income.

For this historical reason, attention has been focused on requiring employees to offer coverage to their employees as a solution to the uninsured problem.

For employers with many workers, taking advantage of this tax provision is a smart business move. The favorable tax treatment of this expense makes it worthwhile.

However, these proposals place the burden disproportionately on small business. It is tougher for companies with fewer workers to pay for expensive health benefits, and many of them are just unable to do it and stay solvent.

It is clear that we need to decrease significantly the number of people in this country who lack health insurance. But we need to do it without breaking the back of small business.

If we are going to place the health insurance burden on employers, and it seems that we are going down that road, then we have to change the incentives where they are not working properly. And that means creating better incentives for small business.

OREGON'S PLAN

The State of Oregon is beginning a plan to do just that. Oregon will offer tax credits to small employers who voluntarily provide their employees with catastrophic and universal health insurance.

The program is scheduled to begin next month and will help firms that employ 25 or fewer workers and that have not offered health insurance benefits in the past 2 years.

An insurance pool governing board is charged with monitoring the new program.

Employers who provide catastrophic insurance covering acute and long-term medical expenses will receive a $20 a month tax credit for each employee.

If they offer universal insurance that covers all medical expenses, including primary and preventive care, they will receive an additional $5 credit.

What Oregon has done is what we need to do in Congress—to make it more affordable for small businesses to offer their employees health insurance coverage.

Small businesses should be encouraged and helped to provide this needed benefit; they should not be punished for their inability to do so.

I intend to address this issue with legislation in the next Congress. I hope that my colleagues will join in this effort to answer the concerns of this country's small businesses as we continue to work on providing health insurance coverage to uninsured workers.

Mr. President, I ask that an article from the Wall Street Journal be included in the RECORD following my statement:

The article follows:

HELPING SMALL FIRMS AFFORD HEALTH INSURANCE

State legislators are increasingly eyeing small business as a way to reduce the ranks of the medically uninsured. Several states now require small firms to provide health coverage for workers.

Oregon, however, has come up with a way to make the idea more palatable to these companies.

On Nov. 1, Oregon will become the first state to offer tax credits to small businesses that voluntarily provide health coverage for employees. Companies with 25 or fewer employees that participate in the program will receive a monthly credit of $25 per worker.

Oregon has some 400,000 residents without health insurance—about 235,000 of them in firms covered by the credit, says Michael McCracken, director of the Governor's Commission on Health Care. "There is the risk businesses will choose not to participate," he says. "In that case, the legislature may have to look at making the program mandatory."

Joe Gilliam, assistant to the director at the Salem, Ore., office of the National Federation of Independent Businesses, says small businesses in the state are enthusiastic about the program. In a survey of the federation's 13,500 members in Oregon, 86% of respondents said they would offer health insurance to employees if tax credits were available.

Although the tax credits will cover only about half the cost of the premiums, Mr. Gilliam says, that's enough to enable many businesses to afford coverage.

B.R. (BARNEY) BEEKSMA, OAK HARBOR, WA

● Mr. EVANS. Mr. President, I rise today to invite my colleagues to join me in congratulating B.R. (Barney) Beeksma, of Oak Harbor, WA, as he assumes the chairmanship of the U.S. League of Savings Institutions. Barney will officially take office at the U.S. League's 96th annual convention in November. The U.S. League, with more than 3,200 savings and loan associations and savings banks as members, is the primary trade organization representing the $1.5 trillion savings institutions business.

Barney Beeksma is chairman of InterWest Savings Bank, a savings institution that has grown from one office and $1 million in assets when Barney became its chief executive officer in 1960 to 27 offices and $570 million in assets today. InterWest was the first stockholder-owned savings institution in Washington State. Under Barney's leadership, InterWest was one of the first lenders to develop an adjustable rate mortgage, and the ARM used by InterWest since 1969 has led to uninterrupted profitability.

Barney has been deeply involved in savings institutions matters for a number of years at the national, regional, and State levels. He has served in numerous capacities with the U.S. League, including that of vice chairman. He has served on the league's FSLIC recapitalization committee, and the organizational review committee, and has been a member of the board of directors, the legislative committee and the legislative policy committee. In addition, Barney has been a member of the league's consumer affairs and mortgage lending committees. He also has served on the capital stock committee and the committee on State legislation.

Barney gained additional insight into the savings institutions business by serving as both vice chairman and a director of the Federal Home Loan Bank of Seattle, and as a director of the Federal Asset Disposition Association. He is currently a director of the Seattle branch of the Federal Reserve Bank of San Francisco.

At the State level, Barney has been president, vice president, and a director of the Washington Savings League. He was chairman of the State league committee which was responsible for developing the Washington savings and loan statute.

Barney is a director of Omega National Life Insurance Co., chairman of Harbor Airlines, past president of the North Whidbey Chamber of Commerce, and the Rotary Club of Oak Harbor, and served on the board of Skagit Valley College. He is a graduate of Whitworth College.

Mr. President, we are proud of Barney Beeksma and his long list of accomplishments, and we wish him every success during his 1-year term as chairman of the U.S. League of Savings Institutions.●

MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

● Mr. DURENBERGER. Mr. President, I would like to engage in a colloquy with the Senator from Idaho [Mr. McClure] regarding title VII of S. 2840. When this legislation passed last Thursday, October 13, 1988, I made a statement supporting title VII and providing my insight into its interpretation. I would now like to expand on my thoughts with the assistance of Senator McClure, as he played an instrumental role in the bill's compromise and passage.

Title VII of S. 2840 establishes the Mississippi National River and Recreation Area, that, if misinterpreted, could adversely impact on the navigation and flood control activities of the U.S. Army Corps of Engineers. Senator McClure, is it your understanding that under title VII the Corps of Engineers could continue with its important navigation, flood control, permitting, and other functions? Congress expects the corps to be concerned with the impact of its activities and to make every reasonable effort to comply with the spirit of the river's managment plan; however, it should continue to perform its traditional mission.

● Mr. McCLURE. That is correct.

Mr. DURENBERGER. If the corps proposed to engage in an action that the National Park Service believed was incompatible with the management plan, would the National Park Service have the authority to veto such action?

Mr. McCLURE. Absolutely not. Although the corps is to be mindful of the plan and should make every reasonable effort to comply with the plan, the corps can continue to perform its traditional missions. The National Park Service, if it believes that an action of the Corps of Engineers is incompatible with the plan, should bring the matter to the attention of Congress.

Mr. DURENBERGER. Thank you. I also would like to discuss section 704(b)(2) of the bill under consideration. That section deals with Corps of Engineers or Coast Guard actions for the maintenance of existing navigation aids and navigation improvements. Is this section intended in any way to diminish the authority of the Secretary of the Army or Secretary of Transportation to act in the interest of navigation?

Mr. McCLURE. No, it is not. Section 704(b)(2) recognizes the importance of maintaining existing navigation aids and navigation improvements. However, the section also provides that the appropriate Secretary should consider the values for which the Mississippi National River and Recreational Area was created when performing his mission. In addition, actions taken in the interest of maintaining existing navigation aids and navigation improvements would generally be actions that are consonant with one or more of the values of the area or that are required for public health or safety reasons.

Mr. DURENBERGER. I concur and thank the Senator from Idaho very much for his assistance in threshing out this important issue.●

PUBLIC POWER WEEK

● Mr. BUMPERS. Mr. President, in recognition of Public Power Week, I send my congratulations to City Water & Light and its customers in Jonesboro. The citizens of Jonesboro are both the customers and owners of CWL and are fortunate to be part of a public power system which has successfully served its owner/consumers with efficient low-cost electric service for many decades. I am proud to be a supporter of public power.

I am also delighted to announce that President Reagan signed the Regulatory Fairness Act into law on October 5. The Regulatory Fairness Act, which I sponsored and fought for in the Senate this year, was strongly supported by the American Public Power Association. The law corrects an inequity in the Federal Power Act which has made it difficult for publicly-owned electric utilities like CWL to get rate reductions for the wholesale power they purchase from larger utilities.

The Federal Power Act was patently unfair to wholesale customers. As you know, wholesale rate increases take effect long before they are officially approved by the Federal Energy Regulatory Commission. Yet wholesale customers seeking rate decreases were not allowed the benefits of the decrease until after a lengthy approval process.

The Regulatory Fairness Act changed the Federal Power Act to establish a provision for consumer refunds if a rate decrease is approved. Thus the wholesale customers will receive recompense for the excessive rates that they may have paid during the FERC proceedings. I believe that this Act will encourage municipal utilities to bring meritorious rate decrease cases to the FERC and will encourage their wholesale suppliers to settle the rate decrease cases expeditiously. This will be extremely beneficial to the customers of CWL and thousands of similar public power systems across the Nation.

I want to thank James Reed, the manager of City Water & Light in Jonesboro for letting me know about Public Power Week and providing me with the opportunity to share in its celebration. I hope the citizens of Jonesboro, and other public power communities, continue to enjoy the benefits of public power for many years in the future.●

DR. LEON LEDERMAN, DR. JACK STEINBERGER, DR. MELVIN SCHWARTZ—1989 NOBEL PRIZE FOR PHYSICS WINNERS

● Mr. DIXON: Mr. President, I want to take a moment to congratulate three American scientists—Dr. Leon Lederman, Dr. Jack Steinberger and Dr. Melvin Schwartz—for winning this year's Nobel Prize for physics for their work and 1961 discovery in subatomic particle research.

We, as Americans, should be very proud of their accomplishments. I am especially proud, for two of these outstanding individuals are from Illinois.

Dr. Steinberger emigrated from Germany and attended New Trier High School In Winnetka, IL, and graduated from the University of Chicago. He now works at the CREN Nuclear Research Center in Geneva, Switzerland. Dr. Lederman, born in New York City, left a teaching post at Columbia University in 1979 to become the director of the Fermi National Laboratory in Batavia, IL, the world's largest particle accelerator in operation today. The third recipient, Dr. Schwartz, is from California. He is a former Stanford University professor, and now operates a computer company in San Francisco. Indeed, all three of these distinguished men deserve our respect.

Mr. President, I would like to talk a little now about the work these men did to earn such an honor. Dr. Lederman and his colleagues share the Nobel Prize for discovering one of the universe's "ghost" particles, the muon neutrino.

As Leon Ledereman said, "Not only did we discover a neutrino, but that neutrino turned out to be extremely useful as a tool in studying and elucidating the properties of particles." What in the world does this mean to us?

Mr. President, I am no physicist, but I do know that the research done by dedicated individuals such as Drs. Lederman, Steinberger, and Schwartz, has enabled us to come to a better understanding of how the universe works.

Dr. Lederman's scientific career in studying subatomic particles spans over 40 years, and it has taken him 27 years to be honored with the Nobel

Prize for physics for his discovery and work.

That's the way things are sometimes. It often takes years and years for the importance of an experiment or discovery to be realized and appreciated. However, as evidenced by the awarding of the Nobel Prize for physics this year, it in no way diminishes the significance or magnitude of such research.

The fact that three of our own won this prestigious award for their work in high energy physics should make us all sit up and take notice of our position in the scientific world. The United States is the leader in this field of research, and we can and must maintain that leadership role.

Mr. President, everyone knows that Fermilab in Illinois is the most powerful particle accelerator today. It is time to move up to the next level of research, and that will only be done with the construction of the superconducting super collider.

I am confident that all three of our distingusihed Nobel Prize for physics winners will agree, the super collider needs to be—and, indeed, will be—built. We must support our top scientists, and build the SSC here in the United States.

In closing, Mr. President, Let me again congratulate these three incredible men. Dr. Lederman, Dr. Steinberger and Dr. Schwartz, we applaud you for your dedication and excellence.●

SUPERCONDUCTIVITY

● Mr. REID. Mr. President, I recently read with great interest an editorial from the Carson City Appeal entitled "Some super news". It noted with pride the recent accomplishment of scientists at the California Institute of Technology who have developed a theory explaining how superconducting occurs. Superconductivity is the total loss of resistance to electricity. Its application could revolutionize everything from computers to trains. This new theory from CalTech may provide the insight necessary to raise the temperature under which materials will function as superconductors. As the editorial concluded "It is reassuring to know that western know-how is leading this high-tech revolution". We cannot be so confident. As a recent report from the Office of Technology Assessment said "The race to commercialize high-temperature superconductivity (HTS) is on". And as usual, we are racing against the Japanese. A cursory glance at efforts being made in the United States would seem to indicate we are neck-and-neck with the Japanese. But a closer look will show we are not even in the same event.

In fiscal year 1989, the United States and Japan will each spend approximately $170 million on superconductivity research. The United States is, without a doubt, conducting the premier basic R&D effort. But little of this research can be transferred to the private sector. In fact, 60-70 percent of all Federal spending is for defense related activities. Only DAPRA's $16 million HTS grant program is providing funds to entrepreneurs to develop products with applications for both military and civilian purposes. Last year, this program was only able to fund 15 percent of the worthy grant applications. With the exception of this underfunded program, few of the Federal research programs are transferring technology to the private sector.

Compare this to the Japanese effort. They have established a major research consortium called the International Center for Industrial Superconductivity Technology (ISTEC), combining $30 million from the Ministry of International Trade and Industry (MITI) and $40 million from the private sector. This is a superconductivity engineering lab with 50 corporate sponsors engaged in both basic R&D and precommercial applications. This one facility has 200 scientists and is headed by Japan's microelectronics genius, Shoji Tanaka.

The Japanese Government also sponsors many research programs. One of the larger of these programs is the Next Generation Technology project on superconducting materials and microdevices. This project, also sponsored by MITI, will receive $120 million over the next 10 years; bring together corporations, government institutes and academia; and perform both basic and applied research.

The Japanese effort, while similar in size to the American, consists of two main elements. First, while it does not ignore basic R&D, its main focus is on developing commercial applications. Whether it be for a car, a toy or a stereo, the Japanese are determined to develop applications for superconductivity that can be sold in large volume. Second, the efforts of the Japanese are coordinated both within the government and between government and industry. The Japanese Science and Technology Agency has within it a Council for Science and Technology. It has developed policy recommendation number 14, Japan's strategy for superconductivity development. This flexible plan guides Japanese efforts to commercialize superconductivity and mobilize key institutions to pursue this goal.

In contrast, the American effort, as I said earlier, is focused mainly on basic R&D. The fruits of this research are not easily obtainable by the private sector, which is loathe to invest heavily in this new technology without the creation of a Sematech-like consortium. Moreover, the majority of this research effort is defense oriented and has no industrial applications.

There is before Congress, however, legislation that will rationalize and establish priorities for superconductivity research efforts. H.R. 3048, the National Superconductivity and Competitiveness Act of 1988, as amended and passed by the Senate on October 5, can help us to compete in our race with the Japanese. Title I of this legislation requires the Office of Science and Technology Policy, in coordination with the greatly under-utilized National Critical Materials Council and the newly established National Commission of Superconductivity to establish a 5-year Superconductivity Action Plan. This plan will establish goals and priorities for Federal agencies engaged in superconductivity research; assign responsibilities accordingly; recommend funding levels; and develop proposals for the participation of industry and academia.

Title II of H.R. 3048, provides for more private sector participation in DOE's National Laboratory System. It will facilitate the flow of experience, equipment and personnel from the national labs to the private sector in order to improve the R&D capability of American businesses. Efficient technology transfer will lead to a stronger industrial base, an enhanced defense capability and an improved national laboratory system. This legislation is strongly supported by the Council on Superconductivity for American Competitiveness, an organization of corporations, individuals and universities concerned with the technological and commercial potential of superconductivity.

Critics of this bill will claim it is an attempt to establish industrial policy through the back door. But this legislation only provides for a plan to coordinate government efforts in superconductivity research and make the results available to the private sector. To me, this does not sound like industrial policy, central planning or picking winners and losers. Rather, it is a viable strategy for ensuring our country participates in and leads the race to make superconducting materials the dominant technology of the next century.●

CAMPAIGN FINANCE REFORM

● Mr. BOREN. Mr. President, as the end of this 100th Congress is at hand, I want to make some final comments on the crucial national issue of campaign finance reform.

This Congress has finally seen a serious review of legislation to clean up our congressional campaign financing system. Through a record 8 cloture votes on a bill which I sponsored with the distinguished majority leader, Senator ROBERT BYRD, and 50 of our colleagues, the issue has finally been placed squarely on the national agenda.

That legislation, while complex in substance, is really quite simple in its goals: to place an overall ceiling on total spending in congressional elections; to place an aggregate limit on the quickest growing source of those funds—political action committees; and to address the unintended consequences of limiting political money and other loopholes such as "soft money," independent expenditures, and the practice of "bundling."

Mr. President, I want to assure my colleagues—those who will return in the 101st Congress, those retiring from the Senate who have been victims of the current system, and those new Senators who will be elected in November in the most expensive elections cycle—I will again sponsor legislation to address this crisis.

The evidence of the need to act has never been greater: PAC contributions are still continuing to increase far beyond normal growth; incumbents are still the overwhelming recipients of this special interest money; PAC's and lobbyists in Washington as well as other wealthy money centers are being strong-armed as never before to help fund campaigns; and Senate candidates from average States must still raise over $10,000 each and every week of a 6-year term to actively compete.

As further evidence of this "money chase," my colleagues from the other side of the aisle recently held a private meeting with business PAC representatives chastising them for supporting Democratic candidates at nearly a 2-to-1 ratio over Republicans. As I warned those same colleagues in the summer of 1986 when former Senator Barry Goldwater and I sponsored an aggregate PAC limit bill, such growth would neither be good for our country and the electoral process, nor for the Republicans. However, Mr. President, this warning was ignored then as it has been ignored this year.

Mr. President, I do intend to continue this effort next year and hope that when we do return for the 101st Congress, any strained tempers from the S. 2 debate and any partisan motivations by either Democrats or Republicans will be put far aside. We must work together to protect and preserve the only true link between the people of this country and those of us who represent them in the Halls of Congress: the electoral process.

As public service continues to be placed on the auction block, with nearly half of the Congress relying on special interest PAC's for over half of their financial campaign support, voters' perceptions will only worsen as they are left out of the process. Further, Mr. President, in the face of tremendous challenges with the Federal deficit, a growing trade imbalance, and the need for a bipartisan foreign policy, national consensus will be more difficult to obtain when special, moneyed interests pull the strings in Congress.

In conclusion Mr. President, while numerous Senators, staff members, and others have helped form the debate on campaign reform, I want to point out the tremendous assistance of five colleagues who contributed so much to the efforts of campaign finance reform. Four retiring Senators stand out as soldiers I will miss in this fight next year.

Senator LAWTON CHILES was the first to join Senator BYRD and I in sponsoring S. 2. He was an early inspiration to me when I began to campaign for statewide office in Oklahoma. His "Walkin' Lawton" campaign was a model for me, as was the self-imposed, lower contribution limits he instituted for his own campaigns. Senator ROBERT STAFFORD, also retiring from the Senate, has been of great help on this issue for many years. He bravely became the first Republican to support the original version of S. 2 and was a valued advocate.

Senator WILLIAM PROXMIRE has also been an important proponent of campaign finance reform. His own example of not accepting campaign contributions stands as proof that incumbents can and should stand on their record and experience before the voters, instead of a mountain of campaign cash. The debate on this issue has been given needed focus by incisive speeches and arguments made by Senator PROXMIRE. Two such statements—one on August 11, 1986, and another on June 11, 1987—have a particularly strong tone and theme which should remind the Congress of the current system's impact on the country.

Senate President pro tempore JOHN STENNIS was not only an original cosponsor of S. 2 in 1987, but was a motivating force with the Boren-Goldwater legislation in the previous session. No one in this Congress has the perspective from a historic point of view as does my friend JOHN STENNIS. Nothing has been of more inspiration to me than the strength of conviction that Senator STENNIS possesses. His willingness to speak on the floor, manage the bill when I could not, offer advice on substance and strategy, all stand as proof of his commitment and respect for the Senate and his hope for its future. I will miss his presence from this Chamber, but will always benefit from the counsel and support he so ably shared.

There could be no greater, more sincere champion of reform than my good friend Senate majority leader ROBERT C. BYRD. It was he who encouraged me to press forward when defeat seemed assured. He has been a true ally and one who believes very deeply in this institution of the Senate and in the need to preserve its integrity with strong, meaningful campaign reform legislation. I appreciate his able leadership in this fight and will continue to seek his help in the future.

Mr. President, from the elections of November will come a new President, a new administration, and new Members of a new Congress. Overshadowing their arrival in Washington will be a cloud of the highest cost of campaigns in our history. We must join together to reform the process that has allowed seats in Congress to go to the highest bidder and restore the people's faith in democracy.●

NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH

● Mr. SIMON. Mr. President, October is now National Disability Employment Awareness Month, thanks to the efforts of the President's Committee on the Employment of People with Disabilities. In the past, 1 week in October has traditionally been National Employ the Physically Handicapped Week. Both the change in name and the lengthening of the time for giving attention to this subject are positive steps.

We are reminded, however, in the following article from Horizons, a newspaper serving people with disabilities in the Washington area, that we cannot expect posters and rhetoric alone to significantly change the current reality of overwhelming unemployment among our citizens with disabilities.

We have to do better, and as D.C. attorney Charles Goldman states in the article, one way we can help is to enact the Americans with Disabilities Act, expanding equal rights guarantees in the private sector to people with disabilities. I hope we will have the wisdom to take that action early in the 101st Congress.

The article follows:

LEGAL ACCESS: EMPLOYMENT

(By Charles D. Goldman, Esq.)

It's that time of year again. Traditionally, October is proclaimed "National Hire the Handicapped" month, an act which always makes me wonder whether qualified disabled persons get equally sensitive treatment in the other eleven months. For now it is time for all the "hire the handicapped" public service commercials and posters.

Frankly, I would be happy if each of the radio and television stations and newspapers running public service announcements and each of the federal, state, and local government agencies having a program this month on employing disabled persons would practice what they preach. I would be thrilled if each of them this month would make one new hire and give one promotion to a qualified disabled person.

Now, I realize that is not much of an expectation. But let me give you an advocate's perspective. Simply put, having qualified disabled persons on the inside of an agency helps. It helps sensitize the agency that disabled persons have abilities, not only limitations. Stereotypical myths about what disabled persons cannot do are most easily broken by having co-workers get to know and interact with disabled persons. Disabled persons, particularly in civil and human rights agencies, are resources—even on issues not related to their particular disabilities. Also, after the first disabled person is working and the world has not fallen apart, the agency is more inclined to hire additional qualified persons with disabilities. This all leads to more enlightened, progressive decisions and actions by the agency.

For example, the agency will be sensitive when it comes to having an accessible office. Clarence Thomas, Chairperson of the United States Equal Employment Opportunity Commission was absolutely adamant in insisting that the new space into which the agency was moving have an accessible main entrance. The General Services Administration (which is the federal agency that provides space for other agencies such as Mr. Thomas) found space that was accessible for disabled persons only by going by the dumpster in the rear. Chairperson Thomas refused it and contemplated having the front door padlocked so that, in the spirit of equal opportunity, all employees and visitors, able bodied and disabled alike, could experience what the disabled persons did. It never came to pass, as accessible space was found. But would the issue ever have arisen had there not been disabled persons working throughout the agency, including Commissioner Evan Kemp at the top?

When outsiders, such as a person believing they have been discriminated against because of their disability, come to an agency and observe the presence of disabled persons working at the agency, there is a feeling that the system will have the opportunity to work fairly. The opposite is also true. I have had clients wonder aloud what was going on if the agency charged with ensuring nondiscrimination did not itself have any disabled staff members. Having disabled persons in the agency affects the attitudes with which people approach the agency, just as the public service announcements and posters do, too.

I will always recall the reaction of one of my children several years ago when they saw a "Hire the Handicapped" poster in the window. The child intended to ask what the sign meant, but in his youthful innocence the question came out: "Is that sign for real? Shouldn't people who get hired not be handicapped. I mean able to do the job?"

Before I had a chance to explain that the poster really was intended to mean that disabled persons could do jobs, a friend quickly interjected. "It's really for employers to know they aren't handicapping themselves by hiring a person with a disability." Another friend said that if everyone hired a handicapped person during that week there would be no need for laws prohibiting discrimination against disabled persons in employment.

In a sense all of them were right. Qualified disabled persons should have equal employment opportunity. That will work out to everyone's benefit.

The keys in the hiring process are that employers must ask job related questions and that applicants must respond truthfully. Jobs are performed by people who meet the bona fide qualifications for them. It may be a legitimate requirement for a person to have a driver's license, such as for a job involving delivering. In that situation, an employer may ask whether an applicant has a driver's license. In that same situation, the employer may not ask whether the applicant has epilepsy, diabetes or one of the other conditions which may preclude a person from having a driver's license—for a time period. The employer could not refuse to hire a person who had a driver's license even if that person was in a wheelchair or if that person's epilepsy, diabetes, etc. had not precluded the possession of a valid license. Requirements must be job related!

The time has come to take a long, hard look at who is being hired and at what jobs. The Federal Rehabilitation Act has been in effect for 15 years. How much equal opportunity is there for disabled persons within the federal government? What do the statistics really show and what do they mean? Somehow, I have not heard this Administration boasting about its hiring of disabled persons.

And what about the private sector? On Labor Day, CBS News ran a solid report about a McDonald's on Long Island, New York which had tremendous success with recently hired mentally retarded individuals. The report highlighted the workers capabilities and enthusiasm as well as customer's acceptance of them and the owner's pride in a good business and social decision. My hope is that next Labor Day, CBS will feature another employer, but at that time will show some disabled persons functioning in management positions.

There is legislation pending now, the Americans with Disabilities Act, which would broaden the mandate of federal equal employment protections. Now federal law only covers persons working for the federal government, recipients of federal aid and federal contractors. The pending legislation would give disabled persons virtually the same protection minorities have enjoyed since passage of the Civil Rights Act of 1964. Many more jobs in the private sector would be covered. State and local laws now cover more private sector jobs. But there are often very limited resources to implements these laws as well as limited remedies under these laws.

So as we hail "Hire the Disabled" at the beginning of October, let us remember that there is another celebration at the end of October. Can the laws prohibiting discrimination against qualified disabled persons work the year round even when it is not "hire the disabled" time? Will qualified disabled people be hired and promoted because of their abilities, not their disabilities? Or are people masquerading in the garb of the rhetoric of posters and public service announcements, in truth doing only that which they must? As my kids say, "Trick or Treat."●

KENNETH D. SEATON

● Mr. RIEGLE. Mr. President, it is with a great deal of pleasure that I rise today to recognize one of Michigan's most outstanding businessmen. At the beginning of next month, Kenneth D. Seaton of Hancock, MI, will assume the office of vice chairman of the U.S. League of Savings Institutions.

During the next 12 months, Ken will be devoting a good deal of his time working to put in place a program to restore the health of the Federal Savings and Loan Insurance Corporation and to ensure the future financial viability of the Nation's healthy savings institutions. I look forward to working with Ken in these endeavors.

Ken Seaton is chairman of D&N Savings Bank, a federally chartered institution that will celebrate its centennial in 1989. Ken joined D&N, then known as Detroit & Northern Savings and Loan Association, in 1957. He was elected chief executive officer in 1968 and chairman in 1972. D&N, which became a publicly held company in 1985, is a $2.1 billion institution with 32 full service branches and 9 savings agencies. The company also operates D&N Mortgage Corporation, with offices in Michigan, Arizona, North Carolina, Illinois, and Texas.

During his long career at D&N, Ken has served the savings institutions business at the State, regional, and national levels. He was a member of the Governor's Advisory Committee on Regulation of Financial Institutions; is a past chairman of the Michigan League of Savings Institutions and a current member of its legislative committee; is a former chairman of the Michigan League's Re-Codification, Legislative Policy, and Supervisions and Examinations Committee; and has been vice chairman and a director of the Federal Home Loan Bank of Indianapolis.

At the national level, Ken has been a member of the U.S. League's Legislative Committee for more than 15 years, was a member of the executive committee, and currently is a member of the Task Force on Federal Deposit Insurance. He is chairman of the League's Economic Affairs Committee and the Dues Restructuring Committee and is a member of the Media Contact Group.

Despite his heavy business schedule, Ken is very involved in community affairs in the Upper Peninsula. He is a member of the board of Suomi College; cochairman of Operation Action U.P., a regional association of Upper Peninsula business leaders; past president of the Rotary Club of Hancock and the Houghton-Hancock Chamber of Commerce; and a 20-year member of the Hancock School Board. He is a former director of the Michigan Chamber of Commerce and has been active in the Evangelical Lutheran Church in America. Ken is a graduate of Michigan Technological University. He and his wife Lois have five children and seven grandchildren.

Since Ken, a former Navy pilot, has a private pilot's license with instrument rating, I expect he'll be flying to Washington often to give us the benefit of his thinking on the critical financial issues we'll be taking up next year.

Mr. President, it is with pride that I recognize Ken Seaton's many accomplishments. And I hope you will join with me in wishing him much success as vice chairman of the U.S. League of Savings Institutions.●

LATVIAN INDEPENDENCE

● Mr. SIMON. Mr. President, on November 18, Latvians around the world will celebrate the 17th anniversary of the independence of their Baltic nation. On this day in 1918, the Latvian people rose up and freed themselves from foreign rule. Sadly, Latvia's freedom was short lived.

Latvia has been under the control of outside forces for most of its existence. Despite the occupation of the Vikings in the Middle Ages, the Poles and Swedes in the 16th century, and the Russians and Germans in the 18th and 19th centuries, the Latvians were able to retain their rich heritage.

In 1940, during the early stages of World War II, the Soviet Union, under Joseph Stalin, invaded the young nation of Latvia. Soviet rule has been hard for Latvians. Political and religious rights are routinely denied. There is some hope that things may be gradually improving there, but progress has been slow.

Mr. President, I commend the Latvian people who have struggled for so long, and I commend Latvian Americans who have done so much to keep us all aware of their rich heritage and have made many contributions to their new country.●

DR. LEON LEDERMAN

● Mr. SIMON. Mr. President, I rise today to congratulate Dr. Leon Lederman on the recognition he so justly deserves—the Nobel Prize for physics.

Dr. Lederman's leadership at Fermilab has brought worldwide recognition to that facility. In Illinois' pursuit of the superconducting supercollider, one of the key elements we have to offer is the leadership Dr. Lederman has provided at Fermilab and the outstanding team of scientists he has attracted.

He has led by example, working and teaching, encouraging other scientists while helping to translate scientific inquiry into language and perceptions that those of us who are not scientists can understand.

Mr. President, I ask to insert at the end of my comments a Chicago Sun-Times article from several years ago on Dr. Lederman. Although the Nobel Prize obviously addresses Dr. Lederman's scientific achievements, this article gives us a delightful insight into Dr. Lederman as a human being.

The article, written in 1986, makes note of the fact that Dr. Lederman had not yet won the Nobel Prize. His light-hearted response was that he already had enough medals that it took him an hour to transfer them from his pajamas to his suit and back again every day. He is a man who has pursued science for the sake of learning rather than for personal recognition, and, while I clearly would not wish him further interruptions in his sleep or in full, productive days in the lab, I am pleased to join so many others in congratulating him on winning the recognition he so richly deserves.

The article follows:

[From the Chicago Sun-Times, June 22, 1986]

Fermilab's King of Quarks—As Particle Zoo Director, Lederman Brings the Human Touch to Physics

(By Jim Ritter)

A two-foot stuffed doll that looks just like Albert Einstein stands on Leon Lederman's desk in his office atop the Fermilab atom smasher. "It's very authentic," Lederman says. "No socks."

Lederman looks a bit like Einstein, with his wild white hair and casual dress. Although he directs a lab with a budget of $175 million and 2,150 employees, he sometimes wears a sports shirt, blue jeans, tennis shoes and sweat socks to work.

Einstein is one of his heroes. "He had insight, dedication, quality of mind. Some people think with clarity and sharp edges. Others are fuzzy. He was crystal clear."

That's pretty much the way people describe Lederman.

"I don't know of anyone who has done as much important work in high energy physics," says Columbia University physicist Allan Sachs. "He has no weaknesses."

Lederman is a smart, funny, charming workaholic who has received every major scientific award except the Nobel Prize—and some say he should have won that years ago.

"But that's all right," Lederman says, warming to a typical wisecrack. "I already have so many medals that it takes me an hour to transfer them from my pajamas to my suit and back again."

Since 1979, Lederman has directed Fermi National Accelerator Laboratory in Batavia, 40 miles west of Chicago. Fermilab often is called an atom smasher, but the term is misleading. Lederman does indeed smash tiny things for a living, but they're much smaller than atoms.

An atom is more than a million times smaller than the thickness of a human hair. But it is a giant compared to the subatomic particles that buzz around inside. If an atom were the size of Comiskey Park, its subatomic particles would be smaller than a baseball.

At Fermilab, scientists accelerate subatomic particles called protons around an underground racetrack to nearly the speed of light (186,282 miles a second), and then smash them into subatomic targets. The high-speed collision cause protons to blast apart into dozens of smaller particles, which go by such names as "top quarks" and "Tau neutrinos." No one can see these particles, of course. But computers and complex electronic detectors can track their paths.

Particle smashing will enable physicists to probe inside the atom. They want to learn the ultimate structure of matter, and understand how the forces of nature operate at the most basic level. They are striving, in short, for the "Theory of Everything."

Such a theory might resolve some of the questions only a physicist would think to ask.

For example: Deep inside the atom, does matter consist of quivering strings rather than particles? Are the basic forces of nature, including gravity and electromagnitism, actually part of a single Superforce? Finally, are there six more subatomic dimensions, in addition to the four dimensions we already perceive (length, width, height and time)?

Subatomic strings, extra dimensions and the Superforce are, of course, almost impossible to imagine. But they make sense as mathematical concepts, and mathematics is the language physicists use to write the Theory of Everything. Scientists have scratched dozens of variations of the theory on blackboards. But without experiments to support or debunk the theory, it's not worth the chalk dust.

"We provide the data to keep the theorists honest," Lederman said.

There are four particle accelerators in the country, and Fermilab is the most powerful. Particles race around Fermilab's circular track with an energy approaching 1,000,000,000,000 electron volts. (An ordinary flashlight is 1½ volts.)

Physicists are trying to talk this government into building an even bigger accelerator, to probe further into the atom. The proposed Superconducting Super Collider, or SSC would be 20 times more powerful than Fermilab. It would be 60 to 100 miles round, compared to Fermilab's four-mile circumference and cost between $3 billion and $6 billion, making it the most expensive lab in history.

At least eight states, besides Illinois, want the SSC. Lederman argues that Fermilab is the logical location. Fermilab's existing ring could be used to accelerate particles to cruising speed, before they enter the Big Ring.

Of course, logic will be only one factor in deciding who gets the SSC. Politics and public relations may be just as important, and Lederman is a matter at PR.

He writes articles and gives talks all over the country promoting the SSC, and has a knack for translating the jergon of physics into plain English.

And, he tells a good joke.

"Somebody told me that the last time I talked, the audience was glued to their seats," Lederman said. "I said that was a useful precaution."

Columbia University astrophysicist Malvin Ruderman says Lederman, has "an extraordinary sense of humor, as an inventor, collector and distributor of jokes.".

A sense of whimsy helps when studying particles that behave in ways that defy common sense.

"In physics, you sometimes have to make an illogical leap in your logic that gives you a new perception," says Robert Wilson, Fermilab's first director. "It's a pity the jokes get left out of the textbooks. That's why people don't understand the humaneness of physics."

If the SSC is built, Lederman would be the obvious choice to run it.

But he wouldn't take the job. He's 63 years old, and wants to do research again before retiring.

Lederman is on an extended leave of absence from Columbia University. "Doing research and teaching probably is the best job invented in Western civilization," he says. "When I came to Fermilab, I had withdrawal symptoms from teaching. You get nervous. You twitch. You grab somebody in the hall and teach him something."

So he keeps his hand in. Once or twice a week, for example, Lederman works the night shift in one of Fermilab's research groups.

"I'm getting itchy to do something more serious than being a lab director," he says. "The great joy in life is to see how science really gets done, to beat your head against a hard problem that doesn't involve budgets."

Lederman also has organized Saturday morning physics classes at Fermilab for high school and junior high students. He usually gives the first lecture of the 10-week series himself.

And Lederman was the first to propose the Illinois Mathematics and Science Academy, a state-supported boarding school that will open this fall in Aurora. Tuition and room and board, which will cost $12,000 to $15,000 a year, will be free for any Illinois high school student smart enough to get in.

Some educators resent this "High-Tech High," because it will drain money and the best students and teachers from regular public schools.

But that's the whole point, Lederman says.

"Illinois wants to attract all sorts of high-tech industry," he explains. "A magnet school that would attract national attention would be just the kind of thing the state could boast of."

The academy has accepted 214 of the 765 students who have applied. The ideal student would be much like Lederman himself, when he was growing up in New York City.

"I always knew I would be a scientist. Between basketball, girls and chemistry, I thought life was pretty complete."

Lederman majored in chemistry at the City College of New York. "But I liked the people in physics class more than the people in chemistry class. It looked like they were cleaner cut, smarter."

After serving in the U.S. Army Signal Corps during World War II, he enrolled in Columbia's graduate physics program. He's been smashing particles ever since.

Former colleagues say Lederman's success is the result of a little luck and a lot of sweat. Unlike some researchers, Lederman didn't have graduate students do all the work, then hog the credit for himself. Nor did he publish findings until he was absolutely certain they were correct. And he never gave up.

"He was at the lab more or less all the time," recalls former student Dino Goulianos, now a Rockefeller University physicist. "Not everything he did was right. But he pursued a problem until he got it right."

These are among the big trophies from Lederman's particle-hunting days:

In 1951, he discovered that the "negative pi meson" particle had a lifetime of two hundreths of a millionth of a second before it blew apart into other particles. In 1956 he discovered the "long-lived K meson," in 1961, the "new neutrino," and in 1972, the "high transverse momentum pion."

The particle zoo gets more complicated all the time. Scientists once thought the atom was the fundamental, indivisible chunk of matter. Then they discovered that within the atom, electrons buzz around a nucleus consisting of protons and neutrons.

Today, scientists believe that protons, neutrons and other subatomic particles consist of even tinier particles, called quarks. There are six kinds of quarks, each with different properties. With typical whimsy, physicists have named them top quarks, bottom quarks, charmed quarks, strange quarks, up quarks and down quarks.

Five of the six quarks have been discovered in accelerator experiments, but scientists still are looking for the top quark. They're certain it exists because in 1978 Lederman discovered its twin, the bottom quark.

Most particles consist of two or three quarks. A proton, for example, is made of one down quark and two up quarks. Some theorists believe that quarks themselves are made up of even smaller particles, which they have called technicolor quarks. Or maybe there are infinitely thin strings inside quarks.

But at least for now, most physicists assume the ordinary quark is the fundamental particle of nature. There probably is nothing inside a quark. It's infinitely small, like a point in geometry class. It's radius, or distance across, is zero. But even though it has no size, it still has mass, electric charge and other properties.

Finding the bottom quark was Lederman's last big discovery before he signed on at Fermilab. At the time, Lederman had no administrative experience, not even as a department chairman.

But Wilson, who had directed Fermilab since it opened in 1967, insisted Lederman take the job.

"I wanted Leon because of his character, and because he was a super physicist," Wilson says. "Ability and character are closely intertwined. If Leon wasn't impeccably honest, he would not be a good scientist."

Lederman has expanded on Wilson's efforts to make Fermilab a showplace for culture and nature, as well as science.

More than 30,000 trees have been planted on the lab's 6,800-acre grounds. the lab also has a 450-acre restored prairie, the largest in the country, several artificial lakes and more than 100 buffalo.

Lederman, a lifelong New Yorker, has come to enjoy country living at the lab director's house. He and his wife Ellen have two horses and 20 chickens, and he takes three-mile morning jogs around the grounds.

He has continued Wilson's cultural programs, which include string quartets and chamber music. "There is a profound connection between physics and music," says Lederman, himself a classical music lover. "A number of physicists have told me they came close to having musical careers, but switched to physics at the last moment."

Lederman also has opened a gourmet restaurant at Fermilab, and sponsored arms control seminars and a lecture series. "He's done a magnificent job," Wilson says.

Still, there has been grumbling. There's not enough time or equipment to accommodate everyone who wants to work at Fermilab, and those who've been left out have questioned Lederman's choice of experiments.

And while Fermilab scientists have made important discoveries, the big prize in recent years has gone to the lab's No. 1 competitor, the European accelerator known as CERN. In 1984, CERN researchers won a Nobel Prize in Physics for their discovery of the important W and Z particles.

Nevertheless, most scientists agree that Lederman has made Fermilab a better machine. Complex design changes have more than doubled Fermilab's power. And next December, Fermilab's power will double again, making it the world's most powerful accelerator. Instead of smashing a beam of particles into a fixed target, physists will rotate two beams in opposite directions and smash them together.

The upgraded accelerator has become a sort of cosmic time machine. The subatomic particles detected in Fermilab experiments haven't existed in isolation since the universe began with a Big Bang.

"We have joined with the astronomers in a common quest called Inner Space-Outer Space," Lederman says. "That connection is very helpful to us. Very few people have ever seen a quark, but everyone has seen the night sky."

In the Big Bang theory, matter and energy were created in a titanic explosion 15 billion years ago. The universe since then has been expanding and evolving. But much of the important action took place during the first second after the Big Bang. Free floating quarks binded into larger subatomic particles, which then came together to form the nuclei of atoms.

Fermilab turns back the clock by blasting apart these subatomic particles to their original states. In a sense, Fermilab is re-creating the conditions of the universe less than a billionth of a second after the Big Bang. Using data from Fermilab and other sources, scientists hope to show that creation perhaps wasn't a miracle, but merely the laws of nature at work.

"We're pushing back the border between philosophy and science," Lederman says. "Was the Big Bang a consequence of the laws of physics? If so, there already are theories which try to discuss how the Big Bang took place."

Where does God fit into all this?

"A theologian can always find a place," Lederman answers. "He can say, 'Who established the laws?' "

To continue the Inner Space/Outer Space quest into the 1990s, scientists will need the SSC accelerator, Lederman says.

But is it worth the cost? At a time when Congress is trying to reduce the deficit, it might balk at spending up to $6 billion on a project that seemingly has no practical applications.

Even some scientists oppose the SSC. In a recent article in Science magazine, University of Chicago chemist Stuart Rice argues that humongous projects such as the SSC and the manned space station drain money from small research groups that are more efficient.

"When the value of an undertaking seems to lie principally in the size of its budget, one can be certain that an Edifice Complex has set in," Rice wrote.

But Lederman argues that the possible benefits of the SSC dwarf the costs. "Every scientific breakthrough in history has influenced society," he says.

Lederman says his branch of physics already has made possible transisters, computers, lasers, nuclear power, biotechnology and the communications revolution.

"All that stuff adds up to about a third of the gross national product," he says. "So I don't have any conscience that I'm contributing to the deficit. I wish I could contribute more."

When Lederman started his career, an accelerator experiment required fewer than a dozen researchers. Now, it can require 100.

But big science still can be efficient, he says. Fermilab was built ahead of schedule and under budget, and with more power than originally planned.

"Where else can you get Ph.D. physicists who work 20 hours a day, six or seven days a week for months on end?" Lederman says. "That's what I call high efficiency."

Being an old particle smasher himself who longs to return to the lab, Lederman knows what drives people to work such crazy hours.

"With accelerators, you have to meet schedules. There's limited time, much anxiety," he says. "I've gone times when I could hardly keep my eyes open. You keep drinking coffee and smoking cigars to keep awake. You take naps on a cot in the laboratory. You don't even go home. You can go on for several weeks that way before you collapse and take a real break.

"Then sometimes at 3 in the morning, you're all alone, or maybe you have a graduate student. You're looking at the data from the computer and suddenly you see something totally new. There are 4 billion people on this planet and only you know this fact. That's where the reward comes in. That's when you get this shortness of breath and sweaty palms. This has happened to me three or four times in my lifetime. That's way above average.

But still not enough.

"You always say, 'Gee, only one more time,' " Lederman says.●

THE ISSUE OF SOUTH AFRICA

● Mr. McCONNELL. Mr. President, I am stunned. Yesterday, I listened to some of my colleagues criticise the minority in the Senate for failure to bring up the issue of South Africa. We have been accused of not being willing to participate in a discussion and bipartisan crafting of legislation regarding South Africa. And, we have been charged with a lack of concern about the outrages and injustices of apartheid. Mr. President, I feel compelled to challenge this demagoguery and correct a blatantly false accounting of the record.

First, and foremost, as we all know, the majority has the option to bring forward any legislation it chooses. Not once this year, let me repeat, not once this year, have they tried. I might point out that I introduced a resolution in February condemning the South African Government's decision to ban the activities of all nonviolent political organizations working toward the end of apartheid. The resolution was passed out of the Senate Foreign Relations Committee 17 to 0 and put on the Senate Calendar where it has idled since March 16, 1988. My Republican colleagues and I can do no more than introduce legislation—control over the timing and opportunity for debate rests primarily with the majority party.

I am also surprised by the allegation that those of us on this side of the aisle have not been willing to work on a bipartisan bill. In fact, talks began on just such a package in November last year. Those discussions broke down because some Members decided they would only accept more of the same economic sanctions. It isn't clear the sanctions in place are having the desired effect, so there was justifiable concern about how we proceed with additional punitive measures. Tough action was very much a part of the Republican commitment, but we were and are also interested in effective action. We were searching for and will continue to work on a meaningful approach to the crisis in South Africa.

As I outlined in the Foreign Relations Committee, I have drafted legislation which I have been waiting for an opportunity to bring up on the Senate floor. It does not cut off economic relations with South Africa as called for in the Cranston-Kennedy legislation. I believe cutting economic ties will only damage the lives and well-being of the millions of blacks we profess interest in supporting in their struggle for freedom. I believe their bill fails to take aim and strike at the real target—the clearest obstacle to change—the Government of South Africa and its policies.

If we are to be effective, we must strengthen the opponents of apartheid—virtually the majority of South Africans—as we apply pressure forcefully and exclusively on the enforcers of this reprehensible policy, the South African Government. The President should be limiting the United States travel of South African diplomats if the South African Government refuses to give passports to antiapartheid activists. The President should also consider limiting the number of diplomatic missions the South African Government is allowed to establish in the United States.

As we apply pressure on the Government we must give individuals and companies incentives to change the system we so stongly oppose and reject. We should sustain the commitment U.S. companies have made to the education, health, legal, and housing needs of their employees. And, we should be considering ways to encourage South African companies from assuming the same responsibilities.

Walking away from the region as the Cranston-Kennedy bill would have us do may make us feel better in the short run, but it certainly will not contribute to a peaceful resolution to the struggle underway.

Mr. President, I am deeply disappointed that my Democratic colleagues have chosen to toss aside a record of cooperation and achievement on the pressing problems in South Africa. Let us all remember that Republicans took the lead in changing the policy toward South Africa as embodied in the Comprehensive Anti-Apartheid Act of 1986. I was proud to have a part in crafting that bill which became law. Time and time again, I have joined my colleagues from both parties in condemning the outrages of apartheid and calling on the administration to vigorously work toward its end. I am simply not willing to stand by and listen to Senator CRANSTON accuse the Republicans of sitting on our collective hands.

Mr. President, if you don't try, you can't win and certainly no one tried to bring a bill forward. The Cranston-Kennedy bill was introduced at the beginning of the session. If there was a serious commitment to debate the bill it could have been brought forward on any number of occasions. Instead, minutes before the Senate adjourns, responsibility for this failure is laid on the Republican doorstep. What I listened to smacks of the notion that if we can't win, we must have been cheated.

I am sorry that a problem which commands bipartisan concern and begs for bipartisan work toward a reasonable solution has been diminished by political grandstanding.●

CONGRESSIONAL BUDGET PROCESS, AN ARTICLE BY SENATOR KASTEN

● Mr. SYMMS. Mr. President, I call to the attention of my colleagues a thoughtful and cogent article by Senator BOB KASTEN which appeared in the most recent issue of the Harvard Journal on Legislation.

In his article, Senator KASTEN reviews the history of the congressional budget process from the early days of the Republic, to the Budget Act of 1974 and to the enactment of the Gramm-Rudman-Hollings Act. He concludes that the budget processes are just as important as the budget policies when it comes to controlling the size of the Federal budget deficit. For example, since the enactment of the Gramm-Rudman-Hollings Act in 1985, annual spending growth has slowed significantly and annual deficits have declined from over $200 billion to less than $150 billion.

To bring the deficit down even more, KASTEN argues for the need for further budget process reforms to strengthen the political incentives for fiscal responsibility. Raising taxes would increase incentives to spend and relax the hard-won discipline we've managed to impose on the congressional purse.

I highly recommend Sentor KASTEN's article for those who want a better understanding of how the budget process works. I ask that Senator KASTEN's article entitled "Gramm-Rudman-Hollings: An Imperfect Law That Works" be printed at this point in the RECORD.

GRAMM-RUDMAN-HOLLINGS: AN IMPERFECT LAW THAT WORKS

(By Robert W. Kasten, Jr.)

The Balanced Budget and Emergency Deficit Control Act of 1986, otherwise known as the Gramm-Rudman-Hollings Act,[1] has been roundly denounced as a mere fiscal fig leaf, a gimmick contrived in the vain hope that legislators can postpone indefinitely the tough fiscal policy choices required by the federal budget deficit. These criticisms come from all points on the ideological spectrum, for conservatives who fear rollbacks in the defense buildup to liberals claiming that the Gramm-Rudman-Hollings process will savage discretionary social spending. Others charge that Gramm-Rudman-Hollings has precipitated a breakdown in the legislative process, resulting in government by stop-gap spending measures and continuing resolutions.

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[1] Footnotes at end of article.

Yet despite its weaknesses, the Gramm-Rudman-Hollings Act has worked. The Act has imposed a measure of fiscal discipline in the budget process that otherwise would not exist. Since the enactment of Gramm-Rudman-Hollings in 1986, the annual growth of government spending has declined from double-digit rates in late 1970's and early 1980's to the lowest rate in two decades.[2] As a consequence, the federal budget deficit has declined significantly.

The continued success of the Gramm-Rudman-Hollings Act depends on the mix of economic policies used to reduce the deficit. In addition, the Congressional budget process must be further reformed to restore some measure of budgetary power to the Executive Branch. The erosion of the President's role in budgetary matters in recent years has contributed to the breakdown of the budgetary process and the subsequent rise in public spending.

HISTORICAL PERSPECTIVE ON THE BUDGET PROCESS

A brief history of the Congressional budget process will help illuminate the implications of the Gramm-Rudman-Hollings Act.

The Constitution of 1787 empowered the President to veto spending bills passed by Congress. However, the boundaries of presidential discretion over the expenditure of appropriated funds were not clearly defined by the Constitution's framers. From 1789 until the collapse of the Nixon Presidency, the President retained the power to "impound" (refuse to spend) money appropriated by Congress. Congress had no formal power to overturn this action. Presidents exercised this impoundment power (along with the veto) to check Congress' tendency to overspend. For example, Presidents Kennedy and Johnson used impoundments to reduce projected Congressional spending by 6% and 5.4% during their respective Administrations.[3] For the most part, Congress grudgingly assented to these impoundments.

President Nixon pushed impoundment powers to their outer limits by reducing and terminating federal programs against the explicit wishes of Congress. In response to Nixon's alleged abuse of his impoundment authority, Congress passed the Congressional Budget and Impoundment Control Act of 1974.[4] This Act eliminated the presidential prerogative of impoundment and replaced it with weaker substitutes. The 1974 Budget Act also overhauled the entire budget process to promote planning and coordination in fiscal policy by creating the Congressional Budget Office and the House and Senate Budget Committees, which were charged with developing an overall budget plan (called a "budget resolution") that would serve as a guide for the Appropriations Committees of each chamber.

The 1974 Budget Act has not worked well. Since 1974, federal spending has almost quadrupled, from $269 billion to over $1 trillion.[5] According to Dr. William Orzechowski, an economist with the United States Chamber of Commerce, Congressional spending has surpassed its own budget resolutions by an average of $25 billion per year. Congress has exceeded its deficit goals over the same period by an average of $48 billion.

The 1974 Budget Act concentrated budget power in the Congress by severely limiting presidential impoundments. In effect, the 1974 Budget Act removed any effective external check on Congress' tendency to overspend. Congressional use of multi-billion dollar omnibus appropriations bills has further diluted the President's control over federal spending. The unseemly combination of omnibus appropriations and restricted presidential impoundments has been an underlying cause of the growth in federal spending and deficits.

Frustration with the budget process in addition to the specter of skyrocketing expenditures and rising deficits in the early 1980's led to the enactment of the Balanced Budget and Emergency Deficit Control Act of 1986. Gramm-Rudman-Hollings was approved with wide bi-partisan support in the Senate by a vote of sixty-three to thirty-six. This Act was an attempt to provide a procedural framework to eliminate deficits over five years by restoring greater impoundment authority to the President.

Gramm-Rudman-Hollings established fixed ceilings on the annual federal budget deficit and reformed several legislative procedures to enhance the likelihood that Congress would abide by the annual ceilings. Gramm-Rudman-Hollings created an "action-forcing" mechanism (the "sequester") which would impose upon the President a duty to make automatic across-the-board spending reductions if Congress failed to meet its deficit target. In the event of a sequester, federal spending programs would be reduced by a uniform percentage. Defense and certain domestic programs would be reduced equally to sustain these budget cuts.

Since 1986, the Gramm-Rudman-Hollings Act has been revised to ensure the constitutionality of the sequestering process, and the deficit targets have been moved forward one year. The ultimate goal of this Act is a balanced budget by fiscal year 1992.

THE ECONOMIC AND POLITICAL IMPACT OF GRAMM-RUDMAN-HOLLINGS

Thus far, Gramm-Rudman-Hollings has been a qualified success. It has significantly reduced the growth rate of federal spending. From 1980 to 1985, federal expenditures grew at an annual rate of 10.5%.[6] Federal spending as a percentage of Gross National Product (GNP) reached an historic high of 24% in 1985.[7] Without Gramm-Rudman-Hollings, the prospect for meaningful deficit reduction was grim.

Two years of Gramm-Rudman-Hollings have reversed these alarming trends. In 1986, the sequestering mechanism cut $11.7 billion from the federal budget. Congress further facilitated the budget reduction by resurrecting the 1985 reconciliation bill which saved another $11.5 billion. As a result, Gramm-Rudman-Hollings helped reduce spending growth to 4.6% in fiscal 1986.[8] This favorable trend continued in fiscal 1987, as spending growth slowed to 1.2%—the smallest annual increase in over two decades.[9] Gramm-Rudman-Hollings helped achieve the largest single-year reduction in the federal budget deficit in history—from $221 billion in 1986 to $148 billion in 1987.[10]

The Act contains a "deficit-neutral" provision which requires offsetting spending reductions or tax increases to pay for new spending above the budget resolution's outlay levels. This provision strengthens the incentives for fiscal responsibility. Sixty votes are required in the Senate to waive this deficit-neutral provision. The stringent voting requirement has blocked the consideration of several budget-busting bills on the Senate floor.

Gramm-Rudman-Hollings' deficit-neutral provision has improved the political dynamics among members of Congress and special interest groups. Amendments to increase spending for specific programs are becoming more difficult to pass, as competing interest groups emerge to oppose the required offset to the amendment—the spending cut or tax increase. In the past, Congress simply passed on the higher costs by increasing the deficit, engendering little interest group opposition.

Indeed, the political magic of Gramm-Rudman-Hollings is that it forces interest groups to compete against one another rather than against the amorphous and poorly represented body of taxpayers. Gramm-Rudman-Hollings restores the taxpayer's power in the budget process.

Nevertheless, the Act has had some undesirable effects. It has contributed to the increased use of budget gimmickry to achieve the required deficit savings. These gimmicks include shifting payments from the end of one year to the beginning of the next, underestimating program costs, and inflating projected budget baselines to soften the impact of a sequester. In addition, Congress has achieved immediate savings at the expense of increasing the deficit in the outyears, thereby exchanging short-term savings for long-term increases in the deficit.

Gramm-Rudman-Hollings creates an incentive to reduce the deficit, but it also creates a dangerous temptation to increase taxes rather than reduce spending. Taxes can be increased to help meet the annual deficit ceiling, but increased taxation may dampen economic activity and lead to collection of lower revenues. Therefore, a tax increase is not an effective solution to reducing the deficit.

It is vitally important for policymakers to recognize the relationship between fiscal policy and the productive economy when deciding how to meet the Gramm-Rudman-Hollings deficit reduction goals. Failure to adhere to these economic fundamentals can lead to policies that increase the budget deficit and reduce economic opportunity.

Perhaps the greatest drawback of Gramm-Rudman-Hollings is that it focuses on the size of the budget deficit and diverts attention from the true threat of excessive government spending. A growing body of evidence from around the world shows that rising levels of government spending inhibit economic growth. High levels of public spending and correspondingly high taxes absorb private resources and diminish productive economic activity.

Statistics from industrial countries over the past twenty years reflect the inverse relationship between government size and economic growth. The government share of Gross Domestic Product (GDP) in the seven major Western European countries rose from an average of 32.6% in the years 1965–1969 to 41.2% during the years 1980-1984. Not surprisingly, economic growth in these nations fell over the same period from an average of 5.0% to 1.8%. While the United States is fortunate to have a total public sector size of about 35% of GDP, we must reduce the public sector's claim on private resources even further in order to improve the prospects for long-term economic growth.

THE 1987 BUDGET COMPROMISE

The Gramm-Rudman-Hollings process had mixed results in 1987. The budget compromise of last fall proved that while the Act has been an effective tool for fiscal restraint, Congress retains the ultimate responsibility for making it work.

With the Democrats in control of the Senate in 1987, many conservatives feared that Gramm-Rudman-Hollings was going to be used primarily as a vehicle to raise taxes, contrary to the intent of one of its original sponsors, Senator Phil Gramm (R-Tex.). These fears were realized when the Senate Budget Committee approved a budget resolution which called for the largest single-year tax increase in history, $18.5 billion in fiscal 1988 and a whopping $98 billion over the next four fiscal years. Under this budget plan, total federal spending would grow 4.2% in fiscal 1988, more than twice the spending growth in fiscal 1987.[11]

Faithful to his 1984 campaign pledge, President Reagan vowed to veto any tax hike. He knew that he could count on receiving the thirty-four Senate votes necessary to sustain a veto. The President indicated that he would accept a Gramm-Rudman-Hollings sequester before he would sign a tax increase.

Gramm-Rudman-Hollings was working. Congressional tax hikers were on the defensive. It seemed that Congress was about to achieve deficit reduction the right way, by reducing expenditures. Then came "Black Monday." On October 19, 1987, the Dow Jones Industrial Average plunged 508 points. Conventional wisdom put the blame for the market panic on Congressional inaction on the federal budget deficit, and this breathed new life into the "deficit reduction at any cost" orthodoxy in Congress. Contrary to conventional wisdom, the deficit was not the primary cause of the stock market crash.

The budget deficit had declined over 30% over the year preceding Black Monday, from $221 billion in fiscal 1986 to $150 billion in fiscal 1987.[12] When state and local government finances are included, the general government deficit as a percentage of GNP dropped to a 6-year low in 1987—3.4% of GNP.[13] Thus, the deficit was shrinking in the years leading to the market crash.

Other macroeconomic factors influenced the October market plunge. These factors include sluggish economic growth in Western Europe, lack of coordination on international exchange rates, and fear of tax increases and protectionist legislation. Another important cause of the crash was the Federal Reserve's restrictive monetary policy throughout 1987. Nonetheless, hysteria over Black Monday led to an agreement between the president and Congressional leadership on a budget plan that proposed to reduce the budget deficit by $76 billion over two years.

The savings were derived primarily from defense cuts and tax increases. There were virtually no substantive reductions in non-defense spending. Most of the non-defense savings consisted of accounting gimmicks, one-time asset sales, or savings that had already been achieved by Congress. Federal spending in fiscal 1988 would increase by $50 billion over fiscal 1987.

Many policymakers stigmatized the sequestering process as the least desirable cure for the ailing market because, they claimed, it represented a "failure" in political leadership. This argument was used to force the president to accept a tax increase and avoid any real progress on reducing the growth of government spending. Their contention is simply untrue. A sequester is better for the economy than a tax increase, and the stock market would have responded postively to a sequester, interpreting it as a positive indicator.

First, a sequester is a permanent reduction in the spending base. Unlike the tax increases in the budget compromise, a sequester would release $23 billion in economic resources to the private sector. American businesses would have $23 billion more with which to finance domestic investment and spur economic growth. It is highly unlikely that the budget compromise will yield even $10 billion in reduced demands on the private sector.

Second, the markets did not react against the $11.7 billion sequester that occurred in Fiscal 1987. It is hard to imagine how a sequester of $23 billion would have caused a stock market tailspin. The markets are looking for real results—not agreement for agreement's sake. They are looking for reduced pressure in the capital markets, and a sequester would have done the job.

Because the budget compromise failed to restrain spending and raised taxes, the fiscal 1988 budget deficit is likely to be much higher than the $150 billion dictated by the budget agreement. As an unfortunate consequence, the growth rate of spending will rise in 1988 after three consecutive fiscal years of decline.

THE FUTURE OF GRAMM-RUDMAN-HOLLINGS AND DEFICIT REDUCTION

Far from being an act of legislative futility, Gramm-Rudman-Hollings is an imperfect law that has worked. The events of the past year, however, show that Gramm-Rudman-Hollings is just a process, a set of rules and guidelines which depend on Congressional intelligence and good faith for their successful implementation. The legislative chaos which occurred last year was a result of Congress' inability or unwillingness to adhere to rules, requirements, and deadlines of the Act. The fact that the deficit will be higher in 1988 is not a sign of the failure of Gramm-Rudman-Hollings itself, but rather of the failure of Congressional will to reduce the deficit.

To be sure, Gramm-Rudman-Hollings and the budget process need to be strengthened and improved. We need further budget reforms to correct the institutional imbalance between the executive and the legislative branches in money matters, and to enhance the political incentives for fiscal responsibility. These reforms include allowing the line-item veto, enhancing rescission powers, and enacting a host of other procedural changes to plug the loopholes in the budget process.

Congress can achieve a balanced budget by 1992 if it aims for price stability and economic growth. The budget deficit cannot possibly be reduced without continued economic growth, lower interest rates, and job creation. Congress should also consider freezing federal spending for one year. By holding spending in check, the natural growth in tax revenues resulting from economic expansion would dramatically reduce the deficit. Freezing domestic spending alone would save $20 billion in one year.[14] Congress should look to innovative, growth-oriented approaches to deficit reduction, such as a cut in the capital gains tax rate to 15%, as opposed to being taxed as ordinary income, which would raise between $4 and $8 billion in federal tax revenues.[15]

Gramm-Rudman-Hollings, combined with an employment-oriented national economic policy, can substantially reduce the deficit. We should give the process a chance, and not get side-tracked into illusory and counterproductive quick fixes—like tax increases.●

FOOTNOTES

[1] The Balanced Budget and Emergency Deficit Control Act of 1986. Public Law No. 99-177, 99 Stat. 1037 [hereinafter Gramm-Rudman-Hollings]. The act was amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. Public Law No. 100-119, 101 Stat. 754.

[2] See "Congressional Budget Office, Report to the Senate and House Committees on the Budget. The Economic and Budget Outlook, Fiscal Years 1989-93" 36 (1988) [hereinafter 1989-93 "Budget Outlook."]

[3] Unless otherwise indicated, all data for this essay have been taken from sources on file with the minority staff of the Senate Budget Committee.

[4] Public Law No. 93-344, 88 Stat. 97 (1974).

[5] See 1989-93 "Budget Outlook," supra note 2, at 136.

[6] See 1989-93 "Budget Outlook," supra note 2, at 138.

[7] See id. at 141.

[8] See id. at 136.

[9] Id.

[10] See id.

[11] See id. at 67

[12] See id. at 136.

[13] See id. at 137.

[14] See Testimony of Prof. Lawrence Lindsay of Harvard University before the Heritage Foundation's Ad-Hoc Committee on Taxation of Capital Gains (Feb. 2, 1988).

[15] 15 Id.

REAUTHORIZATION OF THE OFFICE OF FEDERAL PROCUREMENT POLICY

● Mr. GLENN. I am proud that the Governmental Affairs Committee has been able to accomplish a host of legislative goals in S. 2215, legislation passed by Senate yesterday. I would like to briefly discuss several of the accomplishments, then say a few words about my friend Lawton Chiles, who has again succeeded in bringing together the differing viewpoints of Senate Members.

First, we are permanently reauthorizing the Office of Federal Procurement Policy [OFPP]. It is now time for OFPP to produce—to demonstrate new achievements in simplifying the procurement system, to reduce the requirement for unnecessary paperwork, and to increase the integrity of the procurement system. The next Administrator of OFPP should utilize the newly expanded authorities to ensure that all agencies, both the civilian and military, comply with sound procurement practices.

Second, I believe the new Federal Acquisition Regulatory [FAR] Council will provide a shot in the arm for the continued nurturing of a single Governmentwide system of procurement regulations. The FAR Council centers accountability for the regulatory process on specific high-level individuals in DOD, NASA, and GSA, and adds the OFPP Administrator to this group.

Third, the bill reconstitutes a revamped Cost Accounting Standards Board to provide updated, Governmentwide standards concerning the allocability of cost accounting standards.

Fourth, the bill's procurement integrity section is intended to defer future procurement scandals such as the one that is currently under investigation in the Defense Department.

The Department of Defense is not the only agency prone to such scandels. For example, the Electronics Tandem Network [ETN] procurement, overseen by GSA, is a case in point where Government and contractor procurement personnel apparently colluded in an attempt to inappropriately manipulate the award of a Government telecommunications contract.

This bill represents reasoned action to change a procurement system which has lost the public's confidence. We have worked long and hard on the procurement integrity section of this bill in an effort to correct the seedy trade of favors and information which has fueled the latest scandal. This bill is intended to break the back of the "old-boy" network where information and favors are given to contractors, often via consultant intermediaries, in an effort to provide individual competing corporations with an unfair advantage over their more scrupulous competitors. In exchange for those favors, bribes, gratuities, and promises for future employment opportunities are made to Government personnel. This bill directly addresses this problem by prohibiting this type of conduct and providing a number of new remedies available to the United States.

Some may argue that there is already enough legislation and rules and regulations to restrict this kind of illegal activity. The details already released in the current DOD scandal demonstrate that this is simply not the case because the criminal activity continues unabated. It is apparent that our current restrictions are inadequate.

The bill will set up a series of remedies including administrative actions—such as debarment—contractual penalties, civil fines, and criminal penalties. The bill will enable the Government to swiftly apply the appropriate remedy to companies, consultants, and individuals who obtain inside government information, and those on the Government side who provide it.

The bill specifically prohibits contractors from making any offer or promise of future employment or to give any money, gratuity, or other things of value to any procurement official or employee of any Government agency for purposes of securing a Government contract. It also specifically prohibits any procurement official or employee of a Government agency from asking, demanding, exacting, accepting, receiving, or agreeing to receive any money, gratuity, or other thing of value from any contractor for purposes of securing a Government contract.

The bill makes it unlawful for any Government procurement official to inappropriately disclose proprietary or source selection information. This is the type of information which would give one contractor an unfair advantage over competing contractors. The bill will also make it unlawful for contractors to solicit such information from Government procurement personnel. The penalty for violating this prohibition can include a criminal penalty of up to 5 years in prison for individuals, and a corporate fine not to exceed twice the profit derived from the contract.

The bill requires the key representative of the Government and the contractor to disclose any information they receive prior to the award of the contract. To assist in training both contractor and Government employees to avoid unethical and improper behavior, all persons are required to have read the ethics program and to indicate their acceptance of the duty to comply with the program's requirements.

The bill prohibits Government procurement personnel who participated in particular Government procurements from acting as an employee of one of the competing contractors for purposes of securing the award, modification, or extension of the same contract, and performing the contract work for which they had responsibility while a Government employee.

The bill provides appropriate administrative penalties for failure to comply with the bill's requirements. Government employees who have knowingly violated such requirements, will be subject to appropriate administrative personnel actions, including dismissal from the service. They will also be subject to the provision which enables the Justice Department to bring civil suits and seek appropriate penalties for this behavior. If a contractor or consultant has violated the bill's requirements, the agency shall determine whether to utilize new contractual remedies required by this bill, whether to terminate the procurement and initiate a debarment proceeding. Contractors will, of course, be subject to the civil fine and criminal provisions previously discussed.

That was a quick summary of the bill. What we all hope is to decrease procurement fraud by making the behavior and ethics guidelines indelibly clear for both Government and contractor procurement personnel, and to punish illegal activities swiftly, with greater certainty, and in an appropriate way.

Much of the credit for this carefully crafted bill goes to Chairman JACK BROOKS of the House Committee on Government Operations. He and his staff conducted considerable research for years before this scandal was disclosed. Similarly, I would like to thank Senators ROTH, NUNN, LEVIN, BINGAMAN, COHEN, STEVENS, and RUDMAN, for the effort they have put into the bill. I also ask that a letter from the Office of Management and Budget supporting the bill, and a section-by-section analysis of the procurement integrity portion of the bill be printed in the RECORD, at the conclusion of my statement.

SENATOR LAWTON CHILES

Mr. President, the "Office of Federal Procurement Policy Act Amendments of 1988" will be the last legislation LAWTON CHILES sponsored which will be signed by the President and become law. As chairman of the Governmental Affairs Committee, I do not want the moment to pass without making a comment about our esteemed colleague.

For 18 years, LAWTON CHILES has served with distinction on the Committee on Governmental Affairs. While he was a creator and charter member, and now the chairman, of the Budget Committee, a member of the Appropriations Committee, and a former chairman of the Aging Committee, and has had a major impact in each of those areas, it has been from his seat on the Governmental Affairs Committee that most of LAWTON CHILES' legislative legacy has been wrought. It is a rich legacy, and a model of good government activity.

LAWTON CHILES authorized the Sunshine Act and was pivotal in opening up to sunshine the legislative processes here in the Senate and elsewhere. He picked up the work of the Procurement Commission, initially created the Officer of Federal Procurement Policy in the White House, and mounted major efforts in three separate Congresses during the 1970's to overhaul the procurement statutes which culminated in the Competition and Contracting Act.

LAWTON CHILES was a major architect of the Budget and Control Act and the Inspector General Act of 1978. He authorized the Grant and Cooperative Agreement Act of 1978. He is the father of the Paperwork Reduction Act of 1980, and the author of the Paperwork Reduction Act of 1986 as well.

LAWTON was not able to get enacted the lobbying or campaign reforms he pushed for in our committee, but I think such legislation will ultimately pass. He has always been ahead of the times when it comes to good government legislation. In Governmental Affairs, his departure leaves a void. I want him to know we will miss him.

The material follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 19, 1988.
Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We have reviewed Senator Chiles' Amendment to the House Amendment to S. 2215, the "Office of Federal Procurement Policy Act Amendments of 1988", and believe that this amendment satisfies the concerns raised by the Administration on previous versions of the legislation. The Administration supports its passage.

Sincerely,
JOSEPH R. WRIGHT, Jr.,
Acting Director.

COMMENTS ON THE PROCUREMENT INTEGRITY COMPONENT OF S. 2215

Section 6(a) of the bill amends the Office of Federal Procurement Policy Act by adding a new Section 27, "Procurement Integrity", which would be effective 180 days after enactment of this Act. This section is intended to curb abuses involving the disclosure of proprietary or source selection information which could give one contractor an unfair advantage over another in government contract actions. The section prohibits competing contractors from offering employment, gratuities or other things of value to Government procurement officials and, in turn, it prohibits procurement officials from soliciting or accepting employment, gratuities and things of value from contractors. The section defines proprietary or source selection information and requires both Government contracting officers and competing contractors to certify, prior to contract award, that they have not received or inappropriately disclosed such information. Appropriate contractual, administrative, civil, and criminal penalties are established for persons violating the various integrity provisions. The specific provisions and penalties are outlined below.

Subsection 27(a) prohibits competing contractors, their officers, employees, representatives, agents and consultants from knowingly engaging in certain activities during the conduct of a procurement. The subsection specifically identifies those prohibited activities as follows:

(1) making any offer or promise of future employment or business opportunity to, or engaging, directly or indirectly, in any discussion of future employment or business opportunity with any procurement official. This requirement differs from existing criminal law (18 U.S.C. 201) in that this bill does not require that intent to influence or nexus to an official act be established. These elements continue to be required to establish a criminal offense. However, this statute establishes that these elements are not required to establish the appropriate application of civil or administrative sanctions in the case of a gratuity offered by a competing contractor to a procurement official.

(2) offering, giving or, promising to offer or give any money, gratuity, or other thing of value to any procurement official.

(3) soliciting or obtaining from any agency officer or employee any proprietary or source selection information.

Subsection 27(b) similarly prohibits procurement officials from soliciting or accepting offers of employment or business opportunity; soliciting, receiving, or agreeing to receive any money, gratuity, or other thing of value; or disclosing any proprietary or source selection information. The categories of information in this statute are narrowly defined and intentionally so. These requirements do not, for example, apply to every internal government draft.

Section 27(c) addresses the disclosure of proprietary or source selection information more generally. The subsection directs that no person having access to proprietary or source selection information shall knowingly disclose it to any person other than a person properly authorized to receive the information. This should not be interpreted as a new method for government authorities to discourage "whistleblowing" activities by Government employees. Such an action would be a perversion of the congressional intent throughout this section of the bill.

Section 27(d) requires certifications by the competing contractor and by the contracting officer. The contractor must certify either that he has no information indicating a violation or possible violation of section 27 (including the prohibited activities identified in subsections (a), (b), (c), and the restrictions on employment of Government officials in subsection (e)) or that he has disclosed any and all such information. The contractor must also certify that each officer, employee, agent, representative, and consultant of the contractor, who participated personally and substantially in the preparation or submission of the bid or offer or in such modification or extension, has certified that he or she is familiar with, and will comply with, the subsection (a) prohibitions and will report any information indicating violations of the other prohibitions in section 27. Subsection (d) requires the contracting officer to certify to the head of the agency that he either has no information indicating a violation or possible violation of section 27 or has disclosed any and all such information.

The phrase "possible violations" is intended to cover cases in which a contractor or a government official has information indicating that a violation may have occurred. In such cases, we do not require the contractor or government official to reach a legal or factual conclusion as to whether a violation has in fact occurred. Instead, we require disclosure of the information indicating that such a violation may have occurred. The final determination of wheher such a violation has in fact occurred is the responsibility of appropriate agency officials.

Subsection 27(d) additionally authorizes the head of the agency to require any procurement official or any competing contractor, at any time during the conduct of a procurement to either certify that he has no information indicating a violation of the prohibitions and restrictions in section 27 or has disclosed any and all such information.

This provision allows the head of an agency to seek additional certifications from government officials or from a contractor if, during the course of a procurement, the agency has reason to believe that a violation of this section may have occurred. This provision does not authorize an agency head to seek certifications directly from the employees of a competing contractor. This provision is not intended to modify existing government authority to require such certification or additional certifications, but to clarify statutory emphasis in the bill.

In order to ensure enforcement of the certification requirements, subsection 27(d) requires the contracting officer to include in the procurement file all certifications made by procurement officials and competing contractors. In addition, persons making certifications are required to be notified of the applicability of section 1001 of title 18, United States Code, to false, fictitious, or fradulent statements in such certification. This section is intended to require notice to certifiers that 1001 may apply. It is not intended to extend the application of 1001 to any circumstances where it would not apply under current law.

Finally, certain contracts are exempted from the subsection 27(d) requirements. The subsection stipulates that it applies only to contracts, extensions, and modifications in excess of $100,000 and does not need to be applied to certain contract awards to a foreign government or an international organization or, in an exceptional case, when the head of the agency determines the subsection should be waived pursuant to procedures and criteria in the Federal Acquisition Regulation, and so notifies the Congress.

The latter exemption is intended for limited cases in which (1) the chances of violation of the section are minimal and (2) the government may risk losing an absolutely irreplaceable supplier if it insists upon certification. The exemption by an agency head is intended to apply only in rare circumstances where these two criteria have been met. We leave this to regulation and to the agency heads because we cannot anticipate in statute all of the circumstances where these criteria apply.

Subsection (e) establishes restrictions on Government officials and employees who participate personally and substantially in the conduct of a procurement or personally review and approve the award, modification or extension of a contract. For a period of two years after the last date of such participation or review and approval, those officials or employees may not (1) participate in any manner as an officer, employee, agent, or representative of a competing contractor in any negotiations leading to the award, modification, or extension of a contract for such procurement; or (2) participate personally and substantially on behalf of the competing contractor in the performance of such contract. This section does not apply to all "procurement officials" as defined in the Act. Instead, it applies to government officials (not including government consultants or contractors) who have participated personally and substantially in the procurement. This is a narrower category than "procurement officials" and does not include agency officials who merely have responsibility for reviewing or approving a procurement and do not actively participate in the procurement by attending meetings, discussing the procurement with subordinate officials or competing contractors, or similar activities.

Section (f) directs that provisions included in the Federal Acquisition Regulation to carry out section 27 shall include a clause providing appropriate contractual penalties for a competing contractor that engages in conduct prohibited by subsection (a) and (e). This subsection explicitly authorizes provisions providing for forfeiture of profit, termination for default, or any other appropriate penalty. The contractual penalties listed in this section are intended for the consideration of those who draft implementing regulations. By listing these possible penalties, the Committee does not intend to preclude consideration of alternative remedies nor to absolutely require that these penalties be included in any contract clause; or that they be exercised in any particular case if included. The Committee's action should not be construed as implying that statutory authority is required for use of these contractual penalties.

Subsection (g) explicitly outlines the administrative actions available in a case where an agency has a reasonable basis to believe that an officer, employee, agent, representative, or consultant of a competing contractor has knowingly violated the requirements of section 27. Possible actions include: termination of the procurement, voiding or rescission of the contract, and suspension and debarment of the contractor. This section states that the agency shall make a determination of what action is appropriate. Any action taken by an agency would have to be supported by applicable record-keeping requirements in any review proceeding provided by current and applicable law. With respect to a procurement official who engages in conduct prohibited by subsection (b) or (c), subsection (g) directs the initiation of removal or other appropriate adverse personnel actions. In specifically mentioning removal in the statute, the Committee does not intend to suggest that removal is a preferred sanction or even that it is an appropriate sanction in every case. This is left to case-by-case determination by the agency. The only purpose for mentioning removal is to give notice to employees that violations of the prohibitions of this section may carry serious consequences. However, subsection (g) makes clear that any actions taken pursuant to the subsection may be suspended by the agency head upon the request of the Attorney General, pending the disposition of any civil or criminal actions pursuant to subsections (h) and (i). The agency, of course, retains the discretion to suspend the action on its own motion in appropriate circumstances.

Under subsection (h), any person who engages in conduct prohibited by section 27 shall be subject to the imposition of a civil fine not in excess of $100,000 in the case of an individual; or $1,000,000 in the case of a competing contractor other than an individual. These fines are maximums. The amount of the fine assessed in any given case may be less than the maximum and would depend on the circumstances of the case and the gravity of the violation. In the case of fines against a company, such fines are intended to be exercised when management officials knew or should have known of the violation or violations.

In the case of an attempt to obtain or disclose proprietary or source selection information for the benefit of a competing contractor, subsection (i) establishes criminal penalties of imprisonment of not more than five years, or a fine in accordance with title 18, United States Code, or both. The penalties for this provision currently include fines as large as $500,000 or two times the profit from the particular contract for a competing company. Specifically, this penalty applies where a competing contractor or an officer, employee, representative, agent, or consultant of a competing contractor, knowingly and willfully solicits or obtains any proprietary or source selection information; or where an officer or employee of the agency knowingly and willfully discloses or promises to disclose such information to any competing contractor or any officer, employee, representative, agency, or consultant of a competing contractor.

The criminal penalties apply only to "knowing and willful" violations. The willfullness requirement means that wrongful intent must be shown to prove a criminal violation. Where this intent cannot be shown, a civil action may be appropriate, but a criminal action is not. In general, only more serious violations should be pursued as criminal matters. In the case of fines against a company, such fines are intended to be exercised when management officials knew or should have known of the violation or violations.

Subsection (j) does not require a retrospective certification of good conduct after each procurement. The goal of the training program required by this subsection is to foster a greater understanding of the ethical requirements placed upon government procurement officials and employees. It is the intention of the drafters to rely heavily upon the decency and honesty of government procurement personnel to become even more cognizant of their fiduciary obligation to the United States. Subsection (j) requires the establishment of a procurement ethics program in each Federal agency.

Subsection (k) makes clear that the provisions of this section are in addition to, and not in lieu of, the requirements, sanctions, contract penalties, and remedies established by other laws, or applicable regulations.

Subsection (l) stipulates this section does not authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals, the Comptroller General, or an Inspector General.

Subsection (m) directs that within 180 days after the date of enactment of this section, an appropriate implementing Government-wide regulation and guidelines shall be issued in the Federal Acquisition Regulation.

Section (n) defines several terms used throughout this section. Proprietary and source selection information are each defined with specificity and particularly made subject to further definition in the implementing regulations in order to avoid uncertainty which would hamper the accomplishment of the goals of this section or of a contracting officer's ability to conduct vigorous competitions for Government contracts. Subsection (n) defines "proprietary information" to mean: (A) information contained in bid or proposal; (B) cost or pricing data; or (C) any other information submitted to the Government by a contractor and designated as proprietary, in accordance with law or regulation, by the contractor, the head of the agency, or the contracting officer. "Source selection information" is defined to mean: information determined by the head of the agency or the contracting officer to be information, (A) the disclosure of which to a competing contractor would jeopardize the integrity or successful completion of the procurement concerned; and (B) which is required by statute, regulation or order to be secured in a source selection file or other restricted facility to prevent such disclosure.●

VETERANS' JUDICIAL REVIEW ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 392, a concurrent resolution making corrections in S. 11, the veterans' judicial review bill; that the concurrent resolution be agreed to; and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, the pending measure, House Concurrent Resolution 392, is a concurrent resolution to direct the clerk of the Senate, in enrolling S. 11, to make two changes. The first change would be the addition of new section 1404, incorporating a provision which was intended to be included in the final version of the bill. This provision, section 709 of the bill as passed by the Senate on October 18, 1988, would require the Administrator of Veterans' Affairs and the Secretary of Labor annually to report on the amounts included in their budgets for benefits and services for veterans who served in combat theaters of operations.

The second change would be to amend the title to the bill—which at this point refers only to the provisions of S. 11 as passed by the Senate on October 18 and does not make mention of the provisions added by the House of Representatives when it passed the bill on October 19—to make it more fully descriptive.

Mr. President, I urge the adoption of the concurrent resolution.

Mr. SIMPSON. Mr. President, I would like to say a few words about a provision contained in House Concurrent Resolution 392, making technical corrections to S. 11. This provision was passed by the Senate earlier, and it will provide vitally important information to Congress. It will require the administration to tell us how much of the resources allocated to veterans in the budget is allocated to veterans of combat or of a combat theatre of operations.

The provision requires that the VA budget documents indicate what amounts will be expended on such veterans for each of 17 specific programs.

I have long held that this Nation owes its greatest debt to those veterans who have served in combat or in a combat theatre of operations, whether injured in combat or not, and to the widows and children of those who made the ultimate sacrifice in combat. They deserve everything this grateful country can possibly provide for them. Just write the ticket, and this country should pick it up.

In so stating, I intend in no way to denigrate or belittle the service of all those who served in the Armed Forces and stood ready to defend this Nation in combat if called upon to do so. All veterans answered the call to serve, but not all of us were called upon to make the tremendous sacrifices made by those who served in combat.

It is they to whom Lincoln referred in his second inaugural address—in words that are inscribed on the Veterans' Administration Building here in Washington, describing the mission of the VA—"To care for him who shall have borne the battle and for his widow and his orphan." Nor do I imply that those veterans who were never called upon to take part in combat, but who were injured in training or in the performance of their military duties, should not be compensated and provided medical care. That is not my intention. What I do intend is that we should know what amount we devote to veterans who were called upon to take part in that most terrible, but, sadly, sometimes unavoidable, undertaking—combat. That should be the primary mission of the VA, and we should know what part of the $28 billion we appropriate for veterans' programs is going for that purpose.

Combat veterans should be at the top of the list for medical care, housing assistance, job assistance, disability compensation, and educational assistance. With our current budget of $1.1 trillion for fiscal year 1989, a deficit of $146 billion, our debt of $2.56 trillion and debt limit of $2.8 trillion, we need to take a hard look at where our resources go. We have to sober up and recognize our priorities, and combat veterans should be at the top of the list. This provision now requires the VA to tell us how it intends to allocate the funds it requests to combat veterans and their survivors.

Mr. MURKOWSKI. Mr. President, I am pleased to rise in support of House Concurrent Resolution 392 which directs the clerk of the Senate to modify S. 11, as passed by the House on October 19, 1988, to include a provision which was intended to be included in the final version of the bill. Specifically, the provision to be included would require that the Veterans' Administration [VA] and the Secretary of Labor submit information with annual budget submissions to the Congress which would include the estimated amount of money to be spent on veterans of combat service or service in a theatre of combat operations during a period of war.

I am pleased that the House and Senate were able to reach ageement on this provision which is derived from one which was proposed by my good friend from Wyoming and the former chairman of the Senate Veterans' Affairs Committee, Senator ALAN K. SIMPSON. I commend my colleague for his proposal, and I look forward to reviewing the material required by this provision.

The concurrent resolution was agreed to.

REVISION OF CERTAIN SHIPPING LAWS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1135, H.R. 3105.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3105) to revise, consolidate, and enact certain laws relating to shipping definitions and maritime commercial instruments and liens as subtitle III of title 46, United States Code, "Shipping", and for other purposes.

AMENDMENT NO. 3754

Mr. BYRD. Mr. President, I offer a substitute amendment on behalf of Senators BREAUX, STEVENS, and HOLLINGS.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—MARITIME COMMERCIAL INSTRUMENTS AND LIENS

VESSEL IDENTIFICATION SYSTEM

SEC. 101. (a) Title 46, United States Code, is amended by adding the following new chapter 125 after chapter 123:

"CHAPTER 125—VESSEL IDENTIFICATION SYSTEM

"Sec.

"12501. Establishment of a vessel identification system.

"12502. Identification numbers, signal letters, and markings.

"12503. Information available to the system.

"12504. Information available from the system.

"12505. Fees.

"12506. Delegation of authority.

"12507. Penalties.

"§ 12501. Establishment of a vessel identification system

"(a) The Secretary of Transportation shall establish a vessel identification system to make available information under section 12503 of this title for use by the public for law enforcement and other purposes relating to—

"(1) the ownership of documented vessels;

"(2) the ownership of vessels numbered under chapter 123 of this title; and

"(3) the ownership of vessels titled under the law of a State.

"(b) The vessel identification system shall include information prescribed by the Secretary including—

"(1) identifying a vessel;

"(2) identifying the owner of the vessel;

"(3) identifying the State in which it is titled or numbered;

"(4) indicating whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicating where evidence of a lien or other security interest may be found against the vessel in that State; and

"(6) information assisting law enforcement officials.

"(c) The Secretary may maintain information under this chapter in connection with any other information system maintained by the Secretary.

"§ 12502. Identification numbers, signal letters, and markings

"(a) For the identification of a vessel of the United States, the Secretary of Transportation—

"(1) shall maintain a unique numbering system and assign a number to each vessel of the United States;

"(2) may maintain a system of signal letters for a documented vessel;

"(3) shall record a name selected by the owner of a documented vessel approved by the Secretary as the vessel's name of record; and

"(4) may establish other identification markings.

"(b) The manufacturer or owner of a vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned and any other markings the Secretary may require.

"(c) Once a number is assigned under this section, it may not be used by another vessel.

"(d) Once a documented vessel's name is established, the name may not be changed without the approval of the Secretary.

"(e) A person may not tamper with or falsify a number or other marking required under this section.

"§ 12503. Information available to the system

"(a) Except as provided in subsections (b) and (c) of this section, a State or a State's delegee approved by the Secretary of Transportation may make information available to the Secretary if, in a manner and form prescribed by the Secretary, the State—

"(1) identifies the vessel;

"(2) identifies the owner of the vessel;

"(3) identifies the State in which it is titled or numbered;

"(4) indicates whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicates where evidence of a lien or other security interest may be found against the vessel in that State;

"(6) includes information to assist law enforcement; and

"(7) includes other information agreed to by the Secretary and the State.

"(b) Except as provided in subsection (c) of this section, the Secretary also may accept information under conditions and in a manner and form prescribed by the Secretary.

"(c) The Secretary shall—

"(1) retain information on a vessel with a preferred mortgage under section 31322(d) of this title that is no longer titled in a State making information available to the Secretary under this chapter until the mortgage is discharged or the vessel is sold; and

"(2) accept information under section 31321(h) of this title only if that information cannot be provided to a State.

"§12504. Information available from the system

"For law enforcement or other purposes and under conditions prescribed by the Secretary, the Secretary of Transportation—

"(1) shall make available information in the vessel identification system to a State making information available under section 12503(a) of this title; and

"(2) may make available information in the vessel identification system to others.

"§12505. Fees

"(a) The Secretary of Transportation may charge a fee under section 9701 of title 31 for providing information to or requesting information from the vessel identification system, except to—

"(1) an agency; or

"(2) a State making information available to the Secretary under section 12503(a) of this title.

"(b) In addition to any fee under subsection (a) of this section, the Secretary may collect an annual fee of not more than $1.00 from the owner of each vessel of the United States under section 9701 of title 31 for maintaining the vessel identification system. However, the collection of that fee may be delayed under conditions prescribed by the Secretary.

"(c) The Secretary may employ any agency, State, or person to collect the fee established under subsection (b) of this section.

"(d) If a State is employed to collect a fee under subsection (c) of this section, the State may retain one-half of the amounts collected. A State shall transfer one-half of the amounts collected under subsection (b) of this section to the Secretary.

"(e) The Secretary shall deposit amounts transferred or collected under this section in the general fund of the Treasury as proprietary receipts of the Secretary and ascribed to the vessel identification system.

"(f) The amounts retained by a State under this section may be used to make information available to the Secretary and to pay incremental administrative costs.

"§ 12506. Delegation of authority

"The Secretary of Transportation may delegate to an agency, a State, or a qualified person the authority to—

"(1) establish and maintain the vessel identification system; and

"(2) charge fees under section 12505 of this title to a person making information available to or requesting information from the vessel identification system.

"§ 12507. Penalties

"(a) A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person with the intent to defraud—

"(1) provides false information to the Secretary of Transportation or a State issuing authority regarding the identification of a vessel under this chapter; or

"(2) tampers with, removes, or falsifies the unique vessel identification number assigned to a vessel under section 12502 of this title.

"(b) A person is liable to the United States Government for a civil penalty of not more than $10,000 if the person—

"(1) provides false information to the Secretary or a State issuing authority regarding the identification of a vessel under this chapter;

"(2) violates section 12502 of this title; or

"(3) fails to comply with requirements prescribed by the Secretary under section 12505 of this title.

"(c) A vessel involved in a violation of this chapter, or regulation under this chapter, and its equipment, may be seized by, and forfeited to, the Government.

"(d) If a person, not an individual, is involved in a violation of this chapter, the president or chief executive of the person also is subject to any penalty provided under this section.".

(b) The title analysis at the beginning of subtitle II of title 46, United States Code, is amended by adding after item 123 in part H:

"125. Vessel Identification System............ 12501".

CHAPTERS 301 AND 313 OF TITLE 46.—

SEC. 102. (a) Certain general and permanent laws of the United States, related to definitions and maritime commercial instruments and liens, are revised, consolidated, and enacted by paragraph (3) of this subsection as subtitle III of title 46, United States Code, "Shipping".

(b) The title analysis at the beginning of title 46, United States Code, is amended to read as follows:

"Subtitle Sec.
"I. GENERAL.. 101
"II. VESSELS AND SEAMEN.................. 2101
"III. MARITIME LIABILITY................... 30101
"[BALANCE OF TITLE RESERVED]".

(c) Title 46, United States Code, is amended by adding at the end of the following new subtitle:

"SUBTITLE III—MARITIME LIABILITY

"Chapter Sec.
"301. GENERAL.. 30101
"[CHAPTERS 303-311—RESERVED]
"313. COMMERCIAL INSTRUMENTS AND MARITIME LIENS........................ 31301
"[CHAPTER 315—RESERVED]

"CHAPTER 301—GENERAL

"Sec.
"30101. Definitions.

"§ 30101. Definitions

"In this subtitle—

"(1) 'documented vessel' means a vessel documented under chapter 121 of this title;

"(2) 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country;

"(3) 'public vessel' means (except in chapter 315 of this title) a vessel that is owned, demise chartered, or operated by the United States Government or a government of a foreign country;

"(4) 'recreational vessel' means a vessel—

"(A) operated primarily for pleasure; or

"(B) leased, rented, or demise chartered to another for the latter's pleasure;

"(5) 'seaman' means a master or a crewmember of a vessel in operation.

"(6) 'State' means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States;

"(7) 'State vessel' means a vessel owned or demise chartered by the government of a State or an authority or a political subdivision of a State;

"(8) 'United States', when used in a geographic sense, means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

"(9) 'vessel of the United States' means a vessel documented under chapter 121 of this title, numbered under chapter 123 of this title, or titled under the law of a State.

"[CHAPTERS 303-311—RESERVED]

"CHAPTER 313—COMMERCIAL INSTRUMENTS AND MARITIME LIENS

"SUBCHAPTER I—GENERAL

"Sec.
"31301. Definitions.
"31302. Availability of instruments, copies, and information.
"31303. Certain civil actions not authorized.
"31304. Liability for noncompliance.
"31305. Waiver of lien rights.
"31306. Declaration of citizenship.
"31307. State statutes superseded.
"31308. Secretary of Commerce or Transportation as mortgagee.
"31309. General civil penalty.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"31321. Filing, recording, and discharge.
"31322. Preferred mortgages.
"31323. Disclosing and incurring obligations before executing preferred mortgages.
"31324. Retention and examination of mortgages of vessels covered by preferred mortgages.
"31325. Preferred mortgage liens and enforcement.
"31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims.
"31327. Forfeiture of mortgagee interest.
"31328. Limitations on parties serving as trustees of mortgaged vessel interests.
"31329. Court sales of documented vessels.
"31330. Penalties.

"SUBCHAPTER III—MARITIME LIENS

"31341. Persons presumed to have authority to procure necessaries.
"31342. Establishing maritime liens.
"31343. Recording and discharging liens on preferred mortgage vessels.

"SUBCHAPTER I—GENERAL

"§ 31301. Definitions

"In this chapter—

"(1) 'acknowledge' means making—

"(A) an acknowledgment or notarization before a notary public or other official authorized by a law of the United States or a State to take acknowledgments of deeds; or

"(B) a certificate issued under the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, 1961.

"(2) 'district court' means—

"(A) a district court of the United States (as defined in section 451 of title 28);

"(B) the District Court of Guam;

"(C) the District Court of the Virgin Islands;

"(D) the District Court for the Northern Mariana Islands;

"(E) the High Court of American Samoa; and

"(F) any other court of original jurisdiction of a territory or possession of the United States.

"(3) 'mortgagee' means—

"(A) a person to whom property is mortgaged; or

"(B) when a mortgage on a vessel involves a trust, the trustee that is designated in the trust agreement.

"(4) 'necessaries' includes repairs, supplies, towage, and the use of a dry dock or marine railway.

"(5) 'preferred maritime lien' means a maritime lien on a vessel—

"(A) arising before a preferred mortgage was filed under section 31321 of this title;

"(B) for damage arising out of maritime tort;

"(C) for wages of a stevedore when employed directly by a person listed in section 31341 of this title;

"(D) for wages of the crew of the vessel;

"(E) for general average; or

"(F) for salvage, including contract salvage.

"(6) 'preferred mortgage'—

"(A) means a mortgage that is a preferred mortgage under section 31322 of this title; and

"(B) also means in sections 31325 and 31326 of this title, a mortgage, hypothecation, or similar charge that is established as a security on a foreign vessel if the mortgage, hypothecation, or similar charge was executed under the laws of the foreign country under whose laws the ownership of the vessel is documented and has been registered under those laws in a public register at the port of registry of the vessel or at a central office.

"§ 31302. Availability of instruments, copies, and information

"The Secretary of Transportation shall—

"(1) make any instrument filed or recorded with the Secretary under this chapter available for public inspection;

"(2) on request, provide a copy, including a certified copy, of any instrument made available for public inspection under this chapter; and

"(3) on request, provide a certificate containing information included in an instrument filed or recorded under this chapter.

"§ 31303. Certain civil actions not authorized

"If a mortgage covers a vessel and additional property that is not a vessel, this chapter does not authorize a civil action in rem to enforce the rights of the mortgagee under the mortgage against the additional property.

"§ 31304. Liability for noncompliance

"(a) If a person makes a contract secured by, or on the credit of, a vessel covered by a mortgage filed or recorded under this chapter and sustains a monetary loss because the mortgagor or the master or other individual in charge of the vessel does not comply with a requirement imposed on the mortgagor, master, or individual under this chapter, the mortgagor is liable for the loss.

"(b) A civil action may be brought to recover for losses referred to in subsection (a) of this section. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court shall award costs and attorney fees to the plaintiff.

"§ 31305. Waiver of lien rights

"This chapter does not prevent a mortgagee or other lien holder from waiving or subordinating at any time by agreement or otherwise the lien holder's right to a lien, the priority or, if a preferred mortgage lien, the preferred status of the lien.

"§ 31306. Declaration of citizenship

"(a) When an instrument transferring an interest in a vessel is presented to the Secretary of Transportation for filing or recording, the transferee shall file with the instrument a declaration, in the form the Secretary may prescribe by regulation, stating information about citizenship and other information the Secretary may require to show the transaction involved does not violate section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).

"(b) A declaration under this section filed by a corporation must be signed by its president, secretary, treasurer, or other official authorized by the corporation to execute the declaration.

"(c) An instrument transferring an interest in a vessel is not valid against any person until the declaration required by this section has been filed.

"(d) A person knowingly making a false statement of a material fact in a declaration filed under this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"§ 31307. State statutes superseded

"This chapter supersedes any State statute conferring a lien on a vessel to the extent the statute establishes a claim to be enforced by a civil action in rem against the vessel for necessaries.

"§ 31308. Secretary of Commerce or Transportation as mortgagee

"When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary may foreclose on a lien arising from a right established under a mortgage under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241 et seq.), subject to section 362(b) of title 11.

"§ 31309. General civil penalty

"Except as otherwise provided in this chapter, a person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"§ 31321. Filing, recording, and discharge

"(a)(1) A bill of sale, conveyance, mortgage, assignment, or related instrument, whenever made, that includes any part of a documented vessel or a vessel for which an application for documentation is filed, must be filed with the Secretary of Transportation to be valid, to the extent the vessel is involved, against any person except—

"(A) the grantor, mortgagor, or assignor;

"(B) the heir or devisee of the grantor, mortgagor, or assignor; and

"(C) a person having actual notice of the sale, conveyance, mortgage, assignment, or related instrument.

"(2) Each bill of sale, conveyance, mortgage, assignment, or related instrument that is filed in substantial compliance with this section is valid against any person from the time it is filed with the Secretary.

"(3) The parties to an instrument or an application for documentation shall use diligence to ensure that the parts of the instrument or application for which they are responsible are in substantial compliance with the filing and documentation requirements.

"(b) To be filed, a bill of sale, conveyance, mortgage, assignment, or related instrument must—

"(1) identify the vessel;

"(2) state the name and address of each party to the instrument;

"(3) state, if a mortgage, the amount of the direct or contingent obligations (in one or more units of account as agreed to by the parties) that is or may become secured by the mortgage, excluding interest, expenses, and fees;

"(4) state the interest of the grantor, mortgagor, or assignor in the vessel;

"(5) state the interest sold, conveyed, mortgaged, or assigned; and

"(6) be signed and acknowledged.

"(c) If a bill of sale, conveyance, mortgage, assignment, or related document is filed that involves a vessel that has not yet been documented, and the Secretary decides that the vessel cannot be documented by an applicant—

"(1) the Secretary shall send notice of the Secretary's decision, including reasons for the decision, to each party whose name and address is stated on the instrument filed for recording; and

"(2) 90 days after sending the notice as provided under clause (1) of this subsection, the Secretary—

"(A) may terminate the filing; and

"(B) may return the instrument filed without recording it under subsection (e) of this section.

"(d) A person may withdraw an application for documentation of a vessel for which a mortgage has been filed under this section only if the mortgagee consents.

"(e) The Secretary shall—

"(1) record the bills of sale, conveyances, mortgages, assignments, and related instruments of a documented vessel complying with subsection (b) of this section in the order they are filed; and

"(2) maintain appropriate indexes, for use by the public, of instruments filed or recorded, or both.

"(f) On full and final discharge of the indebtedness under a mortgage recorded under subsection (e)(1) of this section, a mortgagee, on request of the Secretary or mortgagor, shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary. The Secretary shall record the certificate.

"(g) The mortgage or related instrument of a vessel covered by a preferred mortgage under section 31322(d) of this title, that is later filed under this section at the time an application for documentation is filed, is valid under this section from the time the mortgage or instrument representing financing became a preferred mortgage under section 31322(d).

"(h) On full and final discharge of the indebtedness under a mortgage deemed to be a preferred mortgage under section 31322(d) of this title, a mortgagee, on request of the Secretary, a State, or mortgagor, shall provide the Secretary or the State, as appropriate, with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary or the State, as applicable. If filed with the Secretary, the Secretary shall enter that information in the vessel identification system under chapter 125 of this title.

"§31322. Preferred mortgages

"(a)(1) A preferred mortgage is a mortgage, whenever made, that—

"(A) includes the whole of a vessel;

"(B) is filed in substantial compliance with section 31321 of this title;

"(C)(i) covers a documented vessel; or

"(ii) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter; and

"(D) has as the mortgagee—

"(i) a State;

"(ii) the United States Government;

"(iii) a federally insured depository institution, unless disapproved by the Secretary;

"(iv) an individual who is a citizen of the United States;

"(v) a person qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); or

"(vi) a person approved by the Secretary of Transportation.

"(2) Paragraph (1)(D) of this subsection does not apply to a vessel operated only as a fishing vessel, fish processing vessel, or a fish tender vessel (as defined in section 2101 of this title) or to a vessel operated only for pleasure.

"(b) A preferred mortgage filed or recorded under this chapter may have any rate of interest that the parties to the mortgage agree to.

"(c)(1) If a preferred mortgage includes more than one vessel or property that is not a vessel, the mortgage may provide for the separate discharge of each vessel and all property not a vessel by the payment of a part of the mortgage indebtedness.

"(2) If a vessel covered by a preferred mortgage that includes more than one vessel or property that is not a vessel is to be sold on the order of a district court in a civil action in rem, and the mortgage does not provide for separate discharge as provided under paragraph (1) of this subsection—

"(A) the mortgage constitutes a lien on that vessel in the full amount of the outstanding mortgage indebtedness; and

"(B) an allocation of mortgage indebtedness for purposes of separate discharge may not be made among the vessel and other property covered by the mortgage.

"(d)(1) A mortgage or instrument representing financing of a vessel under State law that is made under applicable State law covering the whole of a vessel titled in a State is deemed to be a preferred mortgage if—

"(A) the Secretary certifies that the State titling system complies with the Secretary's guidelines for a titling system under section 13106(b)(8) of this title; and

"(B) information on the vessel covered by the mortgage or instrument is made available to the Secretary under chapter 125 of this title.

"(2) This subsection applies to mortgages or instruments covering vessels titled in a State after—

"(A) the Secretary's certification under paragraph (1)(A) of this subsection; and

"(B) the State begins making information available to the Secretary under chapter 125 of this title.

"(3) A preferred mortgage under this subsection continues to be a preferred mortgage if the vessel is no longer titled in the State where the mortgage was made.

"(e) If a vessel is already covered by a preferred mortgage when an application for titling or documentation is filed—

"(1) the validity of the preferred mortgage covering the vessel to be titled in the State is determined by the law of the jurisdiction where the vessel is currently titled or documented; and

"(2) the validity of the preferred mortgage covering the vessel to be documented under chapter 121 is determined by subsection (a) of this section.

"§ 31323. Disclosing and incurring obligations before executing preferred mortgages

"(a) On request of the mortgagee and before executing a preferred mortgage, the mortgagor shall disclose in writing to the mortgagee the existence of any obligation known to the mortgagor on the vessel to be mortgaged.

"(b) After executing a preferred mortgage and before the mortgagee has had a reasonable time to file the mortgage, the mortgagor may not incur, without the consent of the mortgagee, any contractual obligation establishing a lien on the vessel except a lien for—

"(1) wages of a stevedore when employed directly by a person listed in section 31341 of this title.

"(2) wages for the crew of the vessel.

"(3) general average.

"(4) salvage, including contract salvage.

"(c) On conviction of a mortgagor under section 31330(a)(1) (A) or (B) of this title for violating this section, the mortgage indebtedness, at the option of the mortgagee, is payable immediately.

"§ 31324. Retention and examination of mortgages of vessels covered by preferred mortgages

"(a) On request, the owner, master, or individual in charge of a vessel covered by a preferred mortgage shall permit a person to examine the mortgage if the person has business with the vessel that may give rise to a maritime lien or the sale, conveyance, mortgage, or assignment of a mortgage of the vessel.

"(b) A mortgagor of a preferred mortgage covering a self-propelled vessel shall use diligence in keeping a certified copy of the mortgage on the vessel.

"§ 31325. Preferred mortgage liens and enforcement

"(a) A preferred mortgage is a lien on the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

"(b) On default of any term of the preferred mortgage, the mortgagee may enforce the preferred mortgage lien in—

"(1) a civil action in rem for a documented vessel or a vessel to be documented under chapter 121 of this title;

"(2) a civil action in personam in admiralty against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness; and

"(3) a civil action against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness.

"(c) The district courts have original jurisdiction of a civil action brought under subsection (b) of this section. However, for documented vessels or vessels to be documented under chapter 121 of this title, this jurisdiction is exclusive of the courts of the States for a civil action under subsection (b)(1) of this section.

"(d)(1) Actual notice of a civil action brought under subsection (b)(1) of this section, or to enforce a maritime lien, must be given in the manner directed by the court to—

"(A) the master or individual in charge of the vessel;

"(B) any person that recorded under section 31343 (a) or (d) of this title a notice of a claim of an undischarged lien on the vessel; and

"(C) a mortgagee of a mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

"(2) Notice under paragraph (1) of this subsection is not required if, after search satisfactory to the court, the person entitled to the notice has not been found in the United States.

"(3) Failure to give notice required by this subsection does not affect the jurisdiction of the court in which the civil action is brought. However, unless notice is not required under paragraph (2) of this subsection, the party required to give notice is liable to the person not notified for damages in the amount of that person's interest in the vessel terminated by the action brought under subsection (b)(1) of this section. A civil action may be brought to recover the amount of the terminated interest. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court may award costs and attorney fees to the plaintiff.

"(e) In a civil action brought under subsection (b)(1) of this section—

"(1) the court may appoint a receiver and authorize the receiver to operate the mortgaged vessel and shall retain in rem jurisdiction over the vessel even if the receiver operates the vessel outside the district in which the court is located; and

"(2) when directed by the court, a United States marshal may take possession of a mortgaged vessel even if the vessel is in the possession or under the control of a person claiming a possessory common law lien.

"§ 31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims

"(a) When a vessel is sold by order of a district court in a civil action in rem brought to enforce a preferred mortgage lien or a maritime lien, any claim in the vessel existing on the date of sale is terminated, including a possessory common law lien of which a person is deprived under section 31325(e)(2) of this title, and the vessel is sold free of all those claims.

"(b) Each of the claims terminated under subsection (a) of this section attaches, in the same amount and in accordance with their priorities to the proceeds of the sale, except that—

"(1) the preferred mortgage lien has priority over all claims against the vessel (except for expenses and fees allowed by the court, costs imposed by the court, and preferred maritime liens); and

"(2) for a foreign vessel, the preferred mortgage lien is subordinate to a maritime lien for necessaries provided in the United States.

"§ 31327. Forfeiture of mortgagee interest

"The interest of a mortgagee in a documented vessel or a vessel covered by a preferred mortgage under section 31322(d) of this title may be terminated by a forfeiture of the vessel for a violation of a law of the United States only if the mortgagee authorized, consented, or conspired to do the act, failure, or omission that is the basis of the violation.

"§ 31328. Limitations on parties serving as trustees of mortgaged vessel interests

"(a) Without the approval of the Secretary of Transportation, an instrument or evidence of indebtedness secured by a mortgage of a documented vessel to a trustee may not be issued, assigned, or transferred to, or held in trust for, a person not qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), unless the trustee—

"(1) is a State;

"(2) is the United States Government;

"(3) is a person approved by the Secretary and qualifying as a citizen of the United States under that section 2; or

"(4) has been approved by the Secretary.

"(b) The Secretary shall approve a trustee under subsection (a) (3) or (4) of this section if the trustee—

"(1) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

"(2) is authorized under those laws to exercise corporate trust powers;

"(3) is subject to supervision or examination by an official of the United States Government or a State;

"(4) has a combined capital and surplus (as stated in its most recent published report of condition) of at least $3,000,000; and

"(5) if the trustee is to be approved under subsection (a)(4) of this section, meets any other requirements prescribed by the Secretary.

"(c) If the trustee at any time does not satisfy the qualifications of subsection (b) of this section, the Secretary shall disapprove the trustee.

"(d) Except as provided in subsection (a) of this section, a right under a mortgage of a documented vessel may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322 of this title only with the approval of the Secretary.

"(e) The vessel may be operated by the trustee only with the approval of the Secretary.

"(f) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this section is void.

"§ 31329. Court sales of documented vessels

"(a) A documented vessel may be sold by order of a district court only to—

"(1) a person eligible to own a documented vessel under section 12102 of this title; or

"(2) a mortgagee of that vessel.

"(b) When a vessel is sold to a mortgagee not eligible to own a documented vessel—

"(1) the vessel must be held by the mortgagee for resale;

"(2) the vessel held by the mortgagee is subject to section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(3) the sale of the vessel to the mortgagee is not a sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).

"(c) Unless waived by the Secretary of Transportation, a person purchasing a vessel by court order under subsection (a)(1) of this section or from a mortgagee under subsection (a)(2) of this section must document the vessel under chapter 121 of this title.

"(d) The vessel may be operated by the mortgagee not eligible to own a documented vessel only with the approval of the Secretary.

"(e) A sale of a vessel contrary to this section is void.

"§ 31330. Penalties

"(a)(1) A mortgagor shall be fined under title 18, imprisoned for not more than 2 years, or both, if the mortgagor—

"(A) with intent to defraud, does not disclose an obligation on a vessel as required by section 31323(a) of this title;

"(B) with intent to defraud, incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) with intent to hinder or defraud an existing or future creditor of the mortgagor or a lienor of the vessel, files a mortgage with the Secretary of Transportation; or

"(D) with intent to defraud, does not comply with section 31321(h) of this title.

"(2) A mortgagor is liable to the United States Government for a civil penalty of not more than $10,000 if the mortgagor—

"(A) does not disclose an obligation on a vessel as required by section 31323(a) of this title;

"(B) incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) files with the Secretary a mortgage made not in good faith; or

"(D) does not comply with section 31321(h) of this title.

"(b)(1) A person that knowingly violates section 31328 or 31329 of this title shall be fined under title 18, imprisoned for not more than 3 years, or both.

"(2) A person violating section 31328 or 31329 of this title is liable to the Government for a civil penalty of not more than $25,000.

"(3) A vessel involved in a violation under section 31328 or 31329 of this title and its equipment may be seized by, and forfeited to, the Government.

"(c) If a person not an individual violates this section, the president or chief executive of the person also is subject to any penalty provided under this section.

"SUBCHAPTER III—MARITIME LIENS

"§ 31341. Persons presumed to have authority to procure necessaries

"(a) The following persons are presumed to have authority to procure necessaries for a vessel:

"(1) the owner.

"(2) the master.

"(3) a person entrusted with the management of the vessel at the port of supply.

"(4) an officer or agent appointed by—

"(A) the owner;

"(B) a charterer;

"(C) an owner pro hac vice; or

"(D) an agreed buyer in possession of the vessel.

"(b) A person tortiously or unlawfully in possession or charge of a vessel has no authority to procure necessaries for the vessel.

"§ 31342. Establishing maritime liens

"A person providing necessaries to a vessel (except a public vessel) on the order of a person listed in section 31341 of this title or a person authorized by the owner—

"(1) has a maritime lien on the vessel;

"(2) may bring a civil action in rem to enforce the lien; and

"(3) is not required to allege or prove in the action that credit was given to the vessel.

"§ 31343. Recording and discharging liens on preferred mortgage vessels

"(a) Except as provided under subsection (d) of this section, a person claiming a lien on a vessel covered by a preferred mortgage filed or recorded under this chapter may record with the Secretary of Transportation a notice of that person's lien claim on the vessel. To be recordable, the notice must—

"(1) state the nature of the lien;

"(2) state the date the lien was established;

"(3) state the amount of the lien;

"(4) state the name and address of the person; and

"(5) be signed and acknowledged.

"(b) The Secretary shall record a notice complying with subsection (a) of this section

"(c) On full and final discharge of the indebtedness that is the basis for a claim recorded under subsection (b) of this section, on request of the Secretary or owner, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

"(d) A person claiming a lien on a vessel covered by a preferred mortgage under section 31322(d) of this title must record and discharge the lien as provided by the law of the state in which the vessel is titled.

"[CHAPTER 315—RESERVED]".

SURRENDER AND INVALIDATION OF CERTIFICATES OF DOCUMENTATION

SEC. 103. (a) Section 12111 of title 46, United States Code, is amended—

(1) by striking the catchline and inserting in lieu thereof the following:

"§ 12111. Surrender and invalidation of certificates of documentation"; and

(2) by striking subsection (b) and inserting in lieu thereof the following:

"(b) An invalid certificate of documentation must be surrendered as provided by regulations prescribed by the Secretary of Transportation.

"(c)(1) Notwithstanding subsection (a) of this section, until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

"(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

"(B) sections 9 and 37(b) of the Shipping Act, 1916 (46 App. U.S.C. 808, 835(b));

"(C) section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(D) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

"(2) This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

"(3) The Secretary may approve the surrender of the certificate of documentation of a documented vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.".

(b) Item 12111 in the analysis of chapter 121 of title 46, United States Code, is amended to read as follows:

"12111. Surrender and invalidation of certificates of documentation.".

MISCELLANEOUS AND CONFORMING PROVISIONS

SEC. 104. (a) Title 46, United States Code, is amended—

(1) in section 2101(34), by inserting ", except in part H," immediately before "means";

(2) in section 2101(46), by striking the period at the end and inserting in lieu thereof "or titled under the law of a State.";

(3) in section 2110, by striking "the licensing of masters, mates, pilots, and engineers, and the documentation of vessels," and inserting in lieu thereof "and the licensing of masters, mates, pilots, and engineers,";

(4) in sections 12102(b), 12103(a), 12105(c), 12110(a), 12112(a), (b), and (c), 12117, 12119, and 12120, by inserting "of Transportation" immediately after "Secretary" the first time it appears;

(5) in section 12102, by adding at the end of the following:

"(c) A vessel titled in a State is eligible for documentation only if the State certificate of title is surrendered."; and

(6) in section 12103(c), by amending clause (1) to read as follows:

"(1) identify and describe the vessel;".

(b) Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), is amended—

(1) in the first paragraph, by inserting "(a)" immediately after "SEC. 9.";

(2) in the second paragraph, by inserting "(b)" immediatley before "Every vessel"; and

(3) by striking the third, fourth, and fifth paragraphs and inserting in lieu thereof the following:

"(c) Except as provided in section: 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181) and sections 31322(a)(1)(D) and 31328 of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—

"(1) sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel (except in a vessel that has been operated only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of title 46, United States Code or in a vessel that has been operated only for pleasure) owned by a citizen of the United States; or

"(2) place a documented vessel under foreign registry or operate that vessel under the authority of a foreign country.

"(d)(1) Any charter, sale, transfer, or mortgage of a vessel, or interest or control in that vessel, contrary to this section is void.

"(2) A person that knowingly charters, sells, transfers, or mortgages a vessel, or interest or control in that vessel, contrary to this section shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

"(3) A documented vessel may be seized by, and forfeited to, the United States Government if—

"(A) the vessel is placed under foreign registry or operated under the authority of a foreign country contrary to this section; or

"(B) a person knowingly charters, sells, transfers, or mortgages a vessel, or interest or control in that vessel, contrary to this section.".

(c) The first sentence of section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242), is amended by striking "or under construction" and inserting in lieu thereof "a documented vessel, or a vessel under construction".

(d) Section 1101(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(a)), is amended to read as follows:

"(a) The term 'mortgage' includes—

"(1) a preferred mortgage as defined in section 31301 of title 46, United States Code; and

"(2) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of title 46, United States Code;".

(e)(1) Before January 1, 1992, the annual fee under section 12505 of title 46, United States Code (as enacted by section 101 of this Act), is $1.00.

(2) To establish, centralize, and computerize records and other information maintained under chapters 121, 125, and 313 of title 46, United States Code, from the effective date of this title through September 30, 1993, the Secretary of Transportation shall spend (out of amounts appropriated for the Department of Transportation under an appropriations law) not less than an amount that is equal to the amounts estimated to be—

(A) collected under section 9701 of title 31, United States Code, for fees paid for services and things of value provided under chapter 313 of title 46, United States Code (as enacted by section 101 of this Act), and for documenting vessels under chapter 121 of title 46; and

(B) transferred to or collected by the Secretary under chapter 125 of title 46, United States Code (as enacted by section 101 of this Act).

(f) Section 12502(a)(1) of title 46, United States Code (as enacted by section 101 of this Act), applies to a vessel of the United States that does not have a unique number as prescribed by the Secretary of Transportation under that section until the earlier of the following:

(1) the next time the vessel is documented, numbered, or titled.

(2) January 1, 1995.

(g) Nothing in this section requires the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment to carry out chapter 125 of title 46, United States Code (as enacted by section 101 of this Act), except to the extent that appropriations are made available in an appropriations law for the Department of Transportation.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 105. (a) A reference to a law replaced by section 102 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this Act.

(b) An order, rule, or regulation in effect under a law replaced by section 102 of this Act continues in effect under the corresponding provision of this Act until repealed, amended, or superseded.

(c) An action taken or an offense committed under a law replaced by section 102 of this Act is deemed to have been taken or committed under the corresponding provision of this Act.

(d) An inference of legislative construction is not to be drawn by reason of the caption or catch line of a provision enacted by section 102 of this Act.

(e) If a provision of this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid aplications that are severable from any of the invalid applications.

REPEALS

SEC. 106. (a) The repeal of a law by this title may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(b) The following laws are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this title:

(1) sections 40, and 42 of the Shipping Act, 1916 (46 App. U.S.C. 838, 840).

(2) section 30 of the Merchant Marine Act, 1920 (46 App. U.S.C. 911-984).

(3) the Act of February 16, 1925 (46 Ap. U.S.C. 1011-1014).

(4) Reorganization Plan No. 1 of 1967 (46 App. U.S.C. 961 (note)).

(5) Sections 12109(c), 12113, 12114, 12115, 12116, 12118, and 12121 of title 46, United States Code.

EFFECTIVE DATES

SEC. 107. (a) This title and amendments made by this title take effect on January 1, 1989. However, sections 31321 and 31322 of title 46 (enacted by section 102 of this Act), United States Code (as sections 31321 and 32322 apply to vessels for which an application for documentation has been filed), take effect on January 1, 1990.

(b) An instrument filed before January 1, 1989, but not recorded before that date, is deemed to comply with section 31321 of title 46, United States Code, if it is in substantial compliance with the provisions in that section that had corresponding requirements under the law on December 31, 1988. However, the mortgage may not become a preferred mortgage until the vessel is documented.

(c) This title and the amendments made by this title do not affect the validity of any instrument filed or recorded before January 1, 1989, if there was a corresponding requirement under the law on December 31, 1988.

(d) An instrument filed or recorded before January 1, 1989, is deemed to comply with any new requirement under chapter 313 of title 46, United States Code (as enacted by section 102 of this Act), affecting the validity of that instrument.

(e) Section 102 of this Act and amendments made by that section do not affect any civil action filed before January 1, 1989.

(f) Section 104(b) of this Act and the amendments made by section 104(b) of this Act do not apply to any change in control resulting from, or which may at any time result from, any proposed plan of reorganization filed under the United States bankruptcy laws prior to the date of enactment of this Act, except that transactions undertaken as a result of such a plan shall continue to be governed by section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), as it existed prior to the date of enactment of this Act, to the extent that such section 9 would have governed such transactions.

TITLE II—DOCUMENTATION AND REPEALS

COASTWISE AND FISHERIES DOCUMENTATION

SEC. 201. (a) Notwithstanding sections 12106 through 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) ALEUTIAN TRAWLER, United States official number 236979;

(2) ENCORE, United States official number 545162;

(3) FAIR TIDE, United States official number 644363;

(4) FREEDOM, United States official number 569163;

(5) PAVLOF, United States official number 597532;

(6) SUVA, United States official number 225008;

(7) RA, United States official number 655181;

(8) TE DE II, United States official number 572205;

(9) FRE-N-EZE, United States official number 659826;

(10) BETA LYRA, United States official number 679226;

(11) POLAR ICE, United States official number 604676;

(12) COMPASS ROSE III, United States official number 559647;

(13) SCOTCH 'N WATER, United States official number 264090;

(14) ERSA, United States official number 229511;

(15) GILBERT, United States official number 230568, with a restriction that this vessel may engage in the coastwise trade of the United States only for the purpose of moving barges filled with seafood waste and wastewater to designated ocean disposal sites from Port Canaveral, Florida;

(16) MARY L, United States official number 275311;

(17) ZB-6, United States official number 505317;

(18) KUT N OUT, hull identification number BERL1087M-80A-385-80 and Florida registration number FL7665FG;

(19) FOXY LADY III, United States official number 299818; and

(20) GIPSY, United States official number 903276.

(b) Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), and United States Department of Transportation Contract Numbered MA-6772 (IFB PD-X-945) and amendments thereto, the Secretary of

Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V OCEAN TEMPEST (ex HORSESHOE SPLICE), United States official number 248773, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: Provided, That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

REPEAL OF OBSOLETE LAWS

SEC. 202. The following laws related to shipping are repealed:

(1) the paragraph immediately before the heading "UNITED STATES VETERANS' BUREAU" in the first section of the Independent Offices Act, 1928 (46 App. U.S.C. 810a).

(2) the Act of July 3, 1926 (46 App. U.S.C. 817a).

(3) sections 3 and 4 of the Act of July 7, 1960 (46 App. U.S.C. 817b, 817c).

(4) sections 2, 4, 5, 16, 22, and 23 of the Merchant Marine Act, 1920 (46 App. U.S.C. 862-864, 874, 878, 879).

(5) section 2 of the Act of March 4, 1927 (46 App. U.S.C. 870a).

(6) the Act of April 16, 1934 (46 App. U.S.C. 870b-870d).

(7) section 2 of the Act of April 24, 1944 (46 App. U.S.C. 1128e-1).

(8) sections 203, 401-404, 716, 903, 904, 907, 1001-1005, and 1010-1012 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1113, 1141-1144, 1206, 1243, 1246, 1251-1255, 1260-1262).

(9) the first section and sections 2 and 3 of the Act of February 6, 1941 (46 App. U.S.C. 1119a, 1119b, 1214).

(10) the Act of June 12, 1960 (46 App. U.S.C. 1401-1413).

(11) section 7 of the Maritime Act of 1981 (46 App. U.S.C. 1606).

TRANSFER OF THE COAST GUARD CUTTER INGHAM

SEC. 203. The Secretary of the department in which the Coast Guard is operating shall transfer the Coast Guard cutter INGHAM to the Naval and Maritime Museum at Patriots Point, South Carolina. The Secretary shall transfer the INGHAM along with such equipment and in such condition as the Secretary considers appropriate. The Secretary shall make the transfer upon the decommissioning of the INGHAM or at a later time as determined appropriate by the Secretary.

Mr. BREAUX. Mr. President, the amendment in the nature of a substitute to H.R. 3105 is offered on behalf of Senator STEVEN, Senator HOLLINGS, and myself. H.R. 3105 is legislation which revises, consolidates, and enacts certain laws related to shipping definitions, maritime commercial instruments, and maritime liens.

H.R. 3105 represents a long overdue recodification of the Ship Mortgage Act of 1920 along with a few substantive changes in an effort to make our vessel financing and mortgage recordation processes less confusing and more in tune with modern commercial practices.

Although the legislation before us today is an amendment in the nature of a substitute, I hasten to add almost all of the modifications made to the House version are merely of a technical nature. Furthermore, it is our intent that the original legislative history promulgated by the House of Representatives on H.R. 3105 will continue to be the controlling legislative history on this legislation.

Mr. President, I would like to comment on one Senate amendment to this bill which is not technical in nature. Mr. STEVENS and I wish to amend section 107 of H.R. 3105. This amendment does not affect the substance of the act, but simply relates to the effective date of only that portion of the act concerning changes to section 9 of the Shipping Act, 1916, as amended. The amendment would have no effect on the changes to section 9 on a prospective basis. However, we believe it would be unfair to parties who have already relied upon the existing substantive provisions and remedies of section 9 in initiating transactions in conjunction with pending reorganization plans filed in U.S. bankruptcy courts, to change those provisions and remedies. Such changes could adversely and unfairly affect the consummation of such pending transactions and plans.

The amendments made by H.R. 3105 should revolutionize our vessel financing system by updating our laws in order to keep pace with modern business practices. Also, it is my understanding that this legislation enjoys the universal support of the ship financing industry.

Mr. President, I strongly support H.R. 3105, and request its adoption.

Mr. DANFORTH. Mr. President, Congress has generally opposed the establishment of user fees for Coast Guard services. I would like to express my concern about the potential impact on our domestic carriers of the Coast Guard user fee that is authorized by H.R. 3105, the Ship Mortgage Act codification.

Section 104(a)(2) of H.R. 3105 repeals the prohibition on user fees for documentation of vessels. Section 104(e)(2) requires that, through fiscal year 1993, all of the amount generated from these user fees be used to centralize and computerize records of instruments and documented vessels. Our colleagues on the House Merchant Marine and Fisheries Committee note that the only justification for permitting these fees is if there is a commensurate benefit to the public. They suggest that the benefit justifying these fees would be a replacement of the current slow and antiquated paper method of filing with a central computerized system using a modern format.

The U.S. barge and towing industry finds itself in a blizzard of taxes, both Federal and State. The authority to impose these fees is discretionary. Before the Secretary of Transportation decides to impose yet another burden in the form of a fee for documentation of vessels, I would expect the Secretary to consult with the industry about the benefits and levels of such fees for initial documentation and for renewals. Documentation must be renewed annually; imposition of fees could result in significant expenditures of operating funds that would place the barge industry at an additional disadvantage among competing transportation modes not paying commensurate fees. Absent a clear benefit to the industry and assurance that it will not be adversely affected, the Secretary should not impose the fees.

The amendment (No. 3754) was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ESTABLISHMENT OF THE DELAWARE AND LEHIGH NAVIGATION CANAL NATIONAL CORRIDOR IN THE COMMONWEALTH OF PENNSYLVANIA

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3957.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1-4 to the bill (H.R. 3957) entitled "An Act to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania.".

Resolved, That the House disagree to the amendment of the Senate numbered 5 to the aforesaid bill.

Mr. BYRD. Mr. President, I move that the Senate recede from the Senate amendment numbered 5 to the aforesaid bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

ARIZONA IDAHO CONSERVATION ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2840.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2840) entitled "An Act to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes", do pass with the following amendments:

Page 55, strike out lines 4-19, inclusive.

Page 55, line 20, strike "407.", and insert: *406.*

Page 56, line 1, strike out "408.", and insert: *407.*

Page 96, line 2, after "Commission", insert: *subject to the approval, except for the purchase of fine art and antiques, of the Committees on Appropriations of the House of Representatives and Senate, respectively*

Mr. BYRD. Mr. President, I move to concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FREDERICK DOUGLASS MEMORIAL AND HISTORICAL ASSOCIATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4236, a bill to increase the number of trustees of the Frederick Douglass Memorial and Historical Association.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4236) to amend the Act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4236) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF SCHLECHTER FAMILY

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1842.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1842) entitled "An Act for the relief of Mr. Wilhelm Jahn Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo David Schlechter", do pass with the following amendment:

Page 2, line 7, after "Act", insert: *: Provided, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of such Act*

Mr. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MINTING OF COINS IN COMMEMORATION OF THE BICENTENNIAL OF THE UNITED STATES CONGRESS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5280.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5280) entitled "An Act to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress", with the following amendment:

Page 4, strike out lines 3 through 6 inclusive, and insert:

SEC. 8. USE OF SURCHARGES.

(a) USE OF SURCHARGES.—Fifty percent of the first $40 million in surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the Capitol Preservation Fund and be available to the United States Capitol Preservation Commission. The balance of the surcharges received by the Secretary shall be deposited in the general fund of the Treasury for the sole purpose of reducing the national debt.

(b) RESTRICTIONS ON USE OF SURCHARGES.—

(1) PROHIBITION ON REPRESENTATIONAL EXPENSES.—No amount received by the Commission from the Capitol Preservation Fund may be used to pay representational expenses of the Commission.

(2) LIMITATIONS ON REIMBURSEMENTS.—A member of an advisory board established by the Commission shall be entitled to receive per diem, travel and transportation expenses in the same manner as an employee serving intermittently in the government service may receive under section 5703 of title 5, United States Code.

(c) REPORT REQUIRED.—The Commission shall submit a report of expenditures to the Clerk of the House of Representatives not later than February 28 for the last six months of the preceding year and not later than August 31 for the first six months of the current year. The Clerk shall promptly transmit the reports to the Public Printer for printing in the Congressional Record.

Mr. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

EXTENSION OF THE AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC BROADCASTING

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4118, to amend and extend authorization of appropriations for public broadcasting.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4118) to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

The PRESIDING OFFICE. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4118) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIRE MANAGEMENT POLICIES

Mr. BYRD. Mr. President, on behalf of Senators BAUCUS, SIMPSON, MELCHER, and WALLOP, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 510) to express the sense of the Senate regarding the need to assess the fire management policies of the various Federal land management agencies in view of this year's fires in the Yellowstone region and elsewhere.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAUCUS. Mr. President, last summer Montana was devastated by the worst fire season on record. Fires have scorched over 2 million acres of land throughout the greater Yellowstone area and western Montana. Many of these fires are still burning.

Some experts claim these fires were the result of a prolonged drought. Others blame the natural burn policy for much of the damage. Still others think it was a combination of both.

THE NATURAL BURN POLICY

Under the natural burn policies of the National Park Service and Forest Service, some forest fires are allowed to burn without suppression.

What is troubling for me is not that the Federal Government has a natural burn policy but the Government let fires burn at a time when the West was experiencing drought, high temperatures and high winds.

I do not claim to be a scientific expert, and so I cannot judge the ecological benefits or harm of the natural burn policy. But it seems to me that the adverse weather conditions this year were obvious to everyone. The fires were a disaster waiting to happen.

Last summer ranks as the second or third driest ever recorded in western Montana and Yellowstone Park. June was especially hot with the highest average temperatures ever recorded. Hot and unusually dry weather persisted through July and August.

Under these adverse weather conditions, the natural burn policy never should have been implemented. The forests were tinder boxes—at the mercy of nature and man.

ECONOMIC EFFECTS

On September 24, I held a hearing in Bozeman to assess the losses of businessmen, farmers and ranchers. Gov. Ted Schwinden and Yellowstone Park Superintendent Bob Barbee testified, as did businessmen, outfitters, ranchers, government officials, and respresentatives of the Small Business Administration and the Farmers Home Administration.

While we will not know the full economic impact of the fires for several years, initial reports of financial losses are high.

Hamilton Stores, the main concessionaire in Yellowstone Park, lost $3.5 million in sales. All their stores combined lost 178 days of business.

Resort taxes for the town of West Yellowstone are down 24 percent this August compared to last year.

Surveys conducted in Livingston, Gardiner and Cooke City show over half the businesses suffered a 30-percent or greater drop in volume. All the establishments polled were enjoying a banner year until the fires hit.

Up north around Augusta, MT, landowners estimate damages at nearly $5 million. That figure includes lost cattle, hay, and timber, as well as burned summer homes, fences, and barns.

INTERAGENCY REVIEW COMMITTEE

Mr. President, the Federal Government should take some responsibility for losses that occurred as a result of a natural burn fire.

To this end, I introduced legislation last month that would have established a five-member commission to determine which fires were natural burn fires, and then decide if substantial economic or physical injury was caused by the fires. If that decision were made, businesses and people who have been injured would receive direct Government grants to help compensate for their losses.

Unfortunately, there is not enough time left in this session of Congress to fully debate my legisation and vote on it in both Houses.

At the very least, Mr. President, I think it is important for the Senate to go on record as trying to do what is right for victims of natural burn fires.

Therefore, today I am submitting a resolution which expresses the sense of the Senate that an interagency review committee should be formed to review this summer's fires and report to Congress concerning the extent to which economic and physicial injuries were caused by Government policies, and to recommend to Congress appropriate Federal compensation for the injury.

While this resolution does not require that such a committee be set up, I hope it prompts the administration to move quickly to give people hurt by these fires the chance to plan for their future.

Mr. SIMPSON. Mr. President, I rise today in support of Senate Resolution 510, a resolution to express the sense of the Senate regarding the assessment of losses incurred by businesses, farms, and ranches as a result of natural burn fires.

The recent fires in Yellowstone devastated the economies of the gateway communities to the part as the tourist season was brought to an abrupt halt more than a month early. By the end of August, Yellowstone Park visitation was down by about 260,000 from the same time last year. That translates into a loss of $60 to $70 million to the area. The economic dislocation caused by the fires has so severely stressed businesses in and around Yellowstone Park, many fear they will go bankrupt as a result of the poor tourist season. Businesses dependent upon the seasonal tourist dollar, estimate they need millions of dollars in Federal aid for losses caused by the fires. Hunting outfitters alone claim losses of $1 to $3 million.

Wyoming's travel commission and Montana's tourism board have coordinated their efforts to aggressively promote travel and tourism to the park. However, members of these boards estimate that the campaign could cost from $3 million to as much as $20 million. The new campaign is necessary to rebuild the park's image and to regain tourism revenue by promoting Yellowstone Park's "new face" and emphasizing that the thermal and other wonders are still intact.

In a grudging way, we must come to know that the natural burn fire which occurred in Yellowstone is a once in 300-year occurrence—and as such offers a unique research opportunity to study the park in a "living laboratory" environment. Federal assistance is necessary to assure that this research can be actively pursued by the region's fine academic institutions, including our well-respected University of Wyoming.

This resolution recognizes that there is insufficient time remaining in this session of Congress to provide appropriate compensation for the losses caused as a result of the fires. It provides, however, that the Administrator of the Small Business Administration, in consultation with the Bureau of Land Management, the National Park Service, the Forest Service, and the Farmers Home Administration; should report to Congress concerning the extent of economic and physical injury and to offer recommendations for appropriate assistance.

Faced with the economic reality of possibly losing their businesses and their livelihood, my constituents are looking for assistance from the Government that caused them this result. There are many options available, and the resolution which I support today, is but the first step to assure appropriate and adequate compensation is available for losses caused by the fires.

The **PRESIDING OFFICER.** The question is on agreeing to the resolution.

The resolution (S. Res. 510) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 510

Whereas forest fires of 1988 have caused substantial physical and economic loss to private lands, businesses, farms, and ranches;

Whereas the Federal government should consider whether it is appropriate to provide assistance and compensation in certain instances to businesses, farms, and ranches adversely affected by the fires;

Whereas fire management policies of the National Park Service, Forest Service, and Bureau of Land Management should be thoroughly and carefully examined by the Congress in light of the losses suffered this summer; and

Whereas there is not enough time left in this session of Congress to examine these policies: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) an interagency review committee should be formed to review each fire and

report to Congress concerning the extent to which economic and physical injuries were caused by government policies, and to recommend to Congress an appropriate Federal response;

(2) the interagency review committee should consist of—

(A) the Administrator of the Small Business Administration, who shall serve the chairperson,

(B) the Director of the Bureau of Land Management,

(C) the Director of the National Park Service,

(D) the Chief of the Forest Service, and

(E) the Administrator of the Farmers Home Administration; and

(3) recommendations of the interagency review committee should be made as quickly as possible so that Congress will have the benefit of such recommendations early next year to enable it to address the issue raised by the fires and fire management policies.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECORD RENTAL AMENDMENTS

Mr. BYRD. Mr. President, I ask unanimous consent that the actions whereby the Senate indefinitely postponed H.R. 4310, the Record Rental Amendments Act, be vitiated and the Senate turn to the immediate consideration of that bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4310) to extend for an additonal 5-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3755

Mr. BYRD. Mr. President, I propose an amendment on behalf of Mr. DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. DECONCINI, proposes an amendment numbered 3755.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 6, strike "ten" and insert in lieu thereof "thirteen".

The amendment (No. 3755) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3756

(Purpose: To authorize assistance for the Biotechnology Research Center at the University of Kansas)

Mr. McCONNELL. Mr. President, I offer an amendment on behalf of Mr. Dole and Mrs. Kassebaum and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], for Mr. DOLE, for himself, and Mrs. KASSEBAUM proposes an amendment numbered 3756.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

SEC. 1. (a) The Secretary of Education (hereafter in this section referred to as the "Secretary") is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Kansas, located in Lawrence, Kansas, to pay for the cost of construction and related costs for a Biotechnology Research Center at the University of Kansas in order to serve as a catalyst for attracting research activity and industrial activity to that region of the country.

(b) No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $7,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3756) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO 3757

Mr. BYRD. Mr. President, I submit an amendment on behalf of Mr. KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Mr. KENNEDY, proposes an amendment numbered 3757.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At appropriate place insert the following:

SECTION 1. EDUCATIONAL TELECOMMUNICATIONS MODEL DEMONSTRATION NETWORK AUTHORIZED.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Education is authorized, in accordance with the provisions of this section, to provide financial assistance to the Massachusetts Corporation for Educational Telecommunications located in Boston, Massachusetts to pay part of the cost of the design of, construction of, and equipment for model educational telecommunications network and technology resource centers.

(b) APPLICATION.—No financial assistance may be made under this section unless an application is made to the Secretary, at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 in fiscal year 1989, and such sums as may be necessary in fiscal year 1990 and fiscal year 1991, to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3757) was agreed to.

AMENDMENT NO. 3758

(Purpose: to recognize the organization known as the National Mining Hall of Fame and Museum)

Mr. McCONNELL. Mr. President, I submit an amendment on behalf of Senator ARMSTRONG and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], on behalf of Mr. ARMSTRONG, proposes an amendment numbered 3758.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

SECTION . The National Mining Hall of Fame and Museum, organized and incorporated under the laws of Colorado, is hereby recognized as such and is granted a charter.

POWERS

SEC. . The National Mining Hall of Fame and Museum (hereafter in this Act referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. . The objects and purposes of the corporation are those provided in its articles of incorporation including—

(1) to honor citizens, mining leaders, miners, prospectors, teachers, scientists, engineers, inventors, governmental leaders, and other individuals, who have helped to make this Nation great by their outstanding contributions to the establishment, development, advancement, or improvement of mining in the United States of America;

(2) to perpetuate the memory of such individuals and record their contributions and achievements by the erection and maintenance of such buildings, monuments, and edifices as may be deemed appropriate as a lasting memorial;

(3) to foster, promote, and encourage a better understanding of the origins and growth of mining, especially in the United States, and the part mining has played in changing the economic, social, and scientific aspects of our Nation;

(4) to establish and maintain a library and museum for collecting and preserving for posterity, the history of those honored by the corporation, together with a documentation of their accomplishments and contributions to mining, including such items as mining pictures, paintings, books, papers, documents, scientific data, relics, mementos, artifacts, and things relating to such items;

(5) to cooperate with other mining organizations which are actively engaged and interested in similar projects; and

(6) to engage in any and all activities incidental thereto or necessary, suitable, or proper for the accomplishment of any of the purposes set forth in this section.

MEMBERSHIP

SEC. . Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. . The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. . The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. . (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare to pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Colorado.

LIABILITY

SEC. . The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SERVICE OF PROCESS

SEC. . With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

BOOKS AND RECORDS; INSPECTION

SEC. . The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. . The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(60) The National Mining Hall of Fame and Museum".

ANNUAL REPORT

SEC. . The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of the Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. . The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. . For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. . The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954.

TERMINATION

SEC. . If the corporation fails to comply with any of the restrictions or other provisions of this Act, the charter granted by this Act shall expire.

THE NATIONAL MINING HALL OF FAME

Mr. ARMSTRONG. Mr. President, I am offering the text of S. 450, which will grant recognition to a fine organization located in Colorado, the National Mining Hall of Fame and Museum, as an amendment to S. 2201, so that this legislation can be acted upon before the end of this session.

S. 450 was unanimously reported out of the Senate Judiciary Committee on March 2, 1988 and unanimously passed the Senate on March 4, 1988. This bipartisan legislation has 42 Senate cosponsors. The House companion of this legislation is H.R. 958. It has 233 House cosponsors, including the chairman of the House Judiciary Committee, Mr. RODINO.

What the cosponsors of this legislation know is that miners and their industry deserve national recognition. Mining helped build Colorado and our young Nation. Americans should understand and appreciate the impact of mining on every aspect of our modern society. Leadville, CO—named for the carbon lead which was so prevalent that it once blackened the dirt in the area—is the highest incorporated city in the world, and is located near two of Colorado's highest peaks, Mt. Elbert and Mt. Massive. It was selected to house the National Mining Hall of Fame because of the honored place it holds in the history of the mining industry.

Today Leadville is a town struggling to combine its romantic Western history with modern-day economic needs. The National Mining Hall of Fame and Museum presents a unique opportunity for this great town to sustain its identity and flourish through its second century. But, the mining hall of Fame and Museum is struggling right along side this historic town, and the inability of this Congress to act, can be detrimental to the museum and this strong little town. Passage of this legislation will ensure that the unique heritage of the mining industry will not be lost to future generations and tell the nation of our great respect and admiration for our miners.

As my colleagues know Federal charters are reserved for groups organized and operated in the public interest, conducting activities with a national scope and in response to a national need. The National Mining Hall of Fame and Museum does not take this honor or responsibility lightly. The mining community chose Colorado to house the Hall of Fame and it has been incorporated under the articles of incorporation in the State of Colorado since 1977. The mining hall is nationally significant. It is the only national museum dedicated to our mining history.

The first Hall of Famers were recently inducted into the Hall of Fame, and they include mining greats such as

Fred Bond—who developed the Bond Theory of Comminution and Work Index, John Van Nostrand Dorr who invented many devices that greatly increase the efficiency of the cyanide method of gold extraction that were later applied to many other industries. The Hall of Fame inducted Gertrude Sober, the "Queen of the Arbuckles" who discovered the Southwest David Zinc Fields in Oklahoma in 1909. And several other mining greats whose contributions will forever be remembered by Americans because of the mining Hall of Fame.

The Mining Hall of Fame and Muesum will ensure that almost two centuries of mining lore and skill will not be lost from our national heritage. Nestled in a beautiful, historic district that once boomed with mining activity, it will help all Americans remember the mining industry and its vital role—in the economy, national defense, science, technology, and medicine—in the creation of the world's greatest power.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3758) was agreed to.

AMENDMENT NO. 3759

(Purpose: To authorize the Martin Luther King, Jr., Center for Nonviolent Social Change to acquire certain property for a parking lot.)

Mr. BYRD. Mr. President, I submit an amendment on behalf of Mr. HOLLINGS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. HOLLINGS, proposes an amendment numbered 3759.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . That part of title T of Public Law 100-202 under the heading "National Park Service" and the subheading "Operation of the National Park System" (101 Stat. 1329-218) which reads "and for purchase of the vacant lot on the north side of Irwin Street between Jackson and Boulevard for a landscaped parking lot:" is deleted and there is inserted in lieu thereof the following: "and for the purchase by the Martin Luther King, Jr., Center for Nonviolent Social Change, Inc., in consultation with the National Park Service, of property within the Martin Luther King, Jr., National Historic Site or Preservation District, consistent with Federal and State preservation laws, for the construction of a landscaped parking lot:".

Mr. HOLLINGS. Mr. President, one of the most important historical areas in our country today is the Martin Luther King, Jr. National Historic Site. Visitors come here for inspiration, introspection and reflection. And the number of visitors is steadily increasing. In fact, the number of visitors has increased since its creation from 174,841 people in 1983 to an estimated 1 million tourists in 1988. But Mr. President, access has become a problem. There just are not enough parking spaces for these people. That is why this legislation is so important.

The original proposal, agreed to last December, appropriated $2 million to go toward the purchase of a specific lot. However, since that time, both the Martin Luther King, Jr. Center and the National Park Service believe that more flexibility is needed in finding an area suitable for parking for both the center and the historic site. This amendment allows such flexibility and is supported by the Park Service as well as the center.

We all know the significance of this site to memorialize and commemorate Dr. Martin Luther King, Jr. And the King Center, located within the site, provides education and inspiration for visitors today and in the future. This Government has a commitment to these valuable services being provided. This provision of $2 million to be used for a landscaped parking lot to help accommodate the increasing number of tourists is evidence of our commitment. And let me assure the Senate that this is the extent of our commitment on this particular project.

Mr. President, I would like to make one final remark regarding the parking facilities. Although the National Historic site and the Center for Nonviolent Social Change are not under the same management, the estimated 1 million tourists who visit the area do so with the intent of seeing and experiencing everything. Since it is the problem of parking we are trying to correct, let me make clear that it is our intent that the lot should be jointly used by both the King Center and the National Historic Site.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3759) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3760

(Purpose: To provide for a Health and Human Resources Center at Voorhees College, Denmark, SC)

Mr. McCONNELL. Mr. President, I propose an amendment on behalf of Senator THURMOND and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], on behalf of Mr. THURMOND, proposes an amendment numbered 3760.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

HEALTH AND HUMAN RESOURCES CENTER AUTHORIZED

SEC. 1. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized, in accordance with the provisions of this section, to provide financial assistance to Voorhees College, located in Denmark, South Carolina, to pay the cost of construction and related costs for a Health and Human Resources Center at Voorhees College.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $4,500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Mr. THURMOND. Mr. President, this legislation provides support for a project that is of vital importance to a small historically black college in South Carolina, Voorhees College. I am pleased to have my distinguished colleague, Mr. HOLLINGS, join me as a sponsor of this measure.

Some years ago, the State of South Carolina and Voorhees entered into an agreement whereby Voorhees made available to Bamberg County land on which an elementary school and gymnasium were built. Voorhees was promised use of the gymnasium for its academic and sports programs. That agreement is now threatened because the school plans to develop an afternoon program that will consume the few hours Voorhees presently has available for its classes. Therefore, Voorhees will no longer have access to a facility for its instructional programs. So far they have been able to negotiate continued use through June 1989. Voorhees hopes to be able to renew this lease through 1989, but the outcome of this is uncertain. This less than satisfactory agreement hampers Voorhees ability to plan for the future; but more importantly, its accreditation would be in jeopardy if Voorhees does not have a facility in which to offer its programs.

The lack of a suitable facility for physical and health education programs was noted in Voorhees' last accreditation evaluation.

To lose accreditation would be devastating to Voorhees. It would jeopardize its ability to attract good students, as well as current Federal funding. Moreover, Voorhees plays a critical community leadership role in Bamberg County, which has the highest unemployment and teenage pregnancy rates in South Carolina. Accordingly, Voorhees is seeking Federal support to build a facility to house these programs.

I urge my colleagues to support this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3760) was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be read the third time, passed, and that a motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4310), as amended, was passed.

Amend the title so as to read: "An act to extend for an additional 8-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings, and for other purposes."

NATIONAL SIR WINSTON CHURCHILL RECOGNITION WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 340, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 340) designating November 27 through December 3, 1988, as "National Sir Winston Churchill Recognition Week."

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 340), with its preamble, reads as follows:

S.J. RES. 340

Whereas April 9, 1988, marks the 25th anniversary of the granting of honorary citizenship to Sir Winston Churchill by the United States;

Whereas Sir Winston Churchill was born on November 30, 1874;

Whereas Sir Winston Churchill's mother, Jennie Jerome Churchill, was an American, thereby making Sir Winston Churchill a son of America though a subject of Great Britain;

Whereas Sir Winston Churchill inspired the world with his commitment to the ideals of freedom, not only during peace time but during the darkest moments of World War II;

Whereas Sir Winston Churchill recognized the importance of understanding history and the relevance of history to the present day; and

Whereas Sir Winston Churchill made significant contributions to the modern world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 27 through December 3, 1988, is designated as "National Sir Winston Churchill Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIRE SAFETY AT HOME DAY—CHANGE YOUR CLOCK, CHANGE YOR BATTERY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 381 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 381) to designate October 30, 1988, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

SMOKE DETECTORS

Mr. BOND. Mr. President, every year approximately 500,000 fires occur in homes throughout the United States; resulting in over 6,000 deaths and another 300,000 injuries. Fire safety officials tell us that most of these tragedies could have been prevented if the households had properly functioning smoke detectors.

In recent years most Americans have heeded safety warnings and installed smoke detectors. Three out of four American households currently have at least one smoke detector. Unfortunately, as many as half of these alarms are useless because they have not been properly maintained. Their owners have allowed the batteries to run down or have removed them completely.

Senate Joint Resolution 381, that designates October 30, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery," will assist in solving this problem. It seeks to alert Americans to this serious fire safety issue and protect themselves by assuring that their smoke detectors are working properly.

October 30, the day when Americans reset their clocks from day light-savings time, has been selected in the hope that the rite of resetting clocks will remind Americans to take an extra minute to make sure that the batteries in their smoke detectors are functioning. It could mean the difference between life and death.

Mr. BYRD. Mr. President, I ask unanimous consent that the joint resolution be considered to have been read the third time, passed, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 381), was passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 381), with its preamble, reads as follows:

S.J. RES. 381

Whereas every year, five hundred thousand fires ravage the homes of Americans, resulting in over six thousand deaths and three hundred thousand injuries;

Whereas home fires are the leading cause of death and serious injury among children in the United States;

Whereas senior citizens, families in substandard housing, and the physically and mentally disabled are at high risk to be victims of fire;

Whereas three of four homes have at least one smoke detector, but an estimated one-half are inoperable because of worn or missing batteries;

Whereas the International Association of Fire Chiefs estimates that the annual practice of changing batteries in smoke detectors would save thousand of lives and billions of dollars in property damage;

Whereas the Congressional Fire Services Caucus, with the broad-based bipartisan membership, reflects the concern of Congress for fire safety and its dedication to making it an important national priority;

Whereas the designation of a special day to remind Americans to property maintain their smoke detectors, timed to coincide with the fall ritual of resetting clocks, would greatly diminish this human tragedy; and

Whereas October 30, 1988, is the day American change their clocks from daylight saving time; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thirtieth day of October 1988 is hereby designated as "Fire Safety at Home Day—Change Your Clock, Change your Battery". The President is requested to issue a proclamation calling upon the people of the United States to observe that day by maintaining their first line of defense against fire by changing the batteries in their smoke detectors when they reset their clocks from daylight saving time.

AUTHORIZING THE RELEASE OF DOCUMENTS BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, on behalf of myself and Mr. DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 511) to authorize the release of documents by the Committee on Foreign Relations.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, on April 23, 1988, counsel for the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations took a nonpublic deposition of Richard John Brenneke. The deposition was taken as part of the subcommittee's investigation of allegations about trafficking in narcotics and weapons in Central America.

Subsequent to his deposition, Mr. Brenneke testified in the sentencing phase of a criminal case in the U.S. District Court for the District of Colorado, United States versus Heinreich Rupp. In his testimony in that case, Mr. Brenneke referred to his Senate testimony, and the office of the U.S. attorney for the district of Colorado has requested the Committee on Foreign Relations to provide it with a copy of Mr. Brenneke's deposition.

This resolution will authorize the Committee on Foreign Relations to provide to the office of the U.S. attorney for the district of Colorado a copy of Mr. Brenneke's deposition. In keeping with prior resolutions of this nature, the committee, acting through its chairman and ranking minority member, is authorized to obtain from the office of the U.S. attorney an agreement to adhere to confidentiality requirements established by the committee.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 511) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 511), with its preamble, reads as follows:

S. RES. 511

Whereas, on April 23, 1988, counsel for the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations received, in closed session, deposition testimony of Richard John Brenneke;

Whereas, the witness also testified in the sentencing phase of *United States* v. *Heinreich Rupp*, No. 87-CR-112, a criminal case in the United States District Court for the District of Colorado, and the Office of the United States Attorney for the District of Colorado has requested a transcript of the witness's April 23, 1988 deposition testimony;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Foreign Relations, acting jointly, are authorized to provide to the United States Attorney for the District of Colorado a transcript of the deposition testimony of Richard John Brenneke, subject to the United States Attorney's agreement to abide by confidentiality and other requirements established by the Committee.

Mr. BYRD. Mr. President, I ask unanimous consent that all previous actions which have not already been considered and tabled be reconsidered en bloc and laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank my friend, the distinguished Senator from Kentucky, the acting leader, for his cooperation and good work.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue for an additional 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUILDING AMERICA'S INDUSTRIAL STRENGTH

Mr. BYRD. Mr. President, yesterday's New York Times reported on a recent report by a study group of the Pentagon's Defense Science Board. In its report, the panel called for the Department of Defense to be more active in the setting of broad economic policy to stop the "increasing loss of technological leadership to both our allies and our adversaries."

The report went on to recommend the formation of an Industrial Policy Council headed by the President's National Security Adviser. In addition, the report suggested that the Secretary of Defense become a permanent member of the Cabinet-level Economic Policy Council. Chaired by the Treasury, the EPC has emerged as the principal economic policy making body in the second term of the Reagan Presidency.

This is no October surprise, Mr. President. The Defense Science Board's recommendations are familiar to most of the specialists who have advocated stronger action to build America's industrial base and sharpen our technological edge. What is different, Mr. President, is the growing concern in the Pentagon about the threats to our future economic base. This is, after all, an administration which has seen Government as the problem, not the solution; which left our economic destiny to the magic of a marketplace heavily influenced by foreign governments and overseas oligopolies.

The report of the Defense Science Board is not the first warning from the Pentagon about the health of our industrial base. In July, the Under Secretary of Defense for Acquisitions issued a report entitled "Bolstering Defense Industrial Competitiveness."

In the July report, DOD looked beyond its traditional preoccupation with specialized defense firms to the overall health of America's industrial economy. Their analysis includes a look at problems and possible solutions that range from acquisition policies to basic education. I want to focus on two: growing foreign dependence and improving our education.

GROWING FOREIGN DEPENDENCE

Nothing is more striking than the report's views on our growing foreign dependence. Listen to the report:

> . . . Foreign dependencies in technologies essential to defense production are inherently risky and minimizing them should be a Department of Defense and national priority. However, there is at present no reliable system even to identify such dependencies . . .

This is especially ironic coming from an administration that for years ignored the impact of an overvalued dollar on America's industrial base—choosing to view it as nothing more than a vote of confidence in America.

The report raises questions and a warning flag about the current cavalier attitude of the administration toward foreign direct investment. This goes beyond the standard economic analysis of foreign investment to raise questions about the long term impact of repatriated profits on our balance of payments. Again, the report raises the question of technological dependence linked to foreign investment. In the words of the report,

> . . . ownership tends to dictate the geographic location of the underlying technologies. Security concerns are not resolved by domestic manufacturing facilities that are dependent on technologies controlled by other nations.

The report emphasizes the importance of competition in controlling costs and stimulating innovation. But they again raise a warning flag where import competition leads to overdependence on international supplies. In the report's view,

> As long as state-of-the-art production equipment is manufactured in the United States, there is a substantial capability to reconstitute or expand American product in-

dustries. However, without the basic tools for manufacturing, this capability virtually disappears, leaving United States' security vulnerable to the political and economic processes of other nations.

EDUCATION

With respect to education, remember that over the past several years, there has been one report after another detailing the challenge the United States faces in education. Whether in Europe or Japan, China or Korea, the average American student is lagging behind.

Take Japan as an example. By the sixth grade, American students are roughly 2 years behind in math and science. Because of longer school days and more of them, it would take 16 American school years to match the study time the Japanese cram into 12. In Japan, about 95 percent of the students graduate from high school. In the United States, the comparable rate is about 75 percent. And too many of those students are not prepared for productive life in an increasingly competitive, high tech society.

The Under Secretary's report in July also took a hard look at American education from the standpoint of international competitiveness and the defense industrial base. They found lots of problems.

At the university level, much of the growth in graduate science and engineering education has come from foreign students. America has always offered opportunity to everyone—yet the decline in scientific interest of our own students is disturbing and potentially dangerous. Education has not been the principal responsibility of the Federal Government, let alone that of the Department of Defense.

But it is viewed as so critical, that the report urges the Department to focus on everything from basic education to providing scholarships for specialized study of manufacturing techniques. In the report's words:

> Education and training are the most fundamental long-term priorities in the effort to sustain an advanced industrial economy and to provide adequately for our defense.

Mr. President, the country and the Congress are undergoing a sea change in their thinking about our Nation's economic future. The Congress has taken the first step by crafting and passing the Omnibus Trade and Competitiveness Act of 1988. Now we have signs that the Department of Defense is beginning to focus on the enormous economic challenge facing the country.

Mr. President, I am fond of saying that you should not roll up your britches till you get to the creek. Well, we have reached the creek that runs across our economic future. And when you look hard at the promise and challenge of that future, this is one West Virginian who is going to roll up his sleeves as well as his britches.

Mr. President, I ask unanimous consent that an article from yesterday's New York Times and the recommendations of the report entitled "Bolstering Defense Industrial Competitiveness" be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 19, 1988]

BIGGER ROLE URGED FOR DEFENSE DEPARTMENT IN ECONOMIC POLICY—ADVISORY PANEL REPORTS GROWING LOSS OF TECHNOLOGICAL LEADERSHIP BY UNITED STATES IS SAID TO IMPERIL ITS SECURITY

(By John H. Cushman, Jr.)

WASHINGTON, October 18.—An independent advisory panel has urged the Secretary of Defense to take a more assertive role in setting economic policy to head off "an increasing loss of technological leadership to both our allies and adversaries."

This tactic, if adopted, would inject the military into unfamiliar policy arenas and would mark a distinct departure from the military's usual approach to stimulating advances in weapons technology and manufacturing techniques.

The report was presented to Defense Secretary Frank C. Carlucci 3d today by a study group of the Defense Science Board, an influential advisory group whose members were drawn from industry and universities.

LATEST IN SERIES OF STUDIES

The report is the latest in a series of reviews that discuss the troubling national security implications of a decline in American industrial competitiveness.

Other reviews of the military industrial complex have been conducted this year by such groups as the Congressional Office of Technology Assessment, the privately financed Air Force Association and the Pentagon's National Defense University.

Experts in and out of government say that the Pentagon is relying more and more on foreign suppliers to make complex weapon parts and that foreign companies now hold a lead in some crucial manufacturing technologies. To fight this trend, the experts recommend, the Pentagon should exert more influence over such economic factors as taxes, trade laws, environmental regulations and education.

PAYING FOR WEAPONS RESEARCH

The Defense Department has been urged to take an active role in shaping national economic policies, including tax and trade, that would affect national security.

The Pentagon normally emphasized paying for research directly, and it subsidized investments in equipment for manufacturing weapons.

For example, the Pentagon has agreed to sponsor Sematech, a consortium of industrial companies performing research in making advanced semiconductors. The Pentagon plans to spend hundreds of millions of dollars on that project.

To the extent that the Pentagon has adopted a broader economic vision, it has simply argued that investment in arms manufacturing would spill over into the civilian economy.

Now, in contrast, experts are suggesting that the trends that hamper major commercial enterprises—lagging productivity, competition from imports, foreign ownership of American companies and inadequate long-term research—are damaging producers of weapons. In response, the Pentagon is beginning to argue for broad industrial policies that would benefit high-technology industries as a whole, hoping that the rewards would reach sectors of the economy that directly serve the military.

Richard DeLauer, who was Under Secretary of Defense for research, development and engineering during the first half of the Reagan Administration, said in an interview today that, although he attended dozens of interagency meetings on industrial policy while he was in office, he never felt that he exerted much influence in his role as a Pentagon representative.

"I don't think our influence was as strong as it should be," said Dr. DeLauer, who participated in the science board study. "I don't think the security issue is adequately represented."

At the same time, he warned that the Pentagon should not assume that a national industrial policy would solve the Pentagon's problems.

A widely held aversion to political control of the economy is just one element that could stand in the way of the new thinking on the military-industrial complex. Other resistance is likely to be encountered from Government agencies that now control economic policy as well as among Pentagon bureaucrats who favor the status quo, according to Defense Science Board members.

But Dr. DeLauer said the new approach, while no panacea, has important implications because the Presidential candidates Michael S. Dukakis and George Bush, are seeking ways to bolster national security without increasing military spending.

"Both candidates, in my view, could make a lot out of it if they bothered to acquaint themselves with it," Dr. DeLauer said.

In the election campaign, Governor Dukakis has made more of a point than Vice President Bush of linking economic policy to national security.

The Pentagon's own studies of economic security have, at times, echoed Mr. Dukakis' themes. For example, a study on the industrial base published by the Pentagon in July said, "The issue of foreign ownership of American manufacturing facilites has not received adequate attention."

The Pentagon report disputed "the most common view," which is held by Mr. Bush, that foreign investment benefits the United States because it creates jobs in this country. That view, the Pentagon report declared, overlooks the fact that foreign owners tend to maintain control over critical manufacturing technologies.

The new report by the Defense Science Board warns the Pentagon: "We are, and will remain, dependent on foreign resources for critical components of our weapons systems. We cannot eliminate foreign dependency in this era of a globalized defense industry. We can and must eliminate the apparent loss of leadership in key defense technologies."

Rather than calling for costly programs to sponsor research or investment programs directly, the board called for linking economic policies to military strategies.

Specifically, the group recommended formation of an "Industrial Policy Council" that would be headed by the President's national security adviser and would recommend policies to bolster industries that support the military. At the same time, the report said, the Defense Secretary should be made a permanent member of the Economic

Policy Council, the Cabinet's group for making economic policy.

Robert A. Fuhrman, president and chief executive officer of the Lockheed Corporation, a major military contractor, headed the advisory group that wrote the report during a series of meetings this summer. Today he briefed the Secretary of Defense on the report.

In a letter accompanying the report, Mr. Fuhrman said its "foremost recommendation" was to enact policies that would bridge the gap between the nation's military strategy, which emphasizes technical superiority, and the ability of industries to maintain a technological advantage.

Among the panel members were William J. Perry, a former senior defense official who is now an investment banker at Hambrecht & Quist in San Francisco; Norman R. Augustine, a senior executive at the Martin Marietta Corporation, and John Deutch, who is provost of the Massachusetts Institute of Technology.

The themes in the advisory panel's study were also expressed in the July report by the office of the Under Sectretary of Defense for Acquisition, Robert B. Costello.

CHAPTER V—BOLSTERING INDUSTRIAL COMPETITIVENESS

The several hundreds of Government and private sector experts who contributed to this effort were extremely forthright—frequently even harsh—in their assessments of the problems in our manufacturing base attributable to private sector managers, Government policies, and most notably, Department of Defense policies and practices. We seriously have evaluated their contributions and have attempted to report those assessments faithfully and act upon them effectively.

Over the course of this effort, we determined that a significant number of required improvements are possible within the existing authority of the Department. In fact, we identified numerous ongoing Departmental programs and recent initiatives to improve manufacturing operations in the defense industrial base. These include a number of actions that relate directly to the conclusions and recommendations of this report.

There are other recommended actions that primarily are directed to the Department of Defense, but will require coordination with the Congress and other departments and agencies of the Executive Branch. Finally, there are recommendations for action by the Government that clearly are beyond the scope of the Department of Defense responsibility and authority. For these, the Department of Defense urges prompt consideration by the appropriate authorities.

CONCLUSIONS AND RECOMMENDATIONS

The remaining portion of this section contains 19 conclusions and recommenations for action by the Department of Defense and other Government departments and agencies. The order of presentation generally corresponds with our six major thrusts: (1) forging the right relations with industry; (2) improving the acquisition system; (3) establishing defense industrial strategic plans that support our military strategic plans; (4) developing manufacturing capabilities concurrent with the development of weapons systems; (5) laying the foundation now for the technical skill base required for tomorrow's defense needs; and (6) ensuring that industrial base issues important to our defense benefit from the full spectrum of potential policy remedies, when appropriate.

FORGING THE RIGHT RELATIONS WITH INDUSTRY

Conclusion

The Department of Defense ability to meet the materiel needs of our security objectives relies on the private sector and is being impeded by an exaggerated adversarial relationship. Lack of trust on both sides, perhaps fully justified, creates an environment in which significant improvements are increasingly difficult.

Discussion

Regardless of the source of distrust, there is a powerful need to build a cooperative relationship between the Department of Defense and industry that will lower barriers to improvements, enable more effective policy development and implementation, and contribute to the national goal of a strong industrial base.

This could be accomplished by creating a mechanism that would contribute to better understanding and consistency of effort by enabling senior industry managers (while avoiding any possible conflict of interest) to participate in the analysis issues and alternative solutions.

Two bodies, a Manufacturing Advisory Council and a Defense Manufacturing Board might function in similar ways, but in different environments. The Manufacturing Advisory Council's activities would be focused on public policy issues and national economic issues relating to manufacturing, and would provide the Department an essential linkage to civilian issues, programs, and policy options in these areas.

The Defense Manufacturing Board would be established within the Department as a permanent entity, with a permanently assigned secretariat, or staff. Its functions would be keyed directly to defense manufacturing issues and problems. A key function would be to provide visibility to manufacturing and industrial base issues within the Department of Defense.

Recommendation

The Department of Defense should immediately begin to establish a nonadversarial means of communication between industry and the senior policymakers of the Department. Potential means to this end include establishment of:

a. A Manufacturing Advisory Council, sponsored by the National Academy of Sciences, an objective third party, and;

b. A Defense Manufacturing Board, an internal organization (modeled, perhaps, after the Defense Science Board).

STRATEGIC PLANNING TASK FORCE

Conclusion

The implicit strategy of the Department of Defense for addressing industrial base issues has been to conduct ad hoc studies of current problems. While individually important and useful, they have not been sufficient to resolve problems stemming from occasionally conflicting regulations, laws and directives, and inconsistent attention and resource dedicated to industrial base issues. The result has been insufficient resource allocations, confusion and lack of effectiveness in solving industrial base problems.

Discussion

A coherent, effective organization is required now to coordinate and provide oversight of ongoing industrial base initiatives and, more importantly, to do the necessary planning and organization work required to establish permanent institutional mechanisms.

Recommendation

The Department of Defense should ensure a viable industrial infrastructure is maintained to provide military materiel in the quantity and quality required during peacetime and for emergencies. Specifically, the Department should develop industrial stratgegic plans explicitly linked to military operational plans. The goal should be to identify and address actual and potential shortfalls systematically through mechanisms that sort out the relative urgency and importance of technological and industrial requirements against a backdrop of military planning scenarios and objectives. The Department should provide for a continuing assessment of both the short and long-term defense industrial base capabilities along with a clear ennunciation to industry of what is needed from the industrial base and when.

The Department of Defense should immediately establish a task force under the direction of the Under Secretary of Defense (Acquisition), staffed with specialists from the Office of the Secretary of Defense, the Military Departments, and the Organization of the Joint Chiefs of Staff, to expedite implementation throughout the Department of these and other actions identified in the report. Among other things, the task force should:

1. Develop and staff a Departmental policy statement regarding defense industrial strategic planning in support of military operational plans.

2. Determine the organizational structure, staffing and budget necessary to institutionalize the defense industrial strategic planning function in support of military operational plans.

3. Establish senior level liaison with selected allies, American industry, and appropriate civil agencies such as the Departments of Treasury, State and Commerce.

PRODUCTION BASE ADVOCATE

Conclusion

The system that has been erected over decades by both the Department of Defense and the Congress to obtain the materiel necessary for our security could be improved to accomplish more effectively the objectives of providing the military with appropriate technologies, within reasonable time periods, at reasonable cost, and of yielding outstanding quality products that can be produced in time and in the necessary quantities to satisfy potential emergencies.

Discussion

The laws and regulations under which Defense acquisition programs function are, by any measure, a hodge-podge which has evolved over several decades. A substantial portion of the entire body of rules was put in place in response to specific occurrences of poor management or wrong doing, and is intended solely to ensure that these occurrences can never happen again. Typically, such remedial actions initially were not evaluated for soundness and feasibility of implementation, nor have they been subsequently evaluated. There is a compelling need for institutional means, such as a Production Base Advocate to test objectively the soundness and impact on industrial efficiency of existing and proposed laws and regulations, as well as the means to develop and test innovative alternatives to such laws and regulations.

Key characteristics of the office of Production Base Advocate should include:

A small, but highly qualified staff, headed by the Department's Production Base Advocate. Other staff members would be drawn from the Military Departments and Defense Agencies, in the same manner as for other joint program offices;

Annual budget authority to support tests of innovative manufacturing and industrial base programs;

A board of advisors, with membership from industry, academia, and other Government organizations (the Manufacturing Advisory Council and/or the Defense Manufacturing Board could fulfill this function).

The Production Base Advocate should have broad authority to deviate from acquisition regulations (both legislative and administrative based) in the process of conducting experimental programs to improve Department of Defense management.

Recommendation

The Department of Defense should establish an office of Production Base Advocate, an institutional structure to receive, evaluate, and test innovative ideas for improvement of Department of Defense manufacturing programs.

ANALYTIC CAPABILITY TO DEVELOP DEFENSE PERSPECTIVES

Conclusion

The Department of Defense has not had adequate institutional mechanisms for maintaining awareness of either technology or industry trends, nor for understanding, analyzing, or assessing the national and international issues that surround the questions of American technological or industrial competitiveness.

Discussion

In order to guide defense policy more effectively, the Secretary of Defense and the Under Secretary of Defense (Acquisition) require coherent, dedicated data acquisition and analysis support not currently available to them. In developing this capability the Department should recognize existing programs which might be adapted to address this shortfall. Two such programs, the Defense Industrial Network and Project SOCRATES, that are now in their formative stages, are being established to deal with specific problem areas in manufacturing and technology, but might economically be adapted to fill this need.

Recommendation

The Department of Defense should establish permanent, institutional mechanisms to acquire, analyze, and assess manufacturing and technology data and provide the principal officers of the Department cogent, objective advice with respect to defense issues that involve the performance of the United States industrial base. The Defense Industrial Network and the Defense Intelligence Agency's Project SOCRATES should be merged and adapted to fill this requirement for data.

FOREIGN DEPENDENCIES

Conclusion

From the national security perspective, foreign dependencies in technologies essential to defense production are inherently risky, and minimizing them should be a Department of Defense and national priority. However, there is at present no reliable system even to identify such dependencies, not to mention systems to minimize them. Especially in critical lower-tier industries which support defense prime contractors, visibility is key to maintaining the ability to assess the consequences of foreign-sourcing and evaluate the implications of the potential loss of leadership in key technologies.

Discussion

The Department of Defense does not know the extent to which foreign-sourced parts and components are incorporated in the systems it acquires. There is no systematic, established means to identify foreign-sourced parts and components and, hence, no way to determine the extent of foreign dependencies or vulnerabilities. There have been a number of ad hoc efforts that have identified specific foreign dependencies and preliminary indications that foreign dependencies are increasing. In a national emergency, the consequences of extensive, dependence on foreign sources could be extreme.

More immediately, however, an apparent consequence is that we are experiencing the loss of technological leadership in key manufacturing technologies at an increasing rate. This has extremely adverse potential for our long-term security interests.

Recommendation

The Department of Defense should develop and implement systems to provide visibility of critical foreign-sourced items in or proposed to be in new weapon systems, prior to the demonstration/validation decision milestone during the acquisition decision making process.

FACTORY MODERNIZATION INVESTMENTS

Conclusion

Defense acquisition programs are not conducted in a normal market environment, and the absence of normal market incentives is a barrier to contractor investment. In the absence of normal market incentives, the Department of Defense has developed alternative programs, primarily a rigid set of procurement rules and regulations. There are aspects of these Departmental procurement policies and regulations that impede investments for increased productivity. The Department's Industrial Modernization Incentives Program, designed to stimulate contractor investments, must be administered within this contrary environment and, therefore, is not as effective as it otherwise might be.

Discussion

Some Department of Defense policy-related impediments to investment have existed for many years. Among these are:

Cost-based production contracts, which not only fail to reward contractors for reducing costs, but often actually penalize reduced costs by also reducing profits. In effect, the most efficient contractor earns the least profit and, conversely, the least efficient earns the most;

Emphasis on low acquisition cost and schedule compliance, to the virtual exclusion of low life cycle costs and producibility and reliability considerations.

Others of more recent origin pose even greater threats to the long-term efficiency and productivity of the defense industrial base:

Increased emphasis on price competition, which forces short-cuts and reduces incentives for investments in new equipment and quality systems;

Intense pressure on profits—down to levels that virtually guarantee contractors will have limited ability to invest in future productivity programs or high-quality people;

The absence of risk-sharing for innovation;

Emphasis on forcing contractors to fund (and assume risk for) program-specific tooling and test equipment.

In the short-term, such policies and practices may result in reduced program acquisition costs, which is their intent, but in the long-term, they may be counterproductive if they accelerate the decline of the defense industrial base.

Recommendation

The Department of Defense should assign high priority to resolving the issues of incentives for productivity enhancing investments by defense contractors and to creating an environment more conducive to successful administration of the Industrial Modernization Incentives Program. This task will require detailed analysis of the effects of virtually every aspect of defense acquisition policy, much of which is mandated in law. This substantial undertaking may be an appropriate high priority task for the Production Base Advocate, assisted as required by the Manufacturing Advisory Council and the Defense Manufacturing Board.

PROGRAM STABILITY

Conclusion

There is little doubt that program and process instability and uncertainty are extremely detrimental to defense acquisition and manufacturing management. Much of the instability and uncertainty clearly is attributable to lengthy budget and program decision processes within the Executive Branch. Equally clear, much of it is attributable to congressional micromanagement, not just of defense programs, but of small details of the acquisition management process. It is unlikely that major improvements in defense acquisition and manufacturing management will be achieved in the absence of greater predictability, stability, and certainty in programs and the acquisition process.

Discussion

Both Congress and the Department of Defense contribute to an environment which is inimical to good manufacturing practices and cost containment, and which is a strong impediment to investment by defense contractors. Elements of the environment include constant budget turbulence, small-volume programs, year-to-year program uncertainties, program stretch outs, changes in the rules of contracting (competition, military requirements, allowable profits, audit standards, etc.), late appropriations, and uncertain congressional continuing resolutions. These great uncertainties by themselves are sufficient to motivate defense contractors not to invest in productivity improvements. They also serve as strong impediments to highly qualified commercial manufacturing firms entering the defense market; and in some cases, they have been primary causes of firms leaving the defense market.

Recommendation

The Department of Defense must support and make better and more extensive use of programs already available (or potentially available) to stabilize major acquisition programs. These include two-year budget cycles, multi-year contracts, and a more realistic (achievable) five-year program. There also must be incisive analyses of programmed and budgeted development and production rates specifically focused on the issues of manufacturing efficiency and cost, contractor incentives for investment, and long-term impact on industrial capacity and capability.

LIFE CYCLE COSTS

Conclusion

The most effective measure of the value of a weapon system is based not on its initial acquisition cost, but on the total costs over its entire fielded life. Effective, universal use of true life cycle costing techniques is an imperative if the Department of Defense is to acquire the most effective and reliable systems at affordable overall costs.

Discussion

The concept of life cycle costing provides the most sound basis for effective evaluation of proposed weapon system research and development and production programs. However, life cycle costing is not often used effectively in the evaluation and source selection processes. Program managers and source selection teams often focus overwhelmingly on upfront costs and schedule considerations in evaluating proposals. Budget pressures are an obvious cause of these priorities, but there are other, perhaps equally important, causes.

Department of Defense personnel are uncomfortable with the inherently uncertain down-stream costs implied in the issues of how reliable a system is and how easily it can be maintained and used, as they are reflected in contractors' projections of requirements for human resources and training, support equipment, spare parts, etc. Even after the fact, the Department has no adequate means to monitor and evaluate actual versus projected life cycle costs and, hence, has no means to gain added confidence in future evaluations of contractors' projections of life cycle costs. One consequence is that the Department of Defense rarely assigns any weight to contractors' reputations for producing reliable, high-quality, low-maintenance systems, because it has little ability to do so.

Recommendation

The Department of Defense should raise the priority of using life cycle costs as a basic evaluation technique in acquisition programs. An assessment should be made of the progress of the Department of Defense in applying this concept. More research should be conducted to achieve a better understanding of the concept and how it can be exploited for the Department's benefit. Specific procurement experiments should be conducted to explore how the use of life cycle costing can be developed to reduce overall costs of weapon systems.

QUALITY CONTROL

Conclusion

Current Defense Department acquisition management systems and procedures do not adequately recognize the importance of effective quality control programs in contractors' plants nor do they provide sufficient incentives for contractors to invest in such programs.

Discussion

In other countries, most notably Japan, techniques and processes for achieving consistently high quality manufactured products have progressed much more rapidly and have been more widely adopted than in the United States. Within the United States industrial base, firms in the defense sector have lagged even further behind. To some extent, Department of Defense acquisition and management practices are causes of the reluctance of defense contractors to adopt advanced quality control programs. Department of Defense practices, which have been characterized as inspecting quality in, do not recognize or adequately reward contractors who achieve effective quality control and, hence, provide little incentive for them to do so.

Recommendation

The Department of Defense should develop an effective quality first program, and dedicate the resources required to implement such an effort. An effective program will require, among other things, basic changes in emphasis in source selection criteria and procedures and extensive training of Department of Defense personnel in modern quality control systems and processes.

COMMERCIAL SPECIFICATIONS AND PROCESSES

Conclusion

Department of Defense programs might benefit greatly from increased use of commercial specifications and, especially in the lower tiers, from increased use of the same resources (design, engineering, production facilities) to manufacture both military and commerical products. Potential benefits include reduced lead times, reduced costs, improved quality and reliability, and increased responsiveness to meet surge and mobilization requirements.

Discussion

The separation in the industrial base between defense and commercial production is nearly absolute. There are few examples of firms that produce both military and commercial products in the same plants. There are firms that serve both markets, but they invariably maintain rigid separation between the two lines of business. These firms, however, do have a more informed view of the difficulties involved in attempting to integrate production of military and commercial products. Their perceptions are that barriers to integration range from the immense burdens imposed on defense contractors by Government rules and regulations (including, for example, cost accounting standards which require defense contractors to keep two sets of books) to the unique requirements of thousands of detailed process and product specifications (which frequently are obsolete by the time they are promulgated). In many product and process technologies, commercial practice has surpassed defense practice, with the result that the Department of Defense often pays more for less advanced products.

Recommendations

The Department of Defense should vigorously pursue efforts to increase use of commercial manufacturing process and product specification, in lieu of unique military specifications. The Department also should comprehensively identify barriers to integrated manufacturing of commercial and military products and examine alternative practices which might faciliate such integration.

EMPHASIS ON PROCESS TECHNOLOGY

Conclusion

American manufacturers, in many cases, are unable to get products from research and development into the market as fast as is necessary to be competitive. There are many examples where American manufacturers are unable to develop and apply new process technology in their operations as fast as their international competitors. In the defense sector, the Department of Defense Manufacturing Technology Program is the only existing program focused specifically on development of advanced manufacturing process technology.

Discussion

The Department of Defense Manufacturing Technology Progam has contributed greatly to the advancement of generic manufacturing science and technology, but even more productive results could be achieved with greatly expanded and more predictable levels of resources. The Department of Defense also must find specific means to integrate concurrent product and process technology development into research and development programs and the acquisition life cycle. One way would be to require concurrent development of efficient, cost effective manufacturing capability as part of all research and development efforts. Among the measures that could be pursued is a contract clause tailored to each research and development effort to require development and demonstration of the ability to produce the product.

Recommendation

The Department of Defense should develop a comprehensive program to ensure development and application of effective, advanced process technologies concurrent with basic science and technology programs and weapon systems development programs. The program should have four major thrusts: (1) development of manufacturing technology as part of all basic science and technology programs; (2) development of manufacturing technolgoy in all weapon systems development programs; (3) changes in policies governing contractor independent research and development/bid and proposal costs to stimulate emphasis on manufacturing technology and, (4) greatly expand emphasis and resources for the Manufacturing Technology Program.

TECHNOLOGICAL SKILL BASE

Conclusion

The quality of the nation's technological skill base is an indicator of the future prospects for American industrial competitiveness. The source of the technical skill base is our university system. While the quality of the system is sound (and it remains a national competitive advantage when compared to the rest of the world), there are some areas of concern.

Discussion

Much of the discussion about technical education focuses on funding, but the issue is equally one of national leadership. The nation must build its technological skill base if it is to achieve the goals of security and well being of its citizens. Current data suggests that foreigners may be utilizing our graduate technical programs more than we are (85 percent of the recent growth in graduate education has been from foreign students often on state subsidy and/or Federal Government grants). Coupled with demographics that will reduce the pool of potential scientists and engineers, there is a growing problem that can be altered only by national leadership.

The effort should include all Federal agencies with technical missions, including the National Aeronautics and Space Administration, the Department of Energy, and the National Bureau of Standards of the Department of Commerce. National political and business leaders should be involved with a multi-media approach to achieve a national consensus for support. Industry should be stimulated to assist with the effort in local and regional programs, seminars, cooperative education efforts, and particularly, with attractive technical career path opportunities.

Recommendation

The Department of Defense should lead the organization of a national program to stimulate enrollment in both undergraduate and graduate technical programs to assure both the quantity and quality of technically qualified graduates necessary for national success. A specific objective should be to raise the prestige and attractiveness of technical careers, with particular emphasis on manufacturing.

INCENTIVES FOR TECHNICAL EDUCATION

Conclusion

The Department of Defense, perhaps more than any other agency, depends on technology as its lifeblood. The Department has a direct stake in the quantity and quality of science and engineering graduates. Efforts must be made to reverse the decline in numbers and capabilities of technically educated personnel.

Discussion

The Department of Defense might offer scholarships at schools willing to build world-class manufacturing engineering programs. Selection of the schools would be based upon:

Industrial commitment to maintain leading edge university expertise;

Industrially supported faculty positions to enable the world's best manufacturing managers to teach future generations;

Industrial hiring programs to assure that the finest career opportunities are afforded the new generation manufacturing manager;

State and university commitments for faculty and curriculum development to ensure America remains on the leading edge of the development and management of technological progress.

Recommendation

The Department of Defense should combine a scholarship program in manufacturing engineering with a plan to build university expertise in manufacturing. The program should be developed jointly with industry.

EDUCATIONAL FACILITIES

Conclusion

State-of-the-art education facilities represent another deficiency in American universities for teaching manufacturing-related science and engineering skills and, hence, provide another impediment for students and faculty alike to pursue manufacturing careers.

Discussion

An instrumented factory program might competitively award grants for a number of advanced manufacturing technology demonstration centers to universities or non-profit coalitions of manufacturers, equipment suppliers, material suppliers, and other appropriate organizations. Each center would consist of an instrumented factory that produces limited quantities of military items, using the latest available state-of-the-art manufacturing technologies. The program would provide for conducting Government-funded research and development associated with the processes used in the factory, encompassing the physical, data, control, and human factors. Mechanisms would be required to ensure that the technologies are promptly implemented in private companies.

Recommendation

The Department of Defense could provide seed money for an instrumented factory program for industries where there are large numbers of companies and significant non-defense applications.

PRODUCTION BASE IMPACT ASSESSMENT

Conclusion

There is a need for focused, coherent analysis of issues affecting American manufacturing industries.

Discussion

United States law and policy historically have been developed primarily in response to domestic requirements, with little attention given to the possible harmful effects they may have on the health, vitality, and long-term survival of American manufacturing industries in an increasingly competitive international environment. Explicit assessments of the effects of legislation and regulation on the health and vitality of our production base should be conducted prior to their promulgation.

Recommendation

The Department of Defense recommends establishing a substantial analytic capability within the Legislative Branch dedicated exclusively to objective analysis of the impact of existing and proposed legislation on the United States manufacturing base and its ability to compete internationally.

COHERENT TAX POLICIES

Conclusion

Direct, indirect, and hidden taxes on the United States manufacturing base are, by current world standards, not conducive to investing at the required levels to achieve and sustain world leadership in advanced technologies and manufacturing processes.

Discussion

Efforts to achieve equitable tax policies domestically have resulted in a substantial shifting of tax burdens from individuals to industry. Especially troublesome to many American manufacturing firms is the fact that the tax burden on industry is fully reflected in the costs of domestically manufactured products, but not in the costs of foreign-manufactured products sold in the American market, even though alternative tax structures to equalize the tax burden across all products are permitted under the General Agreement on Tariffs and Trade.

Recommendation

The Department of Defense advocates and supports the concept that there should be a comprehensive analysis of tax policies specifically focused on enhancing the international competitiveness of American manufacturing industries. The Department of Defense recommends that the President and the Congress jointly cause this comprehensive analysis to be undertaken as a national priority.

COHERENT TRADE AND DOMESTIC POLICIES

Conclusion

Many other elements of Federal law (antitrust, environment, safety, etc.), other than the tax code, also affect the operations and costs of manufacturing in the United States. In many cases, such laws are unique to the United States and, therefore, represent unique financial burdens on domestic manufacturers.

Discussion

Trade policies, as well as elements of domestic policies (antitrust, etc.) are significant determinants not only of the level of resources that are or can be devoted to defense, but of the productivity of the industries supporting our defense. From the perspective of security policy, the Department of Defense believes that in formulating trade policies, within the framework of international agreements, attention should be focused on the impact such policies have on American competitiveness and stimulating a productive manufacturing base. Domestic policies also should be examined from this perspective.

Recommendation

The Department of Defense advocates and supports the concept that there should be a comprehensive analysis of trade policy and domestic policies, specifically focused on enhancing the international competitiveness of American manufacturing industries. The Department of Defense recommends that the President cause such fundamental examinations to be undertaken as national priorities.

EDUCATION AND TRAINING

Conclusion

There is substantial evidence that the basic skill levels of many American high school graduates are not adequate for the needs of manufacturing firms. At the university level, curricula does not adequately focus on manufacturing processes, technologies, or management. Continuing education programs for professionals and workers alike are inadequate or nonexistent in most American firms.

Discussion

The Department of Defense is dependent upon a continuing flow of highly qualified mathematicians, scientists, engineers, and technicians, as well as an adequate supply of skilled, motivated line workers in manufacturing processes and maintenance programs. Shortages in these areas create market distortions, which disrupt development and production schedules, reduce quality, and increase costs. Education and training are the most fundamental long-term national priorities in the effort to sustain an advanced industrial economy and to provide adequately for our defense.

The Department of Defense traditionally has been and continues to be involved in scientific technical educational programs, but has not recently subjected its educational programs to rigorous review from the perspective of modern industrial requirements. There also has been no recent fundamental examination of the quality or relevance of American educational systems (at all levels) specifically from the perspective of the needs of an advanced industrial economy. The combination of deficiencies in education and training at all levels represents, perhaps, the most serious long-term problem facing the United States industrial base.

Recommendation

The Department of Defense problem with respect to inadequate skill levels in the United States is a component part of the national problem. The Department recognizes that long-term basic solutions are beyond the scope of its responsibilities and capabilities and urges that there be a national effort, beginning now, to achieve these long-term solutions.

PRIVATE SECTOR ISSUES

Conclusion

Notwithstanding the continuing successes of some entire sectors of the United States manufacturing base and of individual firms in other sectors, there is a pervasive problem with the quality and effectiveness of management in American manufacturing industries.

Discussion

The findings of this study are, collectively, an indictment of management in American manufacturing firms. This is a particularly sensitive problem because Government has little or no ability to address the problem or to contribute to its solution. Of course, one exception is that Government should ensure that its current practices that are intrusions into the operations of manufacturing firms do in fact impose the least possible harm on these firms. However, this should not be construed to mean Government will shirk its oversight responsibilities. A less obvious exception lies in the potential for Government to influence the expectations and actions of owners and managers through, for example, changes to tax law to discourage an excessive focus on the short-term and to provide incentives for long-term investment in technology development and implementation.

Recommendation

The Department of Defense can contribute substantially to improved management in defense firms through improved acquisition processes, selective contract incentives based on competitive cost reductions, and a concomitant effort to reduce its intrusions into management's affairs. The management problem in non-defense industries, however, is largely beyond the reach of Government agencies. At a minimum, however, unnecessary Government barriers to management motivation to achieve manufacturing excellence and competitiveness must be identified and dismantled.

ORDERS FOR FRIDAY

RECESS UNTIL TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow following the two leaders under the standing order, there be a period for morning business not to extend beyond 12:30 p.m. and Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and, at 6:26 p.m., the Senate recessed until Friday, October 21, 1988, at noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 20, 1988:

EXECUTIVE OFFICE OF THE PRESIDENT

JOSE A. COSTA, JR., OF FLORIDA, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM EXPIRING OCTOBER 27, 1990.

MAJORIE B. KAMPELMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM EXPIRING DECEMBER 20,1991.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

LOUIS B. SUSMAN, OF MISSOURI, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING APRIL 6, 1991.

EDWIN J. FEULNER, JR., OF VIRGINIA, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1991.

AFRICAN DEVELOPMENT FOUNDATION

JOHN TRAIN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 1993.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

EVAN GRIFFITH GALBRAITH, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1990.

PEACE CORPS NATIONAL ADVISORY COUNCIL

JULIA CHANG BLOCH, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM OF 2 YEARS EXPIRING OCTOBER 6, 1990.

DEPARTMENT OF JUSTICE

THOMAS J. ASHCRAFT, OF NORTH CAROLINA, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS.

MISSISSIPPI RIVER COMMISSION

COL. GERALD EDWARD GALLOWAY, JR., SSN 057-74-4360, U.S. ARMY, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISION OF SECTION 2 OF AN ACT OF CONGRESS APPROVED 28 JUNE 1879 (21 STAT. 37; 33 UNITED STATES CODE 642).

HOUSE OF REPRESENTATIVES—*Thursday, October 20, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Increase in us, O God, the capacity to listen before we speak, to think before we act, to pray before we work. Give us that good balance between communication with each other and responsibility for our own tasks that, tolerant and understanding of others, we may truly hear the feelings and concerns of those different from us and so serve the common interests of justice and goodwill. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Would the gentleman from North Carolina [Mr. COBLE] please come forward and lead our colleagues in the Pledge of Allegiance?

Mr. COBLE. I thank the Speaker.

Mr. Speaker, I would ask those in the gallery to stand and join my colleagues and me in the Pledge of Allegiance.

Mr. COBLE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

VACATING PROCEEDINGS OF OCTOBER 19, 1988, ON H.R. 515, FAIR CREDIT AND CHARGE CARD DISCLOSURE ACT OF 1987

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to vacate the proceedings of October 19, 1988, whereby the conference report on the bill, H.R. 515, was adopted, and that the Speaker put the question de novo on the adoption of the conference report.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. KOLBE. Mr. Speaker, reserving the right to object, would the chairman give us some indication of what this is for? Is this to get a vote on the credit card legislation?

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. I thank the gentleman for yielding.

Mr. Speaker, it is to get a vote.

When we debated it, I was against the bill. When we debated, the Speaker pro tempore had asked for the vote and I objected to the vote on the ground that a quorum was not present and made a point of order on the ground that a quorum was not present.

Yesterday the bill was called up.

As the gentleman knows, I spent 3½ hours in the Committee on Rules and I am trying to protect my right. I did not sign this conference report. I am chairman of the Subcommittee on Consumer Affairs and Coinage of the Committee on Banking, Finance and Urban Affairs, and I just want a vote.

Mr. KOLBE. Continuing to reserve my right to object, Mr. Speaker, I understand the dilemma of the chairman and will not object to this. However, I would point out that earlier on another bill, the homeless bill, the minority had the same problem and we were not, because we were in caucus, permitted to get a vote on it.

I would ask the chairman when he anticipates this vote, or I would ask the Speaker if he knows when this vote might be taken.

The SPEAKER. The Chair would make a statement. The Speaker would declare that this vote, if the unanimous-consent request of the gentleman from Illinois is agreed to, would be taken following 1-minute speeches so that opportunity might be given for Members to be alerted to the fact that the vote will be put again. If a demand for a rollcall vote is ordered under the rules, then a record vote would occur.

Mr. KOLBE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DIRECTING SECRETARY OF THE SENATE TO MAKE TECHNICAL CORRECTIONS IN ENROLLMENT OF S. 11, VETERANS' ADMINISTRATION ADJUDICATION PROCEDURE AND JUDICIAL REVIEW ACT

Mr. MONTGOMERY. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 392) directing the Secretary of the Senate to make technical corrections in the enrollment of the bill, S. 11, and ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 392

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (S. 11) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) At the end of title XIV insert the following new section:

SEC. 1404. SPECIFICATION IN BUDGET SUBMISSIONS OF FUNDS FOR CERTAIN VETERANS BENEFITS.

(a) BUDGET INFORMATION.—In the documentation providing detailed information on the budgets for the Veterans' Administration and the Department of Labor that the Administrator and the Secretary of Labor, respectively, submit to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Administrator and the Secretary shall identify, to the maximum extent feasible, the estimated amount in each of the appropriation requests for Veterans' Administration accounts and Department of Labor accounts, respectively, that is to be obligated for the furnishing of each of the following services or benefits only to, or with respect to, veterans who performed active military, naval, or air service in combat with the enemy or in a theatre of combat operations during a period of war or other hostilities:

(1) Employment services and other employment benefits under programs administered by the Secretary of Labor.

(2) Compensation under chapter 11 of title 38, United States Code.

(3) Dependency and Indemnity Compensation under chapter 13 of such title.

(4) Pension under chapter 15 of such title.

(5) Inpatient hospital care under chapter 17 of such title.

(6) Outpatient medical care under chapter 17 of such title.

(7) Nursing home care under chapter 17 of such title.

(8) Domiciliary care under chapter 17 of such title.

(9) Readjustment counseling services under section 612A of such title.

(10) Insurance under chapter 19 of such title.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(11) Specially adapted housing for disabled veterans under chapter 21 of such title.

(12) Burial benefits under chapter 23 of such title.

(13) Educational assistance under chapters 30, 32, and 34 of such title and chapter 106 of title 10, United States Code.

(14) Vocational rehabilitation services under chapter 31 of title 38, United States Code.

(15) Survivors' and dependents' educational assistance under chapter 35 of such title.

(16) Home loan benefits under chapter 37 of such title.

(17) Automobiles and adaptive equipment under chapter 39 of such title.

(b) Report on Feasibility.—If the Administrator or the Secretary of Labor determines that, with respect to any services or benefits referred to in subsection (a), it is not feasible to identify an estimated dollar amount to be obligated for furnishing such services or benefits only to veterans described in that subsection for any fiscal year, the Administrator and the Secretary shall, with respect to an appropriation request for such fiscal year relating to such services or benefits, report to the Committees on Veterans' Affairs of the Senate and the House of Representatives the reasons for the infeasibility. The report shall be submitted contemporaneously with the budget submission for such fiscal year. The report shall specify (1) the information, systems, equipment, or personnel that would be required in order for it to be feasible for the Administrator or the Secretary to identify such amount, and (2) the actions to be taken in order to ensure that it will be feasible to make such an estimate in connection with the submission of the budget request for the next fiscal year.

(2) Amend the title so as to read: "An Act to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to establish a Court of Veterans' Appeals and to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; to increase the rates of compensation payable to veterans with service-connected disabilities; and to make various improvements in veterans' health, rehabilitation, and memorial affairs programs; and for other purposes.".

The **SPEAKER**. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The **SPEAKER**. The gentleman from Mississippi [Mr. Montgomery] is recognized for 1 hour.

Mr. **MONTGOMERY**. Mr. Speaker, this request has been cleared with the gentleman from New York [Mr. Solomon], the ranking minority member on the Republican side. It is a technical correction of S. 11, the bill passed yesterday.

The **SPEAKER**. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CHANGING DATE FOR COUNTING THE ELECTORAL VOTE BY CONGRESS TO JANUARY 4, 1989

Mr. **FOLEY**. Mr. Speaker, I offer a joint resolution (H.J. Res. 677) changing the date for the counting of the electoral vote by Congress to January 4, 1989, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The **SPEAKER**. Is there objection to the request of the gentleman from Washington?

Mr. **GLICKMAN**. Mr. Speaker, reserving the right to object, I have no objection to this bill at all and I understand why it is here. I just want to reemphasize my objection to the electoral college as a concept.

I think it is an anachronism that has no relevance in the 20th century and would hope that next year we would face this issue directly and move to pass a constitutional amendment which will abolish the electoral college and elect the President of the United States directly.

All people in this country deserve that same right to elect the President.

So I thought I would make this statement 2½ weeks before the Presidential election.

Then, Mr. Speaker, based on my affirmation of pushing this issue next year, I withdraw my reservation of objection.

The **SPEAKER**. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 677

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in carrying out the procedure set forth in section 15 of title 3, United States Code, for 1989, "the fourth day of January" shall be substituted for "the sixth day of January" in the first sentence of such section.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OUR RISING TRADE DEFICIT

(Mr. **SCHEUER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SCHEUER**. Mr. Speaker, last Thursday the U.S. merchandise trade deficit soared to $12.18 billion in August as our import of goods from abroad reached an all-time high.

Mr. Speaker, under this administration our budget deficit has tripled, our interest on debt payments has risen by 188 percent and our trade deficit has increased by a factor of 6 to $170 billion annually.

America has been on a spending binge for the last 8 years—led by the White House.

George Bush keeps pointing the finger at Capitol Hill but the fact remains: this administration has not presented Congress with a single balanced budget plan in 8 years.

When this administration took office the United States was the largest creditor nation in the world. Now, 6 years later we are the largest debtor nation.

Mr. Vice President we cannot afford another 4 years of deficit financed "prosperity."

THE STATUS OF THE TOBACCO INDUSTRY

(Mr. **COBLE** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **COBLE**. Mr. Speaker and fellow colleagues, during the August recess I toured a tobacco manufacturing plant in my district. The Lorillard plant in Greensboro employs 2,500 people, produces 45 billion to 50 billion cigarettes each year, pays $1.6 million in Federal excise taxes each day. For every $1 it pays in wages, Lorillard pays $6.26 in taxes.

The entire tobacco industry pays $20 million per day in Federal excise taxes.

Mr. Speaker, I share these numbers for the information of those in this body who are intent upon dismantling the tobacco industry in this Nation. If they ever succeed in doing that, they may well be on the way to killing the goose that lays the golden egg. I want them to tell me where they will replace these lost taxes if they do finally insert the last nail into the coffin of tobacco.

THE BUY AMERICA PROVISION IS ALIVE AND WELL

(Mr. **TRAFICANT** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **TRAFICANT**. Mr. Speaker, it is bad enough that our trading partners continue to rip us off on trade and take away our jobs, but it is a disgrace to this body that a large portion of our Federal contracts are awarded to foreign firms paying slave labor wages at 37 cents an hour. Hopefully this will begin to change.

Mr. Speaker, as you know, I have been fighting very hard for "buy American" provisions. Yesterday the conference report on the NASA authorization bill put in order that "buy American" amendment that I have been offering to give our firms in America a weighted advantage. This is good news. I applaud Congress and all the conferees for approving that particular language and I hope Members will support me on attaching that to all appropriations measures and all authorization measures.

After all, it is a lot cheaper for Americans to provide these types of "buy American" provisions than it is to provide welfare and food stamps.

In addition, Americans not only keep their jobs, they maintain their dignity.

THE PIVOTAL QUESTION: WHERE IS THE DRUG BILL?

(Mr. **BUECHNER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **BUECHNER.** Mr. Speaker, I rise to ask the pivotal question of the day—where is the drug bill? While Members languish about, sporting their "Free the 100th Congress Buttons," we sit and wait, anticipate, and hope that House and Senate negotiators will do their duty.

I implore my colleagues in conference to do their level best to move swiftly to conclude their discussions and reach an agreement. Yet I urge my House colleagues to hold firm on such important issues as exemptions to the exclusionary rule, the tough civil fines for those caught possessing illegal substances, the forfeiture of Federal benefits, and other vital provisions passed in this Chamber.

For months now, we have been working hard to see tough antidrug legislation pass the Congress. Though we are anxious to go home, we owe it to our constituents and the country to get this drug bill to the President for his signature.

It's late in the series and our backs are against the wall. Let's hit a grand slam to close out the 100th Congress.

□ 1015

NATIONAL GUARD SUPPORT TO SAVE THE WHALES

(Mr. **MONTGOMERY** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **MONTGOMERY.** Mr. Speaker, elements of the 1st Battalion, 207th Regiment, Alaska Army National Guard were alerted on Saturday, October 15, to assist and provide support in the efforts to save three trapped whales near Point Barrow, AK. Two CH-54 "Flying Crane" helicopters were dispatched to tow a barge a distance of 200 miles to cut through the ice and help the whales reach open water. An additional UH-1 helicopter was dispatched with supplies. A total of 11 Army Guard personnel are involved in the operation. This is another fine example of our National Guard providing humanitarian relief when needed. The Alaska National Guard should be commended for their efforts in this endeavor.

Mr. Speaker, I would point out to my colleagues that the Alaskan National Guard is also part of the front line defense in this hemisphere, and most of those units are on duty 24 hours a day.

THE DUKAKIS RALLY THAT REALLY WASN'T

(Mr. **WALKER** asked and was given permission to address the House for 1 minute, and to read from papers.)

Mr. **WALKER.** Mr. Speaker, I quote directly from the Chicago Tribune of October 18, 1988:

> Remember the day that George Bush flew to Boston to accept the local police union's endorsement and Michael Dukakis countered with a big rally on the Statehouse steps?
>
> Well, there was less to the Dukakis rally than met the eye.
>
> At the time, Sept. 22, it appeared he was being backed by dozens of uniformed police officers as he spoke about the state's crime rate and other issues.
>
> Now the Massachusetts Capitol Police Officers Association has released a letter informing the Boston Police Patrolmen's Association that the capitol police have not endorsed Dukakis or any other politician.
>
> All of those capitol police officers, in other words, were just there on typical tours of duty. The only difference was that they had been ordered to wear dress uniforms.

A TRIBUTE TO THE HONORABLE PETER W. RODINO, JR. ON HIS RETIREMENT

(Mr. **MAZZOLI** asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. **MAZZOLI.** Mr. Speaker, we are at the very end of the 100th Congress, and I am not sure that we will as a body have an opportunity to conduct what we call special orders to pay tribute to the various Members who are leaving our ranks, one of whom I would particularly bring attention to today. I will miss all the Members who are leaving us, and in particular I will miss the gentleman from New Jersey, Mr. Peter Rodino, who is the chairman of our Committee on the Judiciary.

I have had a chance now for almost 20 years to work with the gentleman from New Jersey [Mr. Rodino], to study under him, and to learn about America with him. I have had a chance to learn about how our Judiciary Committee functions, and perhaps with particular relevance, to learn about the immigration subjects in the subcommittee that he chaired before it became my honor to chair that subcommittee.

I just want this Chamber, our country, and, of course, my friend, the gentleman from New Jersey [Mr. Rodino], to know how much I have really enjoyed working with him, and I want him to know that our love and our affection go with him as he leaves this Chamber for what I am sure will be a very rich life on the outside, counseling, writing, and giving advice, but especially giving that same kind of leadership on the important issues of the day which he gave to us in his nearly 40 years in our ranks.

Mr. Speaker, I say to my chairman, "I admire you, I respect you, and I wish you well."

A REDEDICATION TO THE FIGHT AGAINST APARTHEID

(Mr. **HAYES** of Illinois asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. **HAYES** of Illinois. Mr. Speaker, on yesterday, on the suspension calendar this House voted for H.R. 4174 without the amendment submitted by my colleague, the gentleman from Michigan [Mr. Conyers], which would prohibit firms from continuing to do business in South Africa.

I want this body to know that we should not have yielded to one Senator who was going to filibuster that issue. They did not even bother to check his special interests in that kind of position, and I do hope that we understand that this issue is not going away, that we need to really stand up to our principles of democracy and make sure that democracy is spread to South Africa. I hope that our feeling is that that aparthied regime and that system should not continue in that section of the world.

Mr. Speaker, let us live up to our pinciples by precept and example and not yield to people who have special interests in the continuation of that apartheid system.

ACCOMPLISHMENTS OF THE 100TH CONGRESS

(Mr. **VISCLOSKY** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **VISCLOSKY.** Mr. Speaker, I wish to take a moment to reflect on the productive nature of the 100th Congress. Whether it be plant closing legislation, the omnibus trade bill, the Civil Rights Restoration Act or the School Improvement Act, this House and this Congress will be remembered for its industry.

In reflecting upon the accomplishments of this House I am most proud of our passage of all 13 appropriation bills prior to the end of the fiscal year. Some may scoff at this achievement, but those familiar with the intricacies realize the magnitude of our feat; a feat not accomplished for nearly three decades.

I commend Chairman WHITTEN for his herculean efforts, Mr. CONTE's exertions also should be noted.

Speaker WRIGHT, Majority Leader FOLEY, and Mr. COELHO also deserve recognition not only for their leadership concerning these appropriations measures, but for their tireless efforts throughout the 100th Congress to enact legislation that addressed the needs of all Americans.

We have also been successful in reducing our Federal budget deficit since the end of the 99th Congress from $221 billion to a projected $146 billion for fiscal year 1989.

However, as we progress to adjournment and look ahead to the 101st Congress, we cannot rest on our laurals. Our task is not done and many difficult choices remain to be made.

So while we celebrate our accomplishments, let us use them as a standard for progress as we close the decade of the eighties.

THE SUCCESSES AND THE FAILURES OF THE 100TH CONGRESS

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, as I reflect on the 100th session of Congress, I congratulate you on our many achievements; among them passing the 13 appropriation bills as indicated by the gentleman from Indiana. There are, however, some very important pieces of legislation which did not see successful action by the 100th Congress. I believe that if we had a Democratic administration, we would have been able to pass a child care bill, a parental leave bill, and an increase in the minimum wage.

Mr. Speaker, Governor Dukakis supports the three bills I mentioned, and as Governor of Massachusetts, he has established programs addressing the need for quality and safe child care. He has raised the minimum, wage in his State above the Federal level and he has instituted a job security-parental leave policy.

The Vice President touts himself as a family man, supporter of family issues, as a supporter of environmental issues, and as a supporter of working Americans. But over the course of the past 7 years, he has been notable only for his conspicuous absence on these issues. What he has not done speaks louder than what he says. Mr. BUSH is part of an administration of "let's not and say we did."

ACCOMPLISHMENTS OF THE 100TH CONGRESS: HOUSING

(Mr. PRICE asked and was given permission to address the House for 1, minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, our Nation has always made the housing of its citizens a top priority. As the report of the National Housing Task Force recently stated, "The progress that has been made in recent decades is indisputable and a matter of pride for the nation and its policymakers. By coupling the best of private and public efforts, we have raised the standards of housing in which our people live, alleviated much of the overcrowding and unfit conditions, and increased the rate of homeownership".

Decent housing is the foundation for people's self-respect and dignity. This stable environment gives people the opportunity to develop and prosper; it gives people the ability to take advantage of the other opportunities such as education and employment that our society offers its citizens; and it gives people the right start for moving into successful positions in our society.

Unfortunately, in the 1980's, obtaining adequate and affordable housing has become increasingly difficult for many of our citizens. We have all felt torn by the stories of homeless citizens in our Nation's town and cities; we have all felt frustration by seeing families who, with one financial setback would be in the streets; and we have all felt deep concern when we see young families unable to purchase that first home.

We have taken steps in this Congress to renew once again that partnership between the public and private sector. Importantly, despite this administration's hostility to housing programs, we have been able to pass the first housing reauthorization bill of the 1980's. This bill will ensure that vital housing assistance progams to help low- and moderate-income people with their housing needs will continue, and it provides permanent authority for the Federal Housing Administration [FHA] which has helped many Americans obtain home ownership.

In addition, Congress passed a comprehensive homeless assistance bill which includes emergency shelter grants, outpatient health care and mental health services, emergency food assistance, and literacy programs. I believe these two bills will begin to undo the damage done by this administration's neglect of our housing infrastructure.

However, much more needs to be done. I have been especially heartened by the recommendations put forth by the national housing task force. This task force was composed of many people from business, nonprofit organizations, and the Government, and was chaired by James Rouse and David Maxwell. These recommendations have had considerable influence on a comprehensive housing proposal recently put forth by Senators CRANSTON and D'AMATO, and Chairman GONZALEZ has already held hearings laying the groundwork for a comparable House bill. All these efforts utilize the type of public-private sector cooperation which, I believe, is essential if we are to once again make housing affordable for most Americans.

I plan to be active on the House Banking Committee regarding these issues, especially championing more accessible home ownership for our citizens. I have introduced legislation, H.R. 4708, based on the task force's report which should help to make home ownership possible once again for many Americans. We should be proud of our achievements in the housing area during this Congress, but we should come back to the 101st Congress with a renewed commitment to ensuring adequate and affordable housing for our Nation's citizens.

UNFINISHED BUSINESS OF THE 100TH CONGRESS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, as we all pat ourselves on the back at the conclusion of the 100th Congress, let me make two notes, one domestic. Here is a picture from my district that the police in Santa Ana, CA, gave me the day before yesterday of an M-60 machine gun and a carb-15, an automatic carbine version of the M-16 rifle taken from drug dealers who are already back on the street. I know that it is hard to believe but these things are already back on the street there in my district.

If we do not pass a hard-hitting drug bill, the kind of a bill that Dukakis would veto if he were President, then we have failed on the most important domestic problem confronting us today.

But, Mr. Speaker, our greatest failure in my estimation is that communism is alive and well on the North American mainland, in the nation of Nicaragua. Here are the headlines, Mr. Speaker, after your revelation that the CIA supposedly encouraged the interral democratic opposition in Nicaragua to demonstrate against the government. You must know, Mr. Speaker, that members of the internal oppositions are frequently beaten by Communist thugs called the "Turbas Divinas." Here are just a couple of headlines which were written in Nicaragua following those revelations.

"Jim Wright Exposes Testimony of Agents in Nicaragua."

These are headlines of the Communist papers in Managua, Mr. Speaker, that was headline in Barracada.

"CIA Confesses to Melton Plan."

"Demonstrations Calculated to Provoke Arrest," as reported by El Nuevo Dario.

"Jim Wright Confirms CIA-Devised Plan."

Mr. Speaker, you have inadvertently made communism very safe in Nicaragua. Under a Bush Presidency we will turn this around, God willing.

CIVIL RIGHTS ACCOMPLISHMENTS OF THE 100TH CONGRESS

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, as the 100th Congress nears adjournment, we in the House and the other body can take much pride in our many accomplishments of these last 2 years—especially in the area of civil rights.

The Civil Liberties Act of 1988 provided redress to Americans of Japanese ancestry whose most basic rights were summarily abrogated during World War II. H.R. 442 is a bold reaffirmation of our Constitution during its bicentennial year.

Thanks to the Civil Rights Restoration Act, our tax dollars clearly cannot be used to support discrimination based on race, gender, age or disability.

And finally, our housing laws are now tougher thanks to the Fair Housing Act.

These are landmark achievements all. But they were accomplished despite the lack of leadership and often outright opposition from the Reagan-Bush White House.

That is why we need Mike Dukakis and LLOYD BENTSEN in the White House. Their commitment to equal rights and equal opportunity is proven. We want this commitment, we need this commitment at 1600 Pennsylvania Avenue.

A VERY GOOD 2 YEARS FOR THE 100TH CONGRESS

(Mr. KLECZKA asked and was given permission to address the House for 1 minute.)

Mr. KLECZKA. Mr. Speaker, it has been a very good year.

For the first time since 1948, this Congress approved all 13 appropriations bills before the October 1 deadline.

They said it could not be done, but with the able leadership of Speaker JIM WRIGHT, we did it.

It should not have come as a surprise.

For the historic 100th Congress, it has not just been a very good year. It has been a very good 2 years.

We passed a Clean Water Act. It took an override of the President's veto to do so, but we did it.

We passed a major trade bill.

Despite the President's objections, we put long overdue plant closing legislation into law.

We addressed catastrophic health care concerns at the Federal level, for the first time in our history, by adopting landmark legislation.

We adopted the first free-standing housing bill since 1980 and laid the groundwork for a comprehensive Federal commitment to the homeless.

The 100th Congress, my friends, is not part of the problem. It is part of the solution.

Those who suggest otherwise would do well to check the record.

FAIR CREDIT AND CHARGE CARD DISCLOSURE ACT OF 1987

The SPEAKER. Pursuant to the order of the House of today, the question de novo on the conference report on the bill, H.R. 515, is in order, and the Chair will put the question.

The Clerk read the title of the bill.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ANNUNZIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 5, not voting 84, as follows:

[Roll No. 451]

YEAS—342

Ackerman
Akaka
Alexander
Anderson
Andrews
Applegate
Archer
Armey
Atkins
Badham
Ballenger
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fawell
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gradison
Grandy
Grant
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kildee
Kleczka
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
St Germain
Staggers
Stallings
Stark
Stenholm
Stratton
Studds
Stump
Sundquist
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—5

Annunzio
Bonior
Fascell
Gonzalez
Hayes (IL)

NOT VOTING—84

Anthony
Aspin
AuCoin
Baker
Barnard
Barton

Bevill
Bonker
Boucher
Boulter
Broomfield
Brown (CO)
Cardin
Chandler
Chapman
Chappell
Clay
Clement
Crane
Dannemeyer
de la Garza
Dingell
Dowdy
Durbin
Dyson
Espy
Fazio
Flippo
Florio
Foley
Ford (TN)
Frank
Garcia
Gejdenson
Gephardt
Gordon
Gray (IL)
Gray (PA)
Gregg
Guarini
Hall (OH)
Hansen
Hatcher
Hiler
Inhofe
Ireland
Jenkins
Jones (NC)
Kemp
Kennelly
Kolter
Kostmayer
LaFalce
Lantos
Lent
Livingston
Lott
Lowery (CA)
Mack
MacKay
Martin (IL)
Mica
Miller (WA)
Molinari
Morrison (CT)
Morrison (WA)
Oxley
Quillen
Rose
Rostenkowski
Smith, Denny (OR)
Spratt
Stangeland
Stokes
Sweeney
Swift
Swindall
Taylor
Traxler
Volkmer
Whittaker
Wise
Young (AK)
Young (FL)

☐ 1048

Mr. ALEXANDER changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The Chair announces a revised list of suspensions is made available in the two respective cloakrooms.

ARIZONA-IDAHO CONSERVATION ACT OF 1988

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 592 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 592

Resolved, That upon the adoption of this resolution it shall be in order to take from the Speaker's table the bill (S. 2840) to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes, and to consider the bill in the House, and all points of order against the bill and against its consideration are hereby waived. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as having been adopted. Debate on the bill shall continue not to exceed one hour, and on the amendment printed in section 2 for not to exceed thirty minutes. The previous question shall be considered as ordered on the amendment printed in section 2 of this resolution, if offered by Representative YATES of Illinois, or his designee, and on the bill to final passage without intervening motion except one motion to commit.

SEC. 2. Amendment to S. 2840, if offered by Representative Yates of Illinois, or his designee: "On Page 55 of the Senate engrossed bill, strike lines 5 through 19."

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 592 is the rule providing for the consideration of S. 2840, the Arizona-Idaho Conservation Act of 1988. The rule waives all points of order against the bill and against its consideration. The rule provides for consideration of the bill in the House with 1 hour of debate and provides that upon its adoption an amendment relating to the U.S. Capitol Preservation Commission is to be considered as having been adopted. One amendment, which may be offered by Representative YATES of Illinois, or his designee, is in order during the bill's consideration. The Yates amendment is to be debatable for up to 30 minutes.

Finally, the rule provides for one motion to commit.

Mr. Speaker, S. 2840 addresses a number of public lands issues which merit disposition before the end of the 100th Congress. There are six titles to the bill which, if enacted, would prove important in efforts to promote conservation in Arizona, Idaho, and Florida. It would also establish a U.S. Capitol Preservation Commission in the Congress.

Mr. Speaker, I urge adoption of the rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides for the consideration of a single bill which is really a package of eight individual pieces of legislation.

While the provisions of this rule and the bill it makes in order have been described, there are still a couple of points which should be made.

First, while this rule provides a waiver of all points of order, one of the specific items included in this general waiver is a waiver of the Budget Act. In this case we are waiving section 303(a)(1) of the Budget Act which prohibits consideration of a measure which provides budget authority for a fiscal year before the budget resolution for that year has been adopted. The problem arises because title IV, the Arizona-Florida land exchange title provides new direct spending authority first effective in fiscal year 1990. Since Congress has yet to adopt the budget resolution for fiscal year 1990, the bill violates section 303(a)(1) of the Budget Act.

Mr. Speaker, the general waiver of all points or order also includes a waiver of the rule which prohibits appropriations on a legislative bill. The same direct spending which violates the Budget Act also violates this rule. In addition, this rule is violated by the direct spending included in the title which establishes the U.S. Capitol Preservation Commission. As the bill is now drafted, it would permit the Capitol Preservation Commission to spend without having to go through the appropriations process. However, this rule provides for a self-executing amendment to make that spending "subject to that approval, except for the purchase of fine art and antiques, of the Committee on Appropriations of the House of Representatives and Senate respectively." Mr. Speaker, this will give us somewhat more control than was originally proposed, over the spending of the Capitol Preservation Commission.

Mr. Speaker, it is very late in the session to be bringing bills like this to the floor of the House. While some parts of this bill have been previously considered by the House, others have not. I hope the leadership will in the near future start to focus on the big things we need to finish, such as the drug bill, and not present us with an endless string of last minute bills which in some cases have not received the kind of scrutiny they deserve.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I should like to express my appreciation to the Committee on Rules for granting me the opportunity in the almost closed rule to offer my amendment.

Mr. Speaker, I shall continue to oppose the bill and I would vote against the rule, but I still want to express my appreciation to the Rules Committee.

☐ 1100

Mr. LATTA. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, when H.R. 2840 was pending before the Committee on Rules, I went to the Committee on Rules and asked to make some amendments in order. The first amendment that I asked the Committee on Rules for was an amendment to strike title VIII.

Mr. Speaker, title VIII, as some of the Members will understand, is a Senate amendment which is nongermane and irrelevant and, as I am going to try to detail later, does not represent wise policy.

Title VIII of this bill is a proposition that has never had a single hearing in either a House or a Senate committee. It has never had a word of testimony. There has never been a vote on it as far as I know.

It has always been inserted in House bills passed for other purposes by the Senate at the request of the Senate's majority leader who, as far as I can tell, is one of the very few interested parties in this particular bill.

What title VIII does is create a U.S. Capitol Preservation Commission. The Commission in this bill is marching in a kind of two-step, with H.R. 5280, the gold coin bill. The bill creates the Commission; the coin bill gives the Commission $40 million to spend.

The Commission is authorized to make expenditures to acquire art for the Capitol or to improve and enhance facilities within the Capitol complex. That is not a bad idea, but we can do that right now. We can do it in a way that Members understand by using the appropriations and authorization process. And if we are going to enhance the west front of the Capitol or if we are going to acquire significant artistic works for the Capitol, we should do so in the normal way through the authorizations and appropriations process.

Temporarily the $40 million from the gold coin bill is not available, but knowing the power of the promoter of this bill, it seems to me it is only a matter of time until he figures out another way to get that $40 million. In the meantime, if we pass the Preservation Commission, we have provided the vehicle for expenditures of the taxpayers' money in the Capitol by a group which has no special competence in the field of preservation or artistic restoration or, indeed, esthetics of any kind anyway.

The Commission is a 18-member Commission consisting of various of the leaders of the House, and the Speaker pro tem of the Senate, and that will be the current majority leader, and the Speaker of the House of Representatives. These latter two can spend whatever moneys come into the Capitol Preservation Commission's clutches on their own signatures, and Treasury would be obliged to honor those signatures.

Mr. Speaker, I do not know how often this Commission would meet. Knowing how busy the Commission members are, my guess is that it would not meet very frequently. Consequently, this Commission could become the private province of a couple of its most interested members.

There is no requirement for public disclosure. There is a GAO audit.

I tried to get an amendment made in order to provide for quarterly disclosure. That amendment was discarded as well by the Committee on Rules. I also tried to prevent the creation of advisory commissions. This bill provides for appointment of advisory commissions who can be paid expenses, and there is no restriction for representational or hospitality expenses to be paid for these advisory commissions.

Some of the Members may be aware that the Senate had a nice party down on the front porch of the Capitol which was thrown with privately contributed funds. I am worried that there will be some entertainment under the features of this bill. I am even more worried that the entertainment may be of a kind or extent that many of us would not favor.

The Commission can raise tax-exempt money in the name of the Congress and, yet, none of us will have anything to say about who this money is solicited from. It could be lobbyists of one kind or another. That may not be sinful, but it will offer plenty of amusement for the press and public. None of us will have anything to say about how the money is spent no matter how it is raised.

Mr. Speaker, in short, this is an unnecessary commission with high risks for mischief. It has had no hearings. It has been rejected by the House once. This is the second time the Senate has sent it over to us.

I assume it will send it over on a daily, or hourly, basis if we do not get it, but I just say, finally, that I shall intend to vote against the rule. It is my intention to vote against the bill because of title VIII.

Mr. Speaker, I would like to say further that when I was in the Committee on Rules, the amendment made in order for the gentleman from Illinois [Mr. YATES] was brought to my attention. I think that this is a most worthy amendment.

Here again, we have a Senate amendment attached to an otherwise worthy bill. In this case, the Senate amendment should be eliminated. I will, therefore, vigorously support the Yates amendment.

Mr. Speaker, in conclusion, I would say that the House has no business passing this commission. No committee save rules, has even seen it. We have rejected it once when we sent the coin bill back the last time. The bill should be defeated if we cannot get that amendment off.

Under the rules, a motion to commit with instructions is in order, and I shall offer one to remove title VIII. If the amendment of the gentleman from Illinois [Mr. YATES] has been accepted, we would then have a bill that the House had voted on previously, and then the bill would be acceptable on an overall basis.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I find myself in a bit of a paradoxical situation because generally I am opposed to closed rules, and even to many of the modified rules that we have in this body, but as is sometimes the case, I find myself today in the position of defending the modified rule before us, and I would like to explain my reasons for doing so.

First of all, as we come toward the close of the session, obviously expediting the process is necessary, and part of expediting the process is adjusting ourselves to what is done over in the Senate. Their rules are different. Their rules allow them to attach these kinds of amendments, and while we may disagree with some of them, I think on balance when we consider this piece of legislation, we will find that it clearly is good legislation.

Surely, in the balance, the good in this bill outweighs that which might be bad in the package.

My distinguished colleague from Minnesota [Mr. FRENZEL] has talked about the Capitol Restoration Commission as one of the provisions that was added in here over in the Senate. It is important to keep in mind that this rule does make one small change that I think is an important change, and that is allowing for the Committee on Appropriations chairmen to have approval over the expenditure of any funds. Perhaps more importantly the bill which followed this in the Committee on Rules yesterday which would have actually funded this commission through the sale of coins, a bill offered by the gentleman from Illinois [Mr. ANNUNZIO] was not considered by the Committee on Rules, and I do not believe it will have further consideration this year simply because of the time.

We are not going to be talking about having a massive infusion of funds into this commission as has been suggested by some.

The other provision in this bill which we will be dealing with today on the floor has to do with the amendment offered by the gentleman from Illinois [Mr. YATES] which the Committee on Rules has made in order dealing with the Hopi-Navajo relocation issue. It is a very complex issue, and I think this body knows that from the times that we have dealt with this over the last 14 years now since the Hopi-Navajo commission was created.

There are provisions and there are parts of this amendment, this particular language, crafted over in the Senate, that I would not agree with, but on balance I think it, too, is a good compromise. It does allow for the relocation to go forward using existing funds of those who are ready to be relocated, and I think this provision ought to stand and be included in the bill.

Again, let me stress that the bill accomplishes so many positive things.

The protection of rare riverside habitat in the desert, the protection of an extemely popular State park, the continuation of agricultural research at an experimental range in my district and the siting of the next generation of telescopes for mankind on Mt. Graham, and also the completion of the Florida-Arizona land exchange dealing with the Indian school in

Phoenix. Three of these measures, the San Pedro Riparian Conservation District, the Mississippi River and Arizona-Florida exchange have been dealt with and approved previously by the House, and I believe this legislation deserves consideration, and the rule should be adopted.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Minnesota (Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of this rule.

This legislation deals with a number of topics which have largely been dealt with in the House before, the Arizona-Florida land exchange issue, the Mississippi National River Recreation Area, the San Pedro Riparian Area have been dealt with in both the 99th and the 100th Congresses by the House, and other provisions of the bill that are really housekeeping in nature provide small land exchanges and the opportunity to move forward with a number of projects in Arizona.

The issue outstanding, of course, or the two issues outstanding, are the Hopi-Navajo issue which this rule, of course, makes in order an amendment by the gentleman from Illinois [Mr. YATES], so that issue will be debated before the body today, and we can have an up-and-down vote on that. The rule also, a self-executing rule, deals with another problem in the bill, and that really is the title VIII issue that my colleague, the gentleman from Minnesota, a diligent member of the House Administration Committee, has pointed out, the Capitol Historic Commission that has been inserted in the bill on the Senate side.

Mr. Speaker, yesterday during the Committee on Rules, I misspoke when I said all these issues had had hearings. This issue obviously represents a special concern to him, because of his responsibility on that committee, but nevertheless, I think that we can look beyond the sort of internecine warfare that goes on in the management of our building and grounds here at the Capitol, through the Committee on House Administration, which we are all grateful for the role they play.

I think we would look to see that the appropriations language added by this rule is appropriate. I guess the argument is that it still does not go far enough. The fact is that we have special responsibilities and joint committees that function in this body with regard to libraries, with regard to a host of operations that are run through them, whether it is the General Accounting Office, whether it is their libraries, whether it is a variety of other things, and clearly in this instance, I think as we look at this historic structure, I think all of us have been dismayed at the fact that there has not been an overall view, that it really does not have a continuity from leadership to leadership in terms of the preservation of this structure.

I think the people that built this building and designed the grounds really had in mind a rather good idea, a grand concept in terms of this building as a symbol and fully intended that we maintain it. I do not think the facade should have to fall off the front of the building before we respond and that, of course, has literally been the case in terms of Congress in the past.

I think that there is merit to creating this type of commission and involving in a coordinated way and in a professional way people who have historic, cultural, and architectural expertise. I know my colleagues on the various committees and in this Congress have a great deal of expertise, but I just think that maybe having some professional advice in a formalized process so we do not have to depend upon the personalities of one of the leadership or persons in special positions.

Mr. Speaker, I think this title VIII provision has significant merit. I think it is generally a good idea, and I am sure that we would benefit greatly from more close scrutiny of how it has been written.

However, I think that it is possible to cure any defects. I think the good greatly outweighs the concerns in terms of the legislation provisions. I do not think anyone would disagree with the intention. I cannot argue that the process has been perfect.

We are at the end of the session, and surely committee members from the Committee on Ways and Means and the Committee on Appropriations have to understand when they bring matters back to the House that they need rules that are not necessarily within the normal ambit of the legislative process.

I would strongly urge the Members to vote up this rule. It is a fair rule. It deals with a host of problems. I understand the concern of my colleagues, but I think we ought to vote this bill up. It is a very good bill. I think it will really go a long way to addressing some of the concerns and policies that this body has expressed a great interest in, and surely we ought to be interested in the historic preservation of the Capitol building and grounds.

□ 1115

The White House spent a good amount of money preserving the White House in the last years. Ronald Reagan has done a good job in terms of historic preservation and protection of the White House. I credit him for that, and we ought to have pride at the legislative branch in Government to do the same thing for the peoples' House, the Capitol. I hope our commission and that this intent will carry through that policy.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I find myself, like my colleague from Arizona [Mr. KOLBE], in the uncomfortable position, asking you to vote for what is basically a closed rule. Probably most Members of this body have been faced with a situation where constituents have come in delivering viewpoints with differing agenda and have come to a Member and said, "We have reached agreement on an issue and we need congressional action."

We have probably all been presented by that narrow window of opportunity when we have the chance to do something positive for our district and our State, when people who differ have come together.

This bill represents several of those narrow windows of opportunity, not only for Arizona but for Idaho and for Minnesota. This on balance is a good bill. I have sympathy for the concerns of the gentleman from Minnesota, but as the gentleman from Arizona [Mr. KOLBE] stated, the good in this bill far outweighs the bad. We should vote for this rule. We should vote against the amendment that will be offered by the gentleman from Illinois [Mr. YATES]. Most of this bill has been considered by this House before. It is legislation that is helpful to many Members and to many Members' constituents. I urge you to vote for the rule, against the amendment, and for final passage.

Mr. BONIOR. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 224, nays 124, not voting 83, as follows:

[Roll No. 452]

YEAS—224

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Atkins
Bates
Beilenson
Bennett
Berman
Bilbray

Bilirakis
Boggs
Boland
Bonior
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante

Byron
Campbell
Carper
Carr
Chapman
Clarke
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello

Courter
Coyne
Craig
Crockett
Darden
de la Garza
Dellums
Derrick
Dicks
Dixon
Donnelly
Dorgan (ND)
Downey
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Emerson
English
Erdreich
Evans
Fascell
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frost
Gilman
Glickman
Grant
Guarini
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kildee
Kleczka
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Neal
Nelson
Nichols
Nielson
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Pickett
Pickle
Price
Pursell
Rahall
Rhodes
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Sikorski
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Staggers
Stallings
Stark
Stratton
Studds
Stump
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Walgren
Watkins
Waxman
Weber
Wheat
Whitten
Williams
Wilson
Wyden
Yatron
Young (AK)
Saiki
Saxton
Sensenbrenner
Shays
Shumway
Shuster
Skaggs
Skelton
Slaughter (VA)
Smith (NE)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
St Germain
Stenholm
Sundquist
Tallon
Tauke
Upton
Vander Jagt
Vucanovich
Walker
Weiss
Weldon
Wolf
Wolpe
Wortley
Wylie
Yates

NAYS—124

Archer
Armey
Badham
Ballenger
Bartlett
Bateman
Bentley
Bereuter
Bliley
Boehlert
Buechner
Bunning
Burton
Callahan
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Early
Edwards (OK)
Fawell
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Gingrich
Gonzalez
Goodling
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Houghton
Hunter
Hyde
Jacobs
Jeffords
Kasich
Konnyu
Latta
Leach (IA)
Lightfoot
Lloyd
Lukens, Donald
Lungren
Madigan
McCandless
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Moorhead
Natcher
Packard
Parris
Pashayan
Perkins
Petri
Porter
Ravenel
Ray
Regula
Ritter
Roberts
Rogers
Roth
Roukema

NOT VOTING—83

Anthony
Aspin
AuCoin
Baker
Barnard
Barton
Bevill
Bonker
Boucher
Boulter
Broomfield
Brown (CO)
Cardin
Chandler
Chappell
Clay
Clement
Crane
Dannemeyer
Dingell
Dowdy
Durbin
Espy
Fazio
Fields
Flippo
Florio
Foley
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Gephardt
Gordon
Gray (IL)
Gray (PA)
Gregg
Hall (OH)
Hansen
Hiler
Inhofe
Ireland
Jenkins
Jones (NC)
Kemp
Kennelly
Kolter
Lantos
Lent
Livingston
Lott
Mack
MacKay
Marlenee
Martin (IL)
Mica
Molinari
Morrison (CT)
Morrison (WA)
Nowak
Obey
Oxley
Quillen
Rangel
Rose
Rostenkowski
Sisisky
Smith, Denny (OR)
Solarz
Spratt
Stangeland
Stokes
Sweeney
Swift
Swindall
Taylor
Thomas (CA)
Traxler
Volkmer
Whittaker
Wise
Young (FL)

□ 1136

The Clerk announced the following pairs:

On this vote:

Mr. Gephardt for, with Mr. Oxley against.

Mr. Dingell for, with Mr. Boulter against.

Mr. Barnard for, with Mr. Quillen against.

Mrs. VUCANOVICH and Messrs. BATEMAN, EARLY, WEISS, DEFAZIO, and HALL of Texas changed their vote from "yea" to "nay."

Mr. LEHMAN of Florida and Mr. PAYNE changed their vote from "nay" to "yea."

So, the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, pursuant to House Resolution 592, I call up the Senate bill (S. 2840) to provide for the designation and conservation of certain lands in the State of Arizona and Idaho, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). Pursuant to the rule, the amendment printed in House Report 100-1096 is considered as having been adopted.

The gentleman from Arizona [Mr. UDALL] will be recognized for 1 hour.

Mr. UDALL. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House S. 2840, a bill containing several meritorious public land matters involving my State of Arizona, as well as the States of Idaho and Minnesota.

S. 2840 packages four bills of concern to Arizona. Two of these bills have previously been considered and passed by the House. The first is the Arizona-Florida land exchange which was the subject of extensive debate before this body in July. The measure would provide for the exchange of 68.4 acreas of land in Phoenix, AZ, for $34.9 million in cash and 108,000 acres of very important conservation lands in south Florida. The lands in Phoenix currently serve as the site of the Phoenix Indian School, which would be closed in 1990. The measure also provides that the cash from the transaction be placed in two trust funds to help meet the educational and social welfare needs of the Arizona Indian tribes affected by the school closure.

The bill also provides for the transfer of 20 acres to the city of Phoenix for use as a park, 11.4 acres to the Veterans' Administration for possible expansion of the regional medical center adjacent to the school site, and 4.5 acres to the State of Arizona for possible construction of a veterans' nursing home.

I am prepared to reluctantly accept the two amendments added by the Senate. The first keeps the school open until 1990. I believe the students, staff and taxpayers would be better off with a quicker and more definitive termination, but I am unwilling to risk failure of the entire bill over this issue.

The second Senate amendment requires another professional appraisal of the Phoenix exchange property after submittal of the specific plan for planning and zoning the property. If the appraisal is higher than the $80 million price to which the owners of the Florida lands are now committed, then they would have the option of paying the higher price or triggering the open market bidding process contemplated by the House bill.

Should the bidding process occur, the Florida interests would be required to exceed the highest competing bid for the school lands by 5 percent if they wish to retain control over it.

Mr. Speaker, I believe that this amendment takes the bill in precisely the wrong direction by allowing the principal bidder to obstruct the open market bidding process. This can be done simply by accepting the estimate of an appraiser. This will not make it more likely that the United States will receive top dollar for the Phoenix exchange property. It will make it less likely in my opinion. But again, in the interests of assuring that this legislation does not fail, I will bow to the wishes of the Senate on this matter.

An amendment has been included which directs the Commissioner of

Navajo-Hopi relocation to give priority in providing relocation benefits to applicants in the chronological order in which such applicants were certified by such benefits.

It is my understanding that this priority language is not applicable to benefits provided pursuant to Public Law 99-190. That law appropriated $22 million for use by the Secretary of the Interior to provide certain benefits to certain relocatees. It mandated that priority for the use of these $22 million shall be given to those Navajo families who are actual physical residents of the Hopi partitioned lands as of December 19, 1985.

A few days ago, we sent for the President's signature a bill, S. 1236, under which funds pursuant to Public Law 99-190 are to be transferred to the new Commissioner on January 31, 1989. However, S. 1236 specifically states that such funds shall continue to be used by the Commissioner for the purpose for which such funds were appropriated. Inasmuch as such funds were appropriated for the purpose of serving first those families still residing on the Hopi partitioned lands as of December 19, 1985, I believe that the new section directing that priority be given to families in the order in which they became certified is not applicable to funds appropriated pursuant to Public Law 99-190.

To the extent that there has been some confusion on the matter I want to take this time to clarify certain provisions relating to the provisions of benefits to those families who were still residing on the Hopi partitioned lands as of December 19, 1985.

It is not true that such families are limited to funds appropriated to the Secretary of the Interior under Public Law 99-190. Funds appropriated to the Commission are also available to provide benefits to such families. However, benefits issued with the Commission's funds will now be subjected to the new priority language of section 406 of this act. In addition, it is not true that such families can only be relocated on the so-called new lands. There are no special restrictions on where such families can relocate.

S. 2840 also contains an amended version of H.R. 568, the San Pedro National Riparian Conservation Area Act. This bill has passed the House on two occasions without controversy. The Senate has added acceptable language regarding Federal reserved water rights and deleted a moratorium on livestock grazing in the area. While I am disappointed in the removal of this latter provision, I am reassured that even without this statutory direction, BLM will not authorize new grazing in the area for at least a period of years. I would underscore the fact that even in that event, such a use, like all other uses of the conservation area, cannot be approved unless found to further the purposes of the conservation area.

This legislation also contains two Arizona provisions that have not previously been before the House. The first concerns matters contained in legislation I have introduced, H.R. 4565, regarding the Santa Rita Experimental Range in southern Arizona. The bill proposes a major exchange of lands in the State between the U.S. Forest Service, Bureau of Land Management, Fish and Wildlife Service and the Arizona State Lands Department. No private parties are involved in any way in this exchange.

Essentially, the bill would transfer to the State about 50,000 acres that compromise the Santa Rita Experimental Station. These are BLM lands that have been withdrawn for the Forest Service to conduct environmental and range research in cooperation with the University of Arizona for more than 70 years. Under separate actions already taken by the State legislature, the current uses of the lands in question would continue indefinitely and can only be changed by additional State law. I applaud this very wise action of the State of Arizona and my fondest hope that it never be reversed.

In return, many benefits would accrue to the United States. About 90,000 acres of State trust lands in the Buenos Aires National Wildlife Refuge would be acquired. This is not only a major step forward for a truly outstanding natural area but also a significant boon to the U.S. Treasury. The United States currently owns the grazing rights to these lands and the State of Arizona has notified the Fish and Wildlife Service that the State constitution requires the imposition of commercial rates for these rights. The United States will be required to pay more than $540,000 per year to the State in the near future if these lands are not acquired. Payment of such exhorbitant lease rates would seriously hamper administration of other wildlife refuges in Arizona.

Arizona also will transfer the 5,500-acre Catalina State Park in Tucson to the Coronado National Forest. This action is necessary to save this extremely popular park from being lost to development. The Forest Service also gains 1,350 acres of State lands around Arivaca Lake and 520 acres near Madera-Elephant Head.

At this point, I would like to emphasize that it is the clear intent of the legislation that all the State trust lands of whatever description in Buenos Aires National Wildlife Refuge and Catalina State Park be acquired. In addition, should it become apparent that there is insufficient value in the Santa Rita lands and other acreage being transferred to the State to complete all the acquisitions provided for in this bill, acquisition of all the Buenos Aires and Catalina lands by the United States should remain the top priority.

Another 26,000 acres of State lands with extremely high recreation potential would be picked up by BLM and the Bureau of Reclamation around the soon to be expanded Lake Pleasant behind the New Waddel Dam. And 60,000 acres of very significant archeological lands on Perry Mesa in the Black Canyon Corridor also will be transferred to BLM.

In total, almost 240,000 acres of Federal and State lands in Arizona will be swapped as a result of this legislation.

Mr. Speaker, this is an extremely beneficial transaction for all the parties concerned and I am most pleased that we will be able to close on it this year.

Finally, Mr. Speaker, I note the inclusion of legislation directed at the establishment of an astrophysical facility on Mount Graham in southern Arizona.

It is hard to think of any recent environmental issue in Arizona that has stirred more genuine emotion and heated controversy than this one. I understand and sympathize with those who regard Mount Graham as a unique place, a special place with an ecosystem quite unlike any other and who regard any development atop this mountain as a painful loss. I understand because for three decades I have fought the fight to save places like Mount Graham, not only in Arizona, but across this country.

But I will confess that this has been an unusually difficult issue for me. For at least as long I have been proud of my association with the University of Arizona and its important place in the community in which it serves. The university enjoys a justified reputation as a world leader in astronomy and seeks to maintain that role with this proposal.

The proposal that has come to us from the Senate troubles me. To short circuit the process Congress has established by law to separate out the good projects from the bad projects and to make all the projects better ones, is something I do not regard warmly And that is what this amendment does, by confirming the unfinished environmental impact statement as meeting the requirements of the National Environmental Policy Act insofar as the first three telescopes are confirmed.

Looking down the road, however, I think that we would be arriving at this point sooner or later anyway and the University of Arizona's argument that an overly protracted administrative process would be tantamount to a decision against putting telescopes on the mountain does have merit.

And in the final analysis, Mr. Speaker, I feel that we really have little choice but to accept this provision. I believe that if this package is sent back to the Senate with any real substantive disagreements that it will be a very great risk indeed. There is too much in this legislation that represents too much work on matters of too great importance to many Arizonans to put in such jeopardy.

Finally, Mr. Speaker, I would like to thank the distinguished chairman of the Merchant Marine and Fisheries Committee, Mr. JONES, and the distinguished chairman of the Subcommittee for Fisheries and Wildlife Conservation and the Environment for their very constructive work on the Mount Graham title. Their help has been invaluable to conform this title as much as possible with the requirements of the Endangered Species Act and the National Environmental Policy Act.

Mr. Speaker, I yield 30 minutes to the gentleman from Arizona [Mr. RHODES] with the understanding that in yielding this time, and each time I yield today, I yield specifically for purposes of debate and nothing further.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2840, the Arizona-Idaho Conservation Act. This is a comprehensive package of bills which I believe will benefit many people across the Nation. The provisions of the bill have been worked out between the various parties in both the House and the Senate, and I urge the House to pass S. 2840.

Title I would establish the San Pedro Riparian National Conservation Area—which would place approximately 56,431 acres along a 31-mile stretch of the San Pedro River under special conservation and preservation status. This area has unparalleled wildlife habitat and is rich in cultural, archeological, and paleontological resources.

Titles II and III would establish the city of Rocks National Reserve and the Hagerman Fossil Beds National Monument, both in Idaho. Both are meritorious of those designations and I understand that the language concerning Federal reserve water rights for both has been worked out to the satisfaction of the parties.

Title IV would authorize the Arizona-Florida land exchange—which involves the exchange of Federal lands in downtown Phoenix currently used as a Bureau of Indian Affairs boarding school for lands held by the Collier family in Florida within or adjacent to the Big Cypress National Preserve in the chairman's State of Florida. This is part of our continuing effort to save the Everglades. The Collier lands will greatly assist the Park Service in maintaining adequate waterflows in the Everglades as well as add critical lands for the endangered Florida panther. Included in this title are provisions amending the Navajo and Hopi Relocation Act concerning the priority of receiving benefits under that act. It should be noted that the provisions are not intended to alter the present program administered with funds appropriated to the BIA under Public Law 99-190.

Title V would authorize the Santa Rita public lands exchange—an extensive exchange of Federal, State, local and private lands within the State of Arizona, for the better utilization of these lands.

Title VI would authorize the Mount Graham International Observatory which will include the placement of up to seven telescopes at one of the last sites left in the continental United States for telescopic research.

Title VII would authorize the Mississippi National River and Recreation Area in the Minneapolis-St. Paul area of Minnesota which will provide additional recreational opportunities to that region of the country.

Title VIII would authorize the U.S. National Capital Commission, to assist in the preservation of the U.S. Capitol.

□ 1145

Mr. Speaker, I understand that the administration has specific concerns about some portions of the bill. It has no objection to the package as a whole. I support the package unamended, and I urge my colleagues to support the package unamended.

We will later address the issue of the amendment to be offered by the gentleman from Illinois [Mr. YATES], and I would urge our colleagues to consider that carefully and reject that amendment. I would also urge that our colleagues consider and then reject the motion to recommit which it has been indicated will be offered by our colleague, the gentleman from Minnesota [Mr. FRENZEL].

Mr. Speaker, this is good legislation. It addresses, as I indicated in debate on the rule earlier, a window of opportunity for many people in many parts of the country to come together to resolve their differences and accomplish goals which are to the benefit of many congressional districts in many States and to the benefit of the people as a whole.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I wish to start this by praising the chairman of our Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL], for his work in crafting and working hard to put together this package of legislative measures. Obviously, this has been a very important matter to him. The transfer of the Florida and Arizona lands are key to development in the Phoenix area.

Mr. Speaker, several titles of S. 2840 contain matters that have been worked on by the Subcommittee on National Parks and Public Lands in the 100th Congress.

Title I of the bill is essentially identical to H.R. 568, which the House passed last year and which in turn resembled a bill passed by the House in the 99th Congress upon which the Senate did not complete action. It would establish a San Pedro Riparian National Conservation Area, to include about 56,430 acres in Cochise County, AZ, to be managed by the Bureau of Land Management. The only major differences between title I of this bill and H.R. 568 as passed by the House in that title I includes an explicit reservation of water—which the House bill did not—and does not contain an explicit prohibition of the issuance of grazing permits—which the House bill prohibited for 15 years.

With respect to the water language, title I reserves enough water to fulfill the purposes for which the national conservation area would be established, namely "to protect the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources" of the lands within the area. The priority date of this reserved water right will be the date of enactment of the bill, and the Secretary of the Interior would be required to act to quantify this right by filing a claim in an appropriate stream adjudication.

With regard to grazing on lands covered by title I, our concurring in deletion of language prohibiting such a use for at least 15 years is premised on our understanding that the Secretary does not intend to consider issuance of grazing permits, and that in any event under section 102(b) of the bill grazing or any other use of the lands within the national conservation area could be permitted only if the Secretary finds that it would further the primary purposes for which the area was created. I think it most unlikely that the Secretary could make such a finding with respect to use for grazing of the riparian areas dealt with in title I.

Title II and III provide for designation of the City of Rocks National Reserve and Hagerman Fossil Beds National Monument in the State of Idaho.

The proposed Hagerman Fossil Beds National Monument is a 4,394-acre site that contains rich fossil remains. A study done in the early 1970's found the fossil beds to be an appropriate area for inclusion in the National Park System and the site has been administratively designated a national natural landmark in recognition of its paleontological value. The area is currently administered by the BLM and would be transferred to the National Park Service under provisions of the legislation.

The proposed City of Rocks National Reserve is known for the geologic formations in the area and its use as a way station during western migration. Of the proposed 10,320-acre site, approximately 3,960 acres are managed by BLM, 3,040 acres are managed by the U.S. Forest Service and 3,320 acres are in private ownership. The NPS would prepare a comprehensive plan for the area and provide technical and financial assistance for eventual State administration of the area, if the Secretary of the Interior finds, pursuant to the bill, that such administration would be in keeping with the purpose of the title.

The most serious problem with these legislative initiatives and the one that has delayed their consideration by the House has been the question of water rights. As a practical matter there is hardly any water in either of the two areas and essentially all of what water there is has already been appropriated. I have had the opportunity on several occasions to discuss this matter with members of the Idaho delegation as well as correspond with Governor Andrus of Idaho. Representative STALLINGS has been diligent in seeking to resolve the outstanding issues with the legislation and Representative CRAIG also offered his assistance with this matter.

Over the past several weeks, working with Senator MCCLURE, we have been able to develop water language that is site specific and otherwise acceptable to me. That agreement is embodied in the legislation before us today. The agreement recognizes the unique circumstances of the water at these two areas. It maintains existing rights, while eliminating potential doubts regarding new express or implied rights. I am appreciative of Senator MCCLURE's willingness to address this specific question in the context of this legislation only and thus avoiding opening a pandora's box on the question of reserved water rights.

Title VII contains, with amendments, the text of H.R. 2530, which the House passed on September 29, 1987. As the author of H.R. 2530, I am pleased that we are able to complete action on this important legislation that will designate an 80-mile segment of the Mississippi River within the St. Paul-Minneapolis metropolitan region of Minnesota as the Mississippi National River and Recreation Area.

This legislative product is one that has been years in the making and as is so often the case the last few steps to enactment have proved to be the hardest. The agreement embodied in title VII was hard fought and I am appreciative of the efforts of Senators MCCLURE and DURENBERGER and their staffs to sit down and forge an agreement with me. While there were thorny issues to be addressed our task was made easier by the underlying recognition of the diverse multitude of nationally significant resources to be found in the river corridor, as well as the need to provide an effective framework for their protection and enhancement.

Several compromises were made that modified portions of the language of the House-passed measure but that nevertheless provides for consistency in Federal activities within the river corridor as well as providing the National Park Service with the necessary tools to carry out its mission. One of those tools is the use of eminent domain. In developing the legislation and carrying it forward, eminent domain has been provided as a protection tool and not as a land acquisition tool. The tight restrictions on its use in the original bill reflected that policy. Unfortunately, among certain individuals in the area there were misconceptions on the intent and use of eminent domain as a management tool. The compromise before us today should dispel any doubts, as the legislation clearly spells out under what means and circumstances condemnation can be used to protect the integrity of the area.

Second, there has always been a recognition that the Mississippi is a working river that is important to the economic life of the region. The compromise reflects that but also recognizes that care must be taken to minimize activities that could adversely affect the other significant values of the river. Especially here at the national level, it makes sense to have consistency among Federal activities. I am pleased that the legislation recognizes that there are Federal lands in the area that can have important environmental and recreational uses, and has provided for their administration in an appropriate manner.

Mr. Speaker, S. 2840 is a good legislative package that includes important conservation initiatives. In the case of title VII relating to the Mississippi River, it represents over a decade of work. I know other sections of the bill involve equally long and significant efforts by the sponsors. I support passage of S. 2840 and urge its adoption by the House.

Mr. RHODES. Mr. Speaker, in the interest of comity, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL] who is determined to kill this bill.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, during the debate on the rule I spoke of my objections to title VIII. It creates a Capitol Preservation Commission to be composed of 18 Members of the House and Senate, all of whom occupy exalted leadership positions. They all have lots of other things to do, and none of them have any special competence or experience in the field of preservation or art work.

As I indicated earlier, this is an area of high interest to the majority leader of the Senate. It is very hard to argue against that kind of horsepower.

The bill that confronts us today is only half of the package. The other half was the coin bill that spilled $40 million into the hands of these 18 truthworty artistic geniuses who will be able to spend the funds without benefit of authorization and without benefit of appropriation in the normal manner.

No committee of the House or Senate has taken any testimony, not a single word. There has been no recorded vote taken on it. No committee has considered it.

When the Senate amended the House bill, the House removed the Senate amendment and sent it back. The Senate has responded by giving us the same thing again. The Commission would be audited by the GAO, but there is no public notice nor public reports.

The Commission is supposed to be able to accept gifts in this particular bill. It is anticipated that such gifts are tax exempt.

What we have here is a situation where the House has not taken a position. The Senate has not taken a recorded position either, but it is willing to follow the leadership of one strong-willed individual, and seems to be willing to give him the ability to give away all this money of our taxpayers.

Mr. Speaker, I do not think we should pass the bill. I believe the House would be well advised to accept my amendment to recommit, which would remove title VIII.

Mr. UDALL. Mr. Speaker, I yield 1 minute to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Speaker, it gives me great pleasure to rise in strong support of S. 2840, the Arizona-Idaho Conservation Act. This legislation includes language which provides permanent protection for two remarkable Idaho landmarks located in my congressional district.

The city of rocks and Hagerman fossil beds are an important part of Idaho's natural beauty and historic heritage. Passage of this bill will help ensure that both areas will be preserved for public use and enjoyment.

This legislation is very important to many people who live in the Magic Valley. Recreation and tourism are becoming a vital, growing part of our State economy.

Protection of the city of rocks and Hagerman fossil beds could attract thousands of visitors each year to the region and help strengthen the economy of many Idaho communities.

This past year I had the opportunity to see firsthand both of these special areas. I have met with interested citizens and community leaders to discuss ways to safeguard and protect the area's resource values.

There is a great amount of public interest and support to protect the scenic, recreation, historic, and geologic values of the area.

This legislative effort is the result of a dedicated effort from many people. I also want to take this opportunity to express my thanks to Chairman Vento for his help and support.

In conclusion, the bill recognizes the importance of protecting two of Idaho's natural treasures, the city of rocks and Hagerman fossil beds.

I urge my colleagues to support passage of this important measure.

□ 1200

Mr. RHODES. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, Members of the body, I would like to point out one part of the langauge in this bill that will be addressed by an amendment from the gentleman from Illinois, I hope that those that are watching in their offices would take a good look at the Yates amendment because I think this amendment is extremely important. What the language in the bill does is undo the work that this body has done over the past 14 years in a number of different instances to resolve the dispute between the Navajos and the Hopis.

Mr. Speaker, this goes back decades with court decisions and congressional efforts. In the 93d Congress we tried to address it with a major piece of legislation and have been working at it ever since.

Just 2 weeks ago, by a vote of 298 yeas, we moved to strike language similar to this in another bill, and I hope we get 298 years for the amendment of the gentleman from Illinois [Mr. YATES] today because to do otherwise is rejecting what I think was a very fair settlement of this problem made 14 years ago and since then implemented by the expenditure including fiscal 1989 of $190 million.

Mr. Speaker, the original estimate it would cost $41 million to relocate the Navajos to conform with the agreed boundaries, but we have and will spend instead $190 million because we made every effort to be fair to the Navajos and also in the settlement to be fair to the Hopis.

The Hopis are the minority tribe. The Navajos outnumber the Hopis 10 to 1, and, therefore, have a lot more political clout, a lot more votes, but in matters of fairness the resolution that was agreed to in the 93d Congress achieved that objective, and since then we have expended an enormous amount of money to be sure we give the Navajos fair treatment in the relocation process. To undo that today would be a grievous mistake.

Mr. Speaker, I do want to quote from a letter from Ross Swimmer, who is the Secretary for Indian Affairs, and he says, and I quote, "If the proposed reprioritization language becomes law, it would be tantamount to beginning the relocation process over again."

In other words, Mr. Speaker, we set back 14 years what we achieved in the 93d and since then have worked assiduously to achieve a fair and reasonable settlement. I would urge all of my colleagues to take a good look at the language in the bill and to give your strong support to the amendment of the gentleman from Illinois [Mr. YATES] so that we can continue a policy of fairness toward the Hopis and the Navajos.

Mr. Speaker, that has been the way in which we proceeded since the original language was adopted.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, at the end of a Congress there are problems about having perfect legislation. It is difficult to have perfect legislation anytime, but at the end of a Congress things are thrown together, and sometimes we have to overlook things and expect to correct them in the next Congress.

In this bill, part of section 8, which is planned to be stricken by the gentleman from Minnesota [Mr. FRENZEL], is a bill which I introduced about 20 years ago. This bill was merely a bill to allow people to give money to the Capitol like they can give money to the White House, or the Department of State, or the Library of Congress, to acquire things which would be selected by committees of Congress as appropriate things to have in the Capitol. I ran across a 1795 chandelier, and I wanted to give it. They were building this room down here for the dining room, and I thought that would be a good place for this. So, that is why I did this, to see if I could arrange that. And the bill has passed the House, I think, a time or two. It has had various difficulties, none of which have to do with the merits of the bill. It is extraneous things that are attached to the bill, and now it is in this bill. Now, if this bill was not a meritorious bill on its own, I would never suggest that just because I put a lot of energy into this little bill that we need to pass my bill. I will outlive the opponents to the bill, so it will eventually be passed.

But, Mr. Speaker, the bill is a good bill. It does a lot of other good things, some of which are in Florida. It is very hard to get that expensive Florida land today. Some of this is very fragile land in the Everglades, which is part of this bill, so that is one of the things this bill settles. It is a good environmental bill.

In fact, if I were looking at the 100th Congress, I would have a little difficulty finding a better bill, and I passed one or two actually in the Committee on Interior and Insular Affairs this year, so I cannot remember a bill that does more good for preservation for things ecological than this bill.

They have some little things about it that ought to be corrected in the future. I am not wedded to that commission that has been set up, and I would set it up a different way if I had done it.

So, in conclusion, this is basically a very good bill. The problems of this bill are tiny, they are minuscule, and they could be corrected by legislation next year. The good in this bill is overwhelming, and I do hope that the Members of Congress will support this bill and not do anything to it that would be harmful.

Mr. RHODES. Mr. Speaker, I yield 1 minute to my friend and colleague, the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, there are a variety of good features to this bill, and I urge its support. It resolved a number of problems and is the result of thought and compromise particularly regarding the Phoenix Indian School and wilderness features of the bill.

Mr. Speaker, it is not exactly as I think any of us from Arizona would have written if each of us could have written it separately, but the combined wisdom of everybody in this body, the other body and the people in Arizona and Florida I think have resulted in a good bill, about the best bill that could be crafted. It is supportable as a result.

Again, specifically regarding the Phoenix Indian School property, for those who opposed the bill before because of concerns over the financial aspects of the bill and the proper payment for Federal land, I agree with my colleagues, the gentleman from Minnesota [Mr. VENTO] who commented that the Senate has improved the bill, and I think Senator METZENBAUM's language there will make it even more supportable than it was before.

Finally, Mr. Speaker, I am committed to support the Senate language in sections 406, 407, and 408 that the amendment of the gentleman from Illinois [Mr. YATES] would delete. Again, not exactly as I would have written the language, but I urge support for the bill.

Mr. UDALL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I thank the gentleman from Arizona [Mr. UDALL], my good friend, for yielding me this time. He and I, of course, have been friends for more than 30 years, and I do not like to take an opposite position from him, but I find myself opposed to his bill.

Mr. Speaker, I opposed this bill when it was in the House before because I consider the Florida-Arizona land exchange a ripoff of the taxpayers, and, while it may have some environmental benefits in Florida, I think the price we pay for that under the terms of this bill is inordinate.

That bad bill which I have just described is made worse by an amendment which was added in the Senate, the amendment that was just described by the gentleman from Arizona [Mr. KYL]. Section 406 shatters the arrangement for taking care of the Navajo-Hopi dispute that has been worked out over a period of 14 years and will set back settlement of that issue for an unknown length of time. After 14 years of frustration, of waste and heartache for our committee, a system for relocation is being used by the commission that provides for an equitable settlement of a dispute that seems to have equities and fairness on both sides. The system currently being used I think has the approval of both sides of the aisle and the approval of everybody except the Senator who offered the amendment that is attached to this bill.

Mr. Speaker, we have spent $190 million in settlement of this dispute so far. The bill originally was proposed to cost only, as it was told to the House, $41 million. We have appropriated, as I said, $190 million so far, and there is another $100 million in prospect of expenditure in the offering. We do not know what results the Senate amendment will have, and I hope that when I offer my amendment later in the debate that the House will support it and permit us to get on with the disposing of this dispute.

Mr. Speaker, I thank the gentleman from Arizona [Mr. UDALL] for giving me this time.

Mr. RHODES. Mr. Speaker, I yield 4 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I rise in strong support of S. 2840 unamended, a bill to provide for the designation and conservation of certain lands in the States of Arizona and Idaho and for other purposes.

Title II of S. 2840 would establish the 14,320-acre City of Rocks National Reserve in Idaho to protect geological formations and a number of historic and prehistoric sites that lie within the area.

Now under the jurisdiction of the BLM and Forest Service, the area would be turned over to the National Park Service. Ultimately administration would be turned over to State or local authorities.

Title III of S. 2840 would establish the Hagerman Fossil Beds National Monument in Idaho on what is now a 4,394-acre site managed as a natural area by the Bureau of Land Management. It includes hundreds of fossil sites that have yielded many of the prehistoric animal fossils on display at the Smithsonian Institute. The establishment of this area as a national monument will benefit the Nation by assuring Hagerman Fossil Beds are recognized and protected as the valuable resource that they are.

Both these titles contain language that makes it clear that no new express or implied Federal reserved water right is created by the designation of these areas. The United States can only acquire what water rights are deemed necessary to carry out the purposes of the act, pursuant to the laws of the State of Idaho. This bill will allow the orderly adjudication of water rights on the Snake River above Swan Falls to proceed without further clouding this issue.

The establishment and protection of these two areas in the State of Idaho, will assure that the unique resources that lie within their boundaries will be available for all to enjoy for years to come.

I encourage my colleagues to support S. 2840.

Mr. Speaker, I would also like to comment on title VII of S. 2840, which would establish the Mississippi National River and Recreation Area in the vicinity of Minneapolis and St. Paul, MN. This section of the bill is very similar to legislation passed by the House last year, H.R. 2530. In response to concerns expressed by the U.S. Army Corps of Engineers regarding the possible affects of the legislation on their activities in this area, the Senate modified the bill. The Senate version, embodied in S. 2840, clarifies that Federal agencies must ensure that their actions are compatible with the management plan established for the recreation area, and in doing so, will consult and cooperate with the Secretary of the Interior through the National Park Service. The language further clarifies that the role of the National Park Service is advisory and the ultimate decision of whether a Federal action would proceed rests with the responsible agency. In this regard, it is not intended that the Park Service have veto power over the action of an agency; however, I should point out that Congress could be notified if an agency action was determined to be incompatible with the management plan.

The very important interests of navigation are highlighted in a separate subsection. It clarifies legislative intent that navigation is identified as a value critical to this area and that the authority and responsibility of the Army Corps of Engineers and the U.S. Coast Guard to develop and maintain navigation must continue unimpeded when the agency determines that its activity is compatible with the management plan to the maximum extent practicable. In enacting this section, it is recognized that nearly all actions taken in the interests of maintaining existing navigation aids and navigation improvements would generally be compatible with the values for which the recreation area is established, or be required for public safety, health, or national defense reasons.

At this time, I would like to enter into a colloquy with the subcommittee chairman, Represenative VENTO, regarding this issue.

□ 1215

Mr. VENTO. Mr. Speaker, if the gentleman will yield, yes, I would be pleased to enter into a colloquy with the gentleman.

Mr. CRAIG. If the corps proposed to engage in an action that the National Park Service believed was incompatible with the comprehensive plan, would the National Park Service be able to veto such action?

Mr. VENTO. Mr. Speaker, if the gentleman will yield, no they would not. While the corps is a participant in developing the plan and should make reasonable efforts to comply with the plan, the corps can continue to perform its traditional missions. The National Park Service, if it believes that an action of the Corps of Engineers is incompatible with the plan, could bring the matter to the attention of the Congress.

Mr. CRAIG. I, also, would like to discuss section 704(b)(2) of the bill under consideration. That section deals with Corps of Engineers or Coast Guard actions for the maintenance of existing navigation aids and navigation improvements. Is this section intended in any way to diminish the authority of the Secretary of the Army or the Secretary of Transportation to act in the interest of maintaining such aids for improvement in navigation?

Mr. VENTO. Mr. Speaker, if the gentleman will yield, no, it is not, so long as it does not have a direct and adverse effect on the values of the area or is necessary to protect public health and safety or national security.

Mr. CRAIG. It is my understanding that this section 704(b)(2) recognizes that in undertaking actions for the maintenance of existing navigation aids and navigation improvements, the appropriate Secretary should consider the values for which the Mississippi national river and recreation area was created. In addition, I believe that actions taken in the interest of maintaining existing navigation aids and navigation improvements would generally be actions that are consonant with one or more of the values of the area or that are required for public health or safety reason.

Mr. VENTO. I, generally, concur. However, such actions should be undertaken in an environmentally sound manner.

Mr. CRAIG. Mr. Speaker, I thank the gentleman very much, and I would urge my colleagues to support us in the passage of S. 2840.

Mr. UDALL. Mr. Speaker, I yield 4 minutes to the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Speaker, the key issue in this bill is the amendment offered by my colleague, the gentleman from Illinois [Mr. Yates], and there are no two greater friends of the Indian people in this body than the gentleman from Arizona [Mr. Udall] and the gentleman from Illinois [Mr. Yates], so this is a difficult vote. As a Member representing several thousand Navajos, this is a very difficult vote for me. I think it is critically important that we look at this as not an issue of Indians against Indians, Navajos against Hopis. The thing we have to look at is that historically the relocation program has been a failure. It has not worked, and promises have not been met.

What this legislation does, the DeConcini amendment, it simply says that those relocatees who have been moved should get their just and adequate benefits. This has not happened, and we must correct this inequity.

I sympathize with the view of those who feel that the Navajo-Hopi relocation effort has been a failure. It has and we have spent millions, and there has been agony; but nonetheless, we must remember what this Congress did.

In 1974, this Congress enacted legislation partitioning land which was the subject of a dispute between the Navajo and Hopi Tribes. Thousands of Navajos were told they must move from their ancestral and sacred homelands; the 1974 act promised them new homes and other relocation benefits in order to help mitigate the horrible impact of relocation.

That we required this massive migration of humankind in order to settle a property dispute, was bad enough. But having promised those Navajos who did relocate a smattering of benefits for doing so, we simply failed to live up to our side of the bargain. By the Navajo-Hopi Indian Relocation Commission's own estimates, more than 1,000 Navajos are today homeless refugees. In other words, Mr. Speaker, more than 1,000 human beings are without shelter and adequate health care and other basic human services today, simply and only because they took us at our word—they relocated from their homeland. And they have yet to receive the relocation benefits we promised them. That is what this provision in the bill does. They are simply getting the benefits deemed to them.

Today, we in Congress continue to appropriate millions of dollars in relocation benefits. But instead of providing those benefits to the refugees I have just described, time and time again the Federal agencies, the BIA in charge, instead "prioritize" benefits to offer them first to those Navajos who have not yet relocated, as a cruel and calculated means of enticing them away from their land. The refugees remain refugees. And if this winter on the reservation is anything like the last, many could actually die from exposure.

This catastrophic situation is what the contested language in S. 2840 would remedy, Mr. Speaker. It does not authorize the spending of additional funds. It does not intrude upon the appropriations function of other committees. It simply directs those responsible for relocation to deliver benefits in the order in which people became eligible to receive them. To be sure, it contains exceptions from this prioritization: For instance, Navajos who show a readiness to move can be made immediately eligible. In other words, it is intended to demonstrate to those Navajo families ready to relocate that they can do so without having to fear that we can't be taken at our word.

Mr. Speaker, the Archives of this country are filled with our Government's broken promises to the American Indian people. This is one promise we can, and must, keep.

What does the priority language—sections 406, 407 and 408—do?

Nowhere in the misleading document circulated to Members by the pro-Yates amendment lobbyist does it tell you what the priority language now in S. 2840 would actually do.

The priority language directs the new Commissioner of Navajo-Hopi relocation to deliver long-promised compensation to thousands of uprooted Navajo families in the chronological order in which they were certified to receive this compensation. The language allows the Commissioner the flexibility to make exceptions on a case-by-case humanitarian basis.

Current policy is confused and disregards the fact that over 1,000 Navajo families from 1979 through 1987 were certified by the Government for compensation, and left their ancestral lands to comply with what they thought the Federal Government wanted them to do. Yet, these families still have not been compensated, and live in deplorable conditions.

These victims of an unkept promise are ignored under the current priority for delivery of benefits. The priority language in S. 2840 will put the priority where it belongs: to people who complied with Federal policy, but have not seen their benefits. This is simple fairness and sound policy, for which there is ample precedent in other Federal programs.

Has this language had authorizing committee review?

Yes. The Senate approved the language pursuant to an agreement by Members of the Senate Indian Affairs Committee. The House Interior Committee considered the language, but in the interest of speedy passage for the parent bill (S. 1236), the language was deleted while the Arizona delegation negotiated.

This language was added to S. 2840 pursuant to an agreement among the key Members of the Arizona delegation—house and senate—who have been involved in all negotiations on this issue. The language in S. 2840 has been objected to only by Congressman Yates, in the past few days.

Is this an appropriations issue?

No. A priority for some of the Navajo subjected to relocation was established in the fiscal year 1986 continuing resolution. That was for the purpose of facilitating a specific expenditure. Since then, Congressman Yates has stated he welcomed direction on this issue from the Members of the authorizing Committees and the Arizona delegation. That direction has come in the form of this language on S. 2840. This is an authorizing issue, and is entirely appropriate for the House to approve now.

Finally: This is not just the product of one Senator as a misleading sheet circulated by anti-Navajo lobbyists claim. It is the result of extensive negotiation by several Members of both parties and both Chambers.

Mr. Speaker, once again, no one has done more to alleviate the situation than the gentleman from Illinois [Mr. Yates] and the gentleman from Arizona [Mr. Udall], but here we are simply trying to live up to agreements to those relocatees who have not received benefits. That is a thousand Navajoes who deserve support.

Mr. Speaker, I urge defeat of the Yates amendment.

Mr. RHODES. Mr. Speaker, I yield 5 minutes to may colleague and friend, the gentleman from Arizona [Mr. Kolbe].

Mr. KOLBE. Mr Speaker, I rise in strong support of S. 2840, the Arizona-Idaho Lands Act.

My colleague, the gentleman from New Mexico [Mr. Richardson] spoke about the provision in here dealing with the Hopi-Navajo relocation as they key section of the bill, and indeed it is certainly one of them, the one which has the most controversy. I guess it proves the axiom that each of us looks at a piece of legislation from his or her own perspective of what is important in the bill.

There is in this legislation three sections that deal directly with my district, and five of them which deal with the State of Arizona.

Mr. Speaker, it was necessary, given the extraordinary time constraints in these final days, to lump several issues together. This has made some relatively straightforward items become more complex and difficult to get a handle on.

I was the House sponsor of legislation similar to the section implementing the San Pedro Riparian National Conservation Area. We passed that legislation a year ago last March. This bill has twice passed the House, but has languished in the Senate over the intractable issue of Federal reserved water rights. After lengthy negotiations, those problems have been resolved with respect to this bill. Therefore, this section can be considered noncontroversial.

The San Pedro Riparian National Conservation Area is a remarkable oasis in the desert of Cochise County, AR. This northward flowing river is a veritable wildlife freeway, with untold varieties of birds, fish, and mammals roaming the land. The lush riparian vegetation, plentiful water, and rolling landscape makes this among the finest resources we have in a State loaded with natural wonders. It is also a historical, archeological, and paleontological treasure house. The travels of Coronado through the entire American southwest began here, and a Spanish encampment, the Presidio of Santa Cruz de Terrenate, was located here in the last 18th century until they were driven out 4 years later by hostile Indian attacks. The walls of the Presidio still stand.

The legislation as passed by the Senate does not include a statutory ban on livestock grazing in the conservation area which was included in the House-passed version. However, management plans developed by the BLM, and explicit report language in the Senate version make it clear that no grazing permits will be renewed in the areas boundaries. I have agreed to this prohibition since it is clearly consistent with the intent of the BLM.

Not issuing any new grazing leases for the San Pedro will give us a full opportunity to assess this area's resource needs with a minimum of significant impacts. Livestock grazing is an important management tool on our public lands, especially for the elimination of brush which is prone to wild fire. However, in this area, I believe a moratorium on grazing is entirely appropriate at this time.

I was also a sponsor of legislation, concurrent with Congressman UDALL, implementing the provisions of the section detailing the Santa Rita Exchange. This Senate version differs in only minor technical areas. I support this important and extremely complicated proposal. Among its most important accomplishments is its guarantee of protection for Catalina State Park in Pima County. This park is threatened by a provision in the Arizona constitution which requires that State lands be obligated for their highest and best use. Escalating property values in this area may force the State to sell this popular and pristine escape from urban pressures. Therefore, we have transferred this land to the Forest Service. Because the State park adjoins the Coronado National Forest, this represents a logical extension of the National Forest boundaries.

In return, the State will take over management of the Santa Rita Experimental Range. This range is the home of important work in the area of grasslands and desert vegetation research. This work has continued without interruption since 1910. Under this proposal, this land would become State university trust lands, whose highest and best use is declared to be research and education. State legislation has already been enacted declaring that this land should remain for research use in perpetuity. Any change in management must first be approved by the Arizona State Legislature and the Arizona Board of Regents. This is doubly important because any development in this area would threaten the important research taking place at the Smithsonian astronomical observatory on Mt. Hopkins. Another section, which I supported, to remove 41,000 acres from the Kofa National Wildlife Refuge because of management responsibility inconsistencies, has been removed in the Senate.

This bill also contains the Senate amended version of legislation already passed by the House implementing the Arizona-Florida land exchange. Senate amendments were designed to resolve concerns previously expressed in the House about the speculative nature of the appraisals that were performed. Members of this body expressed their concern that the United States was not getting a good deal in selling the Phoenix property for environmentally sensitive land in Florida. In the Senate, however, changes were made that require another appraisal after completion of the land management plan between the Colliers and the city of Phoenix. Regardless of that appraisal, the United States is guaranteed compensation of at least $80 million.

In addition, the Senate maintains the mechanism which allows other entities to make an offer on the property if Colliers does not first choose to pay the cost estimated by the final appraisal. If such an offer is made, Colliers still has the right of first refusal, but they must meet and exceed the offer. This ensures that other applicants will not be discouraged from making a bid if they think the Colliers will merely match it. This proposal protects the rights of Colliers to finalize this exchange consistent with thorough and professional appraisals, and it protects the U.S. Government from any perception that somehow it may be "ripped off." This is a good deal for all concerned. The Senate amendment adds what I believe to be unnecessary and redundant steps to a good process, but at least the benefits for the city, the States of Arizona and Florida, the veterans, the Indians and the United States are maintained.

And finally, this bill designates the Mount Graham Astrophysical Observatory Site on Graham County, AZ. This amendment is the culmination of years of studies, environmental assessments, biological opinions, and the whole range of federally mandated procedures to ensure that this project coexist with its natural surroundings. The Mount Graham Astrophysical Observatories are the next generation of telescopes, exploring previously unknown spectrum and magnetic fields, as well as utilizing the unique "honeycomb" mirrors designed by Roger Angel to enhance viewing in the depths of space. This is an incredibly exciting scientific venture, involving the Smithsonian Institute, the University of Chicago, Ohio State University, the Vatican, the Italian and German Governments, as well as Arizona's own Steward Observatory.

This project will be an economic shot in the arm for rural Graham County, will keep Arizona in the forefront of astronomical science, and will lend to Mt. Graham, its flora and its fauna, a level of protection that was otherwise unknown before this proposal was developed.

I want to compliment all the many members, staff and others who helped craft this complex and compelling package. My colleagues, Senators DECONCINI and MCCAIN did yeoman's work to help put this together. Chairman UDALL and Representative RHODES, members of the Interior Committee were instrumental in advancing these items through their committee work. And Representatives KYL and STUMP were especially important in crafting the language included in the Arizona-Florida Land Exchange and Santa Rita Exchange sections of the bill. It is such an attractive package that it could not help but draw amendments, from both House and Senate members. It was only through constant communication, a willingness to compromise, and the commitment do to our homework that this bill has come this far. As an 11th hour item, this bill is a fine piece of work and deserves our support.

Mr. MILLER of California. Mr. Speaker, I rise in opposition to S. 2840, the Idaho-Arizona Conservation Act. This omnibus public lands bill contains one provision, the Arizona-Florida Land Exchange, which I find so objectionable that I must oppose the entire bill.

Despite some changes made by the Senate, the Arizona-Florida Land Exchange remains fundamentally flawed. The bottom line is that this exchange was put together to give one developer, the Colliers, a special deal on the Phoenix Indian School property.

The proponents of this bill argue it is needed to protect endangered park and wildlife habitat in Florida. But these lands are already protected from most development. So what is the Federal Government buying? We're buying nothing.

And what are we giving away for nothing? According to the General Accounting Office, we're giving up one of the most valuable parcels of land in the western United States.

This land exchange remains riddled with loopholes which favor the Colliers. Some of the worst problems are:

The bill does not require the Colliers to hold marketable title for all the Florida lands. By Collier's estimate, we're purchasing at least 4,000 acres of swamp land that is below mean high tide and may be owned by the State of Florida, not by the Colliers.

The Colliers retain all oil and gas rights to the Florida lands. As a consequence, the only real threat to the Florida lands, oil and gas exploration and development, remains.

Surveys and appraisals were not made of all the specific lands being exchanged in Florida.

The Colliers are not required to make a lump-sum cash payment. Instead, the Secretary of the Interior is given the discretion to permit the Colliers to make their cash payment over 30 years.

The only way to ensure that the Federal Government receives fair market value from the sale of the Indian school is to use an open, competitive bidding process. Unfortunately, the Senate bill is even worse than the House bill in this respect. A provision added in the Senate permits the Colliers to be the sole bidder for the Phoenix property.

The Arizona-Florida Land Exchange is rotten to the core. It should be rejected. I urge you to vote against S. 2840.

Mr. Speaker, I also would like to take this opportunity to address language in this with respect to water rights.

I have very serious reservations about the water rights language which has been included on the sections establishing the City of Rocks National Reserve and the Hagerman Fossil Beds National Monument in Idaho.

I fully support the basic goals of these provisions which are to manage and protect the nationally significant historic and natural resources within these areas. However, I have serious reservations about the language concerning water rights.

I have agreed not to oppose the water rights language only because of the unique circumstances surrounding these areas, and because this language will have no impact on the areas nor will it affect other units of the National Park System or future park designations.

I would like to take this opportunity to discuss these provisions and the reasons for their inclusion.

These provisions expressly deny any Federal reserved water right to the new national park units created by the legislation. This is, of course, a departure from the normal process in which a reservation of water is created by implication whenever Congress establishes a unit of the National Park System.

Under a well-established legal doctrine, an implied reservation of water, sufficient to fulfill the purposes for which the land is reserved, arises when Congress or the executive branch reserves land for a specific purpose.

By including the language in the City of Rocks and Hagerman areas, the Congress does not intend for this exception to undercut the rights associated with previous reservations, nor to establish any precedent with regard to future reservations. Rather, the language in this legislation is merely a unique approach to a unique situation.

Neither the City of Rocks not the Hagerman areas contain any perennial streams. Moreover, the values for which these areas are being designated are not water dependent.

In the case of Hagerman Fossil Beds, the values are paleontological; the area is on the Oregon Trail and was a major stop-over point in the westward migration of thousands of pioneers in the 19th century. The area is very popular for rock climbing because of the excellent granite spires, pillars, rims, and boulders. Thus, there are no water-dependent resources or values requiring the protection that is afforded by a Federal reserve water right.

In the case of City of Rocks, the area will be managed cooperatively with the State of Idaho, and the State has agreed to supply any water that is required for visitor facilities.

Given these circumstances, even without this disclaimer of any Federal reserved water rights, it is unlikely the Federal Government would need to seek a Federal water right for these areas. Thus, the same circumstances that give rise to the denial also make it superfluous.

Mr. JONES of North Carolina. Mr. Speaker, I rise today in support of S. 2840, the Arizona-Idaho Conservation Act of 1988. The Committee on Merchant Marine and Fisheries, which I chair, has a direct jurisdictional interest in S. 2840 because of its provisions affecting national wildlife refuges, the Endangered Species Act, and the National Environmental Policy Act. Some of these provisions were included in legislation previously before the House which we concurred in. Other parts of S. 2840 are new or were contained in a House bill which my committee received a joint referral over but which was never reported out of the Committee on Interior and Insular Affairs. The Parliamentarian has recognized our jurisdictional interests in the measure before us today.

As the proposal now stands, it would provide significant benefits to units of the national wildlife refuge system, both in the States of Arizona and in Florida. For this reason, I strongly support S. 2840 and urge its adoption by the House. This has not been an easy package for my committee to deal with since it has required us to compromise in some areas in exchange for concessions in other areas. I would like to commend the Arizona delegation in both bodies, however, for negotiating with us in good faith and accommodating all of our major concerns. On balance, this is a proposal that will benefit fish and wildlife and is worthy of your support.

I would like to address at this time a couple of the concerns my committee had with regard to earlier drafts of this legislation in the other body. First, a provision had been included which would have deleted a 42,000-acre strip of land out of the Kofa National Wildlife Refuge. This provision was very troublesome because it called to mind past disputes regarding the use of refuge land in my own district. This measure has now been stricken, and I appreciate that this was not an easy decision for the Arizona delegation.

It is true that this 42,000-acre area in Kofa contains an existing utility right-of-way and that other right-of-way applications can be expected. The compromise language that we have adopted recognizes this fact but leaves intact the existing administrative decisionmaking process for the Director of the U.S. Fish and Wildlife Service to either reject or approve these applications pursuant to section 4(d) of the National Wildlife Refuge System Administration Act. Thus, nothing in this act would change or amend the application of the compatibility test under section 4(d) of the Refuge Administration Act to any future right-of-way applications.

Moreover, the reference in the text to processing pending applications in an "expeditious" manner reflects nothing more than good governmental practices for any Federal agency. All that "expeditious" means in this provision is that once an application is ripe for administrative review and the project sponsor is fully committed to proceeding immediately with the project, the Fish and Wildlife Service must comply with all of the requirements of existing law in processing the application without unreasonable or inexcusable delays. It is not the intent of this language that provisions of existing environmental law be waived or modified in any manner.

Other major benefits would accrue to national wildlife refuges under this act. Foremost among them would be the addition of approximately 90,000 acres of land to the Buenos Aires National Wildlife Refuge. Under section 502 of this act, the Secretary of the Interior, through the Bureau of Land Management, shall acquire all of the State Trust Lands within the Buenos Aires Wildlife Refuge. It is the intent of the legislation that the phrase "State trust lands" be interpreted very broadly so as to result in the acquisition of all remaining State inholdings within the refuge. Attached to my statement is a list of the various categories of State inholdings within the Buenos Aires refuge which would be acquired under this act. Thus, upon completion of the exchanges, there would be no State lands of any type left within the exterior boundaries of the Buenos Aires Wildlife Refuge.

Consistent with this interpretation, it is also the intent of Congress that the priority for acquiring State inholdings be consistent with the order of listing the areas for acquisition in section 502. Thus the two top priority areas to be acquired are the State inholdings within Catalina State Park and the Buenos Aires Refuge. The Department of the Interior must ensure that all of the State inholdings in these areas have first been acquired before additional commitments are made for the remaining balance of Federal lands available for exchange.

With regard to that part of S. 2840 which addresses the placement of a number of telescopes on Mt. Graham, I would like to commend the Arizona delegation in the other body for negotiating in good faith with staff members for my committee on matters under our jurisdiction. Quite frankly, earlier drafts of this measure could have been misinterpreted as waiving parts of the Endangered Species Act as applied to the Mt. Graham observatory project. Since this was not the true intent of the drafters of S. 2840, additional discussions with the staff of the Merchant Marine and Fisheries Committee resulted in considerable alteration of the Mt. Graham language.

These changes were essential for receiving my support of this legislation. With only a few extraordinary exceptions, the Committee on Merchant Marine and Fisheries has steadfastly opposed all waivers or modifications of the provisions of the Endangered Species Act. I believe that the Mt. Graham language currently before us is now consistent with the requirements of that act and reflects a commitment on the part of the University of Arizona to abide by the results of the section 7(a)(2) consultation process and to accept the limitations contained in the biological opinion issued by the U.S. Fish and Wildlife Service for this project.

Often there is only sketchy or limited biological information available on listed endangered or threatened species. accordingly, the act relies heavily on the biological value judgments and expertise of the U.S. Fish and Wildlife Service. As is frequently the case with matters on the frontiers of scientific knowledge, reasonable people may reach different conclusions regarding the same data or information. While recognizing this fact, the act—and the courts for that matter—still accord great weight and deference to the biological opinions of the U.S. Fish and Wildlife Service. The measure before us today reflects this traditional reliance on the judgment of that agency by requiring the university to abide by the terms and conditions of "reasonable and prudent alternative No. 3" in the service's biological opinion. It is our intent that this language also requires compliance with any additional terms and conditions in the biological opinion which are designed to reduce the incidental take of the Mt. Graham red squirrel.

Although the Mount Graham observation project envisions the possibility of seven telescopes ultimately being built on the site, S. 2840 now clearly recognizes that the decisions regarding the construction of these telescopes will occur in two completely distinct and separate phases. Arguments have been made that time is of the essence for gaining the necessary clearances for the first phase of the project involving the construction of three telescopes. We are prepared to accept the validity of these arguments for the first three telescopes but are not convinced that a similar claim can be made for the remaining four telescopes.

The provisions of S. 2840 reflect this division with regard to compliance with the Endangered Species Act and the National Environmental Policy Act. Thus, while construction of the first three telescopes may proceed as soon as an acceptable management plan has been developed, no final administrative decision can of will be made with regard to authorizing the four remaining telescopes until the requirements of the Endangered Species Act and the National Environmental Policy Act [NEPA] have been fully complied with. In the context of the ESA, this will require the initiation of formal consultation under section 7(a)(2) on the construction of the additional telescopes. Such construction shall not be authorized unless the biological opinion of the Fish and Wildlife Service concludes that further construction will not violate the requirements of section 7. The outcome of this biological opinion will be influenced considerably by the results of the monitoring program studying the impact of construction of the first three telescopes on the Mount Graham Red Squirrel.

As for the National Environmental Policy Act, the legislation makes clear that work on the environmental impact statement for the site currently underway will continue and that all of the procedures under NEPA will be followed with respect to the four additional telescopes. There currently are certain aspects of constructing seven telescopes on Emerald Peak which have not been the subject of environmental analysis. Thus, the Forest Service will have to decide whether a supplemental environmental impact statement or an environmental assessment is required in order to comply with NEPA. In addition, an opportunity for public comment and the consideration of alternatives to four additional telescopes on Emerald Peak shall be part of completing the NEPA process.

Given my committee's historic opposition to waivers of NEPA, I believe that this represents a fair compromise: the 2-year ongoing NEPA process shall be considered adequate for purposes of constructing the first three telescopes but full and complete compliance with NEPA will still be required before any final administrative decision is made with regard to additional telescopes on Emerald Peak.

In closing, I would add that our willingness to work with the distinguished chairman of the Interior Committee and the rest of the Arizona delegation in addressing our concerns regarding NEPA and the ESA should in no way be interpreted as a precedent or a weakening of my committee's traditional opposition to waivers or modifications of these staututes. Any such proposed waivers or modifications shall continue to receive exceptionally strict scrutiny and will be faced with a general presumption of opposition from my committee. Nevertheless, exceptional circumstances and opportunities are involved with S. 2840 when viewed in its entirety and for that reason I urge its passage.

Buenos Aires:

State Land Status

Grant and beneficiary	*Acreage*
1. 003 A&M Colleges	6,631.02
2. 006 Asylum for the Insane	4,483.84
3. 009 Legislative, Executive, and Judicial Buildings	1,280.00
4. 012 Military Institutes	1,919.55
5. 018 Miner's Hospital	320.31
6. 024 Penitentiary Land Fund	3,192.11
7. 030 Permanent Common Schools	11,496.79
8. 031 Permanent Common Schools	21,498.94
9. 043 School of Miners	10,460.49
10. 049 University Land Code	19,691.49
11. 053 County Bonds	9,214.12
Total	90,197.66

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, Mr. Speaker, this bill represents untold thousands of hours of work on the part of Members of both bodies and the staffs of both bodies and our constituents at home in the States, the counties, and the rural areas represented by this legislation.

I would urge my colleagues to give favorable consideration to this bill that we have brought before you today and to pass it unamended and unaffected by any motion to recommit which might come later on.

Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may require.

We have reached a point of many of these issues where sometimes we joke among ourselves that everything is a killer amendment. No one offers just a plain simple meritorious amendment. It is always a killer amendment.

I hate to say it, but in the dying days of this 100th Congress we are in a situation where every amendment is a killer amendment. When you look at the good that is done in this bill for the Indians in Phoenix and in all of Arizona—they get a $40 million trust fund. It is not Federal dollars. It is the dollars paid by a developer who will pay in dollars and land in making this carefully worked out exchange.

The conservationists of America are about to have a big celebration if this goes through. One of the most desirable and amazing parts of our whole country is in the Everglades, and we have worked for several decades to make the Everglades a viable unit of our National Park System.

☐ 1230

This company in Florida happens to have more than 100,000 acres of land which can help do that job. The owners are willing to trade it on terms that we consider fair. We have heard from my friend, the gentleman from Illinois [Mr. YATES], and others for many months now about this giveaway, this bundle of money that is going to be sent off to some speculator, and the people of Arizona and America get nothing much in return. That is not the case, and I ask my colleagues to recall the earlier debate. We amended the bill to meet the charges that this is ripoff.

Once the city of Phoenix and the Collier Co., have completed an extensive planning and zoning effort and tell us exactly what is permitted, we can get accurate appraisals. That is why we have not had very accurate appraisals; we cannot appraise something unless we know what it is going to be permitted and what uses are going to be allowed. We cannot decide what the value is going to be until we look at the zoning. Once the zoning is done, then there will be a period of months when these big, high-presure operators that we have heard about can come in and make their offers for the land, and if the competitors make their best offers within a reasonable time—6 months I think we mentioned in our amendment—then, Colliers are given one last chance to better their offer that was originally made. We get the best of the offers made.

I think we have protection in this bill. We do so many good things for America and for my State that it would be a mistake to make even one change in the language, because that pulls apart the delicate structure that has been put together.

I urge my friends to vote against the Yates amendment, and to vote for the package of the bill, as that part of the package that has been through the Chamber twice now.

Mr. Speaker, I yield back the balance of my time.

The text of the Senate bill, S. 2840, as amended pursuant to House Resolution 592, is as follows:

S. 2840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Arizona-Idaho Conservation Act of 1988".

TITLE I—SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

ESTABLISHMENT OF SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

SEC. 101. (a) ESTABLISHMENT.—In order to protect the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the public lands surrounding the San Pedro River in Cochise County, Arizona, there is hereby established the San Pedro Riparian National Conservation Area (hereafter in this title referred to as the "conservation area").

(b) AREA INCLUDED.—The conservation area shall consist of public lands as generally depicted on a map entitled "San Pedro Riparian National Conservation Area—Proposed" numbered AZ-040-OZ, dated January 1988, and consisting of approximately 56,431 acres.

(c) MAP.—As soon as is practicable after enactment of this title, a map and legal description of the conservation area shall be filed by the Secretary of the Interior (hereafter in this title referred to as the "Secretary") with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Each such map shall have the same force and effect as if included in this title. Such map shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior, and in the Bureau of Land Management offices of the State Director for Arizona, and the district office responsible for the management of the conservation area.

MANAGEMENT OF CONSERVATION AREA

SEC. 102. (a) GENERAL AUTHORITIES.—The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area. Such management shall be guided by this title and, where not inconsistent with this title, by the provisions of the Federal Land Policy and Management Act of 1976 (hereinafter in this title referred to as "FLPMA").

(b) USES.—The Secretary shall only allow such uses of the conservation area as he finds will further the primary purposes for which the conservation area is established. Except where needed for administrative or emergency purposes, the use of motorized vehicles in the conservation area shall only be allowed on roads specifically designated for such use as part of the management plan prepared pursuant to section 103 of this title. The Secretary shall have the power to implement such reasonable limits to visitation and use of the conservation area as he finds appropriate for the protection of the resources of the conservation area, including requiring permits for public use, or closing portions of the conservation area to public use.

(c) WITHDRAWALS.—Subject to valid existing rights, all Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(d) WATER RIGHTS.—Congress reserves for the purposes of this reservation, a quantity of water sufficient to fulfill the purposes of the San Pedro Riparian National Conservation Area created by this title. The priority date of such reserve rights shall be the date of enactment of this title. The Secretary shall file a claim for the quantification of such rights in an appropriate stream adjudication.

(e) ENFORCEMENT.—Any person who violates any provision of this title or any regulation promulgated by the Secretary to implement this title shall be subject to a fine of up to $10,000, or imprisonment for up to one year, or both.

MANAGEMENT PLAN

SEC. 103. (a) DEVELOPMENT OF PLAN.—No later than 2 years after the enactment of this title, the Secretary shall develop a comprehensive plan for the long-range management and protection of the conservation area. The plan shall be developed with full opportunity for public participation and comment, and shall contain provisions designed to assure protection of the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreation resources and values of the conservation area.

(b) RECOMMENDATIONS.—The Secretary shall, in the comprehensive plan referred to in subsection (a), develop recommendations to Congress on whether additional lands should be included in the conservation area.

(c) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate State and local agencies, pursuant to section 307(b) of FLPMA, to better implement the plan developed pursuant to subsection (a).

(d) RESEARCH.—In order to assist in the development of appropriate management strategies for the conservation area, the Secretary may authorize research on matters including the environmental, biological, hydrological, and cultural resources of the conservation area, pursuant to section 307(a) of FLPMA.

ADVISORY COMMITTEE

SEC. 104. (a) ESTABLISHMENT.—The Secretary shall establish a San Pedro Riparian National Conservation Area Advisory Committee, whose purpose shall be to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required pursuant to section 103 of this title.

(b) REPRESENTATION.—There shall be 7 members of the Committee, who shall be appointed by the Secretary. Members of the Committee shall be appointed for terms of three years, except that of the members first appointed 2 shall be appointed for terms of 1 year and 3 shall be appointed for terms of 2 years. The Secretary shall appoint one member from nominations supplied by the Governor of the State of Arizona, and one member from nominations supplied by the Supervisors of Cochise County, Arizona. The other members shall be persons with recognized backgrounds in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the primary purposes for which the conservation area was created.

LAND ACQUISITION

SEC. 105. The Secretary may acquire lands or interests in lands within the boundaries of the conservation area by exchange, purchase, or donation, except that any lands or interests therein owned by the State or local government may be acquired by donation or exchange only. Any purchase or exchange of lands to be added to the conservation area shall require the consent of the owner of those lands or rights.

REPORT TO CONGRESS

SEC. 106. No later than five years after the enactment of this title, and every ten years thereafter, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, on the implementation of this title. Such report shall include a detailed statement on the condition of the resources within the conservation area and of the progress of the Bureau of Land Management in achieving the purposes of this title.

AUTHORIZATION

SEC. 107. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE II—CITY OF ROCKS NATIONAL RESERVE

ESTABLISHMENT OF CITY OF ROCKS NATIONAL RESERVE

SEC. 201. (a) There is hereby established the City of Rocks National Reserve (hereinafter referred to as the "reserve"), in order to preserve and protect the significant historical and cultural resources; to manage recreational use; to protect and maintain scenic quality; and to interpret the nationally significant values of the reserve.

(b) The reserve shall include approximately fourteen thousand three hundred and twenty acres as depicted on the map entitled "Boundary Map, City of Rocks National Reserve, Idaho" numbered P30-80,005 and dated October 1987. The map shall be on file in the offices of the National Park

Service, Department of the Interior and the Offices of the Governor, State of Idaho.

(c) Within six months after the enactment of this title, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a legal description of the reserve designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (b). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and the offices of the Governor of the State of Idaho.

PLAN AND MANAGEMENT OF RESERVE

SEC. 202. (a) To achieve the purpose of this title, the Secretary, acting through the National Park Service, in cooperation with appropriate State and Federal agencies, local units of government and local residents shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(1) public use and development;

(2) historic and natural preservation; and

(3) private use subject to appropriate local ordinances designed to protect the historic rural setting.

(b) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives and to the Governor of the State of Idaho.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted ordinances or established regulations which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary shall, pursuant to cooperative agreement—

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

(2) provide technical assistance to such State or units of local government in the management, protection, and interpretation of the reserve; and

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government to carry out the purposes of this title.

(d)(1) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this title by donation, purchase with donated funds, or appropriated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the reserve to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(2) Lands and waters, and interests therein, within the boundaries of the reserve which were administered by the Forest Service, United States Department of Agriculture or the Bureau of Land Management, Department of the Interior prior to the date of enactment of this title are hereby transferred to the administrative jurisdiction of the Secretary to be administered by the National Park Service in accordance with this title.

(3) Lands and interest therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this title.

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this title, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a one hundred and eighty-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such one hundred and eighty-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this title.

(f) Congress finds that there are unique circumstances with respect to the water and water related resources within the reserve designated by this title. The Congress recognizes that the management of this area may be transferred to the State of Idaho, that the State has committed to providing the water necessary to fulfill the purposes of this title, and that there is little or no water or water-related resources that require the protection of a Federal reserved water right. Nothing in this title, nor any action taken pursuant thereto, shall constitute either an express or implied reservation of water or water right for any purpose: *Provided,* That the United States shall retain that reserved water right which is associated with the initial establishment and withdrawal of the national forest lands which will be transferred to the Reserve under this title.

(g) Subject to valid existing rights, Federal lands and interests therein, within the reserve, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

(h) There is hereby authorized to be appropriated not to exceed $2,000,000 to carry out the provisions of this title.

TITLE III—HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

ESTABLISHMENT OF HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

SEC. 301. (a) In order to preserve for the benefit and enjoyment of present and future generations the outstanding paleontological sites known as the Hagerman Valley fossil sites, to provide a center for continuing paleontological research, and to provide for the display and interpretation of the scientific specimens uncovered at such sites, there is hereby established the Hagerman Fossil Beds National Monument (hereinafter in this title referred to as the "monument").

(b) The monument shall consist of approximately four thousand three hundred and ninety-four acres as depicted on a map entitled "Boundary Map, Hagerman Fossil Beds National Monument, Idaho" number HAFO-20,012A and dated September, 1987. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior and the Office of the Superintendent, Hagerman Fossil Beds National Monument, Idaho.

(c) Within six months after the enactment of the title, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a legal description of the monument designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

ACQUISITION OF LANDS

SEC. 302. (a) The Secretary is authorized to acquire lands or interests in lands within the monument only by donation or exchange.

(b) Notwithstanding any other provision of law, any Federal property located within the boundaries of the monument shall be transferred without consideration to the administrative jurisdiction of the Secretary to be administered in accordance with the purposes of this title.

(c) In acquiring non-Federal lands by exchange pursuant to this title, the Secretary shall utilize his existing authority including but not limited to applicable provisions of the Federal Land Policy and Management Act of 1976 (Public Law 94-579).

ADMINISTRATION OF MONUMENT

SEC. 303. The Secretary shall administer the monument established pursuant to this title in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

WATER RIGHTS

SEC. 304. Congress finds that there are unique circumstances with respect to the water or water related resources within the Monument designated by this title. The Congress recognizes that there is little or no water or water-related resources that require the protection of a federal reserve water right. Nothing in this title, nor any action taken pursuant thereto, shall constitute either an expressed or implied reservation of water or water right for any purpose.

EFFECT ON EXISTING FACILITIES

SEC. 305. Nothing in this title shall affect electrical generating and transmission and irrigation pumping and transmission facilities in existence within the boundaries of the monument, or the right to operate, maintain, repair, upgrade, and modify such facilities. Such facilities are hereby expressly determined to be compatible and consistent with the purposes of this title.

CONTINUING PALEONTOLOGICAL RESEARCH

Sec. 306. In order to provide for continuing paleontological research, the Secretary shall incorporate in the general management plan provisions for the orderly and regulated use of and research in the monument by qualified scientists, scientific groups, and students under the jurisdiction of such qualified individuals and groups.

MINING PROHIBITION

Sec. 307. Subject to valid existing rights, Federal lands and interests therein, within the monument, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

AUTHORIZATION OF APPROPRIATIONS

Sec. 308. There are hereby authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this title.

TITLE IV—ARIZONA-FLORIDA LAND EXCHANGE

DEFINITIONS

Sec. 401. For purposes of this title:

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "Arizona InterTribal Trust Fund" means the fund established pursuant to section 405(a)(1) of this title in the Treasury of the United States for the benefit of Arizona Tribes that were members of the InterTribal Council of Arizona on January 1, 1988, and the members of such tribes.

(3) The term "Arizona Tribe" means an Indian tribe that has a reservation located partially or totally in the State of Arizona.

(4) The term "City" means the City of Phoenix, Arizona.

(5) The term "Collier" means the nongovernmental parties to the Exchange Agreement identified in the Exchange Agreement as Barron Collier Company, Collier Development Corporation, and Collier Enterprises.

(6) The term "Exchange Agreement" means the Agreement Among the United States, Collier Enterprises, Collier Development Corporation, and the Barron Collier Company, executed on May 15, 1988, and subsequently submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(7) The term "Florida Lands" means the lands that would be conveyed to the United States by Collier under the terms of the Exchange Agreement or this title, and other lands owned by Collier and located within the boundaries of the Florida Panther National Wildlife Refuge to be acquired by purchase by the United States and managed as part of such Refuge, other than those lands identified for conveyance to the United States pursuant to agreements for purchase and sale of such lands executed by Collier prior to January 1, 1988.

(8) The term "InterTribal Council of Arizona" or "ITCA" means the corporation organized and existing under the laws of the State of Arizona under the name InterTribal Council of Arizona, Inc., or a successor to such corporation organized and existing under the laws of the State of Arizona, the membership of which includes thirteen or more of the Arizona Tribes that were members of the ITCA on January 1, 1988.

(9) The term "Land Exchange" means the transaction providing for the acquisition by the United States of title to lands in Florida owned by Collier and the receipt by the United States of Monetary Proceeds in exchange for the acquisition by Collier of title to land within the School Property.

(10) The term "Monetary Proceeds" means either—

(A) the cash amount required to be paid to the United States by Collier upon closing of the Land Exchange, or

(B) the amount required to be paid to the United States by a Purchaser other than Collier upon closing of the Purchase Transaction, less the amount required to be paid from the account for acquisition of the Florida Lands and reimbursement of costs established under section 402(i) of this title.

(11) The term "Navajo Trust Fund" means the fund established pursuant to section 405(a)(2) of this title in the Treasury of the United States for the benefit of the Navajo Tribe and its members.

(12) The term "Phoenix Exchange Property" means the land within the School Property to be conveyed to a Purchaser under the Land Exchange or the Purchase Transaction, which land shall be the School Property less any parcel of land to be conveyed to the City of Phoenix or transferred to the Veterans' Administration upon closing of the Land Exchange or Purchase Transaction pursuant to section 402 of this title.

(13) The term "Planning and Development Agreement" means the Memorandum of Agreement between the City of Phoenix, Arizona, Collier Enterprises and Barron Collier Company approved by the City Council of Phoenix, Arizona, on July 1, 1987, including any amendments or modifications of such Memorandum of Agreement subsequently agreed to by the parties, or, as the context may require, an agreement between the City of Phoenix, Arizona, and a Purchaser other than Collier that is identical in all material respects to such Memorandum of Agreement.

(14) The term "Public Planning Process" means the land use planning and zoning process applicable to the School Property under the Planning and Development Agreement or other State or local law and regulation applicable to the planning and zoning of such property.

(15) The term "Purchase Transaction" means the cash purchase of the Phoenix Exchange Property by a Purchaser other than Collier under section 402(h) of this title.

(16) The term "Purchaser" means Collier or, in the event that Collier does not accept the offer of the United States to acquire the Phoenix Exchange Property under either section 402(h)(1) or section 402(h)(6) and (7) of this title, any other person that acquires the Phoenix Exchange Property under a Purchase Transaction.

(17) The term "School Property" means the real property used by the Secretary on January 1, 1988, for the Phoenix Indian High School in Phoenix, Arizona.

(18) The term "Secretary" means the Secretary of the Interior.

(19) The term "Trust Fund Payment" means the payment to the United States of the Monetary Proceeds for deposit into, as the context requires, the Arizona InterTribal Trust Fund or the Navajo Trust Fund, in the form of a lump sum payment or annual payments as determined under section 403 of this title.

(20) The term "Trust Fund Payment Agreement" means an agreement providing for payment by the Purchaser of annual Trust Fund Payments for deposit into the Arizona InterTribal Trust Fund or the Navajo Trust Fund or, as the context may require, an agreement between the United States and a Purchaser other than Collier that is identical in all material respects to such Trust Fund Payment Agreement.

(21) The term "Trust Income" to the Arizona InterTribal Trust Fund or the Navajo Trust Fund means the interest earned on amounts deposited into each such trust fund and any amounts paid into each such trust fund in the form of annual Trust Fund Payments.

(22) The term "Veterans' Administration Property" means the property adjacent to the School Property owned by the United States and under the jurisdiction and control of the Veterans' Administration on January 1, 1988.

DISPOSITION OF SCHOOL PROPERTY

Sec. 402. (a) Authorization of Disposal.—The Secretary is authorized to dispose of the School Property and use the Monetary Proceeds only in accordance with this title. The provisions of this title shall govern the disposal of such property and other provisions of law governing the disposal of Federal property shall not apply to the disposal of the School Property.

(b) Exchange Agreement.—The Exchange Agreement is ratified and confirmed and sets forth the obligations, duties, and responsibilities of the parties to the Exchange Agreement. The Secretary shall implement the Exchange Agreement in accordance with its terms and conditions; except that, the Secretary may, with the concurrence of Collier, make minor and technical amendments in land descriptions and instruments of conveyance, as set forth in the agreement, upon 30 days prior written notice to the House Interior and Insular Affairs and Senate Energy and Natural Resources Committees.

(c) Conveyance of Lands; Transfer of Jurisdiction.—If the Phoenix Exchange Property is conveyed under the Land Exchange or a Purchase Transaction, the Secretary is authorized and directed, subject to the requirements of this section, to—

(1) convey to the City by quitclaim deed a parcel of 20 acres of the School Property upon election by the City to accept such conveyance under subsection (e);

(2) transfer jurisdiction and control of a parcel of 11.5 acres of the School Property to the Veterans' Administration pursuant to subsection (f); and

(3) transfer jurisdiction and control of a parcel of 4.5 acres of the School Property to the Veterans' Administration pursuant to subsection (g).

(d) Preliminary Notice.—(1) On a date no later than 135 days prior to acceptance by Collier of the offer of the United States under the Exchange Agreement, Collier shall provide preliminary notice in writing of its intent to accept such offer to—

(A) the Secretary;

(B) the Mayor of the City;

(C) the Administrator of Veterans' Affairs;

(D) the InterTribal Council of Arizona;

(E) the governing body of the Navajo Tribe; and

(F) the Governor of the State of Arizona.

The provision of this preliminary notice by Collier shall not affect Collier's right to accept or not to accept the offer of the

United States under the Exchange Agreement and in accordance with subsection (h) (1) or (7).

(2) Notwithstanding any provision of the Exchange Agreement, Collier may not provide preliminary notice under paragraph (1) prior to the later of one year following the date of enactment of this title or the submission of a Specific Plan for the Phoenix Exchange Property as provided in the Planning and Development Agreement.

(e) ELECTION BY CITY.—(1) Within 15 days after receipt of notice to the Mayor of the City under subsection (d), the City may advise the Secretary in writing that it elects to accept conveyance of a parcel of 20 acres of land within the School Property identified for conveyance to the City by mutual agreement with Collier in accordance with the Public Planning Process.

(2) On or after conveyance of the Phoenix Exchange Property under the Land Exchange or Purchase Transaction, the Secretary shall convey to the City such parcel of 20 acres of the School Property as the City may elect to receive under paragraph (1), subject to the requirements of this section: *Provided*, That if the City and the Purchaser have not identified 20 acres for conveyance to the City in accordance with the Public Planning Process at the time of closing of the Land Exchange or the Purchase Transaction, the Secretary shall convey to the city a parcel of land consisting of the northernmost 20 acres of the School Property.

(3) Nothing in this title shall be construed as a limitation on the authority of the Purchaser and the City to enter into agreements to exchange, on an acre-for-acre basis, land within the School Property conveyed to the Purchaser for land conveyed by the United States to the City or owned by the City contiguous to the School Property.

(4) Any conveyance to the City by the United States under this subsection shall include the requirement for a right of reverter in favor of the United States restricting the use of such land perpetually to provide for public open space and recreation.

(5) Any conveyance by the Purchaser to the City of land within the School Property pursuant to exchange shall include a right of reverter in favor of the United States restricting the use of such land perpetually to provide for public open space and recreation. The conveyance by exchange of land to the Purchaser from the City shall extinguish any right of reverter restricting the use of land so conveyed to the Purchaser.

(6) Nothing in this subsection shall be construed to alter any right of the City to purchase additional acres of land within the School Property from the Purchaser pursuant to the Planning and Development Agreement or as may otherwise be agreed to by the City and the Purchaser.

(f) TRANSFER TO THE VETERANS' ADMINISTRATION.—(1) Upon the closing of the Land Exchange or the Purchase Transaction, the Secretary shall transfer to the Veterans' Administration jurisdiction and control of a parcel of 11.5 acres (including improvements located thereon) within the School Property to be used for expansion of the Veterans' Administration Medical Center in Phoenix, Arizona.

(2) Such parcel shall be the portion of land designated as Tract C on the metes-and-bounds surveys in the southeast quarter of section 20, township 2 north, range 3 east, of the Gila and Salt River Meridian, Arizona, conducted by the Bureau of Land Management of the Department of the Interior, dated March 22, 1988.

(3)(A) The Administrator shall cooperate with the City in the planning and development of land transferred under this subsection for the purpose of ensuring comprehensive planning of the School Property in accordance with the objectives of the Public Planning Process. The general authorities of the Administrator, including but not limited to those contained in sections 5022(a)(2) and 5024 of title 38, United States Code, shall be available to the Administrator for the purposes of this subsection.

(B) The Administrator shall, within six months after the date of the enactment of this title and every six months thereafter until the cooperative planning referred to in subparagraph (A) is completed, transmit a report to the Committee on Interior and Insular Affairs and the Committee on Veterans' Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Veterans' Affairs of the Senate. Each such report shall contain a description of the efforts made by the Veterans' Administration in carrying out such planning during the period for which the report is submitted.

(C) The Secretary shall enter into a memorandum of understanding with the Administrator for the temporary use by the Administrator of the gymnasium constructed on the School Property in 1975. Such temporary use shall not extend beyond the interim period before the transfer or development of the property on which the gymnasium is located.

(g) TRANSFER TO THE STATE OF ARIZONA.—(1) Upon the closing of the Land Exchange or the Purchase Transaction, the Secretary shall transfer to the Veterans' Administration jurisdiction and control of a parcel of 4.5 acres (including improvements located thereon) within the School Property which shall be under the jurisdiction and control of the Veterans' Administration until disposed of in accordance with paragraph (3) or (4).

(2) Such parcel of land shall be contiguous to the parcel of land transferred to the Veterans' Administration under subsection (f) and to the Veterans' Administration Property. Such parcel shall be identified by mutual agreement of the City, the Administrator, Collier, and the State of Arizona in accordance with the objectives of the Public Planning Process for use by the State of Arizona as a site for facilities owned and operated by such State as a home for veterans.

(3) The Administrator shall convey such parcel (including improvements located thereon), without reimbursement, to the State of Arizona when—

(A) the Administrator of Veterans' Affairs has approved the State of Arizona's application for assistance in construction of a State veterans' facility on such parcel pursuant to section 5035 of title 38, United States Code; and

(B) the State of Arizona has appropriated sufficient funds to pay for its portion of the costs of construction of such facility.

(4) If the State of Arizona does not submit an application for assistance described in paragraph (3)(A) and appropriate the funds described in paragraph (3)(B) within three years after such parcel is transferred to the Veterans' Administration under this subsection, the Administrator of Veterans' Affairs shall transfer jurisdiction and control of such parcel to the Secretary.

(5) Such land shall be offered by the Secretary for sale to the City, subject to a right of reverter in favor of the United States restricting the use of such land perpetually to provide for public open space and recreation, at a price determined by the Secretary which shall be representative of the value of such land discounted to account for such restrictions in use. In the event that the City does not accept the offer of the United States to purchase such land within six months from the date such offer is made, such land shall be offered for sale to the Purchaser at fair market value. The amount received from any sale of such land shall be deposited in the Arizona InterTribal Trust Fund and in the Navajo Trust Fund in accordance with the allocation described in section 405(e).

(h) OFFERS TO PURCHASE.—(1) Upon receipt by the Secretary of the notice of election to receive the parcel of land by the City of Phoenix under subsection (e), but in no event later than 15 days after receipt of preliminary notice to the Secretary by Collier under subsection (d), the Secretary shall notify Collier that, notwithstanding the provisions of subsection (d)(1), Collier may accept the offer of the United States to acquire the Phoenix Exchange Property under the terms of the Exchange Agreement, subject to the requirements that if the fair market value of the Phoenix Exchange Property stated in the current, independent appraisal obtained by the Secretary under subsection (m)(4) is greater than $80,000,000, then Collier shall pay, in addition to the amount required to be paid under paragraphs 13 and 14 of the Exchange Agreement, an amount equal to the difference between the fair market value stated in such appraisal and $80,000,000. If Collier notifies the Secretary that it does not accept the offer of the United States under this paragraph, a Purchaser may acquire the Phoenix Exchange Property pursuant to the requirements of paragraphs (2) through (9) of this subsection.

(2)(A) Upon receipt of notice by Collier that it does not accept the offer of the United States under paragraph (1), but in no event later than 15 days following receipt of such notice, the Secretary shall initiate the bidding process under this section by soliciting and advertising widely for sealed bids for purchase of the Phoenix Exchange Property: *Provided*, That no such bid will be accepted unless such bid offers a price of no less than the minimum acceptable price set forth in subsection (h)(4). The Secretary shall solicit and advertise widely for such bids by publishing notice that the Secretary will receive offers by persons other than Collier to purchase the Phoenix Exchange Property in the Federal Register and in newspapers of general circulation and other appropriate publications, including newspapers in Phoenix, Arizona. Such notice shall include—

(i) an accurate description of the Phoenix Exchange Property, and an identification of any parcels of land within the School Property elected for conveyance to the City pursuant to subsection (e), transferred to the Veterans' Administration pursuant to subsection (f), or conveyed to the State of Arizona pursuant to subsection (g);

(ii) the name and address of State and local offices from which information concerning the zoning and other legal requirements applicable to such property may be obtained;

(iii) a description of the terms and conditions for purchase of the Phoenix Exchange Property established under this title pursuant to which the Secretary may accept an offer to purchase the Phoenix Exchange Property;

(iv) a statement of the minimum price that the Secretary may accept for sale of the Phoenix Exchange Property under paragraph (4) of this subsection;

(v) a description of the other terms and conditions for purchase of the Phoenix Exchange Property that the Secretary determines are necessary to ensure that the rights and obligations of a Purchaser under this section are comparable in all material respects to the rights and obligations of Collier under the Exchange Agreement, except as otherwise provided in this title;

(vi) a statement establishing requirements for deposit of bond or other guarantee of credit in an amount determined by the Secretary; and

(vii) any other information that the Secretary, in his discretion, determines is reasonably necessary to permit a bona fide potential purchaser to evaluate the terms and conditions for purchase of the Phoenix Exchange Property.

(B) Upon request, the Secretary shall make available to any potential purchaser a copy of the Exchange Agreement or any other document in the possession of the Secretary which the Secretary in his discretion determines is reasonably necessary to permit a bona fide potential purchaser to evaluate the proposal of the United States to sell the Phoenix Exchange Property.

(3) Any person seeking to acquire the Phoenix Exchange Property by purchase under this section shall, within 90 days after publication of notice in the Federal Register under paragraph (2)(A), deliver to the Secretary in the form prescribed in such notice, a written offer to purchase the Phoenix Exchange Property which offer shall—

(A) offer to purchase the entire Phoenix Exchange Property for cash in a single transaction at a price greater than the minimum acceptable price established under paragraph (4);

(B) by its terms be irrevocable for a period of at least 120 days from the date such offer is delivered to the Secretary and be legally binding on the offeror upon acceptance of such offer by the United States;

(C) offer to enter into a Purchase Agreement with the United States under the terms and conditions for purchase of the Phoenix Exchange Property described in the notice by the Secretary under paragraph (2);

(D) contain an offer to the United States to enter into a Trust Fund Payment Agreement in a form prescribed by the Secretary consistent with the requirements for payment of the Trust Fund Payment in the form of annual payments under section 403, which agreement shall be legally binding upon the offeror upon election of the Secretary to receive payment of the Monetary Proceeds in the form of annual payments under section 403 of this title, including: (i) a detailed description of the collateral to be provided by the offeror to secure the payment obligation under the Trust Fund Payment Agreement upon such election of the Secretary to receive payment in the form of annual payments, and (ii) evidence of ownership and value of such collateral sufficient to permit the Secretary to determine whether such collateral is adequate to secure the payment obligations of the Purchaser under the Trust Fund Payment Agreement;

(E) contain evidence that the offeror has made an offer to the City of Phoenix, legally binding by its terms on the offeror upon approval by the City Council of Phoenix, Arizona, to enter into the Planning and Development Agreement;

(F) contain full and substantial evidence of the capacity of the offeror to enter into and perform each of the obligations required to be undertaken by the offeror under the terms described by the Secretary in accordance with paragraph (2) including a description of any financing arrangements to be undertaken by the offeror in order to perform the payment obligation of the Purchaser upon closing of the Purchase Transaction;

(G) meet any other requirements prescribed by the Secretary in the notice published under paragraph (2)(A) which are reasonably necessary to ensure that any offer accepted by the United States under this subsection will provide public benefits to the United States comparable to those provided to the United States under the Land Exchange; and

(H) be accompanied by the deposit of a bond or other guarantee consistent with the requirements prescribed by the Secretary under paragraph (2).

(4) The minimum acceptable price for sale of the Phoenix Exchange Property is a cash amount equal to the sum of the amount required to be deposited into the account for purchase of the Florida Lands and reimbursement of costs under subsection (i) and an amount equal to the amount required to be paid by Collier under paragraphs 13 and 14 of the Exchange Agreement.

(5)(A) The Secretary shall review any offer to purchase the Phoenix Exchange Property delivered to the Secretary within 90 days after publication of notice under paragraph (2)(A) for the purpose of determining whether such offer meets the requirements under paragraph (3) or other requirements set forth in the notice of the Secretary pursuant to paragraph (2). The Secretary shall identify for consideration as qualifying offers all such offers that meet such requirements subject to the limitations of subparagraph (B).

(B) In determining whether an offer is a qualifying offer under this paragraph, the Secretary shall exclude from consideration any offer that the Secretary in his discretion determines—

(i) does not meet the requirements set forth in the notice of the Secretary pursuant to paragraph (2);

(ii) is made by an offeror without adequate capacity to enter into or perform the payment obligations under this title or the Trust Fund Payment Agreement; or

(iii) has failed to identify collateral that is adequate to secure the obligations under the Trust Fund Payment Agreement.

(C) The Secretary shall, within 105 days after publication of notice in the Federal Register, select from among the qualifying offers the best qualifying offer, which shall be the single offer from among the qualifying offers that contains an offer to pay to the United States the highest lump sum cash payment upon closing of the Purchase Transaction: *Provided,* That nothing in this paragraph shall be construed to limit or alter the right of the Secretary to elect to receive payment of the Monetary Proceeds in the form of annual payments under section 403 of this title.

(6) Within 105 days after publication of notice in the Federal Register under paragraph (2)(A), the Secretary shall advise Collier whether the Secretary has identified a qualifying offer or offers. In the event that the Secretary has not identified any such qualifying offer, he shall advise Collier that Collier may accept the offer of the United States to Collier under the terms of the Exchange Agreement and this title. In the event that the Secretary has identified a qualifying offer, the Secretary shall provide Collier with a copy of the best qualifying offer, and shall advise Collier that Collier may accept the offer of the United States under the Exchange Agreement subject to the requirement that Collier pay, rather than the amount required to be paid under paragraphs 13 and 14 of the Exchange Agreement, the difference between an amount equal to 105 percent of the price to be paid under the best qualifying offer and $45,100,000.

(7) Collier may accept the offer of the United States by notice to the Secretary within 30 days of receipt of notice under paragraph (6) that Collier accepts such offer under the terms of the Exchange Agreement and subject to the requirement, if any, for additional payment under paragraph (6). If Collier accepts the offer of the United States under this paragraph, closing of the Land Exchange shall occur under the terms of the Exchange Agreement and this title.

(8) If Collier does not accept such offer, the Secretary shall accept the best qualifying offer. If no qualifying offer has been received within the period specified in paragraph (3), the Secretary shall maintain the School Property in accordance with subsection (k) of this section, and notify the Committees on Interior and Insular Affairs and Veterans' Affairs in the House of Representatives, and the Committee on Energy and Natural Resources in the Senate within 60 days of the Secretary's notice to Collier under paragraph (6). Closing of the Purchase Transaction under this subsection shall occur within 90 days after acceptance by the United States of the best qualifying offer, subject to the requirements respecting deposit of payment under subsection (i).

(9) No action of the Secretary under this subsection shall be subject to the provisions of 5 U.S.C. 553 through 558 or 701 through 706.

(i) ACCOUNT FOR PURCHASE TRANSACTION AMOUNTS.—(1) Upon closing of the Purchase Transaction, there shall be established in the Treasury of the United States an account into which shall be deposited from the amount paid to the United States under the Purchase Transaction, at the direction of the Secretary, an amount equal to the sum of—

(A) $49,400,000, less any amount received by Collier in consideration of the conveyance to the United States of any portion of the Florida Lands prior to the closing of the Purchase Transaction, and

(B) an amount equal to the costs determined by the Secretary as reimbursable to Collier under paragraph (2), based on information to be provided to the Secretary by Collier at the time that Collier provides preliminary notice under subsection (d).

(2) For purposes of this subsection, reimbursable costs of Collier shall include—

(A) all costs, including fees for attorneys and consultants and appraisal costs paid or incurred by Collier in connection with the Public Planning Process and planning and zoning of the School Property, and

(B) an amount for compensation of general administrative costs and overhead, which shall be an amount equal to the costs reimbursable to Collier under subparagraph (A) multiplied by a factor of 0.8.

(3) Upon conveyance by Collier to the United States of title to the Florida Lands pursuant to this subsection, the Secretary shall cause to be paid to Collier from the ac-

count established under paragraph (1): (A) $49,400,000, less any amount previously paid to Collier by the United States in consideration of conveyance of any portion of the Florida Lands, and (B) an amount equal to the total amount of costs reimbursable to Collier under this subsection, as determined by the Secretary.

(j) Conveyance of Title.—Upon conclusion of the procedures under subsection (h), the Secretary is authorized and directed to release and quitclaim to the Purchaser all right, title, and interest of the United States to the Phoenix Exchange Property.

(k) Reversion.—Any land within the School Property not conveyed to the Purchaser or the City or transferred to the Veterans' Administration upon closing of the Land Exchange or the Purchase Transaction or which reverts to the United States under subsection (e)(4) or is transferred to the Secretary under subsection (g)(4) and is not sold to the City or the Purchaser shall be maintained under the administrative jurisdiction, management and control of the National Park Service and shall not be disposed of until authorized by an Act of Congress: *Provided, however,* That such lands shall not be considered a unit of the National Park System.

(l) State and Local Authority.—Nothing in this title shall be construed to supersede, abrogate, enlarge, diminish, or otherwise alter the exercise of authority of the State of Arizona, the City or other State and local authority with respect to planning and zoning of the School Property under applicable State or local law.

(m) Specific Plan Reports.—(1) No later than 30 days after the submission of the Specific Plan as provided for in the Planning and Development Agreement, the Comptroller General of the United States shall submit to Congress a report analyzing the Specific Plan, particularly as it relates to the final proposals for zoning of the Phoenix Exchange Property, the alternatives considered, the reasons for rejection of the alternatives, and the effect of the rezoning proposals on the potential value of the property relative to the effects of other zoning proposals.

(2) Within 60 days after acceptance of the Purchasers' offer under subsection (h)(8), or acceptance by Collier of the offer of the United States under subsection (h) (1), (6) or (7), whichever is later, the Comptroller General shall provide a further report on all actions taken subsequent to the submission of the Specific Plan relative to disposition of the Phoenix Exchange Property, particularly as they relate to the value received by the United States and the process by which such value was determined.

(3) The Comptroller General shall transmit all reports required by this section to the Committees on Interior and Insular Affairs and Education and Labor of the House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate.

(4) Within 45 days following submission of the Specific Plan as provided for in the Planning and Development Agreement, the Secretary shall obtain, at Collier's expense, a current, independent appraisal of the Phoenix Exchange Property, based upon the zoning requirements stated in such Specific Plan, which appraisal shall determine the fair market value which Collier must give for the Phoenix Exchange Property if such property is acquired by Collier pursuant to the provisions of subsection (h)(1).

PAYMENT TO THE TRUST FUNDS

Sec. 403. (a) Deposit of Monetary Proceeds.—The Monetary Proceeds shall be paid to the United States for deposit in the Arizona InterTribal Trust Fund and the Navajo Trust Fund in accordance with this section and section 405 of this title.

(b) Election of Lump Sum or Annual Payments.—Subject to the requirements for consultation under subsection (c)(3), the Secretary may, in his discretion, elect to receive the Trust Fund Payment for deposit in the Arizona InterTribal Trust Fund or the Navajo Trust Fund, or both, in the form of either a lump sum payment or 30 annual payments, calculated in accordance with subsection (c). The Secretary shall provide notice of such election to the Purchaser within 90 days after receipt of notice from Collier that it intends to accept the offer of the United States under the Exchange Agreement pursuant to section 402(d).

(c) Method of Payment.—(1) If the Secretary elects to receive a Trust Fund Payment in the form of a lump sum payment, the Purchaser shall, at the time of closing, pay to the United States an amount equal to that portion of the Monetary Proceeds that is properly allocable to the Trust Fund for which such election is made.

(2) If the Secretary elects to receive a Trust Fund Payment in the form of annual payments, the Purchaser shall make—

(A) 30 annual payments equal to the interest due on an amount equal to that portion of the Monetary Proceeds that is properly allocable to the Trust Fund for which such election is made; and

(B) at the time of the last annual payment, a payment equal to that portion of the Monetary Proceeds that is properly allocable to the Trust Fund for which such election is made.

(3) Prior to making any election as to form of the Trust Fund Payment under this subsection, the Secretary shall consult with—

(A) the InterTribal Council of Arizona, concerning the form of the Trust Fund Payment to the Arizona InterTribal Trust Fund; and

(B) the governing body of the Navajo Tribe, concerning the form of the Trust Fund Payment to the Navajo Trust Fund.

(4) If the Secretary elects to receive a Trust Fund Payment in the form of annual payments under subsection (c)(2), the Secretary is directed to execute the Trust Fund Payment Agreement pursuant to which such annual payments will be made.

(5) The interest rate to be used in determining the interest due on annual Trust Fund Payments payable by the purchaser shall be the interest rate being offered on bonds payable in 30 years sold by the United States on the date that notice of the election of the form of the Trust Fund Payment is made by the Secretary plus 0.25 percent, except that in no event shall such interest rate be lower than 8.5 percent or higher than 9.0 percent.

(6) Closing of the Land Exchange or the Purchase Transaction shall occur no sooner than 90 days after notice of the Secretary's election is provided to the Purchaser, except that if the Secretary elects to receive a Trust Fund Payment in the form of annual payments under subsection (c)(2), closing of the Land Exchange or the Purchase Transaction shall not occur unless a Trust Fund Payment Agreement has been executed.

(d) Cash Proceeds.—Any cash proceeds to the United States from the sale of land within the School Property offered to and accepted by the City or the Purchaser subsequent to closing of the Land Exchange or the Purchase Transaction shall be in the form of a lump sum payment, unless otherwise agreed to by the parties, payable to the United States for deposit into the Arizona InterTribal Trust Fund and the Navajo Trust Fund pursuant to section 405 of this title.

CLOSURE OF THE PHOENIX INDIAN HIGH SCHOOL

Sec. 404. (a) Closure.—Notwithstanding any other provision of law, the Secretary shall close the Phoenix Indian High School on a date determined by the Secretary, which date shall be no earlier than June 1, 1990, and no later than September 1, 1990.

(b) Notice.—By January 30, 1990, the Secretary shall notify the tribal governing body of each Arizona Tribe affected by the closing of the Phoenix Indian High School and each person, or parent or guardian of each person, enrolled as a student at the Phoenix Indian High School on January 1, 1991, of the date of closing of the Phoenix Indian High School as determined by the Secretary under subsection (a).

(c) Individual Education Plans.—(1) Beginning January 30, 1990, but in no case later than March 1, 1990, the Secretary, through the Assistant Secretary of Indian Affairs, shall—

(A) identify each eligible Indian student who is enrolled or preenrolled for attendance at the Phoenix Indian High School, as of the date of enactment of this title, or who attended the Phoenix Indian High School during the academic year 1988-89, and who did not graduate from a secondary program, and shall—

(i) contact each student, or the parents or guardians of record of each such student,

(ii) notify each student that the Phoenix Indian High School is to be closed at the date established by the Secretary under subsection (a),

(iii) inform each of the alternatives available to each student and their families, including attendance at the Bureau operated facility at Riverside, California, and

(iv) develop the individual education plans required under subparagraph (B);

(B) develop for each student identified under subparagraph (A) an individual education plan, which shall be formulated in a cooperative fashion between Bureau education and other appropriate social services. Each individual education plan shall, at the minimum, include—

(i) an identification of the student;

(ii) an identification of the special educational, social, or academically related cultural needs of each student;

(iii) a description of the consultation and discussions with the student and the parent involved in the formulation of this plan;

(iv) an identification of the alternative service provider chosen by the student or parent to provide educational services;

(v) any actions taken, pursuant to the requirements to protect confidentiality, to contact and coordinate the alternative service provider, the tribe, any appropriate Bureau social service entities, and the Office of Indian Education Program; and

(vi) set out in detail the actions to be taken by the Bureau of Indian Affairs to supplement the program provided with additional services and support for the student, where the student attends a non-Bureau funded program or a Bureau funded program which does not include the services described within the plan; and

(C) take such steps as are necessary to establish a formal internal mechanism for implementing the findings and recommendations of the plans developed under subparagraph (B).

(2)(A) Any other provision of law notwithstanding, the Secretary shall, for the fiscal years ending prior to September 30, 1992, reserve from funds appropriated under section 1128 of Public Law 95-561 and other Bureau of Indian Affairs accounts presently providing support to the Phoenix Indian High School during the fiscal year 1990 an amount equal to the amount determined under subparagraph (B) for the purpose of implementing subparagraph (C).

(B)(i) The amount reserved for the fiscal year ending September 30, 1991, shall be equal to the sum of three-fourths the amount generated under the Indian Student Equalization Formula during fiscal year 1990 for the Phoenix Indian High School plus three-fourths the amount generated under the accounts referenced in subparagraph (A), such funds to be reserved from the respective accounts and administered pursuant to subparagraph (C).

(ii) The amount reserved for the fiscal year ending September 1992 shall be equal to the sum of one-half the amount generated under the Indian Student Equalization Formula during fiscal year 1990 for the Phoenix Indian High School plus one-half the amount generated under the accounts referenced in subparagraph (A), such funds to be reserved from the respective accounts and administered pursuant to subparagraph (C).

(C) From funds reserved pursuant to subparagraph (B), the area education director and the area director shall jointly administer a program to implement the individual education plans developed under paragraph (2), with particular emphasis being placed on monitoring the performance and attendance of students covered by the individual education plans. From such funds, they shall also, to the extent funds are available, conduct such activities as may be necessary to determine those eligible Indian students who reside within the State of Arizona or the jurisdiction of the Phoenix Area Office of the Bureau of Indian Affairs who are of legal age to be attending school but who are not enrolled in any program.

(d) Transfer of Jurisdiction.—Within 60 days after closure of the Phoenix Indian High School under subsection (a), the Secretary shall transfer administrative jurisdiction, management and control of the school property from the Bureau of Indian Affairs to the National Park Service: *Provided*, That, prior to the disposition of the School Property under the terms of the Exchange Agreement or otherwise, the National Park Service shall manage and control such School Property in a manner consistent with the requirements of the Exchange Agreement and subsection (e), except that the Administrator may, during the interim period of administration, take such actions as are necessary to protect the improvements located on the 11.5 acres of land and 4.5 acres of land to be transferred to the Veterans' Administration pursuant to subsections (f) and (g) of section 402. During the interim period of administration the School Property shall not be considered a unit of the National Park System.

(e) Transfer of Resources.—(1) Any other provision of law notwithstanding, the following shall apply to the Sherman Indian School, located in Riverside, California, and operated by the Bureau of Indian Affairs, or its successors, effective on the date of enactment:

(A) The attendance boundaries used by the Bureau of Indian Affairs to govern placements in the Sherman Indian School is expanded to include all of the attendance boundary served in the fiscal year 1991 by the Phoenix Indian High School.

(B) Subject to school board approval, the superintendent of the Sherman Indian School is authorized to pay the recruitment and retention allowance authorized under section 1131(h)(3) of Public Law 95-561.

(C) The Secretary shall inventory all Bureau of Indian Affairs educational property, including personal property, currently located at the Phoenix Indian High School. The superintendent of the Sherman Indian School, and their designees, shall have first option on all materials located at the Phoenix Indian High School and the Secretary shall take all steps necessary to move the materials chosen by the superintendent of the Sherman Indian School to the school as expeditiously as possible. Remaining property shall be made available to other off-reservation boarding schools.

(D) Subject to the provisions of subsection (d), the personnel ceilings at the Sherman Indian School shall be immediately adjusted to reflect employees who transfer from the Phoenix Indian High School and any increase in the student population projected by the closure.

(2) With respect to any employee employed at the Phoenix Indian High School prior to the closure of the academic program—

(A) for the purpose of conducting the reduction in force associated with the closure of the Phoenix Indian High School, Phoenix Indian High School and the Sherman Indian School in Riverside, California shall be considered as one employment area; and

(B) for those who do not elect to exercise the above, or to whom they do not apply, outplacement assistance, including where available job retraining programs, professional résumé and other job placement assistance.

ESTABLISHMENT OF THE ARIZONA INDIAN TRUST FUNDS

Sec. 405. (a) Establishment.—Upon disposal of the School Property and receipt by the United States of the Monetary Proceeds, there shall be established in the Treasury of the United States—

(1) a fund to be known as the Arizona InterTribal Trust Fund; and

(2) a fund to be known as the Navajo Trust Fund.

(b) Amounts in Funds.—Each Trust Fund established under this section shall consist of—

(1) an amount equal to the sum of—

(A) that portion of the Monetary Proceeds properly allocable to each such Trust Fund;

(B) that portion of the cash proceeds from the sale by the United States to the City or the Purchaser of additional acres of land within the School Property pursuant to subsection (g)(5) of section 402 of this title properly allocable to each such Trust Fund; and

(C) any interest accruing on any amount deposited in each such Trust Fund,

(2) less the amount of Trust Income from the Trust Fund used by the Secretary pursuant to subsection (d).

(c) Investment.—(1) If a Trust Fund Payment is made in the form of a lump sum payment under section 403(c)(1) of this title, the Secretary of the Treasury shall invest the amount of such lump sum payment in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a).

(2) If a Trust Fund Payment is made in the form of annual payments under section 403(c)(2) of this title, the Secretary of the Treasury shall hold in trust the security provided in accordance with the Trust Fund Payment Agreement.

(3) At the direction of the Secretary, the Secretary of the Treasury may invest in accordance with the requirements of paragraph (1) any portion of the Trust Income not used by the Secretary in any year.

(d) Use of Trust Income.—(1) The purpose of these trust funds is to supplement, not supplant, current Federal efforts. The Secretary shall not reduce, rescind, alter or change any distribution of funds to which any Indian tribe or students covered by this section may otherwise be entitled or eligible under any other Federal authority. The Congress also expresses its intention that in determining the amount of any funds to provide services to Indian tribes or students covered by this section, there shall be no amendment, alteration, limitation, or reduction within future congressional action occasioned by the presence of these funds.

(2) Trust Income may be used only for—

(A) supplemental educational and child-welfare programs, activities, and services for the benefit of—

(i) those Arizona Tribes that were members of the InterTribal Council of Arizona on January 1, 1988, in the case of payments from the Arizona InterTribal Trust Fund; and

(ii) the Navajo Tribe, in the case of payments from the Navajo Trust Fund;

(B) the design, construction, improvement, or repair of related facilities; and

(C) the payments referred to in paragraph (4).

(3)(A) To carry out the purposes of paragraph (2), the Secretary, pursuant to appropriations, may make grants—

(i) from the Arizona InterTribal Trust Fund to Arizona tribes that were members of the InterTribal Council of Arizona on January 1, 1988, public school districts on or near reservations of such Tribes in the State of Arizona, and the InterTribal Council of Arizona; and

(ii) from the Navajo Trust Fund to the Navajo Tribe or public school districts on or near the Navajo Reservation in the State of Arizona.

(B) The Secretary shall require, as a condition for making any grant to a public school district, the approval of the governing body of the Arizona Tribe the children of which are to be served by such grant.

(4)(A) An amount equal to 5 percent of the Trust Income during the preceding fiscal year shall be paid annually by the Secretary—

(i) to the InterTribal Council of Arizona from the Arizona InterTribal Trust Fund; and

(ii) to the governing body of the Navajo Tribe from the Navajo Trust Fund.

(B) Payments made under this paragraph shall be used for education, child welfare, community development, and general administrative purposes, and may be made only pursuant to an annual budget adopted by the vote of—

(i) a majority of the members of the InterTribal Council of Arizona, in the case of payments to the Arizona InterTribal Trust Fund; and

(ii) the governing body of the Navajo Tribe, in the case of payments to the Navajo Trust Fund.

(C) The limitation on the amount of payments under this paragraph shall not be construed as a limitation on the authority of the Secretary to make grants to the InterTribal Council of Arizona or the Navajo Tribe under paragraph (3).

(5) None of the Trust Income may be used for scholarship grants for higher education.

(e) Allocation.—In depositing into the Trust Funds the Monetary Proceeds, any payment by the State of Arizona, or the cash proceeds from the sale of land within the School Property—

(1) the amount properly allocable to the Arizona InterTribal Trust Fund shall be 95 percent of the total amount of such payment or cash proceeds to the United States; and

(2) the amount properly allocable to the Navajo Trust Fund shall be 5 percent of the total amount of such payment or cash proceeds to the United States.

NAVAJO-HOPI RELOCATION

Sec. 406. Provisions of Benefits.—Section 14 of Public Law 93-531 (25 U.S.C. 640d-13) is amended by adding at the end thereof the following new subsection:

"(d)(1) Except as provided in paragraph (2) of this subsection, the Commissioner shall provide relocation benefits under the Act to applicants in the chronological order in which the applicants are certified for such benefits, but the Commissioner may grant priority status on a case-by-case basis to applicants based on medical, safety, or humanitarian reasons and the readiness of the applicant to move or in order to continue the policy of moving extended families as units.

"(2) The Commissioner shall give first priority in the provision of relocation benefits under this title to those families who were evicted pursuant to an order issued in the case United States v. Kabinto, 456 F. 2d 1087 (1972).".

Sec. 407. Administration of New Lands Funds.—Subsection (c)(2)(B) of section 12 of Public Law 93-531 (25 U.S.C. 640d-11) is amended by adding at the end thereof of the following new clause:

"(B) : *Provided further*, That for administrative purposes such funds shall be maintained in a separate account.".

Sec. 408 Clarification of Eligibility.—Public Law 93-531 is amended by adding at the end thereof the following new section:

"Sec. 32. Nothing in this title prohibits the Commissioner from providing relocation assistance to families certified as eligible, regardless of their current place of residence, with funds appropriated to implement Public Law 93-531.".

TITLE V—SANTA RITA PUBLIC LANDS EXCHANGE

PAYMENT OF FEDERAL DEBT

Sec. 501. The Secretary of the Interior, acting through the Bureau of Land Management, shall convey to the State of Arizona, a portion of the lands in the Santa Rita Experiment Station lying outside of the National Forest System, (comprising 50,810.94 acres as generally depicted on map AZ-020-01, subpart A, dated September 13, 1988), which the Secretary deems necessary to satisfy the remaining Federal debt to the State of Arizona, as of the date of enactment of this title, for relinquishments of lands for the Central Arizona project pursuant to the provisions of the Act of June 20, 1910. The map referenced in this section shall be on file and available for public inspection in the offices of the Arizona State Bureau of Land Management and of the Bureau of Land Management in Washington, D.C.

LAND ACQUISITION

Sec. 502. (a) State Lands Acquisition.—Upon completion of the actions authorized in section 501, the Secretary shall utilize the remaining Federal lands in the Santa Rita Experiment Station, described in section 501, to acquire through exchange, pursuant to the exchange provisions of the Federal Land Policy Management Act of 1976, all of the State trust lands within Catalina State Park (as generally depicted on map AZ-020-02, subpart B, dated September 13, 1988), Buenos Aires National Wildlife Refuge (as generally depicted on map AZ-020-05, subpart A, dated September 13, 1988), the Black Canyon Corridor (as generally depicted on map AZ-020-03, Subpart A, dated September 13, 1988), Arivaca Lake (as generally depicted on map AZ-020-05, subpart B, dated September 13, 1988), the Madera-Elephant Head Trail area (as generally depicted on map AZ-020-01, subpart C, dated September 13, 1988), and near Lake Pleasant (as generally depicted on map AZ-020-03, subpart B, dated September 13, 1988). The maps described in this subsection shall be on file and available for public inspection in the offices of the Arizona State Bureau of Land Management and of the Bureau of Land Management in Washington, D.C.

(b) Additional Acquisition Authority.—The Secretary is also authorized to acquire the State lands described in subsection (a) by purchase or eminent domain to the extent determined by him to be appropriate.

(c) Lands To Be included in the National Wildlife Refuge System.—Those lands within the Buenos Aires National Wildlife Refuge that are acquired in accordance with this title shall be added to the National Wildlife Refuge System and managed in accordance with the National Wildlife Refuge System Administration Act of 1966.

(d) Lands To Be Administered by the Bureau of Land Management.—Those lands near Lake Pleasant and within the Black Canyon Corridor that are acquired in accordance with this title shall be administered by the Bureau of Land Management, in accordance with the provisions of the Federal Land Policy and Management Act of 1976.

ADDITION TO THE CORONADO NATIONAL FOREST

Sec. 503. (a) Inclusion in National Forest System.—Those lands in the Catalina State Park, Madera-Elephant Head Trail area, and the Arivaca Lake area that are acquired pursuant to this title, shall be included in the Coronado National Forest, and the exterior boundary of the Coronado National Forest shall be modified to include such lands on the date of acquisition by the United States. The Catalina State Park lands shall be managed cooperatively with the Arizona State Parks Department for public access and recreation purposes under the authorities of the National Forest System. Subject to valid existing rights, such lands are hereby withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public lands laws;

(2) location, entry, and patent under the United States mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing.

(b) Lands Exempt From Further Planning.—The lands added to the Coronado National Forest by this section shall be administered under the laws and regulations applicable to National Forest System lands except that the lands described in this section shall be exempt from any further planning requirements of the National Forest Management Act of 1976 until the final 1986 forest plan for the Coronado National Forest is revised. At that time, future management direction for these lands will be determined as a part of planning for the entire national forest.

REVOCATION OF SANTA RITA RANGE EXECUTIVE AND PUBLIC LAND ORDERS

Sec. 504. (a) Revocation.—Notwithstanding any other provision of law, in order to facilitate the transfer of certain Federal lands, Executive Order 1222 dated July 1, 1910, and Public Land Order 1363 dated November 14, 1956, which withdrew the Santa Rita Experimental Range for a forest and range experiment station, are hereby revoked in their entirety.

(b) Effective Date.—The effective date of the revocation made by this section shall be—

(1) for those lands lying within the National Forest System the date of enactment of this title; or

(2) for those lands lying outside of the National Forest System the date of transfer of patent to the State of Arizona.

WITHDRAWALS FOR ADMINISTRATIVE SITE

Sec. 505. (a) Withdrawal.—Subject to valid existing rights, the following described lands within the Coronado National Forest are hereby withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public lands laws;

(2) location, entry, and patent under the United States mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing:

All of section 19, the SW¼NW¼, and W½SW¼
of section 20, the N½NE¼
of section 30; all in T. 19 S.,
R. 15 E., G&SRM; containing approximately 751.04
acres. (Florida Canyon)

Such lands shall be used for research purposes in accordance with applicable law.

(b) Revocation of Order.—Notwithstanding any other provision of law, in order to facilitate the administration of the Federal lands described in subsection (a), Public Land Order 1080, dated February 28, 1955, which withdrew lands for forest administrative sites, is hereby revoked as it relates in sec. 19, T. 19 S., R. 15 E., G&SRM.

WITHDRAWALS FOR KOFA NATIONAL WILDLIFE REFUGE

Sec. 506. Subject to valid existing rights, all federally owned lands within the Kofa National Wildlife Refuge as of the date of enactment of this title are hereby withdrawn from all forms of—

(a) entry, appropriation, or disposal under the public land laws;

(b) location, entry, and patent under the United States mining laws; and

(c) disposition under all laws pertaining to mineral and geothermal leasing.

REVOCATION OF RECLAMATION WITHDRAWALS

Sec. 507. (a) In General.—Notwithstanding any other provision of law, in order to facilitate the transfer of certain Federal lands—

(1) Secretarial Orders dated January 31, 1903, September 8, 1903, June 4, 1930, and October 16, 1931, which withdrew lands from the Colorado River Storage Project

and Executive Order 8647 dated January 22, 1941, and Public Land Order 4417 dated May 20, 1968, which withdrew lands for the Havasu National Wildlife Refuge, and Executive Order 8685 dated February 14, 1941, which withdrew lands for the Imperial National Wildlife Refuge are hereby revoked on the following described lands under the administration of the Fish and Wildlife Service:

Sec. 17. T. 5 S., R. 21 W.; portions of secs. 17, 20, 28, and 33, T. 14 N., R. 20 W.; portions of secs. 3 and 10, T. 16 N., R. 21 W.; and portions of secs. 21, 27, and 34, T. 17 N., R. 21 W.; all in G&SRM.

The effective date of the revocation shall be the date of patent to the State of Arizona.

(2) Secretarial Orders dated July 2, 1902, and February 10, 1906, which withdrew certain lands in aid of the Salt River Project, are hereby revoked on the following described lands:

Lots 7, 9, 11, 13, through 15, and 17 through 29 of section 24, T. 2 N., R. 6 E., G&SRM.

The effective date of the revocation shall be the date of patent to the State of Arizona.

(b) Patents.—The following stipulations shall be included in all patents issued by the Secretary of the Interior for the lands described in subsection (a)(2):

(1) Excepting and reserving to the Salt River Project, a right-of-way for electric transmission and distribution lines and access purposes which shall comprise that portion of the east 300 feet of section 24, lying west of a line extending northerly from a point on the south section line of section 24, being 51 feet west of the southeast corner of section 24 to a point on the north section line of section 24, being 129 feet west of the northeast corner of section 24, as generally depicted on the Salt River Project drawing number C-675-439.88, dated June 1988;

(2) The United States and the Salt River Project shall not be liable whatsoever for damages to any lands conveyed herein, which may be caused by flooding in conjunction with any of the United States' or Salt River Project's existing or future facilities or protective works;

(3) The patentee, successors or assigns of the lands conveyed herein shall be held liable to the United States or the Salt River Project for damages caused by the holder's activities which alter drainage and adversely affect adjacent lands, project facilities or protective works of the United States or the Salt River Project; and

(4) Reserving to the United States a right-of-way for road purposes, as described in Bureau of Land Management A.R. 020234.

ADJUSTMENT OF CORONADO NATIONAL FOREST BOUNDARY

Sec. 508. (a) Modification of Proclamation 1121.—Proclamation 1121, dated April 17, 1911, which established the Coronado National Forest boundary as it related to Township 21 South, Range 18 East, G&SRM, is hereby modified to delete sections 27 and 28, which are not under the jurisdiction of the Forest Service, from inclusion within the National Forest System.

(b) Modification of Proclamation Dated July 19, 1907.—The proclamation dated July 19, 1907, which established the Coronado National Forest boundary as it is related to Township 15 South, Range 17 East, Gila and Salt River Meridian, is hereby modified to delete sections 9, 10, 15 and 22, which are not under the jurisdiction of the Forest Service, from inclusion within the National Forest System.

AUTHORIZATION

Sec. 509. (a) General Appropriation.—There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

(b) Personnel.—There are hereby authorized to be appropriated such sums as are necessary to provide for at least 5 and more, if necessary, full-time equivalent employees of the Bureau of Land Management to perform resource management and law enforcement activities as part of the administration of the Bureau of Land Management lands in Black Canyon Corridor.

Sec. 510. The Director of the United States Fish and Wildlife Service shall approve or disapprove applications for rights-of-way access across the Kofa National Wildlife Refuge as expeditiously as possible.

TITLE VI—MOUNT GRAHAM INTERNATIONAL OBSERVATORY

ESTABLISHMENT OF THE MOUNT GRAHAM INTERNATIONAL OBSERVATORY SITE

Sec. 601. (a) The Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") shall issue a Special Use Authorization, subject to the terms and conditions of Reasonable and Prudent Alternative Three of the United States Fish and Wildlife Service Biological Opinion, dated July 14, 1988, (hereinafter referred to as "the Biological Opinion"), to the State of Arizona Board of Regents on behalf of the University of Arizona for the establishment of the Mount Graham International Observatory Research Site (hereinafter referred to as the "Site"), which shall, subject to any subsequent biological opinions issued by the United States Fish and Wildlife Service under the Endangered Species Act, and the provisions of this title, include provision for seven telescopes and necessary support facilities, for the purposes of scientific and astronomical research.

(b) The Site referred to in Subsection (a) shall include not more than 24 acres within the 150-acre area of the Coronado National Forest, Arizona, as generally depicted on a map entitled, "Mount Graham International Observatory Site", dated July 28, 1988. Copies of the map shall be available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, District of Columbia, and the Forest Service office located in Tucson, Arizona.

CONSTRUCTION AUTHORIZATION

Sec. 602. (a) Subject to the terms and conditions of Reasonable and Prudent Alternative Three of the Biological Opinion, the requirements of section 7 of the Endangered Species Act shall be deemed satisfied as to the issuance of a Special Use Authorization for the first three telescopes and the Secretary shall immediately approve the construction of the following items:

(1) three telescopes to be located on Emerald Peak;

(2) necessary support facilities; and

(3) an access road to the Site.

(b) Until the road described in subsection (a)(3) above is constructed, the Secretary shall allow the University of Arizona to use forest roads FR 507 and FR 669 to the extent permitted in the Biological Opinion.

ADDITIONAL TELESCOPE CONSTRUCTION AUTHORIZATION

Sec. 603. (a) The Secretary shall, subject to the requirements of the Endangered Species Act and other applicable law, authorize the construction of four additional telescopes on Emerald Peak.

(b) Consultation under section 7(a)(2) of the Endangered Species Act with respect to construction of the four additional telescopes referred to in subsection (a) shall consider, among other things, all biological data obtained from monitoring the impact of construction of the first three telescopes upon the Mount Graham red squirrel. Authorization by the Secretary for the construction of four additional telescopes shall be consistent with requirements deemed necessary to avoid jeopardizing the continued existence of any species listed under and pursuant to the Endangered Species Act.

MANAGEMENT PLAN

Sec. 604. (a) The University of Arizona, with the concurrence of the Secretary, shall develop and implement a management plan, consistent with the requirements of the Endangered Species Act and with the terms and conditions of Reasonable and Prudent Alternative Three of the Biological Opinion, for the Site.

(b) Such management plan shall include provisions for the construction, operation and maintenance of the Site, access to the Site, and related support facilities.

(c) The management plan shall be included in any Special Use Authorization issued by the Secretary to the University of Arizona.

EXISTING SPECIAL USE AUTHORIZATIONS

Sec. 605. (a) Those Special Use Authorizations now in effect for the Columbine Summer Home Tract area and the Arizona Bible School Organization Camp shall continue, subject to the terms and conditions of the authorizations, for the duration of the term specified in each authorization. Prior to the termination, nonrenewal or modification of those Special Use Authorizations for the area noted above, the Secretary shall, with the assistance of the United States Fish and Wildlife Service, conduct a biological study to determine the effects of such special use authorizations upon the Mount Graham red squirrel and other threatened or endangered species. In making this determination, the Secretary shall consider the small amount of land under special use authorizations. The biological study shall also involve the participation of representatives from the community of Safford, Arizona, all of the affected parties, and any other appropriate interests. In addition to the biological study, the Secretary shall initiate consultation with the United States Fish and Wildlife Service pursuant to section 7(a)(2) of the Endangered Species Act regarding the termination, nonrenewal, extension or modification of the special use authorizations.

(b) Pursuant to title 2300 of the Forest Service Manual, special use terminations, nonrenewal, or modifications shall not take effect until ten years from the last date of the tenure of existing special use authorizations described in subsection (a). Unless the biological study or the biological opinion issued by the United States Fish and Wildlife Service after consultation under the Endangered Species Act concluded that an earlier date was necessary to avoid jeopardizing the continued existence of the Mount Graham red squirrel or any other threatened or endangered species, such actual terminations, nonrenewals, or modifications shall not take effect before completion of a biological study by the United States Fish and Wildlife Service to begin in the year 2000. This additional study shall be subject to the same requirements and involve the same participants as described in subsection (a).

(c) If, after completion of these studies, termination, modification or nonrenewal of special use authorizations described in subsection (a) are prescribed, the United States Forest Service shall, with the cooperation and approval of the holders of these special use authorizations, develop a relocation plan for such individuals and entities.

(d) Nothing in this section is intended to preclude the termination of special use authorizations for breach by the permittee of terms and conditions of the authorizations.

FINANCIAL RESPONSIBILITIES

SEC. 606. In implementing this title, all costs directly associated with construction and site preparation for telescopes, support facilities, a new access road, the biological monitoring program for the Mount Graham red squirrel as contained in the terms and conditions of Reasonable and Prudent Alternative Three of the Biological Opinion, and the retention of an onsite biologist, shall be funded by the University of Arizona.

ENVIRONMENTAL IMPACT STATEMENTS

SEC. 607. With reference to the construction of the first three telescopes, related facilities, and the access road within the boundaries of the Site described in section 601, the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969 shall be deemed to have been satisfied. The Environmental Impact Statement for the Site, currently in process, shall continue and shall use the information developed to date and any additional appropriate information in analyzing the impacts of the four additional telescopes authorized under section 603 of this title.

TITLE VII—MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Subtitle A—Mississippi National River and Recreation Area

FINDINGS AND PURPOSES

SEC. 701. (a) FINDINGS.—The Congress finds that:

(1) The Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area represents a nationally significant historical, recreational, scenic, cultural, natural, economic, and scientific resource.

(2) There is a national interest in the preservation, protection and enhancement of these resources for the benefit of the people of the United States.

(3) State and local planning efforts along the River Corridor provide a unique foundation for coordinating Federal, State, and local planning and management processes.

(4) Existing Federal agency programs lack sufficient coordination and financial participation with State and local planning and regulatory authorities to provide for adequate and comprehensive resource management and economic development consistent with the protection of the Mississippi River Corridor's nationally significant resources, and the public use and enjoyment of the area.

(5) The preservation, enhancement, enjoyment, and utilization of the nationally significant resources of the Mississippi River Corridor can be accomplished by a cooperative Federal, State, and local comprehensive planning and management effort.

(b) PURPOSES.—The purposes of this subtitle are:

(1) To protect, preserve and enhance the significant values of the waters and land of the Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area.

(2) To encourage adequate coordination of all governmental programs affecting the land and water resources of the Mississippi River Corridor.

(3) To provide a management framework to assist the State of Minnesota and its units of local government in the development and implementation of integrated resource management programs for the Mississippi River Corridor in order to assure orderly public and private development in the area consistent with the findings of this subtitle.

ESTABLISHMENT OF NATIONAL RIVER AND RECREATION AREA

SEC. 702. (a) ESTABLISHMENT.—There is hereby established the Mississippi National River and Recreation Area (hereinafter in this title referred to as the "Area") which shall consist of the State designated Mississippi Critical Area encompassing that portion of the Mississippi River and adjacent lands generally within the Saint Paul-Minneapolis Metropolitan Area, as depicted on the map entitled Mississippi National River and Recreation Area numbered MI-NRA/80,000 and dated April 1987. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and in the offices of the Metropolitan Council of the Twin Cities Area in Saint Paul, Minnesota.

(b) BOUNDARIES.—The Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register, as soon as practicable after the enactment of this title a detailed description and map of the boundaries established under subsection (a).

MISSISSIPPI RIVER COORDINATING COMMISSION

SEC. 703. (a) ESTABLISHMENT.—There is hereby established a Mississippi River Coordinating Commission whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 702. The Commission shall consist of the following 22 members appointed by the Secretary of the Interior:

(1) The Director of the National Park Service, or his designee.

(2) The Chief of the Corps of Engineers, or his designee.

(3) The Director of the Fish and Wildlife Service, or his designee.

(4) Three individuals, from recommendations by the Governor of Minnesota, to represent the Minnesota Department of Natural Resources, Department of Transportation, and Minnesota Environmental Quality Board.

(5) One individual, to represent the Minnesota Historical Society.

(6) One individual, to represent the Metropolitan Council of the Twin Cities Area.

(7) Four elected officials, to represent the cities of Saint Paul and Minneapolis.

(8) Four elected officials, from recommendations by the Governor of Minnesota, to represent the interests of the other affected municipalities and counties.

(9) One individual, to represent the Metropolitan Parks and Open Spaces Commission.

(10) One individual, from recommendations by the Governor of Minnesota, to represent the interests of commercial navigation.

(11) Four individuals, from recommendations by the Governor of Minnesota, to be chosen from the general public.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members (other than ex officio members) shall be appointed for terms of three years.

(2) Of the members first appointed—

(A) Under paragraph (4) of subsection (a):

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(B) Under paragraphs (7) and (8) of subsection (a), one shall be appointed for a term of one year.

(C) Under paragraph (11) of subsection (a):

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(iii) One shall be appointed for a term of four years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) CHAIRPERSON.—The Chairperson of the Commission shall be appointed by the Secretary from among the members of the Commission nominated by the Governor of Minnesota to serve for a term of three years.

(e) QUORUM.—Twelve members of the Commission shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(g) DEVELOPMENT OF POLICIES AND PROGRAMS.—As a coordinator and advisory organization, the Commission shall assist the Secretary, the State of Minnesota and local units of government, endeavoring to use existing Federal, State, regional, and local plans and programs where consistent with the intent and goals of this subtitle, in developing the following:

(1) Policies and programs for the preservation and enhancement of the environmental values of the Area.

(2) Policies and programs for enhanced public outdoor recreation opportunities in the Area.

(3) Policies and programs for the conservation and protection of the scenic, historical, cultural, natural and scientific values of the Area.

(4) Policies and programs for the commercial utilization of the Area and its related natural resources, consistent with the protection of the values for which the Area is established as the Mississippi National River and Recreation Area.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this subtitle. The Secretary may accept the services of personnel detailed from the State of Minnesota or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(i) PLAN.—Within 3 years after enactment of this Act, the Commission shall submit to the Secretary and the Governor of Minnesota a comprehensive plan for land and water use measures for the area to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions. The plan shall endeavor to use existing Federal, State, regional, and local plans and where consistent with the intent and goals of this subtitle shall coordinate those plans to present a unified comprehensive plan for the Area. The plan shall include but not be limited to each of the following:

(1) A program for management of existing and future land and water use which—

(A) considers and details the application of a variety of land and water protection and management techniques;

(B) includes a policy statement for the use of Federal, State, and local regulatory responsibilities to manage land and water resources in a manner consistent with the purposes of this subtitle; and

(C) recognizes existing economic activities within the area and provides for the management of such activities, including barge transportation and fleeting and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this subtitle.

(2) A program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, regional and local levels, including each of the following:

(A) Ways in which local, regional, State, and Federal policies and permits may better be coordinated to the goals and policies of this subtitle.

(B) A financial plan to provide and support the public improvements and services recommended in the plan; and a mechanism for coordinating local, regional, State, and Federal planning to promote the purposes of this subtitle.

(C) How the goals and policies of the management plan will be compatible with the existing channel maintenance program on the Mississippi River, and the existing Federal, State, regional, and local programs and goals on the Minnesota and Saint Croix Rivers.

(D) The provisions of the Clean Water Act and the Safe Drinking Water Act (title XIV of the Public Health Service Act) which pertain to the surface waters of the Mississippi National River and Recreation Area.

(3) A coordination and consistency component which details the ways in which local, State, and Federal programs and policies may best be coordinated to promote the purposes of this subtitle.

(4) A program for the coordination and consolidation, to the extent feasible, of permits that may be required by Federal, State, and local agencies having jurisdiction over land and waters within the Area.

(j) DEVELOPMENT OF PLAN.—

(1) In developing the plan the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.

(2) In developing the plan the Commission shall consult with interested conservation, business, professional and citizen organizations.

(3) In developing the plan the Commission shall conduct public hearings within the Area, and at such other places as may be appropriate, for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(k) APPROVAL OF PLAN.—The Commission shall submit the plan to the Secretary and the Governor of Minnesota, for their review. The Governor shall act on the plan within 90 days and shall submit the plan to the Secretary along with any recommendations. The Secretary shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(1) The adequacy of public participation.

(2) Assurances of plan implementation from State and local officials.

(3) The adequacy of regulatory and financial tools that are in place to implement the plan.

(4) Plan provisions for continuing oversight of the plan implementation by the Secretary and the Governor of Minnesota.

If the Secretary disapproves the plan, he shall, within 60 days after the date of such disapproval advise the Governor and Commission in writing of the reasons therefor, together with his recommendations for revision. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Governor for his review. Following his review, the Governor shall submit the revised plan, together with any recommendations he may have, to the Secretary who shall approve or disapprove the revision within 60 days.

(l) INTERIM PROGRAM.—Prior to the adoption of the Commission's plan, the Secretary and the Commission shall monitor all land and water use activities within the Area to ensure that said activities are in keeping with the purposes of this subtitle, and shall advise and cooperate with the appropriate Federal, State, and local governmental entities to minimize adverse impacts on the values for which the Area is established.

(m) COMMISSION REVIEW.—The Commission shall assist the Secretary and the Governor of Minnesota in reviewing and monitoring the implementation of the plan by Federal, State, and local governmental agencies having jurisdiction in the Area. The Commission may, after providing, for public comment and subject to the review and approval, as set forth in subsection (k), modify said plan, if the Commission determines that such modification is necessary to further the purposes of this subtitle.

(n) TERMINATION OF COMMISSION.—The Commission shall terminate on the date 10 years after the enactment of this subtitle. Following termination of the Commission the State is authorized to establish a State Commission which shall exercise the functions and authorities described in subsection (m). The Secretary of the Interior and the Secretary of the Army are authorized and directed to participate as members of such State Commission.

FEDERAL LANDS AND DEVELOPMENTS

SEC. 704. (a) LANDS.—Notwithstanding any other provision of law, any Federal property located within the boundaries of the Area as identified on the map referred to in section 702, is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this subtitle, except as follows:

(1) Facilities and lands administered by the Secretary of the Army through the Corps of Engineers for navigational and flood control purposes may continue to be used by the Secretary of the Army subject to the provisions of subsection (b).

(2) Federal property on which there is located any building or other structure which is in use (as of the enactment of this subtitle) or for which a lease is in effect shall not be transferred under this subsection without the concurrence of the administering agency.

(b) FEDERAL AGENCY ACTIVITIES.—

(1) IN GENERAL.—Before any department, agency, or instrumentality of the United States issues or approves any license or permit for any facility or undertaking within the Area and before any such department, agency, or instrumentality commences any undertaking or provides any Federal assistance to the State or any local governmental jurisdiction for any undertaking within the Area, the department, agency, or instrumentality shall notify the Secretary. The Secretary shall review the proposed facility or undertaking to assess its compatibility with the plan approved under section 703. The Secretary shall make a determination with respect to the compatibility or incompatibility of a proposed facility or undertaking within 60 days of receiving notice under this subsection. If the Secretary determines that the proposed facility or undertaking is incompatible with the plan, he shall immediately notify such Federal department, agency, or instrumentality and request such department, agency, or instrumentality to take the actions necessary to conform the proposed facility or undertaking to the plan. The Federal department, agency, or instrumentality shall, within 60 days after receiving the Secretary's request, notify the Secretary of the specific decisions made in response to the request. To the extent that such department, agency, or instrumentality does not then conform such facility or undertaking to the request of the Secretary, the Secretary is directed to notify the Congress in writing of the incompatibility of such facility or undertaking with the plan approved under section 703.

(2) NAVIGATION.—(A) Nothing in this subtitle shall be deemed to impact or otherwise affect such existing statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements: *Provided*, That in exercising such authority the Secretary of the Army, through the Corps of Engineers and the Secretary of the Department in which the Coast Guard is operating, shall not take any action that would have a direct and adverse effect on the values for which the Area is established unless such action is essential for the protection of public health or safety or is necessary for national security or defense.

(B) In planning for the development and public use of the Area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource developments or flood control projects and that of the Area are compatible.

ADMINISTRATION

Sec. 705. (a) Authorities.—The Secretary shall administer the Area in accordance with this subtitle. Only those lands within the Area under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System. Our lands and waters within the Area shall be administered under State and local laws. In the case of any conflict between the provisions of this subtitle and such generally applicable provisions of law, the provisions of this subtitle shall govern.

(b) State and Local Authorities.—The Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) Land Acquisition.—Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2). In no event may the Secretary use the authority provided in subsection (d)(3) to acquire land or interests in land without the owner's consent for any use exercised prior to January 1, 1987, that is consistent with the plan under section 703.

(d) Review of Local Plans.—

(1) Authority.—For the purpose of protecting the integrity of the Area the Secretary shall cooperate and consult with the State and the appropriate political subdivisions to review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to section 703. Additionally the Secretary shall in consultation with the State and its political subdivisions determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. The Secretary shall enter into agreements with the State or its political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of such local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring or the enforcement thereof by local governments having jurisdiction over any areas to which the management plan applies.

(2) Purpose.—The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this title. Following the approval of the plan under section 703 and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being enforced in a manner consistent with the plan, and if the Secretary determines that there is no feasible alternative available to prevent uses which would be substantially incompatible with the plan, the Secretary may exercise the authority available to him under the provisions of paragraph (3).

(3) Enforcement.—In those sections of the Area where local plans, laws and ordinances, or amendments thereto or variances therefrom are found by the Secretary not to be in conformance with the plan approved pursuant to section 703, or are not being enforced in a manner consistent with the plan, the Secretary shall notify the local government authority concerned. The Secretary may withhold from the local government authority concerned or, require reimbursement of, (A) Federal funds made available for implementation of the plan, or (B) any grant under section 706(a) if the local plan, law, ordinance, amendment, or variance is not modified to conform with the plan and enforced in such manner as will carry out the purposes of this subtitle. If the State has not initiated, within a 60-day period, such judicial or other action as necessary to ensure conformity with the plan, and if noncompliance with the plan or failure to enforce the plan continues after the end of such 60-day period, the Secretary may acquire, subject to appropriations, land or interests in land under this subsection without the consent of the owner thereof. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local government unit failing to conform with the plan and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for the protection of the Area in a manner compatible with the plan.

(e) Retention by Owner of Use and Occupancy.—The Secretary may permit the owner or owners of any improved residential property acquired by the Secretary under this subtitle to retain a right of use and occupancy of the property for noncommerical residential uses not incompatible with the plan approved under section 703. The provisions of subsection (c), (d), and (e) of section 102 of the Act of August 15, 1978 (16 U.S.C. 460ii-1) shall apply to the retention of such rights, except that for purposes of this subtitle, the applicable date shall be January 1, 1987 in lieu of January 1, 1975 and the purposes of this subtitle shall be substituted for the purposes referred to in section 102(d) of such Act.

STATE AND LOCAL ASSISTANCE AND JURISDICTION

Sec. 706. (a) Grants.—Upon approval of the plan under section 703, the Secretary is authorized to make grants to the State of Minnesota, or its political subdivisions, to cover not more than 50 percent of the cost of acquisition and development within the Area of lands and waters or interests therein in a manner consistent with the purposes of this subtitle.

(b) Cooperative Agreements.—The Secretary is authorized to enter into cooperative agreements with the State of Minnesota or any political subdivision thereof pursuant to which he may assist in the planning for and interpretation of non-Federal publicly owned lands within the Area.

(c) Technical Assistance.—To enable the State of Minnesota and its political subdivisions to develop and implement programs compatible with the plan, the Secretary shall provide such technical assistance to the State and its political subdivisions as he deems appropriate.

(d) State and Local Jurisdiction.—Nothing in this subtitle shall diminish, enlarge, or modify any right of the State of Minnesota or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State fish and wildlife laws, rules, and regulations within the Area, or to tax persons, corporations, franchises, or private property on the lands and waters included in the Area.

AUTHORIZATION OF APPROPRIATIONS

Sec. 707. There is authorized to be appropriated such sums as may be necessary to carry out this subtitle.

Subtitle B—Tri-Rivers Management

TRI-RIVERS MANAGEMENT BOARD

Sec. 711. (a) Federal Representatives.—In furtherance of the integrated management of those portions of the Mississippi, Saint Croix, and Minnesota Rivers within the Saint Paul-Minneapolis Metropolitan Area, the Secretary of the Interior and the Secretary of the Army are authorized and directed to appoint representatives to a Tri-Rivers Management Board (hereinafter referred to as the "Board"), or any similar organization, which may be established by the State of Minnesota to assist in the development and implementation of consistent and coordinated land use planning and management policy for such portions of such rivers.

(b) Personnel.—Upon request of the Board, the Secretary of the Interior and the Secretary of the Army may detail, on a reimbursable basis, any personnel to the Board.

(c) Authorization of Appropriations.—There is hereby authorized to carry out the purposes of this subtitle the sum of $100,000 annually; except that the Federal contribution to the Board shall not exceed one-third of the annual operating costs of the Board.

TITLE VIII—UNITED STATES CAPITOL PRESERVATION COMMISSION

UNITED STATES CAPITOL PRESERVATION COMMISSION

Sec. 801. (a) Establishment and Purposes.—There is established in the Congress the United States Capitol Preservation Commission (hereinafter in this title referred to as the "Commission") for the purposes of—

(1) providing for improvements in, preservation of, and acquisitions for, the United States Capitol;

(2) providing for works of fine art and other property for display in the United States Capitol and at other locations under the control of the Congress; and

(3) conducting other activities that directly facilitate, encourage, or otherwise support any purposes specified in paragraph (1) or (2).

(b) Membership.—The Commission shall be composed of the following Members of Congress:

(1) The President pro tempore of the Senate and the Speaker of the House of Representatives, who shall be co-chairmen.

(2) The Chairman and Vice-Chairman of the Joint Committee on the Library.

(3) The Chairman and the ranking minority party member of the Committee on Rules and Administration of the Senate, and the Chairman and the ranking minority party member of the Committee on House Administration of the House of Representatives.

(4) The majority leader and the minority leader of the Senate.

(5) The majority leader and the minority leader of the House of Representatives.

(6) The Chairman of the Commission on the Bicentennial of the United States Senate and the Chairman of the Commission of the House of Representatives Bicentenary, to be succeeded upon expiration of such commissions, by a Senator or Member of the House of Representatives, as appropriate, appointed by the Senate or House of Representatives co-chairman of the Commission, respectively.

(7) One Senator appointed by the President pro tempore of the Senate and one Senator appointed by the minority leader of the Senate.

(8) One Member of the House of Representatives appointed by the Speaker of the House of Representatives and one Member of the House of Representatives appointed by the minority leader of the House of Representatives.

(c) DESIGNEES.—Each member of the Commission specified under subsection (b) (other than a member under paragraph (7) or (8) of such subsection) may designate a Senator or Member of the House of Representatives, as the case may be, to serve as a member of the Commission in place of the member so specified.

(d) ARCHITECT OF THE CAPITOL.—In addition to the members under subsection (b), the Architect of the Capitol shall participate in the activities of the Commission, ex officio, and without the right to vote.

(e) STAFF SUPPORT AND ASSISTANCE.—The Senate Commission on Art, the House of Representatives Fine Arts Board, and the Architect of the Capitol shall provide to the Commission such staff support and assistance as the Commission may request.

AUTHORITY OF COMMISSION TO ACCEPT GIFTS AND CONDUCT OTHER TRANSACTIONS RELATING TO WORKS OF FINE ART AND OTHER PROPERTY

SEC. 802. (a) IN GENERAL.—In carrying out the purposes referred to in section 101(a) the Commission is authorized—

(1) to accept gifts of works of fine art, gifts of other property, and gifts of money; and

(2) to acquire property, administer property, dispose of property, and conduct other transactions related to such purposes.

(b) TRANSFER AND DISPOSITION OF WORKS OF FINE ART AND OTHER PROPERTY.—The Commission shall, with respect to works of fine art and other property received by the Commission—

(1) upon agreement with the Joint Committee on the Library, the Senate Commission on Art, or the House of Representatives Fine Arts Board, as the case may be, transfer such property to the entity with which the agreement is made;

(2) if a transfer described in paragraph (1) is not appropriate, dispose of the work of fine art by sale or other transaction; and

(3) in the case of property that is not directly related to the purposes referred to in section 101(a), dispose of such property by sale or other transaction.

(c) REQUIREMENTS FOR CONDUCT OF TRANSACTIONS.—In conducting transactions under this section, the Commission shall—

(1) accept money only in the form of a check or similar instrument made payable to the Treasury of the United States and shall deposit any such check or instrument in accordance with section 103;

(2) in making sales and engaging in other property transactions, take into consideration market conditions and other relevant factors; and

(3) assure that each transaction is directly related to the purposes referred to in section 101(a).

CAPITOL PRESERVATION FUND

SEC. 803. (a) IN GENERAL.—There is established in the Treasury a fund, to be known as the "Capitol Preservation Fund" (hereafter in this title referred to as the "fund"), which shall consist of (1) amounts deposited, and interest and proceeds credited, under subsection (d), (2) obligations obtained under subsection (e), and (3) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Bicentennial of the United States Congress Commemorative Coin Act.

(b) AVAILABILITY OF FUND.—The fund shall be available to the Commission subject to the approval, except for the purchase of fine art and antiques, of the Committees on Appropriations of the House of Representatives and Senate, respectively—

(1) for payment of transaction costs and similar expenses incurred under section 102;

(2) for improvement and preservation projects for the United States Capitol;

(3) for disbursement with respect to works of fine art and other property as provided in section 102; and

(4) for such other payments as may be required to carry out section 101 or section 102.

(c) TRANSACTION COSTS AND PROPORTIONALITY.—In carrying out this section, the Commission shall, to the extent practicable, take such action as may be necessary—

(1) to minimize disbursements under subsection (b)(1); and

(2) to equalize disbursements under subsection (b) between the Senate and the House of Representatives.

(d) DEPOSITS, CREDITS, AND DISBURSEMENTS.—The Commission shall deposit in the fund gifts of money and proceeds of transactions under section 102. The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund. Disbursements from the fund shall be made on vouchers approved by the Commission and signed by the co-chairmen.

(e) INVESTMENTS.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Commission, is not required to meet current withdrawals. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Commission has a maturity suitable for the fund. In carrying out this subsection, the Secretary may make such purchases, sales, and redemptions of obligations as may be approved by the Commission.

AUDITS BY THE COMPTROLLER GENERAL

SEC. 804. The Comptroller General shall conduct annual audits of the transactions of the Commission and shall report the results of each audit to the Congress.

ADVISORY BOARDS

SEC. 805. The Commission may establish appropriate boards to provide advice and assistance to the Commission and to further the purposes of the Commission. The boards shall be composed of members (including chairmen) who shall be appointed by the Commission from public and private life and shall serve at the pleasure of the Commission and each cochairman of the Commission may appoint one member to any such board. The members of boards under this section may be reimbursed for actual and necessary expenses incurred in the performance of the duties of the boards, at the discretion of the Commission.

DEFINITION

SEC. 806. As used in this title, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

TITLE IX—SENATE PROVISIONS

PROVISIONS RELATING TO THE SENATE COMMISSION ON ART

SEC. 901. (a) INCORPORATION.—The provisions of Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) (as amended by this section) and Senate Resolution 95 (Ninety Second Congress; agreed to April 1, 1971) (as amended by this section) are hereby incorporated by reference.

(b) TECHNICAL CHANGES.—Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) is amended—

(1) in section 1(b) by adding at the end "The Secretary of the Senate shall be the Executive Secretary of the Commission";

(2) in section 2(a)—

(A) by striking out "and protect" and inserting in lieu thereof "protect, and make known"; and

(B) by striking out "within the Senate wing of the Capitol", and inserting in lieu thereof "within the Senate wing of the United States Capitol, any Senate Office Buildings"; and

(3) in section 1(a), by striking out "Commission on Art and Antiquities of the United States Senate" and inserting in lieu thereof "Senate Commission on Art".

(c) NAME CHANGE.—Senate Resolution 95 (Ninety-second Congress, agreed to April 1, 1971) is amended by striking out "Commission on Art and Antiquities of the United States Senate" and inserting in lieu thereof "Senate Commission on Art".

(d) SENATE RULEMAKING POWER.—The provisions of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

TITLE X—HOUSE OF REPRESENTATIVES PROVISIONS

HOUSE OF REPRESENTATIVES FINE ARTS BOARD

SEC. 1001. (a) ESTABLISHMENT AND AUTHORITY.—There is established in the House of Representatives a Fine Arts Board (hereafter in this title referred to as the "Board"), comprised of the House of Representatives members of the Joint Committee on the Library. The chairman of the Committee on House Administration of the House of Representatives shall be the chairman of the Board. The Board, in consultation with the House office building commission, shall have authority over all works of fine art, historical objects, and similar property that are the property of the Congress and are for display or other use in the House of Representatives wing of the Capitol, the House of Representatives Office Buildings, or any other location under the control of the House of Representatives.

(b) CLERK OF THE HOUSE OF REPRESENTATIVES.—Under the supervision and direction of the Board, the Clerk of the House of Representatives shall be responsible for the administration, maintenance, and display of the works of fine art and other property referred to in subsection (a).

(c) ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall provide assistance to the Board and to the Clerk of the House of Representatives in the carrying out of their responsibilities under this title.

ACCEPTANCE OF GIFTS ON BEHALF OF THE HOUSE OF REPRESENTATIVES

SEC. 1002. The Board is authorized to accept, on behalf of the House of Representatives, gifts of works of fine art, historical objects, and similar property, including transfers from the United States Capitol Preservation Commission under section 102, for display or other use in the House of Representatives wing of the Capitol, the House of Representatives Office Buildings, or any other location under the control of the House of Representatives.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YATES: On page 55 beginning on line 5, strike line 5 through line 19.

The SPEAKER pro tempore. (Mr. HAYES of Louisiana). Pursuant to the rule, the gentleman from Illinois [Mr. YATES] will be recognized for 15 minutes, and the gentleman from Arizona [Mr. UDALL] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my amendment concerns one of the most tragic, complicated, and poignant episodes in the long saga of Indian problems in our country. It involves a land dispute between the Navajo and Hopi Indians.

The report of the subcommittee of which I am chairman, in fiscal year 1987, touched on the history of that dispute. We said then that the dispute between the Hopi and Navajo tribes is centuries-old. The Hopi were the original occupant of the land, with their origin tracing back to the Anasazi race whose presence in this case is recorded back to 1150 A.D. Later, in the 16th century, the Navajo tribe began settling in this area, and the continuous occupation of this land by the Navajo led to the isolation of the Hopi reservation as an island within the area occupied by the Navajo. The Navajo have, in effect, surrounded the Hopi reservation and have moved in upon it. In 1958 the Congress authorized a lawsuit to find out the rights of the Hopis and the Navajos in connection with the land. In that lawsuit the court found that the Navajo had encroached upon the Hopi land and that the Hopis were entitled to a return of that land.

Following that, in 1974 the Congress passed Public Law 93-531, the Navajo-Hopi Indian Relocation Act, representing at that time there were 1,100 families in the area that were to be relocated, a figure that was subsequently shown to have been less than the total that were involved. The representation was also made that the cost of relocating the families would be approximately $41 million.

The Congress created the Navajo and Hopi Indian Relocation Commission to carry out the relocation of the Navajo who were on Hopi land and the Hopi who were on Navajo land. As it happened, most of the Indians involved were Navajos who were living on Hopi land, and that is what is so tragic about the situation, in trying to carry out the mandate of the courts and the mandate of Congress.

In retrospect 14 years later it has become obvious that the problem is very great, much greater than we estimated.

The number of families and the costs which are associated with relocation is much larger. The relocation in this bill is only one aspect of the total Hopi-Navajo land conflict.

It is unfortunate that the Congress chose to deal with it in piecemeal fashion, but after 14 years of frustration and heartbreak and waste and error, the Commission has finally come up with an orderly method of trying to dispose of the problems that are involved.

In our Subcommittee on Appropriations on the Department of the Interior, we have tried all during this period to work out the problems in a peaceful and orderly fashion, to make some sense and some order out of a very emotional confrontation.

I listened to the statement by my good friend, the gentleman from New Mexico [Mr. RICHARDSON]. He is right, there have been failures. There have been many failures in connection with the process, which is to be expected because of the tragedy of having to pick up people from their ancestral homelands which they have occupied for decades and say to them, "This is not your land. This land belongs to the Hopi people, and the Hopi people are entitled to it."

There are refugees. There are refugees who took in good faith the promises of the United States that if they signed an agreement to be relocated, the United States would find satisfactory housing for them. The United States has not kept its bargain.

We are on the road now to keeping that bargain of providing homes for those who now live in slums in various communities in Arizona. We have worked out a procedure that apparently seems to take care of the refugee problem, and we have high hopes that if we are permitted to let the Commission and the BIA, which our committee brought into the situation, go forward with the procedures that have been worked out, that in another 4 or 5 years perhaps we will have this problem solved.

My good friend, the gentleman from New Mexico [Mr. RICHARDSON], would leave this problem unresolved, and say that it has been a failure and drop it where it is. That does not take care of the situation.

The Hopis, according to the court and according to the Congress, are entitled to a return of their land. His suggestion, in opposing my amendment, is we will just leave it as it was 14 years ago when the Congress passed this bill.

Mr. Speaker, I would say that complicating the picture is that the amendment that was added in the Senate changes the method of computing, the method of relocation, the method that has been worked out over 14 years. With the heartbreak and with the anguish and with the agony, it is now moving forward.

The Senate's amendment would change that and start a whole new procedure that cannot help but restore us to the beginning without hope of ultimate settlement.

The Indian people deserve more than that. The Hopis deserve more than that. The Navajo deserve more than that. The dispute has festered long enough.

As I say, settlement is in sight if we are allowed to go forward. The amendment which I seek to strike would change that.

I urge the passage of my amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 7½ minutes of my time to the gentleman from Arizona [Mr. RHODES].

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to Mr. YATES' amendment to delete section 406 from the bill.

This section was added by Senator DECONCINI after consultation with the Arizona delegation. While I share my colleagues' concerns about the impact of this amendment, I believe that their fears are out of proportion with the minimal impact this section will have on the relocation process.

The DeConcini amendment directs the commissioner of Navajo-Hopi to give priority in providing relocation benefits to families in the chronological order in which such families became certified for such benefits.

Mr. Speaker, while about 1,400 Navajo families have removed themselves from the Hopi partitioned lands and have already received their relocation benefits, an additional 1,200 families have also complied with the law and removed themselves from the Hopi lands but for some reason or another, have not yet received their relocation benefits.

It is my understanding that the DeConcini priority language would only affect these 1,200 families.

The section will not affect the 200 or so families which are still living on the Hopi lands. These families can receive their relocation benefits from funds appropriated to the Secretary of the Interior pursuant to Public Law 99-190.

Public Law 99-190, the Interior Appropriations Act for fiscal year 1986, appropriated $22 million specifically to provide benefits to those families still residing on the Hopi lands as of December 19, 1985. I understand that these $22 million will be sufficient to serve nearly all the remaining families.

Mr. Speaker, a few days ago, we sent for the President's signature, the bill S. 1236. Under S. 1236, funds appropriated pursuant to Public Law 99-190 are to be transferred to the new commissioner on January 31, 1989. However, S. 1236 specifically states that such funds shall continue to be used by the commissioner for the purpose for which such funds were appropriated.

Inasmuch as such funds were appropriated for the purpose of serving first those families still residing on the Hopi partitioned lands as of December 19, 1985, I believe that the new DeConcini section is not applicable to the families which are receiving benefits under Public Law 99-190.

While it is true that the committee deleted the DeConcini language from S. 1236, I do not think this language is as harmful as some are arguing. If at all, it may give some minor administrative headaches to the new commissioner who will have to write new regulations in order to implement such language. On the other hand, it will give priority among families who have already left, to those who decided to abide by the law first and therefore became certified first.

Mr. Speaker, we are making progress. The Assistant Secretary for Indian Affairs, who is Ross Swimmer, a Native Indian himself, proposes to go around and settle this thing himself and has done some amazing things. He is still on the job, and one of the ideas he had with this a few years ago, and we tried all kinds of devices, was to buy some ranches. These Indians do not want to live in the cities and have a three-piece suit and drive on the freeway to work. That is not what they want. Secretary Swimmer thinks he can do the job, and he needs some administrative tools and some money to do it.

I think maybe we ought to give him a chance. We have one man who cares and believes he can move in and take over, and maybe we will have some good news. I think these cost overruns that are simply indefensible will come to an end.

Mr. Speaker, I reserve the balance of my time.

Mr. YATES. Mr. Speaker, I yield myself 1 minute at this time to read a letter which I just received from Ross Swimmer, the Assistant Secretary for Indian Affairs, head of the BIA, to whom my friend, the gentleman from Arizona [Mr. UDALL], referred so glowingly.

He said this in the letter addressed to me:

> Mr. Chairman, I wish to reiterate my strong opposition to this amendment.

The amendment which I hope to strike that was put in in the Senate.

> If the proposed reprioritization language becomes law, it would be tantamount to beginning the relocation process over again. For the past 2 years, the Bureau of Indian Affairs has spent millions of dollars constructing homes and related infrastructure specifically for Navajo families who have resettled from the Hopi Partioned lands.

Mr. Speaker, he then winds up this letter, which I propose to put into the RECORD, by saying,

> I will recommend a veto of any legislation containing language altering the priorities of Navajo-Hopi Relocation Act benefits.

Mr. Speaker, I include the entire letter in the RECORD at this point as follows:

> U.S. DEPARTMENT OF THE INTERIOR,
> OFFICE OF THE SECRETARY,
> *Washington, DC, October 18, 1988.*
>
> Hon. SIDNEY YATES,
> *Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, Washington, DC.*
>
> DEAR MR. CHAIRMAN: On October 12, 1988, I sent a letter to Senator's Inouye and Johnston expressing my strong opposition to any amendment reprioritizing relocation benefits pursuant to the Navajo-Hopi Relocation Act. (copy enclosed). Unfortunately, such an amendment was included in S. 2840 and passed by the Senate on October 13.
>
> Mr. Chairman, I wish to reiterate my strong opposition to this amendment. If the proposed reprioritization language becomes law, it would be tantamount to beginning the relocation process over again. For the past two years, the Bureau of Indian Affairs (BIA) has spent millions of dollars constructing homes and related infrastructure specifically for Navajo families who have resettled from the Hopi Partitioned Lands (HPL). Although the amendment does not affect monies appropriated to the BIA pursuant to P.L. 99-190, the reprioritization would serious effect HPL families, once those monies were exhausted. These HPL families would move to the end of the prioritization list and have to wait years before their relocation benefits could be satisfied. In addition, I believe that the proposed amendment would be nothing more than another administrative hurdle at a time when the relocation process is functioning well.
>
> I was disturbed by the statements on the Senate floor during the consideration of this amendment. Allusions to serious errors in relocation planning and implementation by the BIA may have influenced the passage of this amendment. Your office has been receiving weekly relocation construction updates from my office for the past year and a half. Those updates, as well as the physical evidence of our relocation efforts on the designated New Lands and the overwhelmingly positive reaction we have received from those HPFL Navajo families who have moved there will hopefully lead you to believe that the Senate was misled when it voted in favor of the amendment.
>
> I will recommend a veto of any legislation containing language altering the priorities of Navajo-Hopi Relocation Act benefits.
>
> Thank you for your attention to this concern.
>
> Sincerely
>
> ROSS O. SWIMMER,
> *Assistant Secretary—Indian Affairs.*

Mr. Speaker, we can see that Ross Swimmer supports my amendment and would be opposed to the amendment inserted in this bill by the Senate.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. REGULA].

□ 1245

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding.

I do not want to be repetitious, but simply urge the Members to support the Yates amendment as a matter of fairness. The Hopis have been patient. We have been in the process for 14 years attempting to resolve this problem. We have and will spend $191 million thus far. I think the U.S. Government has made every effort to treat Navajos and the Hopis as fairly as possible and this body has appropriated the money and provided the support that is necessary to move this forward.

I think it would be tragic in terms of the human element in this disputed area, today, to approve an action as a part of a major piece of legislation that would set back the progress that has been made.

As pointed out by the Director of the Bureau of Indian Affairs, to leave this language in the bill, and should it become part of the law, would be taking us back to square one. We have invested a lot of capital and a lot of effort in ensuring that everyone has equitable treatment, and I strongly urge the Members not to turn back the clock. It is obvious that the support is not in this body.

Two weeks ago we voted on almost identical language and 298 Members voted to strike language just as is proposed in the Yates amendment, so that the reason we are here today is that the Senate, for whatever reason, chose to put it back in not recognizing the strong sentiment that existed in the House in opposition to this language.

Again, I would urge the Members to support the Yates amendment and let us get on with the major policy questions in this bill and not adopt something that will be grossly unfair to the Hopis. I think it would be very disruptive to a process we started 14 years ago and with a lot of patience and a lot of effort on the part of Congress and the Bureau of Indian Affairs and the Navajo-Hopi Commission is making progress. It would be unwise to impede that progress by leaving the language in the bill and not supporting the Yates amendment.

So I urge all of my colleagues to give strong support to the proposal of the gentleman from Illinois.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I want to commend both Mr. Yates and Mr. Regula because their devotion to the principle behind the relocation legislation is well known and has been well demonstrated in the past and here today, and that principle is that this Congress and the relocation commission should carry out the mandate of the court which was to recognize, first of all, that Navajos were living on Hopi land and Hopis were living on Navajo land, and they should each repair to their individual respective reservations and the United States should help them to do so, and that was and is the priority of that legislation passed in 1974, and both Mr. Regula and Mr. Yates have restated their dedication to that principle, and I think all of us should restate our dedication to that principle because that is the priority and should remain the priority.

I think there is a misunderstanding as to just exactly what this particular language addresses itself to. My colleagues, the relocation commission operates from two sources of funds. It operates from funds appropriated annually by the Congress, starting with the process of Mr. Yates' subcommittee, but it also has another source of funds available to it as a result of the Reauthorization Act we passed here a couple of weeks ago.

In 1985 the Congress appropriated to the Bureau of Indian Affairs funds whose specific purpose, specific purpose, was to relocate families, Navajo families from the Hopi partitioned land to the so-called new lands. The reauthorization transfers those funds to the commission. This language that we are so concerned about here today reiterates that those funds are solely for the purpose, solely for the purpose of relocating families from the HPL to the new lands. Second, the language that we are concerned about today deals with the annual appropriation and why it does set forth a priority, but also contains an exception, contains a provision that allows the commission on a case-by-case basis to utilize annually appropriated funds also to move families from the HPL to the new lands.

In essence, this language restates existing policy because that is the policy of the commission as it exists today. We have had discussions with the commission about this language and they say candidly they would just as soon it not be there, but they say in their opinion it would do nothing to impede their mission, which is to provide relocation benefits to those families on the HPL and to provide relocation benefits to the families who have already left the HPL.

Mr. Swimmer does not like this language. Mr. Swimmer says he will recommend a veto. Please let me point out to you that the person to whom Mr. Swimmer recommends vetoes is the Secretary of the Interior, and the Secretary of the Interior has informed us that he does not intend to recommend a veto of this bill.

Finally, I asked Members a few moments ago when we were debating the rule to recall experiences in their legislative pasts when constituents have come to Members, constituencies that have had differing points of view about how to resolve some problem in your area, your district, your State, have come to the Members and have said they have at long last found a way. We need your help. Now let me ask Members to search another portion of their legislative memory because I am sure that each and every one of the Members at some point in time has had to work with either a colleague here in this body or a colleague in the other body to achieve a legislative compromise, to obtain a deal that is desirable to Members as a Representative of their people at home, and yet in order to do so Members have had to accept provisions or language that perhaps otherwise would not have been considered. I will be very candid with everyone, if I were writing this bill myself, the language the gentleman from Illinois [Mr. Yates] is concerned with would not be in it. It was necessary to attain the goal which we desired, to attain through the corporate body of this entire piece of legislation, to agree with the other body to include this language. We did so after long and careful, contentious at times, discussions, and we did so only after we were able to satisfy ourselves that while the language could from time to time be considered as troublesome, that in fact we have preserved the priority of the base language, the base legislation of 1975, which is to assist Navajo families living on the Hopi partitioned land to relocate.

We are satisfied that this language does not impede that priority, that it restates that priority.

I will again assure Members if it were my choice it would not be in the bill. It is there because of a compromise. Keeping the compromise intact is critical and crucial to the life of this legislation. I would urge Members not to support the Yates amendment and to assist all Members who are so interested in the passage of this entire bill in seeing to it that it goes forward unamended.

Mr. Speaker, I yield back the balance of my time.

Mr. YATES. Mr. Speaker, I yield myself 1 minute.

I return to the letter of Mr. Swimmer, and may I say with respect to the question of the veto, that the gentleman from Arizona [Mr. Rhodes] alluded to, it is true that Mr. Swimmer's recommendation can be stopped by Secretary Hodel. The fact still remains that Mr. Swimmer has been working with the problem. He knows the problem and he knows how serious the language that was put in by the Senate would be.

I sympathize with the gentleman from Arizona [Mr. Rhodes]. I sympathize with the other gentleman from Arizona who know that my amendment is right. They know that the language is right. Mr. Swimmer has stated that so clearly in his letter, he says, "Although the amendment does not affect moneys appropriated to the BIA pursuant to Public Law 99-190, the reprioritization would seriously effect HPL families once those moneys were exhausted. These HPL families would move to the end of the prioritization list and have to wait years before their relocation benefits could be satisfied. In addition, I believe that the proposed amendment would be nothing more than another administrative hurdle at a time when the relocation process is functioning well."

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. Upton].

Mr. UPTON. Mr. Speaker, I rise in strong support of the Yates amendment. The bill and the amendment we have under consideration today is very complicated, and I will be the first one to admit I am not an authority on the Navajo-Hopi relocation issue, and I would like to address for my colleagues the process issue.

This legislation clearly impacts the orderly functioning of this body and clearly epitomizes the consistency problems we can run into at the end of legislation when certain legislation is Christmas-treed and used as a vehicle for extraneous provisions.

Allow me to quickly review the history of the relocation issue in just this Congress alone. Earlier this year, the House received from the Senate S. 1236, a bill which reauthorized the Navajo-Hopi relocation commission and made certain changes to the underlying statute. One section of the Senate legislation established a new priority for the use of authorized funds. After extensive negotiations and thorough consideration by the Committee on Interior and Insular Affairs, the new priority section of S. 1236 was deleted and rejected by the House.

The legislation, with the House amendments thereto deleting the priority section, was passed under suspension of the rules by this body on October 4, by a vote of 298 yeas to 120 nays. The priority section which I and a significant majority of my colleagues voted to delete on that day is very similar to the sections which the gentleman from Illinois is now suggesting we strike from S. 2840.

Thus, the consistency factor. If you voted to pass S. 1236 with the House amendments thereto on October 4, you should vote in support of this amendment today. The vote is essentially the same. Notwithstanding the decision of the other body to force us to reconsider this issue, a consistent vote will be a vote in support of the gentleman from Illinois. Such a vote will confirm the majority will of this body as expressed on October 4 when I and 297 of my colleagues voted to strike similar language from S. 1236 and pass the bill.

Furthermore, it is my understanding that as the gentleman from Illinois has indicated that the Bureau of Indian Affairs will recommend that the administration veto the bill without adoption of the Yates amendment. We have heard so many times today, the many hours that the Arizona delegation in good faith have negotiated in striking a compromise on this issue, and it seems a worthless exercise if the administration does end up vetoing this bill because the Yates amendment does not pass, for them to begin at square one again.

I urge my colleagues to support the Yates amendment.

Mr. UDALL. Mr. Speaker, I yield the balance of my time to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank Chairman UDALL and I urge every Member of this body to support Chairman UDALL in this initiative.

Once again, what the gentleman from Illinois [Mr. YATES] is also trying to do is try to improve a situation that has been created by the monstrosity of the BIA, but I think the approach taken by the gentleman from Arizona [Mr. UDALL] is far better.

I have heard quoted Mr. Swimmer, the head of the BIA, in saying he supports the amendment that we are discussing. Here is the BIA that for years has been administrating the Navajo Relocation Act, that has made cost overruns that had human misery, that has had so many problems that this body 2 weeks ago, through the leadership of the gentlemen from Arizona, Mr. UDALL and Mr. RHODES, decided that we are going to dramatically change the Navajo-Hopi Relocation Commission. We had three Commissioners in the past. They had lobbyists, they had sweets, but the money that they were supposed to deliver to the Navajos to build homes, to have relocation benefits, was not going to them.

☐ 1300

One thousand Navajos that have already relocated have not received these benefits. So what is in this bill is priority language; it prioritizes where the money should be spent; not on men and women that will be in misery in the future by moving, but on men and women that right now are in present misery.

Let us help those 1,000 that need help. By moving to one single Commissioner we are trying basically to minimize the damage.

This Navajo/Hopi relocation has not worked. Two years ago I introduced a bill that said let there be a moratorium, no more relocation, no more spending. This is a travesty of the taxpayer.

Let us look at a comprehensive settlement. The Navajo/Hopi leaders tried to negotiate. It did not work out. So we are back again trying to at least, to those that we damaged, give them equal rights and justice.

What Mr. YATES is trying to do I think in the sense of trying to correct some past wrongs, he has a point and I think, as Mr. RHODES said, he would prefer that this language not be in there because a compromise that had been worked on was changed once again. But if we proceed to support this amendment, what it is going to send a message to is this: One, let us continue this massive Navajo/Hopi relocation. Let the status quo prevail. We need some new reforms next year with a new administration, a new Congress, under one single Commissioner. And let us try to deal with this in a comprehensive way, not in a patchwork way.

So I would ask the Members of this body to support the gentleman from Arizona [Mr. RHODES], and the gentleman from Arizona [Mr. UDALL], the Interior Committee that should be setting policy.

The authorizing committee should be setting policy. We are not changing any appropriations figure today.

So with all due respect, I ask for the strong support for Chairman UDALL and against the Yates amendment.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The gentleman from Arizona [Mr. RHODES] has 1 minute remaining.

Mr. RHODES. Mr. Speaker, I yield that 1 minute to my colleague, the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. I want to make only one point in this closing moment. First, the arguments about these amendments I think have been very well set forth by Mr. YATES and by my colleague, Mr. RHODES. It is an issue that is a difficult one. It is one that is contentious. It is one that this body has dealt with and considered and agonized over. I believe this is a compromise. I believe it is a good compromise and one that is worth supporting in the legislation.

But the point that I want to make is with regard to the threat of a veto from the administration. I think it needs to be restated that there is no definite statement from the Department of the Interior. You have one part of the Department of the Interior that deals with the Bureau of Indian Affairs and the other Indian matters, that is very much opposed to this particular provision that is in the bill.

On the other hand, you have the base of the bill, the Arizona/Florida land exchange, it is one that was worked out by another division of the Department.

So there is strong support for it.

As a package, I believe it will be supported by the administration and there will not be a veto.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] has 1 minute remaining.

Mr. YATES. Mr. Speaker, I yield my 1 minute to the distinguished gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding.

Mr. Speaker, just to keep the record straight, I want to point out that presently to date we have relocated 1,369 families. So contrary to what has been implied the relocation program is working very effectively. We do not want to impede the progress that is being made because many families are waiting to be relocated.

If we leave that language in, it is going to bring the process to a halt. It will be a moratorium in effect.

So, again I strongly urge my colleagues to support the Yates amendment and keep the process of relocation moving forward to give these people what we promised them in 1974.

Mr. YATES. Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question is on the amendment offered by the gentleman from Illinois [Mr. YATES].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 264, nays 84, not voting 83, as follows:

[Roll No. 453]

YEAS—264

Akaka
Alexander
Anderson
Annunzio
Archer
Armey
Atkins
Ballenger
Bartlett
Bateman
Bates
Beilenson
Bereuter
Berman
Bilbray
Billey
Boehlert
Boland
Bonker
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Carr
Chapman
Cheney
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Costello
Coughlin
Courter
Daub
Davis (IL)
de la Garza
DeFazio
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Erdreich
Evans
Fawell
Feighan
Fields
Fish
Flake
Foglietta
Foley
Frenzel
Frost
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Grandy
Gray (IL)
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hunter
Hutto
Hyde
Jacobs
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kildee
Konnyu
Kostmayer
LaFalce
Lancaster
Latta
Lehman (FL)
Levin (MI)
Lewis (CA)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Mrazek
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Panetta
Patterson
Payne
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Rahall
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shays
Shumway
Shuster
Sikorski
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Staggers
Stark
Stenholm
Stratton
Studds
Sundquist
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Upton
Valentine
Walgren
Walker
Watkins
Waxman
Weber
Whitten
Williams
Wolf
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—84

Ackerman
Andrews
Badham
Bennett
Bentley
Bilirakis
Boggs
Bonior
Buechner
Bustamante
Campbell
Carper
Clarke
Craig
Crockett
Darden
DeLay
Dellums
Dymally
Dyson
Espy
Fascell
Ford (MI)
Ford (TN)
Gallegly
Grant
Hall (TX)
Hammerschmidt
Hochbrueckner
Huckaby
Hughes
Jeffords
Jones (TN)
Kennedy
Kleczka
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lehman (CA)
Leland
Levine (CA)
Lewis (FL)
Lewis (GA)
Lujan
Markey
McCrery
Mfume
Michel
Morella
Nielson
Ortiz
Owens (NY)
Owens (UT)
Packard
Parris
Pashayan
Penny
Rangel
Ravenel
Rhodes
Richardson
Roe
Saiki
Sawyer
Schroeder
Shaw
Skaggs
Skeen
Spence
Spratt
Stallings
Stump
Traficant
Udall
Vander Jagt
Vento
Visclosky
Vucanovich
Weiss
Weldon
Wheat
Wolpe
Young (AK)

NOT VOTING—83

Anthony
Applegate
Aspin
AuCoin
Baker
Barnard
Barton
Bevill
Boucher
Boulter
Broomfield
Brown (CO)
Cardin
Chandler
Chappell
Clay
Clement
Cooper
Coyne
Crane
Dannemeyer
Davis (MI)
Dingell
Dowdy
Durbin
English
Fazio
Flippo
Florio
Frank
Garcia
Gejdenson
Gephardt
Gordon
Gray (PA)
Gregg
Hansen
Hiler
Holloway
Inhofe
Ireland
Jenkins
Jones (NC)
Kemp
Kennelly
Kolter
Lantos
Leath (TX)
Lent
Livingston
Lott
Mack
MacKay
Marlenee
Martin (IL)
McEwen
Mica
Molinari
Morrison (CT)
Morrison (WA)
Murphy
Neal
Oxley
Quillen
Rose
Rostenkowski
Sisisky
Smith (FL)
Smith, Denny (OR)
Solarz
St Germain
Stangeland
Stokes
Sweeney
Swift
Swindall
Taylor
Traxler
Volkmer
Whittaker
Wilson
Wise
Young (FL)

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The Clerk announced the following pair:

On this vote:

Mr. Dingell for, with Mr. Gephardt against.

Messrs. LEHMAN of California, YOUNG of Alaska, BILIRAKIS, and LEWIS of Florida changed their vote from "yea" to "nay."

Mrs. MEYERS of Kansas and Messrs. RIDGE, DAUB, BEREUTER, NICHOLS, MATSUI, and ANNUNZIO changed their vote from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

MOTION TO COMMIT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore. Is the gentleman opposed to the Senate bill?

Mr. FRENZEL. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to commit.

Mr. FRENZEL moves to commit the bill S. 2840 to the Committee on House Administration with instructions to report back the same to the House forthwith with the following amendments:

(1) Strike Title VIII, "United States Capitol Preservation Commission," in its entirety;

(2) Redesignate Title IX as Title VIII, and Title X as Title IX; and

(3) In Title IX as redesignated, in section 902, strike the following: "including transfers from the United States Capitol Preservation Commission under section 802,".

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. FRENZEL] is recognized for 5 minutes in support of his motion to commit.

Mr. FRENZEL. Mr. Speaker, my motion would commit the bill to the Committee on House Administration, with instructions to report the same back to the House with the one amendment that we strike title VIII, which is the U.S. Capitol Preservation Commission.

The House has heard my objections to the Commission earlier, but this is a very complicated matter, Mr. Speaker. The Commission to which I object is actually moving forward on two tracks. It is also being considered in the Bicentennial Gold Coin bill, a bill that is now either pending in the Rules Committee or is between the desk and the Rules Committee.

Because of some late-breaking developments and discussions, it is my belief that we are going to soon negotiate a conclusion to this problem, and, therefore, it may not be necessary for me to proceed with this motion to commit.

Mr. Speaker, because the bill is important to people, not only from my State but from Arizona, for its substantive portions, and because the bill has been repaired by the amendment offered by the gentleman from Illinois [Mr. YATES], which has restored the agreement previously made with respect to the Hopi and the Navajo, and because I believe that the gentleman from Illinois [Mr. ANNUNZIO] and I are shortly going to come before this committee with a unanimous consent request relating to the Gold Coin bill, which will remove my most strenuous objections to the committee and its activity, I will withdraw my motion to commit.

Mr. Speaker, I ask unanimous consent that I be allowed to withdraw my motion to commit.

The SPEAKER pro tempore. The Chair will state that the gentleman does not need unanimous consent to withdraw his motion.

The motion is withdrawn.

The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 316, nays 32, not voting 83, as follows:

[Roll No. 454]

YEAS—316

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Archer
Armey
Atkins
Badham
Ballenger
Bateman
Bates
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carper
Chapman
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Costello
Coughlin
Courter
Craig
Crockett
Darden
Daub
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Feighan
Fields
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Grandy
Grant
Gray (IL)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jeffords
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (UT)
Packard
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Skaggs
Skelton
Slattery
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stenholm
Stratton
Studds
Stump
Sundquist
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Upton
Vento
Visclosky
Vucanovich
Walgren
Watkins
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wortley
Wyden
Wylie
Yatron
Young (AK)

NAYS—32

Bartlett
Beilenson
Carr
Davis (IL)
DeFazio
Downey
Gekas
Hastert
Henry
Hertel
Hopkins
Jacobs
Latta
Lloyd
Lujan
McHugh
Miller (CA)
Mrazek
Panetta
Regula
Russo
Schumer
Sensenbrenner
Skeen
Slaughter (NY)
Stark
Valentine
Walker
Weiss
Wolf
Wolpe
Yates

NOT VOTING—83

Anthony
Applegate
Aspin
AuCoin
Baker
Barnard
Barton
Bevill
Boucher
Boulter
Brooks
Broomfield
Brown (CO)
Cardin
Chandler
Chappell
Clay
Clement
Cooper
Coyne
Crane
Dannemeyer
Dingell
Dowdy
Durbin
Fazio
Flippo
Florio
Frank
Garcia
Gejdenson
Gordon
Gray (PA)
Gregg
Hansen
Hiler
Holloway
Inhofe
Ireland
Jenkins
Jones (NC)
Kemp
Kennelly
Kolter
Lantos
Leath (TX)
Lent
Livingston
Lott
Mack
MacKay
Martin (IL)
McEwen
Mica
Molinari
Morrison (CT)
Morrison (WA)
Murphy
Obey
Owens (NY)
Oxley
Quillen
Ridge
Rose
Rostenkowski
Sisisky
Smith (FL)
Smith, Denny (OR)
Solarz
St Germain
Stangeland
Stokes
Sweeney
Swift
Swindall
Taylor
Traxler
Vander Jagt
Volkmer
Whittaker
Wilson
Wise
Young (FL)

□ 1346

Mr. WOLPE changed his vote from "yea" to "nay."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on S. 2840, the Senate bill just passed.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF S. 2840, ARIZONA-IDAHO CONSERVATION ACT OF 1988

Mr. VENTO. I ask unanimous consent that the clerk be authorized to make necessary technical corrections, section numbers, and punctuation in the text of S. 2840, the Senate bill just approved.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PROVIDING FOR CONSIDERATION OF S. 2751, MONTANA NATURAL RESOURCES PROTECTION AND UTILIZATION ACT OF 1988

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 591 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 591

Resolved, That upon the adoption of this resolution it shall be in order to take from the Speaker's table the bill (S. 2751) to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes, and to consider the bill in the House, and all points of order against the bill and against its consideration are hereby waived. Debate on the bill shall continue not to exceed one hour, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to commit.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only , I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 591 provides for the consideration in the House of the bill S. 2751—The Montana Wilderness Act, under the 1-hour rule.

All points of order are waived against the bill and against its consideration, Mr. Speaker, and there is one motion to commit.

Mr. Speaker, the Montana Wilderness Act deals with the future management of over 6 million acres of wilderness in the State of Montana. The bill designates nearly 1.5 million acres of new wilderness, creates 375,000 acres of new recreational areas, and releases 4.8 million acres of Federal land from any court challenge to be used for timbering and other purposes.

Mr. Speaker, this bill is similar to H.R. 2090, the Montana Natural Resources Protection and Utilization Act of 1987, that bill passed the House under suspension of the rules in October 1987. When the Senate considered S. 2751 they changed the bill somewhat by adding on a few provisions. These changes were the result of members and staff working to ensure that they bring an acceptable bill to both Houses.

The gentleman from Montana, [Mr. WILLIAMS] is to be commended for his hard work and effort on this bill and I urge my colleagues to support this rule and the bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule before us provides for consideration of the Montana Wilderness Act in the House, which means no amendments. The gentleman from Montana [Mr. MARLENEE] appeared yesterday in the Rules Committee seeking an open rule on this bill. In fact, a motion for an open rule was offered, but it was turned down by the majority side on the Rules Committee.

Mr. Speaker, this rule also includes a waiver of all points of order. In checking with the Parliamentarian, I am informed that there are no House rules actually being violated. The waiver was included because at the time the rule was drafted yesterday, the Senate had just completed action the night before, and there was insufficient time to do a thorough review as to which waivers were necessary. The general waiver of all points of order was included to be on the safe side.

Mr. Speaker, when members are asked to vote to waive all points of order when no waiver is necessary just to be on the safe side, we have proof that we are rushing bills through this Congress without proper consideration.

Mr. Speaker, I yield 6 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, this legislation desperately needs amending. Since the rule does not provide any opportunity for amendment, I oppose the rule.

I would like to congratulate the chairman of the full committee, the chairman of the Public Lands Subcommittee, and most of all, my colleague, the gentleman from Montana.

I know that generating a power play of this scope is not easy, but it does come with a price.

Mr. Speaker, I quote my colleague, the gentleman from Montana, in his article in the Great Falls Tribune, in which he says:

> Being granted the rule meant nothing, but the Wilderness bill was put to the head of the line by the Democrat leadership, of which Mr. Williams, my colleague from Montana, is a part. I have had the bill less than 24 hours and I have hurdled it over all other pieces of legislation, some of which have been waiting for weeks to get on to the floor of the House,

I am sure those who have been jumped over appreciate the efforts of my colleague from Montana.

I would further quote from a Montana newspaper an article in which my colleague said:

> I am through making deals with the eastern district congressmen of Montana on wilderness and will push the issue through Congress regardless of Marlenee's position.

By adopting this stance and driving this legislation through without opportunity for amendment, my colleague has disenfranchised a broad segment of the State.

I object to the rule on the fact that it does not allow for the amendments to the Montana Wilderness bill which came from the Senate.

This bill needs amending. This bill has a $3.4 million appropriations which is added without so much as a hearing.

At a time when a great number of people are advocating the taking back of Federal grant lands given by the taxpayers to the railroads, this bill pays the largest railroad in the United States of America $3.4 million to obtain Federal grant lands so that they may be put into wilderness study areas.

Furthermore, this bill and the rule circumvents the committee jurisdiction of the Agriculture and the Judiciary Committees.

This bill authorizes new Forest Service policy in section 16. In section 16 it states:

> It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

This is the Agriculture Committee's jurisdiction. It is new language that comes here from the Senate and has never been the subject of a hearing.

Policy is one thing. Law is another. It would appear to me that this particular section, section 16, erodes the private property rights by biasing any courts case where private property owners may wish to resist or fight a request for access.

The Forest Service, the judge and/or the jury, have simple instruction of law, not policy. It is in fact the policy of the Congress that the Forest Service acquire and maintain reasonable public access to Forest System lands in the State of Montana. That is stated as law, not as policy, and it violates the jurisdiction of the Judiciary Committee.

Never mind the right, when we are talking about these private property rights that we have given the Forest Service and their agency, the bureaucrats, the right to condemn. We have given them a license to steal. Never mind the irrigated meadows. Never mind the right to seclusion or aesthetic value of the property owners. The great contradiction with the wilderness advocates and the liberals is that they are going to create these aesthetic values and these wilderness values on public lands, but the hell with private ownership.

Shame, shame. We have no opportunity to amend this legislation which circumvents the jurisdiction of several committees.

I would like to enter into the statement at this point opposition to this legislation by the National Cattlemen's Association, the National Public Lands Council, and the National Wool Growers.

I can outline under present law case after case of abuse and intimidation where the Forest Service has violated what exists in present law, without giving any further right to appeal.

Mr. Speaker, this rule should be opposed because it has a change of release language without so much as a hearing where users of our National Forest normally have an opportunity to express their views.

Well, that is not quite correct. The Sierra Club and the Wilderness Society had the opportunity to meet behind closed doors with the authors of the legislation to work out the changes that they want, and now the rest of us are left with no opportunity to even amend the bill.

The Sierra Club and Wilderness Society have had the opportunity to change the bill. The people of Montana, the public land users, have not had the opportunity.

☐ 1400

This bill further usurps committee jurisdiction by requiring an updated feasibility study of a dam and reservoir circumventing entirely the Committee on Public Works and Transportation in section 12(c) of the legislation.

The bill requires the BIA engage itself in engineering studies to accomplish the purposes of preparing a feasibility report, not the Bureau of Reclamation, not the Corps of Engineers, but the BIA. This is ridiculous. They do not have the engineering capability.

The rule is ludicrous.

The letter referred to follows:

> OCTOBER 19, 1988.
>
> DEAR MEMBER OF CONGRESS: The National Cattlemen's Association, National Wool Growers Association and Public Lands Council urge you to oppose S. 2751, the Montana Natural Resources Protection and Utilization Act of 1988, when it comes up for a vote on the floor of the U.S. House of Representatives.
>
> We oppose this wilderness bill for a number of reasons. One major problem is Section 16(a), which directs the Forest Service to acquire public access across private

lands to national forest lands in the State of Montana. We are extremely concerned about the impact this will have on private property, the fact that this is a new directive to the Forest Service that has never been subject to any public hearings, the fact that it is a very broad directive with no criteria or agency guidance on how to implement it, and the precedent it could set for other states.

As any private landowners in the city or country can understand, we are concerned about any blanket government policy that could force public access across our private property. Many ranchers already provide public access to hunters, fishermen, recreationists and others to use their private property or in order to get to federal lands. But many ranchers experience very serious vandalism, littering, property destruction, trespass, noise, dust, and potential liability problems from public use of their property. As just one example, a Montana rancher had 500 trees on his private property chopped down, stolen and sold as Christmas trees, cattle and the family dog shot dead, livestock killed on the highway when trespassers left a pasture gate open, and a meadow of pine seedlings destroyed by campers. Public access creates potential landowner liability problems, can hurt the value of one's property or split it into parcels that are difficult or uneconomic to manage, and can destroy fish and wildlife values. In order to resolve these kinds of problems, the Forest Service and BLM have contracted with a Colorado think-tank, the Keystone Institute, to bring together landowners, recreation, hunting, government, and other affected groups to discuss how to balance access needs and demands with private property rights. After meeting for one year, the group will be issuing its report and recommendations soon.

We think it is premature for Congress to pass this legislation directing the Forest Service in vague, broad language to acquire access to not only the wilderness areas covered in this bill but all national forest lands in Montana. In our minds, we should hold off action on this matter until hearings are held, the Keystone Institute issues its report, and the public and Congress have a chance to consider present and proposed policies. In our minds this language raises more questions than it answers, such as how much access is reasonable and needs to be acquired, where funding will come from, the extent to which the Forest Service can negotiate costs and other issues with landowners, whether private lands will be condemned, and others.

We are also concerned that the water provision, while much improved over some versions in other wilderness bills, still fails to include language expressly barring the establishment of any express or implied federal reserved water rights because of wilderness designations, except in full compliance with state water law.

In addition to other problems with the bill, we are concerned generally about the cumulative amount of land that we as a nation continue to set aside and preserve in wilderness or restrictive, single use designations rather than manage for traditional multiple use purposes. The recent, devastating fires in Yellowstone and across the west should point out to the American public that we need to manage our natural resources responsibly if man and nature are to co-exist.

The Montana Stockgrowers Association, Montana Wool Growers Association, and Montana Public Lands Council all join us in opposing S. 2751. We urge you to vote against this legislation on the House floor.

Sincerely,

Dale Humphrey,
President, National Cattlemen's Association.
John Faulkner,
Chairman, Public Lands Committee, National Wool Growers Association.
Bud Eppers,
President, Public Lands Council.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from California [Mr. Miller].

Mr. MILLER of California. Mr. Speaker, as chairman of the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs, I would like to comment on the committee's intent of adopting the provisions of S. 2751 concerning water rights.

Mr. Speaker, as chairman of the Subcommittee on Water and Power Resources of the House Committee on Interior and Insular Affairs, I would like to comment on the committee's intent in adopting the provisions of S. 2751 which concern water rights. These provisions are included to clarify that designation of new wilderness areas in Montana will not nullify valid water rights existing at the time the act is passed or prohibit future appropriations of water downstream of these wilderness areas. At the same time they are not intended to exempt the wilderness areas created by this bill from any provision of the Wilderness Act or to negate the existence of a Federal reserved water right for these areas.

The reservation of sufficient water to fulfill the purposes for which wilderness areas are created is implied with the reservation of the lands. Under the well established doctrine of Federal reserved water rights, also called the Winters doctrine after the 1908 Supreme Court decision announcing it, when Congress acts to protect an area of the public lands for special purposes, the protection extends to waters as well. Since 1908 a long line of cases has correctly affirmed the implied reservation of water necessary to sustain indian reservations, national forests, wildlife refuges, and wilderness areas.

The designation of wilderness areas by this bill reserves water rights sufficient to fulfill the wilderness purposes for which these areas are created. Since the waters within these wilderness areas originate within the boundaries of the areas, i.e. are headwaters, the reservation encompasses all waters which arise upon or under or flow through these areas.

Section 7 of the bill recognizes that because all the waters within these wilderness areas are headwaters, wilderness designations will have no effect on appropriation of water downstream of the exterior boundaries of these areas. Simply stated, the streams that arise in the wilderness areas designated by this act flow out of the areas and, to the extent they have not already been appropriated, are available for appropriation downstream of the wilderness boundaries. Wilderness does not consume water; it provides assured flows of clean, pure water for use by man outside of wilderness boundaries. This does not mean, however, that water rights reserved for wilderness are subordinate to rights established by downstream appropriations which occur after the wilderness areas are designated.

Section 7 also recognizes and protects water rights that are valid at the wilderness as designated. This section does not alter in any way the applicability of the Wilderness Act or the clear limitations that the Wilderness Act places on water development or diversions within wilderness areas.

Mr. LATTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARLENEE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 202, nays 144, not voting 85, as follows:

[Roll No. 455]

YEAS—202

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Atkins
Bates
Beilenson
Bennett
Berman
Bilbray
Boggs
Bonior
Bonker
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Carper
Carr
Chapman
Clarke
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Costello
Darden
de la Garza
DeFazio
Derrick
Dicks
Dixon
Donnelly
Dorgan (ND)
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gradison
Grant
Gray (IL)
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kildee
Kleczka
Kostmayer
Lancaster
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
Markey
Martinez
Matsui
McCloskey
McCurdy
McGrath
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murtha
Nagle
Natcher

Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Richardson
Robinson
Rodino
Roe
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schumer
Sharp
Shays
Sikorski
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stratton
Studds
Synar
Tallon
Tauzin
Torres
Torricelli
Towns
Traficant
Udall
Vento
Visclosky
Walgren
Wheat
Whitten
Williams
Wilson
Wolpe
Wortley
Wyden
Yates
Yatron

NAYS—144

Archer
Armey
Badham
Ballenger
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boland
Broomfield
Buechner
Bunning
Burton
Callahan
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crockett
Daub
Davis (IL)
Davis (MI)
DeLay
Dellums
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Green
Hall (TX)
Hammerschmidt
Harris
Hastert
Hefley
Herger
Hopkins
Horton
Houghton
Hunter
Hyde
Jacobs
Kasich
Kolbe
Kyl
LaFalce
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (NY)
Mazzoli
McCandless
McCollum
McCrery
McDade
McHugh
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Myers
Nielson
Packard
Parris
Pashayan
Petri
Porter
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Saiki
Saxton
Schaefer
Schroeder
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skaggs
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Stenholm
Stump
Sundquist
Thomas (CA)
Thomas (GA)
Upton
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weiss
Weldon
Wolf
Wylie
Young (AK)

NOT VOTING—85

Anthony
Applegate
Aspin
AuCoin
Baker
Barnard
Barton
Bevill
Boucher
Boulter
Brown (CO)
Cardin
Chandler
Chappell
Clay
Clement
Coyne
Crane
Dannemeyer
Dingell
Dowdy
Durbin
Fazio
Flippo
Florio
Garcia
Gejdenson
Gordon
Gray (PA)
Gregg
Gunderson
Hansen
Hiler
Holloway
Inhofe
Ireland
Jeffords
Jenkins
Jones (NC)
Kemp
Kennelly
Kolter
Konnyu
Lantos
Leath (TX)
Lent
Livingston
Lott
Mack
MacKay
Manton
Martin (IL)
Mavroules
McEwen
Mica
Molinari
Morrison (CT)
Morrison (WA)
Murphy
Neal
Owens (NY)
Oxley
Quillen
Rose
Rostenkowski
Schneider
Sisisky
Smith (FL)
Smith, Denny (OR)
Solarz
St Germain
Stangeland
Stokes
Sweeney
Swift
Swindall
Tauke
Taylor
Traxler
Valentine
Volkmer
Waxman
Whittaker
Wise
Young (FL)

□ 1415

The Clerk announced the following pairs:

On this vote:

Mr. Dingell for, with Mr. Oxley against.
Mr. Florio for, with Mr. Swindall against.
Mr. Barnard for, with Mr. Quillen against.

Messrs. GREEN, HARRIS, McHUGH, BOLAND, and LaFALCE changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The gentleman will state it.

Mr. WALKER. Mr. Speaker, the bills that have just been announced, are they over and above the 28 that had previously been announced?

The SPEAKER pro tempore. The gentleman is correct.

CONFERENCE REPORT ON S. 2100, WATER RESOURCES DEVELOPMENT ACT OF 1988

Mr. NOWAK submitted the following conference report and statement on the Senate bill (S. 2100) to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-1098)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2100) to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.
Sec. 3. Project authorizations.
Sec. 4. Project modifications.
Sec. 5. Comments on certain changes in operations of reservoirs.
Sec. 6. Operation of certain projects to enhance recreation.
Sec. 7. Collaborative research and development.
Sec. 8. Innovative technology.
Sec. 9. Technical assistance demonstration program.
Sec. 10. Periodic statements.
Sec. 11. Simulation model of South Central Florida hydrologic ecosystem.
Sec. 12. Section 215 reimbursement limitation per project.
Sec. 13. Additional 10 percent payment over 30 years for construction of harbors.
Sec. 14. Compliance with flood plain management and insurance programs.
Sec. 15. Federal repayment district.
Sec. 16. Abandoned and wrecked vessels.
Sec. 17. Flood warning and response system.
Sec. 18. Small boat harbor, Buffalo Harbor, New York.
Sec. 19. Lakeport Lake, California.
Sec. 20. Sacramento, California.
Sec. 21. Mississippi River headwaters reservoirs.
Sec. 22. Hearding Island inlet, Duluth Harbor, Minnesota.
Sec. 23. Louisiana water supply.
Sec. 24. Contained spoil disposal facilities in the Great Lakes and their connecting channels.
Sec. 25. South pier to Charlevoix Harbor, Charlevoix, Michigan.
Sec. 26. Coyote and Berryessa Creeks, California.
Sec. 27. Land conveyance, Whittier Narrows Dam, Los Angeles County, California.
Sec. 28. Land conveyance, Ottawa, Illinois.
Sec. 29. Land transfer in Whitman County, Washington.
Sec. 30. Lesage/Greenbottom Swamp, West Virginia.
Sec. 31. Portuguese and Bucana Rivers, Puerto Rico.
Sec. 32. Alternatives to mud dump for disposal of dredged material.
Sec. 33. Missouri River between Fort Peck Dam, Montana, and Gavins Point Dam, South Dakota and Nebraska.
Sec. 34. New York Harbor drift removal project.
Sec. 35. Placement of dredged beach quality sand on beaches.
Sec. 36. Restoration, Ventura to Pierpont Beach, California.
Sec. 37. William G. Stone lock tolls.
Sec. 38. Declaration of nonnavigability for portions of the Delaware River.
Sec. 39. Declaration of nonnavigability for portions of Coney Island Creek and Gravesend Bay, New York.
Sec. 40. Extension of modified water delivery schedules, Everglades National Park.
Sec. 41. Period of environmental demonstration program.
Sec. 42. Federal hydroelectric power modernization study.
Sec. 43. Water quality effects of hydroelectric facilities.
Sec. 44. GAO review of civil works program.

Sec. 45. Des Plaines River wetlands demonstration project authorization.
Sec. 46. Kissimmee River, Florida.
Sec. 47. Water resources studies.
Sec. 48. Division laboratory.
Sec. 49. Water resources management planning service for the Hudson River Basin.
Sec. 50. Technical resource service, Red River Basin, Minnesota and North Dakota.
Sec. 51. Correction of descriptions.
Sec. 52. Project deauthorizations.
Sec. 53. Namings.
Sec. 54. Declaration of nonnavigability of bodies of water in Ridgefield, New Jersey.

SEC. 2. SECRETARY DEFINED.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 3. PROJECT AUTHORIZATIONS.

(a) AUTHORIZATION OF CONSTRUCTION.—Except as otherwise provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection:

(1) LOWER MISSION CREEK, SANTA BARBARA, CALIFORNIA.—The project for flood control, Lower Mission Creek, Santa Barbara, California: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $10,420,000, with an estimated first Federal cost of $5,909,000, and an estimated first non-Federal cost of $4,511,000.

(2) FT. PIERCE HARBOR, FLORIDA.—The project for navigation, Ft. Pierce Harbor, Florida: Report of the Chief of Engineers, dated December 14, 1987, at a total cost of $6,742,000, with an estimated first Federal cost of $4,319,000, and an estimated first non-Federal cost of $2,423,000.

(3) NASSAU COUNTY, FLORIDA.—The project for beach erosion control, Nassau County (Amelia Island), Florida: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $5,753,000, with an estimated first Federal cost of $4,619,000, and an estimated first non-Federal cost of $1,134,000.

(4) PORT SUTTON CHANNEL, FLORIDA.—The project for navigation, Port Sutton Channel, Florida: Report of the Chief of Engineers, dated March 28, 1988, at a total cost of $2,670,000, with an estimated first Federal cost of $1,155,000, and an estimated first non-Federal cost of $1,515,000; except that construction of such project may not be initiated until the Secretary determines that such project serves more than one beneficiary.

(5) CHICAGOLAND UNDERFLOW PLAN, ILLINOIS.—The project for flood control, Chicagoland Underflow Plan, Illinois: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $419,000,000, with an estimated first Federal cost of $314,250,000, and an estimated first non-Federal cost of $104,750,000.

(6) LOWER OHIO RIVER, ILLINOIS AND KENTUCKY.—The project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky: Report of the Chief of Engineers, dated August 20, 1986, at a total cost of $775,000,000, with a first Federal cost of $775,000,000, and with the costs of construction of the project to be paid one half from amounts appropriated from the general fund of the Treasury and one half from amounts appropriated from the Inland Waterways Trust Fund.

(7) HAZARD, KENTUCKY.—The project for flood control, Hazard, Kentucky: Report of the Chief of Engineers, dated October 30, 1986, at a total cost of $7,450,000, with an estimated first Federal cost of $5,590,000 and an estimated first non-Federal cost of $1,860,000.

(8) MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MISSISSIPPI AND LOUISIANA.—The project for environmental enhancement, Mississippi and Louisiana Estuarine Areas, Mississippi and Louisiana: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $59,300,000.

(9) WOLF AND JORDAN RIVERS, MISSISSIPPI.—The project for navigation, Wolf and Jordan Rivers and Bayou Portage, Mississippi: Report of the Chief of Engineers, dated June 10, 1987, at a total cost of $2,290,000, with an estimated first Federal cost of $1,620,000 and an estimated first non-Federal cost of $670,000.

(10) TRUCKEE MEADOWS, NEVADA.—The project for flood control, Truckee Meadows, Nevada: Report of the Chief of Engineers, dated July 25, 1986, at a total cost of $78,400,000, with an estimated first Federal cost of $39,200,000 and an estimated first non-Federal cost of $39,200,000; except that the Secretary is authorized to carry out fish and wildlife enhancement as a purpose of such project, including fish and wildlife enhancement measures described in the District Engineer's Report, dated July 1985, at an additional total cost of $4,140,000.

(11) WEST COLUMBUS, OHIO.—The project for flood control, Scioto River, West Columbus, Ohio: Report of the Chief of Engineers, dated February 9, 1988, at a total cost of $31,562,000, with an estimated first Federal cost of $23,671,000, and an estimated first non-Federal cost of $7,891,000.

(12) DELAWARE RIVER, PENNSYLVANIA AND DELAWARE.—The project for navigation, Delaware River, Philadelphia to Wilmington, Pennsylvania and Delaware: Report of the Chief of Engineers, dated June 15, 1986, at a total cost of $17,200,000, with an estimated first Federal cost of $9,100,000 and an estimated first non-Federal cost of $8,100,000.

(13) CYPRESS CREEK, TEXAS.—The project for flood control, Cypress Creek, Texas: Report of the Chief of Engineers, dated October 12, 1987, at a total project cost of $114,200,000, with an estimated first Federal cost of $84,900,000 and an estimated first non-Federal cost of $29,300,000.

(14) FALFURRIAS, TEXAS.—The project for flood control, Falfurrias, Texas: Report of the Chief of Engineers, dated March 15, 1988, at a total cost of $31,800,000, with an estimated first Federal cost of $15,900,000, and an estimated first non-Federal cost of $15,900,000.

(15) GUADALUPE RIVER, TEXAS.—The project for navigation, Guadalupe River to Victoria, Texas: Report of the Chief of Engineers, dated September 1, 1987, at a total cost of $23,900,000, with an estimated first Federal cost of $15,100,000, and an estimated first non-Federal cost of $8,800,000.

(16) MCGRATH CREEK, WICHITA FALLS, TEXAS.—The project for flood control, McGrath Creek, Wichita Falls, Texas: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $9,100,000, with an estimated first Federal cost of $6,800,000 and an estimated first non-Federal cost of $2,300,000.

(b) MAXIMUM COST OF PROJECTS.—Section 902 of the Water Resources Development Act of 1986 (100 Stat. 4183) is amended—

(1) by striking out "in this Act, or an amendment made by this Act, for a project" and inserting in lieu thereof "with respect to a project for water resources development and conservation and related purposes authorized to be carried out by the Secretary in this Act or in a law enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988, or in an amendment made by this Act or any later law with respect to such a project";

(2) in paragraph (1) by inserting ", in any later law," after "in this Act" and by inserting "or any later law" after "by this Act";

(3) in paragraph (2)(A) by inserting "or any later law" after "of this Act"; and

(4) in paragraph (2)(B) by inserting "or any later law" after "by this Act".

SEC. 4. PROJECT MODIFICATIONS.

(a) BEAVER LAKE, ARKANSAS.—

(1) AMENDMENTS.—Section 843 of the Water Resources Development Act of 1986 (100 Stat. 4176-4177) is amended—

(A) by inserting "and the Chief of the Soil Conservation Service" after "the Environmental Protection Agency"; and

(B) by inserting "including best management practices," before "at a total cost".

(2) CONTINUATION OF PLANNING AND DESIGN.—Using funds made available for the Beaver Lake project, Arkansas, pursuant to the Energy and Water Development Appropriations Act, 1989, the Secretary is directed to continue overall planning and design for such project, including the development of implementation plans for individual parcels of land within the drainage basin which contribute to water quality degradation and impairment of water supply uses at Beaver Lake.

(b) WEST MEMPHIS AND VICINITY, ARKANSAS.—The project for flood control, West Memphis and vicinity, Arkansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) is modified to provide that non-Federal cooperation for such project may be provided by levee districts, drainage districts, or any unit of a State, county, or local government.

(c) KING HARBOR, REDONDO BEACH, CALIFORNIA.—Section 809 of the Water Resources Development Act of 1986 (100 Stat. 4168) is amended by striking out the last sentence and inserting in lieu thereof the following: "The non-Federal share of the cost of work undertaken pursuant to this section shall be in accordance with title I of this Act.".

(d) LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.—The navigation project for Los Angeles and Long Beach Harbors, San Pedro Bay, California, authorized by section 201 of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to provide that, if non-Federal interests carry out any work associated with such project which is later recommended by the Chief of Engineers and approved by the Secretary, the Secretary may credit such non-Federal interests an amount equal to the Federal share of the cost of such work, without interest. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under the preceding sentence by non-Federal interests and which the Secretary determines is compatible with such project. The feasibility report for such project shall include consideration and evaluation of the following proposed project features: Long Beach Main Channel, Channel to Los Angeles Pier 300, Channels to Los Angeles Pier 400, Long Beach Pier "K" Channel, and Los Angeles Crude Transshipment Terminal Channel.

(e) LOS ANGELES RIVER, CALIFORNIA.—The Secretary is directed to perform mainte-

nance dredging of the existing Federal project at the mouth of the Los Angeles River, California, to the authorized depth of 20 feet for the purpose of maintaining the flood control basin and navigation safety.

(f) Sunset Harbor, California.—The demonstration project at Sunset Harbor, California, authorized by section 1119(b) of the Water Resources Development Act of 1986 (100 Stat. 4238), is modified to include wetland restoration as a purpose of such demonstration project. All costs allocated to such wetland restoration shall be paid by non-Federal interests in accordance with section 916 of such Act.

(g) Indiana Shoreline Erosion, Indiana.—The undesignated paragraph of section 501(a) of the Water Resources Development Act of 1986 under the heading "INDIANA SHORELINE, INDIANA" (100 Stat. 4135) is amended by striking out "with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000." and inserting in lieu thereof "with the Federal share of the cost of this project to be determined in accordance with title I of this Act.".

(h) Stumpy Lake, Louisiana.—The project for mitigation of fish and wildlife losses Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142), is modified to authorize the Secretary to obtain, on a priority basis, up to 300 acres in the area of Stumpy Lake as part of such project. Such modification shall not increase the total authorization for land acquisition for such project.

(i) Annapolis Harbor, Maryland.—The project for navigation, Annapolis Harbor, Maryland, is modified to authorize and direct the Secretary to realign by nonstructural, nondredging measures the channel in such project, as determined necessary by the Secretary, for the purpose of promoting more efficient mooring operations in Annapolis Harbor.

(j) Deal Island, Maryland.—The Secretary may pay the remaining cost for the navigation project for Deal Island, Maryland (Lower Thorofare), authorized under section 107 of the River and Harbor Act of 1960, estimated at $277,000, plus any interest due the construction contractor.

(k) Redwood River, Marshall, Minnesota.—The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of $6,900,000, with an estimated first Federal cost of $5,000,000 and an estimated first non-Federal cost of $1,900,000.

(l) Root River Basin, Minnesota.—The undesignated paragraph of section 401(a) of the Water Resources Development Act of 1986 under the heading "ROOT RIVER BASIN, MINNESOTA" (100 Stat. 4117) is amended by adding at the end thereof the following new sentence: "Nothing in this paragraph precludes the Secretary from carrying out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).".

(m) Roseau River, Minnesota.—The project for flood control, Roseau River, Minnesota, authorized by the Flood Control Act of 1965, is modified to authorize and direct the Secretary to construct as authorized, or to construct under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the 6-mile flood control levee in the vicinity of Duxby, Minnesota, beginning at a point approximately 2 miles upstream, substantially in accordance with the recommendations of the Chief of Engineers contained in House Document Numbered 282, 89th Congress, at an estimated total cost of $360,000, and with an estimated first Federal cost of $270,000 and an estimated first non-Federal cost of $90,000. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under such section 205 and which the Secretary determines is compatible with such project.

(n) Gulfport Harbor, Mississippi.—

(1) In general.—The project for navigation, Gulfport Harbor, Mississippi, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4094-4095) is modified to authorize the Secretary to dispose, in accordance with all provisions of Federal law, of dredged material—

(A) from construction, operation, and maintenance of such project in open waters of the Gulf of Mexico;

(B) from construction of such project by thin layer disposal in the Mississippi Sound under the demonstration program carried out under paragraph (2);

(C) from operation and maintenance of such project by disposal in the Mississippi Sound under a plan developed by the Secretary and approved by the Administrator of the Environmental Protection Agency if the Secretary, after consultation with the study team established under paragraph (3), determines that the report submitted under paragraph (2)(H) indicates that there will be no unacceptable adverse environmental impacts from such disposal; and

(D) from construction, operation, and maintenance of such project as fill in connection with a pier extension project for such Harbor carried out under a permit issued before, on, or after the date of the enactment of this Act under section 404 of the Federal Water Pollution Control Act.

(2) Demonstration program.—

(A) Purposes.—During construction of the Gulfport Harbor navigation project, the Secretary shall carry out a demonstration program for the purpose of evaluating the costs and benefits of thin layer disposal in the Mississippi Sound of dredged material from construction of harbor improvements, including any operation and maintenance materials that may be removed during construction, and for determining whether or not there are unacceptable adverse effects from such disposal—

(i) on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(ii) on marine life (including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes), changes in marine ecosystem diversity, productivity, and stability, and species and community population changes;

(iii) on esthetic, recreation, and economic values; and

(iv) on alternative uses of oceans, such as mineral exploitation and scientific study.

In addition, the Secretary shall determine through such program the persistence and permanence of any such adverse effects and methods of mitigating any such adverse effects.

(B) Planning.—Within 4 months after the date of the enactment of the Act, the Secretary, in consultation with the study team established under paragraph (3), shall develop a plan for carrying out the demonstration program under this paragraph. Such plan shall, at a minimum, establish predisposal monitoring requirements, thin layer disposal locations, the amounts of dredged material necessary for carrying out such demonstration program, the duration of thin layer disposal under such demonstration program, the compatibility of the receiving habitat with thin layer dredged material disposal, requirements for minimizing demonstration program impacts, the depth of thin layer disposal, and the scope of the post disposal monitoring.

(C) Limitations on materials from project.—The Secretary in carrying out the demonstration program under this paragraph shall use suitable material removed during construction of the Gulfport Harbor navigation project. The amount of material used shall be of sufficient quantity to determine the effects of thin layer disposal in near shore areas of (i) dredged materials from construction of harbor improvements, and (ii) any materials from operation and maintenance of harbor improvements dredged during the period of such construction; except that the total amount of material to be used shall be limited to the lesser of 3,000,000 cubic yards of dredged material or the amount determined under the plan developed under subparagraph (B).

(D) Consultation requirement.—In conducting the demonstration program under this paragraph, the Secretary shall consult the study team established under paragraph (3).

(E) Post disposal monitoring.—The demonstration program under this paragraph shall include monitoring of the near shore areas at which dredged material is disposed of under such program during the period determined under the plan developed under subparagraph (B).

(F) Applicability of federal law.—The demonstration program under this paragraph shall be carried out in accordance with all applicable provisions of Federal law, including section 404(c) of the Federal Water Pollution Control Act.

(G) Cost sharing.—The demonstration program carried out under this paragraph shall be subject to cost sharing under title I of the Water Resources Development Act of 1986. All costs of such program, other than dredging and disposal of dredged material costs, shall not be included for purposes of calculating the economic costs and benefits of the navigation project for Gulfport Harbor, Mississippi.

(H) Report to congress and epa.—Within 1 year after the date of completion of the demonstration program under this paragraph, the Secretary, after consultation with the study team established under paragraph (3), shall transmit to Congress and to the Administrator of the Environmental Protection Agency a report on the results of such demonstration program together with recommendations concerning thin layer disposal in near shore areas of dredged material from construction, operation, and maintenance of future navigation projects.

(I) Approval or disapproval of recommendations.—Not later than 30 days after the date of receipt of the report and recommendations under subparagraph (H), the Administrator of the Environmental Protection Agency shall approve or disapprove the recommendations and shall notify Congress and the Secretary of such approval or disapproval. If the Administrator disapproves the recommendations, not later than 30 days after the date of such disapproval, the Ad-

ministrator shall notify Congress and the Secretary of the reasons for such disapproval together with recommendations for modifications which could be made to the recommendations to take into account such reasons. If the Administrator fails to approve or disapprove the recommendations transmitted under subparagraph (H) within the 30-day period, the recommendations shall be deemed to be approved.

(3) STUDY TEAM.—The Secretary shall establish a study team to assist the Secretary in planning, carrying out, monitoring, and reporting on the demonstration program and the results of such program under this subsection. Such team shall be appointed by the Secretary and shall consist of representatives of the Corps of Engineers, the Environmental Protection Agency, interested Federal and State resource agencies, and the local sponsor of the demonstration program. Members of the study team who are not officers or employees of the United States shall serve without compensation. Members of the study team who are officers or employees of the United States shall receive no additional pay by reason of their service on the study team.

(4) THIN LAYER DISPOSAL DEFINED.—For purposes of this subsection, the term "thin layer disposal" means the deliberate placement of a 6- to 12-inch layer of dredged material in a specific bottom area. In no case shall such layer exceed a maximum of 12 inches of thickness.

(o) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to provide to the non-Federal interests providing local cooperation for such project services (including the provision of services by contract) in the design and construction of upstream and downstream non-Federal extensions to such project—

(1) if the non-Federal interests provide, in advance of obligation of Federal funds for such design and construction, amounts sufficient to cover all costs of such services;

(2) if, prior to construction of such extensions, the non-Federal interests obtain all necessary Federal and State permits; and

(3) if the non-Federal interests agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of such extensions.

Construction costs, operation, and maintenance of such extensions shall be a non-Federal responsibility and shall not be considered part of the Brush Creek flood control project for any purpose.

(p) LIBBY DAM, MONTANA.—The project for Libby Dam, Lake Koocanusa Reservoir, Montana, is modified (1) to authorize the Secretary, in consultation with the Secretary of Agriculture, to undertake measures to alleviate low water impact on existing facilities at such project, including provision of low water access to Lake Koocanusa, Montana, and provision of additional planned public recreation sites along the reservoir, and (2) to direct the Secretary to protect Indian archaeological sites which are exposed during the course of operations of such project, at an estimated total cost of $750,000. The Secretary shall coordinate with the Kootenai Tribes in monitoring exposed archaeological sites to prevent pillaging, in preserving artifacts onsite, and in facilitating curation at the tribal curation center in Pablo Montana when onsite preservation is not warranted.

(q) SEA BRIGHT TO MONMOUTH BEACH, NEW JERSEY.—Section 854 of the Water Resources Development Act of 1986 (100 Stat. 4179-4180) is amended to read as follows:

"SEC. 854. SANDY HOOK TO BARNEGAT INLET, NEW JERSEY.

"(a) Subject to section 903(a) of this Act, the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, authorized by the River and Harbor Act of 1958, is modified to provide that the first Federal construction increment of the Ocean Township to Sandy Hook reach of such project shall consist of a berm of approximately 100 feet at Sea Bright and Manmouth Beach extending to and including a feeder beach in the vicinity of Long Beach substantially in accordance with the plan recommended in the draft General Design Memorandum entitled 'Atlantic Coast of New Jersey, Sandy Hook to Barnegat Inlet, Beach Erosion Control Project, Section 1 - Sea Bright to Ocean Township, New Jersey', dated May 1988, at a total initial cost for such increment of $91,000,000 and an annual cost of $1,200,000 for periodic beach nourishment over the life of such increment.

"(b) The non-Federal share of the costs of construction and maintenance of the increment referred to in subsection (a) shall be—

"(1) for the first $40,000,000 in costs, the amounts expended by non-Federal interests for reconstruction of the seawall at Sea Bright and Monmouth Beach, New Jersey; and

"(2) for costs in excess of $40,000,000, a non-Federal share which is in accordance with title I of this Act.

"(c) Before initiation of construction of any increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, non-Federal interests shall agree to provide public access to the beach for which such increment of the project is authorized in accordance with all requirements of State law and regulations.".

(r) WYOMING VALLEY, PENNSYLVANIA.—The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 1424), is modified to authorize the Secretary to study the feasibility of constructing an inflatable dam on the Susquehanna River in the vicinity of Wilkes Barre, Pennsylvania.

(s) BLAIR AND SITCUM WATERWAYS, WASHINGTON.—The undesignated paragraph of section 202(a) of the Water Resources Development Act of 1986 under the heading "BLAIR AND SITCUM WATERWAYS, TACOMA HARBOR, WASHINGTON" (100 Stat. 4096) is amended by striking out "$38,200,000" and all that follows through "$12,000,000;" and inserting in lieu thereof "$51,000,000;".

(t) WYNOOCHEE LAKE, WASHINGTON.—

(1) IN GENERAL.—To demonstrate the feasibility of non-Federal operation, maintenance, repair, and rehabilitation of a Federal multi-purpose water resources project, the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), is modified to authorize the Secretary to permit the city of Aberdeen, Washington, to operate, maintain, repair, and rehabilitate the project (hereinafter in this subsection referred to as "OMR&R") after September 30, 1988.

(2) LIMITATIONS ON OMR&R.—OMR&R by the city of Aberdeen shall be—

(A) subject to such terms and conditions as the Secretary shall establish by regulation to ensure that OMR&R is consistent with the project's authorized purposes, including fish and wildlife mitigation; and

(B) consistent with the long-term value and viability of the project's physical facilities.

In issuing such regulations, the Secretary shall evaluate the effect of such regulations on the project costs payable by the city.

(3) CONDITIONS.—OMR&R by the city of Aberdeen under this subsection shall be subject to the following conditions:

(A) Title to real and personal property of the project shall remain in the United States, and the city shall not impair such title.

(B) The city shall hold and save the United States free from any damages which result from OMR&R by the city, except for damages due to the fault or negligence of the United States or its contractors.

(C) Upon due cause as determined by the Secretary and after notice to the city, the Secretary may resume OMR&R and the city shall be responsible to pay the percentage of the OMR&R costs of the project incurred thereafter and related to water supply storage as described in the original project contract.

(D) The Secretary shall modify the project contract to forgive future OMR&R payment obligations of the city to the extent that the city is performing project OMR&R in accordance with this subsection and the regulations issued under this subsection.

(E) The Secretary shall transfer to the city responsibility for OMR&R of the project in a safe and cost-effective manner.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the implementation of this subsection.

SEC. 5. COMMENTS ON CERTAIN CHANGES IN OPERATIONS OF RESERVOIRS.

Before the Secretary may make changes in the operation of any reservoir which will result in or require a reallocation of storage space in such reservoir or will significantly affect any project purpose, the Secretary shall provide an opportunity for public review and comment.

SEC. 6. OPERATION OF CERTAIN PROJECTS TO ENHANCE RECREATION.

(a) ENHANCEMENT OF RECREATION.—The Secretary shall ensure, to the extent compatible with other project purposes, that each water resources project referred to in this subsection is operated in such manner as will protect and enhance recreation associated with such project. The Secretary is authorized to manage project lands at each such project in such manner as will improve opportunities for recreation at the project. Such activities shall be included as authorized project purposes of each project. Nothing in this subsection shall be construed to affect the authority or discretion of the Secretary with respect to carrying out other authorized project purposes or to comply with other requirements or obligations of the Secretary which are legally binding as of the date of the enactment of this Act. The provisions of this subsection shall apply to the following projects:

(1) Beechfork Lake, West Virginia.
(2) Bluestone Lake, West Virginia.
(3) East Lynn Lake, West Virginia.
(4) Francis E. Walter Dam, Pennsylvania.
(5) Jennings Randolph Lake (Bloomington Dam), Maryland and West Virgina.
(6) R.D. Bailey Lake, West Virginia.
(7) Savage River Dam, Maryland.

(8) Youghiogheny River Lake, Pennsylvania and Maryland.

(9) Summersville Lake, West Virginia.

(10) Sutton Lake, West Virginia.

(11) Stonewall Jackson Lake, West Virginia.

(b) RECREATION DEFINED.—As used in this section, in addition to recreation on lands associated with the project, the term "recreation" includes (but shall not be limited to) downstream whitewater recreation which is dependent on project operations, recreational fishing, and boating on water at the project.

SEC. 7. COLLABORATIVE RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—For the purpose of improving the state of engineering and construction in the United States and consistent with the mission of the Army Corps of Engineers, the Secretary is authorized to utilize Army Corps of Engineers laboratories and research centers to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local government, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the several States of the United States or the District of Columbia.

(b) ADMINISTRATIVE PROVISIONS.—In carrying out this section, the Secretary may consider the recommendations of a non-Federal entity in identifying appropriate research or development projects and may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in such agreement, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this section. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

(c) APPLICABILITY OF OTHER LAWS.—The research, development, or utilization of any technology pursuant to an agreement under subsection (b), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714).

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section, there is authorized to be appropriated to the Secretary of the Army civil works funds $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, $5,000,000 for fiscal year 1991, and $6,000,000 for each fiscal year thereafter.

(e) ADDITIONAL FUNDING.—Notwithstanding the third proviso under the heading "GENERAL INVESTIGATIONS" of title I of the Energy and Water Development Appropriations Act, 1989 (102 Stat. 857), an additional $3,000,000 of the funds appropriated under such heading shall be available to the Secretary for obligation to carry out the purposes of this section in fiscal year 1989.

SEC. 8. INNOVATIVE TECHNOLOGY.

(a) USE.—The Secretary shall, whenever feasible, seek to promote long- and short-term cost savings, increased efficiency, reliability, and safety, and improved environmental results through the use of innovative technology in all phases of water resources development projects and programs under the Secretary's jurisdiction. To further this goal, Congress encourages the Secretary to—

(1) use procurement and contracting procedures that encourage innovative project design, construction, rehabilitation, repair, and operation and maintenance technologies;

(2) frequently review technical and design criteria to remove or modify unnecessary impediments to innovation;

(3) increase timely exchange of technical information with universities, private companies, government agencies, and individuals;

(4) foster design competition; and

(5) encourage greater participation by non-Federal project sponsors in the development and implementation of projects.

(b) REPORTS.—Within 2 years after the date of the enactment of this Act, and thereafter at the Secretary's discretion, the Secretary shall provide Congress with a report on the results of, and recommendations to increase, the development and use of innovative technology in water resources development projects under the Secretary's jurisdiction. Such report shall also contain information regarding innovative technologies which the Secretary has considered and rejected for use in water resources development projects under the Secretary's jurisdiction.

(c) INNOVATIVE TECHNOLOGY DEFINED.—For the purpose of this section, the term "innovative technology" means designs, materials, or methods which the Secretary determines are previously undemonstrated or are too new to be considered standard practice.

SEC. 9. TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to undertake a demonstration program for a 2-year period, which shall begin within 6 months after the date of the enactment of this Act, to provide technical assistance, on a nonexclusive basis, to any United States firm which is competing for, or has been awarded, a contract for the planning, design, or construction of a project outside the United States, if the United States firm provides, in advance of fiscal obligation by the United States, funds to cover all costs of such assistance. In determining whether to provide such assistance, the Secretary shall consider the effects on the Department of the Army civil works mission, personnel, and facilities. Prior to the Secretary providing such assistance, a United States firm must—

(1) certify to the Secretary that such assistance is not otherwise reasonably and expeditiously available; and

(2) agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of the project.

(b) FEDERAL EMPLOYEES' INVENTIONS.—As to an invention made or conceived by a Federal employee while providing assistance pursuant to this section, if the Secretary decides not to retain all rights in such invention, the Secretary may—

(1) grant or agree to grant in advance, to a United States firm, a patent license or assignment, or an option thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States and such other rights as the Secretary deems appropriate; or

(2) waive, subject to reservation by the United States of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States, in advance, in whole, or in part, any right which the United States may have to such invention.

(c) PROTECTION OF CONFIDENTIAL INFORMATION.—Information of a confidential nature, such as proprietary or classified information, provided to a United States firm pursuant to this section shall be protected. Such information may be released by a United States firm only after written approval by the Secretary.

(d) REPORT.—Within 6 months after the end of the demonstration program authorized by this section, the Secretary shall submit to Congress a report on the results of such demonstration program.

(e) DEFINITIONS.—For purposes of this section—

(1) UNITED STATES FIRM.—The term "United States firm" means a corporation, partnership, limited partnership, or sole proprietorship that is incorporated or established under the laws of any of the United States with its principal place of business in the United States.

(2) UNITED STATES.—The term "United States", when used in a geographical sense, means the several States of the United States and the District of Columbia.

SEC. 10. PERIODIC STATEMENTS.

Upon receipt of a request from a non-Federal sponsor of a water resources development project under construction by the Secretary, the Secretary shall provide such sponsor with periodic statements of project expenditures. Such statements shall include an estimate of all Federal and non-Federal funds expended by the Secretary, including overhead expenditures, the purpose for expenditures, and a schedule of anticipated expenditures during the remaining period of construction. Statements shall be provided to the sponsor at intervals of no greater than 6 months.

SEC. 11. SIMULATION MODEL OF SOUTH CENTRAL FLORIDA HYDROLOGIC ECOSYSTEM.

(a) IN GENERAL.—The Secretary, in cooperation with affected Federal, State, and local agencies and other interested persons, may develop and operate a simulation model of the central and southern Florida hydrologic ecosystem for use in predicting the effects—

(1) of modifications to the flood control project for central and southern Florida, authorized by the Flood Control Act of 1948,

(2) of changes in the operation of such project, and

(3) of other human activities conducted in the vicinity of such ecosystem which individually or in the aggregate will significantly affect the ecology of such ecosystem,

on the flow, characteristics, quality, and quantity of surface and ground water in such ecosystem and on plants and wildlife within such ecosystem. Such model shall be capable of producing information which is applicable for use in evaluating the impact of issuance of proposed permits under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbors Appropriation Act of 1899, and under section 404 of the Federal Water Pollution Control Act.

(b) AVAILABILITY TO STATE AND LOCAL AGENCIES.—The Secretary shall allow Federal, State, and local agencies to use, on a reimbursable basis, the simulation model developed under this section.

(c) COST SHARING.—The Federal share of the cost of developing and operating the simulation model under this section shall be 75 percent.

SEC. 12. SECTION 215 REIMBURSEMENT LIMITATION PER PROJECT.

Section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a(a)) is amended by inserting after "$3,000,000" the following: "or 1 percent of the total project cost, whichever is greater; except that the amount of actual Federal reimbursement, including reductions in contributions, for such project may not exceed $5,000,000 in any fiscal year.".

SEC. 13. ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS FOR CONSTRUCTION OF HARBORS.

(a) RELOCATION COSTS.—Section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS.—The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, at an interest rate determined pursuant to section 106. The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.".

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 17, 1986.

SEC. 14. COMPLIANCE WITH FLOOD PLAIN MANAGEMENT AND INSURANCE PROGRAMS.

Section 402 of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12) is amended by inserting "or any project for hurricane or storm damage reduction" after "local flood protection".

SEC. 15. FEDERAL REPAYMENT DISTRICT.

Section 916(a) of the Water Resources Development Act of 1986 (33 U.S.C 2291) is amended by striking out "include the power to collect" and all that follows through the period at the end of the last sentence and inserting in lieu thereof "have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b).".

SEC. 16. ABANDONED AND WRECKED VESSELS.

Section 1115 of the Water Resources Development Act of 1986 (100 Stat. 4235) is amended by striking out the last period and inserting in lieu thereof the following: ": Provided, That, in furtherance of the work authorized by paragraph (3) hereof, and conditioned on successful removal of the A. Regina, the Secretary of the Army is hereby authorized to transfer upon such conditions as he shall deem fit the title to a Delong Pier Jack-Up Barge Type A, serial number BPA6814, directly to any entity, including any private corporation to be used to assist in the removal of the wreck of the said A. Regina. Procedures otherwise governing the disposal of government property, shall not apply to the above authorized transfer of title. The foregoing actions shall be at no cost to the United States, and shall constitute full compliance by the Secretary of the Army with the requirement of paragraph (3) hereof.".

SEC. 17. FLOOD WARNING AND RESPONSE SYSTEM.

(a) PROJECT.—The Secretary, in cooperation with other Federal agencies and the Susquehanna River Basin Commission, is authorized to design and implement a comprehensive flood warning and response system to serve communities and flood prone areas along Juniata River and tributaries in the State of Pennsylvania consistent with the cost sharing policies of the Water Resources Development Act of 1986.

(b) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $2,000,000 for fiscal years beginning after September 30, 1988.

SEC. 18. SMALL BOAT HARBOR, BUFFALO HARBOR, NEW YORK.

The Secretary may undertake such emergency repairs as the Secretary determines necessary to preserve the existing dike at the Small Boat Harbor, Buffalo Harbor, New York, at a total cost of $2,000,000, except that the Federal share may not exceed $1,000,000.

SEC. 19. LAKEPORT LAKE, CALIFORNIA.

(a) PROJECT REAUTHORIZATION.—Subject to section 1001(a) of the Water Resources Development Act of 1986, the project for flood control, Lakeport Lake, California, as authorized by the Flood Control Act of 1965 on the day before the date of the enactment of the Water Resources Development Act of 1986, is authorized.

(b) REPEAL OF DEAUTHORIZATION.—Section 1003 of the Water Resources Development Act of 1986 (100 Stat. 4222-4223) is repealed.

SEC. 20. SACRAMENTO, CALIFORNIA.

The President, in submitting his budget for fiscal year 1990, shall include a schedule for completing the feasibility study on Northern California Streams, American River Watershed, as expeditiously as practicable and an estimate of the resources required to meet such schedule.

SEC. 21. MISSISSIPPI RIVER HEADWATERS RESERVOIRS.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary is directed to maintain water levels in the Mississippi River headwaters reservoirs within the following operating limits: Winnibigoshish 1296.94 feet—1303.14 feet; Leech 1293.20 feet—1297.94 feet; Pokegama 1270.42 feet—1276.42 feet; Sandy 1214.31 feet—1218.31 feet; Pine 1227.32 feet—1234.82 feet; and Gull 1192.75 feet—1194.75 feet. Such water levels shall be measured using the National Geodetic Vertical Datum.

(b) EXCEPTION.—The Secretary may operate the headwaters reservoirs below the minimum or above the maximum water levels established in subsection (a) in accordance with a contingency plan which the Secretary develops after consulting with the Governor of Minnesota and affected landowners and commercial and recreational users. The Secretary shall transmit such plan to Congress within 6 months after the date of the enactment of this Act. The Secretary shall report to Congress at least 14 days prior to operating any such headwaters reservoir below the minimum or above the maximum water level limits specified in subsection (a).

SEC. 22. HEARDING ISLAND INLET, DULUTH HARBOR, MINNESOTA.

The Secretary is authorized to dredge the Hearding Island Inlet, Duluth Harbor, Minnesota, for the purpose of increasing water circulation and reducing stagnant water conditions, at a total cost of $500,000.

SEC. 23. LOUISIANA WATER SUPPLY.

The Secretary is directed to review periodically the water supply problems related to drought which may be experienced at the Bayou Lafourche water supply reservoir in Louisiana and to respond as appropriate under the authority granted by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (55 Stat. 650; 33 U.S.C. 701n).

SEC. 24. CONTAINED SPOIL DISPOSAL FACILITIES IN THE GREAT LAKES AND THEIR CONNECTING CHANNELS.

(a) PERIOD FOR DEPOSITING DREDGED MATERIALS.—Section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) is amended by adding at the end thereof the following new subsection:

"(j) PERIOD FOR DEPOSITING DREDGED MATERIALS.—The Secretary of the Army, acting through the Chief of Engineers, is authorized to continue to deposit dredged materials into a contained spoil disposal facility constructed under this section until the Secretary determines that such facility is no longer needed for such purpose or that such facility is completely full.".

(b) STUDY AND MONITORING PROGRAM.—Such section is further amended by adding at the end thereof the following new subsection:

"(k) STUDY AND MONITORING PROGRAM.—

"(1) STUDY.—The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the materials disposed of in contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are present in such facilities and for the purpose of determining the concentration levels of each of such pollutants in such facilities.

"(2) REPORT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

"(3) INSPECTION AND MONITORING PROGRAM.—The Secretary shall conduct a program to inspect and monitor contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are leaking from such facilities.

"(4) TOXIC POLLUTANT DEFINED.—For purposes of this subsection, the term 'toxic pollutant' means those toxic pollutants referred to in sections 301(b)(2)(C) and 301(b)(2)(D) of the Federal Water Pollution Control Act and such other pollutants as the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines are appropriate based on their effects on human health and the environment.".

SEC. 25. SOUTH PIER TO CHARLEVOIX HARBOR, CHARLEVOIX, MICHIGAN.

The Secretary shall take such action as may be necessary to restore recreational uses established prior to May 1, 1988, or provide comparable recreational uses at the South Pier to Charlevoix Harbor project, Charlevoix, Michigan, in order to mitigate any adverse impact on recreational uses resulting from reconstruction of the South Pier. Costs incurred by the Secretary to carry out this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 26. COYOTE AND BERRYESSA CREEKS, CALIFORNIA.

The Secretary is directed to include in the feasibility report for the project for flood control, Coyote and Berryessa Creeks, California: Report of the Board of Engineers for Rivers and Harbors, dated May 11, 1988, recommendations for reimbursement of local interests for work undertaken after the date *of the enactment of this Act which is integral to the Federal project as recommended in the feasibility study. Such reimbursement shall not exceed $3,000,000 and shall be made at such time as the federally funded work is carried out.*

SEC. 27. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA.

(a) Authority To Convey.—Subject to the provisions of this subsection, the Secretary may convey to the city of South El Monte, California, approximately 7.778 acres of real property, together with improvements thereon, located within the Whittier Narrows Flood Control Basin, south of the Pomona Freeway (Highway 60) and east of Santa Anita Avenue, in the city of South El Monte, California.

(b) Consideration.—In consideration for the conveyance authorized by subsection (a), the Secretary may accept real property in the Los Angeles area or cash, or both. The value of the consideration for the conveyance may not be less than the fair market value of the property conveyed by the United States, as determined by the Secretary. Any funds received by the Secretary under this section shall be deposited into the general fund of the Treasury.

(c) Conditions.—The Secretary may make the conveyance described in subsection (a) only if—

(1) the city of South El Monte, California, grants the United States a perpetual easement that enables the Federal Government to carry out necessary flood control activities with respect to such real property;

(2) such city agrees to use suitable property located directly adjacent to the Whittier Narrows Park, which will be acquired by such city through an exchange for such real property, for parking in connection with recreational activities in the Whittier Narrows Recreational Area, as the Secretary considers appropriate; and

(3) the Secretary determines that the Secretary does not need fee simple title to such real property for operation of the project.

(d) Additional Terms.—The Secretary may impose such additional terms and conditions on the conveyance authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) Legal Description of Real Property.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the city of South El Monte, California.

SEC. 28. LAND CONVEYANCE, OTTAWA, ILLINOIS.

(a) In General.—Subject to the provisions of this section, the Secretary shall convey to the city of Ottawa, Illinois, by quitclaim deed any right, title, and interest of the United States to approximately 5.3 acres of land located at the junction of the Fox and Illinois Rivers in such city.

(b) Terms and Conditions.—The conveyance by the United States under this section shall be subject to the condition that the city of Ottawa, Illinois, its successors and assigns, agrees to hold the United States harmless from all claims arising from or through the operations of the lands conveyed by the United States. The Secretary may impose such additional terms and conditions on the conveyance as the Secretary considers appropriate to protect the interests of the United States; except that the Secretary may not impose any term or condition which restricts the use of the lands conveyed by the United States under this section.

(c) Legal Description of Real Property.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the city of Ottawa, Illinois.

SEC. 29. LAND TRANSFER IN WHITMAN COUNTY, WASHINGTON.

(a) Exchange of Land.—The Secretary shall exchange approximately 171 acres of land acquired by the United States for the Lower Granite Lock and Dam project, Washington, authorized as part of the navigation project for the Snake River, Oregon, Washington, and Idaho by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 21), for a tract of land owned by the Port of Whitman County, Washington, which the Secretary determines is suitable for wildlife mitigation purposes. Such exchange shall be made with regard to the values of the lands being exchanged.

(b) Terms and Conditions.—The land of the United States exchanged under subsection (a) shall be subject to a reversionary interest in the United States if such land is used for any purpose other than port or industrial purposes. Such exchange shall also be subject to such other terms, conditions, reservations, and restrictions as the Secretary determines necessary for the development, maintenance, and operation of the Lower Granite Lock and Dam project referred to in subsection (a) and to protect the interests of the United States.

(c) Legal Descriptions and Surveys.—The exact acreages and legal descriptions of the lands exchanged under subsection (a) shall be determined by such surveys as the Secretary determines are necessary. The cost of such surveys shall be paid by the Port of Whitman County, Washington.

SEC. 30. LESAGE/GREENBOTTOM SWAMP, WEST VIRGINIA.

(a) Limitation on Land Conveyance.—The Secretary shall not convey title to all or any part of the Lesage/Greenbottom Swamp to the State of West Virginia.

(b) Lesage/Greenbottom Swamp Defined.—For purposes of this section, the term "Lesage/Greenbottom Swamp" means the land located in Cabell and Mason Counties, West Virginia, acquired or to be acquired by the United States for fish and wildlife mitigation purposes in connection with the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

(c) Limitation on Statutory Construction.—Nothing in this section shall be construed as affecting the authority of the Secretary to carry out the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

SEC. 31. PORTUGUESE AND BUCANA RIVERS, PUERTO RICO.

The Secretary is authorized to pay tuition expenses of suitable, English-taught primary and secondary education in Puerto Rico for the child or children of any Federal employee when such expenses are incurred after the date of the enactment of this Act and while the employee is temporarily residing and employed in Puerto Rico for the construction of the Portuguese and Bucana Rivers, Puerto Rico, project.

SEC. 32. ALTERNATIVES TO MUD DUMP FOR DISPOSAL OF DREDGED MATERIAL.

Section 211 of the Water Resources Development Act of 1986 (100 Stat. 4106; 33 U.S.C. 2239) is amended by redesignating subsections (d), (e), (f), and (g), and any references thereto, as subsections (e), (f), (g), and (h), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Designation Plan.—Not later than 120 days after the date of the enactment of the Water Resources Development Act of 1988, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives his plan for designating one or more sites under subsection (a). The plan shall specify the actions necessary to comply with subsection (a), the funding requirements associated with these actions, and the dates by which the Administrator expects to complete each of these actions. The plan also shall specify actions which the Administrator may be able to take to expedite the designation of any sites under subsection (a).".

SEC. 33. MISSOURI RIVER BETWEEN FORT PECK DAM, MONTANA, AND GAVINS POINT DAM, SOUTH DAKOTA AND NEBRASKA.

Section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 891), is amended by adding at the end thereof the following new subsection:

"(f) The Secretary of the Army is directed to undertake such measures, including maintenance and rehabilitation of existing structures, which the Secretary determines are needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam, Montana, and a point 58 miles downstream of Gavins Point Dam, South Dakota, and Nebraska. The cost of such measures may not exceed $3,000,000 per fiscal year. Notwithstanding any other provision of law, the costs of these measures, including the costs of necessary real estate interests and structural features, shall be apportioned among project proposes as a joint-use operation and maintenance expense. In lieu of structural measures, the Secretary may acquire interests in affected areas, as the Secretary deems appropriate, from willing sellers.".

SEC. 34. NEW YORK HARBOR DRIFT REMOVAL PROJECT.

Section 91 of the Water Resources Development Act of 1974 (88 Stat. 39) is amended by striking out "$30,500,000" and inserting in lieu thereof "$6,000,000 annually".

SEC. 35. PLACEMENT OF DREDGED BEACH QUALITY SAND ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by adding at the end thereof the following new sentence: "In carrying out this section, the Secretary shall give consideration to the State's schedule for providing its share of funds for placing such sand on the beaches of such State and shall, to the maximum extent practicable, accommodate such schedule.".

SEC. 36. RESTORATION, VENTURA TO PIERPONT BEACH, CALIFORNIA.

The Secretary shall make such emergency repairs as are required to restore groin number 1 of the Ventura to Pierpont Beach erosion control project to its original configuration as authorized pursuant to House Document 87-458, except that the Federal cost shall not exceed $300,000.

SEC. 37. WILLIAM G. STONE LOCK TOLLS.

Section 1150(b) of the Water Resources Development Act of 1986 (100 Stat. 4255) is amended by striking out "Yolo County, Cali-

fornia" and inserting in lieu thereof the following: "the city of West Sacramento, California".

SEC. 38. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF THE DELAWARE RIVER.

(a) AREA TO BE DECLARED NON-NAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects in Philadelphia, Pennsylvania, to be undertaken within the boundaries described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of the Delaware River, bounded and described as follows, are declared to be non-navigable waters of the United States:

(1) LIBERTY LANDING.

Description of Pier 53 South

All that certain lot or piece of ground together with the improvements thereon erected, situate in the 1st ward of the city of Philadelphia and described according to a plan of property by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974:

Beginning at an interior point formed by the intersection of the following two courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 781.002 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east); (2) south 75 degrees 20 minutes 21 seconds east, the distance of 231.805 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning, north 0 degree 49 minutes 15 seconds west, the distance of 160.856 feet to a point; thence extending north 79 degrees 53 minutes 04 seconds east, the distance of 24.808 feet to a point; thence extending north 10 degrees 03 minutes west, the distance of 15.0 feet to a point; thence extending south 79 degrees 53 minutes 04 seconds west, the distance of 22.723 feet to a point; thence extending north 4 degrees 56 minutes 56 seconds west, the distance of 99.228 feet to a point; thence extending south 80 degrees 53 minutes 04 seconds west, the distance of 7.0 feet to a point on an arc; thence extending along an arc curving to the right having a radius of 698.835 feet, a central angle of 11 degrees 29 minutes 44 seconds, an arc distance of 140.211 feet to a point of tangency; thence extending north 0 degree 44 minutes 16 seconds west, the distance of 57.302 feet to a point on the former centre line of former Washington Avenue (100 feet wide); thence extending along the said centre line of former Washington Avenue and crossing the bed of a 30-foot-wide private driveway and the bulkhead line, (approved by the Secretary of War, September 10, 1940); south 75 degrees 13 minutes 21 seconds east, the distance of 940.350 feet to a point on the pierhead line (approved by the Secretary of War, September 10, 1940); thence extending along the said pierhead line, south 1 degree 32 minutes 57 seconds east, the distance of 422.516 feet to a point; thence extending north 75 degrees 13 minutes 21 seconds west, recrossing the said Bulkhead line; the distance of 690.031 feet to a point; thence extending north 6 degrees 35 minutes 30 seconds west, the distance of 58.388 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 19.120 feet to a point; thence extending south 10 degrees 6 minutes east, the distance of 4.10 feet to a point; thence extending south 79 degrees 54 minutes west, and crossing the bed of the aforementioned 30-foot-wide private driveway, the distance of 196.802 feet to the First mentioned point and place of beginning.

Containing in total area 374,026.6 square feet—8.58647 acres description of 30-foot-wide private driveway within the property of Pier 53 south.

All that certain lot or piece of ground described as a 30-foot-wide private driveway as shown on a plan of property, situate in the 1st ward of the city of Philadelphia, by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974.

Beginning at an interior point formed by the intersection of the following 2 courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 802.293 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east), (2) south 75 degrees 20 minutes 21 seconds east, the distance of 277.764 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning north 10 degrees 3 minutes west, the distance of 173.758 feet to a point; thence extending north 14 degrees 52 minutes 4 seconds east, the distance of 180.551 feet to a point; thence extending north 17 degrees 35 minutes 1 second west, the distance of 101.949 feet to a point on the centre line of former Washington Avenue (100 feet wide); thence extending along said former centre line of Washington Avenue, south 75 degrees 13 minutes 21 seconds east, the distance of 35.516 feet to a point; thence extending south 17 degrees 35 minutes 1 second east, the distance of 91.669 feet to a point; thence extending south 14 degrees 52 minutes 4 seconds west, the distance of 182.653 feet to a point; thence extending south 10 degrees 3 minutes east, the distance of 167.104 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 30.000 feet to the first mentioned point and place of beginning. Area of 30-foot-wide private driveway is 13,465.2 square feet—0.30912 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "A".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,100 feet 7⅝ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 975 feet 1 inch to an angle point; thence continuing along the said easterly side of Delaware Avenue north 14 degrees 35 minutes 09 seconds east, the distance of 50 feet 0 inch to a point on the center line of former Washington Avenue (100 feet wide), stricken from the city plan; thence extending south 75 degrees 14 minutes 21 seconds east along the center line of the said former Washington Avenue, the distance of 151 feet 4⅞ inches to a point on the westerly side of a 30-foot-wide driveway easement; thence extending south 17 degrees 35 minutes 01 second east along the said driveway easement, the distance of 102 feet 0 inch to an angle point; thence continuing along the said driveway easement south 14 degrees 52 minutes 04 seconds west, the distance of 180 feet 6⅝ inches to an angle point; thence still continuing along the said driveway easement south 10 degrees 03 minutes 00 seconds east, the distance of 131 feet 7⅛ inches to a point; thence extending south 14 degrees 39 minutes 39 seconds west along a line, the distance of 638 feet 11 inches to a point; thence extending north 75 degrees 14 minutes 21 seconds west, along a line, the distance of 260 feet 1½ inches to a point on the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 246,456 square feet or 5.6579 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "B".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,038 feet 1⅞ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 62 feet 5½ inches to a point; thence extending south 75 degrees 14 minutes 21 seconds east along a line, the distance of 260 feet 1½ inches to a point; thence extending north 14 degrees 39 minutes 39 seconds east along a line, the distance of 638 feet 11 inches to a point on the westerly side of a 30 feet wide driveway easement; thence extending south 10 degrees 03 minutes 00 seconds east along the said driveway easement, the distance of 42 feet 2 inches to a point; thence extending north 79 degrees 54 minutes 00 seconds east crossing the said driveway easement, the distance of 146 feet 2½ inches to a point; thence extending north 10 degrees 06 minutes 00 seconds west, the distance of 4 feet 1¼ inches to a point; thence extending north 79 degrees 54 minutes 00 seconds east, the distance of 19 feet 1½ inches to a point; thence extending south 6 degrees 35 minutes 30 seconds east, the distance of 58 feet 4⅝ inches to a point; thence extending south 75 degrees 13 minutes 21 seconds east, crossing the bulkhead line approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891, the distance of 690 feet 1⅝ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891; thence extending along the said pierhead line south 1 degree 32 minutes 57 seconds east, the distance of 386 feet 4⅛ inches to a point; thence continuing along the said pierhead line, south 8 degrees 55 minutes 55.5 seconds east, the distance of 491 feet 11¼ inches to a point on the northerly side of Reed Street (50 feet wide) stricken from city plan and vacated and reserved as a right-of-way for drainage, water main and gas purposes; thence extending along same, north 75 degrees 13 minutes 21 seconds west, recrossing the said bulkhead line and 30-foot-wide driveway easement the distance of 632 feet 1½ inches to a point on the westerly side of said driveway easement; thence extending north 12 degrees 24 minutes 31 seconds west, along said driveway easement, the distance of 136 feet 0¼ inch to a point;

thence extending north 14 degrees 50 minutes 59 seconds east, partly along a 25-foot-wide driveway easement, the distance of 21 feet 0⅛ inch to a point; thence extending north 75 degrees 13 minutes 21 seconds west, the distance of 492 feet 11¾ inches to a point; thence extending south 14 degrees 46 minutes 39 seconds west, the distance of 51 feet 3⅛ inches to a point; thence extending north 64 degrees 29 minutes 30 seconds west, the distance of 259 feet 9⅝ inches to the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 785,683 square feet or 18.0368 acres.

(2) Marina Towers and World Trade Center—Pier 25 North.

All that certain lot or piece of ground situate in the 5th ward, city of Philadelphia, Commonwealth of Pennsylvania, described in accordance with a Plan of Property made for Old City Harbor Associates Developers, by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District dated March 26, 1981 as follows: to wit:

Beginning at a point on the easterly line of Delaware Avenue (150 feet wide) located 27 degrees 52 minutes 00 seconds west, the distance of 119 feet 8⅞ inches from a point of intersection of the easterly line of the said Delaware Avenue with the southerly line of Willow Street (50 feet wide) produced; thence extending along the easterly line of the said Delaware Avenue, the two following courses and distances: (1) north 27 degrees 52 minutes 00 seconds east, the distance of 162 feet 8⅛ inches to an angle point; (2) north 15 degrees 16 minutes 00 seconds east, the distance of 95 feet 5⅜ inches to a point; thence extending south 73 degrees 55 minutes 50 seconds east, the distance of 18 feet 5⅞ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence further extending south 73 degrees 55 minutes 50 seconds east, the distance of 515 feet 9⅜ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence extending the following two courses and distances along the said pierhead line of the Delaware River (approved by the Secretary of War September 10, 1940): (1) south 29 degrees 05 minutes 21 seconds west, the distance of 133 feet 8⅞ inches to an angle point; (2) south 19 degrees 41 minutes 36 seconds west, the distance of 117 feet 2½ inches to a point; thence extending north 74 degrees 44 minutes 00 seconds west, the distance of 504 feet 10 inches to a point on the said bulkhead line of the Delaware River (approved by the Secretary of War September 10, 1940); thence further extending north 74 degrees 44 minutes 00 seconds west, the distance of 23 feet 10⅝ inches to the first mentioned point and place beginning.

Being parcels number 1 (known as pier 25 north), number 2 and number 3 and containing in total area 130,281.6 square feet.

(3) Marine Trade Center—Pier 24 North.

Description of a property located on the easterly side of Delaware Avenue. Northwardly from the south house line of Callowhill Street produced (pier numbered 24 north).

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made November 16, 1985 by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District, and revised March 22, 1988 by him.

Beginning at a point of intersection of the easterly side of Delaware Avenue (150 feet wide) and the south house line of Callowhill Street (formerly 50 feet wide) produced; thence extending north 27 degrees 52 minutes 00 seconds east along the said side of Delaware Avenue, the distance of 340 feet 3 inches to a point; thence extending south 74 degrees 44 minutes 00 seconds east the distance of 23 feet 10⅝ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 74 degrees 44 minutes 00 seconds east the distance of 528 feet 8⅜ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 19 degrees 41 minutes 36 seconds west along the said pierhead line the distance of 289 feet 9½ inches to a point on the said south house line of Callowhill Street produced; thence extending north 78 degrees 58 minutes 50 seconds west along the south house line of said Callowhill Street produced the distance of 522 feet 8¾ inches to a point on the said bulkhead line; thence continuing along the said south house line of Callowhill Street produced north 78 degrees 58 minutes 50 seconds west the distance of 59 feet 5¼ inches to the first mentioned point and place of beginning.

Containing in area 171,171 square feet (3.9295 acres).

(4) National Sugar Company "Sugar House".

Description and Recital—block 6 north 6 lot 17—all that certain land.

Situate in the 5th ward of the city of Philadelphia, Pennsylvania and more particularly described as follows:

Beginning at a point on the southeasterly side of Penn Street (60 feet wide) which point is measured south 43 degrees 30 minutes west along the said southeasterly side of Penn Street the distance of 282 feet 6 inches from a point formed by an intersection of the said southeasterly side of Penn Street and the southwesterly side of Laurel Street (50 feet wide); thence extending from said point of beginning south 46 degrees 30 minutes east the distance of 738 feet 8½ inches to a point on the Delaware River pierhead line established January 5, 1894, approved by Secretary of War September 10, 1940; thence extending south 48 degrees 13 minutes 7 seconds west along the Delaware River pierhead line the distance of 188 feet 3⅛ inches to a point; thence extending north 46 degrees 30 minutes west partly passing within the bed of a 10-foot-wide alley by deed (which extends northwestwardly to the said southeasterly side of Penn Street) the distance of 723 feet 2⅝ inches to a point on the said southeasterly side of Penn Street; thence extending north 43 degrees 30 minutes east along the said southeasterly side of Penn Street and crossing the bed of the said 10-foot-wide alley by deed the distance of 187 feet 7½ inches to a point, being the first mentioned point and place of beginning.

Containing 3.148 acres, more or less, as surveyed on June 29, 1981, by Lawrence J. Cleary, Surveyor and Regulator of the 3rd District.

Together with 1,736 linear feet of track thereupon erected, made or being and all and every of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anywise appertaining. Being known as pier 40 north.

Being the same premises which Ralph Heller, an individual by deed dated November 4, 1981, and recorded in Philadelphia County, in deed book EFP 345 page 531 conveyed unto pier 40 north associates, a Penna. Limited partnership, its successors and assigns, as partnership property for the uses and purposes of said partnership.

Description of piers 41, 42, and 43 north

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Topographic Survey and Plan of Property made May 23, 1988, by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at the point formed by the intersection of the easterly side of Penn Street (60 feet wide), and the southerly side of former Laurel Street (50 feet wide), stricken and reserved for drainage; thence extending south 46 degrees 30 minutes 00 seconds east, along the said southerly side of former said Laurel Street, the distance of 190 feet 9 inches to a point on the bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 46 degree 30 minutes 00 seconds east the distance of 571 feet 3¼ inches to a point on the pierhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 48 degrees 13 minutes 07 seconds west along the said pierhead line the distance of 283 feet 5½ inches to a point; thence extending north 46 degrees 30 minutes 00 seconds west leaving said pierhead line the distance of 546 feet 11⅝ inches to a point on the aforementioned bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending north 46 degrees 30 minutes 00 seconds west the distance of 191 feet 8⅞ inches to a point on the easterly side of said Penn Street; thence extending north 43 degrees 30 minutes 00 seconds east along the easterly side of said Penn Street the distance of 282 feet 6 inches to the first mentioned point and place of beginning.

Description of piers 44 to 50 north, inclusive.

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made March 7, 1985 by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at a point of intersection formed by the northeasterly side of Shackamaxon Street (60 feet wide) and the southeasterly side of Penn Street (50 feet wide); thence extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (reserved for drainage purposes), the distance of 170 feet 8⅝ inches to a point on the bulkhead line of the Delaware River (established January 5, 1984—approved by the Secretary of War, September 10, 1940); thence further extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (subject to a right-of-way for sewer maintenance as provided in ordinance), the distance of 623 feet 6⅜ inches to a point on the pierhead line of the Delaware River (established January 5, 1894—approved by the Secretary of War, September 10, 1940); thence extending south 54 degrees 04 minutes 10 seconds west along the said pierhead line (being also the southeasterly head of the said former Shackamaxon Street), the distance of 61 feet 8⅜ inches to an angle point; thence extending south 48 degrees 11 minutes 38 seconds west along the said pierhead line the distance of 385 feet 11½ inches to a point on the northeasterly side of Laurel Street (50 feet wide) produced; thence extending north 46 degrees 29 minutes 00 sec-

onds west along the northeasterly side of the said Laurel Street produced, the distance of 575 feet 6⅞ inches to a point on the said bulkhead line; thence further extending north 46 degrees 29 minutes 00 seconds west along the northeasterly side of the said Laurel Street, the distance of 190 feet 7 inches to a point on the southeasterly side of Penn Street (60 feet wide); thence extending north 43 degrees 30 minutes 00 seconds east along the southeasterly side of the aforesaid Penn Street, the distance of 543 feet 0¾ inch to an angle point; thence extending north 63 degrees 51 minutes 33 seconds east along the southeasterly side of said Penn Street (50 feet wide), the distance of 240 feet 9 inches to the first mentioned point and place of beginning.

(5) RIVERCENTER.

Beginning at the point of intersection of the northeasterly side of Dyott Street (100 feet wide) with the bulkhead line established by the Secretary of War, September 10, 1940; thence from said point of beginning leaving the side of Dyott Street and extending along the bulkhead line the following five (5) courses and distances—

(1) north 64 degrees 18 minutes 09 seconds east 829 feet 10 inches to a point;

(2) south 48 degrees 30 minutes 57 seconds east 53 feet 5⅝ inches to a point;

(3) north 64 degrees 40 minutes 52 seconds east 936 feet 8⅝ inches to a point;

(4) north 32 degrees 24 minutes 26 seconds west 149 feet 2¼ inches to a point;

(5) north 64 degrees 04 minutes 09 seconds east crossing a 60 foot drainage right of way 296 feet 3¾ inches to a point on the southwesterly side of pier #20;

thence extending along said southwesterly side of pier #20 15 feet distant and parallel with the aforementioned drainage right of way south 25 degrees 02 minutes 08 seconds east 586 feet 6⅜ inches to a point on the pierhead line established by the Secretary of War, September 10, 1940; thence extending along the pierhead line south 64 degrees 16 minutes 52 seconds west 2,021 feet 10 inches to a point on the northeasterly side of Dyott Street; thence extending along said northeasterly side of Dyott Street north 30 degrees 02 minutes 52 seconds west 494 feet 9⅝ inches to the point and place of beginning. The Secretary shall make the public interest determination separately for each proposed project, using reasonable discretion, within 150 days after submission of appropriate plans for each proposed project.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 39. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF CONEY ISLAND CREEK AND GRAVESEND BAY, NEW YORK.

(a) AREA TO BE DECLARED NON-NAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Coney Island Creek and Gravesend Bay, New York, described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of such Creek and Bay, bounded and described as follows, are declared to be non-navigable waters of the United States:

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost United States Pierhead Line of Coney Island Creek.

Running thence south 12 degrees 41 minutes 03 seconds E and along the westerly line of Cropsey Avenue, 98.72 feet to the northerly channel line as shown on Corps of Engineers Map Numbered F. 150 and on Survey by Rogers and Giollorenzo Numbered 13959 dated October 31, 1986.

Running thence in a westerly direction and along the said northerly channel line the following bearings and distances:

South 48 degrees 59 minutes 27 seconds west, 118.77 feet; south 37 degrees 07 minutes 01 seconds west, 232.00 feet; south 23 degrees 17 minutes 10 seconds west, 430.03 feet; south 31 degrees 25 minutes 46 seconds west, 210.95 feet; south 79 degrees 22 minutes 49 seconds west, 244.18 feet; north 55 degrees 00 minutes 29 seconds west, 183.10 feet; north 41 degrees 47 minutes 04 seconds west, 315.16 feet;

North 41 degrees 17 minutes 43 seconds west, 492.47 feet to the said Pierhead Line; thence north 73 degrees 58 minutes 40 seconds west and along said pierhead line, 2,665.25 feet to the intersection of the United States bulkhead line;

Thence north 0 degree 19 minutes 35 seconds west and along the United States Bulkhead line 1,138.50 feet to the intersection of the westerly prolongation of the center line of 26th Avenue,

Thence north 58 degrees 25 minutes 06 seconds east and along the center line of said 26th Avenue, 2,320.85 feet to the westerly line of Cropsey Avenue, then southeasterly and along the southerly line of Cropsey Avenue the following bearings and distances:

South 31 degrees 34 minutes 54 seconds east, 4,124.59 feet; and

South 12 degrees 41 minutes 03 seconds east, 710.74 feet to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn. The Secretary shall make the public interest determination separately for each proposed project, using reasonable discretion, within 150 days after submission of appropriate plans for each proposed project.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 40. EXTENSION OF MODIFIED WATER DELIVERY SCHEDULES, EVERGLADES NATIONAL PARK.

The first sentence of section 1302 of the Supplemental Appropriations Act, 1984 (97 Stat. 1292-1293) is amended by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1992".

SEC. 41. PERIOD OF ENVIRONMENTAL DEMONSTRATION PROGRAM.

(a) EXTENSION OF PERIOD.—Section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note) is amended by striking out "two-year period" and inserting in lieu thereof "5-year period".

(b) REPORTS.—Section 1135(d) of such Act is amended by striking out "two years" and inserting in lieu thereof "5 years".

SEC. 42. FEDERAL HYDROELECTRIC POWER MODERNIZATION STUDY.

(a) STUDY.—The Secretary shall conduct a study of the need to modernize and upgrade the federally owned and operated hydroelectric power system.

(b) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with recommendations.

SEC. 43. WATER QUALITY EFFECTS OF HYDROELECTRIC FACILITIES.

(a) STUDY.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall undertake a study of the water quality effects of hydroelectric facilities owned and operated by the Corps of Engineers. Such study shall be transmitted to Congress within 2 years of the date of the enactment of this Act and shall consider and include information for each such Corps of Engineers hydroelectric facility pertaining to: relevant water quality standards including dissolved oxygen; water quality monitoring data; possible options and projected costs of measures required to improve the quality of water released from each such facility where justified; and recommendations with respect to such study results.

(b) LIMITATIONS.—Nothing in this section shall convey to any agency of the Federal Government any new authority with respect to the allocation or release of water from Federal reservoirs. Further, nothing in this section is designed or intended to affect any present or future legal actions or proceedings.

SEC. 44. GAO REVIEW OF CIVIL WORKS PROGRAM.

The Comptroller General of the United States General Accounting Office is authorized and directed to conduct a review of the Civil Works Program of the United States

Army Corps of Engineers. This management and administration review shall be transmitted to Congress, together with any recommendations which the Comptroller General may make.

SEC. 45. DES PLAINES RIVER WETLANDS DEMONSTRATION PROJECT AUTHORIZATION.

(a) RESTORATION OF WETLANDS.—The Secretary is authorized to carry out a project to construct, and engage in other activities, necessary for the restoration of wetlands, of sufficient scale, for research and demonstration purposes adjacent to the Des Plaines River in Wadsworth, Illinois. The non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, and rights-of-ways necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) after the completion of the research work, to operate and maintain the restored wetlands in accordance with good management practices.

The value of the non-Federal lands, easements, rights-of-way, and relocations provided by the non-Federal interests, shall be credited toward the non-Federal share of project construction costs. The non-Federal share of project construction costs shall be 25 percent.

(b) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Secretary $2,200,000 for the period of fiscal years 1990 through 1994 to carry out this section.

(c) PURPOSES.—The project authorized by this section shall—

(1) define the wetland functions expected to be restored and maintained giving due consideration to site specific climatic, topographic, hydrologic, and edaphic conditions;

(2) conduct research to establish the critical relationships between the land, water, and biotic factors responsible for the defined wetland functions;

(3) establish and report design and construction procedures necessary to create the defined wetland functions throughout similar climatic areas and identify and report these wetland functions;

(4) create or restore sustainable wetlands which will serve as examples of the benefits and aesthetics of wetland landscapes; and

(5) secure the long-term commitment from a State or local agency for the maintenance of the wetlands following the research work.

(d) REPORT.—The Secretary shall report to Congress on the degree of progress achieved in carrying out the project under this section.

SEC. 46. KISSIMMEE RIVER, FLORIDA.

The Secretary is directed to proceed with work on the Kissimmee River demonstration project, Florida, pursuant to section 1135 of the Water Resources Development Act of 1986.

SEC. 47. WATER RESOURCES STUDIES.

(a) INTERNAL DRAINAGE SYSTEM, FROG POND AGRICULTURAL AREA, FLORIDA.—The Secretary shall conduct a study for the purpose of determining the need for an internal drainage system in the Frog Pond agricultural area of south Dade County, Florida. Within 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a reconnaissance report on the need for such system.

(b) BARTLETT, ILLINOIS.—Before issuing a permit under section 404 of the Federal Water Pollution Control Act for a proposed municipal landfill in the vicinity of Bartlett, Illinois, the Secretary shall consider the impact of such landfill on the Newark Valley Aquifer and on the ability of water from such Aquifer to dilute for purposes of drinking water supply naturally occurring radium in groundwater. Before issuing such permit, the Secretary shall consult with the Administrator of the Environmental Protection Agency with respect to the impact of such landfill on the Newark Valley Aquifer. Such consultation shall occur within 45 days after the date of the issuance, when and if made, of the Illinois water quality certification of such landfill pursuant to section 401 of such Act and shall include the Administrator's analysis of the permit record of the Illinois Environmental Protection Agency with respect to the water quality impacts of such landfill. Within 90 days of receiving a completed application for a permit under section 404 of such Act, including such Illinois water quality certification, the Secretary shall report to Congress on the impact of such landfill on the Newark Valley Aquifer. The provisions of this subsection shall not constitute an affirmative requirement for the Secretary to expand upon the existing permit record as prepared by the Illinois Environmental Protection Agency.

(c) BLUESTONE LAKE, WEST VIRGINIA.—

(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, is authorized and directed to conduct a study and prepare a report on modifying the operation of the Bluestone Lake project, West Virginia, in order to facilitate the protection and enhancement of biological resources and recreational use of waters downstream from the project. Specific consideration shall be given in the study to all feasible means of improving flows from such project during periods when flows from the lake are less than 3,000 cubic feet per second, except that the study shall not consider project operation adjustments which entail major construction modifications at the project.

(2) NOTICE AND COMMENTS.—The Secretary shall publish notice of the proposed study under this subsection in the Federal Register within 3 months after the date of the enactment of this Act and shall consider any written comments regarding the scope of the study which are submitted during the 60-day period after publication of such notice.

(3) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the final report on the results of the study under this subsection shall be transmitted to Congress.

(d) GREAT LAKES AND SAINT LAWRENCE SEAWAY.—

(1) STUDY OF FINANCING NAVIGATIONAL IMPROVEMENTS.—The Secretary, in cooperation with other Federal agencies and private persons, is authorized and directed to contract with an independent party to conduct a study of cost recovery options and alternative methods of financing navigational improvements on the Great Lakes connecting channels and Saint Lawrence Seaway, including modernization of the Eisenhower and Snell Locks of the Saint Lawrence Seaway.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study carried out under this subsection together with recommendations.

(3) COST SHARING.—The non-Federal share of the cost of the study under this subsection shall be 50 percent; except that not more than 1/2 of such non-Federal share may be made by the provision of services, materials, supplies, or other in-kind services necessary to carry out the study.

SEC. 48. DIVISION LABORATORY.

The Secretary is authorized to construct a new division laboratory at an estimated cost of $2,400,000, for the United States Army Engineer Division, Ohio River. Such laboratory shall be constructed on a suitable site, which the Secretary is authorized to acquire for such purpose.

SEC. 49. WATER RESOURCES MANAGEMENT PLANNING SERVICE FOR THE HUDSON RIVER BASIN.

The Secretary is directed to establish a water resources management and planning service for the Hudson River Basin in New York and New Jersey. There is authorized to be appropriated $400,000 annually for the purpose of providing the two States a full range of services for the development and implementation of State and local water resource initiatives.

SEC. 50. TECHNICAL RESOURCE SERVICE, RED RIVER BASIN, MINNESOTA AND NORTH DAKOTA.

The Secretary is directed to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota. There is authorized to be appropriated $500,000 annually for the purpose of providing to such States a full range of technical services for the development and implementation of State and local water and related land resources initiatives within the Red River Basin and sub-basins. The Technical Resource Service is to be provided in addition to related services provided under authority of section 206 of the River and Harbor and Flood Control Act of 1960 and section 22 of the Water Resources Development Act of 1974.

SEC. 51. CORRECTION OF DESCRIPTIONS.

(a) HUDSON RIVER, NEW YORK.—That portion of Public Law 100-202 designated as the Energy and Water Development Appropriation Act, 1988 is amended by striking out the undesignated paragraph beginning "The following portion of the Hudson River" and ending "the States of New York and New Jersey." (101 Stat. 1329-109) and inserting in lieu thereof the following:

"The following portion of the Hudson River in the Borough of Manhattan, New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project; that portion of the Hudson River and land thereunder more particularly bounded and described as follows: Beginning at a point in the United States Pierhead Line approved by the Secretary of War on July 31, 1941, such point having a coordinate of north 4,677.56 feet and west 11,407.92 feet and running: (1) northerly along such Pierhead Line on a bearing of north 21 degrees 01 minutes 53 seconds west for a distance of 700 feet to a point; thence (2) westerly at right angles to such Pierhead Line on a bearing of south 68 degrees 58 minutes 07 seconds west for a distance of 200 feet to a point; thence (3) southerly and parallel with such Pierhead Line on a bearing of south 21 degrees 01 minutes 53 seconds east for a distance of 700 feet to a point; thence (4) easterly at right angles to such Pierhead Line on a bearing of north 68 degrees 58 minutes 07 seconds east for a distance of 200 feet to the point of beginning. Bearings and coordinates are in the system *used on the Borough Survey, Borough President's Office, Manhattan. This declaration shall apply to all or any part of such described area used or needed for New York harbor passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by compact between the States of New York and New Jersey.".*

(b) MIANUS RIVER, CONNECTICUT.—Section 1006(b) of the Water Resources Development Act of 1986 (100 Stat. 4223) is amended—

(1) in paragraph (2) by striking out "coordinates N14296.251" and inserting in lieu thereof "coordinate: N14296.451"; and

(2) in paragraph (3)—

(A) by striking out "64 seconds West" and inserting in lieu thereof "54 seconds West"; and

(B) by striking out "coordinate: N13970.8" and inserting in lieu thereof "coordinate: N13970.81".

SEC. 52. PROJECT DEAUTHORIZATIONS.

(a) EXTENSION OF LIMITATION ON PERIOD OF AUTHORIZATION.—

(1) PROJECTS IN THIS ACT.—The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall apply to the projects authorized for construction by this Act, except that the 5-year period during which funds must be obligated to prevent deauthorization shall begin on the date of the enactment of this Act.

(2) PROJECTS THEREAFTER.—The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall also apply to projects authorized for construction subsequent to this Act, except that the 5-year period during which funds must be obligated to prevent deauthorization shall begin on the date of the authorization of such projects.

(b) SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date of enactment or is under construction on such date of enactment:

(1) ROCKLAND LAKE, TEXAS.—The Rockland Lake water resources project, Texas, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public work on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 18).

(2) WHITE RIVER NAVIGATION TO BATESVILLE, ARKANSAS.—The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139).

(3) CHICAGO RIVER TURNING BASIN, CHICAGO HARBOR, ILLINOIS.—The inner basin of Chicago Harbor, Illinois, known as the Chicago River Turning Basin, authorized by the first section of the Act entitled "An Act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June 30, 1871", approved July 11, 1870 (16 Stat. 226).

(c) ALGOMA, WISCONSIN, OUTER HARBOR.—

(1) DEAUTHORIZATION.—Except as provided in paragraph (2), the outer harbor basin feature of the navigation project for Algoma, Wisconsin, authorized by the Act entitled "An Act making appropriations for construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (34 Stat. 1101), is not authorized after the date of the enactment of this Act.

(2) RETENTION OF MAINTENANCE RESPONSIBILITIES FOR BREAKWATERS AND CHANNEL.—The Secretary shall retain all responsibilities of the Secretary existing on the date of the enactment of this Act for maintenance of the breakwaters and channel of the harbor at Algoma, Wisconsin.

(d) CONTINUATION OF PROJECT AUTHORIZATIONS.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(1))—

(1) the navigation project for Monterey Harbor (Monterey Bay), California, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 483),

(2) the navigation project for the North Branch of the Chicago River, Illinois, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (60 Stat. 636),

(3) the element of the Missouri River Basin Project authorized by section 228 of the River and Harbor Act of 1970, and

(4) the navigation project for the James River, Virginia, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1174),

shall remain authorized after December 31, 1989. Such projects and elements shall not be authorized for construction after the last day of the 5-year period beginning on the date of the enactment of this Act unless during such period funds have been obligated for construction, including planning and designing, of such projects and elements.

(e) NOTICE.—The Secretary shall publish in the Federal Register notice as to any project which would no longer have been authorized pursuant to the provisions of section 1001 of the Water Resources Development Act of 1986 or subsection (a) of this section but remains authorized due to enactment of law by Congress.

SEC. 53. NAMINGS.

(a) VENTURA HARBOR.—

(1) DESIGNATION.—The harbor commonly known as Ventura Marina, located in Ventura County, California, and adopted and authorized by section 101 of Public Law 90-483, shall hereafter be known and designated as "Ventura Harbor".

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to such Harbor shall be deemed to be a reference to "Ventura Harbor".

(b) ELVIS STAHR HARBOR, PORT OF HICKMAN.—

(1) DESIGNATION.—The harbor located on the Mississippi River at Hickman, Kentucky, known as the Port of Hickman, shall hereafter be known and designated as the "Elvis Stahr Harbor, Port of Hickman".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such harbor shall hereafter be deemed to be a reference to the "Elvis Stahr Harbor, Port of Hickman".

(c) ED JONES BOAT RAMP.—

(1) DESIGNATION.—The boat ramp to be constructed on the Mississippi River in Lauderdale County, Tennessee, shall be known and designated as the "Ed Jones Boat Ramp".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Ed Jones Boat Ramp".

SEC. 54. DECLARATION OF NONNAVIGABILITY OF BODIES OF WATER IN RIDGEFIELD, NEW JERSEY.

The three bodies of water located at block 4004, lots 1 and 2, and block 4003, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey, which have their mouths at the Hackensack River at 40 degrees 49 minutes 58 seconds north latitude and 74 degrees 01 minute 46 seconds west longitude, 40 degrees 49 minutes 46 seconds north latitude and 74 degrees 01 minute 55 seconds west longitude, and 40 degrees 49 minutes 35 seconds north latitude and 74 degrees 02 minutes 04 seconds west longitude, respectively, and the body of water located at block 4006, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey, which has its mouth at the Hackensack River at 40 degrees 49 minutes 15 seconds north latitude and 74 degrees 01 minute 52 seconds west longitude, are declared to be nonnavigable waterways of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) and section 9 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), commonly known as the River and Harbors Appropriation Act of 1899.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

GLENN M. ANDERSON,
ROBERT A. ROE
(except for section 30),
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,
ARLAN STANGELAND,
ROBERT BORSKI
(section 30 only of H.R. 5247 as reported now contained in the House amendment and modification committed to conference),
Managers on the Part of the House.

DANIEL PATRICK MOYNIHAN,
QUENTIN BURDICK,
JOHN BREAUX,
ROBERT T. STAFFORD,
STEVE SYMMS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2100) to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

STATEMENT OF MANAGERS

With the passage of the 1988 Water Resources Development Act the Conferees are pleased to note the return to a biennial schedule for the passage of omnibus water legislation for the first time since 1976. There is no question that this has been made possible only because the Congress and the Executive Branch remain firmly committed to the successful implementation of the environmental and cost sharing policies contained in the 1986 Water Resources Development Act.

The cornerstone of those reforms was, and remains, increased non-federal participation in Corps construction projects from planning through the financing of the projects' implementation. The Conferees hope that the commitment of the next administration to this vital component of our national infrastructure is to continue and build on the work of the last four years.

The Conferees have deleted a number of projects which would have been authorized subject to the satisfactory completion of the Corps' planning process and approval of the recommended project by the Secretary of the Army. In doing so, the Conferees do not mean to imply that these are not meritorious projects. The Conferees note that a return to the two-year authorization process will allow the Congress to revisit these projects at the earliest possible time subsequent to completion of the Corps' final report. Cost estimates in the conference agreement are based on October 1987 price levels.

PROJECT AUTHORIZATIONS

Senate Bill

The Senate bill authorizes sixteen water resources development projects for construction in accordance with favorable reports of the Chief of Engineers.

House Amendment

The House amendment authorizes seventeen projects for construction in accordance with favorable reports of the Chief of Engineers. It also authorizes eleven projects for construction subject to favorable reports of the Chief of Engineers and approval by the Secretary of the Army.

Conference Agreement

The conference agreement authorizes sixteen projects for construction in accordance with favorable reports of the Chief of Engineers. Each of these projects is contained in both the Senate bill and the House Amendment.

The projects are as follows:

Lower Mission Creek, Santa Barbara, California—flood control.
Ft. Pierce Harbor, Florida—navigation.
Nassau County, Florida—beach erosion control.
Port Sutton Channel, Florida—navigation.
Chicagoland Underflow Plan, Illinois—flood control.
Lower Ohio River, Illinois and Kentucky (Olmstead locks and dam)—navigation.
Hazard, Kentucky—flood control.
Mississippi and Louisiana Estuarine Area—environmental enhancement.
Wolf and Jordan Rivers, Mississippi—navigation.
Truckee Meadows, Nevada—flood control.
West Columbus, Ohio—flood control.
Delaware River, Pennsylvania and Delaware—navigation.
Cypress Creek, Texas—flood control.
Falfurrias, Texas—flood control.
Guadalupe River, Texas—navigation.
McGrath Creek, Wichita Falls, Texas—flood control.

PROJECT MODIFICATIONS

Senate Bill

The Senate bill contains five project modifications of previously authorized projects.

House amendment

The House amendment contains thirty modifications of previously authorized projects.

Conference Agreement

The conference agreement contains twenty modifications to previously authorized projects, including all of those in the Senate bill.

The agreed to provisions are as follows:

Beaver Lake, Arkansas.—Inclusion of Soil Conservation Service in the development of plans to clean up the lake.

Los Angeles and Long Beach Harbors, California.—Non-Federal interests may receive credit against their share of project costs for work performed by them on the project.

Los Angeles River, California.—Directs performance of dredging of the existing project at the mouth of the Los Angeles River.

Sunset Harbor, California.—Inclusion of wetland restoration as a project purpose.

Indiana Shoreline Erosion, Indiana.—Technical correction to applicable State cost sharing requirements.

Stumpy Lake, Louisiana.—Red River Waterway project modified to authorize acquisition of 300 acres in Stumpy Lake area for mitigation of fish and wildlife losses.

Annapolis Harbor, Maryland.—Nonstructural, nondredging realignment of channel.

Deale Island, Maryland.—Authorizes Secretary to pay cost overrun on project.

Redwood River, Marshall, Minnesota.—Increase in cost ceiling.

Root River Basin, Minnesota.—Permits project to be carried out under the small flood protection projects authority.

Roseau River, Minnesota.—Permits construction of a portion of the project under project authorization or small flood control project authority.

Gulfport Harbor, Mississippi.—Authorizes demonstration program for near shore disposal of dredged material.

Brush Creek and Tributaries, Missouri and Kansas.—Construction of extensions to the project at non-Federal expense.

Libby Dam, Montana.—Authorization of measures to provide low water access to the lake and direction to protect Indian archeological sites.

Sea Bright to Monmouth Beach, New Jersey.—Increase in cost ceiling and addition to required cost sharing.

Wyoming Valley, Pennsylvania.—Authorizes a feasibility study for an inflatable dam for recreational purposes at the project.

Blair and Sitcum Waterways, Washington.—Increase in cost ceiling.

Wynoochee Lake, Washington.—Authorizes non-Federal interests to operate and maintain the projects.

GENERAL PROVISIONS

Both the Senate bill and the House amendment contain a number of provisions dealing generally with the water resources program of the Corps of Engineers and with individual projects or areas. Those agreed to by the conferees include the following:

Comments on Certain Changes in Operations of Reservoirs.—Opportunity for public review and comment must be provided when changes in the operation of a reservoir are made.

Operation of Certain Projects to Enhance Recreation.—Directs that eleven projects in West Virginia, Pennsylvania and Maryland be operated to protect and enhance recreation uses.

Collaborative Research and Development.—Secretary is authorized to utilize Corps of Engineers laboratories and research centers to undertake collaborative research and development with non-Federal entities on a cost shared basis.

Innovative Technology.—Directs Secretary to promote cost savings, increased efficiency, reliability and safety through the use of innovative technology.

Perodic Statements.—Project sponsors are to be provided by the Secretary with periodic statements of project expenditures during construction.

Demonstration Program.—Authorizes provision of technical assistance to any United States firm competing for or which has been awarded a contract for a project outside the United States if the firm provides needed funds in advance.

Simulation Model of South Central Florida Hydrologic Ecosystem.—Secretary is authorized to develop and operate a simulation model of the South Central Florida hydrologic ecosystem for use in predicting effects of modfications to the flood control project for Central and Southern Florida.

Section 215 Reimbursement Limitation Per Project.—Modifies Section 215 authority to reimburse non-Federal interests for work done on a project to increase existing ceiling per project from $3 million to $3 million or 1 percent of project cost, whichever is greater, with the limitation that no more than $5 million may be reimbursed for any one project in any year.

Additional 10 Percent Payment Over 30 Years for Construction of Harbors.—A technical amendment correcting an error in the 1986 Act and providing that the value of lands, easements, rights of way, relocations, and dredged material disposal areas provided by non-Federal interests are credited toward the required non-Federal payment of ten percent of project costs.

Compliance with Flood Plain Management and Insurance Programs.—Requirement in existing law that sponsors of a flood control project must comply with applicable flood plain management and flood insurance programs is amended to also include projects for hurricane or storm damage reduction.

Federal Repayment District.—Technical amendment to 1986 Act to correct an error and provide that a Repayment District may recover project benefits through any approach that is consistent with State law.

Abandoned and Wrecked Vessels.—Authorizes transfer of title to a Jack-Up Barge to a private company to assist in the removal of the wrecked vessel A. Regina.

Flood Warning and Response System.—Authorizes design and implementation of a flood warning and response system for communities along the Juaniata River, Pennsylvania.

Small Boat Harbor, Buffalo Harbor, New York.—Authorizes emergency repairs to the dike at the Small Boat Harbor, Buffalo, New York.

Lakeport Lake, California.—Reauthorizes the project which was deauthorized in the 1986 Act.

Sacramento, California.—Calls for the submission to Congress of a schedule for completing the feasibility study on flood protection for Sacramento, California and an estimate of the resources required to meet the schedule.

Mississippi Headwaters Reservoirs.—Specifies operating conditions for reservoir levels in headwater reservoirs.

Hearding Island Inlet, Duluth Harbor, Minnesota.—Authorized dredging of Hearding Island Inlet.

Louisiana Water Supply.—Directs Secretary to periodically review the drought related water supply problems at the Bayou Lafourche reservoir in Louisiana and take appropriate action under existing emergency authorities.

Contained Spoil Disposal Facilities in the Great Lakes.—Authorizes continued use of dredged spoil disposal facilities in the Great Lakes and directs a study and monitoring program to determine whether toxic pollutants are present in the facilities and whether they are leaking.

South Pier to Charlevoix Harbor, Charlevoix, Michigan.—Directs the Secretary to restore or replace recreational uses at the South Pier to Charlevoix Harbor to mitigate any adverse impact on recreational uses resulting from reconstruction of the South Pier.

Coyote and Berryessa Creeks, California.—Directs the Secretary to include in the feasibility report for the project recommendations for reimbursement to local interests for work undertaken by them which is integral to the Federal project.

Land Conveyance, Whittier Narrows Dam, Los Angeles County, California.—Authorizes the Secretary to convey land located within the flood control basin to the city of South El Monte, California subject to an easement granted to the United States to carry out flood control purposes.

Land Conveyance, Ottawa, Illinois.—Authorizes Secretary to convey any right, title or interest of the United States in land at Ottawa, Illinois to the City of Ottawa.

Land Transfer in Whitman County, Washington.—Authorizes the Secretary to exchange land held by the United States for land owned by the Port of Whitman County.

Lesage/Greenbottom Swamp, West Virginia.—Provides that the Secretary shall not convey title to the Lesage/Greenbottom swamp to the State of West Virginia.

Portuguese and Bucana Rivers, Puerto Rico.—Authorizes the Secretary to pay tuition expenses for the children of Federal employees employed in Puerto Rico for the contruction of the Portuguese and Bucana Rivers project.

Alternatives to Mud Dump for Disposal of Dredged Material.—Requires the Administrator of E.P.A. within 120 days of enactment to submit to the Congress his plan for designating sites for disposal of dredged material which otherwise would be disposed of at the Mud Dump as required by the Water Resources Development Act of 1986.

Missouri River between Fort Peck Dam, Montana, and Gavins Point Dam, South Dakota and Nebraska.—Directs the Secretary to undertake measures to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam and a point 58 miles downstream from Gavins Point Dam at a cost not exceeding $3 million per year.

New York Harbor Drift Removal Project.—Modifies existing project for removal of drift and debris in New York Harbor to increase project cost ceiling.

Placement of Dredged Beach Quality Sand on Beaches.—Modifies Secretary's authority to place beach quality dredged material on beaches to require the Secretary to give consideration of State's schedule for providing its share of the required funds so that State will have an opportunity to obtain the necessary funds.

Restoration, Ventura to Pierpont Beach, California.—Authorizes emergency repairs to restore a beach erosion control project groin to its original configuration.

William G. Stone Lock Tolls.—Changes name of non-Federal entity operating lock to reflect change in local boundaries.

Declaration of Nonnavigability for Portions of the Delaware River.—Declares portions of Delaware River in Philadelphia, Pennsylvania to be nonnavigable waters of the United States unless the Secretary determines that the proposed projects to be undertaken are not in the public interest.

Declaration of Nonnavigability for Portions of Coney Island Creek and Gravesend Bay, New York.—Declares portions of Coney Island Creek and Gravesend Bay nonnavigable waters of the United States unless the Secretary determines that the projects proposed to be undertaken in that area are not in the public interest.

Extension of Modified Water Delivery Schedules, Everglades National Park.—Extends through 1991 the Secretary's authority to modify the delivery of water to the Everglades National Park from the Central and Southern Florida Flood Control Project in order to provide a more natural flow of water to the park.

Period of Environmental Demonstration Program.—Extends a two year demonstration program for modifications to project operations and structures to improve environmental values contained in the 1986 Act to a total of five years.

Federal Hydroelectric Power Modernization Study.—Authorizes a study of the need to modernize and upgrade the Federally owned and operated hydroelectric power system.

Water Quality Effects of Hydroelectric Facilities.—Authorizes a study of the water quality effects of hydroelectric facilities operated by the Corps of Engineers.

GAO Review of Civil Works Program.—Authorizes the GAO to conduct a review of the civil works program of the Corps of Engineers.

Des Plaines River Wetlands Demonstration Project.—Authorizes a project to restore wetlands adjacent to the Des Plaines River in Wadsworth, Illinois.

Kissimmee River, Florida.—Directs the Secretary to proceed with work on the Kissimmee River demonstration project.

Water Resources Studies.—Authorizes the following studies:

—Internal drainage system, Frog Pond, Florida.

—Bartlett, Illinois landfill impact.

—Bluestone Lake, West Virginia recreational use.

—Great Lakes and St. Lawrence Seaway financing options.

Division Laboratory.—Authorizes the Secretary to construct a new division laboratory for the Corps' Ohio River Division.

Water Resources Management Planning.—Directs the Secretary to establish a water resources management and planning service for the Hudson River Basin in New York and New Jersey.

Technical Resource Service.—Directs the Secretary to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota.

Correction of Descriptions.—Corrects two descriptions in previous law relating to the deauthorization of part of a project and a declaration of nonnavigability.

Project Deauthorizations.—Deauthorizes four water resources projects, and defers the deauthorization of four projects under the automatic deauthorization process in the 1986 Act.

Namings.—Names three projects or portions of projects after individuals and a geographic location.

Declaration of Nonnavigability of Waters in New Jersey.—Declares three bodies of water in Ridgefield, New Jersey to be nonnavigable waters of the United States within the meaning of the General Bridge Act and Section 9 of the River and Harbors Appropriation Act of 1899.

CARTER LAKE, NEBRASKA AND IOWA

The Conferees have deleted language which was included in the House bill to address serious flooding problems in the vicinity of Carter Lake near Omaha, Nebraska. The House language would have authorized the Corps of Engineers to undertake a study of the relationship between the lake's water levels and subsurface flooding of homes in the area. The provision has been deleted in light of the fact that the Corps is nearing completion of a study of the problem under authority of Section 205 of the Flood Control Act of 1948 relating to small flood control projects. Preliminary results of that study confirm a direct relationship between lake levels and nearby flooding and indicate that a feasible, cost-effective solution is likely. The Corps is directed to complete the study as expeditiously as possible and to implement measures needed to address this serious problem, including the installation of pumps to regulate the levels at Carter Lake under the Section 205 program.

EAST ROCKWAY INLET TO ROCKAWAY INLET AND JAMAICA BAY, NEW YORK

The conference report deletes a provision in the House bill which would have extended beach nourishment through the 50 year life of the project. The provision is unnecessary because of Section 156 of the Water Resources Development Act of 1976, which authorizes additional nourishment for up to 50 years after the initiation of construction of Corps' beach nourishment projects.

ROCHESTER, PENNSYLVANIA

The conference report deletes the House provision concerning safety facilities on the Ohio River near Rochester, Pennsylvania. The Conferees encourage the Corps of Engineers to review the proposed project under its general authorities such as Section 107 of the River and Harbor Act of 1960, which relates to small navigation projects.

COST SHARING FOR LAKES IN KENTUCKY

The conference report deletes two House provisions concerning the cost to be paid by local interests for water supply at three lakes in Kentucky. The Conferees remain concerned about the inability of current cost-sharing policies for municipal and industrial water supply to fully meet the needs of individuals, particularly in low-income areas, and particularly where there are existing Corps of Engineers' reservoirs which could provide supplies of municipal and industrial water without significantly increasing Federal costs or adversely affecting existing uses. The House managers of the bill feel strongly that this issue requires further review and will revisit it in the next Congress.

LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA

Subsection (d) of Section 4 modifies the navigation project for Los Angeles and Long Beach Harbors, California, to provide that if non-Federal interests carry out work associated with the project which is later recommended by the Chief of Engineers and approved by the Secretary, the Secretary may credit the non-Federal interests an amount equal to the Federal share of the cost of the work. This project was authorized in the 1986 Water Resources Development Act subject to a final report of the Chief of Engineers and approval by the Secretary of the Army. Subsection (d) would permit local interests to proceed with construction at this time and permit credit for the work done by them if the work is later incorporated into the Federal project.

The credit to be provided for the navigation project for Los Angeles and Long Beach Harbors, San Pedro Bay, California, shall be equal to the Federal share of the cost of any work which was carried out by the local sponsors. Such credit shall be applied to the local share of subsequent project elements.

Subsection (d) also requires that the feasibility report for the project includes consideration and evaluation of five proposed project features: Long Beach Main Channel, Channel to Los Angeles Pier 300, channels to Los Angeles Pier 400, Long Beach Pier "K" Channel, and Los Angeles Crude Transshipment Terminal Channel. In carrying out a comprehensive feasibility study including the 5 project elements, the Secretary shall ensure that the completion schedule is not delayed.

WYOMING VALLEY, PENNSYLVANIA

The conference report modifies a House provision related to the flood control project at Wyoming Valley, Pennsylvania, to authorize the Secretary to study the feasibility of constructing an inflatable dam on the Susquehanna River. The Secretary is encouraged to perform as much work as possible on the study concurrent with the main flood control project development to minimize additional and unnecessary expenses.

COYOTE AND BERRYESSA CREEKS, CALIFORNIA

The conference report deletes the authorization for the flood control project for Coyote and Berryessa Creeks. In its place is a provision directing the Secretary of the Army to include in the feasibility report a recommendation for reimbursement to local interests for work they perform on the project. This will enable local interests to begin work on the project immediately and be reimbursed up to $3 million for that work upon initiation of the federally funded work on the project.

The Conferees note the importance of the project for flood control, Coyote and Berryessa Creeks, California and the high priority afforded this investment by local interests as reflected in the extensive works already constructed. Accordingly, the Conferees direct the Secretary to give this project high priority and provide in the feasibility report for limited reimbursement for work that may be undertaken by local interests. The Conferees also intend to give this project priority consideration when determining projects for authorization in the next Congress.

BLAIR AND SITCUM WATERWAYS, WASHINGTON

The Conferees note that for this project, the informational breakdown of the total cost into the estimated Federal and non-Federal share is not stated. It is intended that project costs will be allocated and cost shared in accordance with the applicable provisions of the 1986 Water Resources Development Act. Such cost allocations are not available at this time.

LA CROSSE, WISCONSIN

The House bill, in section 147, required any study or reevaluation of the Mississippi River at La Crosse, WI, flood control project to be treated as a continuation of the project's Phase I feasibility study completed in September 1973 and not as initiation of a new study. The purpose of section 147 was to restore the Mississippi-Black-La Crosse Rivers flood control project to the status (relating to cost sharing) it enjoyed prior to its unintended, automatic deauthorization on December 17, 1987, pursuant to section 710 of the Water Resources Development Act of 1986. Although reauthorized pursuant to a Committee resolution approved on March 16, 1988 by the House Public Works and Transportation Committee, the Corps determined that the study became subject to new, higher cost sharing requirements.

The Conference Report does not contain the House provision. The Conferees, however, recognize the inequity of this unique situation and direct the Corps to reconsider the status of the project for purposes of sections 905(b) and 105 of the 1986 Act. In particular, the Conferees wish to note an earlier study was completed in 1973 and the proposed reevaluation study was to have been completed at full Federal cost. The Conferees expect the Corps to report to Congress as soon as possible on the results of its reconsideration and on ways to avoid problems in the future.

PROTECTION OF RECREATIONAL AND COMMERCIAL USES

Section 106 of the House bill provided for protection of recreational and commercial uses in the vicinity of Corps projects. The provisions were based in large part on a bill introduced in the 100th Congress and supported by many Members of Congress.

The conference report modifies the House provisions to apply solely to the South Pier project in Charlevoix, Michigan. The Conferees, however, remain concerned about Corps' activities that adversely affect established uses. In planning any water resources project, the Corps should consider impacts on existing and future recreational uses. In addition, the Conferees intend to follow this issue closely and, if necessary, hold hearings and pursue further legislation.

ATLANTIC COAST OF MARYLAND AND ASSATEAGUE ISLAND, VIRGINIA

The conference report deletes without prejudice the House provisions concerning credits to non-Federal interests for work performed on the Federal portion of the shoreline protection project for the Atlantic Coast of Maryland and Assateague Island, Virginia. The Conferees are concerned about the inflexibility of current credit policies and the inability to fully meet the needs of state and local interests, particularly in this instance where provision of such credits could result in earlier project benefits and significant cost savings to the Federal government. The Conferees feel strongly that this policy requires further review by the Corps of Engineers and will revisit it in the next Congress.

INNOVATIVE TECHNOLOGY

Section 8 of the conference report authorizes the Secretary to promote cost savings, increased efficiency, reliability, and safety through the use of innovative technology in all phases of water resources development projects and programs under the Secretary's jurisdiction. This authority is not intended to interfere with the Corps' existing contracting authorities.

STUMPY LAKE, LOUISIANA

The Water Resources Development Act of 1986 authorized the Secretary to acquire 14,000 acres of mitigation lands for fish and wildlife losses associated with the Red River navigation channel project. The Corps is in the process of finalizing the Red River mitigation plan, part of which designates eligible lands for acquisition. The Conferees understand that approximately 300 acres of land at Stumpy Lake will be recommended for acquisition.

The Conferees find two important reasons for acquisition of the Stumpy Lake lands. First, Stumpy Lake is a valuable area for both migratory and resident waterfowl. Acquisition of the Stumpy Lake lands will enhance the existing Loggy Bayou Wildlife Management area. Second, the acquisition of the Stumpy Lake lands will aid mitigation of the effects of a headcut which is threatening both the Stumpy Lake lands and Lake Bistineau Dam. The Conference Report authorizes the Corps to acquire the Stumpy Lake lands as part of the 14,000 Red River mitigation acreage. No new acreage is authorized for acquisition by this section. Nor is this directive to affect in any way the selection of the remaining mitigation acreage. The Secretary is directed to give equal consideration to acquisition of lands is Avoyelles Parish, other lands in the Loggy Bayou area, and other lands he deems appropriate.

RESTORATION

VENTURA TO PEIRPONT BEACH, CA

The Conference Report includes a project to restore groin number 1 to its original configuration. The House-passed bill, H.R. 5247, authorized the project at a total Federal cost of $225,000 and a total non-Federal cost of $75,000. The Conferees agreed to specify the project was an emergency. The Conferees understand the project will provide storm damage reduction benefits.

THE ERIE CANAL

The Conferees request that Corps of Engineers undertake a water quality review of the Erie Canal and Onondaga Lake in New York, with specific emphasis on the interaction between water quality in the canal and water from Onondaga Lake. Without a clear understanding of water quality in the Lake, any ill effects of that water on the canal system, for use as both potable and non-potable water supply, cannot be properly assessed. It is the request of the Conferees that this study include a comprehensive description of water quality parameters of Onondaga Lake.

PORT OF MIAMI, FLORIDA

The Conferees request that the Corps place priority attention on the Port of Miami harbor improvement project. The project is not authorized by means of this legislation because the Chief of Engineers' report is not near completion. The Conferees direct the Corps to move as expeditiously as possible to complete all remaining stages of the review process. Preconstruction engineering and design funds provided by Public Law 100-371 and Public Law 100-202 should be utilized promptly.

KING HARBOR, REDONDO BEACH, CALIFORNIA

The conference report deletes a House provision which would have authorized the Secretary of the Army, subject to a report of the Chief of Engineers, to construct the breakwaters at King Harbor to a height greater than 22 feet and to extend the breakwaters. The Board of Engineers for Rivers and Harbors has recently recommended that the breakwaters be raised to a height of 20 feet and extended pursuant to an authorization in the Water Resources Development Act of 1986 to raise the breakwater to a height of 22 feet. The extension of the breakwater recommended by the Board is within the scope of the 1986 authorization and further authorization is not necessary.

WYNOOCHEE LAKE, WASHINGTON

This section allows the Secretary of the Army to demonstrate the feasibility and desirability of allowing a non-Federal entity to operate, maintain, repair, and rehabilitate ("OMR&R") a Federal multipurpose reservoir project. This would allow the Secretary to modify the current contract between the City of Aberdeen and the United States so that the City may assume responsibility for OMR&R at the Wynoochee Reservoir Project subject to certain conditions. The Conferees understand that this section may result in significant cost savings to the United States and the City, and may also better enable the Cities of Aberdeen and Tacoma to proceed with a planned hydroelectric facility for the project.

This section authorizes this transfer of responsibility after September 30, 1988, subject to the following conditions:

Paragraph (2)(A) requires that the City perform OMR&R for the project consistent with regulations prescribed by the Secretary for the project with regard to the authorized purposes of the project and with regard to the long term value and viability of the project. The primary regulations are the project "Operation and Maintenance Manual" and the project water control plan. Project regulations prescribed by the Secretary shall take into account the costs incurred by the City as a result of such regulations. In assuming responsibility for the project's OMR&R, the City shall act in accordance with Prudent Utility Practices unless such practices are inconsistent with the regulations prescribed by the Secretary.

The Secretary, in consultation with the City, will update the project hydrological and operational analysis incorporating current hydrological data and historic operational experience. If warranted by the updated hydrological and operational analysis, project regulations and the project storage operation criteria may be modified by the Secretary consistent with the authorized purposes of the project. In view of the importance of the project's storage operation criteria to the City's OMR&R and hydropower plans, the Secretary should review and update these criteria as soon as is practicable.

In addition, the City and the Corps of Engineers should reach agreements as soon as practically possible to finalize: 1) design criteria for the hydropower project licensed by FERC Project License No. 6842, and 2) any other Corps regulations or decisions needed to allow the City to proceed with the hydropower project.

Paragraph (2)(B) states that OMR&R performed by the City shall be consistent with the long term value and viability of the project's facilities. These requirements are meant to ensure that OMR&R performed by the City will prevent any significant deterioration of the dam and associated facilities and property, and that the life expectancy of such is not reduced from what it would be under the Corps of Engineers' OMR&R regimen. This is especially important in terms of safety and of protection of the federal government's investment in the dam and associated facilities in the event of a resumption of federal OMR&R.

Subsection (3) states that OMR&R by the city of Aberdeen shall be subject to the following conditions:

(A) The Federal Government shall retain ownership of all real and personal property related to the project. The City shall use and maintain all personal property it and the Secretary deem necessary for OMR&R, and the City shall return to the United States any personal property determined by the City to be unnecessary.

It is understood that the intent of the City is to obtain transfer of fee title of the project to the City. Therefore, the Secretary should study the desirability of such a transfer and prepare a report which outlines his findings. If appropriate, the Secretary's report should also outline the preferable mechanisms by which such a transfer of fee title to the City could be made. The Secretary's report should be transmitted to the Committee on Environment and Public Works in the Senate and the Committee on Public Works and Transportation in the House.

(B) The United States shall be indemnified from any damages resulting from project OMR&R by the City, except when such damages are caused by the fault or negligence of the United States or its contractors.

(C) The Secretary is authorized to order resumption of Federal OMR&R of the project under certain circumstances, including the abrogation of any of the conditions set forth in this section or the regulations prescribed by the Secretary to implement those conditions. Although the Secretary retains the ability to resume Federal control, the Secretary should not exercise this ability unless there is sufficient evidence of the need to do so based on these conditions and regulations. Further, except under exigent circumstances, the Secretary shall not order Federal intervention unless appropriate administrative procedures have been completed, including written notification of the proposed intervention and opportunity for response by the City.

(D) The Secretary is directed to modify the project contract to relieve the City of further obligations to pay future OMR&R costs to the United States. This subsection retains, however, all other payment obligations of the City. The Committee understands that City engineering personnel will visit and evaluate the project, observe Federal project personnel and implement a transition plan to enable the city to assume OMR&R as soon as practically possible.

(E) The Secretary is directed to transfer responsibility for OMR&R in the most cost effective manner practicable.

Subsection (4) directs the Secretary to report to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House on the implementation of this section within one year of the enactment of this Act.

GLENN M. ANDERSON,
ROBERT A. ROE
(except for section 30),
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,
ARLAN STANGELAND,
ROBERT BORSKI
(section 30 only of H.R. 5247 as reported now contained in the House amendment and modification committed to conference),

Managers on the Part of the House.

DANIEL PATRICK MOYNIHAN,
QUENTIN BURDICK,
JOHN BREAUX,
ROBERT T. STAFFORD,
STEVE SYMMS,

Managers on the Part of the Senate.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Could the Chair inform us when the votes might come on the bills, the 28 bills, that we have before us today and the extra 9 that are now being put on the calendar? When might the House expect to vote on those items?

The SPEAKER pro tempore. Any rollcall votes, as the Chair understands it, will be postponed until tomorrow.

Mr. WALKER. Mr. Speaker, a further parliamentary inquiry: If there is an intention to get votes, the Members can expect at least 9 votes in the new calendar, and would all be voted on tomorrow?

The SPEAKER pro tempore. If indeed the rollcalls were ordered, the gentleman is correct.

Mr. WALKER. Mr. Speaker, I thank the Chair.

MONTANA NATURAL RESOURCES PROTECTION AND UTILIZATION ACT OF 1988

Mr. VENTO. Mr. Speaker, pursuant to House Resolution 591, I call up the Senate bill (S. 2751) to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes.

The Clerk read the title of the Senate bill.

The text of S. 2751 is as follows:

S. 2751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Montana Natural Resources Protection and Utilization Act of 1988".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's RARE II and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have identified certain National Forest System lands in the State of Montana which should not now be designated as components of the National Wilderness Preservation System but which possess exceptional scenic, fish and wildlife, and recreational values and should be specially managed to protect those exceptional values; and

(4) the Department of Agriculture's RARE II and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable law.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude and physical and mental challenge;

(2) designate certain National Forest System lands in the State of Montana for special management and special study in order to promote, and conserve their exceptional scenic, wildlife and fish, and recreational values; and

(3) ensure that certain other National Forest System lands in the State of Montana be available for nonwilderness uses.

WILDERNESS DESIGNATION

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act of 1964 the following lands in the State of Montana are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, Montana, which comprise approximately twenty-nine thousand one hundred acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated August 1988, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(2) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated September 1987, and which shall be known as the Italian Peaks Wilderness.

(3) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately seventy-nine thousand five hundred acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed", dated September 1987, and which shall be known as the East Pioneer Wilderness.

(4) Certain lands in the Beaverhead National Forest, Montana, comprising approximately seventy-six thousand six hundred acres, as generally depicted on a map entitled "West Big Hole Wilderness—Proposed", dated August 1988, and which shall be known as the West Big Hole Wilderness.

(5) Certain lands in the Beaverhead National Forest, Montana, comprising approximately thirty-three thousand seven hundred acres, as generally depicted on a map entitled "West Pioneer Wilderness—Proposed", dated August 1988, and which shall be known as the West Pioneer Wilderness.

(6) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, Montana, which comprise approximately sixty-four thousand eight hundred acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated August 1988, and which shall be known as the Stony Mountain Wilderness.

(7) Certain lands in the Bitterroot and Lolo National Forests, Montana, which comprise approximately fifty-five thousand six hundred acres, as generally depicted on maps entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness.

(8) Certain lands in the Bitterroot National Forest, Montana, which comprise approximately twenty-eight thousand five hundred acres, as generally depicted on a map entitled "Frank Church-River of No Return Wilderness Additions—Proposed" (Bluejoint), dated September 1987, and which are hereby incorporated in and shall be deemed to be part of the Frank Church-River of No Return Wilderness.

(9) Certain lands in the Custer National Forest, Montana, which comprise approximately five thousand eight hundred acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed," dated August 1988, and which shall be known as the Lost Water Canyon Wilderness.

(10) Certain lands in the Custer National Forest, Montana, which comprise approximately five thousand seven hundred acres, as generally depicted on a map entitled "Absaroka Beartooth Wilderness Additions—Proposed" (Timberline Creek, Stateline, Mystic Lake and Dexter Point), dated October 1988, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(11) Certain lands in the Deerlodge and Helena National Forests, Montana, which comprise approximately nineteen thousand acres, as generally depicted on a map entitled "Blackfoot Meadow-Electric Peak Wilderness—Proposed", dated September 1987, and which shall be known as the Blackfoot Meadow Wilderness.

(12) Certain lands in the Deerlodge National Forest, Montana, which comprise approximately forty thousand three hundred acres, as generally depicted on a map entitled "Flint Creek Range Wilderness—Proposed", dated August 1988, and which shall be known as the Flint Creek Range Wilderness.

(13) Certain lands in the Deerlodge and Bitterroot National Forests, Montana, which comprise approximately fifty-two thousand six hundred acres, as generally depicted on a map entitled "Sapphires Wilderness—Proposed", dated August 1988, and which shall be known as the Sapphires Wilderness.

(14) Certain lands in the Flathead National Forest, Montana, which comprise approximately sixty-eight thousand acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck, Mount Hefty, Thompson-Seton)", dated August 1988, and which shall be known as the North Fork Wilderness.

(15) Certain lands in the Flathead, Lolo, and Lewis and Clark National Forests, Montana, which comprise approximately two hundred twenty-four thousand nine hundred acres, as generally depicted on maps entitled "Bob Marshall Wilderness Additions—Proposed" (Limestone Cave, Slippery Bill, Rocky Mountain Front, Clearwater-Monture, Silver King-Falls Creek and Crown Mountain), dated October 1988, and which shall be deemed to be part of the Bob Marshall Wilderness.

(16) Certain lands in the Flathead National Forest, Montana, which comprise approximately nine hundred and sixty acres, as generally depicted on a map entitled "North Mission Mountain Wilderness Additions—Proposed", dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the North Mission Mountain Wilderness.

(17) Certain lands in the Flathead and Lolo National Forests, Montana, comprising approximately one hundred forty eight thousand one hundred acres, as generally depicted on maps entitled "Jewel Basin/Swan Wilderness—Proposed", dated October 1988, and those lands comprising the west slope of the Bob Marshall Wilderness shall be deemed to be a part of the Bob Marshall Wilderness and the remaining lands shall be known as the Swan Crest Wilderness.

(18) Certain lands in the Gallatin National Forest, Montana, which comprise approximately sixty-four thousand-one hundred acres, generally depicted on a map entitled "Gallatin Wilderness—Proposed", dated August 1988, and which shall be known as the Gallatin Wilderness.

(19) Certain lands in the Gallatin National Forest, Montana, which comprise approximately five hundred acres, as generally depicted on a map entitled "North Absaroka Wilderness Additions—Proposed" (Republic Mountain), dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the North Absaroka Wilderness.

(20) Certain lands in the Gallatin National Forest, Montana, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated October 1988, and which are hereby incorporated in and shall be considered part of the Lee Metcalf Wilderness.

(21) Certain lands in the Gallatin National Forest, Montana, which comprise ap-

proximately twenty-two thousand acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1987, and which shall be known as the Earthquake Wilderness.

(22) Certain lands in the Helena National Forest, Montana, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1987, and which shall be known as the Camas Creek Wilderness.

(23) Certain lands in the Helena National Forest, Montana, which comprise approximately fifteen thousand acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1987, and which shall be known as the Mount Baldy Wilderness.

(24) Certain lands in the Helena National Forest, Montana, which comprise approximately ten thousand five hundred acres, as generally depicted on a map entitled "Gates of the Mountain Wilderness Additions—Proposed" (Big Log), dated September 1987, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(25) Certain lands in the Helena National Forest, Montana, which comprise approximately eight thousand five hundred acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated September 1987, and which shall be known as the Black Mountain Wilderness. It is the intent of Congress that the Secretary, utilizing existing statutory authority, give special attention to the acquisition of non-federally owned lands within the Black Mountain Wilderness.

(26) Certain lands in the Helena National Forest, Montana, which comprise approximately twenty-one thousand nine hundred acres, as generally depicted on a map entitled "Nevada Mountain Wilderness—Proposed", dated October 1988, and which shall be known as the Nevada Mountain Wilderness.

(27) Certain lands in the Kootenai and Kaniksu National Forests, Montana, which comprise approximately forty-seven thousand acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated September 1987, and which shall be known as the Scotchman Peaks Wilderness.

(28) Certain lands in the Kootenai National Forest, Montana, which comprise approximately thirty-three thousand acres, as generally depicted on a map entitled "Ten Lakes Wilderness—Proposed", dated September 1987, and which shall be known as the Ten Lakes Wilderness.

(29) Certain lands in the Kootenai National Forest, Montana, which comprise approximately thirty-one thousand six hundred acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated August 1988, and which are hereby incorporated in and shall be a part of the Cabinet Mountains Wilderness.

(30) Certain lands in the Kootenai and Lolo National Forests, Montana, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cube Iron-Silcox Wilderness—Proposed", dated October 1988, and which shall be known as the Cube Iron-Silcox Wilderness.

(31) Certain lands in the Lewis and Clark National Forest, Montana, which comprise approximately twenty-nine thousand six hundred acres, as generally depicted on a map entitled "Big Snowies Wilderness Area—Proposed", dated October 1988, and which shall be known as the Big Snowies Wilderness.

(32) Certain lands in the Lola National Forest, Montana, which comprise approximately eighty-five thousand one hundred acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated October 1988, and which shall be known as the Great Burn-Hoodoo Wilderness.

(33) Certain lands in the Lolo National Forest, Montana, which comprise approximately forty-nine thousand acres, as generally depicted on a map entitled "Quigg Wilderness—Proposed", dated September 1987, and which shall be known as the Quigg Wilderness.

(b) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the House of Representatives. Each map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in section 3 of this Act, any reference to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SCAPEGOAT AND GREAT BEAR WILDERNESS DESIGNATIONS

SEC. 4. In order to consolidate existing contiguous wilderness areas, those lands comprising the Great Bear Wilderness Area designated by Public Law 95-946 and any amendments thereto and the Scapegoat Wilderness Area designated by Public Law 92-395 and any amendments thereto are hereby incorporated in and deemed to be a part of the Bob Marshall Wilderness. The designation of the Great Bear Wilderness and Scapegoat Wilderness shall refer to units within the Bob Marshall Wilderness.

RELEASE TO NONWILDERNESS USES

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 94-557 and Public Law 95-150;

(2) the Department of Agriculture has completed the Second Roadless Area Review and Evaluation Program (RARE II);

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas through its Land and Resource Management Planning for National Forests; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to National Forest System lands in States other than Montana, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Montana;

(2) with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture in wilderness studies conducted pursuant to Public Law 94-557 and Public Law 95-150, in RARE II, and in the unit plans and the Forest plan for the Beaverhead National Forest which were in effect prior to completion of RARE II, that such reviews shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) except as may be specifically provided in sections 8-12 of this Act, those areas in the State of Montana referred to in subparagraph (2) of this subsection which were not designated wilderness shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) The provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less than five thousand acres in size.

(e) The wilderness suitability review and evaluation of national forest system lands in the state of Montana completed as a part of Land and Resource Management Plans that were completed prior to the enactment of this Act, satisfy the provisions of Sec. 5(b)(2) as an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed.

ADJACENT MANAGEMENT

SEC. 6. Congress does not intend that designation of wilderness areas in the State of Montana lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

WATER RIGHTS

SEC. 7. Congress finds that the waters within the Wilderness Areas designated by this Act are headwaters. The designation of such areas as wilderness shall have no effect on downstream appropriation of waters, and nothing in this Act shall be construed to affect valid existing water rights as provided under Montana State law.

SPECIAL MANAGEMENT AREAS

SEC. 8. (a) For the purposes of conserving and protecting the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made:

(1) The West Pioneers National Recreation Area located in the Beaverhead National Forest, Montana, and comprising approximately ninety thousand six hundred acres, as generally depicted on a map entitled "West Pioneers National Recreation Area—Proposed", dated August 1988.

(2) The Mount Helena National Education and Recreation Area located in the Helena National Forest, Montana, and comprising approximately three thousand nine hundred acres as generally depicted on a map entitled "Mount Helena Education and Recreation Area—Proposed", dated October 1988.

(3) The Hyalite National Education and Recreation Area located in the Gallatin National Forest, Montana, and comprising approximately eighteen thousand nine hundred acres, as generally depicted on a map entitled "Hyalite National Recreation Area—Proposed", dated August, 1988.

(4) The Ross Creek Cedars National Recreation Area located in the Kootenai National Forest, Montana, and comprising approximately seven hundred acres, as generally depicted on a map entitled "Ross Creek Cedars Biological Area—Proposed", dated September 1987.

(5) The Gibson Reservoir National Recreation Area located in the Lewis and Clark National Forest, Montana, and comprising approximately twenty-four thousand one hundred acres, as generally depicted on a map entitled "Gibson Reservoir National Recreation Area—Proposed", dated October 1988.

(6) The Cottonwood Lake National Recreation Area located in the Deerlodge National Forest, and comprising approximately eight thousand three hundred acres, as generally depicted on a map entitled "Cottonwood Lake National Recreation Area—Proposed", dated September 1987.

(b) The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c)(1) Except as otherwise may be provided in this subsection, the Secretary shall administer the areas designated in subsection (a) so as to achieve the purposes of their designation as National Recreation Areas in accordance with the laws and regulations applicable to the National Forest System.

(2) Subject to valid existing rights, all federally owned lands within the areas are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(3) Management activities may be permitted by the Secretary if compatible with the purposes for which the areas were designated: *Provided*, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(4) The use of motorized equipment may be allowed if compatible with the purposes for which the areas are designated.

(5) The grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to applicable law and regulations of the Secretary.

(d) The Secretary shall manage the Mount Helena and the Hyalite National Education and Recreation Areas with a focus on education. All management activities shall be conducted in a way that provides the public with an education on natural resources protection and management.

(e) Those areas established pursuant to this section shall be administered as components of the National Forests wherein they are located. Land and resource management plans for the affected National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, shall emphasize achieving the purposes for which the areas are designated.

ELKHORNS NATIONAL RECREATION AND WILDLIFE AREA

SEC. 9. (a)(1) The area of the Helena and Deerlodge National forests comprising approximately one hundred seventy-five thousand seven hundred acres, as generally depicted on a map entitled "Elkhorns National Recreation and Wildlife Area—Proposed", dated September 1987, is hereby designated as a national recreation and wildlife area and shall hereafter be managed generally as a national recreation area that emphasizes enhancement of big game habitat. Except as otherwise provided in this subsection, the Secretary shall administer the area so as to achieve the purposes of its designation as a national recreation and wildlife area. Where compatible with such emphasis, management also shall provide for recreational opportunities and the maintenance and enhancement of habitat for non-game species.

(2) Those lands within the Elkhorns National Recreation and Wildlife Area designated as "Elkhorns-2" on the map referenced in paragraph (1) shall, notwithstanding any other provision of this section, remain roadless, except that motorized equipment may be used by the Secretary after public notice and opportunity for comment and a finding by the Secretary that such use is required for habitat improvement for fish and wildlife. Any area disturbed by such motorized equipment shall be restored to contour and revegetated with appropriate native plant species as expeditiously as possible.

(b) The Secretary shall file the map referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House or Representatives, and the map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, all federally owned lands within the area designated as "Elkhorns-2" are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(d) Management activities may be permitted by the Secretary if compatible with the purposes for which the Elkhorns National Recreational Wildlife Area was designated: *Provided*, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(e) The Elkhorns National Recreation and Wildlife Area established pursuant to this section shall be administered a component of the Helena and Deerlodge National Forests. Land and resource management plans for these National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, shall emphasize achieving the purposes for which the area is designated.

SPECIAL STUDY AREAS

SEC. 10. (a)(1) The Crazy Mountains Land Consolidation Study Area in the Gallatin and Lewis and Clark National Forests, Montana, comprising approximately one hundred nine thousand five hundred acres, as generally depicted on a map entitled "Gallatin and Lewis and Clark Land Consolidation Study", dated October 1988, shall, notwithstanding any other provision of this Act, be managed in accordance with the provisions of Public Law 95-150. The Forest Service shall complete a study of public and private land consolidation alternatives for this area and shall transmit such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than January 1, 1991.

(2) The Porcupine-Buffalo Horn Study Area in the Gallatin National Forest, Montana, comprising approximately fifty-two thousand acres as generally depicted on a map entitled "Gallatin Wilderness and Wilderness Study Areas—Proposed", dated October 1988, shall be reviewed by the Secretary to evaluate the wilderness potential of the area; to analyze the motorized and nonmotorized dispersed recreation use in the area; to evaluate the amount and distribution of recreation use including trail use; and to evaluate potential conflicts between various uses. This study shall be completed and submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than January 1, 1991. The area shall, notwithstanding any other provision of this Act, be managed in accordance with the provisions of Public Law 95-150.

(3) The Sawtooth Mountain Study Area in the Gallatin National Forest, Montana, comprising approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "Gallatin Wilderness and Wilderness Study Areas—Proposed", dated October 1988, shall be reviewed by the Secretary to evaluate and report on the wilderness potential of the area and alternatives for providing public access to Federal lands in the area. The study shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives no later than January 1, 1991. Until December 31, 1992, the Secretary shall administer the area in order to protect its potential for inclusion in the Wilderness System: *Provided*, That established uses within the area shall be allowed to continue. Unless Congress determines otherwise, after December 31, 1992, the lands within the Sawtooth Mountain Study Area shall be managed by the Secretary in accordance with the study prepared pursuant to this subsection: *Provided*, That nothing in this paragraph shall be construed as expanding or diminishing the existing authority of the Secretary regarding the management of the national forests.

(4) The Tenderfoot-Deep Creek Land Consolidation and Wilderness Study Area located in the Lewis and Clark National Forest, Montana, and comprising approximately thirty-eight thousand two hundred acres, as generally depicted on a map entitled "Tenderfoot-Deep Creek Wilderness Study Area", dated October 1988, shall be reviewed by the Secretary to evaluate and report on the wilderness potential of the area and the potential for public and private land consolidation. The study shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives no later than January 1, 1991. Until December 31, 1992, the Secretary shall administer the area in order to protect its potential for inclusion in the Wilderness System: *Provided*, That established uses shall be allowed to continue. Unless Congress determines otherwise, after December 31, 1992, the area shall be managed by the Secretary in accordance with the study prepared pursuant to this subsection: *Provided*, That nothing in this paragraph shall be construed as expanding or diminishing the existing authority of the Secretary regarding the management of the national forests.

(b) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, House of Representatives, and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

WILDERNESS STUDY AREAS

SEC. 11. (a)(1) Certain lands located in the Custer National Forest, Montana, comprising approximately four thousand one hundred acres as generally depicted on a map entitled "Burnt Mountain Wilderness Study Area—Proposed", dated August 1988, shall be reviewed by the Secretary to determine their suitability for inclusion in the National Wilderness Preservation System.

(2) Certain lands in the Custer National Forest, Montana, comprising approximately seventeen thousand acres as generally depicted on a map entitled "Line Creek Plateau Wilderness Study Area—Proposed," dated October 1988 shall be reviewed by the Secretary to determine their suitability for inclusion in the National Wilderness Preservation System.

(b) The Secretary shall submit a report to the Congress containing his recommendations regarding wilderness designation for these areas not later than five years after the date of enactment of this Act.

(c) Subject to valid existing rights, the wilderness study areas designated by this section shall be managed to protect their suitability for inclusion in the National Wilderness Preservation System for a period of seven years from the date of enactment of this Act. At the end of such seven-year period, the areas shall be managed, subject to valid existing rights, in accordance with the applicable land and resource management plan for the Custer National Forest.

(d) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, House of Representatives and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

BLACKFEET UNIT

SEC. 12. (a)(1) Subject to valid existing rights, all federally owned lands as depicted on a map entitled "The Blackfeet Unit", dated October 1988 (hereinafter in this section referred to as "the Unit"), comprising approximately one hundred sixteen thousand six hundred acres, are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws for a three-year period commencing on the date of enactment of this Act.

(2) For the three-year period commencing on the date of enactment of this Act, no commercial timber sales shall be permitted within the Unit: *Provided*, That nothing in this paragraph shall preclude the gathering of timber by the Blackfeet Tribe in the exercise of valid treaty rights within the Unit.

(3)(A) With respect to oil and gas leases on Federal lands within the Unit in effect on the date of enactment of this Act, no surface disturbance shall be permitted pursuant to such leases for the three-year period commencing on the date of enactment of this Act.

(B) Notwithstanding any other provision of law, the term of any oil and gas lease which is subject to the limitation imposed by subparagraph (A), shall be extended for an additional three years beyond its existing date of expiration.

(b) The Forest Service shall cooperate with the Blackfeet Tribe in the preparation of a joint land management plan for the area depicted on the map referenced in subsection (a). Such plan shall consider a range of management options including, but not limited to, the protection and utilization of the range, recreation, minerals, timber, wildlife and fish resources and the protection and preservation of areas used by members of the Blackfeet Tribe for cultural or religious purposes. The Forest Service shall provide technical assistance to the Tribe in preparation of the plan.

(c) During the preparation of the plan, the Bureau of Indian Affairs is directed to review and prepare an update of the report entitled "Preliminary Report on Proposed Badger Canyon Dam and Reservoir" prepared in 1968. Such report and update shall be submitted to the Blackfeet Tribe and the Congress within eighteen months after enactment of this Act and shall include, but not be limited to, additional study of the costs, benefits, and feasibility of constructing such a dam and reservoir, including the potential for the generation of hydropower.

(d)(1) Development and review of any joint land management plan prepared pursuant to this section shall be subject to applicable existing law, including but not limited to the National Forest Management Act, Public Law 94-588, and shall, after the opportunity for public comment and review, be incorporated into the Land and Resource Management Plan for the Lewis and Clark National Forest.

(2) Actions taken pursuant to this subsection shall not be considered a significant amendment or revision of such Land and Resource Management Plan.

(e) The Forest Service and the Tribe are encouraged to complete such plan no later than three years after the date of enactment of this Act. After opportunity for public review and comment, the plan shall be transmitted to Congress. After the plan is transmitted to Congress, the Forest Service shall manage the lands in accordance with the plan under applicable law. Congress shall consider the plan within two years after receipt and, if it deems necessary, enact legislation to implement the plan.

(f) Nothing in this section shall be construed to diminish, prejudice, add to, or otherwise affect the treaty rights of the Blackfeet Tribe in the Unit nor to diminish the rights of the United States.

PLUM CREEK LAND EXCHANGE—PORCUPINE AREA.

SEC. 13. The Secretary shall, notwithstanding any other provision of law, exchange lands and interests in lands with Plum Creek Timber Company, Inc. (hereinafter "PCTC") in accordance with the following provisions:

(a) Subject to the provisions of this section, if PCTC offers to the United States the fee title to approximately 8,130.67 acres of land of PCTC which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber Company and Forest Service Proposed Porcupine Land Exchange", dated May 20, 1988, the Secretary of the Interior is authorized and directed to accept a warranty deed to such lands and, in exchange therefore, and subject to valid existing rights, convey by Patent the fee title to approximately 9, 181.74 acres of National Forest System lands available for exchange to PCTC as depicted on such map. The National Forest System lands depicted on such map shall be conveyed subject to the following specific reservations and exceptions:

(1) Existing ditches and canals as authorized by the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

(2) Federal oil and gas leases Numbers 49432, 32843 and 55325 are reserved in the United States. Upon termination or relinquishment of the said leases under applicable law, all the rights and interests therein in the National Forest System lands described in subsection (a) and included in said leases shall immediately vest in PCTC, its successors and assigns. Upon such termination or relinquishment, the United States will give notice of said event by a document suitable for recording in the county wherein the above described leased lands are situated.

(3) Such other terms and conditions, reservations or exceptions as may be agreed upon by the Secretary and PCTC.

(b) At closing on the conveyances authorized by this section:

(1) For and in consideration of the easements conveyed by PCTC as provided in paragraph (b)(2), the Secretary shall cause to be executed and delivered to PCTC easements over federally owned lands for such existing or future roads as needed to provide PCTC, its successors and assigns, access to PCTC owned lands.

(2) For and in consideration of the easements conveyed by the United States as provided in paragraph (b)(1), PCTC shall execute and deliver to the United States easements over PCTC lands for such existing or future roads as needed to provide the United States and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this section shall be in the same form as that customarily used by the Forest Service and cooperators for cost shared roads in Road Right-of-Way Construction And Use Agreements.

(c) The following order of withdrawal, as it applies to the lands conveyed by the United States and involved in the transactions authorized by this section, is hereby revoked: Executive Order Numbered 30-Montana 7-Phosphate Reserve October 9, 1917 (nine hundred sixty acres, more or less).

(d) The maps referred to in subsection (a) are subject to such minor corrections as the Secretary and PCTC may agree to. The Secretary shall notify the appropriate Committees of Congress of any correction made pursuant to this subsection.

(e) It is the sense of Congress that the conveyances authorized and directed pursuant to this section should be completed within ninety days after the date of the enactment of the Act.

(f) All lands conveyed to the United States pursuant to this section shall be national forest lands administered by the Secretary.

PLUM CREEK LAND EXCHANGE—GALLATIN AREA

SEC. 14. The Secretary shall, notwithstanding any other provision of law, acquire certain lands and interests of Plum Creek Timber Company, Inc. (hereinafter "PCTC") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area and additional lands in the Gallatin National Forest in accordance with the following provisions:

(a) The acquisition shall be by exchange and cash equalization as hereinafter provided, and it is the sense of Congress that the acquisition authorized pursuant to this section should be completed within ninety days after the date of enactment of this Act.

(b) Subject to the provisions of this section, if PCTC offers to the United States the fee title to approximately 37,752.15 acres of land of PCTC which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber Company and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary of the Interior is authorized and directed to accept a warranty deed to such lands and, in exchange therefore, and subject to valid existing rights, convey by Patent the fee title to approximately 12,414.06 acres of National Forest System lands available for exchange to PCTC as depicted on such map. The National Forest System lands depicted on such map shall be conveyed subject to the following specific reservations and exceptions:

(1) Existing ditches and canals as authorized by the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

(2) Federal Oil and Gas Leases Numbered 49739, 55610, 23290, 29230, 40389, 53670, 40215, 38678, 33385, 53736, and 38684 are reserved in the United States. Upon termination or relinquishment of the said leases under applicable law, all the rights and interests in said leases shall immediately vest in PCTC, its successors and assigns. Upon such termination or relinquishment, the United States will give notice of said event by a document suitable for recording in the county wherein the above described leased lands are situated.

(3) Such other terms and conditions, reservations or exceptions as may be agreed upon by the Secretary and PCTC.

(c) At closing on the conveyances authorized by this section:

(1) For and in consideration of the easements conveyed by PCTC as provided in paragraph (c)(2) the Secretary shall cause to be executed and delivered to PCTC easements over federally owned lands and any federally assignable rights to easements for such existing or future roads as needed to provide PCTC, its successors and assigns, access to PCTC owned lands.

(2) For and in consideration of the easements conveyed by the United States as provided in paragraph (c)(1), PCTC shall execute and deliver to the United States easements over PCTC lands for such existing or future rights-of-way as needed to provide the United States and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this section shall be in the same form as that customarily used by the Forest Service and cooperators for cost shared roads in Road Right-of-Way Construction and Use Agreements.

(d) The maps referred to in this section are subject to such minor corrections as the Secretary and PCTC may agree to. The Secretary shall notify the appropriate Committees of Congress of any corrections made pursuant to the subsection.

(e) All lands conveyed to the United States pursuant to this section shall be national forest lands administered by the Secretary.

(f) There is hereby authorized to be appropriated to carry out the provisions of this section of this Act, the sum of three million four hundred thousand dollars ($3,400,000), which amount the Secretary shall, when appropriated, pay to PCTC to equalize the value of the exchange.

SEVERED MINERALS EXCHANGE

SEC. 15. (a) Congress finds that:

(1) Underlying certain areas in Montana designated by this Act are mineral rights owned by the subsidiaries of Burlington Resources, Inc. (hereafter "Company");

(2) there are federally owned minerals underlying lands of the Company lying outside such areas;

(3) the Company has agreed in principle with the Department of Agriculture as to the potential exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable to authorize and facilitate such an exchange or exchanges, and that it is desirable that any such exchanges be completed within two years of the date of enactment of this Act.

(b) Pursuant to an exchange agreement which may be made by the Secretary and the Company, the Secretary may acquire by exchange any mineral interest owned by the Company or any affiliate thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in any fractional sections adjacent to such areas. In exchange for such mineral interests owned by the Company, the Secretary of the Interior shall convey, subject to valid existing rights, federally owned mineral interests which are specifically identified in an exchange agreement.

(c) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information. To assure that the wilderness or other natural values of the areas are not affected, a formal appraisal shall not be required for any mineral interest proposed for exchange: *Provided,* That the Secretary and the Company will fully share all available information on the quality and quantity of mineral interests. In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the Company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) Any mineral interests conveyed by the United States pursuant to this Act shall underlie lands the surface of which are owned by the Company. In the event that there are not sufficient federally owned mineral interests of approximately equal value underlying Company lands, then the Secretary and the Bureau of Land Management may identify for exchange any other federally owned mineral interest in Montana for which the surface estate is in private ownership.

(e) Any exchange agreement and the inclusion in such agreement of any federally owned mineral interests lying outside the boundaries of any National Forest shall be made in consultation with the Bureau of Land Management. Notwithstanding any provision of law, the Secretary of the Interior shall convey the federally owned mineral interests identified in any final exchange agreement.

(f) For purposes of this section, "mineral interests" shall include all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) Any exchange agreement and implementing actions made pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act.

MISCELLANEOUS PROVISIONS

SEC. 16. (a) It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

(b) The Secretary is directed to conduct a study for a potential horse trail in the Swan Range west of the Jewel Basin on the Flathead National Forest, Montana. The study shall be completed within two years and submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. No action to construct any such horse trail shall be initiated until at least ninety days after the study has been received by such Committees.

(c) Those lands comprising the Rattlesnake National Recreation Area and Wilderness as designated in Public Law 96-476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(d) The acreages cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

(e) The Congress has sufficiently reviewed the suitability of the Bitter Creek Wilderness Study Area (MT-064-356, BLM Wilderness Study Area Number) and approximately 2,500 acres of the Axolotl Lakes Wilderness Study Area (MT-076-069, BLM Wilderness Study Area Number) as generally depicted on a map entitled "Axolotl Lakes WSA", dated October 1988 for wilderness designation and finds that these lands have been sufficiently studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act, as amended, and are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act pertaining to management in a manner that does not impair suitability for preservation as wilderness.

(f) The Secretary is directed to conduct a study for a potential Alpine Running and Bicycle Trail on the Gallatin National Forest, Montana. The Secretary shall complete such study within two years after the date of enactment of this Act and shall transmit the study to the Committee on Interior and Insular Affairs, United States House of Representatives and the Committee on Energy and Natural Resources, United States Senate.

(g) The Secretary shall make provisions for reasonable access to private property located within the Absaroka-Beartooth Wilderness, near Goose Lake in Township 8 South, Range 15 East, Principal Montana Meridian.

(h) It is the intent of Congress that the Forest Service proceed with an orderly timber sale program on the Three Rivers Ranger District of the Kootenai National Forest in Fiscal Year 1989. Sales awarded prior to March 1, 1988, shall not be subject to further administrative or judicial review.

AUTHORIZATION OF APPROPRIATION

SEC. 17. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) No funds shall be made available pursuant to this Act except to the extent that such funds are provided in advance in appropriation Acts.

CREDIT FLOWS AND DEBT RESCHEDULING TO SOVIET UNION

SEC. 18. It is the sense of the Senate that the President of the United States should instruct the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, and the Secretary of Commerce to consult immediately with allied governments on the impact on Western security of various types of private and public sector credit flows and debt reschedulings to the Soviet Union, Warsaw Pact countries, Cuba, Vietnam, Libya, and Nicaragua, and to call for a multi-lateral voluntary initiative, supervised by the Organization for Economic Cooperation and Development, to end united, general purpose lending to these countries for reasons both of national security and prudent commercial banking.

NICARAGUA

SEC. 19. (a) FINDINGS.—The Senate finds that:

(1) The Sandinista regime is a signatory to the Esquipulas II agreement, and has thereby committed itself to the promotion of peace in Central America and democratization in Nicaragua;

(2) The Sandinista regime nevertheless continues to violate the provisions of the Esquipulas accord, which it is committed to observe;

(3) the Sandinista's continue blatant violations of the Esquipulas II accords, by continuing to receive unacceptably large Soviet-bloc military assistance, and by taking advantage of the Sapoa accord to strengthen their military position;

(4) The Sandinistas continue to prevent the United States from maintaining a fully functioning Embassy in Nicaragua.

(b) It is the sense of the Senate that:

(1) The Senate condemns the continued suppression of human rights and blatant violations of the Esquipulas II accord by the Sandinistas and calls upon all who seek both peace and freedom in Central America to join in that condemnation;

(2) The United States should respond to the continued blatant violations of the Esquipulas II accord by:

(i) continuing efforts to strengthen the internal democratic opposition and the independent media of Nicaragua;

(ii) reaffirming its support of humanitarian assistance to the democratic resistance.

(3) The Sandinista regime and the people of Nicaragua should understand that if the Sandinistas comply with their commitments to democratize, the United States should consider responding by lifting the economic embargo against Nicaragua.

(5) The Sandinista regime should understand that continued failure to comply with the Esquipulas II accord will very likely cause the Congress to approve additional military assistance for the Nicaraguan Resistance.

POLICY TOWARD THE RESTORATION OF DEMOCRACY IN CHILE

SEC. 20. (a) FINDINGS.—The Congress finds that—

(1) The Armed Forces of Chile under the leadership of General Augusto Pinochet Ugarte seized power on September 11, 1973;

(2) General Pinochet has ruled Chile without interruption for the past fifteen years;

(3) Throughout this fifteen-year period the people of Chile have expressed their growing desire for a restoration of democratic processes and procedures;

(4) The results of the Chilean national plebiscite held October 5, 1988 have clearly demonstrated the desire of the people of Chile to end General Pinochet's rule and to replace him with a chief executive freely chosen by the people;

(5) On the day of the plebiscite, Chileans turned out in exceptionally high numbers and took part in an exemplary process, which they helped administer, demonstrating the Chilean people's unwavering commitment to the restoration of democracy to their country;

(6) The United States and its chief representative in Chile, Ambassador Harry Barnes, have supported the Chilean people in their quest for democratic rule and respect for human rights.

(b) STATEMENT OF POLICY.—It is the sense of the Senate that—

(1) the United States fully recognizes, appreciates and welcomes the expressed desire of the Chilean people for the restoration of a civilian government based upon democratic processes and procedures;

(2) the United States commends the Government of Chile and the Armed Forces of Chile for conducting a free and fair plebiscite;

(3) the United States calls upon the Government of Chile to respect the results of the plebiscite and to hold free, fair and competitive presidential elections in 1989; and

(4) the United States encourages all efforts at dialogue toward reaching a consensus on a restoration of full democracy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] is recognized for one hour.

Mr. VENTO. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Montana [Mr. MARLENEE] pending which I yield myself such time as I may consume.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MARLENEE. Mr. Speaker, how much time is allotted to the minority for the legislation at hand?

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] has 1 hour.

Mr. VENTO. Mr. Speaker, I yielded to the gentleman from Montana [Mr. MARLENEE] 30 minutes, for the purpose of debate only.

Mr. MARLENEE. Mr. Speaker, I thank the Chair.

Mr. VENTO. Mr. Speaker, this measure, S. 2751, is very similar to H.R. 2090, introduced by my colleague from Montana [Mr. Williams] and passed by the House on October 13, 1987. Both bills determine the future management of over 6 million acres of national forest roadless lands in Montana. Since the passage of the House bill, our colleague Congressman Pat Williams has worked very closely with Montana's two Senators to develop a compromise proposal which now has been incorporated into S. 2751. I support this bill which would designate 1.4 million acres of wilderness, 360,000 acres of special management areas and 316,000 acres of special study areas and which would release over 4 million acres to potential development.

S. 2751 includes several changes to the House-passed version. They include:

First, the addition of three new wilderness areas totaling almost 100,000 acres as well as the addition of one new special management area and five new study areas.

Second, compromise water language pertaining to Federal reserved water rights.

Third, new updated release/sufficiency language dealing with national forest roadless areas that are not designated wilderness.

There is a special urgency behind the need to pass this bill. Montana is one of only three Western States that does not have a statewide wilderness act determining how much of its national forest roadless land will be released for potential development. The lack of a statewide act has prolonged the wilderness controversy in Montana, hampered the development of Montana's economy and left unprotected some of America's most scenic pristine wildlands. S. 2751 resolves the roadless area issue in Montana and allows the Forest Service and industry to get on with their jobs while at the same time adding some outstanding areas to the National Wilderness Preservation System.

Mr. Speaker, many years of hard work spanning several Congresses have led up to the compromise represented by this bill. I urge my colleagues to pass S. 2751 and allow this controversial issue to be put to rest.

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield 3 minutes to the gentleman from Alaska [Mr. Young].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of working men and women, and therefore in opposition to S. 2751, the Montana wilderness bill.

I'm getting tired of watching this body throw folks out of work because a few environmentalists consider anybody who does honest labor or gets his hands dirty is a bumpkin. Hard work built this country—men and women clearing the land and growing crops or raising cattle—miners with only a pick and a prayer—loggers who worked in the woods cutting down the old trees so the new ones could grow—these folks made it possible for all of us to live in the best country on Earth. These folks provided the basic materials—the food, fibre, minerals and energy—which allowed our society to grow strong and our children to have opportunity. Now a few of the pampered look down their snouts at these hard-working folks, and use their considerable leisure time to thwart the lifestyle of the very people who made life easy for them.

People will lose their jobs over this bill, and let us not fall into the trap that tourism will replace these jobs. In a wilderness, you walk in and walk out. No roads, no power lines, no farms, no taxable real estate, no forestry—that's right, no forestry—"Let it burn" is the motto in wilderness. Not many jobs in wilderness. That is why a recent poll in Montana found that 62 percent of all Montana residents oppose more wilderness—they're normal folks—concerned about their jobs and the roofs over their heads. Folks who support wilderness don't mind sleeping in a tent for a few nights. but if their wants take away other folks' needs for a wooden roof over their heads, its not fair. It's just not fair to place a higher priority on some people's leisure than on other people's jobs.

This is a bad bill, and I urge my colleagues to vote against it—let us do something for the working man and woman.

□ 1430

Mr. VENTO. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Montana [Mr. Williams] the sponsor of this bill, who has worked so diligently to bring it to the House and for which I commend him.

Mr. WILLIAMS. Mr. Speaker, I appreciate the time and generosity of the chairman of the subcommittee, the gentleman from Minnesota [Mr. Vento].

I am in support of this legislation.

Almost 100 years ago on an autumn morning, November 8, 1889, Montana became a State. President Harrison's signature on that Proclamation of Statehood culminated a long debate. A debate that was at times both petty and illuminating, both devisive and healing.

During all the decades since, no national issue, parochial to Montana, has been more heatedly debated or considered at more length by Montanans than has this issue before the U.S. House of Representatives.

This Montana wilderness bill and the six which have unsuccessfully preceded it have been debated, discussed, argued about, fought over, considered, amended, researched, analyzed, dissected, and restored.

This legislation represents a triumph in public participation. Not since statehood have so many Montanans involved themselves in the consideration of an issue before the U.S. Congress.

Thirteen hearings spanning 9 years, 90 hours of direct testimony, 3 consecutive days of hearings in Montana with 21½ hours of testimony and 4 additional days of hearings, also held in our State.

No one has been left out of this important process of deciding the use and management of Montana's last great wild lands.

The process, frankly, has taken too long, and was more devisive and partisan than was good for our State. But we are, hopefully, almost finished. Only passage through this House and the Presidential signature remains.

This bill represents the agreement of three-fourths of Montana's congressional delegation and the work of committees in the House and Senate. In fact, two committees of the House reviewed and refined the legislation before us today. The legislation passed under voice vote in both the House and the Senate, and the Senate committee had only one dissenting vote.

After 6 years of direct negotiations with all four members of Montana's delegation, I took my legislation to Montanans and asked them to help write the bill that was to be The Montana Natural Resources Protection and Utilization Act. Myself and my staff traveled the district and spoke with any one that had some interest in the legislation. After 6 months I introduced a bill in the House and that legislation passed the House a year ago. What we discuss today is the product of even more public scrutiny and negotiations in the Congress. Some of the issues in this legislation are of national importance, water rights implications, protection of some of our most important wildlife populations and national parks, and how we move forward with our forest plans. These issues have been reviewed by all committees involved and cleared for consideration. This bill represents as good an attempt to involve the public as I have ever seen in my public life.

Many of the provisions in this legislation come directly from Montanans. In the northwest, miners and conservationists sat down and compromised the Scotchman Peak Wilderness. A young handicapped woman's observations at a public meeting are in this bill in the form of the Ross Creek Cedars National Recreation Area. There is special considerations for help given to miners in Virginia City and loggers in the Yaak.

There are the clear marks of the folks along the Rocky Mountain Front in this legislation and the signs of careful consideration of the timber base all across the Gallatin. It is hard to estimate the number of Montanans who took time to place their imprint on this bill and it would be even harder to count the countless hours of meeting, discussion, and compromising that has taken place these passed 10 years. If every issue we considered in the Congress received the attention this bill has then I believe we would make far fewer mistakes. When historians come to consider why this bill is the way it is they will have to look to the people of Montana and their needs to fully understand the decisions made.

This bill is a fine-tuned work of compromise and it deserves both passage here today and the pride of all the folks across Montana who worked to make it possible.

As I observed earlier there will be many things about this legislation asserted here today, Here are a few of the facts about this legislation.

First, what this legislation accomplishes:

This legislation designates 1.48 million acres of new wilderness in the State of Montana. This is about 150,000 more acres than were passed by the House. About half this acreage is additions to existing wilderness areas.

This legislation creates 375,000 acres of new national recreation areas, designated for the preservation of all types of outdoor recreation, particularly motorized. These areas are identical to the House-passed bill.

This legislation sets aside 350,000 acres of land that require particular attention in my State before the areas can receive proper management and be released the regular forest plans. These areas have problems with longstanding Indian treaty rights, extensive checkerboard ownership problems, or thorny access and recreation issues. This acreage is less than what passed the House, moving us closer to resolution of Montana's land planning stalemate.

This legislation releases from court challenge 4.8 million acres of Federal land that will be moved into the completed Montana forest plans and managed for multiple-use purposes, including more than 300 million board feet of timber planned for harvest in the next decade. This acreage is slightly more than the House bill.

This bill alleviates the tremendous pressure building behind the U.S. Forest Service appeals process in Montana by dissolving all California versus Block wilderness appeals now pending and also by insulating all ongoing timber harvest in the Yaak drainage in Montana—an area where the timber industry risks devastation because of an appeal that was lost by the Government at the ninth circuit court. In the Beaverhead National Forest, where almost all Forest Service timber sales are under appeal, this legislation releases 1 million board feet of timber a year for harvest which is currently held from harvest by congressional study bills passed just for Montana in 1976.

This legislation promotes mining in Montana by recognizing 100 percent of all patented mining claims in Montana, stopping RARE II appeals on mining operations, and freeing up active mining claims in a BLM wilderness study area which otherwise would be precluded from development until at least 1992.

This legislation promotes timber harvest by releasing for potential harvest 61 times more timber than it restricts from harvest by wilderness designation.

This legislation promotes recreation by designating areas solely for development of wild land recreational opportunities. This legislation is also carefully drafted not to interfere with ongoing motorized recreation. For example, not 1 inch of 2,500 miles of groomed snowmobile trails in Montana is restricted by this legislation, and the Montana Snowmobile Association was granted protection of 100 percent of the areas it believed were important.

This legislation is critical to Montana's wildlife populations because of its protection of roadless lands habitats, critical watersheds, and calving grounds. This legislation completes the Bob Marshall designations along the Rocky Mountain Front and thereby assures the protection of this Nation's largest herds of big horn sheep and mountain goats, and this Nation's second largest elk herd. This area along the eastern front of the divide represents the largest game recovery effort in the lower 48 States, and this bill assures that the Federal Government will continue to contribute to this effort.

Second, what this legislation does not do:

This legislation does not remove timber suitable for harvest from the Federal inventory. The Forest Service plans show that the wilderness considerations in this bill remove one-third of 1 percent of the suitable timber base identified by the Montana forest plans.

This bill does not cost Montanans money in jobs or recreational opportunities lost. On the contrary, this bill saves Montanans from an assured collapse of the timber industry, countless lost hours and money on appeals and hearings, and a future of uncertainty in how lands will be managed. These losses are on top of the almost certain large court costs that region 1 of the Forest Service will need to bear as it attempts to defend its plans and actions without the congressional help received by all but three States. Currently, the Forest Service enjoys a 100-percent loss record before the ninth circuit court.

This bill does not stop current mining operations in Montana. In fact, the Montana mining industry worked closely with the delegation on this bill, and the Montana Mining Association has never produced one mine or proposed operation impacted by this legislation. Just the opposite, some mining operations will not be able to go forward without this bill.

This legislation does not remove motorized recreational opportunities. In fact, the legislation recognizes hundreds of thousands of acres of national recreation areas that are set aside for all types of uses.

This legislation does not represent the ignoring of Montanans' interests. In public opinion surveys conducted during the last 3 years, 90 percent of all Montanans wanted some additional wilderness. Almost 60 percent of those surveyed voiced support for even more wilderness than is in this bill, and only 10 percent of Montanans support no additional wilderness.

Mr. Speaker, I now include several statements of intent concerning various portions of this legislation.

There are several areas of this legislation that I want the record to show some clarification of intent.

Water rights: Section 7 of this bill concerning water rights in Montana protects the valid existing rights of water users in Montana. It is my intent that newly created wilderness areas in this bill be treated in the same fashion as previously designated wilderness in my State. I believe the water language in the Senate bill is neutral on the matter of wilderness water rights.

Sawtooth study: It is not the intention of section 10(3) of this bill addressing access and wilderness study along the Sawtooth Range, to in any fashion seek a disruption of current discussions on access in the area or force increased access. The Congress is not seeking a de facto authority to increase access, only the study of what access possibilities there are for this area.

Gibson reservoir: It is not the intent of this legislation to, in any way, affect the current management or operation of the Gibson Dam irrigation project. This bill only affects Forest Service management and their lands in the area.

Release language: There has been a great deal of discussion about the release language in this bill. It was the intent of the delegation that we only update the release language to meet the unique situation Montana faces and not to, in any way, expand on or detract from the current release compromise tht has governed release in the 28 other States who have used it.

Access language: The access language in this bill is simply a statement of current policy and is meant as an assurance that designations in this bill will not restrict access to our Federal lands.

Blackfeet Unit: It is my understanding that the language in section 12 is the governing language on the Blackfeet Unit until such time as the joint plan is completed. These lands are not released under the release section of the bill and therefore although not mandated, wilderness is an option that can be studied in the discussions mandated by the section.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in vehement opposition and amazement to this legislation. My colleague from Montana, one of the authors of the wilderness legislation, and I must have been talking to two entirely different groups of people.

He has made reference to broad support for the bill. He says those who support this bill do so in order to have jobs, or so that they can go back to utilizing the public lands. If that is the case, why did, just the day before yesterday, the Montana Mining Association oppose the legislation? Why did the Montana Logging Association, and the Western Environmental Trade Association oppose the legislation? He referred to the snowmobilers; the snowmobilers in Montana strongly oppose this legislation.

□ 1445

The Stock Growers, the Farm Bureau, the Wool Growers, Judith Gap Forest Products, Stoltze Lumber Co., Louisiana-Pacific, Montana Trail Riders, Montana Four by Four Association, the Blue Ribbon Coalition, Granite County Commissioners, Teton County Commissioners, Sweetgrass County Commissioners, Friends of Kootenai Forest, Communities of the Greater Northwest, North Linclon County Coalition, Troy Resources for an Environmental Economy, Balanced Envionmental Solutions for Tomorrow, Five Valley Economic Coalition, Southwest Montana Economic Coalition, People for an Economically Sound Montana, the Flathead Snowmobilers Association, Over the Snow, Inc., Berg Lumber Co., and, most importantly of all, the Disabled American Veterans chapter in Billings—all these organizations oppose the bill.

The bill is a travesty for the people in Montana. Almost 30 different organizations who are involved in the economy and utilizing the environment of Montana had a demonstration and a press conference just the day before yesterday. They oppose the legislation.

Mr. Speaker, I yield 5 minutes to my colleague, the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I stand in opposition to S. 2751 for several of the reasons that have already been mentioned by my colleague, the gentleman from Montana, but also because there are other issues here that I think need to be spoken to.

Many Westerners have been led to believe over the last 4 to 5 years that in the RARE I and RARE II process of Forest Service planning we would ultimately have to pass a wilderness bill to be able to free up lands so that logging and other types of multiple use activity could occur. That was the argument we heard in California, that was the argument in Oregon, and it was the argument in Washington. It was at least partially the argument in Wyoming. It was said that these bills were critical and necessary so that the activity as we knew it in the West, in the small logging communities and the small mining communities, the very essence of life in the Western Rocky Mountains, could continue.

What history now shows is that that is not quite true, that in fact once that promise was made and those wilderness bills were passed, those lands that were freed and those timber sales that were allocated were immediately plunged into the judicial process by those who did not want any tree cut, by those who simply did want any human activity, and those who proposed a lock-up, whether it was through the formal way we are doing it today in S. 2751 or through the judicial kind that can be done with a 25-cent stamp, the wink of an eye, and the lick of a tongue.

Several weeks ago we had hearings in the Agriculture Committee, in the Subcommittee on Forestry, talking about this very problem. The arguments were made so very clear to me that in essence I believe there is a real problem in the Western United States that wilderness activity and wilderness legislation cannot take care of it. But here we have heard it already stated that this is critical legislation, that it is necessary so that the working men and women of Montana can go back to work while the environmentalists of every other State in the Nation, with their 25-cent stamps, can in essence make the critical determination outside of this bill, beyond the ramifications of this new law laid over the public lands of Montana, as to whether in fact Montanans will work.

For 3 days in May of this year, 14,000 people in the State of Montana, in the northwest part of Montana, signed a petition pleading with this Congress and its delegations that they would not lock up millions of acres in wilderness. Those 14,000 people are not rippers and reapers and destroyers of the land. They are all conservationists. They believe in the beauty of Mother Nature. They like clear water, they hike, they hunt, they fish, and they recreate in their mountains, but they also have to live and work there, and they do not want to be denied their livelihood. They want their children to live there and have the same opporotunities they have had. Yet as I look at this legislation, as I look at the projections of the amount of lumber that will be available, I suggest that the Dillon, MT, mill that employs about 105 people probably will not be in existence in 5 years, that the mill at Judith Gap with 85 people working probably will not be in existence in 5 years, and that the mill at Darby, MT, that has been embattled for well over 5 months now, while many of the loggers in my State put together a massive log drive and took logs over there to keep that mill open, with its 150 employees, and the $2 million payroll operating, will not be in existence within 5 years.

Yes, we are legislating for the environment, but we are also legislating people out of their jobs, out of their livelihoods and out of second and third generation homes. That is not the way this Congress or any other Congress should talk about the environment, because we all believe in it.

I do not believe that is the way this Congress intends to legislate. But we have been caught up in a movement, and especially my colleagues east of the Mississippi find it very easy to vote for a bill like this because it has been suggested to them that it is a good environmental vote. Well, it may be a good environmental vote, but it is a lousy employment vote. It is a lousy way to adjudicate the utilization of our natural resources, and I would suggest that this in all senses of the word is bad legislation. If we are interested in a balanced economy, if we are interested in sustaining the livelihood of the Rocky Mountain West, as it has been known and as it should continue to be known throughout our lifetimes, then I urge my colleagues to vote in opposition to S. 2751.

Mr. VENTO. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, there has been a lot of discussion about the economic advantages or the impact of this bill, and I just want to address that topic because I think it is important.

I think it is hard for any of us to stand up here on the House floor and try to promise or predict what the economy is going to do. Frankly, even the economists have a little trouble doing that, I might caution my colleagues. But I know there are some of these things that are done in this bill that are not going to happen if the bill does not pass.

First of all, as we know, 6 million acres of land has been studied under the RARE II process, under the Forest Service study process. This bill will finally make some decisions on that, because that is what is supposed to happen. That means we are doing our job. So that is good. I do not know that anybody is worried about employing us in terms of solving problems, but I am certain we will have more to do next year.

In any case, of those 6 million acres, 4 million acres will be released for development. That is acreage which is now de facto wilderness and will remain so if this bill is not passed. The release of these lands could lead to more jobs, not fewer. It will mean more certainly, and it will mean a predictable policy as to the management of forestlands in Montana. I think the people of Montana and the people of the Midwest deserve that.

Almost all the lands identified in the National Forest plans for timber harvesting have been removed from the proposed wilderness areas and will be available for the timber industry. Even timberlands that the Forest Service has recommended for wilderness and have not been scheduled for harvest have been removed. Examples are the removal of timbered areas from the Great Burn area, Stony Mountain, and the proposed Sapphire Wilderness area.

How about mining? A hundred percent of all the patented mining claims have been kept out of the proposed wilderness area. That is 100 percent. Whenever mining companies have come to us to identify a problem with their unpatented claims being inside a proposed wilderness boundary, we have responded and changed that boundary. As an example, there are the large silver deposits that have been excluded from the wilderness additions in the Cabinet Wilderness and in the Mark 4 mining claims which we took out of the proposed Stony Mountain Wilderness area.

The fastest growing industry in Montana, incidentally, is recreation. This bill will be a boon to that industry. Outfitters and guides have in fact endorsed this bill. It is said the bill will lessen opportunities for outdoor recreation by excluding off-road vehicles. That is not true. The bill establishes four national recreation areas that permit and provide enhanced opportunities for motorized use. Twenty-six hundred miles of groomed snowmobile trails have been excluded from the areas, as well as all snow play areas identified by the Montana Snowmobilers Association as being important.

Conservation advocates asked initially that they include these ski areas, but the Members from Montana, including the gentleman from Montana [Mr. WILLIAMS], have resisted that. They made an agreement and they stuck with it. The outfitters and guides, as I said, support this bill because of that type of compromise on the part of the gentleman from Montana [Mr. WILLIAMS] and Senators MELCHER and BAUCUS.

Mr. Speaker, this is a good bill. It deserves the support of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield 5 minutes to my colleague, the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Speaker, I suppose well-intentioned people on a controversial issue can disagree, and that is exactly what we have occurring today.

Just as a point of background, let me emphasize the fact that 11 Western States in this Union control about 85 percent of the Federal land. We in the West live under a canopy of Federal control by the Forest Service, by the Bureau of Land Management, and by the Parks Department. We are in the habit of dealing with Federal agencies. A vast amount of our State's land is controlled by the Federal Government: 52 percent in Oregon, large amounts in the eastern part of my State, and large amounts, up to 75 percent, in Nevada, and a large amount in Montana. Therefore, it is reasonable that we might come from different points of view on this issue.

Obviously, for us this is a living. The harvesting of renewable natural resources to us is the way we live. The timber industry is the largest industry in my State. We harvest the grass on the Great Plains. We have great domestic herds of livestock. That is the way we live. Of course, we also like to recreate. But the point that keeps gnawing at us is that slowly but surely the Federal lands are being eaten away, taken away acre by acre, with millions of acres taken for special purposes, eliminating other uses such as the harvesting of trees, the grazing of livestock, mining, and so forth.

It seems to me this country is not rich enough any longer to allow these special kinds of uses of public lands simply because we can do all of these things under a multiple use theory. I know the purists and environmentalists hate multiple use because that allows the harvesting of renewable natural resources, but it also provides everybody an opportunity in this country to use the public lands of America. After all, they belong to the people in New Jersey and New York and Pennsylvania as much as they belong to Oregon and Montana and the rest of the Western States.

We ought not to narrow the use of the lands; we ought to continue to use them while protecting our rights to recreate, to fish, to hunt, and to have the opportunity to visit a pristine forest. We can do all those things and not limit jobs.

What about this bill? This bill adds another 1.4 million acres to the other already 3.4 million acres of wilderness in Montana. It sets it aside for a specific use, with no longer any opportunity for the harvesting of timber in this area, for mining, or for any other use. That is twice the amount in this bill as the Forest Service recommends. It is twice the amount that was recommended.

What about jobs? There are 300 jobs at stake here. We are going to close at least 3 mills because this bill will be passed.

What about the release of lands? Let us not be led down this ideal track that we are going to release 6 million acres of land here. I have been through that in Oregon. We had 1 million acres of land in addition to the wilderness area in Oregon, and we were supposedly releasing 3 million acres. That did not occur. It did not occur. It did not occur because in the forest plans now in the State of Oregon many of those released acres were not released at all. They are still up for grabs. They are still being appealed, and the courts will make the decision. That is wrong.

I wonder how much effort would be taken by the State of Montana to bring in an industry that would employ 300 people. I will bet that every organization in Montana would be fully in support of it if it were a clean industry. Yet here we are dividing up Montana, costing us jobs, and of the 4 million acres covered by this additional release language, we are not going to get all that in release language at all.

□ 1500

Mr. Speaker, I think there ought to be, along with these issues, and we have them and will continue to have them in this debate; there ought to be an economic impact statement that follows this whole agenda. Why not try to find out what it is really going to cost Montana in jobs, and opportunity and in the future and have it follow these bills by some neutral body that could identify the cost of these kinds of issues, or maybe we ought to let the State of Montana vote. Why not allow the State of Montana to determine their own future?

Mr. Speaker, I can tell my colleagues what they would say. My guess is that they would say no to this bill, and I suggest, my colleagues, that this is the wrong way to legislate.

Mr. Speaker, we ought to go toward the multiuse idea. We ought not ever get involved in narrowing the gap, narrowing the opportunity for people.

I urge my colleagues to vote against this measure.

Mr. VENTO. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO] for yielding me this time.

Mr. Speaker, I appreciate the concern of Members from other States about jobs in Montana, and I want to assure them that those of us who represent Montana not only share their concern, but have considerably more stake in it, as my colleagues will understand, than any of them do.

Mr. Speaker, let me explain this to my colleagues because I know that those from other States have not worked on this bill as the four of us from Montana, so let me explain to my out-of-state friends what this bill does for workers in Montana and for jobs.

I do not know if my colleagues have heard about it. There is a mill down in Dillon, MT, called the Stultz mill. If this bill passes, 1 million board feet of timber a year will be put up for harvest. If this bill does not pass, this mill is going to go out without that million board feet per year. And there is another mill some distance north of Yellowstone National Park called Brand S. This bill releases from lock and key 90 million board feet of timber that will not be harvested unless this bill passes, and those constituents of mine who work at that mill are going to be in trouble if this bill does not pass because we are going to lose 90 million board feet of timber. There is a mill down in a place called Darby. This bill releases hundreds upon hundreds upon hundreds of acres that that mill needs access to get the timber. Without this bill that is not going to happen.

As the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO], has said, 100 percent of patented mining claims in Montana are set free by this bill. They are not put in wilderness. They are protected so we can go on with the jobs and the profits in those mills, and, not only that, but miners and the mining association in Montana came to the committee, came to me, came to my colleagues time and time again and asked for changes in the bill to satisfy mining needs in Montana. And not one time, not on one request, did we turn them down. Every single thing they asked for they got in this bill.

I can say to my colleagues that my environmentalist friends are very concerned about that. Montanans understand that those things are in this bill even if some of our out-of-state helpers do not. Montanans understand it, and that is why consistently, as we ask them what they think about wilderness in Montana, they continue to support additional wilderness.

Mr. Speaker, in a poll in 1985, 61 percent of Montanans said that they support the amount of wilderness in this bill or more. Identical questions were asked in 1987, and as recently as April and September of this year, and consistently and without exception in each of those polls going back to September of 1985 Montanans have said in the majority, "We support as much wilderness as in this bill or more." Sixty-one percent of Montanans in 1985 answered that way. Nineteen eighty-six and 1987; 56 percent. This year it has remained at 57 percent of the Montanans that support it, and at no time have more than 44 percent of Montanans said there should be slightly less wilderness, with the rest, the few rest, not having made up their minds.

The point is Montanans know what is in this bill, they know it is good for jobs, and, above all, they want the issue behind them. They want the divisiveness, and the reviews, and the analysis, and the debate, and the congressional foot dragging and handling to end. They want the land unlocked. They want to protect the last great wild places, and they want to get on with jobs for our people.

Mr. MARLENEE. Mr. Speaker, I will conclude the debate here.

Before I do, Mr. Speaker, let me say that I find it incredible that the mill at Darby and the mill at Dillon would oppose this piece of legislation. They must have a death wish because just the day before yesterday they were part of a news conference that unequivocally opposed the passage of this legislation.

Also, Mr. Speaker, in regard to some comments my colleague made about polls, the Montana Business Quarterly in the winter of 1987 reported that 64 percent of Montanans said that either there was too much wilderness or enough wilderness.

But let me conclude this debate, Mr. Speaker, by saying that I unequivocally oppose the BMW-Montana wilderness bill. This bill does nothing. It does nothing to resolve the frivolous appeals and delays that are shutting down the tourism and industry in the State of Montana. This piece of legislation does nothing, absolutely nothing, on the burn-baby-burn policy that the Forest Service has on wilderness areas. Finally, after being resisted and opposed all these years, the wilderness supporters have driven the great BMW-Montana wilderness bill to the verge of passage.

Mr. Speaker, Montana does not, I repeat, does not, need a BMW right now. Montana needs a vehicle to go to work with. This bill, S. 2751, sends the wrong signal at the wrong time in Montana's economic history. It is a signal that Montana does not care about the timber industry. This bill sends a signal that Montana does care about recreation for its own citizens, a signal that Montana does not care about tourism. This bill sends the signal that wolves, wilderness, and welfare are entrenched in the political policy that runs the State of Montana. This bill sends the signal that the lock-it-up and let-it-burn policies will be the rule and guide for the future of Montana.

Mr. Speaker, I do not accept that for the State of Montana. When the headlines in the newspaper at Livingston of the Livingston Enterprise paper reads, "Bill Will Kill Mill" I am concerned. When Stoltze management at Dillon, MT, says that they will close the mill if the bill passes, I am concerned. When the Darby mill is closed because of the appeal process and the fact that this bill looms on the horizon and there is no relief in sight. This Member is concerned. This Member of Congress is concerned about mill closures, about jobs, and about the infrastructure of those communities. When the oil and gas industry states that the potential loss to Montana because of this bill is approximately $300 million in revenue alone, to say nothing of the tax base and the 300 jobs which would be created, I am concerned.

Mr. Speaker, what do the people who are pushing for the passage of this legislation need to see? U-Haul trailers going over mountain passes out of Montana? We have had too much of that in the past.

When the Forest Service allows wilderness to burn to the ground, I am concerned, and this bill does nothing about it. When the Forest Service ropes off campsites and wilderness areas so that people cannot use those campsites, I am concerned. When the Forest Service fines a family who had been holding family reunions in the wilderness for a number of years and prevents them from enjoying that traditional reunion, I am concerned. When phone call after phone call which strongly oppose this bill reach my office, particularly from the other district in the State of Montana, I am concerned. When the petitions with 14,000 names of people opposed to the bill reach my office; I am concerned. When 62 percent or more of the people in the State of Montana say we have too much or enough wilderness, I am concerned.

The authors attempt to portray this as a jobs bill. I respectfully submit that they are well intentioned, but I think perhaps they are misinformed by the activists.

The irony of this legislation is that of the 7 million acres of roadless land, 2 million plus is locked up in wilderness or special-use areas for the use of 4 percent of the recreational users. The irony of this legislation is that of the 4 million acres released, 2 million acres become de facto wilderness immediately because of Forest Service plans.

Mr. Speaker, the wilderness activists have once again played a joke, a bad joke, on the people of Montana.

The real irony of this legislation is that the 2 million acres released, for multiple uses will be subject to appeal, after appeal, after appeal by the environmental groups. The appeals will certainly not be on wilderness, but on the Endangered Species Act, on the water quality and on 17 other laws that this Congress has passed which allows the environmental organizations to appeal Forest Service plans and timber sales.

Mr. Speaker, let me quote to you from their manual. They said, "We need not win the appeals. All we need to do is win appeals to stall and delay until the mills go broke. Appeal each nonconforming forest plan as it is issued."

And then in the back of this manual, a special manual they put out on appeals, "Be exhaustive, imaginative, nitpicky, philosophical in coming up with arguments."

Mr. Speaker, they have a manual for the destruction of the economy and the timber industry, and this legislation does absolutely nothing about the appeals process.

Montanans indeed have been misled. The activists have misled the media to believe the myth that release will mean that people will be able to use this public land and that we will have multiple use of our public land. Nothing, Mr. Speaker, could be further from the truth. This bill does nothing, I repeat, nothing to end the appeals nightmare.

Maybe we should call it the public lands simplification act. Simply put all we can into wilderness without giving anything in return. That is what we have done. We have given up our bargaining chips which we need to address the let-it-burn policy and the wilderness policy. The bill before us is like the Tax Simplification Act. Its ulterior motive was to get more tax. The motive of this bill is to get more wilderness.

Let us ask finally what this bill does for Joe Montana, Joe the logger. No release language, same lawsuits, and same appeals.

Joe the hunter? Nothing. Game management options are less under wilderness, and there is less access, more overcrowding and more areas for out-of-State hunters.

Joe the innkeeper? Nothing. Very few tourists with families are going to pay for a room to sit on the outside and look at the wilderness.

Joe the camper? Wilderness does nothing for him.

Joe the biker? Wilderness does nothing for him.

Joe the millworker? The wilderness bill does nothing for him.

Joe the snowmobiler? The wilderness bill does nothing for him.

Joe the rancher? The wilderness does nothing for him.

Joe the barber? The bill does nothing for him.

Mr. Speaker, this bill does nothing for Joe Montana. I do not know for whom the sponsors are making the wilderness but it is certainly not for Joe Montana.

I want my name on record as not undecided, but as unequivocally opposed to the creation of more wilderness in the State of Montana. And note that my colleague said that he was done dealing with me, and that I am out of the process in the negotiations from the Montana wilderness bill. And note that no amendments were accepted. I respect his position and the power that he has in the House of Representatives. But I would say to the Members of this body and to the people of Montana. "Have hope because it is not all settled until the dust from the 100th Congress settles and I assure you, the dust has not yet settled."

Mr. Speaker, I urge my colleagues to vote against this legislation.

Mr. VENTO. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, this bill is not something that comes to us overnight or in the last week from the Senate. This has been a 10-year process, 10 years in which this policy question has been for the U.S. Congressmen, the 97th Congress to this 100th Congress.

□ 1515

It really is time—the 96th Congress, I should say, to the 100th.

It really is time that we act on it. We have an opportunity here today to act on a bill that is essentially similar in its boundaries and characteristics that we sent to the Senate.

Again, I want to commend the gentleman from Montana [Mr. WILLIAMS] for the work he has done on this. We were out in this area. The subcommittee had been there and looked around it. We were hosted by our other colleague from Montana, who I regret today has not enlisted in support of this measure.

But you know, as much as we might talk about wilderness, if this bill does not pass, some 6 million acres will continue to be managed as wilderness. If the bill does pass, the 2 million acres of land will be classified, some as wilderness, some as other special management areas. The 4 million acres will be released.

There has been some discussion about whether the release language or the released lands really will work. It is true under the Forest Management Plan some of those will not be for harvesting of timber or for mining under that plan, but some key areas will be.

The release language is working in States that have it. The Forest Service reports that the Western States that have wilderness bills with release language, timber is being sold in large volumes in roadless areas that previously could not be harvested. Since 1980, the Forest Service has sold 2.3 billion board feet of timber in released roadless areas. Of the 512 timber sales in the released roadless areas, only 32 have been appealed.

Now, some of those are key appeals. Some of those are appeals by the conservation community. Some are appeals by the timber industry itself.

The release language in this bill contains language tailored, of course, to Montana's needs, insuring that the lands in the wilderness study areas actually are released, and that, of course, I do not think anyone could disagree with.

There really is no substantive difference. What we are dealing with here is that some of this land was set aside under the Forest Management Plan and some under the RARE II process. So the release language, of course, accommodates that without getting into hopefully the whole debate about release language.

The Forest Service again, as has been pointed out here, has some sort of a "let it burn policy" in the wilderness.

Well, first of all, most of these policies with regard to prescription burns and the management of the forests have been on paper for years before, of course, the events of this past summer when we had these unusual conditions.

I would point out to my colleagues that the entire scientific community supports the need for natural fire in the wilderness areas and the prescription burn type of programs.

The natural fire policy allows for forest fires to be suppressed in wilderness if conditions are severe.

The SPEAKER pro tempore. The time of the gentleman from Minnesota has expired.

Mr. VENTO. Mr. Speaker, I yield myself 1 additional minute.

Mr. MARLENEE. Mr. Speaker, may I inquire how much time remains on both sides?

The SPEAKER pro tempore. The gentleman from Montana has 5 minutes remaining, and the gentleman from Minnesota now has 7 minutes remaining.

Mr. VENTO. Mr. Speaker, as I was saying, the natural fire policy allows for forest fires to be suppressed in the wilderness when conditions are severe. Most natural fires were suppressed in wilderness areas this summer, albeit with limited success because of the extreme weather conditions and because, of course, of the historic management of many of these areas where there had been a policy of suppression in effect for almost 100 years, which obviously resulted in the buildup of fuel, but that is a debate that we will have to look at.

I know both my colleagues from Montana are equally interested in this. I do not propose that we settle it here, but I do want to state for the record the concerns that I have.

Mr. Speaker, this is a good bill. This is a bill that has been 10 years in the making. The people of Montana have waited for it. Four million acres more will be released, and hopefully will be used in a productive manner for the economic livelihood and benefit of the people of the great State of Montana. I think it deserves our affirmative action.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

One more time I would like to state for the record that approximately 4 million acres out of the 7, as I understand will be released, but that will be released to Forest Service plans, and in those Forest Service plans we have the direction and the management plan that will allow and mandate that half of that, 2 million acres of that, will be used and will be utilized as roadless, which means it is de facto wilderness until we have the next forest planning cycle, at which time the wilderness advocates will want more wilderness.

That means that we have out of the total 7 million acres 2 million acres, really, that are left to be utilized for timber harvest, for multiple use, for recreation, for tourism or for whatever other purpose the Forest Service may deem necessary, subject to the appeals of the obstructionists and the activists, like the Sierra Club.

I would ask my colleague, the gentleman from Utah, where they had a wilderness bill and where this land was in fact released, what happened in Utah?

Mr. NIELSON of Utah. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Utah.

Mr. NIELSON of Utah. Mr. Speaker, I will give the gentleman two examples. In the North Slope of the Uintah's they released land from the wilderness bill for timber sales. There had been seven such timber sales proposed. Every one has been protested. Only one has gone through in the last 2 years.

Another example is the Carbon Dioxide Plant Mill that is available in the Box Hollow part of my district, actually the district of the gentleman from Utah [Mr. HANSEN]. We traded that other land for the use of that carbon dioxide. They are blocking that now, and so they have gone back on both the agreements that were made.

I do not think when the Representative from the western district of Montana says this land will be released for mills that you have any guarantee at all that it will actually be used for mills.

Mr. MARLENEE. Amazing, absolutely amazing, that we are talking about releasing this land to multiple use and yet we have evidence by past history and actions by the environmental groups, and we know that is not the case.

I find the gentleman's facts very interesting, the fact that once we release it we are being told, "Hey, it isn't necessarily so that you are going to be able to utilize it for timber sales."

Mr. NIELSON of Utah. Mr. Speaker, if the gentleman will yield again, I want to be sure that everyone knows this is not the Forest Service. The Forest Service has defended the wilderness bill and has fought against those uncalled for appeals on the timber sales, and in spite of the Forest Service sticking by the guns that they agreed to, the environmentalists still are trying to protest.

Mr. MARLENEE. It was our intention it be released, but that is not what happened, is that not correct?

Mr. NIELSON of Utah. That is correct.

Mr. MARLENEE. And that will not happen in Montana, and that is why we should turn down the Montana wilderness bill until the appeals process is resolved.

Mr. UDALL. Mr. Speaker, I rise today in strong support of the Montana Wilderness Act. This landmark measure marks the conclusion of a decade of debate by preserving as wilderness some the most magnificent lands in the United States. It is extremely similar to legislation passed by the House a year ago and I would like to compliment the gentleman from Montana, [Mr. WILLIAMS] for his diligent and effective work.

Past Congresses set the wilderness standard for the Nation in Montana with protection of such areas as the Bob Marshall Wilderness, the Great Bear and the Scapegoat Wilderness Areas. This bill will add to these areas and establish important new wilderness areas such as the Gallatin Range adjacent to Yellowstone National Park, the East Pioneers and West Big Hole, the Great Burn, and the Big Snowies.

These new wilderness areas are not only beautiful, but they support a diverse and rich assortment of wildlife from the last remnants of grayling trout in the lower 48 to the largest concentrations of grizzly bears outside Alaska. I was a principal author of the Alaska Lands Act, but as Bob Marshall said:

"Alaska is like Heaven, you may never get there. For the majority of Americans, Montana is the lower 48's version of Alaska."

Protecting the magnificent wilderness of our northern Rockies in Montana will assure all Americans that a piece of wild America is alive and well.

RELEASE

The Senate bill retains the basic formula of release language established during the 98th Congress, which has been included in more than 25 RARE II, statewide wilderness measures enacted since 1984. Our acceptance of the addition of a new subsection to this standard release language is premised on several particular understandings:

First, the Senate bill does not alter the standard release language. It merely adds a new subsection to assuage concerns of the Forest Service about judicial review of the wilderness suitability reviews in the initial forest land management plans for National Forest System lands in Montana. This additional language does not alter the substance of standard release.

Second, it is obvious that the new subsection is not intended to insulate from judicial review management decisions included in the initial national forest land management plans in the State of Montana. Rather, the language only insulates from judicial review the wilderness suitability review of the initial forest land management plans.

RESERVED WATER RIGHTS

The Senate bill contains provisions relating to water rights. Our acceptance of this section of the Senate bill is premised on our understanding of the Senate language, which is as follows:

As Senator MELCHER, the sponsor of the Senate bill stated during consideration of this measure on the Senate floor, the Senate bill language was included simply to clarify the relationship between water rights established under State law and those reserved to the United States by the creation of new wilderness areas.

When Congress designates an area of the public lands as wilderness, it reserves that area for the purposes identified in the Wilderness Act of 1964, Public Law 88-577. Such a reservation is more than the imposition of a land management scheme. the U.S. Forest Service had full authority to manage national forest system lands as wilderness under the 1960 Multiple-Use Sustained Yield Act, Public Law 86-517. Congress enacted the Wilderness Act to elevate wilderness protection from an agency management option to the primary purpose for which the lands were set aside.

Therefore, wilderness designation by Congress is distinct from allocation to other land management regimes. As Congress has repeatedly stated, and the courts have held, designation of wilderness is the dedication by Congress of an area for very specific and special purposes.

Implicit in a reservation of land is the reservation of sufficient water to fulfill the purposes for which the land is set aside. Under the well established doctrine of Federal reserved water rights—also called the Winters doctrine after the 1908 Supreme Court decision announcing it—when Congress protects an area for special purposes, the protection extends to waters as well. Accordingly, since 1908 a long line of cases has correctly affirmed the implied reservation of water necessary to sustain Indian reservations, national forests, wildlife refuges, and wilderness areas.

The designation of new wilderness areas in the State of Montana by this measure reserves water rights sufficient to fulfill the wilderness purposes for which these areas are created and reserved. Since the waters within these wilderness areas are headwaters, the reservation encompasses all waters which arise upon or under or flow through these areas.

Wilderness water uses are nonconsumptive. Therefore, after this measure becomes law, waters will continue to flow out of the wilderness areas and be available for appropriation downstream of the wilderness areas, to the extent that those downstream waters have not already been appropriated under Montana State law. Furthermore, the designation of wilderness areas never takes any water rights, including those of inholders within designated wilderness areas, that have been perfected prior to enactment. These are valid existing rights that are senior in priority to any water rights reserved for wilderness. Moreover, this measure does not preclude future appropriation of unappropriated water downstream of the boundaries of the wilderness areas created by it.

The water rights language of this act does not alter the limitations placed on the exercise of water rights within wilderness areas established by the Wilderness Act, Public Law 88-577. Specifically, section 4(d)(4) of the'Wilderness Act prohibits water developments, diversions or other types of development activities within wilderness areas, unless they are specifically authorized by the President. This measure does not change those provisions and limitations.

ROCKY MOUNTAIN FRONT AND BADGER-TWO MEDICINE

The Senate bill adds significant acreage to the Bob Marshall Wilderness along the Rocky Mountain front. These special additions bring the Bob Marshall Wilderness boundary down to where the mountains meet the plains. The front is home to the largest concentration of big game in the lower 48. Elk, moose, grizzly bear, bighorn sheep, and mountain goat all call the area home. Designating the area as wilderness assures us that this wildlife spectacle will be protected forever.

An important part of this bill is the designation of the Badger-Two Medicine portion of the front as a wilderness study area. The Badger is a critical link between Glacier National Park and the Bob Marshall Wilderness complex. As such it provides a wildlife corridor connecting the two. Without the wild lands of the Badger, neither Glacier or the Bob Marshall would be as great as they are today.

Section 11 of the Senate bill provides interim protection for the Badger-Two Medicine area while requiring the Forest Service to cooperate with the Blackfeet Indian Nation and the general public in preparing a plan to guide the future of the area.

The bill requires the review of the Badger-Two Medicine and extends interim protection to the area. The Badger-Two Medicine is a critical link between Glacier National Park and the Bob Marshall Wilderness complex. The National Park Service and fish and wildlife officials have expressed concern that the area be protected as a key component of the Glacier-Bob Marshall complex.

The wilderness values of this important link are extremely high. Many seek the solitude and unspoiled splendor of the Badger and South Fork of the Two Medicine drainages. Among those that value the area highly are the Blackfeet traditionalists, represented by the Pikuni Traditionalist Association. These religious leaders seek to protect the Badger-Two Medicine as wilderness to insure that the religious heritage of the area is not compromised.

Section 11(b) of the Senate bill directs the Forest Service to consider a broad range of management options for the future of the Badger-Two Medicine. It is intended to require the Forest Service to give the area a thorough review of its wilderness potential and other values in conjunction with the Blackfeet and public. The bill includes this specific direction to the Forest Service, because the agency refused to review the Badger-Two Medicine for wilderness during RARE II or during the development of the Lewis and Clark Forest Plan. At those times, the Forest Service maintained that it could not manage the area as wilderness because of the treaty with the Blackfeet Nation. This section is intended to prod the agency into an innovative look at protecting the roadless resource in the Badger-Two Medicine.

The committee expects the Badger-Two Medicine plan required by Congress within 3 years of enactment. It should completely document the wilderness and other values of the area and how these values will be protected. It is fitting that wilderness is one of the future options the Forest Service must consider under section 11(b).

Section 11(b) directs the Forest Service to cooperate with the Blackfeet Tribe in the preparation of a joint land management plan. The provision for a joint plan was included in the bill, because both the Forest Service and the tribe have interests in the Badger-Two Medicine. The Forest Service has land management and mineral and timber responsibility for the area. The tribe, when it ceded the land to the United States, retained treaty rights to hunt and fish in accordance with State game and fish laws and to gather wood for agency and school purposes.

Whatever plan is developed for the future of the area must include both the tribe and the Forest Service. For example, if all or part of the Badger-Two Medicine is recommended for wilderness by the Forest Service and agreed to by the tribe, the tribe must determine how and where it will exercise its treaty rights so as to be compatible with its desire to see the area protected as wilderness.

The Senate bill includes provisions to protect existing rights holders, such as those that hold oil and gas leases. While the bill establishes a 3 year period during which the Badger-Two Medicine is to be managed with no surface disturbance, section 11(a)(4) of the measure authorizes a 3 year extension for any existing oil and gas lease holders effected by the surface disturbance limitation.

GREATER YELLOWSTONE ECOSYSTEM

The Senate bill designates a large portion of the Gallatin Range, northeast of Yellowstone National Park as wilderness. This spectacular range supports a large portion of the northern Yellowstone elk herd during winter and is an important grizzly bear habitat. The range is a key component of the greater Yellowstone ecosystem. At present, it is the largest unprotected roadless area in the ecosystem.

Section 10(b)(1) designates the Porcupine-Buffalo Horn portion of the Gallatin Range as a wilderness study area and directs the Secretary to study its suitability for inclusion in the National Wilderness Preservation System. The section also directs the Secretary to analyze the motorized and nonmotorized dispersed recreation use in the area.

The Senate bill adds to a new area next to the Porcupine-Buffalo Horn study area identified as the Sawtooth study area. It encompasses an area immediately adjacent to the northwest corner of Yellowstone National Park known as the Northern Rim. This roadless area is a wildlife treasure. It supports grizzly bear, elk, deer, and bighorn sheep. A good part of its wildlife value is associated with its remote nature. There are currently three trails into the Sawtooth study area that provide access by foot to this unique area.

At present, the Forest Service is preparing an environmental impact statement [EIS] examining access in the Gardiner-Northern Rim area. Designation of the area as a wilderness study area was not intended to prejudice the EIS process. Therefore, section 10(b)(2) directs the Secretary to report to the Congress on the alternatives for providing any additional access, if needed, to this area.

ROAD ACCESS

Section 16(f) directs the Secretary to make provisions for reasonable access to the private lands near Goose within the Absaroka-Beartooth Wilderness. This provision is included in the bill to assure that the owner of the private lands continues to enjoy access to the site. There is an old jeep trail that allows the owner four-wheel drive access to the property. Section 6(f) ensures that the property owner will continue to be able to use the road.

Ensuring access to Goose Lake does not, however, mean that Congress authorizes the Forest Service to ignore the values of the Absaroka-Beartooth Wilderness. The Forest Service should continue to protect the pristine nature of this important wilderness area.

RELEASED AREAS

Section 16(d) releases the Bitter Creek Wilderness study area [WSA] and a portion of the Axolotl Lakes WSA. Congress has determined that the Bitter Creek WSA does not warrant further consideration for wilderness. However, it is interesting to note that in neighboring Saskatchewan the Canadian Government is purchasing grassland very much like the Bitter Creek WSA for a Grasslands National Park. I would encourage the BLM to look at alternative designations for Bitter Creek that will protect the significant resources of the area and complement the efforts of our Canadian neighbors.

Section 16(d) also releases a portion of the Axolotl Lakes WSA in and around Alder Gulch. This area has been impacted by past mining activities and is overlain with pre-Federal Land Policy and Management Act [FLPMA] mining claims. Because there is currently interest in developing these claims and the area is already disturbed, Congress concluded that it would be appropriate to release this portion of the Axolotl Lakes WSA.

The remainder of the WSA should continue to be managed by the BLM to protect its wilderness character. The Axolotl Lakes, within the remaining portion of the WSA, are home to the rare Axolotl salamander. The WSA may also be the only portion of the Gravelly Range suitable to be designated wilderness.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of S. 2751 and urge my colleagues to support its passage.

Mr. Speaker, this measure is the culmination of many years of work on the part of the Members of the Montana delegation, who have sought to resolve difficult and often emotional issues regarding the preservation of wild lands in their State. I support and commend them. In particular, I want to commend our colleague, Hon. PAT WILLIAMS, for his leadership on the House side in crafting this legislation.

Mr. Speaker, there is one matter in S. 2751 which I need to clarify for the benefit of the Members of the House who have previously dealt with the issue of wilderness in their own States. That matter is the so-called release and sufficiency language included in the Senate-passed bill.

As my colleagues know, more-or-less standard release language has been incorporated in every statewide wilderness bill that has passed the House and been signed into law since 1984. This language was drafted to ensure that legal challenges to wilderness designations in States which had reached agreement on additions to the National Wilderness Preservation System could not be brought solely on the basis of inadequate review of the wilderness option by the Forest Service. In essence, this language says that the Forest Service's RARE II wilderness review was legally sufficient and all lands not designated as wilderness by the specific bill in question were released for multiple-use management by the Forest Service until reviewed once again in accordance with the update of the land and resource management plans for the national forests in that State. These plans are prepared in accordance with section 6 of the National Forest Management Act of 1976.

A unique situation arose in Montana in that all the forest plans in the State had been completed prior to resolution of this wilderness question. In preparing these plans, the Forest Service reviewed other lands for possible wilderness, in addition to those that they had studied under the RARE II process and other study process mandated by specific legislation. In order to clarify that all lands studied for wilderness designation but not incorporated into the National Wilderness Preservation System by S. 2751 are to be released for multiple-use management and to ensure that the integrity of the wilderness review process used in this regard is sufficient, a minor change in the release and sufficiency language for Montana was required. This language is incorporated in S. 2751.

I want to point out, Mr. Speaker, that this language does not represent a new pollicy or position on the part of the Committee on Agriculture regarding wilderness release. It is simply necessitated by the unique circumstances encountered in reviewing the wilderness option in Montana. It is, in fact, my belief that any change in wilderness release and sufficiency policy should be thoroughly reviewed by the committee before they are made. If such a review indicates that changes are needed, then they should be done in a comprehensive manner and not until all remaining statewide wilderness bills have been completed.

Mr. Speaker, I appreciate the opportunity to clarify this issue. I urge my colleagues to support passage of S. 2751.

Mr. MARLENEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

PASSAGE OF PIPELINE SAFETY LEGISLATION

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, just this past week the House acted on the pipeline safety legislation and substantially improved the regulation, I believe, of hazardous pipelines that carry fuel and carry products across our Nation.

Actually, we have about 1.7 million miles of pipeline. At the current time we have about 17 or 18 inspectors. That is only one inspector for 100,000 miles of pipeline.

The reason that I became so interested in that and worked for it was, of course, because of a tragic accident that occurred in my district some 2 years ago in which a mother and daughter walking out the front door of their suburban home were engulfed in flames and lost their lives, something that could happen in any community across this Nation.

The fact is that yesterday in the testing of that same pipeline which had a weld type of technology, they had a dramatic break in the same pipeline. I think it underscores the importance of this problem on a national basis and I think it underscores the importance of that legislation that we acted on last week to enhance the capability of the Office of Pipeline Safety to provide safe pipelines in the transportation of hazardous materials.

So again I want to commend the House for their action and thank my colleagues for the work that they accomplished in making that possible, and just to point out the necessity of having a regulatory system that is more than hollow, that has some real substance to it.

REQUIRING SECRETARY OF THE TREASURY TO MINT COINS IN COMMEMORATION OF BICENTENNIAL OF THE U.S. CONGRESS

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5280) to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the U.S. Congress, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendment:

Page 4, strike out all after line 11 over to and including line 14 on page 7, and insert:

SEC. 4. DESIGN OF COINS.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Commission of Fine Arts.

SEC. 5. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The United States may issue the coins minted under this Act beginning January 1, 1989.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after June 30, 1990.

(e) CONTRACTS.—Any contract to be made by the Secretary involving the promotion, advertising, or marketing of any coins authorized under this Act shall be valid only upon approval by the United States Capitol Preservation Commission.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 8. USE OF SURCHARGES.

An amount equal to the amount of all surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the Capitol Preservation Fund and available to the United States Capitol Preservation Commission.

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

House amendment to Senate amendment: Agree to the Senate amendment with an amendment.

Amend section 8 so as to read:

SEC. 8. USE OF SURCHARGES.

(a) USE OF SURCHARGES.—Fifty percent of the first $40 million in surcharges that are received by the Secretary from the sale of coins minted under this act shall be deposited in the Capitol Preservation Fund and be available to the United States Capitol Preservation Commission. The balance of the surcharges received by the Secretary shall be deposited in the general fund of the Treasury for the sole purpose of reducing the national debt.

(b) RESTRICTIONS ON USE OF SURCHARGES.—

(1) PROHIBITION ON REPRESENTATIONAL EXPENSES.—No amount received by the Commission from the Capitol Preservation Fund may be used to pay representational expenses of the Commission.

(2) LIMITATIONS ON REIMBURSEMENTS.—A member of an advisory board established by the Commission shall be entitled to receive per diem, travel and transportation expenses in the same manner as an employee serving intermittently in the government service may receive under section 5703 of title 5, United States Code.

(c) REPORT REQUIRED.—The Commission shall submit a report of expenditures to the Clerk of the House of Representatives not later than February 28 for the last six months of the preceding year and not later than August 31 for the first six months of the current year. The Clerk shall promptly transmit the reports to the Public Printer for printing in the Congressional Record.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the several amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Illinois?

Mr. FRENZEL. Reserving the right to object to the original request of the gentleman, Mr. Speaker, I yield to the gentleman from Illinois [Mr. ANNUNZIO] for the purpose of explaining the request.

Mr. ANNUNZIO. Mr. Speaker, I want to thank the distinguished gentleman from Minnesota [Mr. FRENZEL], for agreeing to work out the problems with this legislation, because it is an important piece of legislation to commemorate both the Bicentennial of the Congress, and it makes certain that the Capitol of the United States is the type of facility that is attractive to people from all over the world.

The gist of my amendment to the legislation is as follows:

First, the proceeds from the sale of the coins would be spent on a 50-50 basis, with one-half of the money going to the Capitol Preservation Commission, and one-half of the money going to retire the national debt. However, any funds in excess of $40 million must be used exclusively to retire the national debt.

None of the money taken in by the Commission from the coin program can be used for representational expenses. This means that the coin money can only be used to acquire antiques and art objects, or for repairs to the Capitol and its related buildings.

Second, the Commission shall cause to be published in the CONGRESSIONAL RECORD on a semiannual basis all of its expenses. This will be in addition, of course, to the annual audit by the General Accounting Office.

Finally, the legislation provides that the Commission may appoint advisory board members. However, in the case of expenses for advisory board members, they can only be reimbursed for their expenses on those days that they were actually engaged in Commission work, and the reimbursement can only be made up to the amount of reimbursement allowed to Government employees.

□ 1530

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, this unanimous-consent request will, we hope, dispatch the vexing problem of the Commission on Capitol Preservation and the bicentennial gold coin.

The gentleman from Illinois should be congratulated for carrying this gold-coin bill so vigorously through to its completion. What has been decided here is in the form of the amendments now moved by the gentleman from Illinois.

In that amendment, instead of giving the Preservation Commission all of the profits generated by the minting and selling of the bicentennial gold coins, the Commission will get one-half of the proceeds up to a maximum of $20 million.

In addition, we have provided for disclosure of the Commission's activities. There will be a biannual reporting of disbursements and receipts by the Commission, as I indicated, a biannual basis.

In addition, we have been concerned about expenditures for representational allowances, and we have provided in the amendment that no amount received by the Commission from the Capitol preservation fund may be used to pay representational expenses of the Commission. That is an important matter, and one in which our colleague, the gentleman from Pennsylvania [Mr. WALKER], had some specific and particular interest.

It was the intention of the gentleman from Illinois [Mr. ANNUNZIO] and I, and I shall inquire whether in the end he agrees with this statement, that checks drawn on the Treasury will not be used for entertainment. This restriction applies to all funds deposited into the preservation fund in the Treasury regardless of the source of the funds.

When we used the phrase "representational expenses," we did not intend them to apply to recognition dinners or lunches for donors, or prospective donors, who may be brought to the Capitol to see how their gifts are displayed.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I am happy to yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I want to say to my good friend, the gentleman from Minnesota, the last statement that he has made is absolutely correct.

Mr. FRENZEL. Further reserving the right to object, I thank the gentleman for the corroboration.

The language would prevent the Commission from making representational expenses from any of its moneys held in the treasury in the Capitol preservation fund, or funds, except in the special instances noted above.

Also, I was concerned about advisory board members traveling and being paid per diem and expenses. We have in the Annunzio amendment an item which allows them to accept expenses only in the same way and subject to the same limitations as all Government employees.

It is the intention of the Commission, I am informed, and again I would ask my friend for corroboration, that people who serve on advisory boards will in most cases be paying their own expenses or not incurring expenses. But, we will occasionally need experts and academicians, and these are the people for whom this kind of reimbursement is needed.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I am happy to yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, the gentleman from Minnesota is correct in his statement.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I thank the chairman for his corroboration.

Mr. Speaker, I close by saying that we have been working on this matter for a long time. It has been a difficult one for the Congress. I regret that Members have been inconvenienced by it.

I would say for myself, if I were king, this is not the solution that I would bring forward. I prefer the regular authorization and appropriations process. I do not like elite commissions even if I am serving on them.

There are times, however, when all of us have to accommodate the needs of both bodies and all Members in both parties. In this case I think we have done so in a relatively responsible method here. I would have preferred another outcome, but I urge that the Annunzio motion and amendment be adopted.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I am happy to yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I want to express my deep appreciation to the gentleman from Minnesota for all of the help, the assistance and cooperation in helping to resolve this situation.

I also want to pay tribute to the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], who sponsored the legislation. This is the Fascell-Annunzio coin bill, and I want to thank him for the yeoman efforts he has put forward on this bill. I express my deep appreciation to all of those who played an important role in getting this legislation passed.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. (Mr. GRAY of Illinois). Is there objection to the initial request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5280, the bill just considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow, Friday, October 21, 1988, or Saturday, October 22, 1988.

OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill (S. 2215) to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional 4 years, and for other purposes.

The Clerk read as follows:

Senate Amendment to House amendments:

In lieu of the matter proposed to be inserted by the Amendment of the House, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Federal Procurement Policy Act Amendments of 1988".

SEC. 2. POLICY; FINDINGS AND PURPOSE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended by striking out "the Congress" and inserting "the United States Government".

(b) FINDINGS AND PURPOSE.—Section 3 of the Office of Federal Procurement Policy Act (41 U.S.C. 402) is amended in subsection (a) by inserting "Government-wide" before "procurement policies".

SEC. 3. AUTHORITY AND FUNCTIONS OF THE OFPP ADMINISTRATOR.

(a) IN GENERAL.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended—

(1) in subsection (a), by striking out "which shall be implemented in the single system of Government-wide procurement regulations and shall be" and inserting a period and the following: "These policies shall be implemented in a single Government-wide procurement regulation called the Federal Acquisition Regulation and shall be";

(2) in subsection (b)—

(A) by inserting after "timely manner" the following: ", including any such regulations, procedures, and forms as are necessary to implement prescribed policy initiated by the Administrator under subsection (a),"; and

(B) by striking out "may" and inserting "shall";

(3) in subsection (d) by striking out paragraphs (4) and (5) and inserting the following:

"(4)(A) providing for and directing the activities of the computer-based Federal Procurement Data System (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to adequately collect, develop, and disseminate procurement data; and

"(B) ensuring executive agency compliance with the record requirements of section 19;

"(5) providing for and directing the activities of the Federal Acquisition Institute (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to—

"(A) foster and promote Government-wide career management programs for a professional procurement work force; and

"(B) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to procurement by the executive agencies;"; and

(4) in subsection (f) by striking out "The Director of the Office of Management and Budget" and inserting "The Administrator, with the concurrence of the Director of the Office of Management and Budget, and with consultation with the head of the agency or agencies concerned,".

(b) REAUTHORIZATION.—Section 11 of such Act (41 U.S.C. 410) is amended by striking out "for each of the three succeeding fiscal years" and inserting "such sums as may be necessary for each succeeding fiscal year".

(c) CONFORMING AMENDMENT.—Section 4 of such Act is amended by striking out paragraph (4) and redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively.

SEC. 4. FEDERAL ACQUISITION REGULATORY COUNCIL.

The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATORY COUNCIL

"SEC. 25. (a) ESTABLISHMENT.—There is established a Federal Acquisition Regulatory Council (hereinafter in this section referred to as the 'Council') to assist in the direction and coordination of Government-wide procurement policy and Government-wide procurement regulatory activities in the Federal Government.

"(b) MEMBERSHIP.—(1) The Council shall consist of the Administrator for Federal Procurement Policy and—

"(A) the Secretary of Defense,

"(B) the Administrator of National Aeronautics and Space; and

"(C) the Administrator of General Services.

"(2) Notwithstanding section 205(d) of the Federal Property and Administrative Services Act of 1949, the officials specified in subparagraphs (A), (B), and (C) of paragraph (1) may designate to serve on and attend meetings of the Council in place of that official (A) the official assigned by statute with the responsibility for acquisition policy in each of their respective agencies; or (B) if no official of such agency is assigned by statute with the responsibility for acquisition policy for that agency, the official designated pursuant to section 16(3) of this Act. No other official or employee may be designated to serve on the Council.

"(c) Functions.—(1) Subject to the provisions of section 6 of this Act, the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration, pursuant to their respective authorities under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), chapters 4 and 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451, et seq.), shall jointly issue and maintain in accordance with subsection (f) of this section a single Government-wide procurement regulation, to be known as the 'Federal Acquisition Regulation'.

"(2) Any other regulations relating to procurement issued by an executive agency shall be limited to (A) regulations essential to implement Government-wide policies and procedures within the agency, and (B) additional policies and procedures required to satisfy the specific and unique needs of the agency.

"(3) The Administrator, in consultation with the Council, shall ensure that procurement regulations promulgated by executive agencies are consistent with the Federal Acquisition Regulation and in accordance with the policies set forth in in section 2 of this Act or any policies issued pursuant to section 6(a) of this Act.

"(4)(A) Under procedures established by the Administrator, a person may request the Administrator to review any regulation relating to procurement on the basis that such regulation is inconsistent with the Federal Acquisition Regulation.

"(B) Unless the request is frivolous or does not, on its face, state a valid basis for such review, the Administrator shall complete such a review not later than 60 days after receiving the request. The time for completion of the review may be extended if the Administrator determines that an additional period of review is required. The Administrator shall advise the requester of the reasons for the extension and the date by which the review will be completed.

"(5) If the Administrator determines that a regulation relating to procurement is inconsistent with the Federal Acquisition Regulation or that the regulation should otherwise be revised to remove an inconsistency with any policies issued under section 6(a) of this Act or the policies set forth in section 2 of this Act, the Administrator shall rescind or deny the promulgation of the regulation or take such other action authorized under section 6 as may be necessary to remove the inconsistency. If the Administrator determines that such a regulation, although not inconsistent with the Federal Acquisition Regulation or such policies, should be revised to improve compliance with such Regulation or policies, the Administrator shall take such action authorized under section 6 as may be necessary and appropriate.

"(6) The decisions of the Administrator shall be in writing and made publicly available. The Administrator shall provide a listing of such decisions in the annual report to Congress required by section 8 of this Act.

"(d) Additional Responsibilities of Membership.—Subject to the authority, direction, and control of the head of the agency concerned, each official who represents an agency on the Council pursuant to subsection (b) shall—

"(1) approve or disapprove all regulations that are, after 60 days after the date of enactment of this section, proposed for public comment, promulgated in final form, or otherwise made effective by such agency relating to procurement before such regulation may be promulgated in final form, or otherwise made effective, except that such official may grant an interim approval, without review, for not more than 60 days for a procurement regulation in urgent and compelling circumstances;

"(2) carry out the responsibilities of such agency set forth in chapter 35 of title 44, United States Code, for each information collection request (as that term is defined in section 3502(11) of title 44, United States Code) that relates to procurement rules or regulations; and

"(3) eliminate or reduce (A) any redundant or unnecessary levels of review and approval, in the procurement system of such agency, and (B) redundant or unnecessary procurement regulations which are unique to that agency.

The authority to review and approve or disapprove regulations under paragraph (1) of this subsection may not be delegated to any person outside the office of the official who represents the agency on the Council pursuant to subsection (b).

"(e) Governing Policies.—All actions of the Council and of members of the Council shall be in accordance with and furtherance of the policies of section 2 and the policies prescribed under section 6(a) of this Act.

"(f) General Authority With Respect to FAR.—Subject to section 6(b), the Council shall manage, coordinate, control, and monitor the maintenance of, and issuance of and changes in, the Federal Acquisition Regulation.

"(g) Reports.—The Administrator for Federal Procurement Policy shall—

"(1) publish a report within 6 months after the date of enactment of this section and every 6 months thereafter relating to the development of procurement regulations to be issued in accordance with subsection (c) of this section;

"(2) include in each report published under paragraph (1)—

"(A) the status of each such regulation;

"(B) a description of those regulations which are required by statute;

"(C) a description of the methods by which public comment was sought with regard to each proposed regulation in accordance with section 22 of this Act, and to the extent appropriate, sections 3504(h) and 3507 of title 44, United States Code;

"(D) regulatory activities completed and initiated since the last report;

"(E) regulations, policies, procedures, practices, and forms that are under consideration or review by the Office of Federal Procurement Policy;

"(F) whether the regulations have paperwork requirements;

"(G) the progress made in promulgating and implementing the Federal Acquisition Regulation; and

"(H) such other matters as the Administrator determines would be useful; and

"(3) report to Congress within 180 days after the date of the enactment of this section, in consultation with the Administrator of the Office of Information and Regulatory Affairs, regarding—

"(A) the extent of the paperwork burden created by the Federal procurement process, and

"(B) the extent to which the Federal procurement system can be streamlined to reduce unnecessary paperwork while at the same time maintaining recordkeeping and reporting requirements necessary to ensure the integrity and accountability of the system.".

SEC. 5. COST ACCOUNTING STANDARDS BOARD.

(a) Amendment.—The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"COST ACCOUNTING STANDARDS BOARD

"Sec. 26. (a) Establishment; Membership; Terms.—(1) There is established within the Office of Federal Procurement Policy an independent board to be known as the 'Cost Accounting Standards Board' (hereinafter referred to as the 'Board'). The Board shall consist of 5 members, including the Administrator, who shall serve as Chairman, and 4 members, all of whom shall have experience in Government contract cost accounting, and who shall be appointed as follows:

"(A) two representatives of the Federal Government—

"(i) one of whom shall be a representative of the Department of Defense and be appointed by the Secretary of Defense; and

"(ii) one of whom shall be an officer or employee of the General Services Administration appointed by the Administrator of General Services; and

"(B) two individuals from the private sector, each of whom shall be appointed by the Administrator and—

"(i) one of whom shall be a representative of industry; and

"(ii) one of whom shall be particularly knowledgeable about cost accounting problems and systems.

"(2)(A) The term of office of each of the members of the Board, other than the Administrator for Federal Procurement Policy, shall be 4 years, except that—

"(i) of the initial members, two shall be appointed for terms of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years;

"(ii) any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed; and

"(iii) no individual who is appointed under paragraph (1)(A) of this subsection shall continue to serve after ceasing to be an officer or employee of the agency from which he or she was appointed.

"(B) A vacancy on the Board shall be filled in the same manner in which the original appointment was made.

"(C) The initial members of the Board shall be appointed within 120 days after the date of enactment of this section.

"(b) Senior Staff.—The Administrator, after consultation with the Board, may appoint an executive secretary and two additional staff members without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"(c) Other Staff.—The Administrator may appoint, fix the compensation, and remove additional employees of the Board under the applicable provisions of title 5, United States Code.

"(d) Detailed and Temporary Personnel.—(1) The Board may use, without reimbursement, any personnel of a Federal agency (with the consent of the head of the agency concerned) to serve on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

"(2) The Administrator, after consultation with the Board, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, of personnel for the purpose of serving on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

"(e) COMPENSATION.—Except as otherwise provided in subsection (a), the members of the Board who are officers or employees of the Federal Government, and officers and employees of other agencies of the Federal Government who are used under subsection (d)(1), shall receive no additional compensation for services, but shall continue to be compensated by the employing Department or agency of such officer or employee. Each member of the Board appointed from private life shall receive compensation at a rate not to exceed the daily equivalent of the rate prescribed for level IV of the Executive Schedule for each day (including travel time) in which the Member is engaged in the actual performance of duties vested in the Board. Individuals hired under subsection (d)(2) may receive compensation at rates fixed by the Administrator, but not to exceed the daily equivalent of the rate prescribed for level V of the Federal Executive Salary Schedule under section 5316 of title 5, United States Code, for each day (including travel time) in which such appointees are properly engaged in the actual performance of duties under this section. While serving away from homes or the regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

"(f) COST ACCOUNTING STANDARDS AUTHORITY.—(1) The Board shall have the exclusive authority to make, promulgate, amend, and rescind cost accounting standards and interpretations thereof designed to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts with the United States.

"(2) Cost accounting standards promulgated under this section shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the United States in excess of $500,000, other than contracts or subcontracts where the price negotiated is based on (A) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (B) prices set by law or regulation.

"(3) Not later than 180 days after the date of enactment of this section, the Administrator, after consultation with the Board, shall prescribe rules and procedures governing actions of the Board under this section. Such rules and procedures shall require that any cost accounting standard promulgated, amended, or rescinded (and interpretations thereof) shall be adopted by majority vote of the Board members.

"(4) The Board is authorized—

"(A) to exempt classes or categories of contractors and subcontractors from the requirements of this section; and

"(B) to establish procedures for the waiver of the requirements of this section with respect to individual contracts and subcontracts.

"(g) REQUIREMENTS FOR STANDARDS.—(1) Prior to the promulgation under this section of cost accounting standards and interpretations thereof, the Board shall—

"(A) take into account, after consultation and discussions with the Comptroller General and professional accounting organizations, contractors, and other interested parties—

"(i) the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

"(ii) the advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contracts; and

"(iii) the scope of, and alternatives available to, the action proposed to be taken;

"(B) prepare and publish a report in the Federal Register on the issues reviewed under paragraph (1)(A);

"(C)(i) publish an advanced notice of proposed rulemaking in the Federal Register in order to solicit comments on the report prepared pursuant to subparagraph (B);

"(ii) provide all parties affected a period of not less than 60 days after such publication to submit their views and comments; and

"(iii) during this 60-day period, consult with the Comptroller General and consider any recommendation the Comptroller General may make; and

"(D) publish a notice of such proposed rulemaking in the Federal Register and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments.

"(2) Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall have the full force and effect of law, and shall become effective within 120 days after publication in the Federal Register in final form, unless the Board determines a longer period is necessary. Implementation dates for contractors and subcontractors shall be determined by the Board, but in no event shall such dates be later than the beginning of the second fiscal year of the contractor or subcontractor after the standard becomes effective. Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall be accompanied by prefatory comments and by illustrations, if necessary.

"(3) The functions exercised under this section are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

"(h) IMPLEMENTING REGULATIONS.—(1) The Board shall promulgate rules and regulations for the implementation of cost accounting standards promulgated or interpreted under subsection (f). Such regulations shall be incorporated into the Federal Acquisition Regulation and shall require contractors and subcontractors as a condition of contracting with the United States to—

"(A) disclose in writing their cost accounting practices, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs; and

"(B) agree to a contract price adjustment, with interest, for any increased costs paid to such contractor or subcontractor by the United States by reason of a change in the contractor's or subcontractor's cost accounting practices or by reason of a failure by the contractor or subcontractor to comply with applicable cost accounting standards.

"(2) If the United States and a contractor or subcontractor fail to agree on a contract price adjustment, including whether the contractor or subcontractor has complied with the applicable cost accounting standards, the disagreement will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

"(3) Any contract price adjustment undertaken pursuant to paragraph (1)(B) shall be made, where applicable, on relevant contracts between the United States and the contractor that are subject to the cost accounting standards so as to protect the United States from payment, in the aggregate, of increased costs (as defined by the Board). In no case shall the Government recover costs greater than the increased cost (as defined by the Board) to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of the price negotiation and which it failed to disclose to the Government.

"(4) The interest rate applicable to any contract price adjustment shall be the annual rate of interest established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) for such period. Such interest shall accrue from the time payments of the increased costs were made to the contractor or subcontractor to the time the United States receives full compensation for the price adjustment.

"(i) REPORTS TO CONGRESS.—The Board shall report to the Congress not later than one year after the date of enactment of this section, and annually thereafter, with respect to the activities and operations of the Board under this section, together with such recommendations as it considers appropriate.

"(j) EFFECT ON OTHER STANDARDS AND REGULATIONS.—(1) All cost accounting standards, waivers, exemptions, interpretations, modifications, rules, and regulations promulgated by the Cost Accounting Standards Board under section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall remain in effect unless and until amended, superseded, or rescinded by the Board pursuant to this section.

"(2) Existing cost accounting standards referred to in paragraph (1) shall be subject to the provisions of this Act in the same manner as if promulgated by the Board under this Act.

"(3) The Administrator, under the authority set forth in section 6 of this Act, shall ensure that no regulation or proposed regulation of an executive agency is inconsistent with a cost accounting standard promulgated or amended under this section by rescinding or denying the promulgation of any such inconsistent regulation or proposed regulation and taking such other action authorized under section 6 as may be appropriate.

"(4) Costs which are the subject of cost accounting standards promulgated under this section shall not be subject to regulations that are established by another executive agency that differ from such standards with respect to the measurement, assignment, and allocation of such costs.

"(k) EXAMINATIONS.—For the purpose of determining whether a contractor or subcontractor has complied with cost accounting standards promulgated under this section and has followed consistently the contractor's or subcontractor's disclosed cost accounting practices, any authorized representative of the head of the agency concerned, of the offices of inspector general established pursuant to the Inspector General Act of 1978, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost accounting standards.

"(l) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

(b) Conforming Amendment.—Section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) is repealed.

SEC. 6. PROCUREMENT INTEGRITY.

(a) Amendment.—The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"PROCUREMENT INTEGRITY

"Sec. 27. (a) Prohibited Conduct by Competing Contractors.—During the conduct of any Federal agency procurement of property or services, no competing contractor or any officer, employee, representative, agent, or consultant of any competing contractor shall knowingly—

"(1) make, directly or indirectly, any offer or promise of future employment or business opportunity to, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any procurement official of such agency;

"(2) offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of such agency; or

"(3) solicit or obtain, directly or indirectly, from any officer or employee of such agency, prior to the award of a contract any proprietary or source selection information regarding such procurement.

"(b) Prohibited Conduct by Procurement Officials.—During the conduct of any Federal agency procurement of property or services, no procurement official of such agency shall knowingly—

"(1) solicit or accept, directly or indirectly, any promise of future employment or business opportunity from, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any officer, employee, representative, agent, or consultant of a competing contractor;

"(2) ask for, demand, exact, solicit, seek, accept, receive, or agree to receive, directly or indirectly, any money, gratuity, or other thing of value from any officer, employee, representative, agent, or consultant of any competing contractor for such procurement; or

"(3) disclose any proprietary or source selection information regarding such procurement directly or indirectly to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(c) Disclosure to Unauthorized Persons.—During the conduct of any Federal agency procurement of property or services, no person who is given authorized or unauthorized access to proprietary or source selection information regarding such procurement, shall knowingly disclose such information, directly or indirectly, to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(d) Certification and Enforcement Matters.—(1) A Federal agency may not award a contract for the procurement of property or services to any competing contractor, or agree to any modification or extension of a contract, unless the officer or employee of such contractor responsible for the offer or bid for such contract, or the modification or extension of such contract, as the case may be—

"(A)(i) certifies in writing to the contracting officer responsible for such contract that such officer or employee of the competing contractor has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(ii) discloses to such contracting officer any and all such information and certifies in writing to such contracting officer that any and all such information has been disclosed; and

"(B) certifies in writing to such contracting officer that each officer, employee, agent, representative, and consultant of such competing contractor who has participated personally and substantially in the preparation or submission of such bid or offer, or in such modification or extension of such contract, as the case may be, has certified to such competing contractor that he or she—

"(i) is familiar with, and will comply with, the requirements of subsection (a) and applicable implementing regulations; and

"(ii) will report immediately to the officer or employee of the competing contractor responsible for the offer or bid for any contract or the modification or extension of such contract, as the case may be, any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or such applicable implementing regulations, pertaining to such procurement.

"(2) A Federal agency may not award a contract for the procurement of property or services, or agree to any modification or extension of any such contract, unless the contracting officer responsible for such procurement—

"(A) certifies in writing to the head of such agency that the contracting officer has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) discloses to the head of such agency any and all such information and certifies in writing that any and all such information has been disclosed.

"(3) The head of a Federal agency may require any procurement official or any competing contractor, at any time during the conduct of any Federal agency procurement of property or services—

"(A) to certify in writing to the head of such agency that such procurement official or the officer or employee of the competing contractor responsible for the offer or bid for such contract or the modification or extension of such contract, as the case may be, has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) to disclose to the head of such agency any and all such information and to certify in writing that any and all such information has been disclosed.

"(4) If a procurement official leaves the Government during the conduct of such a procurement, such official shall certify that he or she understands the continuing obligation not to disclose proprietary or source selection information.

"(5) For the purposes of enforcing the requirements of this section, the contracting officer responsible for the conduct of a procurement shall maintain, as part of the procurement file—

"(A) all certifications made by procurement officials and competing contractors with regard to such procurement, as required by this subsection; and

"(B) a record of all persons who have been authorized by the head of the agency or the contracting officer to have access to proprietary or source selection information regarding such procurement.

"(6) Any person making a certification required by this subsection shall be notified of the applicability of section 1001 of title 18, United States Code, to false, fictitious, or fraudulent statements in such certification.

"(7)(A) This subsection applies only to contracts, extensions, and modifications in excess of $100,000.

"(B) This subsection need not be applied to a contract—

"(i) with a foreign government or an international organization that is not required to be awarded using competitive procedures pursuant to section 303(c)(4) of the Federal Property and Administrative Services Act of 1949 or section 2304(c)(4) of title 10, United States Code; or

"(ii) in an exceptional case, when the head of the Federal agency concerned determines in writing that this subsection should be waived pursuant to procedures and criteria established in implementing regulations issued pursuant to subsection (m) and notifies the Congress in writing of such determination.

The authority to make determinations under clause (ii) of this subparagraph may not be delegated.

"(e) Restrictions on Government Officials and Employees.—No Government official or employee, civilian, or military, who has participated personally and substantially in the conduct of any Federal agency procurement or who has personally reviewed and approved the award, modification, or extension of any contract for such procurement shall—

"(1) participate in any manner, as an officer, employee, agent, or representative of a competing contractor, in any negotiations leading to the award, modification, or extension of a contract for such procurement, or

"(2) participate personally and substantially on behalf of the competing contractor in the performance of such contract,

during the period ending 2 years after the last date such individual participated personally and substantially in the conduct of such procurement or personally reviewed and approved the award, modification, or extension of any contract for such procurement.

"(f) Contractual Penalties.—(1) Regulations issued pursuant to subsection (m) shall require that each contract awarded by a Federal agency contain a clause specified in such regulation that provides appropriate contractual penalties for conduct of any competing contractor prohibited by subsection (a) and for any such conduct of any officer, employee, agent, representative, or consultant of such contractor.

"(2) The following remedies are authorized to be included in, and shall be considered in the development of, such regulations:

"(A) Denial of payment of all or any portion of the profit component of amounts otherwise payable to the contractor by the Federal agency under the contract and recovery of all or any portion of the profit component of amounts paid to the contractor by the Federal agency under the contract.

"(B) Termination of the contract for default.

"(C) Any other appropriate penalty.

"(g) Administrative Actions.—(1) If an agency receives a disclosure of information pursuant to subsection (d) or otherwise receives or obtains information providing a reasonable basis to believe that an officer, employee, agent, representative, or consultant of a competing contractor has knowingly violated the requirements of this section—

"(A) in the case of a procurement in which a contract has not been awarded, the agency shall determine whether to terminate the procurement or take other appropriate actions;

"(B) in the case of a procurement with respect to which a contract has been awarded, the agency shall determine whether to void or rescind the contract, to terminate the contract for default, to impose sanctions upon the contractor, or to permit the contractor to continue to perform the contract, subject to review in accordance with, and to the extent provided in, the Contract Disputes Act of 1978, or to take other appropriate actions; and

"(C) if the agency determines that such a knowing violation has occurred, the agency, pursuant to procedures specified in the Federal Acquisition Regulation—

"(i) may impose an immediate suspension, and

"(ii) shall determine whether to initiate a debarment proceeding,

against the competing contractor or other person who committed such violation.

"(2) Any procurement official of a Federal agency who engages in conduct prohibited by subsection (b) or (c) shall be subject to removal or other appropriate adverse personnel action pursuant to the procedures specified in chapter 75 of title 5, United States Code, or other applicable law or regulation.

"(3) The actions taken under paragraph (1) or (2) may be suspended by the agency head upon the request of the Attorney General pending the disposition of any civil or criminal actions pursuant to subsections (h) and (i).

"(h) Civil Penalties.—Any person who engages in conduct prohibited by subsection (a), (b), (c), or (e) shall be subject to the imposition of a civil fine in a civil action brought by the United States in an appropriate district court of the United States. The amount of any such civil fine for such violation may not exceed—

"(1) $100,000 in the case of an individual; or

"(2) $1,000,000 in the case of a competing contractor (other than an individual).

"(i) Criminal Penalties.—Whoever, during the conduct of a Federal agency procurement of property or services—

"(1) being a competing contractor or an officer, employee, representative, agent, or consultant of a competing contractor, knowingly and willfully solicits or obtains, directly or indirectly, from any officer or employee of such agency any proprietary or source selection information (as such terms are defined in subsection (n) and in regulations prescribed pursuant to subsection (m)), or

"(2) being an officer or employee of such agency, knowingly and willfully discloses or promises to disclose, directly or indirectly, to any competing contractor or any officer, employee, representative, agent, or consultant of a competing contractor any proprietary or source selection information,

shall be imprisoned for not more than 5 years, or fined in accordance with title 18, United States Code, or both.

"(j) Training.—The head of each Federal agency shall establish a procurement ethics program for its procurement officials. The program shall, at a minimum—

"(1) provide for the distribution of written explanations of the provisions of subsection (b) to such procurement officials; and

"(2) require each such procurement official, as a condition of serving as a procurement official, to certify that he or she is familiar with the provisions of subsection (b), and will not engage in any conduct prohibited by such subsection, and will report immediately to the contracting officer any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations.

"(k) Remedies Not Exclusive.—Nothing in this subsection shall be construed to limit the applicability of the requirements, sanctions, contract penalties, and remedies established under any other law, but no agency shall be relieved of the obligation to carry out the requirements of this section because such agency has also applied such other requirements, sanctions, contract penalties, or remedies.

"(l) No Authority To Withhold Information.—Nothing in this section shall be construed to authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an Inspector General of a Federal agency.

"(m) Implementing Regulations and Guidelines.—Government-wide regulations and guidelines deemed appropriate to carry out this section shall be issued in the Federal Acquisition Regulation within 180 days after the date of enactment of this section.

"(n) Definitions.—As used in this section:

"(1) The term 'during the conduct of any Federal agency procurement of property or services' means the period beginning with the development, preparation, and issuance of a procurement solicitation, and concluding with the award, modification, or extension of a contract, and includes the evaluation of bids or proposals, selection of sources, and conduct of negotiations.

"(2) The term 'competing contractor', with respect to any procurement (including any procurement using procedures other than competitive procedures) of property or services, means any entity that is, or is reasonably likely to become, a competitor for or recipient of a contract or subcontract under such procurement, and includes any other person acting on behalf of such an entity.

"(3)(A) The term 'procurement official means any civilian or military official or employee of an agency who has participated personally and substantially in the conduct of the agency procurement concerned, including all officials and employees who are responsible for reviewing or approving the procurement, as further defined by applicable implementing regulations.

"(B) For purposes of subparagraph (A), the term 'employee of an agency' includes a contractor, subcontractor, consultant, expert, or adviser (other than a competing contractor) acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned.

"(4) The term 'contracting officer' means any official or employee of a Federal agency who has been authorized by the agency head or his or her designee to enter into, administer, or terminate contracts and make related determinations and findings.

"(5) The term 'Federal agency' has the meaning provided by section 3(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(b)).

"(6) The term 'proprietary information' means—

"(A) information contained in a bid or proposal;

"(B) cost or pricing data; or

"(C) any other information submitted to the Government by a contractor and designated as proprietary, in accordance with law or regulation, by the contractor, the head of the agency, or the contracting officer.

"(7) The term 'source selection information' means information determined by the head of the agency or the contracting officer to be information—

"(A) the disclosure of which to a competing contractor would jeopardize the integrity or successful completion of the procurement concerned; and

"(B) which is required by statute, regulation, or order to be secured in a source selection file or other restricted facility to prevent such disclosure;

as further defined by regulations issued pursuant to subsection (m) of this section.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 7. PROFIT METHODOLOGY STUDY.

(a) In General.—The Administrator shall conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by government contractors on procurements, other than procurements where the price is based on adequate price competition or on established catalog or market prices of commercial items sold in substantial quantities to the general public.

(b) Contractors' Financial Data.—The methodology developed under subsection (a) shall include adequate procedures for verifying and maintaining the confidentiality of contractors' financial data.

SEC. 8. DEFINITION OF ARCHITECTURAL AND ENGINEERING SERVICES.

Section 901 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541) is amended by striking out paragraph (3) and inserting the following:

"(3) The term 'architectural and engineering services' means—

"(A) professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph;

"(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

"(C) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.".

SEC. 9. ESTABLISHMENT OF THE COMMERCIAL PRODUCTS ADVOCATE.

The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"ADVOCATE FOR THE ACQUISITION OF COMMERCIAL PRODUCTS

"Sec. 28. There is established in the Office of Federal Procurement Policy the position of Advocate for the Acquisition of Commercial Products. The Advocate shall report directly to the Administrator. The Advocate for Acquisition of Commercial Products shall—

"(1) review all proposed procurement regulations and report to the Administrator as to whether such regulations will encourage or discourage the acquisition of commercial products by Federal agencies;

"(2) provide recommendations to the Administrator as to which procurement regulations should be rescinded or modified to encourage the acquisition of commercial products; and

"(3) provide recommendations to the Administrator as to methods of simplifying procurement regulations governing acquisition of commercial products, including the most efficient method to apply, modify, or waive the certification requirements of section 27 of this Act with respect to contracts for such products.".

SEC. 10. STUDY AND REPORT BY THE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.

No later than April 1, 1989, the Administrator for Federal Procurement Policy, in consultation with the Comptroller General, shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives—

(1) on the extent to which the data collected by the Federal Procurement Data System is adequate for the management, oversight, and evaluation of Federal procurement; and

(2) which shall include any appropriate recommendations for improvements of such system.

SEC. 11. ELEVATION OF PRESIDENTIAL APPOINTEES WITHIN THE OFFICE OF MANAGEMENT AND BUDGET.

(a) Executive Schedule, Level I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Office of Management and Budget.".

(b) Executive Schedule, Level II.—Section 5313 of title 5, United States Code, is amended—

(1) by adding at the end thereof the following:

"Deputy Director of the Office of Management and Budget."; and

(2) by striking out "Director of the Office of Management and Budget.".

(c) Executive Schedule, Level III.—Section 5314 of title 5, United States Code, is amended—

(1) by adding at the end thereof the following:

"Administrator for Federal Procurement Policy. "Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget."; and

(2) by striking out "Deputy Director of the Office of Management and Budget.".

(d) Executive Schedule, Level IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator for Federal Procurement Policy."; and

(2) by striking out "Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.".

(e) Effective Date.—The amendments made by this section shall be effective on January 20, 1989.

SEC. 12. TRAVEL EXPENSES UNDER CERTAIN GOVERNMENT CONTRACTS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is amended—

(1) by redesignating such section as subsection (a) of section 24; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The provisions of subsection (a) shall not apply to any agreement between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose for conducting federally sponsored research and related activities.

"(2) Under any agreement described under paragraph (1), costs incurred by personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent that such costs do not exceed—

"(A) charges normally allowed by the respective institution in its regular operations as a result of an institutional policy; and

"(B) the limits and principles as are provided for by government-wide regulation of such costs established by the Director of the Office of Management and Budget.

"(3) The regulation under paragraph (2)(B) shall specifically provide that in the absence of an institutional policy regarding travel costs, the rates and amounts established under subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provisions of such subchapter shall apply to agreements between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose of conducting federally sponsored research and related activities.".

SEC. 13. FEDERAL EMPLOYEE BENEFITS FOR CERTAIN EMPLOYEES OF FORMER PRESIDENTS AND VICE PRESIDENTS.

(a) Retirement Benefits.—(1) Section 8331(1) of title 5, United States Code, is amended by—

(A) striking out "and" at the end of subparagraph (I);

(B) by inserting "and" after the semicolon at the end of subparagraph (J); and

(C) inserting after subparagraph (J) the following new subparagraph:

"(K) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph;".

(2) Section 8401(11) of title 5, United States Code, is amended by striking out "or (J)" and inserting in lieu thereof "(J), or (K)".

(b) Life Insurance.—Section 8701(a) of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (8);

(2) by inserting "and" after the semicolon at the end of paragraph (9); and

(3) inserting after paragraph (9) the following new paragraph:

"(10) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other paragraph of this subsection;".

(c) Health Benefits.—Section 8901(1) of title 5, United States Code, is amended by—

(1) striking out "and" at the end of subparagraph (F); and

(2) inserting after subparagraph (G) the following new subparagraphs:

"(H) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

"(I) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph;".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **HORTON**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Texas [Mr. Brooks] will be recognized for 20 minutes, and the gentleman from New York [Mr. Horton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. **BROOKS**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2215 provides a permanent authorization for the Office of Federal Procurement Policy [OFPP]. This legislation was considered on September 13 when the House substituted its version of the OFPP reauthorization bill, H.R. 3345 and sent the measure back to the Senate. Since that time, we have been working with the Senate to resolve the differences between the two measures.

I am pleased that we have been able to forge a bill that promises to be one of the most significant procurement reform measures ever passed by Congress. It gives OFPP new authority to vigorously pursue its mandate of (1) promoting full and open competition, (2) reducing the extensive volume of agency regulations, and (3) simplifying the Government's procurement process.

A new section on procurement integrity promises to make fundamental changes to the way Government agencies buy products and services. Under this legislation, the Government procurement system will operate fairly and honestly. Companies will no longer wine and dine Federal officials to get the inside track on a contract bid. The buying and selling of inside bidding information will be a crime punishable by a fine and up to 5 years imprisonment. The old buddy system that so often has dominated the Federal procurement system will be a thing of the past.

A good deal of credit for this legislation goes to Senators GLENN and CHILES. Their leadership in the Senate turned what many thought was an impossible task into a solid victory for good Government. This effort also caps an illustrious career for my good friend and colleague, LAWTON CHILES. We have worked closely together on many tough issues over the years. I respect him greatly and will miss him in the next Congress.

There are other people who played an important role in making this legislation possible. OMB Director Joe Wright played a key role in bringing several disgruntled agencies in line to support the administration's position in favor of this legislation. I want to personally thank him for his efforts.

It is my understanding that during the Senate floor debate on this legislation, there were numerous statements made by several Senators regarding the purpose and intent of several provisions in the bill. Most of these statements have not been made available to the House and, under these circumstances, we cannot speak to their completeness or accuracy. As principal House sponsor of this legislation, I believe that the bill speaks for itself. Any statements that were made on the Senate floor that are inconsistent with the bill should be considered extraneous and not reflective of the intent of the Congress or the bill.

There have been some questions raised about several provisions in the bill to which I would like to respond. First, the Department of Defense has asked whether anybody other than the Under Secretary of DOD for Acquisition can serve as a member—for DOD—on the Federal Acquisition Regulatory Council. The answer is no, unless the Under Secretary is "absent or disabled," as provided under current law—title 10. In that case, the Deputy Under Secretary may temporarily assume his duties. In no case does this language authorize a permanent delegation to the Deputy Under Secretary to serve in the FAR Council in place of the Under Secretary.

Another question concerns the issuance of regulations by the FAR Council. Under this bill, all Governmentwide procurement regulations shall be issued solely by the council in the Federal acquisition regulation (subject to the exclusions in section 6(h) of the OFPP Act). Under section 25(f), the council manages and controls both the issuance of, and changes in, the Federal acquisition regulations.

The OFPP Administrator, under his separate authorities in section 6(f) of the OFPP Act, may rescind or deny FAR regulations issued or proposed to be issued by the council. Further, the Administrator is required to rescind or deny the promulgation of any agency-unique regulation or implementing regulation which is inconsistent with the FAR or take such other action authorized under section 6 as may be necessary to remove the inconsistency.

Under section 25(d) the members of the FAR council are required to approve or disapprove all new agency-unique regulations relating to procurement before such regulations can become final. The only exception to this rule is the 60-day emergency provision where the council members may grant interim approval without review. It is expected that this emergency procedure would rarely be used or needed.

A question has also been raised whether the Administrator of OFPP would have the authority to rescind or deny the promulgation of standards approved by the cost accounting standards board. In this regard, the statute is clear. The board has "exclusive authority to make, promulgate, amend and rescind cost accounting standards and interpretations thereof." Further, the statute provides that any such action taken by the board shall be adopted by a majority vote of the board members. No provisions is available for the administrator to overturn or, in any way, deny the promulgation of standards issued by the board by using his authorities under section 6 of the OFPP act.

Finally, the new definition of A/E services under section 8 (of the bill) will continue an agency's discretion to decide whether capital construction quality manager services should be performed by an A/E or construction contractor. If an agency determines the work is subtantially or dominantly A/E services, then Brooks act procedures should be used. Conversely, if the agency determines that the services involved should be performed by a construction contractor, the competitive bidding procedures should be used.

I urge my colleagues to support the passage of this urgently needed legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of S. 2215, the Office of Federal Procurement Policy Reauthorization Amendments of 1988.

This bill permanently authorizes funding for the Office of Federal Procurement Policy. OFPP has promoted efficiency and economy in the procurement process and pursued its mandate of promoting full and open competition, reducing the volume of agency regulations, and simplifying the Government's procurement process.

With this bill we are seeking to strengthen the procurement process and to build within that process additional safeguards to prevent procurement abuses.

When OFPP was reauthorized in 1983 its regulatory authority was expanded. A procurement integrity section has now been added to this bill which is specifically designed to address procurement fraud and abuse. This section addresses prohibited conduct on the part of contractors, subcontractors, or their representatives who offer Government procurement officials jobs or other things of value during the conduct of a procurement. It also contains rules against the release of proprietary or source selection information pertaining to a procurement, and it prohibits a Federal procurement official who was personally and substantially involved in a procurement from becoming an employee of a contractor on a contract for a period of 2 years after ceasing to work for the Government on that contract. The bill also requires that prior to contract award, all participants must certify that the requirements of the section have been followed.

This bill contains additional provisions which: First, direct OFPP to conduct a profit methodology study; second, clarify the definition of architect and engineering services in the Brooks Act (Public Law 92-582); third, establish in OFPP the position of advocate for the acquisition of commercial products, and fourth, require the OFPP Administrator to conduct a study of the Federal procurement data system.

Mr. Speaker, we on the Government Operations Committee believe that by permanently reauthorizing OFPP and expanding its authorities we have provided the tools necessary to promote a fair and competitive Federal procurement system.

Mr. Speaker, this bill is the result of months of meaningful deliberation and compromise. I feel it will strengthen the procurement process and serve as a deterrent to those who would abuse the process. I support this legislation.

I also want to join with the gentleman from Texas in commending the two Senators, Senator JOHN GLENN and Senator LAWTON CHILES, for their work on this bill over in the Senate.

I also want to join with the gentleman from Texas [Mr. BROOKS] in bidding a fond adieu to LAWTON CHILES. He has been a good friend of mine for the years that he has been in the Senate and, as a matter of fact, he and I together served on the procurement commission which was the commission that recommended the establishment of the OFPP office in the Office of

Management and Budget. The Senator from Florida, Mr. Chiles, has long been a procurement expert and has utilized his experience there in the Senate to make the procurement process better and more functional as the years have gone on.

Mr. Speaker, I also want to take this opportunity to say just a word on behalf of my chairman. Before I do that, I want to also include in the Record a statement from Joseph R. Wright, Jr., Acting Director of the Office of Management and Budget, in which he says that the administration supports the passage of this legislation, and I want to join with the gentleman from Texas [Mr. Brooks] in commending Mr. Wright for his work not only in the House but also in the Senate and in the conference report to make certain this legislation got through.

The letter is as follows:

Executive Office of the President, Office of Management and Budget,
Washington, DC, October 19, 1988.

Hon. Frank Horton,
Committee on Government Operations, House of Representatives, Washington, DC.

Dear Mr. Horton: We have reviewed Senator Chiles' Amendment to the House Amendment to S. 2215, the "Office of Federal Procurement Policy Act Amendments of 1988", and believe that this amendment satisfies the concerns raised by the Administration on previous versions of the legislation. The Administration supports its passage.

Sincerely,
Joseph R. Wright, Jr.
Acting Director.

Mr. Speaker, I take this moment or two, because this is probably the last time in this Congress and certainly in the future Congresses that the gentleman from Texas [Mr. Brooks] and I will be appearing, he as the chairman of the Committee on Government Operations, and I as the ranking Republican. In the next Congress, as we all know, the gentleman from Texas [Mr. Brooks] is planning to assume the chairmanship of the Committee on the Judiciary, so we will miss him and his leadership on the Committee on Government Operations in the 101st Congress.

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Mr. Speaker, I have worked closely with the gentleman from Texas [Mr. Brooks] for 13 years. He and I are personal friends. We have worked together in a bipartisan way to make a better procurement system, and I think we can take credit for some major legislation which has passed this House in the past 13 years.

For one, he and I were the principal sponsors of the original Inspectors General Act, and the subsequent legislation so that inspectors general are now placed throughout the Federal Government. As a result of the work that we did on the Committee on Government Operations, and through Mr. Brook's leadership, that legislation was adopted 10 years ago. More recently, 4 years ago we put an inspector general in the Department of Defense.

Over the last 10 years they have saved this Government $120 billion. It was through the gentleman from Texas' [Mr. Brooks] leadership that the Freedom of Information Act, the Paper Reduction Act, the Prompt Pay Act, Competition in Contracting Acts were enacted, and also under his leadership that they have established the Departments of Education, Departments of Energy, and we have just passed legislation which is now on the way to the President to be signed to create a new Department of Veterans' Affairs.

Throughout this time the gentleman from Texas, [Mr. Brooks] has been a fair leader, been a fair chairman. He and I have not always agreed, but I can say that he has been very fair to both the majority and minority members on the Committee on Government Operations. I will miss his leadership. We will all miss his leadership on the Committee on Government Operations, and I want to take this opportunity to pay tribute to him, to the staff director, Bill Jones, and to my staff director, Don Upson. My staff, the minority staff, has worked closely with the majority staff in a bipartisan way to make more efficient and more competent the various agencies of the Federal Government, and I want to take this opportunity to commend the gentleman from Texas [Mr. Brooks] for his leadership over these last 13 years and wish him well in the new chairmanship in the 101st Congress.

Mr. BROOKS. Mr. Speaker, I yield an additional 15 minutes to the distinguished gentleman from New York [Mr. Horton].

Mr. HORTON. Mr. Speaker, I will take it, and I could spend the whole 15 minutes saying how well we worked together, although we did have our differences. I will miss the gentleman.

Mr. BROOKS. Mr. Speaker, I yield myself 1 minute.

I appreciate the kind remarks of my friend from New York, Mr. Horton. I must say in fairness that none of the accomplishments of the Committee on Government Operations could have been achieved without his solid support and that of his staff. I am grateful to the gentleman for his friendship and loyalty. No person has shown more dedication to better government and better procurement, and for that I want to commend the gentleman.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. Mavroules].

Mr. MAVROULES. Mr. Speaker, I thank the gentleman for yielding time to me, and I wonder if the gentleman from Texas [Mr. Brooks] would engage in a colloquy with me on some language we would like to articulate.

The new expanded definition of "architectural and engineering services" contained in S. 2215 includes, among other things, and I quote subparagraph (c) of the new definition:

> Such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, etc., etc.

With respect to the phrase "surveying and mapping," I would like to propound a question. If, as it does regularly, the Defense Mapping Agency contracts with outside firms for certain production support services which are limited to the tasks of compilation, terrain analysis, color separation and digital collection and processing, and if these contracted services result solely in the production of maps and mapping products for the Department of Defense and military service use, and finally if these services are totally unrelated to the physical construction, or activities in anticipation of or incident to physical construction, then is it the understanding of the gentleman that such contracts are not intended to be included within the phrase "surveying and mapping" as it is contained in new section 901(3)(c) of the Federal Property and Administrative Services Act of 1949 contained in S. 2215?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, the gentleman is correct, to the extent that the maps and mapping products to be produced as a result of the Defense Mapping Agency contracts are not connected to traditionally understood or accepted architectural and engineering activities, are not incidental to such architectural and engineering activities, or have not in themselves traditionally been considered architectural and engineering services. The language contained in S. 2215 would not apply to procurements in those instances and they would not be required to be conducted under this provision. The purpose of this provision is to assure that professional services of an architectural and engineering nature and incidental services thereto, including mapping and surveying in those instances, are procured on the basis of quality. The definition of architectural and engineering services contained in S. 2215 is not an expansion of previous law, but a clarification of the definition of the term "architectural and engineering services" as it was incorporated into law by Public Law 92-582 in 1972.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill, S. 2215.

The question was taken; and (two-thirds having voted in favor thereof) the Senate amendment to the House amendments was concurred in.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR A MOTION TO TAKE H.R. 5210, OMNIBUS DRUG INITIATIVE ACT OF 1988, FROM THE SPEAKER'S TABLE AND AGREE TO SENATE AMENDMENT, WITH AN AMENDMENT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-1099) on the resolution (H. Res. 595) providing for a motion to take the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, from the Speaker's table and to agree to the Senate amendment with an amendment, which was referred to the House Calendar and ordered to be printed.

RAJANI LAL

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3917) for the relief of Rajani Lal, with a Senate amendment thereto, and concur in the Senate amendment with an amendment, and I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. WALKER. Mr. Speaker, reserving the right to object, will the gentleman explain the purpose of his request?

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I will be happy to explain to my friend, the gentleman from Pennsylvania [Mr. WALKER] that what this will do is to provide relief to a 5-year-old girl whose name is Rajani Lal, currently living in India, who will be allowed to come into the United States as an adopted child of a U.S. citizen and a permanent resident alien, and then it allows her to come in without having to spend 2 years abroad, under the current law. This has been adopted by the Committee on the Judiciary and by the House. Because of a little snag, it had to be sent back in this session, so we will give this young lady a chance to come into the United States and be reunited with her family.

Mr. WALKER. Further reserving the right to object, as I understand it, what we are doing is taking care of a snag that developed with the Senate, and this will clear the way for the bill as originally passed by the House to be approved?

Mr. MAZZOLI. Mr. Speaker, the gentleman is precisely correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Without objection, the amendments are considered as having been read.

There was no objection.

The text of the Senate amendment is as follows:

Page 2, after line 7, insert:

SEC. 2. MISCELLANEOUS PROVISIONS.

(a) TECHNICAL CORRECTIONS TO THE SPECIAL AGRICULTURAL WORKERS PROGRAM.—

(1) USE OF RETIRED FEDERAL EMPLOYEES.—Section 201(c)(2) of the Immigration Reform and Control Act of 1986 is amended in the first sentence—

(A) by striking out "18" and inserting in lieu thereof "30"; and

(B) by inserting after "this section" the following: "and with the implementation of the special agricultural worker program under section 210 of the Immigration and Nationality Act".

(2) USE OF FEES.—Section 210(b) of the Immigration and Nationality Act is amended by adding at the end thereof the following new paragraph:

"(8) USE OF APPLICATION FEES.—The Attorney General shall deposit fees collected, on or after the date of enactment of this paragraph, in connection with the filing of applications under subsection (a) in a separate account, and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.".

(b) EMERGENCY TARGETED ASSISTANCE GRANT.—Notwithstanding any other provision of law, of the funds appropriated for fiscal year 1989 pursuant to section 414(a)(1) of the Immigration and Nationality Act and made available to carry out section 412(c)(2) of such Act, not less than $1,000,000 shall be used for an emergency grant to a local educational agency to be designated by the Secretary of Health and Human Services, which shall be available for a one-year period to assist in meeting the costs of bilingual education, and the costs of other educational services needed particularly by Indochinese refugee children, which the community served by the local educational agency is unable to meet because of the sudden influx of Indochinese refugees (including secondary migration) involving an unusually large number of refugee children.

(c) REAPPROPRIATION OF FISCAL YEAR 1988 FUNDS FOR CERTAIN PUBLIC SCHOOLS.—(1)(A) From funds which were appropriated to the Department of Education for fiscal year 1988 and which were unobligated at the close of the fiscal year $1,600,000 is reappropriated and shall be available to a local educational agency to be designated by the Secretary of Education, for payment of supplementary educational services and costs described in section 607(b) of the Emergency Immigrant Education Act of 1984 that are incurred as a result of a sudden and unsolicited secondary migration of refugees.

(B) Funds reappropriated pursuant to subparagraph (A) shall remain available for obligation until September 30, 1989. No such funds shall be used to reduce any subsequent allocation of funds under the Emergency Immigrant Education Act of 1984 to such local educational agency or the State in which it is situated.

(2) Funds made available by paragraph (1) shall be awarded to such local educational agency, upon submission to and approval by the Secretary of Education of an application that describes in detail the use of the funds. The Secretary of Education shall approve the application submitted by such local educational agency, if the Secretary determines that the proposed expenditures are reasonable in light of the purposes of Emergency Immigrant Education Act of 1984.

(d) TECHNICAL CORRECTIONS TO THE IMMIGRATION TECHNICAL CORRECTIONS ACT OF 1988.—Effective as if included in the enactment of the Immigration Technical Corrections Act of 1988—

(1) section 2(n)(3) of such Act is amended by striking "and by redesignating subsection (d) as subsection (c)";

(2) section 2(r) of such Act is amended—

(A) by inserting "(1)" after ".—", and

(B) by adding at the end the following new paragraph:

"(2) Section 601(e) of IRCA is amended by striking 'thirty days' and inserting '3 months'.";

(3) section 8(d) of such Act is amended by striking "Section 4" and inserting "Section 5";

(4) section 9 of such Act is amended by adding at the end the following new subsection:

"(s) Except as otherwise provided in this section, the amendments made by this section shall be effective as if they were included in the enactment of the Immigration and Nationality Act Amendments of 1986."; and

(5) section 9(h) of such Act is amended by striking "1182" and inserting "1157(c)(1)".

The text of the House amendment to the Senate amendment is as follows:

In lieu of the matter proposed to be enacted by the Senate insert the following:

That (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Rajani Lal shall be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon the approval of a petition filed under section 204 of the Act by Sandip Lal, a citizen of the United States and Swaran Kanta Lal, a permanent resident. The petition may be filed in the United States.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of enactment of this Act.

(c) The natural parents, brothers, sisters or the beneficiary under subsection (a) shall not, by virtue of such relationship, be accorded any right, privelege, or status under the Immigration and Nationality Act.

Upon admission to the United States, Rajani Lal shall proceed to be adopted in accordance with the laws of the State of Florida.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

A motion to reconsider was laid on the table.

MICHAEL WILDING

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1919) for the relief of Michael Wilding, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 212(a)(23) of the Immigration and Nationality Act, for purposes of such Act, Michael Wilding shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act, or if applicable, the total number of immigrant visas and conditional entires which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MAZZOLI

Mr. MAZZOLI. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MAZZOLI: Strike all after the enacting clause and insert the following:

SECTION 1. TEMPORARY RESIDENT STATUS FOR BENEFICIARY AND ADJUSTMENT OF STATUS.

(a) TEMPORARY RESIDENCE.—Notwithstanding section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) or any other provision of that Act, Michael Wilding may have his status adjusted by the Attorney General to that of an alien lawfully admitted to the United States for temporary residence if—

(1) he is found to be otherwise admissible as an immigrant under the provisions of that Act; and

(2) a petition for immediate relative status is filed on his behalf with the Attorney General by United States citizen spouse of the alien within 60 days after the date of the enactment of this Act.

(b) PREVIOUSLY KNOWN GROUND FOR EXCLUSION.—The exemption under subsection (a) shall apply only to grounds for exclusion of which the Department of State or the Department of Justice had knowledge before the date of the enactment of this Act.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall, at the end of the 3-year period beginning on the date on which the beneficiary was granted lawful temporary residence status under subsection (a), adjust the status of the beneficiary to that of an alien lawfully admitted for permanent residence if—

(1) the Attorney General finds that the beneficiary has exhibited conduct during such period which demonstrates good moral character (including community ties and the performance of community service, prescribed by the Attorney General at the time of adjustment of status under subsection (a), directed toward publicizing the dangers of using controlled substances);

(2) the beneficiary establishes that he has resided continuously in the United States since the date he was granted such temporary status; and

(3) the beneficiary establishes that he—

(A) is admissible to the United States as an immigrant, and

(B) has not been convicted of any felony or three or more misdemeanors committed in the United States.

(d) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—During the period the beneficiary is in temporary status under subsection (a), the beneficiary shall not be considered to have failed to maintain continuous residence in the United States for purposes of subsection (c) by virtue of brief, casual, and innocent absences from the United States.

(e) AFFIDAVITS.—The Attorney General may require the beneficiary to submit affidavits for purposes of determinations made under subsection (c).

Mr. MAZZOLI (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Kentucky [Mr. MAZZOLI].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GILLIAN LESLEY SACKLER

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2637) for the relief of Gillian Lesley Sackler, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Gillian Lesley Sackler shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SENSE OF CONGRESS WITH RESPECT TO U.S. GOALS IN LEBANON

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the concurrent resolution (H. Con. Res. 381) expressing the sense of the Congress regarding the state of affairs in Lebanon, the necessity of resolving the constitutional crisis in Lebanon, and United States goals with respect to Lebanon.

The Clerk read as follows:

Strike out all after the resolving clause and insert: That it is the sense of the Congress that the United States should—

(1) encourage all parties in Lebanon to support the constitutional mandate to elect a new President without delay in a democratic atmosphere, free from any external influence;

(2) reinforce its commitment to national sovereignty for Lebanon; and

(3) support actions which promote the unity of Lebanon.

Amend the preamble so as to read:

Whereas until 1975, Lebanon, whose capital of Beirut was called the Paris of the Middle East, was renowned for its role as the Middle East's financial and trade center and was known as a haven for the Moslems, Christians, and Jews;

Whereas Lebanon's unique social and economic structure, in addition to the quality of life and high standards of achievement that produced what was the "Lebanese miracle", made Lebanon a model of coexistence; and

Whereas a democratic government is essential to preserving Lebanon's freedom, sovereignty, unity, and independence: Now, therefore, be it

Amend the title so as it read: "Concurrent resolution expressing the sense of the Congress regarding the state of affairs in Lebanon and urging all parties in Lebanon to work together to resolve the constitutional crisis.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 381, as amended. This resolution expresses the sense of the Congress regarding the state of affairs in Lebanon and urges all parties in Lebanon to work together to resolve the constitutional crisis.

Mr. Speaker, on October 6 the House considered and approved House Concurrent Resolution 381. That resolution was a combination of the work of three of our colleagues—the gentleman from California [Mr. DORNAN], the gentlewoman from Ohio [Ms. OAKAR], and the gentleman from West Virginia [Mr. RAHALL]. They are to be commended for their efforts and their strong commitment to this issue. The resolution before us today is a revised version of the resolution the House passed. The Senate amendments make the resolution more general in its focus, but retain the emphasis on the current constitutional crisis in Lebanon.

The United States has important interests in Lebanon, in the end of the civil war there, and in the maintenance of Lebanon's freedom, territorial integrity, and unity. This resolution speaks to each of these points.

The resolution also stresses the necessity of the early conclusion of Presidential elections in Lebanon and the resolution of the current constitutional crisis in that country. The continuation of this crisis over a period of weeks and months, and the failure to elect a new President, can only result in further damage to Lebanon and its people and to the future prospects. Ending the constitutional crisis is a high United States priority and one that is vital for our friends in Lebanon and throughout the Middle East.

Mr. Speaker, I urge passage of House Concurrent Resolution 381, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with my distinguished subcommittee chairman the gentleman from Indiana [Mr. HAMILTON], to strongly urge the passage of House Concurrent Resolution 381. This resolution, as amended by the Senate, expresses the sense of Congress regarding the state of affairs in Lebanon, the necessity of resolving the constitutional crisis in Lebanon, and the United States goals with respect to that nation.

I join my colleagues in commending the gentleman from California [Mr. DORNAN], the gentleman from West Virginia [Mr. RAHALL], and the gentlewoman from Ohio [Ms. OAKAR] for their joint efforts in crafting the final version of this resolution.

Lebanon has played a critical role in the geopolitical stability of the Middle East. The reinstitution of a democratic goverment in Lebanon is essential to the preservation of Lebanon's freedom, sovereignty, unity, and independence.

Mr. Speaker, we must encourage all parties in Lebanon to support the constitutional mandate to elect a new President so that they may once again enjoy the freedoms and responsibilities of democracy. Too many lives have already been lost in this futile conflict.

Accordingly, I join the chairman in urging passage of House Concurrent Resolution 381, as amended.

□ 1600

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL] one of the principal sponsors of the resolution.

Mr. RAHALL. I thank the subcommittee chairman for yielding.

Mr. Speaker, I certainly want to commend the distinguished chairman of the Subcommittee on the Middle East, the gentleman from Indiana [Mr. HAMILTON], and the ranking minority member, Mr. GILMAN, and my colleagues, Ms. OAKAR, Mr. DORNAN of California, one of the original cosponsors of this resolution.

To each of these individuals I say I commend them for working together and reaching common ground and bringing this resolution to the House floor today.

There is a constitutional crisis within the country of Lebanon. That is the emphasis of this resolution. It is the signal that we are trying to send, that the American Congress, the American people have not given up on the country of Lebanon. It is vital that Presidential elections be held in that country. It is vital that the territorial sovereignty of this country be recognized.

Lebanon is a friend of the United States. It is crucial that its constitutional processes be allowed to work.

While there may be other problems that need to be addressed, most paramount and urgent concern for both the country of Lebanon and this country of the United States, if we are to maintain our friendship and have an ally as Lebanon is to us in this region, the urgency of Presidential elections cannot be understated.

The other problems, as I mentioned, that need to be resolved by the Lebanese themselves in regard to power-sharing formula, reforms in their own constitution, bringing together the various factions within that country, are problems they need to address and certainly they need to bring together the various factions in that country to achieve the unity for the betterment of that country itself.

Mr. Speaker, I again salute the chairman of the subcommittee, the gentleman from Indiana [Mr. HAMILTON] and I commend the gentleman from California [Mr. DORNAN] and the gentlewoman from Ohio [Ms. OAKAR]. And in the other body Senator MITCHELL, for his cosponsorship and interest in this issue.

It is very important that this signal be sent, that we show the world that the American Government and the U.S. Congress has not given up on this ally of ours in the Middle East.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR] one of the original cosponsors of this legislation.

Ms. OAKAR. I thank the chairman for yielding this time to me.

Mr. Speaker, I want to sincerely thank the chairman of the subcommittee, and the minority leader of the subcommittee and others, the gentleman from California, [Mr. DORNAN] and certainly my good friend, the gentleman from West Virginia, [Mr. RAHALL], for this resolution because basically what the resolution purports is confidence in the country of Lebanon and the fact that this beautiful country which has been preyed upon by so many deserves to survive, for many reasons, among which is the fact that in its heyday it was recognized as one of the few democracies in the Middle East. Also as one of the areas, with its capital, as a financial center, Beirut being one of the financial centers of the world and frequently called the pearl of the Middle East.

The people in that country are suffering from many reasons including the division in the country. What the resolution suggests strongly is, without mingling into the internal affairs of that country which our country should not do, is to say that we want to see that the country once again have the dignity of the purpose that it was founded upon and have free elections and be unified, and its sovereignty deserves U.S. support.

Mr. Speaker, I rise in strong support of this resolution. I urge all my friends concerned with the future of Lebanon, and the entire Middle East, to join with us in agreeing to the Senate amendment and putting the United States on record in support of the democratic process in Lebanon.

Until 1975, Lebanon was renowned in the community of nations for its role as the financial and trade center of the Middle East. Lebanon's unique economic and social structure made it a model of coexistence in a troubled region of the world.

The democratically elected government of Lebanon was essential to fostering that tradition of peaceful prosperity. The maintenance of democratically elected government is equally essential in preserving Lebanon's freedom, sovereignty, unity, and independence today.

But in the last several weeks, our sister democracy has moved to the brink of a constitutional crisis.

The Government of Lebanon has been deadlocked for months, unable to hold elections for a new president.

The administrators providing daily fuel, water, and electricity to the Lebanese people receive contradictory orders from two contending "governments." The rivals threaten to split the Army along religious lines. Some factions are moving toward a new alliance with Iraq, plans for partition of the country into a Maronite enclave and a Moslem north are being floated, and shelling between militiamen and the Army has renewed in some sectors for the first time in 3 years.

In the last few days, we have seen the crisis escalate as the next constitutional leadership office was also vacated: The Lebanese Parliament is now unable to agree on a new Speaker. Once again each "government" has declared its own new leader.

In this atmosphere of deadlock and drawn lines, the future of Lebanon is deteriorating virtually by the hour.

Mr. Speaker, it is essential for the United States to act. We must use our influence to urge all parties in Lebanon to resolve this constitutional crisis together, quickly and peacefully.

It has long been our policy that Lebanon's unity, freedom, sovereignty, and independence must be preserved. With this concurrent resolution, we would reiterate that commitment at this critical hour.

This resolution focuses on the critical need to carry out the constitutional mandate to elect a new President in free elections by the Lebanese people, without external constraint.

I am proud to say that our resolution is supported by distinguished Members from both sides of the aisle, Members of Jewish, Christian, and Arab heritage, the bipartisan Foreign Affairs leadership here in this House, and in the Senate. We have the support of the State Department, the Lebanese Embassy, and the American Task Force on Lebanon.

All parties agree that the United States must swiftly voice our support of the constitutional democracy of Lebanon. This resolution will put the Congress on record encouraging all parties in Lebanon to support the constitutional democracy. We strengthen our commitment to national sovereignty for Lebanon, and we support actions which promote the unity of Lebanon.

That is why I introduced the original resolution emphasizing our support for Lebanon's will to carry out the elections without delay. I was proud that NICK JOE RAHALL, and Senator GEORGE MITCHELL, as the only other Lebanese-American Members of this Congress, joined with us in leading this effort. We were pleased to have the help of the gentleman from California, BOB DORNAN, who has long worked peace in this troubled region of the world. And I very much appreciate the support of the esteemed chairman of the Middle East Subcommittee, LEE HAMILTON.

The depth of our commitment to the democratic principle is manifest: within hours we had substantial bipartisan support here in the House. Members of the majority and minority of the Foreign Affairs Committee, prominent Members of Arab, Jewish, and Christian descent joined together to support our bill. And the Senate leadership—also in a bipartisan fashion—took up our language to reinforce America's national commitment to Lebanon's democratic elections.

American support for peace through democracy must not waiver. House Concurrent Resolution 381 sends a clear message that the United States remains committed to Lebanon's survival as a democratic nation.

Only by preserving a democratic government can Lebanon hope to rebuilt to prosperity. It is, therefore, essential that the United States prominently reaffirm it's commitment to a reconstruction of Lebanon that reinforces the constitutional democracy.

Mr. BROOMFIELD. Mr. Speaker, I offer my strong support for the resolution before us calling for a peaceful resolution of the tragic situation in Lebanon.

I want to commend Congressman DORNAN for this timely legislative initiative. This resolution recently passed the House. The Senate added language which improved the original version. The House authors of this bill agreed to accept the changes.

This thoughtful resolution proposes several steps that our Government should take to help bring about a peaceful solution to the turmoil in Lebanon.

Continued conflict in Lebanon threatens not only its role as a major Middle Eastern economic and cultural center, but its very existence as a sovereign nation.

The presence of foreign military and paramilitary forces in that country serves only to fan the flames of conflict and undermine the traditional democratic institutions in Lebanon.

This resolution proposes that the United States Government do all that it can to ensure that the Lebanese have the opportunity to select a new president. It also urges the United States to support the restoration of Lebanon's status as a free, sovereign and prosperous nation.

Those of us who remember Lebanon in its earlier days have fond memories of that beautiful and peaceful country. We must do everything we can to help to stabilize and strengthen modern Lebanon.

I urge my colleagues to support this commendable initiative.

Mr. DORNAN of California. Mr. Speaker, we rise today in support of my resolution, House Concurrent Resolution 381, which expresses the sense of the Congress regarding the situation in Lebanon today. I regret to say that the version of House Concurrent Resolution 381 amended by the Senate is drastically different both in terms of focus and intent from my original resolution on Lebanon. I am disappointed to learn that our colleagues on the Senate side have made it clear that our only options are to accept their version or allow the bill to expire at the end of this historic 100th Congress in 2 days.

Mr. Speaker, it is exactly this type of infighting which inhibits the United States from coming to any kind of bipartisan agreement about what our policy goals should be with respect to Lebanon. I feel that the United States has been effectively disengaged militarily and in matters of foreign assistance in Lebanon for several years now. This hijacked resolution does little to encourage any movement in these areas.

Mr. Speaker, I have been convinced, however, that House Concurrent Resolution 381 as amended by the Senate is better than no resolution at all. I am convinced that the impact of House Concurrent Resolution 381 in Lebanon will be marginally positive. For this reason only, I am disposed to support this usurped version. Yet, in agreeing to the Senate language, I would like to make it clear that I am not at all happy with the changes because they fail to even mention the most fundamental problems which confront Lebanon today.

In an effort to clarify the language I preferred to use in House Concurrent Resolution 381, I would like to submit at this point in the CONGRESSIONAL RECORD the exact language of my original resolution:

H. RES. —

Resolution expressing the sense of the House regarding United States goals with respect to Lebanon

Whereas a de facto partition of Lebanon currently exists in which multipartite occupation forces foster internal fragmentation and exploitation of religious and ethnic differences to such a degree that the complete disintegration of the state may occur;

Whereas this protracted condition of conflict within Lebanon has virtually destroyed the economy and encourages the territorial dismemberment of Lebanon by means of violent partition, annexation of large portions of that nation by other nations, or both partition and annexation;

Whereas the United Nations Interim Force in Lebanon (UNIFIL) under its current operational capability is unable to inhibit serious internal conflict and promote national reconciliation in Lebanon;

Whereas any reconciliation between Christians and Muslims in Lebanon is difficult in the current context;

Whereas the Syrian occupation in particular fosters paralysis of the Government of Lebanon and promotes divisions in the armed forces of the Government of Lebanon;

Whereas Iranian-sponsored subversion, operating through the Shiite fundamentalists in Lebanon, threatens the existence of Lebanon and further disrupts stability in the Middle East;

Whereas a centralized Lebanese Government is inhibited from functioning from any practical standpoint;

Whereas 9 American hostages still remain in captivity in Lebanon, a situation which is indicative of the inability of the Lebanese Government to control or inhibit terrorists who operate with impunity; and

Whereas Lebanon has traditionally been a pluralistic society with a western-oriented political system, displaying a moderate stance in terms of Arab politics, and continues to be an essential element in the geographical stability of the region: Now, therefore, be it

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Lebanon Reconstruction Resolution of 1988".

SEC. 2. UNITED STATES GOALS WITH RESPECT TO LEBANON.

It is the sense of the House of Representatives that the United States should—

(1) help foster presidential elections in Lebanon, to take place within the framework of national self determination and unrestricted political interaction;

(2) endorse the withdrawal of all foreign military and paramilitary forces from Lebanon;

(3) endorse restored national sovereignty for Lebanon as well as control over subversive elements which use Lebanon as a platform for radicalism;

(4) encourage the establishment and recognition of Lebanese neutrality with respect to regional conflicts as essential elements for internal harmony and regional balance;

(5) oppose any policy by any foreign power which promotes territorial annexation or de facto partition of Lebanon;

(6) assume the role of a diplomatic broker helping Lebanon recover its position as an integral element in the geographical equilibrium of the region;

(7) encourage a major expansion of the mandate and operational capability of the United Nations Interim Force in Lebanon in order to promote national reconciliation and to ensure the rebuilding of viable national governmental institutions;

(8) encourage a reorganization of the relationship between Syria and Lebanon that would foster mutual sovereignty, self determination, and mutual respect, which are necessary conditions for any normalization of relations between the two countries;

(9) assist a political and economic reconstruction of Lebanon that reinforces the current constitutional democracy and prevents any form of hegemony, cultural annihilation, or exclusive control of power; and

(10) commit itself to an overall assistance program that enables Lebanon to recover its economic expansion and address the major social problems stemming from massive displacement, destruction, rampant poverty, and all the consequences of a protracted conflict, following significant progress toward constitutional reform and national reconciliation.

I believe that my original resolution was much more comprehensive in its approach to Lebanon's problems, but it is hard to imagine the opposition I ran up against in mentioning Syrian manipulation of events in Lebanon. I would ask my colleagues; how can we ever agree on policy options for the United States in Lebanon if we are afraid to speak about the reality confronting Lebanon today? Why should we be afraid to mention publically the presence of Syrian occupation forces? Are we afraid that the Syrians will become any less cooperative than they already are? Why should we soft-pedal our approach to a nation like Syria which condones, manages, and promotes state-sponsored terrorism?

And why not mention the prolonged captivity of nine American hostages? I was told my hostage language was too negative. Can you imagine? Why should we omit the recognition of the presence of Hezbollah terrorists who use Lebanon as a platform for destabilization in the Middle East?

In fact yesterday, a suicide car bomb killed 7 Israelis in southern Lebanon—an act for which the military wing of Hezbollah, the pro-Iranian Party of God, claims credit. The bomb was apparently detonated about 700 yards from a border crossing, which Israel created in 1976 to provide medical assistance to refugees crossing the border. Tragedies like this occur so frequently in Lebanon today that I am baffled by those in Congress who fear that we might say something negative about the situation.

Finally, my colleagues, I would like to express my disappointment with the manner in which our State Department handled the Lebanese Presidential elections in late September this year. I would like to submit at this point in the CONGRESSIONAL RECORD a comprehensive overview of how the current electoral crisis in Lebanon developed and was exacerbated by poor United States diplomacy:

UNITED STATES INVOLVEMENT IN LEBANESE PRESIDENTIAL ELECTIONS

For the last several months, the U.S. government has taken an earnest and well-intentioned interest in trying to facilitate and ensure the holding of elections in Lebanon in accordance with the constitutionally prescribed schedule. This effort has involved both the provision of American good offices to carry messages back and forth between Damascus and Beirut and, at times, the development of American ideas to break impasses.

The most recent U.S. initiative was truly an eleventh-hour effort—an ill-advised and poorly conceived trip by Assistant Secretary of State Richard Murphy and some of his staff. Even though the issue was the Lebanese election, Washington did not fully inform or consult with the concerned parties in Lebanon in advance, and the team went directly to Damascus without first visiting Beirut. There were two principal issues at stake—the Syrian role in the elections and the venue of those elections. Earlier, the Syrians, by insisting on a candidate they knew could not be elected (Franjieh), and by compelling the Moslems under their control to vote for Franjieh (even through he is the antithesis of the "reform" candidate on which they insisted), had in effect prevented the holding of the elections up to the Murphy trip. Prior to the Murphy trip the Speaker of the Lebanese Parliament, clearly responding to Syrian pressure, had determined that the election would be held at the Place de l'Etoile, beyond the Green Line in West Beirut, in lieu of the Villa Mansour on the Green Line where deputies from both sides could safely travel. Because the Villa Mansour was secure for all it had been used for all such purposes for some time. This new decision was a second major impediment to the holding of an election.

In Damascus, the U.S. team faced a solid wall of intransigence. For days the Syrians would budge neither from Franjieh nor from Etoile. Finally, at the last possible moment, they agreed to accept Mikhail Daher, but would not relent on Etoile. The American team felt it had secured the best terms possible, and left Damascus to announce the Syrian position in Beirut. There, however, they left the impression that it was Daher at Etoile or it was no election which meant partition. This impression was precisely what Damascus had sought. More shocking, the U.S. charge insisted that if the Lebanese Christians and others residing in the free area did not vote for Daher at Etoile they would in effect have voted for "dividing the country" and therefore must accept responsibility for whatever might follow.

The U.S. position is incorrect in every sense—morally, politically, logically. The United States is not uninformed about Lebanon. The Syrians supported Franjieh, and therefore the Moslems supported Franjieh even though he is against the reforms they want. As the Syrians themselves indicated, if they asked Franjieh to withdraw he would and in any case the Moslems would not vote for him. When Damascus decides to switch, they know they can force the captive Moslem population of Lebanon to switch. Is it surprising that the Lebanese Christians objected to having their president chosen in Damascus? Even in the worst of circumstances in past elections, the final choice was made in Beirut and the outcome was never certain until the votes were counted. Is the United States comfortable with taking responsibility for determining who Lebanon's president should be hand in hand with a Syrian regime whose bloodletting in Lebanon is only surpassed by its record of internal murder and oppression?

Are we responsible for blocking the election or for endangering the unity of Lebanon? The Lebanese Christian leaders of different groups avoided as long as possible naming any single candidate in the sincere hope that some kind of national consensus would emerge behind one. After much insistence—including from Washington—a long list was developed of seven candidates who would be acceptable to the principal groups. This list was subsequently shortened to include only three primary candidates, but the other four remained acceptable. In any event leaving aside candidates commonly called in Lebanon the "defiance candidates" (notably Sleiman Franjieh), there was a broad spectrum of moderates with good ties to the various Moslem communities and of whom would have been acceptable. By contrast, the Syrians have consistently insisted on a candidate of defiance. Who is blocking elections?

Yet, the Christians may have voted for Daher, who knows? One thing was certain; those members of parliament resident in the free area were not prepared to cross over to Etoile to cast such a vote. One week before the election one Christian member of parliament was abducted, taken to West Beirut and Damascus. He was held against his will. To demand that the deputies subject themselves to this kind of intimidation is surely indefensible, yet that was precisely the essence of the American position.

Undertaken with the noblest and most altruistic of intentions, U.S. policy toward Lebanon misfired.

By presenting joint Syrian-U.S. agreement on, and endorsing the election of, Daher, the United States interfered in the most sensitive possible area of Lebanese politics. The Lebanese welcomed American help to secure *elections*, but *never* to secure the elections of *any* single candidate, and certainly not Syria's candidate.

In endorsing Daher and indicating that failure to elect him would result in the end of Lebanese legality, the United States advanced what was virtually a self-fulfilling prophesy. Because the United States said failure to elect the Syrian-U.S. candidate would end Lebanese legality and partition the country many Lebanese saw the nonelection of Daher in precisely this light, and some fighting immediately broke out. Worse, others who wished to undercut the unity and sovereignty of the country felt perfectly justified in threatening to create a government completely outside the constitution. Yet, President Gemayel, after waiting as long as possible in the hope that a successor would be elected, duly appointed a transitional government as he is constitutionally required to do. This government is the legal and legitimate government of Lebanon, operating under precisely the same authority as previous transitional governments (1952, 1976) have had.

The transitional government, in addition to its legality, defuses a dangerous situation by providing as much time as necessary for elections to take place and a successor to President Gemayel to be duly elected in accordance with constitutional processes. President Gemayel named Army Commander General Michel Aoun, widely respected by large segments of the Moslem community, to head this government. (Indeed, as recently as mid-August, many Moslem leaders of West Beirut were arguing in favor of General Aoun's election as president.) Incredibly, U.S. diplomats in Beirut threatened that they would not recognize or treat with this duly appointed government and would not view it as the legal government of Lebanon. This position is utterly incomprehensible: does the State Department purport to overrule the Lebanese constitution on a matter of Lebanese law?

Stranger yet, the same U.S. diplomats indicated at the time they might continue to view the al-Hoss government as the only legal government in Lebanon. Mr. al-Hoss refused to be invested as prime minister in the first place, and has been operating in a position of quasi-legality at best, a position considered by all Lebanese to be preferable to the abscence of any functioning government. We understand the very difficult time Mr. al-Hoss has had, and we respect his efforts to provide some semblance of government processes for Lebanon while forced by the Syrians not to accept any formal prime ministership. But how can the United States even consider treating al-Hoss as a government under the new circumstances? The prime minister is named by the president, he cannot name himself. The president under the constitution has the sole power to name and dismiss prime ministers. He dismissed the government of Mr. al-Hoss and named a new prime minister-General Aoun. By any reading of the Lebanese constitution Mr. al-Hoss, who never claimed to be more than an "acting" prime minister of a government now dismissed in complete legality, can certainly not form a government.

Finally, how can the United States, for whom kidnapping and West Beirut became so synonymous that all Americans were ordered from there and that extraordinary government efforts have been spent trying to liberate Americans *still* held hostage there, how can this United States fail to understand and accept the fears of the Christian and Moslem deputies residing in the free area about travel to West Beirut to vote? The Villa Mansour, on the Green Line, has been used for years precisely to avoid this problem. The Syrians knew those from the free area would never agree to cross into West Beirut to vote, and one must surely wonder how the United States could accept a demand that guaranteed the refusal of free Lebanese deputies to attend the parliamentary session.

What should the United States do? It is clear that the United States continues to seek, as all Lebanese seek, the preservation of the unity of Lebanon and the maintenance of a great degree of order, stability, and civility there. It is clear that the United States, like the vast majority of Lebanese, believe political and other reform is essential to restoring Lebanon's vitality and viability. It is clear that the United States also believes that these reforms must take place as a result of dialogue among all the communities and power centers in Lebanon, but that it is imperative to preserve the state through the implementation of constitutional processes in order to ensure the context for that dialogue.

It is critical that Washington repair the damage that has been done. The Lebanese remain determined to elect a new president to succeed Amine Gemayel. They have gone beyond the period of Gemayel's mandate, but that possibility is adequately dealt with under the precedents established in Lebanese constitutional law, namely the appointment of a transitional government that will continue to administer the country pending selection of a new president. The United States should recognize that there has been no "lapse" of constitutionality, that the transitional government was appointed pursuant to the constitution, that it is a perfectly lawful government, and that it offers the best opportunity to provide the continuity necessary to ensure the legitimacy—and the order and stability—all Lebanese and Americans seek.

The United States should support the holding of the elections in a neutral location that will allow free and safe access by all deputies in order that they may express their support for the candidates of their choice and return in security to their residences. Surely, this is an essential and inherent ingredient in American support for Lebanese legality, since without it there simply cannot be elections. No one—at least in the free area—can in good conscience question the judgment of any deputy who refuses to attend a parliamentary session at which he faces the very real chance of being abducted or worse.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and concur in the Senate amendments to the concurrent resolution, House Concurrent Resolution 381.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 381 and the Senate amendments just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

INTERNATIONAL PEACEKEEPING ACTIVITIES AUTHORIZATION ACT OF 1988

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5551) to authorize the transfer of certain funds for use for United States contributions to new international peacekeeping activities.

The Clerk read as follows:

H.R. 5551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Peacekeeping Activities Authorization Act of 1988".

SEC. 2. AUTHORITY TO TRANSFER FUNDS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.

In order to meet urgent requests that may arise during fiscal year 1989 for contributions and other assistance for new international peacekeeping activities (such as those in Afghanistan, Iran and Iraq, and potentially in Angola and/or Namibia, Cambodia, and the Western Sahara), the President may transfer during fiscal year 1989 such of the funds described in section 3(a) as the President deems necessary, but not to exceed $150,000,000, to the "CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES" account or the "PEACEKEEPING OPERATIONS" account administered by the Department of State.

SEC. 3. SOURCES OF FUNDS.

(a) IN GENERAL.—The funds that may be transferred under the authority of this Act for use in accordance with section 2 are—

(1) any funds available to the Department of Defense during fiscal year 1989, other than funds appropriated by the Department of Defense Appropriations Act, 1989 (Public Law 100-463); and

(2) any funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461) for the "MILITARY ASSISTANCE" account, for the "INTERNATIONAL MILITARY EDUCATION AND TRAINING" account, or for grants under the "FOREIGN MILITARY FINANCING PROGRAM" account.

(b) RELATIONSHIP TO CERTAIN OTHER PROVISIONS.—(1) Funds described in subsection (a)(2) may be transferred and used for contributions or other assistance for new international peacekeeping activities in accordance with section 2 of this Act notwithstanding section 514 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts.

(2) The percentage limitations on transfers between accounts that are contained in section 610(a) of the Foreign Assistance Act of 1961, and the limitations that are contained in section 552(c)(1) of that Act, do

not apply with respect to the transfers authorized by section 2 of this Act.

SEC. 4. AUTHORIZATION REQUIREMENTS.

For purposes of section 15(a) of the State Department Basic Authorities Act of 1956 and section 10 of Public Law 91-672, funds transferred pursuant to section 2 of this Act shall be deemed to be authorized to be appropriated for the account into which they are transferred.

SEC. 5. CONGRESSIONAL REVIEW PROCEDURES.

(a) REVIEW OF PROPOSED TRANSFERS.—Any transfer of funds pursuant to section 2 shall be subject to the regular reprogramming procedures of the following committees:

(1) The Committee on Appropriations of each House of Congress.

(2) The Committee on Armed Services of each House of Congress if funds described in paragraph (1) of section 3(a) are to be transferred.

(3) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate if funds described in paragraph (2) of section 3(a) are to be transferred.

(b) REVIEW OF PROPOSED OBLIGATIONS.—The regular reprogramming procedures of the following committees shall apply with respect to the obligation of any funds transferred pursuant to section 2:

(1) Committee on Appropriations of each House of Congress.

(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5551, the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 5551, to authorize the transfer of certain funds for use for United States contributions to new international peacekeeping activities.

This legislation is the product of extensive discussions and negotiations between the Committee on Foreign Affairs, the Committee on Appropriations and all of the relevant appropriations subcommittees, and the executive branch, which initially requested the transfer authority. I would like to thank and commend my colleagues on the Foreign Affairs Committee, Mr. BROOMFIELD, Mr. YATRON, and Mr. MICA, the chairmen and ranking members of the Appropriations Committee and its relevant subcommittees, Mr. WHITTEN, Mr. CONTE, Mr. SMITH, Mr. ROGERS, Mr. CHAPPELL, Mr. MCDADE, Mr. OBEY, and Mr. EDWARDS, and the chairman and ranking member of the Committee on Armed Services, Mr. ASPIN and Mr. DICKINSON, for their hard work and cooperation in bringing this important initiative before the House.

H.R. 551 authorizes the transfer of up to $150 million from prior year Department of Defense authorizations and certain foreign security assistance appropriations accounts in order to meet requests that may arise during fiscal year 1989 for contributions and other assistance for new international peacekeeping activities. I would like to stress that this legislation contains no new appropriations and, according to the Office of Management and Budget, is consistent with the bipartisan budget agreement. In addition, any transfer or obligation of funds made pursuant to this legislation would be subject to the regular reprogramming notification procedures of the Foreign Affairs, Appropriations, and Armed Services Committees of both bodies.

I reiterate that the purpose of this transfer authority is to give the President the flexibility between now and the convening of the next Congress to meet new United Nations peacekeeping obligations. These funds are not intended and will not be used for any existing peacekeeping operations.

Mr. Speaker, as my colleagues are aware, the United Nations peacekeeping forces have recently been awarded the Nobel Peace Prize. The United States, under the initial leadership of Ralph Bunche and from the beginning of the United Nations organization, has been the leading force behind the role that multilateral peacekeeping forces can play in conflict situations. Even countries like the Soviet Union that had previously been opposed to the idea of such forces, have come to value their contributions to restoring peace to troubled areas and are playing a much more active role in the operations of these forces. For the United States to abdicate its leadership role in this period of increasing interest and cooperation in resolving regional conflicts would be contrary to U.S. national security interests.

Mr. Speaker, I urge the unanimous adoption of this vitally important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend our distinguished Foreign Affairs Committee chairman, the gentleman from Florida [Mr. FASCELL], for bringing this measure to the floor at this time.

As the Reagan-Bush administration nears the end of its term in office, our country's traditional role as international peacemaker has been firmly reestablished.

The Soviets are gradually withdrawing from Afghanistan, due in no small measure to our consistent support for the Afghan freedom fighters. The people of Afghanistan are winning their freedom and we should be proud of the key role we have played in their struggle.

Iran and Iraq have accepted a U.N. sponsored cease-fire and negotiations are underway to end the costly war between those two countries. Persistent United States efforts in the U.N. and our determination to keep the Persian Gulf open to commercial navigation—in spite of the war—have contributed immeasurably to achieving an end to the conflict.

In Southern Africa, United States mediated negotiations are poised to achieve independence for Namibia and the withdrawal of all Cuban troops from Angola. Persistent United States led diplomatic efforts are reaping a harvest of results.

And in the Western Sahara, an agreement has been reached, paving the way for a referendum on the future of that territory.

On September 27, the administration indicated that as many of these initiatives reach fruition, international peacekeeping costs will, as a consequence, rise. As a result, the President has requested authority to transfer up to $150 million from funds already appropriated to pay for peacekeeping transition costs.

The bill before us has the support of the administration and would not result in any new appropriation of funds. It would authorize the transfer of up to $150 million from previously appropriated funds potentially drawn from foreign military assistance accounts, and unobligated balances of prior year funds appropriated to the Department of Defense. Regular congressional notification procedures would be required.

It is not perfectly clear today whether some or all of this authority will be needed. But I believe that the House should support the President's efforts to ensure that we support the international peacekeeping efforts that are in large measure the result of our very successful foreign policy.

I urge the adoption of this measure.

Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Indiana [Mr. BURTON] another member of our committee.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, the peacekeeping forces of the United Nations perform an important function in this world. Though they cannot often bring peace, they may ratify the existence of peace, or help to keep a fragile peace from unravelling.

My concern is that the money transferred under this bill be used to implement an agreement that will bring peace to Angola, not more war.

For 7 years, the Reagan administration has been seeking an agreement in southern Africa. The deal is simple: over 50,000 Cuban troops leave Angola in exchange for South Africa ending its occupation of Namibia. After South Africa leaves, free elections are to be held in Namibia, ending all vestiges of apartheid in that country.

Let the intent of Congress be clear: our pursuit of democracy and freedom for Namibia must not be at the expense of these same goals in Angola.

The problem with this agreement right now is that it's not symmetrical. It provides for free elections and independence in Namibia, but not in Angola. Worse, it would leave 20 to 40,000 Cubans in Angola after South Africa is permanently out of Namibia.

While the agreement would provide for all the Cubans to leave, nothing would prevent the Cubans from changing their mind in the middle, just as the Soviets have threatened in Afghanistan.

In August, Soviet Foreign Minister Shevardnaze declared that the United States and Pakistan were violating the agreement by aiding the Afghan freedom fighters, and that the Soviet Union would not complete its withdrawal until aid to the freedom fighters stopped.

Nothing would stop Cuba from doing the same thing in Angola. The only way to ensure that this agreement does not allow continuing bloodshed in Angola is to set a date for free elections there now, before the agreement on Angola and Namibia is signed.

In this vein, I fully support Chairman FASCELL and my ranking member, BILL BROOMFIELD in their letter to Secretary Shultz stating, "Any use of these authorized funds to support a process which does not include a total Cuban troop withdrawal and reconciliation leading to free and fair elections in Angola would, in our view, be directly contrary to the intent of this legislation."

My only difference with the chairman is that I would rather have this language in the bill, not just in a letter.

Mr. Crocker has brought the United States to the brink of a great diplomatic victory in Angola. A few months ago no one would have believed that South Africa would really leave Namibia and that the Cubans would really agree to leave Angola. Now we have the opportunity to use this mutual desire for agreement as leverage to obtain real national reconciliation and free elections in Angola.

I repeat, the time for the MPLA and UNITA to set a date for free elections is now, before the Angola/Namibia agreement is signed. Unless we achieve national reconciliation in Angola now, the MPLA Communists will start planning a summer 1989 offensive, which may include thousands of Cubans, against UNITA the day after they sign an agreement. Its that simple.

The time to end the war in Angola is now. The Congress can help by sending the strongest possible signal that there will be no funds for elections in Namibia until elections are guaranteed in Angola.

I am greatly encouraged that there is a strong, bipartisan agreement, including the chairman and ranking member, of this committee, on this point.

I am inserting the letter from Mr. FASCELL and Mr. BROOMFIELD and other similar letters into the RECORD.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, October 13, 1988.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Department of State, Washington, DC.

DEAR MR. SECRETARY: We are writing to you to make you aware of our concern regarding transfer authority for international peacekeeping activities. As you know, this authority was requested by the President and draft legislation was approved by the Committee on Foreign Affairs on October 6, 1988. We are hopeful that such legislation can be passed by the House and sent to the Senate before the Congress adjourns.

You should be aware, however, that our willingness to approve this legislation is based on an expectation that the funds would be utilized only to implement settlements which would be fully in the interests of the United States. President Reagan has made it very clear, with repeated support from Congress, that any settlement in the southern African region should include a verifiable withdrawal of all Cuban troops and military advisors from Angola and, simultaneously, a process of national reconciliation among the parties in Angola. The process should set a date for early, free and fair elections.

Any use of these authorized funds to support a process which does not include a total Cuban troop withdrawal and reconciliation leading to free and fair elections in Angola would, in our view, be directly contrary to the intent of this legislation.

Therefore, we specifically request that the Administration consult directly with the Congress prior to the formal reprogramming notification period before seeking to transer any funds for peacekeeping in Southern Africa. Thank you for your consideration of this request.

With best wishes, we are
Sincerely yours,

DANTE B. FASCELL,
Chairman.
WILLIAM S. BROOMFIELD,
Ranking Minority Member.

PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, October 12, 1988.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to highlight our grave concerns over developments in Southern Africa. The current drive to begin implementation of United Nations Resolution 435 on 1 November should not be permitted to overshadow the critical goal of assuring that the Angolan Government begins reconciliation talks with the National Union for the Total Independence of Angola (UNITA) and its President, Dr. Jonas Savimoi. The United States has unique leverage to pry open the door for UNITA to play a role in the Angolan Government, illegally denied to it by the MPLA in 1975. Disturbingly, an American official is quoted in the 11 October edition of the New York Times as stating that "[N]ational reconciliation in Angola becomes inevitable once we have a timetable" for withdrawal of Cuban troops. At best, this is dangerously naive. At present, the Cubans will remain in Angola at least six months and possibly a year longer after the South Africans have totally withdrawn from Namibia. During this period, UNITA risks a major joint Cuban/Angolan offensive if its interests are not assured and protected now, before any comprehensive agreement is signed.

Ultimately, there can not be a lasting peace in Angola and Namibia without free elections in Angola and the participation of UNITA in a government of national reconciliation. As obvious as this fact is, Angolan President Dos Santos and his party, the Popular Movement for the Liberation of Angola (MPLA), have refused to negotiate with Dr. Savimoi. As recently as last week, in an interview given to the New York Times, President Dos Santos rejected talks with UNITA, and specifically said that no clemency would be granted Dr. Savimoi.

Since the repeal of the Clark Amendment, the United States has made enormous strides in southern Africa to correct the perception that we are not an ally who can be trusted. African governments are now privately pressuring Dos Santos to talk with Dr. Savimoi. Once again, however, they are becoming genuinely concerned that the Americans will abandon them, leaving them exposed as we did in 1975. A strong statement from you will reassure them of your continued commitment to national reconciliation and free elections, without which there can be no end to the conflict in Angola.

The time to act is now. We cannot miss the opportunity to force MPLA to negotiate with UNITA. Despite what President Dos Santos says publicly about the weakness of UNITA, his government is beleaguered and needs an end to the war. Yet the war will not end without meeting the legitimate aspirations of UNITA, which reflect those of the Angolan people as a whole. We can, as honest brokers, promote an end to the war, facilitate a regional settlement that protects UNITA's interests, and most importantly, foster the birth of democracy in Angola.

We urge you to steady our African friends by an open statement of support for them; to reaffirm the Administration's commitment to free elections and national reconciliation; and to restate authoritatively that no peace is possible nor should an agreement be signed without a simultaneous resolution of the internal political situation in Angola. In pursuing these steps you bring southern Africa much closer to lasting peace and reaffirm our country's often stated position of support for democracy and freedom throughout the world.

Sincerely,

Henry J. Hyde, Ranking Republican Member; Joe Skeen, Gerald B. Solemon, Dan Burton, Robert S. Walker, Bill Archer, Jon L. Kyl, Carlos Moorhead, Jack Kemp, John R. Kasich, Bob McEwen, Mickey Edwards, Michael G. Oxley.

U.S. SENATE,
Washington, DC, October 17, 1988.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In your Administration, the United States has stood unequivocally on the side of Freedom Fighters around the globe. As a result, the frontiers of freedom have been expanded; the prospects for freedom have never been brighter.

One of the most important remaining challenges is to insure that freedom wins in Angola. The Administration's effort to foster a negotiated settlement in southern Africa is commendable. Considerable progress has been achieved. But unless the on-going talks yield national reconciliation and democracy in Angola, there will be no permanent peace in southern Africa, nor can we be certain that long-term American national security interests in that region will be advanced.

I am particularly concerned by recent statements of the Marxist MPLA leadership, suggesting it sees the on-going talks as part of a broader strategy to crush the UNITA Freedom Fighters. Rather than negotiating with UNITA, the MPLA and its Cuban allies may plan new attacks against UNITA after U.N. forces move into Namibia. We cannot leave the Freedom Fighters vulnerable to such attacks. On the contrary, in the talks we should insist that the withdrawal of Cuban troops be synchronized with the process of national reconciliation in Angola; demand binding assurances that, as withdrawals occur, residual Cuban forces not be used to conduct, or facilitate, new attacks against UNITA; and reserve the right to maintain whatever level of assistance to UNITA we deem necessary, to keep the pressure on for an acceptable political settlement.

Mr. President, your Administration will leave a remarkable legacy of achievement in advancing peace and freedom. If in the negotiations on southern Africa we stick to the principles which you have espoused throughout your Administration, that legacy can also include the restoration of freedom in Angola.

Sincerely yours,

BOB DOLE,
U.S. Senate.

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Mr. GILMAN. Mr. Speaker, I thank the gentleman from Indiana [Mr. BURTON] for his very poignant remarks.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, this bill provides funds for United States support of U.N. peacekeeping operations in two long-term crisis areas of Africa: Namibia/Angola and the Western Sahara. Recent progress in, respectively, United States and United Nation-led negotiations has provided new hope for peaceful, political solutions to these terrible wars.

The bill, which was approved by voice vote of the Foreign Affairs Committee, contains no language conditioning funds on specific substantive details of the anticipated international agreements. This reflects Congress's unwillingness to interfere with executive-led negotiations that have long been in process and that promise to achieve bipartisan United States policy goals: The independence of Namibia, the withdrawal of Cuban military forces from Angola, and self-determination for the people of the Western Sahara.

While encouraging national reconciliation in Angola, the administration has pursued this on a separate track during the negotiations, so as not to jeopardize the more fundamental interests of removing the Cubans from Angola and ending South Africa's illegal occupation of Namibia.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. WOLPE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I want to thank the distinguished gentleman from Michigan [Mr. WOLPE], and I want to make sure I understand what is happening.

When I was in school back in 1958, we were working on trying to free Namibia, which was then called Southwest Africa, but I want to make sure that this does not couple Namibia.

What we are trying to say is that Namibia's independence should not be hinged to something else. They have been trying for so long to become independent, and what we are saying is this is for peacekeeping forces, and we are not doing linkage, but we are just trying to bring some kind of independent recognition, negotiations, peace, something to the region, and the administration has been doing very well on this.

Mr. Speaker, I heard the prior speaker, and I just want to make sure that there is not any linkage in there.

Mr. WOLPE. Mr. Speaker, if I may reclaim my time, there is linkage in the one sense; that is, the two questions of Cuban troop removal and the question of Namibian independence are part of these negotiations, and while I myself would have argued a long time in the past that linkage had made more difficult the process of negotiations, that is the current diplomatic reality.

What I do not want to see happen now is to add additional elements of linkage that I think could seriously compromise the diplomatic process for us to be concerned in intimate detail in the issue of how the reconciliation in Angola goes forward I do not think should be part of that formal diplomatic process, and that is the point I think should not be part of the linkage.

Mrs. SCHROEDER. Mr. Speaker, If the gentleman will yield again, I am pleased to hear his answwer because I think Namibia has been free standing for a long time in its own problems, and I would hate to see the United States Congress add any more conditions to it being able to get its independence or anyone else in the region being able to work out their problems. They should be free standing as much as possible.

Mr. Speaker, I appreciate the reassurance of the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I thank the gentlewoman from Colorado [Mrs. SCHROEDER] for her observation.

Mr. Speaker, in reality, only after external military forces have been removed from Angola will the MPLA Government and the UNITA insurgents truly confront one another as indigenous Angolans with significant constituencies who need to deal pragmatically with one another. A regional settlement along the lines currently envisioned will provide Angola with security guarantees vis a vis South Africa without leaving UNITA vulnerable to a crushing military campaign. The United States would then be in a far better position than it is now to use its diplomatic and economic leverage, along with its European allies, African friends, and hopefully the Soviets, to encourage the Angolan Government and UNITA to forge a generous national reconciliation.

NAMIBIA

As we consider this legislation to authorize peacekeeping efforts in the southern Africa region, we must be mindful that the question of Namibian independence remains paramount. For over 10 years, the United States has participated in efforts to resolve the issue of Namibia's independence and it is my hope that the United States will continue to play a significant role in ensuring that the transitional process will be free and fair.

U.N. Security Council Resolution 435, which embodies the comprehensive settlement plan for Namibian independence, is a critical vehicle for ensuring that the transitional process complies with the needs and aspirations of the Namibian people.

In light of the reported progress of the current southern Africa negotiations, I recently requested the administration to provide to the Subcommittee on Africa its response to a number of questions on U.N. Resolution 435. I will provide for the record the responses to my inquiry, and a copy of

U.N. Security Council Document S/15287, referred to in the response.

Q. (1) Recognizing that United Nations Resolutlion 435 was adopted by the UN Security Council over 10 years ago, can you provide for the Committee the Administration's thinking on:

(a) How the provisions of UN Resolution 435 will be applied to the military and paramilitary forces that have been created in Namibia since 435 was initially adopted, specifically, the South West Africa Territorial Force (SWATF), the Koevoet and others. Resolution 435 provides for a phased withdrawal of SA military forces and that the police will continue to be responsible for maintenance of order. How will the Koevoet and the SWATF fit into this question?

A. 1.a. As you note in your question, Resolution 435 provides for the "demobilization of the citizen forces, commandos, and ethnic forces, and the dismantling of their command structures." It is our understanding that under this provision UNTAG will monitor the demobilization of SWATF and the dismantling of its command structure. The Koevoet is considered to be part of the SWA police, whose "good conduct" and "suitability for continued employment during the transition period" will be ensured by the Administrator General "to the satisfaction of the United Nations Special Representative."

Q. (b) How the franchise will be applied to those persons born in Walvis Bay, whether they are currently in residence in Walvis Bay or in other parts of Namibia. Do we expect that they will be allowed to vote since the UN Resolution provides that all adult Namibians have the right to vote?

A 1.b. With reference to the question of franchise for persons born in Walvis Bay, I call your attention to the July 27, 1978 statement by Secretary of State Vance on behalf of the Western Contact Group, in which he quoted an earlier statement by a Contact Group spokesman as follows: "We have obtained assurances [from South Africa] that . . . Namibians in Walvis Bay will be able to participate in the political life of the territory during the transitional period, including voting in the elections." Precisely who will be able to vote will probably hinge on how the definition of a "Namibian" is ultimately arrived at with respect to such person, i.e., whether persons born in Walvis Bay are in fact legally deemed to be Namibians or may choose to be so deemed.

Q. (c) Registration procedures for migratory workers who must return to their home districts to register and to vote. Do we expect that adequate means to facilitate such return will be provided?

A 1.c. Voter registration for migratory workers is another unresolved issue. It is the responsibility of the Special Representative to hold free and fair elections in Namibia. This means that the SR will have to ensure that practical and legal requirements for full participation are met. The specifics of how migratory workers will be registered remains to be worked out. To our knowledge, it has not been determined that such workers "must" return to their home districts to vote.

Q. (2) There have been a number of official and unofficial documents at the UN, as well as press reports on agreements and understandings made since 435 was ratified in 1978. Some of the known agreements are a) The Bill of Rights and Constitutional principles; b) a ⅔ vote for constitutional ratification by the Constituent Assembly; c) the composition of UNTAG; and d) actions by the UN to demonstrate its impartiality. Can you please provide us with the texts of these aforementioned agreements and any others that have been negotiated by the Western Contact Group or U.S. since UN Resolution 435? Can you provide us with the status of these understandings? Are they binding on the parties, including SWAPO, and are they considered to be binding with respect to how the UN Special Respresentative and the South Africa Administrator General in Namibia implement UN Resolution 435? Do you expect that these agreements will be endorsed or ratified by the UN Security Council prior to implementation.

A. 2. Of the four "agreements" that you cite, the first, dealing with constitutional principles, and the seocnd, requiring a two-thirds vote for constitutional ratification, were contained in a letter from the Western Contact Group to the Security Council dated July 12, 1982, in which they stated that "all Parties to the negotiations now accept these principles." The plans for the composition of UNTAG that were first formulated in 1982 are now being reviewed in light of current conditions. Before UNTAG can be formally constituted and deployed, the Security Council will have to adopt an enabling resolution. The composition of UNTAG will be ratified at that time. With respect to the United Nations' impartiality, the South African government has indicated that it has accepted the UN's assurances in this regard.

Q. (3) UN Res 435 does not address the question of access to the country during the transitional process by the press or international monitoring bodies, including the Congress. What is the administration's thinking on this matter.

A. 3. It is our understanding that the question of access to Namibia during the transition period for the purpose of observing and monitoring implementation will be within the purview of the UN Special Representative.

SECURITY COUNCIL OFFICIAL RECORDS

DOCUMENT S/15287

Letter dated 12 July 1982 from the representatives of Canada, France, Germany, Federal Republic of, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the Secretary-General [Original: English, 12 July 1982]

On instructions from our governments we have the honour to transmit to you the text of Principles concerning the Constituent Assembly and the Constitution for an independent Namibia put forward by our Governments to the parties concerned in the negotiations for the implementation of the proposal for a settlement of the Namibian situation [*S/12636*] in accordance with Security Council resolution 435 (1978).

We have pleasure in informing you that all parties to the negotiation now accept these Principles. Our Governments believe that a decision on the method to be employed to elect the Constituent Assembly should be made in accordance with the provision of Council resolution 435 (1978). All parties are agreed that this issue must be settled in accordance with the terms of resolution 435 (1978) and that the issue must not cause delay in the implementation of that resolution. In this regard, our Governments are in consultation with all parties.

We have the honour to request that this letter and the Principles be circulated as a document of the Security Council.

(Signed) GÉRARD PELLETIER,
Permanent Representative of Canada to the United Nations.

(Signed) LUC DE LABARRE DE NANTEUIL,
Permanent Representative of France to the United Nations.

(Signed) ERNST-JOERG VON STUDNITZ,
Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Germany to the United Nations.

(Signed) HAMILTON WHYTE,
Chargé d'affaires a.i. of the Permanent Mission of the United States of America to the United Nations.

(Signed) WILLIAM C. SHERMAN,
Chargé d'affairs a.i. of the Permanent Mission of the United States of America to the United Nations.

ANNEX

Principles concerning the Constituent Assembly and the Constitution for an independent Namibia

A. Constituent Assembly

1. In accordance with United Nations Security Council resolution 435 (1978), elections will be held to select a Constituent Assembly which will adopt a Constitution for an independent Namibia. The Constitution will determine the organization and powers of all levels of government.

—Every adult Namibian will be eligible, without discrimination or fear of intimidation from any source, to vote, campaign and stand for election to the Constituent Assembly.

—Voting will be by secret ballot, with provisions made for those who cannot read or write.

—The date for the beginning of the electoral campaign, the date of elections, the electoral system, the preparation of voters rolls and other aspects of electoral procedures will be promptly decided upon so as to give all political parties and interested persons, without regard to their political views, a full and fair opportunity to organize and participate in the electoral process.

—Full freedom of speech, assembly, movement and press shall be guaranteed.

—The electoral system will seek to ensure fair representation in the Constituent Assembly to different political parties which gain substantial support in the elections.

2. The Constituent Assembly will formulate the Constitution for an independent Namibia in accordance with the principles in part B below and will adopt the Constitution as a whole by a two-thirds majority of its total membership.

B. Principles for a Constitution for an Independent Namibia

1. Namibia will be a unitary, sovereign and democratic State.

2. The Constitution will be supreme law of the State. It may be amended only by a designated process involving the legislature or votes cast in a popular referendum, or both.

3. The Constitution will determine the organization and powers of all levels of government. It will provide for a system of government with three branches: an elected executive branch which will be responsible to the legislative branch, a legislative branch to be elected by universal and equal suffrage which will be responsible for the passage of all laws and an independent judicial branch which will be responsible for the interpretation of the Constitution and for ensuring its supremacy and the authority of the law. The executive and legislative branches will be constituted by periodic and

genuine elections which will be held by secret vote.

4. The electoral system will be consistent with the principles in A.1 above.

5. There will be a declaration of fundamental rights, which will include the rights to life, personal liberty and freedom of movement; to freedom of conscience; to freedom of expression, including freedom of speech and a free press; to freedom of assembly and association, including political parties and trade unions; to due process and equality before the law; to protection from arbitrary deprivation of private property or deprivation of private property without just compensation; and to freedom from racial, ethnic, religious or sexual discrimination. The declaration of rights will be consistent with the provisions of the Universal Declaration of Human Rights. Aggrieved individuals will be entitled to have the courts adjudicate and enforce these rights.

6. It will be forbidden to create criminal offences with retrospective effect or to provide for increased penalties with retrospective effect.

7. Provision will be made for the balanced structuring of the public service, the police service and the defence services and for equal access by all to recruitment of these services. The fair administration of personnel policy in relation to these services will be assured by appropriate independent bodies.

8. Provision will be made for the establishment of elected councils for local or regional administration, or both.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield just briefly?

Mr. WOLPE. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just want to make one point pretty clear, and that is that we are all for freestanding elections in Namibia and Angola.

Mr. WOLPE. Absolutely. I hope that will be the ultimate outcome of peace with stability in southern Africa.

Mr. BURTON of Indiana. Mr. Speaker, I wanted to be sure because it got fuzzed up during the debate.

Mr. WOLPE. Mr. Speaker, I assume the gentleman would also advocate free elections in South Africa as well.

Mr. BURTON of Indiana. Of course.

Mr. CONTE. Mr. Speaker, with some reservations relating to procedure, I rise in support of this bill to authorize the transfer of funds for several ongoing and prospective peacekeeping operations by U.N. forces.

We can all appreciate the need for the United States to contribute our share to the initial peacekeeping activities in the Persian Gulf and in Afghanistan. The Department of Defense has already spent nearly $10 million for airlift purposes in the Persian Gulf, and that Department will be using additional resources as progress is made in that region and also in the Angola-Namibia peace negotiations.

This bill authorizes the President to transfer up to $150 million from prior year defense and current year military assistance funds to the assessed and voluntary peacekeeping accounts in the Department of State. This authority has been requested by the President with the support of the Secretary of Defense, the Secretary of State, and the Director of the Office of Management and Budget.

This bill does not appropriate any new funds, although it could result in a minimal increase in outlays due to different rates of outlays. This is contingent authority. Nothing will happen unless two things occur: First, the President must be proposed transfers for specific needs as they develop; and second, any such transfer proposals must submitted to, and approved by, the House and Senate Appropriations Committees and the authorizing committees.

As I mentioned at the outset, I support the end result of this bill, and I urge its passage. However, as the ranking member of the Appropriations Committee, I am not enthusiastic about putting reappropriations language in what is basically an authorization bill. I believe that this matter could have and should have been addressed under regular procedures, and that is the way our committee will handle such matters in the future.

In any event, Mr. Speaker, mercifully, we are coming to the end of the 100th Congress. The President needs this transfer authority to deal with contingencies which might arise before we reconvene for any meaningful business. So I support the bill.

Mr. BROOMFIELD. Mr. Speaker, peace is breaking out all over the world, and for the United States there are costs involved in making and sustaining peace that Americans have always been willing to bear.

The Soviet withdrawal from Afghanistan is proceeding toward its February 15, 1989 deadline. A cease-fire in the Iran-Iraq war may lead to an end to that bloody conflict in the near future. In Namibia, the parties are negotiating, and the outlook is promising. And in the western Sahara, agreement has been reached, paving the way for a referendum on the future of that territory.

On September 27, the administration said that the costs of international peacekeeping are rising. As a result, the projected U.S. contribution may exceed what we have left in our peacekeeping accounts by as much as $150 million. The President has not requested an increase in funding. Rather, he is simply requesting authority to transfer as much as $150 million from funds already available.

The bill before us provides that authority—with the requirement that Congress be notified under regular reprogramming procedures of the actual transfer of funds. The source of the funds would be previously appropriated funds potentially drawn from foreign military assistance accounts, and unobligated balances of prior year funds appropriated to the Department of Defense.

It is not today clear whether any or all of this authority will be required, Mr. Speaker. But I believe this House should be of one mind in its strong desire to achieve an end to all of these military conflicts. I urge the House to adopt this bill containing the President's request.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 5551.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

TECHNICAL CORRECTION TO HUNGER PREVENTION ACT OF 1988

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2885) to amend the Hunger Prevention Act of 1988 to make a technical correction.

The Clerk read as follows:

S. 2885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION.

In section 701(b)(4) strike out "and sections 310 through 352" and insert in lieu thereof "sections 310 through 343, and sections 345 through 352".

The SPEAKER pro tempore. Is a second demanded?

Mr. EMERSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There is no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. EMERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2885 amends the Hunger Prevention Act of 1988 to change the effective date of section 344. Section 344 provides that where a retail food store or wholesale food concern has purchased food stamps or trafficked in coupons the Secretary of Agriculture must either first, permanently disqualify the store from the Food Stamp Program, or second, impose certain civil money penalties.

The option to impose a civil money penalty against the store is granted to the Secretary if he determines that there is substantial evidence that such store or food concern had an effective policy and program in effect to prevent violations of the Food Stamp Act.

When the hunger prevention legislation passed the House, it contained an effective date for section 344 of not later than July 1, 1989, or the effective date of regulations issued by the Secretary. However, the enacted Hunger Prevention Act modified the House position by stipulating an effective date of July 1, 1989.

S. 2885 would provide that October 1, 1988, would be the effective date of section 344. The Department of Agriculture is currently writing regulations to implement section

344. S. 2885 would enable the Department to implement this provision of law as soon as possible. This was the intent of the House in formulating this provision in the Hunger Prevention Act.

I urge my colleagues to give this bill their full support.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PANETTA], the distinguished chairman of the subcommittee.

Mr. PANETTA. Mr. Speaker, the bill before us today, S. 2885, which was passed by the Senate on October 12, 1988, would simply ensure that section 344 of the Hunger Prevention Act of 1988 (P.L. 100-435) will be implemented as soon as possible.

Section 344 of the Hunger Prevention Act deals with penalties imposed on retail stores for purchase of food stamps or trafficking in them. The provision gives the Secretary of Agriculture the discretion to impose a fine of up to $20,000 on a retail or wholesale food store instead of permanent disqualification from participation in the Food Stamp Program. Prior to enactement of the Hunger Prevention Act, food stores were permanently disqualified from participation in the Food Stamp Program upon the first offense relating to trafficking in food stamps.

This is a strict policy. Sale of food stamps at a discount price or trading food stamps for nonfood items is a serious offense. It violates the purpose of the Food Stamp Program and harms needy food stamp families. Nevertheless, there are instances in which trafficking in food stamps will take place—despite the best efforts of all people committed to a well-run Food Stamp Program.

The permanent disqualification of retail food stores upon the first trafficking offense—without any evaluation of preventive measure taken or complicity in the trafficking—was excessively harsh. It is for this reason that section 344 gives the Secretary of Agriculture the discretion to impose a fine on a retail or wholesale food store instead of disqualification. The Secretary may exercise that discretion—if it is determined that there is substantial evidence that the store had an effective policy and program to prevent these violations of the Food Stamp Act.

The bill originally passed by the House established an effective date for this provision of not later than July 1, 1989 or upon the dates rules were issued by the USDA, whichever was earlier. However, the final version of the act established an effective date of July 1, 1989, with no provision for earier implementation. The bill before us today, S. 2885, would change the effective date to October 1, 1988, The general effective date of the Hunger Prevention Act. Thus, this technical correction would restore the original House intent to have this provision implemented as quickly as possible.

I urge my colleagues to support this bill.

Mr. EMERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. EMERSON. Mr. Speaker, the bill before the House today proposes to change the effective date of one of the provisions of the Hunger Prevention Act of 1988. The Hunger Prevention Act of 1988 was signed by the President on September 19, 1988, and is a bipartisan measure aimed at providing nutrition assistance to needy individuals and families. I was a sponsor of the bill and a strong supporter of the many provisions in the bill aimed at helping needy families.

Included in the bill was a provision concerning the disqualification of retail food stores. The bill provides the Secretary of Argriculture the discretion to impose a fine of up to $20,000 on a retail or wholesale food store, instead of immediate disqualification if the Secretary determines that there is substantial evidence that the store has an effective policy and program to prevent violations of the Food Stamp Act. The bill passed by the House established an effective date not later than July 1, 1989, or upon the date rules were issued by the Department of Agriculture, whichever was earlier. However, the final version of the bill set the effective date on July 1, 1989.

The bill before the House today changes the effective date to October 1, 1988, the general effective date of the Hunger Prevention Act of 1988. As was stated in the committee report on this bill, we expect the Secretary of Agriculture to continue to vigorously pursue and punish those perpetrators involved in food stamp fraud, including store personnel and owners that are culpable or negligent with respect to trafficking offenses. Accordingly the committee has authorized the imposition of civil money penalties of up to $20,000 for trafficking violations by retail food store or wholesale food concerns. However, innocent persons should not be subjected to the harsh penalty of disqualification where a store has undertaken and implemented an effective program and policy to prevent violations. The Secretary of Agriculture is directed to promulgate regulations consistent with the described amendment. This bill allows the Secretary to issue regulations and implement the amendment forthwith. I urge my colleagues to support this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to commend the gentleman from California [Mr. PANETTA], the chairman of the subcommittee, his distinguished ranking minority member, the gentleman from Missouri [Mr. EMERSON], who has been very helpful and indeed sensitive on issues relating to the needy and the homeless and in working with the subcommittee. We extend to them our appreciation.

Mr. Speaker, I yield back the balance of our time.

Mr. EMERSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the Senate bill, S. 2885.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2100) "An act to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes."

WILDFIRE SUPPRESSION ASSISTANCE ACT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4936) to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection as amended.

The Clerk read as follows:

H.R. 4936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wildfire Suppression Assistance Act".

SEC. 2. PERMANENT AUTHORITY.

The Temporary Emergency Wildfire Suppression Act (Public Law 100-428) is amended by repealing section 5.

TITLE I—WILDFIRE PROTECTION ASSISTANCE

SECTION 101. SHORT TITLE.

This title may be cited as the "Wildfire Protection Assistance Act of 1988".

SEC. 102. DEFINITIONS.

As used in this title—

(1) the term "qualified agency head" means the head of any executive department or agency, or independent establishment in the executive branch, of the Federal Government responsible for protecting Federal lands and resources from damage by wildfire;

(2) the term "fire organization" means any governmental, public, or private entity having wildfire protection resources;

(3) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(4) the term "wildfire" means any forest or range fire on, or threatening, Federal lands.

SEC. 103. AGREEMENTS; EMERGENCY ACTION.

(a)(1) Each qualified head may enter into a reciprocal agreement, on behalf of such agency, with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such agency or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), each qualified agency head may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by the agency head to be in the best interest of the United States, and

(2) accept emergency wildlife protection resources from any foreign fire organization when the acceptance of such resources is determined by the agency head to be in the best interest of the United States.

(c) Any service performed by any employee of the United States under this title shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

SEC. 104. FUNDS.

Funds available to any qualified agency head for wildfire protection resources in connection with activities under the jurisdiction of such agency head may be used to carry out activities authorized by agreements under this title: *Provided*, That no such funds may be expended for wildfire protection resources provided by a foreign fire organization unless the qualified agency head determines that no wildfire protection resources within the United States are reasonably available to provide wildfire protection.

TITLE II—NATIONAL COMMISSION ON NATURAL RESOURCES DISASTERS

SECTION 201. SHORT TITLE.

This title may be cited as the "National Commission on Natural Resources Disasters Act of 1988".

SEC. 202. ESTABLISHMENT OF THE COMMISSION.

There is hereby established a commission to be known as the National Commission on Natural Resources Disasters (in this title referred to as the "Commission") which shall study (as provided in section 204(a)) the effects of wildfires on National Forest System lands and make recommendations (as provided in section 204(b)).

SEC. 203. MEMBERSHIP OF THE COMMISSION.

(a) The Commission shall be comprised of twenty-five members appointed by the Secretary of Agriculture, not fewer than twenty of whom shall be appointed from nominations submitted to the Secretary of Agriculture by the following:

(1) The Chairman of the Committee on Agriculture of the House of Representatives after consultation with such committee;

(2) the ranking minority member of the Committee on Agriculture of the House of Representatives after consultation with such committee;

(3) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate after consultation with such committee; and

(4) the ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate after consultation with such committee.

(b) A vacancy on the Commission shall be filled by the Secretary.

(c) The Commission shall elect a chairperson from among the members of the Commission.

(d) The Commission shall meet at the call of the chairperson or a majority of the members of the Commission.

SEC. 204. DUTIES OF THE COMMISSION.

(a) The Commission shall study the effects of wildfires on—

(1) the economic stability of the affected communities;

(2) the availability of sufficient timber supplies to meet future industry needs;

(3) fish and wildlife habitats in the affected areas;

(4) recreation in the affected areas;

(5) the ecosystems in the affected areas; and

(6) the land and resource management plans of the affected National Forest System lands.

(b) On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the Secretary of Agriculture with respect to the future management of National Forest System lands and community redevelopment activities and programs.

(c) The Commission shall submit to the Secretary, not later than December 1, 1989, a report containing the results of its study and recommendations based on such results.

SEC. 205. POWERS OF THE COMMISSION.

(a) Notwithstanding any other provision of law, the heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office shall provide the Commission such information as may be required to carry out its duties and functions.

(b) On the request of the Commission, the heads of executive agencies, the General Accounting Office, and the Office of Technology Assessment may furnish the Commission with such personnel and support services as the head of such agency or office and the chairperson of the Commission agree are necessary to assist the Commission to carry out the duties and functions of the Commission. The Commission shall not be required to pay or reimburse such agency or office for personnel and support services provided under this subsection.

(c) The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

(d) The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5 of the United States Code.

SEC. 206. COMPENSATION OF THE COMMISSION MEMBERS.

Members of the Commission shall serve without compensation for work on the Commission, except that while away from their homes or regular places of business in the performance of duties of the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under section 5703 of title 5 of the United States Code.

SEC. 207. DIRECTOR AND STAFF OF COMMISSION.

(a) To the extent there are sufficient funds available to the Commission in advance under section 208, and subject to such rules as may be prescribed by the Commission, the Commission may—

(1) appoint and fix the compensation of a director; and

(2) appoint and fix the compensation of such additional personnel as the Commission determines are necessary to assist the Commission to carry out its duties and function.

(b) The director and staff of the Commission may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code relating to the classification and General Schedule pay rates.

SEC. 208. FUNDING.

(a) Following the appointment of the members of the Commission, notwithstanding the provisions of section 1342 of title 31 of the United States Code, the Secretary of Agriculture may receive on behalf of the Commission, from persons, groups, and entities within the United States, contributions of money and services to assist the Commission to carry out the duties and functions of the Commission. Any money contributed under this section shall be made available to the Commission to carry out this title. In no event may the Secretary accept an aggregate amount of contributions from any one person, group, or entity exceeding 10 percent of the budget of the Commission.

(b) If the contributions under subsection (a) are insufficient to carry out this title, the Secretary may transfer to the Commission, from the general fund of the Treasury as provided for in advance in appropriation Acts, an amount not to exceed $500,000 to carry out this title.

SEC. 209. TERMINATION.

The Commission shall cease to exist ninety days after the submission of its report to the Secretary of Agriculture.

The SPEAKER pro tempore. Is a second demanded?

Mr. ROBERT F. SMITH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Oregon [Mr. ROBERT F. SMITH] will be recognized for 20 minutes.

The Chair recognized the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, the intent of this bill is to extend permanently, existing temporary authority that allows the Department of Agriculture and other agencies to enter into contracts with foreign firefighting organizations for mutual aid in fighting wildfires.

This legislation will make permanent, the Temporary Emergency Wildfire Suppression Act that passed the House earlier this year. A provision that was in the bill reported by the House Committee on Agriculture has been stricken, and I will engage in a colloquy with our distinguished colleague, the gentleman from California [Mr. HERGER] to explain that at a later point.

The disastrous fires that we have had in the Northwest forests have created a tremendous burden on our Government firefighting resources. Our friends and neighbors from Canada wish to assist us in fighting these wildfires, and indeed have assisted, but we will find ourselves after December 31, 1988, in a situation where we once again can not legally compensate or reimburse them for fuel, overtime, or any other actions they will take to assist us in fighting wildfires.

This legislation will give permanent authority to the Department of Agriculture and other agencies.

Mr. Speaker, H.R. 4936, as amended, is a bill that amends Public Law 100–428, the Temporary Emergency Wildfire Suppression Act, to make permanent the authority provided to the Secretary of Agriculture and the Secretary of the Interior, in consultation with the Secretary of State, to enter into reciprocal agreements with foreign fire organizations for mutual aid in furnishing wildfire protection resources.

The U.S. Department of Agriculture requested this authority some time age and supports H.R. 4936. I commend Mr. VOLKMER, chairman of the Subcommittee on Forests, Family Farms, and Energy, and the ranking minority member, Mr. MORRISON, for the leadership they have provided in bringing this legislation to the floor.

In September of this year, Congress enacted the Temporary Emergency Wildfire Suppression Act to provide immediate assistance to combat the wildfires that were engulfing the western part of the United States. This legislation provided the Secretaries of Agriculture and the Interior, in consultation with the Secretary of State, with temporary authority to enter into agreements with foreign fire organizations for mutual aid in fighting wildfires. In the absence of such agreements, the Secretaries are authorized to furnish or accept emergency wildfire protection resources when it is in the best interest of the United States. In addition, the legislation permits the forest service to reimburse the Canadian Government or Canadian firefighting organizations for any costs incurred in helping to fight wildfires in the United States under two current cooperative agreements. This authority was utilized by the Forest Service this year, and assistance from Canada was helpful in gaining control over some of the devastating wildfires in the west. However, the Temporary Emergency Wildfire Suppression Act expires on December 31, 1988.

H.R. 4936, as amended, will amend section 5 of the Temporary Emergency Wildfire Suppression Act to repeal the termination date of December 31, 1988.

H.R. 4936 was originally jointly referred to the House Committee on Interior and Insular Affairs and the House Committee on Foreign Affairs. I appreciate the courtesy and consideration of the House Committee on Foreign Affairs and the House Committee on Interior and Insular Affairs in assisting us in bringing H.R. 4936 to the floor.

I urge my colleagues in the House to support the bill, H.R. 4936.

Mr. ROBERT F. SMITH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to pay particular tribute to the chairman of the committee and the subcommittee chairman, the gentleman from Missouri [Mr. VOLKMER], as well as the gentleman from Washington [Mr. MORRISON], for bringing this most important legislation to us.

It seems a fact of life that we in the west have wildfires. Sometimes we can control them, sometimes as was the case last year in 1987 in Oregon and Washington and northern California, we could not.

Again it happened that we got away really rather well. In 1988 yet we saw half of Yellowstone Park burning down. We had used every available firefighter in America and every available tanker in both those tragedies, in 1977 and 1978.

Luckily, the State of Washington had an agreement with Canada, a bilateral agreement, in 1987 that we piggybacked on and used some Canadian firefighters, which really helped us in the Northwest.

This bill then comes to us as a necessity, as the chairman has correctly stated, that finally we can go into a binding agreement, a legal binding agreement with Canada, in case our firefighters are not capable or there are not sufficient numbers of them to contract with Canada to come across the border and help us with our fires. They have expert firefighters in Canada and, of course, they have tankers available.

So, this bill really legitimizes what we have been doing on a contractual basis.

I think it is more important. We do not know what is going to occur next year. Fires, we cannot predict. If the weather is right, fires consume us. So, in preparation for that and with I think an important decision, we can contract with Canada and gain assistance.

Mr. Speaker, I rise in support of H.R. 4936. This legislation permits the Secretary of Agriculture or the Secretary of Interior to enter into reciprocal agreements with any foreign fire organization to share resources, be they personnel or equipment, to aid in protection of land and property in the event of wildfires. It further permits either Secretary, in the absence of any agreement, to furnish or accept wildfire protection resources when it is in the best interest of the United States.

Similar legislation, permitting identical authority through the end of this year, passed the House and Senate on September 8 and was signed by the President as Public Law 100-428 on September 9.

Mr. Speaker, my area of the country is continually plagued with the threat of devastating wildfires. Millions of acres of precious natural resources were destroyed last year and earlier this year. This destruction has caused undetermined economic and social losses to the communities in and around the areas burned. One way to help minimize these losses is the swift mobilization and utilization of available firefighting resources.

The bill contains a provision prohibiting either Secretary from using foreign firefighters if American firefighters are reasonably available to provide fire protection but sometimes Americans are not available quickly enough or in sufficient numbers to stop the spread of fires.

Mr. Speaker, I would like to commend the chairman of the Subcommittee on Forests, Family Farms and Energy, Mr. VOLKMER, the ranking member, Mr. MORRISON, and the chairman of the full committee, Mr. DE LA GARZA, for their actions on this important piece of legislation. I ask my colleagues in the House for their support of H.R. 4936.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I rise in strong support of H.R. 4936, the Wildfire Protection Assistance Act. I'd like to commend the chairman of the subcommittee, the gentleman from Missouri and the gentleman from Washington for introducing this bill and bringing it to the floor.

California was one of the hardest hit States by last summer's devastating forest fires and was hit again this summer. Last summer, fires burned over 700,000 acres of timber and involved 22,000 firefighters. Although a few States hired Canadian firefighers to assist them in their effort, the Forest Service is currently forbidden from entering into firefighting agreements with a foreign country.

This bill, as my colleague has stated, will authorize the Secretary of Agriculture to enter into agreements with foreign fire organizations for help with firefighting. I believe this is long overdue. Given our experience with the severity of the fires in our national forests, expeditous mobilization of firefighting forces is needed. In the Northwest, it is certainly more reasonable to call on our friends in Canada than it is to have to wait for firefighters from Maine or Florida.

Mr. Speaker, at this time I would like to engage the the chairman of the committee in a colloquy.

As you know, this bill as reported by the committee contained an additional title, one I authored to establish a national commission comprised of all segments of communities affected by wildfires to make recommendations to the Forest Service on ways in which to help those communities recover from the devastation caused by those fires. That title met with some opposition from another committee from the House and in the spirit of compromise, I consented to the deletion of that title from the legislation before us now in order to attempt to ensure that the international agreements are in place in time for next year's fire season.

Mr. Speaker, I would like to ask the chairman of the committee, is it the gentleman's understanding from the chairman of the Subcommittee on Forest, Family Farms and Energy, that he agrees to consideration early in the next Congress on legislation I will introduce to once again establish a National Commission on the Natural Resources Disasters?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, first let me thank the gentleman for yielding, and also to thank him for his cooperation and understanding in the situation in which we find ourselves. We appreciate very much the gentleman's interest and his sensitivity in the issue that we are dealing with today.

I would like to inform the gentleman that it is my understanding from the chairman of the subcommittee that it is his intention to have early hearings on the gentleman's legislation. I have urged him to do so, and we will cooperate in every way we can to facilitate an early hearing on the legislation.

Mr. HERGER. Mr. Speaker, I thank the chairman for that assurance, and with that I have no objection to the bill before us, and indeed strongly support it.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my appreciation to the chairman and ranking members of the Committee on Foreign Affairs and of the Committee on Interior and Insular Affairs who have worked and cooperated with us in this endeavor.

Mr. ROBERT F. SMITH. Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 4936, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to make permanent the authority provided under the Temporary Emergency Wildfire Suppression Act."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4936, the bill just passed, and on the Senate bill, S. 2885, which was previously passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FEDERAL EMPLOYEES COST SAVINGS AWARDS ACT

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4574) to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SEC. 1. EXPIRATION DATE OF PROGRAM.

(a) Section 4514 of title 5, United States Code, is amended to read as follows:

"§ 4514. Expiration of authority

"No award may be made under this subchapter after September 30, 1990.".

(b) The table of sections for chapter 45 of title 5, United States Code, is amended by amending the item relating to section 4514 to read as follows:

"4514. Expiration of authority.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There were no objection.

The SPEAKER pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on July 26, the House approved H.R. 4574, a bill to revitalize two existing, but seldom used, employee award programs. The Superior Accomplishments Awards Program recognizes and rewards Federal employees for their suggestions and achievements. The Cost Savings Disclosures Program pays cash awards to employees who disclose fraud, waste, or mismanagement in the Government. Our legislation would have expanded the eligibility for these programs and increased the size of the awards. By so doing, we would have transformed these programs into tough weapons in our battle against monstrous budget deficits and Government wrongdoing.

H.R. 4574, as amended by the Senate, is only a remnant of the bill we approved. It is a simple 2-year reauthorization of the Cost Savings Disclosures Program. It makes no changes in the Superior Accomplishments Awards Program which has permanent authority.

Next Congress, the House should again consider changes to bolster these programs. But for now, let us pass H.R. 4574, as amended, to ensure their continuation.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I want at the outset to commend the gentlewoman from Colorado [Mrs. SCHROEDER] for her leadership in handling this bill. We did pass it, as the gentlewoman has said, and it does revitalize two existing award programs; one, of course, is the award for the Cost Saving Disclosure Program, which authorizes the inspector-general and the President to pay cash awards to employees who disclose fraud, waste, and mismanagement in the Government.

This is a very important part of the inspector-general's program, which I earlier commented on, because the gentleman from Texas [Mr. BROOKS] and I are the cosponsors of that legislation that created those offices.

This incentive program and the second one, which is the program for Federal employees which is called the Superior Accomplishments Award Program, are very important programs and should be continued.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to emphasize one more time that the gentleman from New York brings incredible expertise to the Post Office and Civil

Service Committee because of his experience in Government operations, and the committees have been working very closely to try to do this. We are just trying to get the administration moving more on it and employees moving more on it. I think we have made some real progress this time in trying to get that done, so we certainly want to renew it and keep it going.

I thank the gentleman for his expertise.

Mr. HORTON. Mr. Speaker, I am happy to support the amended version of H.R. 4574 which permits cash awards to Federal employees for superior accomplishments or other cost-savings disclosures.

I want to commend the gentleman from Ohio [Mr. KASICH] and the chairwoman of the Civil Service Subcommittee, the gentlewoman from Colorado [Mrs. SCHROEDER], who crafted and introduced this legislation to revitalize two existing awards programs for Federal employees. What my colleagues did was to build and expand on constructive reports issued by the General Accounting Office. In separate reports last year, the GAO said the awards programs were not used to their fullest extent and were not promoted. It was not unusual to find that Federal employees were unaware of the existence of the programs.

The beneficial effects of awards has been demonstrated by the Department of Defense which has been the most frequent user of a program to recognize individuals who turn the spotlight on waste, fraud, and mismanagement. According to a Department of Defense report, 25 cash awards totaling more than $30,000 in a 3-year period between 1984 and 1987 resulted in savings of approximately $30 million.

Since the other body did not have the time to weigh and evaluate the detailed provisions of this previously approved House bill, the legislation before us simply reauthorizes the awards program for 2 years.

I am pleased to be associated with legislation which rewards Federal employees for their courage in reporting waste and mismanagement in the Federal Government. I know an expanded version of the pending legislation will be supported in the next session of Congress.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado [Mrs. SCHROEDER] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4574.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the Senate amendment to H.R. 4574 just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Chair will entertain 1-minute speeches until the arrival of the various committees.

MR. DUKAKIS AND FAMILY ISSUES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am very pleased that today Presidential candidate Dukakis is speaking about family issues and unveiling his family issue program.

I think it is really one of the things in the debate we need more focus on and less spin control about. Let us get a real focus on what is meant by family. Everybody is talking about family and there is no politician in America who would dare run against families, but what happens, why is this country way behind every other country in the western world on what it does for families? Not only is it way behind what every other country does for families, our families have the worst statistics of any other country in the western world. On things you do not want to be No. 1 on in, we are No. 1 in, whether you are looking at divorce statistics, drug statistics, alcohol abuse statistics, problems of our adolescents, it seems to me there must be some connection between the fact that we do less for families and we have more family problems.

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I think we also need to really look at both candidates' family proposals, because any government is built upon all those little building blocks called families, and when those little building blocks start to crumble, the government starts to crumble.

How would I define family? I define it as wherever you go at night and they cannot turn you away. I think that is how we should be defining it. When we say traditional American family, which we hear a lot of, our ears should perk up, because usually what that means is it means the "Leave it to Beaver" family; it means the "Ozzie and Harriet" type of family, and that is really only about 8 percent of America's families today.

The promise of the traditional American family that we often hear in rhetoric one more time is that we should not have a family unless we can afford to stay home and take care of them. I think that is a lovely idea, but it will die out, because only 8 percent of the families today are able to sustain the level that they were 13 years ago without two incomes and, of course, we have many single-parent families.

The whole picture of what has happened to families in America has changed radically, and Washington, DC, did not get it.

Let us hope that the candidates get it and let us hope that we get focus and not spin on this and that we get a clear picture. I think Michael Dukakis clearly has a wonderful program that we really need.

CONFERENCE REPORT ON S. 2100, WATER RESOURCES DEVELOPMENT ACT OF 1988

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 2100) to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the floor today the conference report on S. 2100, the Water Resources Development Act of 1988. I want to commend the House and Senate conferees for their efforts in producing a bill which will continue our efforts to meet the water resources needs of the Nation in a cost effective and environmentally sound manner. I would also add, at this point, that the Director of the Office of Management and Budget and the Assistant Secretary of the Army have given us letters stating that they will recommend that the conference report be signed into law. Mr. Speaker, I ask unanimous consent that the letters be placed into the RECORD at this point.

The letters are as follows:

Executive Office of the President, Office of Management and Budget,
Washington, DC, October 20, 1988.
Hon. Glenn M. Anderson,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Conference Report on S. 2100 has responded to many of the Administration's concerns with earlier versions of the bill passed by the House and Senate. While the Administration continues to have reservations regarding many aspects of the proposed bill, we commend the Conferees' commitment to preserve the cost-sharing reforms of the Water Resources Development Act of 1986; avoid authorization and conditional authorization of projects that have not completed the executive branch policy and planning review process; and refrain from authorizing low-priority, special-interest provisions. Inclusion of any such provisions through further Congressional action would, of course, make the bill unacceptable.

The Administration has always supported the reestablishment of biennial authorization bills for Army Corps of Engineers water projects. If the Conference version of S. 2100 is enacted into law, the biennial project construction authorization cycle would be reestablished for the first time since 1970, and an important step would be taken to help ensure a strong and credible Army Civil Works program.

Considering this need and the cooperative spirit of the Conferees to delete many provisions of the proposed bill that were objectionable to the Administration, the Office of Management and Budget will recommend that the President approve the Conference version of S. 2100, if it is passed without amendment.

Sincerely,
Joseph Wright, Jr.,
Acting Director.

Department of the Army,
Office of the Assistant Secretary,
Washington, DC, October 19, 1988.
Hon. Glenn Anderson,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

Dear Mr. Chairman: I have reviewed the Conference Report on S. 2100, the Water Resources Development Act of 1988, and am gratified by the effort that the conferees have made to produce a bill that would be acceptable to the President. It is my strong hope that amendments will not be added to the conference report and thereby make the bill unacceptable.

The conferees have been faithful to the cost sharing principles established by the landmark Water Resources Development Act of 1986 and have been careful to avoid premature authorization of new water development projects. While not all remaining provisions can be supported by the Army, the bill contains almost all of the items included in the Administration's proposal sent to Congress last spring. In addition, the action of the conferees to delete many provisions opposed by the Administration has cleared the way for our recommending that the President approve the bill.

Under the leadership of the Senate Committee on Environment and Public Works and House Committee on Public Works and Transportation, the Water Resources Development Act of 1986 established a solid basis for revitalization of the Nation's water resources program. With S. 2100, the conferees are talking the next important step, laying a firm foundation for reestablishment of the biennial project authorization cycle for the Army's Civil Works Program. This cycle is vital to the orderly and efficient development of new water projects under the 1986 Act's reforms requiring increased non-Federal participation in project planning, construction financing, and operation and maintenance.

Since enactment of that bill two years ago, non-Federal financing of water projects has increased from three percent to fourteen percent of total project costs, 58 new construction starts have begun and another 63 have been funded. Many projects have been reduced in size and scope and many have been dropped, thereby yielding substantial environmental benefits. Cost sharing is working well. Non-Federal sponsors continue to sign local cooperation agreements. The news across the board is good.

By enacting S. 2100, the 100th Congress will move the water resources program forward another vital step. I am convinced that this and similar responsible biennial authorization bills which adhere to sound cost sharing principles and authorize only economically and environmentally sound projects endorsed by both the Administration and the Congress will ensure a strong, credible national water resources development program for years to come.

If the Conference version of S. 2100 is passed by Congress without amendment, I will recommend that the President approve it.

Sincerely,
Robert W. Page,
Assistant Secretary of the Army (Civil Works).

We have reached this point through the extraordinary efforts of our Committee on Public Works and Transportation, the Senate Committee on Environment and Public Works, the conferees, and the Office of the Assistant Secretary of the Army for Civil Works and the Office of the Chief of Engineers of the U.S. Army Corps of Engineers.

I would be remiss if I did not extend my thanks and appreciation to the ranking Republican member of the full committee, the gentleman from Arkansas [Mr. Hammerschmidt] and the ranking Republican member of the Subcommittee on Water Resources, the gentleman from Minnesota [Mr. Stangeland] for the excellent work and cooperation they have contributed to this effort. And I also wish to extend a special expression of appreciation to the chairman of the Subcommittee on Water Resources, the gentleman from New York [Mr. Nowak] for the leadership he has shown in developing this legislation.

This is the first water resources development bill relating to the water resources program of the U.S. Army Corps of Engineers to be considered by the House since the passage of the landmark Water Resources Development Act of 1986. With this bill we return to the cycle of an authorization bill each 2 years as was common in prior years. The 1986 act was the first since 1976. The years preceding its enactment were spent in long and difficult negotiations over the issues of cost sharing and proper Federal and non-Federal roles in water resources development. The culmination of these years of negotiations was the 1986 act, which contained new and revised cost-sharing policies for projects, an expanded role for State and local governments, and significant provisions designed to protect and enhance environmental values.

The 1986 act has permitted the corps' water resources program to move ahead, providing flood control, inland navigation, ports, and related benefits such as hydroelectric power and water supply to the Nation.

The conference report continues the efforts now underway and extends the program to meet new and future needs. It authorizes the construction of water resources development projects by the Corps of Engineers for flood control, navigation, beach erosion control, and related purposes. It also contains deauthorizations of previously authorized projects, authorizations for studies of water resources problems and needs, modifications to previously authorized projects, and provisions relating generally to the water resources program of the Corps of Engineers.

There are provisions in the House-passed bill which are not included in the conference report or are included in modified form. And, there are many House provisions which remain as they were in the House bill. The conferees considered all of the items in the House and Senate bills very carefully and applied the criteria adopted in the 1986 act with regard to cost sharing and Federal and non-Federal roles in water resources development in order to draft a bill that would be signed into law. Of the provisions that were deleted in conference, many will be the subject of further studies by the Corps of Engineers and consideration of our committee. I wish to assure the Members that we will continue to examine matters relating to water resources development needs so as to determine whether legislative solutions are appropriate and what those solutions should be.

Mr. Speaker, the conference report responds to serious water resources needs in many parts of the Nation and continues the program improvements in the 1986 act. I strongly urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in enthusiastic support of the conference report accompanying S. 2100, the Water Resources Development Act of 1988, a bill that fulfills the promise of the landmark Corps of Engineers authorization bill passed last Congress.

S. 2100 authorizes 16 Corps of Engineers,' water resources development projects for flood control, navigation, shoreline protection, fish and wildlife mitigation and enhancement, recreation and related purposes. The bill also clarifies or modifies provisions contained in earlier authorizing laws, modifies approximately 20 previously authorized projects and includes a number of project deauthorizations and namings.

Mr. Speaker, I must begin by expressing my heartfelt appreciation to all of the conferees from the House and the Senate who have worked tirelessly to fashion this vitally important bill. Through the dedication and persistence of the members and their staffs, we have developed a conference report that many believed was not possible 3 weeks ago.

I especially want to thank the distinguished and able chairman of the Committee on Public Works and Transportation, GLENN ANDERSON, for his leadership and cooperation. The chairman of our Subcommittee on Water Resources, HENRY NOWAK, and the ranking member, ARLAN STANGELAND, are also deserving of our thanks for the countless hours of hard work and for their willingness to look for and find solutions to some difficult problems.

However, I would be remiss if I did not also express my sincere thanks to the Associate Director of the Office of Management and Budget, Bob Dawson, and to the Deputy Assistant Secretary of the Army, John Doyle, for their assistance in this endeavor. Without them this bill might not have been possible. As distinguished alumni of the staff of the Public Works Committee, both Bob and John displayed a commitment of the program and understanding of the process which was needed to develop this excellent bill.

The conference report that we bring before this body is a happy marriage of S. 2100 as passed by the other body and H.R. 5247 as passed in this Chamber on September 30. Frankly, Mr. Speaker, at the time the House acted on H.R. 5247, I was not entirely convinced that an acceptable compromise between Congress and the administration could be crafted.

I was concerned that the measure that we took to the floor was too ambitious—that it asked for too much, too soon. Nonetheless, I vowed to work with the chairman of my committee to find a way to restore the 2-year authorization process—a process that has served both the Congress and the corps so well in the past.

I am happy to report that as a result of hard negotiations in conference we have been tremendously successful. We have developed a conference report that is acceptable to the administration yet preserves most of the provisions in the House-passed bill. We have crafted a bill that is balanced and responsible—one that addresses the country's water resources infrastructure needs in a way that is mindful of current budgetary constraints.

Mr. Speaker, while the document has been ably described by Chairman Anderson, I did want to take a moment to highlight a few if its provisions.

One of the project modifications contained in the bill is to the Beaver Lake project in my congressional district. Beaver Lake is a corps reservoir that provides important flood control, recreation and water supply benefits. In recent years, the water supply benefits of the project have become threatened due to increasing levels of pollution in the watershed affecting the lake's water quality.

To address this growing concern, I included legislation as part of the Water Resources Development Act of 1986 to require that the corps undertake a 1-year study of the problem and implement measures needed to protect the lake's water quality. The study was initiated on a cooperative basis in fiscal year 1988.

Based on that study, and on work done by the Soil Conservation Service and the State, it appears that water quality at the lake could be greatly improved through the implementation of best management practices to reduce nutrient loading.

To carry the project further, I have included bill language to require the corps to work with the Soil Conservation Service to develop individual best management plans to show farmers in the area how to adjust their farming practices to reduce nonpoint source discharges of harmful nutrients.

I would also like to draw the House's attention to section 21 of the conference report. It specifies minimum and maximum levels within which the Secretary should operate the six Mississippi River Headwaters Reservoirs, but recognizes that in some cases, this may not be practicable. Therefore, it allows the Secretary to operate the reservoirs below or above these levels in accordance with a contingency plan to be developed in consultation with the Governor of Minnesota and affected landowners and commercial and recreational users.

The section also requires the Secretary to notify Congress at least 14 days before the Secretary operates any of the reservoirs below or above the specified levels. Obviously, this reporting requirement is not meant to tie the Secretary's hands in a way that prevents the Secretary from responding to true emergencies—such as severe flooding.

Another provision in the bill deserving special mention is section 47(b) which requires that, prior to issuance of a permit under section 404 of the Clean Water Act for a proposed landfill in the vicinity of Bartlett, IL, the Secretary of the Army must consider the impact of the landfill on the aquifer lying beneath the proposed site and the ability of the aquifer to be diluted to reduce radium contamination levels in the supplies of public drinking water.

It is important to point out that, although the bill language does not specifically require the corps to look beyond the existing permit record as prepared by the State of Illinois, neither is the corps precluded from doing so.

The corps will have to approve or disapprove the permit on the basis of whatever information is needed to complete their full public interest review. This means that the corps must determine whether the existing studies are adequate to address these important water quality needs.

In conclusion, Mr. Speaker, let me again emphasize that this is an excellent bill. Admittedly, it is less than some Members would have liked. But to those who may have not gotten something out of the final package that they had hoped for, let me make two important points. First, all of us on the leadership of the Public Works Committee in the House had to give up something in order to keep a bill that addresses most of the needs addressed in the House bill. Second, by restoring the process to a 2-year cycle, we can assure Members who had projects that may have been premature that we will return to these issues in the coming Congress.

Mr. Speaker, this is a good and much-needed bill. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON, Mr. Speaker, I yield 6 minutes to the gentleman from New York [Mr. NOWAK], the chairman of the subcommittee.

Mr. NOWAK. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am pleased to join the chairman of our Committee on Public Works and Transportation in bringing to the floor the conference report on S. 2100, the Water Resources Development Act of 1988. I commend him for the leadership he has shown in the development of this legislation. I wish also to express my appreciation for the bipartisan participation and cooperation of the ranking Republican member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the ranking Republican of the Subcommittee on Water Resources, the gentleman from Minnesota [Mr. STANGELAND]. Finally, I compliment the House and Senate conferees for their efforts in working out a compromise which enables us to continue the progress and achievements initiated in the Water Resources Development Act of 1986.

The conference report represents a return to a regular authorization schedule for the water resources program of the Department of the Army. In years past, it was common to have an authorization bill every 2 years. This process was disrupted. however, for a decade preceding the landmark Water Resources Development Act of 1986. During this period, long and difficult negotiations with the administration and the Senate took place over the issues of cost sharing and proper Federal and non-Federal roles in water resources development. The culmination of that 10-year period, during which there was no authorization bill, was the 1986 act which contained new and revised cost sharing policies, an enlarged role for State and local governments in water resources planning and implementation, and numerous provisions designed to protect and enhance environmental values.

With the enactment of the 1986 act, the water resources program of the Corps of Engineers was able once again to move forward, and a number of new projects for flood control, inland navigation, port development, and related purposes such as recreation, hydroelectric power and water supply have been started. The program is on the right track again, and serious water resources needs are being addressed in a cooperative effort involving the Federal, State, and local governments.

The bill which we bring to the floor today will continue the process we began in 1986. In developing the final form of this bill in the conference committee we were able to draw upon not only the expertise of our committee and the Senate Committee on Environment and Public Works, but also the Office of the Assistant Secretary of the Army for Civil Works and the Office of the Chief of Engineers.

The resulting legislation adheres to the cost sharing principles adopted in 1986. It follows the delineations of Federal and non-Federal interests and responsibilities. And it conforms to the basic concepts of a 2-year authorization cycle, under which projects are authorized upon completion of the planning process within the Corps of Engineers.

The amount authorized by the conference report is less than that in the House-passed bill. The bill passed by the House authorized expenditures of some $2.2 billion. The conference report authorizes some $1.7 billion in Federal expenditures. I note, however, as I noted in the passage of the House bill, that the Water Resources Development Act of 1986 set obligation ceilings for Corps of Engineers' construction activities of $1.6 billion in 1989, $1.7 billion for 1990, and $1.8 billion for 1991. The overall budgetary impact of the bill will be constrained not only by the obligation ceilings imposed in 1986, but also by the budget process itself. It is important to remember that the provisions of the bill only authorize appropriations—they will not have the effect of increasing appropriations beyond any applicable ceilings.

When the House version of this legislation (H.R. 5247) was considered and passed by the House, I pointed out that adjustments in the bill would undoubtedly have to be made in conference, and that we would do our utmost to secure a bill that would be agreed to by the conferees and become law. We did this, and were able to retain a significant part of the House position. Some provisions in the House bill were deleted, some were modified, and many were retained in their original form. Some of the provisions which were deleted will be the subject of our future consideration, such as projects which have not yet completed the Corps of Engineers planning process. Other provisions may not be able to be favorably considered in the future because of conflicts with established policy. We will, however, continue to respond as best we can, and in conformance with established policies, to water resources problems which exist throughout the Nation.

Mr. Speaker, the conference report on S. 2100 will continue our efforts to address the water resources needs of the Nation in a cost-effective and responsive manner, and I urge its passage.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER], a member of the committee.

Mr. CLINGER. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, it is of utmost importance that the House approve S. 2100 and send it to the President for his signature. As has been pointed out, S. 2100 contains a number of projects requested by the White House, and they support its enactment.

S. 2100 contains a number of vital projects necessary to protect the vitality of many of our major communities through the construction of flood control measures, and just as importantly, it authorizes the reconstruction of two major locks and dams on the Ohio River, one of our most important inland waterways linking the industrial Midwest to our gulf ports.

Given the recent history of Congress' spotty treatment of water authorization bills, S. 2100 returns this process to a regular, 2-year cycle. Members may recall we endured a 10-year lapse of project authorizations and the corps has not yet crawled out of the hole created by this void.

Because of this long period of no new starts, the Corps of Engineers had to deploy many of its staff into other areas. Then with the passage of the water resources bill in the 99th Congress, we burdened the corps with a tremendous number of new project starts.

Congress must recognize and accommodate their manpower capabilities and authorize these projects in a regular, dependable manner.

Mr. Speaker, I congratulate the leadership of the Public Works Committee, notably Chairman ANDERSON and ranking Republican JOHN PAUL HAMMERSCHMIDT, and Subcommittee Chairman NOWAK and ranking Republican ARLAN STANGELAND. They've worked hard to accommodate a variety of competing interests, and the conference report before us testifies to their dedication and skill. I encourage all Members to support this measure.

Mr. ANDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I rise in strong support of the conference report on S. 2100, the "Water Resources Development Act of 1988."

In the Eastern States, especially, where we are dependent upon projects administered by the U.S. Army Corps of Engineers for flood control and navigation, this legislation represents a renewed commitment to the water resources public works infrastructure of this Nation.

I would note that this conference report contains a provision that I authored in the House-passed bill which provides for a specific recreation authorization at a number of older Army corps projects in West Virginia, Pennsylvania, and Maryland. The corps should take note of this provision as it represents a clear congressional directive that recreation activities are, in fact, an authorized project purpose of these facilities and must be accommodated in project operations.

The recreation authorization includes downstream whitewater recreation, recreational fishing, and boating on water at the project. The legislation also specifically authorizes recreation on project lands as well which is intended to gain greater corps cooperation in the planning of recreational projects such as campground, lodging facilities, and related infrastructure requirements.

The conference report also contains another House provision I authored that directs the Army Corps of Engineers in cooperation with the National Park Service to conduct a study and prepare a report on modifying the operation of the Bluestone Lake project in order to facilitate the protection and enhancement of biological resources and recreational use of the New River Gorge National River which is located downstream from the project.

Finally, the legislation contains a provision prohibiting the transfer of title from the Federal Government to the State of West Virginia for an area called the Lesage/Greenbottom Swamp. This is an Army corps fish and wildlife mitigation project in association with the improvements made at the Gallipolis locks and dam. The intent here is to proceed with a lease arrangement with the State to manage the fish and wildlife resources and recreational, cultural and historic values in the area.

Mr. Speaker, I urge the adoption of the conference report on S. 2100.

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Mr. Speaker, again I salute the managers of the conference report and the conferees.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. Hastert] a member of the committee.

Mr. HASTERT. Mr. Speaker, I rise in support of the conference report on S. 2100, the Water Resources Development Act of 1988. I would like to commend the chairman of the committee, Glenn Anderson, Chairman Nowak of the Water Resource Subcommittee and ranking members, Mr. Hammerschmidt and Mr. Stangeland for bringing this conference report to the floor so quickly.

Included in this legislation is a provision which I introduced in the House bill to protect Illinois water quality. This provision was somewhat modified during conference. Nevertheless, I appreciate the efforts of those who worked so diligently to address this pressing concern of citizens in my district and throughout much of northeastern Illinois.

The problem which I have sought to address is the proposed siting of a balefill in a recharge area in Bartlett, IL. Because of the Army Corps of Engineers' role in the permit process, I have sought to insure that they closely consider the potential for leachate into the Newark Valley Aquifer.

This particular aquifer is the primary source of drinking water for much of northeastern Illinois. The immersion of a balefill into the Newark Aquifer could poison this vital water source. Due to the current presence of naturally occurring radium and radon in deep aquifer water supplies, this situation becomes even more critical. In order to meet EPA standards for radium in the drinking water, pristine water must be available for blending purposes.

This provision draws attention to the complexity and the uniqueness of the situation in Bartlett. Most importantly, it requires that the Army Corps of Engineers take steps in their permit review process to ensure that this water supply is not irreparably harmed.

It is crucial that the Secretary, in considering the impact of the balefill on the aquifer, not be limited to merely reviewing IEPA's permit record, but work to meet all of the requirements mandated by section 404 of the Clean Water Act.

Again, I would like to thank the committee for their efforts in this regard and urge that the House pass this legislation.

Mr. ANDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Borski] for the purpose of a colloquy.

Mr. BORSKI. Mr. Speaker, I rise in support of the conference report on S. 2100, and to engage the chairman of the Public Works and Transportation Committee, Mr. Anderson, in a brief colloquy about section 38 of the legislation, on which I have been privileged to serve as a conferee.

Section 38 would declare certain portions of the Delaware River in Philadelphia to be nonnavigable, unless the Secretary of the Army determines that projects proposed at these sites are not in the public interest. Section 38 also confirms existing Federal permitting and regulatory authorities with respect to the sites, but it is my understanding that section 38 would require compensation to the owners if there were an order by the U.S. Government to alter or remove the projects.

Mr. ANDERSON. Mr. Speaker, if the gentleman will yield, the gentleman from Pennsylvania's understanding is correct, and I thank him for his service as a conferee on this matter.

Mr. BORSKI. Mr. Speaker, I thank the gentleman for his response.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the gentleman from California [Mr. Anderson], the chairman of the committee; the gentleman from New York [Mr. Nowak], the chairman of the subcommittee; the gentleman from Arkansas [Mr. Hammerschmidt], the ranking Republican, as well as the gentleman from Minnesota [Mr. Stangeland], the ranking Republican on the subcommittee for producing this bill and for staying with it and working out an agreement that is acceptable to both Houses and to the administration.

I would also like to thank Bob Dawson from the OMB and John Doyle from the Corps of Engineers for their assistance, especially to me with regard to a very important project in the bill. It is relatively small, $300,000, but it may well determine whether or not there is a Ventura Harbor, because failure to do this, combined with a winter storm that could very well happen in the next several months, could wipe out the entrance to the harbor in Ventura. So I want to express again my appreciation to all concerned.

Mr. Speaker, I would like to ask the chairman of the subcommittee to engage in a colloquy. I would state that I know that it has become necessary for the committee to take out of its version of the bill the authorization for the Ventura Harbor reauthorization. The question I would ask the gentleman from California [Mr. Anderson], chairman of the committee, is whether it is the intention, without asking the committee to bind itself, of course, but whether it is the general intention that the committee would look favorably on this project again when next they consider legislation of this kind?

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I believe we do have an understanding that it is a matter we would want to take up in the next Congress with hearings, and I look forward to cooperating with the gentleman from California [Mr. Lagomarsino].

Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Speaker, in my remarks I pointed out that we used to have a bill every 2 years, and this was a regular thing. Then there was a period of time maybe 10 or 12 years between bills and this time we have committed ourselves to having a bill every 2 years. I want the gentleman to know that of course I was in favor of his projects anyway, and the fact that one of them did get knocked out, I assure the gentleman we will take an awfully good look at it in the coming session.

Mr. LAGOMARSINO. I appreciate the gentleman's comments and again thank him for all of his assistance in this matter.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. Bereuter].

Mr. BEREUTER. Mr. Speaker, I rise in support of the conference report on S. 2100, especially as it relates to the upper Missouri River elements and urge my colleagues on both sides of the aisle to also support this legislation.

S. 2100 contains a provision which this Member along with the distinguished Members from Montana, North Dakota, and South Dakota proposed and advanced that would authorize the Army Corps of Engineers to repair and install needed structures to prevent bank erosion problems along the Missouri River directly attributed to the operation of the Pick-Sloan dams. The legislation would not require an annual appropriation but require the corps to use at least a limited amount of funds for needed repair and construction from maintenance funds.

This provision, for the first time, authorizes the corps to recognize the stream bank erosion problems caused by the operation of the dams and to take the steps necessary to help alleviate the financial brunt the adjacent landowners have had to bear while they continue to fight an uphill battle against the river. The GAO has reported that there has been a continued loss of land along the Missouri River since the construction of the Pick-Sloan projects, and that the corps failed to take the anticipated steps at the time of construction to remedy any future erosion problems. This Member can certainly attest that has been the case in Cedar, Dixon, and Dakota Counties in Nebraska.

Mr. Speaker, this Member has fought for nearly 10 years to require the corps to assume the responsibility for bank stabilization activities along the 59-mile stretch of the Missouri River National Recreation Area below the Gavins Point Dam. A key feature of the original MoRec River legislation was that Congress recognized that bank stabilization was an essential part of preserving the scenic beauty and recreational aspects of the Missouri River. However, the operation of Gavins Point Dam itself has caused hundreds of valuable acres of farmland wash away along this last unchannelized portion of the river below its main stem dams.

Yet, because of the unique situation in which this river is managed, that it is a Wild and Scenic River Act river under the jurisdiction of the Department of Interior but maintenance responsibilities fall to the Corps of Engineers. Thus this remains the only Wild and Scenic River Act river to which cost sharing applies. The landowners currently have no real recourse but to watch while the very large and often irregular water releases from the Gavins Point Dam tear out acres of land each spring and fall. This is an injustice crying out for redress.

Nonetheless, the legislation is helpful, so I would like to thank the gentleman from North Dakota [Mr. DORGAN] for his leadership on this issue, as well as the gentlemen from South Dakota and Montana and the House conferees for their work on preserving this language in the conference committee.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank my friend from Arkansas for yielding time to me.

Mr. Speaker, I commend my colleagues who worked so diligently to bring this important conference report to the floor. In this legislation they have remained firm in their commitment to pass a responsible water resources bill in the 100th Congress.

I am pleased that the legislation includes a deauthorization project in Wisconsin that will not only save taxpayer dollars, but give a small lakefront community the opportunity to embark on a harbor development project.

The Water Resources Development Act includes the language of a bill I introduced last year which would transfer the Federal authority over part of Algoma Harbor back to the city of Algoma, WI. Once the city has gained control over the outer basin area, they will then be able to undertake a harbor development project.

The goal of the city is to provide a sheltered marina for recreational boaters and fishermen. Completion of the sheltered marina will once again allow the harbor to serve in an active and useful capacity for the people of Algoma.

The harbor project offers the Algoma community an opportunity to expand its economy and attract greater tourism to the area. Revenues in excess of $2 million annually are estimated to be generated from the new marina recreation facilities. Additional jobs will be created and the local businesses will undoubtedly reap benefits from the increased number of tourists to the area.

By passing the Water Resources Act, Congress will provide the incentive for a small Wisconsin community to meet its goals of greater economic vitality. This is the kind of positive initiative we need in Congress to keep our economy strong. In Man of the House, Tip O'Neill said all politics is local—so too, all economics is local—the legislation before us is an excellent work and I hope all the Members of the House will support it.

Mr. NOWAK. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I am happy to yield to my good friend, the gentleman from New York, who has done so much on this legislation.

Mr. NOWAK. Mr. Speaker, I just want to acknowledge the great cooperation and persistence of the gentleman who brought this project to our attention and gave us full input into all of the ramifications of it and the necessity for it. He has been a great contributor to this bill, and I want to thank him for that cooperation.

Mr. ROTH. I thank my good friend from New York. When I was a freshman Member I served on the gentleman's subcommittee, and I never met a fairer man or a harder working man than the gentleman from New York in this Congress, and I thank him for his help.

Mr. ANDERSON. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to express my appreciation to the gentleman from California [Mr. ANDERSON], the chairman of the full committee, as well as to the chairman of the subcommittee, the gentleman from New York [Mr. NOWAK] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking Republican on the full committee; and the gentleman from Minnesota [Mr. STANGELAND], the ranking member on the subcommittee respectively for bringing this legislation through the perils of the closing hours of a session and for getting us back on track with the 2-year authorization cycle for water resources projects. I especially want to express my appreciation for inclusion of language affecting the headwaters of the Mississippi River that became a focal point of concern for downstream flows as well as their use as a reservoir for maintaining water for flood prevention in the downstream areas of the Twin Cities and in the lower reaches of the Mississippi. The language worked out will protect the interests of both the property owners, the resort industry of northern Minnesota at the headwaters as well as the interests of consumers of water in downstream areas and those who need to be protected against floods. I greatly appreciate the language finally worked out on both sides of the aisle to accomplish all objectives while respecting the responsibilities of the Secretary.

Mr. Speaker, I do want to raise a concern, and that is my concern that the administration, through the Office of Management and Budget, and the Corps of Engineers, but particularly OMB, objected to including the project for the interconnecting canals on the Great Lakes because it did not have a chief's report. If I understand rightly, we were just 4 weeks away from having that, but now it is 3 weeks from having the chief's report; and this project, of course, can be considered in the next cycle, and I am certain it would be the intent of the chairman of the subcommittee to take that project up in the next legislative cycle.

Mr. NOWAK. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from New York.

Mr. NOWAK. Mr. Speaker, I thank the gentleman, first of all, not only for his work over many, many years on the subcommittee on these particular problems, but for his work with us to reach the delicate balance that we needed on the headwaters problem. I think his participation was essential if we were going to do anything. I certainly also want to assure him that one of the first things on our agenda as we get back, if I am the chairman of the subcommittee, will be a hearing and bringing to the floor, instead of waiting perhaps for another 2-year cycle, but breaking up this highway and this water legislation so that we can bring to the floor the gentleman's kind of situation without waiting the whole 2 years before we can acknowledge that his project has passed total and good review.

Mr. OBERSTAR. My concern goes to the cost of moving goods, grain overseas, coal, limestone, rock, iron ore, among the five Great Lakes and to the ports of the Great Lakes. Because of the high waters on the Great Lakes system through the past 5 or 6 years, dredging has not been undertaken in those interconnecting canals. Vessels are going out through the St. Lawrence Seaway loaded light, capping off at Montreal, causing higher costs for grains shipped overseas, losing markets for American agriculture, costing our steel industry, our highway industry in this country more money for the higher cost of goods shipped at light weight through those interconnecting canals.

This is not a project that affects my district. It affects all of the industry of the Great Lakes where we have 45 percent of the Nation's agriculture, one-fifth of the Nation's industrial jobs and half of our industry. That waterway is absolutely crucial, and because those canals have not been properly dredged over the last several years, because we have had the advantage of high water, and now that the water has dropped because of drought, we need that dredging to maintain commerce and industry. It is a national issue, not just a local issue.

I appreciate the gentleman's expression of concern and his willingness to move early on this matter. It affects all of the Members who represent the Great Lakes area and the hinterlands beyond them, the agricultural and industrial areas beyond the Great Lakes Basin.

Mr. NOWAK. If the gentleman will yield further, as he knows, I also have a very particular interest in the Great Lakes and the problem the gentleman is discussing here is looked upon now as a problem that is going to get worse. There are predictions from hydrologists who have looked at this problem and who know that the lakes are still falling, and they are likely to fall further because of the greenhouse effect and other weather conditions that we have had. So this problem has to be looked at very early next year, and I certainly join with the gentleman from Minnesota in assuring him that we will.

Mr. OBERSTAR. I thank the gentleman and again the chairman of the committee for being so indulgent.

Mr. STANGELAND. Mr. Speaker, I rise in strong support of the conference report on S. 2100, the Water Resources Development Act of 1988. This omnibus bill provides needed projects for flood control, navigation, fish and wildlife protection, and other purposes. It will get us back on track with a regular, 2-year authorization process. It also reaffirms reforms enacted in 1986 involving cost-sharing, price increases, and project study and authorization procedures.

First, let me thank all the key players in the House and Senate for their hard work in reaching such a worthy compromise. I appreciate the leadership of the House Public Works and Transportation Committee: Chairman, GLENN ANDERSON; ranking minority member, JOHN PAUL HAMMERSCHMIDT; and subcommittee chairman, HENRY NOWAK. We certainly would not have a compromise before us today if these gentlemen and the leadership of the Senate Environment and Public Works Committee had not worked so hard to resolve our many differences.

And, Mr. Speaker, I would be remiss if I did not extend my heartfelt thanks to those within the administration and the Corps of Engineers who were instrumental in forging the conference substitute. In particular, I want to thank Secretary Bob Page; his principal deputy, John Koyle; Bob Dawson of the Office of Management and Budget, and their staff for their expertise and cooperation.

We can all be proud of the resulting compromise which has the support of the administration. I do regret, however, that we were unable to retain every worthy provision in the two bills. Members, however, should realize that by getting back to the 2-year authorization process, we will have the opportunity to look at unresolved issues, new issues, and projects on a regular basis. This is the most important point to emphasize. By getting back to the 2-year process, we benefit everyone.

Mr. Speaker, allow me to highlight some of the bill's provisions. Section 3(a) authorizes new locks and a dam near Olmstead, IL, along the lower Ohio River. The project area is in a strategic location in the Nation's inland waterway network, linking the Mississippi River and the Ohio River systems. These twin locks will provide for dependable and efficient navigation by the country's fleet of barges. The Inland Waterways Users Board, the corps, and countless others support the revitalization of this important link in the Nation's chain of navigable highways.

Section 4(m) modifies the existing flood control project at Roseau River, MN, to allow the corps to go forward with a smaller and more economical component of the overall project. The corps is authorized to construct a levee in the vicinity of Duxby, MN, under their section 205 authority. This will allow an important flood control project to proceed.

Section 21, regarding the corps' reservoirs in the upper Mississippi's headwaters region, responds to recent criticisms of proposed drawdowns during this year's drought. Concern about a drawdown's impact on the environment and the local economy prompted me to introduce legislation. My bill, H.R. 5152, simply required the corps to analyze the various economic, environmental, and social impacts of increased reservoir releases and then to report to Congress before implementing such releases unless emergency conditions existed.

Section 21, proposed by the gentleman from Minnesota [Mr. OBERSTAR] and subsequently modified, responds to the same concern. It specifies minimum and maximum levels within which the Secretary should operate the six Mississippi River headwaters reservoirs, but recognizes that in some cases, this may not be practicable. Therefore, it allows the Secretary to operate the reservoirs below or above these levels in accordance with a contingency plan to be developed in consultation with the Governor of Minnesota and affected landowners and commercial and recreational users.

The section also requires the Secretary to notify Congress at least 14 days before the Secretary operates any of the reservoirs below or above the specified levels. Obviously, this reporting requirement is not meant to tie the Secretary's hands in a way that prevents the Secretary from responding to true emergencies—such as severe flooding.

Section 25 directs the Secretary to restore or replace recreational uses at the south pier in Charlevoix, MI. Costs are to be allocated among project purposes. The conferees expect the cost-sharing for work under this section to be at full Federal expense.

Section 37 of the conference report includes a project to restore Groin No. 1 of the Ventura to Pierpont Beach, CA project to its original configuration. The House-passed bill, H.R. 5247, authorized the project at a total Federal cost of $225,000 and a total non-Federal cost of $75,000. The conferees retain the House provision as modified to specify the project as an emergency. At no point did the House or the conferees consider this project to be for recreation. Instead, we viewed it as an emergency restoration project for purposes of storm damage reduction and beach erosion control.

Section 46(b) of S. 2100 directs the Secretary to consider the impact of a proposed landfill on the Newark Valley aquifer, consult various agencies, and report to Congress.

Communities in northeastern Illinois are currently struggling with a problem involving naturally occurring radium and radon. The proposed construction of a balefill on top of this recharge area poses a critical problem that could jeopardize the primary source of pristine water used for blending purposes in lowering the radium levels in efforts to comply with EPA standards.

Because the Army Corps has a very important role in the permit review process, they should be willing to go a step further in considering the consequences of such a proposal. This language is designed to bring attention to these facts and to ensure that the corps does not rely solely on the Illinois Environmental Protection Agency's permit record.

Section 46(d) authorizes the corps to study financing and cost recovery opportunities for projects in the Great Lakes connecting channels and the St. Lawrence Seaway. The gentleman from Michigan [Mr. PURSELL] has shown great leadership in promoting commercial navigation on the seaway and been very helpful with this particular provision. The gentlelady from Ohio [Ms. KAPTUR] has also helped the conferees.

Section 50 authorizes the technical resources service for the Red River of the North Basin in Minnesota and North Dakota. This new authority will supplement the ongoing section 22 and section 206 efforts in the basin. Because of its unique physical features and jurisdictional boundaries, the basin needs increased flood protection and coordination among land and water officials. The intent of this section is to have the corps and the two States work closely with the International Coalition for Land/Water Stewardship in the Red River Basin.

Mr. Speaker, I think it's important for every Member to know that the administration had severe, and I think justified, reservations about various aspects of the House-passed bill, H.R. 5247. In response, we made numerous adjustments in conference. We worked to produce legislation that the President could sign and that could return Congress to the traditional 2-year authorization process. We have met our goal.

For all of these reasons, I strongly urge my colleagues to support the conference report. It contains meritorious projects and reaffirms recently enacted cost-sharing, procedural, and environmental reforms. It's a good, responsible bill that will benefit the entire Nation.

Mr. FIELDS. Mr. Speaker, I rise in strong support of S. 2100, the Water Resources Development Act of 1988 and I compliment the leadership of the House Public Works and Transportation Committee for bringing this important legislation to the floor today.

While there are a number of vital projects authorized by this bill, I will confine my remarks to the Cypress Creek flood control project which is located in northern Harris and eastern Waller Counties, TX.

Specifically, S. 2100 authorizes the Army Corps of Engineers to construct a flood control project for the Cypress Creek watershed. This project, which is partially located in my congressional district, will have a positive impact on 172,000 Harris County residents and 14,000 Waller County residents. The plan proposed by the Corps of Engineers and authorized by this legislation consists of three elements. These are:

A 29.4-mile channel to be constructed from the mouth of Cypress Creek upstream to U.S. 290. Work will involve widening, deepening, and straightening the existing channel and constructing a channel about 20 feet deep and 2 or 3 feet above the existing ground. Bottom widths of the channel will vary from about 200 feet downstream to 30 feet near U.S. 290 and top widths will vary from 150 to 300 feet. In order to accommodate the improvements, 6 highway bridges will be replaced, 1 bridge will be extended, 28 pipelines will be relocated, and 25 single-family homes will be removed.

Eleven and one-half miles of lighted hiking/biking trails with six-foot bridges will be developed at seven existing Harris County parks. Other facilities to be constructed include seven parking and public access areas with restrooms and two canoe launching ramps.

And fish and wildlife habitat improvements will be made to approximately 1,250 acres of Harris Country parklands and private lands located along Cypress Creek in order to lessen adverse environmental effects associated with the loss of wooded areas along the creek called for under the Corps of Engineers plan.

Mr. Speaker, the total cost of this project is $114,200,000. Under the current cost-sharing formula, the Federal Government will allocate $84,900,000 toward the cost of this project and the local non-Federal share will be $29,300,000.

The project will provide $1.20 in benefits for every dollar it costs to implement the badly needed flood control and recreational improvements. In addition, it will remove 4,200 acres of land and 1,300 structures from the 100-year floodplain, it will reduce average annual flood damage by 93 percent, and will provide just under $17 million each year in various benefits for those living in the Cypress Creek watershed. In short, this is an important and vital project for many Eighth District residents.

Mr. Speaker, as someone who has consistently supported both water resources development and clean water projects, I am extremely pleased that we are today authorizing the Cypress Creek flood control project. I would again compliment the leadership of the Public Works Committee, in particular Congressmen GLENN ANDERSON, HENRY NOWAK, JOHN PAUL HAMMERSCHMIDT, and ARLAN STANGELAND, for their tireless efforts on behalf of the peoples of this Nation.

By working together, we can help to ensure that in the future few, if any, Americans will ever again have to experience the ravages and destruction of flooding. S. 2100 is an important step in the direction of providing protection for our citizens and it is a worthy successor to our landmark Water Resources Development Act of 1986.

I urge my colleagues to join with me in voting "aye" on this most important conference report.

Mr. FOGLIETTA. Mr. Speaker, I rise to commend the chairman of the Committee on Public Works and Transportation, the gentleman from California, Mr. ANDERSON, and the chairman of the Water Resources Subcommittee, Mr. NOWAK, and the ranking minority member, Mr. STANGELAND, for their diligence and hard work in bringing this bill and conference report to the floor.

Mr. Speaker, I want to express my strong support for section 39 of this legislation. This particular provision declares certain portions of Philadelphia's Delaware River central waterfront district to be nonnavigable. This purely technical provision has to be enacted into law if planned development for the improvement and revitalization of this waterfront area is to proceed.

The projects to which section 39 applies are part of the city of Philadelphia's comprehensive plan for port, commercial, residential, and recreational development of its waterfront. These particular projects are fully supported by the city, the Philadelphia Port Corporation and the Philadelphia Industrial Development Corporation. The projects will provide thousands of jobs and public access to the waterfront at sites which are blighted, dilapidated piers with no recent past or future port use, and have provided no public access to the Delaware River.

Let me emphasize that the city's waterfront plan of which the projects affected by this legislation are a part has been prepared, considered, and approved over a 20-year period. It has been a planning process characterized by wide public participation.

These projects, Mr. Speaker, are located above and below the site—known as Penn's Landing—which was the subject of a nonnavigability declaration approved by Congress in 1972. They will complement the Penn's Landing development and will not interfere with port and industrial waterfront uses, which are located up and down river from this section of the Delaware river.

The legislation in the conference agreement is required because the doctrine of navigation servitude, which applies to navigable waters of the United States, creates a cloud on title, preventing project financing. This problem is exacerbated by the 1972 precedent for the Penn's Landing site; that law highlighted the cloud on title for these next sites and projects, some of which are adjacent to Penn's Landing.

The doctrine of navigation servitude permits the Federal Government to order the removal or alteration of development on the navigable waters of the United States without compensation to the owners. When development has been properly planned and pursued under applicable Federal, State, and local law, as the particular ones in question here have been, then an order to remove or alter without compensation to the owners clearly would be inequitable.

This conference agreement embodies the results of extensive discussions between the Department of the Army and representatives from the city of Philadelphia. It addresses concerns the Army has raised as well as the particular facts and circumstances of Philadelphia's situation.

The conference agreement declares the Philadelphia project sites to be nonnavigable, unless the Secretary of the Army determines, after consulting with local and regional public officials and using reasonable discretion, that such projects are not in the public interest. The conference agreement confirms existing permitting and regulatory authorities of the U.S. Government but would require compensation for the owner if there were an order by the United States to remove or alter the projects. Subject to the public interest test, the legislation would remove the cloud on title represented by navigation servitude so that the projects can proceed. The conference agreement provides, further, that the declaration of nonnavigability will expire if areas are not bulkheaded or filled or occupied by permanent structures or marina facilities in accordance with applicable permits within 20 years after the date of enactment of the legislation, or if work in connection with any permitted activity is not commended within 5 years after issuance of permits.

Mr. Speaker, I already have noted the wide public participation in the planning process for Philadelphia's central waterfront district. And, as public participation is intended to do, concerns and reservations were raised, including port and recreational boating safety and diminution of future port of Philadelphia development, as the waterfront plan emerged. While these concerns have been examined thoroughly by the appropriate city and port planning agencies, the language of this conference report provides an opportunity to double check our work before proceeding. This, in my opinion, is a very important aspect of this legislation.

Mr. Speaker, Philadelphia's waterfront projects face immediate deadlines, and it has been essential for Congress to act on this legislation this year. I am looking forward to working with the Secretary of the Army to have the public interest test completed as soon as possible, and I want to thank all who have worked so hard to achieve the timely enactment of this legislation.

Mr. DORGAN of North Dakota. Mr. Speaker, I want to thank Chairman ANDERSON and Chairman NOWAK and the Committee on Public Works and the conferees who have worked hard to complete this bill and speedily bring it to the floor of the House for consideration.

Mr. Speaker, I rise in support of this conference report. This measure authorizes the construction and improvement of water projects by Army Corps of Engineers that many Members are concerned about. I am particularly grateful that the conference report contains provisions for three projects that effect the State of North Dakota.

The conference report provides for the continuation of the authorization of the Fort Yates Bridge project. The Fort Yates Bridge project was first authorized by the 1970 Flood Control Act. Initial advance engineering and design funds in the amount of $350,000 were appropriated in fiscal year 1972 for this and another bridge project. A provision in the 1986 Water Resource Development Act will deauthorize the Fort Yates Bridge project at the end of 1989, unless funds are provided for the project before that time.

Since the Fort Yates Bridge was authorized, the project has had its ups and downs. For a period of time the project was opposed by the Standing Rock Sioux Tribe. However, the tribe now supports the construction of the new bridge and their support is echoed by many of the residents in Emmons and Sioux counties in south-central North Dakota. The bridge is recognized as a vital part of an effort to encourage economic development and cultural exchange in the area.

The Water Resources and Development Act conference report extends the authorization of the Fort Yates Bridge project beyond 1989. The bill provides for the continuation of the authorization for two projects: the navigation project for Monterey Harbor, Monterey Bay, CA, and the navigation project for the North Branch of the Chicago River in Illinois. My amendment adds the Fort Yates Bridge project to this list of authorization extensions. The effect is that these projects, the Fort Yates Bridge included, will have an additional 2-year period to obligate funds for their construction.

The Fort Yates Bridge project is at the present time close to construction. An additional 2 years will allow the State of North Dakota and the Army Corps of Engineers to work out the details of their cost-share agreement and finalize the planning of the project.

The conference report also contains provisions which authorize the corps to repair bank erosion along the Missouri in Montana, North Dakota, South Dakota, and Nebraska. This authorization is badly needed to repair the severe erosion damage that has occurred along the Missouri since the construction of the Pick-Sloan dam projects. Although this provision was not contained in the House version of the bill, the Senate in its version included language which authorized this bank erosion repair. I am very pleased that this provision was maintained in the conference report.

Finally, the conference report directs the corps to establish a Technical Resource Service for the Red River Valley in North Dakota and Minnesota. This Technical Resource Service would provide technical assistance for the development and implementation of State and local water resource initiatives within the Red River Valley.

Mr. MADIGAN. Mr. Speaker, the conference agreement on S. 2100, the Water Resources Development Act, contains a provision which is of significant importance to the people in my congressional district who live in Grundy and LaSalle Counties.

This provision, section 22(c), directs the Army Corps of Engineers to consider whether construction of a balefill in Bartlett, IL, might jeopardize the drinking water supplies for communities throughout a large portion of northeastern Illinois. Many of these communities are already plagued with naturally occurring radium and radon in drinking water drawn from deep wells. To combat this existing problem, many communities rely on water from the aquifer to blend with deep well water in order to dilute these contaminants to acceptable levels. Under the conference agreement, the corps is directed to consider the impact on the aqufier's ability to dilute existing radon in these irreplaceable water supplies.

I want to thank the conferees for their concern and attention to this serious problem.

Mr. GUNDERSON, Mr. Speaker, I rise today in halfhearted support of S. 2100, the Water Resources Development Act of 1988. I strongly supported the House-passed version of this measure, H.R. 5247, as it included a provision of major importance to the city of La Crosse, Wisconsin, which is in my congressional district.

This provision, which was removed in the House-Senate conference after objections were voiced by the U.S. Army Corps of Engineers, would have affected the Mississippi-Black-La Crosse Rivers Flood Control Project. A review of the history of this project will show that the House action was a matter of fundamental fairness.

Section 710 of the Water Resources Act of 1986 (Public Law 99-662) provides for the automatic deauthorization of incomplete water resources studies for which no funds have been appropriated during the previous 5 full fiscal years. Section 710 further provides that 90 days after the Army Corps submits a list of such eligible projects to Congress the projects will be deauthorized.

On June 24, 1987, the House approved H.R. 2700, the Energy and Water Appropriations Bill for fiscal year 1988. That bill included funding for the Mississippi-Black-La Crosse Rivers project.

Nearly 3 months later, on September 17, 1987, the Army Corps of Engineers submitted to Congress a list of projects eligible for deauthorization under section 710. The La Crosse project was on that list.

Ninety days later when the section 710 deauthorization took effect, Congress still was wrangling over the continuing resolution, which contained $100,000 for the La Crosse project. The continuing resolution was signed into law on December 22, 1987, only 5 days after the automatic deauthorization occurred.

On March 16, 1988, the House Committee on Public Works and Transportation approved a "committee survey resolution," which reauthorized the La Crosse project.

The impact of this unintended deauthorization was to put the La Crosse project in a different cost sharing scheme. The purpose of the provision included in H.R. 5247 was to place La Crosse in the position vis-a-vis cost sharing that it was in before the deauthorization.

A feasibility phase I study was completed on the La Crosse project in September 1973. However, a reevaluation study is required to evaluate the project based on changes made since 1973. This reevaluation study was to be funded 100 percent by the Federal Government. But because the project was deauthorized, the reevaluation study will now require a 50 percent non-Federal cost share (section 215 of Public Law 99-662). The city estimates that this new cost-sharing formula could cost $200,000-$500,000.

The House version of this legislation sought to remedy this inequity by restoring the La Crosse project to its status before the deauthorization. This is a matter of fairness which deserved the support of not only the House, but also the Senate and the Army Corps of Engineers.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and agree to the conference report on the Senate bill, S. 2100.

The question was taken.

Mr. CLINGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 2100 just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1715

CONCURRING IN SENATE AMENDMENT TO H.R. 4445, TERRORIST FIREARMS DETECTION ACT OF 1988, WITH AN AMENDMENT

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 596) to take from the Speaker's table the bill, H.R. 4445, Terrorist Firearms Detection Act of 1988, with the Senate amendment thereto, and concur in the Senate amendment to the text, with an amendment.

The Clerk read as follows:

H. Res. 596

Resolved, That upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 4445, Terrorist Firearms Detection Act of 1988, with the Senate amendment thereto, and concurred in the Senate amendment to the text, with an amendment, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Undetectable Firearms Act of 1988".

SEC. 2. UNDETECTABLE FIREARMS.

(a) Prohibitions.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—

"(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

"(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

"(2) For purposes of this subsection—

"(A) the term 'firearm' does not include the frame or receiver of any such weapon;

"(B) the term 'major component' means, with respect to a firearms, the barrel, the slide or cylinder, or the frame or receiver of the firearms; and

"(C) the term 'Security Exemplar' means an object, to be fabricated at the direction of the Secretary, that is—

"(i) constructed of—

"(I) during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and

"(II) after the close of such 12-month period, 3.7 or fewer ounces of such metal (as prescribed by the Secretary in regulations as state-of-the-art in weapons detection technology advances) in such shape, to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms that are detectable and contain 3.7 or fewer ounces of such metal; and

"(ii) suitable for testing and calibrating metal detectors.

"(3) Under such rules and regulations as the Secretary shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearms. The Secretary shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

"(4) The Secretary shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

"(5) This subsection shall not apply to any firearm which—

"(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Secretary and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

"(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

"(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.".

"(b) Penalty.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (c)" and inserting in lieu thereof ", (c), or (f)"; and

"(2) by adding at the end the following:

"(f) In the case of a person who knowingly violates section 922(p), such person shall be fined under this title, or imprisoned not more than 5 years, or both.".

"(c) Conforming Amendments.—Section 925 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after "chapter" the following: ", except for provisions relating to firearms subject to the prohibitions of section 922(p),"; and

(2) by adding at the end the following:

"(f) The Secretary shall not authorize, under subsection (d), the importation of any firearms the importation of which is prohibited by section 922(p).".

"(d) Research and Development of Improved Airport Security Systems.—The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems in detecting firearms that, during the 10-year period beginning on the effective date of this Act, are subject to the prohibitions of section 922(p) of title 18, United States Code.

"(e) Studies to Identify Equipment Capable of Distinguishing Security Exemplar From Other Metal Objects Likely To Be Carried On One's Person.—The Attorney General, the Secretary of the Treasury, and the Secretary of Transportation shall each conduct studies to identify available state-of-the-art equipment capable of detecting the Security Exemplar (as defined in section 922(p)(2)(C) of title 18, United States Code) and distinguishing the Security Exemplar from innocuous metal objects likely to be carried on one's person. Such studies shall be completed within 6 months after the date of the enactment of this Act and shall include a schedule providing for the installation of such equipment at the earliest practicable time at security checkpoints maintained or regulated by the agency conducting the study. Such equipment shall be installed in accordance with each schedule. In addition, such studies may include recommendations, where appropriate, concerning the use of secondary security equipment and procedures to enhance detection capability at security checkpoints.

(f) Effective Date and Sunset Provision.—

(1) Effective date.—This Act and the amendments made by this Act shall take effect on the 30th day beginning after the date of enactment of this Act.

(2) 10-year sunset.—Effective 10 years after the effective date of this Act—

(A) subsection (p) of section 922 of title 18, United States Code, is hereby repealed;

(B) subsection (f) of section 924 of such title is hereby repealed;

(C) subsection (f) of section 925 of such title is hereby repealed;

(D) section 924(a)(1) of such title is amended by striking ", (c), or (f)" and inserting in lieu thereof "or (c)"; and

(E) section 925(a) of such title is amended by striking ", except for provisions relating to firearms subject to the prohibitions of section 922(p)."

The SPEAKER pro tempore (Mr. Gray of Illinois). Is a second demanded?

Mr. McCOLLUM. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. Hughes] will be recognized for 20 minutes, and the gentleman from Florida [Mr. McCollum] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on May 10, of this year, the House passed H.R. 4445 by a vote of 413 to 4. The Senate sent the bill back to the House with an amendment on May 25, 1988. There had been some disagreement on an extraneous amendment that has nothing to do with the subject of this bill which delayed final resolution of the legislation until now. That matter has since been resolved.

As is often the case, the spirit of compromise has produced a result which I think is an improvement on the two versions of the bill originally passed by the two Chambers.

One of the menaces of the modern age is the threat of terrorism and aircraft hijacking.

Those of us in public service are acutely aware of the terrorist threat to our national institutions and to Government offices. We have installed sophisticated equipment to detect weapons at the entrances to such facilities. However, in the near future, new technology will permit the manufacture of a virtually all-plastic and/or ceramic handgun with the danger that it will not alert a metal detector nor be visible in an x-ray examination of packages. This legislation is designed to protect us from the threat of undetectable handguns.

The amendment I am offering today prohibits the manufacture, import, sale, shipment, delivery, possession, transfer, or receipt of any firearm that, (1) after removal of grips, stocks, and magazines, is not as detectable as a security exemplar, by walk-through metal detectors calibrated and operated to detect the security exemplar; or (2) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component part. The first half of the description is from the Senate bill, and the second half is from the House bill. We have tightened the definition of the term security exemplar, keeping, of course, the 3.7-ounce threshold, which was the basis of the original compromise.

The remainder of the amendment incorporates elements from both the Senate and House bills. Manufacture of prototypes for testing is permitted.

Mr. Speaker, conditional importation for testing is also permitted. Use by the military and for intelligence purposes is likewise permitted. Firearms that are manufactured, possessed, or imported into the United States before the date of enactment of this act are grandfathered in the bill.

Continued research and development to improve the effectiveness of airport security devices is called for in the legislation. As the state-of-the-art of weapons detection advances, beginning 1 year after the date of enactment, the Secretary of the Treasury, may amend the definition of the security exemplar to permit the manufacture, sale, and possession of firearms that are detectable and contain less than 3.7 ounces of metal.

State-of-the-art weapons detection systems are to be installed at security checkpoints at the earliest possible time.

Finally the bill is subject to a 10-year sunset provision.

I want to commend my colleague on the House Judiciary Committee of the Subcommittee on Crime, Bill McCollum for his leadership on this legislation and his excellent work in reaching a solution to this very complex problem. I want to acknowledge the outstanding efforts of Mario Biaggi a former Member of Congress, Bob Mrazek, Chuck Schumer, Ted Weiss, and John Dingell on our side of the Capitol, and Howard Metzenbaum and Strom Thurmond in the other body, as well as the many other members of the Subcommittee on Crime for their dedication in building the foundation we have to solve this particular problem.

Finally I want to commend the Nation's police community, and their representation in the Law Enforcement Steering Committee. They have worked very hard on this legislation, and deserve a great deal of credit. They played a major role in encouraging the Justice Department and the Treasury Department to agree upon the proposal that broke the impasse that surrounded this legislation some time ago. Legislatively, the Nation's police have done an outstanding job.

Mr. Speaker, it is an excellent solution to what has been a very, very difficult problem. I urge the passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman has accurately described a very good piece of legislation that, as he says, is not one that is exactly like the House wrote it, but it is a good compromise on the whole issue we call the plastic gun issue.

I know that we are not dealing technically with a plastic weapon because not one of those has ever actually been constructed. But the fact of the matter is that Americans are, and rightfully are concerned that at some time in the near future the technology would exist that would allow the construction of a firearm which can be transported through the currently existing metal detection devices into an airplane which could cause all kinds of havoc and loss of lives.

What we have done in this legislation is to set up standards and guidelines that will require the manufacture of all weapons in the future to be within certain specifications that do not thwart detection. In other words, they are all going to have to be detectable.

The efforts that have gone into this have been enormous.

I want to compliment the gentleman from New Jersey [Mr. Hughes] for all the work he has done, to the staff for the work that they have done, the staff of our subcommittee, both the majority and minority staff. I think there is no question they have done a fine job of that.

I think in the last analysis what we have done with the Senate is an excellent product going to this exemplar system, phasing it down and having a sunset provision in it at the end.

This bill should become law. We should all be proud of it. We should all pray that we never see the day when it has to be actually used, when the threshold is met. But if that day comes we will have a law on the books to deal with it.

Mr. Speaker, I yield one minute to the gentleman from Idaho [Mr. Craig].

Mr. CRAIG. I thank my colleague for yielding to me.

Mr. Speaker, I would like to recognize Chairman Hughes for his leadership which he has displayed in this area and his willingness to cooperate to arrive at a solution that we believe is acceptable to all parties involved.

The greatest concern here I think rested with the ability to detect a firearm in the nature of the type described, less than 3.7 ounces, if that firearm were to come into existence.

We have now established the paramenters under which that can be done. It does not currently address firearms that are in the market. So there is not a ban on any current firearm in the market. It provides the sunset clause. I think that it represents the cooperative effort the Committee on the Judiciary, those of us who remain very concerned about the second amendment rights of the citizens of this country and at the same time recognize the very real and important type of legislation that will produce the detectability that is necessary so that we can in fact avoid the consequence, if it were ever to exist, of an all-plastic gun that might not be detectable in the marketplace.

I think this amendment recognizes that and I would like to thank my colleague from Florida and the chairman, the gentleman from New Jersey [Mr. Hughes] for their cooperation in the development of this legislation.

Mr. McCOLLUM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. Hughes] that the House suspend the rules and agree to the resolution, House Resolution 596.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 596, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MAJOR FRAUD ACT OF 1988

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and concur in the

Senate amendment to the bill (H.R. 3911) to amend title 18, United States Code, to provide increased penalties for certain major frauds against the United States.

The Clerk read as follows:

Senate Amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Major Fraud Act of 1988".

SEC. 2. CHAPTER 47 AMENDMENT.

(a) In General.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1031. Major fraud against the United States.

"(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent—

"(1) to defraud the United States; or

"(2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises,

in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of the contract, subcontract, or any constituent part thereof, for such property or services is $1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.

"(b) The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed $5,000,000 and

"(1) the gross loss to the Government or the gross gain to a defendant is $500,000 or greater; or

"(2) the offense involves a conscious or reckless risk of serious personal injury.

"(c) The maximum fine imposed upon a defendant for a prosecution including a prosecution with multiple counts under this section shall not exceed $10 million.

"(d) Nothing in this section shall preclude a court from imposing any other sentences available under this title, including without limitation a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to 18 U.S.C. section 3571(d).

"(e) In determining the amount of the fine, the court shall consider the factors set forth in 18 U.S.C. sections 3553 and 3572, and the factors set forth in the guidelines and policy statements of the United States Sentencing Commission, including—

"(A) the need to reflect the seriousness of the offense, including the harm or loss to the victim and the gain to the defendant;

"(B) whether the defendant previously has been fined for a similar offense; and

"(C) any other pertinent equitable considerations.

"(f) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time otherwise allowed by law.

"(g) Any individual who—

"(1) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such prosecution), and

"(2) was not a participant in the unlawful activity that is the subject of said prosecution, may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.".

(b) Sentencing Guidelines.—Pursuant to its authority under section 994(p) of title 28, United States Code and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide for appropriate penalty enhancements, where conscious or reckless risk of serious personal injury resulting from the fraud has occurred. The Commission shall consider the appropriateness of assigning to such a defendant an offense level under Chapter Two of the sentencing guidelines that is at least two levels greater than the level that would have been assigned had conscious or reckless risk of serious personal injury not resulted from the fraud.

(c) Clerical Amendment.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

"1031. Major fraud against the United States.".

SEC. 3. LIMITATION ON ALLOWABILITY OF COSTS OF CONTRACTORS INCURRED IN CERTAIN PROCEEDINGS.

(a) In General.—Chapter 15 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 293. Limitation on Government contract costs

"(a) Any proceeding costs incurred in connection with any proceeding brought by the United States or a State government that relates to a violation of, or failure to comply with, any Federal or State law or regulation on the part of the Contractor are not allowable costs in a covered contract if the proceeding results in any of the following:

"(1) an indictment by a Federal grand jury, or a conviction (including a conviction pursuant to a plea of nolo contendre) by reason of such violation or failure to comply;

"(2) the assessment of a monetary penalty by reason of a civil or administrative finding of such violation or failure to comply;

"(3) a civil judgment containing a finding of liability, or an administrative finding of liability, by reason of such violation or failure to comply, if the charges which are the subject of the proceeding involve fraud or similar offenses;

"(4) a decision to debar or suspend the contractor or rescind, void, or terminate a contract for default, by reason of such violation or failure to comply; or

"(5) the resolution of the proceeding by consent or compromise, where the penalty or relief sought by the government included the actions described in paragraphs (1) through (5).

"(b) In any proceeding brought by the United States or a State government that does not result in any of the actions described in paragraphs (1) through (5) of subsection (a), costs for legal services incurred by a contractor in connection with such proceeding shall not be allowed in excess of the rate specified in the Equal Access to Justice Act (28 U.S.C. 2412(d)(2)(A); 5 U.S.C. 504(a)) unless the responsible contracting officer finds that a special factor (such as the limited availability of qualified attorneys or agents) justifies an award of higher rates.

"(c) For purposes of this section—

"(1) the term 'covered contract' means a contract for an amount more than $100,000 entered into by a department or agency of the United States other than a fixed-price contract without cost incentives;

"(2) the term 'proceeding' means a civil, criminal, or an administrative investigation, prosecution, or proceeding; and

"(3) the term 'proceeding costs' means all costs relating to a proceeding incurred before, during, or after the commencement of the proceeding, and such term includes—

"(A) administrative and clerical expenses;

"(B) the cost of legal services (whether performed by an employee of the contractor or otherwise);

"(C) the cost of the services of accountants and consultants retained by a contractor; and

"(D) the salaries and wages of employees, including officers and directors.".

(b) Amendment to Chapter Analysis.—The chapter analysis for chapter 15 of title 18, United States Code, by adding at the end thereof the following:

"293. Limitation on Government contract costs.".

(c) Applicability.—The amendments made by this section shall apply to contracts entered into after the date of the enactment of this Act.

SEC. 4. ESTABLISHMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEY AND SUPPORT PROVISIONS.

(a) Establishment of Positions.—Subject to the funding authorization limitations in section (a), there are hereby established within the Department of Justice additional Assistant United States Attorney positions and additional support staff positions for prosecuting cases under both the criminal and civil statutes.

(b) Function of Personnel.—The primary function of individuals selected for the positions specified in subsection (a) shall be dedicated to the investigation and prosecution of fraud against the Government.

(c) Locations.—The Attorney General shall determine the locations for assignment of such personnel. In making such determination the Attorney General shall consider concentrations of government programs and procurements and concentrations of pending Government fraud investigations and allegations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Subject to the provisions of subsection (b), for the purpose of carrying out the purposes of this Act there are authorized to be appropriated $8,000,000 for fiscal year 1989, and such sums as may be necessary for each of the four succeeding fiscal years, to be available until expended.

(b) Limitation.—Before expending funds appropriated pursuant to subsection (a) to carry out the purposes of this section, the Attorney General shall utilize available existing resources within the Department of Justice for such purposes.

SEC. 6. CONGRESSIONAL OVERSIGHT.

Commencing with the first year after the date of enactment of this section, the Attorney General shall annually report to the Congress with respect to—

(1) the number of referrals of fraud cases by the Department of Defense of defense contractors (with specific statistics with respect

to the one hundred largest contractors), the number of open investigation of such contractors, and a breakdown of to which United States Attorney's Office or other component of the Department of Justice each such case was referred;

(2) the number of referrals of fraud cases from other agencies or sources;

(3) the number of attorneys and support staff assigned pursuant to this Act;

(4) the number of investigative agents assigned to each investigation and the period of time each investigation has been opened;

(5) the number of convictions and acquittals achieved by individuals assigned to positions established by the Act; and

(6) the sentences, recoveries, and penalties achieved by individuals assigned to positions established by this Act.

SEC. 7. RELIEF OF PAULETTE MENDES-SILVA.

(a) notwithstanding section 2675 of title 28, United States Code, and section 2401(b) of such title, or any other limitation on actions at law or in equity, the United States District Court for the District of Columbia shall have jurisdiction to hear, determine, and render judgment on any claim of Paulette Mendes-Silva against the United States for personal injuries which she allegedly incurred after an innoculation on March 12, 1963, by an employee of the Public Health Service of the United States Department of Health, Education, and Welfare. Any such claim of Paulette Mendes-Silva shall be brought within six months after the date of the enactment of this Act. The court shall apply the laws of the District of Columbia in such case.

(b) Nothing in this section shall be construed as an inference of liability on the part of the United States.

SEC. 8. LIMITATIONS ON ALLOWABILITY OF COSTS INCURRED BY FEDERAL GOVERNMENT CONTRACTORS IN CERTAIN PROCEEDINGS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 305 the following new section 306:

"LIMITATIONS ON ALLOWABILITY OF COSTS INCURRED BY CONTRACTORS IN CERTAIN PROCEEDINGS

"SEC. 306. (a) Except as otherwise provided in this section, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (1) relates to a violation of, or a failure to comply with, a Federal or State statute or regulation, and (2) results in a disposition described in subsection (b).

"(b) A disposition referred to in subsection (a)(2) is any of the following:

"(1) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in subsection (a).

"(2) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in subsection (a).

"(3) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in subsection (a).

"(4) A final decision by an appropriate official of an executive agency—

"(A) to debar or suspend the contractor;

"(B) to rescind or void the contract; or

"(C) to terminate the contract for default,

by reason of the violation or failure referred to in subsection (a).

"(5) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in paragraph (1), (2), (3), or (4).

"(c) In the case of a proceeding referred to in subsection (a) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such subsection may be allowed to the extent specifically provided in such agreement.

"(d) In the case of a proceeding referred to in subsection (a) that is commenced by a State, the head of the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (1) a specific term or condition of the contract, or (2) specific written instructions of the agency.

"(e)(1) Except as provided in paragraph (3), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under subsection (a), but only to the extent provided in paragraph (2).

"(2)(A) The amount of the costs allowable under paragraph (1) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the single Government-wide procurement regulation issued pursuant to section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)).

"(B) Regulations issued for the purpose of subparagraph (A) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(3) In the case of a proceeding referred to in paragraph (1), contractor costs otherwise allowable as reimbursable costs under this subsection are not allowable if (A) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (B) the costs of such other proceeding are not allowable under subsection (a).

"(f) As used in this section:

"(1) The term 'covered contract' means a contract for an amount more than $100,000 entered into by an executive agency other than a fixed-price contract without cost incentives.

"(2) The term 'proceeding' includes an investigation.

"(3) The term 'costs', with respect to a proceeding—

"(A) means all costs incurred by a contractor, whether before or after the commencement of such proceeding; and

"(B) includes—

"(i) administrative and clerical expenses;

"(ii) the cost of legal services, including legal services performed by an employee of the contractor;

"(iii) the cost of the services of accountants and consultants retained by the contractor; and

"(iv) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(4) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.".

(2) The table of contents in the first section of such Act is amended by inserting after the item relating to section 305 the following new item:

"306. Limitation on allowability of costs incurred by contractors in certain proceedings.".

(b) AMENDMENTS TO TITLE 10.—Section 2324 of title 10, United States Code, is amended—

(1) in subsection (e)—

(A) by striking out subparagraph (N) and inserting in lieu thereof the following:

"(N) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).";

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2); and

(2) by striking out subsection (k) and inserting in lieu thereof the following:

"(k)(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision by the Department of Defense—

"(i) to debar or suspend the contractor;

"(ii) to rescind or void the contract; or

"(iii) to terminate the contract for default.

by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable

costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the head of the agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the single Government-wide procurement regulation issued pursuant to section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)).

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(l)(1) In this section, the term 'covered contract' means a contract for an amount more than $100,000 entered into by the Department of Defense other than a fixed-price contract without cost incentives.

"(2) In subsection (k):

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.".

(c) TECHNICAL AMENDMENT.—Section 832(b) of the National Defense Authorization Act, Fiscal Year 1989 is repealed.

(d) REGULATIONS.—The regulations necessary for the implementation of section 306(e) of the Federal Property and Administrative Services Act of 1949 (as added by subsection (a)) and section 2324(k)(5) of title 10, United States Code (as added by subsection (b))—

(1) shall be prescribed not later than 120 days after the date of the enactment of this Act; and

(2) shall apply to contracts entered into more than 30 days after the date on which such regulations are issued.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect with respect to contracts awarded after the date of the enactment of this Act.

SEC. 9. QUI TAM ACTIONS.

(a) AWARDS OF DAMAGES.—Section 3730(d) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice."

(b) TECHNICAL AMENDMENTS.—Section 3730 of title 28, United States Code, is amended—

(1) in subsection (c)(4) by inserting "the" after "Government proceeds with"; and

(2) in subsection (d)(4), as redesignated by subsection (a)(1) of this section, by striking out "actions" and inserting in lieu thereof "action".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCOLLUM. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from Florida [Mr. McCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Major Fraud Act, H.R. 3911 as amended by the Senate. H.R. 3911 passed unanimously at both the subcommittee and full committee levels in the House Judiciary Committee and on May 10, 1988 passed the House of Representatives by a vote of 419 to 0.

This bill grew out of hearings by the Subcommittee on Crime and a review of numerous other congressional, Department of Justice and Department of Defense investigations of procurement fraud over the last two decades. I will not here reiterate the litany of successive scandals in spare parts, overhead overcharges, malfunctioning equipment, product substitution, and similar fraudulent acts that have been exposed in this testimony. To say the least, it documents a story of greed, malfeasance and fraudulent schemes that bilk the American taxpayers of billions of dollars and at the same time diminish our citizen's confidence in the executive branch's ability to efficiently administer essential governmental functions.

It was our feeling in the House that these investigations were not merely history lessons, but were a collection of facts that describe an extremely malignant blight on our society which is a continuing problem. Unfortunately, recent relevations indicate that we have not underestimated the seriousness of the problem.

While all of the details are not yet available it appears that the current scandal within the defense industry may be the worst in the Pentagon's history. Among other things, that suggests to me that our current federal statutes are not providing a sufficient deterrent to discourage such practices and that there is not enough information readily available to law enforcement agencies in order for them to discover and prosecute these illegal acts.

H.R. 3911 is fashioned to meet these problems and to create new deterrents to criminal fraud. It creates a new Federal procurement fraud offense involving contracts of $1 million or more and is patterned after the Bank Fraud Act. Under current conditions, the bill would cover some 9,900 prime contracts.

The core violation of the bill and its penalties before us today are virtually the same as passed by the House and I believe that the amendments added in the Senate dealing with attorney fees, bolstering U.S. attorney offices capabilities to prosecute procurement fraud and the qui tam provisions are a positive addition to the bill.

A violation of this bill still contains a maximum potential prison sentence of 10 years and a fine of $1 million. The fines increase up to $5 million if the gross loss or gain is $500,000 or greater or the offense involves "a conscious or reckless risk of serious injury." This latter phrase is a substitute for the House language of "a foreseeable and substantial risk of personal injury." The bill now provides a maximum fine of $10 million except for an alternative fine which is contained in existing law (18 U.S.C. 3571d).

This bill, like the House version provides an extension of the statute of limitations in which prosecutions could be initiated to 7 years, rather than the normal 5 years, to accommodate the extensive investigation often required in this type of fraud.

At this juncture I must point out a major flaw in the Senate passed bill as compared with the House bill. In the House bill and the bill reported out of the Senate Judiciary there was a provision establishing a new system of rewards under which up to $250,000 could be paid from the criminal fine to individuals who provide information leading to a conviction. This provision was important because it would have dealt with a serious problem inherent in procurement fraud cases, that is, the lack of sufficient information to successfully prosecute these complex and often secretive tranactions. I have been informed that this provision was excised due to complications arising from the end of the session realities that face the Senate each Congress and that the Senate will revisit the issue next year. With this reassurance, I reluctantly urge my colleagues to accept this deletion.

The bill does still provide, however, "whistleblower" protection for those who come forward with information to aid in prosecutions under this act.

There were three other significant additions to the bill in the Senate. The first involved a limitation on the recovery of "proceeding costs" generally relating to defense attorney fees that involved contractors violations of Federal and State laws under chapter 15 of title 18. An additional similar amendment was added on the Senate floor which amends the Federal Property and Administrative Services Act of 1949 and title 10 of the U.S. Code to limit the allowability of costs incurred by certain contractors in connection with criminal, civil and administrative proceedings involving attorney fees. This amendment was developed in cooperation with the Armed Services Committee in both Houses. The second, would authorize additional expenditures by the Department of Justice to fund additional assistant U.S. attorneys and support staff involved in prosecuting criminal and civil procurement fraud. I consider this an extremely important and positive addition to the bill. The third amendment would make a change in the qui tam provisions of the False Claims Act and would prohibit anyone who was a primary architect of a scheme involving a willful violation of the False Claims Act from participating in the minimum share requirements of proceeds of action under that act.

The Senate also added the text of private legislation on behalf of Mrs. Paulette Mendes-Silva (S. 1456).

I believe this bill will become a major tool to fight procurement fraud. We must remember that the crime problem and the need for law enforcement is not just a matter of violent street crime or drug trafficking. The prosecution of white-collar crime, which silently robs millions of dollars from all of us, must remain a high priority for the Federal Government.

I urge my colleagues to support H.R. 3911, the Major Fraud Act of 1988.

□ 1730

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from New Jersey [Mr. HUGHES] is very accurate in describing this piece of legislation. The bottom line is fairly simple. It is as he just stated. The question is what we are going to do about creating a new law to put on the books that for the first time actually creates the crime of procurement fraud and allows us to do something about these major fraud instances without having to use some other method that may be on the books by index, such as the mail fraud statute.

Mr. Speaker, it does it in a way that makes the message very clear. We are tough about this, we are about this, and we are not going to sit on our hands. We are giving law enforcement the tools to deal with it.

Mr. Speaker, everybody wants the contracting industry that is working with our defense to be able to produce fine products. It is important, and no one wants to shackle them with unnecessary burdens or restrictions, but, when it comes to the area of procurement where we had so many problems over the years, and recently the public has become aware of some of the scandals dealing with them, it seems to me, and I think most of my colleagues, that this is indeed an appropriate message to send, and it is an appropriate tool to add to the arsenal that the United States attorneys have in fighting procurement fraud.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Speaker, I thank the gentleman from Florida [Mr. McCOLLUM] for yielding this time to me, and I congratulate both the chairman and the ranking member for bringing forward I think important and needed legislation.

Procurement fraud has been a major problem, and it needs to be addressed in the reforms that have been offered here, and many of them have been very worthwhile. I think, however, that as we look at the whole question of procurement reform we ought to remember a couple of things.

No. 1, there are defense manufacturers and defense contractors that have not been involved in the procurement fraud, and many defense contractors face mountains and mountains of regulations affecting procurement that adds to the cost of the weapons that they supply to our military. And so in our zeal to get at needed reforms and get at the fraud that occurs I would hope that we do not overstep our bounds and impose regulations on defense contractors that bring about nothing but inefficiency, ineffectiveness and a higher cost for the weapons they produce.

Second, as long as we are looking at reform, I think we ought to consider that reforms ought to be made here in Congress. We impose a great deal of cost ineffectiveness on defense manufacturers in purchase of equipment that is not needed, that is not requested by the Department of Defense. We require bases to remain open that ought to be closed. We required weapons systems to be purchased that are not needed or requsted.

So, when we are looking at reform, let us not just look at the reform necessary within the defense manufacturing industry. Let us look at the reform that is necessary on the floor of this House of Representatives in terms of the impositions that we add to the cost of weaponry. If we are truly interested in reform, we ought to start here as well as working in the area of reform.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. COATS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I think the gentleman from Indiana [Mr. COATS] has made a very important point. I could not believe some of the specifications that are promulgated, the regulations that these agencies have to deal with, but my colleagues know in this bill we are not dealing with that. We are not creating any new regulations.

Mr. Speaker, we are basically saying to those people that manufacture parachute cord that is 15 years old or nozzles for destroyers or frigates that are defective that, "If you do so, if you substitute inferior products, you're going to go to jail, and there's a minimum provision in here, and you're going to go to jail for a minimum period of time if you do that."

So, Mr. Speaker, that is what we are doing. We are creating new criminal penalties, and we are providing new tools for the prosecutors. We are extending the statute of limitations, and we are providing new tools for them to prosecute those that defraud the Government of billions of dollars. That is what we are doing.

What the gentleman is talking about is right on target, but that is going to be another day for us to deal with that. That is another serious problem. That is not what this is dealing with.

Mr. COATS. Mr. Speaker, I understand that, and I thank the gentleman from New Jersey [Mr. HUGHES] for making that point. What is being done here today is providing prosecutors with necessary tools to prosecute in areas where fraud has taken place and giving enforcement officials those necessary tools, and it is a necessary measure.

I wanted to make the broader point that there is additional, that we cannot just wipe our hands now and say we are done with the question of procurement reform or we are done with the problem of holding down costs of our defense products, that there are additional reforms that need to be made in addition to what we are doing here today.

Mr. Speaker, I intend to support this legislation, and I commend the gentleman for offering it, but I wanted to make that additional point.

Mr. Speaker, I thank the gentleman for yielding.

Mr. McCOLLUM. Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I wish to direct my remarks only to that section of the Major Frauds Act of 1988 that amends the False Claims Act. In the 99th Congress we passed legislation which I coauthored with the gentleman from Kansas to amend the False Claims Act to update the ability of the U.S. Government and private qui tam plaintiffs to combat fraud by Government contractors.

Some concerns have been raised that the 1986 amendments could conceivably result in a person who is primarily responsible for conceiving and perpetuating this fraud actually sharing in any recovery to the U.S. Treasury. The amendment we are voting on today will allay any criticism that the False Claim Act will encourage principal wrongdoers to file false claims actions solely motivated by the desire to profit from their own previous wrongdoing.

As we prepare to vote on this amendment, I want to make it clear that we intend for this amendment to apply retroactively to any conduct that may have occurred prior to its enactment, just as we intended all of the 1986 amendments to the False Claims Act to apply retroactively to conduct that predated those amendments. Such a statement by Congress should be unnecessary because of the presumption we in Congress operate under, a presumption articulated by the United States Supreme Court in Bradley versus the School Board of the City of Richmond. In the Bradley case the Supreme Court held that statutes are presumed to apply retroactively unless such an application would create a injustice or congressional intent was clearly to the contrary.

I have brought up this matter of retroactivity, Mr. Speaker, because some Federal courts are being asked by Government contractors which have been sued under the False Claims Act to rule that the 1986 amendments do not apply to conduct that occurred prior to the amendments' enactment. While most courts have properly rejected this argument, some courts have erroneously construed our silence on the issue of retroactivity to support an argument in favor of prospective application. Such a result would seriously frustrate Congress' intent to revitalize the act.

Now that Congress is once again about to vote on an amendment to the False Claims Act, and because there will be no committee or conference reports on this amendment, it is important that we make it clear that our vote today is cast with the knowledge and intent that if this amendment is adopted, it is to apply retroactively to the fullest extent possible, and that the 1986 amendments also apply retroactively to conduct that occurred prior to the enactment of the 1986 amendments.

An additional provision in the bill as it comes back from the Senate was adopted with only one dissenting vote, and it confers jurisdiction on the district court in the matter of Paulette Mendisova, a woman who has been confined to a wheelchair for more than 26 years now as a result, she asserts, of actions taken by Federal agencies who treated her medically. This measure passed the House and the Senate unanimously in the 99th Congress. It passed the subcommittee and full committee of the Committee on the Judiciary this year. It provides no funds, but simply gives the district court jurisdiction to hear the merits of this assertion.

Mr. Speaker, I thank the gentleman from New Jersey [Mr. HUGHES] for yielding me this time.

Mr. McCOLLUM. Mr. Speakehe balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a good bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3911.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROHIBITING LICENSING OF CERTAIN FACILITIES ON PORTIONS OF SALMON AND SNAKE RIVERS IN IDAHO

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2102) to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and for other purposes, as amended.

The Clerk read as follows:

S. 2102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SALMON AND SNAKE RIVERS.

(a) The Federal Energy Regulatory Commission shall not issue any preliminary permit, license, or exemption from licensing for the construction of any dam, diversion or bypass under the Federal Power Act (41 Stat. 1063), as amended, on:

(1) the Salmon River, Idaho, from Long Tom Bar to the confluence of the Snake River, or

(2) the Snake River, Idaho, from the eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette Meridian to the pool formed behind Lower Granite Dam.

(b) In order to further the purposes of the Wild and Scenic Rivers Act (82 Stat. 906), as amended, and to protect the values for which certain portions of the Salmon River, Idaho and the Snake River, Idaho were designated as components of the system, no dam may be constructed on the segments of the Salmon or Snake Rivers referred to in subsection (a).

SEC. 2. LAKE TOBESOFKEE.

In the case of any hydroelectric power project located or proposed to be located at Lake Tobesofkee in Bibb County, Georgia, the provisions of the Federal Power Act shall continue to apply, except that the Federal Energy Regulatory Commission shall not issue any permit, license, or exemption under that Act or under any other provision of law administered by the Commission to any person or public or private entity for such project or for any transmission or other facilities used in connection with, or appurtenant to, such project without having obtained the prior consent of the governing body of Bibb County.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2102. A House version of this bill, H.R. 4252, was introduced earlier this year by my colleagues, the gentlemen from Idaho [Mr. CRAIG and Mr. STALLINGS]. S. 2102 recently passed the Senate.

The legislation prohibits the Federal Energy Regulatory Commission from issuing hydropower licenses to develop certain portions of the Snake and Salmon Rivers. The amendment we are offering today includes the provision adopted by the Senate, and also includes a provision preventing issuance of a FERC hydro license to Lake Tobesofkee in Bibb County, GA, unless that county consents to issuance of such a license. The latter provision, which was proposed by the distinguished gentleman from Georgia [Mr. ROWLAND] as H.R. 3790, does not foreclose the future development of Lake Tobesofkee, but retains local control over the nature of that development.

I am persuaded that both these proposals are meritorious and deserving of our support. I would also join in the suggestion of Mr. DINGELL, the chairman of the Energy and Commerce Committee, that the committee, and by extension the subcommittee, must begin to find a more generic approach for future bills of this nature.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

The citizens who live by the bodies of water involved in this bill do not want development of a dam for the generation of hydroelectric power. They have expressed their wishes to their Representatives in Congress, who have written the legislation before us today. They are in the best position to know what are the optimal uses of their waterways.

It is my understanding that the Federal Energy Regulatory Commission, which has the statutory responsibility to determine the public interest in these matters is not opposed to this bill.

In closing I would like to acknowledge the leadership of Congressman CRAIG and Senator McCLURE in crafting this bill. I would also thank subcommittee chairman PHIL SHARP, for making swift action on this matter possible.

Mr. Speaker, I reserve the balance of my time.

□ 1745

Mr. SHARP. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. ROWLAND] who has worked dilingently to bring to our attention the need for retention of local control and the development of the lake in his area.

Mr. ROWLAND of Georgia. Mr. Speaker, I thank my colleague, the gentleman from Indiana, for yielding me this time.

Mr. Speaker, I rise in strong support of the amendment in the nature of a substitute to S. 2102. The substitute contains the provisions of legislation I introduced, H.R. 3790, which would prohibit the Federal Energy Regulatory Commission [FERC] from issuing a license for the purpose of construction of a hydroelectric power facility at Lake Tobesofkee in Bibb County, GA, without the consent of the governing body of Bibb County.

Legislation excluding a dam or lake from FERC regulation is not without precedent. For instance, Congress has taken similar action with the Lake Oswego Dam in Oregon, and with Lake Tuscaloosa in Alabama.

By law, a developer who obtains a license from FERC to construct a hydropower project can proceed even though the local residents and governing officials are opposed to its construction. In the situation that has given rise to H.R. 3790, Lake Tobesofkee, created and owned by the people of Bibb County, has been the subject of concern because of the possibility that a hydroelectric facility could be constructed on the lake, and that could be detrimental to the purposes of the lake.

Beginning in the mid-1960's Bibb County sought Federal assistance in creating what has become to be known as the Lake Tobesofkee Recreation Area. The lake is about 1,700 acres in size. There are approximately 345 private residences around the shoreline. Bibb County had two purposes in mind when it built the lake. First, as a soil conservation measure and flood control. Second, for recreation. Bibb County has constructed beaches, pavilions, and has licensed a marina, a restaurant, a water slide, camping areas, and other facilities.

The total cost of the project was approximately $5.7 million. Much of the funding for the project came from a grant from the Soil Conservation Service and a loan from the Farmers Home Administration on which there remains a considerable balance.

While intended as a self-liquidating project, the lake has never lived up to fiscal expectations and Bibb County has annually subsidized its operations out of general funds.

Previously, when a license application was filed for Lake Tobesofkee, Bibbs County took the defensive action of filing for its own license to retain control over any project constructed. However, the county's license has expired. This turn of events has again left the lake and recreational area vulnerable to an application by a licensee.

Now a private entity could obtain a license, construct a hydroelectric facility, and raise and lower the lake levels at its discretion. Such action would in all probability adversely affect the aesthetic properties of the lake, the operation of the boat docks and boat houses which have been placed at the water's edge, and such recreation activities as skiing and fishing. Additionally, beaches would no longer be at the water's edge and they, along with marinas, might no longer function. This would severely affect gate revenues and the ability of the lake to be self-sustaining would be further reduced.

In order to protect the interests of all the people of Bibb County, the homeowners on the lake and recreational users of the lake, and to further the aims of the Soil Conservation Service, the local governing body must be able to prevent the development of a hydropower project that would subvert the purposes of the lake. I urge my colleagues to support this important legislation.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I rise in support of S. 2102, an act to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and for other purposes, and of course, as was discussed by my colleague, the gentleman from California, provisions to protect certain areas in Bibb County, GA.

Mr. Speaker, I would like to recognize the chairman of the committee, the gentleman from Indiana [Mr. SHARP], the gentleman from Michigan [Mr. DINGELL], the gentleman from Arizona [Mr. UDALL], and the gentleman from Minnesota [Mr. VENTO], and the gentleman from California [Mr. MOORHEAD] for their cooperation in causing this legislation to be before us this afternoon, and certainly to the gentleman from Washington [Mr. FOLEY], from my adjoining State of Washington, where the Snake River forms a common boundary between both our districts.

The segments of the Snake and Salmon Rivers that will remain free flowing as a result of this act are important resources to Idaho and the Nation. This bill will assure that these free flowing reaches of the Snake and Salmon Rivers will remain available for the enjoyment of the citizens of Idaho and the country as a whole.

The bill also contains a similar provision for a project in Bibb County, GA.

This bill is essentially the same legislation as H.R. 4252 a bill that I introduced in the House in the second session of this Congress, and I am glad to see it moving toward enactment.

I would like to thank the distinguished chairman of the Energy and

Commerce Committee and the distinguished chairman of the Interior and Insular Affairs Committee for the work that they have done to move this important legislation forward.

I recommend that my colleagues support S. 2102.

Mr. LEHMAN of California. Mr. Speaker, I rise today to make a few comments on S. 2102, a bill to prohibit dams on Idaho rivers. Specifically, the bill prevents the Federal Energy Regulatory Commission [FERC] from licensing hydroelectric projects on portions of the Snake and Salmon Rivers in Idaho.

Mr. Speaker, I believe that this bill is needed and that it has great merit. What I find intriguing is that the gentlemen from Idaho are pressing forward with this legislation. The reason I find this so intriguing is that less than a month ago the House Interior Committee filed a report on H.R. 3593, my bill to address the proliferation of hydroelectric projects on Federal lands nationwide, so that all our States and all our rivers could receive the same consideration that the two Idaho rivers before us today are receiving. At the time the majority favorably reported H.R. 3593, the minority filed views in opposition and these were endorsed by the gentleman from Idaho and many of his colleagues. Evidently, since that time there has been a decline in confidence in FERC's ability and willingness to protect these two rivers in Idaho.

I would like to recall for the House just what those minority views of the Federal Energy Regulatory Commission's licensing processing were. The minority said that: the Federal Energy Regulatory Commission [FERC] has "the exclusive authority to evaluate and balance all aspects of the public interest involved in the licensing of non-Federal hydroelectric projects."

The minority report goes on to defend FERC's ability, in contrast to that of the U.S. Forest Service and the Bureau of Land Management, saying: "* * * the FERC often requires many stringent conditions to protect environmental and recreation values on affected Federal lands." The minority views note that FERC "typically included the following license articles for mitigation, protection and enhance environmental values: erosion, dust and sedimentation control; * * * fish passage facilities; protection of aesthetic resources, and so forth."

In short, my legislation to clarify that the Forest Service, the BLM and local citizens must have more input into the hydro review process for all our public land States was rejected by some of my friends on the minority side in favor of business as usual at FERC.

Therefore, I welcome the presence of S. 2102 to protect two Idaho rivers from the FERC licensing process and I take its appearance on the schedule today as an indication that some rethinking has occurred about our reliance on FERC alone as the defender of our natural resources. I would hope we are not just going to protect Idaho Rivers when thousands of rivers and streams nationwide also deserve protection when the harm to our fisheries and natural resources outweighs the need and benefits of the hydro projects. We cannot and we should not make all these rivers wild and scenic, nor should we bring every creek and every stream to the floor of the U.S. Congress for protection.

Mr. Speaker, according to FERC's own figures, in my State of California there are today 41 pending projects on rivers and streams where FERC has issued permits or licenses. In addition 171 licenses, exemptions or permits have been issued as of this date in the Sierra Nevada Mountains alone. Some of these projects are good, but some are not. Rather just protecting some rivers in some States, I think we must take a whole new look at the process itself.

In my congressional district on the best BLM fishing creek in the State, FERC has disregarded the California Fish and Game Agency, the BLM and the U.S. Fish and Wildlife Service. In fact, FERC has told the BLM that with regard to Green Creek it has no authority to exercise any right-of-way authority over this project on the public's land.

On Lewis Creek in my district, FERC licensed a project over the objections of the local government which if built will destroy the aesthetics of the highest waterfall in the community, running along a National Scenic Trail.

On Rock Creek in the San Joaquin Basin, FERC issued a license exemption and then the Forest Service allowed the developer himself to conduct all the public meetings and to prepare the environmental review of the project.

Mr. Speaker, I look forward to working with my colleagues, with the distinguished chairmen, Mr. UDALL, Mr. DINGELL, Mr. VENTO, and Mr. SHARP and with the gentleman from Idaho so that our fisheries, our waterfalls and all our natural resources are protected and balanced with the need for hydro projects whether they are in Idaho, or in California, Washington, Oregon, or any of our public land States.

I urge a yes vote on S. 2102.

Mr. CRAIG. Mr. Speaker, I rise in support of S. 2102, an act to prohibit the licensing of certain facilities of portions of the Salmon and Snake River, in Idaho, and for other purposes.

The segments of the Snake and Salmon Rivers that will remain free flowing as a result of this act are important resources to Idaho and the Nation. This bill will assure that these free flowing reaches of the Snake and Salmon Rivers will remain available for the enjoyment of the citizens of Idaho and the country as a whole.

The bill also contains a similar provision for a project in Bibb County, GA.

This bill essentially the same legislation as H.R. 4252 a bill that I introduced in the House in the second session of this Congress, and I am glad to see it moving toward enactment.

I would like to thank the distinguished chairman of the Energy and Commerce Committee and the distinguished chairman of the Interior and Insular Affairs Committee for the work that they have done to move this important legislation forward.

I recommend that my colleagues support S. 2102.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the Senate bill, S. 2102, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2102, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and concurrent resolution of the House of the following titles:

H.R. 712. An act for the relief of Lawrence K. Lunt;

H.R 3327. An act to designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse";

H.R. 4686. An act to amend the Federal Aviation Act of 1958 relating to aviation research; and

H. Con. Res. 126. Concurrent resolution recognizing and supporting the efforts of the National Purple Heart Museum Committee, and encouraging the people of the United States to participate, in the development of a national museum to honor those individuals awarded the Purple Heart.

The message also announced, that the Senate agrees to the amendments of the House to the bill (S. 2344) entitled "An act to provide for the reauthorization of appropriations for the Office of Government Ethics, and for other purposes", with an amendment.

OFFICE OF GOVERNMENT ETHICS REAUTHORIZATION ACT OF 1988

Mr. SIKORSKI. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill (S. 2344), to provide for the reauthorization of appropriations for the Office of Government Ethics, and for other purposes.

The Clerk read as follows:

Senate amendment to House Amendments:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. 2. REAUTHORIZATION.

Section 405 is amended to read as follows:

"There are authorized to be appropriated to carry out the provisions of this title and for no other purpose—

"(1) not to exceed $2,500,000 for the fiscal year ending September 30,1989; and

"(2) not to exceed $3,500,000 for each of the 5 fiscal years thereafter.".

SEC. 3. OFFICE OF GOVERNMENT ETHICS TO FUNCTION INDEPENDENTLY.

(a) ESTABLISHMENT AS A SEPARATE EXECUTIVE AGENCY.—Section 401(a) is amended by striking out "in the Office of Personnel Management an office to be known as" and inserting "an executive agency to be known as".

(b) APPOINTMENT AND CONTRACTING AUTHORITY.—Section 401 is amended by adding at the end the following:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Office of Government Ethics in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under paragraph (2) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.".

SEC. 4. REPORTS TO CONGRESS.

The Ethics in Government Act of 1978 is amended by adding after section 407 the following:

"REPORTS TO CONGRESS

"SEC. 408. The Director shall, no later than March 31 of each year in which the second session of a Congress begins, submit to the Congress a report containing—

"(1) a summary of the actions taken by the Director during a 2-year period ending on December 31 of the preceding year in order to carry out the Director's' functions and responsibilities under this title; and

"(2) such other information as the Director may consider appropriate.".

SEC. 5. AGENCY PROCEDURES RELATING TO FINANCIAL DISCLOSURE STATEMENTS.

Section 402 is amended by adding after subsection (c) the following:

"(d)(1) The Director shall, by the exercise of any authority otherwise available to the Director under this title, ensure that each executive agency has established written procedures relating to how the agency is to collect, review, evaluate, and, if applicable, make publicy available, financial disclosure statements filed by any of its officers or employees.

"(2) In carrying out paragraph (1), the Director shall ensure that each agency's procedures are in conformance with all applicable requirements, whether established by law, rule, regulation, or Executive order.".

SEC. 6. INFORMATION TO BE REPORTED BY EXECUTIVE AGENCIES.

Section 402 is amended by adding after subsection (d) (as added by section 5) the following:

"(e) In carrying out subsection (b)(10), the Director shall prescribe regulations under which—

"(1) each executive agency shall be required to submit to the Office an annual report containing—

"(A) a description and evaluation of the agency's ethics program, including any educational, counseling, or other services provided to officers and employees, in effect during the period covered by the report; and

"(B) the position title and duties of—

"(i) each official who was designated by the agency head to have primary responsibility for the administration, coordination, and management of the agency's ethics program during any portion of the period covered by the report; and

"(ii) each officer or employee who was designated to serve as an alternate to the official having primary responsibility during any portion of such period; and

"(C) any other information that the Director may require in order to carry out the responsibilities of the Director under this title; and

"(2) each executive agency shall be required to inform the Director upon referral of any alleged violation of Federal conflict of interest law to the Attorney General pursuant to section 535 of title 28, United States Code, except that nothing under this paragraph shall require any notification or disclosure which would otherwise be prohibited by law.".

SEC. 7. CORRECTIVE ACTION.

Section 402 is amended by adding after subsection (e) (as added by section 6) the following:

"(f)(1) In carrying out subsection (b)(9) with respect to executive agencies, the Director—

"(A) may—

"(i) order specific corrective action on the part of an agency based on the failure of such agency to establish a system for the collection, filing, review, and, when applicable, public inspection of financial disclosure statements, in accordance with applicable requirements, or to modify an existing system in order to meet applicable requirements; or

"(ii) order specific corrective action involving the establishment or modification of an agency ethics program (other than with respect to any matter under clause (i)) in accordance with applicable requirements; and

"(B) shall, if an agency has not complied with an order under subparagraph (A) within a reasonable period of time, notify the President and the Congress of the agency's noncompliance in writing (including, with the notification, any written comments which the agency may provide).

"(2)(A) In carrying out subsection (b)(9) with respect to individual officers and employees—

"(i) the Director may make such recommendations and provide such advice to such officers and employees as the Director considers necessary to ensure compliance with rules, regulations, and Executive orders relating to conflicts of interest or standard of conduct;

"(ii) if the Director has reason to believe that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that such agency head investigate the possible violation and, if the agency head finds such a violation, that such agency head take any appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) against the officer or employee, except that, if the officer or employee involved is the agency head, any such recommendation shall instead be submitted to the President; and

"(II) shall notify the President in writing if the Director determines that the head of an agency has not conducted an investigation pursuant to subclause (I) within a reasonable time after the Director recommends such action;

"(iii) if the Director finds that an officer or employee is violating any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may order the officer or employee to take specific action (such as divestiture, recusal, or the establishment of a blind trust) to end such violation; and

"(II) shall, if the officer or employee has not complied with the order under subclause (I) within a reasonable period of time, notify, in writing, the head of the officer's or employee's agency of the officer's or employee's noncompliance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President; and

"(iv) if the Director finds that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) be brought against the officer or employee, except that if the officer or employee involved is the agency head, any such recommendations shall instead be submitted to the President; and

"(II) may notify the President in writing if the Director determines that the head of an agency has not taken appropriate disciplinary action within a reasonable period of time after the Director recommends such action.

"(B)(i) In order to carry out the Director's duties and responsibilities under subparagraph (A) (iii) or (iv) with respect to individual officers and employees, the Director may conduct investigations and make findings concerning possible violations of any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.

"(ii)(I) Subject to clause (iv) of this subparagraph before any finding is made under subparagraphs (A) (iii) or (iv), the Officer or employee involved shall be afforded notification of the alleged violation, and an opportunity to comment, either orally or in writing, on the alleged violation.

"(II) The Director shall, in accordance with section 553 of title 5, United States Code, establish procedures for such notification and comment.

"(iii) Subject to clause (iv) of this subparagraph, before any action is ordered under subparagraph (A)(iii), the officer or employee involved shall be afforded an opportunity for a hearing, if requested by such officer or employee, except that any such hearing shall be conducted on the record.

"(iv) The procedures described in clauses (ii) and (iii) of this subparagraph do not apply to findings or orders for action made to obtain compliance with the financial disclosure requirements in title 2 of this Act. For those findings and orders, the procedures in section 206 of this Act shall apply.

"(3) The Director shall send a copy of any order under paragraph (2)(A)(iii) to—

"(A) the officer or employee who is the subject of such order; and

"(B) the head of officer's or employee's agency or, if such officer or employee is the agency head, to the President.

"(4) For purposes of paragraphs (2)(A)(ii), (iii), (iv), and (3)(B), in the case of an officer or employee within an agency which is headed by a board, committee, or other group of individuals (rather than by a single individual), any notification, recommendation, or other matter which would otherwise be sent to an agency head shall instead be sent to the officer's or employee's appointing authority.

"(5) Nothing in this title shall be considered to allow the Director (or any designee) to make any finding that a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated.

"(6) Notwithstanding any other provision of law, no record developed pursuant to the authority of this section concerning an investigation of an individual for a violation of any rule, regulation, or Executive order relating to a conflict of interest shall be made available pursuant to section 552(a)(3) of title 5, United States Code, unless the request for such information identifies the individual to whom such records relate and the subject matter of any alleged violation to which such records relate, except that nothing in this subsection shall affect the application of the provisions of section 552(b) of title 5, United States Code, to any record so identified.".

SEC. 8. ANNUAL PAY OF DIRECTOR.

Section 407 is amended to read as follows:

"ANNUAL PAY OF DIRECTOR

"SEC. 407. Chapter 53 of title 5, United States Code, is amended—

"(1) in section 5316 by striking out: 'Director of the Office of Government Ethics.'; and

"(2) in section 5314 by adding at the end thereof: 'Director of the Office of Government Ethics.' ".

SEC. 9. ADMINISTRATIVE PROVISIONS.

Section 403 is amended by striking out "pursuant to subsections (b)(3) and (b)(4) of section 402." and inserting in lieu thereof "pursuant to the Office of Government Ethics responsibilities under this Act. The head of any agency may detail such personnel and furnish such services, with or without reimbursement, as the Director may request to carry out the provisions of this Act".

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 3 shall take effect on October 1, 1989.

Resolved, That the Senate agree to the amendment of the House of Representatives to the title of the bill.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. SIKORSKI] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on October 4, the House passed H.R. 4712, a bill to reauthorize the Office of Government Ethics [OGE] for 6 additional years and make several other important changes to improve the operation of OGE and the entire executive branch ethics system. After approving H.R. 4712, the House, by unanimous consent, took up S. 2344, a similar Senate-passed bill, amended it with the language of H.R. 4712, and sent it back to the Senate. The Senate further amended S. 2344 and has sent it back to this body for consideration.

The Senate amendments have been worked out between the House Post Office and Civil Service Committee, the House Judiciary Committee, the Senate Government Affairs Committee, and the Office of Government Ethics. The amendments substantially improve the measure and will create a stronger, more visible, competent and independent OGE.

The Senate amendment provides a specific authorization limit of $3.5 million for fiscal years 1990-94. The House version authorized such sums as may be necessary for that same period.

The Senate amendment changes the submission date of OGE's biennial report to Congress to no later than March 31 of the year in which the second session of Congress begins. The House version required the report to be submitted earlier.

The Senate amendment adds a provision requiring agencies to inform OGE when they refer alleged violations of criminal conflict of interest laws to the Attorney General.

The Senate amendment futher clarifies the authority of the OGE Director to make recommendations to agency employees and officials, and further clarifies the Director's authority to order individuals to take specific action. In addition, needed modifications are made to the provisions affording individual officers and employees certain due process rights before orders are issued or recommendations are made.

The amendment raises the OGE Director's pay level from executive level V to executive level III.

Finally, the Senate amendment gives the OGE Director the authority to request investigatory assistance from agency inspectors general on matters within OGE's jurisdiction, and authorizes agency heads to detail personnel to OGE to assist the Office in fulfilling its duties.

I urge my colleagues to support this much-needed measure.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume, and I yield to the gentleman from Minnesota to inform us if there is any opposition to this legislation.

Mr. SIKORSKI. Mr. Speaker, I thank the gentleman for yielding.

This measure has been worked out with the gentleman from New York [Mr. HORTON] and the Post Office and Civil Service Committee minority staff. There are no objections. It also has been worked out with the Office of Government Ethics on the part of the agency.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I just want to make the point that I am somewhat disappointed by the way this particular process is taking place. There is nobody from the committee on the floor on the minority side to handle the bill. Our staff was running around here trying to find a person to handle the bill.

If we are going to do these bills this way, I think we at least deserve the courtesy of having people on the floor from the minority who understand the bill and participated in the committee deliberation process.

Mr. SIKORSKI. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Minnesota.

Mr. SIKORSKI. Mr. Speaker, I sympathize with the gentleman and would concur.

I would be happy to defer if anyone is coming over. I just would point out that this was ninth, I think, today, and we have already done several since then. We have been waiting for the Senate to come over.

I asked before I stood up if anyone had a problem, and they said no.

As we have been going through this bill, the amendments have only been adopted in subcommittee and full committee and in discussions with the Senate, with the complete cooperation and support of the minority.

Mr. WALKER. Well, I would say to the gentleman that we are trying to be cooperative, too.

Mr. SIKORSKI. I understand that.

Mr. WALKER. It is not an appropriate procedure when we do not know these bills very well and we have been given minimal notice about the bills and we do not know the content of them, not to even have anybody on the floor to participate.

Mr. SIKORSKI. Mr. Speaker, if the gentleman will yield further, I sympathize with that. If the gentleman would like, I could ask unanimous consent to defer this matter.

Mr. WALKER. No; the gentleman from New York has seconded it and so on, and evidently there is no controversy about the bill.

I have one other question for the gentleman, however. The gentleman detailed fairly specifically what was in the Senate amendment. Did the things the gentleman listed constitute the entire Senate amendment?

Mr. SIKORSKI. Yes; I listed every change that came over on the Senate amendment.

I will go back through my notes to make sure.

Yes; everything that was in the amendment.

Mr. WALKER. And the authorization amount that was put into the bill, instead of such sums, was how much?

Mr. SIKORSKI. The authorization amount is not more than $3½ million.

Mr. WALKER. And that is for an annual appropriation for the office?

Mr. SIKORSKI. Yes; for fiscal years 1990 through 1994, as opposed to such sums as may be necessary, as we passed it out.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SIKORSKI. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. SIKORSKI] that the House suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill, S. 2344.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendments was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to the House amendments to the Senate bill, S. 2344, just concurred in.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

CONCURRING IN SENATE AMENDMENT TO H.R. 4972, PATENT AND TRADEMARK OFFICE AUTHORIZATION, WITH AN AMENDMENT

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 597) to take from the Speaker's table the bill, H.R. 4972, Patent and Trademark Office Authorization, with the Senate amendment thereto, and concur in the Senate amendment to the text with an amendment.

The Clerk read as follows:

H. RES. 597

In lieu of the Senate amendment to H.R. 4972 insert the following:

Strike out all after the enacting clause and insert the following:

TITLE I—PATENT AND TRADEMARK OFFICE AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Patent and Trademark Office—

(1) for salaries and necessary expenses, $117,504,000 for fiscal year 1989, $125,210,000 for fiscal year 1990, and $111,984,000 for fiscal year 1991; and

(2) such additional amounts as may be necessasry for each such fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

SEC. 102. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated under this Act and such fees as may be collected under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following) may remain available until expended.

SEC. 103. OVERSIGHT OF AND ADJUSTMENTS TO TRADEMARK AND PATENT FEES.

(a) TRADEMARK FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, increase fees established under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

(b) PATENT FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, increase fees established under section 41(d) of title 35, United States Code, except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

(c) REPORT TO CONGRESS.—The Secretary of Commerce shall, on the day on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were reported by patent fee expenditures, trademark fee expenditures, and appropriations;

(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

(4) any proposed disposition of surplus fees by the Office; and

(5) such other information as the committees consider necessary.

SEC. 104. PUBLIC ACCESS TO PATENT AND TRADEMARK OFFICE INFORMATION.

(a) REPEAL.—Section 4 of Public Law 99-607 (35 U.S.C. 41 note) is repealed.

(b) MAINTENANCE OF COLLECTIONS.—The Commissioner of Patents and Trademarks shall maintain, for use by the public, paper or microform collections of United States patents, foreign documents, and United States trademark registrations arranged to permit search for and retrieval of information. The Commissioner may not impose fees for use of such collections, or for use of public patent or trademark search rooms or libraries. Funds appropriated to the Patent and Trademark Office shall be used to maintain such collections, search rooms, and libraries.

(c) FEES FOR ACCESS TO SEARCH SYSTEMS.—Subject to section 105(a), the Commissioner of Patents and Trademarks may establish reasonable fees for access by the public to automated search systems of the Patent and Trademark Office in accordance with section 41 of title 35, United States Code, and section 31 of the Trademark Act of 1946 (15 U.S.C. 1113). If such fees are established, a limited amount of free access shall be made available to all users of the systems for purposes of education and training. The Commissioner may waive the payment by an individual of fees authorized by this subsection upon a showing of need or hardship, and if such waiver is in the public interest.

SEC. 105. FUNDING OF AUTOMATED DATA PROCESSING RESOURCES.

(a) ALLOCATIONS.—Of amounts available to the Patent and Trademark Office for automatic data processing resources for fiscal years 1989, 1990, and 1991, not more than 30 percent of such amounts in each such fiscal year may be from fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) and section 41 of title 35, United States Code. The Commissioner of Patents and Trademarks shall notify the Committees on the Judiciary of the Senate and the House of Representatives of any proposed reprogrammings which would increase or decrease the amount of appropriations expended for automatic data processing resources.

(b) USE OF REVENUES BY PATENT AND TRADEMARK OFFICE.—Except as otherwise specifically provided in this title, Public Law 99-607, and section 42(c) of title 35, United States Code, the Patent and Trademark Office is authorized to use appropriated or apportioned fee revenues for any of its operations or activities.

SEC. 106. USE OF EXCHANGE AGREEMENTS RELATING TO AUTOMATIC DATA PROCESSING RESOURCES PROHIBITED.

The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, enter into any agreement for the exchange of items or services (as authorized under section 6(a) of title 35, United States Code) relating to automatic data processing resources (including hardware, software and related services, and machine readable data), and the Commissioner may not, on or after the date of the enactment of this Act, continue existing agreements for the exchange of such items or services. The preceding sentence shall not apply to an agreement relating to data for automation programs which is entered into with a foreign government or with an international intergovernmental organization.

TITLE II—PATENT MISUSE REFORM

SEC. 201. PERMISSIBLE ACTS BY PATENT OWNER.

Section 271(d) of title 35, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; (4) refused to license or use any rights to the patent; or (5) conditioned the license of any rights to the patent or the sale of the patented product on the acquisition of a license to rights in another patent or purchase of a separate product, unless, in view of the circumstances, the patent owner has market power in the relevant market for the patent or patented product on which the license or sale is conditioned.".

SEC. 202. EFFECTIVE DATE.

The amendment made by this title shall apply only to cases filed on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I once again bring before the House the bill, H.R. 4972, to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for the next 3 fiscal years. The bill authorizes appropriations for salaries and necessary expenses up to the following amounts: $117,504,000 for fiscal year 1989; $125,210,000 for fiscal year 1990; and finally $111,984,000 for fiscal year 1991.

The House previously passed H.R. 4972 on October 5, unanimously by voice vote under suspension of the rules. On October 14, the Senate passed H.R. 4972 with a nongermane amendment. Today, we simply are sending title I of H.R. 4972 back to the Senate in exactly the same form as previously passed by the House. Title II of the bill relates to patent misuse, and reflects a compromise with the other body.

The authorization levels are necessary to ensure an effective Patent and Trademark Office, which of course is the cornerstone for a reliable and effective intellectual property system in this country. A well-functioning Office can have as significant an impact on this Nation's inventiveness as any substantive changes to our patent and trademark laws.

H.R. 4972 is the work-product of my subcommittee—the Subcommittee on Courts, Civil Liberties and the Administration. I would like to signal the efforts of the ranking minority Member of the subcommittee, Mr. MOORHEAD, and the chairman of the House Committee on Government Operations, Mr. BROOKS, who also is a Member of the Committee on the Judiciary. H.R. 5972 represents a joint effort, and without the input of these two respected Members, a bill would not be before us today.

I described the bill during my floor remarks on October 5, and I will not repeat my previous statement.

Suffice it to say that the bill before us is largely a carryover of the current law. I hope that my colleagues can support this bill and promote the effective administration of this Nation's patent system.

In addition to the PTO authorization bill, I am pleased to bring before the House an important intellectual property measure relating to patent misuse. The title II of the bill before us is the product of excellent legislative work done in the other body by Senators LEAHY, DECONCINI, and HATCH. Senator LEAHY, in particular, has taken the lead in advancing the legitimate interests of high technology businesses in bringing innovative products to the American people. We are in debt to Senator LEAHY for his leadership on this issue.

The measure before us today is the House response to the Senate bill S. 438, see Senate Report 100-492, as passed by the Senate on October 4, 1988. The Senate bill contains two titles; one relating a presumption of market power arising under the antitrust laws and the other relating to patent misuse. The bill before us only address the misuse issue.

Before describing the detailed statutory language in title II of the bill, let me briefly describe to my colleagues the legislative background for this bill. During the 100th Congress, the Senate Committee on the Judiciary adopted S. 1200 which contained a provision relating to patent misuse. The text of S. 1200 was then added as an amendment to the Omnibus Trade Reform Act, H.R. 3.

In conference on H.R. 3, the provisions relating to patent misuse were deleted at the insistence of the House conferees. Subsequently on March 3, 1988, I introduced H.R. 4086 which, as the Department of Justice put it, "takes an analytically different approach to misuse challenges, but may nonetheless produce results in individual cases very similar to (S. 1200)".[1]

The Subcommittee on Courts, Civil Liberties, and the Administration of Justice, which I chair, conducted a hearing on May 11, 1988, on the various misuse bills. At that hearing the subcommittee heard from witnesses form the Department of Commerce, Patent and Trademark Office, Department of Justice, Antitrust Division, American Bar Association as well as a leading practicing lawyer and an academic expert. After the hearing practicing lawyer and an academic expert. After the hearing the committee members and staff continued discussions with interested parties about how to narrow the provisions of the Senate bill to meet the objectives urged by the proponents of reform without undoing the entirety of patent misuse. The measure before us today is the product of those discussions.

BACKGROUND

Patent misuse is a judicially developed doctrine of patent law.[2] The general rules of equity applicable to the enforcement of patents currently hold that a person who is found to be guilty of misuse is not permitted to enforce his or her patent. The underlying policy for this doctrine has been an effort by the courts to prevent a person who has obtained a Government granted right to exclude competition from overreaching the scope of a patent.[3] The doctrine has been ap-

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[1] The bill H.R. 4086, adopted an approach that listed licensing practices that were not patent misuse and some practices that were. Analytically the bill followed a similar pattern to the rules of the European Economic Community in the context of applying Article 85(3) of the relevant EEC Treaty to certain categories of patent licensing agreements. Letter from Hartmut Johannes to Congressman Robert W. Kastenmeier, April 26, 1988 (1988). See also Marks, Patent Licensing and Antitrust in the United States and European Economic Community, 35 am. univ. L. rev. 963 (1986).

[2] See generally D. Chisum, Patents, Section 19.04. The Supreme Court put it well in Hazel-Atlas Glass Co. v. Hartford Co., 322 U.S. 2467, when it said that enforcement of patents is of "great moment to the public".

[3] The reasoning of the courts from the initial misuse cases, including Motion Picture Patents Co. v. Universal Film Manufacturing Co., 243 U.S. 502 (1917), has been to recognize the different nature of the property rights involved when a patent has been granted. A patent is a government created right to exclude others from making, using or selling an invention for a period of 17 years. Congressional authority to legislate in this area is derived from the Constitution, Article, I, section 8, clause 8. An important element of any intellectual property legislation is the balance of interests required and to the furtherance of the public interest. Sony Corp. of America v. Universal City Studios, 316 U.S. 417, 429 (1984) (public interest test for copyright); accord United States v. Masonite Corp., 316 U.S. 265, 278 (1942) (same with respect to patents); see also Pennock v. Dialogue, 27 U.S. (2 Pet.) 1, 9, (1829); see generally Kastenmeier and Remington, The Semiconductor Chip Protection Act of 1984: A Swamp or Firm Ground, 70 Minn. L. Rev. 417-422-23 (1985).

When an inventor has created an innovation there are a number of options available, including trade secret protection as well as patent protection. When innovators decide to pursue patent protection they agree to a bargain that furthers the public interest. Any patent holder obtains the property right to exclude others from practicing the invention as well as protection against competition from persons who have independently created the same innovation.

In exchange for patent protection the public obtains a disclosure of the technology involved in the patent and a limited term (17 years) followed by expansion of the public domain when the patent explied to a wide variety of circumstances including extension of a patent term beyond 17 years, use of covenants not to compete, price fixing, resale price maintenance, and licenses that involve certain types of exclusive grant backs. Once misuse has been found by the court, then the patent owner is not entitled to any relief until the abusive practice has been eliminated.

The underlying complaint about current law with respect to patent misuse is that it was developed to address allegedly anticompetitive effects of patent licensing arrangements. To address this problem the Senate-passed bill requires that the court find a violation of the antitrust laws, after undertaking an economic analysis, before it can find a patent holder guilty of misuse.

The proposal before the House today does not adopt such a sweeping and inflexible view. Instead the bill before us proceeds on the basis of consensus about two categories of misuse that the Committee on the Judiciary concluded should not be the subject of a rigid per se rule.

The two subject matters affected by the proposed amendment are "refusal to use or license" a patented invention and the tying of a patented product to another separate product. Codification of the "refusal to use or license" as not constituting patent misuse is consistent with the current caselaw and makes sense as a matter of public policy.[4]

Modification of the patent misuse rules with respect to trying addresses one of the most important areas of licensing practice. More significantly, the proposed modifications should have a pro-competitive effect, insofar as they require some linkage between the patent licensing practice and anticompetitive conduct. Hopefully, through enactment of this bill the rules about permissible licensing pratices will be clarified and the licensing of innovations will be facilitated.

The provisions of the patent law that will be amended by this measure are amendments to section 271 of title 35. The proposed language relating to patent misuse is as follows:

> [It is not an act of patent misuse to condition] . . . the license of any rights to the patent or the sale of a patented product on the acquisition of a license to rights in another patent or purchase of a separate product, unless, in view of the circumstances, the patent owner has market power in the relevant market for the patent or patented product on which the license or sale is conditioned.

It is important to provide the courts with some guidance about the intention of Congress with respect to the terms used in the proposed amendment. The underlying principle being advanced by this proposal is the elimination of any vestiges of a per se or automatic inference of patent misuse from certain tying practices. While there has been some movement in this direction by the courts,[5] the legislation clarifies the basic congressional policy in this area.

The proposed amendment requires that the person who engages in tying conduct must possess "market power in the relevant market." The term "market power" is used in this context in order to permit the courts to reasonably assess the potential for anticompetitive effect of a particular practice. We have chosen not to explicitly guide the courts as to the level of "market power" required for a finding of misuse. We do expect, however, that the courts will be guided—though not bound—by the post and future decisions of the Supreme Court in the context of antitrust analysis of unlawful tie-ins. See *Jefferson Parish Hospital Dist. No. 2* v. *Hyde,* 466 U.S. 2 (1984); *United States* v. *E.I. du Pont de Nemours & Co.,* 351 U.S. 377 (1956).

We have chosen not to adopt a specific modifier to "market power," such as "substantial." This does not mean, however, that the courts would not reach this result. In many of the recent cases courts have developed various approaches to the question of substantiality of "market power," including the use of specific percentages.[6] The absence of a modifier is designed to avoid the use of inflexible rules. Courts should not use rigid percentage of market share as either a floor or ceiling in the determining of "market power." Courts should evaluate the question of "market power" in the context of the patent, where a patent license is involved, the product and the market in which the tie-in occurs. This type of fact specific contextual analysis should make the fact-finding process more sensitive to the realities of the market place.

The use of the term relevant market is designed to import into the courts' analysis the idea that the scope of the product involved focuses the court's attention on the nature of the property right. If a patented product is unique because no practical substitutes exist, the scope of the relevant market would be coextensive with the patent. In the situation where the product is sold in a marketplace context where there are substitute products, the scope of the market should resemble the typical antitrust analysis of relevant market.

The use of the term in view of the circumstances, is again designed to give the courts the requisite flexibility to exercise their equitable powers. See 35 U.S.C. section 283. This phrase is designed, in part, to allow the courts to assess the potentially competitive or anticompetitive effects of the tie-in practice. In making this assessment the courts may wish to look at whether the tied product is a staple or a nonstaple. In the case of tying a patented product to a nonstaple the net effect of such an arrangement may serve to expand the economic rights of the patent owner. This result, however, is generally appropriate because in most situations involving high technology the market for the nonstaple product would not exist but for the existence of the patented product.

On the other hand, courts that apply a rule of reason analysis to the tie-in of a patented product involving a staple may evaluate it in a slightly different manner. The ability of a party with a patented product to require that the purchaser or the licensee of that product to use a particular staple could have an anticompetitive effect. Thus, for cases involving the tie-in of staple products, the courts should be sensitive to the potential anticompetitive burden on commerce such a practice may have if the maker of a competing staple has its market substantially diminished as a result of the tie-in.

It is also our intention to avoid the use of inflexible rules once a court has found that market power exists. There may be circumstances in which there is market power and a tie-in, but where a finding of misuse would be inappropriate. One example would be where the patent owner has a business justification for the licensing practice.[7] In real world situations where the only practical way to meter output is to tie the sale of a patented product to the sale of another separate product, then such a practice would be legitimate, unless such a practice—on balance—has a generally anticompetitive effect.

In closing, I want to urge my colleagues to support this measure. Title II of this bill is a careful balance of the interests of proprietors while simultaneously furthering the goals of

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pires. In response, the nature of the property right involved in a patent is fundamentally different from that involved in non-patent situations. Thus, the courts have tended to focus on the illegal extension of the patent term or scope of the patent in order to determine misuse, see Senza-Gel v. Seiffart, 803 F. 2d 661, 231 U.S.P.Q. 363 (Fed. Cir. 1986), rather than merely the nature of the economic transaction involved. Focus on the scope of the patent has been a central element of the reasoning in many misuse cases.

[4] See *SCM Corp.* v. *Xerox,* 695 F. 2d 1195 (2d Cir. 1981); see generally *Continental Paper Bag Co.* v. *Eastern Paper Bag. Co.,* 210 U.S. 405, 426–430 (1908).

[5] See *Windsurfing Int'l, Inc.* v. *AMF, Inc.* 782 F. 2d 995, 1001–02 (Fed. Cir. 1986).

[6] See, e.g., *Broadway Delivery Corp.* v. *United Parcel Service of America, Inc.,* 651 F. 2d 122, 126–29 (2d cir.), cert. denied, 454 U.S. 968 (1981); *Syufy Enterprises* v. *American Multicinema, Inc.,* 793 F. 2d 990, 995 (9th Cir. 1986), cert. denied, 107 S. Ct. 876, 884 (1987).

[7] For example, one court in a non-tie-in patent misuse case appears to have applied a business justification-type defense. *Duplan Corp.* v. *Deering Milliken, Inc.* 444 F. Supp. 648, 700 (D.S.C. 1977), aff'd, 594 F. 2d 979 (4th Cir. 1979).

stimulating the dissemination of innovation through the freer use of licensing agreements for patented products.

□ 1800

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 597. As pointed out, this bill passed the House 2 weeks ago without objection. As it is known to happen during this time of year, the other body chose to decorate this bill with a couple of items that remain controversial.

The Patent and Trademark Office performs a service that is important to the industrial strength and well being of our country. The bill before us provides a 3-year authorization for that Office. It would also permit the long overdue computerization of the search rooms.

This legislation has the strong support of the Department of Commerce and the Patent and Trademark Office. I hope the other body will pass the bill and send it to the President. There will be no time to attach new matter and send it back here. If that happens the Patent and Trademark Office will be without an authorization for this year.

I urge a favorable vote on the bill.

In addition to the Patent and Trademark Office reauthorization we are adding as an amendment a portion of the Senate-passed bill S. 438 dealing with the important issue of patent misuse. In 1983 I introduced on behalf of the Reagan administration the National Product and Innovation Act. That four title bill contained a landmark proposal to revise and reform the Federal law on patent misuse. Unfortunately, no favorable action was taken on that proposal in either the 98th or 99th Congress. I am pleased that today at least a portion of that legislation is being included in the PTO reauthorization.

As I understand the amendment it would not be patent misuse for a refusal to license a patented product. Also, as I understand the amendment if you engage in a tying arrangement, that in and of itself is not patent misuse unless you can show market power. This is an important amendment to our patent laws and I am happy we are able to include it in House Resolution 597. In closing I would like to commend the ranking member of the Judiciary Committee, Mr. FISH, for his leadership on this issue.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and agree to the resolution, House Resolution 597.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 597, the resolution just agreed to.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PROVIDING FOR AMENDMENT OF CONSUMER PRODUCT SAFETY COMMISSION REGULATIONS REGARDING LAWN DARTS

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5552) to provide that the Consumer Product Safety Commission amend its regulations regarding lawn darts.

The Clerk read as follows:

H.R. 5552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, the Consumer Product Safety Commission shall amend its regulations to revoke exemption regarding lawn darts and other similar sharp-pointed toys contained in section 1500.86(a)(3) of title 16, Code of Federal Regulations, unless the Commission finds that such products do not have the potential for causing puncture wound injury.

The **SPEAKER** pro temporee (Mr. GRAY of Illinois). Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Michigan [Mr. DINGELL] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in support of H.R. 5552.

For 18 years, we have had government regulations designed to protect children from what is an inherently dangerous product: lawn darts. Until now, those regulations have called for lawn darts to be sold only to adults, not in toy stores or departments, with warning labels.

But a Consumer Product Safety Commission survey taken in the summer of 1987 found that of 21 models of lawn darts, every one failed to comply with the regulations. A survey of retailers last winter revealed an almost 50 percent rate of violation at the retail level.

A column by George Will this past May notes that over an 8-year period, 6,100 people entered emergency rooms to be treated for lawn-dart injuries; 81 percent of them were under the age of 15. Half of them were under 10. A number of children have been partially blinded, and at least three children have died.

The failure of the CPSC to enforce the regulations already on the books, and the mounting toll of injuries, mean it's time for us to say, "Enough."

Lawn darts are not a major industry, not even a major part of the recreation industry. By any measure, the benefits of banning lawn darts far outweighs the cost.

This issue should be decided by common sense and common decency, not abstract theory or ideology. For the safety of children across the country, I urge my colleagues to join in supporting H.R. 5552.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5552 is identical to S. 2130, Senator WILSON's bill. It requires the Consumer Product Safety Commission to amend its regulations to revoke an existing exemption to the ban on lawn darts. Under present regulations, lawn darts are banned unless the boxes in which they are sold contain a prominent warning, and the lawn darts are not sold in toy stores, or the toy departments of other stores. The Consumer Product Safety Commission has found, however, that this exemption has largely swallowed the rule. Many lawn dart sets are being sold in or near toy departments, and many do not bear the proper warnings.

These lawn darts, because of their metal construction, and weighted tips, have a significant potential to injure or even kill persons, especially children. The staff of the CPSC has estimated that an average of 670 lawn dart injuries per year require treatment in hospital emergency rooms; over 75 percent of the victims were under the age of 15 years. Most tragically, three youngsters have been killed by lawn darts when the dart penetrated the skull.

To its credit, the CPSC has recognized the hazards posed by lawn darts. On October 20, 1987, the Commission published an advance notice of proposed rulemaking. On March 2, 1988, the CPSC voted to publish a notice of proposed rulemaking to ban lawn darts that are designed to stick in the ground. On May 25 CPSC approved the notice prepared by the staff and it was published on July 29, 1988. I understand that the Commission plans to meet soon to adopt the rule set for in that notice. In addition, CPSC has taken action against store chains found to be selling lawn darts in violation of the regulations and Sears agreed to voluntarily cease selling such darts.

While it might be argued that this legislation is unnecessary, in light of the existing CPSC action, I believe that this bill expresses the concern of Congress that this hazard be addressed, and I urge my colleagues to vote in favor of it.

Mr. Speaker, I yield 18 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I just have a couple of questions.

I saw the "60 Minutes" report the other evening, too, which I assume has caused us to rush this to the floor, and I do not remember anything on that report that indicated that these are harmful to adults. I heard a lot of discussion here about kids, but if I read the legislation correctly, and if I understand the legislation correctly, we are not banning these simply to children, we are banning them to adults, too. Is my understanding correct?

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, the gentleman is correct.

Mr. WALKER. Mr. Speaker, even though there is no evidence that these would be harmful to adults, we have taken this upon ourselves to ban these even to adults. My guess is that we also have people who get injured in horseshoes, those big steel horseshoes coming across, and I remember as a kid getting belted by a horseshoe.

How far are we going to carry this concept with regard to adults? I would agree that if we are going to put a ban on children, but how far are we going to go with this in terms of adults; I know of no evidence.

Can anybody tell me that there is any evidence that any adult has been hurt by these?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, as a matter of fact, the answer to that question is yes. In the last 8 years, some 6,100 people have been injured.

Mr. WALKER. How many were adults?

Mr. DINGELL. Eighty-one percent were under the age of 15. That means 19 percent of that number were adults, and 50 percent were under 10. I would observe to my good friend that if we could figure a way of stopping these things from hurting children there might be a way to say it would make sense that we should let them hurt only adults, but the harsh matter is that they have injured about 1,200 adults as well as this number of children.

Mr. WALKER. In 8 years? How many people play lawn darts?

Mr. DINGELL. If the gentleman will yield, I do not know. I would think that that is not really the important question.

Mr. WALKER. It is, and let me say to the gentleman that it relates to what percentage of accidents are taking place with adults. The gentleman tells me that in 8 years 1,200 adults have been hurt by these. How many of those have been serious injuries?

Mr. DINGELL. We have a very simple way for the gentleman to address this matter. It is my position, and a very simple one, that these things are a major hazard to children. It is my position, and it is a very simple one, that we cannot under any set of regulations that we have found heretofore to keep them out of children's hands or keep them from injuring children and, therefore, to cavil over whether or not they are going to be used by children or adults is totally unimportant. They are going to hurt children if they continue in the marketplace, and we should address that question and protect the children.

Mr. WALKER. Mr. Speaker, the gentleman is one of the great advocates around here of making certain that we have responsible gun ownership in this country and that we continue to allow guns to be available in our society, and I agree with him on that, but I would say to the gentleman that he is making exactly the same argument that many people have made about gun bans; we cannot keep them out of the hands of children; therefore, if guns are around the house, we have a real problem and we ought to ban firearms for that reason.

That just does not make sense as an argument if what the gentleman is doing is banning something because one segment of the population might at some point get their hands on it.

I am asking the gentleman a very, very specific question: What possible harm to adults is being done by these particular darts, and why this comprehensive ban if all the gentleman can cite to me is that there may have been 1,200 injuries, some of them minor? I would submit to the gentleman that there have been far more than 1,200 injuries to adults in other sports in this country over an 8-year period that we have no intention of banning whatsoever. I would guess that touch football has far more than 1,200 injuries to adults over the past 8 years, and yet I do not think that we are going to come to the floor very soon with the idea that we ban touch football as a sport in this country.

Where is the evidence that this kind of drastic remedy is needed? Why not just ban them to children?

Mr. DINGELL. As a matter of fact, they are banned for sale to children now. The ban is not working. It is not honored by those who sell them. It is not honored by those who manufacture them.

Mr. WALKER. Then why not prosecute them and do it that way and get tough on the people who are violating the law rather than going with this kind of action that essentially says we do not like it and so, therefore, we are going to throw the whole thing out?

I am a little confused by what it is we are attempting to do here.

Mr. DINGELL. I can sympathize with the gentleman being confused, and I understand his problem.

The harsh fact is they are now banned for sale to children. The ban is not working. It is not working because the sellers and the manufacturers are not making it work.

Mr. WALKER. Why not prosecute them?

Mr. DINGELL. People who buy them give them to children or make them available to children around the home. The CPSC has said that in 18 months they are going to ban them. It seems that if they are sufficiently perilous to be banned at the end of 18 months that we can expedite the ban and see to it that they are banned forthwith and perhaps save some lives and save some injuries.

Mr. WALKER. I think that is the gentleman's best argument, and I wonder if we have not rushed to the floor a provision here which largely responds to a "60 Minutes" program and does not really give us a very useful piece of legislation.

□ 1815

If we are going to be banned in 18 months anyhow, maybe this ought to be done, but I will say to the gentleman, let me say to the gentleman that I just think this is one of these things done at the end of a session that we do not have very much information on. In fact, we cannot find printed information about this around at all. I was trying to find things.

Mr. DINGELL. For the benefit of my good friend from Pennsylvania, the committee had hearings. Here are the hearings before our committee, and as a matter of fact, the hearings involve something on the order of 389 pages.

Mr. WALKER. I thank the gentleman, and it would have been nice for printed material.

Mr. DINGELL. This is not something that has just sprung up full-blown.

Mr. WALKER. Let me say to the gentleman that the problem is that the bill was announced only a couple of hours ago. It was one of those things added to the calendar late. No Member knew about it.

I am glad the gentleman had hearings and had a report. Too bad none of the Members had a chance to consider them before he brought his bill to the floor.

Mr. NIELSON of Utah. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Utah.

Mr. NIELSON of Utah. I am a member of the subcommittee that discussed this, and we had a number of hearings. The main problem is the way it is packaged and sold, sold as part of a three-part package, three-sport items, badminton, things of that nature, and lawn darts as one package, and put it in children's toys. It is not a children's toy, not like the games, the croquet set or badminton, and that is part of the problem.

It was thought to be a safe toy along with badminton and croquet and that was the way it was sold.

Mr. WALKER. Mr. Speaker, I agree with the gentleman and my question is how come we are doing this now?

Mr. NIELSON of Utah. This is part of a larger Consumer Product Safety Board bill, and a lot of the things in the Consumer Product Safety Board bill I did not support, but in this instance it was mispackaged and missold to people and caused a lot of unnecessary deaths. It seems to me this is one part of the CPSB which is relatively noncontroversial and this is the one which, though, part of the CPSB bill we intend to pass if we can, without bothering with the rest of the bill because the rest of the bill has controversy.

Mr. WALKER. But we are passing it by announcing it on the floor a couple of hours ago only. Members had very little chance to figure out what was in the bill.

I understand there are committee reports available which were unavailable to us on the floor. All I do is raise the issue. If they are mispackaged or someone violated the law, a ban for children, why do we not go that route, rather than banning it to every person with very little notice to the Member on the floor about exactly why we are doing this and what we are doing. I think it is because we had a 60-minute report on the television on Sunday, that all of a sudden we are going to ride that wave by bringing this bill to the floor today.

Mr. NIELSON of Utah. If the gentleman will yield further, this has been on television a number of times in the last 2 years. It is not a recent item. The one is the most in my view, the most beneficial of the reauthorizations, the one we have chosen to act on because of the urgency of it and the fact that CPSB plans to act on it. We are not going to trouble Members with the other aspects such as certain vehicles and some of the other aspects and how we organize it and so forth, whether we have what we call fixed site amusement parks, but leaving those out for another occasion. This is the one that was not controversial, and this had bipartisan support, and while we could have written a separate bill quickly and put it in that way, and I suggest that might have been a better way, I still feel this part should be taken care of at this particular time.

Mr. WALKER. Mr. Speaker, I thank the gentleman and I simply raise the questions because in all honesty I do not think this is one that was too well thought through. As we announced earlier, some of the ones that were on the floor because they were brought in at the last minute after the rest of the suspensions had been agreed to. We will get a vote on this. I assume it will be passed overwhelmingly but it will be subjected to a vote.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, the gentleman from New York [Mr. LENT] the ranking Republican on the full committee, is in strong support of this bill, and his statement will appear in the RECORD.

Mr. WALKER. Mr. Speaker, we certainly want to get that in, something we ought to have as part of the RECORD.

Mr. LENT. Mr. Speaker, H.R. 5552 is a bill that expresses the concern of Congress that lawn darts be banned. Lawn darts are hazardous objects because, with their weighted construction and pointed tips, they have an alarming capability to penetrate the skull and cause serious injury or even death. They represent a special threat to children. Unfortunately, because the tip is not sharp, many consumers do not appreciate the hazards posed by lawn darts.

About a year ago, as a result of a tragic accident in California involving the dealth of a 7-year-old girl, the Consumer Product Safety Commission began a rulemaking proceeding. On July 29, 1988, the Commission published a notice of proposed rulemaking to entirely ban lawn darts that are designed to stick in the ground. This rule, when it becomes final, should virtually eliminate lawn dart accidents in which the lawn dart penetrates the skull. In addition, the Commission has taken action against retailers selling lawn darts in violation of existing regulations, and importers receiving lawn dart sets with inadequate printed warnings. Sears, one of the Nation's largest retailers has voluntarily agreed to cease selling lawn darts. The Commission deserves the commendation of the Congress for its aggressive action on this issue.

I am pleased to join my colleagues, Chairman DINGELL and Messrs. FLORIO and ECKART, in sponsoring this helpful legislation.

Mr. FLORIO. Mr. Speaker, I rise in support of this legislation.

This legislation will require the Consumer Product Safety Commission to ban dangerous lawn darts. According to the CPSC, there have been about 6,700 lawn dart related injuries over the last 10 years and at least 3 deaths between 1970 and 1987.

The subcommittee heard testimony from a father whose 7-year-old daughter was killed by a lawn dart. Current regulations require labeling of lawn darts and restrict sale to children. But a CPSC survey in the summer of 1987 of 21 models of lawn darts found that all 21 failed to comply with these regulations. A more recent survey of retailers—last winter—has found an almost 50-percent rate of violation at the retail level. The Commission has failed to ensure compliance with regulations already on the books. Indeed, partly because of the inability to enforce these regulation, the Commission has recently proposed banning lawn darts capable of causing puncture injuries.

The Commission is expected to vote on a final banning rule next week. However, any decision of the Commission could be appealed and tied up in court, allowing the continued sale of dangerous lawn darts. As a result, this legislation is necessary.

But I must remind my colleagues that the problems the CPSC has had in addressing the hazards of lawn darts is but the very tip of the iceberg in an agency paralyzed with ineffective leadership. For example, there have been over 1,000 deaths and 330,000 injuries associated with all-terrain vehicles just since 1982.

The Energy and Commerce Committee has approved a CPSC reauthorization bill, H.R. 3343, which addresses the problems of the CPSC in a comprehensive fashion. Unfortunately, because of the opposition of a few, it appears the House will not consider that bill this year.

In the meantime, this legislation addresses one of the many problems of the CPSC and I urge support of the bill.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from Michigan [Mr. Dingell] that the House suspend the rules and pass the bill, H.R. 5552.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL AQUACULTURE ACT OF 1980 REAUTHORIZATION

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4123) to authorize appropriations to carry out the National Aquaculture Act of 1980 for fiscal years 1989, 1990, and 1991, as amended.

The Clerk read as follows:

H.R. 4123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs (1), (2), and (3) of section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809 (1), (2), and (3)) are amended to read as follows:

"(1) to the Department of Agriculture, $1,000,000 for each of fiscal years 1989 and 1990;

"(2) to the Department of Commerce, $1,000,000 for each of fiscal years 1989 and 1990; and

"(3) to the Department of the Interior, $1,000,000 for each of fiscal years 1989 and 1990.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Studds] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. Saxton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4123 as amended simply reauthorizes the National Aquaculture Act of 1980 for 2 years. The act was established to promote a strong national aquaculture policy by coordinating the efforts of the Federal Government and the U.S. aquaculture industry to fully realize the potential for aquaculture in this country.

To accomplish the purpose of the act, the Department of Agriculture has been designated to be the lead Federal agency for aquaculture policy and coordination by making the Secretary of Agriculture the chairman of the Joint Subcommittee on Aquaculture. To assist the Secretary, an office of Aquaculture Coordination and Development within the Department of Agriculture and a National Aquaculture Board have been established. The Board is comprised of members from the aquaculture industry and Federal Government and is responsible for working with the Secretary to develop a National Aquaculture Plan which identifies aquatic species with a high potential for commercial culture.

On July 28, 1988, the Merchant Marine and Fisheries Committee reported H.R. 4123 and referred it to the Committee on Agriculture. The Agriculture Committee was subsequently discharged of H.R. 4123, however they provided for the reauthorization of the National Aquaculture Act in H.R. 5056. Because it is unlikely that the other body will act on H.R. 5056, we are moving H.R. 4123 today.

H.R. 4123 would extend existing authorizations of $1 million each to the Departments of Agriculture, Commerce, and Interior. Although no funds have ever been appropriated for this act, the agencies involved have used other funds to support the aquaculture activities.

Mr. Speaker, despite the lack of direct appropriations, it is important that the National Aquaculture Act continue because the act itself serves as a statement of U.S. Aquaculture Policy and has stimulated economic growth in this industry. I urge members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4123, the National Aquaculture Act of 1980, and urge its adoption by the whole House.

This bill has been reported from both the Committee on Merchant Marine and Fisheries and the Committee on Agriculture. It is a very simple and straightforward bill that reauthorizes the National Aquaculture Act of 1980 for fiscal years 1989 and 1990. Authorization levels for each year are limited to $1 million dollars each for the Departments of Commerce, Agriculture, and Interior.

This act declares it in the national interest to encourage the development of aquaculture in the United States and stands as our national policy on aquaculture. I am not aware of any objections to this bill and urge its immediate adoption.

Mr. de la GARZA. Mr. Speaker, I am pleased to rise in support of H.R. 4123, as amended, a bill that will reauthorize the National Aquaculture Act of 1980.

H.R. 4123 was sequentially referred to the House Committee on Agriculture. Although the Committee on Agriculture did not formally act on H.R. 4123, as reported by the House Committee on Merchant Marine and Fisheries, similar provisions of the bill were incorporated into H.R. 5056, a bill to authorize agricultural research programs, improve the operations of the National Agricultural Library, and for other purposes. H.R. 5056 was passed by the House on September 26, 1988 and is currently awaiting further action in the Senate.

H.R. 4132, as amended, is identical to the provisions contained in H.R. 5056 and will reauthorize the aquaculture research program established under the National Aquaculture Act of 1980 for an additional 2 years—through fiscal year 1990—with $1 million each for the Department of Agriculture, the Department of Commerce, and the Department of Interior.

I want to thank Chairman Jones for his assistance and cooperation on this provision and would strongly urge my colleagues to support this legislation.

Mr. JONES of North Carolina. Mr. Speaker, I urge my colleagues to support H.R. 4123, as amended, a bill to authorize appropriations to carry out the National Aquaculture Act of 1980 for fiscal years 1989 and 1990.

The National Aquaculture Act of 1980 declares that it is the national policy of the United States to encourage the development of domestic aquaculture. Among other things, the act mandated development of a national aquaculture plan; specified certain functions for the Secretaries of Agriculture, Commerce, and the Interior; and provided for coordination of Federal aquaculture activities through the Joint Subcommittee on Aquaculture.

No funds have ever been directly appropriated under this act. The three individual Departments fund their respective aquaculture activities under other authorizations. However, the act continues to serve a useful function as a statement of national policy and to provide a mechanism through which Federal programs on aquaculture can be coordinated and information disseminated.

I support this act, and I urge my colleagues to support it too. However, certain aspects of the administration's implementation of the act continue to trouble me. The Joint Subcommittee on Aquaculture has met regularly and does a good job of communicating and coordinating the fragments of programs that they represent. However, the Federal effort regarding aquaculture is seriously fragmented and of very low priority within the Departments that have responsibility for aquaculture programs.

For example, the national aquaculture plan wasn't published until September 1983. The plan calls for a number of tasks and reports; unfortunately, few of these activities have been undertaken or completed. The plan discusses many barriers to the development of a domestic aquaculture industry, but little has been done to eliminate the barriers themselves. The national plan is based on data that is 10 years old. Consideration should be given to revising the plan to reflect the considerable changes that have taken place in the last decade and to enable the Government and the aquaculture industry itself to develop this very valuable industry.

I do support H.R. 4123; but because of some of these shortcomings, H.R. 4123 as amended limits the reauthorization of the act to 2 fiscal years instead of 3 fiscal years authorized in the original bill. This will permit us to revisit Federal aquaculture activities in a more timely way, if the shortcomings persist.

The House already passed H.R. 5056, the Agricultural Research Act of 1988, on September 26, 1988. H.R. 5056 contains a reauthorization of the National Aquaculture Act that is identical to that in H.R. 4123, as amended. However, the Senate is not expected to act on H.R. 5056 this session, and it is therefore now necessary to act on H.R. 4123, as reported by the Committee on Merchant Marine and Fisheries on July 28, 1988, and discharged by the Committee on Aquaculture on September 16, 1988, to provide an authorization for this program.

I urge my colleagues to support H.R. 4123, as amended.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 4123, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations to carry out the National Aquaculture Act of 1980 for fiscal years 1989 and 1990.".

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 2020, OFFICE OF ENVIRONMENTAL QUALITY AUTHORIZATION, FISCAL YEARS 1987, 1988, AND 1989, WITH AN AMENDMENT

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 598) to take from the Speaker's table the bill (H.R. 2020) to authorize appropriations for the Office of Environmental Quality for fiscal years 1987, 1988, and 1989, with the Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read as follows:

H. RES. 598

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE I

SEC. 101. Section 204 of the National Environmental Policy Act of 1969 (42 U.S.C. 4344), is amended by—

(1) striking the "and" at the end of paragraph (7);

(2) striking the "." at the end of paragraph (8) and insert in lieu thereof "; and"; and

(3) adding the following new paragraph:

"(9) to promulgate regulations implementing the National Environmental Policy Act for all Federal agencies, including independent regulatory commissions.".

REVIEW FUNCTIONS OF COUNCIL

SEC. 102. (a) AMENDMENTS.—Section 204 of the National Environmental Policy Act of 1969 (42 U.S.C. 4344) is further amended—

(1) by inserting "(a)" before "It"; and

(2) by adding at the end thereof the following:

"(b)(1) In addition to any other review and appraisal carried out under subsection (a)(3), the Council shall evaluate, and annually report in writing to the Congress on the results of, the reviews carried out by Federal agencies under paragraph (2) and may include in the report such recommendations for legislation as the Council considers appropriate regarding issues raised incident to the evaluation.

"(2) Each Federal agency shall (i) on a continuing basis and subject to such guidelines as the Council shall establish, select and review a statistically significant random sample of the detailed statements prepared under section 102(2)(C) of the agency in which measures were specified for the mitigation of any adverse impact on the environment, including fish and wildlife populations and habitat, that was predicted to occur as a result of the agency action; and (ii) promptly submit to the Council all reviews prepared by the agency under this paragraph.

"(3) The guidelines established by the Council under paragraph (2) shall require that each Federal agency review—

"(A) the extent to which the mitigation measures specified in the statement were implementated in connection with the action;

"(B) the accuracy of the predicted adverse impact which the implemented action would have on the environment, including fish and wildlife populations and habitat; and

"(C) the effectiveness of the implemented mitigation measures.".

(b) INITIAL REVIEWS.—In carrying out subsection (b) of section 204 of the National Environment Policy Act of 1969 (as added by subsection (a)), each Federal agency, within twenty-four months after the date of the enactment of this Act, shall—

(1) select and review under such subsection a statistically significant random sample of detailed statements that were prepared for appropriate projects which were completed before such date of enactment; and

(2) submit the reviews of the Council on Environmental Quality.

SEC. 103. Section 205 of the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4374), is amended by adding the following new subsection:

"(e) $750,000 for each of the fiscal years ending on September 30, 1987, 1988, and 1989.".

TITLE II—SPECIAL USE AIR SPACE

DEFINITIONS

SEC. 201. As used in this Act—

(1) "special use airspace" is defined in accordance with regulations promulgated by the Federal Aviation Administration;

(2) "expansion of a special use airspace" means any increase in the physical dimensions of a special use airspace previously designated; and

(3) "designated" or "designation" means allocated, awarded, set aside, granted, or otherwise made available, and such term includes the expansion of a special use airspace.

NOTIFICATION

SEC. 202. (a) Effective upon the date of enactment of this Act, in the administration of the provisions of section 102 of the National Environmental Policy Act of 1969, and the laws and regulations of the United States relating to the designation of military special use airspace including but not limited to, prohibited areas, restricted areas, military operation areas (including but not limited to, routes for military training, research, development, testing and evaluation), the Secretary of Defense shall provide notice in writing including an opportunity to comment on any such proposed special use airspace designation, to—

(1) the Governor of any State whose airspace is sought to be designated as special use airspace;

(2) the head of an Indian tribe on any Indian lands, if such lands are likely to be affected by any such designation; and

(3) the Secretary of the Interior, if such designation includes airspace above any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, or the National Wilderness Preservation System administered by the Department of the Interior.

(b) In addition to the novice required under subsection (a), notice of any significant proposed designation including an opportunity to submit written comments shall be published in newspapers of general circulation (rather than legal papers) within the affected area.

(c) Upon the request of any Governor made within thirty days following the receipt of a proposed designation of an airspace pursuant to subsection (a), the Secretary of Defense shall hold a public meeting and consider oral and written comments prior to making a determination with respect to such designation.

FAA RESPONSIBILITY

SEC. 203. (a) The Administrator of the Federal Aviation Administration shall, in consultation with the Council on Environmental Quality, adopt procedures to assure that designations of special use airspace are in compliance with the National Environmental Policy Act of 1969 no later than ninety days after enactment of this section.

(b) The Administrator of the Federal Aviation Administration shall establish procedures for the review of each special use airspace designation not less than every three years. If in the course of any such review, it is determined that the use of such airspace cannot justify the continued designation of such special use airspace, such designation shall be terminated or modified by the Administrator.

TITLE III—WASTE REDUCTION

SEC. 301. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Waste Reduction Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 301. Short title and table of contents.
Sec. 302. Findings and policy.
Sec. 303. Definitions.
Sec. 304. EPA activities.
Sec. 305. Grants to States for State technical assistance programs.
Sec. 306. Source reduction clearinghouse.
Sec. 307. Source reduction and recycling data collection.
Sec. 308. Waste stream survey.
Sec. 309. EPA report.
Sec. 310. Savings provisions.
Sec. 311. Authorization of appropriations.

Sec. 312. Implementation.
Sec. 313. Effective date and sunset provision.

SEC. 302. FINDINGS AND POLICY.

(a) Findings.—The Congress finds that:

(1) The United States of America annually produces millions of tons of toxic chemical waste and spends tens of billions of dollars per year controlling this pollution.

(2) There are significant opportunities for industry to reduce the generation of waste at the source through cost-effective changes in production, operation, and raw materials use. Such changes offer industry substantial savings in reduced raw material, waste management, and liability costs as well as help protect the environment and reduce risks to worker health and safety.

(3) The opportunities for source reduction are often not realized because existing regulations, and the industrial resources they require for compliance, focus upon treatment and disposal, rather than source reduction; existing regulations do not emphasize multimedia management of waste; and businesses need information and technical assistance to overcome institutional barrriers to the adoption of source reduction practices.

(b) Policy.—The Congress hereby declares it to be the national policy of the United States that, the generation of waste should be reduced or eliminated at the source, whenever feasible; waste that is genrated should be recycled, whenever feasible; waste that cannot be reduced or recycled should be treated in an environmentally safe manner; and disposal should be employed only as a last resort and should be conducted in an environmentally safe manner.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Agency" means the Environmental Protection Agency.

(3) The term "toxic chemical" means any toxic chemical on the list described in section 313(c) of the Superfund Amendments and Reauthorization Act of 1986.

(4) The term "release" has the same meaning as provided by section 329(8) of the Superfund Amendments and Reauthorization Act of 1986.

(5)(A) The term "source reduction" means any practice which—

(i) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal; and

(ii) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(B) The term "source reduction" does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity separate from the production of a product or the providing of a service, nor does it include liners for surface impoundments or secondary containment for underground storage tanks.

(6) The term "multi-media" means air, water, and land.

SEC. 304. EPA ACTIVITIES.

(a) Authorities.—The Administrator shall establish in the Environmental Protection Agency an office to carry out the functions of the Administrator under this title. The office shall be independent of the Agency's single-medium program offices but shall have the authority to review and advise such offices on their activities to promote a multi-media approach to source reduction. The office shall be under the direction of such officer of the Environmental Protection Agency as the Administrator shall designate.

(b) Functions.—The Administrator shall develop and implement a strategy to promote source reduction through a source reduction demonstration program. As part of the program, the Administrator shall take each of the following actions:

(1) The Administrator shall ensure that the Environmental Protection Agency considers the effect of its existing and proposed programs on source reduction efforts and shall review proposed regulations of the Environmental Protection Agency to determine their effect on source reduction.

(2) The Administrator shall coordinate source reduction activities in each Environmental Protection Agency Office.

(3) The Administrator shall investigate methods of coordinating and streamlining data collection requirements under existing environmental statutes. The Administrator shall develop an inventory of existing data, consider developing common nomenclature, consistent reporting formats, and compatible data storage and retrieval systems.

(4) The Administrator shall determine what capabilities the Environmental Protection Agency should have to measure waste generation and management practices in the United States. The Administrator shall determine what, if any, changes are needed in existing agency practices with respect to the collection and handling of data regarding the generation and management of waste.

(5) The Administrator shall facilitate the adoption of source reduction techniques by businesses. This strategy shall include the use of the Source Reduction Clearinghouse and State matching grants provided in this Act to foster the exchange of information regarding source reduction techniques, the dissemination of such information to businesses, and the provisions of technical assistance to businesses. The strategy shall also consider the capabilities of various businesses to make use of source reduction techniques.

(6) The strategies shall include measurable goals where appropriate which reflect the overall goal of the strategies, the tasks necessary to achieve the goals, dates at which the principal tasks are to be accomplished, required resources, organizational responsibilities, and the means by which progress in meeting the goals will be measured.

(7) The Administrator shall establish a senior level liaison group with industry, public interest groups, and State source reduction program officals to provide guidance to the Administrator, to provide outreach to the industrial community, and to provide a liaison group for the educational community to promote the introduction of source reduction principles into engineering and management curricula.

(8) The Administrator shall establish an advisory panel of technical experts comprised of representatives from industry, the States, and public interest groups, to advise the Administrator on ways to improve collection and dissemination of data.

SEC. 305. GRANTS TO STATES FOR STATE TECHNICAL ASSISTANCE PROGRAMS.

(a) General Authority.—The Administrator shall make matching grants to States for programs to promote the use of source reduction techniques by businesses.

(b) Criteria.—When evaluating the requests for grants under this section, the Administrator shall consider, among other things, whether the proposed State program would accomplish the following:

(1) Make specific technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice to businesses seeking assistance.

(2) Target assistance to businesses for whom lack of information is an impediment to source reduction.

(3) Provide training in source reduction techniques. Such training may be provided through local engineering schools or any other appropriate means.

(c) Matching Funds.—Federal funds used in any State program under this section shall provide no more than 50 percent of the funds made available to a State in each of that State's participation in the program.

(d) Effectiveness.—The Administrator shall establish appropriate means for measuring the effectiveness of the State grants made under this section in promoting the use of source reduction techniques by businesses.

(e) Information.—States receiving grants under this section shall make information generated under the grants available to the Administrator.

SEC. 306. SOURCE REDUCTION CLEARINGHOUSE.

(a) Authority.—The Administrator shall establish a Source Reduction Clearinghouse to compile information generated by States receiving grants on management, technical, and operational approaches to source reduction. The Administrator shall use the clearinghouse to—

(1) serve as a center for source reduction technology transfer,

(2) mount active outreach and education programs by the States to further the adoption of source reduction technologies; and

(3) collect and compile information reported by States receiving grants under section 5 on the operation and success of State source reduction programs.

(b) Public Availability.—The Administrator shall make available to the public such information on source reduction as is gathered pursuant to this title and such other pertinent information and analysis regarding source reduction as the Administrator deems appropriate, on a cost reimbursable basis. It shall be within the Administrator's discretion to determine the most feasible method for making such information available, including the use of computers.

SEC. 307. SOURCE REDUCTION AND RECYCLING DATA COLLECTION.

(a) Reporting Requirements.—Each owner or operator of a facility required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986 ("SARA") for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceding calendar year if such facility is within 1 of the 5 two-digit SIC Code classifications producing the highest quantity of toxic chemical releases or having the highest volume of toxic chemicals entering the waste stream. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual toxic chemical release form filed by the owner or operator under section 313(c) of that Act. This section shall take effect with the annual report filed under section 313 for the first full calendar year beginning after the enactment of this Act.

(b) Items Included in Report.—The source reduction and recycling report required under subsection (a) shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

(1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The report filed for any facility which produces only a single product and for which reporting the quantity of chemical entering the waste stream would cause public disclosure of a proprietary process may, at the option of the owner or operator, report only the percentage change from the previous year. When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made based on best engineering judgment.

(2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year and the percentage change from the previous year.

(3) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate:

(A) Equipment, technology, process, or procedure modifications.

(B) Reformulation or redesign of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(4) The amount expected to be reported under paragraphs (1) and (2) for the 2 calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).

(5) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. It shall not be necessary to indicate the units on which the ratio is based. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical.

(6) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c) SARA Provisions.—The provisions of sections 322, 325(c), and 326 of the Superfund Amendments and Reauthorization Act of 1986 shall apply to the reporting requirements of this section in the same manner as to the reports required under section 313 of that Act. The Administrator may modify the form required for purposes of reporting information under section 313 of that Act to the extent he deems necessary to include the additional information required under this section.

(d) Additional Optional Information.—Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other waste management techniques in earlier years.

(e) Availability of Data.—Subject to section 322 of the Superfund Amendments and Reauthorization Act of 1986, the Administrator shall make data collected under this section publicly available, on a cost reimbursable basis.

SEC. 308. WASTE STREAM SURVEY.

(a) Waste Stream Survey.—The Administrator shall collect the following information from a representative sample of facilities required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986. The sample shall be drawn from the five two-digit SIC code classifications producing the highest quantity of toxic releases, or having the highest volume of toxic chemicals entering the waste stream.

(b) Data To Be Reported.—Each facility selected for the survey shall report each of the following to the Administrator:

(1) For each waste stream for the last full calendar year and the percentage change from the previous year—

(A) the volume of the waste generated after source reduction but prior to recycling and treatment;

(B) the volume of the waste after recycling but prior to treatment; and

(C) the volume of the waste after treatment but prior to disposal.

Any facility which produces only a single product and for which reporting the quantity of waste entering the waste stream would cause public disclosure of a proprietary process may, at the option of the owner or operator, report only the percentage change from the previous year.

(2) A ratio of production in the reporting year to production in the previous year.

(3) Whether or not there are technical, institutional, statutory, regulatory, and economic obstacles to source reduction, recycling and treatment at each facility selected for the survey.

(4) Other information that the Administrator determines is needed in order to complete the report under section 309.

SEC. 309. EPA REPORT.

The Administrator shall report to Congress on data collected under section 307 and section 308. The report shall be submitted 90 days after receipt by the Administrator of the data for both calendar years 1989 and 1990. The report shall contain each of the following:

(1) An assessment of the effectiveness of the clearinghouse and grant program established under this Act in promoting the goals of the demonstration program.

(2) An analysis of the data collected under section 7 on an industry-by-industry basis and an analysis of the survey data collected under section 8, including an evaluation of trends in source reduction, recycling, and treatment by industry, firm size, production, and other useful means.

(3) An analysis of the usefulness and validity of the data collected under this Act and other authority of law for measuring trends in source reduction, recycling, and treatment.

(4) An evaluation of regulations and laws that may inhibit source reduction, and of opportunities within existing programs to promote and assist source reduction.

(5) An evaluation of priority industries and pollutants that require assistance in source reduction.

(6) Recommendations as to incentives needed to encourage investment and research and development in source reduction.

(7) An evaluation of the cost and technical feasibility by industry and processes of source reduction, recycling and treatment opportunities and current activities.

(8) Recommendations as to permanent reporting on source reduction, recycling, and treatment.

SEC. 310. SAVINGS PROVISIONS.

Nothing in this title shall be construed to modify or interfere with the implementation of title III of the Superfund Amendments and Reauthorization Act of 1986 or the Solid Waste Disposal Act.

SEC. 311. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator $4,000,000 for each of the 3 fiscal years beginning after the enactment of this Act for functions carried out under this title (other than State grants) and $8,000,000 for each of the 3 fiscal years after enactment of this Act for the State grant program.

SEC. 312. IMPLEMENTATION.

The Adminstrator is authorized to issue such rules, regulations, and orders as may be necessary to carry out the provisions of this title.

SEC. 313. EFFECTIVE DATE AND SUNSET PROVISION.

This title shall take effect on January 1, 1989, and shall be repealed on the date 30 months thereafter, except for the provisions of section 309 relating to the final report. Nothing in the repeal of this title shall affect any authorities or obligations of the Administrator with respect to any matter under any other provision of law and nothing in the repeal of this title shall affect or impair the authority under other provisions of law or any office established within the Environmental Protection Agency before the enactment of this Act.

SEC. 314. RECONSIDERATION BY FEDERAL ENERGY REGULATORY COMMISSION.

(a) Reconsideration.—Notwithstanding a November 23, 1987, order of the Federal Energy Regulatory Commission dismissing petitions under the Federal Power Act for reconsideration of Commission Order Number 464 (52 FR 5446) submitted by several States (Docket Number RM85-6-002; Order Number 464-B), any State may file within 60 days after the enactment of this Act a petition with the Commission to reconsider the retroactive application of Order Number 464 to any proposed hydroelectric project in such State for which a license application was pending as of February 11, 1987 (and is still pending on the date the State files such petition) and for which Order Number 464 deemed certification requirements referenced in such order to have been waived and the Commission shall reconsider such retroactive application of the order. Each petition shall identify all such projects within the State. In considering and such petition, the Commission shall exercise such reasonable discretion as it may have under applicable law to apply or not to apply Order Number 464 retroactively to any such petition, taking into consideration the water quality intent of Congress in the statutory provision referenced in Order Number 464 and the State's role under that provision. The Commission shall, to the greatest extent practicable, decide all such petitions within 6 months after their filing. The Commission may consolidate some or all such petitions in order to expedite such reconsideration and decision. Where appropriate, the Commission shall grant the petition and provide, an additional period of time, which shall be not more than 9 months after the petition is granted, for a State to comply with the applicable certification requirement. It is the intent of Congress that the Commission should exercise its discreation in favor of granting such petitions except where circumstances clearly show that granting a petition would not be warranted. If the Commission denies any such petition, the Commission shall explain the basis for such denial. Such denial shall be subject to judicial review under the Federal Power Act and this section. If a State fails to comply within such additional period, Order Number 464 shall continue to apply in the manner that it applied prior to enactment of this section. If a petitioning State granted or denied a certification for any project identified in the petition and that certification or denial was waived by retroactive application of the Order Number 464, such certification or denial (1) shall be reinstated ab iniio (in lieu of providing additional time) where such petition is granted by the Commission under this section, and (2) shall not be subject to review or change by the State. The participation of the State in the rulemaking proceeding leading to Order Number 464 shall not be a basis for denial of any petition.

(b) SAVINGS PROVISION.—Nothing in this sction shall be construed as affecting in any way the legal sufficiency of the Commission's Orders Number 464 or 464-B. Nothing in this section shall be construed to affect the authority of the States to enfore the Federal Water Pollution Control Act.

(c) TERM.—For purposs of this section, the term "State" shall have the same meaning as in Order Number 464 and shall include, where appropriate, an applicable interstate agency.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2020 authorizes appropriations for the Office of Environmental Quality—the administrative Office for the Council on Environmental Quality [CEQ]. It also proposes several amendments to the Environmental Quality Inprovement Act—the law establishing CEQ.

H.R. 2020, as amended, contains the following provisions that were originally passed by the House on June 22, 1987:

It will clarify that CEQ is authorized to issue regulations implementing NEPA that are binding on all Federal agencies, including independent regulatory commissions.

It will require Federal agencies to evaluate how the mitigation commitments in their environmental impact statements have been implemented; and require CEQ to report on the same;

It will reauthorize the Office of Environmental Quality through 1989 at $750,000.

The bill before us today also contains a provision added by the Senate which will clarify the applicability of NEPA to the withdrawal of airspace for special uses, and, in particular, the responsibility of the FAA to comply with its obligations under NEPA. This is a provision of particular importance to the chairman of our committee, Chairman JONES, and we are happy to accepting Senate's recommendation.

The Senate also added a provision pertaining the Federal Energy Commission, which we have restructured as a new section 314 of the bill. As the issue relates to the licensing of hydropower projects by the Federal Energy Regulatory Commission, it is within the jurisdiction of the House Energy Committee and I will defer to that committee for a further explanation of it.

Mr. Speaker, the bill also contains an entirely new title III which is a reworked version of H.R. 2800, the Waste Reduction Act of 1988 that passed the House under suspension on October 4. We have included this title at the request of the House Energy and Commerce Committee in the belief that its inclusion into this legislation will promote the success of the entire package. Again, as it is the responsibility of the Energy and Commerce Committee, I will defer to that committee for a further explanation of the bill.

Mr. Speaker, I believe that this legislation as now constructed represents a major environmental package that will improve Federal law on numerous fronts: it will strengthen the Council on Environmental Quality and improve the NEPA process; it will redress a serious problem relating to the licensing of several hundred hydropower projects by the Federal Energy Regulatory Commission; and finally, it will take important first steps toward a national commitment to reducing the production of hazardous wastes—a vital component of the solution to the ever growing hazardous waste problem confronting our Nation.

Mr. Speaker, I therefore urge the support of H.R. 2020, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2020 and urge its adoption by the House.

Mr. Speaker, H.R. 2020 was passed by the House last year and has been returned from the Senate for final action. The bill reauthorizes the Council on Environmental Quality and in addition includes amendments which require the FAA to properly regulate use of air space over Federal lands. This latter provision was added by the Senate because of the increasing complexities of military use of air space, especially in Western States.

In addition, we are amending a provision dealing with hydro licensing and adding the text of H.R. 2800, as reported by the Committee on Energy and Commerce. This bill includes provisions on hazardous waste reduction.

Mr. Speaker, with this amendment, H.R. 2020 is noncontroversial and I urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Speaker, I rise in support of title III of the pending bill, H.R. 2020, which contains the Waste Reduction Act of 1988, and I want particularly to commend Chairman JONES and Subcommittee Chairman SUTDDS and the able Mr. SAXTON for their cooperation and assistance. Our committee thanks them.

The House first passed the Waste Reduction Act on October 4. Title III reflects certain changes the House sponsors of the bill have made to accommodate concerns identified by the Senate.

First, title III has a sunset provision for the waste reduction program established within the U.S. Environmental Protection Agency [EPA]. The sunset occurs 30 months after the effective date of the bill, January 1, 1989.

Second, title III limits EPA's data collection on waste reduction practices to the top industrial waste generators, as identified by the top five standard industrial classification codes in terms of waste generation.

In addition, EPA is directed to conduct a survey of these generators to obtain important waste stream information. This should allow EPA to analyze the effects of any source reduction, recyling, and treatment efforts made by industry on the toxic chemicals they produce and the waste streams they generate.

Mr. Speaker, the House has already passed this important legislation once. With the revisions included in today's version it should be acceptable to the Senate. It is time that this Congress pass this waste reduction legislation to put the country on the path to reducing toxic wastes at the source.

Mr. Speaker, on behalf of Chairman DINGELL and Subcommittee Chairman SHARP I point out that the other amendment in title III of H.R. 2020 replaces section 104 of the bill which was added by the Senate. That body sought to overturn a rule of the Federal Energy Regulatory Commission and give special relief on a blanket basis. While our committee has some sympathy with the concerns the Senate seeks to address, the Energy and Commerce Committee which has jursdiction over FERC and the Federal Power Act does not want to set such a precedent, particularly at this late date. Also, we believe the Senate provision would possibly overturn several dozen licenses which would create a legal morass.

The amendment which is set forth in section 314 sets up a reasonable procedure for FERC to re-examine the matter and to make adjustments for many projects consistent with the applicable law. In this case, the Committee on Energy and Commerce believes FERC went overboard in making the new rule apply retroactively for so many products. Our committee's approach allows an opportunity for FERC to be more judicious. I hope this is agreeable to the Senate because it is not our intention to consider alternatives or other changes. If it is not acceptable, the matter will have to be deferred until the 101st Congress, and that will be unfortunate from an environmental standpoint.

While we do not support the Senate action, I want to stress that our committee commends the Senate sponsors for trying to address this retroactivity issue.

Section 401(a)(1) of the Clean Water Act prohibits the FERC from issuing a hydropower license under the Federal Power Act if the State has denied the hydropower applicant's application for a water quality certificate.

Section 401 gives the State up to 1 year after "receipt of [a] request" for certification to issue such a certification. Until recently, FERC had interpreted that provision to give the State up to a year from the date it "deem[ed] an application acceptable for processing." That administrative gloss, set forth in the Commission's 1984 decision in *Washington County Hydro Development Associates,* 28 FERC 61,341, rapidly proved untenable, and FERC commenced a rulemaking in 1985 to attempt to fashion a more workable regime.

On February 11 of last year, the Commission issued a final rule on this question, determining that thenceforth, a State would be deemed to have waived its water certification authority if it failed to grant or deny certification within 1 year of receipt of a request for certification. In addition, and of crucial importance to the legislation before us today, FERC decided to apply its new rule retroactively, thereby effectively foreclosing the State's certification authority in cases where the State had failed, for whatever reason, to submit its recommendation within 1 year of receipt of its request.

The Subcommittee on Energy and Power submitted detailed questions to FERC on this issue, and determined that retroactive application of this new rule affected more than 200 license applications, all of which would be processed without benefit of the State's input under section 401. Nonetheless, the Commission, over the strong dissent of Chairman Hesse and Commissioner Naeve, denied a motion to reconsider the retroactivity issue.

Last week, the Senate passed S. 1792, section 104 of which would reopen all 200-plus of the licenses affected by FERC's retroactive application of its new rule, and would grant to the affected States an additional year to file its section 401 certifications.

The Committee regrettably opposes section 104 of S. 1792, and supports section 314 of H.R. 2020, which is being offered in its stead. Regardless of our extreme misgivings about FERC's decision to apply its new rule retroactively and indiscriminately to all affected applications, I have even more misgivings about the Senate's response, for at least the following reasons.

First, more than a year has passed since FERC's rule was finalized. In that interim, I fear that many of the more than 200 license applications have now been granted. Congress should not be involved in the exercise of overturning existing licenses and reopening closed issues. That is a bad precedent. With regard to those licenses, we should close the book, and section 314 does just that.

Second, Congress should not be in the business of reversing a legally valid rulemaking of an independent regulatory agency, even in instances where the agency may have misstepped. What section 314 does—and S. 1792 fails to do—is to send the decision on this issue back to the agency which the Federal Power Act dictates should be making the decision: namely, FERC.

Finally, if FERC may have erred in issuing a rule of blanket retroactivity, S. 1792 suffers from the reverse ill of granting a blanket "second bite of the apple" to all affected States and projects, regardless of the merits and equities of the individual cases.

Section 314 directs FERC to reconsider these issues on a case-by-case basis. The States are given 60 days from the date of enactment to file a petition for reconsideration at FERC of hydro project applications that have not yet been licensed as of February 11, 1987, or on the date the petition is filed. Each State is directed to consolidate all affected projects into one petition. Once the petition is filed, FERC must consider it. We do not contemplate a lengthy war of words and filings—merely a simple petition addressed to the narrow question of retroactivity. FERC may consolidate cases or petitions where appropriate to facilitate matters, but we intend that the Commission examine in some more detail the reasons why a State certification may not have been submitted within 1 year of receipt, and that the Commission take into account the relevant statutory criteria. As section 314 makes clear, "the Commission should exercise its discretion in favor of granting such petitions except where circumstances clearly show that granting a petition would not be warranted." In the interests of orderly licensing processes, we intend that FERC should first resolve a timely filed petition for reconsideration under this section before issuing any licenses for projects potentially affected by such a petition. If the petition is granted, the States will have 9 months to provide the appropriate certification. However, if that certification has already been made by the State or denied by the State (but that action was made inapplicable by the retroactive effect of the rule), that action would be automatically reinstated without using this 9-month period and that action cannot be reviewed or changed by the State. Finally, a State whose petition is denied may seek judicial review under the Federal Power Act and section 314. The amendment does not affect the FERC rule or the authority of the States under the Federal Water Pollution Control Act.

I reiterate that S. 1792 passed the Senate less than 1 week ago. The issue addressed in section 104 of that bill is one of major significance to 32 States, to more than 200 projects, and to the agency and committees of jurisdiction. We should not be in the posture of formulating ad hoc solutions to such issues with the clock ticking the final minutes of the 100th Congress, but that is the posture in which we have been placed by virtue of the other body's action. I believe that section 314 is a major improvement over the Senate's approach, and I applaud the efforts of the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the subcommittee chairman, Mr. SHARP, for their Herculean efforts under extreme time constraints in seeking to resolve a troubling issue of fairness and administrative independence.

Mr. SAXTON. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the Committee on Energy and Commerce.

Mr. SCHAEFER. I thank the gentleman from New Jersey for yielding this time to me.

Mr. Speaker, for myself and on behalf of the minority members of the Committee on Energy and Commerce, I am pleased to support the inclusion of a revised version of H.R. 2800, the Hazardous Waste Reduction Act in this legislation.

In this legislation we have been able to combine a number of different aspects. H.R. 2800 is a clear statement of congressional intent that source reduction be given priority in our waste management policies. Passage of this legislation this year is the latest Congress can do for the environment. Furthermore the demonstration program set up under this legislation will provide us with a real world test of these concepts and certain data collection methods. This test should prove invaluable in our review and reauthorization of RCRA in the coming years.

Before I yield back the balance of my time, I would like to engage the author of H.R. 2800 in a short colloquy, if the gentleman from Michigan [Mr. WOLPE] would answer a question.

First of all, Mr. Speaker, would the gentleman consider reuse or reclamation activities connected to the production of the product or provision of the service as source reduction? Second, with respect to section 308 of this legislation, the waste stream survey, what is the gentleman's intent regarding proprietary information.

Mr. WOLPE. Mr. Speaker, will the gentleman yield?

Mr. SCHAEFER. I yield to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. I thank the gentleman for yielding and I would be happy to answer the gentleman's questions.

Mr. Speaker, First, the reuse of reclamation of any material through a closed loop process, such as the following two examples, constitutes source reduction.

First. In any manufacturing process solvents are evaporated during the process. If these solvents are subsequently condensed and returned to the process through a system of pipes and equipment connected to the manufacturing process, resulting in the reuse of the solvent and reduction of the amount of total solvent needed in the manufacturing process, this practice is source reduction.

Second. Many metal operations use acid baths to remove surface contaminates and to etch the metal surface in preparation for plating. With use, the acid bath becomes contaminated. Generally, a small stream from the bath is removed continuously to remove the contaminants. If this stream is reclaimed in a closed system and the reclaimed acid is returned to the acid bath through a closed system, this practice is source reduction.

Regarding proprietary information, I have been concerned that the reporting requirements of the bill might result in the unauthorized disclosure of proprietary information. For that reason, section 7 includes provisions to address this problem. Section 8, which was added to accommodate the concerns of certain Members of the other body, however, does not fully address this problem. It is my intention, and my understanding, that EPA will craft the survey in such a manner so as not to require the reporting of proprietary information or information that might lead to the disclosure of proprietary information unless the EPA includes adequate protection to prevent the unauthorized disclosure of such information.

Mr. SCHAEFER. I thank the gentleman very much for his explanation of that. I would have one further question of the gentleman from Minnesota [Mr. SIKORSKI].

Does the Hazardous Materials Subcommittee majority concur in these remarks?

Mr. SIKORSKI. Mr. Speaker, will the gentleman yield?

Mr. SCHAEFER. I yield to the gentleman from Minnesota.

Mr. SIKORSKI. I thank the gentleman for yielding.

Mr. Speaker, it is, on behalf of the chairman and the majority, yes.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. I thank the gentleman for yielding.

I believe the legislation in front of us is important environmental legislation.

During the earlier debate on H.R. 2800, I expressed my appreciation to a number of Members and staff both majority and minority who have played a key role in the development of this legislation.

I wanted to take just a moment to pay special tribute to Mr. Eric Shafer who, while he was a senior policy analyst at the Northeast and West Institute played the key role in raising the salience of the issue of source reduction and really was the major architect in the construction of the legislation that we are acting upon this evening.

I would also like to express my appreciation to Lauren Kenworthy of my personal staff who has really spearheaded this legislation from its inception.

Mr. SAXTON. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. I do not believe I will need all 4 minutes.

Mr. Speaker, I want to support the effort that is underway here.

Mr. Speaker, the proposed language strikes a fair balance between protecting the rights of the States to have input into hydroelectric licensing decisions and the FERC's authority to make final decisions on license applications;

There is a legitimate question over the wisdom and fairness of the FERC's rule, specifically, whether the decision to give it retroactive effect is appropriate and in public interest;

The proposed language does not directly reverse the FERC's independent determination, but does allow the commission an opportunity to reconsider this determination on its merits;

So, I hope the FERC will, when it revisits this matter, attempt to give due deference to the interests of the States, who should be partners with the FERC in these environmental issues that are part of hydroelectric licensing decisions;

It is, of course, better for the public interest in informed decisionmaking for the FERC to have the benefit of State input.

I would hope that there would do that when they consider this issue.

Mr. SAXTON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding. As far as I can tell, the basic portion of this bill is a fine bill. One does have to wonder, however, how something regarding the control of airspace got into the bill. One of the things that I have constituents telling me all the time is that they are sick and tired of a Congress that cannot deal with one subject at a time. It continues to put unrelated matters onto bills and therefore confuse the entire process. I hear it in town meetings, I hear it on the street; people are sick and tired of this process.

Now we get an environmental quality bill out here that has a provision in it that deals with the control of military airspace by the FAA.

I asked the question here a little bit ago what does that have to do with environment quality? The answer to the question is absolutely nothing. The Senate just stuck it in there.

Well, you know I think it is somewhat of an embarrassment to the House that we go along with the Senate sticking in these unrelated matters. I think it is an embarrassment that the committees of jurisdiction do not feel strongly enough about their jurisdiction in order to say "We simply are not going to sign off on this kind of stuffing put in bills that have no bearing on the subject matters related."

The problem is when we have this kind of process taking place we are not sure there have ever been hearings, the Members do not know where the subject matter evolved from. It may just be some Senator's pipe dream that got stuck down in the middle of a bill that we then are accepting on the floor because the basic bill is pretty good stuff.

I think it is time that we say, along the way, that this is simply unacceptable.

I wish this provision was not in the bill. The overall bill is a pretty good bill. We ought to be a little more careful about how we garbage the things up.

Mr. WELDON. Mr. Speaker, I am pleased to see H.R. 2020 before the House of Representatives today. The bill reauthorizes the Council on Environmental Quality (CEQ), an agency that is rarely in the public's eye but one that has a significant impact on environmental policy in this country.

Members of the Merchant Marine Committee approved this bill last year with the hope that we could reinforce the environmental impact statement [EIS] process. The EIS process came into being when Congress passed the National Environmental Policy Act [NEPA] in 1969. NEPA mandated that Federal agencies issue environmental impact statements before embarking on a project, such as a highway or a new sewer system. Unfortunately, that process has fallen to neglect in the 1980's. Last year Dr. Allan Hirsch, former Director of the EPA's Office of Federal Activities, claimed that many Federal agencies are excluding EIS's from their decisionmaking process.

When the committee marked up H.R. 2020, I had an amendment attached to it that requires Federal agencies to look at a sampling of their EIS's. In its review, each agency has to identify the following three points: was an EIS issued for a given project, did the agency implement the recommendations of the EIS, were the measures effective. CEQ then compiles the reviews and presents them in a report each year to Congress.

I am glad to see that my amendment was included in the final version of H.R. 2020. Forcing agencies to review their previous EIS's will ensure that the process laid down by NEPA nearly 20 years ago is no longer ignored. As the country continues to confront a variety of environmental issues, it is important that we make the best use of the channels already available to us. I commend members of the Merchant Marine Committee for their work on this bill.

Mr. JONES of North Carolina. Mr. Speaker, I rise today to urge my colleagues to pass H.R. 2020, an act to reauthorize the Office of Environmental Quality, and for other purposes, as amended and passed by the other body on October 14, 1988. The House has previously passed a very similar version of H.R. 2020 on June 22, 1987, under suspension of the rules.

Let me here express my thanks to the Committee on Public Works and Transportation and the Committee on Energy and Commerce. One of the Senate amendments touches upon matters of interest to them and beyond the jurisdiction of the Merchant Marine and Fisheries Committee. We appreciate their cooperation in devising the House amendment presented here today.

H.R. 2020, as passed by the other body, reauthorizes the Office of Environmental Quality which was created to provide professional and administrative support for the Council of Environmental Quality [CEQ]. The Council is charged with, among other duties, overseeing the implementation of the National Environmental Policy Act of 1969. The other body added a couple of new provisions, most of which the Committee on Merchant Marine and Fisheries finds acceptable.

I would like to express my strong support for one modification in particular which begins to address the growing problem over the designation of military airspace by the Federal Aviation Administration [FAA]. This issue of great concern to people in my district and in much of North Carolina. In the past 3 years, five separate proposals for military airspace expansion for North Carolina have been submitted to the FAA from three different branches of the military. In total, these proposed overflight areas would cast a shadow over more than 1 million acres of eastern North Carolina, affecting four of the five fastest growing counties in the State.

The cumulative effects of these proposals could adversely impact national parks and wildlife refuges, resident wildlife and forest management. In addition, these numerous proposals could pose safety problems by mixing civil and military air traffic, as well as result in further drastic restrictions on general aviation. Citizens of North Carolina are already contending with broken windows, excessive noise and military pilots who violate the military's own rules on supersonic speeds. The Quality of life in some areas has declined considerably due to greatly increasing military air traffic.

It has been especially frustrating for North Carolina, as well as other States, to have to deal with each airspace proposal and branch of the military separately, an extremely inefficient and piecemeal approach. A major part of the problem is that the FAA has not recognized its full responsibility under NEPA to independently evaluate the adequacy of the environmental impact statements prepared by the military on special use airspace designations. Thus far the FAA simply "verifies" that the military agency has certified that it has complied with NEPA. CEQ itself has stated that this approach is not adequate. Moreover, the current process simply does not recognize the importance of cumulative impact analysis—nor does it make possible the kind of comprehensive planning demanded by the problem, because each proposal is considered in isolation.

For these reasons, I am very pleased that H.R. 2020 contains a provision to assure greater citizen participation and improved review of the environmental impacts of military airspace designations. Title II requires the FAA to certify that the airspace designation complies fully with the National Environmental Policy Act. CEQ itself has stated in its findings regarding the establishment of a military operating area over Cape Lookout National Seashore, that to comply with NEPA, the FAA must base its military airspace designations on environmental documentation which includes a comprehensive discussion of cumulative impacts. Such analysis must consider the impacts of all current, proposed and contemplated special use airspace designations in a given region. According to CEQ, the cumulative effects of military airspace use over North Carolina has not been adequately considered. I am hopeful that with the passage of this legislation, the situation will improve, and further congressional action will not be necessary.

Clearly, North Carolina recognizes the importance of providing adequate airspace for training our Nation's Armed Forces. In fact, 3 million acres of airspace are already dedicated to military air training over North Carolina. However, there should be an indepth analysis of environmental, safety and economic values when evaluating any new airspace proposal.

In conclusion, I am pleased that Congress has taken this first step to address the public's concern about this issue, and I want to thank the distinguished Senator from Nevada, Senator REID, for his tireless work on this issue. I believe that with careful planning—which includes a comprehensive look at the environmental impacts—we can provide needed airspace to the military without adversely affecting our environment and quality of life.

Mr. GARCIA. Mr. Speaker, I would like to express my concern regarding H.R. 2020, authorization bill for the Council on Environmental Quality [CEQ].

I do not object to the provisions of the bill, but I would like to make you and our colleagues aware that section 101 of this bill could have a negative impact on U.S. exporters unless congressional intent is clarified. The section gives the CEQ specific statutory authority to issue regulations implementing the National Environmental Protection Act for all Federal agencies. Because Eximbank's programs are international in nature, my concern lies in the extraterritoriality of the council's promulgation and implementation of the legislation. When the House considered this bill, there was a decision made to take out specific mention of extraterritorial actions inserted by the Senate. This decision is an indication that congressional intent of this bill is to limit CEQ's authority to nonextraterritorial activities.

Eximbank already assesses foreign environmental impact in compliance to Executive Order 12114. If CEQ decides to go beyond its original jurisdiction as result of this bill, its enforcement of NEPA would increase the administrative burden at the U.S. Export-Import Bank which is already working at full capacity to provide financing for U.S. exports. Additional administrative burden would lead to delays in the processing of financing of U.S. exports, and, in turn, increase the possibilities for U.S. exporters to lose projects to foreign competitors who do not have such requirements. Timeliness of accessing competitive export financing is a major concern of U.S. exporters because competition in the international market has become more and more based on export financing. In other words, access to competitive and timely financing can determine whether a U.S. exporter wins or loses an export transaction. That means we need to ensure timeliness and efficiency of Eximbank's programs, especially during these times when we are trying to encourage U.S. exporters to win markets overseas.

Again, I do not object to H.R. 2020, but would like my colleagues to be aware of the potential negative impact this bill could have on U.S. exporters if congressional intent is not clarified.

Mr. DINGELL. Mr. Speaker, in November 1983, the Subcommittee on Oversight and Investigations which I chair held hearings on the adequacy of the Environmental Protection Agency's administration of section 112 of the Clean Air Act. The section is commonly referred to as the "hazardous air pollution control section."

Preceding the hearing was a General Accounting Office investigation and report which showed that EPA was delinquent in efforts to list as "hazardous air pollutants" many substances and to regulate those substances after listing. At the same time, the GAO issued an opinion that the law, if properly applied, required zero emissions in the case of many substances. Under that interpretation—which EPA has not disputed—many existing facilities, including substance using industries; for example, furniture, textiles, aerospace, defense, and many others—would probably have to close their doors because such control could not be achieved practicably.

While not disagreeing with GAO, EPA was not, at that time, willing to agree that the law needed to be changed to make it more workable, effective, and less draconian. Instead, EPA promised to resolve a list of 25 pollutants within a short timeframe. The list and the most recent status report from EPA appears under separate remarks. The list shows that resolution of all of the substances is still not complete, although EPA has made considerable progress.

In my view, the problem lies with the law itself. It forces EPA to embark on this slow and time consuming process that only ensures delay or no action. On several occasions since 1983, I have raised the question with EPA of a change in the law. Until recently, EPA has been reluctant to even consider the idea.

However, as it became apparent that Congress might address the Clean Air Act this year, EPA, to its great credit, developed at my urging and that of others an alternative to a provision in S. 1894. A few weeks ago, EPA shared it with me and others in Congress and with persons outside the Congress. It is a draft and not an official administration proposal. While I, like others, have some reservations about the proposal, I think it is an alternative that deserves careful consideration and study. That is why I will introduce it today. It is an alternative to the toxic provisions of S. 1894. It should help start a dialogue. I welcome constructive comments and suggestions from all the affected industries and others. I particularly call attention to the long list of substances included in the bill as air pollutants and their relationship to the defined terms. It is an EPA prepared list which gives me some comfort. However, I think it is important to understand to what extent these many substances are used in various industries and in consumer products and the extent such uses result in emissions. Also important is the issue of safe and sound substitutes that are effective. Do they exist? Do the substitutes create problems for the environment? Are these all truely air pollutants? I also want to learn more about the development of this list.

As I have explained, I believe a legislative change in section 112 is needed and I look to the next administration to offer that change as part of a total package of amendments to the Clean Air Act. However, I do not think that this section should become the centerpiece of the law as it seems to be in the case of S. 1894. I think that provision is overkill, although I commend those in the Senate for at least offering something. I am troubled that no alternative was ever considered in the House during the 100th Congress. A reasonable resolution of section 112 is just as important as resolution of the nonattainment and acid rain issues.

The following is a brief overview of the draft which was prepared by EPA and which I offer as an explanation:

OVERVIEW OF DRAFT EPA AIR TOXICS AMENDMENT

Step 1: Select and Prioritize Source Categories to be Regulated.

Step 2: Apply Technology Standards.

Step 3: Check for High Residual Risks After Control. Tighten Standards as Needed: Add up to 90% Further Emission Reduction.

Step 4: State Enforcement through an Operating Permit System (fee-based) State Check on Overcontrol by Allowing Waivers from Standard for Sources Causing Insignificant Risk.

STEP 1: SELECT AND PRIORITIZE SOURCE CATEGORIES

Selection Criteria: Category or subcategory composed of sources that emit chemical on reference list at greater than 10 T/Y or combination of listed chemicals at greater than 25 T/Y.

List of Chemicals: EPA list of 150-200.

Equal threshold for getting chemicals on and off the list; Petition process; list serves to identify source categories.

Priority Criteria:

1. Priority for regulation—one half of total categories/subcategories automatically listed for regulation. Regulate 10 categories in two years 50 percent of list in 4 years, 100 percent in 7 years; Administrator designates the categories in the second one half of total that present risks warranting regulation. Designated within 5 years, regulated within 10 years.

2. Potential Priority Algorithim Variables—toxicity score for pollutants (OAQPS ranking); estimated emissions (SARA Title III of other data); urban versus rural location (population density); others as relevant.

3. Group source categories for maximum efficiency and coverage by standards e.g., generic standards usable for several categories.

RATIONAL

Statutory 10 T/Y criterion identifies universe of categories.

Emissions data from SARA Title III should be improved and more reliable over time and can be used to check status of priorities.

Automatic listing of top one-half starts regulatory proccess. Additional time to examine bottom one-half select ones that present risks warranting regulation.

STEP 2: APPLY TECHNOLOGY STANDARDS

Maximum Achievable Control Technology.

Applicability/time:

New sources are those that break ground after proposal. They must comply immediately.

Existing sources have up to 3 years in the Administrator's discretion. Additional 2 years to install equipment in Administrator's discretion, or state discretion under approved program.

Criteria:

New sources—as good as achieved in practice by existing source in category or subcategory considering cost and other factors.

Existing sources—as good as achievable by existing sources considering cost and other cost and other factors.

Process: Write generic standards that can cover many categories—like the 112 fugitives standard that was used for benzene source categories, but also was designed to be easily adapted for other source categories, Generic standards examples: Air oxidation; fugitives; process vents; wastewater treatment; distillation; and storage.

Write specific standards where generic ones don't apply.

In regulating a particular source category, select from generic standards,. E.g., a source category standard would put together process vent, storage, wastewater controls from generic standards.

STEP 3: CHECK FOR HIGH RESIDUAL RISK AFTER CONTROL AND FURTHER CONTROL IF NEEDED

Basis: Significant risk of serious or widespread adverse effects on health; Make finding within 7 years after promulgation of standard (MACT) using data on actual emissions.

Added control: Require additional 90% emission reduction beyond MACT unless lesser amount sufficiently reduces or eliminates the risk.

Time: EPA promulgates beyond-MACT standards within two years of finding the need for them. Standards are effective upon promulgation. All sources comply within 6 years.

STEP 4: STATE ENFORCEMENT AND WAIVERS

Fee-based Permit System: State permit is vehicle for enforcement of standards; Sources pay permit fee to cover state program costs; States grant insignificant-risk waivers to sources upon a showing by source. EPA provides methodology. States build expertise.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the resolution, House Resolution 598.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

L. RICHARDSON PREYER, JR., FEDERAL BUILDING AND U.S. COURTHOUSE

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3327) to designate the Federal building located at 324 West Market Street in Greensboro, NC, as the "L. Richardson Preyer, Jr., Federal Building and United States Courthouse."

The Clerk read as follows:

Senate amendments:

Page 1, line 7, after "Courthouse" insert "and Post Office".

Page 2, line 6, after "Courthouse" insert "and Post Office".

Page 2, after line 6, insert:

SEC. 3. HANDICAPPED PARKING SYSTEM.

(a) REGULATIONS.—Not later than the 180th day following the date of the enactment of this Act, the Secretary of Transportation shall issue regulations—

(1) which establish a uniform system for handicapped parking designed to enhance the safety of handicapped individuals, and

(2) which encourage adoption of such system by all the States.

In issuing such regulations, the Secretary shall consult the States.

(b) DEFINITIONS.—For purposes of this section—

(1) UNIFORM SYSTEM FOR HANDICAPPED PARKING.—A uniform system for handicapped parking designed to enhance the safety of handicapped individuals is a system which—

(A) adopts the International Symbol of Access (as adopted by rehabilitation International in 1969 at its 11th World Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

(B) provides for the issuance of license plates displaying the International Symbol of Access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(C) provides for the issuance of removable windshield placards (displaying the International Symbol of Access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(D) provides that fees charged for the licensing or registration of a vehicle used to transport individuals with handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

(E) for purposes of easy access parking, recognizes licenses and placards displaying the International Symbol of Access which have been issued by other States and countries.

(2) STATE.—The term "State" has the meaning such term has when used in chapter 4 of title 23, United States Code.

Amend the title so as to read: "An Act to designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L Richardson Preyer, Jr. Federal Building and United States Courthouse and Post Office".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before you today differs in two respects from the version passed by the House in December 1987. First, the Senate made a technical correction to the public building naming section of the bill to include the words "post offices" in the description of the complex to be named after L. Richardson Preyer, Jr.

The second Senate amendment addresses the unnecessary burden placed on members of our disabled community by the lack of a uniform handicap parking symbol in this country. The bill establishes one easily recognizable symbol—the international symbol of accessibility—to identify vehicles transporting the mobility-impaired. This symbol must be displayed prominently, either directly on a license plate or on a removable windshild placard. Furthermore, all 50 States must honor the plates or placards issued by other States, extending the same parking privileges to operators of all vehicles displaying the uniform handicap parking symbol. This last provision is particularly important in metropolitan areas which span State boundaries.

As originally conceived, the bill would have included sanctions involving the withholding of highway funds from States not in compliance with the handicap symbol program. Those sanctions are not included in this bill. Instead, the Secretary of Transportation is instructed to begin a rulemaking process which will formally establish a uniform handicap parking symbol and encourage its adoption by the States. It is our intent that the Secretary issue these regulations through the process known as regulatory negotiation, which will allow the direct participation of all affected parties.

Mr. Speaker, the adoption of these provisions in H.R. 3327 will help eliminate from the lives of the 6.5 million members of our mobility-impaired community the confusion, cost, and threat to personal safety generated by conflicting State laws governing handicapped parking.

Now I would like to say a few words about our former colleague and my friend, Richardson Preyer.

Many Members of the House will certainly remember Congressman Richardson Preyer from his 12 years of service in the House. He was elected to the 91st Congress in 1968 where he served with distinction the people of the Sixth District of North Carolina. Rich took the lead on issues involving health care and clean environment. He also championed the cause of ethics and good Government.

Congressman Preyer had a reputation for great integrity and sound judgment, and the House leadership called on him to serve in some difficult and unpleasant assignments. He served as the No. 2 Democrat on the Committee Investigating Assassinations, and he headed the Subcommittee Investigating the Assassination of John Kennedy.

He was a member of the House Committees on Government Operations, Interstate and Foreign Commerce, and Standards of Official Conduct.

Rich is a native of Greensboro, who served his city, State, and country for many years before coming to Congress. After graduating from Princeton University and Harvard Law School, he served as State superior court judge and then on the Federal District Court Bench.

In view of Congressman Preyer's many contributions to this hometown of Greensboro, NC, and the country, it is appropriate to honor him by naming the Federal Building at 324 West Market Street in Greensboro, NC, the "L. Richardson Preyer Federal Building, Post Ofice and U.S. Courthouse."

I urge my colleagues to support the bill

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my support for this bill which would name a Federal building in Greensboro, NC, in honor of our former colleague, L. Richardson Preyer, Jr.

Rich has dedicated his life to public service, serving as city judge, State superior court judge and U.S. district court judge. Rich was first elected to the House in 1968 and continued to represent North Carolina's sixth district for 12 years. He was an effective advocate of such issues as health care and the environment.

This bill contains another important provision which I would like to highlight.

The Senate has dropped a very important amendment which will go far toward correcting a nationwide dilemma facing all mobility-impaired persons, especially those persons who travel from one State jurisdiction to another.

A wide disparity exists among States on important issues such as how handicapped vehicles should be marked, what eligibility requirements must be met to receive handicapped license plates and windshield placards, and reciprocity between States in honoring licenses and placards issued by other States.

The Public Works and Transportation Committee became aware of this problem at hearings held in March 1988. The failure of States to honor each other's handicapped parking logo and to extend to out-of-State motorists the same right to utilize reserved spaces creates major difficulties. Unsafe traffic conditions occur when disabled persons must park at further distances from their destination and navigate through and around moving vehicles. Drivers who receive tickets must invest time, effort, and money to appear in court.

In addition, the lack of uniformity and reciprocity in State laws restricts an individual's freedom to engage in interstate travel. For example a handicapped driver from Arkansas cannot legally park in a handicapped parking space in the District of Columbia.

Mr. Speaker, this bill would require the Secretary of Transportation to issue regulations which establish a uniform system for handicapped parking and encourage adoption of the system by all the States. It is the intent of the House that the Secretary pursue a rulemaking under the regulatory negotiation process so that all affected parties have an opportunity to contribute to the establishment of standards.

I would like to congratulate the Paralyzed Veterans of America, and especially their associate director for advocacy, Mr. Dennis Smurr, for all their enthusiastic and tireless efforts to move this important provision through the Congress. This organization has been consistently supportive of numerous efforts to make life for our Nation's handicapped population less burdensome, and I applaud this honorable organization and their fine work.

The provision in this bill should ensure that all mobility-impaired persons can travel safely and easily anywhere in this great country. I urge my colleagues to support passage of this valuable and necessary legislation.

Mr. GEJDENSON. Mr. Speaker, I rise today to express my support for H.R. 3327 and in particular, to express my strong support for provisions included in this legislation that call for a nationwide uniform system for handicapped parking designed to enhance the safety of disabled individuals across America. This is legislation that I originally introduced as H.R. 1442. I would like to commend my colleagues, Mr. ANDERSON and Mr. HAMMERSCHMIDT, for their fine work on this bill and particularly for their work to include this long overdue provision.

In 1985, Ruby Degiovanni, a constituent of mine from Middletown, CT, brought this issue to my attention when she and other handicapped persons in eastern Connecticut received parking tickets when they went to the doctor or went shopping in neighboring Massachusetts. As I looked into this problem further, I discovered that Ruby Degiovanni's parking tickets were not an isolated incident: thousands of handicapped persons nationwide receive tickets when they travel to another State and attempt to park in a specially designed parking space. That is the reason that I introduced legislation to establish uniform standards for handicapped parking.

Conventional logic dictates that if an individual is disabled in one State, this same person is disabled in all States. States that deny out-of-State handicapped persons the privilege of parking close to a building, need to be told that this is harassment and that it is unacceptable. This legislation takes that crucial step by encouraging States to accept a uniform standard. In a recent study conducted by the Department of Transportation on the problems faced by handicapped motorists, the DOT acknowledged that a serious problem exists and endorsed the adoption of a nationwide uniform handicapped parking standard.

State governments in every State allocate parking spaces for disabled citizens in their own State and have special license plates, placards or window stickers to identify cars which are eligible to use the specially designated parking spaces. Unfortunately, in 35 States there is not universal recognition of the handicapped parking emblems or stickers of disabled citizens from other States. Even in most of the States where they make a good-faith effort to recognize other States' parking stickers and emblems, oftentimes the great variety of the location of these stickers and emblems creates such confusion that people are unnecessarily penalized.

As a result it is unsafe for disabled people to go out of State. People in wheelchairs can get hit by fast, inattentive drivers in parking lots and are often a target of thieves. In addition, the police officer on the beat cannot be expected to understand that Colorado hangs its handicapped placard from the mirror on the inside of the car and that other States have it on their front windshield. Some States designate handicapped drivers on the license plate. Some have two license plates, others have one.

In that confusion, the sad fact is that in the course of normal activity, people who have handicaps and ought to have the privilege and the right to use these specially designated spaces are victimized. It happens in small States in the East and large States in the West. But in the East, where you may live in Connecticut but shop or see your doctor in Rhode Island, Massachusetts, or New York this tends to be a serious problem.

Over the past few years, the 6.5 million disabled Americans have won many great victories and we as a society have made great strides in recognizing the needs of those with disabilities. More and more public buildings, schools and churches are accessible to people with disabilities and disabled citizens have won the right to special parking places in all States in the Nation. This legislation takes an important step in breaking down further barriers for the physically disabled and I am proud that we are addressing this issue here today.

Mr. COBLE. Mr. Speaker, the House of Representatives today enacted a bill to name the Federal Building at 324 West Market Street in Greensboro, NC, as the "L. Richardson Preyer, Jr., Federal Building and United States Courthouse." Congressman Preyer served the Sixth District of North Carolina for 12 years. I was proud to be a cosponsor of the bill which called for naming the building after Mr. Preyer. The naming of the Federal Building after Richardson Preyer is a fitting tribute to his life of public service.

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Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3327.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TECHNICAL AMENDMENTS TO CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT OF 1988

Mr. HAYES of Illinois. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2915) to make certain minor and technical amendments to the Child Abuse Prevention, Adoption, and Family Services Act of 1988, as amended.

The Clerk read as follows:

S. 2915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) Section 6(e)(1)(B) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 510(e)(1)(B)) (hereafter in this section referred to as the "Act") is amended by striking "the Office of Human Development Services" and inserting "the Office of the Assistant Secretary of the Department responsible for administration of the program under this Act".

(b) Section 7 of the Act (42 U.S.C. 5106) is amended—

(1) in the caption by striking "grants to"; and inserting "grants to and contracts with";

(2) in paragraphs (1) through (6) of subsection (c), by striking the periods at the ends and inserting semicolons;

(3) in subsection (c)(2), by striking "Such other innovative programs and projects as the Secretary may approve, including programs" and inserting "Programs";

(4) in subsection (c)(6)(C) by striking "as determined as appropriate" and inserting "as determined to be appropriate"; and

(5) in subsection (c)(6)(D)(i), by striking "is in a combination with—" and inserting "proposes to provide services under a grant under this paragraph through formal arrangements with—".

(c) Section 8(b) of the Act (42 U.S.C. 5106a(b)) is amended—

(1) in paragraph (1)(B) by striking "provisions for immunity" and all that follows and inserting "provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;"; and

(2) in clause (E) of paragraph (3), by striking "such".

(d) Section 8(c) of the Act (42 U.S.C. 510a(c)) is amended to read as follows:

"(c) WAIVER EXTENSION.—Any State which on the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 had a waiver of requirements under subsection (b)(10) may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirements—

"(1) through the end of fiscal year 1988; or

"(2) in the case of a State the legislature of which meets biennially, through the end of fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.".

(e) Section 8(d) of the Act (42 U.S.C. 5106a(d)) is amended by striking "equal of the amount" and inserting "equal to the amoung".

(f)(1) The caption of section 9 of the Act (42 U.S.C. 5106b) is amended to read as follows:

"SEC. 9. GRANTS AND TECHNICAL ASSISTANCE TO STATES FOR PROGRAMS FOR DISABLED INFANTS WITH LIFE-THREATENING CONDITIONS".

(2) Subsections (a) and (b) of section 9 are redesignated as subsection (b) and (c), respectively.

(3) Subsection (f) of section 8 of the Act (42 U.S.C. 5106a(f) is redesignated as subsection (a) of section 9 of the Act (42 U.S.C. 5106b(a)).

(4) Section 9(b) of the Act (42 U.S.C. 5106b(b)), as redesignated, is amended—

(A) in the caption, by inserting "and clearing-house" after "technical assistance"; and

(B) in paragraph (2)(A), by striking "phone" and inserting "telephone".

(5) Section 9(c) of the Act (42 U.S.C. 5106b(c)), as redesignated, is amended by striking "this section" and inserting "subsection (b)".

(6) The table of contents of the Act (42 U.S.C. 5101 [note]) is amended by striking "Sec. 9. Technical assistance to States for child abuse prevention and treatment programs." and inserting "Sec. 9. Grants and technical assistance to States for programs addressing need of disabled infants with life-threatening conditions.".

(g) Section 11(c) of the Act (42 U.S.C. 5106d(c)) is amended by striking "is available" through the period and inserting "for discretionary research and demonstration grants is available for activities related to the identification and prevention of child abuse and neglect.".

(h) Section 14 of the Act (42 U.S.C. 5106g) is amended—

(1) in paragraph (4), by inserting "(including any employee of a residential facility, or any staff person providing out-of-home care)" after "who is responsible for the child's welfare";

(2) by striking out paragraph (5) and redesignating paragraph (6) as paragraph (5); and

(3) by adding after paragraph (5) the following new paragraph:

"(6) the term 'Department' means the Department of Health and Human Services;".

(i) Section 15(a) of the Act (42 U.S.C. 5106h) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated for purposes of carrying out this Act $48,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991. Of the funds appropriated for any fiscal year under this section, there shall be available in each year, except as provided in the succeeding sentence—

"(1)(A) $11,000,000 for activities under sections 5, 6, and 7, and

"(B) $9,000,000 for activities under section 8(a) and 9(b) giving special consideration to continued funding of child abuse or neglect programs or projects (previously funded by the Department) of national or regional scope and demonstrated effectiveness,

"(2) $5,000,000 for grants and contracts under section 7(a) for identification, treatment, and prevention of sexual abuse, and

"(3) $5,000,000 for grants to states under section 9(a).

With respect to any fiscal year for which the total amount appropriated under this section is less than $30,000,000, no less than $20,000,000 of such funds appropriated in such fiscal year shall be available as provided in clause (1) in the preceding sentence, and of the remainder, one-half shall be available as provided for in clause (2) and one-half as provided for in clause (3) of such sentence.".

SEC. 2. AMENDMENTS TO TITLE II OF THE CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978.

(a) Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.) (hereafter in this section referred to as the "Act") is amended by adding before section 201 the following new section:

"SHORT TITLE

"SEC. 200. This title may be cited as the 'Adoption Opportunities Act'.".

(b) Section 203(b)(8) of the Act (42 U.S.C. 5113(b)(8)), in the matter preceding subparagraph (A), is amended by striking "the provision of".

(c) Section 203(c)(1) of the Act (42 U.S.C. 5113(c)(1)) is amended by striking out "the provision of".

SEC. 3. AMENDMENT TO THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

(a) Section 303(c) of the Family Violence Prevention and Services act (42 U.S.C. 10402(c)) is amended by striking "$150,000" and inserting "$200,000".

(b) Section 311(b) of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended—

(1) by striking "(b)" and inserting "(b)(1)";

(2) in paragraph (2)(A)(i), in the matter preceding clause (I), by striking "spouse" and inserting "family member"; and

(3) in paragraph (2)(A)(II), by striking "phone" and inserting "telephone".

The SPEAKER pro tempore. Is a second demanded?

Mr. BARTLETT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HAYES] will be recognized for 20 minutes, and the gentleman from Texas [Mr. BARTLETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the newly reauthorized Child Abuse Prevention, Adoption and Family Services Act of 1988 was signed into law this past April. I am rising to ask that the House pass a package of technical amendments that have since been brought to the Subcommittee on Select Education's attention.

As with any comprehensive rewriting of legislation, changes are necessary in order to make the new act consistent with prior legislation where it was the intention of the conferees not to disturb old law.

Apart from minor changes in terminology, this package most notably clarifies the bipartisan agreement arrived at during conference committee that priority should be given to discretionary research and demonstration projects which focus on the identification and prevention of child abuse. The conferees understood that prevention was key to controlling the soaring rise in the incidence of child abuse and neglect over the past decade.

The other significant revision contained in this package of amendments is to raise the funding cap by $50,000 for grants going to family violence shelters. These grants are intended as "seed" money for public or private groups that engage in prevention activities or which provide immediate shelter and related assistance for victims of family violence. During the consideration of Public Law 100-294 the Congress extended the term of these demonstration grants from 3 to 5 years. In States with limited family violence shelter capacity, the evidence available suggests such services may have to be discontinued altogether if Federal support were cutoff once the existing funding cap of $150,000 was reached for any one particular shelter. By raising this cap to $200,000, we are able to provide those shelters with the relief they need while maintaining the intended nature of this demonstration program.

Mr. Speaker, I urge for the speedy passage of this bipartisan package of technical amendments.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2519 which amends the Child Abuse Prevention and Treatment Act of 1988. The majority of these amendments are technical in nature; however, there is one substantive amendment included in this package which I wish to bring to the attention of my colleagues.

In 1984, the Congress authorized demonstration grants to states to prevent family violence and provide immediate shelter to victims of family violence. These demonstration grants were originally authorized for 3 years; no more than $50,000 could go to a particular shelter in each fiscal year and the total amount a single shelter could receive from this grant could not exceed $150,000. It was the intent of Congress that this program provide Federal seed money to private and/or State shelters with the clear expectation that these shelters would be self-sufficient after 3 years.

It has come to the subcommittee's attention that many shelters all over the Nation are reaching the $150,000 cap and are having difficulty raising private dollars to maintain operation of these family violence shelters. I strongly believe that these shelters should become self-sufficient as originally intended by the Congress. While the other body wanted to lift the cap entirely; I supported decreasing the amount of Federal dollars a shelter could receive in any given year with a marginal increase in the cap. This would encourage shelters to seek other sources of funding while reminding shelters that this is a demonstration program by decreasing the Federal amount they could receive.

In an effort to compromise, we agreed to raise the total amount a single shelter can receive in Federal dollars to $200,000. This will ensure that shelters can continue to receive additional Federal dollars and maintain their operations and services while at the same time send a message to States and family violence shelters that this is still a demonstration program with the intent these shelters become self-sufficient.

In the 101st Congress, this issue must be reconsidered. I believe the subcommittee must look at the policy question of whether or not to provide ongoing operating funds for these shelters. One of the questions that the subcommittee needs to explore is should we convert the $8 million appropriation for this demonstration program to a formula grant which would provide ongoing Federal support for these shelters. While I strongly support maintaining these shelters through private resources, I think the subcommittee and the Congress must determine how to ensure that these family violence shelters can continue to provide ongoing services in their communities in the most effective way. I urge my colleagues to support S. 2519 and ensure that this will be an issue that the subcommittee will revisit in the next Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYES of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTLETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Hayes] that the House suspend the rules and pass the Senate bill, S. 2915, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYES of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the House amendment to the Senate bill (S. 795) to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for other purposes.

The Clerk read as follows:

Senate amendments to House amendment: Strike out all after the enacting clause, and insert:

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) Bands.—The term "Bands" mean the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) Fund.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) Indian water authority.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an intertribal Indian entity established by the Bands.

(4) Local entities.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) Settlement agreement.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

(7) Supplemental water.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) Findings.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890's and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and de-

livery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either through participation in the lining of the previously unlined portions of the All American Canal or through contract with the Metropolitan Water District of Southern California.

To accomplish the requirements of this section, the Secretary is authorized to enter into such agreements or contracts as are necessary for the construction, operation and funding of the works required to develop such supplemental water. Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable:

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to subsection (a)(1) of this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Within nine months following enactment of this Act, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the Secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided*, That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The execution of the settlement agreement shall not be withheld or delayed for any reason associated with providing the supplemental water supply. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this Act.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq., commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the

San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressinal Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is Now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon . . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and the Secretary has entered into water delivery contracts with public agencies in California.

(4) The available supply of Colorado River water in California is over-allocated because—

(A) under the terms of the decision and decree in *Arizona* v. *California,* 373 U.S. 546, and section 301(b) of the Colorado River Basin Project Act (43 U.S.C. 1521(b)), California is limited to a dependable supply of 4.4 million acre-feet of water per year,

(B) the California contractors' entitlement under their water delivery contracts with the Secretary is in excess of 4.4 million acre-feet per year, and

(C) actual use under these contracts has been considerably in excess of 4.4 million acre-feet per year for all but two years since 1964.

(5) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(6) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions of the United States Supreme Court.

(7) The Secretary has promulgated regulations pursuant to this authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(8) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617-617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractor.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures to mitigate resulting impacts on fish and wildlife resources. Mitigation for fish and wildlife resource losses in or adjacent to the canals incurred as a result of the construction of the works shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with or prior to construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife mitigation purposes.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or finding of all or a portion of the works authorized in subsection (a) of this section. Such agreement or agreements shall set forth, in a manner acceptable to the Secretary—

(1) the responsibilities of the parties to the agreement for finding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional cost identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirements for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation of impacts on fish and wildlife resources, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements

are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) Title to the Works.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights of the United States to the waters of the Colorado River, or would inhibit the Secretary's ability of fulfill his responsibility under the Project Act.

(e) Authorization of Appropriations.

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsections (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) Secretarial Determination.—The Secretary shall determine the quantity of water conserved by the works and may revise each determination at reasonable intervals based on such information as the Secretary finds appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) Beneficial Use in California.

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractor other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

(a) Effective Date.—The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to * * *

* * * * *

various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) Public Review and Comment.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) Limitation on Initiation of Construction.—Prior to the initiation of construction, the Secretary shall make a finding, and publish such finding, that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implemenation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Wildlife Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which would be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) describe current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (P.L. 97-293, 96 Stat. 1263).

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment with an amendment on behalf of Senators CRANSTON and WILSON.

AMENDMENT NO. 3741

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. CRANSTON, for himself and Mr. WILSON, proposes an amendment numbered 3741.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) Bands.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) Fund.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) Indian Water Authority.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, and intertribal Indian entity established by the Bands.

(4) Local Entities.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) Settlement Agreement.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

(7) Supplemental Water.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) Findings.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of ground water on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) Purpose.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) Establishment of Fund.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) Authorization of Appropriations.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other apppropirate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such moneys from the trust fund as are requested from time to time by the Indian Water Authority.

(2) Any moneys not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the moneys identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) Obligation to Arrange for Development of Water for Bands and Local Entities.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside of the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either from water conserved by the works authorized in Title II of this Act, or through contract with the Metropolitan Water District of Southern California.

Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) Authority to Utilize Existing Programs and Public Lands.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable :

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjuction therewith, authorize a program to recharge some or all of the ground water that is so pumped.

(c) Terms and Conditions of Water Deliveries.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the deliver of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) Cost of Developing and Delivering Water.—The cost of developing and delivering supplemental water pursuant to this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) Report to Congress.—Notwithstanding the provisions of section 104, within nine months following enactment of this Act, the secretary shall report to the Committee on Interior and Insular Affairs of the House of Reprsentatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local enetities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) Establishment of Indian Water Authority Approved and Recognized.—

(1) In general.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) Limitation on power to amend or modify ordinances.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this act and the settlement agreement.

(b) Status and General Powers of Indian Water Authority.—

(1) Status as indian organization.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) Power to enter into agreements.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) Investment power.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its

own funds: *Provided*, That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) Limitation on Spending Authority.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement enterd into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) Indian Water Authority Treated as Tribal Government for Certain Purposes.—The Indian Water Authority shall be considerd to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this title.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) Power Facilities.—Any license issued under the Act of June 10, 1920, (16 U.S.C. 791a et seq.), commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) Indian and Government Lands.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) Approval by Indian Bands; Compensation to Indian Owners.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) Eminent Domain.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) Status and Authority of Indian Water Authority.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon . . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and in California the Secretary has entered into water delivery contracts with public agencies.

(4) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(5) The available supply of Colorado River water in California is insufficient to meet the priorities set forth in the Seven Party Agreement.

(6) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(7) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions and decrees of the United States Supreme Court.

(8) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617-617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) Canal Lining Authorized.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures for the replacement of incidental fish and wildlife values adjacent to the canal foregone as a result of the lining of the canal or mitigation of resulting impacts on fish and wildlife resources from construction of a new canal, or a portion thereof. Such measures shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife purposes.

(b) Operation and Maintenance Determination.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) Construction and Funding Agreement.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this section. The Secretary shall ensure that such agreement or agreements include provisions setting forth—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirement for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation or replacement, as appropriate, of fish and wildlife resources or values, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and,

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights or obligations of the United States, or would inhibit the Secretary's ability to fulfill his responsibility under the Project Act or other applicable law.

(e) AUTHORIZATION OF APPROPRIATIONS.

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsection (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise such determination at reasonable intervals based on such information as the Secretary deems appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractors other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American Canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period or any extension thereto, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided*, That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall determine that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which could be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) describe current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263).

Amend the amendment of the House to the title so as to read: "An Act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes."

The SPEAKER pro tempore. Is a second demanded?

Mr. PASHAYAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. PASHAYAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 795 and urge the House concur in the Senate amendments to the bill.

Mr. Speaker, we have worked for over 4 years to resolve the water rights problems involving the San Luis Rey River Indian Bands and the cities of Escondido and Vista. It has been a difficult and time-consuming quest for a compromise acceptable to all parties. At long last, we have found language acceptable to all parties.

The final language would authorize establishment of a $30 million trust fund. The fund would be used to finance construction of water development facilities and other economic development projects on the affected Indian reservations.

The Bands would also receive up to 16,000 acre-feet of water from public lands in southern California or from lining the All-American Canal.

In return, the tribes would relinquish all claims to the San Luis Rey River. It will bring an end to nearly 50 years of litigation between the Indians and local cities.

This language is not perfect. However, I believe it is a fair compromise that deserves your support.

Title II of the bill would authorize the Metropolitan Water District or other non-Federal interests to line the previously unlined portions of the All-American Canal in southern California. The title is based on legislation introduced by my colleague MEL LEVINE earlier this year.

Mr. Speaker, this project could save nearly 100,000 acre-feet of water currently being wasted. This will supply enough water to meet the yearly water needs of 400,000 southern Californians.

This is a unique project. The currently unlined portions of the All-American Canal are leaking water. This bill will line the canal and eliminate that waste. Equally important, the project will be undertaken at no expense to the Federal Government and with the complete support of the environmental community.

Mr. Speaker, the support for this project is substantial. Every major newspaper in the State of California has editorialized in support of this project. Scores of cities and towns have submitted resolutions of support. As they point out, this bill will solve a complex problem, at no cost to the Federal taxpayers, and with a minimum of environmental disruption.

Mr. Speaker, I urge the House to support the motion to concur in the Senate amendments.

Mr. Speaker, I reserve the balance of my time.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 795, a bill that settles a long-standing dispute over Indian water rights, regarding the San Luis Rey River in southern California, and authorizes the relining of the All American Canal in southern California at no cost to the Federal Government.

When this legislation first came to the House of Representatives it placed the burden of resolving the dispute on the water and power users of the Central Valley project some 200 miles to the north of the San Luis Rey River. The House modified the initial bill so that not one drop of water or one kilowatt of power is taken from the Central Valley project. Rather, the immediate area, where there is a water conservation project on the All American Canal, will serve as the focal point for resolving the water rights dispute.

This was accomplished with the full cooperation and support of our colleagues on the Subcommittee on Water and Power Resources. I specifically want to thank the chairman, Mr. MILLER and MEL LEVINE, both of California, for their patience and assistance. Also, the staffs of the individual Members and their constituencies, as well as the staff of the subcommittee spent many hours in crafting the bill now before us.

This bill is a fair response to the problems faced by the five bands of the Mission Indians in San Diego County.

This bill is an equitable response to the growing need to conserve our water resources.

The Senate has agreed to the answer developed by the House and the technical amendments they have inserted into S. 795 only enhances the work that has preceded it. The administration has no objections to this bill, and I urge my colleagues to support it.

Mr. Speaker, I would be remiss if I did not pay tribute to the staff that worked on this bill which started off in a much different nature than the bill we now have before us. I should like to pay tribute to Dan Beard of the majority staff, Greg Houtz of the minority, Betsy Ford from the office of the gentleman from California [Mr. LEVINE]. He himself played a very key role on this, and I also pay tribute to Hank Smith on our side and to Larry Adams of my own office. I am sure that the gentleman from California [Mr. MILLER], my good friend and colleague, joins me in paying tribute to those people. It is always a pleasure to be in agreement, each of us with the other.

Mr. LEVINE of California. Mr. Speaker, I rise in strong support for S. 795, a measure which will conserve up to 100,000 acre-feet of water in California and provide a long-overdue settlement for the San Luis Rey River water rights dispute.

Three years ago, I cosponsored legislation to settle the water rights claims of five Mission Indian Bands whose reservations are found in northern San Diego County. Shortly after the reservations were established in the 1880's, the United States gave all rights to the San Luis Rey River waterway to local non-Indians, leaving the Bands without the means to adequately provide for themselves.

The matter remains unresolved today, and we find that the lack of water and resultant lack of resources for economic development have left pockets of reservation poverty within San Diego County. This legislation represents the first opportunity for independence self-sufficiency for the Bands' 2,000 members.

S. 795 authorizes development of water from several possible sources to make usable the reservation lands which heretofore have been dry. The settlement also provides a Federal contribution of $30 million in the form of a trust fund. The fund will be used for much-needed economic development, including infrastructure and recovery of prime allotted land that had been sold to non-Indians by the Federal Government.

Earlier this year, Congressman PASHAYAN suggested that we look to my legislation, H.R. 3988, as one appropriate source of water for the settlement. This measure, which I had introduced with my distinguished colleagues ELTON GALLEGLY and AL MCCANDLESS, authorizes the lining of portions of the All-American and Coachella Canals which will save an estimated 100,000 acre-feet of water per year.

I am delighted to say that we were able to expediently combine the provisions of H.R. 3988 with the settlement. This has facilitated what will be an historic arrangement between the metropolitan water district and the imperial irrigation district to line portions of the two canals and conserve badly needed water for southern California. Any of the current Colorado River contractors will be eligible to fund the lining, though MWD is prepared to fully fund the project. Meanwhile, IID will have the first 15-month option to line the canal on their own. In either case, the water saved will be made available on the basis of the historical contracted priorities—with compensation to then be provided to the parties that funded the lining.

The relatively high cost of the lining project did raise concerns about the resultant cost of the Bands' settlement. It was brought to our attention meanwhile, that recent reports indicate ground water recharge and recovery projects in southern California may provide major new opportunities to augment water supplies in the region. Most importantly, the cost of this water is estimated to be only one-third to one-half that of water from lining the canals. To lower the potential cost of the settlement, we included authorization for ground water recharge and recovery for the purposes of the settlement.

I wish to applaud the work of my colleagues in the California delegation who labored long and hard to work out a fair settlement for the Bands, and to conserve up to 100,000 acre feet of water which is so badly needed in southern California. Chairman MILLER devoted a tremendous amount of time to both measures, and the people of California owe him a great debt.

Mr. PASHAYAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and concur in the Senate amendments to the House amendment to the Senate bill, S. 795.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendments to the House amendment were concurred in.

A motion to reconsider was laid on the table.

ANTI-TERRORISM AND NATIONAL SECURITY AMENDMENTS ACT OF 1988

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5550) to combat international terrorism and otherwise further the national security and foreign policy interests of the United States.

The Clerk read as follows:

H.R. 5550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Terrorism and National Security Amendments Act of 1988".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—ANTITERRORISM AND ARMS EXPORT AMENDMENTS

Sec. 101. Short title.
Sec. 102. Prohibition on arms transactions with countries supporting terrorism.
Sec. 103. Considerations in issuance of arms export licenses and in arms sales.
Sec. 104. Exports to countries supporting terrorism.
Sec. 105. Prohibition on assistance to countries supporting international terrorism.
Sec. 106. Designation of items on the munitions list.
Sec. 107. Quarterly reports on third country transfers and on DOD transfers to other agencies.
Sec. 108. Special authorities.
Sec. 109. Hostage Act.
Sec. 110. Self-defense in accordance with international law.
Sec. 111. Effective date.

TITLE II—SANCTIONS AGAINST IRAQ

Sec. 201. Short title.
Sec. 202. Findings and purpose.
Sec. 203. Imposition of sanctions against Iraq.
Sec. 204. Conditions for lifting sanctions.
Sec. 205. Respect by the Government of Iraq for internationally recognized human rights, especially those of the Kurdish minority.
Sec. 206. Actions by the Government of Turkey.
Sec. 207. Multilateral actions.
Sec. 208. Certain United States exports.
Sec. 209. Termination.

TITLE III—AUTHORITY TO TRANSFER CERTAIN NAVAL VESSELS

Sec. 301. Authority to lease naval repair ship to Pakistan.
Sec. 302. Authority to transfer drydock and tug to the Philippines.

TITLE VI—UNITED STATES INFORMATION AGENCY

Sec. 401. Short title.
Sec. 402. Dissemination in the United States of material prepared for dissemination abroad.
Sec. 403. Audience survey and content of USIA's Worldnet-TV program.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Security assistance and arms export control preferences for New Zealand.
Sec. 502. Biennial review of the international traffic in arms regulations.
Sec. 503. Technical correction of certain amendments.
Sec. 504. Approval of certain agreements.

TITLE I—ANTITERRORISM AND ARMS EXPORT AMENDMENTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Antiterrorism and Arms Export Amendments Act of 1988".

SEC. 102. PROHIBITION ON ARMS TRANSACTIONS WITH COUNTRIES SUPPORTING TERRORISM.

(a) PROHIBITION.—Section 40 of the Arms Export Control Act (22 U.S.C. 2780) is amended to read as follows:

"**SEC. 40. TRANSACTIONS WITH COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.**

"(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES GOVERNMENT.—The following transactions by the United States Government are prohibited:

"(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

"(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

"(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

"(2) Providing credits, guarantees, or other financial assistance under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)), with respect to the acquisition of any munitions item by a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of State makes the determination described in subsection (d). The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

"(3) Consenting under section 3(a) of this Act, under section 505(a) of the Foreign Assistance Act of 1961, under the regulations issued to carry out section 38 of this Act, or under any other law (except as provided in subsection (h)), to any transfer of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall withdraw any such consent which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been transferred to such country.

"(4) Providing any license or other approval under section 38 of this Act for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

"(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d). This paragraph applies with respect to activities undertaken—

"(A) by any department, agency, or other instrumentality of the Government,

"(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

"(C) by any other person at the request or on behalf of the Government.

The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

"(b) Prohibited Transactions by United States Persons.—

"(1) In general.—A United States person may not take any of the following actions:

"(A) Exporting any munitions item to any country described in subsection (d).

"(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d).

"(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country described in subsection (d) if the United States person has reason to know that the munitions item will be made available to any country described in subsection (d).

"(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d), or any person acting on behalf of that government, if the United States person has reason to know that that action will facilitate the acquisition of that item by such a government or person.

"(2) Liability for actions of foreign subsidiaries, etc.—A United States person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue) takes an action described in paragraph (1) outside the United States.

"(3) Applicability to actions outside the united states.—Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3) (A) or (B). To the extent provided in regulations issued under subsection (l)(3)(D), paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United States by a person designated as a United States person in those regulations.

"(c) Transfers to Governments and Persons Covered.—This section applies with respect to—

"(1) the acquisition of munitions items by the government of a country described in subsection (d); and

"(2) the acquisition of munitions items by any individual, group, or other person within a country described in subsection (d), except to the extent that subparagraph (D) of subsection (b)(1) provides otherwise.

"(d) Countries Covered by Prohibition.—The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

"(e) Publication of Determinations.—Each determination of the Secretary of State under subsection (d) shall be published in the Federal Register.

"(f) Rescission.—A determination made by the Secretary of State under subsection (d) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 30 legislative days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

As used in paragraph (2), the term 'legislative day' means a day on which both Houses of Congress are in session.

"(g) Waiver.—The President may waive the prohibitions contained in this section with respect to a specific transaction if—

"(1) the President determines that the transaction is vital to the national security interests of the United States; and

"(2) not less than 15 days prior to the proposed transaction, the President—

"(A) consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

"(B) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing—

"(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

"(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

"(iii) the reasons why the proposed transaction is vital to the national security interests of the United States and the justification for such proposed transaction;

"(iv) the date on which the proposed transaction is expected to occur; and

"(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in subparagraph (B) of paragraph (2) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

"(h) Exemption for Transactions Subject to National Security Act Reporting Requirements.—The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

"(i) Relation to Other Laws.—

"(1) In general.—The provisions of this section shall apply notwithstanding any other provision of law, except as provided in paragraph (2).

"(2) Section 614(a) waiver authority.—The authority of section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)) may be used to permit a transaction under the Foreign Assistance Act of 1961 or the Arms Export Control Act which is otherwise prohibited by this section provided—

"(A) there are exceptional circumstances where time is of the essence which require that the provisions of this section be waived without complying with the requirement of subsection (g) of this section that there be a 15-day period of advance consultation and reporting;

"(B) the President begins the consultation with the Congress (required by section 614(a)) as soon as the President determines to exercise the authority of section 614(a), but not less than 24 hours before that authority is exercised;

"(C) the President submits the report described in subsection (g)(2)(B) of this section not less than 24 hours before that authority is exercised; and

"(D) all of the requirements of section 614(a) are otherwise fully met.

"(j) Criminal Penalty.—Any person who willfully violates this section shall be fined for each violation not more than $1,000,000, imprisoned not more than 10 years, or both.

"(k) Civil Penalties; Enforcement.—In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979 (subject to the same terms and conditions as are applicable to such powers under that Act), except that, notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000.

"(l) Definitions.—As used in this section—

"(1) the term 'munitions item' means any item enumerated on the United States Munitions list (without regard to whether the item is imported into or exported from the United States);

"(2) the term 'United States', when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and

"(3) the term 'United States person' means—

"(A) any citizen or permanent resident alien of the United States;

"(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

"(C) any other person with respect to that person's actions while in the United States; and

"(D) to the extent provided in regulations issued by the Secretary of State, any person that is not described in subparagraph (A), (B), or (C) but—

"(i) is a foreign subsidary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that United States person (as determined in accordance with those regulations), or

"(ii) is otherwise subject to the jurisdiction of the United States,

with respect to that person's actions while outside the United States.".

(b) **Conforming Amendment.**—Section 3(f) of the Arms Export Control Act (22 U.S.C. 2753(f)) is repealed.

SEC. 103. CONSIDERATIONS IN ISSUANCE OF ARMS EXPORT LICENSES AND IN ARMS SALES.

(a) **Export Licenses.**—Section 38(a)(2) of the Arms Export Control Act (22 U.S.C. 2778) is amended by inserting "support international terrorism," after "arms race,".

(b) **Arms Sales.**—Section 36(b)(1)(D) of that Act (22 U.S.C. 2776(b)(1)(D)) is amended—

(1) by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively; and

(2) by inserting the following new clause (ii) after clause (i):

"(ii) support international terrorism;".

SEC. 104. EXPORTS TO COUNTRIES SUPPORTING TERRORISM.

Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App 2405(j)) is amended to read as follows:

"(j) **Countries Supporting International Terrorism.**—(1) A validated license shall be required for the export of goods or technology to a country if the Secretary of State has made the following determinations:

"(A) The government of such country has repeatedly provided support for acts of international terrorism.

"(B) The export of such goods or technology could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

"(2) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any validated license required by paragraph (1).

"(3) Each determination of the Secretary of State under paragraph (1)(A), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1988, shall be published in the Federal Register.

"(4) A determination made by the Secretary of State under paragraph (1)(A) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

"(A) before the proposed rescission would take effect, a report certifying that—

"(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(ii) that government is not supporting acts of international terrorism; and

"(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(B) at least 30 legislative days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

As used in subparagraph (B), the term 'legislative day' means a day on which both Houses of Congress are in session.".

SEC. 105. PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) is amended to read as follows:

"SEC. 620A. PROHIBITION ON ASSISTANCE TO GOVERNMENTS SUPPORTING INTERNATIONAL TERRORISM.

"(a) **Prohibition.**—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

"(b) **Publication of Determinations.**—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1988, shall be published in the Federal Register.

"(c) **Rescission.**—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 30 legislative days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

As used in paragraph (2), the term 'legislative day' means a day on which both Houses of Congress are in session.

"(d) **Waiver.**—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

"(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under part II of this Act (including chapter 4, chapter 6, and chapter 8), or the Export-Import Bank Act; and

"(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing—

"(A) the name of the recipient country;

"(B) a description of the national security interests or humanitarian reasons which require the waiver;

"(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

"(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under the Foreign Assistance Act of 1961 which is also prohibited by section 40 of the Arms Export Control Act.".

SEC. 106. DESIGNATION OF ITEMS ON THE MUNITIONS LIST.

Section 38 of the Arms Export Control Act (22 U.S.C. 2278) is amended by adding at the end the following:

"(h) The designation by the President (or by an official to whom the President's functions under subsection (a) have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall be final and conclusive for purposes of this section and section 40 and shall not be subject to judicial review.".

SEC. 107. QUARTERLY REPORTS ON THIRD COUNTRY TRANSFERS AND ON DOD TRANSFERS TO OTHER AGENCIES.

(a) **Quarterly Reports.**—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (9) the following:

"(10) a listing of the consents to third-party transfers of defense articles or defense services which were granted, during the quarter for which such report is submitted, for purposes of section 3(a)(2) of this Act, the regulations issued under section 38 of this Act, or section 505(a)(1)(B) of the Foreign Assistance Act of 1961, if the value (in terms of original acquisition cost) of the defense articles or defense services to be transferred is $1,000,000 or more; and

"(11) a listing of all munitions items (as defined in section 40(l)(1)) which were sold, leased, or otherwise transferred by the Department of Defense to any other department, agency, or other entity of the United States Government during the quarter for which such report is submitted (including the name of the recipient Government entity and a discussion of what that entity will do with those munitions items) if—

"(A) the value of the munitions items was $250,000 or more; or

"(B) the value of all munitions items transferred to that Government department, agency, or other entity during that quarter was $250,000 or more;

excluding munitions items transferred (i) for disposition or use solely within the United States, or (ii) for use in connection with intelligence activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).".

(b) Classification of Reports.—That section is amended in the parenthetical clause in the text preceding paragraph (1) by inserting ", and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum" after "(b)(1) of this section".

SEC. 108. SPECIAL AUTHORITIES.

The second sentence of section 614(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(c)) is amended to read as follows: "The President shall fully inform the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection prior to the use of such funds.".

SEC. 109. HOSTAGE ACT.

Section 2001 of the Revised Statutes of the United States (22 U.S.C. 1732) is amended by inserting "and not otherwise prohibited by law" after "acts of war".

SEC. 110. SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW.

The use by any government of armed force in the exercise of individual or collective self-defense in accordance with applicable international agreements and customary international law shall not be considered an act of international terrorism for purposes of the amendments made by this title.

SEC. 111. EFFECTIVE DATE.

The amendments made by this title shall become effective 6 months after the date of enactment of this Act.

TITLE II—SANCTIONS AGAINST IRAQ

SEC. 201. SHORT TITLE.

This title may be cited as the "Sanctions Against Iraqi Chemical Weapons Use Act".

SEC. 202. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the Kurdish people constitute a distinct ethnic group of some twenty million, with an ancient history and a rich cultural heritage;

(2) three to four million Kurds are citizens of Iraq, residing in the northern part of that country;

(3) the Iraqi Army has undertaken a military campaign against Kurdish regions of Iraq and has destroyed Kurdish villages in northern Iraq;

(4) substantial evidence exists that the Iraqi Army has been using chemical weapons against Kurdish insurgents and unarmed Kurdish civilians;

(5) by these and other actions against the Kurds, Iraq has violated their internationally recognized human rights;

(6) tens of thousands of Kurdish survivors of the Iraqi Army assaults have taken refuge in Turkey;

(7) several United Nations teams have confirmed that Iraq has used chemical weapons in its war with Iran; and

(8) Iraq's use of chemical weapons is a gross violation of international law.

(b) Purpose.—It is the purpose of this title to mandate United States sanctions against Iraq because of its use of chemical weapons in violation of international law.

SEC. 203. IMPOSITION OF SANCTIONS AGAINST IRAQ.

(a) Initial Sanctions.—(1) The United States Government may not sell to Iraq any item on the United States Munitions List.

(2) Licenses may not be issued for the export to Iraq of any item on the United States Munitions List.

(3) The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export to Iraq of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act.

(4) Licenses may not be issued for the export to Iraq of any chemical that the President determines may be used primarily in the production of chemical weapons or may be otherwise devoted to chemical warfare purposes.

(5) The United States shall oppose any loan or financial or technical assistance to Iraq by international financial institutions in accordance with section 701 of the International Financial Institutions Act.

(6) This subsection takes effect on the date of enactment of this Act.

(b) Requirement for Additional Sanctions.—Not later than December 31, 1988, the President, after consultation with the Congress, shall impose appropriate additional sanctions against Iraq unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

(1) that the Government of Iraq is not using chemical weapons in violation of international law, including the 1925 Geneva Protocol (relating to the use of chemical weapons in war) and Common Article 3 of the 1949 Geneva Conventions (relating to the protection of victims of war); and

(2) that the Government of Iraq has provided reliable assurances that it will not use chemical weapons in the future in violation of international law; and

(3) that—

(A) the Government of Iraq is willing to allow on-site inspections by United Nations observers or other internationally-recognized, impartial observers, or

(B) other reliable means exist,

to ensure that the Government of Iraq is not using chemical weapons.

(c) Description and Authorization of Additional Sanctions.—(1) To the extent they are not otherwise authorized, the sanctions described in paragraph (2) of this subsection are hereby authorized to be imposed against Iraq pursuant to subsection (b). In imposing sanctions against Iraq pursuant to subsection (b), the President shall exercise authority described in one or more of the subparagraphs of paragraph (2). Sanctions described in paragraph (2) shall be in addition to any other sanctions imposed on Iraq pursuant to subsection (b).

(2) The sanctions referred to in paragraph (1) are the following:

(A) Denial of Access to the Export-Import Bank.—Denying credits or credit guarantees through the Export-Import Bank of the United States to Iraq.

(B) Restrictions on Imports.—Prohibiting or otherwise restricting the importation into the United States of one or more kinds of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of Iraq.

(C) Additional Restrictions on Exports.—Prohibiting or otherwise substantially restricting, using the authorities of section 6 of the Export Administration Act of 1979, exports to Iraq of goods and technology (excluding agricultural commodities and products).

(D) Downgrading Diplomatic Relations.—Using the President's constitutional authorities to downgrade or suspend diplomatic relations between the United States and Iraq.

(d) Contract Sanctity.—(1) For purposes of export controls imposed in accordance with subsection (a)(3) of this section, the date described in section 6(m)(1) of the Export Administration Act of 1979 shall be deemed to be September 18, 1988.

(2) In imposing any additional sanction under subsection (c) of this section, the President may not prohibit or curtail the execution of any contract or agreement entered into before the earlier of the date on which notice of intent to impose the additional sanction is printed in the Federal Register or the date on which the President notifies the Congress of such an intent.

(e) Reports to Congress.—The President shall report to the Congress periodically on the actions taken pursuant to this section.

SEC. 204. CONDITIONS FOR LIFTING SANCTIONS.

The President may waive any sanctions imposed pursuant to section 203 (a) or (b), including sanctions described in section 203(c), if the President determines and so certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

(1) that the Government of Iraq is not using chemical weapons in violation of international law, including the 1925 Geneva Protocol (relating to the use of chemical weapons in war) and Common Article 3 of the 1949 Geneva Conventions (relating to the protection of victims of war); and

(2) that the Government of Iraq has provided reliable assurances that it will not use chemical weapons in the future in violation of international law; and

(3) that—

(A) the Government of Iraq is willing to allow on-site inspections by United Nations observers or other internationally-recognized, impartial observers, or

(B) other reliable means exist,

to ensure that the Government of Iraq is not using chemical weapons.

SEC. 205. RESPECT BY THE GOVERNMENT OF IRAQ FOR INTERNATIONALLY RECOGNIZED HUMAN RIGHTS, ESPECIALLY THOSE OF THE KURDISH MINORITY.

Not later than December 31, 1988, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate an assessment of whether the Government of Iraq is respecting internationally recognized human rights, in particular the rights of the Kurdish minority in Iraq. This assessment shall be accompanied by a report which includes—

(1) all available information regarding the Government of Iraq's respect for internationally recognized human rights;

(2) a detailed description of the Government of Iraq's treatment of the Kurdish minority, including a detailed account of civilian killings and depopulation activities against the Kurds;

(3) a review of whether the Government of Iraq is committing gross violations of internationally recognized human rights;

(4) a description of the steps which the United States has taken to promote respect by the Government of Iraq for internationally recognized human rights; and

(5) a description of the steps which the United States has taken to discourage practices by the Government of Iraq which violate internationally recognized human rights, especially the rights of the Kurdish minority in Iraq.

SEC. 206. ACTIONS BY THE GOVERNMENT OF TURKEY.

The Congress—

(1) urges the Government of Turkey to cooperate with any United Nations or other appropriate investigation of Iraqi use of chemical weapons; and

(2) commends the Government of Turkey for its humanitarian decision to host thousands of Kurdish people fleeing Iraq.

SEC. 207. MULTILATERAL ACTIONS.

(a) United Nations.—The Congress calls upon the President—

(1) to bring immediately to the attention of the Secretary General of the United Nations, and to pursue before the Security Council of the United Nations, the matter of Iraq's use of poison gas against its own nationals, most of whom are defenseless civilians; and

(2) to demand that, in accordance with United Nations Security Council Resolution 620, appropriate and effective measures be taken against Iraq for its repeated use of chemical weapons.

(b) Other Multilateral Efforts.—(1) The Congress calls upon the President to seek multinational cooperation in imposing sanctions and otherwise bringing pressure on Iraq in order to obtain a cessation of Iraq's use of chemical weapons.

(2) The Congress also call upon the President to seek multilateral cooperation in order to obtain Iraqi respect for the internationally recognized human rights of the Kurdish minority in Iraq.

(3) It is the sense of the Congress that the United States should cooperate with and, as appropriate, participate in multilateral efforts to assist Kurdish refugees who are in need of medical treatment and other humanitarian aid.

SEC. 208. CERTAIN UNITED STATES EXPORTS.

It is the policy of the United States to prohibit the export to Iraq of goods and technology that would significantly contribute to the military potential of Iraq. The President should review, under section 6 of the Export Administration Act of 1979, any proposed export to Iraq of goods or technology valued at over $50,000,000.

SEC. 209. TERMINATION.

No provision of this title, and no sanction imposed by or under the authority of this title, has force and effect after June 30, 1991.

TITLE III—AUTHORITY TO TRANSFER CERTAIN NAVAL VESSELS

SEC. 301. AUTHORITY TO LEASE NAVAL REPAIR SHIP TO PAKISTAN.

(a) Authority.—The Secretary of the Navy is hereby authorized to lease the naval repair ship HECTOR (AR-7) to the Government of Pakistan.

(b) Applicable Law.—A lease under subsection (a) shall be entered into in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following), except that section 62 of that Act (22 U.S.C. 2796a) shall not apply to that lease (except as provided in subsection (f) of this section).

(c) Expenses.—Any expense of the United States in connection with a lease under subsection (a) shall be charged to the Government of Pakistan.

(d) Consideration for Lease.—Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of a vessel described in subsection (a) may provide, as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the vessel by the Government of Pakistan.

(e) Expiration of Authority.—The authority of the Secretary of the Navy to enter into a lease under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

(f) Lease Renewal.—A lease entered into under subsection (a) before the end of that two-year period may be renewed in accordance with this section, subject to the reporting requirement of section 62 of the Arms Export Control Act.

SEC. 302. AUTHORITY TO TRANSFER DRYDOCK AND TUG TO THE PHILIPPINES.

(a) Authority To Transfer Without Charge.—The Secretary of the Navy is hereby authorized to transfer without charge a floating drydock, the ex-AFDL-40, and a medium yard tug, the ex-YTM-776, to the Republic of the Philippines

(b) Applicable Law.—Any transfer of a vessel under subsection (a) shall be in accordance chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following), except that section 632(d) of that Act (22 U.S.C. 2392(d)) shall not apply with respect to that transfer.

(c) Terms of Transfer.—Any transfer of a vessel under subsection (a) shall be subject to such terms and conditions as the President may require.

(d) Expenses.—Any costs incurred in the transfer of a vessel under subsection (a) shall be at the expense of the Republic of the Philippines.

(e) Expiration of Authority.—The authority granted by this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

TITLE VI—UNITED STATES INFORMATION AGENCY

SEC. 401. SHORT TITLE.

This title may be cited as the "United States Information Agency Amendments Act of 1988".

SEC. 402. DISSEMINATION IN THE UNITED STATES OF MATERIAL PREPARED FOR DISSEMINATION ABROAD.

Section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) is amended—

(1) by inserting "(a)" after "501."; and

(2) by adding after subsection (a) (as designated in paragraph (1)) the following new subsection:

"(b) Motion pictures, films, and other material prepared for dissemination abroad shall be available for use in the United States 12 years after the initial dissemination of such material outside the United States, or in the case of material not disseminated abroad, 12 years after the preparation of such material. The Archivist of the United States shall be the official custodian of material made available under this subsection. The Archivist of the United States shall issue necessary regulations to ensure that persons seeking domestic release of motion pictures, films, and other material made available under this subsection have secured necessary licenses and that costs associated with making master copies of any such material shall be paid by the person seeking domestic release of such material. The National Archives and Records Administration may charge fees for copies made under this subsection in accordance with section 2116(c) of title 44, United States Code. Fees collected by the National Archives and Records Administration under this subsection shall be paid into, administered, and expended as part of the National Archives Trust Fund.".

SEC. 403. AUDIENCE SURVEY AND CONTENT OF USIA'S WORLDNET-TV PROGRAM.

(a) Authorization of Appropriations for Audience Surveys in Non-European Countries.—Section 209(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, is amended by adding at the end the following: "Of the funds authorized to be appropriated for USIA's Worldnet Program by section 201(2), not less than $100,000 for the fiscal year 1989 shall be available only for the purpose of conducting market surveys in non-European countries of USIA's Worldnet programming.".

(b) Reports.—Section 209(c) of that Act is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" before "Not later"; and

(3) by adding after paragraph (1) (as so designated by this subsection) the following new paragraph:

"(2) Not later than March 1, 1989, the Director of the United States Information Agency shall submit to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives the following:

"(A) A report containing the best estimate by the companies performing the audience surveys of the average daily audience of the passive (noninteractive) programs of USIA's Worldnet television service in selected non-European countries. Such surveys shall count viewers who watch United States Information Agency television service programs on stations that carry as least one half hour daily of television transmitted by the United States Information Agency.

"(B) A report on efforts of the Director to include as part of Worldnet's daily service American commercial and public broadcasting news and features programs.".

(c) Limitation.—Section 209(e) of that Act is amended—

(1) by striking out "October 1, 1988," and inserting in lieu thereof "October 1, 1989,";

(2) in paragraph (1) by striking out "the survey required by this section has" and inserting in lieu thereof "the surveys required by this section have";

(3) in paragraph (2) by striking out "the report required by this section, along with a copy of the survey results, has" and inserting in lieu thereof "the reports required by this section, along with copies of the survey results have"; and

(4) in paragraph (3) by striking out "the survey shows with a high degree of reliability that the average daily European audience" and inserting in lieu thereof "the surveys show with a high degree of reliability

that the average daily audience in Europe and in selected non-European countries".

(d) Program Content.—Section 209 of that Act is amended by adding at the end the following:

"(f) Program Content.—(1) After December 1, 1988, no funds authorized to be appropriated for USIA-TV shall be available for any passive (noninteractive) programming unless all the conditions of this subsection are met.

"(2) Each day that passive (noninteractive) programs of the United States Information Agency are transmitted, there shall be transmitted the following:

"(A) One hour of a United States public or commercial news program for that day, such as the MacNeil/Lehrer News Hour or the principal evening news of a major commercial network.

"(B) No less than two hours of programs produced by commercial United States television stations or by public television stations. Such programs shall be predominantly on historical, cultural, or scientific subjects. Programs so acquired shall be broadcast in their entirety.

"(C) Not more than one hour of program material produced by the United States Government.

"(3) If constraints resulting from the availability of satellite transmission time do not allow the fulfillment of the conditions specified in paragraph (2)(A), (B), or (C) without removing interactive programs from the Worldnet schedule, the United State Information Agency may make adjustments in the program package, subject to availability of satellite transmission time, provided the highest priority among noninteractive programming is accorded to the transmission of the daily United States commercial or public broadcasting news programs.

"(4) The United States Information Agency shall ensure that all foreign broadcasters who carry 'America Today' or any other program produced by the Agency in its entirety are explicitly offered the opportunity to broadcast the commercial or public news program carried daily on Worldnet as provided for in paragraph (2)(A). The Agency shall provide to the Congress quarterly reports listing those stations which carry programs produced by the Agency, but do not carry the United States public or commercial news program, certifying that the local station has been offered but has declined to use the independent news program.

"(5) Programs produced by commercial or public television shall be clearly labeled as produced by the commercial or public producer. Such labeling shall make clear that the United States Government is not responsible for the production of such programs and had no control over the content of such programs. Further, it shall be stated that such programming is the same programming as viewed by American audiences.

"(6) Programs produced by the United States Government may be designated as 'Worldnet' programs and shall be clearly labeled as produced by the United States Information Agency.

"(7) The requirement of paragraph (2)(A) shall not apply on any day that the public or commercial network news program is unavailable due to the failure of the public or commercial network to broadcast such news program. In the event the news program is not broadcast for a period of time exceeding two months, the United States Information Agency shall broadcast another major network news program.

"(8) Programs may be rebroadcast provided the United States Government-produced news broadcasts are no more frequent than the broadcasts of the programming required by paragraph (2)(A). This requirement shall not apply to rebroadcasts of portions of United States Government-produced news in a language other than English.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SECURITY ASSISTANCE AND ARMS EXPORT CONTROL PREFERENCES FOR NEW ZEALAND.

(a) Findings.—The Congress finds that—

(1) the people of the United States enjoy a long-standing friendship and close association with the people of New Zealand, and not only share common democratic values, heritage, and national interests but have fought side-by-side in the two World Wars of this century as well as the Korean conflict and the Vietnam conflict, and have participated jointly in numerous multilateral peacekeeping efforts under United Nations and similar auspices;

(2) visits to New Zealand ports by United States naval vessels are a part of this historical, overall framework of military cooperation and coordination which includes many other functions of benefit to all parties to the ANZUS Treaty;

(3) the recent codification of New Zealand Government policy to deny port access to United States ships which might be nuclear powered or nuclear armed is incompatible with the "neither confirm nor deny policy" of the United States, has raised serious operational difficulties for United States naval forces in defending the national security interests of the United States and its allies, and impairs the objective of maximum military cooperation between the United States and New Zealand under the ANZUS Treaty;

(4) the President has taken appropriate action in response to New Zealand's diminished defense cooperation with the United States by suspending United States obligations to New Zealand under the ANZUS Treaty, as announced in August 1986; and

(5) important aims of United States policy, in reaction to the port policies and law of New Zealand, must be to maintain the ANZUS Treaty alliance structure during the absence of New Zealand, to look forward to New Zealand's early return to a normal trilateral defense relationship, and to deny the Soviet Union any potential benefit it might otherwise derive from this temporary discord in the ANZUS Treaty alliance.

(b) New Zealand Should Reconsider its Policy.—The United States urges the Government of New Zealand—

(1) to reconsider its decision and law denying port access to certain United States ships, and

(2) to resume its fulfillment of its obligations under the ANZUS Treaty.

(c) Suspension of Preferences.—Section 515(a)(6) of the Foreign Assistance Act of 1961 and sections 3(d)(2)(B), 21(e)(2), 21(g), 36(b)(1), 36(b)(2), 36(c)(2)(B), and 63(a)(2) of the Arms Export Control Act shall apply with respect to New Zealand only if the President determines, and reports to the Congress, that New Zealand is complying fully with its obligations under the ANZUS Treaty.

(d) ANZUS Treaty.—As used in this section, the term "ANZUS Treaty" means the Security Treaty Between Australia, New Zealand, and the United States.

(e) Assignment of United States Military Personnel To Manage Defense Cooperation Measures.—Section 515(a)(6) of the Foreign Assistance Act of 1961 is amended by inserting "(if the President has made the determination described in section 501(c) of the Anti-Terrorism and National Security Amendments Act of 1988)" after "New Zealand".

(f) Charges for Certain Arms Sales Costs.—Section 21(e)(2) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 501(c) of the Anti-Terrorism and National Security Amendments Act of 1988)" after "New Zealand".

(g) Cooperative Military Training Agreements.—Section 21(g) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 501(c) of the Anti-Terrorism and National Security Amendments Act of 1988)" after "New Zealand".

(h) Congressional Review of Arms Transfers.—The Arms Export Control Act is amended—

(1) in section 3(d)(2)(B), by inserting "(if the President has made the determination described in section 501(c) of the Anti-Terrorism and National Security Amendments Act of 1988)" after "New Zealand";

(2) in section 36(b)(1), by inserting "(if the President has made the determination described in section 501(c) of the Anti-Terrorism and National Security Amendments Act of 1988)" after "New Zealand" in the second sentence following subparagraph (P);

(3) in section 36(b)(2), by inserting "(if the President has made the determination described in section 501(c) of the Anti-Terrorism and National Security Amendments Act of 1988)" after "New Zealand";

(4) in section 36(c)(2)(B), by inserting "(if the President has made the determination described in section 501(c) of the Anti-Terrorism and National Security Amendments Act of 1988)" after "New Zealand"; and

(5) in section 63(a)(2), by inserting "(if the President has made the determination described in section 501(c) of the Anti-Terrorism and National Security Amendments Act of 1988)" after "New Zealand".

SEC. 502. BIENNIAL REVIEW OF THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.

Section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)) is amended by striking out the first sentence and inserting in lieu thereof the following: "Not later than November 1, 1989, and at least once every 2 years thereafter, the President shall review the regulations issued to carry out this section, including the items listed on the United States Munitions List, for the purpose of determining what changes in those regulations are appropriate, including determining what items, if any, no longer warrant export controls under this section. Based on each such review, the President shall revise those regulations as necessary and shall publish a revised compilation of those regulations.".

SEC. 503. TECHNICAL CORRECTION OF CERTAIN AMENDMENTS.

(a) Technical Corrections.—Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended—

(1) in subsection (a), by inserting "subject to restrictions or conditions on entry into the United States," after "United States," the first place it appears; and

(2) by amending subsection (d) to read as follows:

"(d) Effective Period.—Subsection (a) shall only apply to—

"(1) applications for nonimmigrant visas submitted on or after October 1, 1988, and before January 1, 1991;

"(2) admissions sought on or after October 1, 1988, and before March 1, 1991; and

"(3) deportations based on activities occurring on or after October 1, 1988, and before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time during the period beginning October 1, 1988, and ending December 31, 1990.".

(b) EFFECT OF CERTAIN AMENDMENTS ON CERTAIN ALIENS.—The amendments made to section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, by section 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), shall not require the deportation or exclusion of aliens admitted for permanent resident status under such section 901 as in effect before the date of enactment of such section 555.

SEC. 504. APPROVAL OF CERTAIN AGREEMENTS.

(a) MARSHALL ISLANDS AND FEDERATED STATES OF MICRONESIA.—Pursuant to section 101(d) of Public Law 99-239, the following agreements are approved and shall enter into force in accordance with their terms:

(1) "Agreement Between the Government of the United States and the Government of the Republic of the Marshall Islands to Amend the Governmental Representation Provisions of the Compact of Free Association Pursuant to Section 432 of the Compact" signed on March 18, 1988.

(2) "Agreement Between the Government of the United States and the Government of the Federated States of Micronesia to Amend the Governmental Representation Provisions of the Compact of Free Association Pursuant to Section 432 of the Compact" signed on March 9, 1988.

(b) PALAU.—An agreement between the United States and the Government of the Republic of Palau identical to the agreements referred to in subsection (a) of this section shall take effect upon submission to Congress of such an agreement and entry into force of such an agreement in the manner provided in section 101(d)(5) of Public Law 99-658.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5550, the Antiterrorism and National Security Amendments Act of 1988.

The legislation before the House today contains several important initiatives which the House has considered previously in various forms. In order to help expedite consideration of these matters in the other body, the text of this bill has been agreed upon in advance with all interested parties in both Houses.

H.R. 5550 contains the following:

H.R. 3651, the Antiterrorism and Arms Export Amendments Act, with minor technical modifications worked out with the Senate Foreign Relations Committee passed the House on May 24 by a voice vote;

The compromise agreement on H.R. 5337, the Iraq sanctions legislation, which was worked out with the Committee on Ways and Means and the Senate Foreign Relations Committee passed the House on September 24 by a vote of 388 to 16;

The text of H.R. 5420, providing for the lease of specified naval vessels to the Governments of Pakistan and the Philippines passed the House on October 6 by a vote of 415 to 0;

The text of S. 2365 as amended by the House, which establishes a new procedure for the future release of certain U.S. Information Agency films and contains an amendment to Public Law 100-204, the Foreign Relations Authorization Act, fiscal years 1988 and 1989, concerning the operations of World Net passed the House on September 20 by a voice vote;

A modification of section 111 of H.R. 3100, providing for a biennial review of items on the U.S. munitions list;

The text of H.R. 85, concerning security cooperation between the United States and the Government of New Zealand; and

A provision contained in House Joint Resolution 597 as amended by the Senate, extending diplomatic status to representatives of the Federated States of Micronesia and the Marshall Islands passed the House on October 6 by a vote of 406 to 11.

Mr. Speaker, the majority of these provisions have been requested and are supported by the administration. They have all passed this body at least once in the past few months, some of them two or three times, by overwhelming votes. I urge the adoption of this package so that the other body may act before the 100th Congress adjourns.

□ 1900

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], for bringing this measure to the floor and ironing out the problems with the other body.

Mr. Speaker, I ask the support of all my colleagues for this useful measure. This bill wraps up several items in the foreign affairs area that the interested parties in both Houses of Congress have finally agreed upon.

This House has already taken action on all the major items contained in this bill. Some of them have actually passed the House not only once or twice, but in specific cases three times. So far the Senate has not passed its own version.

Some of the items contained in this bill are: The Berman-Hyde antiterrorism amendments; economic sanctions against Iraq for its use of chemical weapons against the Kurdish minority; authority to lease certain naval vessels to Pakistan and the Philippines; and authority to continue the operations of World Net, the USIA television project, while further audience surveys are done.

Let me say a special word about the antiterrorism and Iraq sanctions sections. These measures were carefully drafted and were closely coordinated with the administration. They are important pieces of legislation that the Congress should by all means enact before the recess.

Accordingly, I urge my colleagues to fully support this measure.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Title 1 of H.R. 5550, the Antiterrorism and National Security Amendments Act of 1988, is a provision which is virtually identical to H.R. 3651, the Antiterrorism and Arms Export Amendments Act of 1988, which unanimously passed the House of Representatives on May 24, 1988. H.R. 3651 passed with broad bipartisan support aided by the active leadership of Chairman DANTE FASCELL, and Representatives LEE HAMILTON and HENRY HYDE. I am very grateful for their wise contributions at every juncture of this legislation's development.

The Antiterrorism and Arms Export Amendments Act of 1988 reaffirmed, strengthened, and clarified this Nation's prohibition on exports of military weapons and equipment to countries which have been designated by the Secretary of State as supporters of international terrorism. It imposed new criminal penalties on violators of the prohibition. H.R. 3651 also required more detailed and frequent reporting by the executive of arms exports.

H.R. 3651, the new title 1 of H.R. 5550, is largely a restatement of existing law. Its intent is to close potential loopholes and revise certain existing provisions to ensure that uniform standards are present in the United States Code. Over the years, Federal law has absorbed overlapping standards that can lead to confusion and misinterpretation.

The inconsistent provisions do not make good law either for the United States Government—witness the Iran arms transactions—or for private American citizens who look to the law for guidance.

I would like to include for the record those pages of the Congressional Record which comprise the debate on the floor of H.R. 3651. On May 24, 1988, those pages are H3561 to H3569. The debate includes several colloquies, between Chairman Fascell and Chairman Stokes on the subject of the reporting of intelligence transfers of munitions items; between myself and Mr. Hyde on the subject of the use of the waiver authority of section 614(A) of the Foreign Assistance Act pursuant to section 40(i) of the Arms Export Control Act; and another between Mr. Hyde and myself on the subject of the interpretation of the law's application to diplomatic activity.

The only substantive change made since the bill passed the House floor has been to simplify the statutory language governing the definition of what is a terrorist state. In so doing, however, the Congress has no intention of narrowing the scope of the criteria which must go into any determination as to whether a country has "repeatedly provided support for acts of international terrorism."

It is clearly the intent of Congress that the Secretary's evaluation include, but not be limited to, the following criteria:

Allowing the use of its territory as a sanctuary from extradition or prosecution for terrorist activities;

Furnishing arms, explosives, or lethal substances to individuals, groups, or organizations with the likelihood that they will be used in terrorist activities;

Providing logistical support, such as transportation, to individuals, groups, or organizations involved with terrorist activities;

Providing safe houses or headquarters for any individuals, groups, or organizations involved with terrorist activities;

Planning, directing, providing training for, or assisting in the execution of terrorist activities;

Providing direct or indirect financial backing for terrorist activities; and

Providing direct or indirect diplomatic facilities such as support or documentation intended to aid or abet terrorist activities.

I urge adoption of this bill.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Fascell] that the House suspend the rules and pass the bill, H.R. 5550.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FEDERAL EMPLOYEES' LIABILITY AND REFORM AND COMPENSATION ACT OF 1988

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4612) to amend title 28, United States Code, to provide for an exclusive remedy against the United States for suits based upon certain negligent or wrongful acts or omissions of United States employees committed within the scope of their employment, and for other purposes.

The Clerk read as follows:

Senate amendment:

Page 9, after line 3, insert:

SEC. 9. TENNESSEE VALLEY AUTHORITY.

(a) Exclusiveness of Remedy.—(1) An action against the Tennessee Valley Authority for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Tennessee Valley Authority while acting within the scope of his office or employment is exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim. Any other civil action or proceeding arising out of or relating to the same subject matter against the employee or his estate is precluded without regard to when the act or omission occurred.

(2) Paragraph (1) does not extend or apply to a cognizable action against an employee of the Tennessee Valley Authority for money damages for a violation of the Constitution of the United States.

(b) Representation and Removal.—(1) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding heretofore or hereafter commenced upon such claim in a United States district court shall be deemed an action against the Tennessee Valley Authority pursuant to 16 U.S.C. 831C(b) and the Tennessee Valley Authority shall be substituted as the party defendant.

(2) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place wherein it is pending. Such action shall be deemed an action brought against the Tennessee Valley Authority under the provisions of this title and all references thereto, and the Tennessee Valley Authority shall be substituted as the party defendant. This certification of the Tennessee Valley Authority shall conclusively establish scope of office or employment for purposes of removal.

(3) In the event that the Tennessee Valley Authority has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action shall be deemed an action brought against the Tennessee Valley Authority, and the Tennessee Valley Authority shall be substituted as the party defendant. A copy of the petition shall be served upon the Tennessee Valley Authority in accordance with the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court, the action or proceeding may be removed without bond by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

(4) Upon certification, any actions subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the Tennessee Valley Authority and shall be subject to the limitations and exceptions applicable to those actions.

(c) Retention of Defenses.—Section 2674 of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"With respect to any claim to which this section applies, the Tennessee Valley Authority shall be entitled to assert any defense which otherwise would have been available to the employee based upon judicial or legislative immunity, which otherwise would have been available to the employee of the Tennessee Valley Authority whose act or omission gave rise to the claim as well as any other defenses to which the Tennessee Valley Authority is entitled under this chapter."

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Berman] will be recognized for 20 minutes, and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Berman].

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4612 would provide immunity for Federal employees for personal liability for common law torts committed within the scope of their employment. A person injured by the actions of a Federal employee would be able to seek damages for such injuries from the United States under the Federal Tort Claims Act.

The Senate amendment simply insures that the Federal employees who work for the Tennessee Valley Authority are covered by the provisions of this bill.

Mr. Speaker, I urge adoption of the bill.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4612, the Federal Employees Liability Reform and Tort Compensation Act of 1988, has passed the Senate with an amendment to apply the provisions of the act to the personnel of the Tennessee Valley Authority.

In general, the bill gives immunity from liability for common law torts to Federal employees who are acting in the scope of their employment.

While the Senate amendment is not technically germane to H.R. 4612, it does address the same issue and would treat TVA employees as other Federal employees are treated under the bill.

The administration strongly supports this legislation. The bill was introduced at the request of the administration.

Mr. Speaker, I ask for an aye vote.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Berman] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4612.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

CORRECTING ERRORS IN ENROLLMENT OF H.R. 4612, FEDERAL EMPLOYEES' LIABILITY AND REFORM AND COMPENSATION ACT OF 1988

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 164) to correct errors in the enrollment of the bill, H.R. 4612.

The Clerk read as follows:

H. Con. Res. 164

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 4612), the Clerk of the House of Representatives shall make the following corrections:

(1) In section 9(c) of the bill, strike the words "Section 2674 of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:"; and

(2) In section 9(c) of the bill, as corrected, strike the quotation marks and the words "under this chapter".

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Berman] will be recognized for 20 minutes, and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Berman].

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution simply corrects totally technical errors in previously passed legislation. It makes no substantive change in the law, and I urge its adoption.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a technical correction bill. The minority has no objection to it.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Berman] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 164.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

IMPLEMENTING INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2204) to implement the Inter-American Convention on International Commercial Arbitration, as amended.

The Clerk read as follows:

S. 2204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. (a) Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Inapplicability of the Act of State doctrine

"Enforcement of arbitral agreements, confirmation of arbitral awards, and execution upon judgments based on orders confirming such awards shall not be refused on the basis of the Act of State doctrine.".

Sec. 2. Section 1605(a) of title 28, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(6) in which the action is brought, either to enforce an agreement made by the foreign State with or for the benefit of a private party to submit to arbitration all or any differences which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other internatinal agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable.".

Sec. 3. Section 1610(a) of title 28, United States Code, is amended by—

(1) striking out the period at the end of paragraph (5) and inserting in lieu thereof ", or"; and

(2) adding at the end thereof the following:

"(6) the judgment is based on an order confirming an arbitral award rendered against the foreign State, provided that attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement.".

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Berman] will be recognized for 20 minutes, and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Berman].

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a Senate bill from which has been stripped those provisions involving the Inter-American Convention on International Commercial Arbitration. Left is the exact same bill that passed this House earlier, section 2 of the legislation that I sponsored on the Foreign Sovereignty Immunities Act, that section that was originally introduced by the gentleman from New York [Mr. Fish] provides that the active state doctrine is inapplicable is waived in the enforcement of arbitral agreements, the confirmation of abitral boards and the execution upon judgments based upon orders confirming such awards, and it provides for jurisdiction in U.S. courts over foreign states in the enforcement or arbitration agreements in certain specified situations.

As I understand it, this provision left the House as it is now and has the support of the administration and the broad base of the commercial arbitration community.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2204, legislation to provide for the enforcement of arbitral awards. This measure is essentially the same language that this House passed on August 8, 1988, as title II of H.R. 3763. It is also substantially the same bill as that originally introduced by our committee's ranking member, Congressman FISH.

S. 2204 would amend title 9 and title 28 of the United States Code so as to insure that neither act of state doctrine, nor the doctrine of sovereign immunity, may be used to frustrate the effect on an agreement to arbitrate or to interfere with the enforcement of an arbitral award entered against a foreign state. The "Fish bill"—introduced as H.R. 1689—has the support of the State Department and the Department of Justice. It was the subject of a hearing before the Subcommittee on Administrative Law and Governmental Relations in May, 1987. No testimony was heard in opposition to the measure: there simply is no opposition.

I urge my colleagues to support the enactment of S. 2204 and commend my colleague from New York, Mr. FISH, for his efforts to bring this legislation to the floor.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. BERMAN] that the House suspend the rules and pass the Senate bill, S. 2204, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

LAWRENCE K. LUNT

Mr. BERMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 712) for the relief of Lawrence K. Lunt, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Page 1, line 5, strike out "$614,185" and insert: "$307,092.50".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from California [Mr. BERMAN] to tell us what he is up to here.

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a private relief bill on behalf of Lawrence K. Lunt which passed the House. It was introduced originally by the gentleman from Wyoming [Mr. CHENEY].

The Senate amendment simply reduces the compensation provided for in the private relief bill by 50 percent.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, what was the amount of money which was originally in the bill? I understand there is now $307,000, but what was the original figure?

Mr. BERMAN. It was $615,000.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for the information, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

□ 1915

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Chair announces the listing of three additional suspension motions to be considered tomorrow: H.R. 3048, H.R. 5264, and H.R. 5043.

COMMUNICATION FROM THE HONORABLE MORRIS K. UDALL, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable MORRIS K. UDALL:

COMMISSION ON CONGRESSIONAL
MAILING STANDARDS,
Washington, DC, October 20, 1988.

Hon. JIM WRIGHT,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena duces tecum issued by the United States District Court for the District of New Jersey.

Upon consultation with the General Counsel to the Clerk, I will determine whether compliance with the subpoena is consistent with the precedents and privileges of the House.

With great respect, I am.

Sincerely yours,

MORRIS K. UDALL,
Chairman.

VETERANS ENTREPRENEURSHIP PROMOTION ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. MCDADE] is recognized for 5 minutes.

Mr. MCDADE. Mr. Speaker, today as we labor hard to make the laws of the land in this busy workshop of democracy, today as we determine how we will spend literally billions of dollars tomorrow—even as we speak—there are over 27 million veterans nationwide and nearly 3.5 million veteran small business owners across America who are struggling for their very livelihoods. Isn't it ironic, Mr. Speaker, that when we talk about helping Americans we seldom consider the American who have helped us—the men and women who have suffered and bled for us. Mr. Speaker, these are the people I am here to help today.

Today I am introducing, along with 44 of my colleagues, legislation to foster increased entrepreneurship in the United States by promoting and assisting the creation, development, and growth of small businesses owned by veterans. Recognizing that there is little hope of this legislation receiving appropriate consideration in the waning days of this Congress, I believe it is still important to introduce this bill so that my colleagues and those who support veterans will have an opportunity to evaluate the need and merits of this measure before its introduction again next year.

The United States has benefitted immeasurably from the service of these living veterans and those deceased veterans who have made great sacrifices in the defense of freedom, the preservation of democracy, and the protection of our free enterprise system. Our country also has been enriched by the participation of nearly 3.5 million veteran-owned businesses in the free enterprise system. These concerns are contributing to the vitality, strength, and prosperity of the American economy by providing goods and services, revenues, and job opportunities. During the decade ahead, hundreds of thousands of other veterans are expected to start small businesses. Many of these new business owners will come from among the over 8 million Vietnam-era veterans, who are generally in the 35 to 45 age category, the age group producing the majority of new business starts.

Despite these indices of progress and a seemingly high number of veteran-owned concerns, research shows that veterans have a low rate of self employment in comparison to other groups. The business ownership rate among veterans, particularly Vietnam-era veterans, is substantially lower than that of nonveterans. Disabled veterans are considerably less likely than nonveterans to become business owners and have substantially lower levels of entrepreneurial success than their nondisabled peers. In addition to low rates of business ownership, disabled veterans have low self employment income levels and high rates of business failure. Business owned by veterans are newer, smaller, and less secure financially than nonveteran-owned concerns.

The majority of Federal programs to assist veterans have been focused primarily in the areas of health care, educational benefits, and housing assistance. The Federal Government has not examined the root causes of the low rate of business ownership among veterans nor has it addressed the barriers that confront the establishment of veteran-owned enterprises. While the Congress has acted to establish programs to assist our Nation's veterans in many areas, it has yet to provide them with something even more fundamental—opportunity.

Indeed, the role of Government is to provide justice, preserve liberty, safeguard individual freedoms and defend its citizens against tyranny of any kind. Yet, its duties must be viewed in a larger context. For, where possible, it should provide, not guarantee, opportunities to its citizens. Forrest P. Sherman once said this of opportunity: "No man can make his opportunity. He can only make use of such opportunities as occur." The bill I am introducing provides an opportunity that has eluded veterans until now. Specifically, this legislation would create opportunities for veteran-owned businesses to become suppliers of needed goods and services to the Federal Government through access to contract award opportunities in the $200 billion Federal market. The purpose of the legislation is to boost entrepreneurship in the United States by promoting and assisting the creation, development, and growth of small businesses owned by veterans.

This bill would amend the Small Business Act to require goal setting for prime contracts and subcontracts for businesses owned and controlled by veterans. It would include veteran-owned concerns in the subcontracting program, with separate goals for such enterprises. In addition, each Federal agency would be required to provide outreach for veteran-owned businesses and to solicit a representative number of these small concerns for each competitive procurement.

The legislation would provide new opportunities for all veterans. It also gives public recognition to the special contributions of reservists and merchant marine seamen who are an integral part of our Nation defense effort. Their patriotic service, in times of peace and war, underscores their strong commitment to preserving democracy and defending freedom. The bill declares these individuals veterans if they have served for a specified time period and have completed that service satisfactorily. This would establish their eligibility for participation in the procurement program.

The legislation would also create a nine-member National Veterans Business Council comprised of high level private sector representatives and key Government policymakers. The Council would be required to submit to the President and the Congress, by the end of 1990 and each year thereafter, a multiyear plan of action, with specific goals and timetables, to support veteran-owned business.

Statistical data and information on veteran-owned business are woefully inadequate. Under this bill, various Federal agencies would be required to include information and data on sole proprietorships, partnerships, and corporations in any reports they may prepare on veteran-owned business. Furthermore, Federal agencies would have to report on the number of veteran small businesses that are first-time recipients of Federal contracts. Improving the data collection on veterans will help establish a reliable statistical picture of veteran-owned businesses in America. Information of this kind will be of great value to policymakers and lawmakers in identifying areas where policy changes and program improvements can be made to better serve veteran small business owners.

I believe our Government has a solemn responsibility to help the veterans of this Nation because of the sacrifices they have made in the service of their country. Acknowledging the Nation's special debt to these individuals, Theodore Roosevelt said this in 1903: "a man who is good enough to shed his blood for the country is good enough to be given a square deal afterwards. More than that no man is entitled to, and less than that no man shall have." We need to recognize the contributions of our men and women in uniform with more than tributes of gratitude and praise, for their sacrifices of blood and life have secured and preserved the blessings of peace for our generation. Many have answered the call of their country, to take up arms in the defense of liberty and freedom, to preserve and to defend the virtue of democracy against those who seek to destroy it.

From time to time, these men have defended a bright vision of mankind, the enduring dream of freedom and hope of peace, which lives in the hearts of all free men and those who yearn for these blessings but have them not. These selfless individuals have met the greatest tests of faith and endurance under the most trying of human circumstances. No greater sacrifice is there than a man's willingness to lay down his life for his country so that those who belong to it may not perish with it.

There is a higher law that is realized in selfless sacrifice and service to one's country and faithful devotion to the principles upon which it is founded. If it is not too much for our country to ask this sacrifice of our children, can it then be too much for us to ask our country to help them? Americans recognize that the debt that is owed veterans is greater than our ability to repay. Great nations rise and fall on the merits of individual initiative and sacrifice and on the giving of the one for the benefit of the many. And so it is with our veterans. These individuals have put their lives at risk for the things of the heart that are America. The valiant sons and daughters of our Republic who have given the full measure of their abilities and talents in the defense of liberty, in the preservation of peace, and in the service of their country deserve nothing less than an opportunity, an opportunity which this legislation affords. For those who have made the ultimate sacrifice, we can do very little; but for those who remain, we must do more.

Mr. Speaker, the dream of all Americans—greater opportunity and prosperity—must also be placed within the reach of all veterans so that they can achieve and enjoy the rewards and benefits of this country, the country they have been called upon to defend. All Americans can hold to this dream and believe in the power of the promise this country has to offer. But no dream, no matter how powerful or how grand, can be realized unless opportunities are found and used that assure its attainment. And these opportunities must be available to all Americans who travel the path leading to the dream. Mr. Speaker, this bill provides opportunity because opportunity is what this country is still all about. I strongly urge my colleagues to join me in promoting veteran entrepreneurship in America by supporting this bill.

H.R. 5558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Entrepreneurship Promotion Act of 1988".

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

SEC. 101. FINDINGS AND PURPOSES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(f)(1) With respect to the programs and activities authorized by this Act, the Congress makes the following findings:

"(A) The United States has benefited immeasurably from the service of over 27,000,000 living veterans and those deceased veterans who have made great sacrifices in the defense of freedom, the preservation of democracy, and the protection of our free enterprise system.

"(B) The United States has been enriched by the participation of nearly 3,500,000 businesses owned and operated by veterans in the free enterprise system that are contributing to the vitality, strength, and prosperity of the American economy by providing goods and services, revenues, and job opportunities.

"(C) During the decade of the 1990's, hundreds of thousands of other veterans are expected to start small businesses. Many of these new business owners will come from among the over 8,000,000 Vietnam-era veterans, who are generally in the 35–45 age category, the age group producing the majority of new business starts.

"(D) Despite these indices of progress, veterans have a low rate of self employment in comparison to other groups. The business ownership rate among veterans, particularly Vietnam-era veterans, is substantially lower than that of nonveterans. Disabled veterans are considerably less likely than nonveterans to become business owners and have substantially lower levels of entrepreneurial success than their nondisabled peers. In addition to extremely low rates of business ownership among disabled veterans, such veterans have low self employment income levels and higher rates of business failure. Military service tends to place veterans at a competitive disadvantage with respect to business ownership.

"(E) Business concerns owned by veterans are newer, smaller, and less secure financially than business concerns owned by nonveterans.

"(F) It is in the national interest to remove all obstacles to the development and growth of business concerns owned and controlled by veterans.

"(G) The elimination of such barriers is essential to provide an equitable opportunity for full participation in the free enterprise system by veterans and to further enhance the economic vitality of the Nation.

"(H) Increased numbers of business concerns owned and controlled by veterans will directly benefit the Federal Government by expanding the potential number of suppliers of goods and services to the Government.

"(2) It is, therefore, the purpose of those programs and activities conducted under the authority of this Act that assist entrepreneurs who are veterans to—

"(A) foster enhanced entrepreneurship among veterans by providing increased opportunities;

"(B) vigorously promote the legitimate interests of business concerns owned and controlled by veterans;

"(C) ensure that those concerns receive a fair share of purchases made by the Federal Government; and

"(D) require that the Government engage in a systematic and sustained effort to identify, define, and analyze those barriers confronting veterans.".

SEC. 102. DEFINITIONS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(k)(1) For purposes of this Act, the term 'small business concern owned and controlled by veterans' means a small business concern—

"(A) which is at least 51 percent owned by one or more veterans or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more veterans; and

"(B) the management and daily business operations of which are controlled by such veterans.

"(2)(A) An individual shall be considered to be a veteran for the purposes of this Act if the individual is any of the following:

"(i) An individual who is in receipt of compensation for a service-connected disability under chapter 11 of title 38, United States Code (or who would be in receipt of such compensation but for the receipt of military retired pay).

"(ii) An individual who served on active duty (as defined in section 101 of title 38, United States Code) for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable.

"(iii) An individual who served not less than six years in an active status in the Ready Reserve of one of the reserve components of the Armed Forces and was discharged or released therefrom under conditions other than dishonorable.

"(iv) An individual who is a member of one of the reserve components of the Armed Forces and is serving in an active status in the Ready Reserve under an enlistment or other period of obligated service of not less than six years and who has completed not less than two years of satisfactory service.

"(v) An individual who performed service to the Armed Forces of the United States which has been determined pursuant to section 401 of Public Law 95-202 to be service which shall be considered to be active duty for the purposes of all laws administered by the Veterans' Administration, except that in the application for the purposes of this clause of the decision by the Secretary of the Air Force under such section 401 that is described in subparagraph (C)—

"(I) the term 'September 1, 1939' shall be substituted for 'December 7, 1941' each place it appears; and

"(II) an individual shall be required to have served at least 24 months of duty at sea during the period beginning on September 1, 1939, and ending on August 15, 1945, in the case of an individual serving in the Merchant Marine or other oceangoing services.

"(vi) An individual who served in the Merchant Marine or other oceangoing services after August 15, 1945, for a period of at least 24 months of duty at sea and whose service in the Merchant Marine or other oceangoing services was satisfactory (as determined by the Secretary of Defense).

"(B) Whether an individual is considered to be a veteran for purposes of this Act by reason of subparagraph (A)(ii) is subject to the minimum active-duty service requirement specified in section 3103A of title 38, United States Code, in the same manner as if the benefits under this Act were benefits provided under laws administered by the Veterans's Administration.

"(C) The decision of the Secretary of the Air Force referred to in subparagraph (A)(v) is the decision of the Secretary issued on January 19, 1988, with respect to the service of the American Merchant Marine in Oceangoing Service during the Period of Armed Conflict, December 7, 1941, to August 15, 1945.".

TITLE II—PROCUREMENT ASSISTANCE

SEC. 201. GOAL SETTING.

Subsection (g) of section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in the first sentence, by inserting "small business concerns owned and controlled by veterans," after "small business concerns,";

(2) in the second sentence, by inserting ", small business concerns owned and controlled by veterans," after "small business concerns" the first place it appears; and

(3) in the fourth sentence, by inserting "small business concerns owned and controlled by veterans and participation by" after "including participation by".

SEC. 202. REPORTING.

Subsection (h) of section 15 of the Small Business Act (15 U.S.C. 644) is amended by inserting ", small business concerns owned and controlled by veterans," after "small business concerns" the first place it appears.

SEC. 203. SUBCONTRACTING.

(a) STATEMENT OF POLICY.—Paragraph (1) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)(1)) is amended—

(1) in the first sentence, by inserting "small business concerns owned and controlled by veterans," after "small business concerns,"; and

(2) in the second sentence, by inserting ", small business concerns owned and controlled by veterans," after "small business concerns" the first place it appears.

(b) CONTRACT CLAUSE.—The contract clause specified in section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)) is amended as follows:

(1) Subparagraph (A) of such clause is amended by inserting ", small business concerns owned and controlled by veterans," after "small business concerns" the first place it appears in the first sentence and the first place it appears in the second sentence.

(2) Subparagraph (C) of such clause is amended to read as follows:

"(C)(i) As used in this contract, the term 'small business concern' shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"(ii) The term 'small business concerns owned and controlled by socially and economically disadvantaged individuals' shall mean a small business concern—

"(I) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"(II) whose management and daily business operations are controlled by one or more of such individuals.

The contractor shall presume that socially and economically disadvantaged include Black Americans, Hispanic Americans, Native Americans, Asian Americans, Asian Pacific Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

"(iii) The term 'small business concern owned and controlled by veterans' shall mean a small business concern—

"(I) which is at least 51 per centum owned by one of more veterans; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more veterans; and

"(II) whose management and daily business operations are controlled by such veterans.

The contractor shall treat as veterans all individuals who are veterans within the meaning of section 3(k) of the Small Business Act.".

(c) CONFORMING AMENDMENTS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by inserting ", small business concerns owned and controlled by veterans," after "small business concerns" the first place it appears in paragraphs (3)(D), (4)(D), (4)(E), (6)(A), (6)C), (6)(F), (10)(B), and (11).

(d) EXCLUSION.—A business concern may not be considered to be eligible for any contract or other assistance pursuant to section 1207 of Public Law 99-661 due solely to the provisions of the amendments made by this section.

SEC. 204. OUTREACH.

Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end thereof the following new subsection:

"(q) Each Federal agency having procurement authority shall engage in affirmative efforts to identify and solicit offers from small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by veterans with service-connected disabilities. To the maximum extent practicable, a representative number of such concerns shall receive solicitation packages for each proposed acquisition for which such concerns may be eligible to compete.".

TITLE III—NATIONAL VETERANS BUSINESS COUNCIL

SEC. 301. ESTABLISHMENT.

There is hereby established a Council to be known as the "National Veterans Business Council" (hereinafter in this title referred to as the "Council").

SEC. 302. DUTIES OF THE COUNCIL.

(a) The Council shall review—

(1) the role of Federal Government and State and local governments in assisting and promoting aid to, and the promotion of, veteran owned business;

(2) data collection procedures and the availability of data relating to (A) businesses owned by veterans, (B) small businesses owned by veterans, (C) small businesses owned and controlled by socially and economically disadvantaged veterans, and (D) small businesses owned and controlled by veterans with service-connected disabilities; and

(3) such other government initiatives as may exist relating to businesses owned by veterans, including those relating to Federal procurement.

(b) Based upon its reviews, the Council shall, by December 31, 1990, and every twelve months thereafter, recommend to the Congress and the President—

(1) new private sector initiatives that would provide management and technical assistance to veteran owned small business;

(2) ways to promote greater access to public and private sector financing and procurement opportunities for such business; and

(3) detailed multiyear plans, with specific goals and timetables, for both public and private sector actions to promote increased business development and ownership by veterans and to encourage their full participation in the economic mainstream.

(c) For the purpose of this title, the term "small business concern owned and controlled by veterans" shall be given the same meaning as that term is given by section 3(k) of the Small Business Act, as added by section 102 of this Act.

SEC. 303. MEMBERSHIP.

(a) The Council shall be composed of nine members, selected as follows:

(1) The Administrator of the Small Business Administration (or the Administrator's designee), the Secretary of Commerce (or the Secretary's deputy), the Secretary of Defense (or the Secretary's deputy), the Administrator of Veterans' Affairs (or the Administrator's designee), and the Administrator of the General Services Administration (or the Administrator's designee).

(2) One member appointed by the majority leader of the Senate and one member appointed by the minority leader of the Senate.

(3) One member appointed by the Speaker of the House of Representatives and one member appointed by the minority leader of the House of Representatives.

(b)(1) Appointments under subsections (a)(2) and (a)(3) shall be made from individuals who are specially qualified to serve on the Council by virtue of their education, training, and experience and who are not officers or employees of the federal Government or of Congress.

(2)(A) of the individuals appointed under subsections (a)(2) and (a)(3)—

(i) at least one member appointed under each such paragraph of such subsection shall be a veteran, and

(ii) at least one member to be appointed under each such paragraph of such subsection shall be an owner of a small business concern (as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto).

(B) Appointments made pursuant to subsection (a) (2) and (3) shall be made in the following sequence:

(i) Appointments under subsection (a)(2) shall be made within 90 days of the effective date of this title.

(ii) Appointments made under subsection (a)(3) shall be made within 120 days of the effective date of this title.

(3) In making appointments under subsection (a), the appointing authorities shall give due consideration to achieving balanced geographical representation.

(4) Members appointed under subsections (a)(2) and (a)(3) shall be appointed for a three-year term, except if any such appointee becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the 30-day period beginning on the date such individual becomes such an officer or employee.

(5) A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(6) Members of the Council shall serve without pay for such membership, except that members of the Council shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(7)(A) Two members of the Council shall constitute a quorum for the receipt of testimony and and other evidence.

(B) A majority of the commission shall constitute a quorum for the approval of a recommendation or report submitted pursuant to section 302 or section 306.

(8) The Chairman and Vice Chairman of the Council shall be designated by the President. The term of office of the Chairman and Vice Chairman shall be at the discretion of the President.

(9) The Council shall meet not less than four times a year. Meetings shall be at the call of the Chairman.

SEC. 304. DIRECTOR AND STAFF OF THE COUNSEL.

(a)(1) The Council shall have a Director who shall be appointed by the Chairman. Upon recommendation by the Director, the Chairman may appoint and fix the pay of four additional personnel.

(2) The Director and staff of the Council may be appointed without regard to section 5311(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(b) The Council may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(c) Upon request of the Chairman, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title without regard to section 3341 of title 5 of the United States Code.

SEC. 305. POWERS OF THE COUNCIL.

(a) The Council may, for the purpose of carrying out this title, sit and act at such times and places, hold such hearings, take such testimony, receive such evidence, and consider such information, as the Council considers appropriate. The Council may administer oaths for the receipt of such testimony.

(b) Any member or person within the employ of the Council may, if so authorized by the Council, take any action which the Council is authorized to take by this section.

(c) Except as otherwise prohibited by law, the Council may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this title. In the case of requests made of the Small Business Administration, such requests shall be limited to the provision of technical and advisory assistance, the furnishing of pertinent information, and other such assistance as may be considered appropriate and necessary, except that such agency may not provide clerical support or other such related services. Upon the request of the Chairman of the Council, the head of such department or agency shall promptly furnish such information to the Council.

(d) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) The Administrator of the General Services Administration shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request. In addition, the Administrator shall, as appropriate, provide to the Council, upon its request, access to and use of such Federal facilities as may be necessary for conduct of its business.

SEC. 306. ANNUAL REPORT.

Not later than December 31 of each year (beginning in 1990), the Council shall transmit to the President and to each House of Congress a report on its activities during the preceding fiscal year. Each such report shall contain a detailed statement on the activities of the Council, and the findings and conclusions of the Council, together with its recommendations for such legislation and administrative actions as it considers appropriate based upon its reviews conducted under section 302.

SEC. 307. AUTHORIZATION.

(a) AVAILABILITY OF APPROPRIATIONS.—Sums appropriated to carry out this title may remain available until expended.

(b) SBA EMPLOYEE.—The Small Business Administration may appoint one additional full-time employee for assignment to the Office of Veterans' Affairs. The rate of compensation of that employee shall be affixed at a rate commensurate with the position and its duties.

TITLE IV—STATISTICAL DATA

SEC. 401. CENSUS DATA.

(a) BUREAU OF LABOR STATISTICS.—In any census report it prepares on veterans businesses, the Bureau of the Labor Statistics of the Department of Labor shall include information with respect to the following:

(1) Sole proprietorships.

(2) Partnerships.

(3) Corporations.

(b) BUREAU OF THE CENSUS.—In each decennial business census, the Bureau of the Census of the Department of Commerce shall include information on the number of corporations which are 51 per centum or more owned by veterans (as defined in section 8(a)(16) of the Small Business Act, as added by section 201 of this Act).

(c) COMBINED STUDY.—Not later than 180 days after the date of the enactment of this Act, the Office of the Chief Counsel for Advocacy of the Small Business Administration shall conduct a study and prepare a report recommending the most cost effective and accurate means to gather and present the data required to be collected pursuant to subsections (a) and (b). The Department of Commerce and the Department of Labor shall provide the Office such assistance and cooperation as may be necessary and appropriate to achieve the purposes of this subsection.

SEC. 402. PROCUREMENT DATA.

(a) REPORTING.—Each Federal agency shall report to the Office of Federal Procurement Policy the number of small businesses owned and controlled by veterans, the number of small business concerns owned and controlled by socially and economically disadvantaged businesses, and the number of small business concerns owned and controlled by veterans with service-connected disabilities that are first time recipients of contracts from such agency during any fiscal year. The Administrator for Federal Procurement Policy shall take such actions as may be appropriate to ascertain for each fiscal year the number of such small businesses that have newly entered the Federal market.

(b) DEFINITIONS.—For purposes of this section, the terms "small business concerns owned and controlled by veterans" and "small business concerns owned and controlled by socially and economically disadvantaged individuals" shall be given the same meaning as those terms are given under section 3(k) and section 8(a), respectively, of the Small Business Act, as amended by this Act.

SEC. 403. STATE OF SMALL BUSINESS REPORT.

Section 303 of Public Law 96-302 (15 U.S.C. 631(b)) is amended by adding at the end the following new subsection:

"(e) The information and data required to be reported pursuant to subsection (a) shall separately set forth in detail those portions of such information and data that are relevant to—

"(1) small business concerns;

"(2) small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d) of the Small Business Act;

"(3) small business concerns owned and controlled by veterans; and

"(4) small business concerns owned and controlled by veterans with service-connected disabilities.".

SCIENTIFIC SURVEY SHOWS AMERICANS REJECT CHANGING COIN DESIGNS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, during the August recess, I conducted a survey which was sent as part of a newsletter to my congressional district. The survey asked the opinions of my constituents on the proposal to change coin designs. Accompanying the questions was an article stating my views on this proposal, as well as outlining the reasons why some people support this proposal. Ninety-four percent of those who responded to my survey opposed changing our Nation's coin designs. Only 6 percent favored changes.

Supporters of coin design change claimed that my survey was biased and questioned the reliability of its results. I felt confident that my constituents' responses were representative of those of the Nation as a whole. My constituents could not believe that the Congress was wasting its time and their tax dollars considering such a frivolous idea.

Those who doubted my survey results may now eat their words. The Denver Post recently conducted a survey by telephone of 504 adult Coloradans. The survey was conducted by a professional polling organization, Talmey Research & Strategy. Using a scientifically selected random sample the telephone survey included this question: "Should the design of U.S. coins change or stay the same?"

The results speak for themselves. Only 7 percent said they wanted coin design changes, while 88 percent said that we should leave our coins alone. The remaining 5 percent responded that they did not know. The survey had a margin of error of plus or minus 4.4 percent.

These results are remarkably close to the results of my survey. After correcting for a slight difference in the manner in which the percentages were tabulated, the results of my survey were well within the margin of error of the Denver Post survey.

I gave my constituents the opportunity to choose one of three statements with which they agreed most strongly: First, we should change coin designs even if it costs money to do so; second, we should change coin designs if it will clearly reduce the deficit; and third, we should not change coin designs at all. Of 1,104 responses—which do not include 35 "no" or "other" responses—nearly 94 percent said we should not change coin designs at all. Just over 5 percent said they wanted change only if it would reduce the deficit, and only 1 percent wanted change at any cost.

While coin collectors naturally care who is on coins, the general public has twice demonstrated that they do not see a need to change coin designs. Since it is the tax dollars of the general public that will be spent on this proposal, we owe it to them to respect their wishes.

JOINT EXPLANATORY STATEMENT, VETERANS' BENEFITS AND PROGRAMS IMPROVEMENTS ACT OF 1988 (S. 2049), AS AMENDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, the Senate today concurred in the House amendments to S. 2049, the Veterans' Benefits and Programs Improvement Act of 1988, which were approved by the House on October 12, 1988. There follows a joint explanatory statement which describes S. 2049, as amended, in detail:

EXPLANATORY STATEMENT ON THE COMPROMISE AGREEMENT ON S. 2049 AS AMENDED, THE "VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT OF 1988"

This document explains provisions of various measures (listed below) passed by the Senate and House of Representatives and the provisions of a compromise agreement between the Senate and House Committees on Veterans' Affairs on those provisions, which will be offered as a proposed House amendment to S. 2049 as amended and passed by the Senate on April 28, 1988. The differences between these various measures and the provisions of the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

The measures referred to above are as follows:

S. 2049, the proposed "Veterans' Home Loan Program Improvement Act of 1988", as passed by the Senate on April 28, 1988 (hereinafter referred to as "S. 2049").

H.R. 4213, the proposed "Montgomery GI Bill Amendments of 1988", as passed by the House on September 13, 1988 (hereinafter referred to as "H.R. 4213").

Section 201(a) of H.R. 5114, the proposed "Veterans' Health-Care Programs Amendments of 1988", as passed by the House on September 22, 1988 (hereinafter referred to as "H.R. 5114").

H.R. 5221, the proposed "Veterans' Home Loan Mortgage Indemnity Act of 1988", as passed by the House on September 26, 1988 (hereinafter referred to as "H.R. 5221").

Sections 301 and 302, part B of title III, and sections 606 and 702 of S. 2011, the proposed "Veterans' Benefits and Programs Improvements Act of 1988", the text of which was agreed to by the Senate on October , 1988, as an amendment to H.R. 4741 (hereinafter referred to as "S. 2011").

TITLE I—EDUCATION PROGRAMS

PART A—PROVISIONS RELATING TO MONTGOMERY GI BILL AND CERTAIN OTHER EDUCATION PROGRAMS

MONTGOMERY GI BILL DEATH BENEFIT IN CERTAIN CASES

Senate bill: The Senate bill (section 315 of S. 2011) would amend chapter 30 of title 38, relating to the Montgomery GI Bill (MGIB) program of educational assistance for members of the All-Volunteer Force, to add a new section 1437, to be effective retroactive to July 1, 1985, to provide a death benefit to certain survivors of an MGIB participant whose death while serving on active duty is service connected. The death benefit would be equal to the total amount of the deceased MGIB participant's pay reductions minus the amount of chapter 30 assistance that the participant had received.

House bill: The House bill (section 2 of H.R. 4213) contains a substantively identical provision with the exceptions that it would provide for payment to the estate of the deceased individual if there are no such survivors and would also provide for a benefit payment to a participant who, through no willful misconduct of the individual, becomes so physically or mentally disabled as to be unable to utilize such educational assistance.

Compromise agreement: The compromise agreement (section 101) would provide for only the death benefit and would not provide for any payment if there are none of the specified survivors.

The Committees expect the service departments to make every reasonable effort to contact the survivors of persons who died before the date of enactment and inform them of this benefit.

MONTGOMERY GI BILL ELIGIBILITY FOR INDIVIDUALS DISCHARGED FOR PRESERVICE MEDICAL CONDITIONS OR DUE TO REDUCTIONS IN FORCE

Senate bill: The Senate bill (section 311 of S. 2011) would further amend chapter 30 of title 38 to add a new section 1417 to provide entitlement to one month of educational assistance for each month of active duty served by an MGIB participant who (a) is discharged from military service (1) after June 30, 1985, for a pre-existing medical condition which the Administrator determines is not service connected, or (2) after September 30, 1987, involuntarily for reasons beyond the participant's control, and (b) as a result, does not meet the length-of-service requirement for MGIB entitlement of 20 months on active duty of a 24-month enlistment or 30 months on active duty of a 36-month enlistment.

House bill: The House bill (section 3 of H.R. 4213) contains a substantively identical provision with the exceptions that the House bill (a) would not provide for MGIB participants discharged from military service due to a RIF, (b) would provide for participants who earn MGIB benefits through two years of active-duty and four years of Selected Reserve service, and (c) would make a conforming amendment to section 3103A of title 38, relating to the minimum active-duty service requirements for title 38 benefits eligibility.

Compromise ageement: The compromise agreement (section 102) contains the House provision and the Senate proposal to include those discharged due to a RIF, with an amendment providing that the Secretary of the service branch concerned—under regulations of the Secretary of Defense (or the Secretary of Transportation in the case of the Coast Guard)—would determine what constitutes a RIF.

The Committees intend that, for this purpose, an individual is to be considered to be discharged due to a RIF if the discharge is part of (a) an effort to reduce the number of servicemembers because of fiscal constraints—such as the 34,000 drawdown in active duty "end strengths" during fiscal year 1988 which resulted from the FY 1988 Defense spending ceiling enacted in section 8001 of Public Law 100-203 in implementation of the December 1987 "Budget Summit Agreement"—or (b) a major realignment of the force structure of one or more of the Armed Forces. The Committees do not intend that RIFs encompass minor adjustments in the size of the force or small-scale drawdowns such as result from a redefinition of an individual unit's mission or the deactivation of a unit.

The Committees also note that the September 30, 1987, effective date for individuals discharged due to a RIF is intended to provide relief for the approximately 241 Coast Guard enlisted personnel who were involuntarily separated in May 1988 due to the Coast Guard's need to reduce its fiscal year 1988 personnel spending by $100 million.

OPPORTUNITY FOR MONTGOMERY GI BILL ENROLLMENT FOR CERTAIN ACTIVE DUTY NON-PARTICIPANTS

Both the Senate bill (section 312 of S. 2011), by further amendments to chapter 30, and the House bill (section 5 of H.R. 4213), in freestanding provisions, would provide servicemembers who first entered active duty during the period July 1, 1985, through June 30, 1988, and elected not to enroll in the MGIB with a one-time 120-day open period during which they could become participants.

A. Eligibility

Senate bill: The Senate bill would provide such an open period, beginning on December 1, 1988, during which servicemembers may withdraw their elections of non-participation and become MGIB participants by agreeing to make a commitment to serve two years on active duty in addition to any period of service for which they are obligated at the time of enrollment.

House bill: The House bill is substantively the same as the Senate bill with the exceptions that the open period in the House bill would (a) begin on the 31st day after the date of enactment, and (b) not require an additional two-year service requirement.

Compromise agreement: The compromise agreement (section 103) would establish an open period from December 1, 1988, to June 30, 1989, during which servicemembers may, on such form as the Secretary of Defense prescribes, withdraw their election not to participate, and would not require a commitment of an additional period of service.

B. $1,200 Pay-Reduction/Payment

Senate Bill: The Senate bill would require a basic pay reduction of $100 per month for each of the first twelve months of the additional two-year period of active duty for which the individual would become obligated to serve.

House bill: The house bill would require either a lump-sum payment of $1,200, (b) a $100 basic-pay reduction for twelve consecutive months, or (c) a combination of the lump-sum payment and reduction in pay to equal $1,200.

Compromise agreement: The compromise agreement (section 103) would require the basic pay of an individual withdrawing an election of non-participation to be reduced by $1,200 before the individual's discharge or release from active duty.

C. Amount of Entitlement

Senate bill: The Senate bill would provide that basic educational assistance entitlement for service on active duty during the additional two years of service required in order to participate in the MGIB would be earned in the same manner under chapter 30 as it is earned during an initial period of service.

House bill: The House bill would provide that the individual would be entitled to basic educational assistance to the same extent, in the same manner, under the same conditions, and in the same amount as the individual would have been entitled if the individual had not originally made an election not to participate, and if, before satisfying the $1,200 requirement, the individual were discharged due to (1) a service-connected disability, (2) pre-service medical condition, (3) a reduction in force, involuntarily, or (4) hardship the individual would be entitled to one month of educational assistance for each $100 that the individual's pay was reduced or the individual paid, but not to exceed the number of months the individual served on active duty.

Compromise agreement: The compromise agreement (section 103) follows the House provision with an amendment providing that an individual whose discharge or release from active duty prevents the basic pay of the individual from being reduced by $1,200 would be entitled to the number of months of assistance that is equal to the lesser of (a) 36 multiplied by a fraction equal to the fraction that the amount by which the basic pay of the individual is reduced is of $1,200, or (b) the number of months the individual has served on active duty after June 30, 1985, as part of the individual's initial obligated period of active duty.

MONTGOMERY GI BILL SECONDARY SCHOOL DIPLOMA REQUIREMENTS

A. Deadline for Earning Diploma or Equivalent

Senate bill: The Senate bill (section 313(a) of S. 2011) would amend sections 1411(a) and 1412(a) of title 38, relating to the criteria for entitlement to MGIB benefits, to overrule the VA's interpretation that Vietnam-era veterans who served on active duty from October 19, 1984, through June 30, 1988, must have received a secondary school diploma (or an equivalency certificate) by June 30, 1988, in order to be eligible for the MGIB and, thus, to receive "combined" Vietnam-era GI Bill and MGIB benefits (under section 1415(d) of title 38), which will become available on January 1, 1990, following the termination of the Vietnam-era GI Bill (chapter 34) on December 31, 1989. The deadline by which the veteran must have a high school diploma would be extended until the veteran begins pursuit of a program of education using MGIB benefits.

House bill: The House bill (section 7(2)(3)(A) of H.R. 4213) would extend the deadline to December 31, 1989.

Compromise agreement: The compromise agreement (section 104) contains the House provision.

B. Secondary-School Equivalency Requirement

Senate bill: The Senate bill (section 313(b) of S. 2011) would amend sections 1411(a)(2) and 1412(a)(2) of title 38, relating to MGIB eligibility criteria for active-duty participants, and section 2132(a)(2) of title 10, relating to MGIB eligibility criteria for members of the Selected Reserve, to delete the reference to a high-school-diploma equivalency certificate as an alternative criterion (to a diploma) for eligibility and substitute a secondary-school-diploma equivalent as determined by the Secretary concerned pursuant to regulations prescribed by the Secretary of Defense.

House bill: No provision.

Compromise agreement: No provision.

CHOICE OF MONTGOMERY GI BILL BENEFITS FOR CERTAIN RESERVISTS

Senate bill: The Senate bill (section 314 of S. 2011) would amend section 1412 of title 38, relating to MGIB basic educational assistance earned through a combination of service on active duty and in the Selected Reserve, to enable a veteran who is eligible for MGIB benefits under that section by reason of having completed two years of active duty and is obligated to serve four continuous years in the Selected Reserve, but who is separated prior to the completion of that Selected Reserve obligation due to disability, the opportunity for an irrevocable election to receive benefits under either such section 1412 or under section 1411, under which eligibility is earned through only active-duty service.

House bill: No provision.

Compromise agreement: The compromise agreement (section 105) contains this provision with an amendment providing that individuals who are separated due to hardship also be provided the opportunity for the irrevocable election.

REFRESHER, REMEDIAL, AND DEFICIENCY COURSES

Senate bill: The Senate bill (section 321 of S. 2011) would, effective September 30, 1989, amend sections 1434(a), 1641, and 1733(a) of title 38 and section 2136 of title 10 to provide uniformly for the pursuit of refresher, remedial, and deficiency courses under each of the VA-administered programs of educational assistance, other than the Vietnam-era GI Bill, and to provide for no charge to entitlement for the first five months of such pursuit. The Administrator would be required, not later than February 1, 1991, to submit to the Congressional Committees on Veterans' Affairs a report on the use of these courses with and without entitlement during FY 1988 and 1989.

House bill: the House bill (section 4 of H.R. 4213) would, effective upon enactment, amend section 1402(3) of title 38, relating to the definitions under the chapter 30 MGIB program, to include within the definition of a "program of eduction" refresher, deficiency, or other preparatory or special education or training courses—with a charge to entitlement for any use of benefits for that purpose and a nine-month limit on providing educational assistance for refresher courses.

Compromise agreement: The compromise agreement (section 106) would, effective August 15, 1989, authorize pursuit of refresher, remedial, and deficiency courses under the chapter 30 MGIB program and the Post-Vietnam Era Educational Assistance Program (VEAP) under chapter 32 of title 38—but not under chapter 106 of title 10—with a charge to entitlement and without a limit on the number of months of refresher courses, and (b) authorize pursuit of such courses under chapter 35 of title 38, the Survivors and Dependents Educational Assistance Program, without a charge to entitlement for the first five months' payment of such allowances.

TUTORIAL ASSISTANCE

Senate bill: The Senate bill (section 322 of S. 2011) would, effective October 1, 1988, amend chapter 30, chapter 32, and section 1692 of title 38, and section 2131 of title 10, so as to (a) make MGIB and VEAP participants eligible for individualized tutorial assistance; (b) increase the monthly allowance for such assistance under the Vietnam-era GI Bill and chapter 35 from $84 to $100 and the overall maximum from $1,008 to $1,200, and make the increased amounts applicable under the MGIB and VEAP; and (c) provide for a charge to entitlement, under the MGIB and VEAP, at a rate equal to the proportion that 50-percent of the tutorial assistance paid bears to the full-time rate for the applicable monthly educational assistance allowance.

House bill: No provision.

Compromise agreement: The compromise agreement (section 107) would, effective on the date of enactment, provide (a) for individualized tutorial assistance under the chapter 30 MGIB program and VEAP (chapter 32)—but not under chapter 106 of title 10—with no charge to entitlement for the first $600 of such assistance; (b) for full charge to entitlement for assistance received in excess of $600; (c) in the case of chapters 30 (MGIB) and 32 (VEAP), for the charge to entitlement to be appropriately prorated between the entitlements for the basic allowance and any additional allowance (so-called "kickers") provided by the Department of Defense; and (c) that under chapters 30 and 32 (1) the first $600 of tutorial assistance would be paid from the VA's readjustment benefits account, and (2) amounts above that level would be paid from the same sources as those from which the individual's educational assistance is paid generally.

The Committees direct the VA to notify persons on, or in a notice accompanying, the certificate of eligibility and on the tutorial assistance application form of the charge to entitlement beyond the first $600.

COOPERATIVE TRAINING

Senate bill: The Senate bill (section 323 of S. 2011) would, effective upon enactment, amend sections 1402(3) and 1602(2) of title 38, relating to the definition of the term "program of education" for purposes of chapters 30 and 32, respectively, to make cooperative training available under the MGIB and VEAP, with benefits paid at the rate of 80 percent of the basic full-time monthly rate otherwise payable and with entitlement charged proportionately.

House bill: No provision.

Compromise agreement: The compromise agreement (section 108) contains this provision effective January 1, 1989.

TOLLING OF DELIMITING PERIODS BY REASON OF ALCOHOL CONDITIONS

Senate bill: The Senate bill (section 324 of S. 2011) would amend chapters 30, 31, 32, 34, and 35 of title 38, to extend the eligibility ("delimiting") periods for education or rehabilitation programs of certain veterans and other eligible persons who have been prevented from participating in such programs because of a drug or alcohol dependence or abuse condition for which the individual received recognized treatment or rehabilitation and which is sufficiently under control for the individual to participate in the education, training, or rehabilitation program involved. The length of any resulting extension would be the lesser of the length of time the individual was prevented from pursuing education or rehabilitation or four years.

House bill: No provision.

Compromise agreement: The compromise agreement (section 109)—by amending section 105 of title 38 to provide that, for purposes of provisions relating to the extension of a delimiting period under any education-benefits assistance or rehabilitation program administered by the VA, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct—would make persons with entitlement to VA education or rehabilitation programs eligible for delimiting-period extensions based on chronic alcoholism on the same basis as extensions are granted for physical or mental disabilities.

The Committees note that, as applied in cases of chronic alcoholism, the term "recovery" from a disability, as used in sections 1431(d), 1503(b)(1), 1662(a)(1), and 1712(b)(2) of title 38 to delineate the point at which the delimiting period again begins to run, is intended to refer to the individual's regaining the ability to initiate or resume the individual's program of education or rehabilitation. The Committees further note that this provision is intended to have no effect on the criteria for eligibility for VA non-service-connected disability pension under section 521 of title 38.

MONTGOMERY GI BILL SELECTED RESERVE

A. Payment for Less than Half-Time Pursuit of a Program of Education

House bill: The House bill (section 6(a) of H.R. 4213) would amend section 2131 of title 10, relating to MGIB educational assistance earned solely through service in the Selected Reserve, to authorize benefits for less than half-time training under chapter 106 of title 10 unless tuition for such training is otherwise available from the military department concerned.

Senate bill: No provision.

Compromise agreement: The compromise agreement (section 110(a)) contains this provision.

B. Time of Eligibility

House bill: The House bill (section 6(b) of H.R. 4213) would amend section 2132 of title 10, relating to eligibility for MGIB educational assistance earned solely through service in the Selected Reserve, to eliminate the requirement that an individual complete 180 days in the Selected Reserve before becoming eligible to receive such educational assistance.

Senate bill: No provision.

Compromise agreement: The compromise agreement (section 110(b)) contains this provision.

FLIGHT TRAINING UNDER THE MONTGOMERY GI BILL

[NOTE.—This assumes Daschle amendment carries in the Senate.]

Senate bill: The Senate bill (section 325 of S. 2011) would amend sections 1432 and 1434 of title 38 and sections 2131 and 2136 of title 10 so as to (a) permit the Administrator, during the four FYs 1989 through 1992, to approve the pursuit of flight training by an individual entitled to basic educational assistance under the MGIB if (1) the training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation, (2) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license, and (3) the flight school courses meet Federal Aviation Administration (FAA) standards and are approved by the FAA and the State approving agency; (b) authorize payment for such training in the amount equal to 60 percent of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay; (c) compute the number of months of entitlement charged under chapter 30 by dividing the total amount of educational assistance paid for flight training by the participant's monthly rate of education assistance and charge one month of entitlement under chapter 106 for each $140 paid for flight training; and (d) require that the Administrator (1) conduct an evaluation of paying educational assistance for flight training under the MGIB to determine the effectiveness of the program in preparing the participants for recognized vocational objectives in the field of aviation, and (2) submit a report on the evaluation to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than January 31, 1993.

House bill: No provision.

Compromise agreement: No provision.

PART B—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

COURSE WITHDRAWALS

Senate bill: The Senate bill (section 331 of S. 2011) would, effective with respect to course withdrawals occurring after May 31, 1989, amend section 1780(a)(4) of title 38—which precludes the payment of VA educational assistance for a course for which the grade assigned is not used in computing the requirements for graduation, including a course from which the student withdraws, unless the Administrator finds there are mitigating circumstances—so as to require that mitigating circumstances be considered to exist in the first instance of a student's withdrawal from a course or courses to the extent that that withdrawal does not exceed 6 semester hours or the equivalent thereof.

House bill: No provision.

Compromise agreement: The compromise agreement (section 121) contains this provision with an amendment making the provision effective with respect to withdrawals which occur after May 31, 1989.

The Committees intend that this provision (a) would have no effect on the responsibilities of the schools and veterans to notify the VA of changes in student status, and (b) in a case in which an individual who has received the benefit of this provision, the VA will notify him or her that retroactive overpayments may be created if non-punitive grades are assigned in the future.

EDUCATIONAL ASSISTANCE FOR CERTAIN INCARCERATED VETERANS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

Senate bill: The Senate bill (section 334 of S. 2011) would amend section 1631 of title 38, relating to entitlement to educational assistance, to limit the amount of educational assistance payable to a VEAP participant who is serving a sentence in a Federal, State, or local penal institution for conviction of a felony to the same level of benefits payable to participants in other VA-administered educational assistance programs who are so incarcerated. That level is the lesser of (a) the allowance otherwise payable, or (b) the established charges for tuition and fees plus the costs of necessary books, supplies, and equipment—with the benefits otherwise payable reduced to the extent tuition and fees are paid under other, non-VA governmental programs.

House bill: No provision.

Compromise agreement: The compromise agreement (section 122) contains this provision.

VETERANS' ADVISORY COMMITTEE ON EDUCATION

Senate bill: The Senate bill (section 335 of S. 2011) would amend section 1792 of title 38, relating to the Veterans' Advisory Committee on Education (VACE), to extend the existence of the VACE for four years, to December 31, 1993, and add to its membership the chairman of the Commission on Veterans' Education Policy.

House bill: No provision.

Compromise agreement: The compromise agreement (section 123) contains the provision to extend the existence of the VACE.

The Committees believe that the decision on service on the VACE of the Chairman of the Commission is best left to the discretion of the Administrator.

REPEAL OF EXPIRED PROGRAMS OF ACCELERATED-PAYMENT LOANS

Senate bill: The Senate bill (section 337 of S. 2011) would repeal sections 1682A, 1686, 1737, and 1738, and amend section 1798, of title 38 to repeal the VA's expired authorities to make (a) accelerated payments of chapter 34 and chapter 35 educational assistance allowances in the form of education loans that are cancelled upon the veteran's satisfactory completion of his or her program of education, and (b) education loans to persons other than certain chapter 34 participants receiving loans in order to continue full-time pursuit of their educations after the expiration of their delimiting periods.

House bill: No provision.

Compromise agreement: The compromise agreement (section 124) contains this provision.

MEASUREMENT OF FULL-TIME STUDY

Senate bill: The Senate bill (section 333 of S. 2011) would amend section 1788(e) of title 38—relating to the measurement of whether a non-college-degree course which is offered by an institution of higher learning and for which the institution requires one or more unit courses or subjects creditable toward a college degree is considered a full-time course for VA-administered educational assistance purposes—so as to provide that credit hours awarded for the non-degree course would be converted to equivalent clock hours and combined with the number of clock hours concurrently pursued, if any, to determine total training time.

House bill: No provision.

Compromise agreement: No provision.

The Committees intend to consider this provision as part of their review of the report of the Commission on Veterans' Education Policy, which was submitted to the Administrator of Veterans' Affairs and the Veterans' Affairs Committees under section 320 of Public Law 99-576 on August 29, 1988.

VIETNAM-ERA GI BILL ELIGIBILITY FOR CERTAIN SERVICE ACADEMY GRADUATES

Senate bill: The Senate bill (section 336 of S. 2011) would amend section 1652(a) of title 38, relating to definitions for purposes of chapter 34, the Vietnam-era GI Bill, so as to make eligible for Vietnam-era GI Bill benefits individuals who (a) before January 1, 1977, commenced their third academic year as cadets or midshipmen at one of the service academies or as members of the Senior Reserve Officers Training Corps (SROTC) under section 2104 or 2107 of title 10; (b) served on active duty for more than 180 days after graduation from one of the academies or completing the SROTC program; (c) if separated from active duty, were discharged or released under conditions other than dishonorable; and (d) enrolled in VEAP, which was closed to new enrollments on July 1, 1985.

House bill: No provision.

Compromise agreement: No provision.

TECHNICAL AMENDMENTS

Senate bill: No provision.

House bill: The House bill (section 7 of H.R. 4213) contains provisions making various technical amendments in the MGIB provisions in chapter 30 of title 38 and chapter 106 of title 10.

Compromise provision: The compromise agreement (section 111) contains these provisions with amendments.

TITLE II—REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

TRAINING AND WORK EXPERIENCE WITHOUT PAY IN STATE AND LOCAL GOVERNMENT AGENCIES

Senate bill: The Senate bill (section 301 of S. 2011) would amend section 1515 of title 38, relating to the facilities that may be used in providing vocational rehabilitation programs under chapter 31 to certain veterans with service-connected disabilities, so as to (a) allow the use of State and local government agencies supported in whole or in part with federal funds to provide uncompensated training or work experiences in chapter 31 programs of vocational rehabilitation, and (b) require the Administrator to prescribe regulations for monitoring such veterans' training and work experiences and otherwise ensuring that they are in the best interest of the veterans and the Federal Government.

House bill: No provision.

Compromise agreement: The compromise agreement (section 201) contains this provision.

USE OF FOR-PROFIT ORGANIZATIONS FOR EMPLOYMENT ASSISTANCE AND INDEPENDENT LIVING PROGRAMS

Senate bill: The Senate bill (section 302 of S. 2011) would amend sections 1517(a)(2)(C) and 1520(a) of title 38, relating to employment assistance and programs of independent living services for certain veterans with service-connected-disabilities, to allow the VA—in cases in which the Administrator determines that comparable services are not available from, or cannot be provided cost-effectively through, public or nonprofit organizations—to contract with for-profit organizations to provide employment assistance under section 1517(a)(2)(c) and programs of independent living services under section 1520(a).

House bill: No provision.

Compromise agreement: The compromise agreement (section 202) contains this provision.

TITLE III—HOME LOAN GUARANTY PROGRAM

HOME LOAN PROGRAM COMMISSION AND REFORMS

Senate bill: The Senate bill (section 2 of S. 2049) would, in a freestanding provision, create an independent Commission on the VA's home loan guaranty program modeled after the Commission on Veterans' Education Policy established under section 320 of Public Law 99-576. The Commission would be required to submit within one year to the VA and the Committees a report on its findings and recommendations regarding the status of the program, analyzing the problems—particularly the recent program-cost and foreclosure-rate increases—the program currently is facing, possible solutions to those problems, and changes to improve the financial stability and solvency of the program and the benefits and services offered to veterans.

House bill: The House bill (H.R. 5221) would establish a Veterans' Administration Mortgage Indemnity Fund (MIF) in the Treasury of the United States for all operations carried out with respect to housing loans guaranteed or insured by the VA which are closed on or after October 1, 1989. The existing 1 percent loan guaranty fee would be replaced by a new 1¼ percent mortgage indemnity fee, supplemented for three years by a ¼-percent premium by the Government, with the proceeds of the indemnity fee and premium being deposited in the MIF. Excess monies in the MIF could be invested in Government securities.

In connection with the requirement for payment of this additional ¼-percent fee, veterans would be relieved of liability in the event of foreclosure. Service-connected disabled veterans rated 30 percent or more and the surviving spouses of those who die from service-connected causes would be exempt from the fee requirement. Veterans who make a downpayment of 5 percent or more would be charged a ¾-percent fee.

Other provisions in the bill are designed to allow for easier refinancing of certain conventional loans, clarify the debt waiver provisions in title 38, and maximize the VA's returns on its loan asset sales.

Compromise agreement: No provision.

The Senate Committee intends to hold hearings on the House provisions if the House passes them again in the 101st Congress.

INTEREST RATE REQUIREMENTS FOR VENDEE LOANS

Senate bill: The Senate bill (section 3 of S. 2049) would amend section 1816(d) of title 38, relating to the making and sale of vendee loans (loans made to qualified purchasers of VA foreclosed properties), to require the VA to offer an interest rate on vendee loans lower than the prevailing mortgage market interest rate where and to the extent the Administrator determines, in light of prevailing conditions in the real estate market involved, that the reduced rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Loan Guaranty Revolving Fund.

House bill: No provision.

Compromise agreement: The compromise agreement (section 301) contains this provision.

CREDITWORTHINESS DETERMINATIONS AND FEES WITH RESPECT TO ASSUMPTIONS OF VENDEE LOANS

Senate bill: The Senate bill (section 4 of S. 2049) would, effective with respect to loans closed more than 45 days after the date of enactment, amend section 1817A of title 38, relating to assumptions of VA-guaranteed or direct housing loans, to extend the creditworthiness requirements and 0.5 percent fee paid by the buyer applicable to assumptions of VA-guaranteed loans—requirements enacted in Public Law 100-198 on December 22, 1987—to vendee loans sold by the VA with recourse (that is, with an agreement by the Government to repurchase the loan in case of default).

House bill: No provision.

Compromise agreement: The compromise agreement (section 302) contains this provision.

AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND

Senate bill: The Senate amendment (section 422 of S. 2011) would amend section 1824 of title 38, relating to the Loan Guaranty Revolving Fund (LGRF), to provide that, to such extent as is or in such amounts as are provided for in appropriation Acts, the Administrator's authority to use funds in the LGRF for certain specified loan guaranty program administrative expenses would be expanded to include payment for certain specified supplementary contracted-for services and equipment not otherwise authorized to be paid for from the LGRF. The total amount could not exceed $25 million in any fiscal year. The LGRF funds could be so used only when the Administrator makes a finding that it would be in the best interest of the long-term stability and solvency of the LGRF to use it for such purposes. "Supplementary" services and equipment would include services and equipment which were not available during, or are to be provided at a level in excess of what was provided for, fiscal year 1988.

House bill: No provision.

Compromise agreement: The compromise agreement (section 303) contains this provision.

TITLE IV—EMPLOYMENT

VETERANS PREFERENCE WITHIN LOCAL HIRE OF ALASKA CONSERVATION SYSTEM UNITS

Senate bill: The Senate bill (section 706 of S. 2011) would amend section 1308 of the Alaska National Interest Land Conservation Act, Public Law 96-487 (16 U.S.C. 3198), to clarify that Civil Service veterans' preference provisions apply to veterans and other preference-eligibles who are otherwise eligible to be selected for a position under the local-hire authority of Alaska Conservation Units.

House bill: No provision.

Compromise agreement: The compromise agreement (section 401) contains this provision.

COORDINATION OF INFORMATION AND ASSISTANCE

Senate bill: The Senate bill (section 706 of S. 2011) would, in a freestanding provision, (a) require that, not later than one year after the date of enactment, the Secretary of Labor and the Administrator of Veterans' Affairs enter into a memorandum of understanding (MOU) to define the relationships and responsibilities of the VA, Department of Labor (DOL), and State and local agencies with respect to providing unemployed veterans with information, forms, and assistance regarding the following programs: (1) title IV.C. of the Job Training Partnership Act (JTPA), (2) the Veterans' Job Training Act, (3) employment and training assistance for dislocated workers under title III of the JTPA, (4) employment assistance and unemployment compensation under the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 and any other program administered by the Employment and Training Administration, (5) educational assistance under the Adult Education Act and chapters 30, 31, 32, 34, and 35 of title 38, and (6) certification of a veteran as a member of a targeted group eligible for the targeted job tax credit program; (b) require that the MOU include a provision for the periodic evaluation, by the Secretary of Labor and the Administrator, of the implementation of their respective responsibilities under the MOU; and (c) require that the Assistant Secretary for Veterans' Employment and Training, in consultation with the office designated or created under section 322(b) of the JTPA and except as the Secretary of Labor may otherwise direct, coordinate the activities of the components of the DOL.

House bill: No provision.

Compromise agreement: The compromise agreement (section 402) contains this provision.

TITLE V—EXTENSIONS OF EXPIRING AUTHORITIES

REGIONAL OFFICE IN THE PHILIPPINES

Senate bill: The Senate bill (section 702 of S. 2011) would extend for four years, through FY 1992, the VA's authority to maintain a Regional Office in the Republic of the Philippines.

House bill: The House bill (section 10 of H.R. 4741) would extend the authority for three years, through FY 1991.

Compromise agreement: The compromise agreement (section 501) contains the House provision with an amendment to ratify actions taken by the VA pursuant to the extension of this authority during the period from September 30, 1988, through the date of enactment.

COMMUNITY-BASED ALCOHOL AND DRUG TREATMENT SERVICES

Senate bill: The Senate bill (section 606 of S. 2011) would amend section 620A of title 38 to make permanent the VA's authority to provide drug and alcohol care, treatment, and rehabilitation services through contracts with halfway houses and other community-based facilities. In addition, the Senate bill would require the VA to (a) conduct or provide for a longitudinal study (FYs 1989 to 1997) of veterans who have received care through the contract program to assess long-term outcomes and determine whether certain types of such care are more successful for certain veterans, and (b) submit to the Veterans' Affairs Committees an interim report on the first four years of the study by February 1, 1993, and a final report by March 31, 1998.

House bill: The House bill (section 201(a) of H.R. 5114) would extend the contract authority for three years, through FY 1991.

Compromise agreement: The compromise agreement (section 502) contains the House provision and the Senate provision regarding the longitudinal study and would ratify actions taken by the VA pursuant to the extension of this authority during the period from September 30, 1988, through the date of enactment.

The Committees intend for the conduct of the longitudinal study to begin on December 1, 1988.

THE REAGAN ADMINISTRATION AND VETERANS: AN ERA OF NEGLECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 60 minutes.

Mr. EDWARDS of California. Mr. Speaker, Ronald Reagan remarked in 1984 that he is looking forward to the day when there will be "no old soldiers' stories to hear." Perhaps that wish is more telling than he intended. Ronald Reagan hasn't heard or appreciated the veterans' story in years, at least not based on his support of their needs and his attentiveness to their concerns.

For an administration that has purported to be pro-military, strongly advocating a peace-through-strength policy of defense, the Reagan White House has neglected the very backbone of its own defense philosophies—the American veteran.

America's veteran population has been outspoken in support of the Reagan administration's defense posture and foreign policy. Veterans have been among Ronald Reagan's strongest and most vocal supporters, yet his administration has consistently refused to recommend necessary funding for veterans' benefits and has sought to stall or dismantle programs critical to the well-being of veterans and their families. Behind his mask of full support—including his late-in-the-game endorsement of a Cabinet-level Department of Veterans' Affairs that can only be interpreted as a partisan ploy for Republican election purposes—Ronald Reagan has compiled a pitiful record of apathy toward veterans, apathy that to many has approached the borders of hostility.

Draft proposals to tax compensation benefits paid to combat-disabled veterans or to turn veterans' programs over to States to administer as welfare; stonewalling important programs which can put veterans back to work or which present the opportunity for improvement through education; a White House Office of Management and Budget that only recently referred to veterans' programs as "low priority services" and an OMB Director who ranks veterans' programs no greater in importance than subsidized housing and sewage treatment; continued cuts in VA health care carried out under the guise of "productivity improvements"; the incapability or refusal of VA program managers and agency leaders to share information with Congress, presumably at the direction of OMB, so that fiscal problems and declines in service quality can be appropriately addressed—the Committee on Veterans' Affairs has discovered through a survey of the VA's 172 hospitals that more than 13,000 beds have been closed, largely due to staff shortages and money problems, while VA Central Office proclaims it has all the resources it needs—these are but a few marks of an uncaring administration and an era that will forever be remembered as the dark days of veterans' benefits.

I am inserting for the RECORD a detailed analysis of how veterans and their programs have fared under the 8 years of the Reagan administration:

1981

The budget—Laying the groundwork for future policy, the Reagan Administration proposed a VA budget that was $840 million less than the budget request of the outgoing Administration. He also requested a reduction of almost eight thousand (7,995) full-time VA employees. Due to the efforts of the House Committee on Veterans' Affairs and many Members of Congress, the bulk of the President's proposed cuts was rejected (a trend repeated throughout the Reagan years). The Congress allowed a budget reduction of $441 million and an employee reduction of 99.

Regional offices.—Reagan also sought to consolidate regional offices into a centralized operation, which would have caused hardships on veterans who frequently use the services of the offices by requiring them to either travel great distances or do their business by telephone.

Readjustment counseling centers.—The Veterans' Readjustment Counseling Centers Program provides essential services geared toward the Vietnam veteran experiencing difficulties in reintegrating his Vietnam experience with the demands of civilian life. The Reagan Administration sought to dismantle the program by discontinuing funding and has since sought to stifle needed expansion. The Congress, however, has successfully fought to maintain the program, which is now in 189 locations.

Outpatient treatment.—The Reagan Administration proposed to reduce the VA's outpatient services to needy veterans by 10 percent. Ever since, the Administration has provided insignificant increases for outpatient treatment, allowing only for inflation. By keeping the projected outpatient treatment capacity capped in the neighborhood of 18 to 19 million patient visits, and by limiting the funding accordingly, the Administration has, in effect, limited access to the program.

Judicial review.—The Carter Administration chose not to oppose proposals for judicial review of veterans' claims in the federal courts. The Reagan Administration reversed that decision, nothwithstanding the fact that veterans cannot obtain an independent review of the merits of their claims. The present system leaves the decision-making power solely in the hands of the Veterans Administration, a unique and widely-criticized method of determining matters affecting the lives of veterans and their families.

1982

Compensation cuts.—The Administration's FY '83 budget contained a future reduction for FY '84 which would have limited compensation payments to veterans rated totally disabled because of unemployability if they were receiving other federal benefits. In other words, if they were drawing Social Security, civil service retirement, or any type of federal disability benefits, there would have been an offset. This proposal was a complete departure from the concept that compensation replaces lost earning capacity caused by a service-connected disability. The Congress adamantly disagreed with the proposal and refused to consider it.

1983

Delayed COLAS.—The President's FY '84 Budget recommended a delayed cost-of-living increase in veterans' compensation benefits, as well as for Social Security and pension recipients in order to offset increases for defense spending. These delayed COLAs put undue strain on the veteran population.

1984

The jobs bill.—At the time the legislation that would become the Emergency Veterans' Job Training Act (P.L. 98-77) was introduced (March, 1983), more than 835,000 veterans of the Vietnam era were looking for work. Although the unemployment rate for Vietnam veterans in all age groups was significantly higher than that of their nonveteran peers, the hardest hit was the age group 25-29; 19.8 percent of these veterans were unemployed compared to 13.9 percent of those in the same age group who did not serve in the Armed Forces. The Administration's view:" . . . a special jobs training program for veterans is not needed at this time."

The Congress disagreed. Recognizing the chronic unemployment problem among veterans who were serving their country while their nonveteran peers were pursuing their education and careers, the Congress authorized an emergency two-year job-training program that would mark the first time that employers had been paid directly to train and hire veterans, in this instance, Vietnam-era and Korean conflict veterans. The program, which has since been extended through March 1990, pays 50% of a veteran's starting wage, up to $10,000, and provides significant on-the-job training opportunities.

Ronald Reagan stepped into the limelight long enough to sign the legislation at the VFW National Convention in New Orleans on August 15, 1983. It came as a complete surprise, since the Administration had opposed the program from day one and in subsequent actions reaffirmed its disdain for the program.

Upon signing the legislation, Reagan remarked: ". . . the nation has a special commitment to those who have served in the military. That commitment includes not only our continuing respect, but practical assistance as well. This program will aid veterans at the same time it aids the many small businesses that will participate. . . . They did their best for us; now we must do our best for them."

Hardly six months later, the Administration submitted a budget that made no request for funds for the job program's second year due to "an expected improvement in the economy resulting in lower unemployment among Vietnam-era and Korean conflict veterans." However, veteran unemployment levels remained unacceptably high. In the summer of 1984, there were 428,000 unemployed Vietnam-era veterans. For the hard-hit age group, 25-29, the unemployment rate was 10.3% For non-veterans in the same age group, it was 7.4%.

Employee cuts.—Following in the shadow of its first-year attempts to cut services to veterans, the Administration recommended in its FY '85 Budget a reduction of 800 full-time employees in the VA's Department of Veterans' Benefits, which certainly would have adversely affected the delivery of services. Employee cuts in DVB ultimately lead to longer waiting periods for applications to be processed for compensation, pensions, housing, and other VA programs.

The Grace Commission.—Tabbed by one of the major service organizations (DAV) as "one of the greatest single threats ever posed against our federal system of veterans' benefits and services," the President's Private Sector Survey on Cost Control stated that major functions of the VA could be disbanded and programs such as compensation, pension and education could all be transferred to other agencies of the government or to the private sector. The Grace Commission even gave consideration to eliminating the VA altogether.

The Grace Commission also recommended that the Veterans Administration discontinue property acquisition within its Home Loan Guaranty Program, a proposal that could cause the government to lose a substantial amount of money in outyears.

Looking for a quick fix for depleting loan guaranty funds brought on by a high foreclosure rate and subsequent property acquisitions, the panel proposed that the VA, in all foreclosure proceedings, pay off the guaranteed portion of a loan and leave the lender to dispose of the property. Currently, when a VA guaranteed loan goes into default and is foreclosed, the VA has a second option: to pay off the loan, acquire the property, sell it and recoup most of its money. Loan guaranty revolving funds did not need Federal appropriations until 1984 due to the VA's ability to recover some of its money through these sales.

Had this proposal been implemented, the VA could have realized savings in the short term with the sale of properties already on hand. But, it stood to lose approximately $10,000 more per foreclosure. In addition, mortgage lenders suggested that they would be forced to tighten loan eligibility criteria and might even have opted to stop making VA loans altogether. This would have had a severe effect on veterans attempting to buy their first home.

The Subcommittee on House and Memorial Affairs, as well as the Full Veterans' Affairs Committee, mortgage bankers, the service organizations and the veteran population adamantly opposed this recommendation, included in the President's proposed FY '85 budget, causing its implementation to be delayed and reconsidered. Though the House passed a measure to restore financial solvency to the loan guaranty program, and at the same time assured its availability to veterans in future years, the Administration continued to attack housing credit programs available veterans.

Housing credit programs.—David Stockman, then-Director of OMB, issued a circular designed to tightly restrict housing credit subsidies which have been available to veterans since the end of World War II. Observers said that the guidelines would force veteran homebuyers to make bigger down payments or pay higher mortgage insurance premiums. Among Stockman's orders which the Administration embraced: eliminate VA no-down-payment loans; charge fees to cover the Government's administrative costs and the cost of defaults of other veterans; and cap the number of loans so that only a limited number of veterans could obtain loans in any year.

Agent Orange.—Certain Vietnam veterans suffer from specific diseases and ailments they associate with herbicide exposure and further connect that exposure to birth defects in their children. They have requested compensation for these conditions. The Administration opposed all legislative proposals offered to provide that compensation.

1985

Home loans.—The Reagan Administration's dismal record on veterans' issues continued with its persistent effort to make it more difficult for veterans to become homeowners. The Administration again proposed an increase (to 5%) in the loan origination, or user's fee, charged veterans who seek a VA-guaranteed loan. This proposal, had it been enacted, would have forced the veteran borrower to make an average payment of over $3,000 just for the privilege of using the loan guaranty service.

Regional office consolidation.—The Administration sought, as it did in 1981, to consolidate the claims and home loan operations of the VA's regional offices into three "mail-order" offices. When the House Veterans' Affairs Committee rejected this misguided proposal in the Administration's FY '82 budget, it cautioned that disabled veterans and their families would receive reduced services and that delays in servicing loans would be inevitable. The proposal was again killed quickly and effectively.

Employee reduction.—The Administration proposed a reduction of almost 4,000 health care personnel below requirements to staff existing VA facilities, as well as those which were scheduled to be activated in FY '86. Such action would have had an obvious adverse effect on the VA's ability to deliver health care to the Nation's veterans.

Health care.—The Administration proposed to establish a stringent means test for veterans over age 65 who seek medical treatment for non-service-connected disabilities, regardless of the fact that many cannot afford alternative health care. The Administration also sought to slash budget authority for the renovation and repair of VA medical facilities, including nursing homes, by more than $150 million.

1986

The same old song.—the Administration's proposed FY '87 budget called for a large reduction in the number of veterans receiving VA medical care, a reduction of thousands of personnel who deliver that care, a cut in health care facility construction, the termination of the seven-month-old New GI Bill education assistance program (now permanent, it has proved to be one of the most effective recruiting tools ever devised for the military and has enabled hundreds of thousands of individuals to further their education), and increased fees for veterans seeking home loans.

Construction cuts.—The Administration's budget proposal recommended a 41% cut in medical facility construction and no new nursing home construction (except state veterans' nursing homes) despite the increasingly urgent need for long-term care.

Medical care.—The Administration also proposed a net reduction of 7,542 medical care personnel, a decrease from the previous year of 57,354 veteran inpatients treated and a reduction of more than one million outpatient visits.

Home loans.—The Administration again proposed an increase in the home loan origination fee, this time from 1 to 3.8%.

Jobs.—Three hundred ninety thousand Vietnam-era veterans were unemployed at the time, yet the Administration still refused to request funding for the Veterans' Job Training Act.

1987

Taking money from health care.—The Reagan Administration attempted to rescind $75 million of already-appropriated FY '87 VA health care funds. This rescission would have led to the termination or furlough of approximately 3,000 health care employees, which would have greatly reduced the number of veterans who could receive inpatient or outpatient care. The Administration's proposal for FY '88 health care funding would have led to hundreds of additional health care staff cuts.

Indexing.—The Reagan Administration proposed indexing the annual adjustment in VA compensation benefits to the Consumer Price Index. This would have eliminated annual Congressional action on the COLA, action which has been an effective vehicle for making periodic refinements to the program, taking into consideration the special needs of service-disabled veterans.

Regional office cuts.—The Reagan Administration proposed to cut 296 employees from the VA's regional offices. These employees are responsible for processing claims for disability, death, housing, and education benefits. At this point, approximately one-third of the VA's regional office staff had already been cut since 1979. This proposal would have led to even longer delays in service and in payments to veterans and their dependents.

Housing.—The Reagan Administration again proposed to increase the VA home loan origination fee, this time to 2.5%. This 150% increase would have resulted in an additional $900 fee to the typical veteran homebuyer. Thus, a veteran would have been charged an average amount of $1500—up from $600—just for the privilege of using the program. This, of course, would have been merely a form of selective taxation on homebuying veterans.

Further, the Administration attempted to eliminate the VA's authority to set the maximum interest rate charged by a lender to a veteran homebuyer. This likely would have led to higher interest rates and larger mortgages for veterans and would have eroded their purchasing power—if not their very ability—to afford adequate housing.

Travel pay.—The Administration did drastically curtail, by a change in regulation, travel expenses paid to many disabled and low-income veterans to enable them to get to the nearest VA medical facility. Most veterans, many who often have to travel long distances from rural areas to reach VA health care facilities and many with service-connected disabilities, were denied travel assistance. (The Congress has since reinstated the travel allowance for many service-connected, low-income and other veterans.)

Education.—The Reagan Administration sought to repeal the VA's authority to make education loans to veterans, it's fourth attempt in as many years.

1988

The Administration again submitted a painfully inadequate budget for veterans' benefits and services. The VA health care budget proposal fell $370 million short of a current services mark, even though the number of veterans requiring inpatient, outpatient, and long-term care is rapidly rising.

More employee cuts.—The Administration proposed to cut 2,439 full-time VA employees (1,782 in medical care and 492 in the Department of Veterans' Benefits). It recommended that 7.1% of the regional office claims adjudication workforce, 248 employees, be cut even though the agency has been plagued by and criticized for a steady decrease in the timeliness of claims decisions over the past five years. The Administration also called for 75 less loan guaranty personnel, even though the loan guaranty program has shown a dramatic increase in foreclosures and properties on hand and the Congress had only recently passed legislation to require increased attention to loan servicing and property management.

Jobs.—Though Ronald Reagan had earlier proclaimed its virtues, his Administration again refused to recommend additional funds for the Veterans' Job Training Act which, at the time, had placed almost 60,000 Vietnam-era and Korean conflict veterans into jobs and was operating on a nearly-depleted account (it still is).

Medical funding.—The Administration sought to drop more than $34 million in funds for new medical equipment; cut $22 million from the facility construction, modernization and renovation account; cut $4.7 million and 79 full-time employees from the Veterans Readjustment Counseling Program (Vet Centers); and despite a need for an additional 3500 nursing home beds by 1992, the Administration proposed only 120 new beds in FY '89.

CONCLUSION

Veterans, their dependents and survivors represent one-third of this nation's population. To their credit, as yet unacknowledged by the Reagan Administration, this deserving group has contributed upwards of $3 billion to deficit reduction over the past several years through cost containment in their programs. They have bitten the bullet hard. They have more than done their share.

These past eight years have not been completely bad ones for veterans. Generally, veterans' programs have successfully maintained the most essential of services and have even enjoyed some advantageous fine-tuning. It must be stressed that this is not due to the efforts of the Reagan Administration; it is because of the Congress, which has defeated the large majority of the Administration's attempts to slash, or at least stifle, veterans' benefits and services.

Over the past eight years, the Reagan agenda for veterans has ranged from nonexistent to combative, from demeaning to astonishingly inept. Ronald Reagan has been no friend of the veteran. Let us hope that the dark years can now give way to the years of recovery.

MORE OF THE JAPANESE GAME PLAN REVEALED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, each day there seems to be a story about the Japanese which spells out in detail just how they conduct their trade with the United States.

Today I found an article in the October issue of Business Tokyo, about the Japanese setting up a beef business in

Australia to sell beef to the United States.

The article is as follows:

AUSSIES WITH A BEEF

Japanese firms show increasing interest in the Australian meat-exporting industry. Their surprising target: the U.S. Consumer.

At first glance, it seemed a not particularly noteworthy transaction: the Japanese food company, Nippon Ham Ltd., had bought a 5,000-hectare (12,356 acre) ranch at Whyalla, near the town of Texas, in southern Queensland, Australia's premier cattle state. But when Australians looked a little more closely, there was uproar.

The farm had been owned by one Lloyd Errol Faint, an ex-convict with a penchant for making headlines. Sentenced to two years' hard labor for tax evasion, Faint had entertained tabloid readers by reportedly traveling to jail in a chauffeur-driven limousine, using the prison phones to make lucrative business deals and enjoying much time off from the sentence in travels aboard his privately chartered jet. The second, and in Australian ranchers' eyes, a much more arresting aspect: a year earlier Nippon Ham had paid some $16 million for a major slaughterhouse at Oakey, a town in the same region. The Faint property's $8 million price tag was said to be much higher than market levels. The Australian cattle industry and political leaders promptly declared themselves as cross as cornered bulls. The Japanese action, said the Australians, has raised the "threat" of "vertical integration."

In the United States, where cattle ranchers generally welcome Japanese interest in their depressed industry, vertical integration—the linking of ranch and herd, feedlot and slaughterhouse in one smooth raising, processing, and exporting operation—raises few hackles. In Australia, however, the beef business considers itself to be on the edge of an export bonanza. With Japan and South Korea liberalizing its markets and per capita incomes rising in Thailand, Hong Kong, Malaysia and Taiwan, cattle ranchers' prospects for making money have seldom looked so promising. About the only possible blemish on future prospects is a massive Japanese intrusion into the Australian cattle industry.

GROWING INTEREST

Japan's interest in Austrialia's beef began flourishing between 1970 and 1973, a time of sharply-rising food prices caused partly by massive Soviet grain purchases. To safeguard Japan's long-term interests, the Ministry of Agriculture and Forestry (now the Ministry of Agriculture, Forestry and Fisheries) urged 14 Japanese meat concerns to develop direct imports from Australia under Japanese control. When the 1973 oil crisis hit company profits, however, 13 of these firms withdrew. Only Mitsubishi Corp. kept its presence in Australia: Killara Quirindi Pty. Ltd., a loss-making ranch at Quirindi, New South Wales, with some 20 employees, grass-feeding 8,000 cattle mainly for the Australian market.

Says Mitsubishi Corp. (Australia) foods section chief Takatoshi Miyamoto, "It was only because of our professional distaste for being outdone that we kept the ranch, which we tided over by covering our losses with sales of other property." Gradually, the ranch increased its production of grain-fattened beef and their well-marbled steaks for Japan. Last year, aware of imminent, competitive penetration of the Japanese market by American stockyards, Mitsubishi began producing high-grade beef that had been grain-fed for as long as one year before delivery.

Says Miyamoto confidently, [In Australia], we can still [grain-feed cattle] 30 percent cheaper than in the United States." In August of last year, the giant trading company bought Midcoast Meat, a meat packer located in Macksville, about 210 miles (350 kilometers) from Quirindi, thus achieving fully-integrated production and control of every stage from grazing to packing.

Other companies have followed Mitsubishi's example. In June 1974, Itoman & Co., Ltd., a smaller trading company, took a half-share with Jusco, the major Japanese supermarket chain, in buying a ranch in Tasmania, Australia's island state. At first, the venture fattened sheep. In August of last year, however, it began grain-feeding 3,000 Black Angus cattle and meantime bought a meat packer capable of processing 400 head daily. Other major trading companies—Marubeni, Toyo Menka Kaisha, Ltd. and another Mitsubishi-affiliated company—are said to have bought or at least to be considering ranch operations.

A trading company source explained the rising Japanese interest to BT's Takayuki Yamamoto: "The uninformed consider the meat business's moves to be solely motivated by the Japanese market's imminent opening. The real target [of the Japanese-owned Australian ranches], though, is the vastly greater U.S. market. It's best not to produce in America, however, because Australian producers' cost-competitiveness is better. Also, it's too risky to count solely on the Japanese market, because lower meat prices aren't certain to whet Japanese appetites for meat."

Added a trading company spokesman: "In the United States, three giants already control about 70 percent of the packing market. You will eventually either have to bargain for the protection of one of these giants or fight for the few remaining unclaimed market niches. In Australia, however, all meat packers are small businesses and inefficient old-fashioned packers have been going bankrupt or have been put up for sale in the past two or three years. The conditions were ideal for new firms to move in."

BUYING TOURS

Nippon Ham's Whyalla deal in July appears to have invited the kind of publicity Japanese firms were hoping to avoid. In the wake of the announcement, rumors abounded. One newspaper reported that a tour operator had arranged, for August alone, "no less than 30 large Japanese corporations" to examine the investment potential of the beef industry. Cattle Council of Australia president Wally Peart claimed that Japanese interests had offered takeover deals to nearly all export-licensed slaughterhouses.

(Already the Japanese own 10 percent of such firms.) Because there is no effective land ownership register, Australian ranchers claimed, it was impossible to know how much farming land Japanese companies may have bought. Said Peart, "We're concerned they could manipulate the Australian market to their own advantage."

Warned Australian Cattlemen's Union spokesman Shaun Coffey: "Potentially, the Japanese could force prices to drop, stripping profits in all sections of the industry from production through processing. Most of the available profits in the industry would be shifted from Australia to Japan."

Nippon Ham's vertical cattle raising and processing project involves the fattening of at first 20,000, later 50,000, head of cattle yearly. Far less controversial was Yokohama-based Kyodo Shiryo Co., Ltd.'s plans, announced shortly after, for a joint venture with the Darling Downs Grain Fed Beef Pty. Ltd. of Queensland. Kyodo Shiryo will provide $400,000 in working capital for cattle purchase and development of cattle fed to suit Japanese requirements. Japanese technical information and marketing help in Japan would also come with the deal. The Australians will provide the feedlots, meatworks, packing and export facilities.

Said Kyodo Shiryo managing director Tohru Sakai, "The $400,000 is only like a down payment to see how it goes." Australian ranchers were happy with what they see as an arrangement allowing benefits of an expanded Japanese market to flow back to Australia. Cattlemen's Union president Jock Douglas told Jiji Press news agency, "Joint ventures should be the aim of both Japanese and Australian companies and governments."

Meantime, the egregious Lloyd Faint continues to make headlines. He has gone back to work as manager of his former property—one of Australia's richest farmhands.

Last week I told about the wealthy American asking the CEO of Motorola about a joint venture with the Japanese. That joint venture was for the American businessman to own the land and the Japanese to raise cattle so the Japanese could sell the beef produced by them, not American beef, to Japan. I have mentioned before a Japanese meat packing plant in the Northwest which would package the beef.

Now they are setting up operations offshore in Australia to sell Japanese owned beef to the United States—and they are moving on the Australian cattle industry as they have moved against us in many different time.

At the same time, the Japanese are setting up operations in the United States to sell Japanese beef, which is raised in America, to Japan so it appears Japan is beginning to move in on the United States beef industry the same way they did on our machine tools and electronics industry.

The Australians are certainly concerned—they don't like it a bit.

A spokesman for the Australian Cattlemen's Union warned, "Potentially the Japanese could force prices to drop, stripping profits in all sections of the industry from production through processing. Most of the available profits in the industry would be shifted from Australia to Japan."

And this is in the wake of the recent signing of the much touted beef agreement with Japan that would open up their markets for American beef.

The ink isn't dry on the agreement and they are moving to target our beef industry by offshore production—at the same time producing beef here so they qualify for the requirement to open their markets to U.S. grown beef; as they have other industries.

The October 13 issue of the Washington Post should be a reminder to all of use of the size and the battle and the sophistication of our allies, the Japanese, in winning this economic war at the expense of the United States

The headline of the Post story is "Toshiba Corp.'s Costly Lobbying—Japanese Firm Paid Millions To Cushion Sanction's Blow."

The caption under the picture quotes Senator JOHN HEINZ that "The message of the Toshiba sanctions fight is that up to a point crime does pay. It pays U.S. lobbying and its pays the violators who made about $40 million."

Most of all its paid Toshiba, who profited from selling our milling machines to the Russians.

I will read the story and leave it for the RECORD.

TOSHIBA CORP.'S COSTLY LOBBYING—JAPANESE FIRM PAID MILLIONS TO CUSHION SANCTIONS' BLOW

(By Stuart Auerbach)

In one of the costliest and most aggressive lobbying campaigns ever mounted by a foreign company, Toshiba Corp. paid $4.3 million to one law firm as part of its successful drive to blunt stiff import sanctions for its illegal sale of high-technology products to the Soviets, Justice Department records show.

That payment for one year's work by the firm, Mudge Rose Gutherie Alexander & Ferdon, was only part of the money spent by Toshiba and its wholly owned American subsidiary to stop Congress from banning its $10 billion a year in sales in the United States.

Senator John Heinz (R-Pa.), who introduced legislation this month to tighten reporting loopholes in the Foreign Agent Registration Act, estimated that the true cost of the Toshiba efforts will exceed $9 million.

In addition to Mudge Rose, three other Washington law firms received a total of $261,000 as part of the Toshiba lobbying effort, according to records of the Justice Department's Foreign Agent Registration Office. Fees paid since last spring have not yet been recorded by the Justice Department.

In addition, at least one other Washington law office firm and a public relations firm are known to have devoted extensive effort to Toshibia's case. But because they represented Toshiba America Inc., the wholly owned American subsidiary of the Japanese giant, the two firms did not register with the Justice Department. Under the law, Toshiba America is regarded as a U.S. corporation and its lobbyists are not required as foreign agents.

"In all the 21 years I have been in public office I've never seen a lobbying campaign so orchestrated at so many levels," said Sen. Jake Garn (R-Utah), the principal mover behind the sanctions against Toshiba.

Garn said he was lobbied for months by Japanese government officials, Japanese members of parliament, Toshiba officials, officers of Toshiba America, officials of the Reagan administration and finally by American distributors of Toshiba products "really pushing [the argument that] 100,000 jobs would be lost" in the United States if the legislation passed.

The Library of Congress' Ronald Morse, a specialist in Japanese lobbying in Washington, said the Toshiba effort was a watershed for Japan. "It is the first manifestation of an indigenous grass roots American constituency for the Japanese," Morse said. "It marks a new dimension and is a warning that the Japanese are more sophisticated than they had been, and their role is much more significant."

Instead of banning all sales, Congress softened the sanctions to a three-year restriction on U.S. government purchases of Toshiba products, which amount to about $100 million a year. But the legislation contains a number of exemptions for national security and other reasons that will likely allow the Japanese electronics conglomerate to keep most of its government business.

The only complete ban affects Toshiba Machine Co., the subsidiary that actually sold the high technology products to the Soviets.

"The message of the Toshiba sanctions fight is that up to a point crime does pay," said Heinz. "It pays U.S. lobbyists and it pays violators who made about $40 million."

Toshiba was aided by vigorous efforts by the Reagan administration against the sanctions, which top officials in the White House and State, Defense and Commerce departments said would be counterproductive to the U.S. objective of getting Japan to upgrade its lax enforcement of rules against sales of strategic goods to the Soviet bloc.

Further, U.S. electronics companies, including such major producers as International Business Machines and American Telephone & Telegraph Co., lobbied against the sanctions out of a concern that their production would suffer because they would not be able to get components made by Toshiba.

Toshiba's effort was directed by David P. Houlihan, a trade specialist in the Washington office of Mudge Rose, whose firm received the majority of the lobbyist fees.

Houlihan said that the bulk of the fees was spent on a private investigation that found Toshiba Corp. was not involved in the sale to the Soviets by its subsidiary, Toshiba Machine Corp., and in designing a stiff export control plan for the company that was used to win Reagan administration opposition to stringent sanctions.

Houlihan brought in Leonard Garment, formerly White House counsel in the Nixon administration, and former Democratic congressman James R. Jones of Oklahoma to work on behalf of Toshiba. Garment dealt with the defense establishment while Jones worked Capitol Hill. Their Washington law firm, Dickstein, Shapiro & Morin, was paid $111,000.

Stanton Anderson, whose law firm of Anderson, Hibey, Nauheim & Blair was paid $93,000 by Toshiba through February, also joined the team to generate support both from the administration and among American businesses. Anderson was credited with dictating to fellow lobbyists from his car phone the language that Congress eventually adopted that has allowed Toshiba to keep the bulk of its government business, sources said.

Another law firm, Kelly, Drye & Warren, was paid $57,000 by a Toshiba subsidiary, Tokyo Electric Co. Ltd.

Also part of the lobbying effort were former Maryland congressman Michael Barnes and Burton Wides, both of the Washington law firm of Arent Fox Kinter Plotkin & Kahn, and Worldwide Information Resources Ltd., a Washington PR firm run by Richard J. Whalen, a longtime adviser to President Reagan. They represented Toshiba America and never registered with the Justice Department. Officials of both organizations declined to disclose their fees.

This story is significant, not only because of the Toshiba sanctions and what the lobbyists were able to do in favor of the Japanese—but because it is one stage of an economic war that we cannot afford to lose.

One method they use is to refuse to sell parts to American companies so they cannot manufacture their products. To be correct, I should say a voluntary restraint agreement by the Japanese was in effect.

This story is about a firm in the Honorable JAY RHODES' district in Scottsdale, AZ. Congressman RHODES has done a great deal to help this firm.

I first met Terry Dunlap, the young CEO of Go-Video and Eric Schedler, its president as a result of reading from "The Japanese Conspiracy."

They contacted its author Marvin Wolf to discuss what had happened to Go-Video—they then called me.

I want to congratulate them for waging this battle to build their VCR.

This small company, Go-Video is not afraid to battle the large trading companies in Japan and some of our own organizations in the United States.

The company, Go-Video, Inc., has developed a revolutionary dual deck videocassette recorder which would help the United States to regain some of the original VCR market which was lost to Japan.

Their story is incredible to me. I am always surprised when big companies band together to keep a small firm from doing business.

Some of the large trading companies in Japan with encouragement from American organizations, refused to sell parts to Go-Video to make the VCR.

Go-Video retaliated with an antitrust suit. The opposition from American organizations has ceased—but the Japanese have persisted. Go-Video is now taking depositions from executive officers of Japaneese and Korean VCR manufacturers on their role in this affair.

The dual cassette is a powerful tool for the United States. It allows the viewer of a film to participate and guide the information presented.

This interactive video is an excellent teaching and training medium. It will, some say, have the impact on society that the printing press had.

The Go-Video VCR along with HDTV, is important for the United States in its race to be competitive in electronics with other countries.

Another way the Japanese operate is in taking over American firms.

A good friend of mine, who has an electronics firm in California told me an interesting story of why the Japanese wanted his company.

To protect the companies involved and for discussion purposes I will call the American firm the Future Corp., and the Japanese company the Big Boy Co.

My friend in California had done business with these people for a number of years and finally found he was on the outside in his own firm, when the Japanese orchestrated a takeover of his firm.

You might say, "That's good old American tactics"—but in this case the goal was different.

The American Future Corp. controlled a number of patents that would be helpful to the Japanese company. With some encouragement from the Japanese Government the Japanese Big Boy Co. moved in on the Future Corp., and they did so to establish three goals:

First, to secure control of the patents protecting a superior electronics product. In doing this, they gained the "next generation" technology to secure Japan's technological superiority over western nations.

Second, the Big Boy Co. need to capture an American brand name to give the appearance of being an American-held company.

Third, Japanese electronics companies are urged to gain control of any investment in the United States so these investments can be expanded as rapidly as possible.

They do this to gain greater market control for Japanese manufacturers.

The Americans losing this company gave the Japanese dominance in the semiconductor business and put them years ahead of American companies in electronics.

Another stage of the takeovers is to get control of the fruits of American technology in the patent area.

The Wall Street Journal of October 13 carried an important article by Stephen Yoder on a battle being conducted by a small American firm, Fusion Systems Corp. of Rockville, MD, against a large Japanese company, Mitsubishi Electric Corp.

This is not the first time I have read about this company, but each time I do it disturbs me.

The story "U.S. Firm Takes on Japan Patent Issues—Fusion-Mitsubishi Dispute Reflects National Views on Intellectual Property."

[From the Wall Street Journal, Oct. 13, 1988]

U.S. Firm Takes on Japan Patent Issue—Fusion-Mitsubishi Dispute Reflects National Views on Intellectual Property

(By Stephen Kreider Yoder)

Tokyo—A Japanese giant is playing hardball with a feisty little U.S. company that accuses it of stealing technology. And the fight says a lot about Western intellectual-property disputes with Japan.

Earlier this year, Fusion Systems Corp. of Rockville, Md., made waves by publicly accusing Mitsubishi Electric Corp. of copying a sophisticated Fusion microwave lamp. Fusion charged that Mitsubishi then applied for hundreds of "knock-off" patents that threaten the U.S. company's use of its own technology in Japan.

Now Fusion says Mitsubishi is dragging its feet on resolving the four-year patent dispute. When Fusion President Donald Spero visited Tokyo last week, Mitsubishi executives refused to meet with him. Says Mr. Spero: "It seems obvious they have no intention of reaching a settlement."

Mitsubishi says Fusion is trying to extort concessions by cozying up to the American government and the media. Fusion's claims are "groundless," the Japanese company charges, adding that Fusion is actually infringing on Mitsubishi patents. Each claims the other isn't negotiating in good faith. "It's become á mudslinging match," admits Mitsubishi lawyer Masakatsu Odagiri.

Outsiders familiar with the case agree about the mud, but say it isn't clear who has the stronger case. Whatever the merits of Fusion's claims, the stalement has become a critical test of how the U.S. and Japan work out differences over intellectual-property rights. Fusion testified about its patent difficulties before a congressional committee last June and U.S. trade negotiators often bring up the case in talks with Japan.

The real problem is that Japanese and American companies diverge radically in how they use patents. That difference could spark even fiercer battles to come. "It's inevitable that intellectual property rights will become the focus of U.S.-Japan trade conflict," says a Japanese Foreign Ministry official.

The enormous difficulty of reconciling two cultures' views of rights to arcane new technologies has spurred some companies to abandon the court system altogether. International Business Machines Corp. and Fujitsu Ltd. turned to a private arbitrator to settle one of the most complex high-tech disputes ever, over software copyrights. Another long-running intellectual property battle, between Japan's NEC Corp. and Silicon Valley chip maker Intel Corp., is proceeding so sluggishly through U.S. courts that some lawyers argue the case needs an outside arbitrator.

U.S.-Japan patent clashes often stem from how the nations innovate. American technological prowess often lies in small companies such as Fusion that focus on narrow niche markets; Japan's technological might rests in mammoth conglomerates like Mitsubishi that want to do everything and have the deep pockets to do it.

These mammoths have long practiced what is called "patent flooding." The practice is perfectly legal. But U.S. industry officials complain that it can work against a small company in this way: U.S. Company A introduces a widget and applies for several broad patents in Japan. Japanese Company B creates its own version of the widget and applies for hundreds of Japanese patents that make slight changes in Company A's original patents. Thus, almost any improvement A wants to make on its original technology risks violating B's patents. Company B then asks for cross licensing, a contractual agreement in which A and B would freely use each other's patents.

Fusion claims its battle with Mitsubishi fits the pattern. In 1977 a Mitsubishi research lab brought one of Fusion's "electrodeless microwave lamps," used as high-quality light sources in printing, graphic arts and semiconductor production. Two years later, Mitsubishi began inundating the patent office with applications related to its own microwave lamps.

If Fusion can't quash Mitsubishi's patents or reach a licensing settlement, "Fusion will be in the position someday of infringing on its own technology," says Peter Miller, Fusion's representative in Japan.

Patent flooding and cross-licensing work well for Japanese companies, which have cash hoards to fight each others' patent deluges and have thousands of patents to swap. But small U.S. companies are dwarfed by the strategy and often can't afford to fight back. Fusion has about 20 Japanese patents; Mitsubishi has filed for more than 200 Japanese patents related to the microwave-lamp technology that Fusion accuses it of stealing.

Patent flooding isn't a common ploy in America, because U.S. application laws make the cost prohibitive, one New York patent attorney says. In Japan the process is relatively inexpensive. Moreover, U.S. examiners generally award patents only for significant advances or differences in technology, while in Japan they are issued for products that differ only slightly from those covered by other patents.

Fusion estimates it would cost as much as $50,000 to contest each patent, a stiff price for any small company: Fusion is safe for now because Mitsubishi doesn't export the product and Fusion dominates the Japanese market, selling about $6 million of the lamps in Japan to Mitsubishi's $2 million. But, Mr. Spero says, it could take Fusion 20 years and $10 million dollars to block Mitsubishi's "unfair" patents. "By that time, they've eaten us alive."

And the outlook for a settlement isn't good. Mitsubishi is furious about losing face early this year when Fusion took "its beef to the press," Mr. Spero "is using the press, TV, the Congress, the government, U.S. trade representative," says Shinichi Yufu, Mitsubishi's executive vice president. "That is unfair."

Another Japanese company used the press, TV, the Congress, the government and U.S. Trade Representative. It's name is Toshiba. Now that the shoe is on the other foot. They don't like it.

Mitsubishi says it independently came up with the technologies in its lamp and that the Mitsubishi products that Fusion claims are copies work in a fundamentally different way from Fusion's. Mitsubishi points out that Fusion's original patented lamps, for example, were tube-like while Mitsubishi's are spherical bulbs.

Fusion retorts that Mitsubishi is making minute "artificial distinctions." Fusion demanded a license for Mitsubishi's patents in 1985 and the two have been negotiating ever since. Talks have broken down many times, most recently in June Mitsubishi offered to license its patents to Fusion if the U.S. company promised never to mention Mitsubishi's name in public and never to sell more than 10% of its shares to Japanese companies.

Fusion's Mr. Miller, who does the negotiating here, even pleaded with Mitsubishi to have a heart. Fusion is a small company, he argued, and the lamp technology represents its entire product line. The response, he says: "Mitsubishi said 'We're a small, poor company, too.'" (Mitsubishi's sales last year were $18.9 billion; Fusion's were $25 million.)

That is an arrogant attitude. Mitsubishi is hardly a small, poor company.

Fusion formally opposed three key Mitsubishi patents. The patent office initially ruled in Fusion's favor, then reversed its ruling. Fusion has appealed the ruling. Mitsubishi says the patent office's ruling proves there wasn't an infringement. Mitsubishi is willing to sell Fusion a license to its patents, says Mr. Odagiri: "But unless they change their view that Mitsubishi stole technology, it'll be very difficult to reach an agreement."

In fact, Mr. Odagiri says, Fusion is trying to sully Mitsubishi's image by falsely accusing it of copying. If the bullying-and-lobbying tactics continue, he says, Mitsubishi will sue Fusion for infringement of at least one Mitsubishi patent in the U.S. and Japan.

This story disturbs me because small companies are hopefully nurtured in America. They are part of our American dream.

How many small companies start in garages when young and older Americans dream of making a better mousetrap.

The American expression is, "Make a better mousetrap and the world will beat a path to your door."

Our giant companies and not so large are spawned out of these small companies started in garages, small shops, basements and homes—such as Apple Computer, Gold Seal Glass Wax and Snowy Bleach.

Glass Wax started in a garage. When it was first marketed a number of years ago the developer of Glass Wax went around Bismarck, ND, asking to do housewives' windows with his wax until it caught on.

That product has long since become a household standard along with his Snowy Bleach.

Stephen Jobs just introduced a new computer recently, but he founded Apple Computer when he was just 21.

I bring these up because discussions the United States has been having with Japan and the European Community pertaining to International Patent Law harmonization are very important for small companies—as well as our large firms. The discussions are called the Trilateral Conferences.

According to an article in the September issue of the Japan Economic Survey the Trilateral Conferences began in 1983 and in 1985 apparently became more productive.

Taking part in the conference were the United States Patent and Trademark Office, the European Patent Office, and the Japanese Patent Office. The United States Patent Office took the lead in developing a harmonization proposal.

It includes such "important matters as first-to-file, no deferred examination, international grace period, patent terms, patentable subject matter, no preissue oppositions and very restricted or no compulsory license."

"These and other topics of importance are being considered only as a package to avoid adoption of individual principles that promote one country's concerns over another's."

What is taking place in these discussions is very important to companies like Fusion Systems Corp.—to all American firms who are the subject of patent flooding.

As a result of these talks, our American representatives are considering "recommending to the bar and to Congress that the United States 150-year-old practice of granting a patent to the first inventor be dropped and replaced with a system in which the patent would be granted to the inventor who was first to file."

There would be some concessions in return—but it is doubtful how effective they would be if one party is determined to play by another set of rules and ignore agreements.

The article is as follows:

INTERNATIONAL PATENT LAW HARMONIZATION

The United States, Japan and the European Community are engaged in two on-going sets of multilateral negotiations to reduce the differences among the patent systems of all countries—the Trilateral Conferences, and the discussions sponsored by the World Intellectual Property Organization (WIPO). The following provides a brief history and description of these efforts:

Trilateral Conferences.—In 1938 the U.S. Patent and Trademark Office (USPTO), European Patent Office (EPO) and Japanese Patent Office (JPO) undertook to cooperate in the automation of their respective offices. A memorandum of understanding called for cooperation in the introduction of automation for document classification and indexing and in the dissemination of patent information. The three offices also agreed to exchange documents, microfilm, search results, electronic data and specialists. The original scope of those discussions has resulted in the adoption of a number of common approaches for the capture, exchange and use of automated patent information.

In July 1985 at the Trilateral Technical Meeting in Washington, the USPTO, JPO and EPO embarked on a new course of cooperation. The three offices agreed to study and consider the possibilities for harmonization in the area of patent protection and procedures. Comparative analyses of three topics were discussed: inventive step, the patentability of computer-related inventions, and patent protection for inventions in the field of biotechnology. Other topics were subsequently added: unity of invention, disclosure requirements, and administrative practices and procedures.

The USPTO took the lead in proposing that all of these topics be combined into one comprehensive harmonization proposal. This proposal includes such important matters as first-to-file, no deferred examination, international grace period, patent terms, patentable subject matter, no pre-issue oppositions and very restricted or no compulsory license.

These and other topics of importance are being considered only as a package to avoid adoption of individual principles that promote one countries's concerns over another's. The next meeting of the Trilateral Technical Committee is scheduled for October.

World Intellectual Property Organization Discussions.—WIPO convened a number of meetings beginning in 1984 to consider international harmonization of patent laws. Its Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions is considering a number of proposals, including: establishment of an internationally accepted grace period; extending process patents to resulting products; patent term; subject matter coverage of patents; claim interpretation and scope; and awarding a patent on the basis of first-to-file. WIPO will continue these discussions in December.

U.S. representatives in both sets of discussions have stated that as part of a balanced package they would consider recommending to the bar and to Congress that the United States's 150-year old practice of granting a patent to the first inventor be dropped and replaced with a system in which the patent would be granted to the inventor who was first to file.

As a condition for changing to the "first-to-file" system, Washington has indicated that it would expect other participants to make significant changes in their laws. Those changes might include: provisions for an international grace period; an adequate term of patent protection (such as 20 years from filing), and the availability of product and process patents for all fields of technology, to name a few.

Both the Toshiba story and the Patent infringement of Fusion System Corp. are important for us—as Americans to understand. Regardless of our agreements with the Japanese—they ignored the rules and played the way they wanted.

There is a penalty when you do not observe the rules—or there should be.

I like what Bob Galvan, CEO of Motorola said recently at a congressional luncheon.

He said, "As policy, we should make a statement—and he has the legislation drawn up—that in negotiations American businessmen be Pro-American."

Judging from these stories—that policy statement is long overdue.

The game plan is constantly being revealed to us—it is up to us to prevail in this economic battle—the choice is ours.

□ 1945

THE ALTERNATIVE MOTOR FUELS ACT: A FIVE-STAR LAW FOR AMERICA'S FUTURE

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, one hard lesson I have learned during my years in Congress is that when the powers that be are against you, it's difficult to change things in Washington.

There is no better example of this plain truth than the dedicated efforts of those of us who have been concerned about a solution to America's energy problem.

I have worked for 15 years to promote the use of fuel alternatives such as ethanol produced from America's farms and methanol produced from American coal and natural gas. During most of that time, the response in Washington has been one of drift and indirection, punctuated by brief periods of halfhearted acceptance on the one hand and outright hostility on the other.

Finally, the Nation can celebrate the first concrete step toward establishment of a national alternative fuels policy.

On Friday, October 14, the Alternative Motor Fuels Act of 1988 became law.

Since the Alternative Motor Fuels Act may be the most important action of the 100th Congress, it is not less than a five-star law. It provides long-range potential solutions to five persisting long-term problems.

The five stars are for:

Economic stimulus. Replacing gasoline with ethanol and methanol offers the potential of revitalizing America in regions where the farm, coal, and gas economies are depressed. Opening up a 100-billion-gallon motor fuels market is a golden opportunity for American farmers, miners, and gas producers.

Air quality. Ethanol-blended gasoline produces substantially lower emissions of carbon monoxide, and the use of neat alcohol fuels, such as methanol and ethanol, reduces emissions of the chemicals that form smog.

Addressing the dangers of global warming known as the greenhouse effect. Over the past century, the burning of fossil fuels such as petroleum has led to sharp increases in atmospheric carbon dioxide levels. Carbon dioxide is foremost among the greenhouse gases that trap Earth's heat in the lower atmosphere.

Ethanol from grain can help solve that problem, because energy crops, like all other plants, absorb carbon dioxide.

The greenhouse effect is directly addressed by the use of ethanol as an alternative motor fuel and the planting of more trees.

This environmental solution encourages productivity, rather than reducing economic growth and prosperity.

Reducing the budget and trade deficits. Last year, the Congressional Research Service estimated that if the Nation already had a fuel ethanol program large enough to displace 7.5 percent of national gasoline consumption, outlays on farm programs would be $12.5 billion lower, as farmers would receive more of their income from the market instead of the Government.

Similarly, the economic boost of methanol production can put people back to work in mining and gas-producing areas, thereby reducing Government spending on income support and increasing tax revenues.

Applying that same 7.5-percent displacement to the oil import figures for August of this year, we see that had an alternative fuels program been in place oil imports would have been 1.25 million barrels a day less than they were, and at $13 a barrel the trade deficit would have been reduced at an annual rate of $5.9 billion.

The Office of Technology Assessment and the Department of Energy have both concluded that imported oil will account for more than 50 percent of U.S. oil consumption in the 1990's. At $18 a barrel oil, that would take between $50 and $60 billion a year out of the American economy and hand it to OPEC's oil barons.

Energy security. In order to maintain the American standard of living, it is imperative that America find alternatives to imported oil.

A profoundly frightening study recently undertaken by the Ensearch Corp. on behalf of the National Energy Security Committee and the Texas Independent Producers & Royalty Owners Assiciation estimates that in a 3-year conventional world war, America's oil supply would fall short of requirements by 2.7 million barrels per day.

Under such a scenario, the President would face the grim choice of bringing the domestic economy to a complete standstill or mounting an inadequate conventional defense that would increase the pressure on the United States to make first use of nuclear weapons.

How does the Alternative Motor Fuels Act address these questions?

The new law contains $18 million worth of demonstration projects and a revision of the corporate average fuel economy standards to provide for fairer treatment of so-called "neat" alcohol fuels, which contain 85 percent alcohol and 15 percent gasoline.

But, most importantly, the act marks the first official recognition by the U.S. Government that a national alternative fuels policy encouraging the development of alcohol fuels is an essential priority. The act establishes an interagency commission and the advisory U.S. Alternative Fuels Council, which are charged with developing a national policy by 1992.

It is important to realize that no one will get rich overnight because of the legislation. The large-scale replacement of gasoline by alcohol is probably 25 years away.

However, a national alternative fuels policy is now promised and on the way.

To take advantage of the opportunities presented by the Alternative Motor Fuels Act, the ethanol and methanol industries and the agricultural, coal, and gas industries which provide their feedstocks must cross the hurdles of consumer acceptance and technological innovation.

America will never wean itself from its dangerous addiction to petroleum without the enthusiastic participation of consumers.

I am convinced consumers want three things from a motor fuel: They want a fuel that will make their engines run more efficiently and with more pep; they want a fuel that will not take a bigger bite out of their wallets when they pull up to the pump; and they want a fuel that will not harm their health by polluting the air.

Convincing people that alcohol fuels—either blended with gasoline or as the "neat" fuels of the future—are as good as gasoline is not enough. They must be convinced that alcohol fuels are superior to gasoline.

The alcohol fuels industry must also aggressively pursue technological innovations that will allow the neat fuels of the future to meet the consumer's demands.

Many of these innovations will have to come from Detroit. America's automakers have already developed the technology necessary for flexible fuel cars and cars that run on neat alcohols. Indeed, Brazilian subsidiaries of American automakers have manufactured and sold millions of alcohol-fueled cars in Brazil, which has had a national alcohol fuels program for more than a decade.

However, the automakers will have to ensure that alcohol-fueled vehicles run as well as, and are price competitive with, automobiles currently on the market.

Diversification of feedstocks is also imperative, and basic research in this area has been underway for a number of years.

With respect to ethanol, the Biomass Research Center at the University of Arkansas is among the Nation's leaders in this research.

Scientists at the center have developed an enzymatic cellulose-to-ethanol process for distilling fuel-quality ethanol from municipal waste and agricultural byproducts such as rice straw.

In the field of methanol research, more must be done to make methanol from coal competitive with methanol from natural gas. Coal-to-methanol processes such as that used by the Tennessee Eastman Corp.'s plant at Kingsport, TN, merit further study and expansion.

This and other research into alternative sources of ethanol and methanol should be expanded so that production of alcohol fuels from new feedstocks can be developed and commercialized.

Over the next few years, the Government must complete a national alternative fuels policy, consumers must enthusiastically accept the idea of driving on alcohol, and the automotive and alcohol fuel industries must advance their technology. I am confident all of these things will come to pass. The outlook for the fuels of America's future is brighter than ever before.

PRECEDENCE OF SPECIAL ORDERS

Mr. HORTON. Mr. Speaker, I ask unanimous consent that my special order precede that of the gentleman from Texas [Mr. GONZALEZ].

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New York?

There was no objection.

TRIBUTE TO THE HONORABLE GEORGE WORTLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HORTON] is recognized for 60 minutes.

Mr. HORTON. Mr. Speaker, I rise today to speak for a few moments about the retirement of Representative GEORGE WORTLEY who has served the constituents of the 27th District of New York with distinction for the last 8 years.

GEORGE came to this body after a very successful career as a publisher and editor of several small newspapers in upstate New York. His years in the print media provided him with a good idea of how to be effective here in the House of Reprsentatives. While not one to grab for the headlines, GEORGE has spent his four terms here in Washington working behind the scenes to engineer some legislative successes.

Through his work on the Committee on Banking, Finance and Urban Af-

fairs, GEORGE has played an instrumental role in shaping recent legislation dealing with savings and loan institutions. As we look forward to the 101st Congress, we will miss GEORGE's background in this very important area.

Mr. Speaker, GEORGE WORTLEY leaves this body after a brief, but effective career. But as he resumes his life as a member of the fourth estate, I am sure we have not heard the last of him. As dean of the New York Republican delegation, I want to thank GEORGE for his years of service and wish him and his lovely wife Barbara luck in the years to come.

Mr. REGULA. Mr. Speaker, I want to take this opportunity to bid farewell to our colleague GEORGE WORTLEY. GEORGE has served his district and his party ably during his 8 years in the House.

GEORGE has been a loyal soldier to the Reagan administration and has been a strong advocate for the administration's policies in Central America. He has not been afraid to advocate a position that may not be popular in his district if he believes it is in the best interests of the Nation.

His dedication and loyalty to policies that are good for America will be missed. I wish GEORGE and his family continued success and happiness as he leaves Congress.

Mr. CONTE. Mr. Speaker, I want to thank my good friend and colleague FRANK HORTON for calling this special order of the Congress to commemorate a man who has given himself to New York's 27th District, to the Nation and to all of us here in the U.S. House of Representatives. GEORGE WORTLEY is one of this Chamber's most effective, loyal, and likeable members. When he leaves at the end of the historic 100th Congress, he'll leave an irreplaceable void.

Behind GEORGE WORTLEY's enthusiasm, energy, and youthfulness, is a man of great wisdom, experience, and knowledge. GEORGE has dedicated his life to public service. Whether serving as a newspaperman, business leader, or elected official, GEORGE has made a commitment to his community—a commitment and responsibility that he never lost sight of. He has always tackled the issues of his community head on.

In the Congress, GEORGE WORTLEY has also held a serious commitment to the taxpayers of this country. He has been a tenacious opponent of wasteful spending, earning three "Golden Bulldog Awards" from the Watchdogs of the Treasury. Like a bulldog, GEORGE doesn't let go when he's got his teeth on a wasteful program. He has embraced his responsibility to the taxpayers with vigor.

He takes his responsibility to his friends no less seriously. GEORGE is a friend I can always count on—and he can count on me. GEORGE and his beautiful wife, Barbara, are perhaps two of the most kind and capable people I have ever encountered.

When GEORGE arrived in Washington in 1981, he came with his mind and his heart open. GEORGE didn't come to the Congress as a freshman Member with the intention of enlightening his colleagues. There's no doubt that he arrived with an agenda. But he also came to listen and to learn. That's the sign of a true statesman.

GEORGE has put the interests of the Nation and his constituents above and beyond any personal ambition that he may have. He's determined to do the best job he can and that attitude and commitment will never die.

The people of Syracuse are fortunate to have GEORGE WORTLEY working for them. And those of here in the Congress are fortunate to have GEORGE WORTLEY working with us.

Mr. Speaker, it's tough to lose so many friends as the 100th Congress comes to a close. But it's also reassuring in many ways because it gives me a chance to reflect on all of the fine people who have served in this body and worked hard to achieve excellence for the Nation. Mr. Speaker, we're in good hands.

I'm going to miss GEORGE and I wanted to take this opportunity to say congratulations on a solid career here in the House. He's a good, good man.

Mr. RINALDO. Mr. Speaker, I am pleased to join my colleagues in saying farewell to my good friend, GEORGE WORTLEY. GEORGE has served in the House with distinction for 8 years, and will be sorely missed.

As my colleague on the Aging Committee, I have been impressed with his wisdom, his leadership, and his concern for the Nation's elderly. The seniors are losing a good friend as he leaves the House for private life.

GEORGE may not be in the House anymore, but he'll never be more than a phone call away. I intend to heed the message of AT&T and reach out and call him for advice and counsel during the next years.

Mr. HOUGHTON. Mr. Speaker, if I may, I would like to say a word about a special person. This special person is GEORGE WORTLEY. GEORGE WORTLEY is leaving the House as an upstate New York Congressman—having served the 27th District since 1980.

Nobody that serves here leaves without having had his or her impact on legislation. So it is with GEORGE WORTLEY. Through the years he has been a staunch ally of the President, supporting and initiating legislation ranging from home equity insurance to protection for savings and loan associations, an area we now know is highly sensitive.

What Congressman WORTLEY has touched he has done so with a decent, caring, balanced hand. And I suppose that is what we will all miss most. There are brilliant orators, highly creative legislative craftsmen in this body. But the glue that holds them together is represented by sound judgment, and decency, and fairness.

These are attributes Congressman WORTLEY has shared with us here. We are the better for them. We will miss them. We will miss you, GEORGE. Godspeed, old friend.

Mr. MANTON. Mr. Speaker, I am pleased to join with my colleagues in this special order paying tribute to our colleague from Syracuse, GEORGE WORTLEY, who is retiring after 8 years of service in the House.

I have the privilege of serving with GEORGE on the Banking and Urban Affairs Committee, and on the Subcommittee on Housing and Community Development. GEORGE is an outstanding and articulate member of the Banking Committee. As an advocate for the reform of our Nation's financial services industry, GEORGE has fought for legislation to expand the array of services that banks may offer to their customers. GEORGE has also supported other measures to protect the consumer, including legislation requiring the disclosure of credit card interest rates. In fact, GEORGE was the minority floor manager for the conference report on the Credit and Charge Card Disclosure Act, which was passed by the House today.

As a member of the Housing Subcommittee, GEORGE has been a strong defender of the section 202 housing program for the elderly and handicapped. GEORGE played an important role in defeating the administration's attempt to kill this effective and important housing program.

Mr. Speaker, GEORGE WORTLEY has served his constituents with honor and dignity. He has been an effective and active voice for the people of New York's 27th Congressional District, and he will be sorely missed. I know my colleagues join with me in wishing GEORGE all the best as he leaves this body after 8 years of distinguished service.

Mr. WOLF. Mr. Speaker, I join with my colleagues today to salute the gentleman from New York, GEORGE WORTLEY, who is retiring at the end of the 100th Congress after serving the 27th District of New York since his election in 1980.

I salute GEORGE WORTLEY for his work on the Banking, Finance and Urban Affairs Committee and especially his diligence on the Housing Subcommittee in shaping effective and responsible legislation to meet the housing needs of our Nation.

GEORGE WORTLEY and I came to the House together 8 years ago and our freshman class worked together during those first months in office at the start of the Reagan administration in support of programs to turn the Nation's economy around and get the country moving again.

We've also served together on the Select Committee on Children, Youth and Families and it has been a pleasure working with GEORGE over the years.

Always true to his conservative principles, GEORGE WORTLEY has been an able representative of the people of New York's 27th District. As he returns to the Syracuse area to continue his newspaper publishing business, I wish him good health and happiness in the coming years.

Mr. SHUMWAY. Mr. Speaker, I am delighted to have this opportunity to pay tribute to our friend and colleague, GEORGE WORTLEY, and to wish him all the best as he prepares to retire from the House.

Obviously, we will all miss GEORGE for his legislative abilities and his dedicated public service, but I will miss something rather more personal about him. As perhaps befits a newsman, he is a premier storyteller. I first became acquainted with this wonderful quality of his when the two of us made up the minority-half of a four-man congressional team visiting Nicaragua. The climate was oppressively sultry; there was gunfire all around us, and conditions were anything but light-hearted. But GEORGE kept us all laughing with his magnificent ability to tell a story, mimic a dialect, caricature a friend. He embodies the very best qualities of human nature when confronted with adversity or tension. He taught us all not to take ourselves too seriously.

I have never had the opportunity to read a GEORGE WORTLEY editorial, but if I were a betting man, I'd bet they were worthy of framing. GEORGE, I will miss your presence on the floor, your friendship, and your great wit. It has been a pleasure to serve with you in the House of Representatives, and I wish you nothing but the best in your continued endeavors.

Mr. DAUB. Mr. Speaker, I commend the gentleman from New York for reserving this time to pay tribute to our colleague and friend GEORGE WORTLEY.

Excellence has been the hallmark of GEORGE's public sector career. His legislative work on the Banking, Finance and Urban Affairs Committee is highly respected, and he has served as a dedicated advocate of older Americans from his position on the Select Committee on Aging.

GEORGE's constituents in the Syracuse region have been well-served by his determined support of their concerns and interests. He has been outspoken and extremely effective in their behalf.

GEORGE and I were elected in the same year, 1980, and we'll both be completing our congressional terms this year. We share conservative ideals, and we are brother members of Kappa Sigma fraternity.

But most importantly, we enjoy an excellent friendship that I know will endure beyond our congressional day together. I appreciate this opportunity to wish GEORGE all the best in his future endeavors.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in the House of Representatives in paying tribute to Hon. GEORGE C. WORTLEY, who is leaving the Congress after 8 years of dedicated service to his constituents in the 27th Congressional District of New York.

I have had the pleasure of serving with GEORGE on the House Banking, Finance and Urban Affairs Committee, during the four terms he has served in the House of Representatives, and his dedication to high standards is an inspiration to his friends and fellow citizens. His record of excellence and creative accomplishment, as a citizen, as a public servant, and as a Member of Congress, is most worthy of recognition.

Elected to the 97th Congress in 1980, GEORGE WORTLEY has served with distinction as a Member of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, the Subcommittee on Housing and Community Development, and the Subcommittee on Economic Stabilization of the House Banking, Finance and Urban Affairs Committee. Also, he has compiled an outstanding record of achievement as a member of the Select Committee on Children, Youth and Families, the Subcommittee on Health and Long-Term Care, and the Subcommittee on Housing and Consumer Interests of the House Select Committee on Aging.

Congressman WORTLEY is a fine legislator, who will surely be missed by all of us in the House of Representatives who have had the pleasure of working with him and knowing him.

I extend to GEORGE WORTLEY my best wishes for continued success in all of his future endeavors in devotion to the highest principles.

Mr. LENT. Mr. Speaker, I welcome this opportunity to join with my colleagues in paying tribute to a respected Member of Congress and a very dear friend, GEORGE WORTLEY. GEORGE will be retiring after a distinguished career in Congress representing the 27th District of New York.

During his 8 years as a Member of the House of Representatives, GEORGE has made invaluable contributions to the betterment of this Nation. He was fiercely loyal to the people of the 27th District which he represented and dedicated to ensuring that their concerns were addressed in Congress. GEORGE was noted for his responsive and personal constituent service—he was truly a superb public servant.

As a member of the Committee on Banking, Finance and Urban Affairs, GEORGE WORTLEY's effective leadership on issues relating to business and industry will be sorely missed. He has played a great role in the economic recovery of the past 8 years and his diligence and fiscal responsibility earned him the coveted Golden Bulldog Award from Watchdogs of the Treasury.

GEORGE WORTLEY is a man of vision and integrity. It has been a great pleasure to have worked for these many years with GEORGE whose enthusiasm and commitment are exemplary. I wish GEORGE all the best in his well earned retirement and I hope that his future endeavors are as successful and enriching as his work in Congress has been.

Mr. HUTTO. Mr. Speaker, when GEORGE WORTLEY retires at the end of this historic 100th Congress, we will be missing one of our colleagues who, in my opinion, has served our Nation extremely well through his service in this body. GEORGE has been a Member of Congress for the last 8 years and although I have not served on any committees with him, I am pleased to count him as one of my good friends.

During the first few years of his service, I was privileged to go with him and a couple of our other colleagues on a weekend trip to Central America to observe that troubled area of our world. I developed a great deal of respect for GEORGE WORTLEY while on this trip. There is no question in my mind that he is a very patriotic individual, who greatly loves our Nation and is fully concerned about the encroachment of other forms of government which might threaten this hemisphere. In El Salvador, Nicaragua, Costa Rica, and Guatemala, he showed his extreme interest in events of that time through his intense questioning of those with whom we met. This was particularly true of Rafael Ramirez, who was a member of the ruling junta in Nicaragua at that time and who is now the Vice President of the Sandinista regime in Nicaragua. Mr. WORTLEY was not at all pleased with some of the responses of Mr. Ramirez, and GEORGE was quick to let Mr. Ramirez know that, and through their exchange, I believe, a strong message was sent to the Nicaraguan Government about our dislike of their activities.

I would like to take this opportunity to wish for GEORGE WORTLEY and his family much peace and happiness in his retirement years.

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to my distinguished colleague and friend, GEORGE WORTLEY. As you know, he will be retiring at the end of the 100th Congress.

GEORGE has always been dedicated to representing the views of his constituents and has served them and his country with dignity and honor. He has distinguished himself as a member of the Banking, Financing and Urban Affairs Committee where he has been actively involved in creating sound housing policies.

I am honored to have served with GEORGE during his 8 years in the House and I wish him and his family all the best in their future endeavors.

Mr. STRATTON. Mr. Speaker, one of the finest members of the New York State congressional delegation, GEORGE WORTLEY, is leaving Congress at the end of this term after a career of 8 years. I first met GEORGE WORTLEY, when I had the so-called submarine district. I knew GEORGE was the editor of a number of weekly, rural suburban papers which spread out over a sizable area in central New York State.

As a newspaper editor, GEORGE WORTLEY was well known and had the ears of his constituents to a remarkable extent. But GEORGE was not just an editor. He recognized that the district which he served had a number of features which would increasea the economy of the area and provide jobs for his constituents.

Congressman WORTLEY recognized that an earlier airport that was still intact at Syracuse could serve very effectively for National Guard and Reserve Air Force training. As a result, GEORGE got the Defense Department to provide a military capability which came to be recognized as "the Boys from Syracuse" and have provided an interceptor capability from the North.

In addition, the General Electric Co., had its electronics headquarters in Syracuse which had a capability for high-technology jobs, and GEORGE WORTLEY went to work to provide jobs in areas around Syracuse for the spinoff from GE.

We will miss GEORGE, but I feel sure that GEORGE will continue to provide the same effectiveness he was able to provide this area as a Congressman and an editor. We will be wishing him well.

GENERAL LEAVE

Mr. HORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TRIBUTE TO THE HONORABLE KENNETH J. GRAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. Gonzalez] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, tonight I rise in the company of some of our very distinguished and very much respected and loved colleagues to eulogize and at the same time express our regrets that the Honorable Kenneth J. Gray, Kenny, has decided to return and retire to his hometown in Illinois.

Kenny Gray is such a distinguished personality. I will identify him as I am sure every one of you has, I am sure, as the gentleman who during this 100th Congress has presided as Speaker pro tempore more often than any combination of us, and who has hour after tireless hour, as he did up until just a few minutes ago, presided over the hard work, usually what is considered the drudgery of legislative business and procedure. It is something that few Members who are busy, who have the pressures of representing their districts, and the manifold tasks that they must accomplish as Members of diverse committees and subcommittees and seldom have the time to preside. Kenny Gray has made that time. Unfortunately, I am sad to say he has decided to retire, even though I am sure he would have no problem being reelected.

I would like to interrupt my preliminary remarks in order to recognize some Members who wish to participate in this special order and who have pressing commitments which they have delayed in order to participate here alive and in person.

The first person I yield to is the distinguished gentlewoman from Maryland, who has preceded me, Mrs. Bentley.

Mrs. BENTLEY. I thank the gentleman for yielding.

Mr. Speaker, I also want to thank Mr. Gonzalez, the gentleman from Texas, for taking this time to pay tribute to our retiring colleague, Ken Gray.

Mr. Speaker, many of the people knowing our colleague Ken have spoken of his long dedicated service to the country and to his constituency. It has been my privilege to serve on one committee with Ken, but it also has certainly been my pleasure to serve in this House with him.

For his hundreds of fans on C-SPAN, who will miss him almost as much as we will, I want to assure them that he is as debonair off the air as he is on. That he is unfailingly a gentleman and always as charming in person as he is on the tube.

My invitation to speak for Ken came from our colleague, Congressman Henry B. Gonzalez, of Texas—who is most likely the greatest fan Ken has—and I, like Henry, will miss sharing the Special Order Dinner Theater with him.

He is a blythe spirit who has made the job of Speaker pro tem of the House seem as graceful—and expert—as an Olympic performance. And we all know, observing from this floor, that it is just about as difficult a feat.

Every time I meet Ken, he leaves me with a smile or a grin. I want to do the same this evening for him—but, it will be difficult. We will miss Ken Gray too much!

I thank the gentleman from Texas for taking this time and for yielding to me at this point.

Mr. GONZALEZ. I thank the gentlewoman from Maryland.

Mr. Speaker, we have present with us also some very much respected, very much loved, in fact, by their colleagues in the House some of the Members who wish to express their thoughts and high regard for Ken Gray.

I yield to the distinguished gentleman from Illinois, Mr. Charles A. Hayes.

Mr. HAYES of Illinois. Mr. Speaker, I too want to commend the gentleman in the well, the gentleman from Texas [Mr. Gonzalez] for setting aside time for this special order.

Mr. Speaker, the conclusion of the 100th Congress will bring to an end the noteworthy 13-term House career of our colleague, and my good friend, Ken Gray of Illinois. Without a doubt, Kenny's departure will leave a void in the House and in the Illinois delegation that will be very hard to fill. I personally will be sad to see such a devoted colleague depart.

Ken's reputation in the House and more particularly, in his district, is one that any Member would be proud to have. His hard work and dedication to serving his constituents, has won respect for him even from his critics. While many Members claim to devote their lives to helping people, as anyone associated with this Chamber can attest, Ken Gray has fulfilled that promise.

Ken's work on behalf of southern Illinois residents has brought us together on a number of issues which have benefited untold numbers of people in our State. By pressing for clean coal technology programs, supporting a strong farm bill, or bringing badly needed public works projects to his district, Ken Gray has championed causes which have had a direct and immediate effect on his constituents.

I would be remiss if I didn't mention the fact that Kenny represents an area that is close to my heart, my birthplace, Cairo, IL. Many of you may not know it but that area is one in which not too long ago, most minorities did not experience first-class citizenship. Ken Gray helped change that reality with his effective representation of the 22d District in Congress. This he accomplished in spite of running in a stronghold of Republican membership. He has truly been a guiding force in helping to set a progressive agenda for those who previously had no voice in their future.

Kenny Gray will be leaving us as an official Member of Congress, but I know that he will not be leaving public life. It has been a pleasure and an honor for me to serve with him in the short time I have been a Member of Congress. We will miss his presence in the House, especially as he tells Members that "the Member has expired", during his many times as Speaker pro tem. I am confident we will continue to hear of Ken Gray in the years ahead. I wish Kenny and his family all the best.

Mr. GONZALEZ. At this point I wish to yield to a senior Member. Since I had a good idea that the gentleman from Illinois [Mr. Hayes] had a time problem, I yielded to him, but actually in seniority we have a very distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California, Mr. Anderson. I might say for the Record that since I am charged with knowledge, I think the Record ought to reflect the tremendous and illustrious background of the gentleman from California [Mr. Anderson].

Back in 1958, and I hope I do not embarrass him by going back that far—I know he still considers himself a very young, boyish, energetic individual—I happened to have been in the Texas State Senate and was called upon to go to California in behalf of my fellow Democrats in 1958.

I met Mr. Anderson who was then running for Lieutenant Governor—and he won.

Well, I know that is a very powerful office.

It goes that far back. Now who was to dream at that time that fate and destiny would decree that we would be here as Members of the U.S. House of Representatives?

Without any further ado, it is a real privilege to yield to the gentleman from California [Mr. Anderson] at this point.

Mr. ANDERSON. Mr. Speaker, I want to join with my colleagues today in paying tribute to my good friend and colleague on the Committee on Public Works and Transportation, Ken Gray.

Ken is a man with many friends in this body and I am glad to number myself among them. Ken was a senior member of the Public Works Committee when I first came to Congress in 1969. He was already a subcommittee chairman. For the last 4 years, since he returned, he has been a junior member.

Regardless of his relative position, Ken has always been among the most helpful and cooperative Members. He knows the legislation and he knows the process. He has used that process over three decades to help the people of his southern Illinois district and he has been successful at doing that.

We are all elected to help the people of our districts with their special needs and concerns. I believe KEN GRAY does as good a job of that as any Member that I know. His knowledge of the process and the many friends he has in Congress have been a great asset to the people of his district. I am sure he will be a difficult man to replace.

KEN has always been unique in Congress. I'm sure he's the only professional auctioneer we have in Congress and he's also an amateur, but experienced and polished, joke teller.

Jokes aside, KEN has always been there to help with the committee positions. He has always been willing to do his utmost to help the committee get its positions across and its bills passed. I appreciate that and the rest of the Members do as well.

Finally, I think it's important to say that KEN GRAY is a man whose word can be trusted. When he says he is with you on something, there is no doubt about it. There isn't any quibbling or hesitation. When KEN makes a commitment, he keeps it.

KEN, it has been a pleasure having you back in Congress these past 4 years. I have enjoyed working with you for this short time just as I did before you left us the first time. As chairman of the Public Works and Transportation Committee, I can tell you that your leaving will leave a big hole in our work.

As a friend and colleague, I'll tell you that you will be missed. I hope that you have good luck in whatever you choose to do during your second break from Congress and please, let us know if you miss the Rayburn Building and the Capitol and want to try for a third time in Congress. KEN, the best of luck in the future.

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Mr. GONZALEZ. Mr. Speaker, I thank the gentleman from California [Mr. ANDERSON].

At this point it is a privilege to recognize an Illinois Representative and one of our deputy whips on the majority side in order that he may express himself with respect to the gentleman from Illinois [Mr. GRAY] and I yield to the gentleman from Illinois [Mr. BRUCE].

Mr. BRUCE. Mr. Speaker, I thank the gentleman from Texas [Mr. GONZALEZ] for the opportunity to talk a little bit about a close friend, the gentleman from Illinois, KENNETH GRAY.

My colleagues know KENNETH is—or KENNY, as we would call him back in southern Illinois—unique in congressional history, and I think we should reflect on the fact that he is the Member who has served the longest, been gone the longest, and returned, in the history of the U.S. Congress. He served here from 1954 to 1974 with a great deal of distinction, was out of office for 10 years and returned in 1984, and that is unique in the history of the Members of Congress here to have served that long, to have been gone that long, and then being reelected.

Mr. Speaker, I remember the gentleman from Illinois [Mr. GRAY] as a 10-year-old boy in southern Illinois in 1954 when I first met him and first knew of his name as he went through the parts of southern Illinois reponding to problems and working with constituents. And I continued to know him through my young life, and then in 1970, at the age of 25, I was elected to the Illinois State Senate and had a chance to work with the gentleman from Illinois [Mr. GRAY] as a Federal Congressman, as an Illinois State senator.

I went to dedications with him, and I saw the kindness he extended to people throughout his district, the fact that he worked very well with the Democratic Party, the fact that he could work with Republicans in that district to make sure that southern Illinois grew and prospered.

It was particularly interesting for me personally to be joined back with him in 1984 when we both joined the freshman class of 1984 with him having started in 1954, and served to 1974, and then coming back in 1984 in my class, in the class of 1984, and to have him become a Member again of the U.S. Congress, and it was particularly satisfying to come back to Washington as a new Member of Congress and see the accomplishments of the gentleman from Illinois [Mr. GRAY], to drive by and see the dedications we saw 2 weeks ago at the Union Station where I realized he made sure that building was still there to be rededicated and to be reworked, to see the art exhibits in the Hirshhorn and the Mellon galleries, and to hear the fascination of young children who have come to my office who have just been to the Air and Space Museum which he helped build and dedicate, to go with my wife and children and enjoy his works at the John F. Kennedy Center for Performing Arts, to share in the knowledge of this Nation that is stored in the James Madison Library in this beautiful city, and to see kids come back from the FBI Building which the gentleman from Illinois [Mr. GRAY] helped build and dedicate, and hear them talk about what a nice building that is and how excited they are to see that machine gun go off, and then to return back and, not only to see his accomplishment in this Nation's Capital, but to return back to southern Illinois and see the Interstate Highway Systems that go through my district and many districts in the State of Illinois, to see the VA hospital, and the gentleman from Illinois [Mr. GRAY] and I share the VA hospitals in his district and one in my district, and to work with him on problems of the veterans and the problems they have in the hospitals, and to see the SIU, Southern Illinois University, campus and the clean coal technology program there, the Marion Federal Prison located in KENNY's district, to be at a dedication ceremony in the early part of my political career at Red Lake and dedicate a beautiful facility to be used not by conservationists, by boaters, skiers, fishermen, and coupled with the Lake of Egypt and the Crab Orchard Wildlife Refuge that is in his district, and to see what he has done for that.

Mr. Speaker, he has been a tremendous builder for this country. I would also want to tell my colleagues that after I say all these nice things about him I would want to say that the gentleman from Illinois [Mr. GRAY] made me give the two worst speeches in my life, and he ought to get credit for that, too.

Mr. Speaker, I was at a lovely meeting in Mount Vernon, IL, when the gentleman from Illinois [Mr. GRAY], and many of my colleagues know that KENNY GRAY was a helicopter pilot, and I was a young 25-year-old trying to get elected to the Illinois State Senate, and we were across the racetrack from a huge metaled-roof fairgrounds in Mount Vernon, IL, and all of a sudden coming out of the sky was this huge helicopter, whop, whop, whop, and it came down and landed, and out popped KENNY GRAY, and they said, "KEN GRAY has got to talk to you. He has to go to another meeting, TERRY. Would you mind just waiting until he spoke?"

So, I waited, and the gentleman from Illinois [Mr. GRAY] gave one of those stem winding, great speeches and then said, "Folks, I got to go to the next meeting. So long."

And behind this podium where I was speaking and looking into this lovely metaled-roof fairgrounds grandstand was the helicopter, and it was a jet helicopter, and so it starts winding up, and it takes 10 minutes, and they said, "TERRY, start talking," and this thing is going, "whir," and it is starting to wind up, and then the gentleman from Illinois [Mr. GRAY] kicks in the helicopter blades, it starts to whomp, whomp, whomp, and I am watching the people in the audience here, and all they can see as the red lights start to flash, and the helicopter blades start to turn, and the strobe lights start to flash, and this thing starts ascending right behind me, and every head in this grandstand is watching this huge thing go over. He must have done something to the helicopter blade right as it went across the roof of this thing because it rattled every metal card in that grandstand, and I could have said anything in the world, and it would not have made any difference because KEN GRAY was flying off in a helicopter, and every eye watched that thing leave.

The second time, as the gentleman from Illinois [Mr. GRAY] has a reputation, by the way, of not necessarily being on time, and one of the second worst speeches I have ever given was in Fairfield, IL, at the courthouse in which I was there, and I was the last speaker obviously before our State senator at this point before Congressman GRAY was to come on, and KENNY was running over an hour late, and the country chairman kept slipping me little notes, "Talk a little longer. He's now at Crossville." "Talk a little longer, he's now at Wine City." "Talk a little longer * * *" and I do not know whether any of my colleagues have ever had to give a speech in which they get to one of these great conclusions, and someone sends a note and says, "You've got to talk another 10 minutes," and, upon reaching another great conclusion, thinking in your mind that it is over, they say, "Can you talk another 12 minutes?"

Mr. Speaker, I talked for probably 40 minutes, which is long for me, and I gave probably the worst speech in the history of southern Illinois, and I thank him for those two terrible experiences that I still remember more than 10-15 years ago, and finally to see him proceed here.

As I said, Mr. Speaker, I started as a 10-year-old boy knowing the gentleman from Illinois [Mr. GRAY]. I served in the State senate with him. When I was in the senate, he was out here, and to come back and then to see him gives me a great deal of honor to see the pride with which I hold and which he is held by Members of this body and all of us as he presides over this body day after day and hour after hour. I do not know who is going to take up that obligation, but certainly he will have very big shoes to fill.

On behalf of the Illinois delegation and all the Members of the House, I am sure, as we do it, I would also like to conclude by saying that the gentleman from Illinois [Mr. GRAY] should be remembered beyond just tonight in this special order, and so today I have introduced House Resolution 5553, which will name the Federal courthouse in Marion, IL, the Kenneth J. Gray Federal Courthouse and Federal Building in Marion. I think this is a fitting remembrance of the fact that the shadow of the gentleman from Illinois [Mr. GRAY] is cast long, not only in this Nation's Capital, but also in southern Illinois he has touched so many lives, done so much for so many of us that it is a great honor that I serve with him and that I had a chance to know him as both a public official and as a friend.

Mr. Speaker, I thank the gentleman.

Mr. GONZALEZ. Mr. Speaker, I thank my colleague, the gentleman from Illinois [Mr. BRUCE].

Before my colleagues leave, the gentleman from California [Mr. ANDERSON], and before the others leave, I want to make one thing patently clear.

The question is: "Why did you decide to ask for a special order for KENNY GRAY?"

Mr. Speaker, it was not only my genuine admiration but my indebtedness. As my colleagues know, I have been called the king of the special orders, and the gentleman from Illinois [Mr. GRAY] has presided over more of my special orders, perhaps, than any one present Speaker pro tempore, and I wanted to make it clear and disabuse in any of my colleagues' minds that I was the cause of KEN leaving the Congress. I want to make it clear I was not, or maybe I was not the single cause.

Mr. Speaker, I yield to the gentleman from Texas [Mr. HALL], and it is a true pleasure and privilege to recognize my fellow Texan from Tyler, TX, who has served with great distinction in the Texas State Senate. Those of us in Texas know the gentleman from Texas [Mr. HALL] and particularly know that he is in the Congress, and we think the world of him, and I am particularly grateful that he has taken time on this, probably the second-to-the-last night of the 100th Congress, second session. So, I recognize without any further ado the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I thank the gentleman from Texas [Mr. GONZALEZ], my long time friend and a man I have admired and worked with through the years. I remember his leadership in the Texas Senate through those many hard years, and that has been a fairly good time ago, but the gentleman from Texas [Mr. GONZALEZ] does not look any different today. I think he is the same HENRY GONZALEZ that I knew then that cares enough for others to host this meeting tonight recognizing the departure and the veneration that we have for one who has served so well here, and I listened to the gentleman from Illinois [Mr. BRUCE] talk about the helicopter, and he and I have had so many experiences, and I know he remembers the experience I had when I made the ill-fated run for Lieutenant Governor of Texas.

Mr. Speaker, I helicoptered all over Texas, and one place I hope the gentleman from Illinois [Mr. GRAY] had a better deal than I did because one place, Brandon, TX, we landed right between a service station and a grocery store, and there were about 80 people there, and I told my wife as we helicoptered away, "I want to watch and see how we did here in Brandon because the people were so nice," and I watched closely.

Mr. Speaker, I received 20 votes, Hobby got 20 votes, Connally got 30 votes, and 56 of them wrote in "helicopter." They could not remember my name, so I hope that his colleagues had a better situation than that.

But to Senator and Congressman GONZALEZ, who was Senator GONZALEZ for so many years, I thank him for allowing me to help pay tribute to really a great American, a great legislator and a great friend, the gentleman from Illinois [Mr. GRAY].

The gentleman from Illinois [Mr. GRAY] served this House and his colleagues admirably on the many occasions he has presided as Speaker pro tempore. He has helped us, as we all know. He kept good order on these occasions, strictly following the sometimes very complicated parliamentary procedure, and giving fair and equal treatment to everyone who came before him.

Not only has the gentleman from Illinois [Mr. GRAY] served brilliantly in this capacity, he has also worked hard for his district on the Committee on Public Works and Transportation, been instrumental in the authorization of $775 million for the replacement of locks and dams on the Ohio River and working diligently to encourage the release of funds earmarked for the improvement of our Nation's highways. The gentleman from Illinois always served on the Hospitals and Health Care Subcommittee, the Committee on Veterans' Affairs, and has been committed to finding a solution to the nationwide funding shortfall of our Nation's hospitals.

Aside from considerable success as a legislator, he has been a great friend and simply a great person to know. I consider it a privilege and an honor to be associated with a man like the gentleman from Illinois [Mr. GRAY], and I speak not only for myself when I say that we will be losing a great friend and a great colleague in KEN GRAY, and I move and request a second that we adjourn sine die in KEN's honor right this very moment, if that is possible.

Mr. Speaker, he is always pleasant, always capable, always on the job, and always has time for those who need him. It seems during my lifetime that I have lived a life of meeting people, liking people, and then leaving people. It happened during the time in college and in law school when everybody went their own way. It happened in World War II when the war was over and everybody went their own way. It happened in the Texas Senate when we were all close friends there, and then everyone had their own life to live.

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It happens here in Congress. We meet and visit with people, enjoy them, like them, could be very close to them, and then for reasons that are known to them and are acceptable to them, they move on into another phase of their lives, and we have to give them this opportunity, but it is a loss to us when a good guy like KENNY GRAY decides to leave this body and go into the next phase of his life. Whenever and for whatever purpose, I wish him well and wish his family well and know that he will always be welcome back here and we will always remember KENNY with the warmth that he exuded on every occasion.

Once again I want to thank the gentleman from San Antonio, my colleague, my long, long time friend, HENRY GONZALEZ, one friendship that I cherish, for giving of his time and making it possible for us to express our appreciation for a good guy like KEN GRAY.

Mr. GONZALEZ. I thank the Congressman very much. I deeply appreciate those words.

Mr. Speaker, at this time I also really find it a personal privilege to recognize a very experienced and long time Member of the Congress from Indiana, who has a similar history to KEN's. He was here and then truncated his continuous service by returning undefeated to Indiana where he has been a university professor, and happily decided to come back to the U.S. House of Representatives. I cannot think of a more talented, hard-working Representative, than the Honorable ANDY JACOBS, to whom I yield at this point.

Mr. JACOBS. Mr. Speaker, I suppose my colleague should take it easy. I am not retiring. It is KEN GRAY who is retiring. You do not say those nice things about people who are still going to be here to bother you, if I am going to bother you, in the next Congress.

I think perhaps the most significant thing you can say about KEN GRAY on the occasion of his retirement is that he is not gray. He is probably one of the most youthful retirees the House has ever seen.

If we are thanking the gentleman from Texas, and we ought to thank the gentleman from Texas for an awful lot of things, but if we are thanking the gentleman from Texas for the special order, and he in turn is thanking KEN GRAY for presiding over the House, then I think we ought to get around to thanking SONNY MONTGOMERY from Mississippi for presiding over the remarks that recognize those who are willing to preside over the House on these special orders.

The first time I ever saw KENNY GRAY was on television. I was in private life back home again in Indiana. They had a program called, "What's My Line?" The thing you were supposed to guess among these three men seated at a table was which one was a Member of the Congress, a magician and an auctioneer.

I looked very carefully at the three fellows, and I could not quite figure it out, and after all the questions were asked by the movie stars, however they worked the program.

Finally, they asked, "Will the real KEN GRAY please stand up?" And I forget whether all three stood up at the same time or something to fool the audience a little bit, but then KEN GRAY stood up and he had a grin on his face. I do not believe in all these years I have ever seen that grin go away.

John F. Kennedy gave to Pierre Salinger, his press man, or news secretary, whatever they call them, a loving cup with an East Indian inscription on it, which read: "Three things are real: God, human folly and humor. Since we cannot understand the first two, we must do what we can with the third."

And has not KEN GRAY done a great, great deal with the third, and has not that served the tranquility and the fellowship, reminding us to remember here in the House of Representatives, no matter how greatly we may disagree, that we may respect one another, that we may like one another and that we may have a little fun here in the House of Representatives, if we intend to represent a great and good natured and resilient people.

KEN GRAY is always available, it seems to me, to tell a funny story, to illustrate a point, to relieve tension where it might appear. He is a good-natured person, and therefore represents the best of human nature in the assemblies of all children of God, and we would think particularly of those of us in this new world, this rather young experiment in democracy here in the western hemisphere.

So as KEN GRAY leaves, TERRY BRUCE and others from his State arrive and the continuum of our Republic is in good hands and we should all be grateful to God, obviously, for the blessings of being American citizens and the blessings really of having one another.

Gen. David M. Shoup, the great Commandant of the Marine Corps from my own State, ironically from the town of Battleground near Purdue University, winner of the Congressional Medal of Honor at the Battle of Tarawa in World War II, spoke here at my invitation once during a lunch. He said his philosophy of life was that we were here to serve God in this way. We were here to help each other and to have a little fun.

KEN GRAY is a beautiful exponent of that simply stated, yet deeply meaning philosophy of life.

So Kenny, take good care of yourself. We need your entertainment. We need your wisdom. We need you and we know we will have all of them for years and years to come. You are, to use a phrase that is so often I think abused, but in this case since they did throw away the mold, you are indeed a great American.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman very much.

It is a pleasure to yield to an esteemed colleague, chairman of the Veterans' Affairs Committee, the gentleman from Mississippi, Mr. SONNY MONTGOMERY, at this point.

Mr. MONTGOMERY. Mr. Speaker, I want to thank the gentleman in the well, Mr. GONZALEZ, for taking this time tonight to honor KEN GRAY. It is really a distinct honor to follow my friend from Indiana, ANDY JACOBS, the way he expressed himself on KEN GRAY. It is one of the most eloquent statements I have heard on an individual, and I congratulate the gentleman from Indiana, no notes, speaking of an individual he knows so well.

I feel like I can do the same thing, Mr. Speaker, in that KEN GRAY is a member of our committee, the Veterans' Affairs Committee. He has been a tremendous member there. He has helped to get some wonderful programs for the veterans through the Congress. This has been one of the best years we had for veterans. KEN GRAY was right there. He came to all the meetings. He presided when we needed some help in the committee, as well as he presides here in the Chamber of the House of Representatives.

I am proud to say that I consider KEN GRAY one of my closest friends.

As the gentleman from Indiana said, he has always got a smile on his face. He has got a joke to tell you and you enjoy being around KEN GRAY.

I think that spills over, Mr. Speaker, when he presides, with Mr. GONZALEZ in the well. When KEN GRAY does preside, he gets tough sometimes and Members get tired. They get out of hand, but KEN GRAY has a smile, he has a sternness when it is necessary, and he keeps the House in order, and he is willing to come over here and take the time to preside when others of us would like to be somewhere else.

So we will miss him. He will be a success wherever he goes, and I am certainly proud to have had the privilege of serving with KEN GRAY twice now. Maybe he will come back again and be with us.

I thank the gentleman for giving me this opportunity.

Mr. GONZALEZ. Well, I will say this to the gentleman from Mississippi, that we are the ones who are grateful to the gentleman. Even though KENNY slipped away from us, he was presiding up to the time that we were recognized.

I am sure that were he to have to have to make a truthful confession, he is watching us from up there in his office. I think that hearing what these two gentlemen have just said, and your words, SONNY, as we love to call you, will really make him feel the only true reward that any service in a body such as this, any Member would feel, and that is the esteem and the respect in the hearts of his colleagues. No greater monument I think could be built.

So I want to thank the gentleman very much for taking his time to be here.

Mr. Speaker, at this point I yield to a fellow Member, the gentleman from Florida [Mr. SHAW], and thank the gentleman for responding to our special order.

Mr. SHAW. Well, Mr. Speaker, I thank the gentleman for yielding to me.

I must say, it has been with a little bit of nervousness that I have watched these proceedings, and that is because there are so many people like my good friend, the gentleman from Mississippi, who have spoken about KEN GRAY, talking about hoping maybe he will come back for a third term. The gentleman from California [Mr. ANDERSON] was talking about a third term.

I understand that Mr. GRAY is going to be spending a great deal of time in my district of Fort Lauderdale. I would certainly hope that if he returns to the Congress of the United States, that he would return as a Representative from the great State of Illinois, and not from the great State of Florida.

But in all seriousness, I want to say, and all of us, you know, one of the problems with these types of exchanges is that it sounds almost like a eulogy. I can say that KEN GRAY is very much alive and he is very much looking forward to his years out of the Congress of the United States. He has served well. He has certainly left his mark on this country for which all of us are extremely grateful.

Looking at him as one of the great Members who has served as the Speaker of the House on a temporary basis, as he has been appointed by the Speaker, he has served us extremely well. He moves the business of the House along with an extraordinary amount of confidence and also good will.

So for those of us on the Republican side who consider him very, very high in friendship, I would like to wish him Godspeed. He is going to the State of Florida. He is going to be spending a lot of time there. I certainly know that he will never forget his roots in Illinois, nor will he forget the people that he has represented so faithfully over the years; but we are looking forward to him coming down to Florida and spending a great deal of his time. He is a tremendous man. He is one that all of us have grown to love and to respect not only for his ability, but his great sense of humor. He is not ending a life. He is starting a new life, and we wish him Godspeed.

Mr. GONZALEZ. Mr. Speaker, I thank the Congressman very much.

My information is that I am in error about KENNY GRAY listening to us from the distance on his office TV. He is real close to us in the cloakroom and I am sure he is ready to correct any incorrect statement we might make. So he is wise. He is here in the wings and ready to respond.

Mr. Speaker, I think that the record should reflect the chronological order of performance and the accomplishments of KENNY GRAY while a Member of the United States House of Representatives. As a chairman of the Subcommittee on Public Buildings and Grounds, Congressman KENNY GRAY has guided over $4 billion in important projects in our Nation's Capital. That is fantastic, $4 billion.

The James Madison Library of Congress Building which saves the taxpayers $15 million per year, as opposed to renting 15 different locations, KEN introduced the legislation to build the new building to house all these precious stored documents.

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KEN guided legislation for the John F. Kennedy Center for Performing Arts. I had the privilege of being here at the time KENNETH was serving as the chairman and can recall vividly that he was, indeed, considered a very powerful and influential Member of the House. He was the one who guided the legislation that led to the construction of the new FBI Building over there on E Street. He guided the legislation for the FBI Academy at Quantico, VA. Congressman GRAY was coauthor with Hon. J.J. PICKLE, my fellow Texan from Austin, for the LBJ Memorial Grove. He guided legislation to provide for the Hirshhorn Museum. He guided legislation for the Mellon Art Gallery extension. KEN was the coauthor of legislation providing for the Air and Space Museum. He was responsible for starting the work on the D.C. Convention Center. He was responsible for saving Union Station from being torn down, and that I can speak from personal knowledge, at the time, that very strident and powerful voices were calling for practically the demolition of this most beautiful and historic structure that now is reconstituted and reconstructed, which is the talk of the Nation's Capital and other countries. It is not only the largest, the most beautiful railroad union station in the whole United States, or for that matter, I guess, anywhere, and I recall when the danger was that that would be lost as a precious heritage to our Nation's Capital and our Nation.

This was the scene of practically the most historic occasions in past history at a time when the advent of air transportation, automobile or bus transportation was practically nonexistent. It was a scene of many a Presidential start and end of careers, and I can recall the fear I felt as a fairly new arrival in the Congress when it looked as if we might lose the Union Station, and I recall KENNETH GRAY being the one who pushed and obtained the necessary funds and who saved that most historic edifice to us.

Vital statistics: In addition to these legislative statistics, KEN was born in West Frankfort, Franklin County, IL. Those of us who live in other sections of the country could be forgiven for not exactly appreciating the history that is involved in these cities and counties and States, but those of us who love history and particularly American history can tell the Members right away that even the name Frankfort, West Frankfort, is very significant. Right across the line maybe to the south a little bit we have Frankfort, KY, for practically the same reason, and these are areas in which we can say the dorsal or the spinal column of the Nation has maintained this tremendous frame known as the great and the mighty and the freedom-loving United States of America, and from that midst, from that Middle America, we have KENNETH GRAY proceeding. He was educated at the West Frankfort Community High School, in West Frankfort, naturally. He was volunteering and served in World War II in the Army and the Army Air Force, as was said earlier, as an airplane as well as a helicopter pilot. In business he had the Gray Air Service, Benton, IL; auto dealer, West Frankfort, IL; KEN GRAY & Associates, president, Arlington, VA, and West Palm Beach, FL; KEN GRAY's Antique Car Museum, the owner of it, in West Frankfort. Affiliations: Baptist Church, American Legion, past commanders, Veterans of Foreign Wars, the Kiwanis Club, the Elks, Eagles, Chamber of Commerce, vice president of the Illinois Junior Chamber of Commerce, founder of the Walking Dog Foundation for the Blind, member of the board of directors of the National Coal Museum. Political offices, elective offices he has held: Member of Congress from 1954 to 1974, and again from 1984 to the present.

I would like to point out that those perhaps extraneous to the political matter and the electoral processes may not fully appreciate what that means. Politics is not like some other ventures in private life such as business where one can turn on and off like a water faucet. Either one is in or one is out of politics, and most of the time when one is out, they are out and seldom make a return. I think that this speaks well of KENNETH.

I yield again to my distinguished colleague from Illinois.

Mr. BRUCE. Mr. Speaker, I thank the gentleman for yielding.

Word has it that within the hearing of our voices is KEN GRAY, and I wonder if we could just get him out here to respond. I think it is only fair that he has some sort of response to these accolades we are giving him. Perhaps if we look around here, Mr. GRAY will appear on the floor. I think that it is fitting that since he has come and gone before that he come back here and say something in his defense.

Mr. GONZALEZ. As my colleague knows full well, our system is predicated on equal opportunity.

Mr. GRAY of Illinois. Mr. Speaker, would the distinguished gentleman from Texas yield?

Mr. GONZALEZ. I will be delighted to yield to the cause of all of this.

Mr. GRAY of Illinois. Mr. Speaker, I could not help but hear many of the accolades while I was back in the cloakroom. I was on the phone part of the time and part of the time I was listening to the monitor, and I was reminded of a preacher in my hometown who was preaching too long, not that I do not appreciate all of these accolades and all of these fine speakers and these dear friends, but the preacher preached for 1 hour and 20 minutes. Just before he finished preaching, and I would say to my friend from Texas [Mr. GONZALEZ], one of the deacons got up and started out of the church, and the pastor said, "Where are you going?" He said, "I am going to get a haircut." He said, "Why did you not get the haircut before you came to church?" He said, "Then I did not need it."

Seriously, how could I respond to all of my dear friends who have stood here and taken this time? I know they are busy. We are trying to adjourn the Congress sine die, but greater love hath no man than this, that he is ready to lay down his life for his friends. Friendship just beats everything. You can look back over the history of this country, and, in fact, Mr. Speaker, you can look up over the podium here, way back in 1844, Daniel Webster said, "Let us go forth to lead the land we love, doing things that would be worthy to be remembered."

In fact, I had in my pocket from a speech last week at home, I think, that would summarize any kind of response that I would give to my dear friends who have taken this time tonight. Daniel Webster said back in 1844, "There are many objects of great value to man which cannot be attained by unconnected individuals," but listen to this, "but must be attained, if at all, by association." Is not that what makes the Congress great? By association, friends, the distinguished gentleman from Texas [Mr. GONZALEZ], whom I have known for a quarter of a century, just a great, great individual, always taking the well, espousing the cause of the homeless or people who want affordable housing or better health care, you name it, HENRY GONZALEZ is for it. I could not think of anyone that I would rather have to lead this charge tonight than my friend, HENRY GONZALEZ and, of course, my district is contiguous with TERRY BRUCE's district. Our interests are the same. We have the same problems of our people, and he has been a great senator out in Illinois before he came to the Congress and, of course, ANDY JACOBS and all the others, RALPH, that talked, all the others, they are all dear friends, and knowing that we are trying to adjourn here sine die and to have this many friends, SONNY MONTGOMERY, the distinguished chairman of the committee I have served on, the Committee on Veterans' Affairs. He and I both lived in the same building for years, and we were on the same committees together. We served in Congress together all of these years.

There are no words that I could find to truly express my feeling other than to say I love all of you and I love this House. I love this institution. I love this great country of ours and, in some capacity, I hope I can continue to serve.

Thank you and God bless you.

Mr. GONZALEZ. Thank you very much. I am going to plead with my colleague to remain here, because I was about to wrap it up. I was reciting the statistics, KEN, but even great legislative accomplishments reflect, yes, great ability and all, but there is one thing I wanted to say.

During the course of this, and I decided I would do it as I wrapped up your accomplishments, and that was something that happened in the last Congress and then again last year, but particularly in the previous Congress, I think it was at that point when you came up to me managing on the floor the housing and community development reauthorization bill that I realized your true stature, the greatness of it, when you came to me and said, "Back home I have elderly people who are not able to stay in public housing because their rents have been raised 30 percent of whatever income they had," and here we were, members of this Housing Committee, that since what I call the perfidious 1981 technique of reconciliation poured down our unwilling throats an increase in the rents from 25 percent to 30 percent of income to the poorest of the poor, so KEN said, "Look, I do not want to foul you up in your handling of this bill. I noticed that it is not exactly bipartisan and this is the first time that it looks as if we are going to be able to get a free-standing housing reauthorization, but I think that I want to offer an amendment. If you do not think so, please tell me so." He said, "I am going to offer an amendment to again go back to the time-honored 25 percent." I said, "KEN, you know how I feel about it." I could not tell him that singlehandedly I had tried to resist in 1981, in 1983, when again we had a meager effort to try to keep alive these assisted-housing programs and policies that this administration had targeted from its inception of power to eliminate, not just to phase down, to eliminate, and I could not tell him that I had been compelled to accept a fate that we had not had a vote on, that I felt like he did, that if we did have a vote, we could make a case, and that even the most unyielding opponent of public housing would accept; that my own colleagues on the majority-party side had said, "HENRY, it is posturing. It is a Don Quixote. We cannot win." The Secretary of HUD, Mr. Pierce, who symbolized really a minority, long-trodden minority, was the one who insisted on an increase and would have gone higher if he could have gotten away with it, and I said, "KEN, as far as I am concerned I would accept your amendment, but in an effort to bring some kind of bipartisanship, I have pledged to both my fellow Democrats and also the minority that I will not ask nor accept amendments that would go over the budgetary levels and obligation or outlay, and I am afraid that, given that, I would be breaking my word, but I will vote for it, and I will encourage you to offer the amendment."

He offered that amendment. It was strenuously fought against by those who had been against public housing anyway, but it carried. It carried in the full House overwhelmingly, and it taught us all a lesson. It was KEN GRAY who did it. It was KENNETH GRAY, responsive to the hurt, the wants and the feelings of these most feeble and powerless elements in his district, these elderly ladies and gentlemen who would not even be able to afford public housing.

I have been in public housing, and ever since 1950, and I can tell you that that is really hurting. He came back again, and when we brought in the new Congress, the first session last year of this 100th Congress, we again took his amendment. He submitted it. It was voted again, and it passed, but it had to be watered down in conference, and we had some exceptions here and some exceptions there.

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I think that more than anything KEN revealed to me his true dimensions of humanity, and then I needed an explanation. I knew why any time he would seek public office in his district, the people were going to grant him that privilege.

In 1954 a young man who cared more about the land he lived in and the generations to come was elected to Congress, and she goes on and says how he is retiring and they will miss him, but they are comforted by the fact that he will be home.

Mr. COSTELLO. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. Mr. Speaker, I yield to the gentleman from Illinois.

I want to thank the distinguished gentleman from Illinois for notifying me that Mr. Costello is here, and he is one of our brandnew Members, and in the short while he has been here he has more than proven he is following in the footsteps of his Illinois Congressman, Ken Gray.

Mr. COSTELLO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today Members of the House are coming together to pay tribute to an outstanding Congressman and a good friend to southern Illinois.

Ken Gray has worked hard for his district for almost a quarter of a century in Congress. He has proudly fought for Federal funding for critical water projects, important highway improvement, and basic government services for his district.

Ken has served Illinois with a personality and style unmatched in recent years. Some critics have said that Ken practices "old-fashioned" politics. Well, if old-fashioned politics means giving his constituents the facilities, services, and representation they want, then I would agree with that description.

Ken has been a friend to southern Illinois at large, even well outside of his own district. He made it possible for southwestern Illinois to have a Congressman continuing to serve on the House Public Works and Transportation Committee recently by stepping down so that I could be appointed. For that, Ken, I am grateful.

Ken has been a source of knowledge and direction for the House of Representatives, whether it was presiding during session or, for some of the younger Members in the House, recalling his service under several Presidential administrations.

Even after his retirement at the end of the historic 100th Congress, many of us in Illinois will continue to fondly remember Ken Gray and his service in Congress.

I thank the gentleman for yielding, and to my dear friend, Ken Gray, I look forward to working with him for many years in the future.

Mr. GONZALEZ. Mr. Speaker, I also wish to recognize the gentleman who is not a Member of Congress, but he is a wonderful member of this hardworking corps of staffers in the House of Representatives. We owe so much to them, and I particularly do, and Mr. Terry Morris, who is a tally clerk, asked the other day, "Congressman, are you aware of any special orders have been taken out on the occasion of Mr. Gray's retiring," and I said I did not know but I would check and I would let you know if no one has. I wanted to recognize that contribution by Terry Morris, our tally clerk.

Mr. ROSTENKOWSKI. Mr. Speaker, I join with my colleagues today in honoring my friend and peer, the Honorable Ken Gray. After 24 active years in the House, Ken is retiring from public service.

Ken Gray is a man who brightens up the House every time he walks onto the floor. I will always remember his presiding over the House with expertise and speed. It is no wonder the Speaker turns to him so often. Ken is living proof that you don't have to give up your sense of humor to be taken seriously by your colleagues. He sets his priorities and fights for them, but has never become blind to the personal dimension of what he is about. He is respected by all his colleagues, but has never been charged with being pompous. That is no small accomplishment. I'm not sure that everyone knows that Ken is a licensed auctioneer. It certainly helps in understanding the art he has been practicing on the House floor for lo these many years.

When I arrived in Washington in 1959, Ken has already represented his district for 4 years and had already earned a reputation for making the concerns of his district his priority in Washington. After 24 years in the House, his priorities have remained the same. As a World War II veteran, he has been an effective advocate for veterans in his role as a member of the Committee on Veterans' Affairs. As a member of the Committee on Public Works and Transportation, he has insured that much-needed dams were built to protect the low-lying lands of southern Illinois. He was instrumental this year in passing the Water Resources Development Act, a bill which will put the water program back on a 2-year authorization cycle that is so important to the program.

I am pleased to call Ken my friend and wish him good luck in his life outside the House. He'll be sorely missed by all.

Mr. ANNUNZIO. Mr. Speaker, I am honored to join with my colleagues in the House of Representatives in tribute to my good friend, the Honorable Kenneth J. Gray, who is leaving the Congress after a total of 24 years of outstanding service to his constituents, to the State of Illinois, and to all people in this Nation.

I had known Kenny Gray before my election to Congress, and I have had the privilege and pleasure of working with him during the 14 years we have served in the House of Representatives together. Kenny is a dedicated public servant who has conscientiously represented the 22d Congressional District of Illinois, and he has been an invaluable Member of the Illinois congressional delegation. He will be sorely missed by his constituents whom he so selflessly represents, and by those of us in the Congress who have had the opportunity to know him and to work with him.

Ken Gray has dedicated his life to public service. He served our country with distinction in combat during World War II, and was first elected to the 84th Congress where he served through the 93d Congress. He has compiled a fine record of achievement as the chairman of the Subcommittee on Public Buildings and Grounds of the House Public Works Committee during his first 20 years of service in the House of Representatives.

Ken retired at the conclusion of the 93d Congress, but his years of public service were not over. He ran again in 1984 and was reelected to the 99th Congress where he added to his impressive record of accomplishment as a Member of the Subcommittee on Hospitals and Health Care of the House Veterans' Affairs Committee, and as a member of the Subcommittee on Economic Development, the Subcommittee on Investigations and Oversight, and the Subcommittee on Surface Transportation of the House Public Works and Transportation Committee.

Ken Gray is a man of deep compassion and courage who has vigilantly worked to protect the best interests and welfare of our Nations' veterans. He is also one of the founders of the Walking Dog Foundation for the Blind, a nonprofit organization created to train guide dogs given to blind people free of charge.

Above all, he has been my good and trusted friend, and it has been an honor to serve with him in the House of Representatives.

I extend to Kenny Gray my best wishes for continued success in all his future endeavors.

Mrs. COLLINS. Mr. Speaker, I rise today to honor our colleague and my friend from the Illinois delegation, the Honorable Kenneth Gray. It is with both pride and sadness that I participate in this special order. I am proud to say that I served with the distinguished gentleman, but I am saddened that he is retiring.

A veteran of World War II, Ken has given 24 years of dedicated service to the people of the 22d Congressional District of Illinois. During his tenure in Congress, he has extended himself personally to help numerous individuals in his district. Ken Gray never meets a stranger—especially one in need.

While the focus of Ken's concern has always been for individuals, the programs and legislation he has supported have helped the entire State, the midwest region and our entire Nation grow stronger. He was key in securing passage of several natural resource projects in Illinois, including measures to develop recreation facilities and others to help in flood control efforts. He has also been responsible for helping to secure research projects for Southern Illinois University.

One of Ken's stellar achievements came when he was chair of the Buildings and Grounds Subcommittee of the Committee on Public Works and Transportation. In 1967, he fought for the preservation of Union Station here in Washington when the prevailing sentiment was for its destruction. While it went through a shaky period from the middle 1970's to the mid-1980's, it is now a fitting showplace for the Nation's Capitol. Its magnificent architecture and ornate ceiling have been restored to its original grandeur and it is a beautiful sight indeed. Were it not for Ken Gray's foresight and persistence, we would likely not have this gem to treasure today.

On numerous occasions, Ken has dutifully served his colleagues as Speaker pro tempore during many critical legislative sessions exercising vast skill and knowledge of rules and procedure in a manner which enabled the House to conduct its business in an orderly and efficient fashion.

One area of particular concern for KEN has been our deteriorating infrastructure. We need to heed his warning about the condition of our aging water systems, bridges and roads: That we will face disastrous consequences if we don't act soon and effectively to repair and restore these vital networks which link our cities and rural areas, bridge gaps between our people, and unite us under the banner of one America.

Speaking of bridges reminds me of a poem that really epitomizes KEN'S service in Congress for the years that I have known him. I believe the poem is entitled "Building a Bridge." KENNY would know because he passed it on to me a while back. It goes something like this:

An old man travelling a lone highway,
  came at the evening, cold and gray,
  to a chasm vast and deep and wide.
The old man crossed in the twilight dim;
  the sullen stream had no fears for him.
But he turned when safe on the other side,
  and builded a bridge to span the tide.
"Old man", said a fellow traveller near,
  "you are wasting your time with building here".
"You have crossed the chasm, deep and wide,
  why build a bridge at even tide?"
The traveller lifted his old, gray head,
  "Good friend, in the way I have come", he said.
"There follows after me today,
  a youth whose feet must pass this way."
"The stream which has been as nought to me,
  to the fair-headed boy might a pitfall be."
"He, too, must cross in the twilight dim.
  Good friend, I am building this bridge for him."

KENNY, although you are not an old man and your head is not gray, you have earned your retirement with years of dedication to your fellow man. You have built a mighty record, a solid foundation, a sturdy bridge of accomplishments for whomever will follow you to this great body. We'll miss you in this Hall, but your work will long be remembered. Thank you for your dedication, your energy, your humor, your leadership and your friendship. I wish you Godspeed.

Mr. HORTON. Mr. Speaker, I rise today to speak about one of this body's most colorful Members. As you know, KEN GRAY is retiring after his second stint in the House.

Mr. Speaker, I have known KEN GRAY since I first came to Congress 26 years ago. As a Member of the Public Works and Transportation Committee, KEN played an instrumental role in building our Nation's infrastructure. Our Nation's wonderful interstate highway system is a prime example of KEN's dedication to funding public works projects.

KEN GRAY is known as more than just a Member who is committed to public works projects. His skill as a parliamentarian have made him a welcome sight in the Chair. I know KEN enjoys chairing the Committee of the Whole and serving as Speaker pro tempore perhaps because it reminds him of his previous occupation as an auctioneer. Over the years, we could always count on KEN to move us expeditiously through boisterous sessions. We will certainly miss his leadership in the Chair next year.

I'm sure that many of my colleagues do not know this about KEN, but he is an accomplished pilot as well. His constituents admiration for KEN was so great that they bought him his own helicopter to travel around his large southern Illinois district.

Mr. Speaker, we will all miss the distinguished gentleman from Illinois here in the House next year as he and June begin their second retirement. Who knows, if we are all around in 1998, we might have the pleasure to seat him for the third time.

Mr. RUSSO. Mr. Speaker, I would like to take a moment to commend Representative KENNETH GRAY, my distinguished fellow-colleague from Illinois. I say "a moment" because KEN's record speaks for itself. He has served with dedication and distinction the people that sent him here from Illinois and the country has been well-served by his active presence here.

Those of us privileged to work with him have a deep appreciation of his skills and his competence. He always knows how to roll up his sleeves and put in the hard work required to reach a goal. He especially will be missed as our "presider," bringing order to the all-too often chaotic floor during debate. When KEN was in the chair, you knew things would keep moving and the job done.

KEN deserves our recognition and our praise. His retirement is a loss to us here in the Congress, but I suspect that someone so talented and active not going to disappear on us. I wish him continued success and much enjoyment in life. He has earned it.

Mr. CRANE. Mr. Speaker, the House of Representatives will never be the same with the departure of our friend and colleague from Illinois, KEN GRAY. There are those who will say the House was never the same since the arrival of KEN, 33 years ago.

KEN'S decision to retire from Congress in January will bring to an end a high-profile career which saw him not only serve his constituents but also to bring humor to this Chamber. Some of his remarks will long be remembered. If his congressional oratory was occasionally loud, his sartorial splendor was downright deafening.

But his easy-going demeanor, lighthearted remarks and fashion leadership could not mask the fact that KEN GRAY served well his constituents in Little Egypt, the lower quarter of the State of Illinois.

While opponents charged him with pork barrel politics, KEN replied he merely brought home the bacon to his congressional district. There can be little challenge to his claim that he engineered a record number of Federal projects for the area he served during a career that was interrupted for a decade when he heard the call for early retirement. But when he decided he wasn't ready for retirement, the voters of southern Illinois sent him back here to represent them.

As a member of the House Appropriations Committee, KEN was always on the lookout to aid other districts in the State of Illinois besides his own. And he is to be commended for the manner in which he sought to serve his Nation as well as his State and district.

While in service in the Army and Air Corps during World War II, KEN GRAY learned the lessons of the need for a strong military to defend the freedoms of our country, and he brought that knowledge to this Chamber with him and he fought without relaxation for a strong national defense.

KEN GRAY will be missed by all of us.

Mr. BENNETT. Mr. Speaker, we will all miss the effective and personable Representative KENNETH GRAY who is retiring from Congress at the end of this session. During this historic 100th Congress, I believe he has presided over the House and its debates more often than any other, and he has done that with ability, good humor, and ease. We are indebted to him for that and for his very substantial legislative achievements. We will surely miss him.

Mr. HUTTO. Mr. Speaker, when the 100th Congress adjourns sine die, one of the persons most missed by the House and, indeed, by viewers of C–SPAN throughout the Nation, will be the Honorable KENNETH J. GRAY from Illinois. Mr. GRAY has decided to retire from Congress for the second time. He will surely be missed by not only his constituents but also by all of us who have had the pleasure of serving with him.

It is amazing to me to know that KEN GRAY served 20 years in this body before retiring and then, after 10 years of retirement, came back to win the seat again when PAUL SIMON was elected to the U.S. Senate. I did not have the pleasure of knowing KEN on his first tour of duty in the House, but have come to count him as a friend during these last few years.

KEN has done a fine job as Speaker pro tempore for the House on many occasions, and we have become accustomed to seeing him in the chair. He has presided with fairness to all.

I would like to take this opportunity to wish for KEN GRAY and his family much happiness in the years ahead.

Mr. PEPPER. Mr. Speaker, one of the best friends I have in this House is KEN GRAY. I delight day after day to exchange anecdotes with him and to chat with him about things of mutual interest. I constantly admire the excellence with which he presides over the House. KEN GRAY has been a very innovative Member of this House. When he was a Member before, he brought nearly to completion a program to convert Union Station into a meaningful public institution and facility. He should have had credit for what he did then toward rehabilitating the station when it was recently presented to the public after the completion of a very excellent rejuvenation.

KEN GRAY is a great legislator. He has a keen mind and a very astute political sense. He understands public affairs and the function of the Congress in the service of democracy under our Constitution in this Nation. He is a man of broad vision and deep dedication to the public interest. He is a man of indefatigable energy who has a sharp sense of his patriotic responsibilities.

I shall particularly regret KEN not being with us after the end of this Congress. I shall miss him immensely and I wish for him and his family with all my heart long, healthy and happy lives. I hope KEN will come back to visit us often.

Mr. TRAFICANT. Mr. Speaker, as we approach the final days of the 100th Congress, I rise today to pay tribute to one of our most distinguished colleagues and one of my closest friends in the House, Representative KEN GRAY. Representative GRAY is retiring at the end of this Congress after serving 24 years in the House of Representatives.

First elected to the 84th Congress in November 1954, Representative GRAY has represented the people of the 22d District of Illinois with honor and dedication. As a member of the Public Works and Transportation Committee and the Veterans Affairs Committee, KEN has worked effectively to solve the problems of his area and bring new growth and prosperity to the district's economy.

Since being elected to the House of Representatives in 1984, I frequently sought the advice of KEN on many issues. In addition, his support and backing have been instrumental in many of the successes which I have experienced during the past 4 years. I want to take this opportunity to thank him for his counsel and friendship and to wish he and his family the very best in any future endeavors.

Although his service to this body will certainly be missed, I am confident KEN GRAY will continue to make valuable contributions to the improvement of society for all Americans. Mr. Speaker, I wish to once again thank KEN for his hard work and dedication to this institution and I look forward to having him back with us from time to time in the future.

Mr. BOLAND. Mr. Speaker, I am happy to take part in a special order tribute to KEN GRAY.

KEN came to the U.S. Congress 2 years after I did, but leaves this year 16 years behind me in seniority. On the surface that sounds like a pretty good trick, but the fact is that this is my second go-around in saying goodbye to KEN. He left the House almost 14 years ago in search of a career as a business consultant before returning to the House in the 99th Congress.

I do not know how successful he was in his business pursuits, but I do know how successful KEN has been in representing the people of the 22d District of Illinois. I must say that I was as happy to see him back in the House as his constituents were. He is truly one of the most original characters this Chamber has even seen and one of the nicest people I have known here.

I mentioned KEN'S popularity among his constituents, but in truth, he is a nationwide celebrity. He has literally become a fixture in the Speaker's chair, serving as Speaker pro tem of the House almost constantly it seems. Sitting in that chair, presiding over the House all those hours, KEN has received more television coverage than the Presidential candidates. Ed McMahon wishes he could be on TV as much as KEN GRAY. In seriousness, however, his willingness to serve the House in this way is but one example of his selflessness and esprit de corps.

Mr. Speaker, I will be leaving the U.S. Congress at the end of this session too—for the first time. I have no intention of returning. I would not be surprised to see KEN back here again someday, however. He will certainly always have the support of his constituency and the admiration of his colleagues.

Mr. YATRON. Mr. Speaker, I rise today to honor my good friend and respected colleague, KEN GRAY. As you know, KEN will be retiring from the House of Representatives at the end of this session.

KEN GRAY has become an institution in the House—a hardworking, personable, and very knowledgeable gentleman who has well-earned the respect of many. He has been best known for his expertise of parliamentary procedure and has presided over the House floor debates more than almost any Member in recent history. Under his able leadership, we have seen countless bills debated and passed in an efficient, organized and fair manner. His performance outside of the House Chamber is equally impressive, having served with distinction on the House Public Works and Transportation Committee and the Veterans' Affairs Committee. On a national level, our veterans as well as our infrastructure system have benefitted immeasurably by KEN'S stalwart efforts.

In representing his constituents back home, KEN has been most responsive to their needs and concerns. He has assisted in securing new post offices, recreation areas, highways and numerous other important public works projects. In return, the citizens of the 22d District of Illinois have expressed their support and confidence in KEN time and time again in voting him into office a total of 12 terms. Clearly, his level of dedication and commitment have enabled him to achieve many outstanding accomplishments for Illinois and I know that his constituency along with his colleagues will miss his presence greatly.

Though I will be sad to see KEN retire, it has been my distinct honor and pleasure to serve with him in the House. He has been a valuable asset to our institution and the mark he has made in the Congress will long stand. I salute his public service and his loyalty to our Nation and hope that his future years will be met with the same degree of success he has known in the past. I know that my colleagues join me in wishing KEN and his family the very best for tomorrow and always.

Mr. CLEMENT. Mr. Speaker, I am please to join my colleagues in paying tribute to Representative KEN GRAY, who is retiring after a distinguished career in the House of Representatives.

KEN has been a great friend of the Clement family for many years. In fact, I am proud that my father, Governor Frank G. Clement, was responsible for making the first speech helping to launch KEN's political career. But, this year, after my successful race to become a Member of Congress, KEN chose to retire at the end of this session. Thus, I am disappointed that I will not have a longer time to learn more from the breadth and depth of KEN's experience as a Member.

Nonetheless, I will cherish the advise and counsel KEN has given me over the last 10 months as a member of the Public Works Committee and as a friend.

Mr. Speaker, the products of KEN GRAY's talents and skills are all about us. More than most, KEN understood that our fellow citizens often measure the success of their government by the smoothness of our roads, the purity of our water, and the grandeur of our public buildings. Many of the fine Federal buildings here in Washington and elsewhere in our Nation are the result of his leadership as chairman of the Subcommittee on Public Buildings and Grounds. They will long be monuments to his service.

I will miss KEN GRAY. But I wish him and his wife, June, a very active and enjoyable retirement in Florida.

Mr. MANTON. Mr. Speaker, I rise to pay tribute to my friend and colleague from Illinois, KEN GRAY, who is retiring from the House after 24 years of distinguished service.

KEN was first elected to Congress in 1955. He won a seat on the powerful Public Works Committee and immediately became an effective and articulate advocate for funds to revitalize our Nation's Highway Program and flood control system. For 20 years, KEN made certain that his district was awarded its fair share of Federal public works projects.

KEN retired from the House in 1975. Nine years later, he won back his old seat. KEN and I were both Members of the freshman class in 1984. However, KEN was unique among the freshmen of the 99th Congress. He was already a seasoned and effective legislator, and expert in the inner workings and of the House. During my first two terms in Congress, KEN's advice has been of immeasurable help.

Mr. Speaker, I have also come to know KEN GRAY as a reliable and commanding Speaker pro tempore. The leadership has oftentimes turned to KEN whenever the House is considering major legislation. KEN's mastery of parliamentary procedure and his fairness to both sides of the aisle has enabled the House to move through complex legislation in an expeditious and orderly manner. Whenever the debate has become cantankerous, and the din of the House has been deafening, KEN's smooth pleas and forceful gavel always have been successful in restoring order. I know that the House will never be the same without KEN GRAY in the chair.

Mr. Speaker, I also want to take this opportunity to commend KEN for his outstanding leadership on issues important to our Nation's senior citizens. During the consideration of H.R. 4, a major housing reauthorization bill, KEN offered an amendment to reduce the amount a poor elderly person would be required to pay for section 202 housing from 30 percent of income to 25 percent of income. Opponents of the amendment argued that it was too costly. KEN successfully rebutted their arguments with an impassioned speech about the need to rework our Nation's spending priorities and to address the housing needs of our most frail citizens. KEN's amendment was overwhelmingly approved.

Mr. Speaker, I know my colleagues join with me in wishing KEN all the best as he leaves the House. We will all miss the dapper gentleman from Illinois.

Mr. MINETA. Mr. Speaker, I am proud to join with my colleagues in saluting our very good friend and colleague KEN GRAY as he retires from the House after his long and distinguished career.

I have had the good fortune to often work side by side with KEN on the Public Works and Transportation Committee. I have enjoyed KEN'S expertise, his diligence, and his commitment to this Chamber and our democratic principles.

His frequent presence in the chair as Speaker pro tem will be especially missed. I know of no one who can better KEN'S composure, his detailed knowledge of the fine points of parliamentary procedure, and his firm hand on the gavel.

The citizens of Illinois' 22d District and the American people owe a great debt to KEN GRAY for his many contributions which have improved our Nation. KEN'S many legislative accomplishments and colorful personality have made him a unique and irreplaceable Member of this body.

Mr. Speaker, I have enjoyed the dedication, companionship, and commitment of KEN GRAY to this Chamber and to the American people. The House is greater for his efforts and contributions. KEN, we will miss you.

Mr. UDALL. Mr. Speaker, one of the good Members of this House, KEN GRAY, is retiring from public service at the end of this Congress, and I want to join my colleagues in wishing him well.

The irrepressible Member from Illinois has been a credit to this Chamber and his tenure in the House has been marked by his dogged dedication to his congressional district, his State, and the best interests of his country.

KEN has been a valued ally and a good friend. I have observed with great admiration his service as Speaker pro tem. He has shown great ability in moving the more complex pieces of legislation through this body. He did so with his wit and a keen knowledge of the rules of the House.

KEN is one of the warmest and most personable Members with whom I have served. He has always made everyone feel like their best friend. I wish him and his family all the best in the years ahead.

Mr. MAZZOLI. Mr. Speaker, I know that I join every Member of the House in saying how much we will miss our good friend and colleague from Illinois' 22d Congressional District, KEN GRAY, when the 101st Congress meets to begin its work.

Over the last few years KEN'S presence in the chair as Speaker pro tempore has become very much a part of this institution. Though I understand such records are not kept, undoubtedly KEN GRAY has logged more time than any other Member in the chair during the 99th and 100th Congresses. His knowledge and experience as a parliamentarian have helped move the legislative business of the House forward in an orderly manner. And, he has become a most familiar friend to cable television observers of the House's proceedings from across the country.

The ability to handle the Chair's duties with the kind of skill and good-natured humor—which KEN has done so often—does not go unappreciated by Members of the House.

While in the House KEN has served with distinction on the Veterans' Affairs and Public Works and Transportation Committees. His work on these committees in behalf of residents in his home district and the many programs affecting their lives has been well noted.

A remarkable thing about KEN'S tenure in the House—a total of 12 terms, 24 years—is that his most recent service in the 99th and 100th Congresses was interrupted by a 10-year hiatus while he pursued his personal business interests.

We will certainly miss KEN'S friendly good humor, wit, and outgoing personality which he brings to this House and everyone he meets. The word "retirement" seems to take on a whole new meaning with him, but, I wish KEN much health and happiness in the years ahead this second time around.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Texas?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SISISKY (at the request of Mr. FOLEY) for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ARMEY) to revise and extend their remarks and include extraneous material:)

Mr. MCDADE, for 5 minutes, today.

Mr. MILLER of Ohio, for 60 minutes, on October 22, 24, and 25.

Mr. CRANE, for 5 minutes, today.

Mr. SHUMWAY, for 5 minutes, today.

Mr. MICHEL, for 60 minutes, on October 21.

(The following Members (at the request of Mr. BERMAN) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HUGHES, for 60 minutes, on October 21.

Mr. WEISS, for 60 minutes, on October 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ARMEY) and to include extraneous matter:)

Mr. GUNDERSON in two instances.

Mr. BROOMFIELD.

Mr. HORTON.

Mrs. BENTLEY in three instances.

Mr. SUNDQUIST in two instances.

Mr. SOLOMON.

Mr. COLEMAN of Missouri.

Mr. GREEN in two instances.

Mr. LIGHTFOOT.

Mr. SCHULZE.

Mr. BUECHNER.

Mr. KOLBE.

Mr. JEFFORDS.

Mrs. VUCANOVICH.

Mrs. ROUKEMA in four instances.

Mr. COUGHLIN.

Mr. SMITH of New Jersey.

Mr. EMERSON in five instances.

Mr. ROTH in two instances.

Mr. SAXTON.

Mr. COURTER.

Mr. WALKER.

Mr. PETRI.

Mr. KONNYU.

Mr. HUNTER.

Mr. CONTE.

Mr. FRENZEL in five instances.

(The following Members (at the request of Mr. BERMAN) and to include extraneous matter:)

Mr. PEASE.

Mr. STOKES.

Mr. LEHMAN of California.

Mr. KANJORSKI in six instances.

Mr. WOLPE in two instances.

Mr. BORSKI.

Mr. HERTEL.

Mr. TRAXLER.

Mr. MFUME in two instances.

Mr. RAY.

Mr. BOSCO.

Mr. MAZZOLI.

Mr. FOGLIETTA.

Mr. ALEXANDER.

Mr. LAFALCE.

Mr. CLAY.

Mr. DOWDY of Mississippi.

Mr. CROCKETT.

Mr. LEVIN of Michigan.

Mr. BERMAN.

Mr. MINETA.

Mrs. SCHROEDER.

Mr. EDWARDS of California.

Mr. RANGEL.

Mr. STARK.

Mr. MCMILLEN of Maryland in two instances.

Mr. LELAND.

Mr. DURBIN.

Mr. RODINO.

Mr. DINGELL in two instances.

Mr. GRAY of Pennsylvania.

Mr. ATKINS.

Mr. FLORIO in two instances.

Mr. MAVROULES.

Mr. DYSON.

Mr. BONKER.

Mr. HAYES of Illinois.

Mr. RAY.

Mrs. COLLINS.

Mr. BILBRAY.

Mr. DONNELLY.

Mr. DARDEN.

Mr. DORGAN of North Dakota.

Mr. LEVINE of California.

Mr. HOCHBRUECKNER.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 515. An act to provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card.

H.R. 775. An act to provide for the establishment of the Poverty Point National Monument, and for other purposes.

H.R. 945. An act for the relief of Allen H. Platnick.

H.R. 990. An act to direct the Secretary of the Interior to convey a certain parcel of land located near Ocotillo, California.

H.R. 1385. An act for the relief of Travis D. Jackson.

H.R. 1826. An act for the relief of Natasha Susan Middelmann, Samantha Abigail Middelmann, Naomi Katrina Orloff Middelmann, and Hannah Emily Middelmann.

H.R. 2266. An act to amend the Natural Gas Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes.

H.R. 2628. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 respecting the importation of motor vehicles in anticipation of compliance with safety standards under such Act.

H.R. 2677. An act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987).

H.R. 3347. An act for the relief of Bibianne Cyr.

H.R. 3408. An act to increase the amounts authorized for the Colorado River Storage Project.

H.R. 3414. An act for the relief of Meenakshiben P. Patel.

H.R. 3471. An act to establish the Veterans' Administration as an executive department, and for other purposes.

H.R. 3685. An act to amend title 31, United States Code, to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim against the United States made by a member of the uniformed services or by an officer or employee of the Government.

H.R. 4182. An act to authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes.

H.R. 4209. An act to authorize appropriations to carry out title I of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, and 1991.

H.R. 4262. An act to amend title 17, United States Protection of Literary and Artistic Words, as revised at Parts on July 24, 1971, and for other purposes.

H.R. 4416. An act to extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989.

H.R. 4418. An act to authorize appropriations for the National Science Foundation, and for other purposes.

H.R. 4480. An act to change the name of the Pacific Tropical Botanical Garden, a federally chartered organization, to the National Tropical Botanical Garden, and for other purposes.

H.R. 4642. An act to provide for the reinstatement of the canceled entry of William A. Wright to certain lands in Lamar County, Alabama.

H.R. 4777. An act to modify the boundary of the Guadalupe Mountains National Park, and for other purposes.

H.R. 4992. An act to expand our national telecommunications system for the benefit of the hearing impaired and speech-impaired populations, and for other purposes.

H.R. 5001. An act to establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission.

H.R. 5007. An act to designate the United States Courthouse at 620 Southwest Main Street, Portland, Oregon, as the "Gus J. Solomon United States Courthouse".

H.R. 5050. An act to amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes.

H.R. 5066. An act to add additional land to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes.

H.R. 5318. An act to the Egg Research and Consumer Information Act to limit the total costs that may be insured by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds.

H.R. 5325. An act to establish a commission to review and make recommendations for the improvement of the Federal crop insurance program.

H.R. 5395. An act to designate the Sipsey River as a component of the National Wild and Scenic Rivers System, to designate certain areas as additions to the Sipsey Wilderness, to designate certain areas as conditions to the Cheaha Wilderness, and to preserve over thirty thousand acres of pristine natural treasures in the Bankhead National Forest for the aesthetic and recreational benefit of future generations of Alabamians, and for other purposes; and

H.J. Res. 644. Joint resolution granting the consent of Congress to the compact entered into between the State of North Carolina and the State of South Carolina establishing the Lake Wylie Marine Commission.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 744. An act to amend the Toxic Substances Control Act to assist States in responding to the threat to human health posed by exposure to radon.

S. 1704. An act to authorize the establishment of the Lewis and Clark National Historic Trail Interpretative Center in the State of Montana, and for other purposes.

S. 1914. An act to designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 1985. An act to improve the protection and management of archeological resources on Federal land.

S. 1986. An act to require that plastic ring carrier devices be degradable, and for other purposes.

S. 2148. An act to amend the Wild and Scenic Rivers act of 1968, and for other purpose.

S. 2436. An act to reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission.

S. 2545. An act to redesignate Salinas National Monument in the State of New Mexico, and for other purposes; and

S. 2723. An act to partition certain reservation lands between the Hoopa Valley Tribe and the Yourk Indians, to clarify the use of tribal timber proceeds, and for other purposes.

ADJOURNMENT

Mr. COSTELLO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 50 minutes p.m.) the House adjourned until tomorrow, Friday, October 21, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4488. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-239, "Pet Ownership Nonrestriction Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4489. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-240, "Clinical Laboratory Act of 1988," and report pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4490. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-241, "Real Property Tax Rates for Tax Year 1989 Amendment Temporary Act of 1988," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4491. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-242, "Authorization to Enter an Interstate Corrections Compact Temporary Act of 1988," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4492. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-243, "Commission on Housing Production Establishment Amendment Temporary Act of 1988," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4493. A letter from the Secretary of Education, transmitting a copy of final regulations for the Captioned Films Loan Service for the Deaf Program and the Educational Media Loan Service for the Handicapped Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4494. A letter from the Administrator, Environmental Protection Agency, transmitting a report on solid waste disposal in the United States, pursuant to 42 U.S.C. 6949a(b); to the Committee on Energy and Commerce.

4495. A letter from the Assistant Attorney General for Legislative Affairs, transmitting the views of the department on the "Diplomatic Immunity Abuse Prevention Act;" to the Committee on Foreign Affairs.

4496. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting notification of a proposed altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4497. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting notification of a proposed new Federal records system and the deletion of another system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4498. A letter from the Assistant Secretary of the Army for Civil Works, transmitting a report dated December 31, 1985, from the Chief of Engineers, Department of the Army, on Molly Ann's Brook, NJ, together with other pertinent reports and comments, pursuant to Public Law 94-587, section 101(a); to the Committee on Public Works and Transportation.

4499. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on McGrath Creek, Wichita Falls, TX, together with other pertinent reports, pursuant to Public Law 89-789, section 209 (80 Stat. 1423) (H. Doc. No. 100-243); which was referred to the Committee on Public Works and Transportation and ordered to be printed.

4500. A letter from the Assistant Secretary of the Army for Civil Works, transmitting a final report dated March 11, 1986, from the Chief of Engineers, Department of the Army, on Galveston Bay area, Texas City Channel, TX, pursuant to Public Law 99-662; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on low input farming systems: benefits and barriers (Rept. 100-1097). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee of conference. Conference report on S. 2100 (Rept. 100-1098). Ordered to be printed.

Mr. PEPPER: Committee on Rules. House Resolution 595. Resolution providing for a motion to take the bill H.R. 5210 to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, from the Speaker's table and to agree to the Senate amendment with an amendment. (Rept. 100-1099). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1842. A bill to amend the Petroleum Marketing Practices Act. (Rept. 100-1100). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4845. Referral to the Committee on Ways and Means extended for a period ending not later than October 24, 1988.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FASCELL (for himself and Mr. Broomfield):

H.R. 5550. A bill to combat international terrorism and otherwise further the national security and foreign policy interests of the United States; jointly, to the Committee on Foreign Affairs, Banking, Finance and Urban Affairs, Ways and Means, and Interior and Insular Affairs.

By Mr. FASCELL (for himself, Mr. Broomfield, Mr. Yatron, Mr. Mica, Mr. Hamilton, Mr. Bonker, Mr. Wolpe, Mr. Crockett, Mr. Gejdenson, Mr. Lantos, Mr. Kostmayer, Mr. Torricelli, Mr. Smith of Florida, Mr. Berman, Mr. Levine of California, Mr. Feighan, Mr. Weiss, Mr. Ackerman, Mr. Udall, Mr. Atkins, Mr. Clarke, Mr. Fuster, Mr. Gilman, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Dornan of California, Mr. Mack, Mrs. Meyers of Kansas, Mr. Miller of Washington, Mr. Donald E. Lukens, and Mr. Blaz):

H.R. 5551. A bill to authorize the transfer of certain funds for use for United States contributions to new international peacekeeping activities; jointly, to the Committee on Appropriations, Foreign Affairs, and Armed Services.

By Mr. DINGELL (for himself, Mr. Florio, Mr. Eckart, and Mr. Lent):

H.R. 5552. A bill to provide that the Consumer Product Safety Commission amend its regulations regarding lawn darts: to the Committee on Energy and Commerce.

By Mr. BRUCE (for himself, Mr. Annunzio, Mrs. Collins, Mr. Costello, Mr. Davis of Illinois, Mr. Durbin, Mr. Evans, Mr. Fawell, Mr. Hastert, Mr. Hayes of Illinois, Mr. Lipinski, Mr. Madigan, Mr. Michel, Mr. Porter, Mr. Rostenkowski, Mr. Russo, Mr. Savage, and Mr. Yates):

H.R. 5553. A bill to designate the Federal Building and U.S. Courthouse located at 301 West Main Street in Benton, IL; as the "Kenneth J. Gray Federal Building and United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. DeLAY:

H.R. 5554. A bill to establish a Congressional Award for Federal Paperwork Reduction; to the Committee on Post Office and Civil Service.

By Mr. DERRICK:

H.R. 5555. A bill to amend the Social Security Act to repeal the Medicare participating physician and maximum allowable actual charge [MAAC] programs, and to eliminate carrier actions to require physicians to refund amount collected for services deemed not reasonable and necessary; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DINGELL (by request):

H.R. 5556. A bill to amend the Clean Air Act to control hazardous air pollutants; to the Committee on Energy and Commerce.

By Mr. LIGHTFOOT:

H.R. 5557. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to establish programs to assist the Food and Drug Administration in recruiting distinguished scientists and individuals in health professions as employees, and for other purposes; to the Committee on Energy and Commerce.

By Mr. McDADE (for himself, Mr. Conte, Mr. Montgomery, Mr. Solomon, Mr. Gallo, Mr. Holloway, Mr. Broomfield, Mr. Rhodes, Mr. Baker, Mr. Combest, Mr. Upton, Mr. Dreier of California, Mr. Olin, Mr. Coble, Mr. Mfume, Mr. Davis of Illinois, Mr. Skelton, Mr. Madigan, Mr. Saxton, Mr. Bilbray, Mr. Wortley, Mr. Shaw, Mr. Mazzoli, Mr. Wyden, Mr. DeFazio, Mr. Blaz, Mr. Clinger, Mr. Watkins, Mr. Courter, Mr. Roe, Ms. Kaptur, Mr. Dornan of California, Mr. Brown of California, Mr. Lagomarsino, Mr. McGrath, Mr. Houghton, Mr. Inhofe, Mr. Horton, Mr. Johnson of South Dakota, Mr. Oberstar, Mr. Gray of Illinois, Mr. Harris, Mr. Jontz, Mr. Edwards of Oklahoma, and Mr. Nielson of Utah;

H.R. 5558. A bill to amend the Small Business Act to establish programs and undertake efforts to assist and promote the creation, development, and growth of small business concerns owned and controlled by veterans of service in the Armed Forces, and for other purposes; jointly, to the Committees on Small Business, Veterans' Affairs, Government Operations, Post Office and Civil Service, and Education and Labor.

By Mr. ORTIZ:

H.R. 5559. A bill to enhance the prospects for economic development in rural areas by allowing municipal corporations to acquire through eminent domain utility facilities of rural water supply or sewer service corporations; to the Committee on Agriculture.

By Mr. FOLEY:

H.J. Res. 677. Joint resolution changing the date for the counting of the electoral vote by Congress to January 4, 1989; considered and passed.

By Mr. BROOMFIELD:

H.J. Res. 678. Joint resolution to amend the War Powers Resolution to remove the requirement that U.S. Armed Forces be withdrawn in the absence of congressional authorization for certain deployments abroad and to establish new procedures for congressional action with respect to such deployments; jointly, to the Committees on Foreign Affairs and Rules.

By Mr. MONTGOMERY (for himself and Mr. Solomon):

H. Con. Res. 392. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of the bill S. 11; considered and agreed to.

By Mr. PORTER (for himself, Mr. Ackerman, Mr. Dornan of California, Mr. Frank, Mr. Inhofe, Mr. Waxman, and Mr. Lagomarsino):

H. Con. Res. 393. Concurrent resolution in support of democracy in Hong Kong; to the Committee on Foreign Affairs.

By Mr. HUGHES:

H. Res. 596. Resolution to concur in the Senate amendment to H.R. 4445, with an amendment; considered under suspension of the rules and agreed to.

By Mr. KASTENMEIER:

H. Res. 597. Resolution to concur in the Senate amendment to H.R. 4972, with an amendment; considered under suspension of the rules and agreed to.

By Mr. STUDDS:

H. Res. 598. Resolution to concur in the Senate amendment to the bill (H.R. 2020) to authorize appropriations for the Office of Environmental Quality for fiscal years 1987, 1988, and 1989, with an amendment; considered under suspension of the rules and agreed to.

By Mr. EDWARDS of Oklahoma (for himself, Mr. Michel, Mr. Lott, Mr. Cheney, Mr. Lewis of California, Mrs. Martin of Illinois, Mr. Lagomarsino, Mr. Armey, Mr. Barton of Texas, Mr. Bateman, Mr. Bilirakis, Mr. Buechner, Mr. Clinger, Mr. Dornan of California, Mr. Emerson, Mr. Houghton, Mrs. Johnson of Connecticut, Mr. Kolbe, Mrs. Meyers of Kansas, Mr. Oxley, Mr. Packard, Mr. Parris, Mr. Porter, Mr. Slaughter of Virginia. Mr. Smith of Texas, Mr. Thomas of California, Mr. Upton, Mr. Walker, and Mr. Weldon):

H. Res. 599. Resolution to amend the rules of the House of Representatives for the purpose of making the legislative process more responsible, representative, and accountable to the Committee on Rules.

By Mrs. MEYERS of Kansas:

H. Res. 600. Resolution expressing the sense of the House of Representatives that when funds are made available through the American Heritage Trust or other sources for grants for historic preservation, a grant for the presentation of Quindaro, KS, should be given high priority; to the Committee on Interior and Insular Affairs.

MEMORIALS

Under clause 4 of rule XXII.

486. The SPEAKER presented a memorial of the House of Representatives of the State of California, relative to the Federal Aid in Sport Fish Restoration Act; which was referred to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

[Omitted from the Record of Oct. 19, 1988]

By Mr. MONTGOMERY: A bill H.R. 5549 for the relief of Graham N. Brown and Barbara Brown (wife); which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1468: Mr. Bryant.

H.R. 2517: Ms. Slaughter of New York.

H.R. 2717: Mr. Matsui.

H.R. 2859: Mr. Bates and Miss Schneider.

H.R. 3119: Mr. Russo.

H.R. 3673: Mr. Johnson of South Dakota.

H.R. 3810: Mr. Towns.

H.R. 4231: Mr. Kennedy.

H.R. 4518: Mr. Swift.

H.R. 4541: Mr. Buechner, Mr. Tallon, Mr. Packard, Mr. Kolter, Mr. Ackerman, and Mr. Campbell.

H.R. 4575: Mr. McCloskey.

H.R. 4738: Mr. Rangel and Mr. Ackerman.

H.R. 4803: Mr. Boland, Mr. Swift, and Mr. McCrery.

H.R. 4905: Mr. Feighan.

H.R. 4968: Mr. Martinez.

H.R. 4969: Mr. Martinez.

H.R. 4991: Mr. Foglietta and Mrs. Meyers of Kansas.

H.R. 5000: Mr. Dixon.

H.R. 5019: Mr. Dorgan of North Dakota, Mr. Kolbe, Mrs. Smith of Nebraska, Mr. Lancaster, Mr. Sweeney, Mr. Lightfoot, Mr. Bereuter, Mr. Hefner, Mr. Taylor, Mr. Combest, Mr. McCurdy, Mr. Marlenee, Mr. Nagle, and Mr. Darden.

H.R. 5041: Mr. Johnson of South Dakota and Mr. Schaefer.

H.R. 5075: Mr. Weldon.

H.R. 5122: Mr. Waxman and Mr. Martinez.

H.R. 5154: Mr. Markey and Mr. Hochbrueckner.

H.R. 5226: Mr. Schumer and Mr. Bustamante.

H.R. 5338: Mr. Berman.

H.R. 5351: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5352: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5353: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5354: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5355: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5356: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5357: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5358: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5359: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5360: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5361: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5362: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5363: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5364: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5365: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5366: Mr. Burton of Indiana, Mr. Hunter, Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5374: Mr. Whittaker, Mr. Spence, and Mr. Schuette.

H.R. 5396: Mr. Schuette, Mr. Baker, Mr. Rhodes, Mrs. Collins, Mr. Udall, Mr. Bliley, and Mr. Cardin.

H.R. 5459: Mr. Evans.

H.R. 5460: Mr. Markey, Mr. DeFazio, Mr. Weiss, Mr. Dellums, and Ms. Pelosi.

H.R. 5479: Mr. Andrews, Mrs. Boggs, Mr. Martinez, Mr. Hoyer, Mr. Wortley, Mr. Coyne, Mr. Mrazek, Mr. Ackerman, Mr. Lehman of Florida, Mr. Frank, Mr. Yatron, Mr. Pepper, Mr. Leath of Texas, Mr. Roe, Mr. Owens of New York, Mr. Jontz, Mr. Dwyer of New Jersey, and Mr. Lipinski.

H.R. 5480: Mr. Fuster.

H.R. 5489: Mrs. Kennelly, Mr. DioGuardi, and Mr. Gephardt.

H.J. Res. 260: Mr. Chappell, Mr. Erdreich, Mr. Hammerschmidt, Mr. Sabo, Mrs. Bentley, Mr. Donnelly, Mr. Foley, Mr. Hastert, Mr. Ireland, Mr. Ravenel, Mr. Murtha, Mr. Barnard, Mrs. Collins, Mr. Stallings, Mr. Owens of Utah, Mr. Akaka, Mr. Chapman, Mr. Leland, Mr. Lungren, Mr. Borski, Mr. Spence, Mr. Durbin, Mr. Schaefer, Mr. Goodling, Mrs. Martin of Illinois, Mr. Rhodes, Mr. Bevill, Mr. Nowak, Mr. Lowery of California, Mr. MacKay, Mr. Saxton, Mr. DeWine, Mr. Emerson, Mr. Clarke, Mr. Grandy, Mr. McHugh, Mr. Brennan, Mr. Moody, and Mr. Jacobs.

H.J. Res. 285: Mr. DeFazio, Mr. Sabo, Mr. Frank, Mr. Fauntroy, Mr. Fazio, and Mr. Weiss.

H.J. Res. 367: Mr. Wheat, Mr. Jeffords, Mr. Robert F. Smith, Mr. Wylie, Mr. Erdreich, Mr. Kleczka, Mr. Fawell, Mr. Leach of Iowa, Mr. Shumway, Mr. Goodling, and Mr. DeLay.

H.J. Res. 446: Mr. Waxman, Mr. Hutto, Mr. Pursell, and Mr. Schaefer.

H.J. Res. 449: Mr. Watkins.

H.J. Res. 477: Ms. Oakar, Mr. Evans, Mr. Buechner, Mr. Dicks, Mr. DeWine, Mr. Packard, Mr. Frank, and Mr. Jeffords.

H.J. Res. 522: Mr. Madigan.

H.J. Res. 557: Mr. Gallo.

H.J. Res. 565: Mr. Martinez and Mr. Erdreich.

H.J. Res. 571: Mr. Martin of New York.

H.J. Res. 594: Mr. Martinez, Mr. Jeffords, and Mr. Lagomarsino.

H.J. Res. 613: Mr. Brennan.

H.J. Res. 630: Mr. Hammerschmidt, Mr. Mazzoli, Mr. Robinson, Mr. Quillen, Mr. Coughlin, Mr. Russo, and Mr. Frenzel.

H.J. Res. 639: Mr. Stenholm.

H.J. Res. 642: Mr. Dreier of California.

H.J. Res. 647: Mr. DeFazio, Mr. Frost, Mr. Conyers, Mr. Courter, Mr. Parris, Mr. Latta, Mr. Kildee, Mr. Carr, Mr. Hall, of Texas, Mrs. Morella, Mr. Foley, Mr. Jeffords, Mr. Spratt, Mr. Brooks, Mr. Mack, Mr. Hefner, Mr. Dowdy of Mississippi, Mr. Brennan, Mr. Michel, Mr. Mfume, Mr. Coleman, of Missouri, Mr. Jacobs, Mr. Bilbray, Mr. Roth, Mr. Clement, Mr. Daub, Mr. Stratton, Mr. McCloskey, Mr. Owens of Utah, Mr. Durbin, Mr. Bunning, Mr. Lagomarsino, Mr. Solomon, Mr. Aspin, Mr. Gregg, Mr. Cheney, Mr. Rahall, Mr. McHugh, Mr. Watkins, and Mrs. Vucanovich.

H.J. Res. 651: Mr. Nielson of Utah, Mrs. Collins, Mr. Quillen, and Mr. Coughlin.

H.J. Res. 653: Mrs. Meyers of Kansas, Mr. Pashayan, Mr. Nelson of Florida, and Mr. Gregg.

H.J. Res. 660: Mr. Stangeland, Mr Lungren, Mr. Tauke, Mr. Kennedy, Mr. Garcia, Mr. Dowdy of Mississippi, Mr. Burton of Indiana, Ms. Oakar, Mr. Perkins, Mr. Murtha, and Mr. Nichols.

H.J. Res. 661: Mr. Solomon.

H. Con. Res. 277: Mr. Evans and Mr. Martinez.

H. Con. Res. 317: Mr. Rogers and Mr. Stump.

H. Con. Res. 362: Mr. Crockett.

H. Con. Res. 379: Mr. Chandler, Mrs. Martin of Illinois, and Mr. Skelton.

H. Res. 542: Mr. Dyson, Mr. Jontz, and Mr. Bateman.

H. Res. 580. Mr. Ballenger, Mr. Barton of Texas, Mr. Courter, Mr. Gunderson, Mr. Hutto, Mrs. Meyers of Kansas, Mr. Nielson of Utah, Mrs. Schroeder, Mr. Sikorski, Mr. Tallon, Mr. Tauke, Mr. Tauzin, Mr. Walker, and Mr. Wortley.

PETITIONS, ETC.

Under clause 1 of rule XXII.

241. The SPEAKER presented a petition of the city of Miami commission, FL, relative to better child care; which was referred, jointly, to the Committees on Education and Labor and Ways and Means.

EXTENSIONS OF REMARKS

A WINNING STRATEGY FOR THE DRUG WAR

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday October 19, 1988

Mr. ANDREWS. Mr. Speaker, recent debate in Congress about the 1988 drug bill known as the Omnibus Drug Initiative Act of 1988 brings the question of Federal drug policy again to the center of national attention. Over the past few years the Federal Government has spoken of an all-out war on drugs. However, we still seem to be losing ground in the war on drugs.

The question then remains: Can we turn the tide? Despite all of the grim statistics the answer is clearly, "Yes." Our initial reaction to the drug problem has simply been to throw money at it. What has been lacking is a definite strategy and direction. After years of this patchwork approach we must now move toward a coordinated four-part strategy which I believe will enable us to turn the tide in our war on drugs.

This four point plan requires increased emphasis on curbing the demad for drugs and includes measures to address the need for: one, continued interdiction of drugs entering this country; two, better comprehensive domestic drug enforcement; three, stronger drug education; and four, more extensive support for drug rehabilitation programs.

The initial phase of the drug war on the Federal level has centered on the first point—drug interdiction. That is—we have been concentrating on preventing drug smugglers from bringing their wares into the country. A recent report estimates that as much as 50 percent of the cocaine which enters the United States comes through Texas. In light of this fact, it is important for our State and the country that our attack on the supply-side of the drug problem continue to be an integral part of any antidrug strategy. However, I and others have questioned the wisdom of making this attack the sole focus of our fight against drugs. Drug interdiction is simply part one of our overall strategy.

It has also been widely recognize that part two of this comprehensive antidrug strategy—domestic drug enforcement—must be another part of our war on drugs. However, what has not been recognized until recently is the comprehensive nature our aid in this area must take. In the past, aid for drug enforcement has centered largely on increasing the number of law enforcement officers. While this is certainly important, we must also recognize that any comprehensive effort to improve drug enforcement must include improvement for two other essential elements: our overloaded court system and our dangerously overcrowded prison system. Arresting drug dealers does not get us anywhere if the court system cannot handle them and the prison cells are full.

Too often drug dealers and users are the nonviolent offenders who never go to prison or are set free due to overcrowding problems. In Texas we are especially feeling this pinch as Governor Clements recently had to invoke the State's Prison Management Act to grant emergency time credits and to speed up the release of thousands of State prison inmates.

In addition, our courts do not have the resources to handle the huge case load relating to drug offenses. The result is that the so-called minor cases of drug possession frequently are not pursued as they should be. In reality, the casual users and small time dealers who are involved in these cases are very much a part of the problem and should be dealt with accordingly.

The third essential part in our coordinated effort to win the war on drugs is education. Over the past 2 years I have begun to see a realization among policymakers and the public that the emphasis in the fight against drugs should be placed more heavily on curbing demand. Better drug enforcement aimed at drug users is one way to do this. However, antidrug education gets to the heart of the matter.

The need to educate our children about drugs is painfully evident. It is a sad and almost unbelievable fact that most people who use drugs begin between the ages of 11 and 13. Houston Independent School District officials estimate that 7 out of 10 schoolchildren will use drugs at least once before leaving the HISD and that 1 out of 10 will become addicts or alcoholics. This simply cannot continue and one way to ensure that it does not is to provide better drug education for children earlier in life.

That drug education has proven effective can be seen in numerous studies including a recent study done by the Media-Advertising Partnership for a Drug Free America. This study shows a significant change in children's attitudes toward drugs in areas which were saturated with public service antidrug advertising.

We must do a better job of bringing this antidrug message into our schools. Much of the initiative on drug education in the schools must, of course, come at the local level, but the Federal Government must play a leadership role.

The fourth point in our coordinated attack on drugs involves rehabilitation. Again, this gets to the heart of attacking the enormous demand for drugs.

We must make sure that rehabilitation services are available for those who need them. At present the city of Houston has fewer than 100 rehabilitation beds available for those who cannot afford private programs. The result is that even those who want to try to get clean may not be able to find the help to do so. It is a tragedy that greatly hampers our antidrug efforts when even those who would like to get a fresh start cannot.

It is becoming increasingly clear that only with a coordinated effort based on this four part strategy can we turn the tables in the war on drugs. Again, the "Omnibus Drug Initiative Act of 1988" recently passed by the House is a good beginning in this respect. In the area of drug enforcement it provides for increases in Federal grants to drug arms of local law enforcement agencies, additional funds for the Federal prison system, the hiring of more U.S. attorneys to prosecute the huge number of drug cases, and civil fines for people arrested on lesser drug offenses to relieve some of the burden from the criminal courts. In general, its provisions signal the get-tough attitude toward drug use that we must maintain.

In the area of education the bill charges the Department of Education with developing drug education materials and provides drug education grant money to State and local education agencies.

In the area of rehabilitation the bill provides for more grant money to local and State officials to establish better rehabilitation programs. In addition, the bill would limit access of convicted drug users to certain Federal programs and make the completion of a drug rehabilitation program a condition for restoration of benefits. In this way we may be able to force more drug users into rehabilitation programs.

A lack of direction has hampered our antidrug efforts for far too long. The core of this 1988 drug initiative is a good base from which to build future initiatives. However, national and community leaders must pull together to find solutions to problems in the four key areas. By targetting our efforts in interdiction, enforcement, education, and rehabilitation we can win the war against drugs.

FREE THE KAIAPO CHIEFS AND DR. POSEY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. PORTER. Mr. Speaker, two Kaiapo Indian chiefs, Paiakan and Kube-i, from the Brazilian rain forest, were arrested August 23, under the Foreigner's Act for interfering in Brazil's international policy. Dr. Darrell Posey, an American anthropologist who studies the Kaiapo, was also arrested.

The charges stem from their trip to Washington last February when the chiefs, with Dr. Posey as their translator, asked support from me, other Members of Congress, and State Department and World Bank officials to halt construction of huge dams in their traditional homelands. The chiefs knew that dams would flood thousands of acres of pristine tropical

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

rain forest and would force the relocation of many Indian tribes.

The World Bank delayed funding a $500 million power loan to Brazil. Many believe that the arrests are due to Brazil's frustration over the loan delay.

Mr. Speaker, it is an outrage when those most affected by development are arrested for objecting to projects to those responsible for funding them. I strongly protest these arrests, and urge Brazil to drop all charges against Dr. Posey and the Kaiapo chiefs.

TRIBUTE TO HELEN WAGNER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to a respected and caring woman who will be 100 years old on November 7. Miss Helen Wagner of Pottsville, PA will be celebrating an important milestone and I want to take this opportunity to wish her a very happy birthday. Over the years, Miss Wagner has been involved in and assisted many members of the community through her church and civic affiliations. While she was employed as a seamstress her working life, her philanthropic efforts in spare time included teaching Sunday school, participating in activities of the St. Mark's United Church of Christ of Cressona and holding office in the Ladies' Aide Society. In addition, she was a member and held office in the Sons and Daughters of Liberty organization. She is well known in the area, too, for her recitations on religion and folk poetry.

In many ways, Miss Wagner has led an exemplary life in the past century and a great number have been touched by her kindness. I know that my colleagues will want to join me in wishing Miss Wagner a very memorable birthday celebration with every good wish that her future will continue to be filled with happiness, peace and good fortune.

NATIONAL FIRE PREVENTION WEEK

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MAZZOLI. Mr. Speaker, America loves its heroes. We hold in high esteem many national figures in athletics, entertainment, politics, and other fields as role models. Unfortunately, we all too often fail to recognize the heroes who live and work in our communities who, each and every day, place their lives on the line for the safety of others. These are our local firefighters.

I am pleased to join on the occasion of National Fire Prevention Week to pay tribute to the courageous men and women firefighters.

Fires can strike and spread quickly. Two and a half million fires are reported annually and over the past 5 years this country has averaged more than 6,000 deaths per year and several hundred thousand fire-related injuries. The United States has one of the highest fire death rates in the world. Each year fires kill several times more Americans than all other natural emergencies combined.

Last year over 127 fire fighters were killed in the line of duty and over 50,000 were injured. Were it not for the quick response to the call of duty and courageous acts performed by these and the many brave volunteers, the above numbers would surely be greater.

On Sunday, October 16, the families of the fallen, along with fire service leaders and Government officials, gathered at the National Fallen Firefighters Memorial in Emmitsburg MD, to honor these brave men and women. Among those honored was William M. Schelling of the Louisville Division of Fire, located in Kentucky's Third District which I am privileged to serve.

At noon on the 16th, local fire departments around the country sounded their sirens in honor of the fallen firefighters. This alarm served to remind all Americans of those who have fallen in service to them.

In this regard, Mr. Speaker, I would like at this point to insert in the RECORD some key pointers provided by the Federal Emergency Management Agency for the prevention and reduction of fire:

> Use smoke detectors. they have made a significant contribution to the reduction of fire deaths, injuries, and property losses. Smoke detectors provide a major defense through early warning. However, it is estimated that of the smoke detectors installed in the United States today, one-half are not maintained, or are disabled to limit "nuisance" alarms. Check smoke detectors weekly and change the battery in battery powered detectors at least once a year. Remember, a working smoke detector doubles your chances of surviving a fire.
>
> Consider fire resistant upholstered furniture and bedding which serve as significant deterrents in places where there are smokers.
>
> Consider seriously the success stories in life safety and minimum fire losses resulting from the growing use of sprinkler systems in residential environments.
>
> Keep your home free of fire hazards such as unsafe storage of flammable liquids, faulty electric wiring and defective heating units. Good housekeeping pays.
>
> Use only approved heating devices. Improper installation and misuse are the major cause of fires by heating sources. Check with your local fire departments. They are there to help.
>
> Remember "safe kids are no accident!" Teach your childern fire-safe behavior at an early age.
>
> Make sure matches and lighters are kept out of the reach of children.
>
> Plan and practice escape from your home for fire and other emergencies. Plan to get out alive.

TRIBUTE TO MAYOR JIM CONN

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to recognize a dedicated leader and good friend as he steps down as mayor of the city of Santa Monica, an important city in my 27th Congressional District. He has been a mayor seeking to unify and strengthen the city.

Jim Conn, was first elected to council in 1981. Jim was liaison to the Airport Commission, Parks and Recreation Commission, and founded and served as liaison to the Arts Commission. Jim Conn initiated the Arts Commission because he believes that a city is more than streets and buildings.

Jim Conn has fought to insure equal distribution of services throughout the city and led the effort to beautify the southern beaches.

Jim Conn, a minister of the church in Ocean Park—United Methodist—demonstrated his deep commitment to the community by founding community-based service projects including: a nursery school, a poverty law office, a community center, a neighborhood organization, a halfway house for youth, and a battered women shelter; and produced community cultural events including a resident theater company, a dance company, and the Main Street Faire, as well as art events in music, visual arts, and performance arts. As a council member, he furthered those efforts.

Jim Conn, council member, mayor, and friend will be greatly missed by all of us who have turned to him for support, guidance, and friendship. I ask that my colleagues in the U.S. House of Representatives join me in saluting this fine man for a job well done.

A SALUTE TO THE MEMORIAL HIGH SCHOOL 1988 NATIONAL BASEBALL CHAMPIONS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. GUARINI. Mr. Speaker, last week I was invited to a tremendous parade in the heart of west New York where thousands of citizens of that community and Hudson County paid tribute to the Memorial High School Baseball team that won the national high school competition for 1988.

This is a tremendous accomplishment for a school which is well run in the community. I join Mayor Anthony M. De Fino in honoring this team. The young people in my district must work very hard to overcome tremendous odds. This school has done so not only winning New Jersey State Scholarship Merit Award last year, but this year's high athletic honor.

Members of the team are: Robert Montalvo, John Rivera, Juan Llanes, Ralph Perdomo, Ronnie Camejo, George Mendoza, Franklin Borbon, Luis Garcia, Sonna de la Rosa, Juan Carlos Cueto, John Cueto, George Garcia, Carlos Rodriquez, Henry Codina, Felix Garcia, Ronnie Franco, Carlos Galarza, Willie Bernal, Gabe Infante, Alex Del Rosario, Iram Cabellero, Ralph Bermudez, Steve Quagliani, Al Guillen, Ulises Calliero, Ramiro Orellano.

The head coach of the team is Tony Ferrainolo, assisted by coaches John Stark and Jose Gonzalez.

School principal is Dr. Robert Van Zanten. Athletic Director: Silverio Vega.

Superintendent of Schools: Carl Raparelli.

Secretary and business administrator: Dr. Louis Romano.

Board of Education members are:

President: Dr. Francesco Cordasco.

Vice President: Virginia Wengerter, John Montrone, Jose Deschapelles, Angela Bedoya.

This outstanding team had 28 wins and only 1 loss which made them the county, State, and national champions. Luis Garcia was the winning pitcher in both county and State championship games doing an outstanding job for the team.

One of the players, shortstop Robert Montalvo, has been drafted by the Toronto Blue Jays and he is playing with their farm team in St. Catherines, Ontario.

I am sure that all of my colleagues here in the House of Representatives wish to join me in this well-deserved salute to an outstanding group of teenagers who have tremendous spirit and a strong desire to excell.

TRIBUTE TO MR. ERNEST DIEDRICH WICHELS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mrs. BOXER. Mr. Speaker, I rise today in order to acknowledge and pay tribute to an outstanding citizen from my Sixth Congressional District in California, Mr. Ernest Diedrich Wichels. A resident of Vallejo, Ernie is a true Vallejo institution. His contributions to Vallejo through community service and, in particular, recording and disseminating local history are unique and irreplaceable.

The entire community will be honoring Ernie to show their appreciation for his seven plus decades of service and unending commitment to the people of Vallejo. Both in 1896, Ernie began 51 years of service at Mare Island Naval Yard when he was 16. He was appointed administrative assistant to the commandant in 1934, holding the title for 29 years until his retirement. Among his honors during his tenure was the award of the Distinguished Civilian Service Medal presented to him by the Secretary of the Navy during World War II.

The past 25 years have been special to Ernie and to the readers of the Vallejo Times-Herald. Ernie has written over 1 million words as a weekly columnist. Has column, entitled "Pages From the Past," provides readers with a historic look back at Vallejo. His research in the area of Vallejo history enables every citizen an opportunity to better understand and appreciate the community in which they reside.

During Ernie's wonderful career he has held many positions of importance. He served as national vice president of the Civil Service Retirement Association for 21 years, and as president of the National Association of Retired Federal Employees (chapter 16). While his prominence beyond Vallejo is noteworthy, many of his most beloved contributions can be found in his community work. Ernie has spent 47 years with the Salvation Army Advisory Committee, 3 as chairman, and 22 years as president and 21 years as secretary for the Navy Yard Association of Mare Island. He is also a charter member of the Vallejo Housing Authority, and served on the Vallejo Recreation Commission. This is only a partial list of the endless contributions that this man has given to his community.

Mr. Speaker, I consider it a privilege to represent Mr. Wichels, and it fills me with a great sense of pride to join with the Vallejo Armed Services Committee and the Vallejo community in honoring this appreciated and respected citizen.

VITAL PANAMA CANAL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CRANE. Mr. Speaker, Panama is a country filled with political, economic, and international crises. The stability that the country once had is lost and in its place we find an unstable, volatile situation that threatens United States' interests and security. Our trade, as well as the lives of the 25,000 Americans living in Panama, is in uncertain danger. The mood swings of a drug-trafficking dictator determine the treatment that our citizens are granted in Panama. Furthermore, in 1999 when we are to give up the Panama Canal, it may be the same dictator who determines the status of our important shipping through the extremely strategic waterway.

The Panama Canal Treaty of 1977 was negotiated under President Jimmy Carter who had an enormous concern for human rights, as well as increasing the cooperation and good feelings between Latin America and the United States. In an effort to show our desire to promote both of these issues, we nogotiated the infamous Panama Canal Treaty. Under the treaty, we agreed to give up the canal that we generously purchased and built in 1903. It is my belief that we initiated the treaty out of a false sense of guilt and an unclear understanding of the potential harm that our action could cause us in the long run. The decision to ratify the treaty, was unpopular when it was drawn up—80 percent of Americans opposed it—and has become increasingly unpopular as the Panamanian political situation worsens.

The ties between the Panamanian military and their central government are omnipresent and frightening. Strongman Manuel Noriega, who dominates foreign policy with a fervent anti-American attitude, has been accused of money laundering, drug trafficking, arms dealing, political murder, selling United States secrets to Cuba and Libya, and election fraud. Clearly not our friend, and certainly a friend of our enemies, Noriega has become a threat to our well-being. Furthermore, the current domestic situation in Panama which includes an economic downturn, a suspension of basic human rights, the continued use of polititcal violence, and a degree of press censorship illuminates the fact that Noriega is a threat to the well-being of even the people he is in power to serve. We must carefully examine where the Government is heading and how it will affect us in the future when we have given up our legitimate claim to the Canal.

Clearly, the critical issue at stake is the strategically vital Panama Canal. The canal's importance to us cannot be underestimated. This stategic waterway allows us to ship between the east and west coasts of the United States with relative ease and efficiency. During times of international distress, the canal's importance soars. A crisis in Central America would necessitate immediate mobilization in which the Panama Canal would play a primary role. The canal allows our Navy mobility and flexibility and we cannot allow that to be threatened. Furthermore, it is necessary to remember that the reason we are able to minimize the number of regional naval facilities is because the canal allows us to move our ships from one ocean to the other in a short amount of time.

The canal also provides an important international aspect to our trade. For example, more than 15 percent of all U.S. shipboard imports and exports travel through the canal. The canal also accounts for 4 percent of all the world shipping. If for any reason the canal were to be closed, the damage would be immediate and severe. Chaos among transcontinental shippers would certainly ensue and consumer prices would rise in response. As dramatic as that might be, one can anticipate even worse possibilities. The Panamanian Government could raise the canal toll rates that would necessitate drastic changes in shipping routes. Another possibility is that the drug traffickers might offer bribes which would prove to be lucrative and acceptable to a government such as the one run by Noriega, certainly no stranger to drug trafficking and lucrative bribes. Finally, one cannot ignore the fact that, without proper care, the canal might be mishandled or damaged. Of course, our strongest fear is that the canal will fall into the hands of our enemies, as there are no stipulations in the treaty stating that the Panamanians cannot sell the canal to another country, possibly a hostile one.

The importance of a clear understanding of the unstable, unfriendly, and domestically unpopular Government in Panama is essential to understanding the concern many feel over relinquishing our canal. Manuel Noriega is not a man we should feel inclined to trust. The situation in Panama is worsening and even his own people are turning against him. The Civic Crusade in Panama, a popular resistance organization, has a list of goals which include: removing Noriega from power, depoliticizing the defense forces, restoring constitutional guarantees, and preparing the country for the democratic elections scheduled for May of 1989. This popular resistance organization is an important one, because it establishes a clear platform of what the Panamanian people want. The desire for democracy is a sincere one and should be respected.

We have a vested interest in establishing a smooth transition from a dictatorship to a democracy. Furthermore, we share that interest with the Panamanian people. If we do not take a deep look at the deteriorating situation, crises and chaos will advance even further. No one wants to see revolutionary violence in Panama. We have a respect for the Panamanian people and a serious interest in the operations of the Panama Canal. We want to see democracy restored and the corruption eliminated in Panama, for our sake and for the sake of the Panamanian people.

The current situation in Panama involving Gen. Manuel Noriega and his drug trafficking government has brought the country into a period of enormous unrest. Fortunately, we still do own and control the valuable Panama Canal. I feel that now is the time to review the treaty that gives away, in 1999, this strategically vital canal. There are a number of legal problems with the ratification that may well render the treaty null and void. We must carefully consider the legality and the rationality of giving a canal of this importance away to an unstable, corrupt, drug-trafficking government. I have introduced a bill, House Concurrent Resolution 354, that calls for a sense of Congress that the Panama Canal treaty be abrogated. I ask you to consider the threat that Noriega poses and the vital importance of the canal to our country. I ask you to support House Concurrent Resolution 354.

TELEPHONE RULES STIFLE COMPETITIVENESS

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HASTERT. Mr. Speaker, one of the first issues which the 101st Congress must face next year is the evolving irrelevancy of the 1982 AT&T consent decree. As our telecommunications trade deficit widens and our Nation's population continues to be composed increasingly of technological "haves" and "have nots," Congress must reassert its role as the telecommunications policymaker as envisioned under the 1934 Communications Act.

Revision of the current lines-of-business restrictions of the regional Bell companies is one important way we in the Congress can solve some of these critical problems as the information age approaches the 21st century.

In that regard, I would like to commend to my colleagues' attention, the following article from the Houston Post of September 30, 1988, entitled, "Telephone Rules Stifle Competitiveness."

Mr. Speaker, I would appreciate your consideration of this article which I insert at this point:

TELEPHONE RULES STIFLE COMPETITIVENESS

(By Jerome Elleg)

Four years ago, the Justice Department agreed to drop its antitrust suit against AT&T. In exchange, AT&T turned its local telephone operations over to seven independent, regional companies which control about 80 percent of local telephone lines.

However, the agreement prohibits the regional telephone companies from manufacturing telephone equipment and discourages them from providing state-of-the-art services that would let customers read, shop, leave messages, or gather information using screens and keyboards plugged into their phone lines.

These restrictions artificially curtail exports and increase imports of telecommunications equipment. The regional telephone companies that used to be part of AT&T make up about half of the U.S. telecommunications industry, but since they aren't allowed to manufacture telephone equipment, they can't develop new products for export.

In addition, foreign equipment suppliers usually offer regional phone companies the only alternative to purchasing equipment from the major U.S. producer, AT&T. The Justice Department noted in its 1987 report on competition in the telephone industry. "All the major new equipment suppliers selling in the U.S. are established manufacturers from other countries." Since many of the regionals would rather not rely solely on AT&T for services to large business customers, they are turning more and more to foreign suppliers.

Consumers and small businesses also suffer as a result of restrictions on the regional phone companies. These companies cannot build information services into the local telephone network. Their customers often end up buying answering machines, computers, and other more expensive equipment they must attach to their phone lines to get services the phone companies could provide less expensively.

Instead of paying the phone company a few dollars a month to take messages, for example, consumers pay $70 and more for answering machines. Instead of reading news, conducting research, and gathering financial information through an inexpensive screen tapped into the phone line, they pay several thousand dollars for personal computers and software.

Of course, relatively few can afford such services under current conditions. The situations contracts markedly with that in France, where 3.7 million telephone subscribers can use inexpensive terminal screens to choose from more than 7,300 different services, including news, travel reservations, shopping and banking.

Americans fed up with the multi-volume phone books that some telephone companies have started issuing should be particularly envious of the French system's electronic directories. Instead of fumbling through paper telephone directories, French callers can view phone numbers, addresses, and other information on the screen.

The French government helped create a mass market for such information services by subsidizing distribution of terminals. The U.S. government, on the other hand, can give telephone companies a giant incentive to create a mass market here simply by removing restrictions that keep them out of the market.

Recognizing this problem, the Commerce Department's National Telecommunications and Information Administration concluded in a report earlier this year, "Without decisive action, the public telephone and information services that individuals and businesses must depend on will fall farther and farther into second-rate status."

Fortunately, some congressmen seem ready to act. Rep. John Dingell, D-Mich., recently introduced a resolution that would put Congress on record in favor of removing the manufacturing and information services restrictions. Passage of the resolution would pave the way for positive legislation when the new Congress and president take office next year.

Given the boon to consumers and competitiveness, policymakers would do well to pick up the phone when regulatory reform comes calling.

M.S.U. REPORT: THE FUTURE OF THIRD WORLD RELATIONS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CARR. Mr. Speaker, I rise today to commend Dean Ralph Smuckler and the Center for Advanced Study of International Development at Michigan State University on their recently completed report: "New Challenges, New Opportunities: U.S. Cooperation for International Growth and Development in the 1990's." This report recommends that in our own national interest, we must create a new approach for the future of U.S.-Third World relations.

This project was the culmination of a yearlong study in cooperation with 12 major national organizations and institutions. The project began in June of 1987 at a symposium on "The Context for Development in the Next Decade." Eleven of these institutions sponsored colloquia on key aspects of the development policy and a final conference took place in May of 1988 to review and comment on the recommendations of the draft report. I would like to insert into the RECORD the summary and conclusions of this report so that we may all take its findings into full consideration when we are looking for a new mutually beneficial approach regarding future relations with the developing countries. The summary and conclusions follow:

SUMMARY AND CONCLUSION

As we enter a new decade and look forward to a new century, the time is ripe for us to envision the better world we would want to leave our children. What, we ask ourselves, should we strive for? At least three cardinal objectives: broadly based, growth, an effective attack on poverty, and an end to the destruction of the environment. More than any other nation in the world, we stand to gain from a gloval system that promotes these objectives.

To accomplish these objectives, we believe the United States must forge a new, a more mature relationship with the Third World. We need to shift from the old idea of aid to the new idea of mutual gain through cooperation. With developing countries as partners, we can progress together into the 21st Century. In this way, we serve both our political and economic interests and satisfy some of America's most basic humanitarian values. We also enhance our nation's long-term security in an increasingly interdependent world.

Why is now a good time to make major changes in our engagement with the Third World? Because the world has changed in the past several years—in global economics and politics, in our domestic economics as well as in the Third World itself. The Third World is no longer a single, homogeneous group of countries. Now they range from the very poor to the newly industrialized. Global environmental problems loom larger. All these changes in the world require us to change our way of relating to the world. It is time to reexamine and recreate our policies and programs for development, for progress in the developing countries is increasingly important to this country.

Depending on their needs and on their importance to us, different countries in the Third World will present different challenges. We especially need to move to a cooperative style with the strongly advancing countries. In those less developed, however, we will need to maintain aid while at the same time pointing toward new cooperative modes in the future. Ultimately, of course, all Thrid World countries must themselves be responsible for stimulating their own economic growth, for reducing their poverty, and for improving their environment. The U.S. can, however, help and hasten the process.

To this end, we should use our experience and skills: to enhance physical well-being through improved health systems and population planning; to work for sustainable agricultural systems, particularly emphasizing food supplies and forestry; to develop environmental programs and policies that will protect natural resources and, through emphasizing renewable supplies and conservation, assure better energy security; and to foster sound urban development policies.

The latter two are new themes, whereas the former are older and can be addressed now in more effective ways. We can approach all four through our strengths in: developing human resources, particularly at advanced levels, in order to improve managerial capabilities: using human resources, particularly at advanced levels, in order to improve managerial capabilities; using science and technology, especially to further local capacities and to develop joint research programs; fostering policy and institutional development; and mobilizing diverse energies for development, with special emphasis on the private sector, nongovernmental organizations, women in development, and human rights.

While we are doing this, we must at the same time pay special attention to three urgent problems. Third World debt, which endangers both growth and the international financial system; Africa, where the degradation of the environment and poverty imperil human life itself; and global deterioration of the environment, which requires global cooperation.

New U.S. cooperation requires actions well beyond what any one U.S. agency can do—actions that will be broader than international development policy alone. If we are to cultivate better our national interests, we need to coordinate better our national resources. The Treasury Department, Trade Representative's Office, Department of Agriculture, Peace Corps, Environmental Protection Agency and others—all will play significant roles as we address new problems and opportunities in the developing world.

The Agency for International Development must change. Its structure and name ought to reflect the new theme and style of mutual gain through cooperation. To this end it should expand its analytical capacity and guide U.S. agencies toward a new U.S. relationship with developing countries.

The new Administration should: establish a council led by the White House to coordinate U.S. agencies' actions and policies on development; create a semiautonomous foundation to strengthen research and the use of science and technology for development; consider the size and number of overseas missions as new tasks and cooperative modes evolve; and involve intermediaries more often and use binational councils and boards in countries abroad.

Our funding of aid is low compared to that of other industrial countries and to our past contributions. As we move vigorously toward our goals with new modes of cooperation and greater effectiveness, progress will justify and increase in our official development assistance. In this process we should sort out development funds from short-term political and military aid so that cooperation for sustainable development can build its own constituencies.

We should understand and evaluate development cooperation in terms of our own interest in our three primary goals—achieving broadly based economic growth, effectively attacking poverty, and ending the degradation of the world's environment. The President must lead; others will follow. It is essential that he provide the vision of the better world we can attain for the generations to come.

COST OF RECORDING CONGRESS REDUCED

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. ANNUNZIO. Mr. Speaker, at the close of this Congress, I would like to report on some of the good things we have been able to do, with the cooperation of Members, staff, and the legislative branch agencies.

As chairman of the Committee on House Administration, and as chairman of the Joint Committee on Printing, it has been my job to keep a close eye on expenses and give the service to Members that they need. There is a lot of work in the housekeeping job that these committees have, and not much benefit for the Members who serve you so well.

We have been able to improve our services and save some money at the same time—and that's quite an accomplishment. In House Administration, we were able to let a contract for a new telephone system that will save over a million dollars in this Congress, and keep on saving throughout the next Congress. I know that some Members had a few problems when we were getting the system running, but it is doing the job now and saving money.

We made a study of the Folding Room and we have developed and put into effect a plan that will improve the efficiency of that operation in the next Congress, give the employees better working conditions, and, in the long run, save money.

With the help of our experts in the House Information Systems and the Government Printing Office, we have been able to speed up the printing of committee documents, and to do it at reduced cost.

We have held the line on committee expenses, even though many committees held more hearings and reported more bills than ever before.

By encouraging the application of new technologies throughout the system, we are getting the mail out faster, keeping better records, improving constitutent service, and saving money. If we had to add people to do the work we are able to do with computers, we wouldn't have enough room in our office buildings to hold them.

Mr. Speaker, at this point, I would like to insert in the RECORD an article from the Washington Times of October 14, 1988, which tells part of the story of our efforts to make this institution run better and more efficiently. When we can reduce the cost of the CONGRESSIONAL RECORD through electronic technology, we can help keep congressional costs under control. I am proud of the work of this committee, and of its efficient subcommittees. Our subcommittee chairmen, Mr. GAYDOS, Mr. JONES, Mr. ROSE, Mr. PANETTA, Mr. SWIFT, and Ms. OAKAR, have worked hard for you, as have the minority members of this committee, led by Mr. FRENZEL, without whose cooperation much of this work could not have succeeded.

[From the Washington Times, Oct. 14, 1988]

COST OF RECORDING CONGRESS REDUCED

(By John Purnell)

There's one good thing about the speeches by long-winded politicians that appear in every edition of the Congressional Record: New technology has made them cheaper to reproduce.

While the lawmakers' oratory has helped trigger a 4,000-page increase over last year, the GPO says it was able to take advantage of some economies of scale and save a little money—$29 per page.

In 1987, the cost of a page in the Congressional Record was $513. In 1988, the cost dropped to $484, said M. Joseph Cannon, assistant public printer at the GPO.

"We've been able to hold the line on costs," he said. "Even so, some people think 'Oh my goodness. That's still an outrageous price' for the taxpayers to pay."

He added: "We're doing what we can."

What the GPO is doing is continuing to automate its production facilities to eliminate the need to have a person set type. Now, much of the copy is typed and then fed into optical scanners that automatically set the type. The expensive keyboarding, or typesetting, function is vanishing.

However, the total operating budget for the Congressional Record—which includes the Record, a weekly index and bound volumes—has increased from $17.2 million to $17.9 million—a reflection of inflation and increased labor and supply costs, Mr. Cannon said.

For example, he said newsprint costs have increased 10 percent during the past year.

The cost of printing the Federal Register, which publishes proposed government rules and regulations, had been $375 a page for the past few years. In 1984, the average price per page for the Federal Register was about $408.

A growing number of agencies are submitting copy to the GPO that is ready to be read by scanners, Mr. Cannon said.

In addition, he said, many of the actions on Capitol Hill—such as roll call votes and routine nominations—are typed and then recorded on magnetic tape by Hill staffers. GPO computers can then "read" the tapes and set the type.

"We're making major efforts to reduce pre-press [printing] costs," Mr. Cannon said. "We're getting the agencies to do more . . . to do the keyboarding and a lot of them are going along with us."

That costs per page are dropping is encouraging to Rep. Claudine Schneider, Rhode Island Republican, who wants Congress to get rid of commemorative holidays that mean additional printing costs for the Congressional Record.

In recent years, Congress has proclaimed National Asparagus Month, National Pretzel Month, Mule Appreciation Day and hundreds of other unofficial holidays. Each commemorative holiday and supporting statements must be printed in the Congressional Record.

"It's obviously technology" that has caused prices to drop, said Frank Coleman, a spokesman for Ms. Schneider. "Congress always likes to see costs go down. We are in an era of a budget crunch."

Ms. Schneider's bill to do away with commemorative holidays had no hearings during this session of Congress and will be reintroduced during the next session, Mr. Coleman said.

The GPO says that as the agency continues to automate, its costs should stabilize.

"We've been holding the line on our costs and that's important," Mr. Cannon said. "We're also fortunate that labor costs are being held in check."

A CONGRESSIONAL TRIBUTE TO MR. BRUCE W. BARREN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. ANDERSON. Mr. Speaker, it gives me great pleasure today to take public note and pay tribute to the service rendered to the State of California by Mr. Bruce W. Barren, chairman of EMCO Financial and the EMCO/Hanover Group. Mr. Barren has proven himself to be a good friend to numerous civic and professional organizations in my congressional district, and I welcome the opportunity to pay tribute to him.

Bruce Barren is in the business of rejuvenating companies and corporations. He has served as counselor and adviser to innumerable California businesses, literally turning them around and making them productive and profitable. In so doing, he has not only saved 25,000 threatened jobs, he has created many brandnew jobs.

The accomplishments of Bruce Barren are known to many others beyond those who are now employed because of his efforts. His entrepreneurship has resulted in Mr. Barren being commended by the California State Senate Rules Committee, Speaker Willie Brown of the California State Assembly, the Los Angeles mayor's office, the Los Angeles County Supervisors, and both U.S. Senators from California, as well as the Lieutenant Governor of that State.

Countless others have benefited from Mr. Barren's contributions as well. As an active member of his profession, Mr. Barren has written numerous articles and has appeared before professional societies conducting lectures and seminars on corporate finance, merger/acquisition, as well as other business related matters. He has participated in the Los Angeles Economic Roundtable. Mr. Barren has also authored and conducted classes under the continuing professional education program of the California Certified Public Accountants Foundation for Education and Research, and has and is continuing similar activities in Texas as well. Truly, Bruce Barren has established an enviable reputation and record of accomplishment in the corporate world.

Mr. Speaker, Bruce Barren is responsible for a great many California success stories. He also qualifies as a success story himself. His concern has been translated into action, and his actions have helped his community prosper, and his profession grow. My wife, Lee, and I congratulate Bruce Barren on his accomplishments, and wish him all the best in the years to come.

THE DEPOSITORY INSTITUTIONS ACT OF 1988, H.R. 5094

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. BARNARD. Mr. Speaker, at this last juncture of the 100th Congress, it appears very probable that the major financial reform bill, H.R. 5094, developed by the Committee on Banking, Finance and Urban Affairs and extensively amended by the Committee on Energy and Commerce on sequential referral, cannot become public law. This is true despite the fact that a somewhat similar measure has passed the other body.

The failure to enact such a law has led to fears that the Federal financial regulators, most prominently the Federal Reserve, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, have the power to proceed helter-skelter with further deregulation by fiat. The bases of these concerns are a long series of court decisions holding that existing statutes, such as the Bank Holding Company, the National Bank Act, and the Glass-Steagall Act, are not as restrictive of commercial bank powers as many had long believed. As a corollary to this line of thought, a number of members are of the opinion that as soon as Congress adjourns, the regulatory agencies will immediately proceed actually to use this power so that when the 101st Congress convenes it will be presented with a fait accompli as far as deregulation.

I strongly dissent from this view for the following reasons. First, litigation over the regulatory powers of the Federal Reserve, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation is far from competed. Even now, in American Insurance Association versus Clarke, the so-called Ambac case, core questions about this deregulatory authority remain in litigation before the D.C. Circuit Court of Appeals, and considering the history of such cases, an appeal to the Supreme Court seems highly likely no matter what the outcome of the case at the circuit level.

To date, the circuit court has ruled in the Ambac case, on which a petition for en banc review now pends, that current law restrains both the Comptroller of the Currency and, by implication, the State legislatures from unfettered deregulatory action, and it has indicated that their actions are contained by the Bank Holding Company Act. This limiting direction reflects a more conservative reading of the law than that in which this and other circuit courts had been moving and should allay some of the fears about the courts rushing to support the regulators. Until the Supreme Court speaks on the matter, the power of the regulators will remain so clouded and uncertain that helter-skelter deregulation cannot occur.

Supreme Court review cannot possibly be completed until well into the next Congress. Consequently, we will definitely have more time to shape the laws governing deregulation and will not be presented with an accomplished set of regulations when we return.

Furthermore, even given the deregulation which might still occur under established Supreme Court precedents, that is, in those specific areas where the Supreme Court has spoken more or less conclusively, the Federal regulatory authorities have proceeded cautiously. For instance, while they have allowed bank holding companies to begin to underwrite commercial paper, municipal revenue bonds, and certain asset backed securities through nonbank subsidiaries of the bank holding company, they have placed fairly conservative limits on the amounts and procedures for such underwritings. Moreover, they have allowed the holding companies to proceed only on a case-by-case basis and have not issued general regulations permitting such activities. Further, there is no sign such a general regulation is in the works, and it would require months for such a general regulation to be promulgated. Consequently, while the Speaker and the chairman of the Committee on Banking, Finance and Urban Affairs have deemed it necessary to write to the Chairman of the Federal Reserve cautioning him to restrain deregulation of banks and bank holding companies, as something which is within the congressional preserve, I do not believe that the regulators could so move or, on the basis of their record, would so move. In short, although it is regrettable this Congress has not been able to complete action on major financial reform, there will be time enough to consider what to do when we reconvene in January.

HONORING ALAN KATZ

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to honor Alan Katz, an outstanding civic leader, as he departs the Santa Monica City Council. Alan has contributed significantly to a Santa Monica of which we can all be proud.

As a council member, Alan Katz has sought to bring his own common sense and businesslike approach to city government. He served as liaison to the Commission on Older Americans. He has fought to protect Santa Monica rent control laws. He sponsored the Santa Monica Community Forum on AIDS.

Alan Katz has helped to promote open space and clean beaches, he has worked with me to keep oil derricks and pollution out of the Santa Monica Bay.

Alan Katz initiated the Santa Monica Missing Children's Program and helped secure vital city support for the school system. Alan has also supported social service programs and tough efforts to combat predatory criminals, helping the homeless while taking a no nonsense attitude toward those who prey on them and others.

I ask that my colleagues in the U.S. House of Representatives join me in wishing Alan Katz all the best in his future endeavors.

NEIL DE SENA, CITY COUNCIL PRESIDENT, RECEIVES BAYONNE BOY SCOUTS DISTINGUISHED SERVICE AWARD

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. GUARINI. Mr. Speaker, a very dear and personal friend is being honored by the Bayonne Council of the Boy Scouts of America on Sunday, October 30, 1988, at 6 p.m. at a dinner dance held at the Hi Hat, 54th Street, Bayonne.

The Distinguished Service Award, which city council president, De Sena, is receiving is well deserved. Councilman De Sena first became involved in scouting in 1968 with Troop 25 at St. Vincent's. He also served on the executive board of Bayonne Scouting.

Mr. De Sena knows well of high morale, quality of life and physical fitness because of his service in World War II in the U.S. Army and in the Korean conflict where he served the U.S. Air Force being honorably discharged as a staff sergeant.

Neil has always been involved heavily in community life and has served as a member of the following organizations:

American Legion, Post 19, Catholic War Veterans 1612, Y.W.C.A., Cerebral Palsy of Hudson County, The Heart Association, Mt. Carmel Lyceum, Elks Club, Knights of Columbus, U.S.O., B.E.O.F., New Frontier Democrats Club, and Standard Bearer of the Neil A. De Sena Association.

Neil is a former member of the American Red Cross, and is one of the original founders of Bayonne Community Health Center, is a sponsor of Bayonne Little League, Police Athletic League and Foster Child Program.

Neil was born in Bayonne and is married to the former Marie Ceglio. The De Sena's have three children, Robert, Julianne, and Neil, and two grandchildren, Jessica and Robert Thomas. Neil has a brother Tom and two sisters, Rose and Regina. He is a parishioner of St. Vincent's Roman Catholic Church.

De Sena is a graduate of Bayonne schools and is a licensed real estate salesperson as well as a licensed insurance broker. He attended the Professional School of Business and also St. Peter's College and Seton Hall University to further his insurance career. He retired from Metropolitan Life Insurance Co. in 1982 and entered into his own insurance agency.

He served as president of local 164, Insurance Workers' International Union [IWIU] and also general executive board member of the IWIU.

Neil De Sena was first elected to city government as third ward councilman in May 1979. He was re-elected to a fifth consecutive 4-year term in 1986 as councilman-at-large. He served as council president in 1974 through 1978 and again for the present term commencing in 1986.

He is the second son of the late Thomas and Julia De Sena, and has in the past received the following awards:

In appreciation for exceptional service rendered to the Military Ocean Terminal, Bayonne, NJ;

In appreciation for outstanding assistance, U.S.S. *Lexington;*

In appreciation from the Bayonne Business and Professional Woman's Club;

In appreciation for outstanding devotion to the Armed Forces of America, U.S.O.

N.A.A.C.P. in appreciation for rendering meritorious service for continuous community involvement and for demonstrating progressive leadership ability;

Appreciation for unselfish work as third ward councilman—Bayonne Italia Soccer Club.

Patriots Award—Assumption CWV 1612 and ladies auxiliary for his dignity, respect, and leadership to his community and fellowman, and his dedication to those revered ideals of CWV for God, country, and for home.

P.A.L. in appreciation for services rendered to the youth of Bayonne.

He truly exemplifies what a good American is and should be. He puts the needs of Bayonne first and foremost and while I am extending congratulations to Neil, I must also congratulate the Bayonne Council of the Boy Scouts of America for presenting him with this, their 14th annual Distinguished Service Award.

I am sure that councilman, Neil A. De Sena, will continue to serve all just causes in Hudson County. I am inviting my colleagues here in the House of Representatives to add their congratulations to Mr. De Sena and the Bayonne Council of the Boy Scouts.

THE ELECTION AND THE COURTS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CRANE. Mr. Speaker, it is not only the executive branch which will be undergoing a change with the November elections, but also the judiciary. The Federal judiciary will likely reflect the ideology and social agenda of whomever is elected in November. It is anticipated that at least two appointments to the Supreme Court and numerous appointments to Federal benches will be made by the next President.

The Federal judiciary has the unique ability, among the three branches of Government, to make sweeping changes in the status quo without regard to popular consent. This is why it is of vital importance to appoint the most prudent of men and women to the Federal benches and the Supreme Court.

If Michael Dukakis is elected President, there is no reason to doubt that we will see men and women from the liberal establishment placed in our courts. These will be people seeking to use the benches to create socioeconomic agenda focused on collectivism and equality of condition through more bureaucratic expansion, infringement on the rights of the individual and religious liberties, to the point of veering from traditional values.

If GEORGE BUSH becomes our next Chief Executive, we will see judges and justices who have been appointed on their merits to pass judgments based upon their ability to understand the Constitution as it was written by the Founders, and not on their ability to interpret an everchanging document. GEORGE BUSH's appointees will view the Constitution as a living document yet always consistent with the premises, principles, imperatives, and protections envisioned and guaranteed by its authors.

The following article by Thomas Sowell very clearly outlines the trends of the judiciary, and the consequences the upcoming election will have on the behavior of the courts in the very near future.

[San Francisco Examiner, June 17, 1988]

BUSH VERSUS DUKAKIS

(By Thomas Sowell)

PALO ALTO.—Despite widespread anticipation of a dull political campaign between George Bush and Michael Dukakis, the stakes will be very high when the voters decide in November who will be the next president of the United States.

American society is at a crossroads and everything about the careers of Vice President Bush and Gov. Dukakis says that they would choose different paths at that crossroads.

Supreme Court appointments are just one example, though a very important one.

Our whole system of law has so degenerated over the past 35 years that it is in many ways no longer a protection for society but instead a protection for parasites, criminals, pornographers, disease carriers, and those well-practiced in mob rule by disruption, whom the media call "demonstrators."

This perversion of the law over the past generation has been led by the U.S. Supreme Court and the rest of the federal judiciary who follow their lead.

Virtually every American institution—from the family to the corporation, from the local schools to the national government—has increasingly lost its ability to make its own best judgment, as judges have taken decisions out of their hands, vested discretion in the courts, and made the functioning of the whole society the plaything of lawyers and of busybody sects who call themselves "public interest" organizations.

Do we want to continue in this direction, until law and order become complete shambles?

The next president of the United States will undoubtedly have to make key new appointments to the U.S. Supreme Court, as the ancient justices who produced this judicial chaos pass from the scene.

Those appointments, and appointments to other federal courts, will determine the fate of the American legal system for the next generation, well into the 21st century.

Michael Dukakis is a classic liberal, though made to look "moderate" because Jesse Jackson is a few degrees to the left of him, and uses spicier language. Dukakis' ideological ties are with the left wing of Harvard's Kennedy School, with people like Robert Reich, who has long been urging government to expand its powers still more.

In the law, one of the liberals' favorites for a Supreme Court nomination is Professor Laurance Tribe of the Harvard Law School, who has likewise urged judges to take still more power into their own hands for "good" (left-wing) purposes.

The three Reagan appointees to the Supreme Court—Justices Sandra Day O'Connor, Antonin Scalia, and Anthony Kennedy—have generally opposed the notion of freewheeling judges. Where they have been able to pick up two more votes, they have been able to stop some of the wilder excesses of the group led by Justice William Brennan.

If George Bush is in the White House to make two or three more Supreme Court appointments in the pattern of O'Connor, Scalia, and Kennedy, it can be decisive for rescuing the American legal system before it goes completely off the deep end.

One of the ironic threats to Bush's election chances is the far right, which does not think he is conservative enough for them, and may not give him real support. One of the fatal weaknesses of ideologues and intellectuals is that they cannot make their choices among the alternatives actually available. Bush is running against Dukakis—not against Jesse Helms or Orrin Hatch.

Clever people can concoct scenarios in which a liberal like Dukakis in the White House would do things that so disgust the voters that the pendulum would swing far back to the right in four years.

Let's assume that this happens, that the dream team of the right gets elected in 1992; Pat Buchanan as president, with Jane Kirkpatrick in charge of foreign policy and Milton Friedman in charge of domestic policy.

In the meantime, President Dukakis will have appointed Laurence Tribe and others like him to the Supreme Court and throughout the federal judiciary. Every Pat Buchanan policy they don't like will be declared unconstitutional, regardless of what the constitution actually says.

Unfortunately this is not as farfetched as it may sound. Already our elected officials' hands are tied by the courts on issues ranging from AIDS to busing to crime, and on through the rest of the alphabet. Our only hope of escaping complete judicial tyranny is that our presidents still appoint federal judges.

The kind of philosophy behind judicial appointments is infinitely more important than many of the petty things the media will make noise about during the election campaign.

At this critical juncture in the history of American law, the damage that Dukakis could do with his Supreme Court appointments would extend far beyond his term of office.

LEON M. LEDERMAN AWARDED THE NOBEL PRIZE

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HASTERT. Mr. Speaker, just this morning the world learned that 3 American physicists have been awarded the Nobel Prize. One of those physicists, Dr. Leon M. Lederman, is director of the Fermi National Laboratory in Batavia, IL—which is located in my congressional district. We are all immensely proud of Leon and the international recognition this award brings for his research into high energy physics. We in Illinois have had the privilege to witness many of the tremendous accomplishments that have taken place at Fermilab under Dr. Lederman's direction.

This prestigious award not only recognizes his earlier research, but calls attention to the importance of developing and constructing the proposed superconducting super collider, and allowing the scientists Dr. Lederman has assembled at Fermilab the opportunity to continue their advanced research into the fundamental elements of matter. The proposed Illinois site of Fermilab represents our best hope for achieving this dream.

Several years ago I had the opportunity to work with Leon on one of his dreams for the future—the establishment of the Illinois Math and Science Academy. The Math and Science Academy gives talented young people with potential in the field of math and science an environment in which to develop those talents to their fullest potential. It is but one example of the attention Dr. Lederman has given to helping others who may have the potential to become future Nobel Prize winners.

This is a proud moment for all of our citizens who have had the privilege to know Dr. Lederman, or to know of his work. His life's endeavors have contributed greatly to our own—something which not all men can say.

THE FUTURE OF NUCLEAR POWER

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. PORTER. Mr. Speaker, the greenhouse effect and our dependence on foreign oil are causing a renewed discussion on the future of nuclear energy. The following article from the Chicago Tribune by A. David Rossin presents a good perspective on the issue and hopefully encourages each one of us to review our nuclear energy position.

BARRIERS TO REVIVING NUCLEAR POWER

(By A. David Rossin)

The nuclear power debate is on again in the United States. First our growing dependence on foreign oil and now our heightened concern about the greenhouse effect have led even some long-term congressional opponents to look again.

Many policymakers and opinion leaders are openly considering the possibility of somebody building new nuclear plants in the U.S. for the first time in more than a decade. This is gratifying for those of us who have spent our professional lives working on nuclear power, but in good conscience I have to raise a few red flags.

We have created such a hostile financial and regulatory environment that reviving nuclear power as a market option will not be easy. For almost 30 years, nuclear power has proven its ability to generate large amounts of electricity—now about 20 percent of the total in the U.S.—without contributing to acid rain and the greenhouse effect or increasing dependence on foreign oil. But all nuclear power plants ordered since 1973 were later canceled, and no new ones are under consideration.

If we need to have new power plants before the turn of the century—it looks as if we will, just to meet our basic electricity needs—and do it without adding further to the political and environmental problems that come with fossil fuels, our policies and the thinking behind them will have to change, and soon.

First, in the name of the free market, we have probably erected some tough economic barriers to the next nuclear power plant. Current rules of the Federal Energy Regulatory Commission encourage construction of cogeneration and independent electric power plants. The cogenerators will likely be energy efficient, but 85 percent of the projects under construction, on the drawing boards or proposed plan to burn natural gas.

Not only does this put a lot of energy eggs in one basket, it makes it extremely difficult to gain approval for traditional baseload plants operated by utilities. Under the National Environmental Policy Act, a nuclear plant application would have to show that the new capacity is necessary. This would be hard to do with hundreds of megawatts of independent plants planned, even though we cannot be sure these plants will be built or operated.

Second, in the name of safety, we may have created an expectation that will be impossible to live up to. The latest trend in Congress is the call for "inherently safe reactors." There are new designs with good, innovative ideas that will no doubt be used in any new nuclear plants we build, but the buzzwords obscure the fact that today's American reactors are extremely safe. Their record shows it. Accidents can happen, but existing plants have multiple safety systems and strong containments that protect the public safety even in the worst of accidents. If "inherent safety" leads us to demand a totally accident-free and risk-free technology, no design will live up to that criterion.

Third, in the name of regulation and public participation, we have created a nightmarish system that actually works against the public interest. Activist groups and opportunistic politicians have delayed plants on questionable legal arguments that put utilities near bankruptcy and forced higher costs on the public, but that contributed nothing to safety. It will take an act of Congress to restore predictability to the licensing process. We need standardized plant designs that can be licensed generally—with full public participation—and assurance that if a plant is built according to approved specifications on an approved site, it can be operated without seemingly endless reconsideration. Without that, no one will have enough confidence in the regulatory process to place an order for a nuclear plant.

The solutions are within reach, but they won't happen on their own. A licensing reform bill is working its way through Congress, and it could be structured to overcome the regulatory barriers. Political leaders know that no modern society can get by without enough reliable electric power. The question is whether they will take responsible positions now on such a politicized and emotional issue.

Even with conservation, electricity growth continues to match our economic growth. There are serious drawbacks to limiting our options to coal, natural gas and maybe even oil again. The nation just cannot afford to mark time much longer. If we are going to need new nuclear plants, it will take a few years to review and certify the first new plant design, and then about six years to build each one. In terms of our energy supply mix, today is already 1998.

HONORING NOBEL PRIZE WINNERS

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. PRICE. Mr. Speaker, I want to take this opportunity to congratulate two distinguished individuals from the Research Triangle Park in North Carolina. George Hitchings and Gertrude Elion, both scientists for the Burroughs Wellcome Co., were honored this week with the 1988 Nobel Prize in Medicine. Dr. Hitchings and Ms. Elion were awarded the prize for their discoveries of important principles for drug treatment that have resulted in the development of a series of new drugs to treat AIDS, herpes, cancer, gout, and malaria.

This is the first time in over 30 years that the prize in medicine has been awarded for drug research. It is also the first time a woman has received this award. Gertrude Elion graduated from Hunter College in 1937 with a degree in biochemistry, but was unable to find a job in the research field that predominantly hired men. In 1942, she was hired by Burroughs Wellcome as an assistant to Dr. Hitchings and has collaborated with him for more than 40 years.

Dr. Hitchings received bachelor's and master's degrees from the University of Washington in Seattle and then earned a biochemistry doctorate at Harvard. Since 1944, he has been a scientist for the Burroughs Wellcome Co.

I believe that this award, given to two researchers from the Research Triangle Park, is yet another recognition of the high-caliber scientific work being conducted in North Carolina. I commend the outstanding work of these two scientists and wish them continued success in the future.

TRIBUTE TO AMERICAN CITIZENS OF GERMAN DESCENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MAZZOLI. Mr. Speaker, it is said that the wealth of America is in the diversity of its people. Our country is indeed blessed with a blend of many diverse ethnic groups who blend and assimilate with each other while still maintaining distinct cultural identities. It is within this context that I rise to pay tribute to one of these ethnic groupings: American citizens of German descent.

The first German immigrants arrived on our shores over 300 years ago. While Germans played an important role in the founding of our country, their major impact on our history was most felt in 1830, when emigration from that country accelerated so much that for the next fifty years Germany would supply more immigrants to the United States that any other country.

It was during this period that many Germans came to my hometown of Louisville, KY. A fire had devastated much of the business district of the city shortly before the Germans' arrival in the early 1840's and their industrial skills were invaluable in the rebuilding and growth of the city. Ever since, a strong German heritage has been evident in our community.

Butchers, bakers, glassmakers, candlemakers, brewers, woolen millers, seed sellers, and other skilled persons colonized in areas known as Butchertown, Germantown, and Schnitzelburg.

Along with industrial skills, the Germans also brought with them a sense of community. They established social clubs, singing societies, civil organizations, and handsome churches displaying their proficiency in the use of glass and architecture.

After 150 years, these communities still retain their 19th century charm. And the German influence, evidenced by the celebration of the ever-popular Butchertown Oktoberfest held annually in October and the annual "dainty" contest sponsored by George Houck in Schnitzelburg, remains an intergral part of Louisville's cultural and commercial flavor.

Earlier this month, America observed a day of recognition to its citizens of German descent. Today, I celebrate and recognize the German-Americans who live in Louisville and Jefferson County and thank them for their significant contributions to our community.

LEE GOLDFARB HONORED BY PEARL HARBOR SURVIVORS ASSOCIATION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. GUARINI. Mr. Speaker, on Sunday, October 9, 1988, the New Jersey Pearl Harbor Survivors Association honored an outstanding son of Jersey City for his leadership of that organization.

We all remember December 7, 1941, when Japanese military forces attacked Pearl Harbor, a major United States Army and Navy base in the fine natural harbor of the Hawaiian Islands. It was on the morning of December 7, 1941, that 360 carrier-based Japanese planes attacked the harbor crippling the United States Pacific Naval Fleet sinking the USS *Arizona,* USS *Oklahoma,* USS *California,* USS *Nevada,* and USS *West Virginia,* damaging three other battleships, inflicting major damage on three cruisers, three destroyers, destroying 200 planes, killing 2,335 American military personnel and wounding 1,178.

In half an hour, the Japanese bombers accomplished their objective. The American officers and blue jackets recovered from their initial surprise servicing their vessels nobly with damage control, evacuating wounded, helping fight fires with complete disregard for their own safety, and without flinching or attempting to escape.

The annals of history recall President Franklin D. Roosevelt's famous message to Congress on December 8, 1941 when he said:

"Yesterday, December 7, 1941—a day which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the Empire of Japan.

"I ask that Congress declare that since the unprovoked and dastardly attack by Japan on Sunday, December 7th, a state of war has existed between the United States and the Japanese Empire."

At Pearl Harbor, there were upwards of 80,000 members of the U.S. Armed Forces, Army, Navy, Air Corps, and Marines who witnessed the bombings which resulted in the largest and most momentous mobilization of the might of the United States and its allies during World War II.

When the smoke cleared the entire contingent of the Army, Navy, Marine Corps, and Air Corps still alive on Pearl Harbor vowed never to forget that day and fought for 4 long years until victory was won in Europe as well as the Pacific.

Before the survivors left for home, the Pearl Harbor Survivors Association was born with chapters in every State in the Union. They now number about 10,000 men and women. In New Jersey there are 200 active members in the Pearl Harbor Survivors Association, New Jersey Chapter.

Lee Goldfarb, who joined the Navy in 1940, after attending radio school with now Congressman BERNARD J. DWYER, was sent to the Pacific in March 1941, and stationed at Pearl Harbor.

During the attack on December 7, he was aboard the USS *Oglala* which sank to a watery grave.

Lee served with the Navy until 1945, mostly in the Pacific. Upon return to civilian life, Lee plunged into his promise never to forget and has been serving not only the Pearl Harbor Survivors, but veterans and their families for many years. He has served as New Jersey chairman of the association, and also as a member of the Jewish War Veterans.

Lee is married to the delightful lovely Molly. They have four children and three grandchildren. Lee and Molly currently reside in East Hanover.

Several hundred friends and admirers attended Lee Goldfarb's testimonial dinner at the Ramada Inn in East Hanover. Among the speakers were Thomas Stockett, immediate past national president of the Pearl Harbor Survivors Association; Maj. Gen. Francis Gerard, the adjutant general of the New Jersey State Department of Defense and commissioner of the New Jersey Department of Veterans' Affairs, which was recently established; Mayor Loretta Kaes, of East Hanover, and the Honorable Joseph Minish, former U.S. Congressman (Retired) and Wally Kampney, national treasurer of the Pearl Harbor Survivors Association.

I sent my message of congratulations and appreciation to Lee Goldfarb through Conrad J. Vuocolo, of my staff. In my message I told the group that it was my intention to request the military branches to establish a Pearl Harbor Medal.

Although December 7 is given some recognition in the American Defense Service Medal, we believe the incident at Pearl Harbor and the heroic work of the more than 80,000

Army, Navy, Marines, and Coast Guard personnel is deserving of a medal of its own.

I have sent my proposal regarding the creation of a Pearl Harbor Medal to both Rear Adm. Ming Chang, Director of the Board of Decorations and Medals in Alexandia, VA, and the Honorable Grant S. Green, Assistant Secretary of Defense for Management and Personnel, at the Pentagon.

At Lee Goldfarb's luncheon, a report on my recommendation was greeted with a standing ovation This proposed award also received endorsements from individuals and organizations, including:

Pearl Harbor Survivors Association, through its immediate past president Thomas Stockett; U.S. Reserve Officers Association, as endorsed by its president Capt. Ralph Diverio, U.S. Coast Guard Reserve; Maj. Gen. Francis R. Gerard, adjutant general of the New Jersey Department of Defense and New Jersey Commissioner of Veterans Affairs; Veterans of Foreign Wars, New Jersey Department, through Charles E. Kinney, chairman of the board of directors and Political Action Committee; Veterans of Foreign Wars, by Carl Herd, past Hudson County Commander; Eugene Cody, past commander of district III, New Jersey Veterans of Foreign Wars; Anthony Stencel, past commander of the North Bergen Post of the Disabled American Veterans, and former Prisoner of War in Europe; Steve Gregg, of Bayonne, a Congressional Medal of Honor recipient for valor in action in Italy in World War II; Aiden Goggins, commander of the Regent Post, American Legion; Anthony Varsalona, past state commander of the New Jersey Catholic War Veterans; Sidney Pepper, of the Grover Post of the Jewish War Veterans; Salvatore M. Mione, member board of directors "151" Vietnam Veterans of America, State Council Member, New Jersey; Esse H. Davis, services officer, Marine Corps League, Department of New Jersey; Joseph Mennella, past national commander, Italian American War Veterans; Joseph Taormino, State senior vice commander, Veterans of Foreign Wars; Victor Smarro, State commander of the AMVETS; and Gertrude Schultz, president New Jersey Navy League.

Such spontaneous support from outstanding business leaders and organizations is indeed inspirational. There was not one negative response to the establishment of this Pearl Harbor medal.

I was pleased to participate in the luncheon honoring Lee Goldfarb, dedicated community leader and founding member of the Pearl Harbor Survivors Association. It is my way of saying thank you for job well done. The accolades he received at the luncheon were well deserved. The Pearl Harbor Medal that I am recommending would also be a fitting way of honoring the almost 100,000 Armed Forces personnel who were on duty during the eventful December 7, 1941 attack.

The remaining 10,000 veterans of the attack on Pearl Harbor would be deeply appreciative of this token. It also would be a heartfelt rememberance to the widows and families of those who passed on, especially those who lost their lives during this attack.

I am sure my colleagues here in the House of Representatives wish to join me in this salute to Lee Goldfarb. I also hope that they wil join me in my quest to have the Pearl Harbor Medal established.

WHY LSC NEEDS TO BE REFORMED

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CRANE. Mr. Speaker, an issue that continues to be of concern to the American people is the purpose of the Legal Services Corporation [LSC]. It was established to provide grants to State and local agencies that provide free civil legal assistance to poor individuals who need legal help. It was not established to fund those who seek taxpayers' dollars for lawsuits to further their political agenda under the rubric of law reform. Limitations must be placed on the LSC to ensure that the funds are used to settle disputes for eligible clients, and not to support centers and other think tanks that do not provide services to the needy.

No one doubts the importance of providing the poor with access to legal services, but reforms must be made within the LSC to improve the way in which these legal services are provided. Use of competition to enhance the efficiency in the delivery of legal services to the poor, and the implementation of accountability to ensure that legal services are provided in a manner consistent with goals established by Congress are just two areas that need reform.

Under the current program, legal services grant recipients are substantially guaranteed that they will receive Federal funds year after year. Consequently, they have no incentive to perform well, since they receive funding regardless of the level of their performance. This presumptive refunding has led to many of the abuses. The following article, "Last Chance on Legal Services" which appeared in the Wall Street Journal on September 28, 1988, further illustrates the need to reform LSC.

[From the Wall Street Journal, Sept. 28, 1988]

LAST CHANCE ON LEGAL SERVICES

It may come as a shock, but despite eight years of the Reagan administration, Legal Services Corp. is alive and well. Indeed, yesterday's House vote for $308 million for the agency shows that some now think the corrupt agency is above reform.

LSC was supposed to help the poor with run-of-the-mill legal disputes—with landlords and spouses—but instead funnels millions to agitate social policy. Despite rules against lobbying, an internal LSC report found that Legal Services groups had diverted "services intended for the poor to such non-poor groups as Planned Parenthood, the American Civil Liberties Union, the San Francisco Sex Offenders Task Force, the Sonoma County Sanctuary Movement. . . ."

The continuing outrage over LSC is not hard to understand. Here we have lawyers supposedly representing the poor instead using taxpayer funds to pay themselves and ideological soul mates to pursue political goals. Just this month, Michigan Legal Services Corp. lawyers argued that Housing and Urban Development must turn over its foreclosed homes to the homeless. This absurd argument was rejected by the federal court, but not before the delay in reselling these low and moderate-income houses cost taxpayers an estimated $500,000.

President Reagan tried a new tack this year. He offered to fund the agency, but only if it dropped its political lobbying, forced accountability onto the field offices and finally joined the rest of the government by introducing competitive bidding.

One sign that the liberals took the threat seriously is that they tried to smear LSC Chairman Clark Durant III, who's led the fight for the changes. Reps. Robert Kastenmeier and Bruce Morrison, a former Legal Services lawyer, announced they had unearthed "significant improprieties." These turned out to be personal phone calls billed to the agency. Much to their embarrassment, it turned out that Mr. Durant had made 16 personal calls, at a cost of $27.58, but that he hadn't sought reimbursement for $96.05 of official calls. It also transpired that LSC owed him some $8,000 in travel expenses.

The anti-Durant fight then switched to another lawyer lawmaker, Senator Warren Rudman. He crafted the conference report language that passed the House yesterday that the LSC board could consider creating a system of competitive bidding—but only after the next President picked a new board. Since Teddy Kenendy's Labor Committee managed to put off approving President Reagan's nominees to the board for five years (!), this bodes ill for reform. As Mr. Durant notes, this gives effective control over reforming LSC to Senator Kennedy, not President Reagan or President Bush. Mike Dukakis likes LSC as is, and has even pledged more funding.

The good news is that the LSC vote was 231 to 175, not enough to override a veto. Also, 181 Members, including 30 Democrats, sent a letter to President Reagan that they would uphold his veto of LSC funding without the reforms. OMB Director Jim Miller says LSC is high on the veto-bait list.

President Reagan has devoted much political energy over the years to fighting an LSC that has strayed so far from its original mandate. Now he has promises from Congressmen that his veto would be sustained. He can cash in on this pledge, however, only if he actually vetoes the appropriation.

HONORING JAY AND DEBBIE SCHECHTER

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to recognize the current president of Young Israel of Flatbush and his wife, Jay and Debbie Schechter.

Jay and Debbie have a 20-year affiliation with Young Israel of Flatbush. Before that, their parents and grandparents have been members since 1938. Jay has served in numerous offices including his current post of president throughout those 20 years. In addition, he serves as the chairman of the board of education of the Yeshiva of Flatbush. His outstanding ability and service to the community were recognized in 1979 when President Carter named him to the National Holocaust

Commission. Jay is not the only bright star in the Schechter family. His wife Debbie has also served Young Israel with consistent dedication and skill. She has been an active member of Young Israel of Flatbush and been of great assistance to Jay.

The congregation will honor this dedicated couple at its annual dinner, and I would like to add my personal congratulations. No tribute is more greatly deserved.

HOME NURSING AGENCY, ALTOONA, PA, CELEBRATES 20TH ANNIVERSARY

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. SHUSTER. Mr. Speaker, I am honored to salute the Home Nursing Agency of Altoona, PA on the occasion of its 20th anniversary. Since October 1968, they have compassionately rendered quality home health care to central Pennsylvanians. I submit the following proclamation which highlights their notable achievements.

PROCLAMATION: HOME NURSING AGENCY 20TH ANNIVERSARY

Whereas The Home Nursing Agency began providing quality home health care services to residents of Blair County, Pennsylvania, in October 1968; and

Whereas These home health care services have now expanded to include all areas of Blair, Huntingdon, Fulton, Bedford, Cambria, Juniata, and Mifflin Counties in Central Pennsylvania; and

Whereas The Home Nursing Agency serves more than 12,000 people and provides over 200,000 professional home health and supportive service visits annually; and

Whereas The more than 600 employees of the Home Nursing Agency carry out the concept of caring for all members of the family in their own homes or appropriate community locations; and

Whereas The Home Nursing Agency is a community based home health care organization with Boards of Directors and Advisory Committees composed of volunteers from all geographic areas served; and

Whereas The Home Nursing Agency's Home Care Program provides nursing, therapy, medical social service, and home health aide visits to patients in their own homes; and

Whereas The Nursing Agency's Supportive Services Program provides homemaker, chore, attendant, companion, and respite services directed at strengthening and preserving the family unit; and

Whereas the Home Nursing Agency's Hospice Program attends to the physical, emotional and spiritual needs of terminally ill patients and their families; and

Whereas The Home Nursing Agency's Maternal Child and Women, Infants and Children (WIC) Programs offer specialized health care services to pregnant women, new mothers, and children; and

Whereas The Home Nursing Agency's Community Support Program provides specialized mental health and rehabilitative services to those with emotional and addiction problems; and

Whereas The Home Nursing Agency's Community Health Care Program offers professional nursing and related services to promote wellness, and assist in the management of personal health care needs for individuals, families, community organizations, and business; and

Whereas The Home Nursing Agency, the second largest home health care organization in Pennsylvania, is celebrating twenty years of community care in October 1988,

Now therefore, I, Congressman Bud Shuster do hereby proclaim that special recognition be given the Home Nursing Agency's 20th Anniversary, October 1988.

Furthermore, I commend all the dedicated individuals who have unselfishly chosen to provide high quality home health care to the residents of Central Pennsylvania.

INFANT MORTALITY A THREAT TO NATIONAL SECURITY

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. LELAND. Mr. Speaker, our Nation is in the midst of a national crisis. We are the richest country in the world, yet we are unable to provide our own citizens with the necessary assistance to bring healthy babies into the world. In a recent study published by the National Academy of Sciences, it was reported that the United States ranked 20th—among the top 20 industrialized nations—in infant mortality rates.

This is an appalling situation and we must take steps, right away, to reverse this trend. As chairman of the Select Committee on Hunger, I have taken great interest in this issue, and the committee has been investigating methods and innovations that can improve the infant mortality problem in this country for the past 4 years. Most recently, the Select Committee on Hunger held a hearing entitled "Infant Survival: The Challenge of the South," in Birmingham, AL. the committee heard expert testimony on efforts to alleviate the infant mortality problem in Alabama. Although, Alabama has made improvements, there are still quite a few challenges ahead if it is to meet the health goals that the Surgeon General set for 1990.

As a result of hearings and numerous reports, and the timeliness of the National Academy of Sciences report, I would like to insert for the RECORD an article for the October 19th Wall Street Journal which tries to capture some of the problems facing Congress and service providers in efforts to combat this tragic situation facing the United States, infant mortality.

Mr. Speaker, as Representatives of the people, it is our duty to try to resolve major problems affecting our society. The infant mortality rate in this country is an issue that needs to be reckoned with now, and any further inactivity on the part of Congress creates a greater threat to our future as a nation. It is unconscionable, that a country with a rich tradition in humanitarian giving and service, should allow infant mortality to remain as prevalent as it is in our society. The issue has been painstakingly studied, recommendations on steps to take abound, and I believe the time has come to act now.

I commend this compelling article to my colleagues, and hope sincerely, we in the Congress commit the political will to attack head on, the serious problem of infant mortality in the United States.

[From The Wall Street Journal, Oct. 19, 1988]

LIFE AND DEATH—HIGH INFANT MORTALITY IS A PERSISTENT BLOTCH ON HEALTH CARE IN UNITED STATES

(By Sonia L. Nazario)

LOS ANGELES.—Sonya Johnson lies in delivery room E of Martin Luther King Jr. General Hospital here, cursing. Then she screams at the medical interm: "Stop that, girl. Leave it alone, girl." The exhausted intern snaps at Ms. Johnson to shut up and push. Finally, Ms. Johnson gives birth to a baby girl.

But this is no blessed event. There is no movement; no first cry. The infant is dead—one of 40,000 U.S. newborns this year who will never see a first birthday. Like the mothers of many of these babies, Ms. Johnson had no medical care before arriving at the hospital.

Currently, America has the worst infant-mortality record among 20 industrialized nations—a dismaying statistic in itself. More alarming, however, is mounting evidence that many of these deaths—perhaps half—could be prevented through improved prenatal care among the poor, and that efforts to provide that are failing.

"In inner cities and poor rural areas, the system for women to get prenatal care has broken down," declares Sarah S. Brown, an expert on infant mortality at the Institute of Medicine, part of the Washington-based National Academy of Sciences. In a two-year investigation released yesterday, the institute labels the nation's maternity care "fundamentally flawed" and urges a government policy of free services for all pregnant mothers, following the lead of some European nations. That comes on the heels of a report to Congress by the National Commission to Prevent Infant Mortality, also urging broad new programs for prenatal care.

MUCH SLOWER PROGRESS

Triggering much of this concern is an unexpected slowdown in the normal steady decline in infant deaths in the first year after birth. In the first half of the 1980s, figures from the congressional study indicate, the average national rate of improvement slowed to a scant 2.7% a year after averaging 4.5% a year over the preceding decade. In some areas with concentrations of poor patients, the mortality rate is actually rising.

For many years, success in reducing infant deaths came fairly routinely through improved sanitation, nutrition and medical technology. Now, the potential of these methods has just about been exhausted. Future gains will have to come from better prenatal care, doctors and experts say.

Unfortunately, even as it becomes more crucial, the use of such care is deteriorating. The new NAS study shows that the percentage of pregnant women with late care or no care rose to 5.7% in 1985 from 5.2% in 1981.

A WIDESPREAD PROBLEM

In many urban areas, the situation is acute. At New York's Kings County Hospital, 15 of every 1,000 children born die in the first 28 days of life, largely because so many mothers show up to deliver with no advance care. Nearly a third of maternity patients arriving at Chicago's Cook County

Hospital haven't had prenatal care. Inadequate education about the need for care and financial barriers are to blame.

Here at the gray concrete Los Angeles County facility where Ms. Johnson gave birth, infant mortality has been on a grim and steady climb to 17.4 babies per 1,000 births from 12 in 1983. Fetal deaths are so common that the labor and delivery unit harbors an isolated room—No. 3—to keep grieving would be mothers from hearing joyous parents nearby.

"We're going backwards from what's already a primitive state," says one nurse in the neonatal intensive-care unit, rushing between incubators, many holding newborns barely surviving with malfunctioning and malformed bodies.

Time spent at King General—a 404-bed hospital built after the 1965 Watts riots in this heavily poor black and Hispanic area offers discouraging insights into the forces thwarting delivery of proper prenatal services to the poor. The picture is doubly ironic in view of the increased attention many middle-class couples pay to childbirth now, and the technological miracles that today allow parents to raise healthy children where their babies once would have been lost.

AVOIDING THE DOCTOR

Here, 30% of pregnant patients arrive with no previous care, three times the 1981 rate. Hospital resident physician Margaret Juarez tells of one woman arriving nine-months pregnant for her first visit to the hospital obstetrics clinic. Her baby's heart was barely beating and the mother was suffering from severe hypertension that pregnancy can produce. She was rushed to surgery, but her child, was suffocating from an overload of body fluids and lived only a week.

"It was a complete disaster," says Dr. Juarez, who says medication, bed rest and induced labor could have made all the difference. There are a host of barriers that can interfere with that happening.

"I hate doctors," says Janice Jones, trying to explain why she avoided care in four of her seven pregnancies. 'Most of the time, all they do is stick needles in you and take blood." An intravenous tube in her arm, she's wiping streaks of tears from her cheeks. Her baby, born that morning, was so premature that it weighed less than a pound. It lived 30 minutes. She had been having problems, including bleeding, over the last week, but paid a friend $3 to drive her to the hospital only when the pain became excruciating.

Sonya Johnson has a similar outlook. "I don't like doctors picking and poking at me," she says after her ill-fated delivery. "I don't think it's too necessary. They didn't do it when my mother was having kids. I have three kids at home; I never went to a doctor for them and they came out fine."

RELYING ON HOPE

Instead of medical care, she relied on wish fulfillment. "I had someone buy the crib, the basket, the playpen," she says, her tone turning somber. "I kept hoping she'd be born alive."

But there is more behind the lack of prenatal care among the poor than a distaste for doctors. "You could put prenatal care on every street corner in Watts, make it free, and not get every pregnant woman to come in" says King General developmental psychologist Kathy Sanders-Phillips. Some women have powerful reasons for staying away. In Watts, cocaine use is high, and addicts fear detection many cause the government to take away a newborn. Also, for some survival upstages caring for a baby in the womb.

On a return visit to the hospital, Adrienne Robinson tells of how three months pregnant, she began living alone in an abandoned car after her cocaine-smoking boyfriend beat her with a baseball bat, whipped her with an extension cord, and tried to move in another woman-friend.

Ms. Robinson saw doctors once, after contracting pneumonia, then moved into a motel with another homeless woman, who hallucinated, beat her and traded Ms. Robinson's federal pregnancy-related milk and food supplies for cocaine. Ms. Robinson ate potato chips and smoked cocaine. "I knew I was killing my baby, but I couldn't stop," she says, rocking Christian, born with syphilis and cocaine addiction.

DESIRE ISN'T ENOUGH

Some pregnant women here do seek prenatal care, eat fairly well, and avoid smoking or using drugs. A strongly family structure helps some. And often, "the woman's role and perception of herself is tied up with fertility and giving birth," says hospital social worker Edith Robinson.

Still, wanting care and getting it are different matters. "Prenatal care is more difficult to obtain today than it was in 1975," claims Ezra Davidson, chairman of the King General obstetrics department. Los Angeles County used to have more care clinics, and visits were free, he says. Now King General charges $25 a visit and $800 for delivery.

About 17% of American women of child-bearing age don't have health insurance, according to one health-research group. Fewer than half of women under the federal poverty line now qualify for federal Medicaid assistance, compared with nearly three-quarters in 1975. And more than a third of obstetricians won't take Medicaid patients because of mounting malpractice suits, low reimbursement rates and applications up to 54 pages long, another report says.

Some communities try to identify obviously pregnant women in need of prenatal care and to pull them into clinics. Typical is the Washington, DC, Better Babies Project, begun in 1986, where eight case-workers scour the streets for candidates. But after reviewing 31 such programs, the Institute of Medicine concludes most efforts are "naive and wasteful" because the care system itself functions so poorly.

CROWDED, DRAB AND SLOW

A visit to King General's drab, crowded prenatal care waiting room quickly reveals that. A woman may wait—if lucky in a plastic chair, otherwise standing—most of the day to see a nurse or doctor. Men who accompany them sit on hallway floors, and children run about. Periodically, a nurse emerges from one of eight examining rooms to bellow out the name of the next patient. "Its not like the private sector where people are smiling and caring. We aren't user-friendly," says Dr. Davidson.

Angelina Marquez is in one of the exam rooms on her first visit. "The nurses here are very busy, you know," she says; then suggests some are downright surly. It has taken an entire morning to get this far. She's in her eighth month.

Arnita Williams says she avoided visits here because of the unfriendly system, and never made two scheduled appointments at a Los Angeles public clinic when she was six months pregnant because she felt too ill to pack herself and four kids onto a bus. She got no prenatal care, and was rushed in four months ago to have her baby born prematurely at four pounds and without fully developed lungs.

Here now for a follow-up visit, she adjusts the oxygen intake that runs from the shiny chrome portable tank into nose tubes that supply Curtiss, the wide-eyed baby in her arms. "They tried to take her off the oxygen, but she turned blue," she says. "She has a 50-50 chance. The doctors tell me not to get my hopes up too high."

REPEATED DELAYS

Cheryl Cromwell, who two years ago lost an infant to intestinal pneumonia, says she went to a King General-affiliated health clinic for a more recent pregnancy at two months. She says she was told she had to miss two menstrual periods before she could have a pregnancy test. When she returned at three months and tested positive, she asked to see an abortion counselor—but a meeting couldn't be scheduled until her fifth month, by which time it was too late to abort.

Anemic and sick, she pleaded for an emergency exam ahead of her next scheduled visit. "I kept going in to see the doctor because my abdomen hurt," she says, but wasn't allowed to see one. By the time of her scheduled appointment, she had already delivered a three-pound boy at 29 weeks—premature due to a yeast infection. "We don't get treated like we were spending money," she says angrily, cradling a frail baby Deon in her muscular arms in a packed King General postnatal waiting room.

Chierry Poyotte, medical director of the affiliated Watts Health Foundation clinic where Ms. Cromwell first went, says he doesn't understand what happened, because the unit has walk-in doctor services to which Ms. Cromwell should have been able to have access.

Problems don't end with arrival at the hospital for birth, either. Labor and delivery rooms are often jammed; newborns may be lined up on a makeshift stretcher for lack of nursery space. The hospital has one fully operational ultrasound machine, the basic fetal monitoring device.

FEW MACHINES, FEW NURSES

At the newborn intensive care unit, licensed for 10 but holding 20, heart monitors are rotated from babies not fully stabilized to more pressing cases. Instead of the needed one nurse to one infant ratio, each nurse minds three.

Marta Hernandez, a physician at the hospital, recalls one woman arriving at the obstetrics clinic in the morning being referred to the labor and delivery unit because the clinic was short-staffed. The woman, attended by Dr. Hernandez, was repeatedly bumped for what seemed to be more urgent cases until late at night, when it was too late for procedures to inhibit labor. The woman delivered a two-pound, three-ounce baby that died 24 hours later, Dr. Hernandez says.

Even if doctors examine a woman as soon as she comes in, they often have no time to tell if her fetus is sufficiently developed or if a Caesarean section is crucial. Says Dr. Juarez: "It's not unusual for a woman to go into the operating room five minutes after coming in off the street. We don't even know her name."

Doctors are frustrated because they see daily how quick, inexpensive treatment at the right time would not only save money, but untold human misery. In a recent case, they figure a $20 penicillin shot would have wiped out the syphilis that led to a patient giving birth to a baby with cataracts, liver and heart problems, and a disease called rickets, which results in bent bones. Medical bills mounted to more than $70,000 during the month that doctors fought to save the desperately ill infant in the hospital's intensive care unit. The baby's short life ended without it ever leaving the room.

DOROTHY B. ADAMS HONORED IN BAYONNE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. GUARINI. Mr. Speaker, a very fine and dedicated community leader is retiring after 20 years of service with the Bayonne Housing Authority. I would like the Members of the House of Representatives to know of her accomplishments.

Dorothy B. Adams will be honored at a testimonial retirement dinner to be held on October 22, 1988, at the Mackenzie Post, Avenue C, Bayonne.

For many years Mrs. Adams has served as a community service worker at the Bayonne Housing Authority helping many individuals, both lower income families and the elderly and handicapped with the daily problems of living.

Mrs. Adams was president of the Bayonne Branch of the NAACP during the birth of the Bayonne Interfaith Housing Corporation and initiated the Leased Housing Program.

Dorothy is the fourth of seven children born to Bessie E. Brooks and the late Reuben C. Brooks of Gloucester, VA. She has been married to Alfred W. Adams, Jr., since November 30, 1944. The couple has two children, Joyce Adams Sanchez, a registered nurse, and Alfred W. Adams III, a musician. They also have four grandchildren, Nichol, Chantel, Kyle, and Ceferino III.

Mrs. Adams community activities include: past president Washington School PTA, past den mother—Cub Scouts of Friendship Baptist Church, past secretary—Bayonne NAACP, first woman president—Bayonne NAACP, life membership chairperson, Bayonne NAACP and Freedom Fund Worker, having raised over $50,000 during those years, past advisor, Bayonne Housing Authority Unit Council/Committee to Rename Bayonne Public Library, member of the Mayor's Advisory Board under Mayor Francis Fitzpatrick and Mayor Dennis Collins, volunteer Bayonne Hospital, past commissioner of the Liberty State Park—appointed by Governor Brendan T. Byrne, member of board of directors—Bayonne Branch NAACP, member of Bayonne Cable Review Board, first vice president Bayonne Branch NAACP, and life member National NAACP.

She has been the recipient of many awards since she graduated as high school Valedictorian in her class and attended St. Peter's College: Secretary Award, Bayonne NAACP—1961, National Council of Christians and Jews/Bayonne Chapter 1975, Mary McCloud Bethune Award for Outstanding Community Service 1981, life membership, Washington School Parent Teachers Association, Outstanding Citizens Award, District 3 VFW and Ladies Auxiliary 1981, Outstanding Member Award, State of New Jersey—Liberty State Park Public Advisory Commission 1980, Outstanding Life Membership Chairperson Award Bayonne NAACP 1981, Outstanding Community Services Award in the City of Bayonne, Past Exalted Ruler Council No. 11—1986, Sojourner Truth Award—Motherhood, Sickle Cell Anemia, Inc. of Jersey City 1985, Community Service Award Bayonne Branch NAACP 1988, and Who's Who of American Women—12th Edition 1981-1982.

Mrs. Adams feels that she has received the true rewards from helping to do a lot of little things for little people, including fighting for a playground for neighborhood children in the 20th Street area in the 1970's. As PTA president of Washington School, she purchased a TV set enabling the children to watch the Space Program. She spearheaded the first senior citizens' bus to the super market. She helped a local barber to obtain the payments of thousands of dollars owed to him and private individuals during the code enforcement program in the 1970's. She initiated the request for a black representative to be placed on the Board of Commissions of the Bayonne Housing Authority in the city of Bayonne. Finally, she spearheaded the introduction of ethnic books in the Bayonne School System.

A dedicated church member, she has been a member of Friendship Baptist Church of Bayonne since 1946. She has been a past Sunday School Teacher, having taught Sunday School for 15 years. She has been a member of the Deaconess Board and Assistant Secretary as well as a member of the Bible Class. She was also a past member of the Senior Choir and Gospel Chorus as well as past president's Laymen's Department Trustee Aid.

When asked which of her awards she liked the best, Mrs. Adams said that she cherished most the personal satisfaction of knowing "I did my very best for the past 20 years in serving the tenants and the Housing Authority and the people of the city of Bayonne."

I am sure my colleagues here in the House of Representatives wish to join in this tribute to Mrs. Dorothy B. Adams, an outstanding member of the Bayonne community. In her retirement, I hope she continues to find time to solve human problems by assisting those in need with her good works.

WORK FORCE LITERACY: ECONOMIC CHALLENGE OF THE 1990'S

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. PRICE of North Carolina. Mr. Speaker, one of the key challenges facing us in Congress is preparing our youth and adult workers for the workplace of tomorrow. We must expand the notion of literacy beyond the 3 R's to match the technological demands of future offices and factories. As America stands on the brink of the next century, our stature as a major economic power hangs in the balance.

My colleagues and I on the Congressional Sun Belt Caucus, in conjunction with the Sun Belt Institute, issued a study recently focusing on this workplace literacy crisis and its economic impact. The report, "Meeting the Economic Challenge of the 1990s: Workforce Literacy in the South," documents the tragic cycle of undereducation and underemployment in the South. I was privileged to cochair the task force producing this study, along with Representative HAL ROGERS of Kentucky.

This study is more than a document designed to gather dust on a sociologist's shelf. It is a plan of action, laying out policy recommendations that I hope we can bring to the forefront of the 101st Congress. We must move quickly to develop a coordinated, targeted approach to literacy, an approach that will benefit both the Sun Belt and the Nation.

The Federal Government must assume a leadership role in this crisis, acting as a catalyst to improve the accessibility and effectiveness of basic education programs. I urge my colleagues in the House to join me in this effort to avert a workplace literacy crisis in the coming years. We cannot afford to do otherwise if we are to ensure a prosperous future for our Nation and its workers.

GENERAL PINOCHET COMMENDED

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CRANE. Mr. Speaker, during the last year, my liberal friends on the other side of the aisle have said again and again: "General Pinochet will never allow a free election to be held in Chile, he will stop at nothing to remain in power." Well, on October 5 a monumental event occurred in Chile, General Pinochet's government conducted a fair plebiscite where the Chilean voters were asked to choose whether or not they wanted him to continue in power for another 8 years. The results of the plebiscite showed a decisive victory for the "no" voters, or those opposed to the government. Pinochet's opponents formed a coalition of 16 parties to oust General Pinochet, winning 54 percent of the vote.

Although General Pinochet lost the plebiscite, he deserves the highest level of commendation because he voluntarily submitted himself to the will of the people, and in so doing, moved Chile one step further in the direction of democracy. Elections for a new legislature will soon be held, followed by an open government election in 1989. There is every reason to believe that the government will allow Chile to pass through these significant stages toward the restoration of democracy. Once again the good people of Chile will be able to exercise their right to determine their own future.

General Pinochet must further be commended for rescuing Chile from the Marxist dictator Allende, who suspended the Constitution and thus abolished the Chilean tradition of democracy based on free enterprise. Allende expropriated private property, persecuted innocent people for political reasons, created an alliance with both Cuba and the Soviet Union, destroyed the economy through a brutal policy of economic mismanagement, and finally in sum, came dangerously close to creating a Communist state. General Pinochet did the right thing and overthrew this terrible government and started the long and difficult process of rebuilding the economic institutions that are so vital for the recreation of democracy.

The Chilean economy is now the envy of its neighbors; inflation is the lowest in Latin America, resting at 15 percent down from over 800 percent under Allende. The unemployment rate stands at 7.5 percent and the gross national product is growing at a rate that exceeds 5 percent. The government's budget is in balance, something that we in Washington should emulate. These economic trends are significant because a truly free society, based on democratic principles, can only be created and maintained if its people are free to engage in private commerce. Pinochet must now be viewed as the savior of the Chilean tradition of democracy.

In the coming year, Chile will face many challenges in both the economic and political spheres. Over 16 parties will now compete against each other in an attempt to win the hearts of the people. The large divisions that separate these parties will surely create an atmosphere conducted with dignity and respect for the rule of law and order. For those who believe that the current government has been discredited in the plebiscite, it is worth remembering that General Pinochet did receive 43 percent of the vote, and hence, there is every reason to believe that a conservative candidate, committed to maintaining Pinochet's progress, will be elected.

In conclusion, we must salute the progress that has been made in Chile and commit ourselves to a policy of friendship toward the people of Chile. Now is not the time to bash the Chileans, as my friends from the liberal wing of the other party are so prone to do. No; now is the time to work with the government of Chile to help the people of Chile realize their dream of democracy.

IN MEMORIAM: CRAIG RAUPE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MANTON. Mr. Speaker, last week I lost one of the first friends I made when I came to Washington. Craig Raupe, your longtime assistant who later became a public relations executive, and I met shortly after my election to Congress. During the months before I was sworn in, Craig gave me invaluable advice that helped to make my early days in Washington a success.

The advice Craig gave me was grounded in his 30 years of experience on Capitol Hill and in the political arena. Craig was generous with his time and loyal in his friendship. His good counsel was not a one-time affair. Craig was always available for assistance whenever I needed him.

Mr. Speaker, I know all of my colleagues join me in sending our deepest sympathy to Craig's longtime companion and partner, Jeanne Campbell, and his family on his untimely passing. I know my first 4 years as a Member of this body have been immeasurably better having known Craig.

Mr. Speaker, I ask that Richard Pearson's excellent obituary in the Washington Post detailing Craig's wonderfully diverse life be reprinted in the RECORD at this point. Mr. Pearson's article shows that Craig Raupe was indeed a rare individual.

[From the Washington Post, Oct. 16, 1988]

BUEL CRAIG RAUPE, EX-AIDE TO JIM WRIGHT, DIES AT 62

(By Richard Pearson)

Buel Craig Raupe, 62, a public relations executive who was a former Foreign Service officer, Eastern Airlines executive and aide to House Speaker Jim C. Wright (D-Tex.), when Wright was a representative and majority leader, died Oct. 14 at Washington Hospital Center. He had an abdominal aneurysm.

He was a partner in the Washington legislative counseling and public relations firm of Campbell and Raupe, which he helped found in 1954. He served in the Foreign Service in Indonesia and South Vietnam from 1960 to 1963. He also had worked in the Alliance for Progress program and had been head of the Agency for International Development's congressional liaison staff before joining Eastern in 1965. He was a vice president with Eastern until 1975.

Despite this varied career, Mr. Raupe probably will be best remembered for his years on Capitol Hill as an aide to Wright. He joined Wright in the early 1950s, when the future speaker of the House was mayor of Weatherford, Tex. Mr. Raupe accompanied him to Washington, where he became, as administrative assistant, the head of his staff.

He was there to help mastermind and manage Wright's upset election to Congress in 1954 and his razor-thin victory as majority leader in 1976. During his years on the Hill, Mr. Raupe gained a reputation as one of the figures who, though anonymous to the public, are of great importance to the institutions they serve. As the voice and will of the majority leader, Mr. Raupe's reach was the equal of many well-known representatives. He worked for Wright on the Hill from 1955 to 1960, and again from 1975 to 1979.

In both the 1960 and 1964 presidential elections, he served as coordinator of ethnic minorities for the Democratic National Committee. After leaving Wright's staff, he taught at the University of Texas before founding his lobbying organization.

Mr. Raupe had homes in Washington and his native Granbury, Tex.

He served with the Navy in the Pacific during World War II. He received bachelor's and master's degrees in political science at North Texas State University. He also did graduate work at the University of Wisconsin and American University.

Before entering politics, he had been a high school principal, taught government and economics at West Texas State University, and served as chairman of the social science department at Weatherford College. Wright once told a reporter that he met Mr. Raupe while serving as mayor of Weatherford. He wrote the new professor a "welcome to town" letter.

Mr. Raupe visited him, told him he did not have any money, and needed a job until school started. Wright gave him the job of running the town swimming pool. After that, he became a close adviser and campaign aid. And after that close 1954 election, Mr. Raupe drove to Washington in his 1937 Chrysler as head of the new representative's office.

He was a Mason and a member of the Veterans of Foreign Wars.

His wife of 35 years, the former Joyce Adkins, died in 1983. Survivors include his companion and business partner, Jeanne Campbell of Washington; two sons, Carl and Joel, and a brother, Hugh, all of Granbury; a sister, Mary Price of Fort Worth, and three grandchildren.

WHEN BOB DIED HOMELESS

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MONTGOMERY. Mr. Speaker, for those who have not had the opportunity to see it, I would like to share a very touching and thought-provoking account of the life and death of one homeless American.

The following commentary by Mrs. Joan G. Evangelisti appeared in the October 3 issue of Newsweek.

WHEN BOB DIED HOMELESS

(By Joan G. Evangelisti)

Behind every homeless American there is, somewhere, a family in pain. No man is an island. Not you, not I, not the man with no toes, who died in his car on a parking lot in Milwaukee, Wis., last June. He was somebody's father, somebody's son, somebody's brother. He was my brother.

The local newspaper concluded, initially, that Bob was a victim of heat exhaustion. Three hours after his body had been found, his temperature still registered an unbelievable 110 degrees. Yet I did not need to see the coroner's report, issued two weeks later, to know that the weather, while the most immediate, was the least of his problems.

My brother was an alcoholic. He knew it. Everyone who knew him knew it. Few knew it in more detail than the many doctors and support staff who treated him at the VA hospital. They made it quite clear; he had to stop drinking.

Over the years, Bob had required treatment for acute pancreatitis, neurological difficulties and skin rashes. In February of 1986, on a bitterly cold evening in Wisconsin, he was found unconscious in his parked car. He ended up losing all of his toes and very nearly his life. At the age of 42, at a time when most men are approaching the prime of their lives, my brother was declared by his government to be permanently disabled. He walked with a cane and wore shoes that were half filled with foam.

Still he drank, and, from time to time, entered rehabilitation programs. Until the end, he was thought of as "someone who had a lot of potential." Charming and glib, he always seemed able to put his best foot forward—even when that was physically difficult.

On the hot summer day that Bob died, he was homeless, unemployed, disabled and intoxicated. His driver's license still listed his family's address, although he had been divorced for five years. For this reason the medical examiner notified his ex-wife as the next of kin. She later agreed to pick up his car and other possessions. She and their three sons spent an agonizing week examining the car's contents, trying to piece together the fabric of his life.

What emerged was heartening and disheartening, comforting and infuriating. Bob had a life. There were bank statements, receipts for purchases, letters written and received. There were articles about alcoholism and pamphlets describing treatment programs. There were empty liquor bottles and one, purchased the morning of his death, that was half full. There were his special shoes.

He was connected—he was assisted by every level of government. He received veterans' benefits and a disability income. And in spite of his long history of failed attempts, the county had had enough confidence in his potential to place him in a nine-month treatment program that required eventual reimbursement by the patient.

EXTENDED FAMILY

Bob also had friends who sent him get-well cards during his hospitalizations. His VA counselor was so grief-stricken when he learned of his death that he could not immediately compose himself. Even Bob's former wife had continued to keep in touch, encouraging him (unsuccessfully) to see their three sons. She had tried to help for 13 years before filing for divorce. "I might have kept trying," she once told me, "but he was selling the furniture. The children and I could not survive." His best friend had tried. Our widowed mother died trying. And one of Bob's sons pleaded to see the body before it was buried. But a call to the undertaker convinced my sister-in-law that this final request should be denied. It had to be—the autopsy had left him unsuitable for viewing.

Behind the homeless American who was my brother, there is a family in pain: one sister, one brother, three sons, and an ex-wife who still cared. There exists, also, an extended family, a corps of medical and mental-health and social-service professionals who tried in vain to reverse the downward spiral of my brother's life. Bob failed to make it in a system that worked.

I grieve for him, as much for the way he lived as for the way he died. I have experienced profound sorrow and intense anguish. I confess that I have felt, also, a kind of jaded relief in knowing that his tragic life is over.

Outwardly, my brother's death has had little effect on my carefully orchestrated, middle-class lifestyle. I hadn't seen him in eight years nor spoken to him in three. It's not as though there will be one less present under the Christmas tree this year.

But my inner life, well, that's another matter. In grief there is growth and in growth, change. I have learned to recognize and respect my limitations. I have learned to never, *ever,* pass judgment on a family in crisis. And, finally, I have learned to accept responsibility for my choices without carrying a burden of guilt.

This is not to say that I am in any way proud of the emotional distance I so purposefully cultivated between my brother and me. I could have reached out to him, but at what price? As did his mother, as did his best friend, I might have taken him in only to have my own family mistreated and hurt. And to what end?

What, if anything, would have made a difference? No one will know. What great, unquenchable need was alcohol called on to fill? No one will know that either. For my brother, these were the questions of a lifetime. An inability to find the answers cost him his life.

No man is an island. We are all, during the course of our lives, connected, attached, part of a whole. Yet in the end, each of us bears the ultimate responsibility for the conduct of his life, for better or for worse, 'til death do us part.

TRIBUTE TO LT. COL. DENNIS R. RANKIN

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HOPKINS. Mr. Speaker, before the 100th Congress adjourns, I wanted to take the time to recognize and honor the career of an outstanding Army officer who will soon retire after 20 years of service to his country.

I met Lt. Col. Dennis R. Rankin through his current assignment in the Operations Branch of the Army Office of Legislative Liaison in the Pentagon and soon learned to appreciate his candid and forthright approach to the complex and usually challenging relationship between Congress and the Department of the Army. As a member of the House Armed Services Committee, I have a deep regard for the essential service provided by the congressional liaison department of our military services and believe Lieutenant Colonel Rankin exemplifies the combination of dedication and ability necessary for the job and crucial to maintaining strong and open lines of communication between these branches of Government.

Lieutenant Colonel Rankin will depart the Army as a highly decorated combat veteran who served our Nation valiantly in Vietnam and Korea. He began his Army career by receiving his Army commission following completion of Officer Candidate School and joined the proud ranks of the infantry in 1969. Following a brief stint at Fort Lewis, WA in late 1969 Second Lieutenant Rankin arrived in Pleiku, Republic of South Vietnam for his tour as an advisor to a Vietnamese ARVN battalion. His arrival in Vietnam coincided with a crucial turning point for American involvement in the conflict reflected in the adoption of the "Vietnamization" strategy designed to transition most of the war fighting duties to the South Vietnamese Armed Forces or ARVN. The ARVN 42d Infantry Battalions under Lieutenant Rankin's guidance were assigned the responsibility of patrolling the forbidding mountainous jungle terrain of the "Tri-Border" region, bracketed by the Vietnamese cities of Kontum and Pleiku in the East and the Cambodian and Laotian borders to the West. It was precisely through this region that North Vietnam channeled a major artery of its logistical lifeline to the South, the Ho Chi Minh trail.

During his 1 year tour with the ARVN battalions, Lieutenant Rankin saw extensive combat action against the enemy and compiled an impressive record of awards, commendations and decorations in recognition of his heroism and valor in combat. Below is a brief summary of the decorations received during this period:

December, 1969: Bronze Star Medal with valor; January, 1970: Army Commendation Medal with valor; February, 1970: Army Commendation Medal with valor (first oak leaf cluster); March, 1970: Bronze Star Medal with valor (first oak leaf cluster); Bronze Star Medal with valor (second oak leaf cluster); Silver Star; Vietnamese Gallantry Cross with Silver Star; and Silver Star (first oak leaf cluster).

By the time he completed his Vietnam tour, he also received several meritorious service medals, the Air Medal, the National Defense Service Medal, three Vietnam Service Medals, the coveted Combat Infantryman's Badge and various campaign ribbons.

Arriving back in the United States in November 1970, the now Captain Rankin was assigned to what were to be various positions in the Washington, DC area. During this period, he obtained a bachelors of science degree in history from George Washington University.

In 1975, Captain Rankin joined the 1st Army Headquarters at Fort Polk, LA as the assistant S3 officer. In mid-1976, he took command of Bravo Company, 1st Battalion, 61st Mechanized Infantry also at Fort Polk. After 1 year, he moved to the assistant G1 position at headquarters, 5th Mechanized Infantry Division at Fort Polk.

In 1978, Captain Rankin returned to the Washington, DC area as an infantry branch assignment officer at the military personnel center [MILPERCEN] in Alexandria, VA. While assigned to MILPERCEN he completed airborne training in 1980 and the Army's Command Staff College in 1981. Promoted to major in 1980, Major Rankin completed his assignment with MILPERCEN in 1981 and was assigned to Camp Greaves, South Korea as executive officer of the 1st Battalion, 9th Regiment. This unit serves in the austere reaches of upper South Korea as the last American infantry battalion still on the demilitarized zone, which remains in a high state of alert due to recurring hostilities.

Completing his South Korean tour in September 1982, Major Rankin returned to the Washington, DC area and joined the Army Inspector General's Office where he remained until early 1985. During this period he attended George Washington University at night and received a masters of science degree in management information systems.

In 1985, he joined the Operations Branch of the Army Office of Legislative Liaison and he was promoted to lieutenant colonel in early 1986. Assigned the responsibility for tracking and representing budget issues and the Army's chemical modernization program in Congress, Lieutenant Colonel Rankin's tenure has witnessed final approval for U.S. production of binary chemical weapons and the emergence of a working consensus on how to proceed with the controversial plan to dispose of the existing chemical weapons stockpile. Although I have serious objections to the Army's demilitarization plan and have found myself opposing many aspects of the program, Lieutenant Colonel Rankin has ably and thoughtfully represented the Army's position throughout the years. In fact, I firmly believe Lieutenant Colonel Rankin has played an instrumental role in the ability of the Army and Congress to work productively toward a lasting solution to this urgent national problem.

Mr. Speaker, although I hope this brief tribute will highlight and document Dennis Rankin's many contributions to his country, I realize that it cannot adequately begin to express the gratitude and debt we owe him for the selfless commitment to duty and excellence in service to the American people. I am personally gratified and honored to have known and worked with this fine military officer and today join his friends and colleagues in wishing him every success in his future pursuits.

A TRIBUTE TO ROBERT BADHAM AND ERNEST KONNYU

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. LUNGREN. Mr. Speaker, I rise to recognize two distinguished colleagues and fellow Members of our California delegation to the 100th Congress who will, along with myself, be leaving when we adjourn.

By way of seniority, I will begin with our dear friend and longtime legislator Robert Badham from the 40th Congressional District in Orange County. My own district, the 42d, is adjacent to Bob's, and I have had the opportunity to work with him on several efforts relating to small businesses and the defense industry. It is with deep regret that I acknowledge his retirement after completing six terms in the House, for I have so enjoyed our cooperative efforts.

Before Bob was elected to the House, he served for 14 years in the California Assembly. All total he has spent 28 years of his life as a legislator. His commitment to the House and the assembly merits commendation.

As an assemblyman, he not only held the longest tenure in Sacramento from Orange County of any elected legislator, but he was responsible for the law initiating personalized license plates.

Upon election to the House in 1976, he established himself as a thoughtful and articulate legislator; a solidly conservative Republican; a loyal supporter of Ronald Reagan, especially relating to defense policies; and a man who pursues his interests with zeal.

Bob's secret to success has always been: "If a job is worth doing, it's worth doing your very best." This motto has been characteristic of his life. In exploring his varied interests, he has added firsthand experience and knowledge to many issues he has been concerned about, particularly defense. Pursuing these interests has enhanced his ability to respond to legislative challenges.

Bob is the third ranking member of the House Armed Services Committee, and is ranking member on the Procurement Subcommittee. He was the 1980 and 1981 chairman of the Task Force on Defense for the Republican Research Committee. Bob's interest in defense has led him to be deeply involved in the development and deployment of classified and nonclassified weapons systems, and he has worked extensively with the North Atlantic Assembly, the legislative arm of NATO. He has, since 1981, been a delegate to this assembly, a member of the Assembly's Military Committee; and, since 1983, he has been a corapporteur of the North Atlantic Assembly Subcommittee on Defense Cooperation.

According to the 1987 voting scores in Congressional Quarterly, Bob is strongly committed to President Reagan's administration. His measured support of Reagan's policies is well over 70 percent. He is a diligent advocate for the Republican Party, having been a member of many Republican committees and delegations, among them the 1982 chairman of the Republican Study Committee.

In his district, Bob has persistently pushed for air traffic safety measures, and promoted the Santa Ana River project to help reduce flooding. According to the National Taxpayers Union, which objectively measures the performance of Congressmen on spending issues, Bob has opposed excessive Government spending 60 percent in 1987. Concern for the well-being of his constituents, displayed in legislative measures in these areas, is what Bob Badham is all about—28 years of devotion to the people of his district.

As he retires this year to pursue writing, lecturing, and private enterprise, we will sorely miss the many years of experience and knowledge he has brought to the people's house.

Our other friend whom I would like to recognize is Ernest Konnyu from the 12th Congressional District of California, the center of the U.S. microchip industry in the heart of Silicon Valley.

Ernie is a freshman member of our House, elected in 1986, and we will all miss his hard work, fervent dedication to supporting our Republican Party, strong fight against communism, and his concern for his constituents. It was his solid, conservative, Reagan Republican voting record that made our 18 member California delegation a unified bloc for free markets, anticommunism, and freedom. Ernie will be missed greatly.

Ernie came to Congress after 6 years of service in the California State Assembly where he chaired the Republican Policy Committee. Not only did his strong support for the GOP begin there, but he is also past president of four California local Republican clubs and has been praised for his loyal work on behalf of the party by President Reagan, minority leader Bob Michel, and various other Republican delegations. According to Congressional Quarterly, he stands firm behind President Reagan's policies with a 72 percent supportive voting record in 1987. He indeed is a deeply dedicated colleague and member of our party.

Not only does Ernie so solidly endorse the GOP, but he is a zealous opponent of communism. Having been born in Hungary, moved to a camp for displaced persons, and came to America at the age of 12, Ernie knmows what it is like to live under the threat of communism and as a refugee. He carries his strong anti-Communist beliefs with him into politics, and uses every opportunity to speak out for those beliefs.

Along with his enthusiasm for democracy comes his persistence in advancing the needs of his constituents. While in the State legislature, Ernie established himself as a strong advocate for welfare reform. He was a point man for Greater Avenues for Independence [GAIN], a new welfare program approved by the legislature in 1985. GAIN's combination of workfare and targeting makes it an important improvement over current public assistance systems. Last year, the House adopted Ernie's workfare amendment to the Stewart McKinney Homeless Assistance Act. This distinguished Ernie as being the first Republican freshman in 1987 to have an amendment adopted on the House floor. He is concerned about taxes, and based on the National Taxpayers Union 1987 study, supported cutting Government spending 63 percent of the time.

But perhaps most importantly, Ernie is an example of the fulfillment of the American dream. He came to this country to freely pursue his goals and ambitions. He was successful. He achieved his goals and became a spokesman for the American people—not just for those born here, but for many who, like himself, came from abroad to pursue liberty, freedom, and their dreams.

Ernie has been a very valuable, devoted Member of our 100th Congress and one whom we will miss. We wish him much success.

SAMMY DAVIS, JR. NATIONAL LIVER INSTITUTE ESTABLISHED IN NEW JERSEY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. GUARINI. Mr. Speaker, last weekend I had the occasion at a social function to meet a most celebrated American entertainer who is devoting his life and talents to a good cause. The individual I speak of, Sammy Davis, Jr., appeared at the Meadowlands in East Rutherford, NJ, with Frank Sinatra and Liza Minelli.

Mr. Davis took time out the evening before his appearance to attend a fund-raising function to establish a National Liver Institute.

The National Liver Institute is under the direction and guidance of Dr. Carroll M. Leevy, an internationally renowned liver specialist. Dr. Leevy is the scientific director and professor and chairman of the department of medicine at the New Jersey Medical School.

We in Jersey City remember Dr. Leevy's professionalism well when Seton Hall Medical School utilized the facility of our medical center before moving to Newark. The National Liver Institute is already making many lasting contributions in the prevention, diagnosis, and treatment of liver disease. This is the only national medical resource center devoted solely to patient care, education, and research for liver disease.

Sammy Davis, Jr., who had a liver problem, became interested in this cause in 1984. He has publicly drawn attention to diseases of the liver and is lending his name and efforts to the National Liver Institute. In hope to conveying the message that people should not abuse alcohol and drugs or take a healthy liver for granted. The numerous friends and admirers of Sammy Davis, Jr. are supporting its expansion and eventual development of satellites in the United States and other countries to achieve its objectives.

The liver, man's largest and most versatile internal organ, is a veritable dynamo that performs some 500 separate functions as the major processor, refiner, and storage center of the body. It has four main functions: the uptake of foods for conversion into energy and for tissue building; the storage of foodstuffs or their products for later use; the acceptance of drugs or chemicals for elimination or change into a useful product; and the production of bile—which aids digestion—in addition to producing clotting factors, enzymes, antibodies; and regulation of fat, carbohydrate, and protein metabolism.

Liver disease kills more than a million people each year worldwide; cirrhosis or scarring of the liver is the fourth leading cause of death in men aged 10 to 59 in the United States. Approximately 1 out of every 250 Americans develop some form of hepatitis—inflammation of the liver—each year; gallstones due to abnormal liver function are present in 10 percent of people over 60 years of age; liver damage is a common component of infectious diseases, heart failure, diabetes, cancer, and alcohol or drug abuse. Primary liver cancer is the most common cancer in the world. Despite the occurrence of liver disease in people of all ages, economic levels and ethnic or cultural groups, until now, it has not received proper attention. The National Liver Institute is attempting to correct this.

A major objective of the Sammy Davis, Jr. National Liver Institute, whose homebase is on the campus of the University of Medicine and Dentistry of New Jersey in Newark, is to provide up-to-date information on diseases of the liver for the public and the medical profession. In collaboration with the International Committee on Informatics in Hepatology, it serves as a central information resource for liver disease and is updating nomenclature and diagnostic criteria, compiling a computerized knowledge base and developing an expert system for decisionmaking to facilitate diagnosis and treatment of liver disease.

Survival after liver damage depends on the ability to interrupt causative factors and initiate the repair process. Available technology makes it possible to stimulate liver repair, protect the organ from some toxic agents, and transplant the irreversibly injured liver. Liver Day is intended to remind all Americans of the importance of protecting their liver. This requires use of specific preventive, diagnostic and therapeutic measures, as well as support of research on mechanisms responsible for liver disease and development of better methods for its control.

December 8 is declared National Liver Day each year to acknowledge the efforts of the Sammy Davis, Jr. National Liver Institute.

It is my desire to work with Sammy Davis, Jr., Dr. Leevy, and the National Liver Institute to seek ways of finding a cure for this problem.

I am certain that my colleagues here in the House of Representatives are pleased to learn of this excellent social and humane work by Sammy Davis, Jr. and the great work being conducted by Dr. Carroll M. Leevy at the National Liver Institute, which is headquartered in the New Jersey Medical School.

A FRESH VIEW OF SOUTH AFRICA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CRANE. Mr. Speaker, what most Americans know about South Africa they learn on TV or read in newspapers and magazines. By the time the information is disseminated, it has already been digested by a number of individuals, often with varying viewpoints. As a result, Americans are left with a distorted view of South Africa. The mention of South Africa tends to stir up visions of racial riots, police brutality, and antiapartheid demonstrations. Although such instances do occur, they are hardly commonplace.

What many Americans do not know is that South Africa has experienced considerable reforms over the past number of years. In 1984 a law was passed that provided for equal opportunities and standards in education. In fact, close to 25 percent of the national budget is allocated to black education and black housing development. In the past, blacks were not allowed to own their own homes, now approximately 30 percent living in or around cities are homeowners.

I am not suggesting that the situation facing blacks in South Africa is acceptable. Their lack of representation in the Government is certainly deplorable. However, I believe it is important for Americans to face the fact that the social and political climate is improving and sanctions or other adverse action on the part of the United States will only interfere with their progress.

Because of the media's tremendous power over public opinion, I would like to bring to the attention of my colleagues who have not had the opportunity to travel to South Africa, an unprejudiced report of a recent traveler to the country.

[From Washington Dateline]

SOUTH AFRICAN SANCTIONS: HARMFUL AND FUTILE

(By Magee Lang)

In April, a group of American businessmen and women arrived in South Africa on a fact-finding trip at the invitation of friends to come "see for yourself" the truth about what is going on in that country.

We had done our homework before leaving, so we knew that the southernmost point of the African continent was inhabited by Hottentots and Bushmen when Bartolomea Dias, the Portuguese navigator, first landed on the southern cape in 1488.

The Dutch East India Company established a supply base for their sailing ships on the way to the Indies in 1652, a year before New York was established. The Boers (Dutch for farmer) set up the first permanent white settlement to grow food for that base in 1657.

With this basic knowledge of South Africa's early history, we arrived in Johannesburg. During the following weeks, we traveled throughout the country meeting with private citizens and with leaders of government, business, industry and religion.

We received a warm welcome wherever we went from Johannesburg, high on the interior plateau, to Durban, a large seaport on the Indian Ocean, to Capetown on the southernmost point of the African continent.

We were invited to visit an independent black homeland and an independent black nation. It was a cross section of life in South Africa that we witnessed.

We were given a tour of Soweto, the all-black township just outside of Johannesburg, by a representative of the black township council. He showed us the shacks of migrant workers and poor blacks. Then, to our surprise, he showed us another area with hundreds of neat homes with vegetable and flower gardens, homes of middle class blacks, doctors, lawyers and businessmen.

These were elegant homes where the cars in the carports were everything from Toyotas to BMWs, Jaguars, Mercedes and Alfa Romeos. The most luxurious homes in the area the blacks call "Beverly Hills" are those of Anglican Bishop Tutu and Winnie Mandella, the wife of the jailed leader of the African National Congress, a communist-dominated organization. Most of the money for Winnie Mandella's 22-room house in the heart of Soweto was donated by foreign sources.

We flew to Ulundi, Kwazulu at the invitation of the Chief of Zulu tribe Mangosuthu G. Buthelezi. This is the largest tribe in Africa, 6 million strong. The chief is also president of Inkatha, a black political party which claims 1.5 million members.

Though Chief Buthelezi is unequivocally opposed to apartheid, he is working with the present government to gradually bring blacks into full participation in the future of South Africa.

This intelligent and charismatic black leader spoke movingly of the need for peaceful solutions. Telling us that sanctions not only harm the people of his homeland but all South African blacks, he asked us to urgently carry this message back to the United States, to our Congress and our people.

We requested permission to visit Ciskei, an all-black nation that opted for independence rather than homeland status in 1980. This is a nation about the size of Delaware, which under the direction of its president Dr. Leslie Sebe, is building a country with the help of South African government subsidies. With a population of approximately 1.5 million people, Ciskei has an endless supply of labor, which has been of interest to foreign investors, especially the Taiwanese who have brought capital into the country.

Our host in Ciskei was the minister of foreign affairs, Dr. W. Blie. He, too, stated that sanctions hurt the blacks more than the whites and that disinvestment was a way of strangling black enterprise. This young nation has built a small modern city, has developed cottage industries, has a small functioning steel mill, a handweaving factory and a clothing factory but they need doctors, nurses and teachers to train their people. This is a challenge for all black Africa.

In Capetown, we met with the deputy minister of foreign affairs. Again sanctions were blamed for impeding South Africa's progress in solving its problems.

We learned that the people of South Africa no longer trust our government nor our news media.

There is no doubt that the entire country is working to solve the problem of apartheid. Certainly the message we got from all the South Africans with whom we spoke, blacks and whites, was "We are making progress. Please do not put road blocks such as sanctions in our way."

MAKING CITIES LIVABLE

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. FAUNTROY. Mr. Speaker, I would like to call to the attention of the Members of this body the work of the Center for Urban Well-Being. The Center held its 4th International Conference March 8-12, 1988, in Charleston, SC. The theme of the conference was "Making Cities Livable" and it was a forum for hundreds of speakers and participants from 37 States and 11 countries to present ideas as to how to achieve this goal. The conference was organized by Dr. Suzanne Crowhurst Lennard, who, along with her husband, Dr. Henry L. Lennard, have spearheaded the effort to improve both the physical and spiritual quality of urban life.

The Honorable Joseph P Riley, Jr., mayor of Charleston, SC, and former president of the United States Conference of Mayors, summarized the purpose of the conference: "to collectively forge the tools to build cities worthy of their people, cities conducive to public happiness and for the common good * * *." The mayor's city was chosen as the site for the conference because of its success in restoring old buildings; providing attractive and livable public housing; and well-planned development—some of the characteristics of a livable city.

Among the topics discussed at the conference were: architecture and urban design, public art, and public housing. In one session, Wolf Von Eckardt stressed the goals of architecture and urban design: to reflect the history and meaning of the place; to provide a joyful setting for people; and to respect the context and feeling of the people.

I believe that an effort should be made across the country to make sure that our cities are attractive and conducive to the interaction of people by preserving open, grassy areas and market places, among other things. Bad zoning practices, over development, and ill-advised traffic planning should be avoided.

A number of issues and concerns for the urban environment have been highlighted in the Making Cities Livable Newsletter, the news organ of the Center for Urban Well-Being. Because of the critical nature and importance of some of these issues, several highly important articles from the newsletter are hereby offered in their entirety:

THE JUST CITY

(By Henry L. Lennard)

For cities to be considered just members of all groups who live in the city must have access to opportunities and resources, whether these are jobs, education, affordable housing, or quality of everyday life.

The human and physical environment must be conducive to the optimal realization of each person's potential and faculty for human relationships, for festivity, joy and pleasure. Yet, the well-being and full development of some must *not* occur at the expense of depriving others of these same possibilities.

In this respect cities have a special responsibility to children: they must provide children with opportunities to develop their potential and ability to become fully human—their capacity for curiosity, trust, a sense of wonder and desire to explore, competencies for rich and diverse human relationships, and attention and interest in the natural and physical environment. As adults, children will return to their cities this investment, through their loyalty and interest.

Cities also have a special responsibility to the elderly. Much modern city planning and urban redevelopment has primarily benefited working adult males, but has been detrimental to the social and psychological needs of the elderly. Cities should provide hospitable public places where the elderly can be with each other *and* be part of the everyday life of the community, retaining contact with persons of all ages, especially with the young, for their mutual benefit.

The thought that justice implies friendship and neighborly relations among members of a community was already realized by the Greek philosophers. Just cities generate and facilitate viable human relationships, opportunities for friendship, for knowing and being known, for the affirmation of each person's dignity, potential, and contribution.

For cities to be just implies wisdom, and wisdom requires an understanding of how different facets of social life are interconnected and inter-related.

It is not wise to plan patterns of traffic flow without considering movement requirements of the elderly, or without considering how children may be provided the opportunities to meet friends and play near their homes.

It is not wise to think of cities as an accumulation of disconnected fragments. For too long cities, especially our U.S. cities, have grown cancerously, with residential, business and shopping activities separated and unrelated; with traffic routes dividing the city; with buildings designed and placed without connection to each other and to the city as a whole; with a lack of order and reason in the design and sequence of streets and places.

There is a direct relation between the physical disorganization of the city and the social disorganization of urban life; between the indifferences expressed in the physical environment and the brutalization of human relationships.

The uncaring face of architecture and inhospitality of public places are inextricably connected to the social problems we are all so concerned with. Just as the mind-body distinction turned out to be a conceptual error, so are we beginning to recognize that the physical and social aspects of city life are two aspects of the same phenomenon, each mirroring the other!

To treat persons fairly, with attention and caring—messages that can be expressed both in social policies and in the built environment—establishes a legacy that is repaid with trust and responsible behaviour. When persons feel uncared for, unjustly treated, suspicion and antisocial behaviour ensues. Therefore, the city must engender trust in its inhabitants.

A fragmented community is not just! A community cannot be said to exist in a landscape composed of pockets of persons who know, or wish to know, only those in their own group rejecting contact with all others.

Just cities, in their neighborhoods, and city core, must offer settings and opportunities for public, social, and community life for all their inhabitants.

Just cities recognize the importance of the public realm, and of public life. This, as Hannah Arendt, among others, points out, is the basis of a democratic society. In other words, cities require * * * "the simultaneous presence of innumerable perspectives and aspects in which the common world present itself. * * * Being seen and being heard by others derive their significance from the fact that everybody sees and hears from a different perspective. This is the meaning of public life, compared to which even the richest and most satisfying family life can only offer the multiplication of one's own perspective * * * If human beings are deprived of seeing and hearing others, of being seen and being heard by them, they are imprisoned in the subjectivity of their own singular experience."

Without public spaces and the public realm the variety of city dwellers are deprived of the opportunity to be affirmed by others, to learn from others, to exercise their full range of emotions and skills, and to develop sensitivity to each other.

It is from this dialogue of different perspectives that decisions that guarantee the well-being of all may be achieved. This is the foundation of a *truly* democratic society.

VALUES FOR THE JUST CITY

(By Don Robert Johnson)

What are the underlying principles by which urban development should be judged? A quick answer: We must learn to reckon the price of things in terms of how much life they cost. * * *

The city must be planned, developed and managed by persons nurtured in the understandings and memories of the people. The city is by definition a communal concern. It will not do to make the individual person the unit of decision-making because the city affects all its inhabitants. As a proverb from Kenya says: 'Treat the earth well * * * it was not given to you by your parents * * * it was lent to you by your children. * * *"

It has been said there are two or more cities in which all of us live simultaneously:

The city of delight and the city of necessity (of economics);

The city of stone and steel and the city of green;

The indoor city and outdoor city; and

The private city and the public city;

all which need to merge in some sense of harmony in our world.

Whole persons grow up with a certain place that shapes their thoughts and forms their character, and all the rest of their life they are in some measure rooted in that soil. Livable cities are built on values that reflect justice, beauty, and community—and livable cities create a populace whose character reflects integrity, creativity, reverence, and respect * * *.

Specifically we must begin to question:

A production-consumption set of values in which it is assumed that more leads to well-being and security;

The production-consumption emphasis on usefulness, which leads us to see people as discardable;

Urbanization that in the name of progress claims "the right to relocate and reassign people, to move them from storied place to history less space"; and

The consumption of resources, as if they are not gifts.

"* * * Whatever in the human environment helps to forward human well-being is ethical. Whatever in that environment undercuts or adversely affects people in their relationships is plainly unethical. Unquestionably, the human environment we have been building in many cities have been destructive of human well-being and is so at an accelerating rate in many, many ways." (Jerome Nathanson) * * *.

The just city would recognize:

The ethics of planning. Planning is an integral part of an ethical community. Ethics (values and justice) do not happen in a vacuum or by individual decision-making alone;

The need to connect decisions in different realms;

The need for fairness and justice to all;

The need for "community architecture," in the sense of input from all segments of the community;

Specific involvement of the perceptions of women and children to correct the limited bias of men;

The consciousness of and the planning for human needs;

Access to social, physical, educational and aesthetic resources for all (the just city is a provider of opportunity) * * *;

Comfortable, orderly, humane forms of mass transportation;

The recognition of the public realm (and its subsequent public forums) for informed discourse;

The naming and eradication of prejudice, bigotry, racism, agism, sexism, etc,;

The clear insight that knows that ethics and aesthetics are closely linked.

Affordable housing that is multicultural, bi-racial, and intergenerational;

The intermingling of (a) the diversity, strength, and cultural integrity of neighborhoods and peoples with (b) the cohesive formation of common community values that result in unity without uniformity; and

The necessity of the natural world's presence. In even the smallest parks one can find the whole mystery of the entire relatedness of living things . . .

I close with this quote from Wendell Berry—

"The outcry in the face of such obvious truths is always that if they were implemented they would ruin the economy. The peculiarity of our condition would appear to be that the implementation of any truth would ruin the economy. If the Golden Rule were generally observed among us, the economy would not last a week. We have made our false economy a false god, and it has made blasphemy of the truth . . . It has always sacrificed the small to the large, the personal to the impersonal, the good to the cheap. It has ridden to its questionable triumphs over the bodies of small farmers and tradesmen and craftsmen. I see it, still, driving my neighbors off their farms into factories. I see it teaching my students to give themselves a price before they can learn to give themselves a value. Its principle is to waste and destroy the living substance of the world and the birthright of posterity for a monetary profit that is the most flimsy and useless of human artifacts."

JONATHAN AND ANN POLLARD

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. LENT. Mr. Speaker, at the request of my constituent, Mr. James Pollard of Hicksville, I respectfully submit the following material for inclusion in today's CONGRESSIONAL RECORD.

JANUARY 27, 1988.

MR. RONALD REAGAN
The President of the United States of America, The White House, Washington, DC.

DEAR SIR: We, the undersigned, Members of the Knesset, the parliament of Israel, ask you to grant executive pardon to Jonathan and Ann Pollard. We are fully cognizant of the complexities of the issue, however we approach you on a humanitarian basis, assuming that after the Pollards are granted pardon they will emmigrate to Israel. Humanitarian considerations especially require that generosity be applied to Ann Pollard whose health requires utmost consideration of her needs.

We are confident that our appeal to you will meet with a positive response.

Sincerely.

R. COHEN
(and 22 others).

LIST OF MEMBERS OF KNESSET

A. Abu Hatzira,
M. Avidov-Cohen,
R. Edri,
M. Eitan,
R. Eitan,
S. Alloni,
A. Amorai,
N. Arrad,
Y. Aridor,
Y. Artzi,
B. Ben Eliezer,
D. Ben Meir,
S. Ben Shlomo,
U. Baram,
G. Gadot,
P. Goldstein,
M. Glazer-Tasa,
H. Grossman,
P. Gruper,
S. Doron,
D. Danino,
M. Dekel,
H. Drukman,
M. Hacohen,
A. Harel,
S. Wiese,
A. Winshtein,
A. Valdman,
A. Vardiger,
Y. Yoseph,
G. Cohen,
Y. Cohen,
R. Cohen,
Y. Cohen-ORGAD,
A. Katz-OZ,
D. Libai,
A. Lin,
A. LIn,
U. Landau,
R. Milo,
D. Meridor,
A. Nachmias,
O. Namir,
A. Nasaraldin,
E. Solodor,
A. Sartani,
Z. Atashi,
O. Eli,
R. Pinhasi,
M. Forosh,
Y. Peretz,
Y. Tzaban,
D. Zuker,
E. Kullas,
H. Kofman,
Y. Kaisar,
A. Rubinstein,
N. Raz,
M. Raiser,
H. Rimon,
A. Shaki,
A. Shostak,
M. Shirity,
D. Shilanski,
A. Shallom,
B. Shalita,
Y. Shamai,
V. Shemtov,
G. Shafa,
Z. Amir.

THE BENEFITS FROM THE SUPER COLLIDER

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. UDALL. Mr. Speaker, with the successful launch and safe return of the space shuttle *Discovery*, our Nation celebrated America's return to space.

With this flight America furthered not only its role in space exploration but also in applied research that will result from on-board exploration. Medical research and satellite communications are just two areas which benefit directly from America's investment in the space shuttle.

Many other scientific spin-off benefits will result from the construction of the superconducting super collider, for example, increased knowledge in applied physics, medical technology, and computer science.

Mr. Speaker, our Nation has always been a leader in the development of new technologies. I believe that this is not a role Americans want to yield to Japan, the Soviet Union, or any country in Europe, all of which have demonstrated initiative in the development of a SSC.

The Universities Research Association has compiled statements in support of the SSC by leaders in both science and Government in a book entitled, "Appraising the Ring." The book details the evidence behind the widespread support enjoyed by the super collider in the scientific and business communities.

Specifically I would refer my colleagues to the chapter written by Prof. Peter Carruthers of the University of Arizona. Dr. Carruthers writes that, although the super collider will bring a wealth of practical scientific information, the cost of construction will be no more than the cost of a space shuttle or a new weapons system. Of course, if the Arizona site is chosen, the many jobs and contracts that would be created during construction of the SSC would be a plus for the Western United States, but as Dr. Carruthers points out, the SSC is truly a project in the national interest. In addition to the scientific benefits, the super collider will reaffirm America's commitment to continued leadership in all areas of scientific endeavor.

Mr. Speaker, I ask that Professor Carruthers' remarks be inserted in the CONGRESSIONAL RECORD.

REMARKS OF PETER CARRUTHERS, PROFESSOR OF PHYSICS, UNIVERSITY OF ARIZONA

In recent years, new discoveries in high-energy physics have yielded further advances in our understanding of space, time, and the structure of matter. Such knowledge provides the basis of our conception of the everyday world in which we live. The transformation of that world by science and technology has achieved an unprecedented importance for key competitive issues such as economic viability and national security. No nation that wishes to provide its citizens with freedom and economic well-being dares to neglect the mobilization of its financial and intellectual resources to be in the front ranks of the scientific enterprise. The United States cannot become complacent in the face of an increasingly aggressive world that is attracting its finest minds into careers in research and technology. High-energy physics is recognized internationally as the most fundamental of the sciences and as such is accorded the highest priority. We note the continued strong support of the European community for CERN, (the European Laboratory for Particle Physics), not to mention other important facilities such as the HERA project in Hamburg. Despite-much progress, many fundamental issues remain to be understood about elementary particles, their structure, and their interactions. Only refined experimentation with the most advanced accelerators can provide the answers to these questions.

THE ROLE OF THE SSC IN THE REVITALIZATION OF U.S. SCIENCE

The recent announcement of the approval of the SSC project in conjunction with an unprecedented commitment to double the National Science Foundation budget in the next five years is a signal to the world that the United States is reasserting its traditional lead role in science. The SSC will be the premier large high-energy research instrument in the world for some time to come. It will achieve colliding beams of protons having energies of twenty trillion electron volts each. The possibility of achieving decisive new understanding of the microstructure of matter will attract many of the most talented young American scientists into this and related fields, in addition to becoming a focal point for international collaboration. The SSC will allow the creation of forms of matter some twenty times heavier than presently accessible, as well as the exploration of the texture of spacetime twenty times more accurately, answering many current puzzles while hopefully raising others. It will also provide a demonstration experiment of the large-scale superconducting technology that is expected to play a crucial role in future society. Hopefully, increases in the National Science Foundation budget will expedite the repair of the crucial "small sciences" damaged by inadequate funding over the past twenty years and will foster much-needed innovations in cross-disciplinary research.

EDUCATION ISSUES RELATED TO THE SSC

The education of scientists from all over the world in first-class research universities continues to give the United States an advantage currently outweighing its relatively small population base. At present, the entire world adopts U.S. research standards and techniques, not to mention its language. In addition, many of the best foreign students remain in the United States to pursue their careers, providing an invaluable influx of precious talent. This would cease to be the case if the United States were to relinquish its lead position in such key fields of science as high-energy physics. We view with concern the deceasing number of U.S. students in physics graduate schools in recent years, an effect possibly due to the deterioration of career opportunities over the past fifteen years. It is crucial to reverse this trend by the real and symbolic restoration of science to a valued place in the intellectual and political life of the country. Finally, we call attention to the fact that many of those receiving advanced degrees in high-energy physics go on to establish careers in related disciplines such as computer science or engineering. The value for technological careers of the education in "basics" received by high-energy physicists is well known.

ECONOMIC ISSUES RELATED TO THE SSC

On the scale of traditional levels of science funding, the SSC seems expensive at $4.4 billion in FY87 dollars. Compared with usual socioeconomic units, however, this amount is only typical; we mention the similar cost of a space shuttle, a Trident submarine, or a major airport. Indeed, on the basis of long-term national security, both economic and military, the SSC would appear to be a good investment.

The real issue to be addressed by Congress and the scientific community is that the parallel development of the other sciences must not be compromised by the contruction of the SSC. This principle was already announced during the presentation of the July 1983 High-Energy Physics Advisory Panel subcommittee report, which originally recommended the construction of the SSC. Fears of the existence of a "zero-sum game" have led to the ironic situation in which the principal opponents of the SSC are to be found in the ranks of other scientists, rather than among the public or their elected representatives. Responsible members of the high-energy community continue to assert that the SSC construction cannot be taken from the rest of science.

Evidence from a study of the economic impact of CERN as purchaser from its 519 associated high-technology industry suppliers during the years 1973-1982 indicates that one Swiss franc spent in high technology generated three Swiss francs in economic utility. (Economic utility is defined to be the sum of increased turnover and cost savings due to the CERN relationship.) This alone is equal to sixty percent of the total costs of operating CERN during these years and, further, does not take into account the multiplying effect in the rest of the commercial sector. Taking into account the multiplying effect of other jobs created by CERN, it is clear that the facility more than repays the cost of construction and operation in the ten-year time frame of the study. This result does not include new inventions inspired by the demands of accelerator technology, or the ultimate payoff in new applicable knowledge. On all these grounds, the SSC is seen to be a very good investment for the future of the nation.

TECHNOLOGY SPIN-OFF FROM HIGH-ENERGY PHYSICS

The need to achieve maximum effectiveness within a limited budget for the construction of successively more sophisticated accelerators has traditionally led to important technological innovations and unanticipated practical applications. To give but a few examples of the former, we note that the demands of efficient data analysis have been a principal driving force in computer development. In addition to the large-scale superconducting technology previously mentioned, we mention the development of high-power, high-frequency radio cavities and of high vacuum systems, whose applications to radar and to varied industrial and research problems are well known. The medical applications of accelerator physics to medical therapy are many, including the production of radioisotopes and the use of megavolt electron accelerators for cancer radiotherapy. Other important spin-offs include the development of synchrotron light sources for the study of surface phenomena of materials, the use of ion implantation in semiconductor devices, fast electronics techniques, and radiation processing of food and plastics. Frequently, the feedback to basic science from the applications has produced a creative synergism between basic science and the industrial-private sector technological enterprise.

THE FUTURE OF HIGH-ENERGY PHYSICS

Spurred by the U.S. intention to build the SSC, CERN has announced its intention to supplement its present project (LEP) with a "Large Hadron Collider" of 12-16 TeV energy after the completion of critical LEP experiments. This proton-proton facility could with luck be running at an energy approaching the 40-TeV SSC design specifications, at a time (1995-1996) that is the earliest one can hope the SSC to be completed. This European effort to maintain their current small lead should be taken seriously as an indication of the priority held by high-energy physics in Europe. The current commitments to LEP and to HERA have created substantial financial strains; therefore, the obligation of the additional expense of LHC magnets and detectors would indicate an impressive determination not to be outclassed by the SSC. It is clear that time is of the essence if the United States is to recapture and maintain its historical lead in world high-energy physics.

Future accelerator facilities following the SSC have until recently been imagined to be nearly unaffordable, barring a breakthrough in technology. Recent discoveries of new superconducting materials suggest that just such a breakthrough is conceivable. Although the press has made much of the high critical temperatures observed, the possible relevance of these materials to high-energy physics may be more dependent on securing a high critical magnetic field and large critical current density and on the ability to produce magnet wire in a practically usable form. If, as is thought, one can obtain magnetic fields an order of magnitude higher, it will be possible to upgrade the SSC by replacing current niobium-titanium magnets with the new ones, at minimal cost. It should not be thought that the new materials are of immediate technological use; indeed, it required twenty years to learn how to manufacture magnets from the niobium-titanium alloy. The exciting speculation made possible by the recent discoveries is that a future generation of high-energy physics experiments may be possible in the same laboratory facility to be constructed in the next few years. The high-energy physics community must thank its materials science colleagues for making the currently proposed SSC a still better investment than before.

CHILD CARE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CRANE. Mr. Speaker, dramatic changes in the makeup of the American work force and a mobilized constituency of working parents have propelled child care to the top of the social agenda. Decisions about raising children are the most fundamental, the most emotional and the most personal choices made in the life of a family. They concern not only the health and safety of children, but the transmission of moral, cultural, educational, and religious principles.

The dynamics of parental decisionmaking and the special nature of child-rearing make child care a unique and delicate public policy problem. Government has a role in providing assistance to families with children, especially those at the lower income levels. But there is a boundary of responsibility—a line over which Government must not step when dealing with the American family. It is the line that divides Federal proposals which attempt to assist parents with their child care problems, from proposals which usurp the responsibility for child-rearing from parents through Government-sanctioned institutions.

While recent statistics indicate that more and more working mothers are returning to the work force they do not indicate why they are doing it. They do not tell us, for example, whether these women, or men rally want to be in the paid work force instead of spending more time at home with their children. They do not tell us about how trends in the family income, trends in the tax burden on families with children or trends in the costs of housing influence a family's decision about its work agreement.

The reason the United States is facing this current child care problem is because of the erosion of family income which is caused by a Tax Code that is increasingly biased against dependent children. Rearing children is something which is socially necessary and desirable, and so our Tax Code should be trying to encourage that. But it is not. The heavy tax burden shouldered by young families is exacerbated by inflation. Consequently that inflation has steadily undermined the value of the income exemption for children. Because of this, I introduced legislation, H.R. 4219, to take one giant step in the direction of restoring the relative value of the exemption for young children to the level which existed in the 1950's.

My legislation would address preschool age dependents by allowing a parent to receive a tax deduction of $5,000 from birth to age 6. Current law provides for a deduction for any dependent child of $1,900. The need for this increase in tax deductions is twofold. First, the value of the dollar when the dependent deduction was added to the Tax Code has failed to be adjusted for the rate of inflation over the years. The proposed deduction would allow the family to regain some equity from this indexing. Second, the family has suffered financially because of the lack of indexation.

My legislation will guarantee parental choice. They could choose a professional day care center, a church affiliated center, or care provided by relatives. It will also provide a mother or father of the choice to take care of their own children instead of being forced back into the work force because of financial obligations. If legislation such as my proposal were passed into law, it would go a long way in correcting the lack of child care providers as well as decrease the number of abuses occurring by child care providers.

I believe that tragedies such as the following one reported by Cathy Trost in the article "How Children's Safety Can Be Put in Jeopardy By Day-Care Personnel" could largely be prevented if parents were allowed to receive a larger deduction for dependent children. H.R. 4219 provides both a role in providing assistance to families with children, and at the same time does not usurp the responsibility for child-rearing from parents through Government-sanctioned institutions.

[From the Wall Street Journal, Oct. 18, 1988]

HUMAN TRAGEDY: HOW A CHILD'S LIFE CAN BE PUT IN JEOPARDY BY THE PERSONNEL AT DAY-CARE FACILITIES

(By Cathy Trost)

SPRINGFIELD, VA.—Ashley Snead's room in this elegant two-story town house stands unchanged from the day she died more than a year ago. Her dresses hang in the closet, her toy train is on the shelf, and the Victorian ruffled curtains her mother special-ordered from North Carolina frame the windows. The kitchen playpen where she watched her mother cook finally came down just a few weeks ago.

Her parents, Jane and Ronald Snead—"unable to put the memories away," they say—eagerly show Ashley's baby pictures. Jane Snead cries softly as she talks. Ronald Snead, a 43-year-old lieutenant colonel in the Army, sits subdued. "We loved that little girl," he says.

On July 28, 1987, 10-month-old Ashley was rushed, not breathing, from her baby sitter's house to Fairfax Hospital. Efforts to revive her failed. Shortly thereafter, her devastated parents were stunned again. An autopsy showed that Ashley had been poisoned by the prescription antidepressant drug imipramine.

A KINDLY BABY SITTER

Ashley, the Snead's only child, had been in the care of a kindly, grandmotherly baby sitter who, a neighbor later testified, "liked babies that like to take naps."

Today, the sitter, Martha Guba, is in prison, sentenced to 10 years for child neglect. Her conviction is on appeal. Ashley's parents are serving a life sentence of anger and bewilderment at a system that they see as failing to ensure a fundamental goal, the safety of children.

The nation passed a momentous marker this year when the Census Bureau reported that 51% of women go to work or actively seek it within a year of having a child. Ashley's mother was one of them. About 10.5 million children younger than six have mothers in the labor force. Most are cared for outside the home, either in organized centers or, as Ashley was, in private "family" day-care homes, where care is typically provided by a mother or, less often, a child-care professional.

The quality of care ranges from "absolutely excellent to absolutely awful," says Yale University child-care expert Edward Zigler. "You knock on one door and it may be wonderful. You knock on another door and your kid may be dead that night."

A BLEAK LIST

No one can say for certain how many children are killed or injured by the negligence of day-care providers. But "the list of tragedies is growing daily," says Helen Blank, director of child care for the Children's Defense Fund, a Washington advocacy group. The group offers in evidence a bleak list: children trapped in fires in homes with inadequate exits; children beaten or maimed by untrained, unwatched providers.

No federal regulation governs child care, and state regulation is spotty (see story on page A17). Virginia requires licensing only of those who care for six or more children who are not their own or relatives'. There is no limit on the number of these a provider can care for. The state has only 32 inspectors to handle initial, annual and complaint inspections of 267 licensed family day-care homes and 908 licensed day-care centers with a total capacity of 76,579 children.

Like most other states, Virginia requires no training for care-givers. Nor does it check their medical backgrounds or Federal Bureau of Investigation computer files for criminal histories.

A PREVENTABLE TRAGEDY?

Even sweeping regulation, officials say, wouldn't prevent all the tragedies. But, says Fairfax County supervisor Thomas M. Davis, tougher records checks, without doubt, could have helped prevent Ashley Snead's death. The county consequently plans to strengthen its day-care rules. The state also is considering tougher regulation.

The events that led to Ashley's death began shortly after she was born two years ago. Mrs. Snead needed someone to care for the baby when she went back to work as an administrative assistant at a savings-and-loan association. Here as elsewhere, day care is scarce and costly, and Mrs. Snead found few organized centers that could accommodate Ashley. From a list compiled by the Fairfax County Office for Children, she did find Mrs. Guba.

Mrs. Guba seemed perfect. She was a grandmother in her late 50s who had raised three children of her own. She charged a little more than the local going rate—in Ashley's case, $100 a week—but she told Mrs. Snead she gave "extra special, loving care." Mrs. Snead interviewed Mrs. Guba and "liked her right off."

The Sneads didn't know—couldn't have known—that Mrs. Guba had been convicted in Virginia in 1968 of neglecting her own children. She had also been hospitalized in the past for mental problems, and was a heavy user of prescription drugs.

Fairfax County, a booming suburb of Washington, D.C., does some minimal screening. To get on its list of baby sitters, Mrs. Guba had completed a short application and paid a $5 fee. The county conducted a cursory health and fire inspection of her home. A review of a state registry found no history of child-abuse or neglect, but the registry dates back only to 1975. The county also got two letters of reference, filled with praise for Mrs. Guba.

The county says it doesn't recommend or endorse any of the baby sitters it lists—a disclaimer that the Sneads' lawyer, Quin S. Elson, charges "is like the Surgeon General making cigarettes and saying don't use them."

In November 1986, Mrs. Guba began to care for six-week-old Ashley.

Parents and neighbors notice something odd about Mrs. Guba's home: With all the children around, as many as seven at one time, it was pristine and eerily quiet. According to testimony in her trial, some of the children spent an unusual amount of time sleeping or confined in car seats and automatic swings.

At home, Ashley's parents noticed, she wanted to be held a lot, and they say she seemed eager to leave the baby sitter at night. But they never suspected danger. "I see things I should have questioned," Mrs. Snead testified, "but I didn't."

At home, the healthy and vivacious baby was learning to crawl and stand, but at Mrs. Guba's, neighbors and parents testified, she was generally kept in her car seat in the living room. Mrs. Guba told a neighbor, Kate Simcox—according to Ms. Simcox's testimony at the trial—that Ashley suffered from Down's Syndrome, a birth defect that often results in mental retardation. The baby had to be kept in her car seat, Ms. Simcox said Mrs. Guba told her, "because her tongue was long and she would choke."

It was Ms. Simcox who also testified that Mrs. Guba "liked babies that like to take naps."

THE LAST DAY

On the morning of July 28, Mrs. Snead remembers, she and Ashley sat on the deck at home for a time before they went upstairs to get dressed. "Ashley was very happy, and I didn't want to leave her." Mrs. Snead said later. But she took the baby to Mrs. Guba's house, just as she had many other workday mornings.

About 10 a.m. she got a call at work from Mrs. Guba, who said Ashley had picked a Tylenol off the floor and put it in her mouth. The baby sitter offered to call a doctor, and reported back that the child would be fine.

Her lawyer says she called a pharmacist. But, says Raymond Brownelle, who prosecuted Mrs. Guba, "She didn't get any kind of medical care or attention for that child. I think what she hoped was that it would just pass, that the child would sleep it off."

At about 1 p.m. Mrs. Snead got another call from Mrs. Guba. Ashley was sweating profusely, the baby sitter said, and she had turned on the air conditioner. "You know, Jane, I would't let anything happen to little Ashley for the world," Mrs. Snead says Mrs. Guba told her.

Then came a third call from a panic-stricken Mrs. Guba. "Ashley is dying! Ashley is dying!" she cried.

"Martha, call 911!," Mrs. Snead told her.

"They are here. They are here," Mrs. Guba answered.

On the tape recording of Mrs. Guba's call to the 911 emergency line, played at the trial, the sitter is heard begging for an ambulance. "I've got a dead baby!" she cries before hanging up. "She's not breathing." The emergency operator called back to relay first-aid instructions to someone else in the house; the baby sitter later admitted she had never received any first-aid training. Her lawyer says she was "hysterical" about the baby and could barely communicate.

The Sneads rushed to Fairfax Hospital. After "an eternity," doctors told them Ashley was dead. In their grief, they were allowed to hold her for a while, for the last time.

Police interviewed Mrs. Guba after an autopsy revealed the imipramine in Ashley's body. "I didn't give that baby anything," she said. "I loved that baby." A police investigator testified that he had never interviewed anyone quite like Mrs. Guba. "She had mood changes right in front of me," he said. "She would go from happy to sad to happy to sad."

Ashley was buried in a family plot in Red Springs, N.C., in her christening dress with a Pound Puppy toy, a Bible and a hat to cover the fissure in her head from the autopsy.

Ten days after Ashley's death, Mrs. Guba was arrested. The picture of the woman that emerged from the ensuing investigation was dramatically at odds with the one conveyed by her grandmotherly demeanor. According to the prosecutor and other law-enforcement officials, she had been convicted in 1968 in Virginia for neglect of her own children, and served 90 days in jail. She also had been hospitalized in the 1960s—voluntarily, her lawyer says—for depressive neurosis, according to testimony at her sentencing.

In 1973, she was convicted in Arizona of obtaining money by false pretenses and was put on probation, according to Arizona court records. The Arizona court noted that she was already on probation in Allegheny County, Pa., for offenses "related to the same criminal foray." Pennsylvania court records show she was found guilty in 1972 of six counts of false pretense.

Thomas J. Morris Sr., Mrs. Guba's lawyer, ascribes her prior neglect conviction to domestic problems with her former husband. "Her husband was an alcoholic who was thumping on her," he says, so "she split." At the time of the Snead trial, he adds, she hadn't had any legal difficulties for a dozen years.

A 'BAD DRUG PROBLEM'

Beginning in March 1986, a doctor treated Mrs. Guba for severe headaches, depression and other ailments. At her trial he testified that he often prescribed for her the narcotic pain-reliever Demerol, the anti-depressant imipramine (sold as To-franil) and other medications. He said Mrs. Guba had told him that she was upset because her husband had died of throat cancer. In fact, her current husband is alive; Mrs. Guba's lawyer says she was referring to her former husband.

Once, she came to the doctor's office complaining of vomiting and headaches after seeing a neighbor shoot himself in a back yard. There was no such incident, though her lawyer claims somebody was firing a gun in one of the back yards. She was given more Demerol and anti-nausea medicine. The prescriptions continued: A pharmacist testified that she filled a prescription of 100 imipramine tablets for Mrs. Guba on July 21, a week before Ashley Snead's death.

Mrs. Guba admitted in court prior to sentencing that she realized she had "a bad drug problem." In spite of her problems, her lawyer argues, she was a good baby sitter, citing testimony on her behalf from other parents whose children she cared for.

A toxicologist testified at the trial that he believed Ashley had suffered a "chronic intoxication" of several days' duration. The prosecution alleged that Mrs. Guba sedated the baby with imipramine to keep her quiet. "That baby went through hell," says Ashley's father. But Mr. Morris says that "there was no direct evidence that Martha gave this child anything but care."

Nonetheless, a Fairfax County jury took only two hours last January to convict Mrs. Guba.

Mrs. Guba relayed word through a prison official at the Virginia Correctional Center for Women that she was "not interested" in being interviewed for this article. In appealing her conviction, Mr. Morris argues that the prosecution failed to comply with pretrial discovery orders, that he was restricted in his right to cross-examine, and other matters. He insists that Ashley's death was an accident caused by the child tipping over a trash can and eating discarded pills.

In any event, Mrs. Guba could be eligible for parole in two years. Once out of jail, Mrs. Snead laments, she "can move to another state, change her name, and start baby-sitting tomorrow." The Sneads have joined with children's advocacy groups and other parents whose children have been killed or hurt to crusade for stronger day-care regulation. "We desperately need reform," Mrs. Snead testified before a state commission, "so other babies, children and parents will not have to experience and suffer the trauma that Ashley and ourselves have."

Mrs. Snead suffered a tubal pregnancy the week after Ashley died. The Sneads wonder now if they could bear to have another child. "I don't think," she says, "I could ever let anyone touch her."

DAY-CARE LICENSING, A TOUCHY TOPIC, IS UP TO THE STATES

(By Cathy Trost)

Many providers of child care go unregulated under a hodgepodge of state laws, while a controversial proposal to impose federal child-care standards recently met defeat.

A $2.5 billion child-care bill introduced in Congress by Democratic Sen. Christopher Dodd of Connecticut and Democratic Rep. Dale Kildee of Michigan would have established minimum national standards for the ratio of staffers to children in day-care centers, for training in child development and first aid, and for other health and safety areas. A Republican filibuster in the Senate this month killed the bill.

Children's advocacy groups intend to press their case in the next Congress. Marian Wright Edelman, president of the Children's Defense Fund, say she questions the judgment of a nation that has "no qualms" about licensing hairdressers, restaurants and plumbers but not the people who care for children.

Standards are no guarantee of safety, says DeAnn Lineberry, an official of Virginia's Department of Social Services. But she says regulated care is still "much less risky" because it gives child-care providers rules to follow and gives parents more resources to deal with problems.

Others, however, argue that burden-some regulation would force many day-care providers out of business, while the survivors would have to increase their prices beyond the reach of many parents. Moreover, says Robert Rector, policy analyst for the conservative Heritage Foundation, unlicensed child-care "is far from being the onerous type of dangerous cesspool facility." He adds, "It's one mother down the block who has a preschooler of her own, and is taking care of one other preschooler. . . . All the scientific evidence we have," shows that informal, unlicensed day-care is as safe as regulated care.

Most states require registration or licensing of some private homes that provide day care. But the Children's Defense Fund finds many exceptions. Of 46 states with some mandatory system, 37 don't regulate all homes. Thirty-two states require a criminal background check of the staff of day-care centers; four more check only child-abuse records. Twenty-six states either check or have plans to begin checking criminal records for family homes; and additional six check only abuse records. Only 13 states check the background of day-care staff through national FBI records.

Even among states that do check criminal records, there are gaping holes in the process. In Virginia, officials say, many cases of child abuse or neglect don't get to court and fail to appear in state police records of convictions related to crimes against children. And Virginia doesn't check out-of-state records. "If someone was a mass murderer but all his victims were adults or all the crimes happened outside Virginia, it wouldn't show up," Ms. Lineberry says.

State regulations vary widely as well in requirements for training, staffing levels and the like—which the Children's Defense Fund argues are just as important as criminal checks. The group says that 42 states don't require family day-care providers to receive training, and just 26 states insist that care givers in child-care centers have continuing training. Some states allow one adult to supervise a gaggle of babies: In South Carolina, a single baby sitter may care for as many as eight. In Idaho, one care giver may take responsibility for 12 children.

MINISTRO FRANCESCO CORRIAS, CONSUL GENERAL OF ITALY, TO BE HONORED IN BAYONNE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. GUARINI. Mr. Speaker, a very important function will be conducted in my district with the Consul General of Italy in New York Francesco Corrias being honored. The occasion is the annual dinner dance of the Sicilian Citizen Club whose president is Ludovico Nolfo. The function will be held on Saturday, October 22d at Maddalena's Villa Nova, Bayonne, NJ. Hundreds of individuals will attend.

The Consul General of Italy has a long and illustrious career and is being honored for his many contributions to the Italian American community and his good will promotion of Italo-American relations.

According to the official records, Francesco Corrias was born in Nice on July 18, 1933. He received a degree in economics in 1958, and began his diplomatic service in 1960. He was then assigned to the Cultural Affairs Department of the Ministry of Foreign Affairs, where he later assumed the position of Chief of the Secretariat.

In 1962 he was appointed Chief of the Vice Consulate of Italy to Cardiff, Wales, and Vice Consul to the Consulate General of Italy in London.

In July 1963 he was promoted Second Secretary, and in 1964 transferred to the Consulate General in Paris as First Vice Consul. In September of 1965, he was assigned to the Embassy in Washington, DC, where he later was promoted to First Secretary.

In 1968 he was appointed to the Italian Embassy in Tokyo as Counsellor.

In 1970 he returned to the Ministry of Foreign Affairs as Deputy Director of the Office for Socialist Countries in the Department of Economic Affairs.

Promoted to the rank of "Counsellor of Legation" in December 1970, he was subsequently appointed Deputy Director of the Office for the Middle East, Africa, and Asia in the Department of Economic Affairs.

At the same time he served as Deputy Representative for the Ministry of Foreign Affairs on the Credit Insurance Commission, responsible for providing financial aid and export credit to developing nations.

He was promoted to "Embassy Counsellor" in July 1974, and appointed Director of the Office for Planning and Research in the Department of Economic Affairs.

In August 1975 he was assigned to the Embassy of Lisbon as First Counsellor.

In 1979 he was appointed Ambassador to the People's Republic of Angola, and also accredited to the Democratic Republic of Sao Tome and Principe.

In January 1983, he was promoted to Minister Plenipotentiary—2d class.

In July 1983 he was assigned to the Ministry of Foreign Affairs, as Director for the Office of African Affairs in the Political Affairs Department.

In October 1985 he assumed his duties as Consul General of Italy in New York.

He performed military service as a second lieutenant in the Italian Cavalry.

I am certain that my colleagues here in the House of Representatives wish to extend a welcome to the Consul General of Italy in New York, Francesco Corrias, and best wishes to Ludovico Nolfo, and his fellow club members who have been at the forefront of many programs of social, cultural and educational enrichment.

THE LEGACY OF THE REAGAN YEARS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 19, 1988, into the CONGRESSIONAL RECORD:

THE LEGACY OF THE REAGAN YEARS

Sorting out President Reagan's legacy is difficult because his presidency involves several paradoxes. His personal popularity survives despite crises and scandals, and he is more popular than his policies. He promised fiscal conservatism yet oversaw a near-tripling of the national debt. He leaves office with a stable economic growth rate on unstable foundations. He is a Cold Warrior who thinks the Cold War may be over. His leadership has restored confidence in the very government institutions that he often criticizes. The President's record and rhetoric will affect the political and economic direction of the U.S. for years to come.

ECONOMIC POLICY

Under President Reagan, the U.S. economy has seen some significant improvements. Our economy has been growing steadily since the 1981-2 recession, a record peacetime expansion. Inflation, unemployment, and interest rates have all come down dramatically since the late 1970s. Yet the economic legacy of the Reagan years is clouded. First, much of the growth has been fueled by federal deficit spending. Our national debt has increased from $1 trillion in 1981 to $2.6 trillion today. Paying back the debt will constrain our future economic growth and burden us and our children for years to come. Second, the economic growth has also been driven by rising consumer spending and borrowing, rather than by investment. Growth based on greater productive investment would be better for our future economic strength and competitiveness. Third, President Reagan has not left a clear economic model for future policymakers. The President's economic policies have changed since 1981 (such as backing away from "supply-side" economics and tight fiscal policy); the effects of government economic policies are not alway identifiable; and growth has been achieved by unsustainable means—consuming more than we produce and importing more than we export.

SPENDING PRIORITIES

President Reagan's goals of a stronger military and a less active government led to major changes in the slicing of the federal budget: expenditure on defense soared, Social Security, Medicare, and interest payments on the national debt went up, while the remaining share of the federal budget went down. But maintaining the President's spending priorities will be difficult. They cannot be continued if we are to bring down the budget deficit, so difficult cuts will have to be made. In addition, people are demanding more federal action on a range of domestic issues short-changed by the President, such as education, housing, and the environment. Concern has also been raised that his policies have widened the gap between the rich and the poor in America.

THE ROLE OF GOVERNMENT

Reagan's anti-government policy included government decentralization and economic deregulation. Although few specific responsibilities were formally transferred to the states, federal funds to the states fell by nearly a third and funding for areas of shared responsibility, such as education, has been trimmed back. While the President wanted a less activist government, the states responded to the challenge of falling funds and diminishing federal programs with a range of initiatives on social issues, economic development, and regulation. In addition, while Reagan has accelerated the federal deregulation effort, this may be rolled back. Businesses are concerned over the growth and diversity of state regulations, while the stock market crash, insider trading, airline safety, and the savings-and-loans crisis demonstrate risks of deregulation.

JUDICIARY

One of the more enduring legacies of the Reagan years lies in the federal judiciary. He has appointed three Supreme Court justices, and, equally important, more than half of the 761 judges on the lower federal courts. The President set up an elaborate screening process to ensure the appointment of young conservatives to the bench, and he has succeeded in significantly diluting the power of liberal judges named under previous administrations.

FOREIGN POLICY

The Reagan Administration has had its share of foreign policy mistakes, such as the Iran-Contra affair. Yet the President's time in office, especially his second term, has seen some notable successes in global affairs. The prospects for peaceful settlement of several regional conflicts have improved, and democracy is on the rise. Most importantly, the "Cold Warrior" and the "Evil Empire" of 1980 ended up negotiating together, eliminating an entire class of nuclear weapons. Although many challenges lie ahead, the improvement in U.S.-Soviet relations is one of the most important legacies of the Reagan years.

POLITICS

Some argue that President Reagan has created a lasting realignment between the parties because the Republican Party has been increasingly successful in the South and West, has won over many young voters, and has been boosted by the religious right. Others point out that Reagan is more popular than Republicans: today there are 15 fewer Republicans in the House and 7 fewer in the Senate than when he took office. My sense is that the President leaves the country more conservative but only a little more Republican. By defining the political cleavage as liberal versus conservative rather than Democrat versus Republican, Reagan translated a conservative shift into electoral success. Yet polls and election results indicate that voters have lost rather than switched party loyalty. Now the Republicans face the irony that with inflation low, tax rates sharply reduced, and military spending high, their conservative appeal diminishes.

ROLE OF THE PRESIDENT

Finally, Reagan has changed the role of the president. He is perceived as a strong leader who restored confidence in the presidency and the nation—less by active involvement in the policy-making process than by communicating optimism and values through the media. This skill helped him rise "above the policy process"—almost like a king or queen. All presidents after Reagan will need to be more media-conscious. At the same time, the next president cannot ignore the increased need for a leader who is more in touch with the policy process. President Reagan has always been optimistic and generalized, while President Carter was pessimistic and specialized. The future will probably bring something in between.

DAVY CROCKETT DAY FESTIVAL

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. JONES of Tennessee. Mr. Speaker, many folks might not know that the congressional district I serve, the 8th of Tennessee, was once represented in the Congress by Davy Crockett. In those days, he preferred to be known as David Crockett. For the last 21 years, our local area has had a Davy Crockett Days Festival. In conjunction with that festival, prominent families from the Gibson County area are featured in articles in our newspaper which does a series on Rutherford Heritage.

I would like to have included in the RECORD two of these articles. One is about the family of Fred and Lelabelle Baier, and the other is about the Thomas Pate family. I have personally known both of these families all of my life. They, as well as their offspring, have contributed much to our way of life in Gibson County. Their accomplishments deserve recognition and everyone who knows the Baiers and the Pates appreciate them for all their contributions to their communities.

I want to take this opportunity to thank them for their tireless efforts in behalf of their families, their communities, our county, our State and our country. They are all given much and asked nothing in return.

THE BAIERS OF RUTHERFORD—INVOLVED!

(By Billie Peel Gray)

The people of Rutherford are proud to add to their list of distinguished citizens, Lelabelle and Fred Baier. They have brought so much into our lives, that if we fail to mention something, it is only because they have given so much.

Lelabelle was born east of Rutherford in the China Grove Community and was graduated from high school at Rutherford. Both she and Fred graduated from the University of Tennessee at Knoxville and where married soon after. During World War II they were stationed in many states, but California was the most important because their only child, Ted, was born there.

When Fred left the Army after serving many months in the India Burma area, he was honorably discharged with the rank of Major of the Army Signal Air Corps.

From there they chose education as their career. In the Knox County School System, Fred served as Principal and Lelabelle was a primary teacher in the same system.

They then moved to Rutherford where Lelabelle, as an only child, was needed. Here they made their home, she as a primary teacher and he as the owner of Farmer's Seed Company, which he continues to operate.

Fred has served on the School Board, as past president of the Lions Club, Director of Farmers Home Administration, Director of the Rutherford State Bank, and Gibson County Gas Utility Commissioner. He served as Secretary and Treasurer of the Ed Jones Campaign and is very active in politics which benefit us and help our city, county, and state.

Lelabelle is on the Gibson General Hospital Board of Directors, served as Vice-President of Delta Kappa Gamma, an honorary teachers organization, is active as a member of the ACTION Club, is responsible in many ways for the city park, for the lovely trees in memory or honor of a loved one and for the beautification and usefulness of the park.

Ted, son of Lelabelle and Fred, grew up in the community and was married to Sue Cook of Idlewild. They have three fine sons, Craig, Steve, and Brent. They are active members of the Rutherford United Methodist Church.

The Methodist Church has been served in every possible way by the Baier family. At present Lelabelle is teacher of the young adult class and has been for several years. Anything the church sponsors has the backing, participation, and loving service of Lelabelle.

For all the many things the Baiers have done for others, we give thanks. We, the people of Rutherford, are truly blessed to have Lelabelle and Fred as neighbors and friends.

A TRIBUTE TO THE PATE FAMILY

(By Frances Emerson)

Each year before our Davy Crockett Celebration we pay tribute to some of our senior citizens. Last week we honored Mrs. Connie Hollis. This week we are honoring the Thomas Pate family. There are many in Rutherford we would like to honor, but time and space prevents us from doing so. We hope you enjoy these articles.

THE THOMAS PATE FAMILY

Thomas Andrew Pate was born March 24, 1906 to Timothy Turtutas "Tool" Pate and Eula Mai Wheatley Pate of the Rutherford area.

Sarah Ruth Cain was born December 20, 1907 to William "Al" Cain and Essie Flowers Cain of the Rutherford area.

On June 29, 1930 Thomas Pate and Sarah Ruth Cain were united in marriage. To this union one son, Joe was born. Thomas and Ruth and their family have lived in Rutherford for fifty-eight years.

Thomas began his business career in 1922 when he was employed by the O'Daniel, Kennedy, Cumming Co., known as O.K.C. General Mercantile Co. He worked for this concern for twenty-two years, rising from clerk to head buyer and manager of the dry goods and shoe department.

Thomas and Ruth bought the Peterson, McCanless Store in 1944 and named the store "Thomas Pate Store" carrying a full line of clothing and shoes for the entire family. The store was a thriving business from the very beginning and has been in continuous operation at 122 Main St. for forty-four years.

In 1955 after graduation from Memphis State University and a tour in the military service, Joe joined his dad in the business and they were partners until 1974 when Joe took over the business. Mr. Thomas and Mrs. Ruth are still active and hardly a day goes by without them being at the store to greet their friends and customers.

Both Mr. Thomas and Mrs. Ruth have always been active in all civic affairs. Mr. Thomas served as city alderman for several years, is a charter member of the Lions Club and a staunch supporter of the Democratic party.

Mrs. Ruth, being a school teacher at "Oak Hill" prior to her marriage, has always been interested in all school activities and served on the Rutherford school board. She is a past member of the Birthday Club, devoted wife, mother and grandmother.

Their church home is the Rutherford Cumberland Presbyterian Church. Joe, like his parents has always been active in all community activities. He was on the school board for many years, served as scoutmaster, president of Little League, Babe Ruth League and held several offices in the Lions Club. He is a charter member of the ACTION Club. His wife, Ann Johnson Pate is a homemaker and works part time at the store. Joe and Ann have three children. Bruce and wife Lisa and son live in Jackson, Tennessee where he is a pharmacist; Bradley and wife Binkey and son Adam live in Rutherford where Brad is in business with his father. Sherry and her husband Pete Barber and their son live in Rutherford where she is employed with her father.

The Pate Family and their business is an asset to our town and surrounding communities. We are glad they chose Rutherford, "the last home of Davy Crockett" to make their home and we hope they will be around for many years.

SECTION 6 OF H.R. 515

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. BEREUTER. Mr. Speaker, as agreed to by the House and Senate conferees this past week, H.R. 515 will provide consumers with increased and more detailed disclosure of interest and other charges on credit cards.

In addition to information about interest rates and fees, H.R. 515 requires credit card issuers to provide more information regarding insurance sold in connection with credit card programs. Section 6 provides, among other things, that whenever a card issuer proposes to change the insurance carrier, the card issuer must give prior notice to insured cardholders of the proposed change. The notice must sufficiently describe the differences between the existing and proposed policies so that cardholders can determine the difference and make an informed decision. Any such notice, particularly if it is sent to insured cardholders with the regular credit card monthly statement, must be prominent and not simply a meaningless fine print enclosure. Disclosures to the consumer under section 6 should include differences between the coverage, rates, and other features of the current and the proposed insurance programs. Consumers must also be informed of their right to discontinue the insurance coverage.

State laws regarding the regulation of insurance are not superseded by section 6. This means, for example, that a State can require written reenrollment of insured cardholders whenever insurers are changed and can continue its usual regulation of rates and other elements of these insurance programs. With regard to disclosure standards, however, section 6 serves as the minimum no matter what other requirements are set under State law.

The Federal Reserve is provided specific rulemaking authority to define what constitutes a "substantial decrease in coverage or service" for purposes of the notice requirements. As drafted in section 6, Congress intends "substantial" to be defined as material or important and a high percentage test is not appropriate. For example, a proposed decrease in coverage which is a relatively low percentage change from the existing coverage may still be of importance to consumers in determining whether to continue participating in the insurance program.

The notice and information required under section 6 will permit consumers to make informed choices. Without the appropriate information, the choice would merely be the card issuer's, not the cardholder's. The effect of section 6, by providing adequate and meaningful disclosure, is to promote fair competition in the marketplace and fair treatment of consumers.

BILL NATCHER CAMPAIGNS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. STUMP. Mr. Speaker, today's edition of the Wall Street Journal includes an article about one of the most respected Members of this Chamber, the most distinguished gentleman from Kentucky, BILL NATCHER. The article highlights the unique example that BILL sets, both as a political campaigner and for voting attendance in the House. He is truly one of the best leaders in the House of Representatives, and one that I personally hold in the highest regard. The Congress needs more Members like WILLIAM H. NATCHER.

REPRESENTATIVE NATCHER RUNS AUSTERE CAMPAIGN, AND VOTERS LOVE IT

KENTUCKIAN SHUNS DONATIONS, POLLSTERS AND THE PRESS; VISITING THE BARBER SHOP

[By Brooks Jackson]

BOWLING GREEN, KY.—Congressman William Natcher recalls how Speaker Sam Rayburn used to kid him about the political dangers of his anachronistic style of seeking re-election: "He'd say, 'You're still not taking campaign contributions? Just keep doing that—they'll get you one of these days.'"

That was 30 years ago, and no one has gotten Mr. Natcher yet. Now, in another election season, the Democratic lawmaker is heading back to his sprawling district in western Kentucky, running the same kind of campaign he always has: no polls, no television advertising, no campaign staff, no press entourage, no special-interest money, no donations from anybody. And he appears to be winning again.

Mr. Natcher is the last of a vanishing breed—a lawmaker who runs solely on his official record and his personal reputation. One handshake at a time, the 79-year-old, silver-haired Kentucky gentleman continues to campaign as he has for all his 35 yars in the House, paying all expenses from his own pocket.

A PINCH-PENNY CAMPAIGN

He is the only person left in Congress doing it this way. Sen. William Proxmire of Wisconsin also refused all campaign gifts, but he is retiring this year. Mr. Natcher glides on serenely. "This weekend, I'll buy gasoline and I'll start traveling," he says. He will drive alone, without hoopla, visiting a town each day. "I'll put my car on a side street, at a meter, and I'll spend all day. I go everywhere."

The average House winner in 1986 spent more than $350,000, and lawmakers lean ever more heavily on special-interest donors to finance the dizzying expense of a campaign. House Democrats got about half their 1986 funds from political-action committees, and much of the rest from Washington lobbyists and businessmen seeking favors from Congress.

Not Mr. Natcher. In 1986, he spent $5,714, mostly for gasoline and advertisements in the many small newspapers in his district. The money comes out of his $89,500 House salary and from land rentals back home, which brought in $4,200 last year.

Lobbyists and political-action committees would gladly finance his campaigns if only he would permit them. He is chairman of the subcommittee that handles billions in appropriations for the Departments of Labor, Health and Human Services and Education. Only the Defense Appropriations lawmakers oversee more money.

"In the position I'm in, I could raise a whole lot of money in 10 days—more than I would need," he says. "But I won't do it. I would be defeated before I would accept campaign contributions."

Actually, he did accept one $100 campaign gift early in his career while running for county attorney. A close friend gave him the contribution, he says; the friend would have been wounded if it had been rejected. So, before the election, Mr. Natcher bought his friend a $100 gift certificate at a local men's store. "Plus tax," he recalls. "It cost me $2.50 to return the hundred."

The current Republican nominee, Martin Tori, is reduced to saying that Mr. Natcher is too nice. "He's a gentleman in the highest caliber and a credit to Kentucky," Mr. Tori told one newspaper interviewer. But he says the incumbent isn't forceful enough in bringing federal dollars into is district, and argues, "You need a mean, nasty guy in Congress—me."

Mr. Natcher is the seventh most senior member of the House, but he attracts far less attention than lawmakers who are less consequential but flashier and more publicity-hungry. He wants it that way. He has no press secretary, and boasts that his five-woman Washington staff is the smallest of any member of Congress.

He issues but one press release a year, announcing the number of votes he has cast in an unbroken string since his first day in Congress. The number, now up to 15,883, long ago set a record for any legislative body. You can look it up: It's in the Guinness Book of World Records.

His standing in Congress it legendary with Democrats and Republicans alike. Former Speaker Thomas O'Neill once called him the best parliamentarian in the House. Georgia Rep. Newt Gingrich, the GOP firebrand who has made a career of baiting powerful House Democrats, says, "I don't know anyone in the House who has more affection and less resentment. He reminds you of the world that once was, in which politics happens in your district and governing happens in Washington."

NO PRESS, PLEASE

In 1982, some Republicans floated the idea of supporting Rep. Natcher for speaker, to divide Democrats and unseat Mr. O'Neill. Mr. Natcher rejected the notion, however, "I'd rather be speaker than president of the United Sttes, but if I'm going to be speaker I would have to win it the right way," he says.

Mr. Natcher does have detractors. Years ago, some blacks and liberals accused him of racism when, as head of the subcommittee handling funds for the mostly black District of Columbia, he complained about welfare, illegitimacy and crime. But he supported the 1965 Voting Rights Act and Lyndon Johnson's antipoverty programs. Now that he shepherds through annual appropriations for most of the federal government's nonmilitary outlays, some conservatives gripe that he is a big-spending liberal.

He won't allow reporters to accompany him on his campaign trips, saying he doesn't wish to embarrass his constituents. Once in 1983, reporter Al Cross of the Louisville Courier-Journal stole into Bowling Green before dawn and parked in front of the congressman's house at 5:30 a.m., hoping to trail him to wherever he was going. No use. "He apparently was already up and gone," Mr. Cross recalls.

J.T. Whitlock, a Lebanon, Ky., broadcast-station owner, says Rep. Natrcher's visits to his town always follow this pattern: "His secretary will call and say he's coming. That means call the county judge and the mayor and four or five other people. After lunch, which he pays for, he will explain the bills that are before Congress. [He will say] 'Gentlemen, I want you to let me know how to vote.'"

PICKING UP THE TAB

The congressman routinely tours the town squares, dropping by barber shops, stores and sometimes the local newspaper office. In Glasgow, Ky., drugstore manager Tom Holmes says the congressman always has coffee with the regulars at the lunch counter; on the last visit he lost a coin toss and had to pay everyone's tab. "It's just like he grew up here. He just fits in the group," Mr. Holmes says.

Like Mr. Rayburn 30 years ago, some friends worry that Mr. Natcher's old-fashioned campaign style will someday be his ruin. "A lot of his district is what you would call Bible-belt redneck," says Jack Eversole, director of a regional development council in Kentucky. "Someone who votes a lot of money for welfare and illegitimate mothers is vulnerable . . . particularly since he does not accept the PAC funds and mount an advertising campaign about all the things he's accomplished."

But most believe that Rep. Natcher can remain in office indefinitely. Walter Baker, a Republican attorney who ran against him in 1976, says "the Lord himself" couldn't beat him in an election here. Mr. Baker describes his erstwhile opponent as "an honorable and an honest man."

In the unlikely event that he loses, Rep. Natcher says he won't stick around Washington to lobby, the way many of his defeated colleagues do. Rather, he says, he would be content to resume the legal practice here that he left 35 years ago. The lettering on his storefront office still reads: "William H. Natcher, Attorney at Law."

"It's a point of pride," he says.

ALCOHOLISM ON THE RESERVATION—TIME FOR A NEW APPROACH

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. RICHARDSON. Mr. Speaker, one of New Mexico's newspapers, the Albuquerque Tribune, recently made a great commitment to public service. The newspaper recently published a series of six articles which portray the problems of alcoholism amongst the Indian population of New Mexico and Arizona and its impact on the city of Gallup. Over 6 days, the Albuquerque Tribune devoted most of its news section to the many facets of alcoholism; its effect on individuals, on the business and daily life of the city of Gallup, the undesirable side effects of those programs designed to help, and the limited impact of existing alcoholism treatment and prevention programs.

The situation as it exists on the reservations, and in the city of Gallup, is a national disgrace. For too long, the Federal, State, and local governments have allowed the problems to fester. The situation as portrayed in the series calls out for a new and innovative response from all levels of government and the Indian nations to the problems of alcoholism. During the coming Congress I hope to push these issues through my membership on the Interior and Insular Affairs Committee.

If space limitations allowed, I would enter the entire series into the RECORD. As the series would require over 25 pages to print, I have chosen to enter just the introduction. I will be more than happy to provide copies for anyone who desires to read the entire series.

ALCOHOL BLURS LINE BETWEEN A WAY OF LIFE, A WAY OF DEATH

A frosting of April snow gathers on a face frozen forever. Another drunk dies in Gallup. Lots of drunks die here, more often than in Albuquerque, more Indians than anyone else. Drunks get hit by trains. Drunks jump off buildings. Drunks burn in trash-bin fires. Drunks freeze on sidewalks.

The frozen ones are called "Popsicles" by those numbed from too many years and too many deaths to keep count anymore.

But there are no John Does in Gallup.

In this Route 66 neon-strip town framed by golden rock and crowned with soaring white clouds, each person found dead is somebody's brother, cousin, clan member or friend.

It only takes a few hours for Deputy Medical Investigator Richard Malone, Polaroid pictures in hand, to find out whom.

"It works. You take them (the photos) to places like bars and pawn shops, where they have a lot of contact with people," Malone says.

But the bartenders won't help with the identification, "even though the person was a regular," Malone says.

"You know why that is, don't you? They're afraid of liability."

This Sunday morning, April 17, Malone meets a street vagrant who tells him the Polaroid picture is of her 44-year-old cousin, Bennie Largo of Pinedale.

Malone doesn't trust the woman's ID. So officers pin a note to the wooden door of a gray frame house in Pinedale, asking Largo's relatives to call authorities. The next day, Rose Mary Largo and Ida Mae Cook drive the 20 miles to Gallup and identify their brother.

"I told him one day he was going to freeze, and it happened," says Rose Mary, 40.

The medical examiner's report says Bennie Largo was "dressed inappropriately for the weather conditions" and died of "exposure to cold (31 degrees) in combination with acute (alcohol) intoxication."

His blood-alcohol level was 0.425—0.10 is legally drunk in New Mexico.

Months after Largo's death, Pinedale still feels his absence, says Ida Mae and her husband, Art.

"He helped a lot of people in certain ways. Most people knew him," says Ida Mae, 41.

Bennie Largo was a beadworker, a silversmith and a sheepherder. He was loved.

"He was friendly and helpful, especially to older people. He used to chop wood, herd sheep for them and haul water," she says. "That's why people pitched in when we had the funeral."

"My kids and him, they used to have a ball," says Art, 32.

"They really miss him," Ida Mae says. "They wish he was still around."

"We do, too," Art says.

Good and evil—alcohol blurs the distinction in Gallup.

Nice people own crummy bars. Talented people drink hair spray.

This hometown for 22,000 people is the only municipality in McKinley County, the nation's worst county for alcohol-related deaths and illnesses. The alcoholism death rate in McKinley County is six times worse than the national average over the past decade.

Yet in Gallup, a longtime overseer of the town's effort to treat alcoholism makes his living bottling and distributing the street drunks' favorite wine.

Nearby, the Navajos—a third of them problem drinkers like Bennie Largo—pour millions of federal dollars into educating their children to Say NO—"dóó da"—to drugs and alcohol while teens in a tribal drug- and alcohol-treatment center watch Cheech and Chong movies spouting "drugs are fun" messages.

Gallup sits on the edge of two vast Indian reservations in northwestern New Mexico: Navajo and Zuni. On weekends, the town swells with Indian shoppers to three times its normal size. On those nights, hundreds of people from the dry reservations end up laid out nose-to-bootheel on the stained concrete floor of the town's drunk tank.

Others, like Bennie Largo, stay longer and end up dying on cold sidewalks.

Some get in their vehicles and try to drive home. Not suprisingly, McKinley County has led the nation in alcohol-related motor vehicle deaths for the last three years.

Yet, in a community continually grieving the slaughter by rampant drunken drivers, a Gallup judge presided over an offender's 11th driving-while-intoxicated conviction in May. The result: no additional jail time.

And for years, another judge sentenced DWI offenders to a DWI school he owned.

Sincere people want to ignore this. Sincere people want to change this.

All perpetuate it.

Enabling is what it's called by Alcoholics Anonymous. Gallup is one big enabler. It's a good buddy saying, "Have one more."

"What I mean by enabling is that we make it easy for the individual," says Jay Vink, who headed Gallup's residential alcohol-treatment program.

"For instance, we have soup kitchens where they can go for a meal without even confronting the individual about his problem. We make it even nice for them.

"I admitted a person at 11 a.m., and by 1 p.m. he left. All he had was a nice meal, and he said, "Thank you, I appreciate it very much.' "

Nowhere else is alcohol the centerpiece of a community as it is in Gallup. Nowhere else does it so abuse love and life.

THE HOMELESS: BRICK BY BRICK

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. VENTO. Mr. Speaker, I would like to draw my colleagues attention to an article which appeared in this week's Time magazine. It points out the complexities of the homeless crisis and suggests a basic principle to guide the country in solving the crisis. Reporter Jacob Lamar writes: "This wealthy nation should start with a basic policy: no American should have to sleep on the street."

Values have been talked about frequently by Vice President BUSH in his campaign but this basic human value of sheltering our fellow Americans has somehow been lost among the other values he has been preaching.

"No American should have to sleep on the street," that sounds like common sense to most of us but the current administration's words and actions over the past 8 years indicate that they in fact do not agree.

Under this administration, the homeless crisis has grown to proportions never experienced since the Great Depression. This administration's response to the homeless crisis has been to cut low-income housing programs and to oppose minimum wage increases thereby keeping low-income workers well below the poverty line.

In fact, in 1979 about 11.4 percent of the U.S. population was below the national poverty level and today 13.5 percent of our population—at least 5 million more U.S. citizens—are below the national poverty level.

The administration's first reaction to the homeless crisis was denial, refusing to accept that the homeless crisis had reached critical proportions. The administration issued a bogus report that severely underestimated the number of homeless and using the report to justify their opposition to our early efforts to assist the homeless. The President himself, Ronald Reagan, stated that the homeless were homeless by choice—a clear and total lack of understanding and empathy by the Chief Executive.

As the crisis worsened, the administration could no longer deny it existed and the President reluctantly signed the McKinney Act into law. Then the administration turned around and asked for zero funding of the Emergency Shelter Grants, the cornerstone of the McKinney Act. The administration also undercut most other homeless assistance programs in its 1987, 1988, and 1989 budget requests.

While the administration was giving half-hearted support to the McKinney Act, it was exacerbating the homeless crisis by drastically reducing low-income housing programs. Federal support for housing has been cut by more than 70 percent over the past 8 years. Two and a half million low-income housing units have been lost in the same time period.

The Time magazine October 24, 1988, article provides a concise summary of the homeless crisis and offers a blueprint for turning around the disastrous policy path we have reached under this administration.

The author's suggestions include the increased rehabilitation of older housing units and greater Federal support of community-based housing organizations. I have introduced legislation to accomplish each of these objectives.

Along with Congresswoman PAT SAIKI and other members of the Housing Subcommittee, I introduced the "Permanent Housing for Homeless Americans Act". This legislation, sponsored by the Coalition for the Homeless, would fund the rehabilitation of about 140,000 older housing units annually.

Secondly, with broad support from members of the Housing Subcommittee and members of the Appropriations Subcommittee on HUD and Independent Agencies, I introduced new legislation to expand the Neighborhood Housing Services Program. NHS is a network of nonprofit community-based organizations dedicated to revitalizing deteriorating neighborhoods and rehabilitating housing for low-income families.

I plan to reintroduce both of these bills next year to be included in the debate as Congress faces the challenge of turning around this administration's disastrous housing policy path and at proposals to alleviate homelessness—the most severe side effect of the housing crisis.

I would like to submit the Time magazine article to be printed in the CONGRESSIONAL RECORD for the review of my colleagues.

THE HOMELESS: BRICK BY BRICK

(By Jacob V. Lamar)

It is a political problem with a painfully human face. Unlike the arcane theories of Star Wars or the complex calculations of the budget deficit, homelessness is no abstraction. The homeless confront urban dwellers every day: sleeping on sidewalks and park benches, begging pedestrians for loose change, huddling in doorways for shelter or meandering the streets muttering to themselves. In cities that have flourished during the Reagan years, there are more homeless today than at any time since the Great Depression.

On any given night, an estimated 735,000 people in the U.S. are homeless. As many as 2 million may be without shelter for one night or more during the year. A deplorable situation that began with deinstitutionalized mental patients' living in the streets has grown to include the working poor and whole families. Nearly a quarter of the homeless have jobs; more than a third are families with children. "The growing phenomenon of homeless children," says a report from the National Academy of Sciences, "is nothing short of a national disgrace."

If the condition of the homeless is appalling, solutions can seem hopelessly complex. Offering the medical treatment necessary for a derelict alcoholic is different from providing job training and education for a welfare mother, counseling for a teenage runaway or more income for a worker trying to secure an apartment. Yet no matter what their other difficulties, the homeless share a simple problem: they need a place to live. The best response to homelessness is to build more housing. This wealthy nation should start with a basic policy: no American should have to sleep on the street.

But the Reagan Administration has had no effective housing policy for most of its eight years in power. Samuel Pierce, the Secretary of Housing and Urban Development, is the only remaining member of Ronald Reagan's original Cabinet, yet he has been the Administration's invisible man. Federal support for subsidized housing has been slashed 77%, from $32.2 billion in 1981 to $7.5 billion this fiscal year. HUD authorized the construction of only 88,136 subsidized dwellings in 1987, compared with more than 224,000 in 1981.

Meanwhile, 2.5 million units of low-income housing have disappeared since 1980 through a brutal combination of market forces and government indifference. Tenements that housed the disadvantaged have been razed or renovated to make way for pricey apartments and high-rise office buildings. According to a 1986 congressional report, in the past decade the nation has lost half its single-room-occupancy hotels, long the housing of last resort for the poor. In New York City, tax-abatement policies of the early 1980s encouraged private developers to turn SRO buildings into luxury condominiums. The number of New York apartments renting for $300 a month or less dropped from 1.7 million 1978 to 409,459 last year.

No matter who the next President is, the homeless crisis is likely to get worse. An additional 200,000 units of low-income housing could disappear over the next five years as loans expire from a tax-break program of the 1960s and '70s. The Federal Government had encouraged private developers to build low-income housing by offering to subsidize 40-year mortgages on the buildings. Now many owners are taking advantage of an option to pay off the mortgages after 20 years, freeing them to sell or rent the apartments at the prevailing market price. The result could be hundreds of thousands more people in shelters.

The Reagan Administration's approach to housing was another version of the supply-side experiment: instead of subsidizing low-cost construction, as Washington had done since the 1930s, the Reaganites decided to subsidize tenants. Give cash vouchers directly to the poor to help them pay their rent, went the theory, and the market would respond by supplying more housing. Vouchers have had some success in the Southwest, where prices are depressed and vacancy rates relatively high. But in much of the country, as housing prices have increased by 43% in the past eight years, voucher recipients have been unable to find apartments with affordable rents that also meet federal quality standards. In New York City, where rent control, high taxes and land prices discourage the construction of modestly priced housing, three out of four vouchers were returned to the Government last year after futile apartment searches by the recipients. Supply-side housing, like supply-side economics, has had drastic, unintended consequences.

The Administration finally admitted last year that homelessness was an "unprecedented crisis" when the President signed the McKinney Homeless Assistance Act, a compendium of programs covering everything from job training to food assistance. The act authorized the spending of $1 billion over two years, but attorneys for the homeless had to sue the Government to get the funds moving out of a clogged federal pipeline. The $500 million in first-year funds, haphazardly distributed in hundreds of U.S. cities, so far has done little tangible good. Last February, Reagan signed the Housing and Community Development Act, which provides assistance to 152,000 needy families and authorizes the renovation of 10,000 run-down public-housing units. Neither bill does anything to encourage the desperately needed construction of new low-cost housing.

On the campaign trail, Vice President George Bush's response to the housing crisis has been to ignore it. In answer to a question at the first presidential debate, Bush called for full funding of the McKinney Act and involvement of private benevolent organizations—the "1,000 points of light"—in communities that aid the homeless. Michael Dukakis has endorsed the recommendations of the National Housing Task Force and is committed to spending $3 billion of federal money to build homes, mostly for low-income people.

With the Federal Government straining under a $2.6 trillion debt, it is obviously unrealistic to expect that low-cost housing funds will be restored to pre-Reagan levels. But any serious program to stem homelessness is going to require money. The National Coalition for the Homeless estimates that it would cost $4 billion to build 280,000 additional units of housing over the next two years.

What Washington must do is make sure that available money is carefully targeted and intelligently spent. Local governments have already taken the lead in offering low-interest loans or tax-exempt bonds to finance housing construction. By providing loans to developers and easing building codes, San Diego has spurred the creation of five new SRO hotels, where tenants pay from $240 to $390 a month. In New York City last week, local officials joined with a community-development group to finance the construction of 1,000 apartments for low-income families; $25 million of the $80 million cost was raised from corporations, which can write off their contributions as a federal tax credit. An additional $25 million has been raised through the tax-credit program—a little-noticed innovation tucked into the 1986 tax-reform bill—for low-income housing in Los Angeles, Kansas City, San Francisco and about a dozen other cities.

There are other reasonable options the next President should consider, steps that transcend the rhetoric that either candidate has offered so far.

REHABILITATE OLD UNITS

Though public housing is routinely condemned as a failure, there are 800,000 applicants on the waiting lists to get into it. Public-housing developments like St. Louis' Cochran Gardens and the Montgomery County, Md., program demonstrate that well-maintained, well-managed projects can be successes and not eyesores or breeding grounds for crime. Yet about 70,000 of the country's 1.3 million units are vacant: uninhabitable while awaiting repair or occupied by squatters. The Comprehensive Improvement Assistance Program, which provides funds for the maintenance and rehabilitation of public-housing projects, was cut from $2.5 billion in 1983 to $1.6 billion last year. Surely it is cheaper, as well as more humane, to renovate available apartments than to dump families into welfare hotels.

In private-housing stock, some of the most ambitious renovation is being performed—again—by community-development corporations, which obtain funds from local governments, financial institutions and religious organizations. In Chicago, Bethel New Life, a Lutheran Church group, has refurbished 321 homes, built a day-care center and saved a crumbling school building. Congressman Joseph Kennedy II of Massachusetts has proposed a bill that would provide $500 million to help nonprofit community groups purchase and rehabilitate low-income housing.

USE FORECLOSED HOUSING

HUD owns 47,000 properties seized for mortgage defaults. Traditionally, these repossessed buildings have been sold at auction to the highest bidder. The Government ought to start seriously complying with 1987 housing legislation that calls for underused property to be turned over to the homeless, by donating or selling buildings at low prices to housing advocacy groups.

CREATE MORE COMMUNITY-BASED HEALTH CLINICS

The homeless crisis began when overcrowded mental hospitals started to release patients who were not considered dangerous to themselves or others. The number of mental patients in U.S. institutions dropped from a peak of 560,000 to 143,000 today, and an estimated 30% to 40% of the homeless are mentally impaired. The release program was intended to lead to more small facilities, where the poor could receive affordable outpatient care. Yet 70% of the $6 billion spent each year on state-run mental health programs still goes to institutions. A greater proportion must go to promoting neighborhood clinics and group homes. What is more, the operators of these clinics must reach out aggressively to get people off the streets, especially in cold weather. They must trek to the parks, bus depots and other places where the homeless congregate to persuade them of the need for health care.

Once more, Washington does not have to bear this burden by itself. The National Academy of Sciences report cites the Zacchaeus Medical Clinic in Washington as a superb example of an inner-city health center that has been funded exclusively by church and community groups and individual donors.

RAISE THE MINIMUM WAGE

The best way to help the working homeless is to pay them better: the national minimum wage has stayed at $3.35 an hour since 1981, while the cost of living has risen by a third. Modest financial help is already coming from some states. California raised its minimum wage to $4.25 an hour in July. Other states provide more direct assistance: New Jersey has prevented 12,000 families from being evicted over the past four years by providing loans and grants to help pay rents and mortgages.

Clearly, alleviating homelessness is going to cost U.S. taxpayers money. It is up to the next President and to the American people to decide how high a priority housing of the dispossessed deserves. In considering the cost, the President should keep in mind that the $7.5 billion the Federal Government will spend for low-cost housing this year is meager compared with the nation's biggest housing subsidy: more than $30 billion in a mortgage-interest tax deduction goes to 58.5 million private homeowners, including the very wealthy.

ST. THOMAS CHURCH OF BETHLEHEM, PA, MARKS 140TH

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. RITTER. Mr. Speaker, It is a great pleasure to make these remarks today in highlighting the year-long celebration of the 140th anniversary of St. Thomas United Church of Christ in Bethlehem, PA.

St. Thomas, the oldest United Church of Christ congregation in Bethlehem, will culminate its commemorative events with the 140th anniversary of the church's dedication on November 20th. This will include a special service of thanksgiving with attention directed to the church's illustrious history of ministry to the people of the Lehigh Valley.

At this point, it is a privilege to insert the very interesting history of the St. Thomas Church:

HISTORY OF THE ST. THOMAS CHURCH

In January 1848, a group of Christian people living in and around the settlement of Altonah, most of whom were members of Lutheran and Reformed congregations at Hecktown, Schoenersville and Farmersville, got together and decided to build a house of worship since the distance to other chruches made it very difficult to attend divine worship, especially for those who had no conveyances.

The first meeting was held at the home of Philip Ohl and after prayerful deliberation and much discussion, the meeting resolved unanimously to erect a house of worship and so by the grace of God, the Altonah church originally known as the St. Thomas Manoquacy Church was given birth. John Glaiss and Leopold Keim each agreed to donate one half acre of ground on which to erect the proposed church, the remainder being laid out as a place for the burial of the dead—this place being known as the Graveyard.

After numerous meetings a building committee was appointed which was composed of George Moser, Leopold Keim, Joseph Glaiss, Philip Ohl, George Halteman and Thomas Oberly and Daniel Heller. Adam Bruch was elected Treasurer. Before active building was begun, funds for the proposed church were solicited. The results were very gratifying for subscriptions from church members totaled $1,004.54½ and friends and neighbors gave $168.47. The cornerstone, located near our rear entrance was laid on April 30, 1848—the offering for the day being $71.35. The foundation wall was made by Daniel Spriegel, the brickwork was done by James Daney and the carpenter work by George W. Smith. The young men and women collected enough funds to secure the altar and pulpit vestments and the chancel chairs.

The church was dedicated on November 20, 1848, cleared of all indebtedness—the cost being $1,364.87½.

The first Lutheran pastor was Rev. Wentzel and the first Reformed pastor was Rev. Max Stern. The first musical instrument used in the church was a Melodian, but later the congregations secured a pipe organ at a cost of $1,100 which was used for fifty-one years.

In the year 1892 at a congregational meeting, it was decided to tear down the first church and build a new sanctuary since the old church was no longer adequate for the needs and activities of the growing congregations.

On June 5, 1892 the cornerstone of the new church was laid. It can be seen off the front Western corner of our sanctuary. A great deal of the work of the new building was done by the members. The foundation walls were made by Modest Birke, the brickwork and plastering by Simon Brewer and the carpentering by James Kemmerer. The entire cost of the new building was $10,000. St. Thomas Church has never stood still. The bell which summons the worshippers on the Lord's day was placed in the tower in June, 1897 at the cost of $135.

In November, 1897 the interior of the church was frescoed at a cost of $270 and in October, 1898 the Semi-Centennial of St. Thomas was celebrated. The officers of the congregations while these improvements were made were the following: Lutheran Elders—Edward B. Schnable, John W. George and George M. Warner. Deacons were Amandus Fatzinger, Clinton C. Koehler, and George H. Moyer. The Reformed Elders were Charles Rockel, Charles Musselman and Reuben Kemmerer. Deacons were John Balliet, Milton Bruch, and Samuel Erich.

In 1913, the church was completely renovated. Extensive repairs were made and new furnishings provided. Electric lights were installed in 1916 through the efforts of the Ladies Aid Society. In 1922, four acres of land to the East and South of the church were secured upon which a pavilion and bandstand were erected and shade trees planted.

For the observance of St. Thomas' 75th Anniversary in 1923, the congregation purchased a modern two manual Durner organ at a cost of $5,000.

Liberty Grange Hall, built in 1924 on the West side of our church property was purchased by St. Thomas in 1938. In 1946 more property was acquired on the East side of the church and is now used as the Sexton's home.

The St. Thomas Sunday School which was organized in 1862, continued to grow and a new Christian Education building was erected in 1953 at a cost of over $100,000.

In 1961, stained glass artisans, electricians, plasterers, painters and carpet workers redecorated the church sanctuary and made extensive alterations in the church basement which gave modern classrooms. These renovations cost about $23,000. Within ten years the $123,000, debt was satisfied. On May 10, 1971, extensive repairs to the pipe organ were completed at a cost of $3,700, including a new console, sound boxes, bench and rectifier.

After several years of study, the Lutheran congregation voted on April 18, 1971 to join with St. Thomas United Church of Christ. The consolidation services were held on May 16, 1971. On December 1, 1971, Rev. Richard Solliday became our first full-time pastor, resigning May 15, 1977.

On October 10, 1972, the auto parking lot was enlarged, regraded and paved with asphalt and stone at a cost of $3,700. A sound system was also installed in the church sanctuary including a speaker in the basement of the church at a nominal cost. Both of these projects were contributed by generous donations of our members.

In the early morning (Sunday) of November 6, 1977 the parishioners were shocked by the terrible news of a disastrous fire at our church which almost completely destroyed our Christian Education building and filled the Sanctuary with soot and smoke and causing damages of approximately $200,000. Almost immediately our telephone was swamped with calls from friends and neighboring churches with offers of assistance. Services this day were held in the chapel of First Presbyterian Church at which time Rev. Carl E. Siegfried preached his trial sermon and was elected by a large majority to be the new pastor of St. Thomas.

Realizing that the Lord's work must continue, that very afternoon the men of the church got together. They closed up the roof and boarded up the windows. The next morning a large crew of workers sent by our Insurance Adjuster appeared on the scene and began work on renovating the Sanctuary which was used for workshop the following Sunday. After the service, a special congregational meeting was called and the following people were appointed to serve on the Restoration Committee: William Stecker, Justin Jirolanio, Charles Hess, Arthur Lucas, and Lee Bachman.

A service of rededication was held on Sunday, June 11, 1978. The morning service featured the Rev. Dr. Alfrod C. Bartholomew as the guest preacher. The 2:00 p.m. Rededication service was a time of joy and reflection on the ministry of St. Thomas United Church of Christ.

On May 11, 1980, Mr. Tyson L. Frey preached a trial sermon entitled, "The Loving Family," for the St. Thomas congregation. He accepted the call of the congregation to become their full time pastor. The Rev. Tyson L. Frey was ordained on June 1, 1980 in Bethel U.C.C., Spring Grove, PA and was installed as pastor of St. Thomas United Church of Christ on June 8, 1980, during a 7:30 p.m. Installation service. The Rev. Dr. Donald Englert, the Rev. Dr. William Longsdorf, and the Rev. Lee Zortman participated in the service.

The ministry of the St. Thomas congregation has been characterized in recent years as being strengthened in the midst of transition. St. Thomas Church has grown in faithful membership, solid committee work, ever increasing Christian stewardship, and expanding Christian education. The spiritual life of the church has caught hold of new dreams and visions for Christian ministry.

The 140th Anniversary of St. Thomas U.C.C. was celebrated in 1988. A very special highlight of the anniversary year was the employing of Mrs. Dorothy Fritchman as Director of Music/Lay Assistant for the congregation. It was a year filled with celebrative worship and a dedication to the future.

FORMER PASTORS

LUTHERAN

Rev. G.A. Wentzel, 1848 to 1850.
Rev. C.F. Welden, 1851 to 1861.
Rev. N. Yeager, during 1861.
Rev. F.J.F. Schantz, 1861 to 1866.
Rev. A.T. Geisenheimer, 1867 to 1868.
Rev. A. Fuchs, 1869 to 1875.
Rev. J.B. Rath, 1875 to 1882.
Rev. W. Wackernagle, 1882 to 1887.
Rev. W.D.C. Keither, DD, 1887 to 1901.
Rev. G.D. Druckenmiller, 1901 to 1905.
Rev. V.J. Bauer, 1906 to 1942.
Rev. D.M. Latshaw, 1944 to 1950.
Rev. S.V. Ballek, 1950 to 1967.
Rev. R.S. Weider, 1967 to 1969.
Supply Pastors.

REFORMED—U.C.C.

Rev. Max Stern, 1848 to 1852.
Rev. D.F. Brendle, DD, 1852 to 1903.
Rev. H.J. Ehret, DD, 1903 to 1953.
Rev. W.C. Mantz, 1954 to 1956.
Rev. J.N. Carr, 1956 to 1959.
Rev. P.I. Solt, 1960 to 1961.
Rev. H.J. Colver, 1962 to 1971.
Rev. R.E. Solliday, 1971 to 1977.
Rev. Carl Siegfried, 1977 to 1979.
Rev. Tyson L. Frey, 1980 to present.

Mr. Speaker, we do well to pay our respects to a church such as St. Thomas. This church not only invites and welcomes all people to share in their services and activities but encourages each one to build their own personal ministry with a commitment to community projects. As their pastor, the Rev. Tyson L. Frey puts it, "St. Thomas is a friendly congregation. People just love that aspect of it. People who come here are involved right away."

THE FINANCIAL TURN AROUND OF BUFFALO COLUMBUS HOSPITAL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. KEMP. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation the achievements of Buffalo Columbus Hospital, which is a nonprofit, community hospital serving the medically underserved and indigent population of the city of Buffalo and western New York.

Nationwide, inner-city hospitals have faced closure or major financial crises in the changing health care environment. Buffalo Columbus is an excellent example of the success and turn around of a hospital in a large, urban setting serving various ethnic communities and addressing the changing needs of the population.

This hospital, originally facing closure and having acute financial problems, has been turned around programmatically and financially as a model institution under the outstanding leadership of Mr. Sushil C. Sharma as its president and chief executive officer, supported by a dedicated board of directors.

The Buffalo Columbus Hospital is now in the process of reconfiguration to address the needs of the community that it serves by providing drug and alcohol detoxification and rehabilitation inpatient services, supported with an advanced diagnostic and treatment center providing a variety of medical, clinical, and ambulatory surgery services. The leadership of this hospital is evident with its commitment to high quality standards for patient care and the community support that it has demonstrated over its 80 year history.

As the city of Buffalo and western New York continue to meet the challenges of the 1990's and the 21st century, Buffalo Columbus Hospital will be prepared to meet the increased demand of services and address the serious nationwide problem of drug abuse.

SEEKING SOLUTIONS TO THE DEBT CRISIS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. GARCIA. Mr. Speaker, as chairman of the Banking Committee's Subcommittee on International Finance, Trade, and Monetary Policy, I have spent a great deal of time analyzing the developing world debt crisis. There are a number of Members in this body who have done the same: JOHN LAFALCE, CHUCK SCHUMER, BRUCE MORRISON, DON PEASE, JOE KENNEDY, to name a few. Another leader on this issue is my friend and fellow chairman, the gentleman from the District of Columbia, WALTER FAUNTROY.

As chairman of the Banking Subcommittee on International Development Institutions and Finance, WALTER has worked on a number of different proposals on how to handle the debt crisis. Most recently, he tackled this issue in the context of the general capital increase for the World Bank. WALTER's stewardship of the GCI guaranteed not only its success but also that the Congress would go on record as wanting the Bank to play a larger role in the debt crisis.

I am submitting for the RECORD a copy of a fine article written by WALTER that appeared in today's Wall Street Journal. I urge my colleague's to take a look at it. WALTER provides us with insight on how we should approach this most pressing problem.

[From the Wall Street Journal, Oct. 19, 1988]

The Baker Plan Is Bankrupt

(By Walter E. Fauntroy)

Former Treasury Secretary James Baker developed the "Baker plan" three years ago in an effort to spur economic growth in the debtor nations of the Third World. The plan advocated economc reforms by the less developed countries complemented by an increase in lending by commercial banks and international financial institutions.

The expected increase in commercial bank lending to the debtor countries has never materialized. In fact, net outflows from the developing world may well set records this year. The debtor countries have serviced their loans while undergoing painful austerity as sources of investment and economic growth have dwindled.

The situation promises to get even worse as the banks initiate discussions with Argentina concerning its $56 billion external debt. Argentina is more than 90 days overdue in payment of $1 billion in interest to commercial banks. The Argentine government has a dangerously thin $500 million in reserves.

In recent months, the Treasury Department, under Mr. Baker's leadership, approved a $500 million bridge loan to Argentina and is now working with the World Bank to provide an added $1.25 billion in loans. However, the $5 billion question concerns whether the commercial banks will provide their share of the package.

For all of the cajoling and pressure the Treasury Department has applied to the commercial banks, they remain unwilling to contribute the $3.5 billion in "new lending" to cover Argentine interest payments through the end of 1989. Unlike the situation a year ago, in which the International Monetary Fund and the World Bank provided Argentina with $2.9 billion in a successful effort to encourage the commercial banks to contribute an added $1.55 billion, this year the banks appear unified in opposition to discussing new loans.

In addition, it appears that the IMF is jumping ship on the current proposal. The IMF, currently in the doghouse with the Treasury Department, was not consulted in the establishment of an economic program for Argentina, an unprecedented event. And, making matters worse for the Treasury Department, IMF Director Michel Camdessus recently has become more outspoken in his calls for voluntary debt reduction for Argentina.

Voluntary debt reduction and Argentina go hand in hand, and the commercial banks increasingly recognize this reality. The Baker plan, on the other hand, has consistently increased the external debt of Argentina without leading to the economic growth required to allow Argentina to service that debt. It is little wonder, therefore, that the Argentine Creditor Committee meets with greater frequency these days. And the net capital outflow from Argentina, having already stifled internal investment and economic growth, now threatens to contribute to political unrest. Yet, the Treasury Department is intransigent in its adherence to the Baker plan.

It is hard to believe that this is the same department that 18 months ago, under the leadership of Mr. Baker, bashed the House Banking Committee with the administration's objections to use of public-sector funds to underwrite the International Debt Management Authority. The Banking Committee plan would have reduced Third World exposure, since participating banks would voluntarily forgive a portion of their debts. Mr. Baker called the plan a "big-bank bailout." The public-sector costs of the Argentine loans in support of the Baker plan may, by comparison, be considered a "big-bank mega-bailout."

An evaluation of the use of public-sector funds can be reduced to two questions. First, does the program make efficient use of public-sector funds? And second, does the program provide assurance that the total stock of debt will be reduced? The Treasury Department's endorsement of the $1.25 billion in World Bank loans to Argentina meets neither of these criteria.

U.S. policy makers are faced with a choice: to either continue to advocate that the World Bank do what the banks will not and service a substantial portion of the Argentine debt—$700 million of the current World Bank loans are disguised as structural and sectoral adjustment loans—or, alternatively, to support the World Bank in efforts to structure a voluntary debt-reduction program for those banks currently holding Argentine paper.

Clearly, the banks have voted with their wallets against voluntary new lending while indicating a new willingness to provide voluntary debt reduction in lieu of new loans. A recent report by the Economic Policy Council of the United Nations Association of the U.S., written and endorsed by several money-center bankers, supported the shift toward debt reduction with a partial guarantee. A Sept. 15 letter from the Institute of International Finance, while somewhat milder, noted its member banks might provide debt reduction in conjunction with a partial guarantee on the remaining debt. Both groups noted the futility of depending on new lending.

Congress recently has passed a bill, signed by the president, authorizing the general capital increase of the World Bank. Included is language instructing the U.S. executive director to the World Bank to encourage the bank to link its non-project lending and its use of partial guarantee authority to substantial and voluntary debt reduction by the commercial banks. The language represents a small step in the right direction. By contrast, the Treasury Department's endorsement of the $1.25 billion in loans from the World Bank to Argentina to service its debt at 100 cents on the dollar will send the worst possible message.

Let us hope, though the signs bode ill, that under the new leadership of Nicholas Brady, we may begin to witness a shift in the position of the Treasury Department.

EXCHANGE OF LAND IN SOUTH DAKOTA

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CAMPBELL. Mr. Speaker, I am introducing legislation, together with Congressman TIM JOHNSON of South Dakota, to authorize and direct the Secretary of Agriculture to carry out an exchange involving lands in South Dakota and in my own congressional district in Colorado. This legislation is necessary because Congress has not given authority to the various Federal agencies to engage in exchanges of land in more than one State, but has instead specifically reserved interstate land exchange authority to itself.

The bill I am introducing today would enable the Forest Service to acquire roughly 427 acres of privately owned holdings in the Black Hills National Forest some 25 miles southwest of Deadwood, SD. The 427 acres comprise interspersed forest and ranch meadowland and are typical of the highly scenic, pastoral terrain which attracts visitors to the Black Hills. Acquisition of this inholding is desirable for the Forest Service because it would consolidate Federal lands to promote public goals such as accommodating visitor use and enhancing wildlife management programs. Of course, as with any exchange of lands, the owners of the inholding support this exchange and have been active participants in the process.

In return for 427 acres to be acquired by the Forest Service, my bill would direct the Secretary of Agriculture to convey to the current owners of the South Dakota property a ranch facility and approximately 1,560 acres of predominantly ranch land located in my congressional district, known as the Copper Spur Ranch. The Copper Spur Ranch property is currently administered by the Farmers Home Administration, which acquired it through foreclosure 4 years ago. The ranch is comprised of mostly open, hilly terrain and is typical of ranchland in the general area. The ranch is currently under short-term lease for livestock grazing but will be eligible for sale—disposal—by the Farmers Home Administration in the near future when new sale regulations are implemented. Those new regulations are expected shortly, so an auction or other sale of the Copper Spur Ranch could be imminent.

It is my hope, Mr. Speaker, that the introduction of legislation will prompt the Farmers Home Administration to refrain from a sale of the Copper Spur Ranch at this time, and to defer any sale action until after Congress has had time to evaluate the land exchange proposal in the next session. In the interim, I will be working with the exchange proponent, State and local officials, and others in Colorado to secure their support for the exchange and/or suggest refinements to my bill before it is reintroduced next year.

PUBLIC SUPPORTS NUCLEAR ENERGY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CLEMENT. Mr. Speaker, I would like to share with my colleagues the results of a recent poll conducted on behalf of the U.S. Council for Energy Awareness. The poll shows that nuclear energy was named most often—by 33 percent of respondents—out of seven energy sources as the one source that will generate most of America's electricity in the future. An overwhelming majority said that it is very or somewhat likely that new nuclear-plants will be needed in the future. A majority of Americans also appreciate that nuclear energy strengthens the Nation's energy security. By a margin of more than 2 to 1—60 percent versus 27 percent—participants preferred nuclear energy over increased dependence on foreign oil.

Passage of H.R. 5461, the Nuclear Powerplant Standardization Act of 1988, which I introduced October 5 would once again allow nuclear powerplants to compete economically with other sources of energy by slashing construction costs by as much at 55 percent. My bill would encourage standardized reactor designs, early site approval and combined licenses. The use of standardized designs would facilitate the licensing and construction of nuclear powerplants and enhance the public health and safety.

Mr. Speaker, the American public supports nuclear energy as an important part of our Nation's energy policy. Congress needs to ensure that nuclear energy continues to be a viable energy source in the future and passage of my bill would do just that. I ask that my colleagues join me in preserving and promoting nuclear energy by supporting my bill when we return next January to begin the 101st Congress.

IMPOSITION OF ISLAMIC LAW IN SUDAN A THREAT TO HUMAN RIGHTS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mrs. MORELLA. Mr. Speaker, we in Congress who are committed to the cause of human rights strive to speak out against human rights abuses wherever they may exist. However, we naturally tend to focus on those parts of the world which most often find themselves in newspaper headlines or on the national news. But often this means that we are reacting to events rather than anticipating them. For this reason, I rise today to alert Members to the serious situation foreboding in Sudan, where the government is in the process of imposing Islamic law, or sharia, as the basis of its judicial system. I also want to take a moment to thank Dr. Richard P. Stevens, a Sudan specialist and a constituent of mine who is a professor at Georgetown University here in Washington, for having brought this situation to my attention.

I would like to bring to Members' attention an article from the September 20 edition of the Washington Post which discusses the implications which this has for human rights in Sudan. The text of the article is as follows:

SUDANESE CABINET APPROVES HARSH ISLAMIC CODE OF CRIMINAL PUNISHMENT

(By Blaine Harden)

NAIROBI, KENYA.—The Sudanese cabinet, in an act likely to prolong and probably worsen one of Africa's most destructive civil wars, has approved a harsh new code of Islamic *sharia* law denounced as unacceptable by Christian politicians in the divided country.

Among the punishments spelled out in the criminal code are death by stoning for "the offense of adultery," 100 lashes with a whip and five years in prison for "the offense of homosexuality" and death for "the offense of apostasy," which is defined as "renunciation of the creed of Islam."

The key issue behind the civil war that has cut Sudan in half in the past years—while spawning chronic famine in the south—has been fear on the part of southern Christians that the Moslem-dominated north would insist that the country be governed by Islamic law.

John Garang, leader of the rebel Sudanese People's Liberation Army (SPLA), which controls most of southern Sudan, has said that imposing Islamic laws as part of the national criminal code is unacceptable. He also has said that his guerrilla movement, which is armed by neighboring Ethiopia, is prepared to fight for decades against any Sudanese government that rejects a secular code of justice.

The strictest punishments spelled out in the new law, such as crucifixion for armed robbers and amputation for petty thieves, would not apply in the Christian south, according to an "accompanying note" attached to the 1988 code.

But Taha Ibrahim, a Sudanese lawyer and respected scholar on sharia, said the punishments would apply to the estimated 1 million "internally displaced" southerners living in Khartoum, the Sudanese capital. These people, most of whom are Christian, have fled fighting and famine in the south in recent years for a squalid but safe life in the squatter camps that ring the capital.

The sharia code was approved the weekend of Sep. 10-11 after heated discussions during an all-night session of the Sudanese Council of Ministers, or cabinet. The law must still be passed by the country's Constituent Assembly, or parliament.

A spokesman for the Council of Ministers told reporters in Khartoum last week that the endorsement of the sharia code had passed the cabinet with some "reservations" concerning corporal punishment. According to a report by United Press International, the spokesman said the cabinet asked that those provisions be voted on individually by members of the Constituent Assembly.

Opponents of sharia conceded recently in interviews in Khartoum that they cannot stop passage of the Islamic code once it reaches the assembly. In the coalition government headed by Prime Minister Sadiq Mahdi, southerners and northerners opposed to sharia are a minority.

"Sharia is a move toward an Islamic state. It will make us second-class citizens. We will not sign this death warrant," said Eliaba James Surur, an assembly member representing the southern town of Juba. He is the leader of the southern opposition coalition.

"We believe the passage of this law will cause an exodus [of southerners], and some may go south to fight. If this is passed, it will not be Garang's war alone," said Surur.

The sharia code approved by the Council of Ministers was written by Hassan Turabi, Sudan's attorney general, minister of justice and founding leader of the country's small but extremely well-organized Islamic fundamentalist party, the National Islamic Front.

Turabi, 56, who holds law degrees from London University and the Sorbonne and is a contender for the leadership of Africa's largest country, has written two complete sharia codes for Sudan in the past five years.

He wrote the first in 1983 when he was an adviser in the regime headed by president Jaafar Nimeri. Before Nimeri was overthrown in a 1985 coup—which was precipitated, in large measure, by public outrage over sharia—Turabi's code of justice had resulted in the amputations of about 200 hands and feet.

Following the coup, a transitional military government suspended amputation and other provisions of sharia deemed inappropriate in a multireligion nation.

In his successful election campaign in 1986, Sadiq Mahdi vowed that he would moderate sharia in such a way that it would be acceptable to both north and south.

In August, two days after Khartoum was hit by the worst natural disaster of the century—devastating floods that destroyed the homes of nearly 2 million people—the Council of Ministers convened one of its many all-night sessions. It discussed Islamic law.

In the spring of this year, Turabi (who is Sadiq's brother-in-law) began to dominate the sharia debate. He was appointed attorney general and minister of justice and began composing a second sharia code.

The new code is in many ways more rigidly fundamentalist than the unpopular sharia passed under Nimeri, according to Taha Ibrahim, the Islamic law scholar in Khartoum and a past president of the Sudan Bar Association.

According to Ibrahim, the new code, unlike the previous one, spells out death by stoning as a penalty for adultery and makes conversion from Islam to Christianity a crime punishable by death.

Another major change in the sharia code, says Ibrahim, concerns retribution, which the law defines as "the punishment of an offender with the same offensive act he has committed." For example, a person convicted of intentionally poking out someone's eye could have his eye poked out.

Under the Nimeri code, Sudanese courts carried out acts of retribution. Under the new code, however, the victim is empowered to exact retribution himself.

I would also like to bring to Member's attention Amnesty International's July 1988 report, "Sudan: Human Rights Developments since 1985," which I recommend to all Members. What follows are excerpts from the report which deal with the ramifications of the imposition of Islamic law:

* * * * *

Most of the 1983 "September Laws", particularly the September 1983 penal code which introduced the judicial penalties of amputation and flogging on the grounds that they were prescribed by the *Shari'a* (Islamic law), still apply. Although there have been no amputations since 1985 amputation sentences are still passed by the courts.

* * * * *

Other issues relate to punishments stipulated in the "September Laws", in particular the Penal Code, which were introduced by President Nimeiri's government in September 1983. These laws introduced the judicial penalties of amputation of limbs, flogging, stoning and crucifixion (all to be inflicted in public), on the grounds of their existence in the *Shari'a* (Islamic law), they also confirmed the heavy penalties for political offences which were contained previously in the State Security Act, and extended the application of the death penalty. With regard to *Hadd* (divinely sanctioned) Islamic law penalties which were a key feature of the 1983 "September Laws", while Amnesty International does not support or oppose any particular system of justice, it seeks respect for and observance of international legal and human rights standards as set out in various international human rights instruments adopted by the United Nations and the Organization of African Unity and ratified by Sudan. The retention of certain *Hadd* penalties such as amputation is not, in Amnesty International's view, compatible with these international instruments, to which the Sudan is now a party. The revision or repeal of the "September Laws" has been under consideration in the country since April 1985 and certain changes have already been made. However, recent statements suggest that the new government intends to retain the penalty of amputation as well as certain other *Hadd* penalties in the law in some form. A new Islamic penal code was promised within two months of the new government taking office, by July 1988. However, proposals for such legislation have not yet been brought to the Constituent Assembly (parliament). It is not known whether the government will propose that Islamic law apply to all citizens and residents, or only to predominantly Muslim parts of the country (such as the North, including Khartoum), or only to Muslims and not to Christians and other non-Muslims.

* * * * *

A matter of considerable concern to Amnesty International is the retention of the *Hadd* (divinely sanctioned) penalty of amputation of limbs for certain offences, which was introduced by the "September Laws" in 1983. Over 150 amputation sentences were carried out—mostly in public—between December 1983 and the end of President Nimeiri's government in April 1985. Amputation sentences have been imposed by the courts since then but no amputation sentence has been carried out. The Supreme Court has upheld several sentences of amputation, including sentences imposed while President Nimeiri was in power and sentences of amputation imposed since then. The latter include two sentences of cross-limb amputation (that is, amputation of both the right hand and the left foot) and a sentence of amputation of the right hand imposed in May 1987 and March 1988 respectively. The number of prisoners currently under sentence of amputation has not been disclosed by the authorities: it is at least 60—including some 30 held in the condemned cells in Kober prison in Khartoum—but some estimates of the actual number are very much higher. The prisoners are awaiting the result of judicial appeals or review by the Supreme Court, or a final decision from the authorities on the implementation of their sentences.

The "September Laws" prescribed the *Hadd* penalty of flogging for the majority of criminal offences in the Penal Code, including ordinary criminal offences and *Hadd* offences. Sentences of flogging have continued to be imposed and inflicted since 1985, although not on such an extensive scale as under the Nimeiri government, when hundreds of people were flogged in court immediately after the passing of the sentence.

* * * * *

Amnesty International regards amputation, flogging and retribution as cruel, inhuman or degrading punishments, and as such prohibited by international law. "Cruel and degrading treatment" is prohibited by the Transitional Constitution of the Republic of the Sudan (1985) (Article 29) and the use of "cruel, inhuman or degrading treatment or punishment" is forbidden by the Universal Declaration of Human Rights (Article 5), the International Covenant on Civil and Political Rights (Article 7), the African Charter on Human and Peoples' Rights (Article 5), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to all of which Sudan is now a party. The law should therefore ensure that no offences are punishable by cruel, inhuman or degrading treatment or punishment.

* * * * *

The *Hadd* penalties of execution by stoning (which is reserved for adultery) and "execution and crucifixion" (which is mandatory for certain other *Hadd* offences) are still in force. There have been cases before and after 1985 when these penalties were imposed but in no case have they been inflicted.

AMATEUR BOXING IN KANSAS CITY

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. WHEAT. Mr. Speaker, today it is my privilege to recognize the positive influence of amateur boxing in Kansas City and the contributions to this sport made by Mr. Arrington "Bubbles" Klice on the occasion of his 80th birthday.

The first regional golden gloves tournament in Kansas City, sponsored by the Kansas City Star, was held in February of 1936. During World War II Beau Jack, Joe Louis, and Henry Armstrong accompanied Kansas City regional champions to Chicago as coaches for the national tournament.

Charles Myers and Jack Byrd were two of the first coaches of the Kansas City Golden Gloves and were followed by people such as Dr. James DiRenna, who was instrumental in making the golden gloves a non-profit corporation in the State of Missouri. The Greater Kansas City Golden Gloves Association continues to provide a positive opportunity for Kansas City youths and provides scholarships for its boxers.

From 1938 to 1978 Bubbles Klice was owner and coach of the Gateway Boxing Club whose members were mainly disadvantaged black youths of the Kansas City inner city. The club produced 130 regional champions and 11 national champions. During that 40-year period Bubbles also coached the European Theater of Operations Champions during World War II and was a co-coach of the first American boxing team to face the Soviet boxers in their own country in 1970.

After recovering from heart surgery in 1982 Bubbles received the hall of fame award from the Golden Gloves Association of America. Since then he has continued to serve as the first vice president of the Greater Kansas City Golden Gloves Association as a lifetime member. His energetic service has been a valuable contribution to the Kansas City community.

Another prominent leader in Kansas City amateur boxing, Mr. Robert Nix, will be inducted into the golden gloves hall of fame in April of 1989. As a boy, Robert boxed under the coaching of Bubbles Klice, and as head coach at the municipal boxing club his hard work has enriched the lives of many club members. His induction is an honor not only for himself, but for his club and community as well.

Amateur boxing is a sport for eager, healthy youths. It demands superior physical condition, alertness, and discipline and returns self-confidence and self-respect. Amateur boxing enjoys worldwide appeal and is one of the most popular sports of the olympic games. The golden gloves has proven to be a valuable asset to the Kansas City community.

Mr. Speaker, I commend all the coaches and supporters of the Kansas City area golden gloves. Their generous contributions of time, effort, and money have helped disadvantaged youths to learn discipline and self-esteem and, in so doing, to set higher goals for themselves in the future.

PHILIP JUTRAS, MAINE EXPATRIATE

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. BRENNAN. Mr. Speaker, I want to bring to the attention of all my colleagues, the unique and very successful adventures of Philip Jutras, a former State legislator from Maine.

Mr. Jutras, who was born in Amesbury, MA, was part of the great invasion of Normandy in 1944. Subsequently, he returned to the United States, where he served three terms in the Maine Legislature, representing a district in York County, concluding with the 105th legislature in 1972.

On a return trip to France in 1970, he visited St. Mere-Eglise, a small French town with the distinction of being the first town liberated by the allies in 1944. While there, he looked up a family with whom he had stayed during and immediately after the invasion in 1944. During this visit, he became reacquainted with Antoinette, the wife of the family with whom he had stayed. Since she had recently become widowed and Mr. Jutras was not married, he returned to the States for but a short while and traveled back to France and married Antoinette after the close of the 105th legislative session in 1972.

Phil Jutras now lives in the same small house on the village square where he briefly stayed in 1944. His wife operates the small dress shop that is a part of the house and he works as conservator and curator of the Airborne Museum in town.

The museum chronicles the momentous events surrounding the invasion of Normandy in 1944 and contains very many artifacts from that period, including several completely assembled aircraft. He has written several booklets about the museum in both English and French, and under his leadership, attendance has grown dramatically. A monument to one of the great days in world history, it is also testament to the energy and dedication of Phil Jutras.

Mr. Speaker, I often tell people that Mainers have special qualities of independence and resourcefulness that makes me proud to be a Maine resident and to represent the 1st District of Maine. I think Phil Jutras displays those qualities in abundance and I am pleased that I can bring his singular achievements to the attention of the House.

PHILIP JUTRAS, EX-LEGISLATOR, EXPATRIATE

(By Steve Cartwright)

AUGUSTA—The life of Philip Jutras is the stuff of novel, but his voice is real on a trans-Atlantic phone call from Ste. Mere Eglise, France, and his compatriots locally vouch for his story.

The story involves a young man studing for the priesthood whose life changed when he was drafted. He later served three terms in the Maine Legislature. And there was Antoinette, but more about her later.

Jutras recently called the Kennebec Journal to learn more about his dear friend, the Rev. Leonard A LeClair, a Catholic priest at the Togas Veterans Administration center. LeClair died in December at 79.

Expatriate Jutras, 71, attended school with LeClair at Sherbrooke, Quebec, but Jutras took another road than the one leading to the priesthood.

As a divinity student, the young Jutras, a Franco-American from Amesbury, Mass. could have been exempted from U.S. military service in World War II.

Instead, "I was one of the first draftees." he said, "under the new draft law. I was drafted Feb. 6, 1941, and I knew I had to go, even though my mother had put me on the track to be a priest.

"I told her I'd only be gone a year. I came out 20 years and two days later," Jutras said, showing a wry sense of humor.

Jutras seems to have had an uncanny sense of timing, too.

He was part of the massively successful Normandy Invasion, landing at Utah beach, Nov. 15, 1944. It was a turning point in the fortunes of war, and in his life, although he may not have realized it then.

"We were in the mud field, camping, and there was a sign—the town was Ste. Mere Eglise—that said anyone who wanted a room in town could apply at such and such a place.

"I was with an officer, and the sign advertised two places, and I said to him, 'who the heck is going to know the difference? We'll be back here during the day and just leave at night.' I got a room right on the village square."

He stayed with a very pleasant family—he already spoke French from hearing it at home as a child—and he particularly liked the wife, an attractive woman named Antoinette.

Years later, separated from his wife and retired from the military at the rank of lieutenant, he made a sentimental journey to France, and the English Channel village of Ste. Mere Eglise, which translates roughly as church of the mother saint.

He confessed to a romantic notion, that he could find an old girlfriend in Germany. That didn't work out, so on the return trip, he stopped at the village square in Ste. Mere Eglise. Sure enough, Antoinette still lived there. It was 1970, and her husband had died five years earlier.

"I told her I'd keep in touch," he said, and "I thought to myself, perhaps if things work out, I'd return someday . . ."

Things worked out swiftly, he said, The Democrat from York, Maine, served out the 105th Legislative session and in 1972, divorced, he returned to Ste. Mere Eglise, There he married Antoinette.

In 1974, LeClair visited, and two former schoolmates toured France, Belgium and Holland. He treasures photographs from the trip.

Jutras visits the United States often, retains citizenship and votes in Massachusetts. His children and grandchildren have come to visit him in France. One of his close friends, always on the visiting list is Edwin H. Pert, clerk of the Maine House in Augusta.

In recent years, he has derived tremendous satisfaction, he said, as a volunteer worker at the Airborne Museum in Ste. Mere Eglise, where authentic World War II aircraft are displayed.

Jutras, because he is bilingual, is of particular help when U.S. veterans visit the museum. He has written several museum booklets, and attendance has risen dramatically, he said.

Talking about his French home and the museum—a labor of love—Jutras declared, "This is the best thing that ever happened to me."

WALLY JORGENSON'S 40 YEARS AT JEFFERSON-PILOT

HON. J. ALEX McMILLAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. McMILLAN of North Carolina. Mr. Speaker, in 1948, an enthusiastic and energetic young man came through the doors of WBT radio for his first day of work. Forty years later, as president of Jefferson-Pilot Communications, Wally Jorgenson is still working as hard as the day he was hired.

A celebration in Charlotte will mark Wally's 40th year with the company and commemorate his upcoming retirement in November. After his departure from the company, he will still have a guiding hand in the broadcasting industry as joint board chairman for the National Association of Broadcasters.

Wally and his organization are very much in touch with our community. As a former president of United Way, his work has helped Charlotte to resolve community problems by actively advancing the private sector commitments that have made our city the responsive community it is today.

Wally Jorgenson began his broadcasting career in 1941 as a staff announcer for WCAL, Northfield, MN. He was an officer in the Marine Corps, in charge of Armed Forces Radio Network, Kyushu, Japan during World War II. In 1946, he became station manager of KTRF, Thief River Falls, MN. After joining WBT radio in 1948 as a local sales representative, he worked his way up through the Jefferson-Pilot—formerly Jefferson-Standard—Corporation to general sales manager, then went to managing director, assistant general manager, executive vice president and was appointed president and director in 1978.

He is past chairman of CBS TV Affiliates Government Relations Committee, a TARPAC trustee, member of North Carolina Association of Broadcasters and the UPI Editorial Review Board. Wally is director of various education, civic and business organizations including U.S. Chamber of Commerce; Davidson College; Piedmont Community College; UNC at Charlotte; The Foundation for the Carolinas; past chairman, Charlotte Branch of Federal Reserve Bank; and past chairman, Charlotte Chamber of Commerce.

He has received numerous awards, including Doctor of Humane Letters, Lenoir-Rhyne College; the Silver Medal, Charlotte Ad Club; the Communications Award, North Carolina Council of Churches; the Abe Lincoln Award, Southern Baptist Radio-TV Commission; DSA, NCAB; and the Harriman Award, American Red Cross.

Mr. Speaker, Wally Jorgenson is one of Charlotte's most upstanding citizens and is always ready to make a positive contribution to his community. He deserves our commendation for his service and our best wishes on his upcoming retirement.

COMMITMENT TO SENIOR CITIZENS

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MARLENEE. Mr. Speaker, the issue of retirement and health benefits for our Nation's elderly has become a political football. Just like clockwork, every 2 years, the Democrats drag out their tired accusation that Republicans are raiding the Social Security System and gutting Medicare.

Let me make this absolutely clear: I, along with my Republican colleagues, strongly support efforts to maintain the integrity of the Social Security system. Congress should not take funds away from the Social Security Trust Fund to pay for other Government programs. In fact, I voted for a bill in 1986 that prohibits the Federal Government from borrowing from the Social Security Trust Fund and made the Social Security Administration a separate agency.

As you well know Mr. Speaker, Congress took several bold steps during the past several years to ensure that the Social Security Trust Fund does not go bankrupt for current retirees and to ease the concerns of younger workers that Social Security will be there for them when they reach retirement age.

Since 1983, the trust fund has built up a surplus of $68 billion, mainly because of an increase in the withholding taxes from current workers. This surplus is supposed to be held in reserve for future retirees, and I will resist efforts to borrow money from this fund to pay for other Government programs.

As a cosponsor of H.R. 5002, a bill to remove the Social Security Trust Fund from deficit calculations, I would oppose attempts to weaken Social Security, and I encourage my colleagues to cosponsor this common sense measure. As the surplus increases, the fund masks the true nature of the Federal deficit. This offers a strong temptation to politicians to borrow money from this fund to cover-up the deficit.

I have also cosponsored H.R. 3794, which would phase-out the retirement earnings test for Social Security recipients. I don't think its fair that senior citizens are penalized for working and contributing to society. As Americans live longer and longer, the Government should not take away the ability of senior citizens to supplement their retirement income.

I realize the importance of cost of living allowances (COLA's), and I don't think it's fair to deprive retirees of any group their earned and deserved share of benefits. In my opinion, Congress violates a trust when it changes the rules in the middle of the game, especially when retirees have come to count on a fixed income.

Last June, I voted against imposing the largest tax increase on senior citizens in the history of this Republic. This legislation will raise monthly Medicare premiums to $42.60 by 1993 and will impose a 15 percent surtax for every person over age 65 who earns more than $6,000 per year. More outrageous is that this surtax will increase by 1993 to 28 percent.

Maybe I could have swallowed voting for this if the bill provided for true catastrophic health care coverage for our Nation's elderly. Unfortunately, all it does is expand hospital stays and provide for a new prescription drug benefit. The real need in this complex health issue is nursing home care—not more hospital care, from which only one out of every 25,000 of Medicare recipients will benefit.

In addition, because Congress rejected an amendment to limit the prescription drug benefits to those over 65, you will now have senior citizens, who have worked hard all their lives to save for retirement, paying for drugs for young homosexuals and IV drug abusers who have AIDS. This is not fair, and I was proud to have voted in favor of the amendment that would have prohibited this injustice.

I have cosponsored H.R. 3754, the Long-Term Care Incentives Act, which is designed to encourage private sector sources to fill the gap in catastrophic health care coverage. The bill would provide an income tax credit of up to $100 per month for expenses incurred for maintaining a household for dependents 65 years of age or older.

The legislation also creates a federally chartered reinsurance corporation to help clarify the multitude of options in health insurance and to guarantee the integrity of various insurance plans. Too many senior citizens are overwhelmed at the complexity of private sector catastrophic health care plans, and this provision helps to make this decision a little bit easier.

Mr. Speaker, I am committed to working hard on behalf of senior citizens. I am proud of my strong senior citizens record. Those on the other side of the aisle use this issue to needlessly scare senior citizens while Republicans will continue to make sure that Social Security will be there for everyone who contributes to the system. Let the record stand clear, without half-truths and demagoguery.

FAIR SHARE RURAL DEVELOPMENT BILL

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, I am introducing today the fair share rural development bill whose main purpose is to generate permanent job opportunities in the rural areas which are America's heartland.

Studies have shown that our Nation's recent economic growth has depended not only on the credit-card approach of runaway deficit spending, but also on very concentrated expansion along the east and west coasts. Meanwhile, in the middle of the country, the energy and farm sectors and related businesses have languished under a decade of weak prices and declining Federal investments.

In fact, the fanfare about economic growth has been premature. Federal deficits of over $200 billion have been as common as the soaring annual trade deficits of our Nation. While the financial money artists on Wall Street have been accumulating paper fortunes without creating any new wealth or new jobs, the farm belt has been waiting for a single year of strong commodity prices and strong farm income.

Spotty national growth has left our midsection reeling from neglect. New jobs and business development in the 1980's have been concentrated in only a handful of States sprinkled along the coasts. These two regions in 1987 accounted for four-fifths of our economic expansion, while the other 34 States snagged only one-fifth of the growth. States like North Dakota have yet to experience the economic growth that the handful of coastal States have enjoyed in this decade.

However, I am convinced that rural States across the Nation have read the economic handwriting on the wall. With very limited resources of their own, they have embarked on a series of innovative development programs. Some of these are beginning to bear fruit.

The problem remains, however, that real success is going to require a partnership with the Federal Government to build the kinds of diversified economies that can compete in a world market and that can withstand the swings of farm and energy prices that leave so many rural enterprises vulnerable to cyclical downturns.

I believe that we can further this goal of more vigorous and diversified rural economies by addressing several key roadblocks to growth. While State and local governments will and must play a role in this process, the Federal Government needs to make some investments of its own.

For one thing, we must insist that the biggest contractor in the Nation—the Federal Government—start spreading around the contract opportunities to our heartland, as well as the coasts. For another, we ought also to require that general purpose Federal grants be distributed throughout the Nation in rough proportion to the population—not just concentrated in a few large, populous States.

Taken together, I call this effort the fair share approach to rural development. By bringing Federal investment—whether contracts or grants—to rural America in closer proportion to its population and needs, we can bring permanent job opportunities to the region which has languished under supply-side economics.

Another part of this effort must focus on rural financial resources. Not only must rural States find ways to tap the wealth which now flees their borders for coastal and foreign money markets, they must also demand that the Federal Government match their endeavors in venture capital, business promotion, and economic development planning.

I would also remind my colleagues that rural States are frequently the sites of the largest Federal reservations and refuges. All too often, the Federal presence removes land from local and State property rolls without generating compensating revenue of other types. Perhaps the best example of this economic drain is the Federal wildlife refuge system.

In theory, the Federal Government is supposed to reimburse local units of government for tax losses through the payment-in-lieu-of-taxes [PILT] program. In practice, the payments fall far short of the actual tax losses. This creates substantial hardships for local school boards and county governments. It should come as no surprise that there is growing resistance in rural America to Federal acquisition of land for any purpose—however well-intentioned.

Mr. Speaker, North Dakota has the largest number of Federal wildlife refuges in the Nation, as well as vast areas in the National Grasslands. North Dakotans do not object to continued preservation of the natural beauty and wildlife which grace the State; but they do not accept the notion that local governments should suffer the consequences of national priorities. A key to rural development, to fair share development, is to see that local governments obtain the revenues they need to build strong schools, transportation systems, social services, and an attractive business climate.

Energy resources are also concentrated in rural areas of the country. In addition to the farm slump, the energy depression has adversely affected rural States. The single most effective way to help the energy sector rebound is to levy a variable tariff oil import fee, with appropriate exemptions for home heating fuel, agriculture, and manufacturing for export.

A weak energy sector results in job losses in the heartland while also endangering national security. The domestic drilling rig count is only about one-fifth of the 1981 level, meaning that unemployment rates in oil producing states are from 2 to 6.6 percentage points higher than the national average. While imported oil accounted for 27 percent of domestic consumption in 1985, the National Petroleum Council estimates that foreign dependence could rise to 60 percent in 1990. With the continuing tensions and conflicts in the oil-producing states in the Middle East, Africa, and Latin America, it behooves us as a nation to break the habit of addiction to foreign energy and give our domestic producers a fair chance to make a living, to generate revenues for the national treasury, and to bolster our national security.

Last year, the Joint Tax Committee estimated that a variable oil import fee, pegged at $24 per barrel price, could produce up to $12 billion in 1988 revenues and substantial revenues in future years. So an oil import fee would not only stimulate the rural economy and undergird national security, but also help to bring down the Federal deficit.

Perhaps nothing else could help rural America as much as reduced deficits and the lower interest rates that would surely follow. Interest on debt is one of farmers' biggest expenses, and lower interest rates would substantially increase net farm income.

In a word, the fair share rural development bill will tackle these diverse problems by apportioning Federal grants and contracts on a more equitable per capita basis, by establishing a Rural Development and Finance Office in the Department of Agriculture, by mandating a fair and adequate level of Federal payments-in-lieu-of-taxes, and by invoking an oil import surcharge with exemptions for home fuel, farming, and export manufacturing.

We should never forget the priority which President Thomas Jefferson ascribed to rural areas. He wrote that:

> Cultivators of the earth are the most valuable citizens. They are the vigorous, the most independent, the most virtuous, and they are tied to their country, and wedded to its liberty and interests by lasting bonds.

A bit too romantic for the 21st century? Perhaps . . . . but none too idealistic for bringing the heartland into the mainstream of national growth and prosperity.

It can reasonably be argued that just as we have no national security without a strong national economy, so we have no genuine economic strength without a vibrant midsection. We'll never remove all uncertainties of farming and energy development, much as we strive to build sturdy agricultural and resource policies as the backbone of rural development. But even as we strive there, so we should start now to insist on a fair share for rural development as the next Congress gets under way. To that end, I commend to my colleagues review the full text of my rural development bill.

Text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Share Rural Development Act of 1988".

TITLE I—PROPORTIONATE DISTRIBUTION OF FEDERAL CONTRACTS AND GRANTS

SEC. 101. PROPORTIONAL DISTRIBUTION OF FEDERAL CONTRACTS.

The Office of Management and Budget shall develop a plan under which, by 1995, Federal contracts will be distributed among the regions and States of the United States so that the value of Federal contracts received by persons located in any such region or State is roughly proportional to—

(1) the aggregate value of all Federal contracts multiplied by

(2)(A) the number of persons in such region or State; divided by

(B) the number of persons in the United States.

SEC. 102. PROPORTIONAL DISTRIBUTION OF FEDERAL GRANTS.

The Office of Management and Budget shall establish guidelines under which, by 1995, national Federal grants will be distributed among the regions and States of the United States so that the value of Federal grants received by persons located in any such region or State is roughly proportional to—

(1) the aggregate value of all Federal grants; multiplied by

(2)(A) the number of persons in such region or State; divided by

(B) the number of persons in the United States.

TITLE II—REORGANIZATION OF THE DEPARTMENT OF AGRICULTURE

SEC. 201. DEPARTMENT AND SECRETARY OF AGRICULTURE RENAMED AS DEPARTMENT AND SECRETARY OF AGRICULTURE AND RURAL DEVELOPMENT.

The Department of Agriculture and the Secretary of Agriculture shall hereafter be known as the Department of Agriculture and Rural Development and the Secretary of Agriculture and Rural Development, respectively.

SEC. 202. ESTABLISHMENT OF RURAL DEVELOPMENT AND FINANCE ADMINISTRATION.

(a) ESTABLISHMENT.—There is hereby established in the Department of Agriculture and Rural Development an agency to be known as the Rural Development and Finance Administration.

(b) ESTABLISHMENT OF POSITION OF UNDERSECRETARY OF RURAL DEVELOPMENT AND FINANCE.—The Rural Finance and Development Administration shall be headed by an Undersecretary of Rural Development and Finance (in this Act referred to as the "Undersecretary") who shall be appointed by the Secretary of Agriculture and Rural Development, by and with the advice and consent of the Senate.

TITLE III—RURAL DEVELOPMENT AND FINANCE ADMINISTRATION

SEC. 301. COORDINATION OF FEDERAL RURAL DEVELOPMENT ACTIVITIES.

The Undersecretary shall coordinate and administer all activities of the Federal Government relating to rural development.

SEC. 302. MATCHING GRANTS TO STATES.

The Undersecretary shall provide matching grants to States for—

(1) rural development planning and promotion;

(2) rural technology development; and

(3) rural finance and venture capital activities.

SEC. 303. TRANSFER OF FARMERS HOME ADMINISTRATION, SOIL CONSERVATION SERVICE, AND RURAL ELECTRIFICATION ADMINISTRATION TO RURAL DEVELOPMENT AND FINANCE ADMINISTRATION.

The Secretary of Agriculture and Rural Development shall transfer from within the Department of Agriculture and Rural Development to the Rural Development and Finance Administration, as soon as reasonably possible after the date of enactment of this Act, the offices, functions, and personnel of—

(1) the Farmers Home Administration;

(2) the Soil Conservation Service;

(3) the Rural Electrification Administration;

(4) the Rural Telephone Bank; and

(5) the Federal Crop Insurance Corporation.

SEC. 304. ESTABLISHMENT OF RURAL ADVOCACY OFFICE.

There is hereby established within the Rural Development and Finance Administration an entity to be known as the Rural Advocacy Office which shall—

(1) represent the views and interests of such rural States, small towns, and communities as are in search of Federal contracts, before other Federal agencies whose policies and activities may affect rural development; and

(2) shall act as an advocate for rural economic development, regulatory relief for rural areas, and fair treatment for such areas in the awarding of Federal grants.

TITLE IV—INCREASE IN FEDERAL PAYMENTS IN LIEU OF TAXES TO UNITS OF GENERAL LOCAL GOVERNMENT

SEC. 401. INCREASE IN PAYMENTS FOR ENTITLEMENT LANDS.

(a) INCREASE BASED ON FAIR MARKET VALUE.—Section 6903(b)(1) of title 31, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding at the end of the following new paragraph:

"(C) An amount equal to three-fourths of 1 percent of the fair market value, as determined by the Secretary, of the entitlement land (excluding any improvements thereto made after the date of Federal acquisition) located within the unit, reduced by the amount by which the payment would exceed the amount which would be due if such land were subject to real property taxes of that unit.".

(b) DETERMINATION OF FAIR MARKET VALUE.—Section 6903 of such title is amended by adding at the end the following new subsection:

"(d)(1) For purposes of determining the fair market value of entitlement lands under paragraph (1)(C), the Secretary of the Interior shall, not later than July 1, 1990, appraise all entitlement lands.

"(2) After the initial appraisals under paragraph (1), the entitlement land shall thereafter be reappraised by the Secretary at least once during each 5-year period occurring after the date of the initial appraisal.

"(3) The Secretary shall make the determinations required under this subsection in such a manner as the Secretary considers to be equitable and in the public interest. All such determination shall be final and conclusive.".

(c) EFFECTIVE DATE.—Payments under section 6903(b)(1)(C) of title 31, United States Code, may only be made for fiscal years beginning on or after October 1, 1990.

SEC. 402. INDEXING OF PILT PAYMENTS FOR INFLATION.

(a) ENTITLEMENT LANDS GENERALLY.—Section 6903 of title 31, United States Code (as amended by section 401(b)), is further amended by adding at the end the following new subsection:

"(e) For each fiscal year beginning after the date of enactment of this subsection, the Secretary of the Interior shall, not later than July 1 of such year, adjust the amount of payments made under subsection (b) (1) or (2) to reflect changes in the rate of inflation, as measured by the Producer Price Index for Finished Goods, published by the Bureau of Labor Statistics, Department of Labor.".

(b) NATIONAL WILDLIFE REFUGE SYSTEM LANDS.—Section 401(c) of the Act of June 15, 1935 (commonly referred to as the "Refuge Revenue Sharing Act"; 16 U.S.C. 715s(c)), is amended by adding at the end the following new paragraph:

"(6) For each fiscal year beginning after the date of enactment of this paragraph, the Secretary shall, not later than July 1 of such year, adjust the amount of payments made under subsection (c)(1)(B) to reflect changes in the rate of inflation, as measured by the Producer Price Index for Finished Goods, published by the Bureau of Labor Statistics, Department of Labor.".

SEC. 403. DIFFERENCE BETWEEN AMOUNT OF NET RECEIPTS AND AGGREGATE AMOUNT OF REQUIRED PAYMENTS WITH RESPECT TO NATIONAL WILDLIFE REFUGE SYSTEM LANDS.

Section 401(d) of the Act of June 15, 1935 (commonly referred to as the "Refuge Sharing Act"; 16 U.S.C. 715s(d)), is amended by striking "there are authorized to be" and inserting "there is".

SEC. 404. AUTHORITY TO REDUCE PAYMENTS WITH RESPECT TO NATIONAL WILDLIFE REFUGE SYSTEM LANDS WHICH ARE BASED ON FAIR MAKET VALUE IF PAYMENT WOULD EXCEED REAL ESTATE TAX PAYMENT.

Section 401(c)(1)(B) of the Act of June 15, 1935 (commonly referred to as the "Refuge Revenue Sharing Act"; 16 U.S.C. 715s(c)(1)(B)) is amended by striking out the period at the end and inserting ", which may be reduced by the Secretary by the amount by which payment would exceed the amount which would be due if such land were subject to real property taxes of that county.".

TITLE V—TARIFF ON OIL IMPORTS

SEC. 501. ADDITIONAL VARIABLE RATE TARIFF ON IMPORTED PETROLEUM AND PETROLEUM PRODUCTS.

Part 10 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by adding at the end of the headnotes thereto the following new headnote:

"5. (a) For purpose of items 475.04, 475.10, 475.25, 475.30, 475.35, and 475.65, the term 'additional variable rate' means, with respect to a barrel of any article (unless exempted under subdivision (c)) described in any of such items, the excess, if any, of—

"(i) $24, over

"(ii) the weighted average international price of a barrel of crude oil imported into the United States, averaged over the 4-week period preceding the week before the week in which such article is entered.

"(b) the Secretary of Energy, using the weighted average international prices of a barrel of crude oil as estimated and published in Weekly Petroleum Status Report, shall each week average such prices that were in effect during the 4-week period preceding such week, and shall determine and communicate during such week to the Secretary of the Treasury—

"(i) the 4-week average price; and

"(ii) the additional variable rate for a barrel (or barrel equivalent when applicable) of each of the articles provided for in items 475.05, 475.10, 475.25, 475.30, 475.35, and 475.65, which amounts shall be applicable with respect to the respective articles entered during the following week.

"(c) The additional variable rate determined under this headnote does not apply to any article provided for in any of the items referred to in subdivision (a) if the article—

"(i) is used as residential or commercial heating fuel or in production of heating fuel;

"(ii) is inherent, and used, in the manufacture of products that are exported from the United States; or

"(iii) is directly used in the growth of agricultural commodities within the United States."; and

(2) by amending the rates appearing in rate columns numbered 1 and 2 in each of items 475.05, 475.10, 475.25, 475.30, 475.35, and 475.65 by adding at the end thereof the following: "plus the additional variable rate determined under headnote 5".

SEC. 502. PETROLEUM TARIFF ACCOUNT.

There is established in the Treasury of the United States a Petroleum Tariff Account. There shall be deposited into the Petroleum Tariff Account all revenues collected incident to the imposition of the additional variable rate under headnote 5 of part 10 of schedule 4 of the Tariff Schedules of the United States. Amounts in the Petroleum Tariff Account are available, as provided for in advance in appropriation Acts, only for purposes of reducing any Federal budget deficits.

TRIBUTE TO LT. COL. DENNIS R. RANKIN

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. ANTHONY. Mr. Speaker, today I rise to pay tribute and express my sincere gratitude to Lt. Col. Dennis Rankin who is currently assigned to the Operations Branch of the Army Office of Legislative Liaison in the Pentagon. I believe it is imperative that he be recognized for his exceptional dedication and to acknowledge the outstanding career of an Army Officer who will soon retire after 20 years of service to his country.

In the 3 years I have known Lieutenant Colonel Rankin he has proven to be an invaluable source of technical expertise in the development of the Binary Chemical Munitions Program. There have been countless instances where he has conferred with me or my staff on a minute's notice to discuss a particular aspect of this important program. Additionally, he has consistently displayed the ability to provide an astute analysis of the politics of the pending votes on the binary issue both in the Senate and House. Clearly, his behind the scenes efforts have contributed greatly to the congressional mandate to procure a modern chemical deterrent capability with a minimum risk to soldiers and civilians alike.

As the author of the legislation that mandated destruction of the obsolete U.S. chemical weapons stockpile, I have consistently been opposed to the dangers in transporting the aging munitions to regional sites for destruction. As this debate intensified, I soon realized Lieutenant Colonel Rankin's diplomatic abilities proved invaluable when it came to reaching a consensus on the safest and most time efficient methodology of onsite destruction. I have much regard for the high degree of professionalism and intellect he exhibited in the important role he has played in these sensitive issues. Without a doubt he exemplifies the true essence of the mission of the congressional liaison department of our military services.

When Lieutenant Colonel Rankin retires from the Army early next year, he will depart with an outstanding military record including numerous decorations for service in combat. After receiving his Army commission in 1969, he served in the Republic of South Vietnam as an adviser to a Vietnamese ARVN battalion where he saw extensive combat action. During this tour of duty he compiled an impressive record of awards, commendations, and decorations in recognition of his heroism and valor in combat. The following is a brief summary of the decorations received during this period:

December, 1969: Bronze Star Medal with Valor.

January, 1970: Army Commendation Medal with Valor.

February, 1970: Army Commendation Medal with Valor (First Oak Leaf Cluster).

March, 1970: Bronze Star Medal with Valor (First Oak Leaf Cluster).

March, 1970: Bronze Star Medal with Valor (Second Oak Leaf Cluster).

March, 1970: Silver Star.

March, 1970: Vietnamese Gallantry Cross with Silver Star.

April, 1970: Silver Star (First Oak Leaf Cluster).

By the time he completed his Vietnam tour, he also received several meritorious service medals, the Air Medal, the National Defense Medal, three Vietnam Service Medals, the coveted Combat Infantryman's Badge, and various campaign ribbons.

During the next several years Lieutenant Colonel Rankin was regularly promoted, serving with distinction in a number of capacities including a tour of duty as the Executive Officer of the 1st Battalion, 9th Regiment in Korea. In 1985, he joined the Operations Branch of the Army Office of Legislative Liaison and was promoted to lieutenant colonel in 1986. He was assigned the responsibility for tracking and representing budget issues and the Army's Chemical Modernization Program in Congress. I am convinced that as a result of his vital role in these budgetary and weapon development initiatives, the Army and Congress have produced a productive solution to this urgent national problem.

Mr. Speaker, I realize this brief statement does not give justice to the detailed and superior contributions Dennis Rankin has made to his country. However, I want the record to reflect my admiration, appreciation, and respect for his steadfast commitment to duty as an officer of the U.S. Army and the citizens of this country. It has been a unique honor to have worked with this first-class military officer. Today I rise to honor him and join his friends and colleagues and wishing him the best in his future endeavors.

MASSACHUSETTS STUDENTS HONORED FOR ACADEMIC EXCELLENCE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MAVROULES. Mr. Speaker, once again this year, I find myself in the proud position of extending heartfelt congratulations to a number of Sixth Congressional District high school students for receiving the National Council of Teachers English Achievement Awards in Writing.

While I am always pleased to hear about scholastic achievement, I am particularly delighted to be able to compliment a group of students from my district for the second year in a row. A note of congratulations must also be extended to Haverhill High School for producing three of the Commonwealth's 22 winners.

The following individuals have received the National Council of Teachers English Achievement Awards in Writing for 1988:

Ms. Daphne Foran, Haverhill High School 446 Hilldale Avenue, Haverhill, MA 01830.

Ms. Melissa J. Lewandowski, Haverhill High School, 55 Whittier Street, Haverhill, MA 01830.

Ms. Jennifer E. Moriarty, Haverhill High School, 58 Colby Street, Bradford, MA 01830.

In addition to recognizing these students, I would like to say thank you to those teachers who have given so liberally of their time and energies to sponsor and encourage students in this project. Teachers have the profound responsibility of exciting, challenging, and encouraging students.

In many cases, it is the teacher that awakens the student to the value and importance of education, particularly English education. Those unable to communicate are not only restricted by the limitations of their communication skills—both as transmitter and recipient of ideas—but they are inhibited in their thought processes. These awards demonstrate the ongoing contributions to academic excellence from our State's and Nation's English teachers.

I am quite proud of these scholastically exemplary representatives of our community and ask them to continue to make us proud with their achievement in this and other areas. With their receipt of these awards, I challenge them each to accept the responsibility to continue to educate not only themselves but to encourage learning wherever and whenever the opportunity exists.

As I have told many students before, by doing this they too will continue to learn. As eloquently stated in a Latin proverb, "By learning you will teach; by teaching you will learn," I ask that they commit themselves to this axiom in the hope that the seeds of their knowledge will bear the fruit of wisdom. It is only through an educated populace that our Nation will continue to excel politically, socially, economically, and technologically.

Once again, congratulations to them all.

A TRIBUTE TO JUDGE TYRONE GILLESPIE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. SCHUETTE. Mr. Speaker, I rise today to bring to the attention of my colleagues in the House a testimonial that is being held for Judge Tyrone Gillespie of Midland, MI, on October 21, 1988. The testimonial will honor Judge Gillespie's 12 years on the bench, as well as his distinguished career as a lawyer and his service to the people of mid-Michigan.

Judge Gillespie's career began after his retirement from military service as a major in the Security and Intelligence Corps in the 1940's. After returning home, he devoted much of his time to counseling returning World War II veterans. He also served as commander of his American Legion Post, Department Judge Advocate of the American Legion of Oregon, and Judge Advocate General of the Oregon National Guard.

In 1948, Tyrone Gillespie joined Dow Chemical Co. and served as a member and chairman of the Grace A. Dow Library Board. During his years at Dow, he also served on the National Board of the Boy Scouts of America, and became a member of the board of Hillsdale College. In 1959, he was a founder and one of the first vice presidents of the Michigan State Chamber of Commerce.

The next decade was to hold even more varied activity for Mr. Gillespie. In 1960, he was chosen as a member of the U.S. Trade Commission to Pakistan and performed unpaid duty in serving the country in the U.S. Department of Commerce. He also voluntarily served as a member of the board of the Citizens Research Council of Michigan to study economic problems of the State of Michigan. His devotion to volunteer work was perhaps best symbolized in 1963, when he was named as an honorary founder of Spring Arbor College.

Another important volunteer effort in the 1960's included an extraordinary project undertaken with the late Horace Hodge of Bay City. Together, they envisioned a regional airport serving mid-Michigan. They implemented an innovative bonding plan for such an airport which resulted in the building of the present Tri-City Airport at Freeland. Today, this airport provides mid-Michigan with a vital air link to the major metropolitan areas of our Nation and the world.

Judge Gillespie did not stop there. With the help of many people in mid-Michigan, Judge Gillespie worked hard to obtain funding for Harbor House and his dedication helped make Harbor House a success. After 10 years, the Harbor House turned its assets over to the county of Midland, where it continues today as a beacon of light for disadvantaged youth.

However, one of Judge Gillespie's finest moments came when he was appointed as chairman of the board of Hillsdale College. He served in this position with distinction for 5 years. In 1987, as a tribute to Judge Gillespie's outstanding service, the board of directors honored him by naming their meeting room at Hillsdale College the "Gillespie Board of Directors Room."

Tyrone Gillespie became a circuit judge in 1977. Since then, his volunteer activities have been more limited when compared to his previous record of accomplishments. Nevertheless, despite a very busy schedule as a distinguished member of our judicial system, he has served over the last 10 years on the Grant Committee of the Royal Foundation, a foundation which is devoted to study and grants in the health-care field. Significant grants obtained through Judge Gillespie's assistance and support have gone to Saginaw Valley School of Nursing, "1016 House," and Michigan Leader Dogs for the Blind. He has also served on the community corrections advisory board, a board which seeks to help young adult offenders rehabilitate themselves.

Mr. Speaker, I hope my colleagues will join with me today in paying tribute to this most deserving man, Judge Tyrone Gillespie. He is a man with the character, experience, and values which we want for all our judges across the Nation.

We are fortunate as Michiganders and as Americans to have this extraordinary man serving in our judicial system. We in mid-Michigan know Judge Gillespie, and we are both proud and fortunate to have a man of his character and integrity, a true American hero in every sense of the word, as both a public servant and a friend in our community.

HAPPY 25TH ANNIVERSARY BISHOP IRETON HIGH SCHOOL

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. PARRIS. Mr. Speaker, I wish to extend congratulations on the 25th anniversary of the founding of Bishop Ireton High School. Since its opening in 1964 in Alexandria, Bishop Ireton has exceeded in academic excellence and provided one of the State's finest college preparatory programs.

As Northern Virginia's only Catholic high school for young men, Bishop Ireton is devoted to developing the "intellectual, creative, and physical potential of each student and to foster in him Christian ethical and religious values." The unique character and success of the school is based in large measure on the dedication and guidance of the Oblates of St. Francis de Sales, who have, for 25 years, run the school with distinction.

From the beginning, Bishop Ireton High School has welcomed students from all backgrounds without discriminating on the basis of race, creed, or economic measure. On average, Bishop Ireton students' Scholastic Aptitude Test (SAT) scores consistently rank above public and private school students in the Washington metropolitan area and significantly above the national and State averages. In contrast to many schools where only 20 to 30 percent of students take the SAT, at Bishop Ireton 100 percent of the students take the test, and on average, 98 percent of the graduates attend the college of their choice.

The true mark of the school's success, however, can be found in the accomplishments of its graduates. In the 1987 National Merit Scholarship Program, 14 seniors were designated Commended Students, a distinction which placed them in the top 50,000 of more than 1 million Merit Program participants. The senior class also had four National Merit Semi-finalists, one of whom ranked 38th out of 31,000 applicants. Over the years Bishop Ireton graduates have moved on to successful careers in all walks of public and professional life. Students and alumni also continue to provide, as they have for 25 years, volunteer services to the poor, elderly, and disadvantaged citizens of Northern Virginia.

Bishop Ireton's long list of achievements does not end with scholastics and community service. The school has produced several championship athletic teams in over a dozen varsity sports. In March, the school's delegation was one of only four schools out of 160 to win national recognition and receive a U.N. Flag as an outstanding delegation to the Economic and Social Council at the 25th North American Invitational Model United Nations. A pioneer among American secondary schools in establishing a critical languages program, Bishop Ireton was recently commended by the Geraldine Dodge Foundation as one of the handful of schools "leading the country" with the teaching of international languages. And the Bishop Ireton—St. Mary's Symphonic Wind Ensemble continues its 15-year tradition of performing internationally acclaimed world concert tours and presentations under the direction of Dr. Garwood Whaley.

Mr. Speaker, Bishop Ireton High school is truly a model for secondary education in the eighties and the decade ahead, I am proud to represent so many of the school's students, faculty, and alumni, including the Rev. Dr. William Walsh, OSFS, who will be leaving next year after 10 years of distinguished service as principal.

Again, my personal congratulations on the anniversary of Bishop Ireton High School's first 25 years, and best wishes for a second quarter century of achievement as distinguished as its first.

ON THE VERGE OF PEACE IN THE WESTERN SAHARA: CONGRATULATIONS TO KING HASSAN II OF MOROCCO

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. SOLOMON. Mr. Speaker, I would like to take this opportunity to draw my colleages' attention to encouraging signs that the 13-year war in the Western Sahara may be nearing an end. I would venture to say that among the most important factors contributing to this latest diplomatic breakthrough have been the flexible, cooperative attitude of King Hassan II of Morocco, the valiant efforts of United Nations General Secretary Javier Pérez de Cuéllar to bring peace to some of the most intractable conflicts around the world, as well as United States' steady support for our longstanding reliable friend, King Hassan.

It should be well known that Morocco has been a friend of the United States for the past 200 years. Throughout the 1980's King Hassan has been willing to negotiate increased cooperation across the full range of its military activities with the United States. In 1982, Morocco signed an Access-Transit agreement granting United States forces rights to transit for training exercises and during emergencies. Since the formation of a Joint United States-Moroccan Military Commission [JMC] that same year, the Moroccan military has conducted extensive joint exercises with the United States Army, Navy, and Air Force on Moroccan soil. Unlike many of our other friends and allies around the world, Morocco has never charged the United States for any of these privileges. Moreover, although he has had to endure sharp criticism from most of the Arab world, King Hassan II has remained steadfast in his commitment to peace and friendship.

Likewise, the United States has honored Morocco with special support and consideration. The United States has provided the Kingdom with military assistance in recognition of our shared concerns, among which is the maintenance of Morocco's integrity and independence against outside aggression. Clearly, the Polisario guerillas, armed and sustained by Algeria with Soviet-made weapons, and bent on destabilizing the Kingdom and undermining its economy, have been outside aggressors.

In enduring this long and costly war, King Hassan has done the whole world a favor: he has struggled to prevent the creation of yet another African mini-state which would inevitably become economically and politically dependent upon others for its survival. Integrated with Morocco, the Western Sahara has the benefit of a stable government and is blessed with a variety of resources, from agricultural to mineral and industrial. Independent, it would be a weak, disorganized Marxist-oriented regime, open to outside manipulation with an economy based on unneeded phosphates, fish, sand—and totally dependent on foreign aid.

With the support of the United States among other countries, Morocco has managed to withstand the pressures of the Polisario and to establish control over most of the disputed territory. I would argue that the recent moves toward peace negotiations have been made possible by the strength of Morocco's position. Morocco is confident enough to continue its pursuit of peace—even in the face of the recent stepped-up aggression by the Polisario. When the Polisario Front recently used Soviet-made missiles against the Moroccan forces along the Berm, rather than escalate hostilities further, Morocco responded by pledging to keep the United Nations peace initiative on track.

Mr. Speaker, I would like to applaud the courage of King Hassan II. I would also like to encourage my colleagues to take note of the peace plan, and to express my support for an outcome that establishes a stronger, unified Morocco, which can focus its energies and resources on realizing its full potential for econmic development and the maintenance of stability at the vital Strait of Gibraltar.

INTEGRITY AND ETHICS IN GOVERNMENT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. FLORIO. Mr. Speaker, last week this body passed H.R. 5043, the Integrity in Post Employment Act of 1988. I supported that bill as an important first step toward creating and maintaining high ethical standards throughout the Federal Government. However, I feel strongly that even tougher measures must be enacted to ensure the integrity of the legislative process.

For this reason, today I am introducing companion legislation to the ethics bill introduced by Senator STROM THURMOND and passed by the Senate last April. This legislation takes the measures passed last week one step further, by increasing the restrictions on lobbying by legislators and their top staff, and by strengthening the penalties for violations of these restrictions.

One of the most important measures of this legislation is its prohibition on former Congressmen and Senators from lobbying in either Chamber of the legislative branch for 1 year after leaving office. In passing H.R. 5043 we agreed that it is unethical to return and lobby those colleagues with whom we worked. However, many of us work closely with Senators, and they with us. If we are truly interested in establishing strong ethical standards, then we must agree to extend the restrictions on lobbying to both Chambers.

In addition, this legislation imposes stiffer penalties on those who would violate its restrictions. If there is corruption involved in the violation, this bill provides for a fine of up to $250,000 and a jail term of up to 5 years. It also authorizes the Government to bring a civil suit against such an individual and to recover twice the amount of the proceeds made by the person due to unlawful lobbying. These penalties will show that we are serious in our efforts to deter unethical behavior and to punish it when it occurs.

Finally, I would like to point out that this legislation contains special provisions for dealing with lobbying on behalf of foreign governments and foreign political parties by establishing a longer "cooling off" period for those former officials who would use their connections in the U.S. Government to benefit a foreign government.

Last week we took a step toward ending Congress' double standard—a double standard it has practiced for years—of excluding ourselves from measures prohibiting the same type of behavior which we condemn in others. Now it is time to prove that we are serious in our efforts to set the highest standards of excellence in government.

Mr. Speaker, this is an important issue and one which I look forward to working on in the next Congress. I hope my colleagues will join with me in support of these measures to increase the public's confidence in their elected officials.

INTERNATIONAL SWEET ADELINES CHAMPIONSHIP CLAIMED

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. MICHEL. Mr. Speaker, the Vienna-Falls Chorus of the 30,000-member Sweet Adelines, Inc. captured the gold medal in worldwide competition this week in Houston.

Beating out two dozen of the best of women's barbershop-singing organizations, the 140-voice Vienna-Falls Chorus dazzled a crowd of nearly 7,000 with six selections in 2 days of highly charged competition.

The chorus, with a 20-year history of musical excellence, presented an energetic and highly sophisticated blend of sound and choreography which led them to the summit of a group of nearly 700 Sweet Adelines choruses around the world.

Since 1983, under the very talented leadership of director, Betty Tracy, the Vienna-Falls Chorus has also placed second (1986) and fourth (1984) in Sweet Adelines International competition; and has won all the six-State Blue Ridge Regional meets it has entered.

The group has performed before major audiences in Philadelphia, Las Vegas, and Atlanta; and locally, at Constitution Hall and the Kennedy Center. In addition to performing for an extremely large following of pure barbershop afficionados, they have performed for corporate, community and fraternal organizations, and for the special government tributes.

During the coming year, the Vienna-Falls Chorus will cut its second commercial tape; and next year, they have been invited to represent the United States at the 200th anniversary of modern France.

While the chorus is headquartered in northern Virginia, it draws its membership from a wide cut across all jurisdictions around the Washington metropolitan area, and includes women from as far away as Baltimore, MD, southern Pennsylvania and Delaware.

INTRODUCING BILL TO LIMIT IRS USER FEES

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HEFLEY. Mr. Speaker, last December, as part of the Omnibus Budget Reconciliation Act of 1987, we passed a provision that requires the Internal Revenue Service to charge user fees to businesses sponsoring valuable employee benefit plans. Those fees apply if a business requests confirmation from the IRS that the benefit plan it is sponsoring—whether it be a pension plan, profit sharing plan, or stock bonus plan—is qualified under applicable tax laws.

The problems with this provision are twofold. First, on its face, the fee is a disincentive to any business that wants to offer what we all consider to be valuable employee benefits. Second, because of frequent statutory changes in tax laws and inadequate regulatory guidance, businesses have been forced to amend their benefit plans almost annually. Because of the user fee provision in OBRA 1987, thousands of employee benefit plans had to pay millions of dollars just to catch up with the tax changes that were included in that same law.

Congress should not be generating revenues for the IRS in this way. Today, I am happy to join my colleagues Mr. DIOGUARDI and Mr. CHANDLER, in introducing a bill which would amend OBRA 1987 to make the user fees for IRS advance determination letters inapplicable to situations where the determination letter is sought because Congress has changed the relative laws, or the Federal Government has issued new interpretations of the laws, since the plan was established.

Although it is not mandatory to do so, whenever a plan is initially adopted or subsequently amended, it is almost universal practice to request an advance determination letter from the IRS. That letter says the plan meets the applicable requirements under the Tax Code. It is critical, in the vast majority of cases, that a plan be considered qualified; both to the sponsoring business, from the perspective of deductions, and to the employees, from the perspective of avoiding current taxation on nonforfeitable benefits. Few plan sponsors dare wait until an audit to find out whether a plan is qualified; and their employees would certainly be at risk if the business did so since they would owe current taxes on nonforfeitable benefits, to the extent funded, if the plan is found to be nonqualified.

The qualified plan laws are very complex in nature and have undergone frequent changes in the last few years. The enactment of the Tax Equity and Fiscal Responsibility Act of 1982 [TEFRA], the Deficit Reduction Act of 1984 [DEFRA], the Retirement Equity Act of 1984 [REA], the Tax Reform Act of 1986 [TRA], and the Omnibus Budget Reconciliation Act of 1987 [OBRA 1987] have resulted in turmoil in our qualified plan laws. This turmoil is further compounded by delays in the issuance of regulatory interpretations. Under such circumstances, it seems highly inappropriate to charge a user fee for seeking an advance determination letter that a plan is qualified. It is not the plan sponsor's fault that the qualified plan laws are changed frequently and that plans must be amended to comply with new legislation or regulations. My amendment to the Tax Code would correct this inequity.

I have also proposed a ban on user fees for private ruling requests with respect to the qualification of plans intended to qualify under section 403(b) of the Internal Revenue Code. The IRS has traditionally not issued determination letters with respect to these plans; therefore, the private letter process must be utilized for guidance.

As we have done nearly every year recently, Congress is expected to take up the issue of qualified plans again next year. As we proceed toward the goal of making these valuable benefits more available and easier to administer, we should keep in mind that if we change the law again, plan sponsors may have to amend their plans once again. If we fail to enact the change outlined in this proposal, sponsoring businesses will have to pay a fee to try to catch up with Congress, when they could be devoting their resources to employing people and meeting the needs of consumers.

While we will not have time to act on this proposal this year, I will reintroduce it next January. Already the American Society of Pension Actuaries, the Society of Professional Benefit Administrators, the National Federation of Independent Businesses, the U.S. Chamber of Commerce, and the U.S. League of Savings Institutions have announced their support for this proposal. Between now and January, I hope Members will ask their constituents about the equity of this tax. If any of my colleagues would like to join me as an original cosponsor of this proposal in the 101st Congress, I would be happy to hear from them.

CREATING AN EMERGENCY FOREST FIRE FUND

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. DEFAZIO. Mr. Speaker, today I am introducing a bill to create a fund to pay for the Forest Service's emergency fire fighting. We have just concluded the most costly fire season in this Nation's history. The Forest Service estimates that the final costs will reach over $400 million.

We spend that much to fight fires because each fire season becomes a war effort. Fire crews from Pennsylvania are mobilized to fight fires in Idaho. Airplanes, trucks, and enormous quantities of food and equipment must be mobilized within hours to attack wildfires before they become conflagrations. When the forests of Southwestern Oregon were on fire last year I visited several of the fire camps and was astounded to see computers at work. Modern wildfire fighting is a complex, highly developed management discipline. And it is expensive.

In recent years the Forest Service has paid for emergency firefighting by borrowing from the Knutson-Vandenberg Reforestation Trust Fund and then requesting a supplemental appropriation from the Congress to restore the K-V fund. Last year, however, the administration departed from this practice by seeking to leave $125 million of borrowed K-V funds unrepaid. Now, with $400 million borrowed from the fund, those of us who represent timber producing districts wonder if we will see that reforestation money again.

The K-V is not a deep pocket. The money in the fund comes from Forest Service timber purchasers who pay a premium on their timber purchases to replant the lands after they are harvested. It is the K-V fund which keeps Forest Service timberlands renewable. They will not be renewable if we rob the fund

That's why it is time to make the books honest. We can never predict what the next fire season will cost but we can predict that there will be more fires. Therefore, in the Emergency Forest Fire Fund Act I am proposing a separate fund meant solely to be available for emergency fire fighting.

The source of the fund will continue to be Forest Service receipts which now go directly into the Treasury after various statutory obligations are deducted. I am proposing that the Forest Service retain half of all receipts for 1 year, long enough to be available to meet emergency fire fighting needs. At the end of the season, money not used to fight fires will then go into the Treasury, just as before. We then begin new collections with the next year's receipts.

This removes the illusion from paying for wildfire fighting. Since we have established a practice of raiding available funds, let's set up a fund specifically for the purpose. We cannot allow the K-V fund, paid for by the timber purchasers for reforestation, to be permanently diverted each fire season.

Mr. Speaker, I am introducing this bill today to call attention to the threat we in timber producing districts face as a consequence of this season's fire fighting costs. I want to make my colleagues aware of the opportunity to meet the emergency needs for forest fire fighting while protecting the reforestation that is critical to keeping our forests productive. Concerned members of the forest products industry and fire agency officials have assisted me in preparing this bill and I will work with them to enact this legislation in the next Congress.

SHARON BELSHAW-JONES RECEIVES CALIFORNIA EDUCATOR AWARD

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. EDWARDS of California. Mr. Speaker, Ms. Sharon Belshaw-Jones has been the principal of Mission San Jose High School, which is one of the many excellent schools in my district, for the past 3 years. Today, it is a great pleasure for me to congratulate Ms. Belshaw-Jones for receiving one of 12 very prestigious California Educator Awards. The honor and a $25,000 cash prize acknowledges outstanding educators who are making significant contributions to the education of our children.

The contributions Ms. Belshaw-Jones has made to her school, the Fremont Unified School District, and the education profession deserve recognition. She has been a leader in staff development programs to improve instructional methods and techniques at Mission San Jose High School and throughout the school district.

Her efforts to develop innovative alternative programs for high-risk youth are especially noteworthy. Because of her success in this field, she was asked to work with California State officials to expand educational opportunities for high-risk students throughout the State. During her tenure as principal, Mission San Jose High School received both the California Distinguished School Award and a U.S. Department of Education School Excellence Award.

The California Educator Award is sponsored by the Milken Family Foundation of Los Angeles. The foundation believes that the responsibility for improving our schools lies jointly with school staff, the community, and private sector. Improvement greatly depends upon raising the public stature of the education profession, too. By recognizing excellent educators, the foundation hopes to encourage qualified people to enter the profession and retain others who might leave.

Ms. Belshaw-Jones has made a significant contribution to the betterment of education in California. She also strongly advocates a team effort between school, community, and business to meet the needs of her students and improve the quality of our schools. With role models like Sharon Belshaw-Jones to lead the way, I am confident our schools will soon be on the right track. Congratulations, Sharon, and keep up the good work.

EASTERN AND CONTINENTAL RELIEF EFFORTS DEMONSTRATE "GOOD NEIGHBOR POLICY"

HON. EDOLPHOS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. TOWNS. Mr. Speaker, I want to congratulate Eastern Airlines on the tremendous contribution they have made to the Jamaican relief effort. Since mid-September, Eastern has transported over 3,000 pounds of food, medical supplies as well as other needed equipment such as generators for electricity, lanterns and water treatment plants.

Eastern's willingness to transport medical teams and volunteers made a significant contribution to early relief efforts. Moreover, the airlifts have continued with a weekly Thursday cargo flight from Miami. Out of Houston, Continental, Eastern's sister carrier in the Texas Air Corp., also played a significant role in airlifting relief supplies to Mexico's Yucatan peninsula. Beginning September 16, Continental operated 25 flights between the Yucatan and the United States over a 4-day period. During this period the airline was able to deliver over 10,000 pounds of relief supplies, including 6,000 gallons of water as well as assisting 3,000 American tourists in returning home.

Texas Air Corp. is to be commended, Mr. Speaker, for its outstanding humanitarian response in bringing relief supplies and personnel to Jamaica and Mexico in the aftermath of hurricane Gilbert. I am proud of the job these two airlines have done. Their efforts demonstrate what American business can accomplish in a crisis situation. Certainly, these relief flights could not have been accomplished without the support and cooperation of the airline employees for Eastern and Continental. They should also be commended for their efforts in collecting supplies and facilitating their transport to those in need. These airlifts demonstrate the true meaning of a "Good Neighbor Policy" with our friends in the Caribbean and Mexico.

TRIBUTE TO MR. EDWARD "NED" SKELDON

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Ms. KAPTUR. Mr. Speaker, in an age when the details and bureaucratic burdens of government are so often an obstacle to responsive and effective public service, I rise to pay tribute to a man who served as a constant reminder of our capacity to employ the wealth of our resources for the benefit of others. Mr. Edward "Ned" Skeldon, who succumbed to cancer on September 26, 1988, was a hallmark of the political landscape of Ohio's Ninth District for over 40 years.

Cherished and respected for his clarity of vision and unwavering determination, Ned Skeldon exuded a boundless sense of optimism in every facet of his life, and often when the odds were most against him. He was characterized by friends and associates as a man who knew what it took to "get things done" and generously applied his many talents to whatever course he pursued. The wide range of positions held and his participation in various projects are clear testimony to his commitment to enhancing the quality of life in his city. While Ned Skeldon was unmistakably a politician, his contagious enthusiasm and originality transcended party lines. As Lucas County commissioner from 1958 to 1966, he examplified the courage to make the often difficult and unpopular choices which accompany such a post. He continued to leave his mark on city-council, various State agencies, the board of county commissioners, the port authority board, the revitalization of downtown Toledo, and as director of Clear Water, Inc., an organization created to clean up the Maumee River basin and which later served as a statewide model in establishing the Ohio Water Development Authority. While serving in his capacity as vice chairman until 1987, more than $250 million in funds were allocated by the agency toward cleanup work in the Maumee basin and $2.2 billion in Federal and State funds were allocated for statewide cleanup projects to governments and business.

Mr. Speaker, the record of Ned Skeldon's many accomplishments, although too numerous to mention here, would be incomplete without the inclusion of his initiative to establish a home for the Toledo Mud Hens baseball team. As the major force behind building the Lucas County Recreation Center, home of the Mud Hens, he served for several years as chairman of the annual Mud Hens season ticket drive and president of the Mud Hens baseball club. As a legacy to Mr. Skeldon's love of baseball and commitment to preserving the Mud Hens as a hallmark of Toledo, the Lucas County commissioners voted to rededicate the recreation center's stadium in his honor as the Ned Skeldon Stadium on June 28 of this year.

In summary, Mr. Speaker, the city of Toledo and the many organizations which benefited from Mr. Ned Skeldon's insight and zealous commitment have lost perhaps their team's "most valuable player." He served to heighten our awareness of what we can accomplish when we remain determined to make a difference. His unlimited capacity to tap hidden resources in himself and others in order to "get things done" remind us of what is best in one who dedicates his or her life as a public servant. Although we join with his wife Sue, family and friends in mourning our loss, the vision of Ned Skeldon will continue to inspire our efforts as we work to make our community a more compassionate, more determined, and more hope-filled environment in which to live.

REMEMBERING AND HONORING LEONOR K. (MRS. JOHN B.) SULLIVAN

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. JONES of North Carolina. Mr. Speaker, I rise to pay tribute to a former chairman of the House Merchant Marine and Fisheries Committee. I am referring, of course, to the Honorable Leonor K. (Mrs. John B.) Sullivan who died Thursday, September 7, 1988, in her native, St. Louis, MO.

Mrs. Sullivan had a long and distinguished career in the House of Representatives spanning some 25 years. She was a leader on the Committee on Banking, Finance and Urban Affairs, and as chairman of the Subcommittee on Consumer Affairs and Coinage, was in the vanguard of such important consumer legislation as truth in lending.

Leonor became chairman of the Merchant Marine and Fisheries Committee in 1973 succeeding Eddie Garmatz of Maryland, and was chairman until 1976 when she retired from the Congress. Mrs. Sullivan's tenure as chairman was fraught with exciting developments and accomplishments. In the 93d Congress, under Mrs. Sullivan's leadership, 40 of the committee's bills became public law (one private law) and in the 94th Congress, 42 public laws were enacted and signed into law. Among these enactments was landmark legislation including the Fishery Conservation and Management Act of 1976 (Public Law 94-265). This was undoubtedly the most significant fishery conservation legislation ever enacted. The 200 mile fisheries conservation zone established in the law has had a tremendous impact on conserving fishery stocks off the coasts of the United States and has set a standard and example for the entire world. Other legislative accomplishments while she was chairman of the committee include authorization for deepwater ports off the coastal United States, controlled carrier legislation, licensing of towboat operators, sale of laid-up U.S.-flag passenger ships such as the SS *Independence* and the SS *United States,* and the Energy Transportation Security Act of 1974 (commercial cargo preference) which subsequently was vetoed by President Ford.

Mrs. Sullivan was one of the strongest supporters in the Congress of U.S. control of the Panama Canal and the Canal Zone, constantly working for improvements in the operation of the canal and the surrounding Zone. Leonor always championed the rights of the workers in the Canal Zone, both Panamanian and American, and constantly worked for these employees to have improved living conditions and greater benefits. I suspect that Mrs. Sullivan would not be very happy with recent developments in the Republic of Panama.

In closing, Mr. Speaker, I would like to observe that in all the years Leonor and I served together, I always felt that whenever Leonor came on the House floor, she lent a regal bearing to the proceedings. I ask my colleagues to join me in remembering Mrs. Sullivan's many accomplishments and in extending our heartfelt condolences to her loved ones.

A TRIBUTE TO GEORGE "HOOLIE" HUDSON

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HUBBARD. Mr. Speaker, George R. "Hoolie" Hudson, of Providence, KY, was one of Kentucky's most successful automobile dealers.

He died at age 62 on September 9 at St. Mary's Medical Center in Evansville, IN.

For many years I have admired "Hoolie" Hudson. He began a career in the automobile business in 1945 when he began operating a used car lot in Providence. In 1960 he purchased the Chevrolet-Oldsmobile agency in Providence. Over a period of years Hudson Chevrolet-Oldsmobile attracted many thousands of customers from all of Kentucky's counties, especially the 35 counties west of Louisville.

"Hoolie" Hudson was always a gifted, dedicated, effective salesman. "What a tremendous personality," were the words of many who knew him.

In recent years and nowadays Hudson Chevrolet-Oldsmobile & Chrysler Co. at Providence has had and today has an inventory of approximately 450 new automobiles on a 12-acre tract of land on U.S. Highway 41 at the northern edge of Providence.

A member of the First Christian Church of Providence, he was a veteran of World War II. He was also the successful promoter of the Providence-Webster County Airport which was built about 10 years ago.

He enjoyed race horses and over the years had owned many horses. For many years he and his lovely wife Frances hosted a Kentucky Derby eve party in Louisville which annually attracted more than 1,000 friends, including my wife Carol and me.

I shall always be grateful to "Hoolie" Hudson for his active and generous support of my candidacy in 1974 for the U.S. House of Representatives from western Kentucky. "Hoolie" Hudson attended several organization and strategy sessions in Providence that year in my first campaign for the U.S. House of Representatives. If I listed 10 people responsible for my victory in 1974 over a 16-year incumbent in the Democratic Party primary election, "Hoolie" Hudson would be one of those 10.

He is survived by his wife, Frances; a daughter, Valerie Knight of Providence; three sons, Mike of Dixon and Greg and Kim, both of Providence; a sister, Reba Givens of Providence; two brothers, Rice Hudson of Nashville, TN, and Thomas Hudson of Providence and eight grandchildren.

My wife Carol and I extend our heartfelt sympathy to the "Hoolie" Hudson family.

DEMONSTRATIONS IN THE U.S.S.R.

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HOYER. Mr. Speaker, the world has been amazed to read accounts of mass demonstrations in the Soviet Union, some involving hundreds of thousands of people. These demonstrations have ranged widely from territorial disputes to greater religious liberty, from language rights to defense of political prisoners.

Since February, many mass demonstrations have occurred in Armenia as part of a popular campaign to annex the Nagorno-Karabakh territory to Armenia. Recent protests have involved 800,000 people. Tensions in that area have escalated, and Soviet troops have been called in. Nevertheless, it is unlikely that the Armenians will give up on their territorial claims, even through the Kremlin denied their request in July.

The Crimean Tatars persist in their efforts to return to their historic homeland on the Crimea. Scattered in various parts of Central Asia and southern Russia, the Crimean Tatars have nevertheless mounted many protests. Unfortunately, a mass demonstration on July 26 was broken up by police who beat women and children. In response, five Crimean Tatars and one Russian supporter went on hunger strikes in mid-September to press their demand that Crimean Tatars be given official permission to live in the Crimea.

Demonstrations have been very widespread in the three Baltic States of Estonia, Latvia, and Lithuania. On August 23 of this year there were mass demonstrations in Riga, Tallinn, and Vilnius to mark the tragic anniversary of the Molotoff-Ribbentrop Pact. Remarkably, for the first time, Soviet officials admitted the existence of this pact and its two infamous secret protocols which handed the three countries to the Soviet sphere of influence, paving the way for the illegal Soviet invasion and continued occupation.

In Estonia, demonstrations held by the officially tolerated Estonian Popular Front have attracted as many as 300,000. These demonstrations have called for free elections, an end to compulsory military service, constitutional guarantees for private property, and the punishment of those who have committed Stalinist crimes. In fact, these and other demands were set forth at the Estonian Popular Front congress held in Tallinn on October 2.

In contrast, however, Lithuanian authorities acted against a very large demonstration held in Vilnius on September 28. The purpose of the rally was to protest the signing of the second protocol of the Molotoff-Ribbentrop Pact. The main rally—sponsored by the Lithuanian Freedom League which advocates Lithuanian independence—attracted 25,000 people to downtown Vilnius, with an additional 200,000 packed in side streets. The peaceful demonstrators—including women and children—were beaten by 500 armed riot police. Also on September 28, another demonstration to protest the second secret protocol was held in Kretinga, another Lithuanian city. This rally, sponsored by the officially sanctioned Perestroika Movement, was allowed to proceed in peace.

Mr. Speaker, in my opinion, the Soviet Union is moving into a new historical phase. In November, I plan to lead a congressional delegation to Moscow to view, firsthand, the changes that are occurring in the Soviet Union and discuss how these changes impact United States-Soviet relations. Let us hope that the early release of many Soviet political prisoners, the growth of new grass-roots groups and the increase in peaceful popular demonstrations are signs of an increased glasnost in that country.

PENNSYLVANIA ARTIST CREATES MURALS FOR LABOR DEPARTMENT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. WALGREN. Mr. Speaker, I would like to bring to my colleagues' attention the work of one of my constituents, Jack Beal, who painted four murals depicting the history of American labor for the Department of Labor building in Washington, DC. Mr. Beal is from Mt. Lebanon, PA, and his murals are the first placed in a Federal building in Washington since the Depression-era program which hired many artists to paint murals for Government buildings.

The four murals are considered to represent a possible resurgence of realistic mural painting. They depict the history of labor in America from colonization through settlement and industry to technology. In the words of one writer, they "bring history painting down from its pedestal and into the real world." Former Secretary of Labor, Ray Marshall, said: "Down through the years the artist has brought insight, dignity and purpose to man's often noble, sometimes bumbling journey upward toward a civil, rational existence. Jack Beal, as artist * * * and worker * * * has done precisely this in his inspired set of murals depicting the American worker during four tumultuous centuries of existence." Part of the General Services Administration's art-in-architecture program, the murals portray the daily travail of work and give a human dimension to the Labor Department building.

I would also like to commend the able assistance of Sondra Freckelton, Dana Van Horn, William Eckert, Robert Treloar, Richard Conn, Donald Thalacker and Don Schriver.

I know that all Americans will consider these murals as a fine tribute to American workers. Jack Beal has contributed greatly not only to art but to humankind.

INTRODUCTION OF H.R. 5531, THE SCHOOL COMPLETION AND INCENTIVES ACT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. PEPPER. Mr. Speaker, yesterday I introduced a bill, H.R. 5531, to require States to improve their high school completion rates and to declare, as the policy of the United States, that every American should complete the requirements for a high school degree or its equivalent. I plan to reintroduce this bill at the start of the 101st Congress, and to press for hearings and legislative action at the earliest possible time.

When I visited Japan, one of the most impressive aspects of my tour was learning that all the Japanese children complete at least a high school education. To compete internationally, our youngsters will need the training to do the job. Our future is at stake.

We owe it to the children. We owe it especially to the inner city youth, mostly black and Hispanic, more than half of whom will drop out before they complete high school. Our dropout rates represent horrendous waste, young lives that will face incredible obstacles to success. High school dropouts are least likely to get a job or to be looking for work. In 1985, only 76 percent of adult men dropouts participated in the labor force while 90 percent of men with high school diplomas but no college education were either working or looking for work. Male dropouts fortunate enough to be employed will earn only about three-quarters of what men with a high school degree make. Among those employed, dropouts are clustered in occupations with the fewest opportunities for advancement and the lowest status.

We owe it to ourselves. The costs to society are borne in crime, in wasted opportunity, in weakened economic growth, in welfare dependency, and in the creation of a perpetual underclass. Economists—mindful of the difficulties in quantifying the dollar cost—estimate that our Nation loses more than $20 billion over the lifetime of each school year class of dropouts.

During my career as chairman of the former House Select Committee on Crime in the early 1970's, we learned the astonishing fact that the majority of crimes are committed by young people, most of whom did not have the benefit of a high school education. The pattern was set again and again: learning problems, frustration, leaving school, and then acting out in delinquent and sometimes deadly ways. From what we learned on the select committee, Representative HAWKINS and I made a number of recommendations then which led to the creation of the Juvenile Justice and Delinquency Prevention Office. Most of our recommendations focused on the need to ensure that all Americans complete at least a high school education.

Dropouts tend not to participate in public life and the affairs of the community and they are generally the least productive workers, according to Lillian Webb's study. "The Public Economic Benefits of a High School Education." The children of dropouts are much more likely to be poor, perpetuating poverty and inequality, according to numerous studies. Even children living in two-parent families demonstrate this tragedy. About 40 percent of these children live in poverty if their parents did not complete high school. By comparison, only 7 percent of children live in poverty if both parents have finished high school.

H.R. 5531 will declare it to be the policy of the United States that every American should complete the requirements for a high school degree or its equivalent. The bill establishes a specific goal: by the year 2000, we will double the high school completion rate, or to be more accurate, we will cut in half the difference between 100 percent and whatever the rate is in 1990. We will put the responsibility and the resources in the hands of the States. Each State will be required to propose a plan for improving its own completion rate to meet the goal. States will be required to make annual progress reports to the Education Secretary. And every third year, in 1995, 1998, and 2001, the Secretary must report publicly on the progress of all States.

The Department of Education will first define "high school completion rate," prepare a baseline 1990 completion rate for each State, and specify how progress will be measured toward the goal. Then the Department will allot $50 million among the States to prepare their plans; the amount would be divided among the States according to their portion of people not completing high school. An additional $1 billion per year would be authorized now but provided only upon approval of the plans by the Department of Education—and will require a State match). Each State will be allowed to use no more than 5 percent for administration and no more than 15 percent for Statewide programs. At least 40 percent must be allocated to individual schools with high dropout rates, low aggregate achievement, or at least 30 percent poverty enrollment.

During the planning stage, the Federal Government will expand its funding for local experiments. Local educational agencies will apply for the funds directly on behalf of target schools, evaluate the programs and submit evaluations to the States and to the National Diffusion Network.

It is time we act.

TRIBUTE TO ELIZABETH BAPTIST CHURCH ON THEIR 100TH ANNIVERSARY

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HARRIS. Mr. Speaker, I rise today to pay tribute to Elizabeth Baptist Church in Tuscaloosa, AL, on the 100th anniversary of the founding of that powerful center of Christian faith.

In 1888, a congregation of 25 members, under the leadership of Rev. Lucious Jones, established Elizabeth Baptist. The first church was located on property donated by the Tuscaloosa Coal, Iron, & Land Co.

Throughout its first century, Elizabeth Baptist Missionary Church has expanded its fellowship and its ministry. The early years of Elizabeth Baptist were a time of struggle and sacrifice, but the congregation grew in numbers and in service. After Elizabeth Baptist moved to its current location in 1913, the area surrounding the church became known as Elizabeth Quarters in recognition of the contribution which Elizabeth Baptist made to its community.

Eleven pastors have ministered to the Elizabeth Baptist congregation. Following Reverend Jones were: Allen Cook, Erwin Thomas, W.P. Cook, Andrew Lewis, L.J. Hendrix, J.C. Gordon F.L. Harris, Virgil Spencer, and H.T. Carstarphen.

The current pastor is Rev. Vernon Swift. Reverend Swift has been pastor of Elizabeth Baptist since 1983. Under his leadership, Elizabeth has extended its witness and outreach. The congregation that began 100 years ago with 25 members in today a great church over 1,300 Christians strong.

On behalf of the U.S. House of Representatives and the people of the Seventh Congressional District of the State of Alabama, I salute the sacrifice, the struggle, and the achievements of Elizabeth Baptist Missionary Church, and join with them in their celebration of their first 100 years and in their dedication to a second century of praise, worship, witness, and service to the greater glory of the God who protects us all.

WORKER HEALTH BENEFITS PROTECTION ACT OF 1988

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. SCHULZE. Mr. Speaker, changing demographics, increasing medical costs, and new accounting rulings demand fresh and practical answers in funding retiree health. For this reason, I am introducing today the "Worker Health Benefits Protection Act of 1988."

Under this bill, companies would be eligible for Government guarantees on loans from private financial institutions if the loan proceeds are deposited in unfunded pension plans and tax-exempt retiree health trusts. The principal of these loans may not exceed the amount by which the present value of the unfunded aggregate liability for defined benefit pension plans and retiree health benefits exceed the shareholder equity of the corporation.

The loan would be repaid by tax benefits realized by the corporation from utilization of net operating loss carryovers and alternative minimum tax payments.

Reversions would be allowed from overfunded pension plans and without plan termination. Finally, the bill raises the current cap on tax deductions for pension plan funding from 150 percent to 200 percent.

I believe this legislation provides the practical answer for those companies seeking ways to fund for retiree health liabilities. This legislation is not mandated and it does not "ERISIFY" benefits. It takes the free-market approach to helping those companies in need while keeping promises to American workers.

PERSONAL EXPLANATION

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. PACKARD. Mr. Speaker, due to commitments in my district, I missed several votes on Wednesday. If I had been present I would have voted in the following manner:

Rollcall vote No. 442, "nay."
Rollcall vote No. 443, "yea."
Rollcall vote No. 444, "nay."
Rollcall vote No. 445, "yea."
Rollcall vote No. 446, "yea."

A TRIBUTE TO JOSEPH A. REED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. FLORIO. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues one of my constituents, Joseph A. Reed, of Westville, NJ, who, on November 5, 1988, will be honored with a testimonial dinner signifying his lifelong commitment to Local Union 322 of the United Association of Plumbers and Steamfitters and the entire community.

Initiated into the local on March 6, 1940, Joe began a career of service to the union and its members that would span nearly half a century. Indeed, during his tenure as business manager, beginning in 1959, the Local grew to meet the new and unique challenges facing its members by maintaining and improving the health and welfare, pension, and education funds. It is through the steady, thoughtful direction of Joe Reed that Local 322 has continually responded to the needs of its members and succeeded in building a respected presence within the community. In addition, Joe has served as a member of the executive board of the New Jersey AFL-CIO and secretary of the United Building and Construction Trades Council of Camden County.

Born the oldest of five sons on August 25, 1920, and graduating from Gloucester Catholic High School (then known as Saint Mary's), Joe married the lovely Catherine and together they have been blessed with five children and nine grandchildren throughout their 46 years of marriage. It is apparent, Mr. Speaker, that Joe has not limited himself to success in his career and has always recognized the importance of his family.

Joe Reed retired as the business manager of local 322 on August 1, 1988, leaving behind a tradition of respect, admiration, and integrity. From his work with the local, to his community service and dedication to family values, Joe has proven to all of us that he is truly a great American. I take great pride in calling Joe a friend and wish him every success and continued good health in the many years to come.

COMMEMORATING THOMAS N. TODD FOR HIS COMMITMENT TO CIVIL RIGHTS

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to honor one of our country's most distinguished black citizens, Thomas N. Todd. On Friday, November 4, Mr. Todd will be the guest of honor at the Freedom Fund Banquet 88, sponsored by the Las Vegas chapter of the NAACP. The event is being held to benefit the NAACP Scholarship Program.

Few people have done more to advance the civil rights struggle in our country than Thomas N. Todd. His accomplishments and achievements are so numerous that one would find it easier to list those awards and honors that he has not received rather than those he has. Mr. Speaker, I wish to share with my colleagues some of the accomplishments of this extraordinary citizen.

Mr. Todd was born in Demopolis, AL, on September 24, 1938. He graduated from Central High School in Mobile, AL, in 1955, a year which saw the initial repercussions of the Brown decision and marked the beginning of the civil rights movement. Mr. Todd continued his education at Southern University in Baton Rouge, LA, where he received a B.A. in political science in 1959.

Even with his college degree, Mr. Todd was not able to escape the bounds of racism so prevalent in the South in the early 1960's. He was faced with a 2½ hour literacy test when he registered to vote in Alabama in 1960, a popular method of disfranchising blacks in the South. As a result of this experience, Mr. Todd was compelled to help other blacks register to vote. Under the auspices of the NAACP, he helped his fellow citizens prepare for the literacy test by tutoring them in the basement of a local church.

Mr. Todd continued his education at Southern University and graduated magna cum laude from their school of law in 1963. Since then he has compiled an extraordinary record in the field of law. His first position was with the Office of the Solicitor in the U.S. Department of Labor. He later worked in the Office of the Staff Advocate in the U.S. Army–Captain—and then in the U.S. Attorney's Office in Chicago, IL. In 1971, he was elected president of the Chicago chapter of the Southern Christian Leadership Conference, one of the principal organizations leading the struggle for civil rights in the South in the 1960's. During the period he also found the time to teach several classes at Northwestern University School of Law, where he was the first black full-time law professor in the school's history. More recently, Mr. Todd has served as acting president for Operation P.U.S.H.

Mr. Todd currently has his own law practice in Chicago where he specializes in contract negotiation. Most of his clients are minority-owned firms whom he counsels in contract negotiations.

Mr. Speaker, Thomas Todd's accomplishments symbolize a spirit of hope and pride so characteristic of our country's great civil rights leaders. His quest for social justice has made this country a better place in which to live, not only for people of color, but for all Americans. I urge my collegues to join me today in honoring Mr. Thomas N. Todd, a true champion of social justice.

THE GREATER SOUTHEAST COMMUNITY HOSPITAL FOUNDATION

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, it is my pleasure to acknowledge the Greater Southeast Community Hospital Foundation celebration on their "Tribute to Excellence: People Who Care Banquet" to be held on Friday, October 21, 1988. On this occasion they will pay special tribute to the people of southern communities of Prince George's Country, MD, and the people of the Greater Southeast Hospital Healthcare System, for the extraordinary contribution to the health and well-being of the community.

Through their countless contributions to the surrounding communities, the Greater Southeast Community Hospital Foundation donated over 12 percent of their services to free health care. The staff and many volunteers that maintain the high quality of health care have demonstrated their dedication to provide medical and social services to their surrounding area.

The foundation is a private, non-profit system of health care that encompasses Prince Georges County, MD, as well as the District of Columbia. The foundation has provided health services in the area for more than 20 years. With its subsidiaries and affiliates, it employs more than 2,600 people. The foundation also provides the Center for Aging, which was created in 1978 as a model geriatric care program to meet the many needs of the senior citizen. The center includes the Health Care Institute [HCI], which provides high-quality extended care to 180 residents. In addition, the Fort Washington, Ambulatory Care facility in Fort Washington, MD, provides: out-patient surgery, mammography, emergency room services, x ray and laboratory service as well as health education classes. Additionally, FWACC sponsored several community nutrition workshops on healthy eating and weight reduction.

As part of their community and economic development, over 500 housing units were rehabilitated and constructed. Recently, the foundation formed a Citizens' Advisory Council to assist in the planning of future community developments, creation of new jobs and skills needed in specific areas, and provide information on employees health plans.

I am pleased to achnowlege the foundation, the board of trustees, and its many friends for their outstanding contribution to the health care filed and providing leadership as a full-service health care system.

A TRIBUTE TO DAVID AND EFFI WEINBERG

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to David and Effi Weinberg, founders of the Montessori schools in Michigan and Directors of the Montessori Teacher Education Center in Michigan.

David and Effi Weinberg have devoted their professional lives to the enrichment of education in Detroit, across Michigan and throughout the world. The Weinbergs have chaired and been honored at the "International Year of the Child" symposium in 1979 in Athens, Greece, under the auspices of the United Nations.

David and Effi Weinberg, together and on their own have attained remarkable accomplishments. David has served as treasurer of the Council of American Private Education and as President of the American Montessori Society. He is presently serving on the boards of the American Hellenic Alliance in Washington, DC and the Hellenic Heritage Foundation in New York.

Effie has worked to promote a greater political and cultural understanding between the United States and Greece by establishing the American Hellenic Alliance. Within Effie's list of accomplishments she has also chaired the Cultural Committee of the Hellenic Heritage Foundation, and worked with International Visitors Council, the Women's International Forum, Orchestra Hall and the Michigan Cancer Society.

Daivd received degrees from Michigan State University, Columbia University, and Athens Conservatory of Music. He has taught students at Michigan State University and Oakland University. David is also a published author in the modern Greek language. Effi, a native of Greece, received her degree from Goddard College.

The City of Hope will be establishing the David and Effi Weinberg Research Fellowship. The scientists chosen for the fellowship will continue the work of David and Effi in promoting education in regional, national and internatioal conferences. My dear colleagues, I ask you to join me, and the many friends of David and Effi Weinberg in extending sincere congratulations and warmest wishes to two people who are so very much appreciated throughout the Detroit area and world for helping so many.

LOCAL FALLEN FIREFIGHTERS MEMORIALIZED

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. SMITH of New Jersey. Mr. Speaker, last week was National Fire Prevention Week. Fires are a deadly hazard and a major cause of injury, property damage, and of course loss of life. Over the past 5 years, fire fatalities have averaged over 6,000 annually, with hundreds of thousands being injured. Unfortunately fire prevention, which can cost so little in time, effort, and money, is often a lightly regarded element of home safety. Because of this inattention to prevention, every year the United States pays a high price in the loss of life and property to fires. No one, however, pays a greater price than this Nation's brave firefighters.

In 1988, 127 firefighters, both career and volunteer, lost their lives in the line of duty. In addition, over 50,000 are injured each year. This is a sad testimony to the firefighters' incredible bravery, skill, and ultimately sacrifice. On October 16, these 127 American heroes who suffered that sacrifice, and gave their lives for others were honored at the National Fallen Firefighters' Memorial in Emmitsburg, MD. This service was attended by the families members and fellow firefighters from across America, while local services were conducted in communities all over the Nation to honor local fallen firefighters.

There are two of these honorable men from New Jersey who I would like to pay tribute to for their brave service. Joseph F. McCormick, Sr. of the Colonial Volunteer Fire Company in Trenton and William J. O'Donnell of the Nottingham Fire Company in Hamilton Square were both volunteer firefighters. Mr. McCormick was 75 years old when he died on December 8, 1987. Mr. O'Donnell died on June 19, 1988 at the age of 57. Both deaths were related to their service as volunteer firefighters. As New Jersey residents who gave their lives for others, they deserve our unending thanks and our limitless respect.

RECOGNITION OF NATIONAL DAY OF HUNGER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise to offer recognition to one of the most worthy causes I have been associated with in some time.

On December 3, 1988, the Northern Ohio Patrolmen's Benevolent Association [N.O.P.B.A.] will sponsor a National Day of Hunger at the UAW hall in Parma, OH, to stress the needs of the less fortunate and to bring attention to the growing problem of hunger in this country.

It is my most sincere hope that the efforts of N.O.P.B.A. supply the much needed support for the hungry in the United States. Mr. Speaker, I urge all my colleagues here today to support me in promoting National Day of Hunger.

BAN TRADE WITH YUGOSLAVIA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. CRANE. Mr. Speaker, because Yugoslavia has been in the news recently, I feel this is an ideal opportunity to remind my colleagues of the Yugoslav Government's continued abuse of human rights. The most recent Amnesty International report outlines the numerous areas in which the Government continues to oppress its citizens.

The Yugoslav Government stands firm in its refusal to repeal longstanding federal laws against "verbal crimes" although there has been immense political pressure to do so. The federal criminal code defines such acts as "hostile propaganda"; arousing national, racial and religious hatred, dissension, or intolerance; and damaging the reputation of Yugoslavia. According to Amnesty International, "at least 200 prisoners of conscience were held in Yugoslavia, of whom over 40 were convicted during 1987 of nonviolent political offenses under federal and republican criminal codes."

One of the 409 convicted "criminals" was a dentist named Obren Jovic. Mr. Jovic was alleged to have criticized Yugoslavia's political and economic systems in conversations he had with friends and colleagues. At his trial it was learned that those making the allegations had done so under pressure by Government officials. Even after the statements were retracted, Mr. Jovic was found guilty of verbal crimes for "damaging the reputation of the state." He was sentenced to 5½ years in prison.

In addition to denying Yugoslavs freedom of speech, the Government continues to interfere with the private lives of citizens by eavesdropping on conversations, reading private mail, and tapping telephones. Other abuses include unwarranted use of force by police. During one of the recent uprisings in Titograd, federal officials ordered police and the militia to charge the demonstrators, which they did using clubs and tear gas. Furthermore, Amnesty International reports that people are often beaten, treated harshly, or threatened during pretrial detention, or while being questioned as possible witnesses. In fact, in several cases, public officials and the press often refer to defendants as guilty before they are even tried.

These are just a few of the many basic, God-given rights that the Yugoslav Government refuses to provide its citizens. Today, I am introducing legislation which will ban all trade with Yugoslavia until such time as they return to their people the rights which were given them by birth.

TRIBUTE TO MARION LINNEMANN

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. SIKORSKI. Mr. Speaker, I rise today to pay tribute to an outstanding school librarian, Marion Linnemann of Breckenridge, MN. Miss Linnemann retired her position at Breckenridge High School after 35 years of dedicated service. She retired early to make a statement.

Today it is extremely difficult for small, rural school districts to keep their libraries up to date with books and periodicals. As rural communities continue to suffer through declining enrollments, funding for their districts also has decreased. But small school districts should be no different from larger suburban or urban schools. Students need to be kept informed with current information. Without proper funding for all school districts, many young people are hurt educationally.

Marion Linnemann was the media center director for 35 years. She has made valiant efforts in order to keep the Breckenridge High School media center up to date during this time. As a former pupil of Marion's, I know the type of dedication and hard work that she has given to the entire Breckenridge community. By her early retirement, she has sent a message to school districts across Minnesota: If we hope to have our students compete tomorrow, we must arm them with the tools they need today. I know that her presence will be greatly missed in the Breckenridge school district but her commitment to excellence perseveres and reminds us just how important quality education is to America's youth.

TRIBUTE TO RICHARD ALLEN

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1988

Mr. ATKINS. Mr. Speaker, I rise today to pay tribute to Richard "Dick" Allen, a hometown boy from Framingham who has made good and has shared his life with the town he loves.

Dick was graduated from Middlebury College then went on to earn his MBA from the Harvard Business School. His business career began as a cost accountant with the Dennison Manufacturing Corp. Soon after, he became personnel director where he remained for 18 years. Dick's true spirit however, is embodied in his commitment and dedication to serving the town of Framingham and a host of nonprofit agencies.

Dick was a town meeting member for 25 years, before being elected to serve 10 years as town moderator. Many organizations have benefited from his energies: Framingham school committee, of which he was a member; the Vernon House, where he was deeply involved; the Framingham Union Hospital and the First Parish Church. In 1985, the local Red Cross named him Volunteer of the Year.

The town of Framingham has been blessed with a caring, hardworking individual who gave so freely of himself. Dick has had a significant impact on his community and his presence will be severely missed. It is with a certain amount of regret that I wish a fond farewell to such an able and respected member of Framingham. I join his wife Helen, his 2 children Susan and Peter, and 10 grandchildren, in wishing him a well deserved retirement. It is my wish that he can now begin work on fulfilling his lifelong dream: to participate as a grandfather in a grandfather/grandson tennis tournament.

TRIBUTE TO W. SCOTT SONNTAG III

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mr. ANNUNZIO. Mr. Speaker, during these last few weeks of the session, the Government Printing Office has been extremely busy with the tremendous volume of printing we in the Congress require. The key to coordinating this massive printing effort is the GPO's Congressional Printing Management Division. The conscientious and diligent people who work in that division must juggle all of the bills, reports, and pages of the CONGRESSIONAL RECORD to keep the legislative process functioning.

In reflecting upon the outstanding efforts of these public servants, I regretfully note for my colleagues that the former Director of that Office, Mr. Walter Scott Sonntag III, passed away on October 13 at the young age of 58. His considerable efforts in managing congressional workflow over many years were much appreciated. His energy and experience in the service of the Congress were standards for all the printers in the Government Printing Office to strive for.

Mr. Sonntag, known to everyone as "Scotty," was a graduate of the D.C. public school system. He began his career in printing as an apprentice at the old Times Herald newspaper in 1949 and completed his apprenticeship at the Washington Post-Times Herald in 1956. In that same year Mr. Sonntag began his service with the Government Printing Office as a compositor. He eventually rose to the position of Director, Office of Congressional Printing. During his tenure in that position he worked closely with Members and staff of the Congress. His spirit of cooperation and innovative problem-solving skills greatly facilitated the accomplishment of Congress' printing requirements. He retired from the GPO in August 1985.

Mr. Sonntag was an outdoorsman and a sports enthusiast. In 1951–54 he played semiprofessional football. As a highly skilled water safety/swimming instructor he earned national recognition for a pilot program that taught blind children to swim. He also taught swimming and life saving skills in the White House swimming pool to the Secret Service agents assigned to President Eisenhower. He was a member of the Maryland-District of Columbia Football Association, and for 25 years he refereed local high school and college football games. He was a member of the D.C. National Guard in 1951–53, and a member of the Columbia Typographical Union. More recently he was an avid scuba diver, boater, and skier.

Mr. Sonntag will be sadly missed by his mother, Amy, his son, Scott IV, his daughter, Dawn, his brother, Ralph, and by his many friends. I know all Members and staff who knew Scotty and worked with him in the service of the Congress, will want to join me in offering our heartfelt condolences to his family.

IS THE DEATH OF OUR PLANET AT HAND?

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mr. LAFALCE. Mr. Speaker, I bring to the attention of my colleagues a letter submitted to me by William Heyen, English professor and poet-in-residence at the State University of New York at Brockport. The letter, at once poetic and powerful, addresses a matter crucial to all of us here in Congress, around the country, and, indeed, around the world. Professor Heyen reflects on mankind's reckless poisoning of the environment and the possibility of global disaster if it is allowed to continue. I submit his letter as a reminder that we too must not only reflect on the implications of our activities, but also take swift, decisive action to reverse this most dangerous of trends. Safeguarding the environment must become an immediate national priority. At stake is nothing less than the survival of our planet:

AN OPEN LETTER TO THE BROCKPORT COLLEGE COMMUNITY

At our last Department of English meeting, my friends and I discussed our curriculum. We wondered, in part, if we were keeping up with many new ways of reading literature—post-modern approaches including post-structuralism, deconstruction, narratology (a word new to me), etc. We spoke about our departmental mission, and the mission of our College. As I often do, I was drifting in and out of the talk, hearing the Hartwell Hall bells, breathing the slant of end-of-summer light, calling up scenes from my student days at Brockport in the '50s, thinking about the young people in my classes this semester and wondering how I could help them find their ways as some of my teachers helped me find mine.

Then, after an hour or so as our discussion became more and more convoluted and technical, I found myself saying something that apparently had been building up in me for a long time, only appearing, in understated ways, in my poems and stories. I said that I read much literature on our environment. I said, given our current direction, that it's hard for me to conceive that human life will exist on this planet a hundred years from now. "What if this is true?" I asked. I wondered what *this* should do to our sense of our curriculum, this impending absolute extinction of mankind.

I've become convinced that this very real possibility is the one thing that we cannot, no matter how hard we try, concentrate on, no less imagine. In one of his poems James Dickey says, "*Lord, let me die,/but not die/out.*" I find myself, usually, at ease about growing old and about dying. I've already had, at forty-seven, a rich and lucky life. But to dwell on the possibility that we could "die out," that our grandchildren and theirs for countless generations would not people this planet, would not smell grass, fall in love with one another, watch leaves ramify, see clouds or waves sail and crest—this is something that makes us more than heartsick. It threatens our sanity. If it is true that within a hundred years we will all die out . . . But, no, we can't concentrate on this possibility, can't imagine our beloved earth within a silence devoid of human presence. "Faith is the antiseptic of the soul." Whitman says. "It pervades the common people [whom Walt loves and among whom I count myself] and preserves them . . . they never give up believing and expecting and trusting."

This brief letter to you is not the place for me to muster in a scholarly way my arguments and evidence—the thousand chemicals found in the fat of a dying population of seals, our weakened and blight-stricken forests, our acid-dead lakes, dioxin dumps on the Niagara River that could kill every living thing in and around the Great Lakes a thousand times over, the daily destruction of various species we've not even had time to study, the million acres of American farmland lost to asphalt each year, Bangladesh disappearing because of deforestation in China, our oceans' plankton beds diminishing in volume and ability to provide oxygen, ozone holes in our atmosphere, the poisoning of our land and food, inundation of the environment with garbage and sludge and insoluble nuclear waste. We all read about (and contribute to) these catastrophes. But if you are like me, the message doesn't quite penetrate. Emily Dickinson writes, "A Thought went up my mind today—/That I have had before—/But did not finish—some way back—/I could not fix the Year—" Will we get used to the warnings until we're bored, or will we, with all the intensity we can call up in ourselves, keep this precariousness of our existence on earth in mind? My mind finds many ways to protect itself, to distract my deeper self from what seems to me the obvious possibility that nobody will be alive in Brockport, or in the United States, or anywhere, in 2088, by which time, surely, we will not locate and be able to reach another habitable planet to ruin. We are here, or we are nowhere, at least in body.

Our minds will create counter-arguments to ecological awareness. We might tell ourselves, for example, that if we pay too-close attention to the possibility of extinction, joy will go out of our lives. Yes, but this might be our necessary burden now, for in a hundred years, maybe, there will be *no* life and *no* joy on earth. Our minds will find a hundred intricate ways to distract attention from what, it seems to me, must be the central thing we must be thinking about. All deep thought is deflected to the Buffalo Bills (I'm a fan), to Harlequin romances (I'm not a fan), to advertising that keeps selling us things we don't need. The one thing we must all be thinking about seethes in the unconscious, if anywhere. You will leave this letter behind as I will, and get on with your life as you have been living it, as I will. (Our administration, our Faculty Senate, our student body, our Brockport Village Board will not hold emergency meetings.) But what if it is true that within a hundred years . . .?

A century is only a human lifetime or two. I've dozens of books in my study that are more than a hundred years old, one going back to 1518—the centuries since are only a blink in time.

I'm thinking about us as a college community, and I suppose I'm trying to edge toward only one suggestion here, a suggestion of awareness: that our first realization should be—whatever we administer, whatever we teach, whatever we study—that if we do not concentrate on our approaching ecological nightmare (ecology: the wisdom of earthly relations), we have no future. Except insofar as our physical education and recreation programs can come to serve this end, they will not matter in the least. Except insofar as literature and composition can come to serve this end, they will not matter in the least. Except insofar as the study of history, or political science, or business, or dance, or philosophy, or mathematics, or physics, or computer science first serve this end, these disciplines will not matter, will have proved to be worthless distractions, and will in a hundred years not exist. Insofar as our multi-cultural thrust at Brockport does not serve this end, it will not matter, for in a hundred years there will be no cultures at all. (I feel this not as a narrowing down wherever we administer and teach and study, but as an opening up into metaphor that will *integrate* our curriculums: the dance, e.g., has to do with the *healthy* body in time and space; physics with matters of *energy* and force; agriculture with what Wendell Berry calls "kindly use" of the land, with *stewardship* for the future; poetry with the discovery of balances and intricate relationships among all its elements; etc.)

Thoreau tells us that he knows "of no more encouraging fact than the unquestionable ability of man to elevate his life by a conscious endeaver." He also says that there are a thousand hacking at the branches of problems to one who is striking at the root. I have very strong feelings about the roots of the problems—in me, in you, in the assumptions of our society and economy—that are funnelling us toward non-existence, but this is not the place for me to try to discuss these. This letter is hacking away in the branches only to say that 1/ on our current course, the death of the planet is at hand in the near future; 2/ we need to focus the black light of this thought within our minds, and adjust our curriculums, our studies, our lives, our "conscious endeavor(s)" toward awareness, the first step toward making a difference. We might become the first community in the country, in the world, to wake up from our daily blur and begin to articulate and face that awful possibility to which we've not even been able to pay attention.

Yours truly,

WILLIAM HEYEN,
Professor of English/
Poet in Residence.

STATEMENT IN TRIBUTE TO DR. BEATRICE BRAUDE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mr. GREEN. Mr. Speaker, I rise today to pay tribute to the late Dr. Beatrice Braude, who served this country honorably, faithfully and loyally as a civil servant, but who suffered a manifest injustice for more than three decades at the hands of the very Government she had served so well. Although Dr. Braude died last week after a battle against cancer, Congress still has an opportunity to right this grievous wrong.

Dr. Braude was born in New York City on October 10, 1913. She received a B.A. from Hunter College in 1933, an M.A. in French from Columbia University in 1939, and a Ph.D. from City University in New York in 1971. Dr. Braude went to work for the Federal Government in 1943, where she served as a research assistant and later a researcher in the Office of Strategic Services. Her duties were part of the wartime defense effort.

In 1948, she transferred to the Department of State and became a Foreign Service staff officer. She was posted in the American Embassy in Paris, where she served as the liaison between the Fulbright Commission and the American Embassy, placing and supervising American scholarship grantees in France. In 1953, she began work with the United States Information Agency [USIA]. Dr. Braude always received laudatory ratings and evaluations for her performance. Indeed, her civil service career showed great promise.

In 1951, at the height of cold war hysteria, Dr. Braude was served with interrogatories by the State Department's Loyalty Security Board. After receiving Dr. Braude's responses, and upon reviewing other information in its possession, the Loyalty Security Board unanimously gave Dr. Braude a complete clearance in regard to both loyalty and security and the case was closed. Despite Dr. Braude's total vindication, the Government failed to cleanse properly her personnel records of these unsubstantiated accusations. As a result, these accusations continued to follow her and quickly destroyed her promising public service career.

In 1953, Dr. Braude was discharged from the USIA for alleged security reasons and without the most basic elements of due process: Notice of the charges and an opportunity to respond. The USIA falsely informed her that the discharge was necessitated solely by budgetary considerations. The security basis for her discharge, itself groundless, was deliberately concealed from her by Government officials until 1975, when Dr. Braude secured her personnel files pursuant to the newly enacted Freedom of Information Act.

After Dr. Braude discovered the true nature of her discharge from USIA, she diligently filed suit in the court of claims to clear her name and to recover monetary damages for the time she was unable to work for the Federal Government. A divided court essentially found, however, that she should not have believed the Government's misrepresentations and should have sued earlier. The court, therefore, dismissed her suit as barred by the statute of limitations. The vigorous dissent found the majority's technical and narrow ruling both harsh and unfair.

Following her discharge from USIA, Dr. Braude could not secure another Federal job for almost three decades. Only in 1982 did Dr. Braude finally obtain a Government position, teaching French part time at the Central Intelligence Agency's Language School, where she received an unsolicited promotion and a Certificate of Commendation for her performance from the late Director William J. Casey.

This is a compelling case of Government abuse that warrants congressional action. I have introduced H.R. 5491, a private relief bill, which would waive the statute of limitations and allow the case to proceed to a decision on the merits in the court of claims. Senators MOYNIHAN and D'AMATO have introduced the identical measure in the Senate. Dr. Braude is survived by her brother Theodore Braude, who is a resident of New York City. H.R. 5491 gives Dr. Braude's family the means by which it may vindicate her record and her honor posthumously. As a citizen who devoted her life to public service, Dr. Braude deserves no less than the opportunity to receive her just due under law. I ask that Congress take swift action on this bill either prior to adjournment or early in the next session.

CHANGING THE WAR POWERS RESOLUTION: A CHALLENGE FOR THE 101ST CONGRESS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mr. BROOMFIELD. Mr. Speaker, it's time to change the War Powers Resolution. Since it was enacted over Presidential veto in 1973, the War Powers Resolution has led to a series of disagreements between the executive branch and Congress that has had detrimental effects on our foreign policy and the success of U.S. military operations abroad.

Despite the numerous proposals which have been made, the 100th Congress took no action on war powers in response to U.S. naval operations in the Persian Gulf. No action will be taken prior to the end of this session.

Amending the War Powers Resolution is one of the great unfinished tasks facing Congress. This issue deserves another look early in the 101st Congress. Today I am introducing an alternative approach to amending the resolution, which I hope will help stimulate thinking on the key issues of the separation of powers and consultation with Congress. I hope to work with the sponsors of competing proposals next year in order to develop a viable approach.

TIME TO CHANGE THE WAR POWERS RESOLUTION

I was one of the original cosponsors of the War Powers Resoluton in the House of Representatives. In supporting the resolution, I hoped that it would help increase consultation between the President and Congress on the extremely serious issue of deploying U.S. forces into hostile situations overseas.

Over the years, however, I have come to realize that the resolution has proved counterproductive. Instead of improving consultation the resolution has discouraged it. Rather than true consultation, the resolution causes the administration merely to file reports on operations and—because of the automatic troop withdrawal requirement contained in the War Powers Resolution—minimize the probability of hostilities.

Various measures have been proposed in recent months in order to improve relations between Congress and the executive branch in the area of war powers. The leading proposal is Senate Joint Resolution 323 introduced by Senators BYRD, NUNN, WARNER, and others. Mr. HAMILTON introduced the companion resolution in the House, House Joint Resolution 601. There is also a bill by Mr. HOPKINS, House Joint Resolution 671.

Today I am submitting an alternative approach. My bill contains many of the positive elements of House Joint Resolution 601—particularly the deletion of the automatic troop withdrawal requirement of the War Powers Resolution and its replacement with improved congressional procedures. These would expedite consideration of joint resolutions dealing with specific deployments of U.S. forces overseas. On the other hand, my approach would seek to avoid the cumbersome congressional consultation procedures contained in House Joint Resolution 601.

HISTORY OF THE WAR POWERS RESOLUTION

The War Powers Resolution was intended to address the issues resulting from the entanglement of U.S. Armed Forces in the Indochinese conflict. Despite the magnitude of the commitment of U.S. forces in Indochina, Congress never took any definitive action to prevent the deployment of U.S. combat forces to Indochina. Early in the war, in fact, Congress enacted the Gulf of Tonkin Resolution which authorized U.S. military action there.

Its proponents intended the War Powers Resolution to prevent the United States from being drawn into protracted hostilities without explicit declaration of war or other congressional authorization. As a result, the resolution contains the requirement that U.S. forces be withdrawn within 60 days if congressional approval has not been obtained for their deployment. Under the resolution, this would apply to all cases in which U.S. forces are engaged in hostilities or involved in any other situation in which imminent involvement in hostilities is clearly indicated by the circumstances.

In addition, the President is required under the War Powers Resolution to consult with Congress in every possible instance before introducing U.S. forces into hostile situations. When the President actually introduces forces into such a situation he is required to report to Congress in a timely manner and to provide updates periodically thereafter.

The War Powers Resolution was passed over Presidential veto. And—while Presidents have by and large provided written notifications consistent with the reporting requirements—no President has conceded that such reports were being provided in compliance with the resolution. This is because admitting that reports were required could trigger the troop withdrawal requirement, which seeks to withdraw legislative authorization for continued deployment without any action by Congress.

I doubt that the public understands the application of the War Powers Resolution could lead to the withdrawal of U.S. forces overseas without any action at all by Congress. Only once, in the Lebanon Multinational Force Resolution, has Congress authorized the deployment of U.S. combat forces under the War Powers Resolution. If it is not realistic to expect Congress—a legislative body—to provide authorization whenever the President is forced to commit U.S. forces to potentially hostile situations overseas.

PERSIAN GULF SITUATION

Current consideration of amendments to the War Powers Resolution result from the recent U.S. naval operations in the Persian Gulf. Some in Congress felt that there was inadequate consultation by the administration not only on the commencement of these operations but on related policy developments.

I, myself, expressed reservations regarding the administration's decision last year to permit the reflagging of Kuwaiti tankers so that they would qualify for United States naval protection. Since that time, however, I have come to believe that the U.S. military operations in the Persian Gulf have been surprisingly successful in meeting their objective of safeguarding the freedom of navigation for neutral shipping.

The administration's decision to provide protection to the Kuwaiti tankers overshadowed similar offers by the Soviets, thereby lessening the potential for greater Soviet influence in the region. The protection of the tankers convoys and related naval operations also bolstered U.S. influence in the region and strengthened the solidarity of the western alliance in the face of the threat to freedom of navigation in the gulf. Finally, U.S. actions have sent an important signal of U.S. determination to our friends and adversaries alike.

Despite their overall success, administration actions in the Persian Gulf caused considerable concern in Congress. While the President has carefully reported on all major engagements involving U.S. forces, many Members of Congress have felt the need for greater consultation on policy.

AMENDMENTS TO THE WAR POWERS RESOLUTION

The military operations in the gulf have pointed up the difficulties that face Congress in claiming a role in the decision to deploy U.S. military forces abroad. These operations have led to several proposals to amend the War Powers Resolution.

The chief proposal, House Joint Resolution 601, is currently under consideration by the Foreign Affairs Committee. This measure would eliminate the 60-day troop withdrawal requirement of the War Powers Resolution. In its place, it would establish a procedure for the expedited consideration of resolutions to approve or limit the deployment of U.S. forces in hostile situations.

MECHANISM FOR CONSULTATION WITH CONGRESS

The most novel aspect of House Joint Resolution 601 is that it would create a permanent consultative group of leading Members of Congress to serve as the focus of consultations required under the War Powers Resolution. This group of 18 Members would include the bipartisan leadership and the chairmen and ranking minority members of the relevant authorizing committees.

I agree with the intent of this approach, which is to encourage fuller consultation between the President and Congress on potential deployment of U.S. forces overseas. However, I cannot endorse this concept. I feel that it would be undesirable to establish a formal "consultative group" such as that contained in House Joint Resolution 601.

The administration should, of course, consult with the leadership of Congress and the senior members of the relevant committees concerning proposed troop deployments whenever possible. This is because of their elected leadership responsibilities. Creation of a regular group for this purpose, however, would establish potentially cumbersome machinery that could actually impede true consultation.

Under House Joint Resolution 601, the President could limit consultation to a group of six leaders—the Speaker of the House and the President pro tem of the Senate, and the majority and minority leaders of both Houses. But under the specified procudures, these Members could request at any time that the full group be brought in. This could become a source of tension and an irritant to Presidential consultation in extremely sensitive or exigent situations.

Also—like most congressional organizations—the consultative group could begin to acquire additional functions and prerogatives, including staff. This could further impede meaningful consultation and diminish the original purpose of the group to serve as a bridge for advice and consensus.

EXPEDITED PROCEDURES FOR CONGRESSIONAL CONSIDERATION

One of the functions specified for the consultative group in House Joint Resolution 601 would be to introduce a joint resolution for expedited consideration. Such a resolution could be used to approve or disapprove a particular military deployment.

I wonder, however, whether it is appropriate to reserve this function for any particular group of Congressmen, no matter how senior or well placed. In my own view, it would be preferable to require that a particular number of the Members of the House in which the resolution were introduced cosponsored it. For this reason, my bill would permit expedited consideration of any related resolution that is sponsored by at least one-third of the Members of the House in which it is introduced.

Let me make it clear that I unequivocally favor the removal of the troop withdrawal requirement from the existing War Powers Resolution. This provision casts a shadow over any deployment of U.S. forces into a hostile situation overseas. It inevitably undercuts the appearance of determination by the United States and therefore communicates an uncertain signal.

In addition, I believe that expedited consideration of a joint resolution regarding the deployment of forces could be an acceptable alternative to the automatic withdrawal requirement. I believe, however, that the procedures specified must be clear and ensure that congressional debate on the sensitive issue of hostilities involving U.S. forces overseas will be serious and intended to exercise the constitutional responsibilities of the legislative branch in a responsible way.

NEED TO RESTRICT DEBATE UNDER SPECIAL PROCEDURES

House Joint Resolution 601 would permit consideration of a resolution of approval or disapproval at any time—provided the resolution were introduced by the chairman or vice chairman of the consultative group of Congressmen. In this respect, this bill shares some of the defects of the original War Powers Resolution.

One of the key problems with the original War Powers Resolution is that it has led to endless debate in Congress concerning Presidential authority to commit U.S. forces overseas. Such debate tends to divide the country. It also lowers the morale of U.S. forces and communicates a message of uncertainty to our friends and allies, as well as our adversaries, overseas.

I trust that the distinguished group of Congressmen who may be members of the permanent consultative group would refrain from actions that would cause recurrent debate concerning the deployment of U.S. forces. Nevertheless the possibility is there that the group could recommend debate on a resolution at any time in response to changing circumstances.

In view of this problem, Mr. Chairman, I believe that a limitation should be contained in war powers amendments on recourse to the expedited procedures provided for in the resolution. Debate under these procedures should not be available again and again.

For this reason, my bill specifies that once a qualified resolution has been granted expedited consideration no other resolution can be accorded similar treatment for a specified period of time. During the interim, there could of course always be a debate under the usual rules.

DEFINITION OF JOINT RESOLUTION

Finally, I would comment that House Joint Resolution 601 does not fully specify the contents of a resolution that would be eligible for expedited consideration. The bill says that such a resolution would either require the President to disengage U.S. forces, or provide specific authorization for continued engagement.

Actually I believe the range of choices available to Congress is greater. They should include at least the following general approaches:

Unqualified authorization for continued deployment;

Prohibition of continued deployment or a specific time limit on deployment; and

Authorization for deployment until a particular time or until a particular circumstance occurs.

A resolution of one of these types could also contain more specific provisions that would apply to the situation at hand.

CONCLUSION

In summary, let me say that I believe the automatic troop withdrawal requirement of the War Powers Resolution must be eliminated. The congressional role in this area is properly exercised only through the constitutional route of joint resolutions or other legislation—for example, appropriations bills. I agree with the authors of House Joint Resolution 601 and Senate Joint Resolution 323 that consideration should be given to establishing expedited procedures for this purpose.

On the other hand, I have doubts about the workability of the consultation mechanism—the permanent consultative group—that would be established by the leading approach, House Joint Resolution 601. Consultation can be meaningful only to the extent that it is flexible, and this could be lost through establishment of such machinery.

Former President Ford recently testified before a special subcommittee of the Senate Foreign Relations Committee. In his clear and forceful testimony, President Ford called for repeal of the War Powers Resolution, particularly the automatic troop withdrawal requirement.

President Ford indicated that improved consultation is especially important in this area. He also indicated that if the adoption of procedures for expedited consideration of joint resolutions related to troop withdrawal were necessary to achieve amendment of the War Powers Resolution, then this approach should be seriously explored.

Mr. Speaker, there is much to think about in this, especially now that hostilities in the Persian Gulf appear to be winding down. I commend my bill, which I request to be printed in the RECORD along with this statement, as an alternative approach to improving the procedures for consultation and legislation in this key area.

BATTLE CREEK'S LINEAR PARK

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the city of Battle Creek, MI, and O'Boyle, Cowell, Blalock & Associates, Inc., upon the occasion of their having received the Excellence on the Waterfront Award for Battle Creek's Linear Park.

Linear Park has transformed Battle Creek's riverfront into a well-designed center for public enjoyment. The 16½-mile paved pathway allows visitors to walk, jog, cycle, picnic, fish, and canoe in a diversity of environments, including wooded areas, scenic river shores, and city neighborhoods. The Linear Park project began in 1984 and has been funded largely by the Michigan Department of Natural Resources and the W.K. Kellogg Foundation.

The Waterfront Award has been presented by the Waterfront Center—a nonprofit educational organization representing the public interest in waterfront planning and development—and is funded in part by the National Marine Manufacturers Association of Chicago. The purpose of the annual award is to feature examples of high-quality work taking place on the waterfronts. The criteria for selection includes the project's sensitivity to the water, design originality, and its civic and educational contribution.

Mr. Speaker, I am certain my colleagues would want to join with me in saluting the city of Battle Creek and the O'Boyle firm for their outstanding work in designing and implementing the Linear Park concept. We would also want to congratulate them on the recognition they have received as recipients of the 1988 Excellence on the Waterfront Award. Last, it would be in order to extend to the Michigan Department of Natural Resources and the W.K. Kellogg Foundation our heartfelt thanks for helping to make the Battle Creek Linear Park a reality.

THE GREAT BLACKS IN WAX MUSEUM

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thurday, October 20, 1988

Mr. MFUME. Mr. Speaker, the Great Blacks in Wax Museum in Baltimore, MD, is among the United States' most dynamic cultural and educational institutions. Because it is a wax museum committed solely to the study and preservation of African-American history, it is also among the most unique. Primarily, the presentation of life-size, life-like wax figures of historical and contemporary personalities of African ancestry defines its uniqueness.

Each wax figure, clad in its appropriate historical attire, is part of a scenic display depicting the struggles, achievements, and contributions of African peoples worldwide. Each display is presented chronologically, highlighting ancient Africa, the middle passage, the antebellum and postbellum periods, Reconstruction, the Renaissance, civil rights, and the present. The personalities from each period are those whose lives exemplify the African-American traditions of help, uplift, and protest. They are those of humble beginnings who have risen through great sacrifice and against tremendous odds to achieve distinguished civilization. They are also those who pioneered or excelled in particular fields of endeavor. But above all, they are those whose talents and genius reflect the talents and genius of the African-American masses.

The Great Blacks in Wax Museum not only views African-Americans from the past, but also sees history as an involvement of the past, present, and future. Thus, the museum gives African-Americans "a sense of continuity, precedence, and foundation" so that one may know the direction in which they are heading. However, in carrying out this aim, the Great Blacks in Wax Museum remains a "nonpartisan educational and cultural center which does not advance any particular political, racial, economic, or religious ideology" but acknowledges the contributions of those of diverse backgrounds.

This unique museum, the first and only wax museum of African-American history in the Nation, is the brainchild of Drs. Elmer and Joanne Martin. They established the museum in 1983 with several objectives in mind: one, to stimulate an interest in African-American history by revealing the little-known, often-neglected facts of history; two, to use great leaders as role models to motivate youth to achieve; there, to improve race relations by dispelling myths of racial inferiority; and four, to support and work in conjunction with other nonprofit, charitable organizations seeking to improve the social and economic status of African-Americans.

Over 100 wax figures and scenes, a Maryland room, a gift shop, a mini-auditorium for lectures, films, and dramatic presentations, and artifacts and memorabilia are some of the museum's major attractions.

The attempt to institutionalize African-American history is not new. Indeed, the thrust began in the 1920's with Carter G. Woodson through his Journal of Negro History, the Association for the Study of Negro Life and History, and the initiation of Negro History Week. Subsequently, the Great Blacks in Wax Museum's uniqueness lies not in just teaching, promoting, or preserving African-American history, but in the mechanism through which it celebrates that history. This well crafted presentation of historical wax figures is sure to leave a lasting impression on the minds of those who experience, the Great Blacks in Wax Museum.

Our Nation is enriched and made better by its existence.

THE SERBS IN KOSOVO

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mrs. BENTLEY. Mr. Speaker, the attention of the world has been focused upon Yugoslavia in recent weeks. That troubled nation has seen its ethnic populations vying to the point of open violence for dominance in their respective areas. One of these areas is Kosovo, about which I have previously addressed this House.

I have received a letter from the Episcopal Vicar for the Serbian Orthodox Diocese for Western Europe, Archpriest Nicolich, dated September 29, 1988. It sets the current problems in their proper context and is deserving of close attention and scrutiny. For that reason, I insert that letter with its attachments in the RECORD at this point:

SEPTEMBER 29, 1988.

DEAR MADAM, in the Western countries, the problems facing the Serbs of Kosovo have not been treated with sufficient understanding. In the press-reports dealing with ethnic unrest in that province, it is usually stated that the Serbs allege pressure by the Albanians. Moreover, Serbian "allegations" are often presented as "exaggerated", since foreign journalists never have an opportunity to witness personally an act of Albanian terror over a Serb or over a group of Serbs. The exodus of Serbs from the province is thus explained by the seriousness of the economic situation and by high unemployment in that part of Yugoslavia.

I am taking the liberty of sending you a copy of the Declaration signed by five Bishops of the Serbian Orthodox Church in the Diaspora. Its aim is to bring to the attention of the public in the Western world the plight of the Serbs in Kosovo and to ask the public to understand that the Serbs have been subjected to criminal suppression amounting to genocide. The examples quoted by the Bishops should show that the events in Kosovo are not simply the result of a demographic process, somewhat acerbated by the difficult economic situation, as the majority of the press would have it. The exodus of the Serbs from Kosovo is a human tragedy whose ugly background has been too often misrepresented. It is hoped that the public will look more closely into this problem and then realize that the Serbs from Kosovo deserve sympathy and support.

It is wrong to assume, as it is generally done, that the problem of Kosovo started as late as 1981. A consideration of the following facts may assist in forming a correct opinion on the origin of the present turmoil.

In 1941 Fascist Italy and Nazi Germany formed a "Greater Albania" by annexing the Yugoslav regions of Kosovo and Metohija to the State of Albania. This was completely in the spirit of the policy of the former Austro-Hungarian which, at the time of the collapse of the Ottoman Empire, had done its utmost to expand towards the South-East of Europe. As is well known, in the 19th and early 20th century the Serbian State had been a serious obstacle to that ambition.

As stated in the enclosed Bishops' Declaration, between 1941-1945, during the existence of the "Greater Albania", 60,000 Albanians were settled in Kosovo and over 100,000 Serbs were expelled. It is most important to note that the process of albanisation was allowed to continue after the Second World War. It seems that for a number of years, in the post-war period, the Yugoslav regime expected that Albania would eventually join Yugoslavia. In any case, the authorities of the self-governing autonomous province of Kosovo not only did not prevent, but even encouraged further influx of Albanians into Kosovo. The result was that in the last four decades 250,000 Albanians moved into the province while 200,000 Serbs and other non-Albanians were forced to leave.

It should be born in mind that the Albanians in Kosovo cooperated fully with Mussolini and Hitler. They provided a full-fledged SS Division, the 23rd "Skander-beg", to help the Nazi war effort. In contrast to the postwar situation in Germany and in other countries where the Nazis and their collaborators were fully exposed, this simply did not happen in Kosovo. While elsewhere in the world the young generations were informed about the crimes committed, in Kosovo no steps had been taken to expose the collaborators and to call them to justice. It should not be surprising therefore that the racist demand for an ethnically pure Kosovo remained very much alive among the Albanian inhabitants of the region. It led to countless acts against humanity as the text of the Bishops' Declaration illustrates.

To make situation even more complex and indeed absurd, while the perpetrators of crimes against non-Albanians in Kosovo remain unpunished, in contrast, many young Albanians are imprisoned following some of their alleged "anti-state activities". The Amnesty International is very active in defending Kosovo Albanians imprisoned for "political" reasons. However, it seems that because the attacks on Serbs and on other non-Albanians are carried out by Albanian individuals and presumably not by officials under a direct instruction by the authorities, these crimes are outside the Amnesty's interests. Yet the fact that Kosovo autonomous authorities take no steps to protect their non-Albanian citizens and unofficially condone and encourage their persecution, is ignored.

It should be remembered that the Yugoslav Constitution gives full autonomy to the Serbian regions of Kosovo (incorporating Metohija) and Vojvodina. The Serbian government cannot interfere in their provincial Parliments, while both Kosovo and Vojvodina can block decisions in the Parliament of Serbia in which they are fully represented.

The fact that the federal police and army have been brought into Kosovo during this year has not yet made any significant difference. Attacks on non-Albanians and on their property as well as on their clergy and church property continue.

It must be stressed that is not impossible for Albanians and non-Albanians in Yugoslavia to live peacefully together. Many Albanians live and work in other parts of Yugoslavia, particuarly in Serbia. On Sunday 25th September 1988 the BBC news-bulletin included a report from Kosovo. A young Albanian from Kosovo was asked whether he had any Serbian friends. He answered that he had had Serbian friends while he was serving in the Army, but not in Kosovo.

When dealing with the question of the future of Kosovo, some elementary principles governing human relations must be taken into account; they are the right of any person to be allowed to live in peace on his or her land, to be let to maintain freely the traits of his or her national identity and to practise without fear his or her religion, including the respect for the dead. Kosovo is the cradle of Serbain Christain culture, the cradle of the Serbain nation. Innumerable historic monuments, whether still standing or in ruins, speak of it. The injustice which is being done to the Serbs of Kosovo should shock the whole civilized world and urge its indignation.

Yours truly,

ARCHPRIEST M. NIKOLICH,
Episcopal Vicar.

[From the London Times, Oct. 1, 1988]

YUGOSLAV UNITY

(From Mr. Aleksa Gavrilovic)

Sir, A major disturbance in Yugoslavia would have a destabilising effect in that part of Europe. Your leading article (September 13) visualises some Western influence in connection with economic aid, but the weakness of the federal government gives cause for concern.

Dr. N. Grisogono expressed the hope (September 19) that the proposals made in March, 1988, by Serbian intellectuals for abolition of the one-party system offer hope for the future. However, the democratisation of the country in the present situation would not easily lead to a united and strong Yugoslavia.

The first Yugoslavia started in 1918 as a centralised state, but in 1939 Croats negotiated a considerable measure of autonomy. Serbo-Croat relations worsened during the war due to the atrocities of Croat Ustasi.

One of the reasons for Western powers supporting Tito was the belief that he would resolve ethnic and religious differences. Today's reality is that such disagreements are more numerous than ever before, the problem of Kosovo being the most acute. Had the consequences of the creation of Great Albania by Italy and Germany in 1941-45 been tackled on time, the Kosovo problem would have been solved, or at least contained.

The second Yugoslavia has developed into a confederation of almost independent states which are being led away from each other. Dessa Trevisan pointed out (report, September 12) that according to the last census in 1981 there were only 1.2 million Yugoslavs out of a population of 22.4 million.

However, until recently the Yugoslav nationality was not even officially recognised. The Constitution, which lays emphasis on separate nationalities, is having a greater effect than the much-quoted. Partisan slogan, "fraternity and unity".

At present there are no signs of meaningful discussions which could lead to a pro-Yugoslav atmosphere. The Western powers' support of Tito influenced many Yugoslavs to join him. The West still can influence Yugoslavs. Many of them listened to Western broadcasts, particularly to the BBC. A firm British attitude in favour of a united Yugoslavia could prove effective.

Serbs are aware that other republics dislike the fact that the federal capital is in Belgrade. Serb intellectuals gathered mainly around the Association of Serbian Writers and Philosophical and Sociological Societies of Serbia and acting as an (unofficial) opposition, have suggested that parts of the federal administration could be moved out of Belgrade. The West could offer to finance the creation of a new federal capital in any area outside the jurisdiction of any republic, away from any large town and religious centre.

A third, democratic Yugoslavia which would be acceptable to all should be the aim of the present generation. Difficulties are enormous and the people need sympathetic help to come out of the impasse.

DECLARATION OF THE BISHOPS OF THE SERBIAN ORTHODOX CHURCH AGAINST THE GENOCIDE INFLICTED BY THE ALBANIANS ON THE INDIGENOUS SERBIAN POPULATION, TOGETHER WITH THE SACRILEGE OF THEIR CULTURAL MONUMENTS IN THEIR OWN COUNTRY

In Yugoslavia, ever since the end of the Second World War and up to the present day, persecution of the Serbian population and of their religion continues in Kosovo and Methohija, regions of their ten centuries' old homeland. This persecution is being administered by the Albanians, who, after the Second World War, were given Home Rule as an ethnic minority by some of the highest policy-makers in Yugoslavia. In this way, the pre-conditions for the furtherance of the persecution of the Serbian population, and of the Serbian Orthodox Church, were created.

During the war, the Albanians were the allies of Fascist Italy and Nazi Germany. They committed untold atrocities against the Serbian population. Mussolini, in the framework of his plan to create a "Great Albania", transferred 60,000 people from Albania into the regions of Kosovo and Methohija while expelling at the same time more than 100,000 Serbs from that territory.

After the war, the highest authorities in Yugoslavia did nothing to correct that injustice. Moreover, the process of migration of Albanians from Albania into Yugoslavia, into the regions of Kosovo and Methohija, continued. Thus, during the last four decades, 260,000 such immigrants arrived and in order to make room for them, the Albanians drove out, by various terrorist methods, more than 200,000 Serbs.

Here are some facts about this situation:

Today there are 700 villages and towns where not one Serb remains, and yet these places were formerly populated exclusively by Serbs. In the areas which were populated by mixed nationalities, Albanians and Serbs, only 10 percent of the Serbs are still there, but the persecution continues.

Contrary to the foregoing facts, however, the western world is given false information and outright lies are told about alleged persecutions of Albanians by Serbs.

It is impossible to list all the crimes against the Serbian population committed by the Albanians through the centuries. Many books have been written about the atrocities practised during the occupation of the Serbian territories by the Ottoman Empire. Under the pressure of the Albanians, who adopted Islam, a considerable number of Serbs were driven out from Kosovo and Methohija in two great migrations during the 17th and 18th centuries. It was at that point in history that the Albanians appeared, for the first time in greater numbers, on those territories. The same process was repeated during the First and Second World Wars as well as in the following period when even without a war we have been witnessing a renewed exodus of the Serbian people from their homeland.

We are aware that we cannot enumerate all acts of terrorism of the Albanians against the Serbain people in Kosovo and Methohija. Only the Almighty God knows the sum-total of the suffering inflicted upon them. We are only quoting a number of examples of different forms of pressure which have been used to force out the Serbs, to destroy their culture and to desecrate their sacred monuments on their territory.

In 1974 the Albanians expelled the brothers Vojin and Velimir Soskic, together with 17 members of their family, from the village of Papracani near Decani; having beaten them up at the well, they forced them to leave with threats and violence. Velimir Soskic now lives in Montenegro while Vojin Soskic settled in the village of Vrncani near Gorni Milanovac (Serbia).

In 1971 Ljubomir Vucinic was forced out of the village of Ljubovac near Srbica in Kosovo. Another 80 Serbian families were driven out and only six families remained there. They were all forced out by threats, barrages of stone-throwing and the firing of guns around their houses at night.

In the same way, the whole village population was forced to leave the village of Gornja Prekaza near Srbica. The most respected Serb, Aleksandar Milosevic, was the last to leave the village with his large family. He is now employed as a labourer in Belgrade. While the Serbs, were still there, the Albanians destroyed the Christian Orthodox cemetery. It is known that in that village since 1960, the Albanians from neighbouring villages were practising the kind of lawlessness reminiscent of the Turkish Rule: under threat the Serbs were obliged to surrender to them a quarter of the yield from their fields.

Milan Scepanovic from the village of Dasinovic near Decani refused to abandon his land. On the 18th July 1971 his neighbour, an Albanian, shot Milan in the head. The wound caused Milan to lose an eye and an ear but the assailant was never punished. Milan Scepanovic had to leave his home even though he was a war veteran who had been decorated for his bravery. He is now living in the village of Jelenac, near Topola (Serbia).

When left without any males in her family Stanica Pesic of Donje Ratiste near Decani had her house and 12 acres of land appropriated by her Albanian neighbour. At the end of three years of long court proceedings, the court's decision was most baffling: Stanica Pesic was to receive 150.000 Dinars from the village council and the Albanian neighbour was to keep the house and the land in his possession. That sum was just sufficient for Stanica to buy the train tickets for herself and her four daughters.

On the land of the brothers Djurisic, near Decani, several Albanian houses were built without the consent of the owners. Following that, the Djurisic brothers were expelled from the remaining land.

The village authorities cut down three times the orchards of Mirko and Mirka Stefanovic in the centre of Decani under the pretext that it was necessary for the planning of the motorway. Three more houses of their neighbours, also Serbs, were knocked down.

On the 28th of October 1982, a 12-year-old boy, Dejan Antunovic was set upon by some Albanians who grabbed him in the street at mid-day, doused him with petrol and set him alight. His anorak helped to save his life but he received severe burns.

There is a long list of evil deeds, torments and crimes to which the nuns from the Serbian monasteries in Kosovo are being subjected. In 1981, in the monastery of the Holy Trinity in Musutiste the Albanians blinded a bull belonging to the monastery. They rammed a rake into the stomach of a cow which was in calf and killed her. The same year they drove nails into the testicles of the rams belonging to the monastery; they also cut down the monastery's forest. The Albanians of the village Grazdel waited in ambush for the nuns to beat them up. The nuns dared not go about freely with their work on their land. The Albanians forcibly removed building material from the yard of the monastery. Nuns Vera and Angelina were viciously beaten. Albanian youths beat up nun Stanka and attacked and attempted to rape nun Heruvima, aged 50.

In the same monastery, in 1982, a Roman Catholic nun from Croatia came to stay with the nuns as their guest. She wanted to see the ancient altar screen and some ancient holy books preserved in the convent. One day, while returning to the monastery from a visit to two of her acquaintances, also Catholic nuns, she was stopped by three young Albanians who raped her, beat her up and robbed her. She obtained a medical certificate from a Ugandan doctor, Dr. Sirijaza, who was practising there. However, no action was taken against the thugs who were from the village of Rakovac. The police chief inspector there declared that, in his opinion "the rape of a nun is not a rape at all". He merely took the gold chain and cross which the thugs had taken from the nun and returned them to her.

In the ancient city of Prizren, renowned for its numerous churches and remains of a long and brilliant Christian tradition, Milorad Sredic, student of the Prizren College of Theology, was stabbed twice by some Albanians who wanted to stop him from entering the College. Another Serbain student was beaten up while walking with other students through the town. Bishop Pavle of Raska-Prizren was three times attacked and beaten in the street.

In 1982, the Albanians set fire to the building of the Patriarchate in PEC. The old living quarters were burnt down and part of the old library and treasury room also suffered. The authorities failed (refused) to send the fire-brigade. For eight hours the nuns had to fight on their own, not only the fire but also the arsonists themselves.

It is not possible to enumerate all the sufferings inflicted upon Paraskeva, the Abbess of the monastery of Devic. Mother Paraskeva has only one arm; the Albanians broke that arm so she can no longer make the sign of the cross. They are continuously ravaging the monastic estate, threatening the nuns with killing their cattle.

On the 3rd of June 1982, in the village of Samodreza near Vucitrn, an Albanian killed Danilo Milincic, aged 22. Three Albanian youths drove his cattle away, knocked Danilo down and spread him on the ground. Then their father Mujo Ferat, who had moved in from Albania only in 1972, knelt on Danilo's stomach and shot him through the heart. Danica, Danilo's mother, tried in vain to shield her son with her own body. On the same spot, ten years earlier, the Albanians had killed Danilo's father, Slavoljub and twenty years before, exactly in the same spot they killed Danilo's grandfather, also called Danilo.

The church of Samodreza was desecrated many times. It is a well-known Serbian shrine: according to tradition, it was to that church that Prince Lazar brought the Serbian army to Holy Communion on the eve of the battle against the Turks in Kosovo in 1389; it was there that after the battle, the body of the hero-warrior Milos Obilic was laid to rest. The priest from Vucitrn cannot attend the church in Samodreza not even in the daytime. Until 15 years ago 200 Serbian families lived in this area and much greater numbers lived their in the past. Nowadays there remain only six of them and these are all households of elderly people. As recently as August 1988 the frescoes of the church in Samodreza were damaged by the Albanians. Graves were dug out and bones scattered around the church yard.

Countless cemeteries in Serbian villages and towns in Kosovo and Metohija are being continuously demolished.

At the end of July 1982 in the village of Mece near Djakovica, Miodrag Saric was killed in his own back yard at the thirtieth attempt on his life. He left a widow and four children who could bear witness to the crimes against their family committed by the Albanians and most of all by the local Chief of Police, Djerdjo Bibljekaj and his Deputy, Causi. The Albanians appropriated Saric's land of 17 acres, poisoned the well in the yard and even the dog that guarded the well. They killed their last horse with a chain. Two months after the murder of Miodrag Saric, the Albanians shot his eldest son, Aleksander. The younger son, Mitar aged 14, was struck on the head by a stone thrown by a Albanian in the middle of the street in Djakovica, causing grievious bodily harm. The Saric family now lives with the assistance of the Church and people of good-will who collect for them. They are the last remaining Serbian family in that part of the country. They have nowhere else to go.

At the University of Pristina, in 1971, Serbian students were beaten up during an escalation of the Albanian nationalism; a recurrence of the incident took place on the 2nd of April 1981.

Alabanians burned down the forest adjacent to the house belonging to Dusan Bijelic from the village of Gornji Ratis. He was set upon at home when Albanians broke down the doors and smashed in the windows and took away the chickens the bee-hives and all the money that was in the house.

Milan Vlahovic and Batric Perovic, from the village of Pozar, fared in the same way; their children were beaten up inside the house and the haystacks were set on fire.

Hundreds more examples could be given. Bratimir Toskovic of Pristina had a "Molotov Cocktail" twice thrown in over his balcony and through the window of his home.

In the village of Dolac, near Klina, the Babic brothers were first stabbed with knives, then, as they were returning from the fields, some Albanians ambushed them. First they dug a spade into Bogosav Babic's ribs and split open his skull with an ax; his brother, Bozidar, was killed on the spot and the third brother Bogoljub, although wounded, managed to escape into the village. Seventy wounds were counted on his body. Despite the injuries which Bogosav sustained, he survived. Sometime later Bogolujb too was killed. The Babic brothers have been the prize-winner in agriculture in Kosovo so the Albanians hacked down their vine-yards and orchards, destroying them completely. The one remaining brother Bogosav Babic is still being subjected to attacks and his house was raided by Albanian militia-men as well.

A 15-year-old girl from the Rajic family was raped, according to the testimony of Bogosav Babic. In Dolac and its neighbourhood alone, 15 Serbian girls were raped by Albanians in the course of 8 months.

In a nearby village, in broad daylight, from their open gate, Albanians shot Milan Petrovic, a high-school pupil as he was returning from school. He was wounded in the hip, but as the bullet was of the "Dum-Dum" type, Milan remained permanently crippled in both legs. In Klina, a 70-year-old woman was raped. The press did not reveal her name in order to protect the family's honour.

On the 1st May 1985 Djordje Martinovic, aged 50, was impaled in his own field, just outside the village of Gnjilane. The Albanians first stunned him drove a wedge through his anus and then pushed a beer bottle up through the colon to the stomach and rib-cage. This is reminiscent of the punishment meted out to the Serbs by the Turks in earlier times. Djordje Martinovic survived but the attackers have not been brought to justice.

The daughter of Milosav Lazic of Batusa village near Pristina, was raped. This 14-year-old girl was dragged away in broad daylight by Albanians in front of the school in Donje Dobrevo village.

The 7-year-old daughter of M. Rancic, originally from the Batusa village, was raped. The family was living in great poverty in Pristina, next to the hospital, in a tool-shed which was left there after completion of the building. The girl described her most frightful ordeal on television but the public soon forgot about it under the onslaught of new assaults and rapes which followed within the next days.

In the village of Palez, near Vitina, 14 Serbian girls from 11 Serbian families were raped by Albanians in one year.

In PEC, in 1983, Albanians set fire to the studio of the artist Radoslav Miketic.

At the end of June 1986, the whole Serbian village of Batusa fled from the village to seek refuge in front of the unabated terror. Batusa had been a Serbian village for centuries. Among the refugees were children, old people and the dying. Serbian families from other villages joined them. Their attempt to save their lives was thwarted by the local Militia who pillaged the belongings which the refugees were carrying, and beat them up. The refugees were told that they could move away, but only one by one. They were not allowed to leave in groups as that would have constituted a political provocation.

The persecution of our people and our church continues. In August 1988 Mother Tatiana, the Abbess of the 14th century monastery of Gracanica was twice attacked and assaulted.

We must emphasise that the Serbian and other non-Albanian population in the Kosovo and Metohija regions are not protected by law. Albanians committing crimes against them have not been prosecuted nor punished. We, Bishops of the Serbian Orthodox Church, will condem any misdeeds by the Serbs against the Albanians, should they happen. At the same time we do appeal to the civilised world to show more understanding for the real suffering of our people and to show concern for their endangered church and tradition in Kosovo and Metohija.

Serbian Orthodox Bishops:

Dr. Firmilijan: Diocese of Midwestern America.

Lavrentije: Diocese of Western Europe.

Hristofor: Diocese of Eastern America.

Georgije: Diocese of Canada.

Longin: Diocese of Australia and New Zealand.

TRIBUTE TO THE AGIA ANNNA PHILOPTOCHOS OF ANNAPOLIS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to an outstanding women's organization that I have the privilege to represent. The Agia Anna Philoptochos of Annapolis, serving the community of the Saints Constantine and Helen Greek Orthodox Church, has devoted its time and energy to generating love and fellowship since its first meeting on July 25, 1938. During it's 50th year we honor this group and the fine work it has accomplished.

The society, the only formal Greek Orthodox women's organization, in Annapolis at the time, planned activities such as short plays, poetry recitations, fundraisers, raffles, and bingo parties. An afternoon Greek school for the children was later initiated.

Philoptochos played an important role during World War II, sending clothing to Greece for the war orphans as well as volunteering their services to the American Red Cross. The women also sewed Red Cross flags in 1950.

Following the opening of the church in 1949, the society's involvement in philanthropy and the community grew. Luncheons, annual projects, and fashion shows played an integral part in raising money for orphans and sponsoring foster children. Philoptochos contributed to Anne Arundel General Hospital and the welfare department, preparing Thanksgiving and Christmas baskets for the needy neighbors.

In addition to visiting the sick and aged, Philoptochos runs an annual "Yassou Yianni" festival, which has become a well-known community event.

The Agia Anna chapter of Philoptochos has demonstrated the true spirit of giving since its founding. I would like to extend my thanks and appreciation to the society and am sure they will continue to serve the community in such a productive manner.

IN TRIBUTE TO DR. STEWART F. ALEXANDER

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mrs. ROUKEMA. Mr. Speaker, it is with great pride and affection that I rise to salute Dr. Stewart F. Alexander, a man whose life demonstrates the powerful impact for good that one man can make on family, friends, and community.

Like his father Samuel, Stewart Alexander has extended the art of medicine to improve the physical, financial and social health of his community. Although he was offered positions at several prestigious medical centers, he chose to remain in Park Ridge, NJ, where he established a practice of internal medicine, while also serving as a leader on boards of medical societies, hospitals, banks, and community groups.

Since his early days in medicine at Dartmouth College, Dr. Alexander has been first and foremost a researcher. He used these skills in the military during World War II, working on the use of certain gasses for the treatment of cancer. Just this year, Dr. Alexander was awarded a certificate of appreciation from the Army Surgeon General, a late but well-deserved recognition of the fact that he might fittingly be called "the Father of Chemotherapy."

But the Surgeon General's award was certainly not the first for this gentle scholar, scientist, and extraordinary human being. Dr. Stewart Alexander has been honored by Rotary International and the American College of Physicians. He has been called trusted physician by Gen. George Patton and friend by President and Mrs. Dwight D. Eisenhower.

This one evening of tribute cannot do justice to a lifetime of distinguished service and valuable contribution to science, medicine, and community. It is an honor to add my voice to the many that will pay tribute, and I consider it a unique privilege to call both Stewart and Bernice my friends.

RADON RISKS UNDERESTIMATED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mr. FLORIO. Mr. Speaker, I would like to focus the attention of my colleagues on one of the key environmental problems that affects 1 out of every 3 homes in our country. Indoor radon pollution causes 20,000 lung cancer deaths per year and, recently, the U.S. Surgeon General issued a statement urging the public to have their homes tested for radon.

I was pleased to have played a role in the recent passage of H.R. 2837, legislation to provide up to $30 million in grants to the States to set up radon programs. In addition, the legislation directs a study of radon in schools and child care facilities and, generally, takes a big step forward in the effort to reduce dangerous radon levels in our homes.

I would like to highlight one particular aspect of H.R. 2837 which deals with one of the important concerns that have been raised about EPA's activities on radon. The EPA has issued a guideline action level at which homeowners are advised to take steps to reduce radon. The trouble with this action level, which has been set at 4 picocuries per liter, is that even that level poses a high risk to residents. The 4 picocurie level still produces a risk of between 1 in 20 and 1 in 100 of developing lung cancer. It is equivalent to getting 200 chest x rays per year or smoking half a pack of cigarettes per day. That is too high to provide the public with an adequate margin of safety.

Last year, I introduced legislation, H.R. 3110, which directs the EPA to set a national standard on radon that would be based on health. I am pleased that H.R. 2837, recently approved by Congress, addresses—in part—the concerns on the radon action level. H.R. 2837 sets a national goal of reaching background levels of radon and directs the EPA to revise their guidebook to reflect the danger of higher levels of radon. I hope my colleagues will join me in urging the President to sign this important legislation.

I would like to share with my colleagues a recent op-ed on the radon standard written by Dan W. Reicher with the Natural Resources Defense Council, as well as the transcript of an interview I gave to the Camden County Board of Realtors on this particular subject. The articles are as follows:

THE EPA'S "SAFE" LEVEL ON RADON IS MUCH TOO HIGH

(By Dan W. Reicher)

The good news is that the surgeon general and the Environmental Protection Agency have sounded the alarm on radon in our homes. The bad news is that thousands of Americans will still contract lung cancer each year from this radioactive gas even if all homes are cleaned up to the level EPA recommends.

EPA has established an "action level" for naturally occurring radon of four picocuries (a measure of radioactivity) per liter of indoor air.

Only where a house tests above this level does the agency encourage a homeowner to take steps to reduce radon exposure. But breathing indoor air contaminated to four picocuries still produces a risk of between one in 100 and one in 20 of developing lung cancer over a lifetime of exposure. This is equivalent to the risk from smoking half a pack of cigarettes per day or getting about 200 chest X-rays per year. This is a risk level thousands of times higher than what EPA has traditionally allowed when setting standards for other cancer-causing substances in air and water.

While EPA always notes that four picocuries is not a safe level of exposure to radon, the tragedy is that many members of the homebuilding, insurance and real estate industries, as well as the media, are treating four picocuries as a magic number.

Thus a major insurance company recently told its customers that they "need do nothing" if their homes tested below four picocuries. In fact, the best scientific evidence shows that no level of radon exposure is safe.

If radon levels in every home in the country above four picocuries were reduced to this level, approximately 8,000 people would still die annually from lung cancer caused by radon. This is a great improvement over the 20,000 deaths EPA estimates are now caused by indoor radon each year, but even at the four picocurie level radon would still be the second largest cause of lung cancer after smoking.

We can do much better. If radon levels were reduced to the average national indoor background level of one to two picocuries, thousands of additional lung cancer deaths per year could be avoided. And if levels were reduced to the average outdoor level of 0.2 picocuries, we could come close to eliminating this cause of lung cancer.

In light of the significant number of lung cancer deaths which could be avoided if homes were cleaned up to background level, why has EPA set four picocuries as the national action level?

The agency has cited various reasons. One is that it wants to focus attention on the more contaminated homes. But we ought to be able to underscore the urgency of cleaning up these homes without misleading people into thinking that houses with lower radon levels are safe.

Second, EPA has said that it isn't sure that testing and cleanup technology are adequate to deal with low radon levels. But EPA's own research shows that many homes can be tested and cleaned up to well below four picocuries. A strict standard would put pressure on radon researchers and the homebuilding industry to develop further control measures for houses where lower levels cannot yet be achieved.

Third, EPA raises concerns about the costs of cleaning up homes with lower radon levels. But the responsible way to deal with the large cleanup bill is not to mislead people into thinking they are safe, but rather to develop creative funding mechanisms and incentives. Perhaps a small tax on real estate transactions could be levied to create a radon "superfund." Health insurers might also give a discount to homeowners to decontaminate their houses.

There may be a more sinister motive behind the four picocurie standard. A decade ago, Congress passed a law aimed, in part, at reducing radon in homes built on or with materials made from uranium mining wastes. In 1983, the Reagan administration's Office of Management and Budget pressured EPA to set a weak radon standard for these homes in order to hold down federal cleanup costs. To set a more protective standard for naturally occurring radon would call into question the adequacy of the uranium mining waste cleanup program.

Congress is now considering legislation dealing with the radon problem. EPA should be directed to set an action level that better reflects the serious health risks posed by this contaminant. Congress must also figure out how financially strapped homeowners—and renters who must rely on their landlords for action—will clean up their houses. These and other issues must be addressed swiftly in order to prevent needless deaths of thousands of Americans every year.

(Dan W. Reicher is a senior project attorney in the Washington office of the Natural Resources Defense Council, a national environmental organization.)

CONGRESSIONAL COMMENTARY: CONGRESSMAN FLORIO COMMENTS ON RADON

(Note: This month we are pleased to introduce "Congressional Commentary—A Conversation with Congressman James Florio", a column which will be run quarterly in the Camden County Realtor. In Congressional Commentary, Federal District Coordinator Glenn Seelhorst and newsletter editor Linda Mottin will discuss with Congressman Florio various issues that impact the real estate industry. In this first commentary column, our discussion centered on the radon problem and proposed radon legislation.)

Q: With the radon issue gaining consumer attention more and more throughout the country, what do you feel Congress will do in 1988 to find a solution to the problem?

Congressman Florio: Legislation is being proposed to address the issue in two areas. First, in a piece of legislation in which I am involved, Congress will seek to direct the EPA to define real standards for safe levels of exposure to radon. At the present time, we are being told that the recommended "safe level" of 4 picocuries is equivalent to the radiation exposure of 200 chest x-rays in the space of one year. This seems to be an extremely high level to be considered safe. In this first area of legislation, EPA will be directed to undertake scientific research to determine what really is a realistically "safe" level of exposure to radon.

In a second area to be addressed by legislation, Congress will establish a means of providing financial assistance to the states to inventory and address the radon problem through education programming, radon remediation procedures and outreach programs at the local level to help people better recognize and understand the problem.

Q: Is there opposition in the House to a Federal radon bill?

Congressman Florio: No. There is bipartisan support of such legislation because of the growing awareness that this is a national problem. Radon has been defined as the second most dominant cause of cancer, second only to cigarette smoking. It is a naturally caused problem that affects all states in varying degrees. Members of Congress feel that this newly recognized area of concern deserves the same degree of scientific fact finding that is being given to other environmental areas.

Q: When do you feel a comprehensive Federal radon policy may be on the books?

Congressman Florio: I believe this session of Congress will pass legislation to direct the EPA to start the process of determining the appropriate standards for safety. EPA has not been as aggressive in this area yet as we might hope, but with pressure from the public sector and industries such as yours, I think we will be able to see action on this issue.

Q: There is concern on the part of Realtors that a Federal radon bill will not be able to adequately address the problem of radon because of the widely varying degree of contamination throughout the country. What is your feeling on this?

Congressman Florio: What my bill does is to set a minimum standard. With appropriate research we should be able to determine a realistic and accurate safe exposure level and this would be the minimum standard for the entire country.

Q: Do you believe that the EPA will conduct adequate research to address the issue of what that minimum standard should be?

Congressman Florio: Yes, I do. The EPA has a tradition of relying on the national Center for Disease Control for research of this type. This is an academically efficient operation. We are talking real science here, not political science.

STATUS OF EPA EFFORTS TO CONTROL AIR TOXICS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mr. DINGELL. Mr. Speaker, in connection with my introduction today of an Environmental Protection Agency's draft air toxics bill, I want to provide my colleagues with an April 1, 1988, update of EPA's present efforts to assess and regulate particular air toxics. The report follows:

STATUS REPORT ON EPA'S AIR TOXICS ASSESSMENT AND REGULATORY PROGRAM

ACETALDEHYDE

Acetaldehyde is used to make other organic chemicals, and it is also produced during combustion and in the photochemical reaction process. Based on the presence of some evidence of cancer in workers and animals, evidence of mutagenic proportions, and the finding that acetaldehyde is also a strong respiratory irritant, a comprehensive Health Assessment Document (HAD) has been completed. The project is now entering the decision briefing cycle. A decision on the need for Federal regulation is scheduled for the third calendar quarter of 1988.

ACROLEIN

Acrolein is used to make other organic chemicals, and it is also produced during combustion and in the photochemical reaction process. Acrolein is mutagenic in some test systems and is a strong respiratory irritant. An external review draft HAD has been completed. A regulatory decision is scheduled for the fourth quarter of 1988.

ACRYLONITRILE

Federal evaluation is complete; acrylonitrile (AN) is classified by EPA according to the criteria of the International Agency for Research on Cancer as a probable human carcinogen. Public health risks from cancer are associated with a limited number of industrial facilities. The EPA is conducting a pilot program with State or local agencies where AN sources are located (26 sources in 15 States); whereby, the State and local agencies are evaluating and, if necessary, regulating the sources with EPA providing technical and financial support. A Federal Register announcement of the program was published on June 10, 1985. All State and local AN facilities have been subjected to an engineering inspection and all participating agencies have reached the regulatory decision phase of the project. To date, commitments for further regulation have been made by 9 States involving 20 facilities. Three new air toxic programs have been initiated as a result of the AN project.

AMMONIA

Ammonia is a very large volume chemical used in the production of fertilizers, fibers and plastics, and explosives. A draft Health Assessment Summary has been completed; health effects of concern appear related to short-term acute exposures. The project is in the internal decision briefing cycle. Impacts of pressure relief valve discharges are being studied. A decision on whether to regulate is expected by the end of 1988.

ARSENIC

Arsenic was listed as a hazardous pollutant under section 112 in June 1980 based on the risk of lung cancer. Final regulations on copper smelters and glass plants were published in July 1986. Those regulations were challenged, and that case is presently pending in the D.C. Circuit.

ASBESTOS

Asbestos was listed as a hazardous pollutant under section 112 in 1971 based on the risk of lung cancer and mesothelioma. Regulations on several source categories were promulgated in 1973. Risks could not be estimated owing to the lack of a unit risk number. A revised health document was developed and underwent Science Advisory Board (SAB) review in mid-1984, which prompted a review of existing asbestos national emission standards for hazardous air pollutants (NESHAP). A quantitative risk assessment was performed on the asbestos sources affected by the current regulation. Proposed changes to the asbestos rules are under consideration.

BENZENE

Benzene was listed as a hazardous pollutant under section 112 in June 1977 based on the risk of leukemia. Regulations on four source categories in the chemical and petroleum refining industry were proposed in 1980 and 1981. In June 1984, EPA promulgated regulations for benzene fugitive emissions, proposed regulations for coke oven by-product recovery plants, and withdrew three earlier proposals on maleic anhydrite manufacture, ethylbenzene/styrene manufacture and benzene storage. Challenges to the regulations were filed in the D.C. Circuit. Following the D.C. Circuit opinion on the vinyl chloride rulemaking, the Agency has sought a voluntary remand of the final actions. The final coke oven by-product plant rule is also being reviewed in light of the Court's decision. The D.C. Circuit ruled December 9 that EPA must propose any revisions within 6 months and promulgate within 12 months.

In August 1984, an analysis of regulatory strategies for reducing the public health risks due to benzene and gasoline vapors from gasoline marketing was published for public comment. On August 19, 1987, the EPA issued proposed regulatory requirements to control refueling emissions with onboard controls and to limit the volatility of commercial gasoline.

BERYLLIUM

Beryllium was listed as a hazardous pollutant under section 112 in 1971 because of berylliosis (a type of non-cancerous lung disease). Regulations were promulgated to achieve a safe ambient air exposure level of 0.01 ug/m^3 for two facilities and established a 10 gram/day emission rate for all other sources. Beryllium is under reassessment because of new evidence of possible carcinogenicity. Further review of emission sources was initiated in late 1984 to determine whether additional source control is possible. The carcinogenicity potential is being re-evaluated; an updated HAD was reviewed by the SAB and a final HAD was completed in November 1987. Additional regulatory analysis may be introduced in the fourth quarter of 1988.

BUTADIENE

1,3-Butadiene is classified by EPA as a probable human carcinogen. A Federal Register notice announcing EPA's Intent to List butadiene under section 112 was published on October 10, 1985 (50 FR 41466).

Screening studies (called Phase I analyses) to determine whether to pursue development of NESHAP for five source categories are complete (see Table 1). At the completion of Phase I, a decision is made to proceed with NESHAP development if a source category is judged to present a significant risk to public health and reasonable controls can be applied to reduce this risk.

One approach we are pursuing to speed up the development of NESHAP is called the hazardous organic NESHAP that would cover all eight of the organic chemicals (including butadiene) for which we have published Intent to List decisions. The hazardous organic NESHAP project covers two emissions points (process vents and fugitives) that we have studied in depth in setting new source performance standards (NSPS) for the synthetic organic chemical manufacturing industry. We hope this approach will allow us to propose NESHAP in 1988 that will have broad coverage in terms of the pollutants considered (8 organics) and the source categories addressed (currently 13). This schedule is dependent on the changes necessitated by the vinyl chloride opinion. There are other source categories which would not currently be covered by the hazardous organic NESHAP, and these will be dealt with separately on a longer schedule.

CADMIUM

Cadmium is classified by EPA as a probable human carcinogen. Noncarcinogenic adverse health effects can occur, but not at concentrations either expected or measured in the ambient air. A Federal Register notice proposing EPA's Intent to List cadmium under section 112 was published on October 16, 1985 (50 FR 42000). A public hearing was held on December 16, 1985. Phase I studies for several source categories are complete. Assessment of several multi-pollutant categories (e.g., municipal waste combustors (MWC), sewage sludge incinerators (SSI), non-ferrous smelters) that emit cadmium have been completed. Regulations development is underway for MWC and SSI. The multipollutant analysis of non-ferrous smelters suggests that arsenic and cadmium are the principal constituents of concern but that direct inhalation risks are not significantly different from previous risk analyses. The potential for indirect exposure has not been evaluated.

CARBON TETRACHLORIDE

Carbon tetrachloride is classified by EPA as a probable human carcinogen. Public health risks are associated with exposure near certain facilities as well as with exposure to low-level concentrations worldwide that appear to be increasing due to the accumulation of carbon tetrachloride in the atmosphere. A notice announcing EPA's Intent to List carbon tetrachloride under section 112 was published on August 13, 1985 (50 FR 32621). Phase I studies are complete for several source categories (Table 1); carbon tetrachloride sources are also being considered for regulation under the hazardous organic NESHAP (see butadiene discussion).

CHLORINATED BENZENES

The HAD was completed in January 1985. Of the chlorinated benzenes, hexachlorobenzene appears to present the greatest potential for adverse health effects. However, exposure from air emissions appears to be small and adverse health effects are not to be expected to occur. On this basis, a Federal Register notice announcing EPA's Intent Not to Regulate chlorinated benzenes was published on August 13, 1985 (50 FR 32628). Additional information became available in January 1987 showing carcinogenicity in animals resulting from exposure to paradichlorobenzene (DCB). On the basis of new data, a reevaluation of the prior decision related to DCB is currently underway. A regulatory decision will be published only if the reanalysis changes our original decision published in 1985.

CHLORINE/HYDROGEN CHLORIDE

Chlorine and hydrogen chloride (HCl) are used to make chlorinated compounds and are produced during combustion of certain materials. Based on the high production volume and the highly acute toxic properties of chlorine/HCl, a comprehensive HAD was commissioned. It is scheduled to be completed shortly, with a regulatory decision anticipated in the fourth quarter of 1988.

CHLOROFORM

Chloroform is classified by EPA as a probable human carcinogen. A Federal Register notice announcing EPA's Intent to List chloroform under section 112 was published on September 27, 1985 (50 FR 39626). Phase I studies are underway (see Table 1) and certain chloroform sources are also being considered for regulation under the hazardous organic NESHAP (see butadiene discussion).

CHLOROPRENE

The Health Assessment Summary was completed in January 1985. There is no sound evidence at this time of adverse health effects resulting from exposure to ambient concentrations. A Federal Register notice announcing EPA's Intent Not to Regulate chloroprene was published on September 27, 1985 (50 FR 39632).

CHROMIUM

Hexavalent chromium is classified by EPA as a probable human carcinogen; however, substantial questions remain as to whether other species of chromium are carcinogenic. A Federal Register notice announcing EPA's Intent to List either total or hexavalent chromium was published on June 10, 1985 (50 FR 24317). Phase I studies for 11 source categories are complete and regulatory development is proceeding for three source categories of hexavalent chromium: chromium electroplating, comfort cooling towers, and industrial cooling towers. The comfort cooling tower rule has recently cleared OMB and is scheduled for proposal in early 1988 under authority of the Toxic Substances Control Act (TSCA). Decisions on the other 9 caregories depend on the outcome of the issue on whether to list total chromium or hexavalent only. Research is underway and scheduled for completion in late 1988 that should help answer the question of whether total chromium should be considered carcinogenic.

COKE OVEN EMISSIONS

Coke oven emissions were listed as a hazardous air pollutant under section 112 on September 18, 1984. Emission standards were proposed on April 23, 1987 and a public hearing was held on October 29, 1987. The schedule for promulgation is dependent on the changes necessitated by the vinyl chloride opinion.

COPPER

A Health Assessment Summary was completed in December 1986. Copper is indirectly regulated under the national ambient air quality standards (NAAQS) for particulate matter; there is no evidence at this time that adverse health effects occur at copper concentrations lower than the NAAQS for particulate matter. A Federal Register notice announcing EPA's decision not to undertake a regulatory program directed specifically at copper was published on February 23, 1987 (52 FR 5496).

DIBENZOFURANS

Dibenzofurans are structurally very similar to dioxins and are emitted from the same sources. However, their health effects are not as well tested as dioxins, although they are believed to produce similar adverse effects including teratogenesis and immunotoxicity. Dibenzofurans are generally being included in regulatory decision plans for dioxin. A draft health assessment document has been reviewed by the SAB; their comments were received on March 10, 1987. The SAB comments have been incorporated into a second draft scheduled for SAB review in early 1988. A decision on whether to regulate dibenzofurans will be combined with the current evaluation of dioxins scheduled for decision in 1988.

DIOXIN

The dioxin HAD was completed and reviewed by the SAB in 1985. The EPA is presently reevaluating the toxicity, epidemiology, carcinogenicity, and transport and fate of dioxin compounds. Release and SAB review of the Agency's findings are planned during 1988.

A major EPA study to determine the sources and risks resulting from exposure to dioxin through all pathways (National Dioxin Study) has been completed and has been reviewed by the SAB. A summary report to Congress was released September 24, 1987.

A decision on the class of dioxins and dibenzofurans as toxic air pollutants is no longer anticipated in 1988 due to the delays in the release of the dioxin update.

EPICHLOROHYDRIN

There is some evidence that epichlorohydrin produces cancer in test animals, but the evidence is much weaker than that for other carcinogenic chemicals. Also, there are only a limited number of sources and estimated cancer risks are very small. On this basis, a Federal Register notice announcing EPA's Intent Not to Regulate epichlorohydrin under the Clean Air Act was published June 11, 1985 (50 FR 24575). In response to public comments on that notice EPA initiated a detailed study of the non-cancer health risks associated with exposure to air emissions of epichlorohydrin. The results of this analysis are expected to be published in the third calendar quarter of 1988.

ETHYLENE DICHLORIDE

Ethylene dichloride (EDC) is classified by EPA as a probable human carcinogen. A Federal Register notice announcing EPA's Intent to List ethylene dichloride under section 112 was published on October 16, 1985 (50 FR 41994). Phase I studies are complete; EDC sources are also being considered for regulation under the hazardous organic NESHAP (see butadiene discussion).

ETHYLENE OXIDE

Ethylene oxide is classified by EPA as a probable human carcinogen. A Federal Register notice announcing EPA Intent to List ethylene oxide under section 112 was published on October 2, 1985 (50 FR 40286). Phase I studies for all source categories are complete (see Table 1). Ethylene oxide production sources are being considered for regulation under the hazardous organic NESHAP (see butadiene discussion). The NESHAP regulations are also under development for commercial sterilizers.

FORMALDEHYDE

Formaldehyde is widely used to produce other chemicals and products. Its largest use is in the manufacture of plastics and wood glues. It is also a product of combustion and is produced in the photochemical reaction process. A final risk assessment was completed in April 1987. There is evidence of nasal cancer in animals, and it is mutagenic in various test systems. The majority of ambient formaldehyde levels are attributed to photochemical transformation of volatile organic compounds in the ambient air. A task force has been established to coordinate Agency activities to address the photochemical production of formaldehyde.

FREON 113

Health assessment evaluation and SAB review are complete. There is no evidence of adverse health effects (except those associated with the depletion of stratospheric ozone) resulting from exposure to ambient concentrations of Freon 113. A Federal Register notice announcing EPA's decision not to regulate Freon 113 was published June 10, 1985 (50 FR 24313). Freon 113 is one of the chlorofluorocarbons (CFC's) covered by EPA's domestic rule on stratospheric ozone depletion proposed on December 14, 1987. These rules call, among other things, for a freeze on consumption of various CFC's at 1986 levels and a reduction of CFC's to 50 percent of 1986 levels by mid-1998. Final regulations are expected to be published by the fourth quarter of FY 88.

HEXACHLOROCYCLOPENTADIENE

The HAD was completed in November 1984. A Federal Register notice announcing EPA's Intent Not to Regulate hexachlorocyclopentadiene was published on October 1, 1985 (50 FR 40154). Currently, three States have initiated programs to further analyze emission sources of HCCPD.

HYDROGEN SULFIDE

Hydrogen sulfide (H_2S) is emitted from geothermal power generation facilities and is a secondary product of many industrial processes. A HAD has been completed, and the decision briefing cycle is underway. A regulatory decision is expected in the fourth calendar quarter of 1988. H_2S is presently regulated under sections 111 and 111(d) as total reduced sulfur from kraft pulp mills.

ISOCYANATES

Isocyanates are used in the manufacture of resins, flexible and rigid foams, pesticides, etc. Isocyanates are known respiratory toxicants and many compounds are sensitizing agents. Draft Health Assessment Summaries for toluene diisocyanate (TDI) and methyl isocyanate (MIC) have been completed. Based upon the highly toxic properties of TDI and MIC, an additional detailed assessment has been initiated. This work will involve analysis of all major isocyanates as well as toluene diamine, a precursor to TDI. This work will be closely coordinated with EPA's analysis of phosgene production facilities as they are frequently colocated with isocyanate production facilities. A decision on the need to regulate isocyanate production facilities is expected in the second calendar quarter of FY 89.

MANGANESE

Health assessment and SAB review are complete. There is no evidence of adverse health effects resulting from exposure to measured or expected ambient concentrations. A Federal Register notice announcing EPA's decision not to regulate manganese was published on August 13, 1985 (50 FR 32627).

MERCURY

Mercury was listed as a hazardous pollutant under section 1112 in 1971. National emission standards were promulgated in 1973. A review of the current health information on mercury was completed in May 1984. It indicated no new health information that would suggest a need to revise the current standards. A Federal Register notice describing the review of the NESHAP and promulgating minor procedural changes to the existing regulations was published on March 19, 1987.

METHYL CHLOROFORM

Health assessment and SAB review are complete. There is no evidence of adverse health effects resulting from exposure to ambient concentrations of methyl chloroform. A Federal Register notice announcing EPA's decision not to regulate methyl chloroform was published on June 10, 1985 (50 FR 24314).

METHYLENE CHLORIDE

The EPA announced in the Federal Register on May 14, 1985, its decision to initiate a priority review of methylene chloride under section 4(f) of the Toxic Substances Control Act. As a result, EPA published an Advanced Notice of Proposed Rulemaking (ANPR) on October 17, 1985 (50 FR 42037) announcing EPA's intention to develop a comprehensive strategy for the regulatory investigation of methylene chloride, including possible regulation under the Clean Air Act. Phase I studies for a number of source categories (see Table 1) either have been completed or are nearing completion. Sources of methylene chloride are being considered for regulation under the hazardous organic NESHAP (see butadiene discussion). Regulations for solvent degreasing operations are also being developed by an interagency Integrated Solvents Work Group. A draft addendum to the HAD has been prepared and was reviewed by the SAB in August 1987.

METHYL METHACRYLATE

Methyl methacrylate is used in the production of polymeric acrylate plastics. A draft Health Assessment Summary and preliminary source assessment has been prepared. There is equivocal evidence of carcinogenicity for methyl methacrylate but sufficient evidence for other similar acrylates. Consequently, methyl methacrylate and other acrylates will be considered for further assessment in the context of a multipollutant source category analysis. The Office of Toxic Substances is also gathering additional data on acrylates.

MUNICIPAL WASTE COMBUSTOR EMISSIONS

The Agency has undertaken and is implementing a comprehensive strategy to evaluate, and regulate as warranted, risks associated with human exposure to atmospheric emissions from existing and projected municipal waste combustors (MWC). The strategy included:

A multi-pollutant (toxic metals, dioxins, dibenzofurans, other organics, and acid gases) assessment of exposure and potential public health risks;

The development of a comprehensive report describing the lowest emission levels of the above compounds that have been achieved in practice, how those levels were achieved, and available techniques for monitoring those levels;

Options for regulatory development; and

Short- and long-term research needs.

The Municipal Waste Combustion Study, composed of eight volumes and a summary report to Congress was released in July 1987. On July 7, 1987, the Agency announced its intent to regulate MWC emissions under Sections 111 and 111(d) of the Clean Air Act and issued BACT guidance for use by States in permitting new MWC. A proposed standard under Sections 111 and 111(d) is scheduled for the last calendar quarter in 1989 and the final rule published in the last calendar quarter of 1990.

NAPHTHALENE

Naphthalene is a volatile solid produced in high volume and used primarily in the production of other chemicals. A draft Health Assessment Summary has been completed. The health data base for naphthalene is insufficient to determine its carcinogenic potential following inhalation exposure. Although exposure to high concentrations of naphthalene has been associated with local and systemic noncancer health effects in animals and man, the available health and exposure data indicate that present emissions of naphthalene do not pose a noncancer health threat. Publication of a decision on naphthalene is anticipated in the second calendar quarter of 1988.

NICKEL

An interim health document has been completed and reviewed by the SAB. Two nickel compounds clearly are carcinogenic but they do not exist in sufficient quantity in the ambient air to pose significant public health risks. Substantial questions remain concerning the potential for adverse effects to result from exposure to other specific nickel compounds. Major new health research initiatives also have been undertaken by EPA to evaluate other major species. A Federal Register notice announcing EPA's decision not to regulate the two nickel compounds was published on September 25, 1986 (51 FR 34135). Epidemiological data are being evaluated. Decisions on other nickel compounds are expected in the second quarter of 1990.

PERCHLOROETHYLENE

The HAD completed SAB review in January 1985. It reviewed health evidence that was weak and controversial. However, in August 1985, the NTP released a new positive cancer study and an addendum to the HAD specific to this study was reviewed by the SAB in May 1986. The addendum concluded that perc was a Group B2 (a probable human carcinogen). The SAB, however, concluded in its recommendations to the Agency on January 27, 1987, that perchloroethylene should be classified as a Group C carcinogen (possible human carcinogen). The EPA has responded to the SAB's recommendations. A Federal Register notice announcing EPA's intent to list perchloroethylene under section 112 was published on December 26, 1985 (50 FR 52880). Phase I studies for a number of source categories are complete (see Table 1). Perchloroethylene sources are being considered for regulation under the hazardous organic NESHAP (see butadiene discussion). Regulations for solvent degreasing and dry cleaning operations are also being developed by an interagency integrated Solvents Work Group.

PHENOL

Phenol is used to manufacture other organic chemicals and products. A Health Summary was completed in early 1986. A Federal Register notice announcing that the health data base for phenol is insufficient to warrant regulation as a specific pollutant under the Act was published on June 23, 1986 (51 FR 22854).

PHOSGENE

Phosgene is used in the manufacture of other organic chemicals and plastics. Phosgene is a known respiratory poison, with pulmonary edema occurring at relatively low concentrations. A draft HAD has been completed. A decision on the need for SAB review will be made following additional work on short-term health effects. A dose-response model is under development for noncancer risk assessment for this chemical. A regulatory decision is scheduled in the second calendar quarter of 1989.

POLYCYCLIC ORGANIC MATTER (POM)

A Federal Register notice was published August 8, 1984 (49 FR 31680), announcing EPA's decision not to regulate POM as a class of compounds under the Clean Air Act. Specific source categories whose emissions contain POM, such as coke ovens, automobiles, wood stoves, and diesel vehicles, are being considered for regulation (see Coke Oven Emissions) under various provisions of the CAA. Litigation on this decision was settled, with EPA stipulating to take specific actions on an NSPS for wood stoves and on municipal waste combustors (see above). The wood stove NSPS was proposed January 31, 1987 and promulgated February 26, 1988.

PROPYLENE OXIDE

Propylene oxide is primarily used in the production of polyurethane foams and antifreeze solutions. A draft Health Assessment Summary has been prepared. There is sufficient evidence of carcinogenicity in animals, but the risks to the public due to ambient exposures appear to be relatively low. A decision on the need to regulate is anticipated in the third quarter of 1988.

RADIONUCLIDES

Radionuclides were listed as a hazardous air pollutant in December 1979. In February 1985, final regulations for elemental phosphorous plants, Department of Energy (DOE) facilities, and facilities licensed by the Nuclear Regulatory Commission and non-DOE facilities were promulgated. Final regulations for underground mines and uranium mill tailings were issued April 17, 1985 and September 24, 1986, respectively. In response to litigation on these regulations, EPA requested a remand to ensure consistency with the vinyl chloride decision. Under the terms of the remand, EPA must propose any revisions in June 1988 and promulgate in December 1988.

STYRENE

Styrene is primarily used in the manufacture of plastics, synthetic rubbers and latexes. A draft Health Assessment Summary and preliminary source assessment have been prepared. There is sufficient evidence of carcinogenicity and public exposure to warrant further assessment. Consequently, styrene will be considered for further assessment in the context of a multipollutant source category analysis.

TOLUENE

A Federal Register notice was published June 6, 1984 (49 FR 22195) announcing EPA's decision not to regulate toluene as a specified air pollutant because of lack of evidence that adverse health effects result from exposure to measured or expected ambient concentrations.

TRICHLOROETHYLENE

The health evidence is sufficient to classify trichloroethylene as a probable human carcinogen. An addendum to the HAD has been drafted and was reviewed by the SAB in August 1987. A closure letter from the SAB is under development. A Federal Register notice announcing EPA's intent to list trichloroethylene was published on December 23, 1985 (50 FR 52422). Phase I studies for a number of source categories are complete (see Table 1). Trichloroethylene sources are being considered for regulation under the hazardous organic NESHAP (see butadiene discussion). Regulations for solvent degreasing operations are also being developed by an interagency Integrated Solvents Work Group.

VINYLIDENE CHLORIDE

The HAD completed SAB review in January 1985. The health evidence is weak and controversial. Numerous animal cancer studies have been conducted with negative results; one study is positive. The EPA has concluded that there is insufficient evidence to classify vinylidene chloride as a carcinogen, and acute toxicity only occurs at concentrations far greater than expected in the ambient air. A Federal Register notice announcing EPA's decision not to regulate vinylidene chloride was published on August 13, 1985 (50 FR 32632).

VINYL CHLORIDE

Vinyl chloride (VC) was listed as a hazardous pollutant in December 1975. Emission standards were promulgated in October 1976 for ethylene dichloride/VC monomer plants and polyvinyl chloride production. The health basis and existing standards have completed review by EPA; no information was found indicating a need to revise existing standards. On January 8, 1985, EPA withdrew an earlier proposal to tighten the VC standards, based on a finding that further controls were not technologically feasible. This decision was challenged in the D.C. Circuit. An initial three-judge panel of the D.C. Circuit Court of Appeals ruled in favor of EPA. However, the issue was reheard en banc. On July 28, 1987 the Court issued a unanimous decision remanding the standards to EPA for reconsideration. The EPA is developing its response to the remand.

ZINC AND ZINC OXIDE

A Health Assessment Summary has been completed. The health and exposure situation is similar to manganese and copper. A Federal Register notice announcing EPA's decision not to undertake a regulatory program directed specifically at zinc and zinc oxides was published on August 28, 1987 (52 FR 32597).

TABLE 1.—SCHEDULE FOR PHASE I NESHAP STUDIES

Pollutant/source category	Completion date
Chromium—11 source categories	Done.
Carbon tetrachloride:	
CFC production (also covers perc and chloroform)	Done.
Chlorine production	Done.
Chlorinated HC production (also covers four other organics)	Done.
Butadiene:	
Production	Done.
SBR, polybutadiene, and neoprene	Done.
Miscellaneous sources	Done.
Ethylene oxide:	
Production	Done.
Sterilizers—commercial sterilizers	Done.
Ethylene dichloride: Production (also covers four other organics)	Done.
Chloroform: Pulp mills	1988.
Cadmium—copper and lead smelters	Done.
Zinc/Zinc Oxide smelters	Done.
pigments/stabilizers	Done.
refining	Done.
Methylene chloride:	
Pesticide mfg. (also covers four other organics)	Done.
Paint stripping	[1] 9/88.
Pharmaceutical mfg. (also covers six other organics)	Done.
Aerosols	[1] 9/88.
Perchloroethylene:	
Degreasing (covers perc and methylene chloride)	Done.
Dry cleaning	Done.
Trichloroethylene:	
POTW's (covers five other organics)	Done.
Solvent use in chemical plants (includes five other organics)	Done.

[1] Part of Integrated Solvents Work Group activities.

IN HONOR OF THE COLUMBUS JUNIOR LEAGUE

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1988

Mr. RAY. Mr. Speaker, I recently had the privilege of attending a candidates forum sponsored by the Columbus Junior League of Columbus, GA. I have often noted that the mark of a community on the move is the willingness of its citizens to volunteer their time and effort toward making improvements to their community. In that regard, the Columbus Junior League has a history of dedicated women organized to improving the quality of life in Columbus, GA.

The Columbus Junior League is an organization of women committed to improving the community through the effective action and leadership of trained volunteers. Their purpose is exclusively educational and charitable. They are committed to improving the quality of life in Columbus, GA.

They currently have 245 active members. They give in excess of 10,000 hours of volunteer service each year to the community through some 35 community agencies.

They raise money through many different fundraisers. All moneys raised at fundraisers goes back into the community. In the past the junior league has given over $800,000 to the community.

Through their volunteer efforts, the 245 members of the Columbus Junior League are helping solve the serious problems of child abuse, drug abuse, adolescent pregnancy, and high school dropouts. In addition, through yearly fundraisers, they have been able to provide support to the House of Mercy which provides needed shelter for the homeless in Columbus.

Mr. Speaker, I congratulate the president of the league, Susan C. Lawhorne, the public affairs chairman, Susan Scarborough, and all the members of the Columbus Junior League for their hours of dedication to improving their city. I encourage them to maintain their efforts at making their community a better place to live for all of its citizens.